

# Anchin Alert

**Anchin, Block & Anchin LLP**  
**Accountants and Advisors**

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## **Assessing Section 199 and IRS Released Proposed Regulations to Determine Deduction Eligibility**

Designed to protect jobs in the United States manufacturing and related sectors, Section 199, also known as the Domestic Production Activities Deduction (“DPAD”), allows a deduction equal to 9% of the lesser of a taxpayer’s Qualified Production Activities Income (“QPAI”) or its taxable income. A broad range of production activities are covered by Section 199, including manufacturing of personal property, production of computer software, sound recordings and certain films, production of electricity, oil, natural gas and water, and construction, engineering and architectural services.

The IRS released proposed regulations in August of 2015 that addressed guidance on contract manufacturing arrangements and an updated definition of “benefits and burdens.” Previously, determining the taxpayer party that holds the benefits and burdens of ownership in the qualifying production property (“QPP”) during the manufacturing process required review of a contract manufacturing agreement. However, the proposed regulations explain that if a qualified activity is performed under a contract, the party that performed the manufacturing is the taxpayer that is eligible for the deduction. Further ambiguities still exist and are the subject of litigation, as seen with the *United States v. Dean* case, whereby the term “minor assembly” required further definition.

Every business in the manufacturing sector, regardless of size, should investigate their eligibility for the manufacturing deductions. There are complexities and factors that should be thoroughly examined by someone with a clear understanding of the intricacies of the regulations. There are opportunities that exist, but it is recommended that you discuss this with your tax advisors, Anchin Relationship Partner or Yair Holtzman, Partner and Leader of Anchin’s Research & Development (R&D) Tax Credits Group, to determine eligibility.

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