Davis Brown Tax Law Blog

Tax Reform Proposed Regulations – Tax Savings for Iowa Businesses? – August 15, 2018

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This update is the first in a series of posts analyzing the proposed treasury regulations associated with new Internal Revenue Code § 199A as it applies to Iowans.

New tax deductions for pass-through entities

The Tax Cuts and Jobs Act of 2017, signed into law on December 22, 2017, provides a new deduction for owners of pass-through entities, such as LLCs, partnerships, trusts, sole proprietorships, and S corporations. This deduction, called the "199A deduction," allows for a deduction of up to 20% of the qualified business income (QBI) of an owner of a pass-through entity. If used correctly, beginning in the 2018 tax year, the 199A deduction will be advantageous for qualifying business owners.

When the IRS passes new tax statutes, the Treasury Department can publish treasury regulations that interpret and clarify the new law. Proposed treasury regulations for the 199A deduction were issued on August 8, 2018, and address, among other interpretations and guidelines, how to compute the amount of the 199A deduction, deduction limitations, and economic analysis of the new code.

Public notice and comment period

Proposed treasury regulations have very little legal effect until finalized and published as final regulations. Taxpayers should not consider a proposed treasury regulation as anything more than persuasive for tax planning purposes until finalized.

A proposed regulation undergoes a public notice-and-comment period providing the public an opportunity to submit comments on the proposed regulations. The Treasury Department will consider public comments when determining how to solve any identified problems, how to further the purpose of the regulations, or whether to pursue alternative solutions.

Taxpayers have 45 days to provide comments on the 199A deduction regulations online or via written letter. Our Tax Department can assist in analyzing the impact of the regulations on your business and in coordination with our Government Relations Department, coordinate a conversation with your Senators and Member of Congress about the impact.

The Treasury Department will adopt and publish a final regulation upon addressing any issues that arise from the notice-and-comment period. The final treasury regulation will have full force and effect once published and taxpayers will be required to comply with the treasury regulations associated with Section 199A in order to ensure tax compliance. Additionally, finalized Section 199A treasury regulations will be legislative regulations, giving them great weight in a court of law.[1]

Treasury regulations for the 199A deduction are necessary for understanding and interpreting what is sure to be a widely-utilized section of the tax code. It is important that business owners begin to become familiar with the proposed treasury regulations for the 199A deduction, as they are very likely to be finalized in similar form in the near future.

Tax reform for Iowa business owners

Iowa business owners should take special attention of activities regarding the 199A deduction because the state of Iowa enacted similar tax reform this spring. Iowa Senate File 2417 provides for an Iowa deduction for income from pass-through entities consistent with the 199A deduction for tax years beginning on or after January 1, 2019. The allowed Iowa deduction will begin at 25% of the federal deduction, and then gradually increase each year. Stacking the new Iowa and federal deductions will offer qualifying Iowa businesses significant tax savings.

It is important for Iowa business owners to understand the 199A deduction, its associated treasury regulations, and the related Iowa deduction, as they tax-plan for 2019.

Over the next few weeks, we will look at some sections of these regulations in greater detail to analyze what it means for Iowa businesses.

1. Finalized treasury regulations are either legislative regulations or interpretive regulations. Interpretive regulations merely state the Treasury Department's interpretation of the governing law. Therefore, interpretive regulations do not have the force and effect of law. Legislative regulations are required when the code simply provides an end result in the new law, without any guidance as to how to achieve the desired result. Legislative regulations bind the public and have full force and effect of law like a statute.
