PRESS RELEASE

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REIT IMPROVEMENTS SIGNED INTO LAW BY PRESIDENT BUSH

Washington, D.C. — Several REIT-specific provisions that are part of the corporate tax reform bill signed into law by President Bush on Oct. 22 represent common-sense improvement of the federal government's REIT rules.

The provisions, originally part of the REIT Improvement Act (RIA) that had broad bipartisan backing in the U.S. House of Representatives and Senate, were included in the conference report for the American Jobs Creation Act of 2004 (H.R. 4520) given Congressional approval earlier this month.

The NAREIT-supported RIA provisions: remove a discriminatory barrier to foreign investors buying publicly listed REIT stock; clarify and correct some issues surrounding the REIT Modernization Act of 1999; and provide the Internal Revenue Service (IRS) with the ability to impose monetary penalties for reasonable cause violations of REIT tax tests in lieu of the loss of REIT status.

In particular, the law conforms filing guidelines and tax consequences for overseas REIT investors who own less than 5 percent of a publicly traded U.S. REIT with those of overseas investors in other U.S. equities. "The barrier has had the unfortunate effect of dissuading some overseas investment in U.S. REIT stocks," according to NAREIT Senior Vice President and General Counsel Tony M. Edwards. "Its removal means that investors in U.S. REITs who reside in the United Kingdom or Japan, for example, will be treated no differently than when they buy stock in other U.S. corporations."

The new law also makes several technical changes to the REIT rules that will result in greater investor certainty that REITs may operate as real estate companies without undue concern about the impact of REIT status violations.

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“Lawmakers concluded that no company should be subject to the loss of REIT status in the event of unintentionally failing to meet certain tax tests,” Edwards explained. “REIT executives expend significant resources to avoid such a drastic result. Therefore, the new law builds flexibility into the REIT rules to conform them to common-sense standards and, when necessary, to permit the IRS to instead impose monetary penalties when reasonable cause for the failure exists, instead of terminating REIT status.”

The American Jobs Creation Act also shortens to 15 years the depreciable life of second-generation tenant improvements placed in service before 2006. Abbreviating the cost-recovery period (previously 39 years) to more closely match the actual life span of the improvements makes more sense economically, Edwards said.

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