PwC’s PTP Swap Tax Reporting Service

February 3, 2017
**Swap Tax Data - What is it?**

**Dividend Equivalent Amount Withholding**

871(m)
For each swap on a covered PTP open during any portion of a PTPs taxable year, an amount equal to the sum of the US source withholdable dividends and the DEAs that would have been reportable on the Schedule K-1 for that taxable year of a partner with an investment in the partnership corresponding to the swap.

**Net Underlying Long Term Capital Gain**

1260
For each swap on any PTP closed during the calendar year, amounts equal to the net capital gain that would have been reported on the tax return for each taxable year during which the swap was open by a hypothetical partner whose only activity was making an investment in the partnership corresponding to the swap.
| Ticker | CUSIP | L/S | Trade Date | Settle Date | Quantity | Open Price | Trade Date | Settle Date | Unrealized Price | Equity Amount | Distributions | 2018 DPA | 2017 1260 NULTCG | 2018 1260 NULTCG |
|-------|-------|-----|------------|-------------|----------|------------|------------|-------------|-----------------|---------------|--------------|---------|----------------|----------------|----------------|
| BPL   | 118230101 | L   | 8/25/2017  | 8/27/2017   | 91,930   | $82.93     | 7/2/2016   | 7/2/2016    | $62.19           | $317,158.50   | $446,046.40  | $12,217.87 | $0             | $719,088.20 |
| BPL   | 118230101 | L   | 5/9/2017    | 5/12/2017   | 99,289   | $58.17     | 7/25/2017  | 7/30/2017   | $65.50           | $83,003.40    | $58,646.95  | $9,366.18 | $0             | $521,206.40 |
| BPL   | 118230101 | L   | 7/10/2017   | 7/13/2017   | 14,562   | $59.80     | 7/25/2017  | 7/30/2017   | $65.50           | $83,003.40    | $58,646.95  | $1,676.43 | $0             | $115,841.12 |
| BPL   | 118230101 | L   | 7/20/2017   | 7/23/2017   | 14,562   | $51.74     | 7/25/2017  | 7/30/2017   | $65.50           | $83,003.40    | $58,646.95  | $754.83   | $0             | $269.62       |
| DPL   | 118230101 | L   | 5/15/2018   | 5/18/2018   | 91,930   | $58.03     | open       | n/a          | n/a             | n/a           | n/a          | $6,289.62 | $0             | $3,717.41     |
| DPL   | 118230101 | L   | 7/7/2018    | 7/10/2018   | 68,295   | $55.67     | open       | n/a          | n/a             | n/a           | n/a          | $4,455.67 | $0             | $793.87       |
| DPL   | 118230102 | L   | 2/20/2018   | 2/23/2018   | 88,765   | $57.67     | open       | n/a          | n/a             | n/a           | n/a          | $2,434.22 | $0             | $441.77       |
| DPL   | 118230102 | L   | 8/5/2018    | 8/8/2018    | 18,167   | $55.57     | open       | n/a          | n/a             | n/a           | n/a          | $2,434.22 | $0             | $441.77       |
| DPL   | 118230104 | L   | 5/22/2018   | 6/1/2018    | 37,821   | $59.31     | open       | n/a          | n/a             | n/a           | n/a          | $2,434.22 | $0             | $441.77       |
| CLMT  | 131476102 | L   | 5/19/2017   | 5/24/2017   | 96,493   | $20.42     | 9/18/2018  | 9/19/2018   | $24.81           | $247,962.37   | $166,384.59 | $0.00      | $0             | $387,073.63 |
| CLMT  | 131476103 | L   | 12/20/2017  | 12/25/2017  | 65,938   | $20.23     | 3/14/2018  | 3/19/2018   | $21.47           | $187,768.67   | $96,768.67  | $0.00      | $0             | $8,000        |

Toggle Between 2017 and 2018 Swaps
PTP Swap Challenges - What are the Drivers?

PTP Swap Withholding

- **January 1, 2017** effective date
- Withhold and reporting on “Dividend Equivalent Amounts” (DEAs)
- Swap dealers primarily responsible for withholding on non-US customers
- Swap dealers responsible for reporting to US customers who request DEA information (e.g., US master funds and US funds with non-US partners)
- Based on allocable underlying dividends - not PTP cash distributions

Partnership Investments Audit Scrutiny

- Swaps on partnerships earning ECI are on the IRS radar
- New IRS audit assessment powers effective on January 1, 2018
- Anticipate increasing IRS scrutiny particularly for large investors
- Section 1260 likely to be a major audit issue where applicable
- Need to substantiate “Net Underlying Long Term Capital Gain”
PTP Swap Challenges - IRS Large Partnership Campaign

Jan. 31, 2017

IRS Announces Initial Rollout of Large Business and International Campaigns

- **TEFRA Linkage Plan Strategy Campaign**

  The Practice Area is Pass-Through Entities

  Lead Executive: Cliff Scherwinski

As partnerships have become larger and more complex, LB&I has regularly revised processes to assess tax on the terminal investors. Recent legal advice provides an opportunity to make significant changes to how we approach this process. This campaign focuses on developing new procedures and technology to work collaboratively with the revenue agent conducting the TEFRA partnership examination to identify, link and assess tax to the terminal investors that pose the most significant compliance risk.
PTP Swap Challenges - What are the Risks?

- Compliance risk for under-withholding
- Market risk for over or under-withholding
- Incorrect determination of covered partnership status
- Diminished market - Investors pivot from uncertainty and risk of derivatives

Banks

- Bear ultimate risk for bank under-withholding
- Compliance burden to claim credit for over-withholding
- Audit risk - IRS recasts unsubstantiated long-term capital gain to ordinary income

Swap Investors

- No expertise or experience with complex financial securities regulation
- Uncertainty ascertaining covered partnership status or subject dividends
- Flood of inquiries into the PTP
- Diminished access to equity capital markets (3-7% of total market cap)

Partnerships
PTP Swap Challenges - PwC’s Solution

- **Create certainty** by assessing and monitoring covered status
- **Establish continuity** by incorporating DEAs into our recurring reporting framework
- **Simplify** investor access to withholding information
- **Minimize tax drag** through optimized withholding and support for capital gain
- Establishes a **practical** and **reasonable** approach to compliance
- **Aligns with** the allocations of DEAs of a **direct investor** in a PTP
- Call center **support** for swap investors, their advisors, and tax return preparers
**PTP Swap Challenges - PwC’s Solution**

- **Determine covered status**
- **Quantify DEAs**
- **Mirror K-1 Allocations**
- **Report to banks & investors**

**Determine Covered Status**

- Establish industry-wide assessment framework
- Embed covered status assessment into our PTP engagement workplans, communications, transaction structuring, and planning
PTP Swap Challenges - PwC’s Solution

- Determine covered status
- Quantify DEAs
- Mirror K-1 Allocations
- Report to banks & investors

Quantify Dividend Equivalent Amounts

- Establish industry-wide standards acceptable to regulators
- Incorporate data requirements into our PTP engagements
PTP Swap Challenges - PwC’s Solution

- Determine covered status
- Quantify DEAs
- Mirror K-1 Allocations
- Report to banks & investors

Mirror K-1 Allocations
- Long established industry conventions
- Consistent with regulatory intent
- Carried out by industry standard bearer
- Safety in numbers
**PTP Swap Challenges - PwC’s Solution**

- **Determine covered status**
- **Quantify DEAs**
- **Mirror K-1 Allocations**
- **Report to banks & investors**

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**Report to Banks and Investors**

- Report of DEAs attributable to each individual swap, delivered in final form by March 10
- Web Portal for swap customers with DEA and 1260 NULTCG information
- Call center support for swap customers
Considerations

Engagements with the Banks

- Terms require confidentiality and single purpose use
- No personally identifiable information will ever be provided to a bank
- **Require banks to work with PwC to resolve retail investor data issues**

Ask of the Partnerships

- Provide PwC with consent to use your information to facilitate the banks’ compliance obligations
- Work with us to break out dividend information as necessary
# Contacts

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Questions