

raise tax issues in addition to mechanical ones.

To help protect investors, the bill would require the appointment of a committee independent of the general partner or sponsor to review a proposed roll-up on behalf of investors. Plus, limited partners would have the ability to opt out of the roll-up. There is also a provision to require a moratorium on roll-ups until the SEC writes rules on the subject.

From a tax perspective, the typical investor who swaps a partnership interest in the original limited partnership for an interest in a new publicly traded partnership hopes the exchange will be tax-free. Unfortunately, this is frequently not true, a tendency that may even be exacerbated by the proposed legislation's opt-out provision for limited partners.

Furthermore, a decrease in the investor's share of partnership liabilities will produce gain to the swapping partner if the decrease in liabilities exceeds the investor's adjusted tax basis in his or her partnership interest. In some cases, the partnership may even be terminated for tax purposes, leading to an even more serious tax backlash.

While roll-ups may be quiet for the moment, if the legislation does pass and roll-ups become more regulated, the tax issues will likely not go away. ■

## Proposed Roll-up Legislation Sparks Interest

by Robert W. Wood • Bancroft & McAlister

The recent overwhelming House vote (408 to 6) approving a bill that gives investors more protection in the restructuring of limited partnerships suggests that the bill may be passed this year. (See *Wall St. J.*, 3/3/93, p. C13.) A similar measure passed the House but stalled in the Senate last year, and the suggestion is that there may be trouble in the Senate with this year's bill. Nonetheless, it is possible that the bill will pass this time, and such an event would

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