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Market velocity

Tax law bonanza

Although the principal aim of the recently passed Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTA) was to stimulate investment and revitalize the overall economy, the final version contained several provisions that are very favorable to commercial real estate and could easily create new activity in today's stagnant markets.

Leasehold depreciation

One of the biggest wins for commercial real estate in the new tax law is the increase in the temporary bonus depreciation for leasehold improvements and equipment at commercial investment property. As of May 5, 2003, you can deduct 50 percent of the cost of tenant improvements, plus 1/39th of the remaining amount of the investment, in the year you make the improvement. Property subject to a contract before May 6, 2003, will continue to qualify for the



Being able to depreciate tenant improvements more aggressively should encourage owners to invest more in driving tenants to their properties and create greater leasing activity. Whitney Peyton, CCIM, CB Richard Ellis, Bloomington, Minn.

30-percent bonus that was put into place in the wake of September 11th.

The so-called "close out" provisions of current law still remain in effect, so any unrecovered balance may be deducted at the termination of a lease. The recovery period for leasehold improvements also remains unchanged at 39 years.

Both the 30-percent and the 50-percent bonus provisions will now expire January 1, 2005. This has the effect of extending the 30-percent bonus from its original expiration of September 11, 2004, through to the end of 2004. In limited circumstances, property will remain eligible for bonus depreciation until January 1, 2006, as long as a binding

contract or an agreement to purchase was in place before January 1, 2005. When the bonus rules expire, the depreciable life for leasehold improvements will remain at its current level of 39 years.

Increased expensing

Commercial real estate companies will also get a break from a new provision in JGTA that permits businesses to deduct future purchases up to \$100,000 spent on business equipment and other goods (but not real estate) in the year of purchase. The deduction phases out dollar-for-dollar, beginning at \$400,000. No deduction is allowed after total investment reaches \$500,000. These capital expenditures usually have to be recovered through straight-line depreciation, with the number of years depending on the item being depreci-

See *Taxation* on back page



The cut in the capital gains rate to 15 percent offers investors a great opportunity to clean up their bases and should increase the velocity of the market.

Harvey E. Green, Marcus & Millichap, Encino, Calif.



LEGISLATIVE Update

BANKING
STANDARDS
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TORT REFORM

- Energy-efficient buildings may get tax break.
- Basel Accords put damper on commercial lending.

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Bonnie Gottlieb,
NAR Senior Vice President,
Commercial Real Estate

NAR acts to ease insurance crisis

As property/casualty premiums near the end of a third straight year of huge increases, the National Association of REALTORS® approved several major initiatives during its Mid-year Legislative Meeting in Washington designed to help bring the current insurance crisis under control.

The multipronged approach was based on recommendations from the NAR Insurance Task Force. This group of residential and commercial members spent months meeting with representatives of insurers and insurance industry associations, state insurance regulators, and state REALTOR® associations to determine what role NAR should play in meeting the challenge of rising insurance costs. Several aspects of the new initiatives, which were approved by the RCA Committee during the Mid-year meetings, have direct impacts on commercial real estate activities.

First, NAR supports an amendment to the federal Risk Retention Act that would expand the law's provisions to cover all types of insurance except workers' compensation. The Act currently allows entities to operate risk retention groups and pool their resources to purchase liability insurance. This option was created as a way to hold down costs during periods of rising costs. Expanding this provision to cover property/casualty insurance will create opportunities for groups within the commercial real estate industry to secure critical insurance at lower costs.

While NAR will not be creating a captive insurance program or pool for property/casualty insurance, it will develop educational materials for members interested in forming captives or other self-insurance vehicles on their own.

A second major initiative to hold down insurance costs is NAR's continued support of federal tort reform. Large damage awards assessed by the courts are a major factor in increasing the cost of insurance premiums. NAR is supporting legislation that limits noneconomic and punitive damage awards. It also advocates a provision that outlaws "venue shopping," the practice by some lawyers of moving liability cases to legislative districts that traditionally favor defendants. NAR will also work for a standard that would remove class-action lawsuits from state to federal courts.

Finally, NAR remains active with the Coalition to Insure Against Terrorism in monitoring the implementation of the Terrorism Risk Insurance Act of 2002. Recently, the CIAT submitted comments on the Interim Final Rule proposed by the Treasury that would have deferred to state law on whether insurers had to make insurance covering nuclear, biological, or chemical events available in a particular state. Such a provision might encourage insurers to deny these coverages in some states.

Just as it did with terrorism insurance, NAR has recognized the tremendous impact rising insurance costs and the unavailability of coverage are having on its commercial members. By undertaking these initiatives, as well as a variety of programs designed to assist homeowners with insurance problems, NAR is working to ensure that the worst of the insurance crisis is over. For further information about current insurance problems and NAR's proposed solutions, go to www.REALTOR.org and click on Property/Casualty Insurance.

Don't miss the special RCA program track for board leadership and staff at the 2003 NAR Leadership Summit, August 18 in Chicago. Sign up to learn more about marketing, membership growth, and education at www.realtor.org/lsummitweb.nsf



To contact NAR Commercial Real Estate staff: 888-648-8321. To find an online version of this newsletter go to REALTOR.org/rca. For a complete listing of NAR legislative and regulatory initiatives, go to REALTOR.org.

If you are interested in advertising in the RCA Report contact Michael Mini at 312/329-8455.

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Special Guests: **Janet Branton**, REALTORS® Land Institute; **Pam Cohen**, The Institute of Real Estate Management; **Mary Fleischmann**, The Counselors of Real Estate; **Susan Groeneveld**, The CCIM Institute; **Pamela Hinton**, Society of Industrial and Office REALTORS®

MEETING HIGHLIGHTS

Internet listing options explored

Recognizing the need for better guidelines for sharing commercial listing data on a national basis, the REALTORS® Commercial Alliance Committee won approval from the NAR Leadership Team (LT) to consider NAR's role, if any, in the creation of an Internet-based national commercial information exchange (CIE). The decision to form a special RCA Committee Work Group on commercial Internet listings was made during the NATIONAL ASSOCIATION OF REALTORS® Legislative Meeting & Trade Expo in Washington, D.C. The rapid growth of CIEs at the local level is evidence that the industry is gravitating toward a more transparent listing process based upon widespread sharing of data. The Work Group will recommend an appropriate strategy for NAR with respect to the Internet display of commercial property ads to the LT.

Another RCA Work Group will review the REALTOR® Code of Ethics and evaluate whether a separate code is desirable for commercial practitioners. Some alternatives under consideration include amending the existing NAR Code or adopting the Code of Ethics of the Society of Industrial and Office REALTORS®. The RCA Committee also approved a motion that NAR support an amendment to the federal Risk Retention Act, as a means of reducing insurance costs (See page 2 for more details).

During the four days of meetings, the Committee also heard a presentation from Roger Platt of the Real Estate Roundtable and Steven York of the Department of Homeland Security on the new Real Estate Information Sharing and Analysis Center (ISAC), a communication system designed to

share information about terrorist threats and disseminate best practices for enhancing commercial security. (See the Spring 2003 *RCA Report* for more details.)

Commercial staff and leadership attending the conference also gained new business insights from issue-focused panels. The Commercial Leadership Forum hosted a discussion on "Providing Innovative Products and Services in a Weak Market." Representatives of state and local REALTOR® associations de-

scribed creative networking opportunities, training sessions, awards programs, and marketing efforts designed to help members gain business in tough times. For example, the Minnesota Commercial Association of REALTORS® has leveraged its CIE data to provide commercial real estate market statistics to a local business journal. In exchange, it receives valuable advertising for both the association and its members. The Denver Metropolitan Commercial Association of REALTORS® created "DMCAR

After Dark," a networking/education program through which members can take commercial real estate courses at the University of Colorado. The RCA of the North Carolina Association of REALTORS® developed commercial real estate forms consistent with local industry standards and regulations.

Highlights of the presentation will form the basis of a "best practices" segment on products and services at the RCA Web site (www.Realtor.org/rca).

TASK FORCE BRIEFING

Updates on progress toward achieving four key initiatives set by the REALTORS® Commercial Alliance Advisory Board.

License reciprocity A bill that would allow an out-of-state licensee (OSL) to obtain a one-year "limited" broker's or salesperson's license for commercial transactions has passed the North Carolina House and is likely to pass in the state Senate. A bill that would allow OSLs to work on commercial transactions in Florida in cooperation with a Florida licensee was defeated in the state Senate. The California Real Estate Commission organized a License Reciprocity Study Group to work on drafting a bill modeled after the Ohio license reciprocity statute. Jim Hochman, senior vice president and senior counsel of CB Richard Ellis Inc. and a member of the RCA Advisory Board, spoke to the commission about the value of this legislation. Maryland Governor Robert Ehrlich, Jr., signed a license reciprocity bill in May that will take effect in 2004. The

statute is less progressive than the recently-passed Ohio statute, in part because it requires other states to grant Maryland licensees equal treatment. Nevertheless it represents a step forward for out-of-state licensure. Virginia passed a regulation in April 2003, that will allow an OSL with a license in good standing to obtain a Virginia license without taking an exam or receiving Virginia CE credits. Finally, the state of Washington passed a reciprocity law in May that is substantially equivalent to the Ohio statute.

Broker lien laws A bill (H.B. 2590) supported by the Oregon Association of REALTORS® passed the state House unanimously but is now pending in the Senate's Judiciary Committee. The bill would allow a broker to place a lien on commercial property for an unpaid commission for a sale or lease. The New York State Association of REALTORS® supported a bill permitting liens for sales and leases, but the bill has not advanced in either house

during this session. Nor did a bill supported by the Florida Association of REALTORS®. The Commercial Committee of the Delaware Association of REALTORS® drafted a bill for presentation to the legislature, but it is now being redrafted to address opposition by developers.

Industry terminology
See page 8.

Continuing education credits
The Association of Real Estate License Law Officials (ARELLO) Education Committee approved a motion that allows the ARELLO staff to establish an Education Review Services Program on a pilot basis. This program enables ARELLO to perform or contract for specified reviews of educational offerings when requested to do so by a state regulatory agency. This action by ARELLO represents progress in achieving the goal of creating a "one-stop" process for CE credit approval because it helps establish ARELLO as the single source.

LEGISLATIVE Update

BANKING
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LEGAL



BANKING STANDARDS

New risk weighting penalizes real estate

The latest draft of the Basel Capital Accords, issued April 29, could significantly reduce the flow of credit to the commercial real estate industry and greatly diminish its overall market liquidity and valuation. The new Accords propose a recalibration of risk weights for certain types of commercial real estate loans. As a result, banks holding disproportionately high levels of such loans would need to hold more money in their reserves. Thus, commercial loans would become more expensive and less desirable to make.

According to the Federal Reserve, Basel II will be mandatory only for the ten largest banks in the U.S. and will be voluntary for the next ten largest banks. However, it's likely that many banks will feel pressured to adopt the new standards because of negative market perceptions if they don't follow the stricter risk management standards. The intent is to have Basel II finalized by the end of 2003 and implemented in the United States by early 2007. Although the U.S. does not currently have an official position on the proposed rules, the Federal

Reserve has indicated that Basel II should be implemented rapidly as an incentive for banks to improve their internal risk management. Members of Congress have raised concerns about the complexity and potential negative competitive impacts as well as the timing for implementing Basel II. The Basel Fair Capital Standards Act (H.R. 2043) was introduced to create an interagency task force to arrive at a consensus agreement on the U.S. position on Basel II. The Basel Committee was created by the Group of Ten to foster international monetary and fiscal cooperation.

ENVIRONMENTAL

Rulemaking details brown-field assessment standards

NAR is participating in a negotiated rulemaking with the EPA to implement the provisions of the Small Business Liability Relief and Revitalization Act, known as the Brownfields Law. The negotiators are working to develop proposed site assessment standards, as well as guidelines for practices and methods to determine whether hazardous materials exist on the property and the extent of the hazard. Complying with these standards will allow property owners to qualify for the innocent landowner liability defense. This safe-harbor protection from liability was provided under the Act for parties that did not cause or contribute to hazardous waste contamination. NAR hopes to ensure that

the agreed-upon rules do not impede brownfields redevelopment.

Bill increases deductions for energy efficiency

The House passed the Energy Tax Policy Act of 2003 (H.R. 1531), which includes a number of tax credits for the future installation, new construction, or reconstruction of energy-efficient building technologies in commercial and residential rental properties. The credit could be taken when the building is placed in service or when the renovation is complete. The Senate bill, S. 14, which does not contain as high a scale of energy-efficient tax credits as the House bill, has been considered intermittently on the Senate floor since it was introduced, but has not come up for a vote.

TORT REFORM

Class-action suits could become less threatening

The Class Action Fairness Act of 2003 (S. 274 and H.R. 1115) would make it easier to try class-action suits in federal courts. Currently, class-action suits cannot be moved to federal court if individual claims are less than \$75,000 or if just one class member is from the same state as a defendant. The bill, which has been passed by the House and reported out of the Senate Judiciary Committee, would allow class-action cases to be transferred to federal

court at the request of either party, provided fewer than one-third of the plaintiffs in the class reside in the state where the action was filed. For class-action suits in which fewer than two-thirds, but more than one-third, of the plaintiffs reside in that state, the amended bill would give federal judges discretion to decide the venue based on whether a case could have a national impact. Proponents of the bill argue that the bill would limit the ability of plaintiff attorneys to "shop" for more favorable venues when filing a suit.

Agreement to negotiate unenforceable. A Virginia federal court determined that a provision to conduct future negotiations on the sale of a property in a letter of intent was unenforceable. The letter had been executed on August 6, 2002, between a real estate developer and the owner of a 1,000-acre parcel of land. They agreed that until the letter expired on August 23, they would keep the terms of the letter confidential, that the landowner would not market the property to anyone else, and that the parties would negotiate in good faith. When the two failed to reach an agreement by the deadline, the letter expired. On September 20, 2002, the owner informed the developer that he had entered into a purchase agreement with a third party. The developer sued for breach of contract. Under Virginia law, agreements to negotiate at some point in the future are unen-

forceable. However, the court did find the developer's allegation that the owner had broken confidentiality and marketed the property before the expiration of the letter of intent had merit and could proceed to trial. To read a complete summary, go to <http://www.realtor.org/LetterLw.nsf/pages/0403beazer>.

Statute of frauds bars commission claims. A New Jersey appellate court has found that a commercial broker was not entitled to receive a commission because he did not have a written contract with the property owner. Under the state's statute of frauds, a broker can claim a commission based on an oral agreement only if he gives the principal/seller a written notice of the terms of the commission agreement within five days of the oral agreement. In this case, a bro-

ker approached a bank that had foreclosed on an incomplete condominium development and offered to market the development. Even though the bank's representative told him that the bank did not want to list the property with him, the broker began showing the property. He also asked all prospects he took to the building to sign a "letter of showing," indicating he had introduced them to the property. The broker then sent a letter to the bank informing them that he had shown the property and stating a commission rate he expected.

The bank responded that there was no listing agreement and that the broker should stop marketing the property. However, the bank also said that if one of the prospects the broker had introduced bought the property, the bank would discuss compensating the broker. When the property sold to

a group of investors who had been indirectly introduced to the property by the broker, the broker sued. A trial court upheld the broker's claim. However, the state's appellate court found that even though the letter from the broker had stated commission terms, those terms were contradictory. In one place, the broker asked for a 10-percent commission and in another a \$300,000 payment on a sale price of \$3.5 million. Under the New Jersey statute of frauds, the commission term must be stated exactly. To read a complete summary, go to <http://www.realtor.org/LetterLw.nsf/pages/0303geenty>

To read a summary of any of the decisions listed above, visit The Letter of the Law, NAR's online legal newsletter, at Realtor.org/letterlw. Only for registered users of REALTOR.org.

S C O R E C A R D

Legislation: Summary of content

Last Action

Status

Security improvement deduction. Allows businesses to deduct 100 percent of the cost of certain security devices during the tax year they were incurred, instead of requiring depreciation over a 5-to-7-year useful life.

NAR position. Supports tax benefits that would encourage the addition of security devices by commercial property owners as a way to promote public safety.

The Public Safety Investment and Protection Act (H.R. 1259), which would allow for the immediate deduction of certain security-related installations, was introduced by Rep. Jerry Weller in March.

H.R. 1259 was referred to the House Ways and Means Committee for consideration.

Bankruptcy reform proposals. Reduces automatic stay from creditors to 90 days for properties valued at over \$4 million; allows eviction of residential tenants who file bankruptcy if rent is not current; limits time that retail tenants may decide to assume or reject leases to 60 days; requires debtors to repay fees or assessments in homeowners', condo, or coop associations.

NAR position. Supports bankruptcy reforms for commercial real estate.

The House passed a bankruptcy reform bill (H.R. 975), which contained all NAR-supported positions.

The bill has been referred to the Senate.

Tort reform. Seeks to slow the escalation of property and liability insurance premiums and reduce large damage awards by trying more class-action cases in federal courts.

NAR position. Supports proposals that would move some classes of cases into federal court and prevent "venue shopping."

The Class Action Fairness Act of 2003 (H.R. 1115), which promotes greater fairness in interstate class-action suits, passed the House in June.

The Senate bill (S. 274) has cleared the Judiciary Committee.

INDUSTRY Update

TECHNOLOGY

TECHNOLOGY

Technology that pays at Realcomm

Profitable business applications of technology—not new high-tech bells and whistles—were the order of the day at the fifth annual Realcomm conference, held June 4-5 at Chicago's Navy Pier. While the trade show included the latest Tablet PCs and PDAs, document management and lease transactions software vendors were getting most of the attention. "I'm not into cool, I'm into real-life solutions," said John Gilbertson, COO of New York City's Rudin Management, a company known for such high-tech buildings as New York City's 55 Broadway.

"Today, we're concerned with the convergence of business and technology, about improving efficiency and enhancing the transparency in the transaction," agreed Whitney Peyton, CCIM, senior managing partner of CB Richard Ellis and vice-chair of the REALTORS® Commercial Alliance Advisory Board. The RCA is the platinum sponsor for Realcomm.

In the same session, Gary Brandeis, senior vice president of Lincoln Property Company, remind-

ed participants that it's critical to go slow and get buy-in at the top when implementing any new technology strategy. "It's important to remember that technology is about creating value for your business," he said. Brandeis also noted that the recent slowdown in the introduction of new technologies has really been a benefit to commercial real estate because it gave the industry time to assimilate innovations into its work processes.

In his address to the conference's General Session on June 4, Peyton cited the rapid growth of commercial information exchanges (CIEs) as an example of the expanding efficiencies and transparencies in today's commercial brokerages thanks to the use of technology. These online listing sites operated by local REALTOR® associations have expanded from eight in 1999 to 43 today. On the Tuesday preceding

Realcomm, over 70 representatives of local and state REALTOR® associations attended the RCA's Commercial Board Summit to discuss the benefits and challenges of operating a CIE and to share their experiences in increasing membership and developing a vision for a CIE.

Management applications

Education sessions also carried through the theme of making technology pay. Several speakers focused on the use of company intranets to lower costs and improve efficiencies in areas such as accounts receivable and work-order processing. Arvid Povilaitis, senior vice president of Equity Office Properties, told property managers that between 60 and 70 percent of Equity's office tenants used online work-order processing. Equity then transmits work orders to its maintenance staff using Nextel

two-way messaging. This and other technology/productivity initiatives in the company's EO Plus program have netted Equity a 17-percent cost savings and a 60-percent increase in customer satisfaction in the last two years, says Povilaitis.

The new system, which was tested for two years in the Boston market before its recent rollout, has also "decreased cycle time for lease approval and move-ins, which in turn means that tenants began paying rent at least a month sooner," noted Richard Kincaid, CEO, Equity Office Properties. Still, with all the advances Equity Office has put in place, "we've just scratched the surface of technological change," said Kincaid.

Brokerage solutions

Creating shared databases of client information was the technology challenge addressed by several participants in the June 5 brokerage session. Brokerage companies face not only technological conflicts in sharing data, but also cultural ones. Since many commercial brokers are

"It isn't about real estate; it isn't about technology; it's about the connection in between." Jim Young, The Jameson Group

independent contractors, they must be convinced of the value of sharing client information.

Rick Kimball, senior vice president and director of corporate services for Colliers International, described how his company addressed this problem by creating a customized overlay database for its brokers. Rather than trying to supersede brokers' existing records, the Colliers system, called Client Connection, creates a simple, one-page screen requiring only corporate name, known contacts with phone numbers, and actual deals or contacts within the last three years. The brightly-colored, user-friendly screen also includes links along the bottom to such recognized business background resources as Hoover's Online.

"I told the brokers, 'Would you rather go in blind to a client or know who's doing business in the market,'" said Kimball. The database has helped promote teamwork and provided a tool for resolving disputes over rights to clients, he noted.

One pleasant surprise for Kimball during the 18-month rollout was the acceptance by the more senior bro-

kers among the 2,500 users. "They are the ones with the contacts and the ones with the experience to recognize that every tool helps." The cooperative, entrepreneurial culture at Colliers was also a key to acceptance of the system, he believes. The bottles of Dom Perignon Kimball sent to new users the first time they entered their data didn't hurt either.

To prevent duplicate records and misspellings, the system won't let users enter a new company name; that has to be done by a systems administrator. The new challenge, he says, is to encourage brokers to update records regularly and keep data fresh.

The Web-based database application by an interdepartmental development team at Avantis/GVA Real Estate Services in Atlanta also had the goal of promoting cross-selling among offices and service lines, which include commercial brokerage, tenant representation, property management, and construction. Again, simplicity was the key.

"We did focus groups with our brokers in the planning stages of the project, and they were skeptical

about sharing their information," said John K. Hutcheson, COO, CFO. For this reason, Avantis and the outside business analyst it hired decided to roll out the project in small increments so that users could see the value. "We knew we wanted to get from A to B, but we decided it would be better to go from A to A+1, then to A+2," he said.

To alleviate the culture shock, Avantis chose a structure that made only a limited amount of information public. "Brokers have to enter the entire transaction in the database to get paid, but only the company name and the person in our company who has a contact there are visible to most users," Hutcheson said.

Brokers started out skeptical, according to Hutcheson, but the program is well on its way to its goal of increasing internal business by 15 percent.

Standards for sharing data

Establishing data standards that will allow commercial real estate companies to share data across systems was another major focus of the conference. During one panel discussion in

which representative of real estate and technology groups gave their views on the issue, Dale A. Stinton, CFO, CIO of the National Association of REALTORS®, signaled NAR's intention to convene an all-inclusive meeting of industry representatives within the next few months to address the challenge of creating mutually accepted standards. Stinton is confident NAR's experience in establishing real estate transaction standards (RETS) for residential properties can provide a framework for creating commercial transaction standards. Until then, according to the panelists, a lack of standards will continue to cost the industry millions of dollars annually.

As Jim Young, the guiding force behind Realcomm, noted, the most progressive companies in commercial real estate today are using technology and connectivity to redefine everything from operations to the tenant experience. "These companies get it. They understand that in the next 10 to 15 years, it isn't about real estate, it isn't about technology, it's about the connection in between," said Young.

AFFILIATE SPOTLIGHT

Ethics takes center stage at SIOR

The Society of Industrial and Office REALTORS® (SIOR) has released an electronic version of its Code of Ethics course, "What Makes a Professional?" This dynamic course covers professional ethics in the commercial real estate field. Topics range from definitions of values and principles, through the gray areas often encountered in real-life transactions, and on to the review and interpretation of four case studies. The Web-based course satisfies CE requirements in many states, as well as the NAR and SIOR ethics requirement. A CD-ROM version is available for those individuals who do not

have the high-speed Internet access needed to easily take the course. Both formats are priced at \$125.

The SIOR Code of Ethics embodies the high principles of professional practice that form the foundation of the Society's mission and vision. The obligations imposed in the Code apply to all real estate-related professional and business dealings, except to the extent specifically exempted by law. Some of the obligations imposed by the Code may exceed the minimum contents of the law—and are intended to do so. All active designees and candidates of the Society must adhere to the con-

duct specified by the Code.

SIOR, an affiliate of the NATIONAL ASSOCIATION OF REALTORS®, is a leading professional commercial and industrial real estate association. With more than 2,200 members in 450 cities in 20 countries, the Society represents today's most knowledgeable, experienced, and successful commercial real estate brokerage specialists. The Society certifies its

members with the prestigious SIOR (Specialist, Industrial and Office Real Estate) designation, a professional symbol of the highest level of knowledge, production, and ethics in the real estate industry. Completion of the Ethics course is a requirement for attaining the SIOR designation. For more information on either new versions of the Ethics course, contact Diana Lee at 202/737-1150 or e-mail, dlee@sior.com.

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Taxation

Continued from page 1

ated. The legislation also resolved an ongoing IRS dispute by providing that so-called “off the shelf” software used in a trade or business is eligible for the expensing rules.

Again, when the provision expires on January 1, 2006, businesses will be eligible to deduct only \$25,000 a year in capital expenditures, with a dollar-for-dollar phase out beginning at \$200,000.

Capital gains rate reduction

In another win for all types of investments, including real estate, the JGTA reduces the capital gains tax rate from 20 percent to 15 percent. Unfortunately, however, the depreciation recapture rate remains at 25 percent, notwithstanding the combined efforts of many real estate organizations to bring that rate in line with reduced capital gains rates. As in the past, assets must be held for more than one year to qualify for the reduced rate.

The provision generally applies to sales, exchanges, or installment payments received on or after May 6, 2003, and before January 1, 2009. At that point, the capital gains rate reverts to 20 percent.

REITs will also benefit from the lower rate. The new 15-percent rate will apply to both REIT capital gains distributions (minus any deprecia-

tion recapture) and to REIT dividends from taxable REIT subsidiaries.

Lower tax on dividends

Historically, dividend income has been included in adjusted gross income and taxed at ordinary rates. JGTA departs dramatically from this treatment by taxing all dividend income at 15 percent (5 percent for lower-bracket individuals). Some

have charged that this provision will make real estate investment less attractive than equities. Anecdotes from investment real estate brokers suggest that the jury is still out on this question, especially since real estate returns have outpaced stock performance in recent years.

While the lower taxation rate applies to all types of stocks, the unique tax character of REIT investments adds some twists. The 15-per-

cent tax rate applies only to REIT dividends attributable to income received from non-REIT corporations such as taxable REIT subsidiaries and to REIT dividends attributable to income on which the REIT paid tax at the corporate level. Dividends (including REIT dividends) will be taxed at whatever ordinary income tax rates are in effect when the lower rate expires at the end of 2004.

Research to pinpoint commercial concerns

The REALTORS® Commercial Alliance and the National Association of REALTORS® Research Department have teamed up to commission two commercial real estate research projects that will help commercial practitioners prepare their businesses for the future.

The first study examines how changes in technology will positively or negatively impact demand for commercial real estate over the next ten years. The study will examine the effects of technology change on each major commercial property sector—multifamily, office, retail, industrial, and hotel properties. The study will also address how technological change affects properties of different sizes and measure the possible impacts of technology on properties in different geographical regions. The study will seek to identify the actual-versus-promised impacts that technology has had and will have on the commercial real estate industry.

The second study examines how real estate terminology differs among major companies. The lack of standardization creates confusion and inefficiency in the commercial real estate market and makes it more difficult to share transaction data by electronic means. The study will act as a first step in promoting greater uniformity in the use of commercial real estate terms. It will also provide an in-depth analysis of how commercial real estate companies collect data on vacancy, net absorption, lease rates, and other metrics. In addition, the study will detail current methods used by leading commercial real estate research firms to create their market statistics, compare these methods, and offer guidance in the best methods to analyze data from different companies.

These two projects represent the beginning of an ongoing collaboration effort between the RCA and NAR Research to provide commercial practitioners with concrete data on which they can base their business operations. If you have any suggestions for future projects, please contact George Green, managing director for technology and research, at 312/329-5971, e-mail at ggreen@realtors.org or Paul Bishop, senior economist, at 202/383-1246, e-mail at pbishop@realtors.org.

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