Miller & Chevalier

Andrew Howlett Comments on Proposed Pass-Through Tax Regulations in Law360

"Indirect Investors May Lose Out Under New Pass-Through Regs"
Law360
02.01.2019

Andrew Howlett commented on new pass-through tax regulations proposed by the Department of Treasury (Treasury) and Internal Revenue Service (IRS) that relate to the availability of the 20 percent deduction for investors who hold an interest in a real estate investment trust (REIT) through a mutual or index fund. Discussing Treasury and the IRS's skepticism about providing a similar benefit with respect to publicly traded partnership (PTP) interests held through a mutual or index fund, Howlett acknowledged that the regulation drafters "have a point when they say conduit treatment of a qualified publicly traded partnership presents novel issues." He added that, in theory, such investors could get the benefit of the deduction by holding their PTP interests directly, but that "there are a number of downsides to this, including more complex tax reporting, transaction costs, and the need of the investor to manually rebalance her or his holdings to reflect the desired index."