

The background features a complex, abstract design of overlapping, tangled ribbons in various colors (red, blue, green, yellow, purple) and scattered numbers (1, 2, 3, 4, 5, 6, 7, 8, 9, 0) in the same color palette. The overall effect is one of visual complexity and 'entanglement'.

Untangling the New Qualified Business Income Deduction

November 27, 2018

DISCLAIMER

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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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RULES

- I will try and not be political
- You can be political as long as it is polite
- No question is unimportant
- Ask questions as we go / do not hold



WHY NOW?!



WHY NOW?!

It Is Not Just Math and
a Year-End Calculation



WHY NOW?!



Partnership, LLC or
S Corp Agreement

Is it too late?



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



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



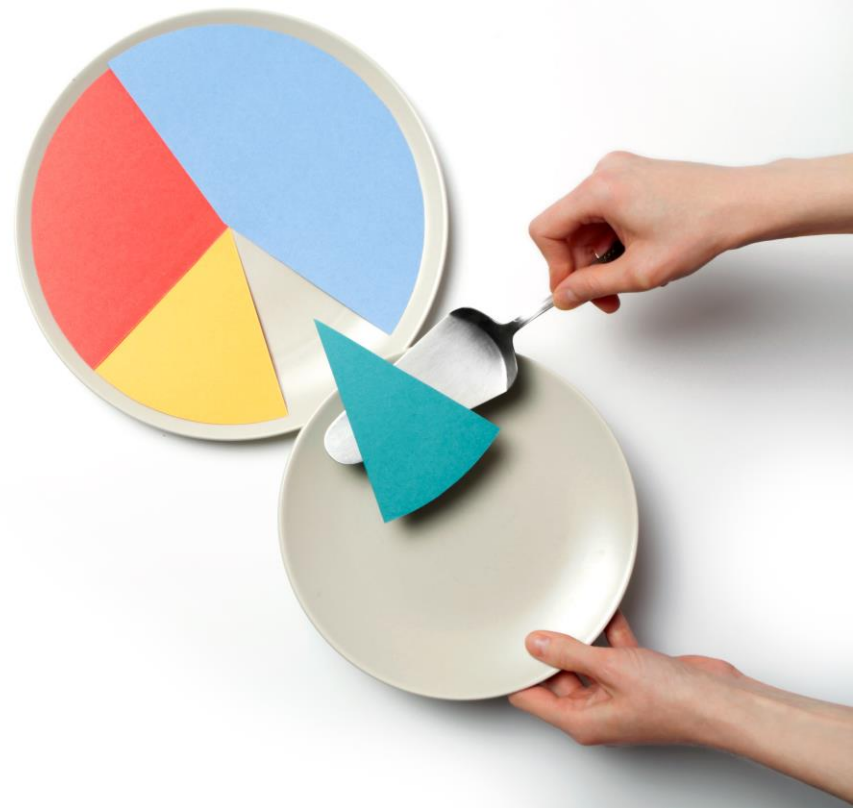
QUALIFIED BUSINESS INCOME

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



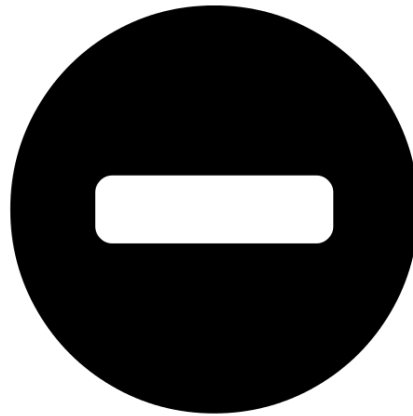
OTHER QUALIFYING ENTITIES

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

- Related
- Section 162



EXCLUDED COMPENSATION

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



S CORP COMPENSATION

Reasonable Compensation



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

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

*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

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

*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

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

THIS CANNOT BE RIGHT



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BEYOND THE NUMBERS

OPTIONAL AGGREGATION

- 50% or more ownership
- 20 or more
- Same or offered together business
- Centralized business elements
- Coordination or reliance

REQUIRED SEGREGATION

Anti-Abuse



MARRIED FILING SEPARATELY



PENALTY

Accuracy Penalty for Substantial Understatement

5% Instead of 10% of Tax



QUESTIONS



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