Miller & Chevalier

Andy Howlett Quoted on IRS Pass-Through Deduction Rules in Law360

"Pass-Through Deduction Rules Could Steer Investors to PTPs"
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Andy Howlett was quoted on the recent release of the Internal Revenue Service (IRS)'s final rules regarding the Section 199A pass-through deduction. The final rules, released in June, allow dividends received by a regulated investment company (RIC) shareholder from a real estate investment trust (REIT) to qualify for the 20 percent pass-through deduction under Section 199A. However, according to Howlett, since the rules did not address qualified publicly traded partnership (PTP) income, shareholders cannot claim the 20 percent deduction for PTP income. "Because there are no regs that allow this conduit treatment, then anyone who owns PTPs through RICs, which could certainly be millions of people, won't be able to get the benefit of the 199A deduction," Howlett said. He added that investors only interested in maximizing their 199A deduction could directly invest in the PTP, but that investors should consider more than just the deduction when making investment decisions. "RICs can be used as a blocker of sorts for foreign investors and for tax-exempt investors for PTPs that would otherwise produce effectively connected income and require the investor to file a return, or create unrelated taxable business income that the tax-exempt would have to pay taxes on. So they are [still] a popular vehicle for those types of investors to invest in a publicly traded partnership."