



# IRS Nationwide Tax Forum | 2020

QBI Problems?  
We Have Solutions!

# QBI Problems? - Learning Objectives

At the end of this course, you will be able to:

- Recognize Qualified Business Income
- Identify which clients are likely to benefit from the QBI deduction
- Identify some of the most frequent issues to correctly computing, reporting and benefiting from the QBI deduction

## §199A Overview

- Added by the Tax Cuts and Jobs Act and applicable for tax years 2018 through 2025.
- Provides a general 20% deduction for qualified business income from a §162 trade or business activity.
- Applicable to sole proprietors, partners, S corporation shareholders, and estates and trusts and their beneficiaries.

## §199A Overview

- Claimed on Form 8995 or 8995-A starting tax year 2019.
- Final regulations issued January 2019.
- IRS frequently asked questions (FAQ) website provides ongoing additional information.
- *Practice Pointer!* Know how your tax software collects and uses data entered to calculate the §199A benefit.

## §199A General Computation

- §199A provides for a 20% deduction for qualified business income (QBI) plus 20% of qualified PTP/REIT income/dividends.
- The total §199A deduction cannot exceed 20% of the taxpayer's taxable income less net capital gain.

## §199A General Computation

- If the taxpayer's taxable income before the §199A deduction is over the threshold amount, then two limitations apply that could reduce or eliminate the §199A deduction:
  - Wage and qualified property limitation
  - Specified service trade or business (SSTB) limitation
- The 2020 threshold amounts are:
  - \$326,600 joint/qualifying widower
  - \$163,300 all other filing statuses

## Problem #1: Schedule K-1 Data

- For partnerships and S corporations, the entity determines if its activities qualify for §199A.
- The §199A tax attributes are reported on a Schedule K-1 attachment and reported by the partner/shareholder.
- The final regulations state omitted §199A data is presumed to be \$0.
- In addition, the Schedule K-1 reported information could be incorrect.

## Solution #1: Schedule K-1 Data

- Request an amended Schedule K-1.
- If the §199A information is omitted, omit the deduction, and file an amended return as a claim for refund once the taxpayer receives the corrected Schedule K-1.
- Use Form 8082, *Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR)*.



## Problem #2: Rentals

- The taxpayer did not include qualifying rentals with positive net income and understated the §199A deduction.
- The taxpayer did not include qualifying rentals with negative net income and understated the §199A deduction (subject to the passive loss limitations).
- The taxpayer used pre-2018 rental losses to reduce current year QBI.

## Solution #2: Rentals

- Ensure rental activities are treated correctly for §199A on the tax return along with passive loss carryforwards.
- A rental activity qualifies for the §199A deduction if it falls in one of the following three categories:
  - It is a §162 trade or business.
  - It is rented to a commonly controlled trade or business of the taxpayer.
  - It meets the Rev. Proc. 2019-38 safe harbor.

## Problem #3: SSTB Classifications

- If a taxpayer is above the taxable income threshold, SSTB determination is critical.
- If a taxpayer misclassifies a business as a SSTB, when it is not, it can reduce or eliminate the §199A deduction
- If a taxpayer misclassifies a business as a non-SSTB, when it is, it can overstate the §199A deduction.

## Solution #3: SSTB Classifications

- A business is not a SSTB unless it falls squarely into one of the statutory categories as defined in the final regulations.
- Common confusion points:
  - Consulting
  - Reputation or skill of owners or employees is principal asset of the business
  - Business with both SSTB and non-SSTB income:
    - “De minimis” rule
    - Treat as more than one trade or business activity

# Amended Returns

- Submit a superseding or amended return for the entity or the Form 1040.
- Partnerships subject to the BBA rules have special rules to change a previously filed return.
- For individual taxpayers, if requesting a refund, be sure to submit before the statute of limitations end date:
  - For 2018 returns, generally April 15, 2022
  - For 2019 returns, generally April 15, 2023



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**T: 202/822-NAEA (6232)**

**E: [info@naea.org](mailto:info@naea.org)**

**W: [www.naea.org](http://www.naea.org)**

