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§199A Qualified Business Income Deduction

Liz Britton, Tax Senior Manager, Asheville, NC Jimmy ten Pas, Tax Senior Manager, Greenville, SC

Agenda / Objectives

- Overview of the Section 199A deduction
- Define key terms and limitations
- Examples of the calculation
- Planning considerations

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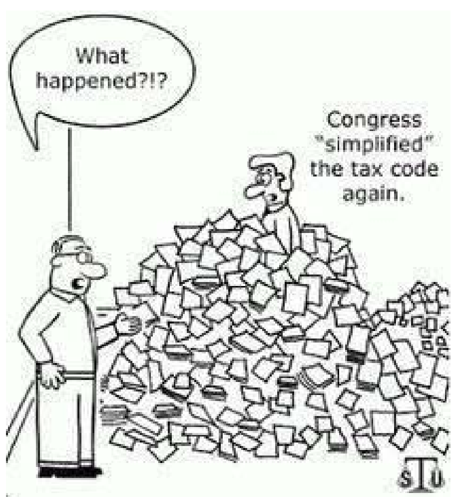
§199A Qualified Business Income Deduction

Tax Reform Law

- For tax years beginning after December 31, 2017, allows an individual taxpayer (and a trust or estate) a deduction **up to** 20% based on an individual's domestic qualified business income from a partnership, S corporation, or sole proprietorship
- Expires after 2025
- Intended to correlate to the decrease in the corporate tax rate of 21% and to incentivize W-2 wage growth and capital investment
- Complex calculation, areas of uncertainty
- Increased reporting for pass-through entities to partners and shareholders



How Does This Deduction Work?

- Below the Line!
  - Not a deduction for AGI
  - Not an itemized deduction
- Assuming in highest 37% bracket with full deduction allowed, produces an effective 29.6% Federal rate
- Not a deduction for SE tax
- Same for AMT and regular Tax
- But of course…it is not so simple…

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§199A Deduction Calculation

The §199A deduction is equal to the sum of #1 and #2

1. The lesser of (a) or (b):

a) The combined tentative deduction amounts calculated for each pass-through entity or sole proprietorship, which is the **lesser** of :
   - 20% of the trade or business's QBI, or
   - The **greater** of:
     1. 50% of W-2 wages, **or**
     2. 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property

   plus 20% of aggregate qualified REIT dividends and qualified Publicly Traded Partnership income,

   or

b) 20% of the excess (if any) of:
   - Taxable income, over
   - The sum of any net capital gain and aggregate amount of qualified cooperative dividends

PLUS

2. The lesser of (c) or (d):

c) 20% of the aggregate amount of qualified cooperative dividends, **or**

d) Taxable income reduced by the net capital gain

The sum of #1 and #2 above cannot exceed taxable income reduced by net capital gain.

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§199A Deduction Calculation – ONLY QUALIFIED BUSINESS INCOME

A simpler three step process if you only have QBI

STEP 1

Calculate the "Initial Deduction Amount" for each qualified trade or business, which is 20% of Qualified Business Income (or loss)

STEP 2

Apply W-2 Wage / Property Limitation (if applicable) to calculate "Tentative Deduction Amount" for each qualified trade or business

STEP 3

Total each "Tentative Deduction Amount" for each qualified trade or business to arrive at the "Potential QBI Deduction"

STEP 4

Apply the overall limitation. The "Potential QBI Deduction" cannot exceed 20% of the excess of the taxpayer's taxable income before the 199A deduction over the taxpayer's net capital gains.

Polling Question

- If a taxpayer has only qualified business income and does not have qualified REIT dividend income, publicly traded partnership income, and qualified cooperative dividend income, the Section 199A calculation is:
  - A: Simpler
  - B: More complex

§199A Deduction Calculation: QBI

The §199A deduction is equal to the sum of #1 and #2

1. The **lesser** of (a) **or** (b):
   a. The combined tentative deduction amounts calculated for each pass-through entity or sole proprietorship, which is calculated as the **lesser** of:
      i. 20% of the trade or business's **QBI**, or
      ii. The **greater** of:
         1. 50% of W-2 wages, or
         2. 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property

   plus 20% of aggregate qualified REIT dividends and qualified Publicly Traded Partnership income,
   or

   b. 20% of the excess (if any) of:
      i. Taxable income, over
      ii. The sum of any net capital gain and aggregate amount of qualified cooperative dividends

PLUS

2. The **lesser** of (c) **or** (d):
   c. 20% of the aggregate amount of qualified cooperative dividends, **or**
   d. Taxable income reduced by the net capital gain

The sum of #1 and #2 above cannot exceed taxable income reduced by net capital gain.

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What is Qualified Business Income?

The net amount of qualified items of income, gain, deduction and loss from a qualified trade or business. Does NOT include:

- Investment-type income (e.g. – interest and dividends)
- Short Term or Long Term capital gains or losses
- Reasonable wages or guaranteed payments for services paid to the taxpayer
- Trades or businesses performing services as an employee
- Specified Service Trade or Business (SSTB) income…but sometimes it does

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What is Qualified Business Income?: SSTB

When is SSTB income QBI?

- If your taxable income is less than $315,000 (MFJ) / $157,500 (All Others):
  - SSTB income **IS** QBI
- If your taxable income is more than $415,000 (MFJ) / $207,500 (All Others):
  - SSTB income **IS NOT** QBI
- If your taxable income is between:
  - **A PORTION** of SSTB income **IS** QBI

Example

Taxable income (MFJ)	**345,000**
Threshold	315,000
Taxable income > Threshold	30,000
Applicable Percentage*	**70%**
**100% - (30,000 / 100,000)*	
Income from SSTB	300,000
SSTB Income that is QBI	**210,000**

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What is Qualified Business Income?: SSTB

§199A defines a Specified Service Trade or Business to be any trade or business which is described in section 1202(e)(3)(A) with modifications.

The §1202(e)(3)(A) definition is "any trade or business involving the performance of services in the fields of health, law, ~~engineering~~, ~~architecture~~, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees or owners"

or

which involves the performance of services that consist of investing and investment management, trading, or dealing in securities (as defined in §475), partnership interests, or commodities (as defined in §475).

emphasis added

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What is Qualified Business Income?: SSTB

- “Principal asset” and “reputation or skill”
- “Fields of”
  - TC Memo 2012-21
  - PLR 201717010
  - PLR 201436001

What is Qualified Business Income?: SSTB

- §1202(e)(3)(A) (as modified by §199A): “any trade or business involving the **performance of services in the fields of health, law,** ~~engineering~~, ~~architecture~~, **accounting, actuarial science, performing arts, consulting,** athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees or owners”
- §448(d)(2): A “qualified personal service corporation” means any corporation where “substantially all of the activities of which involve the **performance of services in the fields of health, law,** engineering, architecture, **accounting, actuarial science, performing arts,** or **consulting**”

What is Qualified Business Income?: SSTB

- Consider the business activity and codes reported on the tax return

Form **1065**
Department of the Treasury
Internal Revenue Service
A Principal business activity
B Principal product or service
C Business code number

Form **1120S**
Department of the Treasury
Internal Revenue Service
For calendar year 2017 or
A S election effective date
B Business activity code number (see instructions)

Polling Question

- Which of the following is not a Specified Service Trade or Business:
  - A: Accounting
  - B: Law
  - C: Health
  - D: Moonshine Distillery

§199A Deduction Calculation: Wage / Property Limitation

The §199A deduction is equal to the sum of #1 and #2

1. The **lesser** of (a) **or** (b):
   a. The combined QBI amounts calculated for each pass-through entity or sole proprietorship, which is calculated as the **lesser** of:
      i. 20% of the trade or business's QBI, or
      ii. The **greater** of:
         1. 50% of W-2 wages, or
         2. 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property

      plus 20% of aggregate qualified REIT dividends and qualified Publicly Traded Partnership income,
      or

   b. 20% of the excess (if any) of:
      i. Taxable income, over
      ii. The sum of any net capital gain and aggregate amount of qualified cooperative dividends

Wage / Property Limitation

PLUS

2. The **lesser** of (c) **or** (d):
   c. 20% of the aggregate amount of qualified cooperative dividends, **or**
   d. Taxable income reduced by the net capital gain

The sum of #1 and #2 above cannot exceed taxable income reduced by net capital gain.

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Wage / Property Limitation

When does the Wage / Property Limitation apply?

- If taxable income is less than $315,000 (MFJ) or $157,500 (All Others):
  - Wage / Property Limitation **DOES NOT APPLY**
- If taxable income is more than $415,000 (MFJ) or $207,500 (All Others):
  - Wage / Property Limitation **APPLIES**
- If taxable income is between:
  - Wage / Property Limitation **PHASES IN**

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Wage / Property Limitation: Example – MFJ

- Effect of varying wage and property amounts on the 199A deduction

	No Wages - Holds Property	With Wages	With Wages and Property
Qualified Business Income	500,000	500,000	500,000
Share of W-2 Wages	0	80,000	80,000
Qualified Property	1,000,000		1,000,000
Taxable Income on 1040	500,000	500,000	500,000
Initial Deduction	100,000	100,000	100,000
50% Wage Limitation	0	40,000	40,000
25% Wage + 2.5% Property Limitation	25,000	20,000	45,000
Tentative Deduction	**25,000**	**40,000**	**45,000**

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Wage / Property Limitation: Example – MFJ

- Effect of change in taxable income on the 199A deduction
- The Wage / Property Limitation phases in if taxable income is **between** $315,000 and $415,000 (MFJ)

	Less than	Between	Over
Taxable income	**300,000**	**345,000**	**415,000**
Threshold	315,000	315,000	315,000
Taxable income > Threshold	N/A	30,000	100,000
Phase in percentage	N/A	**30%**	**100%**
Qualified Business Income	300,000	300,000	300,000
Initial Deduction (20% of QBI)	**60,000**	**60,000**	**60,000**
50% Wages	N/A	40,000	40,000
25% Wages / 2.5% Property	N/A	**45,000**	**45,000**
Initial Deduction Less W-2 / Property Limitation	N/A	15,000	15,000
Phase in of limitation	N/A	**4,500**	**15,000**
Tentative Deduction	**60,000**	**55,500**	**45,000**

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Wage / Property Limitation: Example – MFJ

- Effect of entity choice on the 199A deduction – Above Threshold

	Schedule C Sole Proprietor	S Corp 100% owned	Partnership - 99%/1%
Qualifed Business Income	500,000	375,000	375,000
Guaranteed Payment from LLC		-	125,000
Share of W-2 Wages	-	125,000	-
Qualified Property	100,000	100,000	100,000
Taxable Income on 1040	500,000	500,000	500,000
Initial Deduction	100,000	75,000	75,000
50% Wage Limitation	0	62,500	0
25% Wage + 2.5% Property Limitation	2,500	33,750	2,500
Tentative Deduction	**2,500**	**62,500**	**2,500**

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Wage / Property Limitation: Example – MFJ

- Effect of entity choice on the 199A deduction – Below Threshold

	Schedule C Sole Proprietor	S Corp 100% owned	Partnership - 99%/1%	
Qualified Business Income	200,000	120,000	120,000	
Taxable Income on 1040	200,000	200,000	200,000	
Guaranteed Payment		-	80,000	
W-2 Wages	-	80,000	-	
Qualified Property	100,000	100,000	100,000	
Initial Deduction	40,000	24,000	24,000	
50% Wage Limitation	N/A	N/A	N/A	
25% Wage + 2.5% Property Limitation	N/A	N/A	N/A	
Tentative Deduction	**40,000**	**24,000**	**24,000**	*

*If no guranteed payment made, same position as Sole Proprietor

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§199A Deduction Calculation: W-2 Wages / Qualified Property

The §199A deduction is equal to the sum of #1 and #2

1. The **lesser** of (a) **or** (b):
   a. The combined tentative deduction amounts calculated for each pass-through entity or sole proprietorship, which is calculated as the **lesser** of:
      i. 20% of the trade or business's QBI, or
      ii. The **greater** of:
         1. 50% of **W-2 wages**, or
         2. 25% of **W-2 wages** plus 2.5% of the unadjusted basis of **qualified property**

   plus 20% of aggregate qualified REIT dividends and qualified Publicly Traded Partnership income,

   or

   b. 20% of the excess (if any) of:
      i. Taxable income, over
      ii. The sum of any net capital gain and aggregate amount of qualified cooperative dividends

PLUS

2. The **lesser** of (c) **or** (d):
   c. 20% of the aggregate amount of qualified cooperative dividends, **or**
   d. Taxable income reduced by the net capital gain

The sum of #1 and #2 above cannot exceed taxable income reduced by net capital gain.

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W-2 Wages

- W-2 Wages means:
  - Sum of wages subject to wage withholding plus elective deferrals and deferred compensation
  - W-2 wages must be reported to the SSA (for purposes of this deduction, the report can be 60 days late)
- Limited to wages allocable to a qualified trade or business
  - Review allocation for unqualified trades or businesses
- Taxpayer's share of W-2 wages
  - For partners or shareholders W-2s wages are allocated in the same manner as the wages expense
- For fiscal year partnerships and S corporations, W-2 wages are the calendar year wages paid by the business during the calendar year ending during the taxable year
  - **Example:** A partnership with a 5/31/2019 fiscal year end would use W-2 wages paid for the calendar year ending 12/31/2018 for purposes of applying the wage limitation

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W-2 Wages

- Does it matter for the individual taxpayer?
  - If your taxable income is less than $315,000 (MFJ) / $157,500 (All Others): **NO**
  - If your taxable income is more than $415,000 (MFJ) / $207,500 (All Others): **YES**
  - If your taxable income is between: **YES**

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Qualified Property

- The acquisition cost (unadjusted basis) of depreciable tangible and real property (excludes land)
- Held for use by the qualified trade or business at the close of the tax year
- Used at any point during the tax year
- Depreciable period for which has not ended before the close of the taxable year
  - Depreciable period is the period beginning on date the property was first placed in service and ending on the **later of**:
    - 10 years after such date, or
    - The last day of the last full year in the applicable recovery period under section 168 (GDS recovery period)
  - **Example:** A calendar year partnership acquires equipment with a 5 year GDS recovery period on 7/1/2015. The equipment is considered qualified property through the 2024 tax year.
- Qualified Property is allocated to partners/shareholders in the same manner as the depreciation expense

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Qualified Property

- Does it matter for the individual taxpayer?
  - If your taxable income is less than $315,000 (MFJ) / $157,500 (All Others): **NO**
  - If your taxable income is more than $415,000 (MFJ) / $207,500 (All Others): **YES**
  - If your taxable income is between: **YES**

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§199A Deduction Calculation: Combined QBI

The §199A deduction is equal to the sum of #1 and #2

1. The **lesser** of (a) **or** (b):
   a. The combined tentative deduction amounts calculated for each pass-through entity or sole proprietorship, which is calculated as the **lesser** of:
      i. 20% of the trade or business's QBI, or
      ii. The **greater** of:
         1. 50% of W-2 wages, or
         2. 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property

      plus 20% of aggregate qualified REIT dividends and qualified Publicly Traded Partnership income,

      or

   b. 20% of the excess (if any) of:
      i. Taxable income, over
      ii. The sum of any net capital gain and aggregate amount of qualified cooperative dividends

Combined Tentative Deduction

PLUS

2. The **lesser** of (c) **or** (d):
   c. 20% of the aggregate amount of qualified cooperative dividends, **or**
   d. Taxable income reduced by the net capital gain

The sum of #1 and #2 above cannot exceed taxable income reduced by net capital gain.

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Multiple Trade or Business Example:

- Total all Tentative Deductions - $25,000 Potential QBI Deduction

	Schedule C Sole Proprietor	S Corp	Partnership
Qualifed Business Income	200,000	375,000	(200,000)
Share of W-2 Wages	-	125,000	-
Qualified Property	100,000	100,000	100,000
Taxable Income on 1040	500,000	500,000	500,000
Initial Deduction	40,000	75,000	(40,000)
50% Wage Limitation	0	62,500	0
25% Wage + 2.5% Property Limitation	2,500	33,750	2,500
Tentative Deduction	**2,500**	**62,500**	**(40,000)**

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29

Polling Question

- If you are married and your taxable income is more than $415,000:
  - A: You should pay more taxes
  - B: The W-2 / Property Limitation applies to the Section 199A Deduction calculation
  - C: You should move to Canada to avoid the 199A Deduction
  - D: None of the above

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30

§199A Deduction Calculation: REIT / PTP Income

The §199A deduction is equal to the sum of #1 and #2

1. The **lesser** of (a) **or** (b):
   a. The combined tentative deduction amounts calculated for each pass-through entity or sole proprietorship, which is calculated as the **lesser** of:
      i. 20% of the trade or business's QBI, or
      ii. The **greater** of:
         1. 50% of W-2 wages, or
         2. 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property

   plus 20% of aggregate **qualified REIT dividends** and **qualified Publicly Traded Partnership income**,

   or

   b. 20% of the excess (if any) of:
      i. Taxable income, over
      ii. The sum of any net capital gain and aggregate amount of qualified cooperative dividends

PLUS

2. The **lesser** of (c) **or** (d):
   c. 20% of the aggregate amount of qualified cooperative dividends, **or**
   d. Taxable income reduced by the net capital gain

The sum of #1 and #2 above cannot exceed taxable income reduced by net capital gain.

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31

Qualified REIT Dividends / Qualified PTP Income

- Qualified REIT Dividends – Any dividend from a REIT that is NOT:
  - A capital gain dividend, and
  - A qualified dividend (i.e. – a dividend taxed at the 0%/15%/20% rates)
- Qualified PTP Income
  - Allocable share of items of income, gain, deduction, and loss from a qualified trade or business from a PTP that is not a corporation (see definition of QBI)
  - Gain from the sale of a PTP interest treated as ordinary income

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32

§199A Deduction Calculation: Net Capital Gain

The §199A deduction is equal to the sum of #1 and #2

1. The **lesser** of (a) **or** (b):
   a. The combined tentative deduction amounts calculated for each pass-through entity or sole proprietorship, which is calculated as the **lesser** of:
      i. 20% of the trade or business's QBI, or
      ii. The **greater** of:
         1. 50% of W-2 wages, or
         2. 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property

      plus 20% of aggregate qualified REIT dividends and qualified Publicly Traded Partnership income,

      or

   b. 20% of the excess (if any) of:
      i. Taxable income, over
      ii. The sum of any **net capital gain** and aggregate amount of qualified cooperative dividends

PLUS

2. The **lesser** of (c) **or** (d):
   c. 20% of the aggregate amount of qualified cooperative dividends, **or**
   d. Taxable income reduced by the **net capital gain**

The sum of #1 and #2 above cannot exceed taxable income reduced by **net capital gain**.

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Net Capital Gain

For purposes of this calculation net capital gain is defined as the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year **increased by qualified dividend income**.

- §1(h)(11)
- §1222(11)

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§199A Deduction Calculation: Comprehensive Example

- Facts
  - MFJ
  - Taxable Income before the 199A Deduction: $335,000
  - LT Capital Gains from stock sales: $40,000
  - Qualified Dividends: $2,500
  - 100% owner of a manufacturing S-corp
    - QBI: $100,000
    - W-2 Wages: $20,000
    - Qualified Property: $400,000
  - Schedule C that is a SSTB
    - Income: $187,500
    - W-2 Wages: $50,000
    - Qualified Property: $0
  - Qualified REIT Dividends: $5,000

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§199A Deduction Calculation: Comprehensive Example

- **Step 1:** Identify QBI for each activity
- **Step 2:** Compute initial deduction of 20% for each QBI activity
- **Step 3**: Limit initial deduction by property and wage limitation for each activity to compute tentative deduction
- **Step 4**: Combine the tentative deduction from each activity
- **Step 5**: Add 20% of qualified REIT dividends and 20% of Publically Traded Partnership income to combined tentative deductions for potential QBI deduction
- **Step 6**: Limit potential QBI deduction to 20% of taxable income less net capital gains and qualified cooperative dividends
- **Step 7**: Add the lessor of 20% of qualified cooperative dividends or taxable income less net capital gains for final QBI deduction
- **Step 8:** Limit the overall deduction to taxable income less net capital gains

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§199A Deduction Calculation: Comprehensive Example

Taxable income (MFJ)	**335,000**		
Threshold	315,000		
Taxable income > Threshold	20,000		
Applicable Percentage*	80%		
**100% - (20,000 / 100,000)*			
Wage / Property Limitation Phase In %	20%		
	SSTB	**QB**	
Income from Trade or Business	187,500	100,000	
Income that is QBI	150,000	100,000	
20% of QBI before Wage / Property Limitation	**30,000**	**20,000**	
W-2 Wages	50,000	20,000	
W-2 Wages for 199A Calculation	40,000	20,000	
50% of W-2 Wages	**20,000**	10,000	
Qualified Property	0	400,000	
Qualified Property for 199A Calculation	0	400,000	
2.5% of Qualified Property	0	10,000	
25% of W-2 Wages + 2.5% QP	10,000	**15,000**	
Wage / Property Limitation before Phase In	10,000	5,000	
Wage / Property Limitation Phase In %	20%	20%	
Wage / Property Limitation	**2,000**	**1,000**	
			COMBINED
20% of QBI after Wage / Property Limitation	**28,000**	**19,000**	**47,000**

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§199A Deduction Calculation: Comprehensive Example

Combined QBI (previous slide)		47,000
Qualified REIT Dividends		5,000
20% of Qualified REIT Dividends		1,000
1a. of Section 199A Deduction		**48,000**
Taxable Income		335,000
Net Capital Gain (40,000 + 2,500)		42,500
Excess of Taxable Income over Net Capital Gain		292,500
1b. of Section 199A Deduction	20%	58,500
1 = Lesser of 1a. or 1b.		**48,000**
Qualified Cooperative Dividends		0
2c. of Section 199A Deduction	20%	**0**
Taxable Income		335,000
Net Capital Gain (40,000 + 2,500)		42,500
2d. of Section 199A Deduction		292,500
2 = Lesser of 2c. or 2d.		**0**
1 + 2 = Section 199A Deduction		**48,000**
Excess of Taxable Income over Net Capital Gain		292,500

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Other Considerations

- What is a trade or business?
- How are losses treated?
- How are passive activities treated?
- Accuracy-related penalty
- IRS was directed to provide regulations
  - As necessary to carry out the purposes of the deduction
  - Treatment of tiered entities
  - Anti-abuse rules for W-2s
  - Short years for acquisitions or disposals
  - Acquisition of property from related party / Sale-leasebacks
  - Determining unadjusted basis for like kind exchange or involuntary conversion property

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39

Other Considerations

- What is a trade or business?
- How are losses treated?
- How are passive activities treated?
- Accuracy-related penalty
- IRS was directed to provide regulations
  - As necessary to carry out the purposes of the deduction
  - Treatment of tiered entities
  - Anti-abuse rules for W-2s
  - Short years for acquisitions or disposals
  - Acquisition of property from related party / Sale-leasebacks
  - Determining unadjusted basis for like kind exchange or involuntary conversion property

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40

Other Considerations: Losses (MFJ, Taxable Income > $415k)

Example 1

	Entity 1	Entity 2	Carryover
Qualified Business Income (Loss)	(30,000)	(20,000)	**(50,000)**
Initial Deduction (20% of QBI)	**(6,000)**	**(4,000)**	
50% Wages	40,000	10,000	
25% Wages / 2.5% Property	**45,000**	2,500	
W-2 / Property Limitation	N/A	N/A	
Phase in of limitation	N/A	N/A	
Tentative Deduction	N/A	N/A	

Example 2

	Entity 1	Entity 2	No Carryover
Qualified Business Income (Loss)	35,000	(30,000)	5,000
Initial Deduction (20% of QBI)	**7,000**	**(6,000)**	
50% Wages	**5,000**	10,000	
25% Wages / 2.5% Property	2,500	2,500	
W-2 / Property Limitation	2,000	N/A	
Phase in of limitation	2,000	N/A	No Deduction
Tentative Deduction	**5,000**	**(6,000)**	**0**

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Other Considerations

- What is a trade or business?
- How are losses treated?
- How are passive activities treated?
- Accuracy-related penalty
- IRS was directed to provide regulations
  - As necessary to carry out the purposes of the deduction
  - Treatment of tiered entities
  - Anti-abuse rules for W-2s
  - Short years for acquisitions or disposals
  - Acquisition of property from related party / Sale-leasebacks
  - Determining unadjusted basis for like kind exchange or involuntary conversion property

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Other Considerations: Passive Activities (MFJ, Taxable Inc. > $415k)

Year 1

	Entity 1	Entity 2	Entity 3	Total
Passive Activity Income (Loss)	(10,000)	(20,000)	(30,000)	(60,000)
Income (Loss) Reported on Tax Return	0	0	0	0
QBI	0	0	0	0

Year 2

	Entity 1	Entity 2	Entity 3	Total
Passive Activity Income (Loss)	70,000	-	-	70,000
Income (Loss) Reported on Tax Return	60,000	(20,000)	(30,000)	10,000
QBI	60,000	(20,000)	(30,000)	10,000
Initial Deduction (20% of QBI)	**12,000**	**(4,000)**	**(6,000)**	**2,000**
50% Wages	**5,000**	N/A	N/A	
25% Wages / 2.5% Property	2,500	N/A	N/A	
Initial Deduction Less W-2 / Property Limitation	7,000	N/A	N/A	
Phase in of limitation	7,000	N/A	N/A	No Deduction
Tentative Deduction	**5,000**	**(4,000)**	**(6,000)**	**0**

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Other Considerations

- What is a trade or business?
- How are losses treated?
- How are passive activities treated?
- Accuracy-related penalty
- IRS was directed to provide regulations
  - As necessary to carry out the purposes of the deduction
  - Treatment of tiered entities
  - Anti-abuse rules for W-2s
  - Short years for acquisitions or disposals
  - Acquisition of property from related party / Sale-leasebacks
  - Determining unadjusted basis for like kind exchange or involuntary conversion property

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Other Considerations: Understatement Penalty

2017 Tax Law

- There is a substantial understatement of tax penalty under IRC §6662 equal to 20% of any underpayment of income tax if the understatement exceeds the greater of:
  - 10% of the tax required to be shown on the return for the tax year, or
  - $5,000

Tax Reform Law

- If an IRC §199A deduction is claimed, the threshold for the penalty is reduced to the greater of:
  - **5%** of the tax required to be shown on the return for the tax year, or
  - $5,000

Other Considerations

- What is a trade or business?
- How are losses treated?
- How are passive activities treated?
- Accuracy-related penalty
- IRS was directed to provide regulations
  - As necessary to carry out the purposes of the deduction
  - Treatment of tiered entities
  - Anti-abuse rules for W-2s
  - Short years for acquisitions or disposals
  - Acquisition of property from related party / Sale-leasebacks
  - Determining unadjusted basis for like kind exchange or involuntary conversion property

Other Considerations: Planning

- Consider 2017 planning to accelerate deductions or defer income
- Examine choice of entity
- Tax planning to fall below $315,000 if subject to limitations
- Revisit reasonable compensation
- Capitalization planning
- Examine business structure as a whole for reallocation opportunities
- Potential grouping planning
- Consider filing separate
- Stay tuned! I am sure we will hear a lot about this!

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47

Polling Question

- If I were a member of Congress:
  - A: I would vote for the 199A deduction.
  - B: I would vote against the 199A deduction.
  - C: I would have supported something completely different.
  - D: What was Congress thinking?

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48