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Qualified Business Income Deduction Checklist

Individuals, estates, and trusts may now deduct up to 20% of their Qualified Business Income (QBI) from sole proprietorships (including farms) and pass-through entities. This means that the QBI of taxpayers in the new 37% tax bracket may be taxed at an effective top marginal rate of 29.6% (33.4% if you factor in the 3.8% net investment income tax).

The **Qualified Business Income Deduction Checklist** addresses key aspects of the QBI deduction to help develop strategies to maximize the QBI deduction for your clients. The checklist may be used in conjunction with the **Tax Cuts and Jobs Act Planning Letter for Individual Clients** and the **Tax Cuts and Jobs Act Individual Tax Planning Checklist**. These resources are intended to generate discussion points as you hold midyear tax planning meetings with your clients.

1. General Considerations	Done
A. Does the client have income from a sole proprietorship (including a single-member LLC) or pass-through entity (S corporation, partnership, or LLC)? If no, consider the following: – Are there opportunities for the client to become a business owner? – If currently an employee, can the client form an entity and have their former employer pay a consulting fee to that entity? (The client will have to overcome the presumption in the proposed regulations that they are performing services as an employee.) See Section 5 below for additional considerations.	☐
B. Is the client's business a qualified business under IRC Sec. 199A? – Don't count the business of performing services as an employee. – Are the activities so sporadic or indicative of a hobby that they wouldn't constitute a trade or business? – Is the client engaging in the activity to earn income or profit? Is involvement regular and continuous? – Does the client own rental real estate? Income from rental real estate is QBI if the activity is a trade or business under IRC Sec. 162.	☐
C. Review trades or businesses to determine if income qualifies as QBI. – Is the net amount of income, gain, deduction, and loss sourced to the U.S. (including Puerto Rico)? – Exclude investment income and reasonable compensation/guaranteed payments. – If the net amount is a loss, carry forward that loss to the next tax year.	☐
D. Is the client an owner of a qualified Real Estate Investment Trust (REIT) or qualified Publicly Traded Partnership (PTP)? – Increase the deductible amount by 20% of qualified REIT dividends and qualified PTP income.	☐
E. If you also advise the client's partnership, S corporation, or pass-through LLC, consider whether new processes should be implemented to capture QBI, W-2 wages, and qualified property in the entity's accounting system for Schedule K-1 reporting purposes.	☐
2. Taxable Income Considerations	
A. Is the client's taxable income before the QBI deduction $315,000 or less if married filing jointly ($157,500 or less for all others)? – If yes, the deduction generally equals the lesser of 20% of QBI or 20% of taxable income before the QBI deduction. – If no, continue to the next items.	☐

B. Is the client's taxable income before the QBI deduction over $415,000 if married filing jointly (over $207,500 for all others)?
– For specified service businesses (see Section 5 below):
  – If yes, no QBI deduction is allowed.
  – If no, the amount of QBI is reduced. A 20% deduction is allowed on reduced QBI, subject to the wage/investment limit.
– For nonspecified service businesses:
  – If yes, any deduction is subject to the wage/investment limit. No deduction is allowed without W-2 wages and/or investment.
  – If no, a deduction is allowed; the wage/investment limit phases in.
	☐

C. Does the client have taxable income near or slightly over the threshold amounts? If yes, consider the following to get below the threshold: – Bunch income. – Make deductible retirement plan contributions. – Make HSA contributions. – Contribute to donor-advised funds.	☐

2. Taxable Income Considerations (continued)	Done
D. Is the client negatively impacted by the 20% taxable income limit? If yes, consider ways to increase taxable income, such as a second job. Assess whether the benefits of an increased QBI deduction outweigh additional payroll tax burdens.	☐
3. Wage Considerations	
A. To increase QBI, consider reducing the client's wages. (For S corporation shareholders, make sure the reduced compensation is reasonable.) This can convert wages to profits that may be eligible for the QBI deduction.	☐
B. Is the client's QBI deduction severely restricted by the wage/investment limit? If yes, consider the following: – Increase the client's wages. In most situations the benefit of the QBI deduction will outweigh the payroll tax increase. – Bring contractors in-house and make them employees so that their compensation will be included when calculating the wage/investment limit. This must be weighed against the increased payroll tax and other potential costs (such as providing benefits) associated with an employee. – If the client has more than one qualified business, consider using the aggregation rules found in the proposed regulations to combine separate trades or businesses if certain requirements are met. Taxpayers taking advantage of these rules must combine the W-2 wages for all aggregated trades or businesses before applying the wage/investment limit to that aggregated business.	☐
4. Qualified Property Considerations	
A. If the client's QBI deduction is severely restricted by the wage/investment limit, consider acquiring short-lived depreciable assets. This is particularly helpful if the business has low (or no) W-2 wages. However, under the proposed regulations, property is excluded from the definition of qualified property if it's acquired within 60 days of the end of the tax year and disposed of within 120 days without having been used in a trade or business for at least 45 days prior to disposition.	☐
B. Under the proposed regulations, the unadjusted basis of qualified property is determined without regard to the Section 179 deduction. In addition, bonus depreciation under IRC Sec. 168(k) doesn't affect the applicable recovery period of qualified property.	☐
5. Specified Service Business Considerations	
A. Does the client's business involve the performance of services in the fields of health; law; accounting; actuarial science; performing arts; consulting; athletics; financial services; brokerage services; investing and investment management; or trading or dealing in securities, partnership interests, or commodities? Is the business's principal asset the reputation or skill of one or more of its owners or employees? If yes, the specified service business restrictions will apply. See Specified Service Business Table on page 3.	☐
B. To mitigate the specified service business restrictions, consider the following: – If the client is involved in a service business and a nonservice business, treat those as separate and distinct businesses for the QBI deduction. Maintain complete and separate books and records for each business. – Take advantage of the *de minimis* rule, in which a trade or business with gross receipts of $25 million or less for the tax year isn't a specified service business if less than 10% of its gross receipts are attributable to the performance of services in a specified field. If the trade or business has gross receipts greater than $25 million, the applicable percentage is reduced from 10% to 5%.	☐
6. Farming Considerations	
A. Does the client sell commodities to cooperatives? If yes, calculate the QBI deduction from the cooperative using rules similar to former IRC Sec. 199. Combine that with the regular QBI deduction.	☐
B. To maximize the QBI deduction from cooperatives, consider not paying wages to outside employees.	☐

Field	Includes	Excludes
Health	Physicians; pharmacists; nurses; dentists; veterinarians; physical therapists; psychologists; other similar professionals providing medical services to a patient	Health clubs or spas; payment processing; research, testing, and manufacture and/or sales of pharmaceuticals or medical devices
Law	Lawyers; paralegals; legal arbitrators; mediators; similar professionals performing services in their capacity as such	Services not requiring skills unique to legal field; printers; delivery services; stenography services
Accounting	Accountants; enrolled agents; return preparers; financial auditors; similar professionals performing services in their capacity as such (CPA not required)	Payment processing; billing analysis
Actuarial Science	Actuaries; similar professionals performing services in their capacity as such	Analysts, economists, mathematicians, and statisticians not engaged in analyzing or assessing the financial costs of risk or uncertainty of events
Performing Arts	Actors; singers; musicians; entertainers; directors; similar professionals performing services in their capacity as such	Maintenance and operation of performing arts equipment or facilities; persons who broadcast or otherwise disseminate performing arts video or audio
Consulting	Providing professional advice and counsel to clients to assist the client in achieving goals and solving problems; government lobbyists	Sales; providing training and educational courses; consulting services ancillary to sale of goods in a business that isn't an SSTB if no separate payment for the services
Athletics	Sports athletes, coaches, and team managers	Maintenance and operation of athletic equipment or facilities; persons who broadcast or otherwise disseminate athletic event video or audio
Financial Services	Financial advisors; investment bankers; wealth planners; retirement advisors; similar professionals performing services in their capacity as such	Banking (taking deposits or making loans)

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Field	Includes	Excludes
Brokerage Services	Arranging transactions between a buyer and seller with respect to securities for a commission or fee (stock broker)	Real estate agents and brokers; insurance agents and brokers
Investing/Investment Management	Receiving fees for investing, asset management, or investment management services; providing advice on buying and selling investments	Directly managing real property
Trading	Trading in securities, commodities, or partnership interests	Engaging in hedging transactions as part of a manufacturing or farming business
Dealing	Dealing in securities, commodities, or partnership interests	Taxpayers that regularly originate loans but engage in no more than negligible sales of the loans under Reg. 1.475(c)-1(c)(2) and (4)

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