

What is a Specified Service Trade or Business for Section 199A

Whether a qualified trade or business is a Specified Service Trade or Business (SSTB) is a key element to the operation of the new passthrough tax deduction. Depending on a taxpayer’s taxable income, the qualified business income (QBI) from an SSTB may not be eligible for any deduction solely because it is an SSTB.

Section 199A defines an SSTB by reference to the provision of services in certain identified fields. The IRS provided guidance as to what activities will constitute an SSTB in proposed regulations released in August 2018.¹ Until final regulations are released, taxpayers can rely on the guidance provided by the proposed regulations.

LISTED SSTB	DEFINED AS	SPECIFICALLY EXCLUDES
Health	The provision of medical services by individuals such as physicians, pharmacists, nurses, dentists, veterinarians, physical therapists, psychologists and other similar healthcare professionals performing services in their capacity as such who provide medical services directly to a patient.	Services that don't directly relate to a medical services field. Including the operation of health clubs or health spas, payment processing, or the research, testing, and manufacture and/or sales of pharmaceuticals or medical devices.
Law	The performance of services by individuals such as lawyers, paralegals, legal arbitrators, mediators, and similar professionals performing services in their capacity as such.	The provisions of services that do not require skills unique to the field of law, such as the provision of services by printers, delivery services, or stenography services.
Accounting	The provision of services by individuals such as accountants, enrolled agents, return preparers, financial auditors, and similar professionals performing services in their capacity as such. Includes tax return and bookkeeping services.	

¹ 83 F.R. 40884 (Aug. 16, 2018).

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Actuarial science	The provision of services by individuals such as actuaries and similar professionals performing services in their capacity as such.	The provision of services by analysts, economists, mathematicians, and statisticians not engaged in analyzing or assessing the financial costs of risk or uncertainty of events.
Performing arts	The performance of services by individuals who participate in the creation of performing arts, such as actors, singers, musicians, entertainers, directors, and similar professionals performing services in their capacity as such.	The provision of services that do not require skills unique to the creation of performing arts, such as the maintenance and operation of equipment or facilities for use in the performing arts. Also, does not include the provision of services by persons who broadcast or otherwise disseminate video or audio of performing arts to the public.
Consulting	The provision of professional advice and counsel to clients to assist the client in achieving goals and solving problems. Includes providing advice and counsel regarding advocacy with the intention of influencing decisions made by a government or governmental agency and all attempts to influence legislators and other government officials on behalf of a client by lobbyists and other similar provisions performing services in their capacity as such.	The performance of services other than advice and counsel, such as sales or economically similar services or the provision of training and educational courses. The performance of services embedded in, or ancillary to, the sale of goods or performance of services on behalf of a trade or business that is not an SSTB if there is no separate payment for the consulting services.
Athletics	The performance of services by individuals who participate in athletic competition such as athletes, coaches, and team managers in sports such as baseball, basketball, football, soccer, hockey, martial arts, boxing, bowling, tennis, golf, skiing, snowboarding, track and field, billiards, and racing.	The provision of services that do not require skills unique to athletic competition, such as the maintenance and operation of equipment or facilities for use in athletic events. The provision of services by persons who broadcast or otherwise disseminate video or audio of athletic events to the public.

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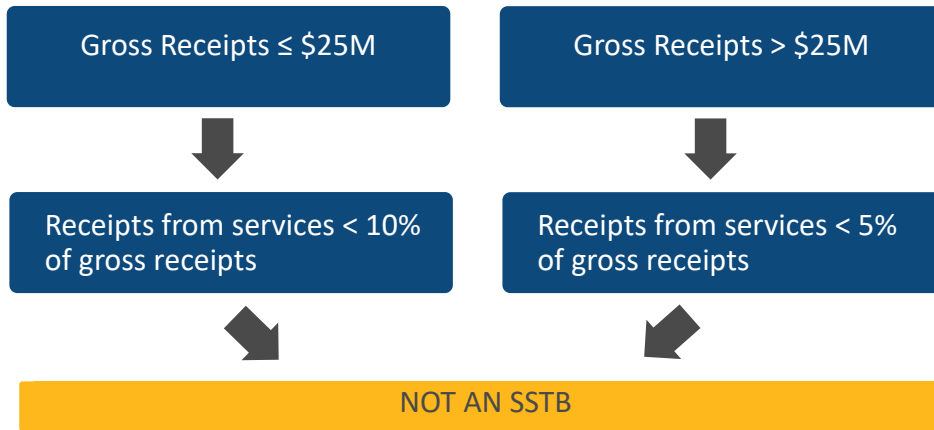
LISTED SSTB	DEFINED AS	SPECIFICALLY EXCLUDES
Financial services	The provision of financial services to clients including managing wealth, advising clients with respect to finances, developing retirement plans, developing wealth transition plans, the provision or advisory and other similar services regarding valuations, mergers, acquisitions, dispositions, restructurings (including in bankruptcy), and raising financial capital by underwriting, or acting as a client's agent in the issuance of securities and similar services. This includes services provided by financial advisors, investment bankers, wealth planners, and retirement advisors and other similar professionals performing services in their capacity as such.	Taking deposits or making loans.
Brokerage services	Services in which a person arranges transactions between a buyer and a seller with respect to securities for a commission or fee. This includes services provided by stock brokers and other similar professionals.	Services provided by real estate agents and brokers, or insurance agents and brokers.
Investing and investment management	A trade or business involving the receipt of fees for providing investing, asset management, or investment management services, including providing advice with respect to buying and selling investments.	Directly managing real property.
Trading	A trade or business of trading in securities, commodities, or partnership interests. The determination is based on all relevant facts and circumstances, including the source and type of profit that is associated with engaging in the activity regardless of whether that person trades for the person's own account, for the account of others, or any combination thereof.	A taxpayer, such as a manufacturer or a farmer, who engages in hedging transactions as part of their trade or business of manufacturing or farming.

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<p>Dealing in securities, partnership interests or commodities</p>	<p>Regularly purchasing securities, commodities, or partnership interests from and selling securities, commodities, or partnership interests to customers in the ordinary course of a trade or business. Or, regularly offering to enter into, assume, offset, assign, otherwise terminate positions in securities, commodities with customers in the ordinary course of a trade or business.</p>	<p>A taxpayer that regularly originates loans in the ordinary course of a trade or business of making loans but engages in no more than negligible sales of the loans.</p>
<p>Principal asset is reputation or skill of 1 or more of its employees or owners</p>	<p>If the individual or entity:</p> <ol style="list-style-type: none"> 1) Receives fees, compensation or other income for endorsing products or services; 2) Licenses or receives fees, compensation or other income for the use of an individual's image, likeness, name, signature, voice, trademark, or any other symbols associated with the individual's identity; or 3) Receives fees, compensation, or other income for appearing at an event or on radio, television or another media format. 	

De minimis rule - a trade or business will not be an SSTB merely because it provides a small amount of services in a specified service activity

A trade or business is NOT an SSTB if:

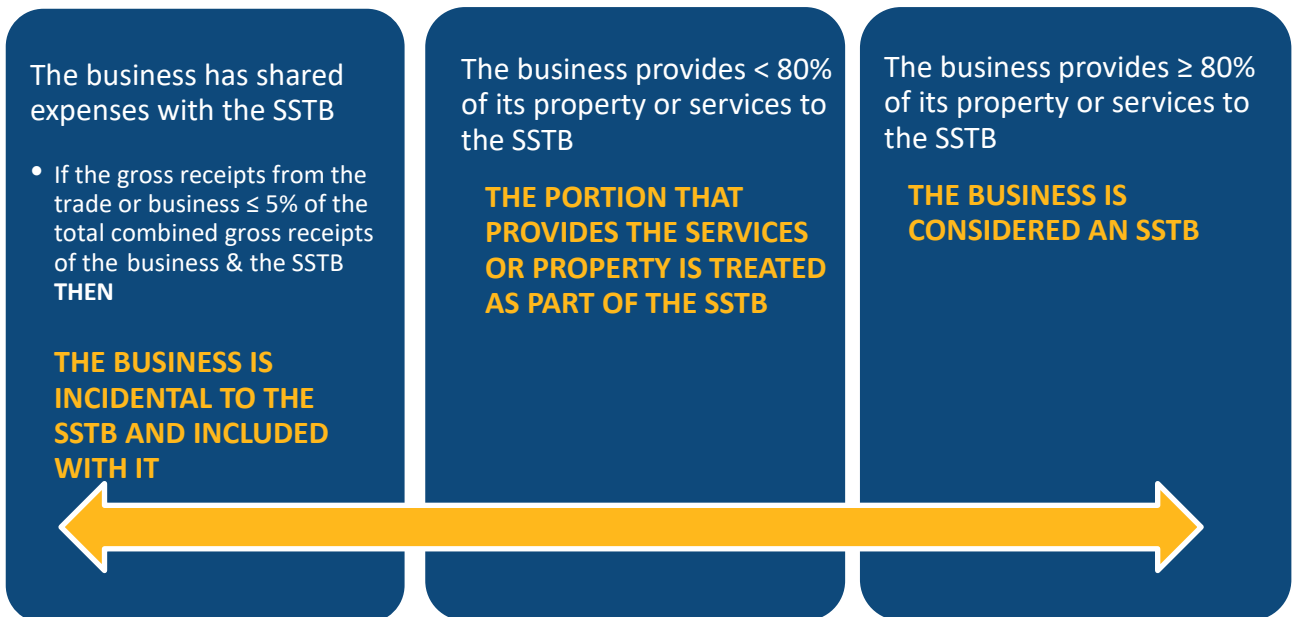


In effect, the IRS provided a more favorable interpretation for small business to provide services to its customers and still be eligible for the deduction.

Related business anti-abuse rules - a trade or business will be an SSTB even if it does not provide services in a specified service activity in certain circumstances

To prevent potential abuse, the proposed regulations also contain rules that result in a trade or business being treated as an SSTB that would otherwise not satisfy the definition based on the types of business activities it engages in.

If there is more than 50% common ownership of a trade or business and an SSTB, the business or a portion of the business income may be considered an SSTB in the below circumstances.



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It is important to note that a business that is included as an SSTB under this rule is considered an SSTB for all owners, not just the ones with common ownership.

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