

Details of Initial Guidance on Section 199

These regulatory changes to the initial guidance allow for the following activities to be included in or associated with the definition of DPGR:

- Construction of certain land improvements (*e.g.* roads and sidewalks)
- Installation of property produced by the builder
- Sale of some construction warranties
- Construction/installation of building components (*e.g.* heating systems, pipes, and ducts)
- Builders do not have to be officially designated as a general contract or subcontractor to claim DPGR

The final regulations provide the following favorable changes to the definition of construction, by including:

- Certain management and administrative support tasks
- Land grading, demolition, and landscaping included in construction if these occur as part of the construction of a building (and not necessarily by the same taxpayer)

The final regulations also incorporate certain administrative or technical rules that will reduce the compliance cost and administrative burden associated with section 199.

- Establishment of a *de minimis* rule for non-construction receipts
- Safe harbor for non-qualified land sales
- Limited improvements to the pass-through entity allocation rules
- Elimination of the rules concerning the source of certain building supplies
- Safe harbor for new construction ventures with respect to the industry membership test
- Exclusion of option period for the definition of land ownership

Internal Revenue Service officials have indicated that additional guidance concerning section 199 will be forthcoming by the end of this year. This guidance will address regulations regarding the modification to the wage limitation, rules for changing elections associated with the deduction, procedures for the use of statistical sampling, and special rules for businesses with less than \$5 million in assets. Rules regarding the treatment of disallowable losses will be published in 2007.