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KPMG report: Proposed regulations on carried interest, initial analysis

The U.S. Treasury Department and IRS released proposed regulations under section 1061—the "carried interest" provision added to the Code by the 2017 U.S. tax law (Pub. L. No. 115-97) or the law often referred to as the "Tax Cuts and Jobs Act."

The proposed regulations significantly expand on the statutory language and incorporate concepts reflected in earlier legislative proposals, in particular with respect to the exception for contributed capital.

As a general matter, section 1061 requires a three-year holding period for certain capital gain with respect to "applicable partnership interests" to be treated as long-term capital gain. Applicable partnership interests generally include what is commonly referred to as the carried interest—i.e., the profit share distributable to fund sponsors—although income allocated to interests other than carried interests may be captured by this rule.

Section 1061 provides for several exceptions to the three-year holding period requirement, including for interests held by corporations and interests that are commensurate with contributed capital.

Read an **August 2020 report** [PDF 383 KB] that provides an initial analysis of the proposed regulations on carried interest.

Read the **proposed regulations** [PDF 450 KB] that were published in the Federal Register on August 14, 2020.

accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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