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the deduction for qualified business income (QBI) under Internal Revenue Code section 199A.

Apr. 11, 2019

The image displays three overlapping IRS tax forms. The top form is Form 1065, 'U.S. Return of Partnership Income', for the calendar year 2005. Below it is Form 1120S, 'U.S. Income Tax Return for an S Corporation', also for the calendar year 2005. The bottom form is Form 1120, 'U.S. Corporation Income Tax Return', for the calendar year 2005. Each form includes the Department of the Treasury and Internal Revenue Service logo, and instructions for filing.

The [American Institute of CPAs](#) has submitted comments to the U.S. Department of the Treasury and the Internal Revenue Service (IRS) about the guidance regarding the deduction for qualified business income (QBI) under Internal Revenue Code section 199A. The Treasury Department and IRS provided the guidance in corrected final regulations REG-107892-18 and IRS Notice 2019-17.

The AICPA provided recommendations in the following five areas:

- Safe harbor for rental real estate – In this area, the AICPA listed seven recommendations that seek additional clarity and recommend options to reduce

taxpayer burden in complying with the provisions:

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- property,
- Clarify that the time spent by a professional real estate management company would qualify toward the 250-hour requirement;
- Reduce the 250-hour requirement;
- Reduce the requirements of contemporaneous documentation as it relates to independent contractors and agents of the taxpayer; and
- Provide additional clarity around reporting, specify what a taxpayer needs to include in the reporting statement, and remove the signatory requirement.
- Deemed trade or business for all commonly-owned arrangements – Treasury and the IRS should modify Treas. Reg. § 1.199A-1(b)(14) to include rentals to a commonly-owned C corporation as a deemed trade or business for the rental activity. However, aggregation under Treas. Reg. § 1.199A-4(b)(1)(i) should continue to deny aggregation with a commonly-owned C corporation.
- Allocation based upon gross receipts – Treasury and the IRS should modify Treas. Reg. § 1.199A-3(b)(1)(vi). Specifically, the AICPA recommended that taxpayers allocate the various deductions, which are not direct deductions of the trade or business, proportionately to the businesses based upon relative positive QBI – not gross receipts.
- Unadjusted basis immediate after acquisition (UBIA) on section 734(b) adjustment – Treasury and the IRS should provide that an excess section 734(b) adjustment generates UBIA in the same manner as an excess section 743(b) adjustment.
- Definition of QBI – Treasury and the IRS should expand Treas. Reg. § 1.199A-3(b)(1) to include items commonly reported by taxpayers owning or benefiting from relevant pass-through entities. Treasury Reg. § 1.199A-3(b)(1) should include a sentence such as, “The following items are among the trade or business items that are or are not taken into account in computing QBI (not an all-inclusive list).”

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