June 2, 2016

Draft Letter to IRS on New Partnership Audit Rules -- Comments Requested

[29953]

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TO: TAX COMMITTEE No. 14-16 RE: DRAFT LETTER TO IRS ON NEW PARTNERSHIP AUDIT RULES -- COMMENTS REQUESTED

Attached for your review is a draft letter to the Internal Revenue Service ("IRS") and the Treasury Department requesting clarification on the application of the new partnership audit regime, enacted as part of the Bipartisan Budget Act of 2015, to regulated investment companies ("RICs"). [1] Specifically, the Institute agrees with the National Association of Real Estate Investment Trusts ("NAREIT") that the deficiency dividend procedures under section 860 should be available to RICs and real estate investment trusts (REITs) that have an adjustment to taxable income as a result of a partnership audit under the new rules. [2] We thus ask the IRS and the Treasury Department to clarify that RICs may use the existing deficiency dividend procedures with respect to an adjustment to a RIC's taxable income arising from either: (1) the filing of a return by a RIC in accordance with new section 6225(c); or (2) the calculation of a RIC's reviewed year adjusted taxable income under the alternative method set forth in new section 6226.

We will discuss the draft letter at the Tax Committee Meeting on Wednesday, June 15. [3] You also may provide comments to me no later than the close of business on Wednesday, June 15 (202-371-5432 or kgibian@ici.org).

Karen Lau Gibian
Associate General Counsel

Attachment

endnotes

[1] The IRS asked for comments regarding implementation of the new partnership audit regime in Notice 2016-23.

[2] NAREIT's comment letter to the IRS can be found on its website here.

[3] *See* Institute [Memorandum](#) (29951), dated June 2, 2016.