

Chapter 1: New Legislation — Business Concerns

Tax Cuts and Jobs Act of 2017	B2	Tax Credit Changes.....	B34
Qualified Business Income Deduction	B2	Repeal of Technical Termination of Partnerships.....	B38
Qualified Improvement Property.....	B6	Deduction for Fines and Penalties.....	B39
IRC §179 Expensing	B7	S Corporation to C Corporation Conversions	B42
Bonus Depreciation.....	B8	Employee Achievement Awards.....	B44
Applicable Recovery Periods for Real Property	B13	Limitation on Excessive Employee Compensation.....	B44
Depreciation Limits on Luxury Autos	B14	Qualified Equity Grants.....	B45
Computer Equipment No Longer Listed Property	B16	Length-of-Service Award Exclusion	B47
Amortization of Research and Experimental Expenditures	B17	Limitation on Deduction of Business Interest.....	B48
Like-Kind Exchanges	B18	Exempt Organizations.....	B52
Entertainment, Meals, and Transportation Expenses	B20	Significant International Provisions	B56
Corporate Alternative Minimum Tax.....	B24	Other Provisions	B60
Credit for Prior Year Minimum Tax Liability of Corporations.....	B25	Bipartisan Budget Act of 2018	B64
Corporate Tax Rate Change.....	B26	Extenders.....	B64
Reduction in Dividend Received Deductions.....	B26	Tax Relief for California Wildfire Disaster Area	B66
Small Business Accounting Method Simplification	B27	Other Provisions	B67
Net Operating Losses.....	B32	Consolidated Appropriations Act	B68

Please note. Corrections for all of the chapters are available at www.TaxSchool.illinois.edu. For clarification about acronyms used throughout this chapter, see the Acronym Glossary at the end of the Index.

For your convenience, in-text website links are also provided as short URLs. Anywhere you see uofi.tax/xxx, the link points to the address immediately following in brackets.

About the Author

Marshall J. Heap, PhD, EA, is a Tax Content Development and Instruction Specialist at the University of Illinois Tax School. An EA since 1984, Marshall is an ex-Senior Manager of PriceWaterhouseCoopers and has seven years of recent experience as an approved IRS continuing education provider. Marshall's academic background is in Computing and associated fields with degrees from the following UK Universities: The Open University (BSc), London, Birkbeck College (MSc), and Reading (PhD).

Other chapter contributors and reviewers are listed at the front of this volume.

About the Author

Carolyn Schimpler, CPA, is Assistant Director, Tax Materials, at the University of Illinois Tax School. She joined Tax School in 2008, after holding a variety of positions in public accounting and private industry. She graduated with honors from Governors State University in 1988 and passed the CPA examination later that year. Carolyn serves as editor of the annual Federal Tax Workbook. She is a member of the Illinois CPA society.

Other chapter contributors and reviewers are listed at the front of this volume.

This chapter covers business, international, and other miscellaneous provisions contained in the Tax Cuts and Jobs Act (TCJA). Discussion of these provisions is limited to an overview. Many of these provisions are explored in detail in other 2018 *University of Illinois Federal Tax Workbook* chapters. Business and other provisions contained in the Bipartisan Budget Act of 2018 (BBA)¹ and the Consolidated Appropriations Act (CAA)² are also covered in this chapter.

TAX CUTS AND JOBS ACT OF 2017³

QUALIFIED BUSINESS INCOME DEDUCTION

Old Law

Under IRC §199, qualifying taxpayers could claim a domestic production activities deduction (DPAD) equal to 9% (except for oil and gas related income, which is 6%) of the lesser of:

- Qualified production activities income (QPAI), or
- Taxable income (adjusted gross income for individuals, estates, and trusts).

A taxpayer's QPAI is its domestic production gross receipts (DPGR), reduced by the allocable cost of goods sold and other deductions, expenses, and losses.

DPGR are generally gross receipts of the taxpayer derived from the following.

1. Any sale, exchange, or other disposition, or any lease, rental, or license of qualifying production property that was manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part within the United States
2. Any sale, exchange, or other disposition, or any lease, rental, or license of qualified film produced by the taxpayer
3. Any sale, exchange, or other disposition, or any lease, rental, or license of electricity, natural gas, or potable water produced by the taxpayer in the United States
4. Construction of real property performed in the United States by a taxpayer in the ordinary course of a construction trade or business
5. Engineering or architectural services performed in the United States for the construction of real property located in the United States.

The DPAD cannot exceed 50% of the W-2 wages paid by the taxpayer to its employees, properly allocable to the taxpayer's DPGR (i.e., the wages that the taxpayer deducts in calculating its QPAI) for the calendar year ending during the tax year.

¹. PL 115-123 (Feb. 9, 2018).

². PL 115-141 (Mar. 23, 2018).

³. PL 115-97 (Dec. 22, 2017); *Joint Explanatory Statement of the Committee of Conference*. [docs.house.gov/billsthisweek/20171218/Joint%20Explanatory%20Statement.pdf] Accessed on May 15, 2018.

New Law

Note. The 2018 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 2: Small Business Issues, contains a detailed analysis of the QBID, including examples.

The qualified business income deduction (QBID) described by §11011 of the TCJA adds §199A to the Code. The TCJA in §13305 repeals the DPAD, which was previously allowed under IRC §199. The DPAD repeal is effective for tax years beginning after December 31, 2017.

Effective for tax years beginning after December 31, 2017, and ending before January 1, 2026, the TCJA introduces a new tax deduction of **20%** of qualified business income (QBI) from U.S. domestic business activities.⁴ The QBID only applies for income tax purposes. It is not a deduction for self-employment (SE) or net investment income tax (NIIT) purposes. The deduction is available to taxpayers who do not itemize their deductions, as well as those who do.⁵

Individual taxpayers with QBI from a partnership, S corporation, estate, trust, sole proprietorship and from certain rental activities can claim the QBID.⁶ The amount of the **combined QBID** that taxpayers can claim is the total of the following.⁷

1. The sum of the **initial QBIDs** for each of the taxpayer's qualified businesses
2. 20% of the aggregate amount of the taxpayer's qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income for the tax year

However, this formula **only results in combined QBID** if the taxpayer has net **positive** aggregate QBI from qualified businesses **and/or positive** aggregate income from REITs and PTPs.

Qualified Business Losses.⁸ When the net QBI from all qualified businesses is less than zero, the combined QBID from qualified businesses is zero (item 1 of the combined QBID formula) for the tax year. The resulting qualified business loss (QBL) is then treated as negative QBI from a separate trade or business in the taxpayer's succeeding tax year. This requirement does not affect the deductibility of the loss under other sections of the Code.

Taxpayers who have one or more businesses with QBLs but net positive overall QBI must apportion their QBLs among the businesses with positive QBI in proportion to the relative amounts of their positive QBI. The business's QBI less its allocation of losses from other businesses is its **adjusted QBI**, which becomes its QBI for the purposes of the initial QBID calculation (discussed later).⁹

Specified Service Business. The QBID attributable to **positive QBI** from a **specified service business (SSB)** is reduced¹⁰ for taxpayers whose taxable income **exceeds** the following thresholds.¹¹

- \$315,000 for married filing jointly (MFJ) taxpayers
- \$157,500 for all other filing statuses

⁴ TCJA §11011; IRC §199A.

⁵ PL 115-97 (Dec. 22, 2017); *Joint Explanatory Statement of the Committee of Conference*. [docs.house.gov/billsthisweek/20171218/Joint%20Explanatory%20Statement.pdf] Accessed on May 15, 2018.

⁶ IRC §§199A(c)(3) and 199A(f).

⁷ IRC §199A(b)(1); Prop. Treas. Reg. §1.199A-1(c)(1).

⁸ Prop. Treas. Regs. §§1.199A-1(c)(2) and 1.199A-1(d)(2)(iii).

⁹ Prop. Treas. Reg. §1.199A-1(d)(2)(iii)(A).

¹⁰ IRC §199A(d).

¹¹ IRC §199A(e)(2).

The limitation is gradually phased in for MFJ taxpayers with taxable income between \$315,000 and \$415,000. The phase-in range is between \$157,500 and \$207,500 for other filing statuses. Taxpayers with SSBs that have taxable income above \$415,000 (MFJ taxpayers) or \$207,500 (all other taxpayers) are not entitled to a QBID.¹²

An SSB is any trade or business involving the performance of services in the following areas.

- Health
- Law
- Accounting
- Actuarial science
- Performing arts
- Consulting
- Athletics
- Financial service (including investing and investment management, and trading or dealing in securities or commodities)
- Brokerage services¹³

An SSB also includes any trade or business in which the principal asset is the reputation or skill of one or more of its employees or owners. The proposed IRC §199A regulations clarify that this definition applies to any trade or business in which a person does **one or more** of the following.¹⁴

1. Receives fees, compensation, or other income for endorsing products or services
2. Licenses or receives fees, compensation, or other income for the use of an individual's image, likeness, name, signature, voice, trademark, or any other symbols associated with the individual's identity
3. Receives fees, compensation, or other income for appearing at an event or on radio, television, or another media format

Observation. The SSB definition closely resembles that of personal service corporations. Unlike that definition, SSB does not include businesses that perform architectural or engineering services.

Initial QBID. All taxpayers with QBI whose **taxable income** (computed before the QBID) exceeds the threshold amounts (\$315,000 for MFJ taxpayers and \$157,500 for all other taxpayers) are **also** subject to a W-2 wages/qualified property (QP) limit based either on **wages paid** or on **wages paid plus a capital element**. This limitation, referred to as the W-2 wages/QP limit, is the **greater** of:¹⁵

- **50%** of the W-2 wages paid with respect to the qualified business, **or**
- **25%** of the W-2 wages with respect to the qualified business **plus 2.5%** of the unadjusted basis immediately after acquisition of all QP.

¹² IRC §§199A(d)(3) and 199A(e)(2).

¹³ IRC §199A(d)(2)(A).

¹⁴ Prop. Treas. Reg. §1.199A-5(b)(2)(xiv).

¹⁵ IRC §199A(b)(2)(B).