

Illinois: Legislation seeks to close the carried interest loophole



David M. Kall | Thursday, May 4, 2017

The Hedge Clippers is an organization whose aim is to blow the whistle on those in the federal government “who put their own financial gain before the public good.” As such, their campaign collaborates with labor unions, community groups, coalitions, digital activists and organizing networks around the country, including groups like the Grassroots Collaborative in Illinois, the Ohio Organizing Collaborative, Greenpeace, the United Federation of Teachers, New York State United Teachers, and the like.

To this end, the group has also joined forces with lawmakers in Illinois to close the carried interest loophole, by way of H.B. 3393. In Hedge Papers # 48, titled “Illinois Billionaires and Their Lucrative Loophole,” Hedge Clippers argues that “...states like Illinois stand to gain billions of dollars in revenue by closing the carried interest loophole. It’s a long overdue element of financial reform that the federal government has failed to enact, despite bipartisan support for tax fairness.”

Further, the group asserts:

Illinois’s private equity and hedge funds are conservatively estimated to be earning \$4.8 billion per year in under-taxed carried interest. A state bill to recapture this revenue at the ordinary income level has strong sponsorship in both houses of the State Legislature, and it would raise at least \$473 million each year for schools, health care and essential public services in Illinois.

As we explained a year ago when we described the Patriotic Millionaires’ effort to close the carried interest

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loophole in New York (efforts which remain stalled), the provision is a deduction that a money manager takes for his share of the profits made by investing clients' money, typically, around 20 percent. When investments are held for more than a year, the profits they generate are taxed at the 20 percent rate for long term capital gains, not the approximately 40 percent rate applied to earned income. Paper #48 calls it "the mistreatment of hedge fund and private equity fees as capital gains, rather than ordinary income.

Paper #48 points to several Chicagoans who are among the "richest human beings on the planet," who stand to lose if the legislation passes, including Governor Bruce Rauner.

The legislation's synopsis of H.B. 3393 as originally introduced states that it imposes a 20 percent privilege tax on partnerships and S corporations that provide investment management services, "until such time as a federal law with an identical effect has been enacted...effective immediately." In addition, the original version conditioned passage of the act on the states of Connecticut, New Jersey, and New York enacting laws having an identical effect.

A House amendment adjusts this slightly, providing an effective date of July 1, 2017. In addition, the 20 percent tax is to be imposed on the "fees earned from the investment strategy of the investment manager and not from the investment itself (in the introduced bill, at the rate of 20%)." A note to the amendment reveals that the Department of Revenue does not have an estimate of revenues at this time, but that the new revenue would offset administrative costs.

The legislation, whose 22 co-sponsors are all democrats, is in step with the Senate's companion bill, SB 1719.

"[S]ay NO to HB 3393!!" is what at least one stakeholder, the Illinois Venture Capital Association is urging people to tell their legislators. This association "advocates for a strong venture capital and private equity industry in Illinois."



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Team member bio