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Proposed regulations on "carried interest" rules under section 1061; OIRA review completed

OMB's Office of Information and Regulatory Affairs (OIRA) reported it has completed its review of proposed regulations with respect to section 1061—the measures that are often referred to as the "carried interest" rules.

Background

The 2017 tax law (Pub. L. No. 115-97)—the law that is also referred to as the "Tax Cuts and Jobs Act" (TCJA)—added new section 1061 to the Code. Section 1061 addresses the taxation of "applicable partnership interests." Under the provision, if one or more "applicable partnership interests" were held by a taxpayer at any time during the tax year, some portion of the taxpayer's long-term capital gain with respect to those interests may be treated as short-term capital gain. At a high level, the provision requires that to obtain long-term capital gain treatment for applicable partnership interests, the required asset-holding period must be greater than three years.

OIRA review completed

Treasury regulations that are identified as "major" regulations are subject to review by OMB's OIRA before being issued, pursuant to Executive Order 13771. According to OIRA, its review of the proposed regulations was completed on July 16, 2020. OIRA identifies the regulations as follows:

- **RIN: 1545-BO81***: Guidance under section 1061 [TCJA]*

On the OIRA website, the package is further briefly described as: *This regulation will provide guidance on the application of newly enacted section 1061 of the Internal Revenue Code.*

Now that OIRA review has been completed, Treasury and the IRS can be expected to release these proposed regulations for publication in the Federal Register—the exact date of publication not being known.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.