



**Upcoming IRS webinar; 2 hours of CE**—*An Overview of the Foreign Tax Credit*. Thursday, September 12 at 2:00 PM ET. [Registration](#).

Click on the link to register. Contact the IRS at [cl.sl.web.conference.team@irs.gov](mailto:cl.sl.web.conference.team@irs.gov) if you need assistance.

## TAX NEWS

**Estimated Tax Waiver For Eligible Taxpayers; Refunds For Some**— Earlier in 2019 the IRS provided estimated tax relief and guidance to taxpayers who did not pay in sufficient estimated taxes for tax year 2018. The penalty waiver is available for taxpayers who paid in at least 80% of their 2018 tax liability by January 15, 2019. The IRS has started sending CP 21 notices to over 400,000 affected taxpayers who filed their 2018 tax returns but did not request the waiver. Eligible taxpayers will be granted automatic relief from the penalty and, if applicable, will receive a refund of the estimated tax penalty they paid. Affected taxpayers do not have to take any action to get the relief or refund. [Page 2](#)

**How Farmers Who Receive Patronage Dividends From Cooperatives Claim The QBID**— Farmers who are patrons of agricultural cooperatives receive patronage dividends and other income from the cooperative. Recently issued proposed regulations explain how patrons calculate their qualified business income deduction (QBID) for their share of income and expenses passed through from the cooperative. Taxpayers may generally rely on the proposed regulations until final regulations are published. [Page 2](#)

## QUESTION OF THE WEEK

Our client is a noncustodial parent of a daughter who turned 18 in 2019. He has been claiming the dependent exemption (before 2018), the child tax credit, and the other dependent credit (ODC) when she turned 17. Since 18 is the age of majority in our state can he continue to claim the ODC for her? [Page 4](#)

## ORIGINAL INSIGHTS

**Back to basics: Classifying workers as independent contractors or employees can be tricky**—How do taxpayers know if they're self-employed? Often, it comes down to employee versus independent contractor classification. [Full insight](#). View all insights at [www.thetaxinstitute.com/insights/](http://www.thetaxinstitute.com/insights/).

## ESTIMATED TAX PENALTY WAIVER FOR ELIGIBLE TAXPAYERS; REFUNDS FOR SOME

The IRS is automatically waiving the estimated tax penalty for over 400,000 taxpayers who filed 2018 tax returns and qualified for, but did not claim, waiver of the estimated tax penalty.

Ordinarily, taxpayers must meet their tax “pay-as-you-go” tax obligations through withholding, or by paying estimated taxes in four equal installments, or a combination of the two. Those who do not pay in at least 90% of their tax liability by the due date of the tax return potentially face a penalty called the “underpayment of estimated tax penalty.”

Earlier this year, the IRS issued [Notice 2019-25](#) providing relief from the penalty for taxpayers who paid in at least 80% of their 2018 tax liability through withholding and/or estimated tax payments by January 15, 2019. The idea was that taxpayers may have had difficulty in estimating their tax liability for 2018 because of the TCJA. The notice directed taxpayers to complete parts of Form 2210, *Underpayment of Estimated Tax by Individuals, Estates, and Trusts* to request the waiver. See TAX in the News March 27, 2019.

According to news release [IR-2019-144](#), many eligible taxpayers did not claim the waiver when they filed their tax returns for 2018. The IRS will apply the automatic waiver even if eligible taxpayers did not request it. Over the next few months the IRS will mail notice CP 21 granting this relief to affected taxpayers. Those who *paid* the estimated tax penalty will receive a refund about three weeks after the CP 21 letter.

Taxpayers who have already filed their returns do not have to take any action to request an automatic waiver or refund. Those who have not yet filed should request the waiver as per Notice 2019-25. See “Tax reform waiver” in the [instructions](#) to Form 2210.

## HOW FARMERS WHO RECEIVE PATRONAGE DIVIDENDS FROM COOPERATIVES CLAIM THE QBID

The IRS has issued [proposed regulations](#) explaining how farmers who are patrons of agricultural cooperatives calculate their qualified business income deduction (QBID) under §199A(g). Taxpayers may generally rely on the proposed regulations until final regulations are published in the Federal Register.

### Cooperatives and Patronage Dividends

The QBID for specified agricultural or horticultural cooperatives (SAHCs) is based upon the cooperative's domestic production activities. An SAHC is defined as an organization which is engaged “in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or in the marketing of agricultural or horticultural products.” In everyday terms, an agricultural cooperative is a user-owned and controlled business in which benefits are based upon the individual patron's usage.

Farmers use two main types of cooperatives. A marketing cooperative collects the patron's crops and markets them on behalf of the farmers. A supply cooperative purchases supplies such as seed, fertilizer or fuel and sells to patrons. No matter the type of cooperative, its patrons typically receive two types of benefits:

- Patronage dividends represent the profits from the cooperative returned to its patrons.
- Per-unit retain allocations are payments to patrons from products the SAHC has sold. The payments are a fixed amount without regard to the net earnings of the cooperative.

These two types of payments are reported to patrons on [Form 1099-PATR](#), *Taxable Distributions Received From Cooperatives* in boxes 1 and 3 respectively. They are included in qualified payments (discussed in the next section).

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### **How a cooperative determines the qualified business income deduction**

The proposed regulations for §199A(g) explain how the SAHC calculates its deduction and, in turn, how patrons should treat qualified payments from the cooperative in order to calculate their own QBIDs. Generally, qualified payments are the patron's share of the SAHC's income and expenses.

For the SAHC, the QBID is equal to 9% of the lessor of:

- 1) qualified production activities income (QPAI), or
- 2) taxable income of the cooperative.

In addition, the deduction is limited to 50% of the cooperative's W-2 wages. The proposed regulations lay out how the cooperative calculates QPAI and provides appropriate definitions. [Notice 2019-27](#) explains how the cooperative calculates 50% of its W-2 wages. Lastly, the cooperative has the option to pass the QBID on to its patrons based upon patrons' participation. Note that these rules are similar to the calculation and passthrough rules of the domestic production activities deduction (DPAD).

### **How a patron determines the qualified business income deduction**

For the patron, the QBID calculation starts with qualified payments. As explained earlier, they include patronage dividends and per-unit retain allocations as long as these amounts are attributable to the cooperative's QPAI. Qualified payments are reported in box 7 of Form 1099-PATR, net of the patron's share of the cooperative's allocable expenses.

The SAHC is also required to attach a statement providing details on how qualified payments were calculated. The attachment also shows the patron's share of the cooperative's W-2 wages.

#### *Patron reduction*

When the patron calculates the QBID for the patron's farming business, the portion of the QBID that is attributable to qualified payments from the SAHC is reduced by the lessor of:

- 1) 9% of qualified payments, or
- 2) 50% of the patron's share of the cooperative's W-2 wages.

This mirrors the SAHC's calculation of the cooperative's QBID.

#### *QBID passthrough to patron*

Any share of the SAHC's QBID that is passed through to the patron is added back to the QBID. Patronage dividends and/or per-unit retain allocations that are not based on QPAI (and thus not included in qualified payments) do not figure into the patron's QBID.

### **Illustration**

Paul is a grain farmer who is a patron of the Coolidge SAHC. Paul's taxable income is \$75,000 (not taking into account the QBID) and he files MFJ.

Paul receives Form 1099-PATR from Coolidge showing \$20,000 in patronage dividends, per-unit retain allocations of \$80,000, and \$10,000 of qualified payments. The attachment shows that the patronage dividends and per-unit retain allocations are 100% attributable to Coolidge's QPAI. Qualified payments include these two amounts less \$90,000 of allocable expenses ( $\$20,000 + \$80,000 - \$90,000 = \$10,000$ ). Expenses include \$25,000 of the cooperative's W-2 wages.

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Coolidge also passed through \$1,000 of its §199A(g) QBID to Paul. Paul has \$50,000 of QBI from his grain farming business including sales to an independent grain elevator not related to the SAHC. Paul's taxable income is \$75,000.

Paul's QBID is calculated as follows:

*Determine the QBID before the patron reduction*

\$10,000 (\$50,000 QBI × 20%)

*Reduce the QBID by the patron reduction*

\$10,000 QBID before reduction

- \$900 [lessor of \$900 (\$10,000 qualified payments × 9%) or \$12,500 (50% of \$25,000 W-2 wages)]

\$9,100

*Add in the passthrough*

\$9,100 QBID after patron reduction

\$1,000 share of SAHC QBID added back

\$10,100 total QBID for the grain farmer business

Since the calculated QBID is less than \$15,000 (\$75,000 taxable income × 20%), Paul's QBID is \$10,100.

If Coolidge did not have any W-2 wages, Paul's QBID would be \$11,000 because the patron reduction attributable to qualified payments would be \$0 (50% of \$0 W-2 wages).

## QUESTION OF THE WEEK

**Q.** Our client is a noncustodial parent who has claimed the dependent exemption (before 2018) and the child tax credit for his daughter since his divorce several years ago. He has a signed Form 8332 from his ex-wife releasing his daughter's exemption for all future years. In 2018 his daughter turned 17. Although the dependent exemption was gone he was still able to claim the credit for other dependents. Since his daughter turned 18 in 2019, can he still claim the credit for other dependents this year? What about future years? The age of majority is 18 in our state. She graduated from high school last spring and has just started her freshman year at college. My client continues to support his daughter.

**A.** Your client might be able to claim the credit for other dependents (ODC) in 2019 but more information is needed.

A taxpayer may claim the credit for other dependents if the taxpayer has a qualifying child or qualifying relative. Under the special rule for divorced parents, a child may be treated as the qualifying child of the noncustodial parent for the exemption (before 2018), the child tax credit, and the ODC. Among other requirements, the child must be in the custody of one or both parents for more than half the tax year and the noncustodial parent must have a signed release (Form 8332) from the custodial parent. These requirements were apparently met for your client in 2018 and before.

When a child reaches the age of majority (age 18 in most states), the child is no longer treated as being in the custody of either parent for purposes of the special rule. Whether or not the special rule applies in the year a child reaches the age of majority, depends on when the child's birthday is. For instance, if she turned 18 in August, she would still be in her mother's custody more than half the year and the special rule would still apply for 2019. If she turned 18 in May, the special rule would not apply in 2019 because she would not be in her mother's or father's custody for more than half the year.

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In whichever year the special rule stops applying (2019 or 2020), your client's ability to claim the ODC would depend on whether his daughter is his qualifying child or qualifying relative without regard to the special rule.

Keep in mind that even though your client continues to support his daughter, to claim a qualifying child or qualifying relative, *all* tests must be met. To claim an individual as a qualifying relative for example, the individual may not be any taxpayer's qualifying child. Assuming the daughter has continued to live in her mother's home most of the time before going to college (and not her father's), then she is likely her mother's qualifying child for 2019.

Unless there is a change in circumstances, school is usually considered a temporary absence and thus she would continue to be treated as her mother's qualifying child if she expects to return to her mother's home.

In the year his daughter turns 24, or before that if she stops being a full-time student, the qualifying child rules would no longer apply. If your client is still supporting his daughter at that point he may be eligible for the ODC if the qualifying relative rules are met.

See "[When is a child considered an adult?](#)" and "[How is the parent custody determination made when a child is emancipated under state law?](#)" for more explanation and examples that apply in the year a child reaches the age of majority.