



Jun 17, 2019

Categories:

[Blogs](#)

[Tax Law Defined™ Blog](#)

New Regulations Provide Clarity About “Specified Service Trade or Business” Categories Under Section 199A

Under IRC § 199A, some businesses that are not C corporations can claim an income tax deduction equal to 20% of their combined qualified business income, subject to certain adjustments and limitations.

However, the IRC § 199A is not available to or is limited for certain professional and service businesses. For married taxpayers filing jointly whose joint taxable income exceeds \$415,000, no IRC § 199A deduction is available if the business falls within the scope of a “specified service trade or business” (“SSTB”). Because IRC § 199A itself contained only vague and broad categories of SSTBs, taxpayers and tax practitioners had difficulty determining if a business is a SSTB under IRC § 199A.

IRC § 199A(d)(2)(A)–(B) categorizes SSTBs as trades or businesses involving the performance of services in the following fields: health; law; accounting; actuarial science; performing arts; consulting; athletics; financial services; brokerage services; 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; investing and investment management; and trading or dealing in securities, partnership interests, or commodities. In the absence of further explanation, the meaning of these terms was unclear. For example, does “health” include a gym or spa? Or does “athletics” include ownership of a sports team or providing lessons? What if a business includes both an SSTB activity and a non-SSTB activity? And what is meant by “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”? Does this category involve any trade or business that primarily requires skilled workers? Fortunately, recently finalized Treas. Reg. § 1.199A-5 addresses many of the issues identified in this paragraph by providing a specific description of the meaning of

each listed category.

Treas. Reg. § 1.199A-5 provides welcomed clarity about the specific service businesses that are classified as SSTBs under IRC § 199A. This post explains the definition of each SSTB category so that a business owner can determine whether their business is a service business falling within any of the SSTB categories.

Meaning of services performed in the fields of health, law, accounting or actuarial science.

Under the new regulations, “health,” “law,” “accounting,” and “actuarial science” is limited to the performance of services by health, law, accounting, and actuarial professionals in their professional capacities. Based on this defined scope, medical practices, dental practices, veterinary practices, law firms, accounting firms, actuarial firms, and similar professionals performing services in their capacity as such are SSTBs. Specifically excluded under the new regulations are service businesses that are ancillary to such SSTBs but do not actually provide professional services. The chart below provides examples of service business that are SSTBs and businesses that are not.

SSTB	Non-SSTB
Surgical practice	Surgical center that does not charge for services of surgeons, nurses, etc.
Family medicine practice	Senior citizen residential facility that contracts with healthcare organizations to provide medical services.
Veterinary practice	Animal trainer or groomer
Pharmacy practice	Medical testing business
Accounting firm	Payment processing service
Physical therapist practice	Gym or health spa

Meaning of services performed in the field of performing arts.

Under the new regulations, “performing arts” is limited to the performance of services by individuals who participate in the creation of performing arts, such as actors, singers, musicians, entertainers, directors, etc. The regulations specifically provide that a performing arts production company (e.g., movie production) will fall within the meaning of performing arts. Ancillary services to the performing arts field, such as the maintenance and operation of equipment or facilities for use in the performing arts or the broadcast of performing arts to the public are not included.

Meaning of services performed in the field of consulting.

Under the new regulations, the meaning of “consulting” is limited to the provision of professional advice and counsel to assist the client in achieving goals and solving problems. If a service provider is compensated based on the completion of a transaction (e.g., commission) rather than for the advice and counsel regardless of the result of a transaction, the service would tend to be outside the meaning of consulting for IRC § 199A purposes. Additionally, the regulations provide that services within the fields of architecture and engineering are not treated as consulting services. The chart below provides some examples of consulting services

SSTB

Lobbyist

IT consultant

Landscape designer

Non-SSTB

Commissioned based government sales representative

Software developer/licensor

Landscaping services

Meaning of services performed in the field of athletics.

Similar to performing arts, “athletics” means the performance of services by individuals who participate in athletic competition (e.g., athletes, coaches, and team managers). The regulations specifically provide that ownership of a sports team will fall within the meaning of athletics. Again, services ancillary to athletic competition, such as the maintenance and operation of equipment or facilities for use in athletic events and the broadcast of athletic events to the public, do not fall within the scope of athletics for IRC § 199A purposes.

Meaning of services performed in the field of financial services, brokerage services, investing and investing management.

The regulations provide that the meaning of “financial services” includes managing wealth, advising clients with respect to finances, developing retirement plans, developing wealth transition plans, the provision of advisory and other similar services regarding valuations, mergers, acquisitions, dispositions, restructurings (including in title 11 of the Code or similar cases), and raising financial capital by underwriting, or acting as a client’s agent in the issuance of securities and similar services. Falling within the scope of a SSTB are services provided by financial advisors, investment bankers, wealth planners, retirement advisors, and other similar professionals. The regulations specifically exclude from the scope of “financial services” traditional banking services such as the taking of deposits or the making of loans. But arranging lending transactions between a lender and a borrower is a SSTB.

The regulations provide that “brokerage services” encompasses any services where a person arranges securities transactions between a buyer and a seller for a commission or fee, such as stockbrokers. The regulations specifically exclude real estate agents and brokers, and insurance agents and brokers from the definition of brokerage services. The regulations define “investing” and “investment management” as any service where a person provides investing, asset management or investment management services, including the providing of advice with respect to the buying and selling of investments, for the receipt of fees for such services. The

regulations specifically exclude real estate management from the scope of “investment management”.

Meaning of trading and dealing services.

The regulations limit the scope of “trading” to trading in securities, commodities, or partnership interests. This includes trading in such items for a person’s own account, the account of others or a combination of both. The regulations provide that the facts and circumstances of an activity (e.g., regularity, type of profit, etc.) will determine if the person is in the trade or business of trading securities, commodities or partnership interests.

The regulations limit the scope of “dealing” to dealing in securities, commodities, or partnership interests. The regulations further flesh out the definition of dealing by noting that the scope of the activity is limited to regularly purchasing securities, commodities and partnership interests from and selling of same to customers in the ordinary course of a trade or business. The regulations also define dealing as regularly offering to enter into, assume, offset, assign, or otherwise terminate positions in securities, commodities and partnership interests with customers in the ordinary course of a trade or business. The regulations specifically exclude those services relating to the origination of a loan from the meaning of dealing. The regulations also provide that gains and losses from the active conduct of the trade or business of being a producer, processor, merchant or handler of commodities are excluded from the “commodities” definition for the meaning of dealing.

The scope of SSTB status where the test is whether the principal asset of a trade or business is the reputation or skill of one or more employees or owners.

The regulations provide that the term “any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners” means any trade or business that consists of receiving fees, compensation, or other

income for the following: endorsing products or services; licensing the use of an individual's image or any other item associated with the individual's identity; and, appearing at an event or on radio, television, or other media format. The regulations significantly narrowed the possible scope of this category for IRC § 199A purposes.

Safe Harbor – The De Minimis Rule.

Many businesses may have a combination of non-SSTB business lines and SSTB business lines within the same business. If a trade or business has more than one line of business, the new regulations provide a safe harbor to ensure that one SSTB business line will not taint the entire trade or business. The regulations provide that a trade or business with annual gross receipts of \$25 million or less is not a SSTB if less than 10% of the gross receipts of the trade or business are attributable to the performance of services in a SSTB. For a trade or business with annual gross receipts exceeding \$25 million, the business is not a SSTB if less than 5% of the gross receipts of the trade or business are attributable to the performance of services in a SSTB. If a business contains SSTB business lines that exceed the 10% or 5% thresholds, structuring and planning opportunities may be available to ensure that the entire business is not excluded from the benefit of IRC § 199A.

If you need assistance or would like additional information, contact any other member of the [Tax Law Practice Group](#) for [Tax Law Defined™](#).

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.