



Tax Change for Private Equity Funds Introduced in U.S. Senate

By Brad Hansen, Mark Kromkowski and Alan Roth

Yesterday (June 14, 2007), the first shot was fired in the U.S. Senate battle over tax changes for private equity firms. In what appears to be a response to the Blackstone Group's recent announcement of an IPO, Senators Max Baucus (D-MT) and Charles Grassley (R-IA) introduced a bill that would raise the tax on capital gains of partnerships going through an IPO from the 15% long term capital gains rate to the 35% corporate rate. The Baucus-Grassley Bill provides for the change to become effective immediately, with a transition period until 2012 for partnerships that have previously filed a registration statement with the SEC or are already publicly traded.

The Baucus-Grassley Bill caught many in Washington off-guard. While various Senators have been discussing changes in the tax treatment of private equity firms, most expected a bill changing the applicable tax rate on a private equity firm's "carried

interest." Senators had directed very few comments—publicly, at least—to the tax treatment of capital gains resulting from IPOs. Nevertheless, the bi-partisan pair of Senators introduced the bill, and both reportedly are pushing to have it considered as soon as possible.

Regardless of the eventual fate of the Baucus-Grassley Bill, one message is becoming more certain: tax changes for private equity funds are in play as Congress seeks additional sources of revenue.

The Private Equity Practice at Wildman Harrold is dedicated to keeping our clients advised of new legislative and judicial developments as they occur. If you have any questions regarding these issues, please feel free to contact your primary attorney at Wildman Harrold or email us at privateequity@wildman.com for further information.

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AUTHORS:

Brad Hansen
(312) 201-2173
bhansen@wildman.com

Mark Kromkowski
(312) 201-2768
kromkowski@wildman.com

Alan Roth
(312) 201-2633
rotha@wildman.com

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Chicago Office
225 West Wacker Drive
Chicago, IL 60606
(312) 201-2000

Lisle Office
2300 Cabot Drive
Suite 455
Lisle, IL 60532
(630) 955-0662

www.wildman.com