



# Washington Tax Brief

January 24, 2019

# More Helpful Hints



## Adjust your volume

- Be sure your computer's sound is turned on.
- Click this blue button. Slide the control to the left or right to fit your needs.



## Ask your questions

- Feel free to submit content-related questions to the speaker by clicking this red button.
- Someone is available to assist with your technology and CPE-related questions.



## Download your materials

- Access today's slides and learning materials by clicking this green 'Resources' button at any time during this presentation.
- If you need help accessing these materials, send a message through the Q&A application.



# About the Washington Tax Brief

## Webcast Series to Update You On:

- The regulatory and political environment for tax issues
- AICPA's advocacy efforts to:
  - protect your professional interests
  - support sound tax policy
  - promote effective tax administration
- Open to All AICPA Members
- Open to All State Society Staff and Committee Members



# Today's Presenters



**Kristin Esposito, CPA, MST**  
Senior Manager  
AICPA Tax Policy & Advocacy



**Jonathan Horn, CPA, CGMA**  
Senior Manager  
AICPA Tax Policy & Advocacy



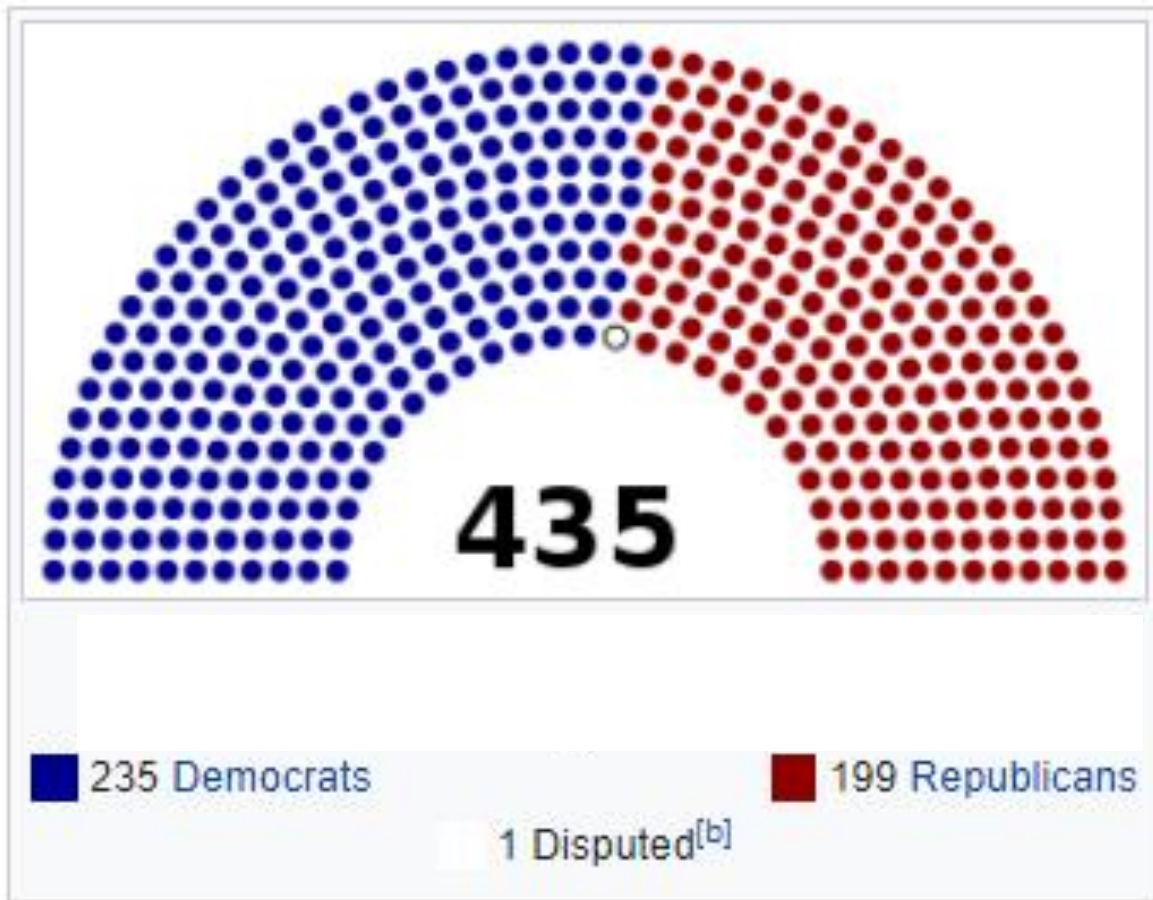
**Lakecia Foster Stickney**  
Director  
Congressional & Political Affairs

# Today's Agenda

- 01** **Legislative Outlook**
- 02** **Filing Season Update**
- 03** **Status of Tax Reform Guidance**
- 04** **Interest Expense Limitations**
- 05** **Section 199A (QBI) Final Regulations**
- 06** **Other Hot Topics**
- 07** **Q & A**

# Legislative Outlook





# House of Representatives

116<sup>th</sup> Congress

# House Leadership

## Speaker



Rep. Nancy Pelosi  
(D-CA)

## Minority Leader



Rep. Kevin McCarthy  
(R-CA)



# House Ways and Means Committee

## Chairman

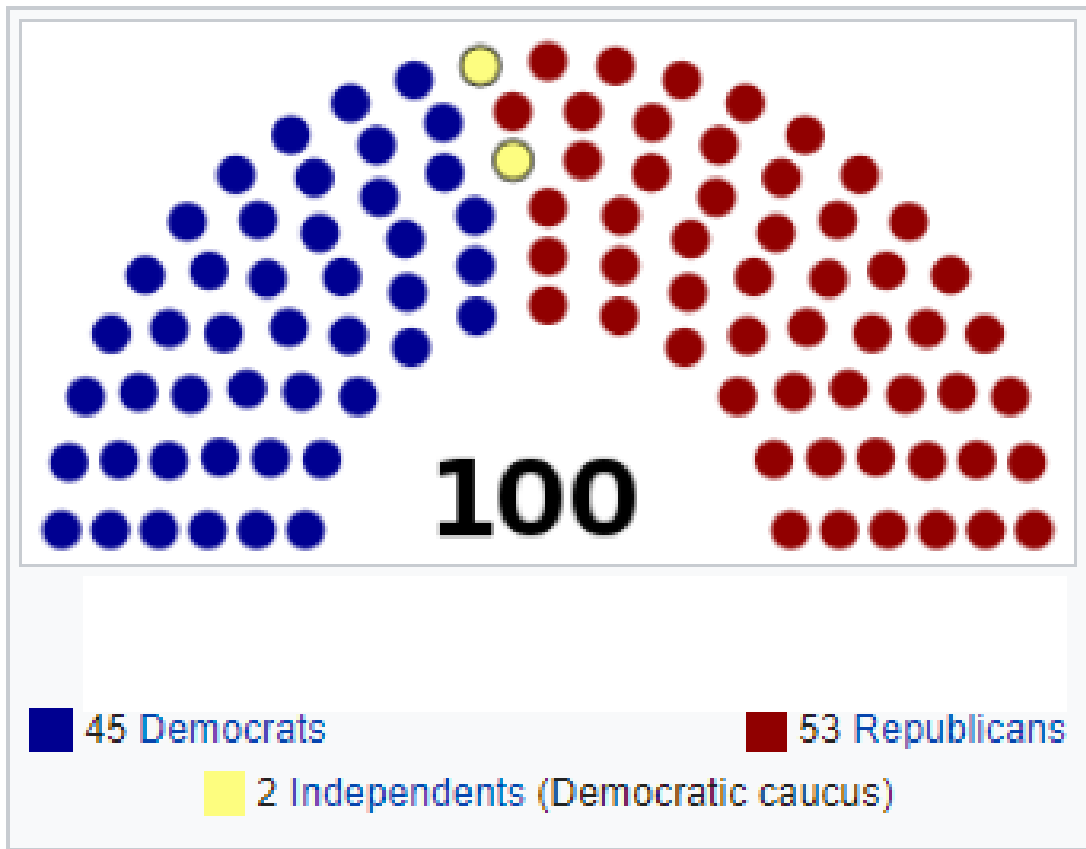


**Rep. Richard Neal  
(D-MA)**

## Ranking Member



**Rep. Kevin Brady  
(R-TX)**



**Senate**  
**116<sup>th</sup> Congress**

# Senate Leadership

## Majority Leader



**Sen. Mitch McConnell  
(R-KY)**

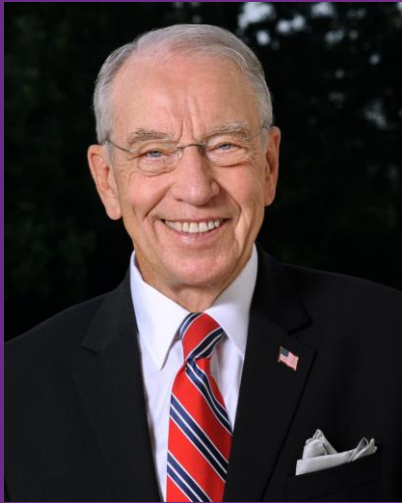
## Minority Leader



**Sen. Chuck Schumer  
(D-NY)**

# Senate Finance Committee

## Chairman



**Sen. Charles Grassley  
(R-IA)**

## Ranking Member



**Sen. Ron Wyden  
(D-OR)**

# Legislative Outlook



# Other Potential Legislative Issues

**Mobile Workforce**



**Federal Response to Wayfair**



**Arbitration**



**Professional Licensing**





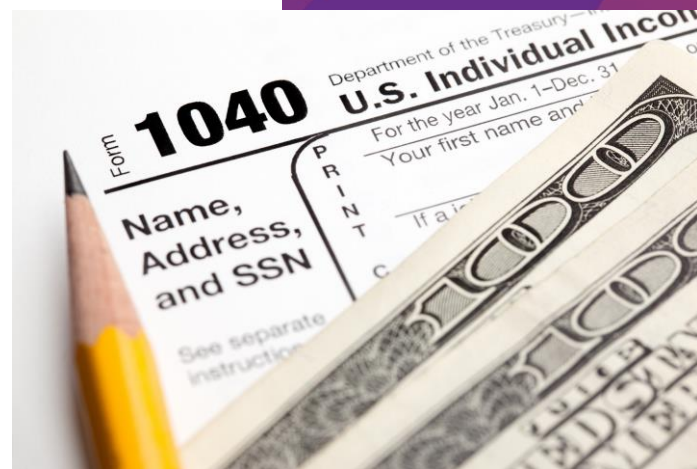
Filing Season  
Update

UNITED STATES

Internal  
Revenue  
Service  
Building

# 2019 Tax Return Filing Season

- “IRS employees have been hard at work over the past year to implement the biggest tax law changes the nation has seen in more than 30 years.”
  - IRS Commissioner Charles P. Rettig
- Filing Season begins *January 28, 2019*
- Filing Deadlines:
  - Partnerships & S Corporations – *March 15, 2019*
  - Individuals & C Corporations – *April 15, 2019*
- Refunds will be issued on a timely basis despite government shutdown





# Estimated Tax Penalty Relief

- Rules Prior to Relief from Notice 2019-11 Issued January 16th
  - Required annual estimated payments made on or before January 15, 2019 (withholding or quarterly estimated payments)  $\geq$  90% of tax shown on current year return; or
  - 100% of preceding year tax (110% if AGI > \$150,000)
- Additional Relief from Notice
  - Required annual estimated payments made on or before January 15, 2019 (via withholding or quarterly estimated payments)  $\geq$  **85% of tax shown on return for 2018 tax year**
  - Request Waiver of penalty by Filing Form 2210, *Underpayment of Estimated Tax by Individuals, Estates or Trusts* with 2018 Return

**Form 2210** Underpayment of Estimated Tax by Individuals, Estates, and Trusts  
Department of the Treasury Internal Revenue Service

**Do You Have To File Form 2210?**

Complete lines 1 through 7 below. Is line 7 less than \$1,000?

- Yes** → Do not file Form 2210. You do not owe a penalty.
- No** → Complete lines 8 and 9 below. Is line 8 equal to or more than line 9?

Complete lines 8 and 9 below. Is line 8 equal to or more than line 9?

- Yes** → You do not owe a penalty. Do not file Form 2210. (But if box E in Part II applies, you must file Form 2210.)
- No** → You may owe a penalty. Does any box in Part II below apply?

You may owe a penalty. Does any box in Part II below apply?

- Yes** → You must file Form 2210. Does box B, C, or D apply? (If Yes, you must figure your penalty.)
- No** → You are not required to figure your penalty because the IRS will figure it and send you a bill for any amount.

# Key “Non-Extender” Provisions

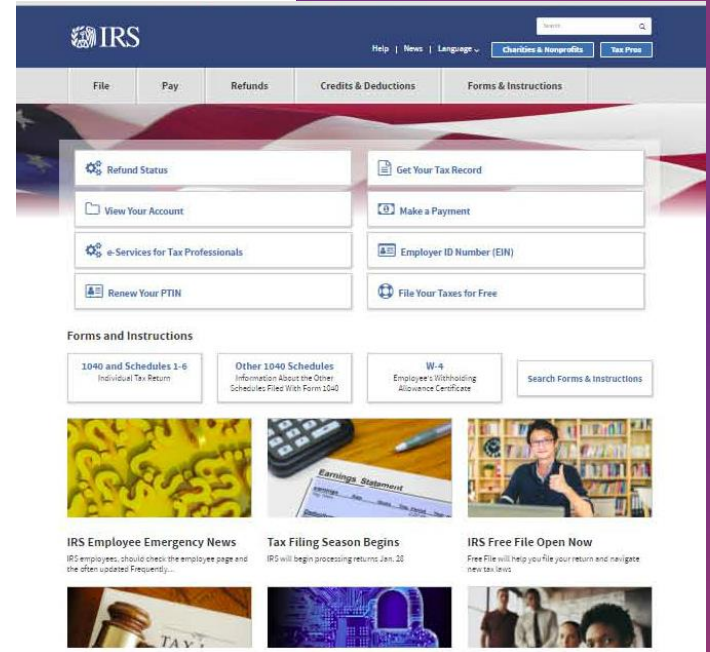
- Exclusion from gross income of discharge of indebtedness on principal residence
- Deduction for qualified mortgage insurance
- Above the line deduction for qualified tuition and related expenses
- Several energy-related provisions (mostly business)
- Empowerment zone tax incentives
- Special recovery periods for race horses and motorsports complexes



6782.22		
5125.08	7825.66	
3285.20	3285.20	
6682.07	6055.17	7581.21
5125.08		
6782.22	7825.66	6055.17

# IRS Services During Shutdown

- Return processing and refund issuance
- Partial call center staffing
  - Expect extensive hold times, including on PPS
- National Taxpayer Advocate Service (staffing level unknown)
- No audit activity, but automated notices will be sent
- No collection activity, but automated notices will be sent
- “Limited” ability to respond to correspondence
- No PLRs or determination letters (pension plans, tax-exempt status)
- TCJA Implementation will continue (via separate funding stream)





# Status of Tax Reform Guidance

# AICPA Activities on Tax Reform Implementation

- Submitted over 50 comment letters to IRS, Treasury & Congress
- Provided extensive recommendations
- Testified on important issues
- Held meetings and conversations with IRS and Treasury
- Built coalitions with similar organizations
- Partnered with state CPA societies



# IRS Activities to Date

Updated over 120  
Computer Systems

Released over 450 New  
or Revised Forms,  
Instructions, and  
Publications

Issued over 100 Formal  
and Informal Sets of  
Guidance (Including  
Proposed Regulations,  
Notices, Revenue  
Procedures and FAQs)

# International Tax Provisions

- **Section 965 Transition Tax**
  - Final Regulations released on January 15<sup>th</sup>
  - Refund of overpayments remains an open issue
  - Mostly minor adjustments made to proposed regulations from last August
- **Global Intangible Low-Taxed Income (a/k/a GILTI)**
  - Proposed regulations issued on September 13, 2018
  - AICPA commented on January 10<sup>th</sup>



# International Tax Provisions

- **Foreign Tax Credits**
  - Proposed regulations issued on November 28, 2018
- **Base Erosion Anti-Abuse Tax (BEAT)**
  - Proposed regulations issued on December 13, 2018
- **Previously Tax Earnings & Profits**
  - Notice 2019-01 issued on December 14, 2018
- **Hybrid Arrangements**
  - Proposed regulations issued on December 28, 2018





# Key IRS Guidance Released

- Section 199A – Qualified Business Income
- Bonus Depreciation – Section 168(k)
- State and Local Tax Credits for Charitable Contributions
- Small Business Accounting Methods
- Section 162(m) – Executive Compensation
- Moving Expense Reimbursements
- Qualified Opportunity Zones
- Business Meals & Entertainment

INTERNATIONAL  
REVENUE  
SERVICE

# Key IRS Guidance Released

- Section 163(j) Interest Expense Limitation
- Unrelated Business Taxable Income – Silo Rules
- Hardship distributions related to casualty losses
- Parking Fringe Benefits
- Gift Tax Exemption
- Employer Credit for Paid Family and Medical Leave
- Qualifying Relative – Dependent Tax Credit/HOH status
- Section 4960 – Executive Compensation Related to Exempt Organizations

INTERNAL  
REVENUE  
SERVICE



A photograph of two women in an office setting. The woman on the left is wearing glasses and a light blue striped shirt, looking down at a document. The woman on the right is wearing a blue shirt and a grey vest, holding a yellow pencil and pointing at a document on a clipboard. They are surrounded by papers, a calculator, and a clock on the wall in the background.

# Business Interest Expense Limitations

# Section 163(j) Interest Expense Limitations – The Basics

- The amount allowed as a deduction for business interest expense is limited to the sum of:
    - Business interest income for the taxable year
    - 30% of adjusted taxable income for the year
    - Floor plan financing interest for the taxable year
  - Disallowed business interest can be carried forward and treated as business interest paid or accrued in the succeeding year
- 



# Business Interest Expense Limitations

- Notice 2018-28 Released April 2018 Provided Initial Guidance
  - AICPA Commented on July 9, 2018
- Proposed Regulations Released November 26, 2018
- Highlights of Proposed Regulation Pain Points
  - Expanded Definition of Interest
  - New Inventory Rule
  - Definition of Tax Shelter
  - Treatment of Tiered Partnerships Not Addressed





Section 199A  
(QBI) – Final  
Regulations

# Section 199A - Qualified Business Income

- On January 18<sup>th</sup>, IRS issued a set of guidance consisting of:
  - Final regulations for Section 199A
  - Proposed regulations on additional Section 199A issues (REITs, RICs, trusts, suspended losses)
  - Revenue Procedure 2019-11 covering calculation of eligible W-2 wages
  - Notice 2019-07 providing a safe harbor for rental real estate



# Safe Harbor for Rental Real Estate

- Concept of a Rental Real Estate Enterprise (RREE)
  - Consists of one or more properties
  - Can not mix residential and commercial real estate in same RREE
  - Available to individuals and passthrough entities
- Requirements for RREE to meet safe harbor and be treated as trade or business for 199A purposes only
  - Separate books and records
  - 250 or more hours of rental services performed per year
    - Before 1/1/23 must meet each year
    - After 12/31/22 must meet in 3 of 5 consecutive years
  - Maintain contemporaneous and detailed time records
    - Applies starting 1/1/19
- Triple Net Lease properties are NOT eligible for safe harbor



# Safe Harbor for Rental Real Estate

- Definition of eligible rental services:
  - *“Rental services for purpose of this revenue procedure include: (i) advertising to rent or lease the real estate; (ii) negotiating and executing leases; (iii) verifying information contained in prospective tenant applications; (iv) collection of rent; (v) daily operation, maintenance, and repair of the property; (vi) management of the real estate; (vii) purchase of materials; and (viii) supervision of employees and independent contractors. Rental services may be performed by owners or by employees, agents, and/or independent contractors of the owners. The term rental services does not include financial or investment management activities, such as arranging financing; procuring property; studying and reviewing financial statements or reports on operations; planning, managing, or constructing long-term capital improvements; or hours spent traveling to and from the real estate.”*

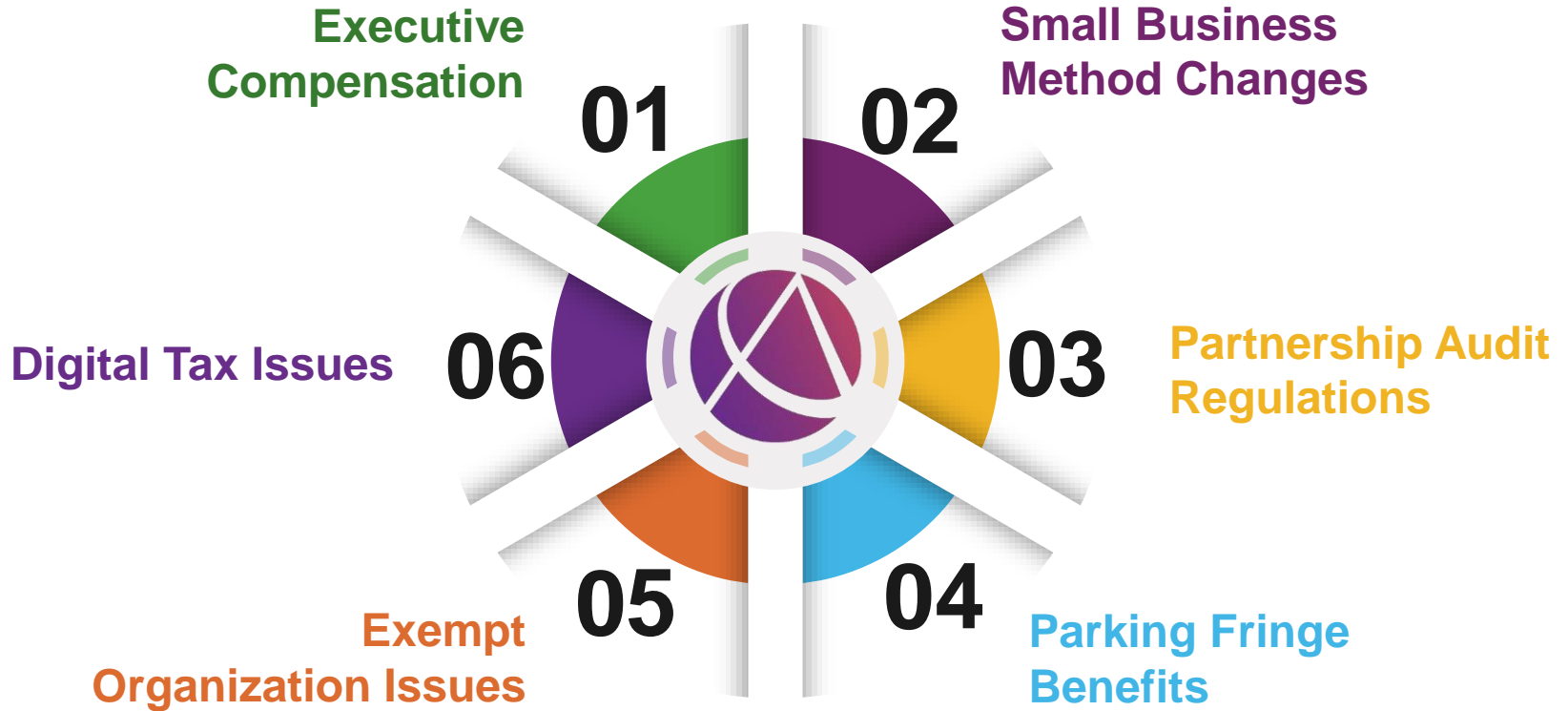


# Highlights of Final 199A Regulations

- Aggregation of multiple trades or businesses allowed at the Relevant Passthrough Entity (RPE) level
- Use of attribution rules under sections 267(b) and 707(b) for aggregation
- Pro-rate approach for services provided by a non-SSTB to a SSTB which is under common control
- Ordering rules for application of various limitations (sections 465, 469, 704, 1366)
- Ability to treat excess 743(b) adjustments as UBIA



# Other Hot Topics



# QUESTIONS



[AICPA Tax Policy and Advocacy - Website](#)

[AICPA Tax Advocacy Comment Letters - Website](#)

[AICPA Tax Practitioner LinkedIn Group](#)



# Tax reform is here. So are we.

The latest news, resources, FAQs, advocacy, videos and learning in one place.

[aicpa.org/taxreform](https://aicpa.org/taxreform)

## Tax Reform Resource Center

The AICPA Tax Reform Resource Center is your home for comprehensive coverage on tax reform. This page is your go-to for news, resources, videos, podcasts, learning, and AICPA advocacy positions. Bookmark this page and visit often for updates.

### Thought Leadership



#### AICPA Identifies Areas Requiring Guidance

The AICPA requested immediate guidance on the Sec. 199A deduction for qualified business income and recommended that Congress address technical corrections on various provisions.

### Resource



#### New Resources Available for Download

Download the Sec. 199A Flowchart to help with the qualified business income deduction. Also, check out other resources available: Tax Reform Changes for Individuals and Businesses, Tax Reform Snapshot for clients, and presentations for Individuals and Businesses.

### Events



#### Exclusive Tax Reform Webcasts

Get up to speed on trending tax reform issues in individual tax planning, corporations and pass-throughs, the Sec. 199A deduction, entity selection, tax planning with clients and international business.



# Tax season 2019

## Upcoming Tax Reform Webcasts



Date	Start Time	Title	CPE
2/5/19	9:00 AM	<u>Annual Tax Update: Individuals and Sole Proprietors</u>	8
2/8/19	1:00 PM	<u>Tax Reform: New Guidance on Interest Deduction Limitation Under Section 163 (j)</u>	2
2/11/19	1:00 PM	<u>The New Form 1040 and Schedules: Tips and Caveats</u>	2
2/12/19	1:00 PM	<u>Tax Reform Update – Corporations and Pass-Through Entities</u>	4
2/18/19	1:00 PM	<u>Tax Reform: Overview of Section 199A</u>	2

Visit [AICPAstore.com/tax](https://www.aicpa.org/store/tax) for more details.



ENGAGE 2019

# Where your quest meets direction

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## AICPA Washington Tax Brief

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June 6, 2019



# Thank you