

The background features a collection of colorful, overlapping abstract shapes and numbers. The shapes include loops, lines, and geometric forms in shades of blue, green, red, purple, and yellow. Numbers like '50', '73', '76', '29', and '71' are scattered throughout, some appearing to be part of a larger, partially visible number sequence.

# Pass Through Entity Income Exclusion

July 31, 2018

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This webinar provides a brief summary based on our understanding and interpretation of current law. All tax references are to federal tax law only, unless otherwise stated.

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# WELCOME



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# WHY NOW?!



# WHY NOW?!

**It Is Not Just Math and a  
Year-End Calculation**



# WHY NOW?!



## Partnership, LLC or S Corp Agreement

# TAX FREE MONEY



# COMPLEXITY





# BAD INFORMATION

**Be Very Careful –  
Lots of Bad Information**



# CHOICE of ENTITY

**Should  
You  
Convert to  
C Corp?  
Flat 21% Tax**



# CHOICE OF ENTITY



# FREEDOM TO INTERPRET



# FREEDOM TO INTERPRET

## Technical Corrections Act



# GENERAL RULE

**20% of a Taxpayer's Qualified  
Business Income (QBI)**

**Net Amount of Income, Gain,  
Deduction, and Loss with  
Respect to the **Trade or Business****



# TYPE OF INVESTMENT

## Passive and Active

Passive Income



Active Income



# QUALIFIED BUSINESS INCOME

***Any Trade Or Business Other Than Specified Service Trades Or Businesses (discussed later)***





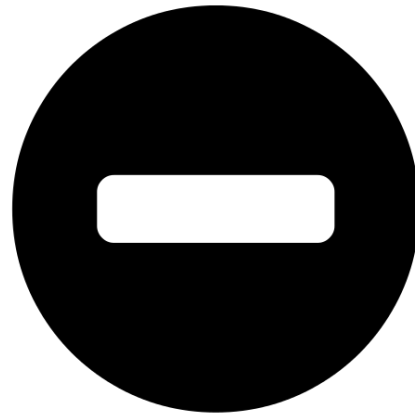
# OTHER QUALIFYING ENTITIES

**20% of the  
Aggregate  
Amount of the  
Qualified REIT  
Dividends and  
Qualified Publicly  
Traded Partnership  
Income**



# QUALIFIED BUSINESS INCOME (QBI)

**Capital Gains or Losses,  
Dividends, and Interest Income  
are Generally Excluded  
(Portfolio / Investment Income)**



# TRIPLE NET LEASE



# EXCLUDED COMPENSATION

**Employee  
Compensation of S-  
Corp Shareholder(s)  
and Guaranteed  
Payments for  
Services to a Partner  
are Excluded**



# S CORP COMPENSATION

## Reasonable Compensation



**IRS**

Department of the Treasury  
**Internal Revenue Service**



# S CORP COMPENSATION

## Reasonable Compensation

### Justice Potter Stewart



*I know it when I see it*

# PARTNERSHIPS

## GUARANTEED PAYMENTS



# PAYROLL / SELF-EMPLOYMENT TAX





# QUICK EXAMPLE

**A business has \$250,000 of Business Income. Sole Proprietorship, Husband and Wife LLC Taxed as a Partnership, and Single Shareholder S Corp with Reasonable Compensation of \$100,000. All file Married Filing Jointly.**



# EXAMPLE CONTINUED

	<b>Proprietorship*</b>	<b>Partnership</b>	<b>S-Corp</b>
<b>Business Income</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>
<b>Shareholder Salary</b>			<b>\$100,000</b>
<b>QBI</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$150,000</b>
<b>Exemption %</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>
<b>Exemption Amount</b>	<b>\$50,000</b>	<b>\$50,000</b>	<b>\$30,000</b>

\*Single Member LLC

# EXAMPLE CONCLUSION

**BUT MIKE THAT IS NOT FAIR!**



## QUICK EXAMPLE 2

**A business has \$250,000 of Business Income. Sole Proprietorship, Husband and Wife LLC Taxed as a Partnership with Guaranteed Payments of \$100,000, and Single Shareholder S Corp with Reasonable Compensation of \$100,000. All file Married Filing Jointly.**

# EXAMPLE CONTINUED

	<b>Proprietorship*</b>	<b>Partnership</b>	<b>S-Corp</b>
<b>Business Income</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>
<b>Shareholder Salary</b>		<b>\$100,000</b>	<b>\$100,000</b>
<b>QBI</b>	<b>\$250,000</b>	<b>\$150,000</b>	<b>\$150,000</b>
<b>Exemption %</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>
<b>Exemption Amount</b>	<b>\$50,000</b>	<b>\$30,000</b>	<b>\$30,000</b>

\*Single Member LLC

# PHASE-OUT

## Taxable Income

**\$157,500 / \$315,000**

**\$50,000/\$100,000**



# MARRIAGE PENALTY



# EXCEED THRESHOLD

- Lesser of:
  - 20% of QBI or
- Greater of:
  - 50% of Wages
  - 25% of Wages and 2.5% of **Unadjusted** Basis Immediately after Acquisition of all Qualified Property



# PERSONAL SERVICE ENTITIES

Health, Law, Consulting,  
Athletics, Financial Services,  
Brokerage Services, or any  
Trade or Business **Based on  
Personal Reputation**



# QUALIFIED PROPERTY

- **Held By, and Available for Use In, the Qualified Trade or Business**
- **Which is Used at Any Point During the Taxable Year In the Production of Qualified Business Income**
- **Depreciable Period Which has Not Ended Before the Close of the Tax Year**

# QUALIFIED PROPERTY EXAMPLE 1

Tom owns Commercial Real Estate and has a Management Company to run it (no Payroll). He has Income of \$1,500,000. The Unadjusted Property Basis is \$2,000,000.

The Deduction is the lesser of \$300,000 (20% of \$1,500,000) or **\$5,000 (2.5% of \$2,000,000)**



# QUALIFIED PROPERTY EXAMPLE 2



**Lucy owns a Printing Company. She has Income of \$500,000 and Payroll of \$160,000. She buys a new machine for \$100,00 to replace all other equipment.**

# PERSONAL SERVICE ENTITIES

**But Does She Have A Business  
Based on Personal Reputation?**



# QUALIFIED PROPERTY EXAMPLE 2

- **\$100,000 (20% of \$500,000)(Exceeds Threshold)**
- **\$42,500 (25% of \$160,000 + 2.5% of \$100,000)**
- **\$80,000 (50% of \$160,000)**



# EXAMPLE 3

**A business has \$600,000 of Business Income. Sole Proprietor, Husband and Wife LLC Taxed as a Partnership, and Husband and Wife Shareholders' S Corp in which the Wife has Reasonable Compensation of \$60,000 in the S Corp and similar Guaranteed Payment in LLC. Other Payroll \$50,000 and Equipment of \$100,000. All File Married Filing Jointly.**

# EXAMPLE 3 CONTINUED

	<b>S-Corp</b>	<b>Partnership</b>	<b>Proprietorship</b>
<b>Business Income</b>	<b>\$600,000</b>	<b>\$600,000</b>	<b>\$600,000</b>
<b>Shareholders Salary</b>	<b>\$60,000</b>		
<b>Guaranteed Payment</b>		<b>\$60,000</b>	
<b>QBI</b>	<b>\$540,000</b>	<b>\$540,000</b>	<b>\$600,000</b>
<b>Other Payroll</b>	<b>\$50,000</b>	<b>\$50,000</b>	<b>\$50,000</b>
<b>Equipment</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$100,000</b>
<b>Exemption</b>	<b>\$55,000</b>	<b>\$25,000</b>	<b>\$25,000</b>



# THIS CANNOT BE RIGHT



# MARRIED FILING SEPARATELY



# PENALTY

## Accuracy Penalty for Substantial Understatement 5% Instead of 10% of Tax



# QUESTIONS



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