


Section 199A and Small Business

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§199A and Small Business

- ▶ Overview of §199A
 - ▶ Qualifying Trade or Business
 - ▶ Qualifying Business Income
 - ▶ Including Final Regulations from January 2019
 - ▶ Calculation Examples
- ▶ Reporting §199A Information
 - ▶ 2019 Filing Season Issues
- ▶ Q & A

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Tax Reform

- ▶ How did we get here?
- ▶ Tax Cuts and Jobs Act (TCJA) of 2017

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TCJA Business Provisions

- ▶ Corporate Income Tax Rate
 - ▶ 2017: Graduated Rate Up to 35%
 - ▶ 2018: Flat Rate of 21%
- ▶ Corporate Alternative Minimum Tax
 - ▶ Repealed for tax years beginning after December 31, 2017
- ▶ Applies to C-Corporations

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TCJA Business Provisions

Before TCJA:

- ▶ Bonus Depreciation
 - ▶ 2018: 40%
 - ▶ 2019 - 2020: 30% - 20%
- ▶ Maximum §179 Deduction
 - ▶ \$500,000
- ▶ Net Operating Loss
 - ▶ Fully deductible
 - ▶ Unused loss carried back 2 years and/or carried forward 20 years

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TCJA Business Provisions

Before TCJA:	After TCJA:
▶ Bonus Depreciation	▶ Bonus Depreciation
▶ 2018: 40%	▶ 2018 - 2022: 100%
▶ 2019 - 2020: 30% - 20%	▶ 2023 - 2026: 80% - 60% - 40% - 20%
▶ Maximum \$179 Deduction	▶ Maximum \$179 Deduction
▶ \$500,000	▶ \$1,000,000
▶ Net Operating Loss	▶ Net Operating Loss
▶ Fully deductible	▶ Limited to 80% of taxable income
▶ Unused loss carried back 2 years and/or carried forward 20 years	▶ Unused loss carried forward indefinitely

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TCJA Business Provisions

- ▶ §199 Repealed
 - ▶ Domestic Production Activities Deduction
- ▶ §199A Enacted
 - ▶ Qualified Business Income Deduction

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Overview of §199A

- ▶ Tax years beginning after December 31, 2017, and before January 01, 2026
- ▶ Available to any taxpayer other than a corporation
- ▶ Taxpayer must be engaged in a "qualified trade or business"
- ▶ Allows up to a 20% deduction for "combined qualified business income" (QBI)

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Timing

- ▶ Tax years beginning after December 31, 2017, and before January 01, 2026

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Eligible Taxpayers

- ▶ Sole Proprietors
- ▶ Partners
- ▶ S-Corporation Shareholders
- ▶ Estates and Beneficiaries
- ▶ Trusts and Beneficiaries

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Qualified Trade or Business

- ▶ Any trade or business that is not:
 - ▶ A specified trade or business
 - ▶ Only applies when taxable income is above threshold
 - ▶ Trade or business of performing services as an employee
- ▶ Includes any trade or business under §162
- ▶ Rental Real Estate activity rising to the level of a trade or business under §162

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§162 Trade or Business

- ▶ "Facts and circumstances" - No "bright line" test
- ▶ Two requirements from courts:
 - ▶ Profit motive
 - ▶ Scope of activities - considerable, regular, and continuous activity
- ▶ Higgins v. Commissioner (1941)
- ▶ Commissioner v. Groetzinger (1987)

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Specified Trade or Business

- ▶ Performance of services in the fields of:
 - ▶ Health
 - ▶ Law
 - ▶ Accounting
 - ▶ Actuarial Science
 - ▶ Performing Arts
 - ▶ Consulting
 - ▶ Athletics
 - ▶ Financial Services
 - ▶ Brokerage Services
 - ▶ Investing and Investing Management
 - ▶ Trading
 - ▶ Dealing in Securities, Partnership Interests, or Commodities

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Specified Trade or Business

- ▶ Any trade or business where the principal asset is the reputation or skills of one or more of its employers or owners

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Health

- ▶ Provision of medical services by individuals such as physicians, pharmacists, nurses, dentists, veterinarians, physical therapists, psychologists, and other similar healthcare professionals.
- ▶ The performance of services in the field of health does not include the provision of services not directly related to a medical services field, even though the services provided may purportedly relate to the health of the service recipient. For example, a health club.

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Health - Examples

- ▶ SSTB
 - ▶ Pharmacist contracting with a medical facility for overflow work
- ▶ Not SSTB
 - ▶ Assisted living facility where medical services are contracted with third parties
 - ▶ Private specialty surgical center providing infrastructure but not services

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Law

- ▶ Performance of legal services by individuals such as lawyers, paralegals, legal arbitrators, mediators, and similar professionals.
- ▶ The performance of services in the field of law does not include the provision of services that do not require skills unique to the field of law. For example: printers, couriers, and stenography services.

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Accounting

- ▶ Provision of services by individuals such as accountants, enrolled agents, return preparers, financial auditors, and similar professionals.
- ▶ Does not require a state license

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Actuarial Science

- ▶ Provision of services by individuals such as actuaries and similar professionals.

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Performing Arts

- ▶ Performance of services by individuals who participate in the creation of performing arts, such as actors, singers, musicians, entertainers, directors, and similar professionals.
- ▶ Does not include the provision of services that do not require skills unique to the creation of performing arts, such as the maintenance and operation of equipment or facilities for use in the performing arts, or the provision of services by persons who broadcast or otherwise disseminate video or audio of performing arts to the public.

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Performing Arts - Examples

- ▶ SSTB
 - ▶ Singer/Songwriter
 - ▶ Film Production Company
- ▶ Not SSTB
 - ▶ Mechanical or performance royalties

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Consulting

- ▶ Provision of professional advice and counsel to clients to assist the client in achieving goals and solving problems.
- ▶ Includes lobbying and similar activities
- ▶ Does not include architecture or engineering

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Consulting

- ▶ Does not include performance of services other than advice or counsel, such as sales or the provision of training and educational courses.
- ▶ Determined by facts and circumstances, such as the manner of compensation.
- ▶ Does not include consulting services embedded in, or ancillary to, the sales of goods or services that are otherwise not an SSTB if there is no separate payment for the consulting services.

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Consulting - Examples

- ▶ D is in the business of providing services that assist unrelated entities in making their personnel structures more efficient. D studies its client's organization and structure and compares it to peers in its industry. D then makes recommendations and provides advice to its client regarding possible changes in the client's personnel structure, including the use of temporary workers. D does not provide any temporary workers to its clients and D's compensation and fees are not affected by whether D's clients used temporary workers. D is engaged in the performance of services in an SSTB in the field of consulting.

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Consulting - Examples

- ▶ E is an individual who owns and operates a temporary worker staffing firm primarily focused on the software consulting industry. Businesses hire E to provide temporary workers that have the necessary technical skills and experience to provide consulting and advice regarding the proper selection and operation of software most appropriate for the business they are advising. E does not have a technical background and does not provide software consulting advice herself. E reviews resumes and refers candidates to the client when the client indicates a need for temporary workers. E does not evaluate her clients' needs about whether the client needs workers and does not evaluate the clients' consulting contracts to determine the type of expertise needed. Rather, the client provides E with a job description indicating the required skills for the upcoming consulting project. E is paid a fixed fee for each temporary worker hired by the client and receives a bonus if that worker is hired permanently within a year of referral. E's fee is not contingent on the profits of its clients. E is not considered to be engaged in the performance of services in the field of consulting.

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Consulting - Examples

- ▶ F is in the business of licensing software to customers. F discusses and evaluates the customer's software needs with the customer. The taxpayer advises the customer on the software products it licenses. F is paid a flat price for the software license. After the customer licenses the software, F helps to implement the software. F is engaged in the trade or business of licensing software and not engaged in an SSTB in the field of consulting.

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Athletics

- ▶ Performance of services by individuals who participate in athletic competition such as athletes, coaches, and team managers.
- ▶ Does not include the provision of services that do not require skills unique to athletic competition, such as the maintenance and operation of equipment or facilities for use in athletic events, or services in the field of athletics does not include the provision of services by persons who broadcast or otherwise disseminate video or audio of athletic events to the public.

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Financial Services

- ▶ Services provided by financial advisors, investment bankers, wealth planners, retirement advisors, and other similar professionals.
- ▶ Includes including managing wealth, advising clients with respect to finances, developing retirement plans, developing wealth transition plans, the provision of advisory and other similar services regarding valuations, mergers, acquisitions, dispositions, restructurings, and raising financial capital by underwriting, or acting as a client's agent in the issuance of securities and similar services.
- ▶ Does not include taking deposits or making loans but does include arranging lending transactions between a lender and borrower.

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Brokerage Services

- ▶ Services provided by stock brokers and other similar professionals but does not include services provided by real estate agents and brokers, or insurance agents and brokers.
- ▶ Services in which a person arranges transactions between a buyer and a seller with respect to securities (as defined in section 475(c)(2)) for a commission or fee.

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Investing and Investment Management

- ▶ Services involving the receipt of fees for providing investing, asset management, or investment management services, including providing advice with respect to buying and selling investments.
- ▶ Does not include directly managing real property.

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Trading

- ▶ Trade or business of trading in securities (as defined in section 475(c)(2)), commodities (as defined in section 475(e)(2)), or partnership interests.
- ▶ Whether a person is a trader in securities, commodities, or partnership interests is determined by taking into account all relevant facts and circumstances, including the source and type of profit that is associated with engaging in the activity regardless of whether that person trades for the person's own account, for the account of others, or any combination thereof.

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Dealing

- ▶ Regularly purchasing securities from and selling securities to customers in the ordinary course of a trade or business or regularly offering to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business
- ▶ Includes commodities and partnership interests

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Reputation or Skill

- ▶ A trade or business in which a person receives fees, compensation, or other income for endorsing products or services.
- ▶ A trade or business in which a person licenses or receives fees, compensation, or other income for the use of an individual's image, likeness, name, signature, voice, trademark, or any other symbols associated with the individual's identity.
- ▶ Receiving fees, compensation, or other income for appearing at an event or on radio, television, or another media format.

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Reputation or Skill - Examples


- ▶ L is a well-known chef and the sole owner of multiple restaurants each of which is owned in a disregarded entity. Due to L's skill and reputation as a chef, L receives an endorsement fee of \$500,000 for the use of L's name on a line of cooking utensils and cookware. L is in the trade or business of being a chef and owning restaurants and such trade or business is not an SSTB. However, L is also in the trade or business of receiving endorsement income. L's trade or business consisting of the receipt of the endorsement fee for L's skill and/or reputation is an SSTB.

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Reputation or Skill - Examples

- ▶ M is a well-known actor. M entered into a partnership with Shoe Company, in which M contributed her likeness and the use of her name to the partnership in exchange for a 50% interest in the partnership and a guaranteed payment. M's trade or business consisting of the receipt of the partnership interest and the corresponding distributive share with respect to the partnership interest for M's likeness and the use of her name is an SSTB.



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De Minimis Rule

- ▶ For a trade or business with gross receipts of \$25 million or less for the taxable year, a trade or business is not an SSTB if less than 10 percent of the gross receipts of the trade or business are attributable to the performance of services in a field described as an SSTB.
- ▶ For a trade or business with gross receipts of greater than \$25 million for the taxable year, a trade or business is not an SSTB if less than 5 percent of the gross receipts of the trade or business are attributable to the performance of services in a field described as an SSTB.

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De Minimis Rule - Example

- ▶ Landscape LLC sells lawn care and landscaping equipment and provides advice and counsel on landscape design for large office parks and residential buildings. The landscape design services include advice on the selection and placement of trees, shrubs, and flowers and are considered performance of services in the field of consulting. Landscape LLC separately invoices for its landscape design services and does not sell the trees, shrubs, or flowers it recommends for use in the landscape design. Landscape LLC maintains one set of books and records and treats the equipment sales and design services as a single trade or business for purposes of §162 and 199A. Landscape LLC has gross receipts of \$2 million. \$250,000 of the gross receipts is attributable to the landscape design services, an SSTB. Because the gross receipts from the consulting services exceed 10 percent of Landscape LLC's total gross receipts, the entirety of Landscape LLC's trade or business is considered an SSTB.

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Performing Services as an Employee

- ▶ No items of income, gain, deduction, or loss are considered QBI
- ▶ If an employee is improperly classified as a non-employee, they are still treated as an employee for §199A
- ▶ An employee who is subsequently treated as a non-employee will still be treated as an employee for §199A for three years after the change in status. This can be rebutted with proper documentation showing a change in the nature of the relationship.

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Rental Activities

- ▶ Eligible for §199A deduction if:
 - ▶ Trade or business under §162, or
 - ▶ Not a trade or business under §162 but rented to a trade or business which is commonly controlled

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Rental Activities - Proposed Safe Harbor

- ▶ IRS Notice 2019-07 - Proposed Revenue Procedure
 - ▶ Still in comment status
- ▶ Allows for a rental real estate enterprise (RREE) to be considered a trade or business for §199A - NOT §162
- ▶ Multiple properties may be treated separately or aggregated
 - ▶ Commercial and residential may not be part of the same enterprise
 - ▶ May not be used as a residence by taxpayer
 - ▶ Triple net leases excluded from this safe harbor

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Rental Activities - Proposed Safe Harbor

- ▶ Separate books and records are maintained to reflect income and expenses for each RREE
- ▶ 250 or more hours of rental services per year
 - ▶ 2018 - 2022
 - ▶ 2023 - Beyond: any three of five preceding years
- ▶ Contemporaneous records for tax years beginning after December 31, 2018

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Rental Activities - Proposed Safe Harbor

- ▶ Rental Services
 - ▶ Advertising
 - ▶ Negotiating leases
 - ▶ Verifying tenant applications
 - ▶ Collection of rent
 - ▶ Daily operation, maintenance, and repair
 - ▶ Management of the property
 - ▶ Purchase of materials
 - ▶ Supervision of employees and contractors

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Aggregation

- ▶ Aggregation is permitted in certain circumstances

1. Same taxpayer or group of taxpayers must own 50% or more of each trade or business to be aggregated
2. Ownership must be for the majority of the tax year
3. All items attributable to each trade or business must be reported on returns in the same tax year, ignoring short tax years
4. None of the trades or businesses is an SSTB

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Aggregation

5. The aggregated trades and business must meet at least two of the following:
 - a. The trades or businesses provide products, property, or services that are the same or customarily offered together.
 - b. The trades or businesses share facilities or share significant centralized business elements, such as personnel, accounting, legal, manufacturing, purchasing, human resources, or information technology resources.
 - c. The trades or businesses are operated in coordination with, or reliance upon, one or more of the businesses in the aggregated group (for example, supply chain interdependencies).

- ▶ Must be reporting on an original filing (2018 only year for amended returns)

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Combined Qualified Business Income

- ▶ This is the amount used for the deduction
- ▶ The sum of QBI from each qualified trade or business, plus
- ▶ 20% of the aggregate amount of qualified REIT dividends and qualified PTP income

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Qualified Business Income

- ▶ The lesser of:
 - ▶ 20% of the net amount of items of income, gain, deduction, and loss, or
 - ▶ The greater of:
 - ▶ 50% of the W-2 wages, or
 - ▶ The sum of 25% of the W-2 wages, plus 2.5% of the unadjusted basis immediately after acquisition of all qualified property
- ▶ Must be effectively connected to conduct of a trade or business in the United States

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Qualified Business Income

- ▶ Deductions from QBI
 - ▶ One-half of self employment taxes
 - ▶ Self-employed health insurance deduction
 - ▶ Employer contributions to certain retirement plans

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Qualified Business Income - Losses

- ▶ If total QBI is negative:
 - ▶ \$199A deduction for this category is \$0
 - ▶ Negative QBI amount carries forward and is treated as QBI from a separate trade or business
- ▶ If total qualified REIT dividends/PTP income is negative:
 - ▶ \$199A deduction for this category is \$0
 - ▶ Negative combined amount carries forward to offset category income

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§199A Deduction

- ▶ Deduction is 20% of QBI plus 20% of qualified REIT dividends and PTP income
- ▶ Cannot exceed 20% of the taxpayer's taxable income less net capital gain

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Taxable Income Thresholds - 2019

- ▶ For MFJ return:
 - ▶ \$321,400
 - ▶ Limitations phase-in up to \$421,400
- ▶ For MFS return:
 - ▶ \$160,725
 - ▶ Limitations phase-in up to \$210,725
- ▶ For Single/HoH returns:
 - ▶ \$160,700
 - ▶ Limitations phase-in up to \$210,700

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Example 1

- ▶ Single Taxpayer
- ▶ Net income of \$55,000 from Schedule C
- ▶ Adjustment for SE tax of \$3,923

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What Do We Need To Know?

- ▶ QBI
- ▶ REIT dividends and PTP income
- ▶ Taxable Income
- ▶ Net Capital Gain

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Example 1

▶ Schedule C	\$55,000
▶ Total Income	\$55,000
▶ SE Tax Adj	\$3,923
▶ AGI	\$51,077
▶ Std Deduction	\$12,200
▶ Taxable Income	\$38,877 - Below Threshold

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Example 1

- ▶ QBI
 - ▶ Schedule C income less SE tax adjustment times 20%
 - ▶ $\$55,000 - \$3,923 = \$51,077$
 - ▶ $\$51,077 \times 20\% = \$10,215$
- ▶ REIT Dividend/PTP Income
 - ▶ \$0
- ▶ Combined QBI = \$10,215

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Example 1

- ▶ Taxable Income Limitation
 - ▶ Taxable income less net capital gain times 20%
 - ▶ $\$38,877 - \$0 = \$38,877$
 - ▶ $\$38,877 \times 20\% = \$7,775$
- ▶ §199A Deduction
 - ▶ Lesser of combined QBI or taxable income limitation
 - ▶ Combined QBI = \$10,215
 - ▶ Taxable Income Limitation = \$7,775
- ▶ §199A Deduction is \$7,775

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Example 2

- ▶ Married Taxpayers Filing Jointly
- ▶ Jack is an EE with wage income of \$60,000
- ▶ Sally is a 50% general partner in Halloween, LLC with \$60,000 of income and \$80,000 in guaranteed payments.
- ▶ Capital gains from mutual funds of \$1,847
- ▶ Adjustment for SE tax of \$9,987

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Example 2

- ▶ Partnership Inc \$60,000
- ▶ Total Income \$201,847

- ▶ SE Tax Adj \$9,987
- ▶ AGI \$191,860

- ▶ Std Deduction \$24,400
- ▶ Taxable Income \$167,460 - Below Threshold

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Example 2

- ▶ QBI
 - ▶ Partnership income less SE tax adjustment times 20%
 - ▶ $\$60,000 - \$9,987 = \$50,013$
 - ▶ $\$50,013 \times 20\% = \$10,003$

- ▶ REIT Dividend/PTP Income
 - ▶ \$0

- ▶ Combined QBI = \$10,003

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Example 2

- ▶ Taxable Income Limitation
 - ▶ Taxable Income less net capital gain times 20%
 - ▶ $\$191,860 - \$1,847 = \$190,013$
 - ▶ $\$190,013 \times 20\% = \$38,003$

- ▶ 199A Deduction
 - ▶ Lesser of combined QBI or taxable income limitation
 - ▶ Combined QBI = \$10,003
 - ▶ Taxable Income Limitation = \$38,003

- ▶ 199A Deduction is \$10,003

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Example 3

- ▶ Single Taxpayer
- ▶ Jenny is an EE with wage income of \$30,000
- ▶ Also a 50% general partner in Off Road, LLC with a \$2,000 loss.

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Example 3

- ▶ QBI
 - ▶ \$0
 - ▶ \$2,000 loss carries forward to the next tax year
- ▶ REIT Dividend/PTP Income
 - ▶ \$0
- ▶ Combined QBI = \$0

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Taxable Income Thresholds - 2019

- ▶ For MFJ return:
 - ▶ \$321,400
 - ▶ Limitations phase-in up to \$421,400
- ▶ For MFS return:
 - ▶ \$160,725
 - ▶ Limitations phase-in up to \$210,725
- ▶ For Single/HoH returns:
 - ▶ \$160,700
 - ▶ Limitations phase-in up to \$210,700

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Example 4

- ▶ Single Taxpayer
- ▶ Net income of \$200,000 from Schedule C (T-shirt Printer)
 - ▶ Employee wages of \$65,000
 - ▶ Unadjusted basis in assets of \$40,000
- ▶ Capital gains of \$8,000
- ▶ Adjustment for SE tax of \$14,267
- ▶ Threshold of \$160,700

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What Do We Need To Know?

- ▶ QBI
 - ▶ Wages paid
 - ▶ Unadjusted Basis of Assets
 - ▶ SSTB?
- ▶ REIT dividends and PTP income
- ▶ Taxable Income
- ▶ Net Capital Gain

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Example 4

▶ Schedule C	\$200,000	
▶ Total Income	\$208,000	
▶ SE Tax Adj	\$14,267	
▶ AGI	\$193,733	
▶ Std Deduction	\$12,200	
▶ Taxable Income	\$181,533	- Above Threshold

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Example 4

- ▶ QBI - Above Threshold
 - ▶ Lesser of
 - ▶ 20% of QBI, or
 - ▶ Greater of
 - ▶ 50% of wages
 - ▶ 25% of wages plus 2.5% UBI
- ▶ Taxable Income within Phase-In Range (\$160,700 - \$210,700)
 - ▶ If Wage and Property Limitation amount is LESS than 20% of QBI
 - ▶ Difference is the excess amount
 - ▶ QBI is 20% of QBI less the reduction amount

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Example 4

- ▶ Excess Amount
 - ▶ 20% of QBI less
 - ▶ Greater of
 - ▶ 50% of wages
 - ▶ 25% of wages plus 2.5% UBI
- ▶ Reduction Amount

Excess Amount x $\frac{(\text{Taxable Income} - \text{Threshold})}{\text{Phase-In Range}}$

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Example 4

- ▶ Excess Amount
 - ▶ 20% of QBI = \$200,000 x 20% = \$40,000
 - ▶ 50% of Wages = \$65,000 x 50% = \$32,500
 - ▶ 25% of Wages plus 2.5% of UBI
 - ▶ (\$65,000 x 25%) + (\$40,000 x 2.5%)
 - ▶ \$16,250 + \$1,000 = \$17,250
- ▶ \$40,000 - \$32,500 = \$7,500

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Example 4

► Reduction Amount

$$\text{Excess Amount} \times \frac{(\text{Taxable Income} - \text{Threshold})}{\text{Phase-In Range}}$$

$$\$7,500 \times \frac{(\$181,533 - \$160,700)}{\$50,000}$$

\$3,125

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Example 4

► Reduction Amount - \$3,125

► QBI = \$40,000 - \$3,125 = \$36,875

► No REIT dividends/PTP income

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Example 4

► Taxable Income Limitation

- Taxable Income less net capital gain times 20%
- \$181,533 - \$8,000 = \$173,533
- \$173,533 x 20% = \$34,707

► 199A Deduction

- Lesser of combined QBI or taxable income limitation
 - Combined QBI = \$36,875
 - Taxable Income Limitation = \$34,707

► 199A Deduction is \$34,707

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Example 5

- ▶ Married Filing Joint Taxpayers
- ▶ Harry is an IT executive with wages of \$300,000
- ▶ Frances, an architect, has wages of \$125,000 and net income of \$450,000 from S-Corp
 - ▶ Employee wages of \$325,000
 - ▶ Unadjusted basis in assets of \$60,000
- ▶ Taxable Income \$850,000 - Threshold of \$321,400

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What Do We Need To Know?

- ▶ QBI
 - ▶ Wages paid
 - ▶ Unadjusted Basis of Assets
- ▶ REIT dividends and PTP income
- ▶ Taxable Income
- ▶ Net Capital Gain

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Example 5

- ▶ QBI - Above Threshold
 - ▶ Lesser of
 - ▶ 20% of QBI, or
 - ▶ Greater of
 - ▶ 50% of wages
 - ▶ 25% of wages plus 2.5% UBIA

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Example 5

- ▶ QBI
 - ▶ 20% of QBI = $\$450,000 \times 20\% = \$90,000$
 - ▶ 50% of Wages = $\$325,000 \times 50\% = \$162,500$
 - ▶ 25% of Wages plus 2.5% of UBI
 - ▶ $(\$325,000 \times 25\%) + (\$60,000 \times 2.5\%)$
 - ▶ $\$81,250 + \$1,500 = \$82,750$
- ▶ $\$90,000$

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Example 5

- ▶ Taxable Income Limitation
 - ▶ Taxable Income less net capital gain times 20%
 - ▶ $\$850,000 - \$0 = \$850,000$
 - ▶ $\$850,000 \times 20\% = \$170,000$
- ▶ §199A Deduction
 - ▶ Lesser of combined QBI or taxable income limitation
 - ▶ Combined QBI = $\$90,000$
 - ▶ Taxable Income Limitation = $\$170,000$
- ▶ §199A Deduction is $\$90,000$

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Example 6

- ▶ Single Taxpayer
- ▶ John net income of $\$450,000$ on Schedule C (Engineer)
 - ▶ Employee wages of $\$0$
 - ▶ Unadjusted basis in assets of $\$0$
- ▶ Taxable Income $\$400,000$ - Threshold of $\$160,700$

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Example 6

- ▶ QBI - Above Threshold
 - ▶ Lesser of
 - ▶ 20% of QBI, or
 - ▶ Greater of
 - ▶ 50% of wages
 - ▶ 25% of wages plus 2.5% UBIA

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Example 6

- ▶ QBI
 - ▶ 20% of QBI = $\$450,000 \times 20\% = \$90,000$
 - ▶ 50% of Wages = $\$0 \times 50\% = \0
 - ▶ 25% of Wages plus 2.5% of UBIA
 - ▶ $(\$0 \times 25\%) + (\$0 \times 2.5\%)$
 - ▶ $\$0 + \$1,500 = \$0$
- ▶ \$0

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Example 6

- ▶ Taxable Income Limitation
 - ▶ Taxable Income less net capital gain times 20%
 - ▶ $\$400,000 - \$0 = \$400,000$
 - ▶ $\$400,000 \times 20\% = \$80,000$
- ▶ 199A Deduction
 - ▶ Lesser of combined QBI or taxable income limitation
 - ▶ Combined QBI = \$0
 - ▶ Taxable Income Limitation = \$80,000
- ▶ 199A Deduction is \$0

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Wages

- ▶ W-2 wages for the trade or business for the taxable year
- ▶ Any amount not allocable to QBI is not included
- ▶ Does not include wages for W-2s filed with SSA more than 60 days late

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Wages

- ▶ Revenue Procedure 2019-11
 - ▶ Calculating wages for §199A
- ▶ Unmodified Box Method
 - ▶ Lesser of Box 1 or Box 5 for all W-2s filed
- ▶ Modified Box 1 Method
 - ▶ Total of Box 1 less amounts that are not wages plus amounts in Box 12 with codes D, E, F, G, and S
- ▶ Tracking Wages Method
 - ▶ Total amount of wages subject to withholding plus Box 12 amounts above

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Qualified Property

- ▶ Tangible property subject to depreciation under §167
 - ▶ Held by and available for use in a qualified trade or business at the close of the tax year
 - ▶ Used at any point in the tax year in the production of QBI
 - ▶ "Depreciable period" has not ended before the close of the tax year

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Qualified Property - Depreciable Period

- ▶ From the date the property was first placed in service to the later of:
 - ▶ 10 years from the in-service date, or
 - ▶ The last day of the last full year of the applicable recovery period under §168

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Cooperatives

- ▶ Slightly different calculation for income from co-ops
- ▶ Like Domestic Production Activities Deduction

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Alternative Minimum Tax

- ▶ QBI is not adjusted for AMT

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§6662 Penalty Changes

- ▶ Substantial Understatement of Tax
 - ▶ 20% penalty if tax is understated greater of 10% or \$5,000
- ▶ Taxpayers who claim §199A deduction
 - ▶ 20% penalty if tax is understated greater of 5% or \$5,000

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2018 Reporting Issues

- ▶ QBI related information not on K-1s
 - ▶ 1065 Box 17
 - ▶ 1120S Box 20
- ▶ If the information is not included, QBI is deemed to be \$0
- ▶ Many software packages didn't have the calculation available until March; many were incorrect

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2019 Form 8995-A

- ▶ New Form for 2019

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