

HIGHLIGHTS FROM GREEN'S 2020 TRADER TAX GUIDE



Jan. 23, 2020 @ 12:00 pm EST
(Interactive Brokers Webinar)



Robert A. Green bio

Robert A. Green is a CPA and founder and CEO of Green & Company Inc. (GreenTraderTax.com), a publishing company, and Managing Member and Founder of Green, Neuschwander & Manning, LLC, a tax and accounting firm catering to traders, investment management, and small business. He is a leading authority on trader tax and a Forbes contributor. He is also the author of *The Tax Guide for Traders* (McGraw-Hill, 2004) and Green's annual *Trader Tax Guide*. Mr. Green is frequently interviewed and has appeared in the *New York Times*, *Wall Street Journal*, *Forbes*, and *Barron's*. Mr. Green has also appeared on *CNBC*, *Bloomberg Television*, and *Forbes Video Network*. He is the chief tax speaker at the *MoneyShow University* and *Traders Expo*. Mr. Green presents tax Webinars for *Interactive Brokers*, and other leading brokerage firms.



GNM is a CPA firm dedicated to the needs of traders, investment managers and other types of clients.

We focus on [tax compliance](#) (preparation/planning services), [accounting](#), [consultations](#), [entity formations](#), and IRS/state [tax controversy](#).

We have clients throughout the U.S. and abroad using our [virtual communication process](#).

Disclaimer

- This information is educational. It is not intended to be a substitute for specific individualized tax, legal, or investment planning advice.
- Where specific advice is necessary or appropriate, you may wish to consult with a qualified tax advisor, CPA, attorney, financial planner, or investment manager.
- Robert A. Green and the Green companies are not affiliated with Interactive Brokers.

Description

- *Green's 2020 Trader Tax Guide* focuses on traders' unique tax needs and is updated to include the latest tax strategies, pitfalls, tweaks, warnings, and benefits.
- Whether you self-prepare your tax returns or engage a CPA firm, this guide can help you through the process of optimizing your tax savings.
- Join author Robert A. Green, CPA, as he explains tax tips featured in the guide.

TAX CUTS AND JOBS ACT

Tax Cuts and Jobs Act

- Tax Cuts and Jobs Act (TCJA) was enacted on Dec. 22, 2017, and the law changes took effect in the 2018 tax year.
- Like many small business owners, traders eligible for trader tax status (TTS) restructured their business for 2019 and 2020 to take advantage of TCJA.
- Two tax changes caught their eye: The 20% deduction on qualified business income (QBI) in pass-through entities, and suspended investment fees and expenses, which makes TTS even more crucial.

TCJA didn't change trader tax matters

- TCJA didn't change trader tax matters, including business expense treatment, Section 475 MTM ordinary gain or loss treatment, and wash-sale loss adjustments on securities; it didn't change TTS S-Corps', Solo 401(k) retirement contributions and health insurance deductions, either.
- TCJA also retains the lower Section 1256 60/40 capital gains tax rates; the Section 1256 loss carryback election; Section 988 forex ordinary gain or loss; and tax treatment on financial products including options, ETFs, ETNs, swaps, precious metals, and more.

CHANGES TO 2018 AND 2019 TAX FORMS

Changes to Form 1040 and Schedules 1, 2 and 3

- Some of TCJA changes for 2018 tax forms confused taxpayers, so the IRS revised the 2019 tax forms.
- The redesigned two-page 2018 Form 1040 resembled a postcard because the IRS moved many sections to six new 2018 Schedules (Form 1040). It was a block-building approach with the elimination of Form 1040-EZ and 1040-A.
- The 2019 Form 1040 has three schedules, not six. The IRS moved some items back onto the Form 1040. See 2019 Schedules 1, 2 and 3.

Changes to Schedule A (Itemized Deductions)

- TCJA suspended “certain miscellaneous itemized deductions subject to the 2% floor.”
- These deductions were included in “Job Expenses and Certain Miscellaneous Deductions” on the 2017 Schedule A, lines 21 through 24.
- The revised 2018 Schedule A deleted these deductions, including job expenses, investment fees and expenses, and tax compliance fees and expenses.

Changes to Schedule A (Itemized Deductions)

- The 2017 Schedule A also had “Other Miscellaneous Deductions,” not subject to the 2% floor, on line 28.
- That’s where investors reported stock-borrow fees, which are not investment fees and expenses.
- The 2018 Schedule A changed the name to “Other Itemized Deductions” on line 16.

New forms 8995/8995-A for QBI deductions

- TCJA introduced a new 20% deduction on qualified business income (QBI) for 2018, but the IRS did not have a 2018 tax form for it.
- Taxpayers used a worksheet for the calculation and reported a “qualified business income deduction” on the 2018 Form 1040, page 2, line 9.
- For 2019, the IRS introduced Form 8995 (Qualified Business Income Deduction Simplified Computation) and Form 8995-A (Qualified Business Income Deduction).

BUSINESS TRADERS FARE BETTER THAN INVESTORS

Investor tax status

- By default, the IRS lumps all traders into “investor tax status,” and investors get penalized in the tax code — more so with TCJA.
- Investors have restricted investment interest expense deductions, and investment fees and expenses are suspended.
- Investors have capital-loss limitations against ordinary income (\$3,000 per year), and wash-sale loss deferrals; they do not have the Section 475 MTM election option or health insurance and retirement plan deduction strategies.

Investors get one tax break

- Investors benefit from lower long-term capital gains rates (0%, 15%, and 20%) on positions held 12 months or more before sale.
- If active traders have segregated long-term investment positions, this is available to them as well.

Trader tax status (TTS) benefits

- Business traders eligible for TTS are entitled to many tax breaks.
- A sole proprietor (individual) TTS trader deducts business expenses and is entitled to elect Section 475 MTM ordinary gain or loss treatment.
- However, to deduct health insurance and retirement plan contributions, a TTS trader needs an S-Corp to create earned income with officer compensation.

TTS and Section 475

- Don't confuse TTS with the related tax-treatment election of Section 475 MTM accounting. Only qualified business traders may use Section 475 MTM; investors may not.
- The 475 election converts new capital gains and losses into business ordinary gains and losses, avoiding the \$3,000 capital loss limitation.
- Section 475 trades are also exempt from wash-sale loss adjustments.
- The 20% deduction on QBI includes Sec. 475 ordinary income but excludes capital gains, interest, and dividends.

TTS and Section 475

- A business trader can assess and claim TTS after year-end and even going back three open tax years.
- But business traders may only use Section 475 MTM if they filed an election on time, either by April 15 of the current year (i.e., April 15, 2019 for 2019) or within 75 days of inception of a new taxpayer (i.e., a new entity). For more on TTS, see Chapter 1.

CAN TRADERS DEDUCT TRADING LOSSES?

Can traders deduct trading losses?

- Many traders are hoping to find a way to deduct their 2019 trading losses. Maybe they qualify for TTS, but that only gives them the right to deduct trading business expenses.
- Securities, Section 1256 contracts, ETNs, and cryptocurrency trading receive capital gain/loss treatment by default.
- If a TTS trader did not file a Section 475 election on securities and/or commodities on time (i.e., by April 15, 2019), or have Section 475 from a prior year, he is stuck with capital loss treatment on securities and Section 1256 contracts.
- Section 475 does not apply to ETN prepaid forward contracts, which are not securities, or cryptocurrencies, which are intangible property.

Capital losses and carryovers

- Capital losses offset capital gains without limitation, whether short-term or long-term, but a net capital loss on Schedule D is limited to \$3,000 per year against other income.
- Excess capital losses are carried over to the subsequent tax year(s).
- Once taxpayers get in the capital loss carryover trap, a problem they often face is how to use up the carryover in the following year(s).
- If a taxpayer elects Section 475 by April 15, 2020, the 2020 business trading gains will be ordinary rather than capital.

Section 1256 loss carryback election

- Traders with capital losses from Section 1256 contracts (such as futures) may be in luck if they had gains in Section 1256 contracts in the prior three tax years.
- On the top of Form 6781, traders can file a Section 1256 loss carryback election.
- This allows taxpayers to offset their current-year losses against prior-year 1256 gains to receive a refund of taxes paid in prior years.

TTS ordinary losses and NOLs

- A TTS trader using Section 475 on securities has ordinary loss treatment, which avoids wash-sale loss adjustments and the \$3,000 capital loss limitation.
- Section 475 ordinary losses offset income of any kind, and a net operating loss carries forward to subsequent tax year(s).
- TCJA's "excess business loss" (EBL) limitation for 2019 is \$510,000 married and \$255,000 other taxpayers applies to Section 475 ordinary losses and trading expenses.
- Add an EBL to an NOL carryforward. See TCJA changes in Chapter 17.

Forex ordinary losses

- Taxpayers with losses trading forex contracts in the off-exchange Interbank market may be in luck.
- By default, Section 988 for forex transactions receives ordinary gain or loss treatment, which means the capital-loss limitation doesn't apply.

TAX TREATMENT ON FINANCIAL PRODUCTS

Securities and commodities including Section 1256 contracts

- Securities have realized gain and loss treatment and are subject to wash-sale rules and the \$3,000 per year capital loss limitation on individual tax returns.
- Section 1256 contracts — including regulated futures contracts on U.S. commodities exchanges — are marked to market by default, so there are no wash-sale adjustments, and they receive lower 60/40 capital gains tax rates.

Options have a wide range of tax treatment

- An option is a derivative of an underlying financial instrument and the tax treatment is generally the same.
- Equity options are taxed the same as equities, which are securities.
- Index options are derivatives of indexes, and broad-based indexes are Section 1256 contracts.
- Simple and complex equity option trades have special tax rules on holding period, adjustments, and more.

Forex, precious metals, cryptocurrencies and foreign futures

- Forex receives ordinary gain or loss treatment on realized trades (including rollovers), unless a contemporaneous capital gains election is filed.
- Physical precious metals are collectibles; if these capital assets are held over one year, sales are subject to the collectibles capital gains rate capped at 28%.
- Cryptocurrencies are intangible property taxed like securities on Form 8949, but wash-sale loss and Section 475 rules do not apply because they are not securities.
- Foreign futures are taxed like securities unless the IRS issues a revenue ruling allowing Section 1256 tax benefits.

Options on volatility ETNs and ETFs

- Several brokerage firms classify options on volatility exchange-traded notes (ETNs) and options on volatility exchange-traded funds (ETFs) structured as publicly traded partnerships as “equity options” taxed as securities.
- There is substantial authority to treat these CBOE-listed options as “non-equity options” eligible for Section 1256 contract treatment.
- Volatility ETNs have special tax treatment: ETNs structured as prepaid forward contracts are not securities, whereas, ETNs structured as debt instruments are.

Don't solely rely on broker 1099-Bs

- There are opportunities to switch to lower 60/40 tax capital gains rates in Section 1256, use Section 475 ordinary loss treatment if elected on time, and report wash-sale losses differently.
- Vital 2020 tax elections need to be made on time. See Chapter 3.

ENTITIES FOR TRADERS

Entities for traders

- Entities can solidify TTS, unlock health insurance and retirement plan deductions, gain flexibility with a Section 475 election or revocation, prevent wash-sale losses with individual and IRA accounts, and enhance a QBI deduction on Section 475 income less trading expenses.
- An entity return consolidates trading activity on a pass-through tax return, making life easier for traders, accountants, and the IRS.

Entities for traders

- Trading in an entity allows individually held investments to be separate from business trading.
- It operates as a separate taxpayer yet is inexpensive and straightforward to set up and manage.
- An LLC with S-Corp election is generally the best choice for a single or married couple seeking health insurance and retirement plan deductions. See Chapter 7.

RETIREMENT PLANS FOR TRADERS

Retirement plans for traders

- Annual tax-deductible contributions up to \$62,000 for 2019 and \$63,500 for 2020 to a TTS S-Corp Solo 401(k) retirement plan generally saves traders significantly more in income taxes than it costs in payroll taxes (FICA and Medicare).
- Trading gains aren't earned income, so traders use an S-Corp to pay officer compensation.
- There's also an option for a Solo 401(k) Roth: If you are willing to forgo the tax deduction, you'll enjoy permanent tax-free status on contributions and growth within the plan. See Chapter 8.

20% DEDUCTION ON QUALIFIED BUSINESS INCOME

20% deduction on qualified business income

- TCJA introduced a new tax deduction for pass-through businesses, including sole proprietors, partnerships and S-Corps.
- Subject to haircuts and limitations, a pass-through business could be eligible for a 20% deduction on qualified business income (QBI).

QBI deduction for TTS/475 traders

- Traders eligible for TTS are a “specified service activity,” which means if their taxable income is above an income cap, they won’t receive a QBI deduction.
- The taxable income (TI) cap is \$421,400/\$210,700 (married/other taxpayers) for 2019, and \$426,600/\$213,300 (married/other taxpayers) for 2020.
- The phase-out range below the cap is \$100,000/\$50,000 (married/other taxpayers), in which the QBI deduction phases out for specified service activities.

QBI deduction for TTS/475 traders

- The W-2 wage and property basis limitations also apply within the phase-out range. Investment managers are specified service activities, too.
- QBI for traders includes Section 475 ordinary income and loss and trading business expenses.
- QBI excludes capital gains and losses, Section 988 forex and swap ordinary income or loss, dividends, and interest income.

AFFORDABLE CARE ACT

Net investment tax

- TCJA did not change the Affordable Care Act's (ACA) 3.8% Medicare tax on unearned income.
- The net investment tax (NIT) applies on net investment income (NII) for individual taxpayers with modified AGI over \$250,000 (married) and \$200,000 (single). The threshold is not indexed for inflation.
- Traders can reduce NIT by deducting TTS trading expenses, including salaries paid to them and their spouses.

ACA individual mandate

- ACA's individual health insurance mandate and shared responsibility fee for non-compliance, exchange subsidies, and premium tax credits continue to apply for 2019 and 2020.
- However, TCJA reduced the shared responsibility fee to \$0 starting in 2019.

INVESTMENT MANAGEMENT CARRIED INTEREST

Investment management carried interest

- TCJA modified the carried interest tax break for investment managers in investment partnerships, lengthening their holding period on profit allocation of long-term capital gains (LTCG) from one year to three years.
- If the manager also invests capital in the partnership, he or she has LTCG after one year on that interest. The three-year rule only applies to the investment manager's profit allocation — carried interest.
- Investors still have LTCG based on one year.

Investors benefit from carried interest

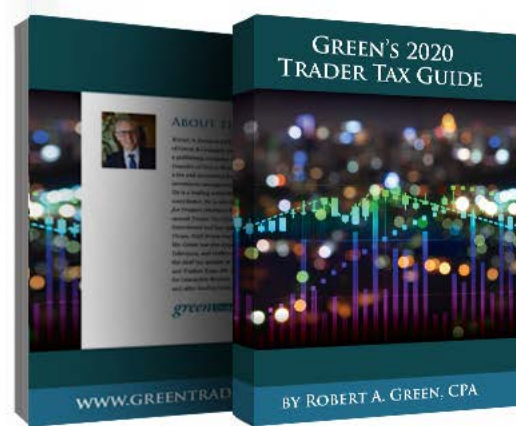
- TCJA suspended “certain miscellaneous itemized deductions subject to the 2% floor,” which includes investment fees and expenses.
- Separately managed account investors are out of luck, but hedge fund investors can limit the negative impact by using carried-interest tax breaks.
- Carried interest reduces a hedge fund investor’s capital gains instead of having a suspended incentive fee deduction.

INTERNATIONAL TAX MATTERS

International tax matters

- When it comes to global tax matters, we focus on the following types of traders:
 - - U.S. residents living abroad,
 - - U.S. residents with international investments,
 - - U.S. residents moving to U.S. territories like Puerto Rico (with substantial tax breaks),
 - - U.S. residents surrendering citizenship or green cards, and
 - - nonresident aliens investing in the U.S. with individual U.S. brokerage accounts or through an entity.

Green's 2020 Trader Tax Guide



GREEN'S TRADER TAX GUIDE

Magazine-style paperback and e-guide

We guarantee this guide will save you lots of tax money and/or help you avoid pitfalls and errors in your tax filings.

[More >](#)



QUESTIONS AND ANSWERS

Closing Remarks

- Thank you for attending this Webinar.
- Visit www.GreenTraderTax.com for additional information.
- Call us toll free at 888.558.5257 or 203.456.1537
- Email us your questions at info@gnmtradertax.com
- [Green's 2020 Trader Tax Guide](#).

888.558.5257 / 203.456.1537

Contact Us

Live Chat



SPECIAL CONTENT & INVITATIONS



LOGIN



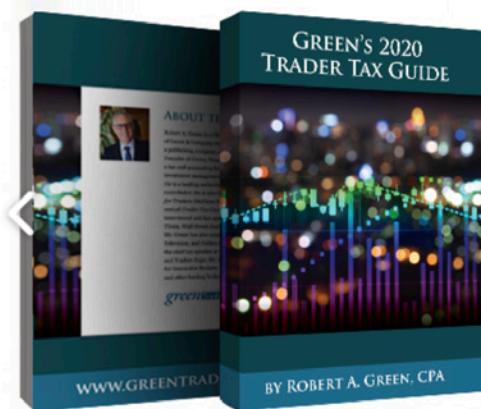
CART 0

green **TraderTax**

Tax Center

Services

About Us



GREEN'S TRADER TAX GUIDE

Magazine-style paperback and e-guide

We guarantee this guide will save you lots of tax money and/or help you avoid pitfalls and errors in your tax filings.

More >

Recent blogs

[view all blogs >](#)

01/07

Highlights From Green's 2020 Trader Tax Guide

Use Green's 2020 Trader Tax Guide to receive every trader tax break you're entitled to on your 2019 tax returns. Our 2020 guide covers the 2017 Tax Cuts and Jobs Act's impact on investors, t...[More](#)

12/10

Execute S-Corp Officer Compensation With Employee Deductions Before Year-End

TTS traders need an S-Corp trading company to arrange health insurance and retirement plan deductions. These deductions require earned income or self-employment income. Unlike trading gains, S-Corp sa...[More](#)

10/26

Tax Planning At Year-End Generates The Most Savings

The best way to reduce income taxes is with year-end tax planning.

Events & Recordings

[view all events >](#)

Highlights From Green's 2020 Trader Tax Guide [More](#)

Jan 23, 2020 @ 12:00 pm EST
60 minutes

[Register >](#)

TradersEXPO New York: Trader Tax Law 2020 Update [More](#)

Mar 09, 2020 @ 8:00 am PST
45 minutes

[Register >](#)

11/13

Tax Planning At Year-End Generates The Most Savings [More](#)

11/08

TradersEXPO Las Vegas: Trader Tax Law 2019 Update (Educational Presentation) [More](#)



BLOG



EVENTS



TRADER TAX
GUIDE



FILE SHARING



PURCHASE
SERVICES