



October 1, 2018

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Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Submitted Electronically

Re: Comments on Qualified Business Income Deduction (RIN 1545-BO71)

To Whom It May Concern:

The Small Business Legislative Council (SBLC) respectfully submits these comments on the proposed regulations on the Qualified Business Income Deduction published by Internal Revenue Service ("IRS") (RIN 1545-BO71).

The SBLC is an independent and permanent coalition of major national trade and professional associations whose goal is to maximize the advocacy and presence of small business on Federal legislative and regulatory policy issues, and to disseminate information on the impact of public policy on small businesses. The SBLC is the only small business association whose membership is comprised exclusively of trade and professional associations and, through its members and their members, it represents all sectors of the economy and a significant swath of the country's small businesses.

Starting from the broadest perspective, the SBLC is worried about the overall complexity of the proposed regulations. While clarity is certainly necessary for businesses to navigate the new 199A regulations, the last thing that small businesses need are more highly complicated rules that they can only navigate with the guidance of outside counsel. This rings particularly true when contrasted with the relatively straight forward tax rate cuts that were afforded to C-corporations under the Tax Cuts and Jobs Act. As the IRS moves forward to incorporate public comments and prepare the final rule, the SBLC urges the IRS to be mindful of the real world concerns and constraints

that face the small businesses to whom the rule will apply. It would be counter to congressional intent for the final 199A rules to be so complex that any savings that small businesses might have enjoyed will be eaten up in professional fees associated with complying with the rules. The SBLC certainly hopes that this will not be the case.

Taking a deeper dive, the SBLC is particularly concerned that the provisions of the proposed regulations that relate to the definition of a Specified Service Trade or Business will further expand the disparity between C-corporations and pass through entities, and run counter to the intent of 199A. It's no secret that Section 199A was included in the Tax Cuts and Jobs Act as a way of trying to bring pass through entities to the same, or a similar, point (albeit for a limited period of time) as C-corporations would be in after the new corporate tax cut. **The more pass through entities that are excluded from the new 199A deduction, the greater the overall divide between the treatment of C-corporations and pass throughs.** Given that the vast majority of small businesses are formed as pass throughs, this would largely translate to a significant gap in tax rates between the treatment of small businesses and larger businesses.

In delineating which businesses fall into the category of Specified Service Trade or Business, with a few exceptions, the intent, or at least the trend, of **the proposed regulations seems to be focused on making the definition of Specified Service Trade or Business as expansive as possible.** Taking just one example among many, under the proposed regulations, bookkeeping services, which do not require professional training or a license, would be treated like an accounting service and bookkeepers (depending on their income levels) would be largely excluded from the new deduction as being part of a Specified Service Trade or Business. Again, if the intent of 199A is to strive for (at least on a temporary basis) parity between C-corporations and pass throughs, the regulations should narrowly define Specified Service Trade or Business within the scope of the Tax Cuts and Jobs Act and should not expand the definition beyond what was expressly contemplated by Congress.


The proposed regulations' definition of what it means to have a situation where the principal assets of the trade or business is the reputation or skill of one or more of its employees or owners is an example of the type of carefully crafted and limited exception that the SBLC hopes to see across the 199A regulations. Rather than creating a catch-all provision, the IRS has expertly threaded the needle by creating a narrow and carefully drafted definition which the SBLC applauds.

Along a similar vein, the SBLC is concerned by the way the proposed regulations treat businesses or commonly controlled entities in which part of the business falls under the definition of a Specified Service Trade or Business and part does not. Specifically, that part of the business which is not a Specified Service Trade or business should be eligible for the 199A deduction and the whole business or group of businesses should not be tainted by the fact that one part is a Specified Service Trade or Business. Any part of the business that is not a Specified Service Trade or Business

should be eligible for the 199A deduction. Again, expanding the Specified Service Trade or Business exclusion as proposed in these regulations drives more pass throughs to a point where their treatment is far from on par with their C-corporation counterparts.

On behalf of our members, we appreciate this opportunity to comment and look forward to working with the IRS to ensure that small businesses are treated equitably in the drafting and implementation of the 199A rules and that, to the maximum extent possible under the law, pass through entities are brought towards parity with C-corporations.

Sincerely,



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