Section 199A: Nuts and Bolts

UT Law | 67th Annual Taxation Conference

December 5, 2019
Presented by | Jessica Kirk

ThompsonKnight

Roadmap

- Background
- Introduction to 199A
- 199A Analysis and Flow Chart
- Examples

TK

Background

- Pre-Tax Cut and Jobs Act, pass-through income generally subject to a single-level of tax at the owner's individual income tax rate
- Way more pass-through entities than corporations
- Designed to give non-corporate businesses a deduction similar to the lower corporate tax rate; reduces the discrepancy in the top tax rates at which business income would be taxed (21% v. 37%)

Introduction to 199A

- Part of the 2017 Tax Cuts and Jobs Act
- For eligible taxpayers, Section 199A provides a income tax deduction of up to 20% of the qualified business income for each qualified trade or business (subject to certain limitations) and can potentially reduce the taxpayer's effective business income tax rate from 37% to 29.6%
- Effective for tax years 2018 through 2025; corporate rate reduction is permanent
- By far the most complex of the Tax Cuts and Jobs Act provisions generally affecting individuals
- 199A is saddled with exclusions, phase-outs, thresholds, and special definitions; initially there were lots of unanswered questions

Regulations and Guidance

- August 8, 2018
  - Proposed Regulations (REG-107892-18)
  - Notice 2018-64
- January 18, 2019/February 8, 2019
  - Final Regulations (T.D. 9847)
  - Proposed Regulations (REG-134652-18)
  - Rev. Proc. 2019-11
  - Notice 2019-07
- June 18, 2019
  - Proposed Regulations (REG-118425-18)
  - Notice 2019-27

TK

Conference Report Summary of Deduction

The taxpayer's deduction for qualified business income for the taxable year is equal to the sum of (a) the lesser of the combined qualified business income amount for the taxable year or an amount equal to 20 percent of the excess of taxpayer's taxable income over any net capital gain and qualified cooperative dividends, plus (b) the lesser of 20 percent of qualified cooperative dividends and taxable income (reduced by net capital gain). This sum may not exceed the taxpayer's taxable income for the taxable year (reduced by net capital gain). Under the provision, the 20-percent deduction with respect to qualified cooperative dividends is limited to taxable income (reduced by net capital gain) for the year. The combined qualified business income amount for the taxable year is the sum of the deductible amounts determined for each qualified trade or business carried on by the taxpayer and 20 percent of the taxpayer's qualified REIT dividends and qualified publicly traded partnership income. The deductible amount for each qualified trade or business is the lesser of (a) 20 percent of the taxpayer's qualified business income with respect to the trade or business, or (b) the greater of 50 percent of the W-2 wages with respect to the trade or business or the sum of 25 percent of the W-2 wages with respect to the trade or business and 2.5 percent of the unadjusted basis, immediately after acquisition, of all qualified property.

TK

Title search: Section 199A: Nuts and Bolts

Also available as part of the eCourse
Section 199A: Nuts and Bolts, plus Strategies for Structuring Existing and New Businesses

First appeared as part of the conference materials for the
67th Annual Taxation Conference session
"Section 199A: Nuts and Bolts"