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Carried Interests Taxed As Capital Gain? It's Poetry

Should wealthy private equity and hedge fund managers get capital gain rates on their carried interests? Under current tax law, they clearly do. As the New York Times notes, what is ordinary income and what is capital gain is not always obvious. See [Capital Gains, Ordinary Income and Shades of Gray](#).

Whether this capital gain rule should continue is being debated, even among those who think millionaire and billionaire investors should pay higher taxes. See [Could President](#)

[Obama End Carried Interests Without Congress?](#) One reason is that this rule follows a fundamental feature of the tax law. How partnership income is taxed is determined by how the **partnership** earns a profit, not by what the **partners** contribute.

Thus, if a partnership buys a company or a building and holds it for more than a year before selling it, the partners are taxed as long-term capital gain. Even if Congress decides to tax carried interests as ordinary income, it may be easier said than done. Mitt Romney's tax returns



Image via northeritrust.com

renewed this discussion, but it has continued for years. See [Mitt's Taxes Stoke "Carried Interest" Flames](#).

Here's a reprise of the battle for Carried Interest Legislation:

June 22, 2007 — Rep. Sander Levin introduces H.R. 2834 to treat carried interest as ordinary income. Original co-sponsors include Ways & Means Chairman Rangel and Financial Services Chairman Frank.

November 9, 2007 — The House approves carried interest legislation as part of H.R. 3996, which included tax extenders, an AMT "patch" and other provisions.

June 22, 2008 — The House approves carried interest legislation as part of H.R. 6275, the Alternative Minimum Tax Relief Act of 2008.

April 2, 2009 — Levin reintroduces legislation to treat carried interest as ordinary income (H.R. 1935) for the 111th Congress.

December 9, 2009 — The House approves carried interest legislation as part of H.R. 4213, which extended various expiring tax provisions.

May 28, 2010 — The House approves carried interest legislation as part of amendments to the Senate-passed version of H.R. 4213.

In an effort to add verse to the debate, here is my own

Ode to the Taxation of Carried Interests

The millions and billions the hedge fund guys reap;
Those obscenely big earnings? They mostly do keep.
For tax law rains gently on pockets so deep;
Their interests are subject to rates oh so cheap.
It may seem unfair, this capital gain;
For wage slaves are truly left out in the rain.
Shouldn't hedgers pay tax and feel some of the pain,
Though carried interests are their pay in the main?
Let's tax all these mavens, these titans who preen;
Who make bundles of money, their hair all asheen.
In lush trendy Greenwich, all tony and green;
While our after-tax wages are left oh so lean.

Surely Congress will fix this, as sure as can be.
They'll spread the tax burden, they'll help you and me.
If fund managers pay more, they'll all surely see;
Of how big a tax bite they've so far been free!
But Kohlberg and Kravis and all Blackstone too,
Will surely complain that they've something to rue.
"Our maids and our gardeners pay tax, sure that's true."
"But the carry is hallowed; change it and we'll sue!"

For more, see:

[Capital Gains, Ordinary Income and Shades of Gray](#)

[After Iowa Squeaker, Getting Our Mitts On Mitt's Taxes](#)

[Only The Little Kardashians Pay Taxes](#)

[In Taxes, Kim Kardashian Is More Buff Than Buffet](#)

[Mitt Romney's Teachable Knowledge on Capital Gains](#)

[Quelle Horreur! Mitt Romney Pays 'About 15% Tax Rate'](#)

[Warren Buffett's Effective Federal Income Tax Rate Was Just 11%](#)

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