

Reg. Section 1.199A-6(b)(2)

Relevant passthrough entities (RPEs), publicly traded partnerships (PTPs), trusts, and estates.

(a) Overview. This section provides special rules for RPEs, PTPs, trusts, and estates necessary for the computation of the section 199A deduction of their owners or beneficiaries. Paragraph (b) of this section provides computational and reporting rules for RPEs necessary for individuals who own interests in RPEs to calculate their section 199A deduction. Paragraph (c) of this section provides computational and reporting rules for PTPs necessary for individuals who own interests in PTPs to calculate their section 199A deduction. Paragraph (d) of this section provides computational and reporting rules for trusts (other than grantor trusts) and estates necessary for their beneficiaries to calculate their section 199A deduction.

(b) Computational and reporting rules for RPEs—

(1) In general. An RPE must determine and report information attributable to any trades or businesses it is engaged in necessary for its owners to determine their section 199A deduction.



(2) Computational rules. Using the following four rules, an RPE must determine the items necessary for individuals who own interests in the RPE to calculate their section 199A deduction under §1.199A-1(c) or (d). An RPE that chooses to aggregate trades or businesses under the rules of §1.199A-4 may determine these items for the aggregated trade or business.

(i) First, the RPE must determine if it is engaged in one or more trades or businesses. The RPE must also determine whether any of its trades or businesses is an SSTB under the rules of §1.199A-5.

(ii) Second, the RPE must apply the rules in §1.199A-3 to determine the QBI for each trade or business engaged in directly.

(iii) Third, the RPE must apply the rules in §1.199A-2 to determine the W-2 wages and UBIA of qualified property for each trade or business engaged in directly.

(iv) Fourth, the RPE must determine whether it has any qualified REIT dividends as defined in §1.199A-3(c)(1) earned directly or through another RPE. The RPE must also determine the amount of qualified PTP income as defined in §1.199A-3(c)(2) earned directly or indirectly through investments in PTPs.

(3) Reporting rules for RPEs—

(i) Trade or business directly engaged in. An RPE must separately identify and report on the Schedule K-1 issued to its owners for any trade or business (including an aggregated trade or business) engaged in directly by the RPE--

(A) Each owner's allocable share of QBI, W-2 wages, and UBIA of qualified property attributable to each such trade or business, and

(B) Whether any of the trades or businesses described in paragraph (b)(3)(i) of this section is an SSTB.

(ii) Other items. An RPE must also report on an attachment to the Schedule K-1, any QBI, W-2 wages, UBIA of qualified property, or SSTB determinations, reported to it by any RPE in which the RPE owns a direct or indirect interest. The RPE must also report each owner's allocated share of any qualified REIT dividends received by the RPE (including through another RPE) as well as any qualified PTP income or loss received by the RPE for each PTP in which the RPE holds an interest (including through another RPE). Such information can be reported on an amended or late filed return to the extent that the period of limitations remains open.

(iii) Failure to report information. If an RPE fails to separately identify or report on the Schedule K-1 (or any attachments thereto) issued to an owner an item described in paragraph (b)(3)(i) of this section, the owner's share (and the share of any upper-tier indirect owner) of each unreported item of positive QBI, W-2 wages, or UBIA of qualified property attributable to trades or businesses engaged in by that RPE will be presumed to be zero.

(c) Computational and reporting rules for PTPs—

(1) Computational rules. Each PTP must determine its QBI under the rules of §1.199A-3 for each trade or business in which the PTP is engaged in directly. The PTP must also determine whether any of the trades or businesses it is engaged in directly is an SSTB.

(2) Reporting rules. Each PTP is required to separately identify and report the information described in paragraph (c)(1) of this section on Schedules K-1 issued to its partners. Each PTP must also determine and report any qualified REIT dividends or qualified PTP income or loss received by the PTP including through an RPE, a REIT, or another PTP. A PTP is not required to determine or report W-2 wages or the UBIA of qualified property attributable to trades or businesses it is engaged in directly.

(d) Application to trusts, estates, and beneficiaries—

(1) In general. A trust or estate computes its section 199A deduction based on the QBI, W-2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income that are allocated to the trust or estate. An individual beneficiary of a trust or estate takes into account any QBI, W-2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income allocated from a trust or estate in calculating the beneficiary's section 199A deduction, in the same manner as though the items had

been allocated from an RPE. For purposes of this section and §§1.199A-1 through 1.199A-5, a trust or estate is treated as an RPE to the extent it allocates QBI and other items to its beneficiaries, and is treated as an individual to the extent it retains the QBI and other items.

(2) Grantor trusts. To the extent that the grantor or another person is treated as owning all or part of a trust under sections 671 through 679, such person computes its section 199A deduction as if that person directly conducted the activities of the trust with respect to the portion of the trust treated as owned by the grantor or other person.

(3) Non-grantor trusts and estates—

(i) Calculation at entity level. A trust or estate must calculate its QBI, W-2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income. The QBI of a trust or estate must be computed by allocating qualified items of deduction described in section 199A(c)(3) in accordance with the classification of those deductions under §1.652(b)-3(a), and deductions not directly attributable within the meaning of §1.652(b)-3(b) (other deductions) are allocated in a manner consistent with the rules in §1.652(b)-3(b). Any depletion and depreciation deductions described in section 642(e) and any amortization deductions described in section 642(f) that otherwise are properly included in the computation of QBI are included in the computation of QBI of the trust or estate, regardless of how those deductions may otherwise be allocated between the trust or estate and its beneficiaries for other purposes of the Code.

(ii) Allocation among trust or estate and beneficiaries. The QBI (including any amounts that may be less than zero as calculated at the trust or estate level), W-2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income of a trust or estate are allocated to each beneficiary and to the trust or estate based on the relative proportion of the trust's or estate's distributable net income (DNI), as defined by section 643(a), for the taxable year that is distributed or required to be distributed to the beneficiary or is retained by the trust or estate. For this purpose, the trust's or estate's DNI is determined with regard to the separate share rule of section 663(c), but without regard to section 199A. If the trust or estate has no DNI for the taxable year, any QBI, W-2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income are allocated entirely to the trust or estate.

(iii) Reserved.

(iv) Threshold amount. The threshold amount applicable to a trust or estate is \$157,500 for any taxable year beginning before 2019. For taxable years beginning after 2018, the threshold amount shall be \$157,500 increased by the cost-of-living adjustment as outlined in §1.199A-1(b)(12). For purposes of determining whether a trust or estate has taxable income in excess of the threshold amount, the taxable income of the trust or estate is determined after taking into account any distribution deduction under sections 651 or 661.

(v) Reserved.

(vi) Electing small business trusts. An electing small business trust (ESBT) is entitled to the deduction under section 199A. Any section 199A deduction attributable to the assets in the S portion of the ESBT is to be taken into account by the S portion. The S portion of the ESBT must take into account the QBI and other items from any S corporation owned by the ESBT, the grantor portion of the ESBT must take into account the QBI and other items from any assets treated as owned by a grantor or another person (owned portion) of a trust under sections 671 through 679, and the non-S portion of the ESBT must take into account any QBI and other items from any other entities or assets owned by the ESBT. For purposes of determining whether the taxable income of an ESBT exceeds the threshold amount, the S portion and the non-S portion of an ESBT are treated as a single trust. See §1.641(c)-1.

(vii) Anti-abuse rule for creation of a trust to avoid exceeding the threshold amount. A trust formed or funded with a principal purpose of avoiding, or of using more than one, threshold amount for purposes of calculating the deduction under section 199A will not be respected as a separate trust entity for purposes of determining the threshold amount for purposes of section 199A. See also §1.643(f)-1 of the regulations.

(viii) Example. The following example illustrates the application of paragraph (d) of this section.

(A) Example 1 to paragraph (d)(3)(viii) of this section. (1) Computation of DNI and inclusion and deduction amounts. (i) Trust's distributive share of partnership items. Trust, an irrevocable testamentary complex trust, is a 25% partner in PRS, a family partnership that operates a restaurant that generates QBI and W-2 wages. A and B, Trust's beneficiaries, own the remaining 75% of PRS directly. In 2018, PRS properly allocates gross income from the restaurant of \$55,000, and expenses directly allocable to the restaurant of \$45,000 (including W-2 wages of \$25,000, and miscellaneous expenses of \$20,000) to Trust. These items are properly included in Trust's DNI. PRS distributes \$10,000 of cash to Trust in 2018.

(ii) Trust's activities. In addition to its interest in PRS, Trust also operates a family bakery conducted through an LLC wholly-owned by the Trust that is treated as a disregarded entity. In 2018, the bakery produces \$100,000 of gross income and \$155,000 of expenses directly allocable to operation of the bakery (including W-2 wages of \$50,000, rental expense of \$75,000, miscellaneous expenses of \$25,000, and depreciation deductions of \$5,000). (The net loss from the bakery operations is not subject to any loss disallowance provisions outside of section 199A.) Trust maintains a reserve of \$5,000 for depreciation. Trust also has \$125,000 of UBI of qualified property in the bakery. For purposes of computing its section 199A deduction, Trust and its beneficiaries have properly chosen to aggregate the family restaurant conducted through PRS with the bakery conducted directly by Trust under §1.199A-4. Trust also owns various investment assets that produce portfolio-type income consisting of dividends (\$25,000), interest (\$15,000), and tax-exempt interest (\$15,000).

Accordingly, Trust has the following items which are properly included in Trust's DNI:

Interest Income	15,000
Dividends.....	25,000
Tax-exempt interest.....	15,000
Net business loss from PRS and bakery	(45,000)
Trustee commissions	3,000
State and local taxes.....	5,000

(iii) Allocation of deductions under §1.652(b)-3. (A) Directly attributable expenses. In computing Trust's DNI for the taxable year, the distributive share of expenses of PRS are directly attributable under §1.652(b)-3(a) to the distributive share of income of PRS. Accordingly, Trust has gross business income of \$155,000 (\$55,000 from PRS and \$100,000 from the bakery) and direct business expenses of \$200,000 (\$45,000 from PRS and \$155,000 from the bakery). In addition, \$1,000 of the trustee commissions and \$1,000 of state and local taxes are directly attributable under §1.652(b)-3(a) to Trust's business income.

Accordingly, Trust has excess business deductions of \$47,000. Pursuant to its authority recognized under §1.652(b)-3(d), Trust allocates the \$47,000 excess business deductions as follows: \$15,000 to the interest income, resulting in \$0 interest income, \$25,000 to the dividends, resulting in \$0 dividend income, and \$7,000 to the tax exempt interest.

(B) Non-directly attributable expenses. The trustee must allocate the sum of the balance of the trustee commissions (\$2,000) and state and local taxes (\$4,000) to Trust's remaining tax-exempt interest income, resulting in \$2,000 of tax exempt interest.

(iv) Amounts included in taxable income. For 2018, Trust has DNI of \$2,000. Pursuant to Trust's governing instrument, Trustee distributes 50%, or \$1,000, of that DNI to A, an individual who is a discretionary beneficiary of Trust. In addition, Trustee is required to distribute 25%, or \$500, of that DNI to B, a current income beneficiary of Trust. Trust retains the remaining 25% of DNI. Consequently, with respect to the \$1,000 distribution A receives from Trust, A properly excludes \$1,000 of tax-exempt interest income under section 662(b). With respect to the \$500 distribution B receives from Trust, B properly excludes \$500 of tax exempt interest income under section 662(b). Because the DNI consists entirely of tax-exempt income, Trust deducts \$0 under section 661 with respect to the distributions to A and B.

(2) Section 199A deduction. (i) Trust's W-2 wages and QBI. For the 2018 taxable year, prior to allocating the beneficiaries' shares of the section 199A items, Trust has \$75,000 (\$25,000 from PRS + \$50,000 of Trust) of W-2 wages. Trust also has \$125,000 of UBIA of qualified property. Trust has negative QBI of (\$47,000) (\$155,000 gross income from aggregated businesses less the sum of \$200,000 direct expenses from aggregated businesses and \$2,000 directly attributable business expenses from Trust under the rules of §1.652(b)-3(a)).

(ii) Section 199A deduction computation. (A) A's computation. Because the \$1,000 Trust distribution to A equals one-half of Trust's DNI, A has W-2 wages from Trust of \$37,500. A also has W-2 wages of \$2,500 from a trade or business outside of Trust (computed without regard to A's interest in Trust), which A has properly aggregated under §1.199A-4 with the Trust's trade or businesses (the family's restaurant and bakery), for a total of \$40,000 of W-2 wages from the aggregate trade or businesses. A also has \$62,500 of UBIA from Trust and \$25,000 of UBIA of qualified property from the trade or business outside of Trust for \$87,500 of total UBIA of qualified property. A has \$100,000 of QBI from the non-Trust trade or businesses in which A owns an interest. Because the \$1,000 Trust distribution to A equals one-half of Trust's DNI, A has (negative) QBI from Trust of (\$23,500). A's total QBI is determined by combining the \$100,000 QBI from non-Trust sources with the (\$23,500) QBI from Trust for a total of \$76,500 of QBI. Assume that A's taxable income is \$357,500, which exceeds A's applicable threshold amount for 2018 by \$200,000. A's tentative deductible amount is \$15,300 (20% x \$76,500 of QBI), limited to the greater of (i) \$20,000 (50% x \$40,000 of W-2 wages), or (ii) \$12,187.50 (\$10,000, 25% x \$40,000 of W-2 wages, plus \$2,187.50, 2.5% x \$87,500 of UBIA of qualified property). A's section 199A deduction is equal to the lesser of (i) \$15,300, or (ii) \$71,500 (20% x \$357,500 of taxable income). Accordingly, A's section 199A deduction for 2018 is \$15,300.

(B) B's computation. For 2018, B's taxable income is below the threshold amount so B is not subject to the W-2 wage limitation. Because the \$500 Trust distribution to B equals one-quarter of Trust's DNI, B has a total of (\$11,750) of QBI. B also has no QBI from non-Trust trades or businesses, so B has a total of (\$11,750) of QBI. Accordingly, B's section 199A deduction for 2018 is zero. The (\$11,750) of QBI is carried over to 2019 as a loss from a qualified business in the hands of B pursuant to section 199A(c)(2).

(C) Trust's computation. For 2018, Trust's taxable income is below the threshold amount so it is not subject to the W-2 wage limitation. Because Trust retained 25% of Trust's DNI, Trust is allocated 25% of its QBI, which is (\$11,750). Trust's section 199A deduction for 2018 is zero. The (\$11,750) of QBI is carried over to 2019 as a loss from a qualified business in the hands of Trust pursuant to section 199A(c)(2).

(e) Effective/ applicability date—

(1) General rule. Except as provided in paragraph (e)(2) of this section, the provisions of this section apply to taxable years ending after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(2) Exceptions-

(i) Anti-abuse rules. The provisions of paragraph (d)(3)(vii) of this section apply to taxable years ending after December 22, 2017.

(ii) Non-calendar year RPE. For purposes of determining QBI, W-2 wages, UBIA of qualified property, and the aggregate amount of qualified REIT dividends and qualified PTP income, if an individual receives any of these items from an RPE with a taxable year that begins before January 1, 2018, and ends after December 31, 2017, such items are treated as having been incurred by the individual during the individual's taxable year in which or with which such RPE taxable year ends.