

# The University of Texas School of Law 67<sup>th</sup> Annual Taxation Conference

## Section 199A: Planning

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## Section 199A – Key Terms

- Phase In Range: \$160,700-\$210,700 (single taxpayers, trusts, and estates) or \$321,400-\$421,400 (married filing jointly).
- Qualified Business Income (QBI): Income effectively connected to a trade or business conducted in the United States prior to applying aggregation rules discussed *infra*. Includes the following:
  - Ordinary income under Section 751 from sale of partnership interest.
  - Income or loss under Section 481 resulting from change of accounting method.
  - Net operating loss disallowed under Section 461(l).
  - Deductions previously disallowed after 1/1/18 under Sections 465, 469, 704(d), or 1366(d).

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## Section 199A – Key Terms

- Qualified Property: Tangible depreciable property held at the end of taxable year and used for production of QBI for which the depreciable period has not ended. Depreciable period begins on date on which individual or RPE first places asset in service and ends on later of (a) 10 years after such date or (b) last day of last full year of property's class life under Section 168(c).
- Qualified Trade or Business (QTB): Trade or business other than:
  - a Specified Service Trade or Business (SSTB); or
  - the business of performing services as an employee.
- Relevant Pass-through Entity (RPE): Sole proprietorship, partnership, S corporation, trust, or estate that engages in a QTB.

## Section 199A – Key Terms

- Specified Service Trade or Business (SSTB): Trade or business that involves either:
  - the performance of services in accounting; actuarial science; athletics; brokerage services; consulting; financial services; health; law; performing arts; or any trade or business in which principal asset of the trade or business is the skill and reputation of one or more of its employees or owners.
  - investing or investment management; trading; or dealing in securities, partnership interests, or commodities.
- Trade or Business: Not defined under Section 199A. Treas. Reg. § 1.199A-1(b)(13) states that a trade or business means a Section 162 trade or business but can include rental or license of property to an entity under common control.

## Section 199A – Key Terms

- Unadjusted Basis Immediately After Acquisition (UBIA): Original cost basis of property immediately after acquisition without reduction for depreciation or Section 179 expense.
- Wage and Basis Limitation. The deduction for each Qualified Trade or Business is the lesser of (i) 20% of QBI or (ii) greater of
  - (a) 50% of the wages paid by the Qualified Trade or Business; or
  - (b) 25% of the wages plus 2.5% of UBIA of qualified property.

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## Section 199A - Deduction Limitation

- The Wage and Basis Limitation is not applicable for taxpayers whose taxable income, without regard to the Section 199A deduction, is below threshold amount (indexed for inflation). (Stratum I)
- The deduction limitation is phased in for taxpayers whose taxable income is in excess of the threshold amount up to a phase-in amount, serving to reduce the overall deduction in proportion to the excess. (Stratum II).

	Under Threshold (Stratum I)	Phase-in Amount (Stratum II)	Above Phase-in Amount (Stratum III)
Single	\$160,700	\$160,700- \$210,700	\$210,700
Married Filing Jointly	\$321,400	\$321,400- \$421,400	\$421,400

- Calculations are more straightforward for taxpayers in Strata I and III and more complex for taxpayers in Stratum II.

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