



TaxNewsFlash

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U.S. Tax Court: W-2 wages not deductible under section 280E not taken into account in computing section 199A deduction

The U.S. Tax Court today held that for purposes of computing qualified business income deductions under section 199A, “W-2 wages” do not include wages not deductible after application of section 280E.

The case was heard en banc, and the majority opinion of the court was joined by 17 judges, with one judge writing a dissenting opinion.

The case is: *Savage v. Commissioner*, 165 T.C. No. 5 (September 11, 2025). Read the Tax Court’s [opinion](#)

Summary

The taxpayers, shareholders of three S corporations, filed individual income tax returns for 2018 and 2019 reporting items with respect to the S corporations. Two of the S corporations were subject to section 280E, and therefore certain of their deductions were disallowed in determining taxable income for those years.

The taxpayers claimed qualified business income deductions under section 199A with respect to the activities of the S corporations, and in computing those deductions, treated as “W-2 wages” within the meaning of section 199A(b)(4), all of the amounts paid and reported by the S corporations without regard to whether those amounts were deductible in determining taxable income.

The IRS determined that under section 199A(b)(4)(B) and (c), the computation of the taxpayers’ section 199A deductions must take into account only wages that were deductible after the application of section 280E, and reduced the taxpayers’ section 199A deductions accordingly.

The Tax Court today upheld the IRS’ interpretation of section 199A. The court concluded that “[b]ecause nondeductible wages are not part of the defined term ‘qualified items of income, gain, deduction, and loss’ [under section 199A(c)(3)], they cannot be included in the defined term ‘qualified business income’ for purposes of section 199A(c)(1).”

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