

Partner Notification Pursuant to Section 5.01 of Notice 2019-46

The purpose of this notification is to inform the partners of The Carlyle Group L.P. (“Partnership”) on guidance outlined in IRS Notice 2019-46 (“the Notice”), which was released on August 22, 2019.

In October 2018, the Treasury Department and the IRS published proposed regulations under section 951A (“Proposed Regulations”). The Proposed Regulations provided a hybrid approach to the treatment of a domestic partnership that is a U.S. shareholder (“U.S. shareholder partnership”) of a CFC (“partnership CFC”). Under the hybrid approach, a U.S. shareholder partnership would determine its GILTI inclusion amount, and the partners of the partnership that were not also U.S. shareholders of the partnership CFC would take into account their distributive share of the partnership’s GILTI inclusion amount. Partners that were themselves U.S. shareholders of a partnership CFC would not take into account their distributive share of the partnership’s GILTI inclusion amount, and instead would be treated as proportionately owning the stock of the partnership CFC within the meaning of section 958(a) as if the domestic partnership were a foreign partnership.

In June 2019, the Treasury Department and the IRS published final regulations under section 951A (“Final Regulations”). The Final Regulations did not adopt the hybrid approach with respect to domestic partnerships in the Proposed Regulations. Under the Final Regulations, a domestic partnership (including a U.S. shareholder partnership) does not have a GILTI inclusion amount, and therefore no partner of the partnership has a distributive share of a GILTI inclusion amount. Rather, for purposes of determining the GILTI inclusion amount of any partner of a domestic partnership, each partner is treated as proportionately owning the stock of a CFC owned by the partnership within the meaning of section 958(a) in the same manner as if the domestic partnership were a foreign partnership. Because only a U.S. person that is a U.S. shareholder can have a GILTI inclusion amount, a partner that is not a U.S. shareholder of a partnership CFC does not have a GILTI inclusion amount determined by reference to such partnership CFC.

In summary, under the Final Regulations, a partner that is not a U.S. shareholder with respect to a partnership CFC has neither a distributive share of a GILTI inclusion amount nor a GILTI inclusion amount that is determined by reference to such partnership CFC.

This midstream change in guidance has resulted in administrative difficulties for domestic partnerships. In response to taxpayer comments, the IRS granted relief via the Notice which permits partnerships to file Form 1065 and/or issue Schedules K-1 consistent with the Proposed Regulations. Significantly, the Notice provides that a partnership that meets the notification and reporting requirements of the Notice will not be subject to penalties for failures described in sections 6698(a), 6722(a), or any similar provision to the extent such failures arise from acting consistently with proposed §1.951A-5 prior to June 22, 2019. Please consult your tax advisor.

In order to qualify for this relief, the Partnership is required to notify its partners of the following:

1. The Schedule K-1 provided to you is consistent with proposed §1.951A-5;
2. The domestic partnership intends to file Form 1065 consistent with the Final Regulations; and
3. The notification is being provided in accordance with Notice 2019-46.