

Geller Tax Advisory Services

Tax Alert:

House Passes Legislation Increasing Tax Rate on Carried Interest

The United States House of Representatives recently passed legislation containing a provision that would require income attributable to carried (profits) interest to be taxable at ordinary income tax rates. Currently such income is generally taxed at more favorable capital gains rates. In addition, the legislation would subject income attributable to carried interest to self-employment tax if the income is reported by an individual.

The legislation was approved as a revenue offset to certain expiring tax provisions and will now move to the Senate for discussion. It is expected that legislation will face strong opposition in the Senate, although there is expected to be bipartisan support for extending the expiring provisions. It is possible that the Senate will come up with an alternative revenue offset to extend the expiring provisions, but at this point it is too early to tell.

The legislation passed by the House would generally treat net income from an investment services partnership as ordinary income (regardless of whether such income would be treated as capital gain, dividend income or any other type of income in the hands of the partner) except to the extent such income is attributable to the partner's qualified capital investment. The net income would be taxed at ordinary income rates and subject to self-employment tax.

In addition, the legislation would treat any gain from the disposition of a carried interest as ordinary income, as opposed to current treatment as capital gains, and would also treat the distribution of property with respect to a carried interest as ordinary income to the extent of any appreciation in the property.

The legislation would generally apply to all tax years after December 31, 2009.

We will continue to monitor this legislation as it evolves.

About Geller & Company

Geller & Company is a strategic, financial advisory firm whose services include wealth management and family office services, outsourced CFO capabilities, tax, accounting, and private equity fund administration. Geller has expertise within various industries including financial services, technology, manufacturing, and not-for-profit. Headquartered in Manhattan, Geller employs approximately 400 people.

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