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Tax Cuts and Jobs Act Update
Qualified Business Income Deduction
(Section 199A)
and
Opportunity Zones



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

- What the Qualified Business Income deduction is and the general calculation of the deduction
- What Opportunity Zones are, how to invest in them and the tax benefits
- Qualified Opportunity Funds and how to self-certify as a QOF
- How to report a deferred gain on Form 8949



Qualified Business Income (QBI) Deduction

- For taxpayers who have:
 - QBI from a qualified trade or business (QTB),
 - Qualified publicly traded partnership (PTP) income, or
 - Section 199A real estate investment trust (REIT) dividends.
- C corporations not eligible.
- Applies to individuals and certain trusts and estates.



The Deduction

- Up to 20 percent of QBI, plus 20 percent of combined qualified REIT dividends and qualified PTP income.
- Limited to lesser of the total of these amounts or taxable income less net capital gain.
- Other limitations may apply depending on taxpayer's taxable income.



Qualified Business Income

QBI is the net amount of income, gain, deduction and loss from qualified trades or businesses operated by:

- Sole proprietorships.
- S corporations.
- Partnerships.
- Trusts.
- Estates.



Deductions that Reduce QBI

QBI is reduced by deductions attributable to the trade or business including, but not limited to, the deductible portion of:

- Self-employment tax.
- Self-employed health insurance.
- Contributions to qualified retirement plans.
- Deductible unreimbursed partnership expenses.
- Business interest allocable to S corporation or partnership, deducted on Schedule E.



QBI Does Not Include

- Items not properly includable in taxable income.
- Income not effectively connected with conduct of a business within United States.
- REIT dividends or items from a PTP
- Capital gains and losses or dividends.
- Interest income not allocable to a trade or business.
- Wage income, reasonable compensation from an S corporation, or guaranteed payments from a partnership

This list is not all-inclusive.



Qualified Trade or Business

Trade or business operated by an individual or pass-through entity allowed a deduction for ordinary and necessary business expenses under Section 162.

Exceptions:

- Trade or business of being an employee.
- Specified service trade or business (SSTB)*.
- C corporations.

*SSTB exception only applies if a taxpayer's taxable income, before QBID, exceeds the threshold.



Section 162 Trade or Business

- Taxpayer must be involved in activity with continuity and regularity.
- Primary purpose is income or profit.
- For interests owned in a pass-through entity, trade or business determination is made at the entity level.



Rentals

Rentals qualify for QBI deduction if:

- Rises to level of trade or business under Section 162.
- Satisfies safe harbor requirements in Notice 2019-07.
- Meets the “self-rental” exception as detailed in 1.199A-1(b)(14).



Specified Service Trades or Businesses

An SSTB is any trade or business involving the performance of services in one or more of the following fields:

- Health
- Law
- Accounting
- Actuarial Science
- Performing Arts
- Consulting
- Athletics
- Financial Services
- Brokerage Services
- Investing and Investment Management
- Trading
- Dealing in Securities, Partnership Interests, or Commodities, and

Any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners.



Qualified REIT Dividends & PTP Income

Qualified REIT Dividends

Any dividend received from a REIT, except capital gain dividends under section 857(b)(3) and qualified dividends under section 1(h)(11).

Qualified PTP Income

Qualified items of income, gain, deduction and loss from a PTP, plus any gain or loss recognized on disposition of PTP interest not treated as a capital gain or loss.



Passthrough Entity Reporting

S Corporations & Partnerships

For each QTB, entity must provide information for its shareholders or partners to compute deduction.

Estates & Trusts

- Split QBI items between estate/trust and beneficiaries.
- Report necessary information items allocated to eligible beneficiaries.



General Computation

In general, deduction equals lesser of:

- 20 percent of QBI, plus 20 percent qualified REIT Dividends and PTP Income
or
- 20 percent of (taxable income minus net capital gain).



QBI Component

Taxpayers at or below threshold

20 percent of QBI, reduced by patron reduction.

Taxpayers above threshold and within phase-in QBI computation adjusted as follows:

- QBI, W-2 wages and UBIA of qualified property reduced by applicable percentage for SSTB.
- W-2 wage and UBIA of qualified property limitations applied (phased-in).
- QBI Component reduced by patron reduction.



QBI Component (cont'd)

Taxpayers above threshold and phase-in

QBI computation adjusted as follows:

- SSTB excluded from QTB.
- W-2 wage and UBIA of qualified property limitations applied.
- QBI Component reduced by patron reduction.

An SSTB is not a QTB for taxpayers with taxable income above threshold and phase-in range.



Threshold Amount and Phase-In Range

- For 2018, threshold is taxable income of \$157,500 or \$315,000, for joint returns.
- Phase-in range is threshold amount plus \$50,000 or \$100,000, for joint returns:
 - More than \$157,500 to \$207,500.
 - More than \$315,000 to \$415,000, for joint returns.



Taxable Income

Taxable income computed before QBI deduction. Generally, taxpayer's taxable income for QBI deduction =

- Adjusted gross income
- Less standard or itemized deductions

Form 1040 (2018) Page 2

1 Wages, salaries, tips, etc. Attach Form(s) W-2		1	
2a Tax-exempt interest	2a	b Taxable interest	2b
3a Qualified dividends	3a	b Ordinary dividends	3b
4a IRAs, pensions, and annuities	4a	b Taxable amount	4b
5a Social security benefits	5a	b Taxable amount	5b
6 Total income. Add lines 1 through 5. Add any amount from Schedule 1, line 22	6		
7 Adjusted gross income. If you have no adjustments to income, enter the amount from line 6; otherwise, subtract Schedule 1, line 36, from line 6	7		
8 Standard deduction or itemized deductions (from Schedule A)	8		
9 Qualified business income deduction (see instructions)	9		
10 Taxable income. Subtract lines 8 and 9 from line 7. If zero or less, enter -0-	10		
11 a Tax (see inst.)			

Attach Form(s) W-2. Also attach Form(s) W-2G and 1099-R if tax was withheld.

Standard Deduction for—
 • Single or married filing separately, \$12,000
 • Married filing jointly or Qualifying widow(er), \$24,000

11 a Tax (see inst.) (check if any from: 1 Form(s) 8814 2 Form 4972 3)



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Net Capital Gain

Net capital gain for section 199A includes:

- Qualified dividends

PLUS

- Net long-term capital gain reduced by net short-term capital loss, but not below zero.



Example – At or Below Threshold

Abel is single and operates a bakery as a sole proprietorship. In 2018 he had the following:

QBI:	\$100,000
Net capital gain:	\$7,000
Taxable income before QBID:	\$81,000

His deduction is \$14,800. QBI deduction limited to lesser of:

- 20 percent x \$100,000 (QBI) = \$20,000, or
- 20 percent x \$81,000 (TI) – \$7,000 (NCG) = **\$14,800.**



Opportunity Zones Overview

- Opportunity Zones added to tax code by Tax Cuts and Jobs Act (TCJA) on December 22, 2017.
- An Opportunity Zone is an economically distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment.



Opportunity Zones

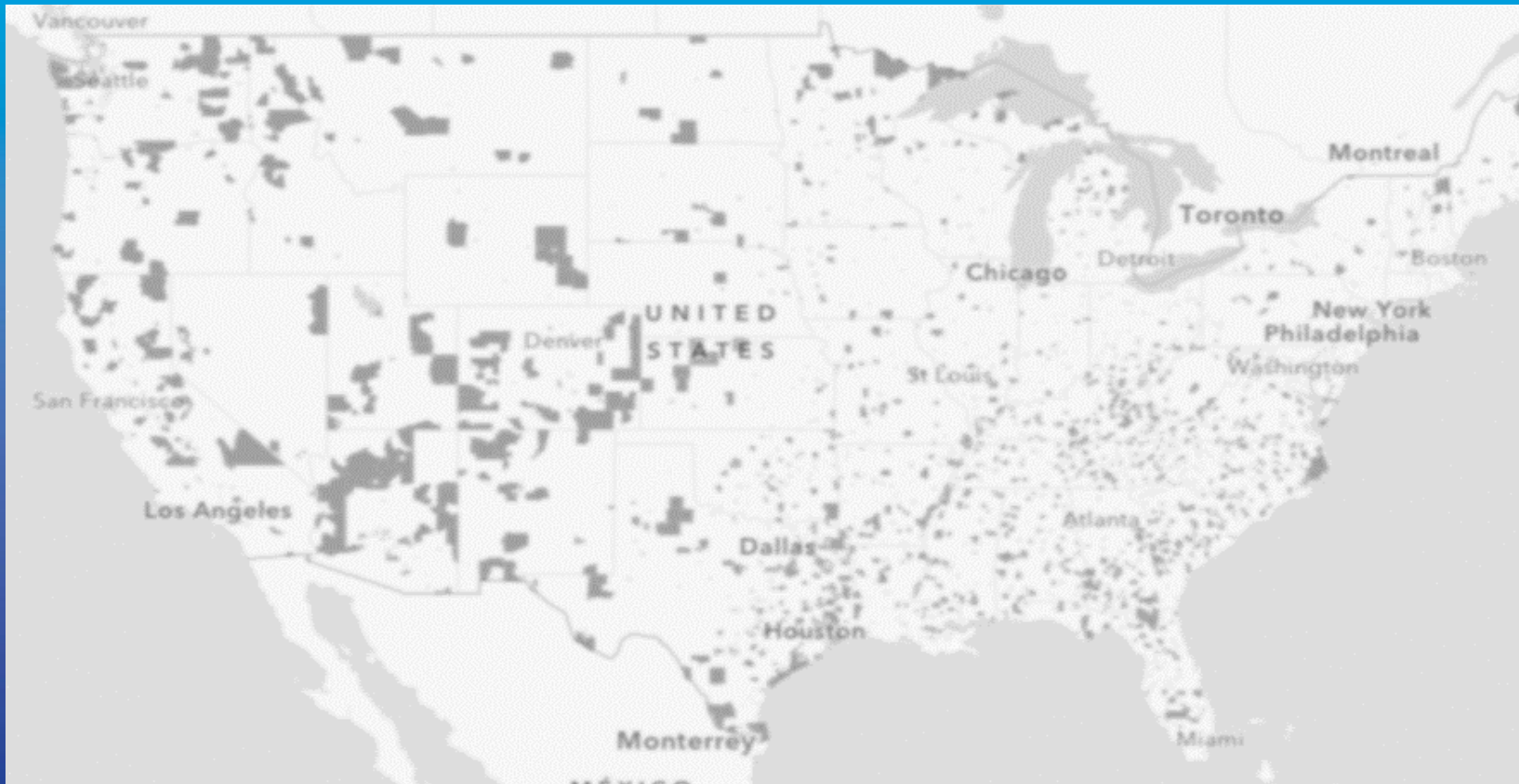
- Nominated by CEOs of states and territories and certified by Secretary of U.S. Treasury via his delegation of authority to the Internal Revenue Service.
- List of Qualified Opportunity Zones online and in the Federal Register at IRB Notice 2018-48.



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Opportunity Zones Map





Qualified Opportunity Fund

A QOF is an investment vehicle set up as either a partnership or corporation for investing in qualified opportunity zone property.



Qualified Opportunity Fund

- Files as a partnership or corporation for tax purposes.
- Organized for investing in Qualified Opportunity Zone property.
- Holds at least 90 percent of its assets in Qualified Opportunity Zone property, measured on certain testing dates
- Self-certify yearly that it meets these requirements by completing and attaching Form 8996 to the eligible entity's tax return.



Opportunity Zone Investors

Deferral of Eligible Gain

- Investors may elect to temporarily defer tax on a capital gain if it's invested in a QOF within 180 days of realizing the gain.
- The temporary deferral ends the earlier of the date on which the investment in a QOF is sold or exchanged or December 31, 2026.

Form 8949

1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (e) in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	XX-1111111	10/1/2018				Z	(1,500,000)	(1,500,000)
	XX-2222222	02/28/2019				Z	(500,000)	(500,000)



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Opportunity Zone Investors

- If QOF is held at least five years, QOF basis increases by 10 percent of the amount of the deferred gain.
- If QOF is held for at least seven years, QOF basis increases by an additional five percent of the amount of the deferred gain.
- If **investor** holds a QOF interest that originated with a deferred gain for at least 10 years, the investor is eligible to elect to change the QOF basis to the fair market value on the date the QOF interest is sold or exchanged.



Opportunity Zone Investors

Deferred gain included in income

- When QOF interest is disposed of in whole or in part and reported on Form 8949.
- Retains its original character when subsequently disposed of: short-term versus long-term.
- Any deferred gain not recognized in income prior to 12/31/2026 must be reported as income in that year (2026).



Resources

- Tax Reform page of IRS.GOV has current information, including links to Regulations, Revenue Rulings and other guidance on these provisions. <https://www.irs.gov/tax-reform>
- Treas. Reg §1.199A Qualified Business Income Deduction
- Notice 2019-07 Safe Harbor for Certain Real Estate Enterprises
- Instructions to Form 1040
- Publication 535, Business Expenses
- Opportunity Zones FAQs
- Form 8949
- Form 8996



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Disaster Assistance	disaster
E-Services – Online Tax Tools	eservices
Estimated Taxes	estimated taxes
Identity Theft Info for Tax Pros	identity protection prevention
Installment Agreement User Fees	payment plan fees
Offer in Compromise	offers
Payment Options for Taxpayers	payment options
Tax Reform / Paycheck Checkup	tax reform
Tax Scams and How to Report Them	scams
Webinars for Tax Practitioners	webinars