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## How to Find Your Section 199A Deduction with Multiple Businesses

If at all possible, you want to qualify for the 20 percent tax deduction offered by new tax code Section 199A to proprietorships, partnerships, and S corporations (pass-through entities).

If you own one business, you can run into some complications qualifying for the Section 199A deduction.

With multiple businesses, you have more choices, and those additional choices make for more complications and decisions.

In this article, you arrived at the help desk.

We'll show you step-by-step how to figure your correct Section 199A deduction when you have multiple businesses, and how the brand-new Section 199A proposed regulations give you a new way to rescue an otherwise lost Section 199A deduction.

### ***Basic Rules—Below the Threshold***

If your taxable income is equal to or below the threshold of \$315,000 (married, filing jointly) or \$157,500 (single), follow the three steps below to determine your Section 199A tax deduction with multiple businesses or activities:<sup>1</sup>

**Step 1.** Determine your qualified business income 20 percent deduction amount for each trade or business separately.

**Step 2.** Add together the amounts from Step 1, and also add 20 percent of

- real estate investment trust (REIT) dividends, and
- qualified publicly traded partnership income.

This is your “combined qualified business income amount.”

**Step 3.** Your Section 199A deduction is the lesser of

- your combined qualified business income amount, or
- 20 percent of your taxable income (after subtracting net capital gains).

### ***“Easy” Example***

John and Sarah, who file jointly, have taxable income of \$300,000 (below the threshold) before any Section 199A deduction, and the following income items:

- John is a sole proprietor with a net income of \$100,000.
- Sarah is a 100 percent S corporation owner. She pays herself sufficient reasonable compensation, and the resulting pass-through ordinary income is \$150,000.
- John and Sarah have \$5,000 in net capital gains from investments and \$1,000 in ordinary income from qualified publicly traded partnerships.

**Step 1.** John and Sarah are below the \$315,000 threshold, so their 20 percent qualified business income amount is straightforward:

- John’s qualified business income amount is 20 percent of the \$100,000 proprietorship income, or \$20,000.
- Sarah’s qualified business income amount is 20 percent of the \$150,000 S corporation’s net income, or \$30,000.

**Step 2.** Here we add the combined qualified business income amounts and 20 percent of the qualified publicly traded partnership income for a total of \$50,200, as follows:

- John’s deduction of \$20,000,
- Sarah’s deduction of \$30,000, and
- \$200 from the qualified publicly traded partnerships (20 percent of \$1,000).

**Step 3.** Compare the combined qualified business income amount of \$50,200 to the taxable income limit, which in this case is \$59,000 ( $\$300,000 - \$5,000 \times 20$  percent).

John and Sarah's Section 199A tax deduction is \$50,200, the lesser of \$50,200 or \$59,000.

### ***Above the Threshold—Aggregation Not Elected***

If you do not elect aggregation, and if you have taxable income above \$207,500 (or \$415,000 on a joint return), you apply the following additions to the above rules:<sup>2</sup>

- If you have an out-of-favor specified-service business, its qualified business income amount is \$0 because you are above the taxable income threshold.
- For your in-favor businesses, you apply the wage and qualified property limitation on a business-by-business basis to determine your qualified business income amount.

The wage and property limitations work like this: For each business, you find the lesser of<sup>3</sup>

1. 20 percent of the qualified business income for that business, or
2. The greater of (a) 50 percent of the W-2 wages with respect to that business, or (b) the sum of 25 percent of W-2 wages with respect to that business plus 2.5 percent of the unadjusted basis immediately after acquisition of qualified property with respect to that business.

### ***If You Are in Phase-In/Phase-Out Zone***

If you have taxable income between \$157,500 and \$207,500 (or \$315,000 and \$415,000 joint), then apply the phase-in protocol for business as discussed in Tax Reform: Will Section 199A Phase In or Phase Out Your 20 Percent Deduction?

### ***If You Have Losses***

If one of your businesses has negative qualified business income (a loss) in a tax year, then you allocate that negative qualified business income pro rata to the other businesses with positive qualified business income. You allocate the loss only. You do not allocate wages and property amounts from the business with the loss to the other trades or businesses.<sup>4</sup>

If your overall qualified business income for the tax year is negative, your Section 199A deduction is zero for the year. In this situation, you carry forward the negative amount to the next tax year.<sup>5</sup>

**Example.** Harry has two pass-through businesses, A and B. In 2018, A shows a business loss of \$10,000. B has qualified business income of \$6,000. Harry must carry forward the excess \$4,000 qualified business loss to 2019. He gets no Section 199A deduction in 2018.

In 2019, A's qualified business income is \$9,000 and B's qualified business income is \$3,000. Harry allocates the \$4,000 2018 carryforward loss pro rata between the two businesses, reducing A's qualified business income to \$6,000 and B's qualified business income to \$2,000.

## ***Aggregation of Businesses—Qualification***

The Section 199A regulations allow you to aggregate businesses so that you have only one Section 199A calculation using the combined qualified business income, wage, and qualified property amounts.

To aggregate businesses for Section 199A purposes, you must show that<sup>6</sup>

- you or a group of people, directly or indirectly, owns 50 percent or more of each business for a majority of the taxable year;
- you report all items attributable to each business on returns with the same taxable year, not considering short taxable years;
- none of the businesses to be aggregated is an out-of-favor, specified-service business; and
- your businesses satisfy at least two of the following three factors based on the facts and circumstances:
  1. The businesses provide products and services that are the same or are customarily offered together.
  2. The businesses share facilities or share significant centralized business elements, such as personnel, accounting, legal, manufacturing, purchasing, human resources, or information technology resources.
  - 3.

The businesses operate in coordination with, or in reliance upon, one or more of the businesses in the aggregated group (for example, supply chain interdependencies).

## ***Choosing to Aggregate***

If you aggregate your businesses, you must<sup>7</sup>

- consistently report the aggregated businesses in all subsequent taxable years, and
- attach an annual statement to your tax return each year identifying each aggregated business.

You can add new businesses to an existing aggregation if they meet the above requirements.<sup>8</sup>

If your prior aggregation no longer qualifies under the above requirements, then the aggregation no longer exists, and you must reapply the rules to determine your new permissible aggregation.<sup>9</sup>

**Key Point.** You benefit from grouping your businesses mainly if you have a trade or business for which your Section 199A deduction would disappear or mostly disappear due to a lack of wages and/or qualified property.

**Example.** Sue, who is single, has taxable income over the threshold (in excess of \$207,500) and two businesses that qualify for aggregation:

- Her 100 percent owned S corporation with \$120,000 in wages, no qualified property, and \$100,000 in pass-through business income
- A sole proprietorship with net income of \$20,000 with no wages or qualified property

If Sue doesn't aggregate her businesses:

- The S corporation gets a \$20,000 Section 199A deduction (20 percent of \$100,000). Since 50 percent of the wage amount is \$60,000, Sue qualifies for the full 20 percent deduction.
- The sole proprietorship gets no Section 199A deduction because the business has neither wages nor qualified property.
- Sue's total Section 199A deduction is \$20,000.

If Sue aggregates her businesses:

- Sue does one Section 199A computation using \$120,000 qualified business income, \$100,000 in wages, and no qualified property.
- Sue's total Section 199A deduction is \$24,000.

## ***Takeaways***

If you have multiple businesses, you have calculations and decisions to make. For the most part, you can easily find the result that works best for you.

With multiple businesses, you may meet the rules for aggregating the businesses, and aggregation may enhance or even create the Section 199A deduction for you.

If you don't aggregate, you compute your qualified business income amount on a business-by-business basis and then add the results together before applying the taxable income limitation.

When doing the business-by-business calculation, if one or more businesses incur a loss, you have to allocate the loss to your profitable businesses, reducing your overall Section 199A deduction.

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1 IRC Sections 199A(b)(1); 199A(a)(1); Prop. Reg. Section 1.199A-1(c)(1).

2 Prop. Reg. Section 1.199A-1(d)(2).

3 Ibid.

4 Prop. Reg. Section 1.199A-1(d)(2)(iii).

5 Prop. Reg. Sections 1.199A-1(c)(2) and 1.199A-1(d)(2)(iii)(B).

6 Prop. Reg. Section 1.199A-4(b)(1).

7 Prop. Reg. Section 1.199A-4(c).

8 Prop. Reg. Section 1.199A-4(c)(1).

9 Ibid.

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