

National Policy Bulletin

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HOUSE PASSES REIT TAX LEGISLATION

On May 8, 2008, the House of Representatives adopted H.R. 3221, the Foreclosure Prevention Act of 2008, by a vote of 322-94. The bill includes the same provisions contained in H.R. 1147, the REIT Improvement Diversification and Empowerment Act of 2007 (RIDEA), which were adopted by the House Ways and Means Committee on April 9 when it passed H.R. 5720, a tax bill known as the Housing Assistance Tax Act of 2008. H.R. 5720 was incorporated into H.R. 3221 before it passed the full House of Representatives. H.R. 3221 is a comprehensive bill designed to address the current credit and housing crisis by providing a myriad of critical provisions benefiting the housing industry, such as tax relief for first-time buyers, a standard deduction for property taxes, and reform of the Federal Housing Administration. To review the specific portions of RIDEA that were included in H.R. 3221 after being adopted by the Ways and Means Committee last month, [CLICK HERE](#) to review the National Policy Bulletin (NPB) of April 10, 2008.

As reported in last month's NPB, the Senate passed its own version of H.R. 3221 on April 10 with most of the same RIDEA provisions in the bill that are now included in the House-passed version of H.R. 3221 with a few exceptions. First, the RIDEA provisions would "sunset" after five years. Second, the language on foreign currency gains and the delegation of authority to the IRS to determine which items are qualified REIT



income is deleted. And, third, language was added to the Senate bill to clarify that a taxable REIT subsidiary (TRS) operating outside the United States could be considered an employer at lodging or health care facilities without necessarily violating the prohibition against a TRS operating or managing a lodging or health care facility. This would be the case so long as the employees are under daily supervision and direction by an eligible independent contractor.

The differences between the two versions of H.R. 3221 will now need to be reconciled by a conference committee of key Members of Congress before a final proposal can be presented to both the House and Senate for final passage and sent to President Bush for his signature by the target date of July 4. At this point, it is uncertain whether the conference committee will be able to remedy the outstanding differences existing between the two bills, and overcome the White House's vigorous opposition to aspects of the legislation.

NAREIT will keep you up-to-date on related developments.

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