

May 13, 2010

House lawmakers are expected to release legislation soon that will again propose to tax certain partnership and LLC "carried interests" at ordinary income rates. In early 2010, statements from key members of Congress indicated that this particular provision had been discarded due to opposition in the Senate. But with other available revenue-raisers already used for health care legislation, congressional negotiators have returned to carried interests in the search for revenue to offset tax "extender" legislation and other proposals. Read our *Cooley Alert* [describing the prior version of this legislation](#).

Various members of Congress have made contradictory statements concerning whether the carried interest tax change can in fact overcome opposition in the Senate, the likely scope of the changes, whether exemptions will be available for particular industry groups, and how the new proposals will differ from prior versions. However, with other revenue-raisers in short supply, it now appears more likely that some version of carried interest tax changes could be enacted this year. House legislators are apparently considering a revised proposal that would include a "phase-in" or tiered system taxing carry at different rates for particular industry groups for some transition period, with rates ultimately increasing to match regular ordinary income rates.

Further developments expected soon

Various members of Congress have stated a goal of enacting legislation by July 4th. We expect a House bill containing proposed carried interest changes to be released as soon as next week. We will issue additional Alerts as details become available. If you have any questions about these developments, please contact your Cooley fund attorney or one of the attorneys listed above.

IRS Circular 230 Notice

The foregoing discussion is not intended to be used, and may not be used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer. This discussion was not written to support the promotion or marketing of any transaction. Taxpayers should seek tax advice based on their particular circumstances from an independent tax advisor.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our [legal notices](#).

Key Contacts

--	--

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.