

MEMO# 32726

September 1, 2020

Draft Comment Letter on Proposed Carried Interest Regulations

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September 1, 2020 TO: Tax Committee RE: Draft Comment Letter on Proposed Carried Interest Regulations

The Internal Revenue Service (IRS) and the Treasury Department recently released [proposed regulations](#) under section 1061 on the taxation of “carried interests” in partnerships. In general, section 1061 recharacterizes certain net long-term capital gains of a taxpayer who holds an applicable partnership interest (API) as short-term capital gain. It does so by applying a three-year holding period, rather than the one-year holding period generally required for long-term capital gain treatment under section 1222.

The proposed regulations would treat certain capital gain distributions from RICs and REITs as satisfying the three-year holding period in section 1061(a) for taxpayers holding an API in the partnership receiving the distribution. To facilitate this treatment, the proposed regulations would permit RICs and REITs to (1) disclose to shareholders the amount of capital gain distributions attributable to the RICs’ or REITs’ net capital gain excluding any amount not taken into account for purposes of section 1061; and (2) report to shareholders amounts of capital gain that have been held for more than three years.

The attached draft comment letter notes that ICI’s members believe it would be rare for a taxpayer to hold an API in a partnership that holds RIC shares, as partnerships that provide carried interests typically do not invest in RICs. Further, making changes to tax reporting systems are costly and time consuming. Therefore, we believe that RICs should not be *required* to report the capital gain distribution amounts set forth in the proposed regulations. Rather, RICs should be *permitted* to report such amounts if they have a shareholder for whom such amounts are relevant. ICI thus asks the Treasury Department and the IRS to finalize the RIC reporting provisions in the regulations as proposed, retaining the permissive nature of the rules.

The government has asked for comments on the proposed regulations by October 5, 2020. Please provide any comments on the draft letter to me (kgibian@ici.org or 202-371-5432) no later than **Monday, September 21, 2020**.

Karen Lau Gibian

Associate General Counsel

[Attachment](#)

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