

Federal Tax Update: Hot Topics in Partnership Tax

UT Law CLE - LLCs, LPs and Partnerships

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Final Carried Interest Regulations

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Overview

- Section 1061
 - 2017 Tax Cuts and Jobs Act added Section 1061 which increased long-term capital gain holding period for certain carried interests in a partnership from one to three years
 - A “carried interest” is an interest in private equity or hedge fund profits held by fund managers in exchange for services

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Overview

- Proposed Regulations issued July 2020
- Final Regulations issued January 2021 adopted the proposed regulations with modifications in four main areas:
 - (i) capital interest exception,
 - (ii) treatment of capital interests acquired with loan proceeds,
 - (iii) the look-through rule for certain dispositions of partnership interests, and
 - (iv) transfers of partnership interests to related persons.

Partnership Interests Subject to Section 1061

- Gain allocated to an applicable partnership interests (“API”) held in connection with the performance of certain services will be recharacterized as short-term capital gain unless held for three years
- API
 1. Partnership interest held (directly or indirectly) by, or transferred to, a taxpayer
 2. In connection with the performance of substantial services by the taxpayer or a related person
 3. In an applicable trade or business (“ATB”)

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