August 4, 2020

Summary of Proposed Regulations Under Section 1061

Relating to Treatment of Certain Long-Term Capital Gains With Respect to Applicable Partnership Interests as Short-Term Capital Gains

Released by Treasury on July 31, 2020

Treasury and the IRS released proposed regulations on July 31, 2020 relating to section 1061, which was added to the code in the Tax Cuts and Jobs Act (TCJA). The proposed regulations have not yet been published in the Federal Register.

Section 1061 recharacterizes certain net long-term capital gains with respect to an Applicable Partnership Interest (API) as short-term capital gains. Specifically, the amount of the taxpayer's net long-term capital gain with respect to an API for the taxable year is determined generally as if a three-year (rather than one-year) holding period applies under section 1222. In general, an API is any interest in a partnership that, directly or indirectly, is transferred to (or held by) the taxpayer in connection with performance of substantial services in any applicable trade or business (ATB). The statute also provides certain specific exceptions to treatment as an API (e.g., an API does not include an interest held, directly or indirectly, by a corporation).

The proposed regulations impose a complex and highly detailed framework of computational and other rules, largely intended to prevent taxpayers from avoiding recharacterization of gain under section 1061. While a few provisions are favorable, many provisions are adverse, including several that adopt features of former Congressman Sandy Levin's carried interest bill even though those provisions were not included in section 1061.

Some of the key provisions are:

- The definition of an API is expansive under the proposed regulations (e.g., by presuming that a person who receives a partnership interest in connection with services to be providing "substantial services," and treatment of certain derivatives that mimic partnership interests as APIs similar to the Levin bill).
- The proposed regulations take a very narrow approach to the "commensurate with capital" exception, borrowing heavily from Levin bill concepts. For example, allocations must be benchmarked in accordance with the capital accounts of non-service providing partners holding at least 5% of the aggregate capital account balances of the partnership to be treated as "commensurate with capital." Also, a holder of an API ("API Holder") does not receive capital account credit for amounts attributable to loans from other partners or related persons.
- Complex computational, reporting and other rules are imposed to track gain to be recharacterized through tiered partnerships. Also, special rules apply to distributions of

assets and dispositions of interests to determine whether the three-year holding period is met.

- The regulations determine holding periods at the ownership level of the relevant asset or interest. Thus, if a partnership sells an asset it has held for more than 3 years, it is treated as LTCG even if the partner has held the partnership interest for 3 years or less. However, if such partner sells his partnership interest, the relevant holding period would be treated as three years or less.
- Gains under sections 1231 and 1256 and qualified dividend income are excluded from application of 1061.
- A new regulatory exception from treatment as an API is created for interests held by a third-party "bona fide purchaser."
- The exception from the definition of API for interests held by corporations does not apply to S corporations (as previously announced in Notice 2018-18) and certain PFICs with QEF elections.
- Transfers to certain related parties are treated as a recognition event with respect to assets held for three years or less.
- Significant increased administrative and reporting burdens are imposed to track the various types of gains to comply with section 1061. Failure to report these amounts has both potential adverse consequences for API Holders and could also result in penalties.
- In the preamble, Treasury and the IRS warn taxpayers that certain “carry waiver” arrangements designed to circumvent section 1061(a) (e.g., by waiving rights to gains generated from the disposition of a partnership’s capital assets held for three years or less and substituting for these amounts gains generated from capital assets held for more than three years) may not be respected and may be challenged.

The regulations are proposed to be effective generally for taxable years beginning on or after the date final regulations are published in the Federal Register. However, except for rules regarding certain transition amounts, taxpayers and Passthrough Entities[1] may rely on the proposed regulations for taxable years beginning before the date final regulations are published provided they follow the proposed regulations in their entirety and in a consistent manner. Also, as indicated in Notice 2018-18, proposed §1.1061-3(b)(2)(i), which provides that the term corporation does not include an S corporation, is proposed to apply to taxable years beginning after December 31, 2017. Similarly, the rule regarding QEFs not being treated as a corporation is proposed to apply for taxable years beginning after the date of publication of the proposed regulation.

[1] A Passthrough Entity is generally defined as a partnership, S corporation or passive foreign investment company for which a qualified electing fund (QEF) election is in effect.

Summary of the various sections of the proposed regulations:

§1.1061-1 Section 1061 Definitions. This section has certain defined terms from the statute, which generally are consistent with the Code definitions. Any deviations will be discussed below where relevant. There are also a number of new defined terms, some of which are described below. For ease of understanding, not all defined terms are used in this summary.

§1.1061-1, 2(a) Applicable Partnership Interest (API). An API is defined in the proposed regulations generally the same as under Code section 1061(c)(1), with the following additional rules:

(i) a Passthrough Entity can be treated as a taxpayer for the purpose of determining whether an API exists.

- According to the preamble, in determining whether an API exists, a Passthrough Entity can be (a) the service provider, (b) a person related to the service provider, (c) engaged in an ATB, or (d) the recipient of an interest in connection with the performance of substantial services in an ATB. (Preamble, p. 15).

(ii) once a partnership interest is an API, it remains an API and never loses that character, unless one of the below-described exceptions to the definition of an API applies (see also §1.1061-2(a)(2), example 1).

(iii) if a taxpayer provides any services in an ATB and an allocation of a partnership's profits is transferred to (or held by) the taxpayer in connection with those services, the proposed regulations presume that those services are substantial for purposes of determining whether an API exists. [Note: This effectively reads the need to provide "substantial services" out of the statute.]

- Treasury and the IRS request comments on "the specifics of any arrangements in which insubstantial services could be performed in connection with the receipt of a profits interest such that the presumption could be overcome."

(iv) an API may include any financial instrument or contract, the value of which is determined in whole or in part by reference to the partnership (including the amount of partnership distributions, the value of partnership assets, or the results of partnership operations. [Note: this language is similar to a provision in the Levin bill, and the proposed regulations provide no significant detail as to how it applies.]

§1.1061-2(a) Rules for Gains and Losses from an API.

- Amounts subject to section 1061 (including amounts that flow through one or more Passthrough Entities if a taxpayer holds one or more APIs indirectly) are netted at the Owner Taxpayer's[2] level to determine the Recharacterization Amount (defined below). In a

[2] Generally defined as the person subject to tax on net gain with respect to an API or indirect API.

tiered structure, API Gains and Losses[3] and Unrealized API Gains and Losses (defined below) retain their character as API Gains and Losses as they are allocated through Passthrough Entities to the Owner Taxpayer. Thus, an Unrealized API Gain or Loss retains its character even though it is included in the invested capital of a Passthrough Entity (i.e. included in a partnership's capital account).

- Long-term API Unrealized Gains and Losses are treated as API Gains and Losses subject to section 1061 when they are recognized and realized. [Note: Collectively, these rules are intended to prevent unrealized gains from avoiding application of section 1061 through a recapitalization or contribution.]
    - Unrealized API Gains and Losses are the amounts that would be allocated to an API Holder if all relevant assets were disposed of in a taxable transaction upon the occurrence of certain events, including (i) a capital account revaluation, (ii) contribution of property from an upper-tier Passthrough Entity to a lower-tier Passthrough Entity, or (iii) a revaluation of property of an upper-tier partnership. [Note: It is unclear whether these three scenarios are the only situations in which a taxpayer must take into account unrealized gains and losses.]
        - For example, in the case of a revaluation of the property of a partnership that owns an interest in a tiered structure of partnerships or in the case of the contribution of an API to another Passthrough Entity, Unrealized API Gains and Losses include capital gains and losses that would be allocated directly or indirectly to the API Holder by lower-tier partnerships determined as if a taxable disposition of the property of each of the lower-tier partnerships occurred on the relevant date.
        - Treasury and the IRS request comments on whether section 1061 revaluations are necessary or whether there is another mechanism that would ensure that API Gain or Loss is allocated to API Holders when there is a revaluation event in one or more of the tiers of entities. Further, comments are requested on whether the section 704(b) regulations should be amended to specifically include revaluations when such partnership revalues its assets for purposes of section 1061 or to address revaluations through tiers of partnerships for purposes of section 704 more generally.

§1.1061-2(b) Applicable Trade or Business (ATB) Activity Test. Under section 1061, an API is defined as an interest received by the taxpayer or a related person in exchange for providing substantial services in an ATB. The proposed regulations define an ATB as any activity for which the ATB Activity Test is met: that is, the total level of activity (conducted in one or more entities) with respect to raising or returning capital[4] and/or investing or developing specified assets[5] (collectively referred to as "Specified Actions") meets the level of activity *required to establish a trade or business* for purposes of section 162. [Note: The trade or business test appears to substitute for the "regular, continuous and substantial basis" test in section 1061(c)(2). Also, the

[3] API Gains and Losses are any long-term capital gains and losses with respect to an API, including from the disposition of an API, or the disposition of property distributed by a Passthrough Entity to the holder of an API ("API Holder") if the holder's holding period is three years or less at the time of disposition.

[4] Referred to in the regulations as "Raising or Returning Capital Actions."

[5] Referred to in the regulations as "Investing or Developing Actions."

regulations treat this test as disjunctive so that conduct of either activity as a trade or business is sufficient to cause the test to be met.]

- In applying the ATB Activity test, Related Persons' actions are combined and then attributed to each. Actions taken by an agent or delegate also must be taken into account by the principal in determining whether the test is satisfied.
  - For this purpose, Related Person is defined as a person or entity that is related under sections 707(b) or 267(b).
- The proposed regulations recognize that certain activities may wane at certain times during the life of the partnership. Thus, it is not necessary for both Raising or Returning Capital Actions and Investing or Developing Actions to occur in a single year for an ATB to exist in that year.
- According to the proposed regulations, developing specified assets takes place if it is represented to investors, lenders, regulators, or other interested parties that the value, price, or yield of a portfolio business may be enhanced or increased in connection with choices or actions of a service provider or of others acting in concert with or at the direction of a service provider. However, merely exercising voting rights with respect to shares owned (or similar activities) does not amount to development of specified assets.
- If Specified Assets are held indirectly through a lower-tier partnership, the Investing or Developing Actions conducted with respect to such partnership taken into account in applying the ATB Activity Test is the ratio of the value of the partnership's Specified Assets over the value of all of the partnership's assets. Actions taken to manage working capital will not be taken into account for purposes of the ATB Activity Test. The Treasury Department and the IRS have requested comments on the application of this rule and how it can be tailored to accomplish the purposes of section 1061.

§1.1061-3 Exceptions to the definition of API. This section of the proposed regulations addresses the four statutory exceptions to the definition of API and adds one more new exception for a "bona fide unrelated purchaser."

1. Exception for certain partnership interests held by employees of entities that are not engaged in an ATB. The proposed regulations generally reiterate the statutory language in section 1061(c)(1) and provide no additional clarity.
2. Exception for certain partnership interests held by a corporation. As provided in section 1061(c)(4)(A), an API generally does not include any interest directly or indirectly held by a corporation. However, according to the proposed regulations, this corporate exception does not apply: (i) as announced in Notice 2018-18, to any interest held by an S corporation;[6] and (ii) a passive foreign investment company for which a qualified electing fund election has been made.[7]

[6] Any timely comments received on Notice 2018-18 will be considered as part of the Treasury review of these proposed regulations, before adopting final regulations. As provided in the Notice, this rule is proposed to apply to all taxable years beginning after December 31, 2017 "to prevent taxpayers from avoiding the application of section 1061 through the use of an S corporation."
[7] This is proposed to apply to all taxable years beginning after the date the proposed regulations are published in the Federal Register.

3. Exception for allocations that are commensurate with capital ("Capital Interest Gains and Losses"). As discussed above, the proposed regulations adopt a very narrow approach to defining this statutory exception which will make it difficult for interests received by service partners in exchange for invested capital to meet this exception. As a result, in many cases, we expect that gains attributable to service partners' invested capital will be subject to recharacterization under section 1061 if the three-year holding period requirement is not met.

   For long-term capital gains and losses to be excepted under section 1061(c)(4)(B) as a return on an API Holder's invested capital, the proposed regulations require allocations to be made *in the same manner* to API Holders and [all][8] unrelated non-service providers, generally based on relative capital accounts.[9] For this exception to apply, the unrelated non-service partners must have at least 5% of the aggregate capital account balances of the partnership when the allocations are made, and the allocations must be identified in the partnership agreement and books and records separately from allocations with respect to an API.

   a. An allocation generally must be made in proportion to the relative value of the API Holder's capital account (including unrealized gains and losses) in the Passthrough Entity in order to be eligible for the exception. In the case of tiered entities, allocations by a lower-tiered entity to an upper-tiered entity generally must be based on relative capital accounts in the lower-tiered entity.
   b. To be made in the same manner, allocations based on the partners' capital account balances must have the same terms, priority, type and level of risk, rate of return, and rights to cash or property distributions during partnership operations and on liquidation.
   c. Each owner's capital account must be (i) increased by the money and the net fair market value of property contributed to the Passthrough Entity and income and gain allocated to the owner, and (ii) decreased by any money and the net fair market value of property distributed to the owner and allocations of expenditures, loss, and deduction. [Note: While for a different purpose, this seems somewhat inconsistent with Treasury's position on maintaining capital accounts in Notice 2020-43.]
   d. A capital account does not include the contribution of amounts directly or indirectly attributable to any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership), but would increase for payments on the loan. [Note: This is another feature derived from the Levin bill.]
   e. While they may be treated as a section 721 contribution, a recapitalization or division will not cause an API Gain or Loss to be treated as a Capital Interest Gain or Loss.
   f. An allocation to an API Holder will not fail to be eligible for this exception solely because it is subordinated to an allocation to unrelated non-service partners or

[8] Prop. Reg. sec. 1.1061-(c)(3)(i) ("Only allocations that are made in the same manner to *all* partners can be Capital Interest Allocations or Passthrough Interest Capital Allocations").
[9] By basing the exception on relative capital accounts, the proposed regulations may allow a partner's return on reinvested returns from an API to be excepted.

because it is not reduced by the cost of services provided by the API Holder or by a related person. There, however, is no guidance in the proposed regulations regarding the treatment of common situations where API Holder's interests are not subject to carried interest.

g. Capital Interest Gains and Losses never include API Gains and Losses, Unrealized API Gains and Losses, or API Holder Transition Amounts.
h. Because they understand that the allocations in the proposed regulations do not include all allocation arrangements, Treasury and the IRS request comments on other allocation arrangements that appropriately should be excepted, without inappropriately expanding the capital interest exception,
i. For application of the capital interest exception to dispositions, see discussion of dispositions below.

4. Exception for assets not held for portfolio investment on behalf of third-party investors. Section 1061(b) provides regulatory authority to establish an exception to section 1061(a) for income or gain attributable to any assets not held for portfolio investment on behalf of third-party investors. The proposed regulations reserve on the exercise of this authority.
   a. However, a separate provision allows a GP to invest capital for separate investments through a partnership that also holds APIs and not be subject to section 1061 on those separate investments ("Passthrough Entity Direct Investment Allocations").
   b. According to the preamble, Treasury and the IRS agree with certain comments that the exception is intended to apply to family offices, (i.e., portfolio investments made on behalf of service providers and related persons) and therefore believe that this exception is implemented effectively in the proposed regulations with the exception to section 1061 for Passthrough Interest Direct Investment Allocations (described below). They request comments on the application of this provision and whether the proposed regulations' exclusion for Passthrough Interest Direct Investment Allocations properly implements the exception.
5. Exception for Bona Fide Purchaser. The proposed regulations add a new exception for an API that is purchased for fair market value of the interest if: (i) the buyer does not currently and has never provided services in the relevant ATB (or to the Passthrough Entity in which the interest is held); (ii) does not contemplate providing services in the future; and (iii) is not related to a person who provides services currently or has provided services in the past.

§1.1061-4 Computing the Recharacterization Amount. The Recharacterization Amount is the amount that a taxpayer must treat as short-term capital gain under section 1061(a). It generally equals the amount by which the taxpayer's overall LTCG derived from APIs (the "One Year Gain Amount") exceeds the portion of such LTCG derived from assets (or interests) held for more than three years (the "Three Year Gain Amount").

1. One Year Gain Amount is comprised of (i) the combined net API One Year Distributive Share Amount from all APIs, and (ii) the taxpayer's API One Year Disposition Amount.
   a. API One Year Distributive Share Amount -- Each Passthrough Entity must calculate an API One Year Distributive Share Amount for each API Holder that directly holds an interest in the Passthrough Entity for the taxable year. This generally encompasses all long-term capital gain and loss allocated to the API Holder by the Passthrough Entity, unless an exception applies.

   b. API One Year Disposition Amount -- The API One Year Disposition Amount includes the long-term capital gains and losses that the taxpayer recognizes from the direct taxable disposition of an API that has been held for more than one year, including gain or loss under sections 731(a) and 752(b). The API One Year Disposition Amount also includes long-term capital gain or loss recognized on the disposition of Distributed API Property[10] by the taxpayer.
2. Three Year Gain Amount is comprised of (i) the combined net API Three Year Distributive Share Amount from all APIs, and (ii) the taxpayer's API Three Year Disposition Amount.
   a. API Three Year Distributive Share Amount – generally, equals an API Holder's One Year Distributive Share Amount less amounts that would not be treated as long-term capital gain and loss if such amount were computed by substituting three years for one year in applying paragraphs (3) and (4) of section 1222. In addition, if the Passthrough Entity sold an API during the taxable year, adjustments may be required under the look-through rule in §1.1061-4(b)(9) described below (the "Look-Through Rule"). This amount must be calculated by the Passthrough Entity and reported to the API Holder under §1.1061-6.
   b. API Three Year Disposition Amount -- Includes only the long-term capital gain or loss from the direct taxable disposition of an API held by the taxpayer for more than three years. However, this amount may be reduced if adjustments are required under the Look-Through Rule.
3. For purposes of determining the One Year Gain Amount and the Three Year Gain Amount, API Gains and Losses do not include:
   a. Long-term capital gain determined under sections 1231 and 1256, qualified dividends described in section 1(h)(11)(B), and any other capital gain that is characterized as long-term or short-term without regard to the holding period rules in section 1222, such as capital gain characterized under the identified mixed straddle rules described in section 1092(b).
   b. Any amounts treated as either API Holder Transition Amounts or Capital Interest Gains and Losses. API Holder Transition Amounts are allocations to the holder of an API of long-term capital gain and loss recognized on the disposition of assets held by the partnership for more than three years as of January 1, 2018, if the partnership has elected (pursuant to procedures described in the proposed regulations) to treat these amounts as API Holder Transition Amounts. Capital Interest Gains and Losses are certain long-term capital gains and losses with respect to an API Holder's capital investment in a Passthrough Entity, as described above.
4. Special rules are provided to allow RICs and REITs to disclose to their shareholders amounts allowing them to demonstrate that RIC and REIT capital gain dividends are attributable to capital assets held for more than three years or to assets that are not subject to section 1061. To qualify for exclusion, the disclosed amounts must be proportionate to the share of capital gain dividends reported or designated to the shareholder for the taxable year.
5. The distribution of property with respect to an API generally does not accelerate the recognition of gain under section 1061. However, if Distributed API Property is disposed of by the distributee-partner when the holding period is three years or less (inclusive of the

[10] Defined as property distributed to an interest-holder with respect to an API if the holding period is three years or less.

partnership's holding period), gain or loss with respect to the disposition is API Gain or Loss. Distributed API Property retains its character as it is passed from one tier to the next. However, at the time that Distributed API Property is held for more than three years, it loses its character and is no longer Distributed API Property.

6. Under the proposed regulations, the holding period of the owner of the asset sold controls. Thus, if a partnership disposes of an asset, it is the partnership's holding period in the asset that controls. Similarly, if the owner disposes of an API, the owner's holding period in the API is the applicable holding period, except to the extent the Look-Through Rule applies.

§1.1061-3(c)(6), -4 Special rules applicable to dispositions. The proposed regulations provide several special rules applicable to dispositions of partnership interests. While scattered throughout, we have aggregated them here for ease of reference.

1. Upon a disposition of a partnership interest, a multi-step process is used to determine the amount of gain or loss recognized on a disposition that is treated as Capital Interest Gains and Losses. First, amounts that are treated as ordinary income under section 751(a) or (b) as a result of the disposition are excluded from all steps of the calculation. Second, the amount of gain or loss that would be allocated to the portion of the interest disposed if all of the assets of the Passthrough Entity were sold for their fair market value in a fully taxable transaction (deemed liquidation) immediately before the disposition is determined. Third, the amount of gain or loss from the deemed liquidation that would be allocable to the holder as a return on invested capital is determined. Fourth, the amount of LTCG recognized on the disposition is allocated between the amount eligible for the capital interest exception and the amount treated as from an API by dividing the amount determined in the third step by the aggregate amount determined in the second step.
2. <u>Look-Through Rule.</u> Generally, the proposed regulations do not look through a partnership to its assets on the sale of a partnership interest. Thus, the seller's holding period in the API will generally control in determining the character of the gain under section 1061. However, a limited Look-through Rule may apply: (i) to the disposition of a directly-held API with a holding period of more than three years, if the assets of the partnership in which the API is held meet the Substantially All Test, or (ii) to the disposition of an interest (with a holding period of more than three years) in an indirectly-held API if the holding period of the partnership in which the API is held is three years or less or the assets of such partnership meet the Substantially All Test. The Substantially All Test is met if 80 percent or more of the assets of the partnership in which the API is held, based on fair market value, are assets that would produce capital gain or loss that is not described in §1.1061-4(b)(6) if disposed of by the partnership and have a holding period of three years or less.

§1.1061-5 Transfers to Related Persons. Pursuant to section 1061(d), the proposed regulations require a taxpayer who transfers an API to a Section 1061(d) Related Person to recognize short term capital gain in amount equal to the excess of (i) the net built-in long-term capital gain in assets held for three years or less attributable to the transferred interest, over (ii) the amount of long-term capital gain recognized on the transfer that is treated as short term capital gain under section 1061(a). Transfers include contributions, distributions, sales and exchanges, and gifts.

- A Section 1061(d) Related Person is a member of the taxpayer's family as defined in section 318(a)(1) or another service provider who provides services (or has provided services over the preceding three calendar years) in the same ATB to which the transferred API relates (i.e., referred to as the "Relevant ATB"). A Passthrough Entity will be treated as a Section 1061(d) Related Person to the extent that a Section 1061(d) Related Person holds an interest in the entity. Treasury and the IRS request comments on how to calculate section 1061(d) gain when a Passthrough Entity is only partially a Section 1061(d) Related Person.
- A contribution under section 721(a) to a partnership is not treated as a transfer to a Section 1061(d) Related Person because the proposed regulations require all Unrealized API Gains that would be directly or indirectly allocated to the API Holder at the time of contribution to be allocated to the API Holder contributing the interest when they are recognized. Treasury and the IRS request comments on transfers other than section 721(a) contributions that should be excluded from application of section 1061(d).
- If a taxpayer transfers an interest in an upper-tier Passthrough Entity that holds an API, the determination of the gain to be recognized under this section "must be applied at the level of the lower-tier Passthrough Entity."

§1.1061-6 Reporting Rules. An Owner Taxpayer must file certain required information necessary for the IRS to determine that the owner taxpayer properly complied with section 1061 and the underlying regulations. Also, a Passthrough Entity in which an Owner Taxpayer holds an API or indirect API must provide (and file with the IRS) the information needed for the Owner Taxpayer to meet its reporting requirements and to determine its Recharacterization Amount. Thus, the Passthrough Entity must provide the Owner Taxpayer with the API One Year Distributive Share Amount and the API Three Year Distributive Share Amount. Additionally, the Passthrough Entity must provide information needed to allow for any adjustments that must be made to the taxpayer's distributive share of long-term capital gain or loss that would allow the taxpayer to independently calculate its API One Year Distributive Share Amount and its API Three Year Distributive Share amount.

- If a taxpayer is not furnished its API One Year Distributive Share Amount and it cannot otherwise substantiate all or a part of those amounts to the satisfaction of the Secretary, the IRS will treat the amount of the adjustments necessary to independently calculate the API One Year Distributive Share as zero and will also treat the API Three Year Distributive Share as zero (i.e., effectively treating any gain for which information is not substantiated as STCG.
- An upper-tier Passthrough Entity must request information from any lower-tier Passthrough Entities that will allow it to comply with its reporting requirements by the later of 30 days after the taxable year-end or 14 days after it received a request from a higher upper-tier entity. The lower-tier entity must furnish the information by the due date of its return and must keep a copy of the request in its books and records.
  - An upper-tier entity that is unable to get the information requested "must take actions to otherwise determine and substantiate the missing information." Notice must be provided to the taxpayer and the IRS that the information being provided is determined in this manner. To the extent an upper-tier Passthrough Entity is not able to substantiate and determine the missing information, the upper-tier

Passthrough Entity must determine these amounts under the rules applicable to the owner taxpayer (described above).

- Special reporting rules apply to RICs, REITS and QEFs.
- Penalties may be imposed for failure to comply with the reporting requirements.

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