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Proposed regulations: Section 199A, 20% deduction for passthrough qualified business income (text of regulations)

The U.S. Treasury Department and IRS today released proposed regulations (REG-107892-18) concerning a provision enacted under the new tax law that allows certain owners of sole proprietorships, partnerships, trusts, and S corporations to deduct 20% of their qualified business income.

The IRS also released in connection with the proposed regulations a list of “frequently asked questions” (FAQs) and Notice 2018-64 as a proposed revenue procedure for guidance on methods for calculating W-2 wages for purposes of section 199A.

The new deduction under section 199A was added to the Code by the tax law (Pub. L. No. 115-97) enacted December 22, 2017. The 20% deduction is available for qualified business income of certain non-corporate taxpayers (including income from publicly traded partnerships) for tax years beginning after December 31, 2017. Eligible taxpayers can claim the 20% deduction for the first time on their 2018 federal income tax returns.

- Read text of the [proposed regulations](#) [PDF 530 KB] (184 pages)
- Read [Notice 2018-64](#) [PDF 37 KB]
- Read the [FAQs](#)

According to a related [Treasury release](#), the proposed regulations:

- Provide that all small business income below \$315,000 for married couples filing jointly (and \$157,000 for single filers) is eligible for the deduction
- Provide clarity and flexibility for filers over those income thresholds by: (1) including “aggregation rules” for filers with pass-through income from multiple sources; (2)

issuing guidance relating to specified service, trade or business (SSTB) income above the thresholds, which may be subject to limitation for the purposes of claiming the deduction; and (3) allowing a de minimis exception to avoid unnecessary compliance costs for businesses earning only a small percentage of SSTB income.

- Establish anti-abuse safeguards to prevent improper tax avoidance schemes, such as relabeling employees as independent contractors.

Qualified business income includes domestic income from a trade or business. Employee income, capital gains, interest, and dividend income are excluded from this deduction.

The purpose of this report is to provide text of the proposed regulations. Initial impressions about these regulations will be provided in a future report from KPMG.

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