

Section 199(a) of the Tax Reform Act of 2017 and § 707 of 26 U.S. Code

One Hundred Fifteenth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the third day of January two thousand and seventeen*

An Act

To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 11000. SHORT TITLE, ETC.

- (a) AMENDMENT OF 1986 CODE. — Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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PART II—DEDUCTION FOR QUALIFIED BUSINESS INCOME OF PASS-THRU ENTITIES

SEC. 11011. DEDUCTION FOR QUALIFIED BUSINESS INCOME.

(a) IN GENERAL. —Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

“SEC. 199A. QUALIFIED BUSINESS INCOME.

“(a) IN GENERAL. —In the case of a taxpayer other than a corporation, there shall be allowed as a deduction for any taxable year an amount equal to the sum of—

“(1) the lesser of—

“(A) the combined qualified business income amount of the taxpayer, or

“(B) an amount equal to 20 percent of the excess (if any) of—

“(i) the taxable income of the taxpayer for the taxable year, over

“(ii) the sum of any net capital gain (as defined in section 1(h)), plus the aggregate amount of the qualified cooperative dividends, of the taxpayer for the taxable year, plus

“(2) the lesser of—

“(A) 20 percent of the aggregate amount of the qualified cooperative dividends of the taxpayer for the taxable year, or

“(B) taxable income (reduced by the net capital gain (as so defined)) of the taxpayer for the taxable year.

The amount determined under the preceding sentence shall not exceed the taxable income (reduced by the net capital gain (as so defined)) of the taxpayer for the taxable year.

“(b) COMBINED QUALIFIED BUSINESS INCOME AMOUNT. —For purposes of this section—

“(1) IN GENERAL. —The term ‘combined qualified business income amount’ means, with respect to any taxable year, an amount equal to—

“(A) the sum of the amounts determined under paragraph (2) for each qualified trade or business carried on by the taxpayer, plus

“(B) 20 percent of the aggregate amount of the qualified REIT dividends and qualified publicly traded partnership income of the taxpayer for the taxable year.

“(2) DETERMINATION OF DEDUCTIBLE AMOUNT FOR EACH TRADE OR BUSINESS. —The amount determined under this paragraph with respect to any qualified trade or business is the lesser of—

“(A) 20 percent of the taxpayer's qualified business income with respect to the qualified trade or business, or

“(B) the greater of—

“(i) 50 percent of the W-2 wages with respect to the qualified trade or business, or

“(ii) the sum of 25 percent of the W-2 wages with respect to the qualified trade or business, plus 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property.

“(3) MODIFICATIONS TO LIMIT BASED ON TAXABLE INCOME. —

“(A) EXCEPTION FROM LIMIT. —In the case of any taxpayer whose taxable income for the taxable year does not exceed the threshold amount, paragraph (2) shall be applied without regard to subparagraph (B).

“(B) PHASE-IN OF LIMIT FOR CERTAIN TAXPAYERS. —

“(i) IN GENERAL. —If—

“(I) the taxable income of a taxpayer for any taxable year exceeds the threshold amount, but does not exceed the sum of the threshold amount plus \$50,000 (\$100,000 in the case of a joint return), and

“(II) the amount determined under paragraph (2)(B) (determined without regard to this subparagraph) with respect to any qualified trade or business carried on by the taxpayer is less than the amount determined under paragraph (2)(A) with respect such trade or business,

then paragraph (2) shall be applied with respect to such trade or business without regard to subparagraph (B) thereof and by reducing the amount determined under subparagraph (A) thereof by the amount determined under clause (ii).

“(ii) AMOUNT OF REDUCTION. —The amount determined under this subparagraph is the amount which bears the same ratio to the excess amount as—

“(I) the amount by which the taxpayer's taxable income for the taxable year exceeds the threshold amount, bears to

“(II) \$50,000 (\$100,000 in the case of a joint return).

“(iii) EXCESS AMOUNT. —For purposes of clause (ii), the excess amount is the excess of—

“(I) the amount determined under paragraph (2)(A) (determined without regard to this paragraph), over

“(II) the amount determined under paragraph (2)(B) (determined without regard to this paragraph).

“(4) WAGES, ETC. —

“(A) IN GENERAL. —The term ‘W-2 wages’ means, with respect to any person for any taxable year of such person, the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

“(B) LIMITATION TO WAGES ATTRIBUTABLE TO QUALIFIED BUSINESS INCOME. —Such term shall not include any amount which is not properly allocable to qualified business income for purposes of subsection (c)(1).

“(C) RETURN REQUIREMENT. —Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.

“(5) ACQUISITIONS, DISPOSITIONS, AND SHORT TAXABLE YEARS. —The Secretary shall provide for the application of this subsection in cases of a short taxable year or where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

“(6) QUALIFIED PROPERTY. —For purposes of this section:

“(A) IN GENERAL. —The term ‘qualified property’ means, with respect to any qualified trade or business for a taxable year, tangible property of a character subject to the allowance for depreciation under section 167—

“(i) which is held by, and available for use in, the qualified trade or business at the close of the taxable year,

“(ii) which is used at any point during the taxable year in the production of qualified business income, and

“(iii) the depreciable period for which has not ended before the close of the taxable year.

“(B) DEPRECIABLE PERIOD. —The term ‘depreciable period’ means, with respect to qualified property of a taxpayer, the period beginning on the date the property was first placed in service by the taxpayer and ending on the later of—

“(i) the date that is 10 years after such date, or

“(ii) the last day of the last full year in the applicable recovery period that would apply to the property under section 168 (determined without regard to subsection (g) thereof).

“(c) QUALIFIED BUSINESS INCOME. —For purposes of this section—

“(1) IN GENERAL. —The term ‘qualified business income’ means, for any taxable year, the net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business of the taxpayer. Such term shall not include any qualified REIT dividends, qualified cooperative dividends, or qualified publicly traded partnership income.

“(2) CARRYOVER OF LOSSES. —If the net amount of qualified income, gain, deduction, and loss with respect to qualified trades or businesses of the taxpayer for any taxable year is less than zero, such amount shall be treated as a loss from a qualified trade or business in the succeeding taxable year.

“(3) QUALIFIED ITEMS OF INCOME, GAIN, DEDUCTION, AND LOSS. —For purposes of this subsection—

“(A) IN GENERAL. —The term ‘qualified items of income, gain, deduction, and loss’ means items of income, gain, deduction, and loss to the extent such items are—

“(i) effectively connected with the conduct of a trade or business within the United States (within the meaning of section 864(c), determined by substituting ‘qualified trade or business (within the meaning of section 199A)’ for ‘nonresident alien individual or a foreign corporation’ or for ‘a foreign corporation’ each place it appears), and

“(ii) included or allowed in determining taxable income for the taxable year.

“(B) EXCEPTIONS. —The following investment items shall not be taken into account as a qualified item of income, gain, deduction, or loss:

“(i) Any item of short-term capital gain, short-term capital loss, long-term capital gain, or long-term capital loss.

“(ii) Any dividend, income equivalent to a dividend, or payment in lieu of dividends described in section 954(c)(1)(G).

“(iii) Any interest income other than interest income which is properly allocable to a trade or business.

“(iv) Any item of gain or loss described in subparagraph (C) or (D) of section 954(c)(1) (applied by substituting ‘qualified trade or business’ for ‘controlled foreign corporation’).

“(v) Any item of income, gain, deduction, or loss taken into account under section 954(c)(1)(F) (determined without regard to clause (ii) thereof and other than items

attributable to notional principal contracts entered into in transactions qualifying under section 1221(a)(7)).

“(vi) Any amount received from an annuity which is not received in connection with the trade or business.

“(vii) Any item of deduction or loss properly allocable to an amount described in any of the preceding clauses.

“(4) TREATMENT OF REASONABLE COMPENSATION AND GUARANTEED PAYMENTS. —**Qualified business income shall not include**—

“(A) reasonable compensation paid to the taxpayer by any qualified trade or business of the taxpayer for services rendered with respect to the trade or business,

“(B) any guaranteed payment described in section 707(c) paid to a partner for services rendered with respect to the trade or business, and

“(C) to the extent provided in regulations, any payment described in section 707(a) to a partner for services rendered with respect to the trade or business.

“(d) **QUALIFIED TRADE OR BUSINESS.** —For purposes of this section—

“(1) IN GENERAL. —**The term ‘qualified trade or business’ means any trade or business other than**—

“(A) **a specified service trade or business**, or

“(B) the trade or business of performing services as an employee.

“(2) **SPECIFIED SERVICE TRADE OR BUSINESS.** —The term ‘specified service trade or business’ means any trade or business—

“(A) which is described in section 1202(e)(3)(A) (applied without regard to the words ‘engineering, architecture,’) or which would be so described if the term ‘employees or owners’ were substituted for ‘employees’ therein, or

“(B) which involves the performance of services that consist of investing and investment management, trading, or dealing in securities (as defined in section 475(c)(2)), partnership interests, or commodities (as defined in section 475(e)(2)).

“(3) **EXCEPTION FOR SPECIFIED SERVICE BUSINESSES BASED ON TAXPAYER'S INCOME.** —

“(A) IN GENERAL. —If, for any taxable year, the taxable income of any taxpayer is less than the sum of the threshold amount plus \$50,000 (\$100,000 in the case of a joint return), then—

“(i) any specified service trade or business of the taxpayer shall not fail to be treated as a qualified trade or business due to paragraph (1)(A), but

“(ii) only the applicable percentage of qualified items of income, gain, deduction, or loss, and the W-2 wages and the unadjusted basis immediately after acquisition of qualified property, of the taxpayer allocable to such specified service trade or business shall be taken into account in computing the qualified business income, W-2 wages, and the unadjusted basis immediately after acquisition of qualified property of the taxpayer for the taxable year for purposes of applying this section.

“(B) APPLICABLE PERCENTAGE. —For purposes of subparagraph (A), the term ‘applicable percentage’ means, with respect to any taxable year, 100 percent reduced (not below zero) by the percentage equal to the ratio of—

“(i) the taxable income of the taxpayer for the taxable year in excess of the threshold amount, bears to

“(ii) \$50,000 (\$100,000 in the case of a joint return).

“(e) OTHER DEFINITIONS. —For purposes of this section—

“(1) TAXABLE INCOME. —Taxable income shall be computed without regard to the deduction allowable under this section.

“(2) THRESHOLD AMOUNT. —

“(A) IN GENERAL. —**The term ‘threshold amount’ means \$157,500 (200 percent of such amount in the case of a joint return).**

“(B) INFLATION ADJUSTMENT. —In the case of any taxable year beginning after 2018, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2017’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

The amount of any increase under the preceding sentence shall be rounded as provided in section 1(f)(7).

“(3) QUALIFIED REIT DIVIDEND. —The term ‘qualified REIT dividend’ means any dividend from a real estate investment trust received during the taxable year which—

“(A) is not a capital gain dividend, as defined in section 857(b)(3), and

“(B) is not qualified dividend income, as defined in section 1(h)(11).

“(4) QUALIFIED COOPERATIVE DIVIDEND. —The term ‘qualified cooperative dividend’ means any patronage dividend (as defined in section 1388(a)), any per-unit retain allocation (as defined in section 1388(f)), and any qualified written notice of allocation (as defined in section 1388(c)), or any similar amount received from an organization described in subparagraph (B)(ii), which—

“(A) is includible in gross income, and

“(B) is received from—

“(i) an organization or corporation described in section 501(c)(12) or 1381(a), or

“(ii) an organization which is governed under this title by the rules applicable to cooperatives under this title before the enactment of subchapter T.

“(5) QUALIFIED PUBLICLY TRADED PARTNERSHIP INCOME. —The term ‘qualified publicly traded partnership income’ means, with respect to any qualified trade or business of a taxpayer, the sum of—

“(A) the net amount of such taxpayer's allocable share of each qualified item of income, gain, deduction, and loss (as defined in subsection (c)(3) and determined after the application of subsection

(c)(4)) from a publicly traded partnership (as defined in section 7704(a)) which is not treated as a corporation under section 7704(c), plus

“(B) any gain recognized by such taxpayer upon disposition of its interest in such partnership to the extent such gain is treated as an amount realized from the sale or exchange of property other than a capital asset under section 751(a).

“(f) SPECIAL RULES. —

“(1) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS. —

“(A) IN GENERAL. —In the case of a partnership or S corporation—

“(i) this section shall be applied at the partner or shareholder level,

“(ii) each partner or shareholder shall take into account such person's allocable share of each qualified item of income, gain, deduction, and loss, and

“(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W–2 wages and unadjusted basis immediately after acquisition of qualified property for the taxable year in an amount equal to such person's allocable share of the W–2 wages and the unadjusted basis immediately after acquisition of qualified property of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary).

For purposes of clause (iii), a partner's or shareholder's allocable share of W–2 wages shall be determined in the same manner as the partner's or shareholder's allocable share of wage expenses. For purposes of such clause, partner's or shareholder's allocable share of the unadjusted basis immediately after acquisition of qualified property shall be determined in the same manner as the partner's or shareholder's allocable share of depreciation. For purposes of this subparagraph, in the case of an S corporation, an allocable share shall be the shareholder's pro rata share of an item.

“(B) APPLICATION TO TRUSTS AND ESTATES. —Rules similar to the rules under section 199(d)(1)(B)(i) (as in effect on December 1, 2017) for the apportionment of W–2 wages shall apply to the apportionment of W–2 wages and the apportionment of unadjusted basis immediately after acquisition of qualified property under this section.

“(C) TREATMENT OF TRADES OR BUSINESS IN PUERTO RICO. —

“(i) IN GENERAL. —In the case of any taxpayer with qualified business income from sources within the commonwealth of Puerto Rico, if all such income is taxable under section 1 for such taxable year, then for purposes of determining the qualified business income of such taxpayer for such taxable year, the term ‘United States’ shall include the Commonwealth of Puerto Rico.

“(ii) SPECIAL RULE FOR APPLYING LIMIT. —In the case of any taxpayer described in clause (i), the determination of W–2 wages of such taxpayer with respect to any qualified trade or business conducted in Puerto Rico shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services in Puerto Rico.

“(2) COORDINATION WITH MINIMUM TAX. —For purposes of determining alternative minimum taxable income under section 55, qualified business income shall be determined without regard to any adjustments under sections 56 through 59.

“(3) DEDUCTION LIMITED TO INCOME TAXES. —The deduction under subsection (a) shall only be allowed for purposes of this chapter.

“(4) REGULATIONS. —The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section, including regulations—

“(A) for requiring or restricting the allocation of items and wages under this section and such reporting requirements as the Secretary determines appropriate, and

“(B) for the application of this section in the case of tiered entities.

“(g) DEDUCTION ALLOWED TO SPECIFIED AGRICULTURAL OR HORTICULTURAL COOPERATIVES. —

“(1) IN GENERAL. —In the case of any taxable year of a specified agricultural or horticultural cooperative beginning after December 31, 2017, there shall be allowed a deduction in an amount equal to the lesser of—

“(A) 20 percent of the excess (if any) of—

“(i) the gross income of a specified agricultural or horticultural cooperative, over

“(ii) the qualified cooperative dividends (as defined in subsection (e)(4)) paid during the taxable year for the taxable year, or

“(B) the greater of—

“(i) 50 percent of the W–2 wages of the cooperative with respect to its trade or business, or

“(ii) the sum of 25 percent of the W–2 wages of the cooperative with respect to its trade or business, plus 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property of the cooperative.

“(2) LIMITATION. —The amount determined under paragraph (1) shall not exceed the taxable income of the specified agricultural or horticultural for the taxable year.

“(3) SPECIFIED AGRICULTURAL OR HORTICULTURAL COOPERATIVE. —For purposes of this subsection, the term ‘specified agricultural or horticultural cooperative’ means an organization to which part I of subchapter T applies which is engaged in—

“(A) the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product,

“(B) the marketing of agricultural or horticultural products which its patrons have so manufactured, produced, grown, or extracted, or

“(C) the provision of supplies, equipment, or services to farmers or to organizations described in subparagraph (A) or (B).

“(h) ANTI-ABUSE RULES. —THE SECRETARY SHALL—

“(1) apply rules similar to the rules under section 179(d)(2) in order to prevent the manipulation of the depreciable period of qualified property using transactions between related parties, and

“(2) prescribe rules for determining the unadjusted basis immediately after acquisition of qualified property acquired in like-kind exchanges or involuntary conversions.

“(i) Termination. —This section shall not apply to taxable years beginning after December 31, 2025.”.

(b) Treatment Of Deduction In Computing Adjusted Gross And Taxable Income. —

(1) DEDUCTION NOT ALLOWED IN COMPUTING ADJUSTED GROSS INCOME. —Section 62(a) is amended by adding at the end the following new sentence: “The deduction allowed by section 199A shall not be treated as a deduction described in any of the preceding paragraphs of this subsection.”.

(2) DEDUCTION ALLOWED TO NONITEMIZERS. —Section 63(b) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) the deduction provided in section 199A.”.

(3) DEDUCTION ALLOWED TO ITEMIZERS WITHOUT LIMITS ON ITEMIZED DEDUCTIONS. —Section 63(d) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) the deduction provided in section 199A.”.

(4) CONFORMING AMENDMENT. —Section 3402(m)(1) is amended by inserting “and the estimated deduction allowed under section 199A” after “chapter 1”.

(c) ACCURACY-RELATED PENALTY ON DETERMINATION OF APPLICABLE PERCENTAGE. —Section 6662(d)(1) is amended by inserting at the end the following new subparagraph:

“(C) SPECIAL RULE FOR TAXPAYERS CLAIMING SECTION 199A DEDUCTION. —In the case of any taxpayer who claims the deduction allowed under section 199A for the taxable year, subparagraph (A) shall be applied by substituting ‘5 percent’ for ‘10 percent’.”.

(d) CONFORMING AMENDMENTS. —

(1) Section 172(d) is amended by adding at the end the following new paragraph:

“(8) QUALIFIED BUSINESS INCOME DEDUCTION. —The deduction under section 199A shall not be allowed.”.

(2) Section 246(b)(1) is amended by inserting “199A,” before “243(a)(1)”.

(3) Section 613(a) is amended by inserting “and without the deduction under section 199A” after “and without the deduction under section 199”.

(4) Section 613A(d)(1) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B), the following new subparagraph:

“(C) any deduction allowable under section 199A,”.

(5) Section 170(b)(2)(D) is amended by striking “and” in clause (iv), by striking the period at the end of clause (v), and by adding at the end the following new clause:

“(vi) section 199A(g).”.

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end the following new item:

“Sec. 199A. Qualified business income.”.

(e) EFFECTIVE DATE. —The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

26 U.S. Code § 707 - TRANSACTIONS BETWEEN PARTNER AND PARTNERSHIP

(a) PARTNER NOT ACTING IN CAPACITY AS PARTNER

(1) IN GENERAL

If a partner engages in a transaction with a partnership other than in his capacity as a member of such partnership, the transaction shall, except as otherwise provided in this section, be considered as occurring between the partnership and one who is not a partner.

(2) TREATMENT OF PAYMENTS TO PARTNERS FOR PROPERTY OR SERVICES

Under regulations prescribed by the Secretary—

(A) Treatment of certain services and transfers of property If—

(i) a partner performs services for a partnership or transfers property to a partnership,

(ii) there is a related direct or indirect allocation and distribution to such partner, and

(iii) the performance of such services (or such transfer) and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in his capacity as a member of the partnership,

such allocation and distribution shall be treated as a transaction described in paragraph (1).

(B) Treatment of certain property transfers If—

(i) there is a direct or indirect transfer of money or other property by a partner to a partnership,

(ii) there is a related direct or indirect transfer of money or other property by the partnership to such partner (or another partner), and

(iii) the transfers described in clauses (i) and (ii), when viewed together, are properly characterized as a sale or exchange of property,

such transfers shall be treated either as a transaction described in paragraph (1) or as a transaction between 2 or more partners acting other than in their capacity as members of the partnership.

(b) CERTAIN SALES OR EXCHANGES OF PROPERTY WITH RESPECT TO CONTROLLED PARTNERSHIPS

(1) LOSSES DISALLOWED No deduction shall be allowed in respect of losses from sales or exchanges of property (other than an interest in the partnership), directly or indirectly, between—

(A) a partnership and a person owning, directly or indirectly, more than 50 percent of the capital interest, or the profits interest, in such partnership, or

(B) two partnerships in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

In the case of a subsequent sale or exchange by a transferee described in this paragraph, section 267(d) shall be applicable as if the loss were disallowed under section 267(a)(1). For purposes of section 267(a)(2), partnerships described in subparagraph (B) of this paragraph shall be treated as persons specified in section 267(b).

(2) GAINS TREATED AS ORDINARY INCOME In the case of a sale or exchange, directly or indirectly, of property, which in the hands of the transferee, is property other than a capital asset as defined in section 1221—

(A) between a partnership and a person owning, directly or indirectly, more than 50 percent of the capital interest, or profits interest, in such partnership, or

(B) between two partnerships in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests, any gain recognized shall be considered as ordinary income.

(3) OWNERSHIP OF A CAPITAL OR PROFITS INTEREST

For purposes of paragraphs (1) and (2) of this subsection, the ownership of a capital or profits interest in a partnership shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) other than paragraph (3) of such section.

(c) GUARANTEED PAYMENTS

To the extent determined without regard to the income of the partnership, payments to a partner for services or the use of capital shall be considered as made to one who is not a member of the partnership, but only for the purposes of section 61(a) (relating to gross income) and, subject to section 263, for purposes of section 162(a) (relating to trade or business expenses).

(Aug. 16, 1954, ch. 736, 68A Stat. 243; Pub. L. 94-455, title II, § 213(b)(3), title XIX, § 1901(b)(3)(C), Oct. 4, 1976, 90 Stat. 1547, 1792; Pub. L. 98-369, div. A, title I, § 73(a), July 18, 1984, 98 Stat. 591; Pub. L. 99-514, title VI, § 642(a)(2), title XVIII, §§ 1805(b), 1812(c)(3)(A), (B), Oct. 22, 1986, 100 Stat. 2284, 2810, 2834.)

26 U.S. Code § 1202 - PARTIAL EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK

(a) EXCLUSION

(1) IN GENERAL

In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

* * *

(e) ACTIVE BUSINESS REQUIREMENT

* * *

(A) any trade or business involving the performance of services in the fields of health, law, . . . , accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

* * *

(Added Pub. L. 103–66, title XIII, § 13113(a), Aug. 10, 1993, 107 Stat. 422; amended Pub. L. 104–188, title I, § 1621(b)(7), Aug. 20, 1996, 110 Stat. 1867; Pub. L. 106–554, § 1(a)(7) [title I, § 117(a), (b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–604; Pub. L. 108–357, title VIII, § 835(b)(9), Oct. 22, 2004, 118 Stat. 1594; Pub. L. 111–5, div. B, title I, § 1241(a), Feb. 17, 2009, 123 Stat. 342; Pub. L. 111–240, title II, § 2011(a), (b), Sept. 27, 2010, 124 Stat. 2554; Pub. L. 111–312, title VII, §§ 753(b), 760(a), Dec. 17, 2010, 124 Stat. 3321, 3323; Pub. L. 112–240, title III, §§ 324(a), (b), 327(b), Jan. 2, 2013, 126 Stat. 2333, 2334; Pub. L. 113–295, div. A, title I, § 136(a), Dec. 19, 2014, 128 Stat. 4019; Pub. L. 114–113, div. Q, title I, § 126(a), Dec. 18, 2015, 129 Stat. 3054.)