



TaxNewsFlash

Cooperatives

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Final regulations: Domestic production activities deduction for agricultural, horticultural cooperatives (pending OIRA review)

OMB's Office of Information and Regulatory Affairs (OIRA) reports that it has received for review from the U.S. Treasury Department, final regulations relating to application of the domestic production activities deduction for specified agricultural or horticultural cooperatives.

Background

As enacted by the 2017 tax law known as the "Tax Cuts and Jobs Act" (TCJA) (Pub. L. No. 115-97), section 199A generally provides a deduction for qualifying income of certain noncorporate owners of some pass-through entities and sole proprietorships. The Consolidated Appropriations Act attempted to address certain concerns raised within the agricultural industry, and (effective for tax years beginning after December 31, 2017) section 199A was modified to:

- Restore prior-law section 199 treatment for specified agricultural and horticultural cooperatives under new section 199A(g)
- Allow eligible patrons to claim a deduction passed through from a specified agricultural and horticultural cooperative
- Revise the patron-level deduction to 20% of taxable income or qualified business income (in line with all other non-corporate taxpayers), with limitations for patrons (e.g., farmers) with high taxable incomes or capital gains, and further modifications for patrons who enter into transactions with a cooperative

Proposed regulations in June 2019 provided guidance to implement the statutory revisions. The proposed regulations (REG-118425-18) were published in the Federal Register on June 19, 2019. Read a discussion about the proposed regulations in [TaxNewsFlash](#)

Final regulations pending OIRA review

Treasury regulations that are identified as “major” regulations are subject to review by OMB’s OIRA before being issued, pursuant to Executive Order 13771.

The final regulations were received for OIRA review on May 18, 2020, and are listed on the OIRA website as:

- **RIN: 1545-BO90:** *Domestic production activities deduction for specified agricultural or horticultural cooperatives [TCJA]*

For more information, contact KPMG’s National Director of Cooperative Tax Services:

David Antoni | +1 (267) 256-1627 | dantoni@kpmg.com

Or Associate National Director of KPMG’s Cooperative Tax Services:

Brett Huston | +1 (916) 554-1654 | bhuston@kpmg.com

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