

# MAIN STREET **PRACTITIONER**

The Magazine for Tax and Accounting Professionals

**Customers Are Texting You**



**New Tax Laws and Basic Fairness - Part 1**

**An Exciting Year for NSA Is Under Way**

## PRESIDENT'S MESSAGE



## A PLANNING INTRODUCTION TO THE 2017 TAX ACT - THE 20% OF BUSINESS INCOME DEDUCTION - PART 2



## NEW TAX LAWS AND BASIC FAIRNESS - PART 1



# Main Street Practitioner

Publisher  
National Society of Accountants

Executive Vice President  
John Rice

Editorial  
James Crawford  
jcrawford@nsacct.org

Press and Media Contact  
media@nsacct.org

NSA Officers 2018-2019  
President  
Christine Freeland, CPA, ABA, ARA  
Chandler, AZ

First Vice President  
Joel Grandon, LPA, EA  
Marion, IA

Second Vice President  
Curtis Banks Lee, Jr., ATA, ATP  
Raleigh, NC

Secretary-Treasurer  
Ruth Godfrey, EA  
Upland, CA

Main Street Practitioner is published  
by the National Society of Accountants,  
1330 Braddock Place, Suite 540,  
Alexandria, VA 22314.

© 2018 All Rights Reserved National Society  
of Accountants. Provided online at: [www.mainstreetpractitioner.org](http://www.mainstreetpractitioner.org)

## CONTENTS

October 2018

### FEATURES

**5**  
**AN EXCITING YEAR FOR NSA IS UNDER WAY**

**7**  
**NEW TAX LAWS AND BASIC FAIRNESS - PART 1**

**10**  
**A PLANNING INTRODUCTION TO THE 2017 TAX ACT - THE 20% OF BUSINESS INCOME DEDUCTION - PART 2**

**17**  
**CUSTOMERS ARE TEXTING YOU**

### DEPARTMENTS

**2**  
**PRESIDENT'S MESSAGE**  
*Christine Freeland,*  
*NSA President 2018-2019*

**21**  
**ALL AROUND NSA**

**31**  
**LEGISLATIVE LINK**





Christine Z. Freeland, CPA,  
ABA, ARA  
NSA President, 2018-2019

## President's Message: October 2018

I would like to thank all the many members who have encouraged me and elected me to the office of NSA President. Words cannot begin to express how grateful and appreciative I am for your support.

As I have been preparing for my year as President I have spent a great deal of time thinking about NSA and what it is we stand for and what it is we do. During the process I have looked over our mission and vision statement multiple times and I am constantly reminded that NSA is about our members.

So, what is our mission and what does it say about you, the member. The mission of NSA is to provide national leadership and help members achieve success. Success, what does that look like? The dictionary defines it as “the accomplishment of an aim or purpose” and “the attainment of popularity or profit.” For some of us the profit attainment stands out, this is how we provide for our loved ones, prepare for the future and maybe even a little personal recreation in the off season. For others maybe having an aim of being the best practitioner in our town or having more clients than last year is our measure of success.

For NSA, our success is defined by your success. Have we been instrumental in helping you accomplish your aims and purpose? As a member, I know that NSA has been key in the growth and the maturing of my practice. Whether by professional insurance from Forrest T Jones, the NSA leadership program, Tax Talk and Accounting Talk or our newest benefit VeriFyle, my NSA benefits have added value and professional growth to my business.

What about you? Is NSA adding to your success? My hope is that we truly are adding to your success. We have an outstanding list of benefits that will add value to the success of your practice. If you haven't checked them out, please take a few minutes before next tax season is in full swing and make sure you are taking full advantage of all that is offered:

- Tax Talk
- Accounting Talk
- VeriFyle
- CCH Tax Center
- Income & Fees Survey
- Webinars
- Resource Library
- Member Toolkits: Engagement Letters, Fees, Firing a Client

These are just a few of your member benefits. Check out the website, [www.nsacct.org](http://www.nsacct.org), for these and even more of what will help with your success.

As I move forward this year as your President, my goal is to stay “*Member Focused and Mission Driven*.” Please let me know how I am doing throughout the year, as I am here for you the member.

Christine Z Freeland  
*NSA President*



# SAFEGUARD YOUR CAREER

You don't take unnecessary risks in your personal life and you shouldn't take risks when it comes to the business you've worked hard to build. Get insurance protection for your business that you can count on with the *only professional liability policy endorsed by the NSA.*

Endorsed by:



Administered by:



Underwritten by:



Travelers 1st Choice<sup>®</sup> Accountants Professional Liability Insurance is a state-of-the-art errors and omissions policy for CPAs, tax preparers, bookkeepers, and enrolled agents. This policy is designed to protect you from the exposures faced today in areas such as tax preparation, bookkeeping, reviews, compilation, and general tax or business consulting.

The policy is administered by Forrest T. Jones & Company (FTJ), which has served as NSA's group insurance administrator since 1970.

To learn more about this policy and how it can protect your business, call FTJ at (800) 821-7303 or view policy information online at [www.ftj.com/nsa](http://www.ftj.com/nsa).

\* Underwritten by Travelers Casualty and Surety Company of America and its property casualty affiliates. Hartford, CT 06183.

This advertisement is for informational purpose only and is not meant to define, alter, limit or expand any policy in any way. Coverage for all claims or losses depends on actual policy provisions. Availability of coverage can depend on underwriting qualifications and state regulations.

42645-0218



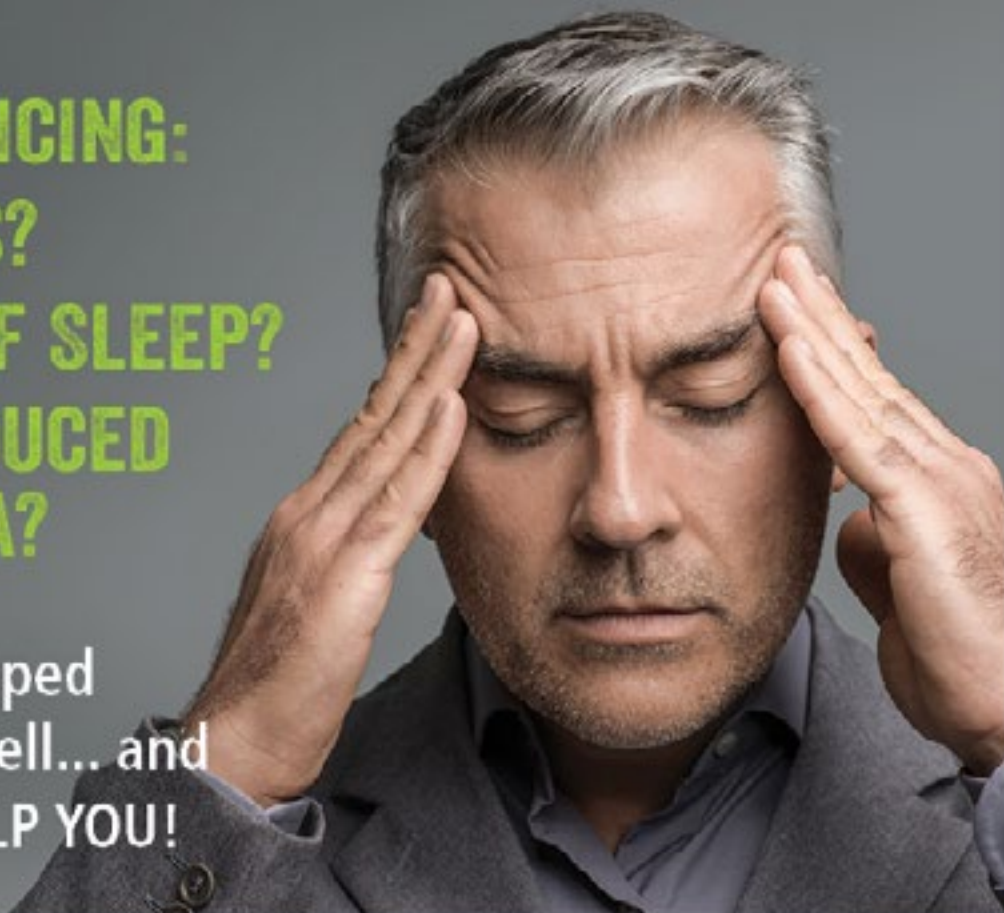
Our proven strategy will expose your practice to the greatest number of qualified buyers, provide you with expert representation, and maximize your value... and we do this while maintaining your confidentiality.

# TAX SEASON CESSATION PROGRAM

## EXPERIENCING:

- STRESS?
- LACK OF SLEEP?
- IRS INDUCED NAUSEA?

We have helped  
thousands sell... and  
**WE CAN HELP YOU!**



**DELIVERING RESULTS - ONE PRACTICE AT A TIME**



**ACCOUNTING  
PRACTICE SALES**  
THE GLOBAL LEADER IN PRACTICE SALES

**877-632-1040**

**www.APS.net**



## An Exciting Year for NSA Is Under Way

---

Main Street Practitioner

\*\*\*

This has been an eventful year for the National Society of Accountants, and changes are on the horizon.

Christine Freeland was elected President of NSA for 2018-2019 at NSA's Annual Convention in Minneapolis, and John Rice was named NSA's new Executive Vice President as of September 1, 2018. Under the direction of now Past President Brian Thompson, NSA's Executive Committee formed a search committee to identify our new leader to help the Board of Governors move the association forward and Rice was selected via that search. Main Street Practitioner would like to take this opportunity to learn a little more about these new change-makers, and share their outlook on the future of the organization with you.

John, you got the chance to attend the Annual Convention and interact with many of our members, what do you think? Was the event educational for you?

*I found it very educational. I am a big believer in driving member value and to do that you have to meet the members and get to know what they do. I do think that the meeting structure could be updated, but those are all things that we will discover as we identify clearer strategic goals for NSA. And who doesn't like getting dressed up as a 50's rocker?*



NSA's own Thunderbirds

*Left to Right: Andy Piernock; Brian Thompson; John Rice; Paul Thompson; Ephraim Vega.*

*Continued on the following page*

Christine, welcome to the presidency.

*Thank you.*

It seems as though 2018 is a big year for accountants and tax preparers. What changes have you seen that impact our members as they move into the coming tax season?

*(Laughs) The Tax Act, or course. I can't stress how much that has impacted the profession as a whole, and our members specifically. We already deal with pages and pages tax laws on a regular basis, and the 2017 Tax Act has added an entirely new layer of complexity on top of it. Worse, is that the new requirements arrived in our laps without major guidance on qualified business income deductions.*

*All by itself, adjusting to the new material is a major hurdle. The fact that tax season is rapidly approaching, and we have to bring ourselves up to speed as quickly as possible...well, this isn't going to be easy.*

Christine what challenges do you feel the tax and accounting professions face as times change?

*Data security and cybercrime, those are at the top of my personal list. Hackers and scammers are becoming more creative all the time, and with the amount of personal data we send back and forth with our clients, we need to be prepared. We-our members and the accounting world at large-have to be vigilant and stay on top of tools that can help us keep everyone safe.*

*A great example is our new partnership with VeriFyle. They provide our members with a secure way to communicate and exchange information with our clients. That's a huge benefit for everyone involved, especially when we're giving it to members for free.*

John, what do you feel that NSA can do to keep to support our membership as the professional landscape changes?

*NSA does a lot really well, but we should always look to expand those offerings. I do strongly believe that we need to communicate better with our members to make sure they are getting the biggest bang for their buck in being a NSA member. It isn't enough to be a good value ... you have to communicate that to our potential universe of members. NSA needs to scream from the mountain top what we do, who we serve, and how tax and accounting professionals of every shape and size can benefit.*

*Let's take VeriFyle, as Christine mentioned. That benefit is a \$108 value per year that is free to members. CCH Intelliconnect, has been estimated at around a \$200 value per subscription, and we provide that for free also. On top of those, members receive \$135 in webinar credits, as well as \$125 worth of tax research answers from Tax Help Desk.*

*From those four benefits alone-its simple math-a member receives \$568 in benefits for \$225. In terms of savings, this is not bad! And we should not forget advocacy work, Tax Talk, our member newsletters, and in-person education events like the Live EA Review Course coming up in St. Louis.*

This question is for both of you, what would you like to accomplish in this year of change?

*Christine: I want to improve our communication with our members, and discover new ways of reaching out to accountants and tax preparers to help them learn about us and what we can do for them.*

*John: I'm in complete agreement with Christine. I look forward to contributing to build a robust community of tax professionals, both current members and new, in every stage of their careers.*

Speaking for Main Street Practitioner, and our NSA members, thank you both for taking time to share your thoughts. It looks to be an exciting year in the making, and we're looking forward to learning about new developments as they occur.



# New Tax Laws and Basic Fairness - Part 1

---

**J. Michael Pusey**

*(This is the first installment of a two-part feature by J. Michael Pusey, CPA.)*

Our topic is not so much the type of discussion that makes the newscasts – tax rate progressiveness or lack thereof and whether the group benefitting from this or that is big or small, or whether donations to the politicians seem to correlate with a particular tax break.

My background includes many years of watching legislative developments, and practicing as a CPA, and I don't recall studying a major tax bill and having an impression of it being inherently unfair in many respects. That was until recent months with study of the Tax Cuts and Jobs Act enacted in late December, 2017. ((References herein to Conf. Rep. are to the Tax Cuts and Jobs Act, Conference Report to Accompany H.R. 1, 115th Cong., 1st Sess., House Report 115-466, December 15, 2017.))

## Introduction and Scope

We will lay out our scope but we note that early in the process, the author set out to find a suitable definition of “fairness” when the focus is paying for the government. It might take an article to explain why he soon abandoned that approach.

The Act defies simple summarization, but there were in the Act significant cuts in tax rates, particularly corporate tax rates, enhanced ability to deduct immediately costs that would otherwise be depreciated over long periods, and increases in the standard deduction. For singles, the standard deduction went from \$6,350 in 2017 to \$12,000 in 2018. For married couples, the standard deduction was \$12,700 in 2017 and it increased to \$24,000 in 2018.

The details within the Act for paying for the tax-reducing aspects of the law took a multitude of different approaches.

For example, with respect to the ability under the old law to deduct miscellaneous itemized deductions, those in excess of 2% of adjusted gross income, these were simply declared nondeductible for a time, whether small or large and regardless of the taxpayer's income.

We discuss below the new rule that non-corporate business losses above certain levels become currently nondeductible and instead become contingent future deductions as part of the net operating loss carryover.

Within the sphere of writing off capital costs, the limitation under Section 179 was increased from \$500,000 to \$1,000,000, but this benefit is phased out for “bigger taxpayers.” The approach here is not income but rather the amount of capital expenditures. The benefit begins to phase out as capital expenditures exceed \$2,500,000. So there is a basic concept of not allowing this benefit to bigger taxpayers, but the definition focuses on capital expenditures, not sales or taxable income. Is it



fair to discriminate in favor of only the smaller taxpayer when it comes to writing off capital costs?

Within the new 20% of business income deduction concept, there are particular details within the rules that may turn on the level of income. The rules become much more complex with higher-income taxpayers.

The approach to generating more taxes is sometimes to just limit a particular deduction. One of the provisions in the Act, often discussed in a fairness context, is the de facto limitation on the deductibility of state income taxes in high-tax states, particularly California, New York and Massachusetts. After 2017, the new law limits the itemized deductions for the sum of the state income tax and property tax on the residence to \$10,000. The limitation is long-term but barring further changes, it goes away after 2025. The same rule applies in all the states. It is just that taxpayers in high-tax states get hurt, often rather severely. Is it fair to allow some taxpayers full deductions for their (more limited) state income taxes and not allow full deductibility to other taxpayers? It is in the basic nature of capping certain deductions that some taxpayers get hurt. The author believes it would be fairer to mitigate multiple taxes on the same income by allowing a full deduction for state income taxes on the federal return. We note the federal context is to generally mitigate double taxation when it arises from payments to a foreign country, but less so, when payments go to a state. Even states normally mitigate double taxation. A Philadelphia resident earning a living in New York may qualify for a Pennsylvania credit. But even mitigating double taxation as an element of fairness isn't our main focus here.

### What approach do we choose in focusing on “fairness”?

Deductions are, famously, a matter of legislative grace. ((See *New Colonial Ice*, 292 U.S. 435, 440 (1934) and other case citations in Chief Counsel Memorandum 201319010, December 28, 2012; <https://www.irs.gov/pub/irs-wd/1319010.pdf>.) But we believe that our basic tax system focuses on a measurement of income on a net basis. One would be aghast to contemplate a business reported on Form 1040 with a net income of \$ 1 million on sales of \$10 million and the owner basically had to pay tax at our income tax rates on gross income. The result would be to convert a profitable business into a loss business, after taxes. We might call the tax confiscatory. “Confiscatory” might well arise in describing the effects of the 2017 tax law changes as they apply in certain circumstances. Our focus is aimed at particular provisions. We don't address the Act's overall fairness, or even provisions that might be said to achieve fairness.

The basic concept of allowing losses and related deductions to offset the income seems to be deteriorating. This is our major focus – the deterioration of the most basic concept of allowing related expenses to be deducted in the measurement of income given our structure is obviously not one of a gross receipts tax. We argue that it is generally unfair to disallow related expenses and losses when the basic nature of the tax relates to income.

We will also address in the employees-parking-at-the-charity discussion one instance of mischaracterization of the basic nature of the matter; i.e., “taxation without representation” of anything resembling the actual facts. Basically, the legislators take an expense and call it income so as to subject it to an income tax. Can they do that?

### Eliminating Related Expense Deductions and Loss Disallowance Generally

#### *Eliminating Net Operating Loss Carrybacks*

The tax rules have for a very long time mitigated the sometimes rather arbitrary results of annual accounting by allowing losses to be carried back, as well as forward if necessary. Most recently the carryback rules were two or three years if a small business. There was significant mitigation of the unfairness that often results from our annual accounting approach. ((Section 172.))

One taxpayer could make \$1 million in year one and lose \$1 million in year two, and the result under the post-2017 Tax Act law is the taxpayer pays tax on essentially \$1 million over the two years, despite breaking even over those years. You could press this to a two-day example - cash-method taxpayer gets \$1 million on December 31st and while TV-watching the football games, pays out \$1 million in expenses on January 1st. The taxpayer who happens to lose \$1 million in year one and make \$1 million in year two has the markedly different result of breaking even over the two years due to the ability to carryover the year one loss.

*Continued on the following page*

One of the year-end tax planning considerations here is whether the taxpayer refrains from paying some expenses, leaving an estimated amount of income in the current year at lower tax rates when paying the expenses in the following year may ultimately be nondeductible if it is a year of net operating loss.

“Repealing the net operating loss carryback should be opposed because it is fundamentally unfair.” ((See generally “Net Operating Loss Carryback Repeal Isn’t Getting the Attention It Deserves,” Robert L. Rojas, [Rojascpa.com](http://Rojascpa.com), April 22, 2017; National Real Estate Investor, Robert L. Rojas, August 8, 2017, <https://www.nreionline.com/finance-investment/nol-carryback-repeal-isn-t-getting-attention-it-deserves>.)

It’s an income tax, not a gross receipts tax, but this is among myriad moves to limit offset.

### Larger Business Losses May Not Be Deducted Currently

For taxable years beginning after December 31, 2017, non-corporate taxpayers are limited in so far as offsetting non-business income with business losses. When such losses exceed \$250,000 or \$500,000 on a joint return, the losses just skip the current year’s return and go straight to net operating loss carryover, where they are a contingent future benefit. The passive loss rules apply prior to these rules. ((Sec. 461 (l); Conf. Rep. p. 238, 239.))

The legislative history just basically says, “Here’s what we’re going to do.” I don’t read a whisper of justification.

Note that the topic is also not necessarily limited to the large taxpayer. The taxpayer could run into this situation when after a long period of tax-profitable years, there is a large Section 1231 loss on the sale of a business asset or a large business casualty loss (e.g., the recent California fires).

The rule can seemingly arise with that last little bit of deduction; e.g., a dollar expense can potentially destroy the current deductibility of a large amount of losses.

The practitioner and taxpayer may run into situations where just not deducting that \$250 business trip expense translates effectively into incremental current deductions of almost \$250,000 or \$500,000. Could we run into a strange new world where not deducting something even raises issues of major penalties? For example, if the applicability of this new rule is close and the taxpayer tears up the support for the \$250 business trip so he or she can argue the business trip is nondeductible and this translates into freeing up almost \$250,000 or \$500,000 of additional losses, could this even be fraught with penalties?

This is a strange new world with myriad issues of just how the rules are to be applied and interpreted.

It’s an income tax, not a gross receipts tax, but this is another instance of basically not allowing offset.

#### About the Author:



**J. Michael Pusey, CPA, MSA**, is a National Tax Director with Rojas and Associates, CPAs, Los Angeles. He has over forty years experience in tax and finance. Mr. Pusey has written or contributed to four tax books, including an AICPA Tax Study, and a finance book. Mr. Pusey began his career with KPMG before working nine years in “national tax” for Laventhol & Horwath and Grant Thornton. He was V.P., Assistant Tax Director, Manager of Research and Planning for a NYSE financial institution prior to beginning his practice, then joining Rojas and Associates.

**TAX SEASON**  
**CESSATION PROGRAM**  
We have helped thousands sell...  
and WE CAN HELP YOU!

EXPERIENCING:  
• STRESS?  
• LACK OF SLEEP?  
• IRS INDUCED  
HAUSEA?

**ACCOUNTING**  
**PRACTICE SALES**  
THE GLOBAL LEADER IN PRACTICE SALES



# A Planning Introduction to The 2017 Tax Act - The 20% Of Business Income Deduction - Part 2

---

Bob Rojas, J. Michael Pusey

\*\*\*

## THE BASIC 20% MATH AND THE “IF-LESS RULE”

As discussed below, special rules may apply to certain service providers.

The computation measures the deduction looking to “combined qualified business income amount” or if less, 20 percent of any excess of taxable income over any net capital gain as defined in Section 1(h). ((Sec. 199A(a).)) The latter might be termed the “if less rule.”

In general, the “if less” component introduces a new complexity to planning. In the opinion of the authors, the statute here refers to taxable income from all sources, not just business income. ((One author opines, “It is unclear whether the taxpayer’s taxable income refers to the taxpayer’s taxable income from all sources or just income from all qualified trades or businesses. My best guess is that it refers to all sources.” “Qualified Business Deduction Under New Section 199A,” Teresa Rankin Klenk, Gentry, Tipton, McLemore, 12/20/17, <http://www.tennlaw.com/12/can-you-qualify-for-the-sec-199a-qualified-business-deduction/>.)

The concept of “combined” qualified business income nets income and losses. For example, one of only two examples in the Senate Report shows one spouse with a business loss and another spouse with business income, and the loss offsets income in figuring the net business income that gives rise to the 20% deduction in a joint return. (The conferees were relatively terse in their explanations but they made some very significant changes while basically following the Senate version. Conf. Rep., p. 221, 222.)

We noted above that there is a concept of carrying forward a loss within the Section 199A rules from a previous year. Within this concept of a loss related to Section 199A calculation, presumably such a carryover could only be post-2017; i.e., couldn’t precede the Section 199A rules.

But query the impact of a net operating loss carryover from 2017 or earlier on the calculations under Section 199A? The issues here should be considered in deciding whether to elect to carryover any NOL incurred in 2017.

First, how does an NOL carryover affect the basic 20% of business income computation? The 20% is applied to “qualified business income with respect to the qualified trade or business,” subject to some limitations, or more specifically, “the net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business.” ((Sec. 199A(b)(1)(A) and 199A(c).)) We also note Section 199A(c)(3) defining the relevant items as “effectively connected with the conduct of a trade or business within the United States...” It goes on to ask if such amounts are “included or allowed in determining taxable income for the taxable year.” ((Sec. 199A(c)(3)(A)(ii).)) One could argue the language here includes an NOL deduction arising even from pre-enactment years, at least as it relates to business losses.

Computing the NOL under Section 172 is complicated but it basically works from taxable income with adjustments, such as removing personal exemptions and nonbusiness deductions except to the extent of nonbusiness income. So it is roughly true that an NOL carryover would reflect losses from a trade or business. Yet an added complication is that it is possible an NOL would reflect non-business casualty losses as all or part of the NOL, which could also raise issues of order of absorption if the NOL also includes business losses.

When losses of non-corporate taxpayers exceed \$250,000 or \$500,000 in a joint return in tax years beginning after 2017, there is a new rule which can add such losses to the NOL carryover rather than allow such losses to offset non-business income. ((Conf. Rep. p. 19, 238-239, amending Sec. 461(l) for losses in tax years beginning after December 31, 2017.)) A possible argument for including consideration of the NOL deduction in Section 199A is that due to new Section 461(f), there are some scenarios where business losses don't seem to get deducted except as NOL carryovers. The express language of the statute refers to “disallowance.” ((Conf. Rep., p. 19; Act Sec. 11012.)) Rather than press an argument based on such an unusual provision, one could also argue for special computations but that would also raise issues of order of use when the figures include such amount as only one of the NOL components.

One could also argue that to include the NOL deduction in measuring business income under Section 199A runs counter to the focus of the statute on the results of the particular year and whose goal was to encourage business and reward post-enactment results.

One could add the following argument, emphasizing that pre-2018 law permitted NOL carryovers up to twenty years and the new law permits indefinite carryforwards. Congress envisioned a new concept which focuses on trade or business income post-2017 and it added rules that in some circumstances can even require separating such income into the income or loss of “each” separate trade or business. An NOL deduction arising from carryovers from many distant years could require analyzing such figures to segregate losses into separate trades or businesses when the returns and records may no longer even be available, and require practically impossible calculations looking to absorptions of such losses in years after they were incurred. The years of absorption may also be very distant. One would reasonably argue that Congress did not contemplate integrating an NOL carryover deduction into this mix of considerations within Section 199A.

Also, Section 199A has its own carryover rule which focuses on post-2017 net losses that arise within its rules. ((Sec. 199A(c')(2).)) Seemingly this raises the question of duplication. How would the taxpayer apply the carryover rule within the new code section and also the normal NOL carryover rules?

Within the Section 199A rules, there is statutory provision dealing with carryover of unused, excess loss, but not carryback, which may raise such questions as this: Does the taxpayer losing \$100,000 in year 1 and earning \$100,000 in year 2 get no 20% deduction in either year, but as to the person who earns \$100,000 and then loses \$100,000 in the second and last year of the business, does this person, whom we assume retires, get to deduct 20% of \$100,000 in year 1 and the \$100,000 loss from the discontinued business just carries over until his/her death, then disappears? This would seem to be the result given the new law contemplates carryover of unused losses but no carryback.

As to the basic question of whether the NOL deduction should reduce the base of the 20% of business income calculation, we would argue that this particular deduction should not reduce the base, and this should hold true of NOLs from pre-enactment and post-enactment years.

On the other hand, the authors would anticipate that the IRS will likely conclude an NOL carryover, even though from a year or years before enactment of the Section 199A concept, would reduce taxable income under the “if less” portion of the calculation. This figure is just basically taxable income with certain adjustments times 20%, and the list of adjustments doesn't include any NOL carryover deduction. For example, if a taxpayer elects to carryover a large NOL from 2017 to 2018, we would caveat that this would likely have a significant detrimental effect on any benefit under the new Section 199A rules.

Planning point: In deciding whether to carryback an NOL from 2017, consider that as an NOL carryover, it may have a detrimental effect in so far as accessing the 20% of business income deduction.



Planning point: Not to suggest that a couple will often opt out of a joint return because of these rules but it may arise in some circumstances; e.g., if one spouse has a business loss that offsets business income of the other spouse that might otherwise benefit from the 20% deduction. It is not impossible the regulations may try to limit such planning.

As one reads the statute, the term “qualified business income amount” doesn’t have a “20%” beside it, but it is a 20% figure. (See Sec. 199A(a)(1)(A), (b)(1)(A), (b)(2)(A).)

Planning point re business expense elections: Assuming the basic computation looks to 20% of qualified business income and the “if less” concept focusing on taxable income doesn’t otherwise apply, one can see that decisions that maximize business expenses have to be viewed from the standpoint of their effect on the Section 199A deduction. For example, if the taxpayer opts to expense a capital expenditure rather than claim normal depreciation, this reduces taxable income and saves tax. But while one can normally calculate tax savings of an incremental deduction by applying the marginal tax rate to the deduction, one needs in these circumstances to factor in the fact that the decision to call a capital expenditure an expense will also reduce the 20% of qualified business income deduction directly. By reducing taxable income, it may also bring into play the “If less rule” that focuses on 20% taxable income with adjustments.

Planning point re Keogh contributions: A Keogh contribution can also bring into play the taxable-income-if-less rule when the deduction would otherwise be based on net business income. Such decisions as whether have a Keogh or whether to maximize the deduction may now have to be weighed against projected or potential long-term reductions in the new Section 199A deduction. It may also be an issue whether or to what degree Keogh or other benefit programs may be considered as directly reducing the 20% of business income calculation, and whether, e.g., one distinguishes payments benefitting owners.

Planning point re nonbusiness expenses and nonbusiness income: Under the basic concept that the deduction is 20% of qualified business income or, if less, 20% of taxable income as reduced by the sum of net long-term capital gains in excess of short-term capital losses and qualified dividends, one can see certain areas where the 20% deduction is pared down by nonbusiness deductions, including the standard deduction, which was increased with the new legislation. For example, under the “if less rule” looking to 20% of taxable income, assuming a taxpayer with just qualified business income and the standard deduction, the standard deduction triggers a reduced 20% deduction, whereas it would not if there were, say, interest income in an amount equal to the standard deduction. One can envision circumstances where if this particular scenario applied, the taxpayer would have been better off investing in high-yield bonds versus low-yield growth stocks.

There can be scenarios in which the 20% of business income deduction goes up with incremental nonbusiness income. Nonbusiness income planning can significantly affect planning here if the deduction looks to taxable income.

Planning point re charitable donations: One can envision the Section 199A rule being a disincentive in some circumstances for charitable donations because the contributions increase itemized deductions and bring into play the “if less rule” looking 20% of taxable income with adjustments rather than 20% of business income. We later show another scenario in which the charitable donation looks to enhance the deduction.

Planning generally gets much more mathematical, particularly considering the breadth of the two components we discuss, one being combined “business income” which includes flow-through income which is often difficult to predict, and the other being “taxable income.”

An IRS exam that adjusts taxable income may well result in a re-computation of this deduction and it could affect either of the two major components that determine the basic deduction. One can envision circumstances where an IRS exam would increase taxable income without adjusting business income and the result would be diminution of the if-less limitation, such that the Section 199A deduction increased and mitigated the tax increase arising from the IRS adjustment.

There is a third rule saying the deduction can never exceed taxable income as reduced by net capital gain as defined in Section 1(h). ((Sec. 199A(a), last sentence.)) As discussed below, net capital gain for this purpose appears to be net long-term capital gains in excess of short-term capital losses plus qualified dividends.

## **GAINS AS A COMPONENT OF BUSINESS INCOME**

In the beginning of this complex statute, Section 199A(a) has two sentences; the first sentence is a “whopper.” We will disregard the portion dealing with cooperative dividends.

Section 199A(a)(1)(A) and (B) provide two basic rules governing the deduction. The taxpayer gets the lesser of these two calculations.

The language of Section 199A(a)(1) (A) says the taxpayer gets to deduct “the combined qualified business income amount of the taxpayer.” The real rule is 20% of such amount; the “20%” is there although it isn’t expressed in this particular sentence. ((See Sec. 199A(a)(1)(A), (b)(1)(A), (b)(2)(A).)).

The definition of qualified business income generally means “any amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business of the taxpayer.” ((Sec. 199A(c)(1).)) The new law goes on to define the above as related to a trade or business within the United States. ((Sec. 199A(c)(3).)) It goes on to except “investment items” of income, gain, deduction or loss, including capital gains or losses, dividends, interest, etc.

But we note that within the statute defining the base for computing the 20% of business income deduction is included not only ordinary operating income and loss but also “gain” and “loss.”

Sales of inventory, including sales of say constructed homes or buildings by a contractor, are ordinary income and conspicuously within the concept of the type of income that is the focus of this statute.

In general, the sale of fixed assets used in the business, including say a building that houses the employees and operating assets, would fall within the concept of “Section 1231” gains and losses. If the business has a net Section 1231 loss in a year, such loss is generally an ordinary loss. If the business has a net Section 1231 gain in a year, such gain is generally treated as long-term capital gain. Within the complex mix of these rules are such concepts as depreciation recapture which can convert gains to ordinary income that might otherwise be treated as long-term capital gains. (See generally Sec. 199A(c)(1) defining business income as inclusive of gains. See generally the following discussion of Sec. 1231 gains; <https://taxmap.irs.gov/taxmap/pubs/p544-015.htm>.)

An argument for including gains under Section 199A even when such gains are tax advantaged might stress this example. Assume a sole proprietor has inherently a break even situation, \$1,000 of unrealized loss on one machine and \$1,000 of unrealized gain on another machine. The sale of both machines in one year would yield zero gain or loss, and no impact because surely one can net gains and losses on the sale of business equipment in this scenario. If one machine was sold in December and the other machine was sold a month later, one would argue that similarly, the \$1,000 gain or loss should enter into the Section 199A computations in each year regardless of whether the \$1,000 loss is ordinary as a Section 1231 loss, and whether the \$1,000 gain is ordinary income due to depreciation recapture or Section 1231 gain treated as long-term capital gain.

Given the overall context and purpose of the statute, it would make sense to provide that, say, an ordinary loss of \$1,000 on a truck used in the business would be in the mix that determines the overall measure of business income.

But what about a \$1,000,000 gain on the sale of a building used in the business which may be subject to favorable long-term capital gain treatment? Did Congress intend to include such income in the measure of business income subject to the 20% deduction, even though already subject to reduced tax as a long-term capital gain?

It is a fair question but as the authors read the new statute and its legislative history, it would appear that such gain would be included as business income subject to a 20% deduction under the basic rule of Section 199A(a)(1).

But the taxpayer’s deduction is the lesser of the general rule, or the “if less rule” that focuses on 20% of taxable income as reduced by “net capital gain (as defined in section 1(h).” The authors believe our \$1,000,000 long-term capital gain on the sale of a building used in the business would be a limiting factor; i.e., a reduction of taxable income for purposes of the if less rule of Section 199A(a)(1)(B).

This is a brief illustration, admittedly simplified to illustrate the math. Assume the taxpayer has a business Schedule C in the Form 1040 breaking even but it is a year in which the taxpayer also has interest income equal to the standard deduction, so taxable income is \$1,000,000 before considering the Section 199A deduction. Under Section 199A(a)(1)(A), we compute such deduction as 20% of \$1,000,000 (the Section 1231 gain on sale of business asset) or \$200,000. Under the “if less rule” of Section 199A(a)(1)(B), the computation would be taxable income of \$1,000,000 less the net capital gain of \$1,000,000 times 20%, such that the deduction is zero, and our taxpayer apparently does lose out on any benefit from Section 199A.

But what if the taxpayer also had an additional \$1,000,000 of interest income, such that taxable income is \$2,000,000 with the \$1,000,000 of Section 1231 gain before considering the 20% of business income deduction. Under Section 199A(a)

(1)(A), we compute such deduction as 20% of \$1,000,000 or \$200,000. Under the “if less rule” of Section 199A(a)(1)(B), the computation would focus on taxable income of \$2,000,000 less the net capital gain of \$1,000,000 times 20%, such that the “if less” limitation should not apply. So despite the “if less” rule’s incorporating a capital gain adjustment, there are some scenarios where the long-term capital gain appears to also yield a 20% of business income deduction.

Planning point: There are some scenarios in which taxpayers with large amounts of nonbusiness income may be better off under the 20% of business income concept because they may more easily avoid the limitation focused on taxable income.

We turn to discussing in some more detail the capital gains aspects. We note that it may be important in these calculations whether the taxpayer’s other income emphasizes qualified dividends.

“Net capital gains” are expressly mentioned in this part of the “if less” statute but not Section 199A(a)(1)(A) looking to qualified business income. Both rules incorporate a 20% factor. Yet “gain” is mentioned in the more detailed definition of qualified business income at Section 199A(c)(1). Capital losses are not mentioned but seemingly a net capital loss for the year deductible to the extent of \$3,000 would simply reduce the taxable income figure. “Loss” is also mentioned in Section 199A(c)(1).

The term “net capital gains” is defined in Section 1222(11) as net long-term capital gains over net short-term capital losses. But the language within the if less rule refers not to Section 1222(11) but rather the definition in Section 1(h), which would appear to say the term means net long-term capital gains over short-term capital losses plus qualified dividends. (The legislative history confirms but does not expand on the reference to Section 1(h). See Conf. Rep., p. 219, footnote 60, which is the Senate Report which was with modifications followed in conference.)

It would appear that even dividends can affect our if less limitation results in a unique manner, unlike other income. (See Sec. 1(h)(11) which reads: “Dividends taxed as net capital gains. For purposes of this subsection, the term “net capital gain” means net capital gain (determined without regard to this paragraph) increased by qualified dividend income.” So investing for, say, tax-advantaged dividends versus interest income may need to consider in such analysis the potential difference such investments may have on the 20% of business income deduction. Qualified dividends are a plus and minus in the if-less limitation computation, whereas net short-term capital gains in excess of long-term capital losses and interest income would just increase taxable income, and muni-bond interest would not increase taxable income. New Section 199A may well impact basic investment strategy.

There’s a second sentence (the last sentence) in Section 199A(a) which says the result of the first sentence cannot exceed the taxable income as reduced by the net capital gain as so defined.

Following are notes from the legislative history concerning gains and losses

“Qualified business income is determined for each qualified trade or business of the taxpayer. For any taxable year, qualified business income means the net amount of qualified items of income, gain, deduction, and loss with respect to the qualified trade or business of the taxpayer. The determination of qualified items of income, gain, deduction, and loss takes into account these items only to the extent included or allowed in the determination of taxable income for the year.” (Conf. Rep., p. 214, which here is the Senate report which with modifications was followed in conference.)

“Items are treated as qualified items of income, gain, deduction, and loss only to the extent they are effectively connected with the conduct of a trade or business within the United States.” (Conf., Rep., p. 215; footnote omitted.)

The legislative history here goes on to talk of the “Treatment of investment income,” which is introduced with a sentence saying, “Qualified items do not include specified investment-related income, deductions, or loss.” It goes on to specifically say qualified items of income, gain, etc. that do not qualify for the 20% deduction include “any item taken into account in determining net long-term capital gain or net long-term capital loss.” Later in the paragraph, it mentions as qualifying income gains on sale of inventory. Still later in the list, the discussion goes on to mention exceptions; i.e., property used in the trade or business, or supplies regularly used or consumed in the trade or business..” (See items #1 and #4 in “Treatment of investment income,” page 215.)

One of the debates on this topic would be whether in the above paragraph, the reference to net long-term capital gain should include gains on the sales of business assets if after applying the rules, the taxpayer ends up with net long term capital gain - tax favored income because of Section 1231. We would stress that the heading here is “investment income” and within the same paragraph there is an expressed exception for property used in a trade or business. Also, the overall context is one of encouraging business.

In general, the new Tax Cuts and Jobs Act maintained the long-term capital gain rules, such that depending on the taxpayer's bracket on the tax schedule, the federal tax rates on just the long-term capital gain may be zero, 15% or 20%. The rates have basically stayed the same but the range of incomes where different capital gains rates apply has changed.

Following are the long-term capital gain rates in 2018 (the amounts are subject to annual adjustments).

Married filing joint: zero long-term capital gains tax up to taxable income of \$77,200; 15% on such gains when taxable income is \$77,200 to \$479,000, and 20% on such gains when taxable income exceeds \$479,000. In 2017, the 15% tax rate begins at \$76,550 and the 20% rate begins at \$470,700.

Single returns: zero long-term capital gains tax up to taxable income of \$38,600, 15% on such gains when taxable income is \$38,600 to \$425,800, and 20% on such gains when taxable income exceeds \$425,800. In 2017, the 15% tax rate begins at \$37,950 and the 20% rate begins at \$418,400.

A 25% rate may reach part of the gain on buildings (unrecaptured Section 1250 gain) but not land. (See Sec. 1(h)(1)(E); 2017 Form 1040 Schedule D, line 19, and page D-12, 13 of the 2017 instructions to Schedule D.) Tax consequences may be affected by the minimum tax.

If our interpretation prevails, then one might have the sale of business realty where part of the gain is ordinary income under the depreciation recapture rules, part of the gain is subject to the 25% tax, and part of the gain is subject to the usual long-term capital gain treatment, yet all the gain from the sale would be subject to Section 199A. If one argues that gain taxed at the favorable 20% capital gains rate or even the 25% rate that can apply to part of the gain on the sale of a building should not qualify under Section 199A because it is already tax-advantaged, it would apparently lead to treating the depreciation recapture portion of the gain as subject to the 20% of business income deduction, whereas the rest of the income from the same sale of the same asset did not qualify. There's nothing in the statute or legislative history suggesting one breaks down one transaction into a portion that is subject to Section 199A and a portion that is not.

We believe the better view is that the 20% of business income concept does reach gains on sales of business assets, even the portion that may qualify as long-term capital gain.

Planning point: A possible planning aspect and an issue of interpretation or IRS regulation is whether pre-2018 appreciation is fully subject to the benefits of the new Section 199A, whether or not the asset was even a business asset when the new law was introduced. For example, assume land is used in business and its sale in 2018 results in a \$1,000,000 gain but there was no appreciation in 2018. Is the entire \$1,000,000 gain subject to the benefits of the new 20% of business income deduction rule, assuming such gain isn't excluded from being business income for purposes of Section 199A just because it is already beneficially taxed?

We believe post-2017 gain or loss for purposes of Section 199A does not have to distinguish the portion of the gain that may relate to pre-enactment years, which suggests that when justified there may even be an incentive to convert assets from personal to business use. Conspicuous by its absence is any rule in the new law or its legislative history saying we distinguish the portion of "gain" that may relate to appreciation in years prior to enactment of the new statute. Compare Section 1374 which does have such a concept in so far as reaching appreciation relating to a C corporation's years that is realized in certain periods following conversion to S corporation status. In general, this would be very complex and we would be surprised if the IRS introduces such a concept by way of regulations or rulings.

A detailed discussion of measuring gain/loss on the disposition of business assets is beyond our scope, but the measurement details can be complicated. In measuring gain or loss within a business context, there may arise any number of different issues, including those relating to basis upon converting a declined-in-value asset from personal to business use, or converting an asset whose value has increased from personal to business use via a sole proprietorship or as a contribution to a partnership or S corporation. (See, e.g., IRS Pub. 551, Basis of Assets, Rev. Dec. 2016, p. 10.)

Taxpayers may be looking at more and more taxable transactions involving property because the 2017 Tax Act amended the like-kind exchange rules to generally provide that after 2017, they apply only to exchanges of realty not held primarily for sale. (Conf. Rep., p. 396; see p. 72, 73, 394-396; see also p. 223. The new rules focus on exchanges completed after 2017 with exceptions if the disposed of property was disposed of prior to 2017 or the property received was received prior to 2017. Conf. Rep., p. 396, 397.)

To summarize, we believe Section 199A, the 20% of business income deduction rule, reaches business income beginning in 2018 looking to income or gains realized or losses sustained after 2017, and we believe this generally as to ordinary income or tax-advantaged gains. If there were say Section 1231 loss from the sale of equipment or say a business building, such loss would



appear to reduce the base for computing the 20% of business income deduction. We also believe that even tax-advantaged gain should qualify as gain subject to the benefits of the 20% of business income deduction because the statute basically focuses on business income realized in the taxable year. (See generally Conf. Rep., p. 223.) We believe that, e.g., the entire loss sustained on the sale of a business asset after 2017 reduces the benefits under Section 199A even though all or part of the loss relates to pre-enactment years.

We would caveat that there are complexities and possible issues as to how the IRS will interpret the new statute and the stances it will take in rulings and regulations on these important details.

We noted previously legislative history from the Conference Committee, and portions of it has general anti-abuse message.

“The Secretary is required to provide guidance applying rules similar to the rules of section 179(d)(2) to address acquisitions of property from a related party, as well as in a sale-leaseback or other transaction as needed to carry out the purposes of the provision and to provide anti-abuse rules, including under the limitation based on W-2 wages and capital. Similarly, the Secretary shall provide guidance prescribing rules for determining the unadjusted basis immediately after acquisition of qualified property acquired in like-kind exchanges or involuntary conversions as needed to carry out the purposes of the provision and to provide anti-abuse rules, including under the limitation based on W-2 wages and capital.” (Conf. Rep. p. 223.

*This article will be concluded in the December issue of Main Street Practitioner.*

#### About the Author:



**Bob Rojas**, owner of the firm, has a direct hand in practically everything – accounting, auditing, tax and administration. As a smaller regional firm with a tendency to hire and retain more heavily experienced professionals, it is common for the staff to also have a broader range of skills and in-depth insights into both accounting, auditing and tax matters. At work, Bob does everything but wash the dishes. He’s been known to mention that he does wash the dishes at home with his wife. At the office and in the professional community, if not in the kitchen, Bob’s known as an excellent negotiator. He has run a regional CPA firm, audit and tax, for some thirty years. Prior to that, he was an audit manager at a highly respected national firm, and a tax manager at an international CPA firm. During this time Bob earned his MS in taxation. It is rare to rise to the manager level in the big national firms in both audit and tax, but it was an excellent background for running his own regional firm.



**J. Michael Pusey, CPA, MSA**, is a National Tax Director with Rojas and Associates, CPAs, Los Angeles. He has over forty years experience in tax and finance. Mr. Pusey has written or contributed to four tax books, including an AICPA Tax Study, and a finance book. Mr. Pusey began his career with KPMG before working nine years in “national tax” for Laventhol & Horwath and Grant Thornton. He was V.P., Assistant Tax Director, Manager of Research and Planning for a NYSE financial institution prior to beginning his practice, then joining Rojas and Associates.

**TRAVELERS**



NSA-ENDORSED

**1st Choice+® Accountants  
Professional Liability**

[LEARN MORE](#)



# Customers Are Texting You

---

This wasn't necessarily true even a year ago, but consumer habits have changed.

It's a story we're hearing more often. A business adds Zipwhip texting to a landline or toll free number and receives a sudden flood of messages from customers that have been trying, and failing, to contact it.

Zipwhip has been connecting landlines with text messaging for years, but demand for text is suddenly surging. Text traffic to toll free phone numbers grew 300% last year.

Why are so many people shifting to text? Why now? Is this a fad or a long-term trend, and what do businesses need to know?

We surveyed over 1,500 consumers from across the United States in search of answers. Here's what we found.

- **Phone Calls Are Inconvenient** - Some people prefer voice calls, but many others prefer to text. Supporting phone calls and text messages on the same number gives you the best chance to connect with all your customers.
- **Voicemail Is Dead** - Consumers rarely respond to voicemails, especially when the number isn't saved in their address book. One in four consumers won't even listen to a voicemail if they don't recognize the caller.
- **The Future Is Text** - Across all age groups, smartphone owners no longer view calling as their phone's primary function. Text messaging is the most-used smartphone feature, ahead of internet access, voice calls, and email.<sup>3</sup>

## The Dreaded Phone Call

---

Your mobile phone rings, but you don't recognize the number. How do you respond? If you're like most of the people Zipwhip surveyed, you let it keep ringing. A full 84% of consumers say they won't answer calls from numbers they don't recognize.

As a business, your phone number probably isn't saved in your customers' mobile address books. That's why so many of your calls go straight to voicemail.

**Don't Be Annoying** - Your customers mute incoming calls because they don't have time in the middle of the workday to stop what they're doing and speak with you. Even a "quick five minute call" can last for 20 minutes or more.

When Zipwhip asked consumers to describe how they feel when businesses call them, 76% of respondents chose negative terms like annoyed or inconvenienced.

Among respondents who dislike speaking to businesses on the phone:

- › 50% described calls as annoying;
- › 37% said disruptive;

- › 35% said inconvenient;
- › 30% said time-consuming; and
- › 26% said “a necessary evil.”

These negative feelings spill over to the person or company placing the call, hurting your brand perception. Annoyed customers are less likely to buy what you’re selling, if you even get through to them. Text messages offer a welcome alternative to annoying phone calls. Some of your customers still want to call, but all of them will appreciate having a choice.

**Supporting Customer Choices** - When a call comes in, your customer has four choices: mute, message, decline, or answer. When they don’t recognize the caller, only 16% of consumers choose to answer. Although few answer the call, nearly half of consumers have chosen to text back to an incoming call instead of answering. You’re significantly more likely to get a response if you support both options.

**Choosing Text Over Voice Calls** - Text messaging used to be viewed as a personal communication channel, but that view has changed. More consumers are choosing to text with businesses like they do with friends and family. A 2015 Nuance survey found that 1 in 5 consumers would rather text with a business than speak to one on the phone.<sup>2</sup> Zipwhip’s survey, performed only one year later, found nearly 2 in 5 people would prefer to text, a 100% increase! Consumers that don’t answer or reply to your phone calls might still be solid leads and engaged customers, you’re just reaching out to them the wrong way.

---

### Leaving the Right Message

If a customer ignores your phone call, and most will, you have few options. Leaving a voicemail is a bad one.

There’s a reason major institutions like J.P. Morgan and Coca-Cola have killed voicemail in their offices. Michael Schrage sums it up well in a 2013 Harvard Business Review article:<sup>1</sup>

“The truly productive have effectively abandoned voicemail, preferring to visually track who’s calling them on their mobiles.”

Listening to a voicemail takes time that busy people don’t have. When a missed call comes from a friend, family member, or colleague, a name appears in the missed call log. The recipient can respond without actually listening to the message.

When a missed call comes from an unknown number, the recipient can respond blindly, listen to the message, or ignore it. Nearly a quarter of consumers simply ignore it, refusing to listen to voicemails left by unknown callers. Even when they do listen to the voicemail, very few consumers will respond if they don’t know the caller.

Of the few who do respond to voicemails from unknown callers, half will send a text message but won’t call back. Only 3% of all voicemails from unknown callers will get a call back.

**More Convenient For Customers** - If you don’t connect on the first try, sending a text is your best shot at getting a response from your customer. If a customer receives a voicemail and a text message from two unknown numbers, they are seven times more likely to respond to the text. Text messages deliver better results because they’re convenient. Your customer can see at a glance who is texting and what you want them to know. They can respond on their own time.

The fact that you support text says something about your brand. Sending a text signals that you respect your customers’ time and gives your customers a chance to control the conversation.

**More Transparent For Business** - Text messages also give you, the business, more insight into whether your message goes through and it is received. The first outbound phone call that you make to a customer is likely a formality. You ask “is this a convenient time to talk?” and take the conversation from there.

It is time-consuming to reach out to a customer just to schedule another phone call. A text message is more efficient for simple tasks like scheduling. Plus, with a reputable texting platform, businesses get a delivery receipt as soon as a text message reaches the customer. You’re never left guessing whether your message made it through.

---

### Connecting With the Future

Across all age groups, smartphone owners no longer view calling as their phone’s primary function. Text messaging is the

most-used smartphone feature, ahead of internet access, voice calls, and email.<sup>3</sup>

Texting is even more popular with the Millennial generation, adults between the ages of 18 and 34. Millennials represent the largest age group in the U.S. workforce, and their influence and buying power continue to grow. As Millennials gain influence, their preferences will shape the future of communications.

Millennials' top priorities are control and convenience, and text messaging delivers both. Offering Millennials a positive experience means supporting text. Given the choice, most Millennials would rather text with a business than call. Most, 61%, think businesses should call and text them from the same number. Millennials are four times more likely to text back to a text than call back to a voicemail. When they do respond to voicemails, they're four times more likely than the average consumer to send a text back instead of calling.

Millennials are driving the current surge in text traffic, and businesses would do well to take notice.

A Trend, Not A Fad - Text traffic between mobile and landline networks has grown steadily over the past eight years. Lately, that growth has accelerated. Text traffic to toll free numbers alone grew 300% last year, and so far 2016 is already breaking records.

Business texting today appears to be where email was in 1995. It's an essential, near-universal communication platform.

Consumers are fed up with poor voice calling experiences like waiting on hold and receiving unwanted robocalls. They crave the control and convenience that text delivers.

## Wrapping it Up

---

Most consumers agree that businesses should accept text messages on the same number they use for voice calls, their existing phone number.

If your business has a phone number, some of your customers are texting it. If you don't support text on that number, you're ignoring those customers.

Until recently, text messaging gave you a competitive advantage, but it wasn't essential. As a business, you could get by without it and rely on the "necessary evil" of voice calls and voicemails. That's no longer true. If you don't support texting today, you're out of touch with your customers.

Do all of your customers prefer text? No, probably not. However, a significant number do, and it's bad business to ignore them.

The results from our consumer survey offered three explanations for why text is taking off now and why growth will likely continue.

- **Control:** Your customers lead crazy, busy lives, and they crave control wherever they can get it. Calls are annoying because they must be answered in the moment. Calls interrupt previously scheduled activities. Giving your customers a choice between calling and texting puts control back in their hands. When they can choose how to contact you and when, they're more likely to actually follow through.
- **Convenience:** Because they're so busy, your customers are constantly multitasking. They flip between tabs, screens, and devices. Voicemail is inconvenient because it breaks the multitasking flow and takes over an entire screen. As a result, many customers ignore voicemails and few respond to them. Your customers would rather see, at a glance, who is contacting them and why. Text messages offer that convenience. Sending a text is the most effective way to leave a message that your customer will actually read and reply to.

Millennial demographic: Preferences for control and convenience are amplified among Millennials. The younger your customers are,

### Key Takeaways

- Customers are 7x more likely to text back after receiving a text than call back after receiving a voicemail
- 84% of consumers don't answer calls from unknown number
- 94% of consumers don't respond to voicemails from unknown numbers
- 37% of consumers would rather text with a business than speak on the phone
- 44% of consumers have sent a text back after choosing not to answer a call



the more they want to text with you. As older generations retire, they're being replaced by Millennials. These young adults exert influence as consumers and as business buyers. Looking at the demographics of who is texting and why, it makes sense that text traffic continues to grow year over year. Consumers are fed up with poor voice calling experiences like waiting on hold and receiving unwanted robocalls. They crave the control and convenience that text delivers.

References:

1. Michael Shrage. "Time to Hang Up on V" Harvard Business Review, September 30, 2013.
  2. "Text Messaging—The Channel that Gets Attention." White Paper, 2015.
  3. Pew Research Center. "U.S. Smartphone Use in 2015." April 1, 2015. Available from: <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/>
- 

### About this Article

This feature was adapted from ZipWhip's 2016 survey of 1500 individuals, and was provided by them for our readers' information. For more information, visit [ZipWhip.com](http://ZipWhip.com)

# • ALL AROUND NSA

---

## FALL 2018 CONNECTED WEBINARS FROM THE NSA

---

The NSA has scheduled new CPE-credit webinars for this fall and winter. NSA ConnectED webinars are offered both live and on-demand. For a complete list of all NSA ConnectED webinars, go to: <https://nsawebinars.nsacct.org/>.

Order four or more live or archived webinars in one order and receive a **20** percent discount.

---

### The Fundamentals of Tax Litigation

10/17/2018 at 2:00 pm - 4:00 pm Eastern Time

After an audit or collection case, taxpayers may find they want to challenge the IRS in court. Taxpayers have options for filing suit depending on whether they want to challenge before or after paying the tax. The presenter will discuss the various forums for litigating tax disputes, with a focus on the U.S. Tax Court. Topics to be covered include the structure of the U.S. Tax Court, the court's role in adjudicating tax disputes, and strategies to help win your case in court.

IRS CE: 2 Hours/Federal Tax Law; NASBA CE: 2 Hours/Taxes

*Presented by T. Joshua Wu*

**REGISTER**

---

### Personal Provisions of the New Tax Law

10/18/2018 at 2:00 pm - 3:00 pm Eastern Time

Tax professionals in attendance will learn about the most significant tax law changes in 30 years. All taxpayers are affected, no one escapes. Some taxpayers will be adversely affected while others will receive tax benefits. There is no cookie cutter application of the law.

IRS CE: 1 Hour/Federal Tax Law Update; NASBA CE: 1 Hour/Tax Law Update

*Presented by Beanna J. Whitlock, EA CSA*

**REGISTER**

---

### Using Form 1040 as a Financial Planning Tool

10/23/2018 at 2:00 pm - 4:00 pm Eastern Time

A client's completed Form 1040 is the single most important financial document available to assist a financial planner in understanding a client's current financial situation. In addition to any other attached forms or schedules, the 1040 shows

the details of all income sources, number of dependents, marital status, and contributions and withdrawals from IRAs and qualified plans. Some IRA and annuity providers even have created clear plastic overlays to be used in conjunction with a client's Form 1040 to uncover talking points that are associated with specific line numbers on the return. This webinar will show you how to use the information found on the return to aid in planning for income taxes, insurance, investments, retirement, and estate planning.

IRS CE: 2 Hours/Federal Tax Law; NASBA CE: 2 Hours/Taxes

*Presented by: Eric A. Smith, CFP, CLU, ChFC, CRPC, ATP*

**REGISTER**

---

### **Business Provisions of the New Tax Law**

11/01/2018 at 2:00 PM - 3:00 PM(EDT)

Tax professionals in attendance will learn about the most significant tax law changes in 30 years for business taxpayers, whether Schedule C, C corp, S Corp or Partnership, including Estates and Trusts. All business taxpayers are affected - no one escapes.

IRS CE: 1 Hour/Federal Tax Law Update; NASBA CE: 1 Hour/Tax Law Update

*Presented by Beanna J. Whitlock, EA CSA*

**REGISTER**

---

### **Cyber Security for Tax Professionals**

11/08/2018 at 2:00 pm - 3:00 pm Eastern Time

Tax professionals are becoming a frequent target for hackers and other cyber criminals. This course will cover the most common forms of cybercrime, including corporate account takeover, identify theft, data theft, and ransomware. The presenter will discuss steps that professionals can take to mitigate the risk of cyber-attacks. The attendees will also learn about the ethical duties that tax practitioners have with respect to protecting client data.

IRS CE: 1 Hour/Federal Tax Law; NASBA CE: 1 Hour/Taxes

*Presented by T. Joshua Wu*

**REGISTER**

---

### **So I Missed an Election...Now What?**

11/15/2018 at 2:00 pm - 3:00 pm Eastern Time

Tax professionals are becoming a frequent target for hackers and other cyber criminals. This course will cover the most common forms of cybercrime, including corporate account takeover, identify theft, data theft, and ransomware. The presenter will discuss steps that professionals can take to mitigate the risk of cyber-attacks. The attendees will also learn about the ethical duties that tax practitioners have with respect to protecting client data.

IRS CE: 1 Hour/Federal Tax Law; NASBA CE: 1 Hour/Taxes

*Presented by T. Joshua Wu*

**REGISTER**

---

## ZIPWHIP-THE LATEST NSA MEMBER BENEFIT

---



NSA would like to welcome ZipWhip to our list of member benefits. ZipWhip provides land-line text messaging for businesses. That means you can reach out to your clients, wherever they are, and remind them of meetings, documents you'll need to prepare their taxes, and other notifications. Your clients can text you back to confirm, reschedule, or communicate directly, faster than dialing their cellphone.

Members receive 10% off of the business and enterprise plans. That can save you as much as \$120 a year!

Here's a sample of what the Business plan offers:

- > Unlimited Texts
- > Unlimited Contacts
- > 10 Devices
- > 10 texts per min throttle rate
- > Contact Import
- > Reports
- > Apps
- > MMS Picture Texting
- > Auto Reply
- > Group Texting (up to 50 contacts)
- > Custom Signature
- > Scheduled Messages
- > Templates
- > Integrations

Go to this [page](#) to get your discount code and get started with this excellent communication tool!

NSA is always on the lookout for the best and most useful products to share with our members. Our goal is to give you more value for your membership than the cost of membership itself. This new partnership with ZipWhip is another example of our commitment to our members productivity and profitability.

---

## NSA MEMBERSHIP EQUALS VALUE

---

Did you know that NSA member benefits give you more than DOUBLE the value of your \$225 annual membership dues? Here is a table that shows you what you save every year if you use a fraction of the programs and discounts we offer you when you become a member or renew.

Benefit	Dollars Per Year Savings
CCH Intelliconnect Subscription: FREE	\$200*
VeriFyle Pro: FREE	\$108
Tax Help Desk: 5 free questions a year (regular price \$25 each)	\$125
ConnectEd Webinar discount: \$135 credit every year of your active membership	\$135
<b>You save this every year by being a member:</b>	<b>\$548.00</b>

NSA offers even more than these opportunities; just visit our [Member Discounts](#) page to see even more benefits that can save you money right now.

NSA has your back, and the more you take advantage of your membership benefits, the more your membership is worth.

\*Approximate value



---

## LIVE EA REVIEW COURSE COMING TO ST. LOUIS

---

*EA Exam Review Course Scheduled for November 12-14th in St. Louis. This is your last chance to take this course, featuring the 2017 tax laws that apply to the 2018 filing season prior to the changeover to the new Tax Act.*

NSA's Enrolled Agent Exam Review Course is a comprehensive and intensive—and we mean intensive—course geared toward a single purpose: to help you master tax basics and pass the EA exam.

Detailed study notes will be provided for each topic, including figures and charts that prove the old adage that “...a picture is worth a thousand words.” Hundreds of past exam questions from the open-exam era and many more potential questions on newer topics are incorporated and each is reviewed in class so the real exam itself will look like an old friend. Study tips, tricks and shortcuts are a staple of this course.

### Included with Your Registration:

- The 3-Volume NSA Enrolled Agent Review Course in online and PDF formats—a \$200+ Value! Preview Course Materials
- Detailed handouts, notes, examples, illustrations to follow the course step-by-step. Preview Sample Slides
- 18 (6 per part) detailed study lessons and review questions to help you master each section of the materials.
- Proven exam taking tips, tricks and strategy guides with tips for passing each part of the exam.
- Top 150 questions per part—essential questions on topics that you will absolutely need to master.
- Interactive online review and practice questions with explanations and analysis.
- Final Review Cards super summaries for each part of the exam—the perfect last-minute memory-jogger to review immediately before the exam.
- Weekly study guides with detailed assignments and time allocations.
- Comprehensive study aids that summarize the tax law related to a particular subject. These aids should prove valuable in last-minute reviews prior to the exam.
- Access to an online EA study community to post your questions and comments, respond to other commenters, and interact with the presenters. Added Bonus! Get access to even more sample questions and study tips.
- A complete sample EA exam to help you gauge your progress prior to taking the exam.

### PRESENTERS

**John O. Everett, CPA, Ph.D.**, is Professor Emeritus of Accounting at VCU in Richmond, VA. John's teaching specialty is federal taxation. He has authored or co-authored over 90 articles in academic and professional journals including the NSA EA Exam Review Course and 1040 101 Course, and is the coauthor of several textbooks, including CCH Practical Guide to



Schedule M-3 Compliance, The HBJ Federal Tax Course, Income Tax Fundamentals, and Tax Planning With the Computer.

**William A Duncan CPA, Ph.D.**, is an Associate Professor of Accounting at Arizona State University. Dr. Duncan was formerly a Director with Ernst & Young where he guided tax education for the firm. He is the author or co-author of three textbooks and has published a number of articles on a variety of tax topics in publications ranging from Taxes and The CPA Journal to the Journal of the American Taxation Association. He has taught in the AICPA National Tax Education program for over 20 years.

## Registration

**Registration special:** NSA is offering a 50% discount on their complete Enrolled Agent Examination Review Course printed books to attendees of the upcoming live course! That's a \$200+ value! Contact [dbennett@nsacct.org](mailto:dbennett@nsacct.org) after you register for more information about ordering the printed materials. Learn more about the materials [here](#).

### Complete Course (all three parts)

NSA Member: \$699 – Nonmember: \$775

### EA Part 1/ATP Course:

NSA Member: \$275 – Nonmember: \$325

### EA Part 2:

NSA Member: \$375 – Nonmember: \$425

### EA Part 3:

NSA Member: \$200 – Nonmember: \$250

*Choose Any 1 Part or All 3!*

**REGISTER**

[For more information](#)

[Download a registration form](#)

Please email the completed registration to [members@nsacct.org](mailto:members@nsacct.org), or fax it to 703-549-2984.

## Schedule

### Monday, November 12

EA Part 1: Individuals 8:00am - 5:00pm

CPE: 2 Hours/Federal Tax Law Update; 2 Hours/Federal Tax Law; 4 Hours/SEE Exam Preparation

### Tuesday, November 13

EA Part 2: Businesses 8:00am - 5:00pm

### Wednesday, November 14

EA Part 2: Businesses, continued 8:00am - 12:00pm

Total CPE Part 2: 3 Hours/Federal Tax Law Update; 3 Hours/Federal Tax Law; 5 Hours/SEE Exam Preparation; 1 Hour Tax

EA Part 3: Representation, Practices & Procedures  
1:00pm - 5:00pm

CPE: 2 Hours/Ethics/Regulatory Ethics

*Requests for refunds must be received in writing and will be subject to a \$75 cancellation fee. For more information regarding refund, complaint and/or program cancellation policies, please contact our offices at (800) 966-6679.*



## Hotel Information

Holiday Inn St. Louis Airport  
3400 Rider Trail S, Earth City, MO 63045  
Room Rate: \$92

Reservation Phone: (314)291-6800

Use group code NA2 when you book your room to get the NSA rate.

---

## 73RD NSA ANNUAL CONVENTION A SUCCESS

---

NSA's 73rd Annual Meeting was a great success. Attendees were able to attend CPE functions, business meetings, network and socialize at this year's event. New Executive Committee and Board members were elected, and NSA's prestigious awards were passed out to the winners. Here are some highlights of Minneapolis...

### Awards

**Accountant of the Year:** One of NSA's highest honors was presented to Stephen Haworth, CPA, ATA, ABA, ARA, of Stephen C. Haworth P.C. in Columbus, Indiana for his outstanding service and contributions to NSA and the accounting and tax profession.

**Distinguished Service:** Steven J. Hanson, CPA, EA, for significant and exemplary contributions for the betterment of NSA and it's membership, as well as the accounting profession.

**Speaker of the Year:** Timothy Sundstrom, CPA, for outstanding NSA continuing education and presentations.

**Young Professional of the Year:** Mark Nelson Jr. EA, for making a difference in the profession, stepping forward in leadership and enthusiasm about the future of the profession.

**Affiliated State Organization (ASO) of the Year:** Hawaii Association of Public Accountants for its overall achievements and promoting and implementing NSA programs.

**Norma Kraus State Director of the Year:** Danette Daigle, EA, ARA, for her outstanding performance and dedicated service a director of an Affiliated State Organization.

**Keith Billings Memorial Awards**—in recognition of the most outstanding publication of an ASO, judged according to the importance of topics, coverage of activities, timeliness of articles, and format and overall appearance

(over 300 members): Independent Accountants Association of Illinois for its publication, Debits and Credits.

(under 300 members): Minnesota Association of Public Accountants for its publication, The MAPAN.

**Tax Talker of the Year:** Ellen Briscoe, EA, ATA, for her significant and consistent contributions to the NSA Tax Talk member discussion forum with technical, knowledgeable and practical assistance to member tax questions and needs.

**Above and Beyond Award:** Virginia Bruns, CPA, EA, ABA, ATA, ATP, ARA, in recognition of her efforts above and beyond to provide exceptional voluntary service in our profession, or to their community.

**ASO Board Monitoring and Legislative Awareness Award:** Public Accountants Association of Kansas in recognition of its efforts to meet the criteria established by the State Regulation and Oversight Committee in monitoring the state accountancy boards.

**Accountancy Board Monitoring Award:** Recognizing ASOs that meet the criteria established by the State Regulation and Oversight Committee in monitoring the state accountancy boards.

- Alaska Society of Independent Accountants
- Arkansas Society of Accountants
- Hawaii Association of Public Accountants
- Independent Accountants Association of Illinois
- Accountants Association of Iowa
- Public Accountants Association of Kansas
- Maryland Society of Accounting & Tax Professionals

- Nebraska Society of Independent Accountants
- New Hampshire Tax and Accounting Professionals
- North Carolina Society of Accountants
- North Dakota Society of Accountants
- Oregon Association of Independent Accountants
- Washington Association of Accounting and Tax Professionals
- Wisconsin Association of Accountants

*Ten Plus Club:* Nancy Weinstein, EA, and Terry Bakker, CPA, EA

#### Photos from NSA's Annual Convention in Minneapolis



To see even more, visit NSA's Flickr [album](#).

Thank you to our sponsors



**NSA'S SPEAKER OF THE  
YEAR, TIM SUNDSTROM  
WILL BE PRESENTING!**

## **GEAR UP FOR THE 1040 AND THE TAX ACT AT MOHEGAN SUN**

*NSA Gear Up 1040 Individual Tax Seminar December 13-14, 2018*

Do not miss Gear Up at Mohegan Sun in December. This year's seminar will cover key points for preparing the 1040, including Tax Cuts and Jobs Act individual tax reform provisions. Attendees will be brought up to date on the new deduction for qualified business income (Code Sec. 199A), modifications to many Schedule A itemized deductions, and the impact of the new marginal tax rate structure on taxpayers. The course will also address trends in LLC member self-employment taxation, tackle tax challenges facing special industries including shared economy businesses and marijuana dispensaries, and explore tax planning opportunities in the wake of the new tax bill.

**16 hours CPE: 13 hrs Tax + 3 hrs Tax Update**

**Prerequisites:** None

**Advance Preparation:** None

**Who should attend?** CPAs, EAs, CTEC, CFPs, ALL TAX PROS

### **Schedule**

December 13: 8:00 am – 4:30 pm

December 14: 8:00 am – 4:30 pm

### **Registration**

*Register by November 1st and Save!*

NSA Member: \$369

Nonmember: \$425

*After 11/1/18:*

NSA Member: \$399

Nonmember: \$479

*Attendees receive a comprehensive manual that alone is worth the price of registration!*

### **REGISTER**

Refunds and Cancellations: Requests for refunds must be received in writing by November 15, 2018 and will be subject to a \$75 cancellation fee. No refunds will be granted after November 15, 2018.

For more information regarding refund, complaint and/or program cancellation policies, please contact our offices at (800) 966-6679.

NSA is approved by NASBA, the IRS, ACAT, and CTEC as a provider of continuing professional education.



#### **Hotel Information**

Mohegan Sun Casino and Resort  
1 Mohegan Sun Boulevard  
Uncasville, CT 06382

General Information: 1.888.226.7711

Hotel Reservations: 1.888.777.7922

[Click here to reserve your room online](#)

Click here to reserve your room online

Group code: NSACC18

Group rate: \$149 plus 15% tax\*

Resort fee not included

Dates available: December 12-14, 2018

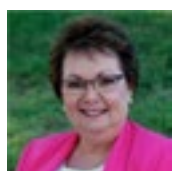
\*Reserve your room by November 28, 2018 to receive the group rate.

---

## NSA WELCOMES NEW EXECUTIVE COMMITTEE IN MINNEAPOLIS

---

The National Society of Accountants would like to introduce the newly elected members of our Executive Committee. These members will be serving for the 2018-2019 term of office. NSA would also like to welcome John Rice as the new Executive Vice President of the National Society of Accountants.



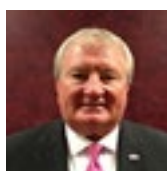
**President**

**Christine Freeland**  
Chandler, AZ



**First Vice President**

**Joel Grandon**  
Marion, IA



**Second Vice President**

**Curtis Lee**  
Raleigh, NC



**Secretary-Treasurer**

**Ruth Godfrey, EA**  
Upland, CA



**Board Representative**

**Debra Cope, CPA, ATA, ATP**  
Chattanooga, TN



**Immediate Past President**

**Brian Thompson, CPA**  
Little Rock, AR



**Executive Vice President**

**John Rice**  
Alexandria, VA

The NSA would also like to offer congratulations to these members who have begun their terms as members of the NSA Board of Governors for their districts. We appreciate their service to their communities and to the organization as a whole.

### **District II**

**Andrew J. Piernock, Jr., ATP**  
Philadelphia, PA

### **District VI**

**Debra Cope, CPA, ATA, ATP**  
Chattanooga, TN

### **District IV**

**Margie H. Strider, ATA, ATP**  
Asheboro, NC

### **District VIII**

**Marchelle Foshee, CPA**  
Morrilton, AR



---

## EARN YOUR ACAT CREDENTIALS BEFORE CHRISTMAS

---

*Winter ACAT Tax and Accounting Accreditation Exams Offered November 1-December 15, 2018*

Register now for the Winter 2018 ACAT exams. This session's sign up cutoff date is October 30, 2018. The Comprehensive Examination for Accredited Business Accountant/Advisor (ABA), Accredited Tax Preparer (ATP), Accredited Retirement Advisor (ARA) and Accredited Tax Advisor (ATA) exam can be taken between November 1 – December 15, 2018 at Castle Testing Centers across North America.

The exams are offered by the Accreditation Council for Accountancy and Taxation® (ACAT) for accountants, tax preparers and students seeking to earn credentials that set them apart from other preparers and open doors for practice development and career advancement. Earning ACAT credentials provides evidence to clients that accounting and tax professionals have achieved a high level of knowledge and skills and abilities needed to effectively serve their clients.

### EXEMPT

Accredited Tax Preparers (ATP) and Accredited Business Accountant/Advisors (ABA) are exempt from taking the Annual Federal Tax Refresher (AFTR) course and exam that is part of the Internal Revenue Service (IRS) voluntary Annual Filing Season Program (AFSP).

Rules about who may represent clients before the IRS changed in 2016 – ATPs and ABAs who are AFSP Record of Completion Holders now have limited representation rights, meaning they can represent clients whose returns they prepare and sign, before examination, customer service representatives and the Taxpayer Advocate Service.

To learn more about the credentials themselves, visit ACAT's overview page <http://www.acatcredentials.org/acatcredentials/overview>.

Visit the Exam Information page for information about fees, what to expect on the day of the exam, and rescheduling/cancellation requirements.

### REGISTER HERE

The National Society of Accountants (NSA) offers preparatory course study guides for both the ABA, ATA, and ATP exams and preview exams, which mirror the topics and question format of the ACAT exams. ACAT does not endorse or recommend and study courses, and provides these links for information purposes only.

For more information about ACAT credentials and to register, visit [www.acatcredentials.org](http://www.acatcredentials.org) or call 888-289-7763.

# Legislative Link



John Ams

## Senate Confirms Charles Rettig as IRS Commissioner

The Senate voted 64-33 to confirm Charles Rettig as commissioner of the Internal Revenue Service, giving the IRS a full-time leader for the first time in nearly a year.

Rettig, a Beverly Hills, Calif., tax attorney, will be the first practicing lawyer to lead the IRS in more than 20 years. He takes over as the agency undertakes administration of the most significant tax code overhaul in decades, with next year's filing season being the first under the new code. At the same time, the agency has been beset by funding cuts and declines in headcount and morale.

Since 2010, the IRS has lost about \$715 million in funding and 22,000 full-time employees.

Rettig has touted his experience in recent years as chair of the IRS Advisory Council, head of the tax section of the California bar, and an organizer and presenter on dozens of tax panels. But he faced questions during his Finance Committee confirmation hearing about lack of management experience. The nomination also drew scrutiny from Democrats after the agency in July reversed a long-standing policy of requiring certain political nonprofits to report the identities of their donors.

The commissioner position has been held so far this year on an acting basis, by Assistant Treasury Secretary David Kautter.

## IRS Delays Major Tax Withholding Form Changes to 2020

The IRS aims to produce a major revision of its key tax withholding form, the W-4, in time for the 2020 tax-filing year, but not for 2019 as planned. The changes are caused by the extensive tax code amendments in the 2017 tax law.

The delay comes because of concerns raised by payroll and service-provider communities about adopting the new form and implementing a new withholding system in time for use in 2019, the Internal Revenue Service said in a statement available [here](#).

The postponement is "good news," Pete Isberg, president of the National Payroll Reporting Consortium, said. It would have been difficult for employers to adopt the changes that were implied by the draft Form W-4 released in June because they dramatically changed the nature of payroll withholding, Isberg said. Payroll administrators are going to need at least six months once it is finalized to revamp their system, according to Isberg. "So we're going to need a relatively final substantial revision to the W-4 by June 2019 for the 2020 year."

For the 2019 filing season, the IRS will issue in coming weeks a revised Form W-4 that will be similar to the current one, the IRS said.

"Launching the redesigned form in 2020 will allow the Treasury and the IRS to properly implement changes to the withholding system and ensure taxpayers have a positive and simplified experience," Treasury Secretary Steven Mnuchin said in a statement.