Carried Interest Tax Treatment

<u>Current Law</u>:
The current law taxes carried interest as a long term capital gain at 15 percent.

<u>BOMA Position</u>:
BOMA International supports maintaining current law that taxes the "carried interest" of a general partner in a real estate partnership as a capital gain. BOMA International opposes altering the tax code to require carried interest be taxed as ordinary income.

<u>Current Status</u>:
In 2011, President Obama introduced the American Jobs Act, a bill that was aimed at helping stimulate a struggling economy. Carried interest was included as a revenue offset to temporary tax changes. In 2012, Congressman Sander Levin (D–Mich.) has stated he intends to introduce legislation once again that would change the characterization of carried interest to that of ordinary income in response to Presidential candidate Mitt Romney's involvement with a private equity firm.

<u>Supporting Arguments</u>:

- Real estate is a long term investment. The general partner is only provided the carried interest if and when a real estate deal is successful and after the limited partner is provided its share. There is no guarantee the general partner will receive the "carry" once the deal is complete.

- Increasing the tax rate on commercial real estate, an already risky venture, may lead to less entrepreneurial risk taking in less affluent and underserved markets where investment is needed the most.

- Pension funds, endowments, charities and universities are typical investors in real estate. Returns to the investors will diminish, affecting capital flow to real estate and other investments. Fewer deals will be done. The result of this behavior will **lower tax revenues at the federal, state and local levels** and **limit opportunities for redevelopment of underutilized properties, and hinder job creation**.

- A higher tax rate on carried interest would more negatively impact the small real estate entrepreneurs who may not have the same negotiating leverage as larger firms.