

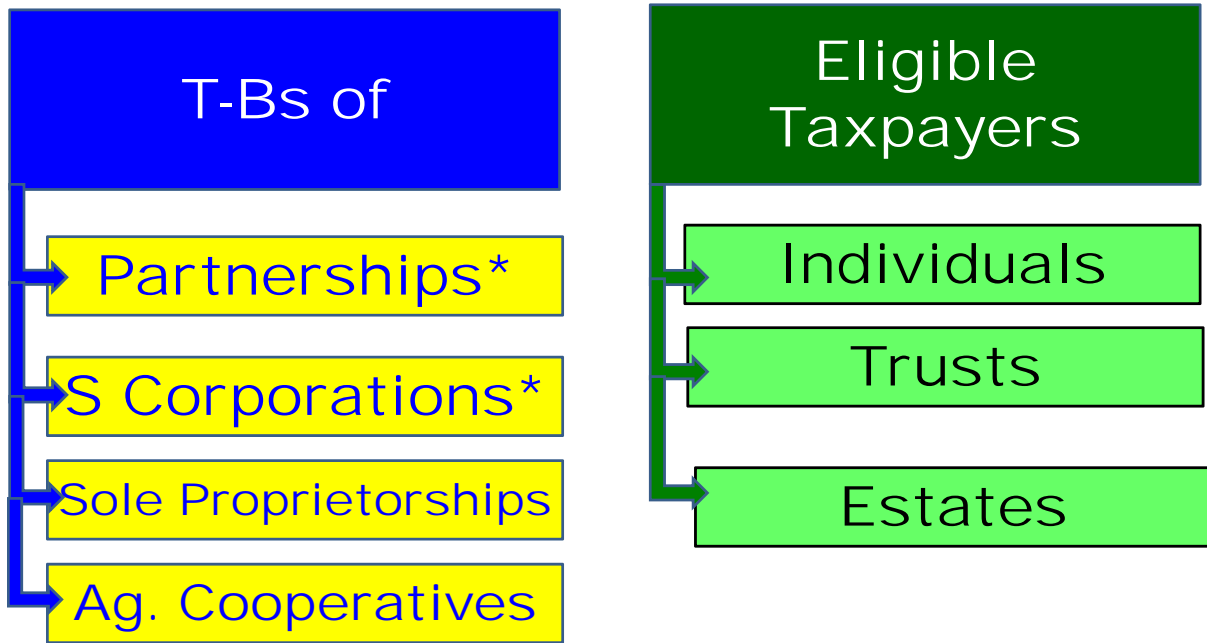
Section 199A Deduction

Revenue Impact:
<415 Bil.>
Over 10 Years

1

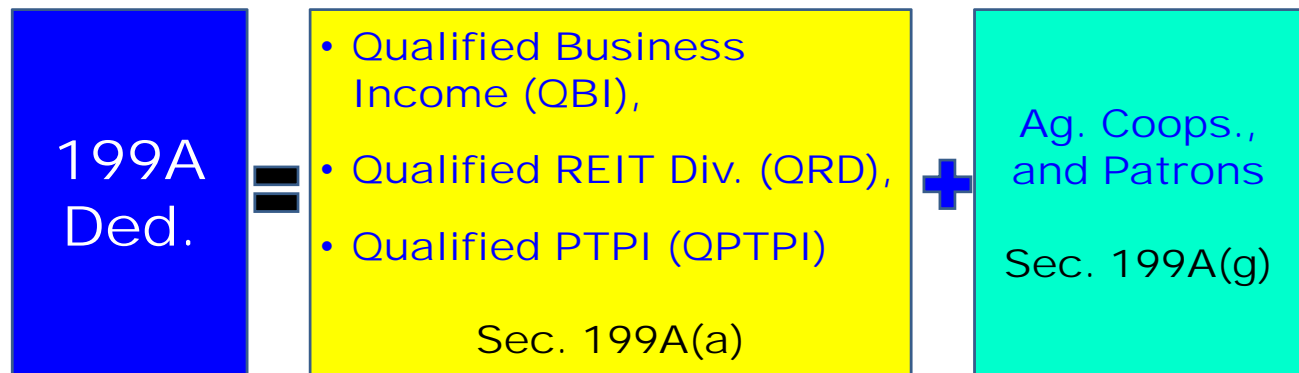
Overview Of Sec 199A

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* Applied at the Partner or S shareholder level

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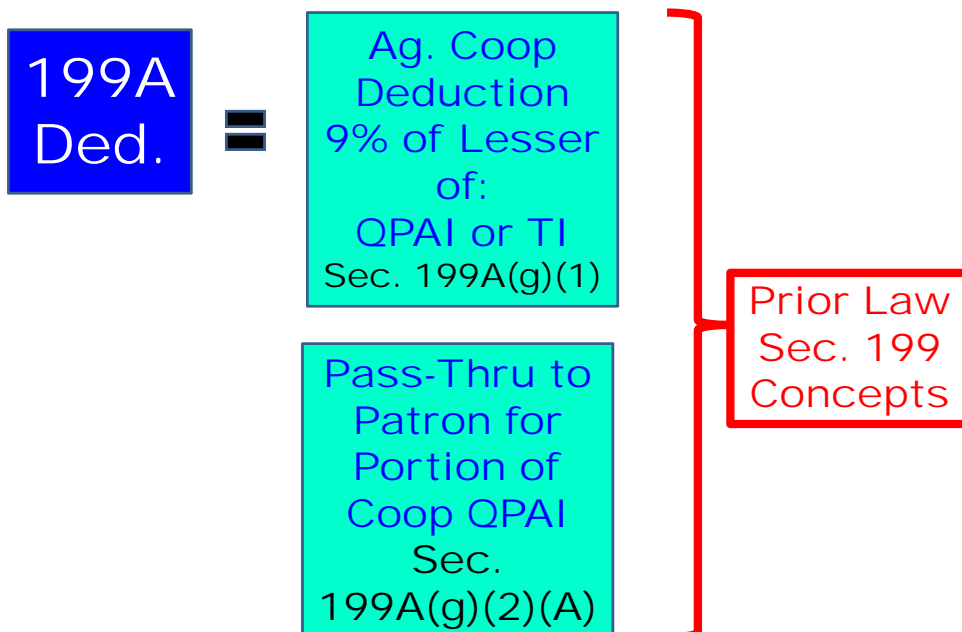
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"Fix" to "Grain Glitch"

- Consolidated Appropriations Act of 2018 enacted March 23, 2018.
- Retroactive to January 1, 2018.
- Eliminates 199A provision giving patrons a 20-percent deduction based upon gross sales to cooperatives.
- Blend of new 199A and old section 199.

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Coop and Pass-Thru to Patron



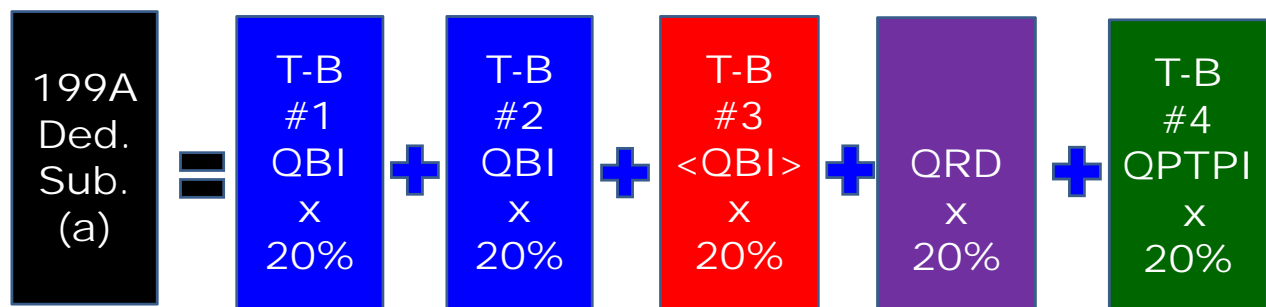
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“Taxable Income” T.I.

Warning: when sec. 199A mentions “taxable income” (TI), it generally means TI without regard to the sec. 199A deduction (sec. 199A(e)(1)).

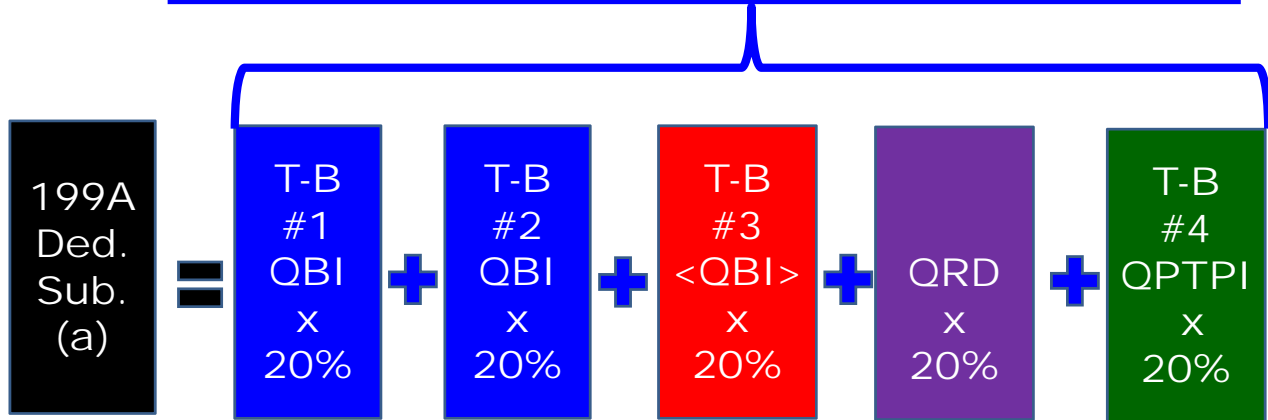
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T.I. \leq \$315,000 (MFJ) or \leq \$157,500 (Other)



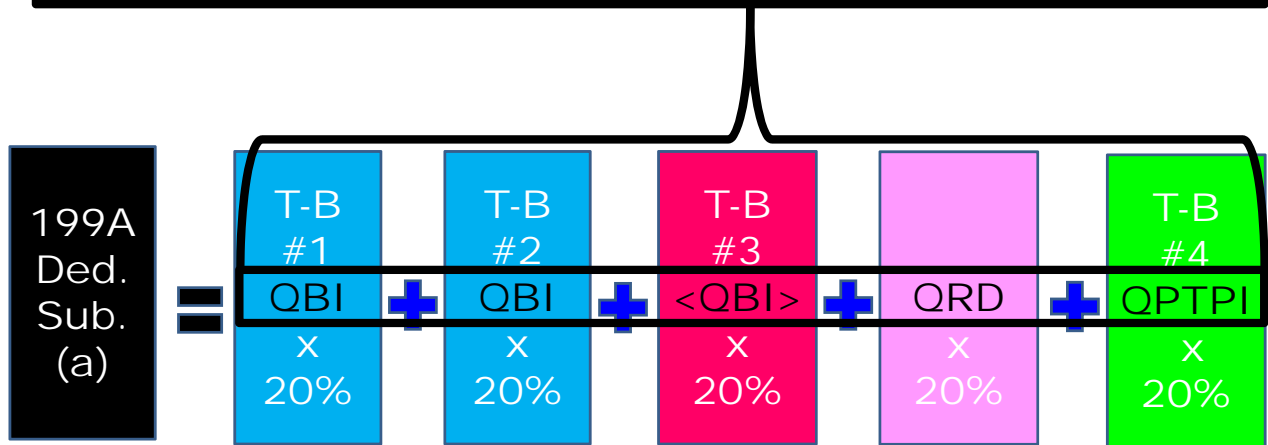
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*The Combined QBI Amount (CQBIA)**



* The 199A(a) deduction is the lesser of:
 (a) the CQBIA or
 (b) 20% x taxable income (TI) minus net capital gain.⁹

Net Loss Carries Forward to Following Year



W2+UB Limit*

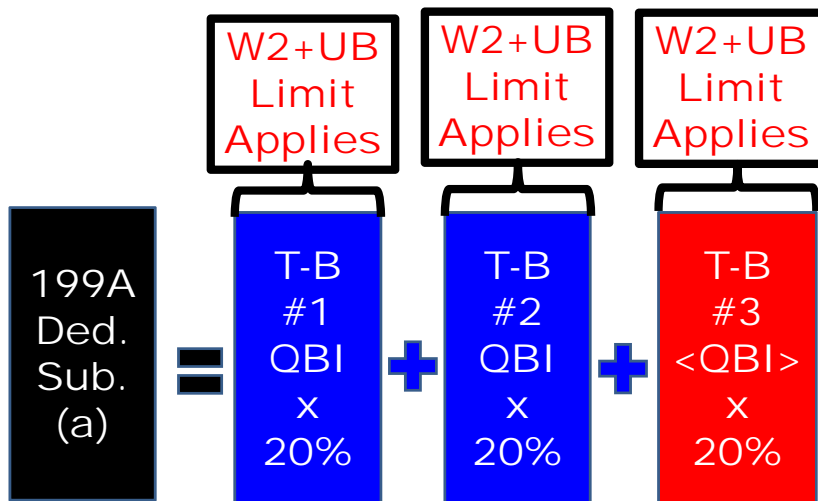
*For each QBI T-B, the W-2+UB limit amount is the greater of:

- 50% of W-2 wages, or
- 25% of W-2 wages + 2.5% of unadjusted basis;

limit phases-in when T.I. exceeds \$315,000 (MFJ) or \$157,500 (other).

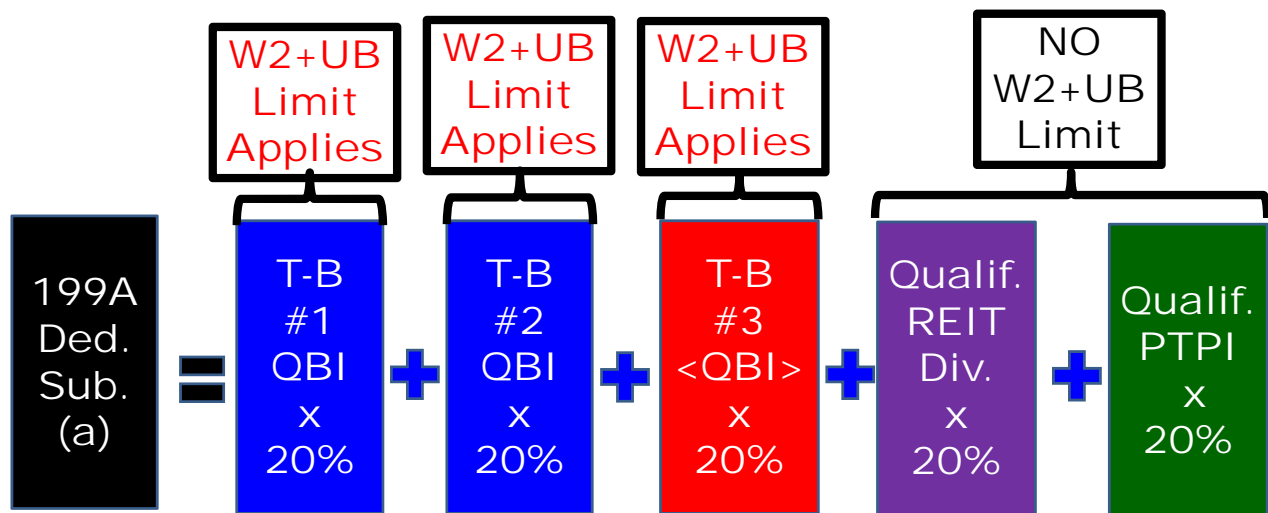
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T.I. > \$315,000 (MFJ) or > \$157,500 (Other)*



* W2+UB Limit Phase-in range:
\$100,000 (MFJ);
\$50,000 (other).

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W-2+UB Limit

- **Complete taxpayer relief** from W2+UB limit if TI does not exceed the threshold amount--\$315,000 (MFJ) or \$157,500 (other)).
- **Fully-phased in W-2+UB limit** applies if the taxpayer's TI exceeds **\$415,000 (MFJ) or \$207,500 (other)**.
- Taxpayer is **allowed to phase-in the W-2+UB limit** if TI exceeds the threshold amount but does not exceed \$415,000 (MFJ) or \$207,500 (other).

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Example 5 – Fully Phased-In W2+UB Limit

- A married couple owns rental real estate that constitutes a qualified T-B and earns a net profit (QBI) of \$200,000.
- The couple files a joint return.
- T.I. (pre-199A) is \$420,000.
- \$2,000,000 unadjusted basis in the real property.

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<u>Taxable Income (Pre-199A)</u>	
S2's W-2 Wage Income	244,000
Sch. E Rental T-B	200,000
AGI	444,000
-Standard Deduction	- 24,000
= Taxable Income	= 420,000

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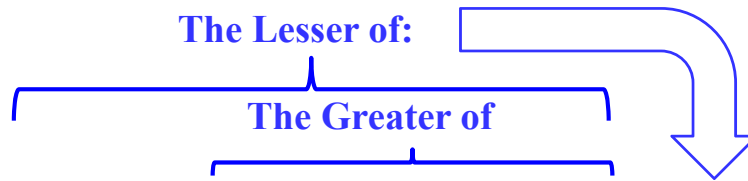
T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI				
QBI	200,000	40,000				
Net	<u>200,000</u>					

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The Greater of

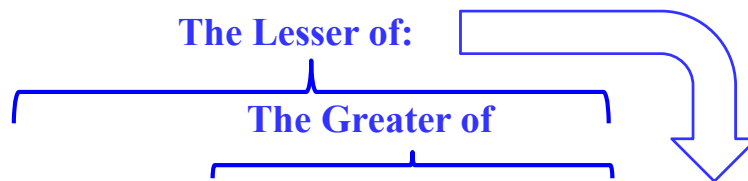
T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.		
QBI	200,000	40,000	0	50,000		
Net	<u>200,000</u>					

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T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	
QBI	200,000	40,000	0	50,000	40,000	
Net	<u>200,000</u>					

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T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI	200,000	40,000	0	50,000	40,000	40,000
Net	<u>200,000</u>	Combined Qualified Business Income Amount = 40,000				

Step 5: The 199A Deduction is \$40,000 (the lesser of \$40,000 (CQBIA) or \$84,000 (20% x \$420,000 (TI) - 0 (NCG))

Example 6 -- Fully Phased-in W2+UB Limit.

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- Same facts as Example 5 above, but the adjusted basis of the building is \$640,000 (instead of \$2,000,000).
- $2.5\% \times \$640,000$ is \$16,000 so the fully phased-in W2+UB limit is \$16,000.

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The Lesser of:

The Greater of

T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI	200,000	40,000	0	16,000	16,000	
Net	<u>200,000</u>					

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The Lesser of:

The Greater of

T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI	200,000	40,000	0	16,000	16,000	16,000
Net	<u>200,000</u>	Combined Qualified Business Income Amount:				16,000

Step 5: The 199A Deduction is \$16,000 (the lesser of \$16,000 (CQBIA) or \$84,000 (20% x \$420,000 (TI) - 0 (NCG))₂₃)

Specified Service Businesses (SSBs)

- Is like any other business if TI is:

\leq \$315,000 (MFJ), or
 \leq \$157,500 (other).

4

- Phase-out range:

\$100,000 (MFJ);
 \$50,000 (other).

- No 199A deduction if TI:

\geq \$415,000 (MFJ), or
 \geq \$207,500 (other).

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Definition of SSBs

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- 1) "any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its [employees or owners]" OR
- 2) "which involves the performance of services that consist of investing and investment management, trading, or dealing in securities (as defined in section 475(c)(2)), partnership interests, or commodities (as defined in section 475(e)(2))."

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Phase-Out

For SSBs with TI above the threshold amount and within the phase-out range, only the applicable percentage of QBI, W-2 wages, and unadjusted basis are taken into account for purposes of section 199A

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The Applicable Percentage

100% minus the percentage equal to the following ratio:

$$\frac{\text{TI} - \text{Threshold Amount } (\$315\text{K (MFJ) or } 157.5\text{K (other)})}{\text{Phase-out range } (100\text{K (MFJ) or } 50\text{K (other)})}$$

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Example 2

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- S1 is the sole-proprietor of a law practice that earns a net profit (QBI) of \$200,000.
- The couple files a joint return.
- The couple's TI (pre-section 199A) is \$340,000 (due to S2's W-2 wages).
- The **applicable percentage is 75%** calculated as follows: $100\% - 25\% (\$25,000 (\$340,000 - \$315,000) \div \$100,000)$.

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- QBI for the law practice is \$150,000 (75% x \$200,000)
- Maximum 199A(a) deduction is \$30,000 (20% x \$150,000).

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Example 3

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- Return to Example 2 (an SSB) but assume that TI is \$415,000 as a result of the spouse's W-2 wages.
- No 199A Deduction!
- TI must be less than \$415,000 or the SSB is not a qualified T-B.

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199A deductions must be “allowed” so the 199A deduction is calculated:

- **After the sec. 163(j) limit** on business interest.
- **After the sec. 469 loss limits**, and
- **After the sec. 461(l) limit** on excess nonpassive business losses.

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- **Below the Line.** The 199A deduction is from AGI and available to nonitemizers and itemizers.
- **S.E. Tax.** The 199A deduction not allowed for SE tax purposes (section 199A(f)(3)).
- **NOL impact.** The 199A deduction will never generate an NOL and must be removed from an NOL (new sec. 172(d)(8)).
- **AMT.** Is allowed for AMT purposes (Sec. 199A(f)(1)(B))

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Impact on the NIIT

- The 199A deduction **does not reduce the NII**. (Sec. 199A(f)(1)(B))
- Because the 199A deduction is not a for AGI deduction, **it does not reduce modified AGI**.
- **A profitable rental, if a T-B, will generally be subject to the NIIT and eligible for the 199A deduction.**

The NIIT is 3.8% of the **LESSER OF:**

- 1) **NII** for the tax year, OR
- 2) The excess of modified AGI over the threshold amount (250K MFJ or 200K Other)

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Effective Date: tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.

Recall: 199A is applied at the partner or S shareholder level.

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Detail

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Qualified Business Income (QBI)

- “[The **net amount** of *qualified items* of income, gain, deduction, and loss with respect to any *qualified trade or business of the taxpayer.*”
- If qualified items are a **net loss**, then it **may** carry to the following year.

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Not QBI

- Qualified REIT dividends
- Qualified publicly traded partnership income.
 - But both are eligible for the 199A deduction.

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Qualified Trade or Business (T-B)

- Any T-B except:
 - (A) a specified service T-B (SSB),
or
 - (B) a T-B of performing services as an employee.
- Rentals are qualified if a T-B.

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SSB Relief (Detail in Step 2)

A **specified service business** (SSB) does generate QBI if:

- taxable income is **below \$415,000 (MFJ)** or
- \$207,500 (other)

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Qualified Items

Income, gain, deduction, and loss to the extent such items are:

- U.S. Effectively Connected Income
- Allowed in determining T.I. (Sec. 199A(c)(3)(A).

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Not Qualified Items [~~Investment Inc.~~]

- STCG, STCL, LTCG, LTCL
- Dividends, dividend equivalents, and payments in lieu of dividends.
- Interest income unless allocable to a T or B.
- Annuity income
(See Sec. 199A(c)(3)(B))

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“Qualified business income shall not include:

- (A) “reasonable compensation paid to the taxpayer by any qualified trade or business of the taxpayer for services rendered with respect to the trade or business” ((c)(4)(A)).

Note: Presumably to be read from recipient’s perspective.

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(B) "any guaranteed payment described in section 707(c) paid to a partner for services [within the partner's capacity as a partner] rendered with respect to the trade or business, and"

Query: What about guaranteed payments for capital? Investment interest?

Note: Unlike W-2 wages, guaranteed payments do not help overcome the W2+UB limit – an advantage to S corporations.

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(C) "to the extent provided in regulations, any payment described in section 707(a) to a partner for services [other than within the partner's capacity as a partner] rendered with respect to the trade or business."

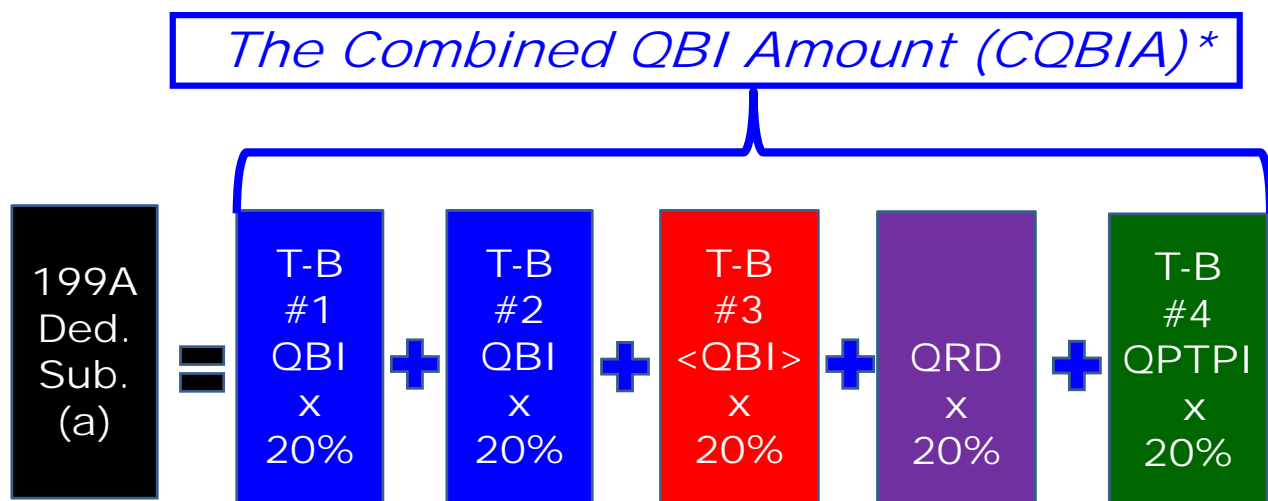
Query: Why wait for regulations?

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STEP 4

CQBIA, QRDs, and QPTPI

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* The 199A(a) deduction (Step 5) is the lesser of:
(a) the CQBIA or
(b) 20% x taxable income (TI) minus net capital gain.⁴⁶

Recall:

- qualified REIT dividends, and
 - publicly traded partnership income,
- are not QBI.

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REITS and PTPs

“[C]ombined qualified business income amount” means, ...an amount equal to—

- (A) the sum of the [QBI] deductions for **each qualified trade or business** carried..., plus
- (B) **20 percent** of the aggregate amount of the **qualified REIT dividends** and **qualified publicly traded partnership income...**
(so the **TI-NCG limit** applies)

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Qualified REIT dividend.

A dividend from a REIT that is:

- Not a capital gain dividend
- Not qualified dividend income.

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Qualified Publicly Traded Partnership Income.

With respect to any qualified T or B, the sum of:

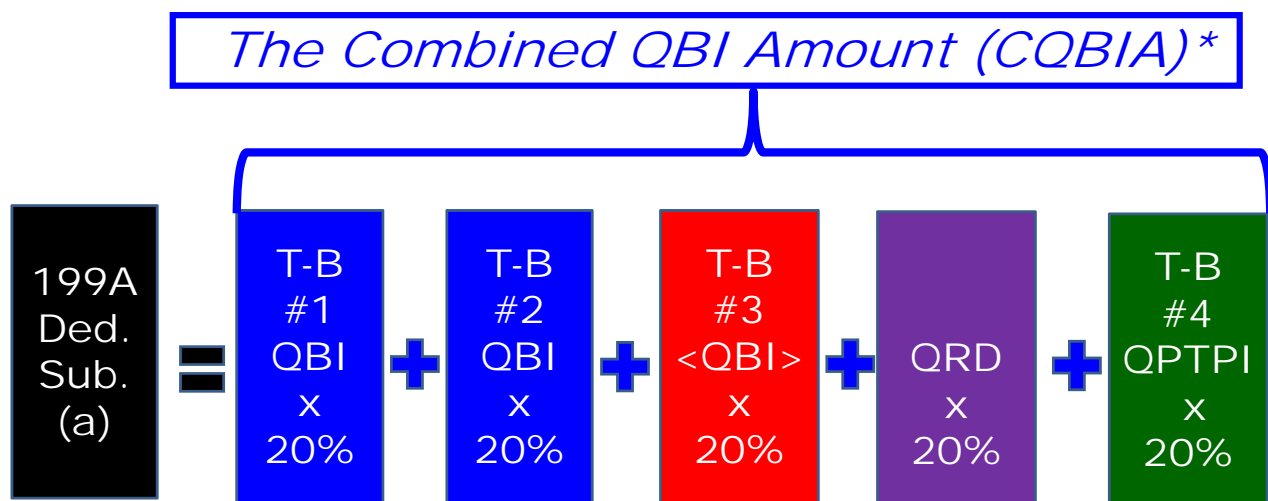
- Allocable share of income, gain, deduction and loss from a PTP that is not taxed as a corporation.
- Any gain upon disposition if ordinary income under sec. 751(a)

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STEP 5

Finally: The 199A Deduction (Sec. 199A(a)(1))

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* The 199A(a) deduction (Step 5) is the lesser of:
(a) the CQBIA or
(b) 20% x taxable income (TI) minus net capital gain₅₂

Sec. 1(h) Definition of “Net Capital Gain” (NCG)

Capital gain

+

Qualified dividend income.
(Sec. 1(h)(11))

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STEP 6

Carryover of Net
Qualified T-B Loss –
Subsection (c)(2)

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Rule:

"[i]f the net amount of **qualified income, gain, deduction, and loss** with respect to **qualified trades or businesses** of the taxpayer for any taxable year is **less than zero**, such amount **shall be treated as a loss from a qualified trade or business in the succeeding taxable year.**"

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Ex. 15: Multiple Businesses and a QBI T-B Loss.

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- Married couple filing jointly.
- S2 has W-2 wage income of \$524,000
- Interest income of \$50,000
- Two qualified T-Bs:
 - 1) McDonalds Sch. C Restaurant:
 - Net profit \$200,000 in 2018 (QBI)
 - W-2 wages paid of \$600,000
 - Unadjusted basis of zero.
 - 2) Rental real estate T-B (S1 is a REP):
 - **Loss of <\$350,000>** (S1 materially participates)
 - W-2 wages paid of zero.
 - Unadjusted basis of \$2,000,000

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<u>Taxable Income (Pre-199A)</u>	
S2's W-2 Wage Income	524,000
Sch. C McDonalds	200,000
Sch. E Rental Loss	<350,000>
Investment Interest Income	<u>50,000</u>
AGI	424,000
-Standard Deduction	- 24,000
= Taxable Income	= 400,000

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	QBI	W-2 Wages Pd.	Unadjusted Basis
McDonalds	200,000	600,000	0
Rental Prop.	<350,000>	0	2,000,000

The McDonald's Franchise:

- **Step (1):** Maximum QBI deduction is \$40,000 (20% x \$200,000).
- **Step (2):** Inapplicable, not an SSB.
- **Step (3):** The tentative 199A deduction is \$40,000 (the lesser of \$40,000 (20% x 200,000 (QBI)) or \$300,000 (50% x \$600,000 (W2 wages). No need for phase-in of W-2+UB limit due to high W-2 wages.

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	QBI	W-2 Wages Pd.	Unadjusted Basis
McDonalds	200,000	600,000	0
Rental Prop.	<350,000>	0	2,000,000

Rental Real Property Loss:

- Step (1): QBI loss is <\$350,000> so the reduction in the deduction is <\$70,000> (20% x <\$350,000>).
- Step (2): Not applicable, not an SSB.
- Step (3): The reduction in the deduction is <70,000> (the lesser of <70,000> or \$50,000 (2.5% x \$2,000,000 (unadjusted basis))).

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T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI#1	200,000	40,000				
QBI#2	<350,000>	<70,000>				
Net	<150,000>					

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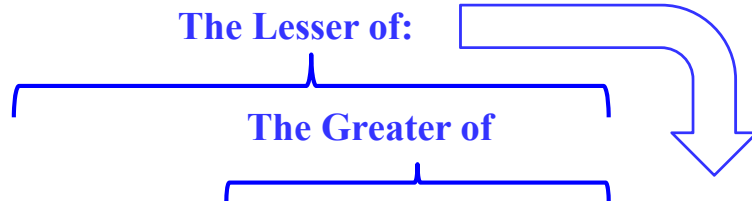
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T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI#1	200,000	40,000	300,000	150,000		
QBI#2	<350,000>	<70,000>	0	50,000		
Net	<150,000>					

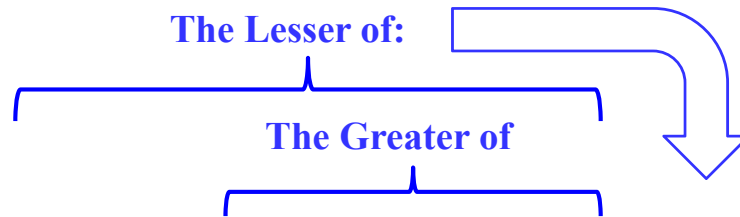
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The Lesser of:



T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI#1	200,000	40,000	300,000	150,000	40,000	40,000
QBI#2	<350,000>	<70,000>	0	50,000	<70,000>	<70,000>
Net	<150,000>				CQBIA =	<30,000>

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T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI#1	200,000	40,000	300,000	150,000	40,000	40,000
QBI#2	<350,000>	<70,000>	0	50,000	<70,000>	<70,000>
Net	<150,000>	CQBIA =				<30,000>

Step (5): The 199A deduction is 0 due to negative CQBIA (the lesser of <30K> (CQBIA) or \$80K (20% x \$400,000 (TI) - 0 (NCG))

Step 6:

The net QBI loss of <\$150,000> is carried forward to the following year where it produces a reduction in the 199A deduction of <\$30,000> (20% x <\$150,000>).

Observation: The loss limit only applies for section 199A purposes.

Ex. 16: Step (5) Limits the 199A Deduction

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- Married couple filing jointly.
- \$50,000 Qualified Dividend Income
- \$60,000 Long-term capital gain
- Schedule C accounting practice:
 - \$200,000 net profit
 - \$100,000 W-2 wages paid.
 - \$100,000 Unadjusted basis.
- **Itemized Deductions of \$60,000** due to large charitable contributions.

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Taxable Income (Pre-199A)	
Qualified Dividend Income	\$50,000
Net Long-Term Capital Gain	\$60,000
Sch. C Accounting Practice (T-B)	<u>\$200,000</u>
AGI	\$310,000
-Itemized Deductions	- 60,000
= Taxable Income	= \$250,000

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The Accounting Practice Sch C Profit (QBI) of \$200,000:

- Step (1): An SSB so go to Step (2).
- Step (2): Because TI is below the phase-out threshold, the applicable percentage is 100% and the **maximum QBI deduction is \$40,000 (20% x 200,000)**
- Step (3): Because TI is below the phase-in threshold, the W2+UB limit does not apply. **The tentative 199A deduction is \$40,000 (same as maximum deduction).**
- Step (4): The CQBIA is \$40,000 (no QRDs or QPTPI).
- Step (5): 199A deduction is **\$28,000**: the lesser of \$40,000 (CQBIA) or **\$28,000** (20% \$140,000 (\$250,000 (TI) - (110,000 (NCG))).

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Ex. 17A: Multiple Partnerships (not publicly traded partnerships)

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- Married couple filing jointly in 2018.
- S1 owns three limited PSP interests (does not MP) – not SSBs
- S2 earns \$300,000 of W-2 wages.
- Itemized deductions of \$25,000.
- Taxable income is 475,000, so the W2+UB limit is fully phased-in.

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	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
Ltd. PSP T-B#1	200,000	30,000	100,000
Ltd. PSP T-B#2	100,000	30,000	100,000
Ltd. PSP T-B#3	<100,000>	200,000	500,000

<u>Taxable Income (Pre-199A) -MFJ</u>	
W-2 Wage Income	300,000
Passive Ltd. PSP T-B#1	200,000
Passive Ltd. PSP T-B#2	100,000
Passive Ltd. PSP T-B#3	<100,000>
AGI	500,000
-Itemized Deductions	- 25,000
= Taxable Income	= <u>475,000</u>

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	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
Ltd. PSP T-B#1	200,000	30,000	100,000
Ltd. PSP T-B#2	100,000	30,000	100,000
Ltd. PSP T-B#3	<100,000>	200,000	500,000

Ltd PSP T-B#1:

- **Step (1):** Maximum QBI deduction is \$40,000 (20% x \$200,000).
- **Step (2):** Not an SSB so no phase-out.
- **Step (3):** TI is above \$415,000 so the W-2+UB limit is fully phased-in and the W2+UB limit is **\$15,000**. The **tentative 199A deduction is \$15,000** (the lesser of **\$40,000** or \$15,000)

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	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
Ltd. PSP T-B#1	200,000	30,000	100,000
Ltd. PSP T-B#2	100,000	30,000	100,000
Ltd. PSP T-B#3	<100,000>	200,000	500,000

Ltd PSP T-B#2:

- Step (1): Maximum QBI deduction is \$20,000 (20% x \$100,000).
- Step (2): Not an SSB so no phase-out.
- Step (3): The W2+UB limit is \$15,000. The tentative 199A deduction is \$15,000 (the lesser of \$20,000 or \$15,000)

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	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
Ltd. PSP T-B#1	200,000	30,000	100,000
Ltd. PSP T-B#2	100,000	30,000	100,000
Ltd. PSP T-B#3	<100,000>	200,000	500,000

Ltd PSP T-B#3:

- Step (1): The reduction to the deduction is <\$20,000> (20% x <100,000>).
- Step (2): Not an SSB no phase-out.
- Step (3): The reduction to the deduction (the subsection (b)(2) amount) is <\$20,000> (the lesser of <\$20,000> or \$100,000 (50% x \$200,000))

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T-B	QBI, QRD, or QPTPI	Maximum 199A Deduction For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI#1	200,000	40,000				
QBI#2	100,000	20,000				
QBI#3	<u>-100,000</u>	<u>-20,000</u>				
Net	<u>200,000</u>					

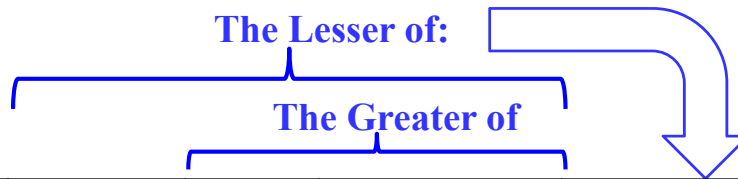
73

The Greater of



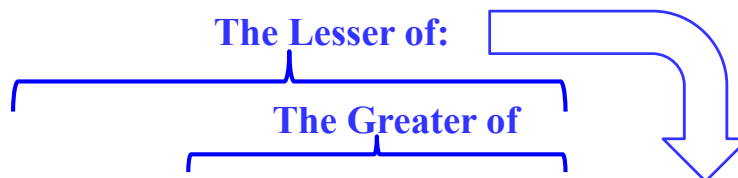
T-B	QBI, QRD, or QPTPI	Maximum 199A Deduction For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI#1	200,000	40,000	15,000	10,000 (7.5K+2.5K)		
QBI#2	100,000	20,000	15,000	10,000		
QBI#3	<u>-100,000</u>	<u>-20,000</u>	100,000	62,500		
Net	<u>200,000</u>					

74



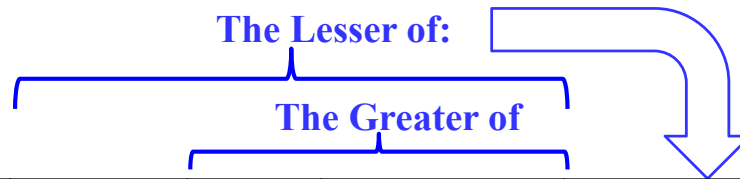
T-B	QBI, QRD, or QPTPI	Maximum 199A Deduction For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI#1	200,000	40,000	15,000	10,000 (7.5K+2.5K)	15,000	
QBI#2	100,000	20,000	15,000	10,000	15,000	
QBI#3	<u>-100,000</u>	<u>-20,000</u>	100,000	62,500	<u>-20,000</u>	
Net	<u>200,000</u>					

75



T-B	QBI, QRD, or QPTPI	Maximum 199A Deduction For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI#1	200,000	40,000	15,000	10,000 (7.5K+2.5K)	15,000	15,000
QBI#2	100,000	20,000	15,000	10,000	15,000	15,000
QBI#3	<u>-100,000</u>	<u>-20,000</u>	100,000	62,500	<u>-20,000</u>	<u>-20,000</u>
Net	<u>200,000</u>					CQBIA = <u>10,000</u>

76



T-B	QBI, QRD, or QPTPI	Maximum 199A Deduction For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI#1	200,000	40,000	15,000	10,000 (7.5K+2.5K)	15,000	15,000
QBI#2	100,000	20,000	15,000	10,000	15,000	15,000
QBI#3	<u>-100,000</u>	<u>-20,000</u>	100,000	62,500	<u>-20,000</u>	<u>-20,000</u>
Net	<u>200,000</u>					CQBIA = <u>10,000</u>

Step (5): The 199A(a) deduction is \$10,000 (lesser of \$10,000 (CQBIA) or \$95,000 (20% x 475,000 (TI - NCG)). 77

Ex. 17B: Multiple Partnerships Combined Into One Trade or Business

15

- Same facts as Example 17A except that all three partnerships are grouped into a single trade or business (per future regulations).

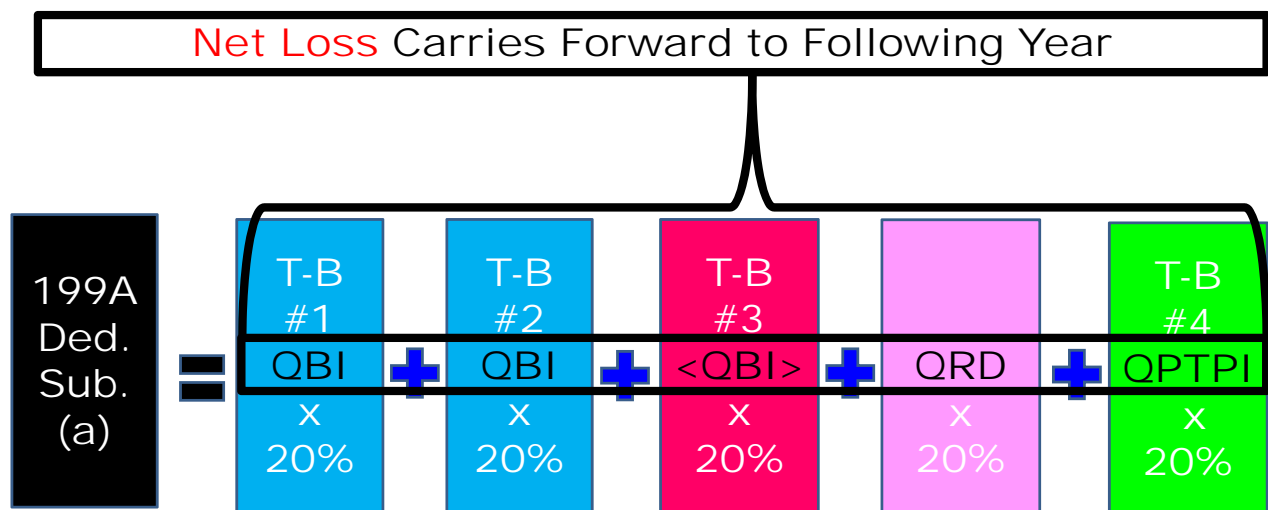
	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
One QBI T-B	200,000	260,000	700,000

- Step (1): Maximum QBI deduction is \$40,000 (20% x \$200,000).
- Step (2): Inapplicable (not an SSB).
- Step (3): The W-2+UB limit is \$130,000 (50% x 260,000).
The tentative 199A deduction is \$40,000 (the lesser of \$40,000 or \$130,000)

78

- Step (4): CQBIA is \$40,000.
- Step (5): The 199A(a) deduction is \$40,000 (lesser of \$40,000 (CQBIA) or \$95,000 (20% x 475,000 (TI - NCG)).
- Compare to Ex. 17A: Much better than \$10,000.

79



80

Ex. 18: Net Negative CQBIA but Net Positive QBI.

16

- Same facts as Example 17A (above) but assume that for TB#1 and #2, the partner does not have any allocable share of W-2 wages or unadjusted basis.

	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
Ltd. PSP T-B#1	200,000	0	0
Ltd. PSP T-B#2	100,000	0	0
Ltd. PSP T-B#3	<100,000>	200,000	500,000

- Recall, taxable income is 475,000, so the W2+UB limit is fully phased-in.

81

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI# 1	200,000	40,000				
QBI# 2	100,000	20,000				
QBI# 3	<100,000>	<20,000>				
Net	200,000					

82

The Greater of

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI# 1	200,000	40,000	0	0		
QBI# 2	100,000	20,000	0	0		
QBI# 3	<u>-100,000</u>	<u>-20,000</u>	100,000	62,500		
Net	<u>200,000</u>					83

The Lesser of:

The Greater of

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QBI# 1	200,000	40,000	0	0	0	0
QBI# 2	100,000	20,000	0	0	0	0
QBI# 3	<u>-100,000</u>	<u>-20,000</u>	100,000	62,500	<u>-20,000</u>	<u>-20,000</u>
Net	<u>200,000</u>				CQBIA =	<u>-20,000</u> 84

Step (4): The CQBIA is <20,000>

Step (5): The 199A(a) deduction is zero due to the negative CQBIA.

Step (6): The net QBI is positive \$200,000 so no loss carryover occurs. Note: CQBIA, even if negative, does not carry over.

85

Ex. 19: Multiple Publicly Traded Partnerships

17

- Same facts as Example 17A (above) but T-B#1 (and TB#2 are each qualified publicly traded partnerships (QPTP) and T-B#3 is a general partnership in which the taxpayer materially participates.

86

Taxable Income (Pre-199A) – MFJ

W-2 Wage Income	300,000
QPTPI T-B#1	200,000
QPTPI T-B#2	100,000
Gen. PSP T-B#3	<u><100,000></u>
AGI	500,000
-Itemized Deductions	- 25,000
= Taxable Income	= <u>475,000</u>

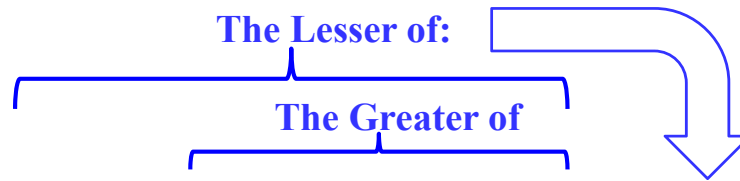
	QBI	Allocable Share: W-2 Wages Pd.	Allocable Share: Unadjusted Basis
QPTPI T-B#1	None	N/A	NA
QPTPI T-B#2	None	N/A	NA
Ltd. PSP T-B#3	<100,000>	200,000	500,000

87

The Greater of

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QPTPI	200,000	Not Applicable				
QPTPI	100,000	Not Applicable				
QBI	<u>-100,000</u>	-20,000	100,000	62,500		
Net:	200,000					

88



T-B	QBI, QRD, or QPTPI	Max. 199A Ded. For QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI TB	CQBIA
QPTPI	200,000	Not Applicable				\$40,000
QPTPI	100,000	Not Applicable				\$20,000
QBI	<u>-100,000</u>	-20,000	100,000	62,500	-20,000	<u>-20,000</u>
Net:	200,000	Combined Qualified Business Income Amount =				<u>\$40,000</u>

Step (5): The 199A Deduction is \$40,000 (lesser of \$40,000 (CQBIA) or \$95,000 (20% x 475,000 (TI - NCG))).

89

Ex. 20: Qualified REIT Dividends (QRDs)

Same facts as Example 19 above, except:

18

- T-B #1, with \$200,000 of QPTPI is instead a QRD.
- QPTPI TB #2 is also a QRD of \$100,000.
- The answer is presumably the same as that in Example 19.
- Same CQBIA per statutory definition.
- No loss carryover should arise?

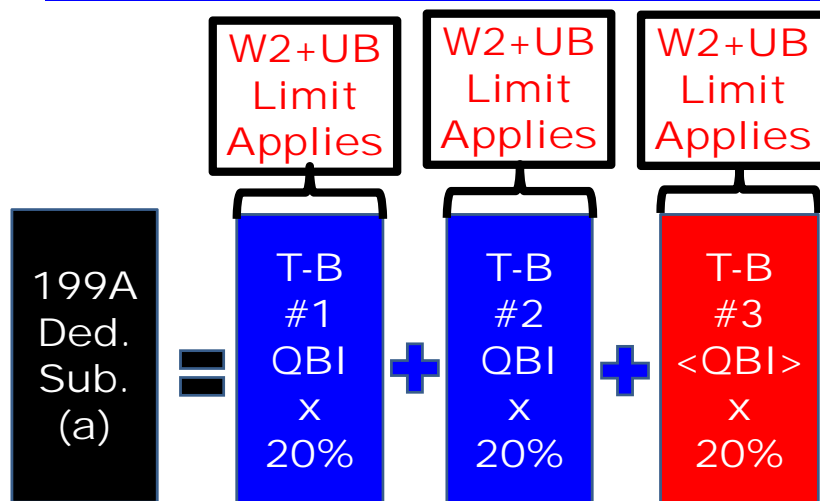
90

Return to STEP 3 (and Ex. 7 – 14)

Tentative QBI
Deduction for Each QBI T-B and
the W2+UB Limit

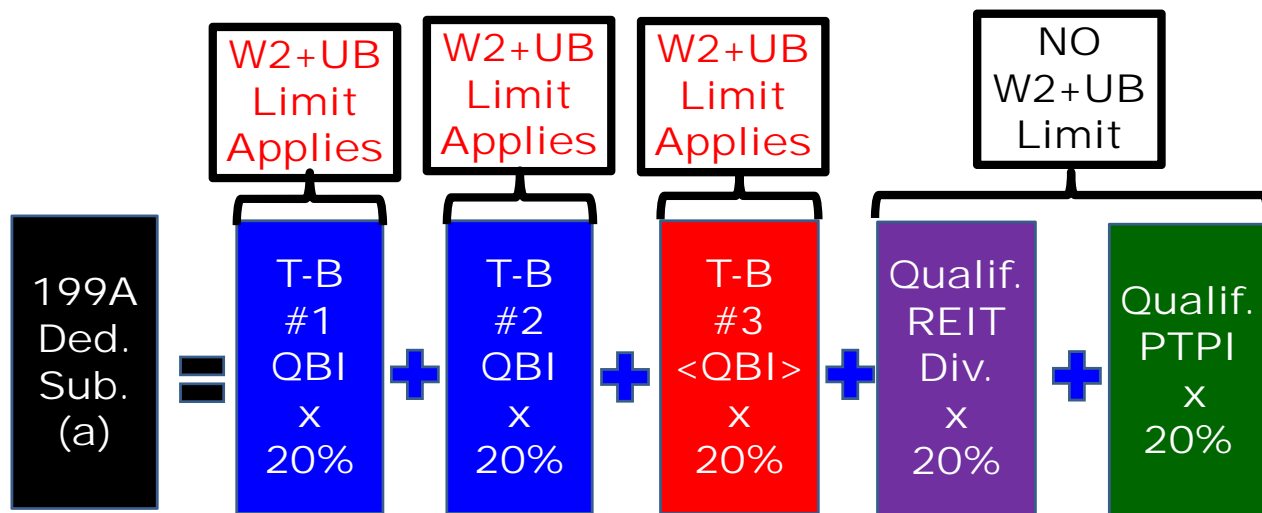
91

T.I. > \$315,000 (MFJ) or > \$157,500 (Other)*



* W2+UB Limit Phase-in range:
\$100,000 (MFJ);
\$50,000 (other).

92



93

Phase-In of W2+UB Limit

The W2+UB limit phases in by reducing **the maximum QBI deduction** by the product of an “excess amount” multiplied by a fraction (the fraction represents the phase-in limit).

94

- The **excess amount** is the excess (if any) of the **maximum 199A deduction (20% x QBI)** over the **fully phased-in W-2+UB limit**.
- The **excess amount is multiplied by a fraction:**

$$\text{Excess Amount} \times \frac{\text{TI - Threshold Amount (\$315K (MFJ) or 157.5K (other))}}{\text{Phase-out range (100K (MFJ) or 50K (other))}}$$

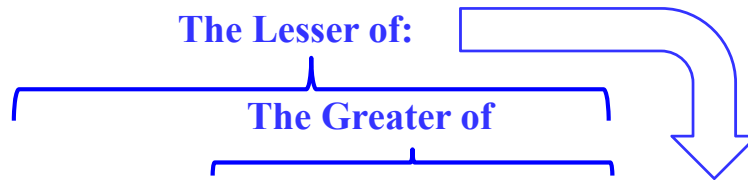
- The **product reduces the maximum QBI deduction (see example 8 below)**.

95

Example 7 Phase-in Effectively Irrelevant.

- Same facts as Example 5 except the spouse's W-2 wages are \$164,000 (instead of \$244,000). 8
- TI is now \$340,000 so the couple **is 25% into the phase-in range for the W2+UB limit**.
- Recall, the couple's unadjusted basis in the depreciable rental property (building and related personalty) is \$2,000,000.
- They do not pay any W-2 wages.
- **Same answer as Ex. 5.** Even if **W2+UB limit** were fully phased-in, the deduction is \$40,000.

96



T-B	QBI, QRD, or QPTPI	Step (1): Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
QBI	200,000	40,000	0	50,000	40,000	40,000
Net	<u>200,000</u>	Combined Qualified Business Income Amount = 40,000				

Same answer as Example 5 because the excess amount is zero (\$40,000 Max. Ded. - 50,000 fully phased-in W2+UB limit)

97

Example 8 Phase-in.

9

- Return to the Example 7 facts but assume that the couple's unadjusted basis in the depreciable rental property (building and related personalty) is \$640,000.
- Recall, the maximum 199A deduction for the T-B is \$40,000 (20% x \$200,000 of QBI). Now, the **fully phased-in W2+UB** limit is \$16,000 (2.5% x \$640,000).
- Because the couple's **TI is \$340,000** the W2+UB limit is allowed to be phased-in (only 25%).

98

- The “**excess amount**” is **\$24,000** (\$40,000 (maximum 199A deduction) - \$16,000 (fully phased-in W2+UB limit)).
- The phased-in reduction of the maximum 199A deduction is \$6,000 calculated as follows:

$$\$24,000 \times \frac{\$340,000 - \$315,000}{\$100K} = \$6,000$$

- The tentative deduction is **\$34,000** (**\$40,000 minus \$6,000**), instead of \$16,000

99

Example 11 Phase-in.

- Same facts as Example 8 except the TI is **\$415,000**. 9
- **The phased-in reduction would be \$24,000** (\$24,000 (excess amount) x 100%) so the maximum **199A deduction** of \$40,000 would be reduced by \$24,000 to **\$16,000** which is also the **fully phased-in W2+UB limit**.

100

Ex. 12 SSB With Phase-Out and Irrelevant Phase-in of W2+UB Limit

10

- One spouse is the owner of Schedule C law practice (an SSB) with net profit of \$200,000.
- The law practice pays \$100,000 of W-2 wages but has zero unadjusted basis
- The spouse's W-2 wages are \$164,000 so TI is \$340,000.
- TI exceeds the \$315,000 threshold by \$25,000 (\$340,000 - \$315,000).

101

<u>Taxable Income (Pre-199A)</u>	
S2's W-2 Wage Income	164,000
Sch. C Law Practice	200,000
AGI	364,000
- Standard Deduction	- <u>24,000</u>
= Taxable Income	= <u><u>340,000</u></u>

102

As a result, the couple is only allowed to count 75%, the “applicable percentage”, of QBI, W-2 wages, and unadjusted basis (Step 2):

- $75\% \times \$200,000$ (QBI) = **\$150,000**
- $75\% \times \$100,000$ (W-2 wages) = **\$75,000**

103

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
SSBQ BI	150,000	30,000*				

***\$150,000 x 20%**

104

The Greater of

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): COBIA
SSB QBI	150,000	30,000	\$37,500*	18,750		

*\$75,000 x 50%

105

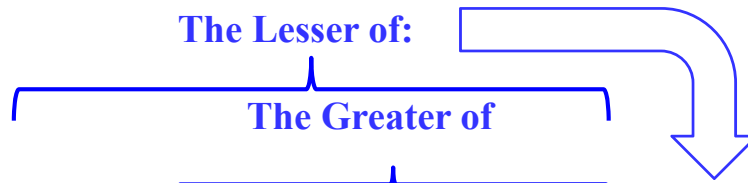
The Lesser of:

The Greater of

T-B	QBI, QRD, or QPTPI	Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): COBIA
SSBQ BI	150,000	30,000	\$37,500	18,750	30,000	30,000
Net	<u>150,000</u>				COBIA =	30,000

W2+UB phase-in is unnecessary because the excess amount is zero (\$30,000 Max. Ded. - 37,500 fully phased-in W2+UB limit)

106



T-B	QBI, QRD, or QPTPI	Max. 199A Ded. for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
SSBQ BI	150,000	30,000	\$37,500	18,750	30,000	30,000
Net	<u>150,000</u>				CQBIA =	30,000

Step 5: The 199A Deduction is \$30,000 (the lesser of \$30,000 (CQBIA) or \$68,000 (20% x \$340,000 (TI) - 0 (NCG))

Ex. 13: SSB With Phase-Out and Relevant Phase-in of W2+UB Limit

11

- Same facts as Example 12 but the **W-2 wages paid by the law practice are only \$60,000.**
- The law practice has zero unadjusted basis
- TI exceeds the \$315,000 threshold by \$25,000 (\$340,000 - \$315,000).

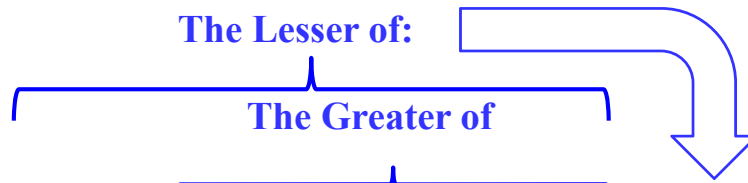
- As a result, the couple is only allowed to count 75%, the “applicable percentage”, of QBI, W-2 wages, and unadjusted basis:
 - $75\% \times \$200,000 \text{ (QBI)} = \$150,000$
 - $75\% \times \$60,000 \text{ (W-2 wages)} = \$45,000$

109

- The “**excess amount**” is **\$7,500** (\$30,000 (maximum 199A deduction) - \$22,500 (fully phased in W-2+UB limit)).
- The phased-in reduction of the \$30,000 maximum 199A deduction is \$1,875 (25% x \$7,500) calculated as follows:

$$\$7,500 \times \frac{\$340,000 - \$315,000}{\$100K} = \$1,875$$
- The **maximum deduction of \$30,000 is reduced by \$1,875 (7,500 x 25%) to \$28,125 (the tentative deduction)**, which is a much better deal than the fully phased-in limit of **\$22,500**.

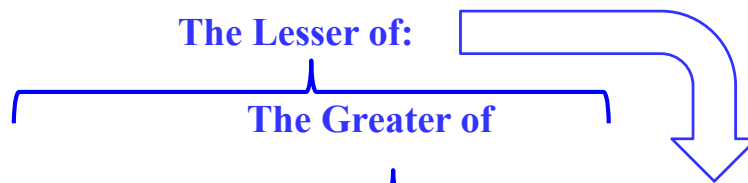
110



T-B	QBI, QRD, or QPTPI	Max. 199A for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
SSBQ BI	150,000	30,000	22,500	11,250	28,125*	28,125
Net	<u>150,000</u>				CQBIA =	28,125

*The maximum deduction of \$30,000 is reduced by \$1,875 (7,500 x 25%) to \$28,125 (the tentative deduction).

111



T-B	QBI, QRD, or QPTPI	Max. 199A for QBI	50% of W-2 Wages	25% of W-2 Wages + 2.5% x U.B.	Tent. Ded. For Each QBI T-B	Step (4): CQBIA
SSBQ BI	150,000	30,000	22,500	11,250	28,125*	28,125
Net	<u>150,000</u>				CQBIA =	28,125

Step (5): The 199A deduction is \$28,125 (the lesser of \$28,125 (CQBIA) or \$68,000 (20% x \$340,000 (TI) - 0 (NCG))

Ex. 14: SSB with No Phase-Out and No Phase-in of W-2 Limit.

12

- Spouse 1 (S1) is the sole-proprietor of an accounting practice (an SSB) that earns a net profit (QBI) of \$200,000.
- The couple files a joint return.
- Due to S2's W-2 wages, the couple's TI (pre-section 199A) is \$310,000.
- Taxpayers are below threshold for phase-out and phase-in.
- **Maximum QBI deduction is \$40,000 (20% x 200,000)**

113

W-2 Wages

- Total wages (defined in §3401) subject to withholding.
- Elective deferrals, and
- Deferred compensation

114

- W-2 Wages must be “properly allocable” to the QBI (Sec. 199A(b)(4)(B))
- **No related party prohibition.** Ex: 100% S shareholder counts as W-2 wages paid.
- Partners and S Shareholders shares will be on the K-1 (detail below).

115

2.5% of Unadjusted Basis...

- **“Qualified property” is**
 - any tangible property, **subject to depreciation** (Sec. 199A(b)(6(A))).
 - Held at year end and available for use.
 - Used “at any point” during the year in the business.
 - If the “**depreciable period**” has not ended.

116

- Depreciable period **begins** when the property is **first placed in service** and

- **Ends** on the **LATER OF**

1) 10 years, or

2) Last year of the recovery period (not ADS)

117

Definition of Unadjusted Basis?

- Section 199A does not define unadjusted basis.
- Regular MACRS depreciation is ignored in calculating unadjusted basis.
 - What about section 179?
 - What about bonus depreciation?

118

Example A

- Sch C. Business purchases a machine for \$500,000 (5 year MACRS life) in 2013 and claims MACRS depreciation (no 179 or bonus).
- \$500,000 unadjusted basis through 2022 (**10 years**) – 5 years beyond its MACRS life (unless disposed of earlier)

119

Example B

- In 2013, taxpayer purchases a commercial building for \$5 mil. that is depreciable over 39 years (on leased land).
- \$5 mil. unadjusted basis through 2051 unless disposed of earlier.
- $2.5\% \times \$5\text{mil.} = \$125,000$

120

Partners and S Shareholders

- 199A deduction is determined at the partner or S shareholder level.
 - Allocable share of W-2 wages or a partner must match the allocation of W-2 wage expense.
 - Allocable share of unadjusted basis of a partner must match the allocation of depreciation.

Note: Every K-1 must show W-2 wages and unadjusted basis for each T or B.

121

Unadjusted Basis

Should include basis adjustments arising from Sec. 754 elections:

- Sec. 743(b) adjustments
- Sec. 734(b) adjustments

122

Trusts and Estates

W-2 wages and unadjusted basis will be apportioned between the beneficiaries and the fiduciary (and among the beneficiaries) under the treasury regulations— (per sec. 199A(f)(1)(B) incorporating sec. 199(d)(1)(B)(i))

See Reg. 1.199-5(e)

123