

UK 2015 Summer Finance Bill Update: Proposed Taxation Changes for Carried Interest and DIMF

Client Alert

October 30, 2015

Further to our [client alert in July this year](#), the UK Government recently proposed further changes to the UK taxation of carried interest and disguised investment management fees (DIMF).

The UK Government proposed further amendments last week to the 2015 Summer Finance Bill which affect UK investment management professionals. The bulk of the carried interest provisions will apply with effect from 8th July 2015, with some of the recent changes only applying from 22nd October.

The amendments are technical and somewhat complex. Some of the main changes proposed are as follows:

1. Amounts are no longer within the potential scope of the DIMF rules simply when they arise "directly or indirectly" to the individual. However, this broad test has been replaced by some specific circumstances in which amounts arising to persons other than the individual manager may be in scope. These include sums arising to both connected and unconnected companies as well as to connected persons other than companies. The new rules may capture sums arising, for example, to the trustees of trusts of which the UK manager is the settlor or beneficiary or to companies where a UK manager can benefit from company property. Simply owning shares in a company should not, of itself, be enough to fall within scope of the rules, but there are complex anti-avoidance rules to navigate.

Additional provisions have been included which introduce the concept of "deferred carried interest". These provisions operate to defer the time at which carried interest amounts that: (i) arise to connected companies or unconnected persons; and (ii) are subject to escrow or similar deferral arrangements, will be treated as arising.

2. There are further proposed amendments to deal with some technical points under the carried interest legislation. In particular:

- a. The provisions that would potentially have brought in an unrestricted market value charge on the disposal of carried interest have been withdrawn. This is welcome and in response to substantial lobbying from the UK fund industry and advisers.

- b. Variations of carried interest for consideration have been brought within scope of the carried interest charge. For example, an executive agreeing to accept a lower carry percentage in exchange for payment by other carry-holders would now be taxable under these rules.

- c. There is increased flexibility for use of capital losses against capital gains arising from carried interest, as well as broader rules to allow credit for tax borne by third parties.

- d. Any base cost that will be disallowed in the fund manager's capital gains tax computation under the new rules may now be available to UK taxable limited partners which would have given up that base cost under the prior rules. This

could reduce the effective tax rate for UK taxable limited partners compared with the historic position where, effectively, some of their base cost was ceded to the carry-holders under the "base cost shift".

All the amended provisions are now likely to become law within the next few weeks.