



## **Tax Reform**

*The Big "I" urges Congress to:*

- *Request that the Department of Treasury and the Internal Revenue Service (IRS) place a high priority on the development of guidance to implement the pass-through provisions of the tax law.*
- *Confirm that any guidance reflects the intent of Congress to exclude insurance agents and brokers from the definition of "specified service trade or business."*

A key provision of the new tax law adds a new section to the individual tax code (26 U.S.C. §199A) that creates a 20% deduction on "qualified business income" (QBI) for owners/shareholders of pass-through businesses, such as Subchapter S Corporations, partnerships, and sole proprietorships. Two-thirds of Big "I" member agencies are organized as pass-through entities, and many should be able to benefit from the new deduction in whole or in part.

**The Big "I" urges Treasury and the IRS to place a high priority on the development of guidance to implement the pass-through provisions of the tax law.**

Since §199A is a new section in the tax code, Treasury and the IRS should issue guidance clarifying and confirming how Congress intended the deduction to apply. Doing this in a timely fashion is necessary so that owners and shareholders of insurance agencies and brokerages organized as pass-through entities can accurately estimate (and withhold as necessary) the appropriate amount of taxes from their income. In addition, timely guidance is needed so agencies and brokerages can make well informed decisions about how to best structure their businesses to avoid being unfairly penalized. The Big "I" is part of a broad coalition of manufacturing, retail and services businesses called "Parity for Main Street Employers" formed to work with Congress, Treasury and the IRS to ensure appropriate guidance is issued.

**The Big "I" believes that any guidance should reflect the intent of Congress to exclude insurance agents and brokers from the definition of "specified service trade or business."**

Under §199A owners/shareholders of some types of businesses are limited in their ability to use the 20% deduction if their overall taxable income is above certain thresholds. Of note, an owner or shareholder of a "specified service trade or business" with annual taxable income above \$415,000 (joint) and \$207,500 (single) cannot utilize the deduction. The deduction is also phased out starting at annual taxable income levels of \$315,000 (joint) and \$157,500 (single). This disparate treatment provides new complexity and confusion in the tax code and creates an unlevel playing field among similarly situated businesses.

Additionally, it is currently unclear whether insurance agencies and brokerages will be considered a "specified service trade or business" by the IRS even though Congress excluded "insurance" from the definition in the law. Congress created a new definition for a "specified service trade or business" that is subject to limitations for the 20% deduction using a modified definition of what is not considered a "qualified trade or business" for purposes of exclusions for gains from business stock contained in §1202(e)(3) of the tax code. In crafting the definition of "specified service trade or business" now contained in §199A, Congress expanded the definition contained in §1202(e)(3)(A) of the tax code but did not include the word "insurance" which is listed in §1202(e)(3)(B) of the tax code. Thus, it follows that any insurance business should not be treated as a "specified service trade or business" by the IRS.

The Big "I" believes that Congress did not intend to limit insurance agency owners from receiving the full benefits of the pass-through deduction. Agencies and brokerages employ millions of people across the U.S. and occupy numerous retail locations in every state. Excluding insurance agents and brokers from receiving the full benefits of the pass-through deduction would be contrary to Congress' public policy goals of growing the economy, creating jobs and providing hard-working businesses owners and individuals with much needed tax relief. Interpreting the pass-through provision in a narrow manner would cut against this broad policy goal. As such, the Big "I" asks that Congress work with Treasury to confirm that insurance agencies and brokerages are not "specified service trades or businesses."