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New Proposed Regs on Pass-Through Deduction *IRS Issues Guidance on Complex Rules*

In August, the IRS issued long-awaited proposed regulations on a brand-new deduction for non-corporate taxpayers authorized by the Tax Cuts and Jobs Act (TCJA). This deduction is commonly referred to as the “pass-through deduction” or “section 199A deduction” and is generally 20% of a taxpayer’s qualified business income from a partnership, S corporation, or sole proprietorship.

Background:

Taxpayers with income in excess of certain threshold amounts are not eligible for the section 199A deduction on income attributable to a specified service trade or business, or an “SSTB.” Examples of SSTBs include attorneys, physicians, consultants, athletes, financial advisers, accountants, stockbrokers and the like.

In general, pass-through entities other than SSTBs are considered “qualified” trades or businesses eligible for the section 199A deduction. However, the amount of the deduction on income attributable to qualified trades or businesses may be limited if the taxpayer earns income in excess of the threshold amounts.

If you have income lower than \$157,500 as a single filer or \$315,000 as a joint filer, you can claim the full 20% deduction. It does not matter if the pass-through income is attributable to a SSTB or a qualified trade or business.

If your income exceeds \$207,500 as a single filer or \$415,000 as a joint filer, you get *no deduction* on pass-through income attributable to a SSTB. You will get a deduction for income attributable to a qualified trade or business, but you will be subject to limitations based on the business’ wages and unadjusted basis in acquired qualified property.

New Regulations:

The new regulations, which span 184 pages, provide some clarity for these complex rules. Below are just a few brief highlights of the regulations:

- The regulations define the term “trade or business” for section 199A purposes and confirm that, in many cases, rental income can qualify for the deduction.
- The proposed regulations take further steps to define each field of business that is a SSTB. They give detailed examples of what is and what is not a SSTB.
- Prop. Treas. Reg. § 1.199A-4 includes a new set of rules under which multiple trades or businesses may be aggregated at the individual (owner) level. If your income exceeds the thresholds mentioned earlier and you receive income from multiple businesses entities, making the correct aggregation decisions will be crucial to maximizing your 199A deduction. Annual disclosures will be required. The election will apply to all subsequent years, so the decisions should not be taken lightly. Thoughtful analysis and estimates should be considered. Let us help you with these estimates before year end to see what works best for your company.

We Can Help!

This only scratches the surface of this issue. If you have any questions regarding the changes or need help implementing the new provisions, please contact Greg Parker – GregoryP@gmpcpa.com or call 903-534-0088