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PENbrief

House Passes Carried Interest Taxation Bill With New Effective Date

On May 28, 2010, the House of Representatives passed a carried interest bill[1] that would tax a portion (50% through 2012 and 75% for 2013 and thereafter) of net carried interest from an investment services partnership/LLC as ordinary compensation income beginning January 1, 2011.

This bill is identical to the proposal discussed in our May 21, 2010, *KirklandPEN*, except that the previous proposal would have covered carried interest earned after the date the president signed the bill. Therefore, in contrast to the previous proposal, there would be no change to the tax treatment for pre-2011 net carried interest. Hence carried interest from a 2010 sale of, or dividend from, a portfolio company would continue to be treated as a distributive share of the underlying fund income and taxed as capital gain or dividend income, and carried interest from a 2010 distribution in kind of portfolio company securities would continue to be generally tax free.

The Senate is expected to consider the House bill when it returns from its Memorial Day recess on June 7.

1 H.R. 4213, The American Jobs and Closing Tax Loopholes Act of 2010.

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