# Carried Interests Tax Hike Averted in Fiscal Cliff Deal

*Commercial Real Estate Direct Staff Report*

Investment managers were spared a tax increase under Congress' recently-approved revenue generating legislation that averted the so-called "fiscal cliff," a series of automatic tax increases and federal spending cuts.

The topics up for negotiation in the fiscal cliff negotiations between members of Congress and President Barack Obama had included a proposal to increase the tax on the carried interests of investment partnerships, including real estate investment funds and hedge funds.

Obama has since 2011 voiced his support for increasing the tax on the carried interests of investment partnerships to the same rate as that on ordinary income from its current capital-gains rate. Carried interests represent a portion of partnerships' profits and are paid to general partners as incentive compensation.

The carried interest tax, like most other proposals that appeared capable of increasing government revenues, had been among the discussion points between the president and Congress, said Jeffrey DeBoer, president and chief executive of the Real Estate Roundtable, a trade group for the commercial property industry. He theorized that the two sides passed up on the carried interest tax hike because of complications in determining whether such a hike would help the country by generating additional revenue or hurt it by prompting investors to scale back their activity.

An increase in the carried interest rate has been bantered about by Congress for several decades, but gained traction and publicity in 2011 when Obama proposed that it be included in a bill aimed at creating jobs.

The Jobs Bill, which by some estimates would have increased government spending by $450 billion, died after failing to gain approval in the U.S. Senate.

The Roundtable, based in Washington, D.C., was among a coalition of commercial property forces that lobbied against the proposed carried interest tax hike. They said it would reduce investment activity, which in turn would cripple job growth.

The regular income tax rate that carried interest would have been subject is set to jump to as high as 39.6 percent from 35 percent, while the capital-gains tax rate for long-term investments is being increased to a high of 20 percent from 15 percent.

There is no pending legislation that includes a carried interest tax-rate change, but DeBoer expects the proposal to again surface on Capitol Hill as part of Congress' ongoing debate over

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how to increase government revenue without hurting business growth.

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