From the desk of
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The New 20% Pass through Deduction

The Internal Revenue Service finally issued preliminary regulations on the new 20% deduction for **Qualified Business Income** (QBI) created by the Tax Cut & Jobs Act (TCJA), also known as the pass-through deduction.

Here is a summary of the basic rules:

For tax years beginning after December 31, 2017 taxpayers other than C Corporations may be entitled to a deduction of up to 20% of their **Qualified Business Income** (QBI) from a domestic business operated as a sole proprietorship, or through a partnership, S corporation, trusts, and estates.

This deduction can be taken in addition to the standard or itemized deductions.

In general, the deduction is equal to the lesser of:

A. 20% of QBI plus 20% of qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income, or
B. 20% of taxable income minus net capital gains.

QBI generally is the net amount of qualified items of income, gain, deduction, and loss, from any qualified trade or business.

QBI does not include capital gains and losses, certain dividends and interest income, reasonable compensation paid to the taxpayer by any qualified trade or business for services rendered for that trade or business, and any guaranteed payment to a partner for services to the business.

Generally, the deduction for QBI cannot be more than the greater of:

a. 50% of the W-2 wages from the qualified trade or business; or
b. 25% of the W-2 wages from the qualified trade or business plus 2.5% of the unadjusted basis of certain tangible, depreciable property held and used by the business during the year for production of QBI.

The limit on the deduction for QBI does not apply to taxpayers with taxable income below a threshold amount ($315,000 for married individuals filing jointly, $157,500 for other individuals, indexed for inflation after 2018), with a phase-in for taxable income over this amount.

A qualified trade or business does not include performing services as an employee.

Additionally a qualified trade or business does not include a trade or business involving the performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, investing and investment management, trading, dealing in certain assets or any trade or business where the principal asset is the reputation or skill of one or more of its employees.

The exception only applies if a taxpayer's taxable income exceeds $315,000 for a married couple filing a joint return, or $157,500 for all other taxpayers; the benefit of the deduction is phased out for taxable income over this amount.

The new regulations are highly detailed and complex, and if your tax situation falls into this area of the new law, we suggest that you call us to review how we might guide you as to maximizing the benefits.