

Section 457A

October 22, 2008 | Client Update

The Emergency Economic Stabilization Act of 2008 (“EESA”), which President Bush signed on October 3, added Section 457A to the Internal Revenue Code. Under the new provision, managers of offshore hedge funds will no longer be able to defer the recognition of incentive fees and management fees payable by the funds. Moreover, the effect of the provision is not limited to hedge fund managers, nor is it limited to persons that have made affirmative deferral elections. Section 457A does not, however, affect the treatment of carried interest allocations made by private equity, venture capital, real estate or similar funds or the treatment of incentive allocations made by hedge fund partnership vehicles, such as a master fund or a “mini-master.”

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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