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Partnership K-1: What you need to know in light of the Tax Cuts & Jobs Act

Presented by:

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Learning Objectives

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

- Recognize the impact of the Tax Cuts and Jobs Act (TCJA) on the Partnership K-1 and partner.
- Determine the appropriate Form 1040 reporting for certain K-1 line items.
- Identify how information flows through to a partner under the new Section 199A - Qualified Business Income (QBI) deduction.



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Partnership K-1 overview



- Purpose - to report the flow through of the partner's share of income, deductions, credits, etc.
- Furnished to partner by due date
- Inconsistent Treatment
- Technical Terminations end 12/31/2017
 - Impact of Tax Cuts & Jobs Act



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About the Partnership



- Final or amended K-1
 - Look for a sale of partnership interest
- Fiscal Year K-1 ending prior to 12/31/2018
 - Impact of TCJA and QBI for timing
- Family Partnerships
 - Qualified Joint Ventures
- Publicly Traded Partnership (PTP)
 - Losses offset only by income of same PTP
 - Eligible for QBI
 - Sale of interest



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Tax Cuts & Jobs Act

- Qualified Business Income – §199A
 - Net trade or business income from an Relevant Passthrough Entity (RPE) - §162
 - S-Corporations, Partnerships, Sole Proprietorships
 - Includes aggregate qualified REIT dividends, co-op dividends and PTP income
 - Excludes investment income
 - Reported on the 1065 K-1, box 20
 - Proposed Regs 107892-18



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Tax Cuts & Jobs Act

- QBI Deduction – IRC §199A
 - Taken at the partner level
 - Specified Service Trade or Business - §1202
 - Taxable income limitations
 - Wage and capital asset limitations
 - Aggregation rules (proposed reg 107892-18)
 - Gone after 2025



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Tax Cuts & Jobs Act

- Is there QBI reported from an RPE?
 - Everybody gets the QBID (20% of QBI) if taxable income before QBID is;
 - Filing MFJ < \$315,000
 - All other filing statuses < \$157,500
 - QBID subject to wage and capital limitations
 - Filing MFJ > \$315,000
 - All others > \$157,500



Tax Cuts & Jobs Act

- Is there QBI from an RPE that is a Specified Service Trade or Business (SSTB)?
 - Taxable income before QBID;
 - Filing MFJ > \$415,000
 - All other filing statuses > \$207,500

NO QBID!



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About the Partner



- General partner
 - Personally liable for partnership debt
- Limited partner
 - Personal liability is limited to investment
- Partners are NOT employees
- Active or passive is determined at the partner level!
 - Impact of TCJA
 - Net Investment Income Tax



Partner's Basis

- IRC §705
- Inside basis: Tax basis in the individual assets
 - Partnership tracks
 - Cannot be negative
- Outside basis: Tax basis of ownership interest
 - Partner tracks
- Contribution of cash
- Contribution of property
 - Holding period is partner's holding period
 - Basis is partner's adjusted basis



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Partner's Basis



- **Contribution of Services; IRC §83**
 - Performs services in exchange for a capital or profit (carried) interest
 - Taxable compensation – guaranteed payment
 - Deductible to partnership
 - Becomes partner's basis
 - Impact of TCJA, IRC §1061
 - Sale of a partnership profit interest is short term if sold within 3 years



Partner's capital account

- Maintained by partnership
- Does not always equal partner's basis
- Bookkeeping entries
- Indicated on K-1 how it is maintained
 - Book value basis - §704(b) FMV
 - Tax basis – most common
- Can be negative!



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At Risk Rules



- Partner must bear economic risk of loss
- Recourse debt – increases at risk basis
- Non-recourse debt – decreases at risk basis
- Qualified non-recourse financing – increases at risk basis
- Losses are suspended – Form 6198
 - Carried forward



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Income



- Schedule E, page 2
 - Material participation rules for passive or non-passive
 - Schedule SE for an active business
- Each activity must be separately stated
- Loss – is it deductible?
 - Evaluate basis
 - At-Risk rules
 - Passive activity
- Loss Limitation Rules
 - Impact of TCJA; IRC §172
 - IRC §461



Rental activities

- Schedule E, page 2
- Loss – is it deductible?
- Active vs material participation
- Real estate professional – determined annually
- Impact of TCJA – follow IRC §162 not §469!
- Grouping rules



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Guaranteed payments



- Schedule E, page 2; Schedule SE
- Payment to partners for services
- Health insurance premiums paid / HSA
- Minimum payments
- Capitalized payments
- Interest payments paid by the partnership to the partner



Guaranteed payments

- TCJA impact
 - Not included in QBI
 - Partnership agreements
 - Payments to partners
 - Not to be considered “reasonable compensation” §199A-3(A)(vii)(c)



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Portfolio income



- Interest / Dividend Income
 - Schedule B 1040
 - Net Investment Income Tax – yes, unless exception
- Capital gains (losses)
 - Schedule D
 - Net Investment Income Tax - yes
- Gain/Loss on sale of business assets
 - Form 4797
 - Net Investment Income Tax – no
- Not included in QBI



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**Pay attention to
the details!**

Look for the
asterisk and
associated note;

I'VE MADE A HUGE MISTAKE



Section 179 deduction

- Statement attached to K-1
- Section 179 limitations are applied at the partner level
- TCJA new limits
 - \$1 million
- Year end planning
- Circular 230 §10.29 – Conflict of Interest



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Other deductions



A few examples...

- Foreign Tax Paid
- Charitable contributions
- Investment interest expense
 - Form 4952
- Deduction for royalty income
- Partner share of fringe benefits



Self-employment earnings



- Schedule SE
- What kind of partner, member?
- Nets with other items on the K-1:
 - Guaranteed payments
 - Ordinary business income (loss)
 - Section 179
 - Unreimbursed partner expenses (UPE)



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Credits



- Backup withholding
 - Form 1040 Line 64
 - Attach statement
- Paid Family Leave and Medical credit
 - TCJA – new credit
- Passive activity credit,
 - Form 8582-CR



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Miscellaneous



- Tax exempt interest
 - Form 1040
 - Increase to basis
- Other tax exempt income
 - Increase to basis
- Nondeductible expenses
 - Decrease to basis
 - TCJA = more nondeductible expenses!



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Distributions



- Distributions – cash
 - Decrease to basis
 - In excess of basis? Capital gain and increase to basis
- IRC § 704c contributed property with built in gains
- Distributions - Other property
 - Statement will be attached with adjusted basis, FMV
 - Decrease to basis
 - In excess of basis? Capital gain and increase to basis



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Other Information – Box 20



- Uses codes and statements to provide additional information
- Form 4952 for adjustments to Investment Interest Deduction
- Sale of Sec 179 property, statement from K-1
 - Enter as separate sale on Form 4797
- Publicly Traded Partnership (PTP)
- Qualified Business Income (QBI)



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Unreimbursed Partner Expenses (UPE)



- Schedule E, page 2 - Separate line with same EIN
 - Non-Passive Loss
- Expenses paid by the partner and not reimbursed by the partnership
- Rev Ruling 70-253: Agreement must state that partner is required to pay expenses
- Does not change basis
- Impact of TCJA



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What did we do for the last hour!?



- Reviewed the impact of the Tax Cuts and Jobs Act (TCJA) on the Partnership K-1 and partner.
- Determined the appropriate Form 1040 reporting for certain K-1 line items.
- Discussed how information flows through to a partner under the new Section 199A - Qualified Business Income (QBI) deduction.



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For More Information

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More information is available at:

NSA Booth in the Vendor Hall

Or at the NSA table in the lobby

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