

2017–07, released concurrently with these final regulations, may also be treated as trades or businesses for purposes of section 199A.” is corrected to read “A rental real estate enterprise that meets the safe harbor described in Notice 2019–07, released concurrently with these final regulations, may be also be treated as a trade or business for purposes of section 199A.”.

7. On page 2968, second column, in the preamble, under section “C. Aggregation by RPEs”, the eleventh line from the bottom of the paragraph, the language “4(c)(1).” is corrected to read “4.”.

8. On page 2969, third column, in the preamble, the eighth line from the bottom of the paragraph, the language “look to the definitions provided for in” is corrected to read “look to the definitions provided in”.

9. On page 2969, third column, in the preamble, the fifteenth line, the language “engineering architecture, accounting,” is corrected to read “engineering, architecture, accounting,”.

10. On page 2970, first column, in the preamble, the second line from the bottom of the last partial paragraph, the language “of the listed fields in section 199(d)(2)” is corrected to read “of the listed fields in section 199A(d)(2)”.

11. On page 2976, third column, in the preamble, the second line under the paragraph heading “C. Services or Property Provided to an SSTB”, the language “special rules for service or property” is corrected to read “special rules for services or property”.

12. On page 2979, second column, in the preamble, the second line under the paragraph heading “3. ESBTs”, the language “proposed regulation’s position on” is corrected to read “proposed regulation’s position on an”.

13. On page 2988, first column, in the preamble, before the caption “Drafting Information” is amended by adding section III. to read as follows:

### III. Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that this is a major rule for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801 et seq.) Under section 801(3) of the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. Notwithstanding this requirement, section 808(2) of the CRA allows agencies to dispense with the requirements of 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and that

rule shall take effect at such time as the agency promulgating the rule determines.

Pursuant to section 808(2) of the CRA, the Treasury Department and the IRS find, for good cause, that a 60-day delay in the effective date is unnecessary and contrary to the public interest. Section 199A was enacted on December 22, 2017, and applies to taxable years beginning after December 31, 2017, and before January 1, 2026. This means that the statute is currently effective and that taxpayers may claim the deduction when filing their U.S. federal income tax returns for taxable years ending in calendar year 2018. The Treasury Department and the IRS have determined that the rules in this Treasury decision are generally applicable to taxable years ending after February 8, 2019, the date this Treasury decision was published in the **Federal Register**. Sections 1.199A–1(f), 1.199A–2(d), 1.199A–3(d), 1.199A–4(e), 1.199A–5(e), 1.199A–6(e), and 1.643(f)–1(b) are applicable for taxable years ending after August 16, 2018, the date that the proposed regulations were published in the **Federal Register**. However, taxpayers may rely on the rules set forth in §§ 1.199A–1 through 1.199A–6, in their entirety, or on the proposed regulations under §§ 1.199A–1 through 1.199A–6 issued on August 16, 2018, in their entirety, for taxable years ending in calendar year 2018. These final regulations provide crucial guidance for taxpayers on how to apply the rules of section 199A, correctly calculate their deduction under section 199A, and to accurately file their U.S. federal income tax returns.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9847]

RIN 1545–B071

#### Qualified Business Income Deduction; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to final regulations (TD

9847) that were published in the **Federal Register** on Friday, February 8, 2019. The final regulations are concerning the deduction for qualified business income under section 199A of the Internal Revenue Code.

**DATES:** This correction is effective on April 17, 2019 and is applicable on or after February 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Vishal R. Amin or Sonia K. Kothari at (202) 317–6850 or Robert D. Alinsky, Margaret Burrow, or Wendy L. Kribbell at (202) 317–5279.

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations (TD 9847), published on February 8, 2019 (84 FR 2952), that are the subject of this correction are issued under section 199A of the Internal Revenue Code.

##### Need for Correction

As published, the final regulations (TD 9847) contain errors that need to be corrected.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.199A–0 is amended by revising the entry for § 1.199A–1(a)(16) and adding an entry for § 1.199A–2(b)(2)(iv) to read as follows:

##### § 1.199A–0 Table of contents.

\* \* \* \* \*

##### § 1.199A–1 Operational rules.

(a) \* \* \*

(16) W–2 wages.

\* \* \* \* \*

##### § 1.199A–2 Determination of W–2 Wages and unadjusted basis immediately after acquisition of qualified property.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) Methods for calculating W–2 wages.

\* \* \* \* \*

■ **Par. 3.** Section 1.199A–1 is amended by revising the second sentence of paragraph (b)(10) and the seventh

sentence of paragraph (d)(4)(xi)(B) to read as follows:

**§ 1.199A-1 Operational rules.**

\* \* \* \* \*

(b) \* \* \*

(10) \* \* \* Other passthrough entities including common trust funds as described in § 1.6032-1T and religious or apostolic organizations described in section 501(d) are also treated as RPEs if the entity files a Form 1065, *U.S. Return of Partnership Income*, and is owned, directly or indirectly, by at least one individual, estate, or trust. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(xi) \* \* \*

(B) \* \* \* Thus, F has overall net QBI of \$80,000 when all trades or businesses are taken together (\$200,000) plus \$150,000 minus \$120,000 minus the carryover loss of (\$150,000). \* \* \*

\* \* \* \* \*

■ **Par. 4.** Section 1.199A-2 is amended by revising the fifth sentence of paragraph (b)(2)(iii)(A) to read as follows:

**§ 1.199A-2 Determination of W-2 wages and unadjusted basis immediately after acquisition of qualified property.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(A) \* \* \* Section 6071(c) provides that Forms W-2 and W-3 must be filed on or before January 31 of the year following the calendar year to which such returns relate (but see the special rule in § 31.6071(a)-1T(a)(3)(i) of this chapter for monthly returns filed under § 31.6011(a)-5(a) of this chapter). \* \* \*

\* \* \* \* \*

■ **Par. 5.** Section 1.199A-4 is amended by revising the fourth sentence of paragraph (c)(3), the first sentence of paragraph (c)(4)(ii), and the third sentence of paragraph (d)(15)(ii) to read as follows:

**§ 1.199A-4 Aggregation.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \* However, an RPE may add a newly created or newly acquired (including through non-recognition transfers) trade or business to an existing aggregated trade or business (including the aggregated trade or business of a lower-tier RPE) if the requirements of paragraph (b)(1) of this section are satisfied. \* \* \*

(4) \* \* \*

(ii) \* \* \* If an RPE fails to attach the statement required in paragraph (c)(4)(i)

of this section, the Commissioner may disaggregate the RPE's trades or businesses. \* \* \*

(d) \* \* \*

(15) \* \* \*

(ii) \* \* \* If PRS2 does aggregate the two businesses, PRS1 may not aggregate its food service business with PRS2's aggregated trades or businesses. \* \* \*

\* \* \* \* \*

■ **Par. 6.** Section 1.199A-5 is amended by revising the sixth sentence of paragraph (b)(3)(xiv) and the eighth sentence of paragraph (d)(3)(iii)(B) to read as follows:

**§ 1.199A-5 Specified service trades or businesses and the trade or business of performing services as an employee.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(xiv) \* \* \* Several of the employees and K have worked in the bicycle business for many years, and have acquired substantial skill and reputation in the field. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(B) \* \* \* Unless the presumption is rebutted with a showing that, under Federal tax law, regulations, and principles (including common-law employee classification rules), C is not an employee, C's distributive share of Law Firm 2 income (including any guaranteed payments) will not be QBI for purposes of section 199A. \* \* \*

\* \* \* \* \*

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

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**DEPARTMENT OF THE TREASURY**

**Office of the Secretary of the Treasury**

**31 CFR Parts 27 and 50**

**Inflation Adjustment of Civil Monetary Penalties**

**AGENCY:** Departmental Offices, Treasury.  
**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury ("Department" or "Treasury") publishes this final rule to adjust its civil monetary penalties ("CMPs") for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 (collectively referred to herein as "the Act"). This rule adjusts CMPs within the jurisdiction of two components of the Department to the maximum amount required by the Act.

**DATES:** The final rule is effective April 17, 2019.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Terrorism Risk Insurance Program's CMPs, contact Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622-2922 (not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622-3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

For information regarding the Treasury-wide CMP, contact Richard Dodson, Senior Counsel, General Law, Ethics, and Regulation, 202-622-9949.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In order to improve the effectiveness of CMPs and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note ("the Inflation Adjustment Act"), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74) ("the 2015 Act"), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial "catch-up" adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. The Department's initial catch-up adjustment interim final rules were published on December 7, 2016 (Departmental Offices) (81 FR 88600), and for 31 CFR part 27, on February 11, 2019 (84 FR 3105). The Department's 2018 annual adjustment was published on March 19, 2018 (83 FR 11876). The 2015 Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the