Schulte Roth & Zabel

Alert

Year-End Carried Interest Planning

November 27, 2018

The Tax Cuts and Jobs Act of 2017 added a new provision on carried interest that requires a three-year holding period — instead of a one-year holding period — for carried interest income to benefit from the long-term capital gains tax rate. Under a technical reading of the new legislation, not only is carried interest subject to the longer holding period requirement, but any future earnings on carried interest may also need to meet the three-year requirement in order to qualify for the long-term capital gains tax rate. This new rule is relevant to general partners and managing members (and their affiliates) of investment funds who receive carried interest and hold a significant portion of their investments between one and three years.

Options are available which may mitigate the effects of the new holding period rules on earnings on carried interest, and steps can be taken to address these concerns for future earnings.

Fund managers should contact their tax attorneys at Schulte Roth & Zabel to discuss possible approaches in anticipation of the effects of the changes in legislation with respect to earnings on their carried interest.

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