

Pass-Through Deduction Final Rule: Pharmacy Owners Fact Sheet

NCPA has continued to advocate for the pass-through provisions of the TCJA apply to community pharmacy owners to provide the needed tax relief. Under new IRS regulations, the IRS clarified that a pharmacy owner can qualify for the pass-through deduction if the pharmacy only sells pharmaceutical product or medical devices or gross receipts are less than \$25 million and 10% or less of those gross receipts are attributable to the performance of medical services.¹

What just happened?

The Tax Cuts and Jobs Act (“TCJA”)² became law on December 22, 2017. Section 199A of the TCJA provides individuals with a deduction of up to 20 percent of their qualified business income (also known as the “pass-through” deduction).³ A small business may qualify for the pass-through deduction so long as they are not considered a “specified service trade or business” (“SSTB”) or unless an exception applies. In January of 2019, the IRS published a final rule that outlines the when and how certain small businesses qualify for the pass-through deduction.

What does the final rule do?

The final rule classifies pharmacies as SSTBs, a class of businesses that are not eligible for the pass-through deduction.⁴ However, the final rule outlines two applicable instances that would allow a pharmacy to be eligible for the pass-through deduction. First, the IRS correctly states that a pharmacist is not an SSTB if a pharmacy merely sells pharmaceutical product or medical devices.⁵ A pharmacy who conducts any level of medical services such as immunizations,⁶ however, will be considered an SSTB that is not eligible for the pass-through deduction unless another exception applies. The final rule outlines a second exception that allows a pharmacy who is considered an SSTB to take the pass-through deduction so long as the pharmacy’s gross receipts are less than \$25 million and 10% or less of those gross receipts are attributable to the performance of medical services.⁷

What should pharmacy owners do next?

Pharmacy owners should talk to their accountant or tax counsel on the applicability of this pass-through deduction to your business based on the types of services and product dispensing conducted at your pharmacy.

¹ Treas. Reg. § 1.199A-5(c)(1).

² TCJA, formally known as "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018," Pub. L. No. 115-97 (Dec. 22, 2017), § 11011.

³ 26 U.S.C. § 199A.

⁴ Treas. Reg. § 1.199A-5(b)(2)(ii).

⁵ *Id.*

⁶ Treas. Reg. § 1.199A-5(b)(3)(i) (including examples of what could be determined to be the performance of medical services).

⁷ Treas. Reg. § 1.199A-5(c)(1).