THE NEW PARTNERSHIP AUDIT RULES

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2017 Parker C. Fielder Oil and Gas Tax Conference

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TOPICS

- The Basics of the New Partnership Audit Rules
- Legislative Background
- The Election Out
- The New Rules' Default Regime
- The Push Out Election
- Open Issues in Comment Letters
- Drafting Considerations
- Impact Outside of the Partnership Agreement
- Dispute Resolution
- 2017-2018 Priority Guidance Plan

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THE BASICS (1/2)

- The current partnership audit regime (the "TEFRA Rules") generally provides that the IRS assesses underpayments and collects taxes at the partner level.
- Section 1101 of the Bipartisan Budget Act (the "New Rules") fundamentally changes the way the IRS audits partnerships, assesses underpayments and ultimately collects unpaid tax.
- Under the New Rules, underpayments are assessed and taxes are collected at the partnership level.

THE BASICS (2/2)

- The New Rules are intended to allow the IRS to complete more large partnership audits with its current resources.
- As a result, the application of the New Rules was scored as generating approximately $7.5 billion of additional revenue through 2025.
- The New Rules will be effective for taxable years beginning after December 31, 2017 (unless a partnership elects to apply the New Rules prior to such date).

LEGISLATIVE BACKGROUND (1/2)

- The New Rules were enacted into law under the Bipartisan Budget Act on November 2, 2015 and were amended by the Protecting Americans from Tax Hikes Act of 2015 on December 15, 2015.
- The Technical Tax Corrections Act of 2016, currently under consideration with the House Committee on Ways and Means, proposes certain clarifications to the New Rules, but has not yet been enacted.

LEGISLATIVE BACKGROUND (2/2)

- Proposed regulations under the New Rules (the "Proposed Regs") were initially issued on January 18, 2017.
- The Proposed Regs were withdrawn on January 20 pursuant to a regulatory freeze detailed in a memo to the heads of executive departments and agencies.
- The Proposed Regs were re-issued on June 14, 2017 in a form substantially similar to the January 20 version.
- A public hearing on the Proposed Regs was held on September 18, 2017.

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