



# TaxNewsFlash

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## U.S. Tax Court: Pre-TCJA section 199 deduction claimed for processed seismic data

The U.S. Tax Court today released an opinion holding that the taxpayer's gross receipts from the leasing of processed marine seismic data during 2008 were not eligible for the then-available deduction under section 199(c)(5).

The case is: *TGS-NOPEC Geophysical Co. v. Commissioner*, 155 T.C. No. 3 (August 26, 2020). Read the Tax Court's [opinion](#) [PDF 150 KB]

### Summary

The taxpayer was engaged in the business of acquiring, processing, and licensing marine seismic data, and during 2008 earned revenue by licensing the processed seismic data to companies in the oil and gas industry.

The taxpayer claimed on its Form 1120, *U.S. Corporation Income Tax Return*, for 2008, a domestic production activities deduction (DPAD) under section 199 of approximately \$1.95 million on the basis of domestic production gross receipts (DPGR) of \$74 million. [Section 199 was repealed for tax years beginning after December 31, 2017, by the 2017 tax law (Pub. L. No. 115-97) or the law that is often referred to as the "Tax Cuts and Jobs Act" (TCJA).]

The IRS disallowed the taxpayer's claimed deduction under section 199 for the 2008 tax year based on a determination that the gross receipts from the leasing of processed marine seismic data were not considered to be eligible DPGR.

The Tax Court today issued an opinion agreeing with the IRS that the taxpayer's processed marine seismic data was not qualifying production property within the meaning of section 199(c)(5) because it was neither tangible personal property nor a sound recording.

The Tax Court further held that:

- The taxpayer's processing of marine seismic data constituted engineering services performed in the United States with respect to the construction of real property under section 199(c)(4), but that

the gross receipts from such services were DPGR only to the extent that such construction activities are within the United States.

- To the extent that the taxpayer received gross receipts from its parent company for processing services of its parent's data for the parent's clients, that revenue did not constitute DPGR.

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