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Regulations pending OIRA review: Implementing "carried interest" measures

OMB's Office of Information and Regulatory Affairs (OIRA) has received for review from the U.S. Treasury Department proposed regulations concerning short-term capital gain with respect to applicable partnership interests—that is, the measures often referred to as the "carried interest" rules.

The 2017 tax law (Pub. L. No. 115-97, the law that is also referred to as the "Tax Cuts and Jobs Act" (TCJA)) added new section 1061 to the Code.

Section 1061 addresses the taxation of "applicable partnership interests." Under the provision, if one or more "applicable partnership interests" were held by a taxpayer at any time during the tax year, some portion of the taxpayer's long-term capital gain with respect to those interests would be treated as short-term capital gain. At a high level, the provision requires that, to obtain long-term capital gain treatment for applicable partnership interests, the required asset-holding period must be greater than three years.

Treasury regulations that are identified as "major" regulations are subject to review by OMB's OIRA before being issued, pursuant to Executive Order 13771. According to OIRA, the regulations received for review on January 14, 2019, are identified as:

- **RIN: 1545-BO81:** *Guidance under section 1061*

On the OIRA website, the proposed regulations are described as: *This regulation will provide guidance on the application of newly enacted section 1061 of the Internal Revenue Code.*

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