2019 Heckerling Highlights

Washington, D.C. Estate Planning Council Webinar

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Ramsay Slugg
Steve Lavner
Mitch Drossman
John Goldsbury
Richard James

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Disclosure

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Overview – Ramsay Slugg

Overview

- Largest estate planning conference in the country, reportedly with over 3,450 registrants this year, plus sponsors and non-registrants
  - U.S. Trust among largest sponsors and participants
- 45 total sessions during the week
  - 4 Fundamental sessions
  - 18 General sessions
  - 23 Special sessions
- We will cover only a portion of the topics presented, and only in summary fashion

Heckerling Highlights
Charitable Planning – Ramsay Slugg

4 charitable planning related topics

- Make Your Charitable Estate Plan Great Again (general session)
    - 3 topics
        - Effect of 2017 Tax Act, specifically, the higher standard deduction
            - Bunch deductions (direct or via DAF)
            - Charitable IRA rollover
            - Donate appreciated assets
    - Charitable Bequests of IRD assets
    - Income-based Charitable Bequests

Heckerling Highlights
Charitable Planning – Ramsay Slugg

Charitable Planning Related Topics

- 4 charitable planning related topics (cont.)
  - The Life Cycle of a Donor's Charity (fundamentals session)
    - "Philanthropic Spark"
    - Getting Organized – the rules
    - Getting Launched – the entities (running a PF)
    - Flexibility – confronting change
    - Leaving a Legacy – problems after death of donor
  - Charitable Gift Agreements (special session)
    - Attaching strings to your charitable gifts
  - Donor Advised Funds (special session)

Heckerling Highlights

Recent Developments (Steve Akers, Sam Donaldson and Amy Kanyuk) – Steve Lavner

The 2017 Tax Act (December 22, 2017)

- **Increase in estate, gift and GST exemptions from $5 million to $10 million, adjusted for inflation**
  - $11,180,000 in 2018
  - $11,400,000 in 2019
  - $5 million, adjusted for inflation, in 2026 and after

  - **No recapture (clawback)** if higher exemption at time of gift is subsequently decreased at time of death
    - New IRC 2001(g)(2);
    - Proposed regulation 20.2010-1(c) issued in November 2018 (adjusts the determination of the basic exclusion amount under section 2010, rather than adjusting the hypothetical gift tax payable under section 2001)

  - **No "ordering" rule** that would allow you to make a lifetime exemption gift "off the top" of the $10 million exemption (contrast with portability ordering rule with regard to DSUE)

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Recent Developments (Steve Akers, Sam Donaldson and Amy Kanyuk) – Steve Lavner

- **Planning to lock-in the increased gift/estate exemption**
  - Avoid gift-splitting in certain cases
  - "Flexible" gifts – completed gifts which are not included in gross estate (donor has indirect access to assets; no step-up in basis at death) for example, SLAT; power of substitution (swap); self-settled domestic asset protection trust?
  - "Artificial" gifts - completed gifts which are included in gross estate (donor has use of assets; step-up in basis at death): for example, promissory note gift; lifetime GRIT; defective GRAT; defective QPRT; reciprocal SLATs)

- **Planning to lock-in the increased GST exemption**
  - Allocating exemption. GST exemption may be allocated to new trusts, or to existing trusts*. Once GST exemption has been allocated, it appears the trust should retain its exempt status, even if the exemption is subsequently decreased. * With regard to existing trusts, it appears there is a glitch in the statute. The increased GST exemption is cross-referenced to the basic exclusion amount with regard to estate tax. The increase in the basic exclusion amount from $5 million to $10 million app[lies "in the case of estates of decedents dying or gifts made after December 31, 2017, and before January 1, 2026." The allocation of GST exemption to existing trusts created before December 31, 2017 would therefore not be covered; presumably this will be clarified and permitted.

  - If the donor is married, it should be possible to lock-in the GST exemption without making a "real" gift by creating a lifetime QTIP trust for the other spouse. For gift tax purposes, a QTIP election would qualify the trust for the marital deduction. For GST purposes, a "reverse QTIP election" would be made and GST exemption could be allocated currently.

Basis After the 2017 Act – Important Before, Crucial Now (Lester Law and Howard Zaritsky) – Steve Lavner

Basis Strategies

The higher exemptions under the Act also present **opportunities for increasing the basis of assets.**

- **Donor's estate.** In order to qualify assets that have been gifted to a trust for a step-up in basis in the donor's estate, it may be advisable to make the trust a "grantor" trust for income tax purposes and to provide that the donor may substitute assets.
  - This would allow the donor to take back (without recognition of gain) low-basis assets (which will then be eligible for a basis step-up in the estate), in exchange for high-basis assets or cash.
  - If a trust has been created which allows for discretionary distributions to the donor's spouse (SLAT), such a distribution may be made to the spouse, provided the donor and spouse have sufficient estate exemption to shield the increase in wealth resulting from the distribution.
    - Caution should be exercised, however, given the temporary nature of the exemption increase.

- **Donee's estate**. If an outright gift has been made, the donee may retain the asset until death in order to obtain a step-up.
  - If a gift has been made to a trust for a beneficiary which would not be included in the beneficiary's taxable estate, there could be a distribution from the trust to the beneficiary in order to qualify for a step-up in basis.
  - Similarly, if the trust permits, the trustee may grant the beneficiary a general power of appointment.
  - Presumably, this would only be done if the beneficiary has sufficient estate exemption.

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Basis After the 2017 Act – Important Before, Crucial Now (Lester Law and Howard Zaritsky) – Steve Lavner

- **Death of first spouse.** There are various strategies that may be utilized to obtain a basis step-up in the estate of the first spouse to die.

  - **Title property in name of one spouse**
    - If it is expected that one spouse may die first, a full step-up in basis may be achieved by titling property in such spouse's name, provided such spouse is in fact the first to die. If the assets are bequeathed at the first death back to the original donor spouse, then the transfer to the deceased spouse must be made more than a year before death in order to receive a step-up. While this one-year retransfer rule is straightforward, there may still be opportunities to get a step-up in basis for such property. Rather than bequeathing assets outright to the original donor spouse, bequests in trust for such spouse could be a means around the one-year retransfer rule. There is limited guidance from the IRS on this issue, but perhaps a trust where the donor spouse has only a fully discretionary interest would not be considered a transfer back to the original donor spouse. Such a discretionary trust, however, would not qualify for the estate tax marital deduction.

    - While titling property in the name of one spouse may be a successful strategy, there are significant drawbacks. The first, of course, is that it may not be possible to predict which spouse will die first.
      - If it is predictable, you may have "other issues."
      - If property is transferred to one spouse, and the other spouse dies first, there will be no step-up in basis at the first death. This may be contrasted with joint ownership, where at least there is a step-up for half.

Basis After the 2017 Act – Important Before, Crucial Now (Lester Law and Howard Zaritsky) – Steve Lavner

– **Title property in joint names**

- It is common for spouses to own property in joint names with right of survivorship. Regardless of which spouse dies first, one-half of the value of such property will be included in the gross estate of the first spouse to die. Accordingly, one-half of the property receives a step-up in basis. An advantage of this strategy is that it guarantees a step-up regardless of which spouse dies first. However, a disadvantage is that the step-up is limited to only half the property.

- In the case of certain jointly held bank or brokerage accounts, an interesting alternative has been suggested. If upon creation of the account, the transferor spouse may unilaterally withdraw the transferor's contributions without the consent of the other co-tenant, the transfer is not yet a completed gift. If the transferor spouse dies first, the surviving spouse may able to disclaim such account in order to cause 100% inclusion in the transferor's estate and qualify for a full step-up in basis.

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Basis After the 2017 Act – Important Before, Crucial Now (Lester Law and Howard Zaritsky) – Steve Lavner

- **Joint revocable trust**
  - Pursuant to this strategy, both spouses contribute assets to a trust in which each retains the right to revoke their own contribution. Therefore, no completed gift is made on the creation of the trust.
  - On the death of the first spouse, that spouse is granted a testamentary general power of appointment over the assets contributed by the surviving spouse. Since the surviving spouse can no longer revoke their contribution, a completed gift by the surviving spouse then occurs. In a series of private letter rulings, the IRS has ruled that the granting of the testamentary general power of appointment to the deceased spouse qualifies for the gift tax marital deduction.
  - Under this strategy, all of the trust assets should be includible in the estate of the first spouse to die and therefore should be eligible for a step-up in basis. If the first spouse to die is the transferor spouse, the assets will be includible as a revocable transfer. If the first spouse to die is the non-transferor spouse, the assets will be includible due to the testamentary general power of appointment granted to such spouse. However, since the gift from the surviving spouse occurs at the death of the first spouse, there will be no step-up for property that is then reacquired by the surviving spouse (because it is within one year).
  - Although this strategy has been approved in private letter rulings, commentators have raised questions regarding certain aspects. One concern is whether the gift tax marital deduction should apply to the granting of a testamentary power of appointment. In order to claim a marital deduction, the donee must be the donor's spouse at the time of the gift. Since the testamentary power of appointment is granted at the death of the first spouse, it is not clear that this requirement is satisfied. It has also been questioned whether the power of appointment will cause estate inclusion, since it is effectively contingent on the donor spouse's failure to withdraw the assets. (A power, which is only exercisable in conjunction with the creator of the power, is not considered a general power of appointment.)

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Basis After the 2017 Act – Important Before, Crucial Now (Lester Law and Howard Zaritsky) – Steve Lavner

- **Section 2038 marital trust**
  - Pursuant to this strategy, one spouse (H) creates a discretionary trust for the other spouse (W), and retains the right to terminate the trust and distribute the assets to W.
  - Unless the trust is sooner terminated, it terminates on W's death and the property is distributed to W's estate.
  - Although H can change the time of enjoyment, he cannot change the beneficiary. Accordingly, a completed gift is made on the creation of the trust. (This may be contrasted with the joint revocable trust, where the gift is not completed until the death of the first spouse.) Since the only beneficiaries are W or W's estate, the gift is not a terminable interest and qualifies for the gift tax marital deduction.
  - All of the trust assets should be includible in the estate of whichever spouse dies first, and therefore should be eligible for a step-up in basis.
    - If H dies first, the property is includible in his estate due to his power to terminate the trust early.
    - If W dies first, the property is includible in her estate because the property is then distributed to her estate. Since the gift to W occurs on the creation of the trust, as long as the trust is created more than a year before W's death, there should be a step-up even if W bequeaths the property back to H. (This may be contrasted with the joint revocable trust, where a step-up is precluded if the property is returned to the original donor spouse.)

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Basis After the 2017 Act – Important Before, Crucial Now (Lester Law and Howard Zaritsky) – Steve Lavner

- **Gift to senior generation.**
  - Even before the 2017 Act, it was possible to **make gifts** to senior generation family members who might have unused estate exemption, in order to obtain a basis step-up at death.
  - The transfer to the senior member would generally be a gift and may require the use of traditional gifting strategies.
  - If the assets are to be returned to the original donor, the senior member must live for at least one year after the gift, otherwise a special rule would prevent a step-up in basis.
  - The 2017 Act's increase in transfer tax exemptions may enhance this opportunity, but caution should be exercised given the temporary nature of the changes.

  - **Sale to a grantor trust which is includible in senior generation's estate**.
    - Donor creates a grantor trust which grants senior a general power of appointment. Can such a technique allow greater amounts of property to be sold to the trust and be eligible for a basis step-up?
    - In order to be eligible for a full step up at senior's death, you would have to include the full value of the trust assets in senior's gross estate (section 1014(b) refers to property included in the gross estate), and then presumably deduct the indebtedness under section 2053 as a claim. If you were to only include the net value of the trust (by subtracting out the debt), it appears the step up would be limited to the net value, since that's what is included in the gross estate.
    - So the big question is whether you include the full value and then deduct the debt, or whether you only include the net value. Regulation 20.2053-7 indicates that you only include the net value if the decedent's estate is not liable for the debt - which appears to be the case, since the trust, as the purchaser or borrower, would be liable, and not senior's estate.

New Kids on the Block(chain): Planning with Bitcoin – Mitch Drossman

New Kids on the Block(chain): Planning with Bitcoin & Cryptocurrency

Wednesday : January 16 (2:00 -3:30): Special Session – I-F

One of the most important Qs to ask: do you own cryptocurrencies? Without access to the private key, no one can access or transfer to the asset.

Notice 2014-21 (IRB 2014-16, April 14, 2014) – only formal Treasury/IRS guidance

Virtual (convertible) currency is ***treated as property*** and that general tax principles applicable to property transactions apply to virtual currency transactions.

- No foreign currency gain or loss (and no *de minimis* gain exception)
- Gross income on receipt
- Employment tax issues

Major theme and unanswered Q: is cryptocurrency tangible property?

- Authors make the case that it is.
- Consider revising general dispositions of tangible effects and property.
- Will have implications for NRAs and estates and charitable gifts

Heckerling Highlights

New Kids on the Block(chain): Planning with Bitcoin – Mitch Drossman

Notice 2014-21 - does not specifically address wealth transfer issues (estate, gift or GST taxes) or charitable income tax deduction issues.

- Estate
  - Valuation issues - methodology
  - Does it exist at death?
  - NRA: Location of property
- Gift
  - How to make a completed gift of a crypto-currency? Retention of copy of private key?
  - Good practice to memorialize the transaction and have donor represent he/she does not retain the private key.
  - Transfer to trust (where donor is trustee): should still be complete, but easiest to have a 3rd party trustee.
  - Gifts by NRAs: gift tax applies to transfers of tangible property situation in the US at the time of the transfer. Is crypto-currency tangible property?
    - Best to make sure neither the donor's nor the donee's wallet is physically located in the US.
- Charitable
  - If value is over $5k, appraisal require (no exception for non publically traded security, but the price can usually be found on an exchange)
  - If tangible: deduction would be limited to basis (unless related use rules are met); if gift made to a CRT, no deduction unless and until sold
  - Authors/speakers urged issuance of additional Treasury guidance

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New Kids on the Block(chain): Planning with Bitcoin – Mitch Drossman

More guidance needed in the following areas

- Valuation based on Exchange rates
  - Multiple exchanges; mean between high and low?
- Tracking basis and default/elective rules
- Wash Sales
  - Generally § 1091 rules do not apply because not a security. However, an actual loss must be sustained.

State Income Tax – Source income?

- Source income typically includes gains from sale of tangible personal property located within a particular state.
- If tangible property, sourced to location where wallet is held.
- Could potentially also trigger a sales tax if considered a tangible

Other Regulatory Considerations – Is crypto a Security?

Wallet

- Brain wallet: memorize private key
- Paper wallet: write private key on paper
- Cold wallet: store private key on computer or flash drive

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Qualified Small Business Stock – The Next Big Bang – Mitch Drossman

Qualified Small Business Stock: Tuesday January 15 (9:50 – 10:40)

- Qualified Small Business Stock – IRC § 1202 tax provision been around for a while – tax benefits were fair at best (AMT and 28% rate was a problem); Real benefit was 5-6% points, sometime lower.
- Section 1202 is not elective. Taxpayers (in the past) would have in certain circumstances been better off intentionally losing QSBS status.
- QSBS exclusion is available to ***non-corporate taxpayers*** (individual's, trusts, estates and to owners/ partners of pass-thru entities provided the entity held the stock for more than 5 years and owner/partner held an interest in pass-thru entity when QSBS acquired and at all times before the disposition).
- Only eligible gain is entitled to the exclusion: Eligible gain must be (1) from the sale of QSBS stock and (2) the stock must have been held over 5 years.
- Tacking and Permissible Transfers
  - Transfers by gift (1202 is an income tax section, so "gift" may not have same meaning for transfer tax purposes).
  - Transfers at death
  - Transfers from a p-ship to a partner
- Hedging – Disqualifies QSBS (unless stock already held 5 years)

Qualified Small Business Stock – The Next Big Bang – Mitch Drossman

5-Year holding Period

- Options – holding period commences at option exercise
- Restricted stock – holding period commences at vesting (unless 83b election is made)

Tacking of Holding Period and Permissible Transfers

- Transfers by gift (1202 is an income tax section, so "gift" may not have same meaning as gift for transfer tax purposes). For instance:
  - Transfer to another individual
  - Transfer to a non-grantor trust (whether a gift or not for transfer tax purposes)
  - Transfer to a CRT or from a trust to a beneficiary or to a non-grantor trust
- Transfers at death
- Transfers from a p-ship to a partner

Original Issuance Requirement

- Must be acquired from the C-corporation in exchange for money or property or as compensation for services provided to the corporation. Cannot be acquired on the secondary market or an acquisition from another person. Exceptions: gift, death or partnership to partner transfer.

NOTE: Not every state follows the fed. rules, but most do. Exceptions: CA, MA, HI, MA , NJ

Qualified Small Business Stock – The Next Big Bang – Mitch Drossman

Two mutually exclusive limitations. Greater of:

1. **$10 million Per Taxpayer** (less the taxpayer's QSBS gain of a prior year of the same corporation)
2. **10 Times that Basis** of the QSBS stock issued by such corporation and disposed of during the year [no reduction for prior year sales]

Taxpayers are entitled to both of these mutually exclusion limitations, not just the greater of. *Therefore, the order of sale of QSBS stock can be Important*.

Multiplying the $10 Million Taxpayer Limitation

- Transfer QSBS shares to another individual
- Transfer QSBS shares to a non-grantor trust (or DING or BDIT)
- Transfer QSBS shares to another individual, such as a spouse (each spouse should have a $10 exclusion, unless they file "separately"
- Caution: multiple trust rule and IRC § 643(f)

Maximizing the 10 Times Basis Limitation

- Contribute appreciated property (other than money or stock) to the C-corp in a § 351 transaction. Rule: the basis "shall in no event be less than the FMV of the property exchanged."
- Sell high basis QSBS shares (not held for 5 years) in the same year as the sale of eligible QSBS shares. Could consider exercising options to acquire high basis shares

Heckerling Highlights
20% QBI Deduction (Melissa Willms) – John Goldsbury

- Law enacted Dec. 2017; Proposed Regs Aug 2018; Final Regs Jan 2019 (right after Heckerling!)
- We have two Wealth Strategy Reports available.
- The overall framework of the 20% QBI deduction is as follows (which leads to the next 7 slides):
  1. Determine whether there is a “qualified trade or business;”
  2. If so, calculate the “qualified business income” and take 20% of that income;
  3. Apply a limitation that is generally based on the wages of the qualified trade or business;
  4. If there are multiple businesses, compute the sum of the amounts determined for each business under the preceding three steps;
  5. Calculate, and add to the sum so far, 20% of the aggregate amount of qualified REIT dividends and qualified publicly traded partnership income; and
  6. Apply an overall limitation based on taxable income.
  7. In addition, there are special rules to consider.

Heckerling Highlights

20% QBI Deduction (Melissa Willms) – John Goldsbury

#1: Determine whether there is a “qualified trade or business”

- There must be a “trade or business”
  - The Final Regulations adopt the meaning under tax code section 162.
  - Rental Real Estate as a “trade or business.” Notice 2019-17, for 2018 and later years, sets forth a 250-hour “safe harbor” test.
- The “trade or business” must be “qualified.” All business are “qualified” except (1) being an employee and (2) certain service businesses (SSTBs).
- SSTBs.
  - The statute itself simply lists 13 SSTBs, no elaboration.
  - Final Reg offer some more definition and examples. See Grid.
  - Significant exception if taxable income below certain thresholds.
  - Anti-abuse rule to prevent “Crack ‘n’ Pack.” If 50% common ownership, the part providing property/services to the SSTB is itself a separate SSTB.
  - Incidental income no longer deemed part of SSTB (see WSR)
    - Exception to SSTB based on taxable income.
- Employee
  - Not a “qualified” business.
  - Anti-abuse rules

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20% QBI Deduction (Melissa Willms) – John Goldsbury

#2: Calculate the "qualified business income" and take 20% of that

- QBI is not simply the total net income of the business.
- You take into account only items of income, gain, deduction and loss that are effectively connected with a U.S. trade or business and included or allowed in determining taxable income of that trade or business.
- There are many adjustments required to be made, including the following:
  - QBI excludes REIT dividends and PTP. (They already get preferential treatment.)
  - QBI losses get carried over. For example, Business X loses $10,000 in Year 1 and makes $50,000 in Year 2. In Year 2, QBI is not $50,000; it's $40,000 after carrying forward the loss. (Only post-2017 losses are carried forward.)
  - The following aren't QBI: (i) capital gains/losses (including items treated as capital gains/losses); (ii) dividends and payments in lieu of dividends; (iii) interest income (unless it's from the trade/business); (iv) annuity income (unless it's from the trade/business); and (v) any deduction/loss connected to any of the foregoing.
  - In somewhat of a surprise, the Final Regs state that in the case of a self-employed person, QBI must be reduced by deductions such as the deductible portion of the tax on self-employment income, the self-employed health insurance deduction, and the deduction for contributions to qualified retirement plans, to the extent income from the trade or business is taken into account in calculating the deduction.

Heckerling Highlights

20% QBI Deduction (Melissa Willms) – John Goldsbury

#3: Apply a limitation that is generally based on wages

- The 20% QBI deduction can be no more than 50% of the wages attributable to the business.
  - That dollar limitation can be increased (if it's a larger number) to the sum of (i) 25% of the business's wages, plus (ii) 2.5 percent of the unadjusted basis of all qualified property immediately after acquisition.
- Significant exception if taxable income below certain thresholds.
- The Wage Limitation and Sole Proprietorships
  - A a sole proprietor cannot pay him/herself "wages."
  - A factor favoring an S corporation, which can pay "wages.".
- What are "wages"? Rev Proc 2019-11 expands
  - Includes contributions to qualified retirement plans.
  - It appears nonqualified deferrals would not be included in "wages"
- Like-kind exchanges
  - The Proposed Regulations appeared to contain a possible "trap for the unwary" concerning like-kind exchanges.
  - The Final Regulations have changed this rule.

Heckerling Highlights

20% QBI Deduction (Melissa Willms) – John Goldsbury

#4: If there are multiple businesses, compute the sum

- Aggregation: The issue
    - The 20% QBI deduction is calculated on a business-by-business basis
    - Business X might have plenty of income but little wages or basis, and business Y might have plenty of wages or basis but little income.
- Aggregation: The solution
  - If certain requirements are met, you can elect to “aggregate” business X and Y
    - That would allow the income of X to be supported by the wages and basis of Y, producing a much better result.
    - The Final Regulations also allow aggregation to be done by multiple entities at the entity level.
- When is aggregation allowed?
    - 50% ownership overlap for most of the tax year (inc. 12/31)(267 and 707)
    - Everyone reporting has the same tax year
    - Not an SSTB
    - At least two of the following: (i) related produces or services; (ii) shared facilities or operations; (iii) operated in coordination with each other
    - Must file consistently after choosing to aggregate

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20% QBI Deduction (Melissa Willms) – John Goldsbury

#5: REIT dividends and qualified publicly traded partnership income

- REIT dividends
    - Can be taxed as (i) ordinary income; (ii) qualified dividends; or (iii) capital gain.
    - 20% of the first category qualifies for QBI deduction
- The REIT stock must be held for 45 days unhedged.

- Publicly Traded Partnerships (PTP) include certain oil and gas “master limited partnerships.”
    - In the case of qualified business income flowing through from a PTP, new Section 199A allows a deduction equal to 20% of that QBI.
    - Also applies to any non-capital gain recognized on sale of your interest in the PTP.
    - Because PTPs are taxed as partnerships, it is possible that upon a sale of the interest, gain would be part capital gain and part ordinary income.

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20% QBI Deduction (Melissa Willms) – John Goldsbury

#6: Overall limitation based on taxable income

- The total QBI deduction cannot exceed 20% of the excess of (i) your taxable income, over (ii) your net capital gain (which includes qualified dividends that are taxed as capital gain). Consider the following example.

1	QBI	$ 250,000
2	Tentative QBI Deduction (20% x1)	$ 50,000
Taxable Income		
3	QBI	$ 250,000
4	Capital Gain (includes qualified dividends)	$ 54,000
5	Standard Deduction	$ (24,000)
6	Taxable Income Before QBI Deduction (Sum of 3+4+5)	$ 280,000
7	Taxable Income in Excess of Cap Gain (6-4)	$ 226,000
8	20% of line 7	$ 45,200
9	Lesser of lines 2 or 8	$ 45,200

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20% QBI Deduction (Melissa Willms) – John Goldsbury
#7: Special Rules -- Trusts

Example. A non-grantor trust owns 20% in an S corporation SSTB. The trust has business income of $100,000, other income of $150,000, for total income of $250,000. Trust distributes all income to multiple beneficiaries.

- Analysis under Proposed Regulations. Because the trust's taxable income of $250,000 (calculated **before** any distributions to beneficiaries are taken in to account) exceeds the applicable threshold, the SSTB rule applies fully and none of the $100,000 of business income flowing through from the S corporation will be "qualified" business income.
- Analysis under Final Regulations. Because the trust's taxable income of $0 (calculated **after** distributions to beneficiaries are taken in to account) is below the applicable threshold, the SSTB rule does not apply and all of the $100,000 of business income flowing through from the S corporation will be "qualified" business income. As a result, QBI, wages and basis can be allocated among the trust beneficiaries.

Heckerling Highlights
Other Main Session Topics – Richard James

- Getting the 411 on IRC 199A: Just the Facts, Ma'am (Willms)
- Qualified Small Business Stock: The Next Big Bang (Lee)
- It's All in the Family - What's a Family? Estate Planning & Trust Management for a Brave New World (Magill)
- Make Your Charitable Estate Plan Great Again (Hoyt)
- Decisions and Revisions Which a Minute Will Reverse – How the 2017 Tax Act Changed the Tax Consequences of Marriage and Divorce (McCaffrey)
- Why Can't My Brother-In-Law Bob Be the Executor of My Estate? Considerations Involving the Selection of the Proper Fiduciaries (Bear)
- Forgiveness or Permission? Frank and Practical Pointers Regarding Ruling Requests (Kwon)
- Sweet Child O' Mine: Planning for Parents of Minors (Johnson)

Heckerling Highlights
Other Main Session Topics (cont) – Richard James

- Are You Building a House of Cards? [Flexibility in Planning and Documents] (Krooks)
- Prepare for Global Wealth: Demystifying Planning for U.S. Persons with Foreign Assets (Graham)
- Almost All You Need to Know About Powers of Appointment to Make You a Super Estate Planner (Berry/Blattmachr)
- The War on Money Laundering: Making Lawyers and Accountants Part of Law Enforcement (Terrill/Riches)
- Don’t Dis the Disclaimer: Know the Rules to Keep Up with a Changing Game (Henry)
- Cutting the Gordian Knot of Insurance Transactions (Mancini)
- Life Before and After Death with the Minimum Distribution Trust Rules (Choate)
- Living in a Statistical Universe: Embracing the Art and Ethics of the Engagement Letter (Wolven)

Heckerling Highlights
Break Out Sessions (not paired with a Main Session)– Richard James

- Negotiating and Drafting Charitable Gift Agreements to Stay Out of Court, the News, and the Attorney General's Office (A.Rothschild/Snyder/Ward)
- New Kids on the Block(chain): Planning with Bitcoin and Cryptocurrency (Jenson/Bramwell/Earthman/Walsh)
- Review of the Past Year's Significant, Curious, or Downright Fascinating Fiduciary Cases [at least it seems to me] (Fitzsimons)
- Protecting Client Data: Ethics, Security, and Practicality for Estate Planners (Lamm/Deege/Van Houten)
- A View from the Trenches: What's Happening with Transfer Tax Audits/ Controversies in the Era of Higher Exemptions? (Porter/Prokey)
- Greasing the Squeaky Wheel: Methods for Managing Difficult Beneficiaries (Wolven/Graham/O'Connor)
- Essentials of Family Offices for the Estate Planner – A Primer on Functions, Structures, and Related Issues (Angkatavanich/Dees/Kambas/Stover)
- Having Your Cake and Eating It Too (G.Rothschild/ Borowsky/Nelson)
- What's Hot in Florida? Recent Developments in Florida Law (Kelley/Bucher/Butters)

Heckerling Highlights
Fundamentals Program Sessions – Richard James

- Basis After the 2017 Tax Act – Important Before, Crucial Now (Law/Zaritsky)
- Evolutionary Planning: 20 or so Ways to Increase Client Happiness and Value to Your Practice with Planning Techniques (Non-Tax) and Strategic Practice Techniques (L.Harrison/Hughes)
- It Ain't Over Till the Post-Mortem Planning Is Done (Rogers/Kirkland)

2019 Heckerling Highlights

Washington, D.C. Estate Planning Council Webinar

February 2019

Ramsay Slugg
Steve Lavner
Mitch Drossman
John Goldsbury
Richard James

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