A graduate of the Federal Bureau of Investigation's prestigious National Academy, Major Portz has been recognized by his peers three times as Officer of the Month for his outstanding police work.

The husband of Linda and father of Jennifer, Major Portz has been a shining example of honor and professionalism throughout his career. As he enters the next stage of his life, I congratulate him and wish him continued happiness.

INTRODUCTION OF LEGISLATION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1998

Mr. ARCHER. Mr. Speaker, today, I introduce H.R. 3558, a bill to limit the tax benefits of so-called ''stapled'' or ''paired-share'' Real Estate Investment Trusts (''stapled REITs''). Identical legislation is being introduced in the Senate by Senator ROTH.

In the Deficit Reduction Act of 1984, Congress eliminated the tax benefits of the stapled REIT structure out of concern that it could effectively result in one level of tax on active corporate business income that would otherwise be subject to two levels of tax. Congress also believed that allowing a corporate business to be stapled to a REIT was inconsistent with the policy that led Congress to create REITs.

As part of the 1984 Act provision, Congress provided grandfather relief to the small number of stapled REITs that were already in existence. Since 1984, however, almost all of the gandfathered stapled REITs have been acquired by new owners. Some have entered into new lines of businesses, and most of the grandfathered REITs have used the stapled structure to engage in large scale acquisitions of assets. Such unlimited relief from a general tax provision by a handful of taxpayers raises new questions not only of fairness, but of unfair competition because the stapled REITs are in direct competition with other companies that cannot use the benefits of the stapled structure.

This legislation, which is a refinement of the proposal contained in the Clinton Administration's Revenue Proposals for fiscal year 1999, takes a moderate and fair approach. The legislation essentially subjects the grandfathered stapled REITs to rules similar to the 1984 Act, but only to acquisitions of assets (or substantial improvements of existing assets) occurring after today. The legislation also provides transition relief for future acquisitions that are pursuant to a binding written contract, as well as acquisitions that already have been announced (or described in a filing with the SEC).

A technical explanation of the legislation is provided below.

TECHNICAL EXPLANATION

The tax benefits of the stapled real estate investment trust (''REIT'') structure were curtailed for almost all taxpayers by section 269B, which was enacted by the Deficit Reduction Act of 1984 (''1984 Act''). The bill limits the tax benefits of a few stapled REITs that continue to qualify under the 1984 Act's grandfather rule.

A REIT is an entity that receives most of its income from passive real-estate related investments and that essentially receives pass-through treatment for income that is distributed to shareholders. In general, a REIT must derive its income from passive sources and not engage in any active trade or business. In a stapled REIT structure, both the shares of a REIT and a C corporation may be traded, and in most cases publicly traded, but are subject to a provision that they may not be sold separately. Thus, the REIT and the C corporation have identical ownership at all times.

Overview

Under the bill, rules similar to the rules of present law treating a REIT and all stapled entities as a single entity for purposes of determining REIT status (sec. 269B) would apply to real property interests acquired after March 26, 1998, by the existing stapled REIT, or by a stapled entity, or a subsidiary or partnership in which a 10-percent or greater interest is owned by the existing stapled REIT or stapled entity (together referred to as the ''REIT group''), unless the real property is grandfathered under the rules discussed below. Different rules would be applied to certain mortgage interests acquired by the REIT group after March 26, 1998, where a member of the REIT group performs services with respect to the property secured by the mortgage.

General rules

The bill treats certain activities and gross income of a REIT group with respect to real property interests held by any member of the REIT group (and not grandfathered under the rules described below) as activities and income of the REIT for certain purposes. This treatment would apply for purposes of certain provisions of the REIT rules that depend on the REIT's gross income, including the requirement that 95 percent of a REIT's gross income be from passive sources (the ''95-percent test'') and the requirement that 75 percent of a REIT's gross income be from real estate sources (the ''75-percent test''). Thus, for example, where a stapled entity earns gross income from operating a non-grandfathered real property held by a member of the REIT group, such gross income would be treated as income of the REIT, with the result that either the 75-percent or 95-percent test might not be met and REIT status might be lost.

If a REIT or stapled entity owns, directly or indirectly, a 10-percent-or-greater interest in a subsidiary or partnership that holds a real property interest, the above rules would apply with respect to a proportionate part of the subsidiary's or partnership's property, activities and gross income. Thus, any real property acquired by such a subsidiary or partnership that is not grandfathered under the rules described below would be treated as held by the REIT in the same proportion as the ownership interest in the entity. The same proportion of the subsidiary's or partnership's gross income from any real property interest (other than a grandfathered property) held by it or another member of the REIT group would be treated as income of the REIT. Similar rules attributing the proportionate part of the subsidiary's or partnership's real estate interests and gross income would apply when a REIT or stapled entity acquires a 10-percent-or-greater interest (or in the case of a previously-owned entity, acquires an additional interest) after March 26, 1998, with exceptions for interests acquired pursuant to agreements or announcements described below.

Grandfathered properties

Under the bill, there is an exception to the treatment of activities and gross income of a stapled entity as activities and gross income of the REIT for certain grandfathered properties. Grandfathered properties generally are those properties that had been acquired by a member of the REIT group on or before March 26, 1998. In addition, grandfathered properties include properties acquired by a member of the REIT group after March 26, 1998, pursuant to a written agreement which was binding on March 26, 1998, and all times thereafter. Grandfathered properties also include certain properties, the acquisition of which were described in a public announcement or in a filing with the Securities and Exchange Commission on or before March 26, 1998.

In general, a property does not lose its status as a grandfathered property by reason of a repair to, an improvement of, or a lease of, a grandfathered property. On the other hand, a property loses its status as a grandfathered property under the bill to the extent that a non-qualified expansion is made to an otherwise grandfathered property. A non-qualified expansion is either (1) an expansion beyond the boundaries of the land of the otherwise grandfathered property or (2) an improvement of an otherwise grandfathered property placed in service after December 31, 1999, which changes the use of the property and whose cost is greater than 200 percent of (a) the undepreciated cost of the property (prior to the improvement) or (b) in the case of property acquired where there is a substituted basis, the fair market value of the property on the date that the property was acquired by the stapled entity or the REIT. A non-qualified expansion could occur, for example, if a member of the REIT group were to construct a building after December 31, 1999, on previously undeveloped raw land that had been acquired on or before March 26, 1998. There is an exception for improvements placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

If a stapled REIT is not stapled as of March 26, 1998, or if it fails to qualify as a REIT as of such date or any time thereafter, no properties of any member of the REIT group would be treated as grandfathered properties, and thus the general provisions of the bill described above would apply to all properties held by the group.

Mortgage rules

Special rules would apply where a member of the REIT group holds a mortgage (that is not an existing obligation under the rules described below) that is secured by an interest in real property, where a member of the REIT group engages in certain activities with respect to that property. The activities that would have this effect under the bill are activities that would result in a type of income that is not treated as counting toward the 75-percent and 95-percent tests if they are performed by the REIT. In such cases, all interest on the mortgage and all gross income received by a member of the REIT group from the activity would be treated as income of the REIT that does not count toward the 75-percent or 95-percent tests, with the result that REIT status might be lost. In the case of a 10-percent-or-greater partnership or subsidiary, a proportionate part of the entity's mortgages, interest and gross income from activities would be subject to the above rules.

An exception to the above rules would be provided for mortgage the interest on which does not exceed an arm's-length rate and which would be treated as interest for purposes of the REIT rules (e.g., the 75-percent and 95-percent tests, above). An exception also would be available for certain mortgages that are held on March 26, 1998, by an entity that is a member of the REIT group. The exception for existing mortgages would

cease to apply if the mortgage is refinanced and the principal amount is increased in such refinancing.

Other rules

For a corporate subsidiary owned by a stapled entity, the 10-percent ownership test would be met if a stapled entity owns, directly or indirectly, 10 percent or more of the corporation's stock, by either vote or value. (The bill would not apply to a stapled REIT's ownership of a corporate subsidiary, although a stapled REIT would be subject to the normal restrictions on a REIT's ownership of stock in a corporation.) For interests in partnerships and other pass-through entities, the ownership test would be met if either the REIT or a stapled entity owns, directly or indirectly, a 10-percent or greater interest.

The Secretary of the Treasury would be given authority to prescribe such guidance as may be necessary or appropriate to carry out the purposes of the provision, including guidance to prevent the double counting of income and to prevent transactions that would avoid the purposes of the provision.

HONORING SOUTH FLORIDA WOMEN IN COMMUNITY SERVICE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today in recognition of women who have served as a wonderful example to the nation of true commitment and service to their community. ''In the Company of Women'' was begun in 1989 when a need was identified to recognize outstanding local women for their service to the South Florida community.

This year, 13 women leaders will be recognized for their contributions to the Miami-Dade County community at the 10th annual ''In the Company of Women'' celebration. The honorees will be Marleine Bastien, Laura Bethel, Mona Bethel Jackson, Kathy Gomez, Daniella Levine Cava, Diana Montes de Oca Lopez, Mary Lynch, Maria Marquez, Robin Riether-Garagalli and Meredith Pleasant Sparks. The women honored as pioneers are Sheba Major Martin, Ruth Wolkowsky Greenfield, and Mary Stanley-Low Machado.

The Cuban patriot Jose Marti once said: ''Action is the dignity of greatness.'' These women have personified the true meaning of community action in giving of themselves and utilizing their God-given talents to help others. The women honored at this month's ceremony, which culminates Women's History month, have been key players in advancing the quality of life in South Florida. They have managed to balance family and career while caring for those in our community who are in most need.

THE 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1998

Mr. BORSKI. Mr. Speaker, I rise today to congratulate and honor a young Pennsylvania student from my district who has achieved national recognition for exemplary volunteer service in her community. Kelly Shelinsky of Philadelphia has just been named one of my state's top honorees in The 1998 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Ms. Shelinsky is being recognized for establishing Kelly's Books for Bedsides, a campaign to collect new and gently used children's books which are then donated to the local hospital. Kelly believes in the power of books to energize the imagination, especially for those children recovering from an illness in a hospital bed. After spending many nights in Children's Hospital recovering from a chronic illness, Kelly realized that the children's playroom had many toys and games, but only a handful of books. She began to solicit donations through local newspapers, church bulletins, and word-of-mouth, and has collected more than 3,700 books. Thanks to Kelly's efforts, Children's Hospital has initiated a program called Reach Out and Read, for which books are being placed in the homes of families who have none. She plans to expand Kelly's Books for Bedsides further to help improve literacy among inner city children.

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it is vital that we encourage and support the kind of selfless contribution this young citizen has made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Ms. Shelinsky are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought this young role model to our attention—The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals in 1995 to impress upon all youth volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. In only three years, the program has become the nation's largest youth recognition effort based solely on community service, with more than 30,000 youngsters participating.

Ms. Shelinsky should be extremely proud to have been singled out from such a large group of dedicated volunteers. I heartily applaud Ms. Shelinsky for her initiative in seeking to make her community a better place to live, and for the positive impact she has had on the lives of others. She has demonstrated a level of commitment and accomplishment that is truly extraordinary in today's world, and deserves our sincere admiration and respect. Her actions show that young Americans can—and do—play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

TRIBUTE TO THE HON. FLOYD R. GIBSON

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1998

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to Floyd R. Gibson, Senior Judge, U.S. Court of Appeals for the Eighth Circuit who will be celebrating his recent birthday this Sunday with his friends. Judge Gibson has dedicated his professional career to public service. From his graduation from the University of Missouri-Columbia in 1933 where he earned both his law degree and bachelor's degree, through his 32 years on the Eighth Circuit, Floyd R. Gibson has enriched our community.

Floyd and his lovely wife, Gertrude have raised three successful children, Charles, John, and Catherine. His family accomplishments occurred while demonstrating a distinguished career in public policy and the law. Judge Gibson entered private practice in the Kansas City area upon his graduation where he rose to become a named partner in three firms. While in private practice, Judge Gibson was elected County Counselor for Jackson County.

He later turned his efforts to state government where he served 21 years in both the House and Senate of the Missouri General Assembly. The Judge distinguished himself in the Missouri Senate as Chairman of the Judiciary Committee, Majority Floor Leader, and in his final term as President Pro Term of the Senate. His success did not go unnoticed—in 1960 the ''St. Louis Globe Democrat'' newspaper named Floyd Gibson the Most Valuable Member of the Legislature.

With such credentials, President John F. Kennedy nominated him in 1961 to become a U.S. District Judge for the Western District of Missouri. Judge Gibson was named to the position of Chief Judge one year to the day of his September 1961 appointment. In June of 1965 President Johnson appointed Judge Gibson to the U.S. Court of Appeals for the Eighth Circuit. He served as the Eighth Circuit Chief Judge from 1974 to 1980 when he assumed senior status.

The Judge has received numerous awards and honors, as well as having been published on many occasions. A member of the Missouri, Kansas City, Federal, and American Bar Associations, Judge Gibson has distinguished himself through his legal work. He gives back to our community through his service on the Board of Trustees for the University of Missouri-Kansas City and as an Advisory Director to the Greater Kansas City Community Foundation.

A Kansas Citian for more than 80 years, Senior Judge Floyd Gibson is a critical part of our community's fabric and history. Through his decisions he has invoked a sense of equity and fairness that have benefitted our citizens. His work in codifying the probate statutes have improved the system significantly.

Mr. Speaker, it is my honor to salute a great friend and legal scholar of the bar, Floyd R. Gibson, Senior Judge for the U.S. Court of Appeals Eighth Circuit.