

## THE TAXMAN COMETH . . . UNLESS IMPACTED BUSINESSES ACT NOW



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In 2017, many business owners received a new tax break called a Section 199A deduction. It allows a 20% deduction on qualified business income (QBI) for several types of businesses, including sole proprietorships and partnerships, but not C corporations. An enormous number of alcohol beverage suppliers (*i.e.*, craft breweries, wineries, and craft distilleries), as well as family-run beverage wholesalers and retail stores, qualify because they are not structured as C corporations. However, Section 199A will expire after 2025 unless it is renewed by Congress.

### **What is the qualified business income deduction (QBID)?**

Section 199A of the Internal Revenue Code provides many owners of sole proprietorships, partnerships, S corporations, and some trusts and estates, a deduction of income from a qualified trade or business. The deduction has two components:

**1. QBI Component** – This deduction component equals 20% of QBI from a U.S. domestic business operated as a sole proprietorship or through a partnership, S corporation, trust, or estate.

QBI is the net amount of qualified items of income, gain, deduction, and loss from any qualified trade or business. Only items included in taxable income are counted. In addition, the items must be effectively connected with a U.S. trade or business. Items such as capital gains and losses, certain dividends, and interest income are excluded. W-2 income, amounts received as reasonable compensation from an S corporation, amounts received as guaranteed payments from a

partnership, and payments received by a partner for services under section 707(a) are also not considered QBI.

Depending on the taxpayer's taxable income, the QBI component is subject to multiple limitations, including the type of trade or business, the amount of W-2 wages paid by the qualified trade or business, and the unadjusted basis immediately after acquisition (UBIA) of qualified property held by the trade or business. It may also be reduced by the patron reduction if the taxpayer is a patron of an agricultural or horticultural cooperative. In contrast, income earned through a C corporation or by providing services as an employee is NOT eligible for the deduction.

**2. REIT/PTP Component** - This deduction component equals 20% of the combined qualified real estate investment trust (REIT) dividends, including REIT dividends earned through a regulated investment company (RIC) and qualified publicly traded partnership (PTP) income/(loss). This component is not limited by W-2 wages or the UBIA of qualified property.

Depending on the taxpayer's income, the amount of PTP income that qualifies may be limited depending on the type of business engaged in by the PTP.

### **Why is Section 199A's impending demise so important?**

For small businesses, taxes are a financial and administrative burden that directly impacts their ability to invest in their business and employees and compete in the broader economy. For others, the saved capital allows for much-needed infrastructure improvement.

CASE IN POINT: Great Lakes Wine & Spirits, a family-owned and operated wholesale alcohol distributor based in Michigan. As recently [reported by W. Blake Gray for Wine Searcher](#), Great Lakes used its Section 199A tax savings to set up about six miles of conveyor belts in its main spirits warehouse that allow employees to pick out single bottles for retail bar orders. The bar must order a case, but it can be a mixed case (which prevents any bar from having to figure out what to do with 11 extra bottles of a product that is needed but is not a fast seller). Consequently, 65% of the spirits delivered by Great Lakes are individual bottles. To adequately service the retail trade, Great Lakes employs 1,300 employees; however, without Section 199A, management at the company has warned that cutbacks will become necessary.

### **What can be done?**

Currently, a bill has been introduced in Congress to extend Section 199A, which will expire in 18 months without legislative action. Last year, Congressman Lloyd Smucker (R-PA) introduced the Main Street Tax Certainty Act, H.R. 4721, legislation that would permanently extend Section 199A before its expiration in 2025. Congressman Smucker's bipartisan legislation is co-sponsored by 182 members and a majority of the U.S. House Ways and Means Committee. U.S. Senator Steve Daines (R-MT) introduced an identical companion bill in the U.S. Senate, S.1706; that bill has 32 co-sponsors and has been referred to the

Senate Finance Committee. However, both H.R. 4721 and S. 1706 are stalled in their respective initial committee reviews, meaning the legislation has a long way to go before it can find its way to the President's desk for signature.

**BOTTOM LINE:** Concerned businesses should contact their elected officials to encourage Congress to extend Section 199A.

To learn more, contact the GrayRobinson national [Alcohol Law Team](#) at [alcohollaw@gray-robinson.com](mailto:alcohollaw@gray-robinson.com).

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