# **Private Equity Tax Policy 2020:** 4 Things To Watch

Before becoming national tax go to market leader for RSM US LLP in September, 2019, Jim Alex served at the U.S. Department of the Treasury, where he worked on tax reform implementation alongside Assistant Secretary for Tax Policy in the United States Department of Treasury Dave Kautter, who was with RSM prior to his role with the Treasury. Alex had a front row seat to the development of regulations that would have long-term impact on private equity fund managers and their investors. Here are the highlights of Alex's forecast for outstanding provisions that will have an outsized impact on PE.

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**Business Interest Deductibility:** Final and proposed regulations are expected this year for the so-called 163(j) provision, which details what types and amount of interest is—and isn't—deductible for tax purposes. Given private equity heavy reliance on debt, any changes are likely to have a material impact on the bottom line.

2

**Carried Interest:** Tax reform changed the investment hold period for carried interest to qualify for long term capital gains treatment from one to three years. Several important matters will likely be covered in this new proposed regulation including the critical provision regarding the application to S-Corporations. While much of the regulatory language has been issued, one critical point remains - how will the new rules impact S-Corporations?

3

**Qualified Improvement Property:** Qualified improvement property (QIP) includes longer life improvements made to the interior of a building. Due to an legislative oversight, QIP was not included in accelerated depreciation provisions enacted under tax reform. Unfortunately, that can't be addressed by Treasury without new legislation, a very uncertain prospect prior to the 2020 election.

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**Opportunity Zones:** Tax reform didn't include reporting provisions and guidelines for opportunity zones; properly documenting its success is likely critical to ensuring the long-term viability of the program. Like the QIP provisions, this framework will require new legislation.

So what should PE firms be doing to address the new and pending regulatory reality?

"It's pretty clear that the focus has been on getting the numbers right on the return," Alex says. "There has not been the focus with regard to planning."

The lack of planning needs to change, Alex says. While some provisions may change, for the foreseeable future the core provisions in the bill are here to stay. ■