2026 WICPA TAX CONFERENCE

YOUR SOURCE FOR KEY UPDATES & INSIGHTS ON TIMELY ISSUES

HIGHLIGHTED TOPICS:



OBBBA: THE TAX CHANGES TAKING EFFECT NOW

Explore key OBBBA provisions, new IRS guidelines and what practitioners need to know for the year ahead



PAY IT FORWARD: TAX CREDITS & EDUCATION

Learn how Wisconsin's scholarship tax credit can support students while providing a federal tax benefit for donors



TAX PLANNING FOR WEALTHY CLIENTS

Explore practical strategies for income, estate, gift, charitable and business planning in today's tax environment

MONDAY, NOV. 16 & TUESDAY, NOV. 17

BROOKFIELD CONFERENCE CENTER & WICPA CPE LIVESTREAM

CONFERENCE AT A GLANCE

TUESDAY, NOV. 17

Brookfield Conference Center & WICPA CPE Livestream

7 — 8 a.m.
Registration & Networking
Celebration Atrium

8 — 8:15 a.m.
Welcome & Opening Remarks
Connect B

8:15 — 9:20 a.m.
GENERAL SESSION
Wisconsin Tax Update
Connect B

9:20 — 9:40 a.m.
Networking Break
Celebration Atrium

9:40 — 10:40 a.m.
GENERAL SESSION
Wisconsin Department of Revenue: Income, Sales & Excise Tax Update
Connect B

10:40 — 11 a.m.
Networking Break
Celebration Atrium

11 a.m. — 12 p.m.
BREAKOUT SESSIONS
Moving Pieces: State Tax Considerations for Individuals & Businesses on the Move
Connect C

No Soup From You! Alphabet Soup of Trusts
Connect B

12 — 1 p.m.
Networking Lunch
Collaborate

1 — 2 p.m.
BREAKOUT SESSIONS
SALT Considerations in M&A
Connect C

The Modern Tax Firm: How AI, Cybersecurity & Disaster Recovery Are Reshaping Client Trust
Connect B

2 — 2:15 p.m.
Networking Break
Celebration Atrium

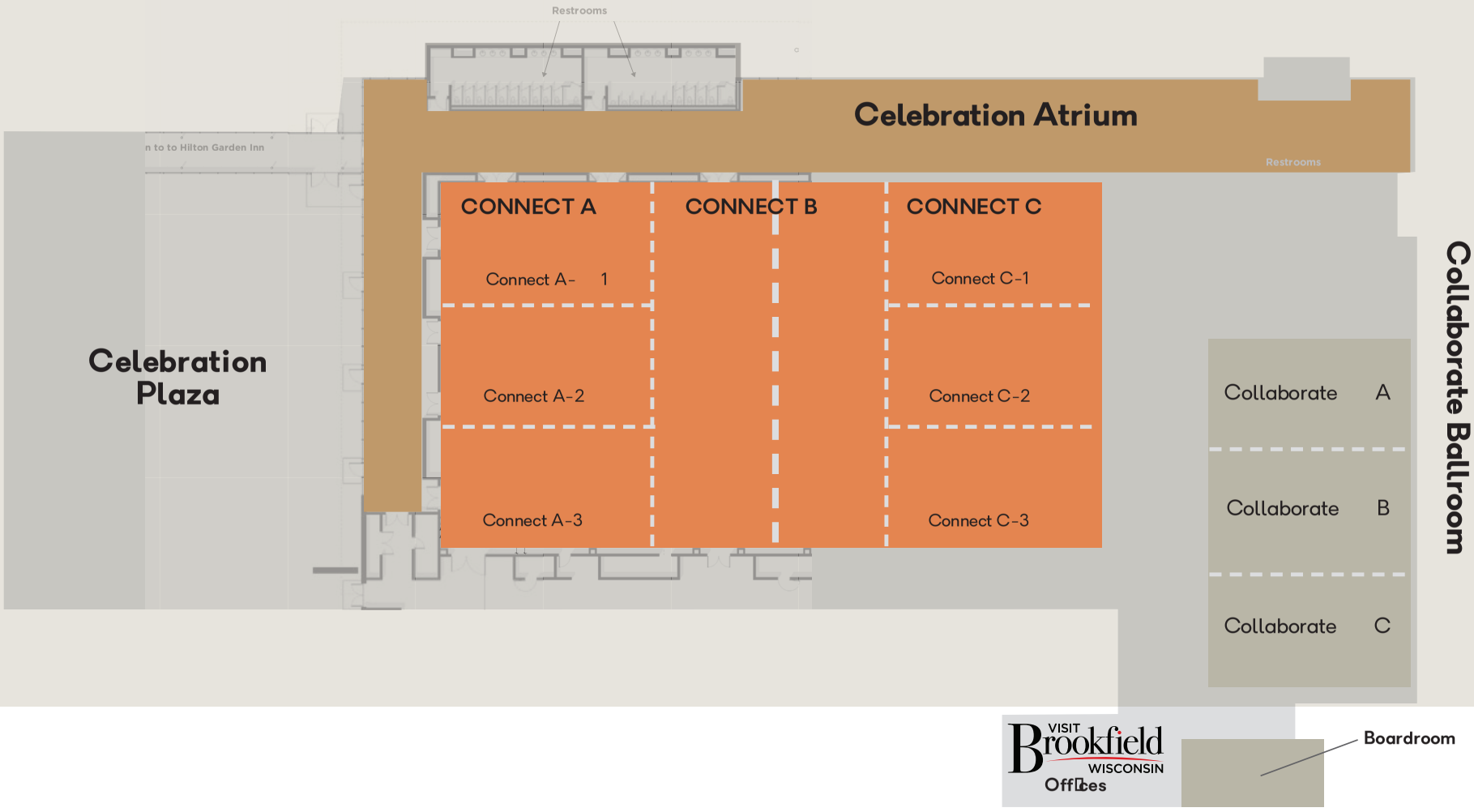
2:15 — 3:45 p.m.
GENERAL SESSION
The Best Tax Planning Ideas for Wealthy Clients in the Current Environment
Connect B

3:45 p.m.
Closing Remarks & Prize Drawings
Connect B

BE SURE TO WATCH YOUR EMAIL FOR THE CONFERENCE EVALUATION TO LET US KNOW HOW THE CONFERENCE WAS!

BROOKFIELD CONFERENCE CENTER

FLOOR PLANS AND CAPACITY CHARTS



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*based on 2020 Client Retention Rates

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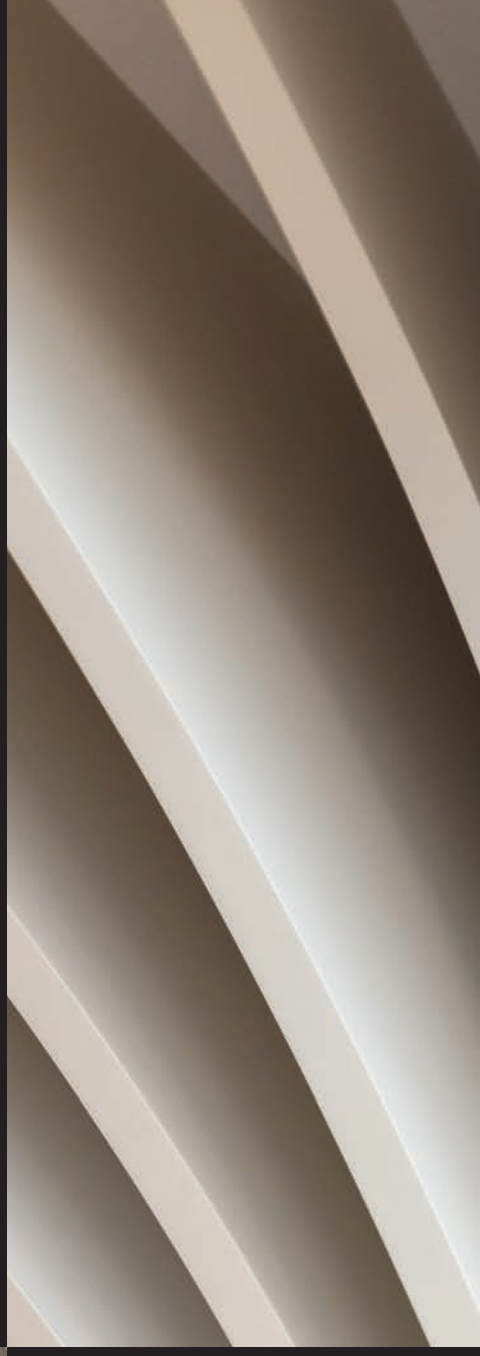

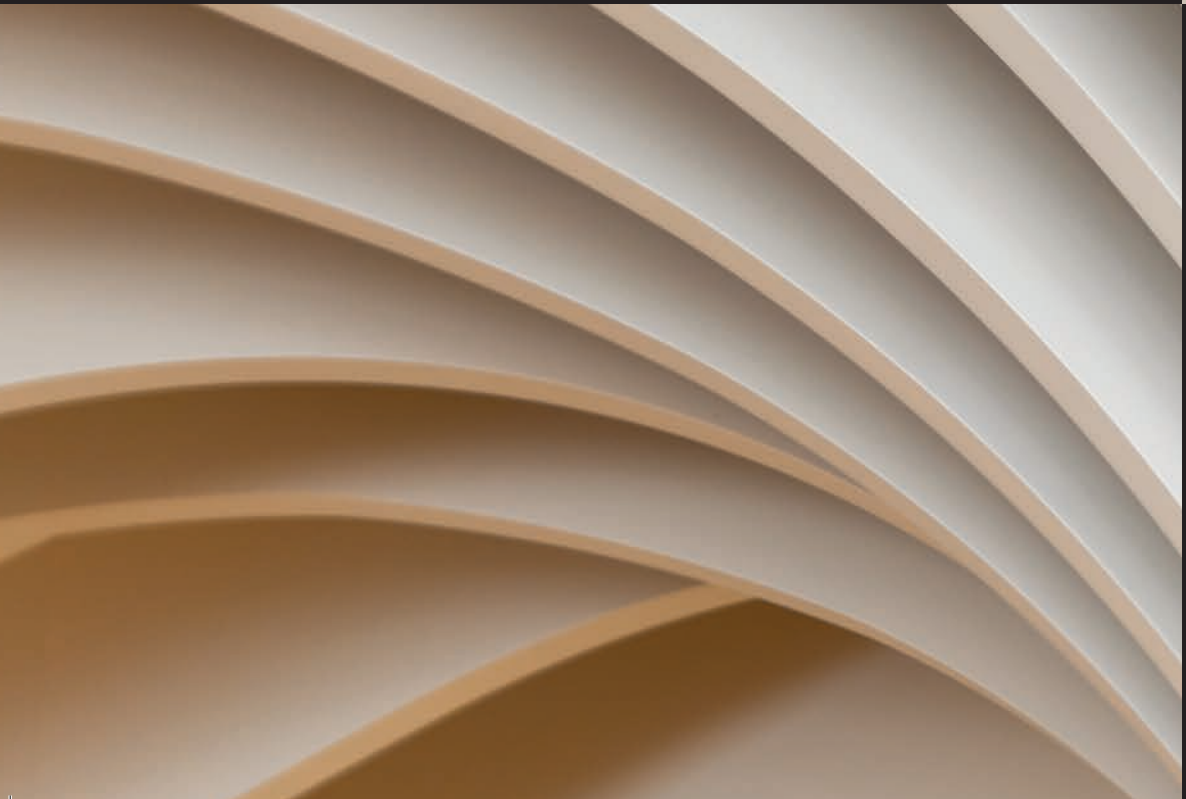

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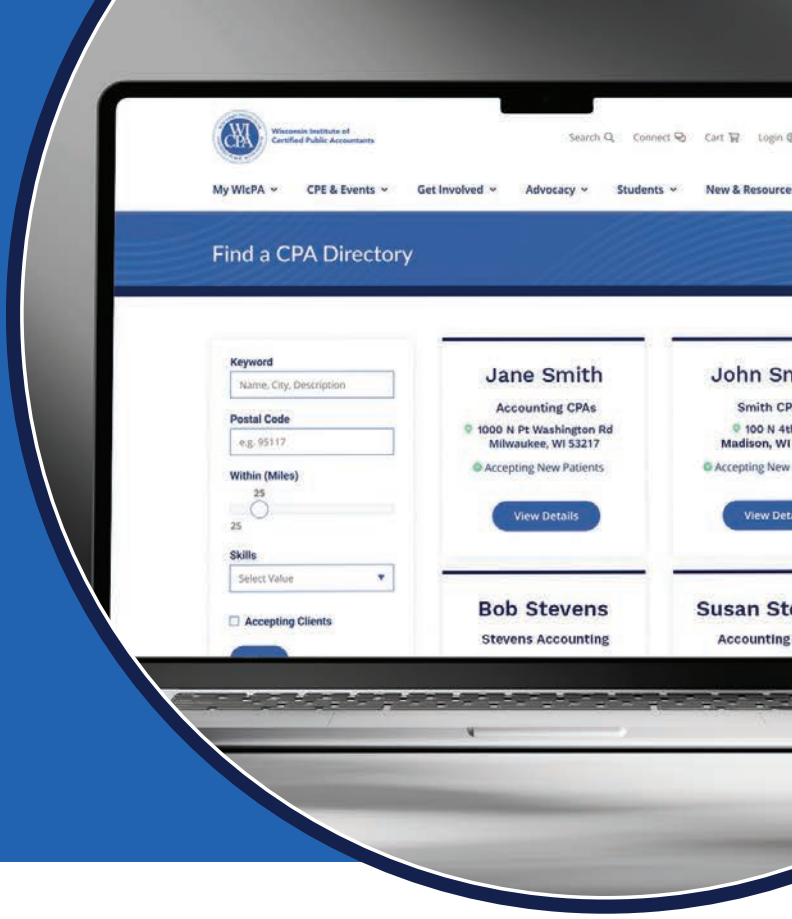

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2027 CONFERENCES

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- MARCH 22 — BUSINESS & INDUSTRY SPRING CONFERENCE
- MAY 13 — FINANCIAL INSTITUTIONS CONFERENCE
- MAY 20 — SCHOOL DISTRICT AUDIT CONFERENCE
- SEPT. 14 — NOT-FOR-PROFIT ACCOUNTING CONFERENCE
- SEPT. 22 — BUSINESS & INDUSTRY FALL CONFERENCE
- NOV. 9 — ACCOUNTING & AUDITING CONFERENCE
- NOV. 15-16 — TAX CONFERENCE

For more information or to join a committee, visit **wicpa.org/committees**.

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Questions? Contact Tammy J. Hofstede, WICPA president & CEO at tammy@wicpa.org.

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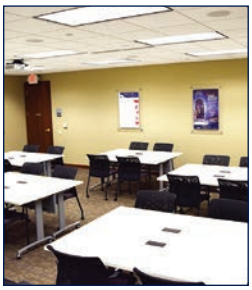

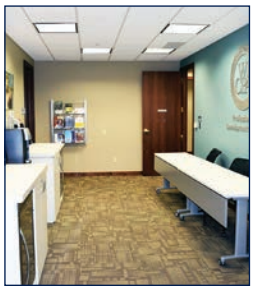

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- Catering and refreshment area

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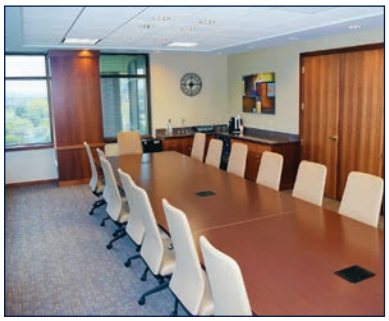



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UPCOMING WICPA CONFERENCES & SPECIAL EVENTS

CONFERENCES

WICPA conferences are your source for key updates and insights on timely issues. As a WICPA member, you can save up to $150 on registration!

Accounting Technology Conference
Thursday, Dec. 17
WICPA Office & WICPA CPE Livestream

Business & Industry Spring Conference
Monday, March 22, 2027
Brookfield Conference Center & WICPA CPE Livestream

Financial Institutions Conference
Thursday, May 13, 2027
WICPA CPE Livestream

School District Audit Conference
Thursday, May 20, 2027
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SPECIAL EVENTS

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Bowling Night
Thursday, April 29, 2027
New Berlin Ale House

Member Recognition Banquet & Annual Business Meeting
Friday, May 7, 2027
Brookfield Conference Center

New CPA Banquet
Friday, June 11, 2027
Brookfield Conference Center

Golf Outing
Friday, Sept. 17, 2027
Ironwood Golf Course

Registration opens approximately eight weeks prior. For more details about each and to register, visit wicpa.org/conferences and wicpa.org/events.

Tuesday, Nov. 17, 2026
8:15 – 9:20 a.m.

Wisconsin Tax Update

Kristina Somers, JD, *Shareholder, Reinhart Boerner Van Deuren s.c.*

Wisconsin Tax Update

Kristina E. Somers, Esq.
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Overview

Organized by tax type, with no more than five slides per update

1 **Sales & Use Taxes**

2 **Income & Franchise Taxes**

3 **Property Tax & Municipal Fees**

4 **Miscellaneous**

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Sales & Use Taxes

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StubHub, Inc. v. Wisconsin Department of Revenue

Wisconsin Court of Appeals, 2026 WI App 7 | January 13, 2026

Issue

- Was StubHub a "person selling" taxable admissions?
- Was the 25% nonfiling penalty proper?

Key Facts

- StubHub operated an online marketplace where tickets were bought and sold.
- Wisconsin Department of Revenue issued an assessment for tax years 2008–2013.
- Wisconsin Tax Appeals Commission found StubHub was subject to Wisconsin sales tax, but not negligence penalties.
- Circuit Court reversed.

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StubHub, Inc. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Court of Appeals, 2026 WI App 7 | January 13, 2026

Wis. Stat. § 77.52(2)(a)2.a.	Wisconsin sales tax is imposed on certain services, including "the sale of admissions to amusement, athletic, entertainment or recreational events or places."
Wis. Stat. § 77.51(17)	A seller is generally defined as "every person selling".
Wis. Stat. § 77.60(4)	Provides for a negligence penalty, not exceeding 25%.
2019 Wis. Act 10 – marketplace provider provisions	Provided definitions for "marketplace provider" and "marketplace seller".

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StubHub, Inc. v. Wisconsin Department of Revenue | Holding

Wisconsin Court of Appeals, 2026 WI App 7 | January 13, 2026

Decision

- StubHub was a seller within the meaning of the Wisconsin Statutes – "because StubHub effected the sale by transferring the tickets in exchange for payment."
- The Marketplace Provider Law enacted in 2019 clarified, rather than substantively changed, the existing law.
- Regarding the penalty, the guidance in Wisconsin Tax Bulletin 172 (from July 2011) provided sufficient notice that the Department considered StubHub a ticket broker subject to the tax.
    - 25% penalty applied

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Tekton, Inc. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | April 23, 2026

Issue

- Can Wisconsin sales tax be imposed on an out-of-state seller?

Key Facts

- Tekton is a corporation in the business of selling hand tools.
- Incorporated and headquartered in Michigan.
- No property or payroll in Wisconsin.
- Sales orders were made remotely and shipped to Wisconsin via common carrier.
- Tekton began collecting and remitting on or about September 1, 2021.
- Wisconsin Department of Revenue (the "Department") issued Notices of Estimated Tax Amount Due – for the quarters ending 12/31/2018 – 6/30/2021 and for the months ending 6/30/2021, 7/31/2021.

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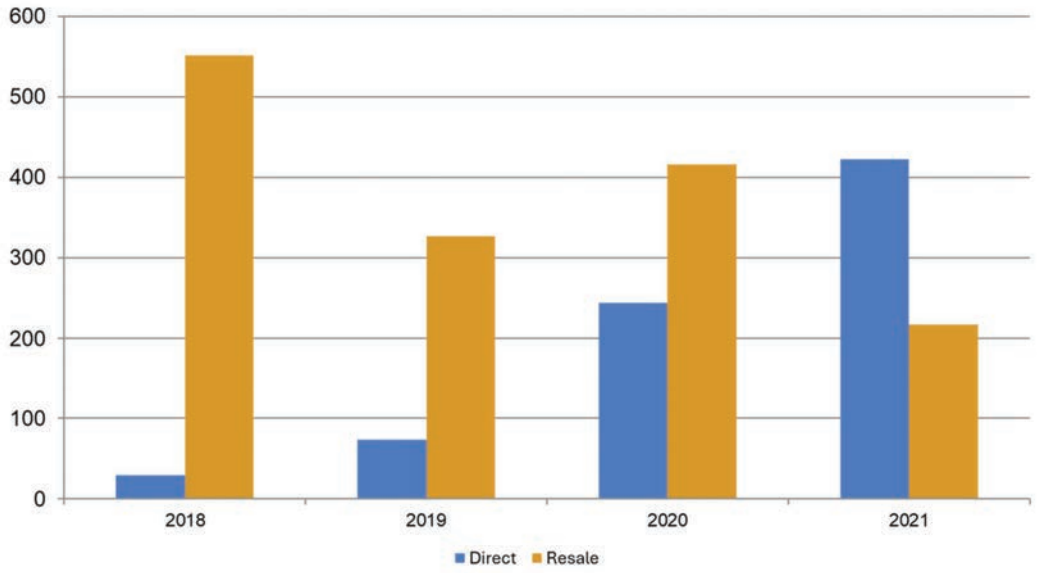
Tekton | Wisconsin Sales

Direct Sales and Sales for Resale



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Tekton, Inc. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | April 23, 2026

Wis. Stat. § 77.51(13gm)	Requires an out-of-state retailer – with sales in Wisconsin exceeding $100,000 in the previous year or 200 or more separate sales transactions – to register with, collect, and remit sales/use taxes to the WDOR. For the period February 20, 2021–August 30, 2021, threshold modified to sales in Wisconsin exceeding $100,000 in the previous calendar year.
Wis. Stat. § 77.59	Authorizes the Wisconsin Department of Revenue to issue deficiency determinations – and a 25% negligence penalty.
Constitutional argument	The Wisconsin Tax Appeals Commission lacks authority to determine the constitutionality of a Wisconsin statute on its face.

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Tekton, Inc. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | April 23, 2026

Decision

- Tekton stipulated to Wisconsin personal jurisdiction.
- No evidence was provided or argument made that the application of the Wisconsin Statutes is unconstitutional.
- Tekton did not provide clear and satisfactory evidence that the Department erred in its determinations.
- The Commission has no authority to make orders based on equity.
- Assessments and 25% negligence penalty upheld.

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CMFG Life Insurance Co. and CUMIS Insurance Society, Inc. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | October 1, 2026

Issue

- Was Wisconsin sales tax due on payments made by CMFG and CUMIS to PNC Equipment Finance, LLC under aircraft lease and software lease agreements?

Key Facts

- Petitioners entered into a sale-leaseback arrangement with PNC Finance - of an aircraft and internally-developed software.
- Previous Wisconsin Tax Appeals Commission decision (appeal held in abeyance).
- Wisconsin Department of Revenue issued a Notice of Field Audit Amount Due – for tax years 2015 – 2018.

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CMFG Life Insurance Co. and CUMIS Insurance Society, Inc. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | October 1, 2026

Wis. Stat. § 77.52(1b)	Wisconsin sales tax is imposed on leases or rentals of tangible personal property.
Wis. Stat. § 77.51(7)(a)	"Lease or rental" means "any transfer of possession or control of tangible personal property . . . for a fixed or indeterminate term and for consideration . . . ."

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CMFG Life Insurance Co. and CUMIS Insurance Society, Inc. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | October 1, 2026

Decision

- Look at form of the leases – or the substance?
- Leases purported to create both sale-leaseback arrangements and refinancing arrangements.
- "[W]hile the substance and realities analysis might lead to the conclusion that Petitioners' leases were actually financing transactions, the Petitioners cannot make that claim. Only the Department can make such a claim, and in this matter, the Department has not chosen to do so."
- No carve-out for sale-leaseback transactions.
- Taxpayers were bound by the form they chose.
- Aircraft and software lease payments were taxable under Wis. Stat. § 77.52(1b).

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Income & Franchise Taxes

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InterSystems Corp. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | November 20, 2025

Issue

- Where should income be sourced?
- Were the end users InterSystems licensees or Epic sublicensees?

Key Facts

- InterSystems – Massachusetts corporation
  - Software – database management system, called Caché
  - Application Partners ("AP") – developed software applications using Caché for AP customers
    - Epic Systems Corporation = an AP
    - Created and licensed software used in healthcare community
    - Epic was headquartered and billed in Wisconsin.

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InterSystems Corp. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | November 20, 2025

Wis. Stat. § 71.25(9)(df)	For purposes of the sales factor, gross receipts from the use of computer software are sourced based on where the purchaser or licensee uses the software.
Wis. Stat. § 71.25(9)(dj), (dk)	Gross receipts from royalties and the use or license of intangible property / sales of intangible property are sourced based on where the purchaser or licensee uses the property, where the purchaser or licensee is **billed**, or where the purchaser or licensee has its commercial domicile.

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InterSystems Corp. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | November 20, 2025

Decision

- For sales factor, income (sales) sourced to Wisconsin?
  - Epic's payments to InterSystems for internal use -> parties agree sourced to Wisconsin
  - Epic's payments to InterSystems resulting from Epic's sales to end-users -> also sourced to Wisconsin?
- Look to licensee, not sublicensee
- Reviewed agreements among InterSystems, Epic, and the end-users
- Wis. Stat. § 71.25(9)(dk) – income from royalties; Wis. Stat. § 71.25(9)(dj) – income from intangibles
- Epic billed for the purchase/license of the intangible property in Wisconsin
- Epic's commercial domicile in Wisconsin
- Income sourced to Wisconsin.

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LFTD Partners Inc. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | August 21, 2026

Issue

- Could a manufacturer claim the income/franchise tax manufacturing credit, for 2021–2023, without timely manufacturing classification?

Key Facts

- LFTD moved its operations from Illinois to Kenosha on January 1, 2021.
- LFTD is a manufacturer and distributor of hemp-derived products, such as vapes and gummies.
- Permits -- Tobacco/Vapor Products Manufacturer permit and Tobacco/Vapor Products Distributor permit -- held.
- *Questionnaire for Potential Manufacturers* (Form PA-780) not submitted until April 25, 2025.
- Tax years 2021–2023 returns:
  - Manufacturing tax credit not claimed on initial returns.
  - Amended returns filed, claiming refunds totaling $597,372.
  - Refund claims and Petition for Redetermination denied.

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LFTD Partners Inc. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | August 21, 2026

Wis. Stat. § 70.995(5)	The Department "shall assess all property of manufacturing establishments . . . as of the close of January 1 of each year, if on or before March 1 of that year the department has classified the property as manufacturing or the owner of the property has requested, in writing, that the department shall make such a classification and the department later do so . . ."
Wis. Stat. § 71.28(5n)	Manufacturing and agriculture credit: property must be assessed as manufacturing property under Wis. Stat. § 70.995(5).

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LFTD Partners Inc. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | August 21, 2026

Decision

- The Wisconsin Department of Revenue (the "Department") is provided with the sole discretion as to whether property is classified as manufacturing for assessment purposes.
  - No statutory directive allowing the Commission to replace the Department's sole discretion.
- Information provided to the Department for the Tobacco/Vapor Products permits was different from the information needed to classify the property as manufacturing.
- Without the submission of the Form PA-780, the Department did not have all the information it would have needed to classify the property as manufacturing.
- Tax credits should be construed strictly.
- No statutory provision available to waive the requirements or deadlines of Wis. Stat. § 70.995.
- Summary judgment granted in favor of the Department.

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Mohns, Inc. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | November 26, 2025

Issue

- Were payments for loans from the shareholders OR non-deductible returns of capital contributions?

Key Facts

- Incorporated by Benjamin Mohns and Nancy Mohns – in 1978.
- Initial capital contribution.
- Loans from banks – generally personally guaranteed and shareholders had to subordinate their advances to these loans.
- Advances made to cover payroll, make debt payments, and provide funds necessary to run the business on a day-to-day basis.
- Interest paid (and reported on individual tax returns).
- Schedules RT filed (for tax years 3/31/2018 – 3/31/2020).

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Mohns, Inc. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | November 26, 2025

Wis. Stat. § 71.26(2)

Tax imposed on "net income" of corporations.

Wis. Stat. § 71.80(23)

Addresses related entity addbacks. Requires:

- The primary motivation for the transaction must be for a business purpose other than tax avoidance.
- The transaction must change the economic position of the taxpayer in a meaningful way other than for tax purposes.
- The interest expenses must be paid, accrued, or incurred with terms that show an arm's-length relationship.
- The aggregate amount paid, accrued, or incurred must be disclosed on a separate form prescribed by the Department.

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Mohns, Inc. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | November 26, 2025

Decision

- Requirements of addback statute met – including that interest expenses be paid, accrued, or incurred with terms that show an arm's-length relationship?
- The Commission applied *Kelly* factors:
  1. Whether the promise to repay is evidenced by a note or other instrument that evidences indebtedness.
  2. Whether interest was charged or paid.
  3. Whether a fixed schedule for repayment and a fixed maturity date were established.
  4. Whether collateral was given to secure payment.
  5. Whether repayments were made.
  6. The source of any payments.
  7. Whether the borrower had any reasonable prospect of repaying the loan and whether the lender had sufficient funds to advance the loan.
  8. Whether the parties conducted themselves as if the transaction was a loan.
- Genuine issue of material fact.
  - Both summary judgment motions were denied.

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Greene Light Holding Company and James and Meghan Greene v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | November 3, 2026

Issue

- In calculating the Wisconsin Manufacturing and Agriculture Credit, how are indirect expenses calculated?

Key Facts

- Green Light Holding Company ("GLHC") = S corporation
  - Sole shareholder (for tax purposes) = James Greene
- GLHC has two wholly-owned subsidiaries, W. G. & R. Furniture Co. ("Retail Company") and W. G. & R. Bedding Co., Inc. ("Manufacturing Company").
- The Greenes claimed on their joint Wisconsin income tax returns the Manufacturing Credit.
- For tax years 2017-2020, the Wisconsin Department of Revenue (the "Department") issued a Notice of Office Audit Amount Due, assessing additional Wisconsin income tax.
  - The Department included indirect costs paid or incurred by Retail Company.

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Greene Light Holding Company and James and Meghan Greene v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | November 3, 2026

Wis. Stat. § 71.28(5n)

Provides for the Manufacturing and Agriculture Credit.

- "Claimant" means a person who files a claim under this subsection.
- "Indirect costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible as business expenses under the Internal Revenue Code, other than the cost of goods sold and direct costs, and identified as indirect costs in the claimant's managerial or cost accounting records.

Qualified Production Activities Income =

- Production Gross Receipts –
- Costs of Goods Sold (allocable to PGR) –
- Direct Costs (allocable to PGR) –
- Indirect Costs x production gross receipts factor

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Greene Light Holding Company and James and Meghan Greene v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | November 3, 2026

Decision

- For purposes of the Manufacturing Credit, GLHC is the "claimant."
  - All of the indirect costs associated with the claimant's wholly owned subsidiaries must be used in calculating the Manufacturing Credit (even if not all of the wholly owned subsidiaries are manufacturing companies).
  - Gross receipts from both the Retail Business and Manufacturing Business included by Petitioners in the calculation.
- Statute is not ambiguous.
  - Legislative history is not relevant.
- Department's calculation of the Manufacturing Credit correct.

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Alex Packard v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | June 23, 2026

Issue

- Should an income tax assessment - based on gambling winnings - be upheld?

Key Facts

- Tax Year 2022 Wisconsin individual income return filed.
  - No gambling income reported.
- Wisconsin Department of Revenue ("the Department") received numerous W-2G forms from casinos in Wisconsin.
  - 2022 gambling winnings totaled $1,169,038.
- WDOR issued an assessment totaling $99,565.83, including interest (as of October 26, 2023).
- Taxpayer did not assert errors of law or fact.
  - Taxpayer disputed the fairness of the "gambling session" method.

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Alex Packard v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | June 23, 2026

Wis. Stat. § 71.02(1)	Wisconsin tax is imposed on the net income of residents.
Wis. Stat. § 71.80(1)	The Wisconsin Department of Revenue (the "Department") shall assess incomes.

Wis. Stat. § 73.01(5)(b)	The petitioner is required to set forth specific facts and law upon which petitioner relies.

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Alex Packard v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | June 23, 2026

Decision

- Mr. Packard asserted he did not know he had to report his gambling income, or that Wisconsin used the "gambling session" method.
- He did not meet the legal definition of professional gambler.
- He did not provide concrete evidence, such as gambling losses to offset the documented gambling winnings.
- He failed to prove by clear and convincing evidence that the Department erred.
- He failed to meet his burden of proof.
- Commission lacks equitable power.
- Commission does not have authority to grant the request that additional education be provided by the Department and/or casinos.
- "Fundamental fairness" is not a form of relief which the Commission has authority to grant.

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Don & Sue Utter v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | June 24, 2026

Issue

- Was a Petition for Redetermination **timely** – based on appeal by the taxpayers within 60 days of the date they were notified (rather than when their power of attorney was notified)?

Key Facts

- Power of Attorney ("POA") form completed – October 2023.
- October 2024: Wisconsin Department of Revenue (the "Department") sent a Notice of Field Audit Amount Due, correspondence regarding appeal rights, and a notice of better records -- only to the POA, not the taxpayers.
- January 2025: The Department issued a collection notice.
- February 2025: Taxpayers visited the Department, indicating they had not received any paperwork either from their POA or the Department -- and filed a Petition for Redetermination.

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Don & Sue Utter v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | June 24, 2026

Wis. Stat. § 71.74	The Department must provide notice of an assessment.
Wis. Stat. § 71.88	A person aggrieved, e.g., by a notice of additional assessment, may, within 60 days after receipt, petition for redetermination.
Wis. Stat. § 73.03(73m)	Notice of the assessment may be provided by various methods. A power of attorney may authorize service on a representative, but no specific language is identified to make the statute applicable.

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Don & Sue Utter v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | June 24, 2026

Decision

- POA form: Did not notify the taxpayers that designating a representative meant the taxpayers would no longer receive communications – such as audit notices.
- The taxpayers' notification of the right to appeal the Department's notice of amount due – on February 7, 2025 – started the 60-day appeal deadline.
- The Wisconsin Tax Appeals Commission had jurisdiction to hear the appeal.
- Department's motion to dismiss was denied.

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Daniel & Jodie Williamson v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | March 26, 2026

Issue

- Was an amended return, claiming a casualty loss, **timely filed**?

Key Facts

- Real property in River Falls, WI
  - Damaged by storm in 2017
- 2017 income tax return filed April 14, 2018
  - No casualty loss claimed
- 2017 amended return submitted July 31, 2024
  - Casualty loss claimed
  - Petitioners indicated business and other closures during 2020 and 2021 made it quite difficult to complete repair work and obtain the documentation necessary to claim the refund.

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Daniel & Jodie Williamson v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | March 26, 2026

Wis. Stat. § 71.75(2)	A claim for refund must generally be filed within four years of the unextended due date of the return.
Wis. Stat. § 73.01(5)(a)	The Wisconsin Tax Appeals Commission's jurisdiction depends on a timely underlying refund claim.
Jurisdictional Requirement	Equitable circumstances do not permit the Wisconsin Tax Appeals Commission to extend a statutory jurisdictional deadline.

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Daniel & Jodie Williamson v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | March 26, 2026

Decision

- Claim for refund – for tax year 2017 – should have been filed by April 17, 2022.
- Claim for refund filed in 2024 was untimely.
- The Commission had no equitable power to extend Wis. Stat. § 71.75(2).
- Petition for review dismissed.

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Gregory Mueller v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | May 26, 2026

Issue

- Should the Wisconsin Department of Revenue's motion to dismiss be granted where the taxpayer did not file petitions for redetermination of Notices of Estimated Tax Amount Due?

Key Facts

- No income tax returns filed since 2005.
- The Department issued Notices of Estimated Tax Amount Due
  - For the periods ending 12/31/2007 and 12/31/2008
    - Sent to an address (in Lake Geneva) from the 2005 tax return -> returned as undeliverable.
  - For the periods ending 12/31/2009 – 12/31/2013
    - Sent to an address in Eagle, WI (obtained from DOT records; where he grew up and remained his father's address)
  - For the periods ending 12/31/2014 – 12/31/2020
    - Sent to an Elkhorn, WI address -> based on updated address on a POA.
- 7/28/2025: The Department issued a Notice of Wage Attachment – in the amount of $268,997.62.
- 10/7/2025: Petition for Review filed with the Commission.

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Gregory Mueller v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | May 26, 2026

Wis. Stat. § 73.01(5)	Any person who is "aggrieved" by a redetermination of the Department may file a Petition for Review with the Commission. • Within 60 days of the redetermination.

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Gregory Mueller v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | May 26, 2026

Decision

- The Department filed a Motion to Dismiss.
- Petitioner testified he did not remember receiving the Notices of Estimated Tax Amount Due.
- Petitioner failed to file Petitions for Redetermination – within 60 days of receipt of the Notices of Estimated Tax Amount Due.
- Not "aggrieved" by redeterminations of the Department.
- Commission lacked jurisdiction – over the Petition for Review.

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U'si Ch-ab a/k/a Alan Nathan Carroll, Jr. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | March 18, 2026

Issue

- Was Petitioner, a Wisconsin resident, required to file 2020 and 2022 returns?

Key Facts

- Petitioner is a member of the Okwehonwe Mohawks and held the title of Fire-Keeper within the Iroquois Confederacy of Aborigine American People.
  - Neither group is a federally recognized tribe.
- Petitioner's gross income was $59,124.91 in 2020 and $62,605.70 in 2022.
- Petitioner did not file Wisconsin returns.
- He did not reside on a federally recognized reservation, trust land, or tribe's land, nor did he own such land.

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U'si Ch-ab a/k/a Alan Nathan Carroll, Jr. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | March 18, 2026

Wis. Stat. § 71.02(1)	Provides for imposition of tax on net incomes of individuals residing in the state.
Wis. Stat. § 71.03(1)	"Gross income" means all income, from whatever source derived and in whatever form realized.
Wis. Stat. § 71.03(2)(a)1	Individuals domiciled in Wisconsin during the entire taxable year who have a gross income at or above the threshold amount are required to file.
Wis. Stat. §§ 71.74(3), 71.80(1)	Provide for default assessments and that the Wisconsin Department of Revenue (the "Department") shall assess incomes.
McClanahan v. Arizona State Tax Commission; Joan LaRock v. Wisconsin Department of Revenue	"[R]eservation Indians with income derived wholly from reservation sources are exempt from state income taxation."

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U'si Ch-ab a/k/a Alan Nathan Carroll, Jr. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | March 18, 2026

Decision

- "[A]n Indian is exempt from state income taxation when they are an enrolled member of the tribe, and that they live and work on tribal land for the same tribe in which they are an enrolled member."
- Excluded based on the U.S. Constitution?
- Wisconsin residency and gross income required filing.
- The Indian Income Tax Exemption did not apply.
- Petitioner's statements and arguments did not rebut the presumption of correctness of the Department's determination of his assessed income tax.
- The Department's assessments were upheld.

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Alan Nathan Carroll, Jr. a/k/a U'si Ch-ab v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | September 29, 2026

Issue

- Did issue preclusion apply with respect to the Notice of Estimated Tax Amount Due – Individual Income Tax with respect to tax year 2023?

Key Facts

- Petitioner remained a Wisconsin resident with gross income from Wisconsin sources.
- Petitioner's 2023 gross earnings were $58,262.
- Petitioner did not file a return for 2023.
- Prior Wisconsin Tax Appeals Commission proceeding regarding tax years 2020 and 2022.
- The Wisconsin Department of Revenue (the "Department") filed a motion to dismiss.

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Alan Nathan Carroll, Jr. a/k/a U'si Ch-ab v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | September 29, 2026

Issue Preclusion	Issue preclusion is "designed to limit the relitigation of issues that have already been litigated in a previous action. *Lindas v. Cady*, 183 Wis. 2d 547, 588 (1994). As "courts balance the competing goals of judicial efficiency and finality, protection against repetitious or harassing litigation, and the right to litigate one's claims . . . [they] may consider some or all of the following factors to protect the rights of all parties to a full and fair adjudication of all issues involved." *Michelle T. v. Crozier*, 173 Wis. 2d 681, 688-689 (1993).

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Alan Nathan Carroll, Jr. a/k/a U'si Ch-ab v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | September 29, 2026

Decision

- Issue preclusion elements:
  - Could the party against whom preclusion is sought have obtained judicial review of the judgment?
  - Is the question one of law that involves two distinct claims or intervening contextual shifts in the law?
  - Do significant differences in the quality or extent of the proceedings between the two courts warrant relitigation of the issue?
  - Have the burdens of persuasion shifted?
  - Are there matters of public policy and individual circumstances involved that would render the application of collateral estoppel to be fundamentally unfair?
- Petitioner was required to file a 2023 Wisconsin return under Wis. Stat. § 71.03(2)(a).
- The Department properly issued an assessment using the best information available.

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Lance Walter Hernkind, Jr. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | January 12, 2026

Issue

- Was Petitioner required to file a 2022 Wisconsin income tax return?
- Did the Wisconsin Department of Revenue (the "Department") properly issue an income tax assessment to Petitioner for tax year 2022?

Key Facts

- Tax year 2022 return not filed.
- On or about 11/1/2024, a Notice of Estimated Tax Amount Due – Individual Income Tax issued to taxpayer.
- Petitioner returned the Notice with handwritten comments, such as "I don't accept solicitations, No Contact, I don't adopt any foreign citizenship or character, I have no taxable income."
    - Treated by the Department as an appeal
- On or about 2/13/2025, the Department denied the taxpayer's request that he not be required to pay any 2022 state income tax.
- On 3/26/2025, Petitioner submitted 44 pages to the Commission, which was considered a Petition for Review.

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Lance Walter Hernkind, Jr. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | January 12, 2026

Wis. Stat. § 71.02	Imposition of tax.
Wis. Stat. § 71.03	Definition of "gross income" - and persons required to file.

Wis. Stat. § 71.74	Provides for default assessment.
Wis. Stat. § 71.80	Requires the Department to assess incomes.

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Lance Walter Hernkind, Jr. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | January 12, 2026

Decision

- Petitioner failed to file a tax year 2022 income tax return.
- Petitioner did not present any facts to rebut the Department's income information.
- Tax protestor arguments rejected.
- Taxpayer was required to file a 2022 Wisconsin income tax return.
- Department assessment upheld.

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James Gannigan v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | January 13, 2026

Issue

- Was Petitioner required to file a 2022 Wisconsin income tax return?
- Did the Wisconsin Department of Revenue (the "Department") properly assess an income tax liability on Petitioner for 2022?

Key Facts

- Petitioner resided in Stevens Point, WI and operated Hawaiian Tanning studio.
- Tax year 2022 return not filed.
- On or about 12/11/2024, a Notice of Estimated Tax Amount Due – Individual Income Tax was issued to taxpayer.
- Petitioner returned the Notice with a letter stating that he is "not required to file a Federal Income Tax Return . . . and because Wisconsin (Chapter 2 in the State Legislature) follows the Federal Income forms, I am not required to file an Individual Income Tax Return in Wisconsin."
  - Treated by the Department as an appeal (Petition for Redetermination)
- On or about 3/26/2025, the Department issued a Notice of Action, denying the taxpayer's request that he not be required to pay any 2022 state income tax.
- On 5/15/2025, Petitioner timely appealed to the Commission.

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James Gannigan v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | January 13, 2026

Wis. Stat. § 71.02	Imposition of tax
Wis. Stat. § 71.03	Definition of "gross income" – and persons required to file.

Wis. Stat. § 71.74	Provides for default assessment.
Wis. Stat. § 71.80	Requires the Department to assess incomes.

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James Gannigan v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | January 13, 2026

Decision

- Petitioner failed to file a tax year 2022 income tax return.
- Petitioner provided no information to rebut the Department's Affidavit and exhibits.
- Tax protestor arguments rejected.
- Taxpayer was required to file a 2022 Wisconsin income tax return.
- Department assessment upheld.

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Property Taxes & Municipal Fees

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Madison Malls Ground, LLC v. City of Madison

Dane County Circuit Court | August 4, 2026

Issue

- Was the City of Madison's 2023 property tax assessment of East Towne Mall excessive?

Key Facts

- East Towne Mall
- City of Madison's 2023 assessment = $34,480,000.
- Taxpayer's appraisal = $26 million.

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Madison Malls Ground, LLC v. City of Madison | Legal Framework

Dane County Circuit Court | August 4, 2026

Wis. Stat. § 70.32	Real property must be valued at full value using the Wisconsin Property Assessment Manual and recent arm's-length sales where available.
Wis. Stat. § 70.49	The assessment is presumed to be correct.
Income approach	Capitalization-rate selection must be supported by current, comparable market evidence and mathematically reliable calculations.

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Madison Malls Ground, LLC v. City of Madison | Holding

Dane County Circuit Court | August 4, 2026

Decision

- Presumption of correctness does not apply if the taxpayer provides "significant contrary evidence" or shows that the assessment does not comply with the Wisconsin Property Assessment Manual.
- Income approach.
- The City's assessor was not credible, as his analysis contained math and other errors.
- The City's outside expert misapplied the data in his sales comparison approach and unreasonably relied on strip mall sales.
- The Court rejected the City's arguments that its appraiser's cap rate was reasonable.
- Taxpayer's expert was more persuasive despite limited use of distressed sales.
- Assessment reversed; value set at $26 million.

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Scott K. Matthews v. City of Madison

Wisconsin Court of Appeals | November 6, 2025

Issue

- Should Mr. Matthews' opinion of value for his residential property be upheld by the Court of Appeals?

Key Facts

- For tax year 2023, the City of Madison set the assessment of Mr. Matthews' property at $1,081,100.
- Mr. Matthews filed an objection with the City's Board of Review, followed by a refund claim filed with the City and an action filed in circuit court.
- After a small claims trial, the circuit court found that Mr. Matthews overcame the presumption of correctness and accurately determined the value of his property to be $940,000.
- The court ordered judgment in the amount of $2,579.09.

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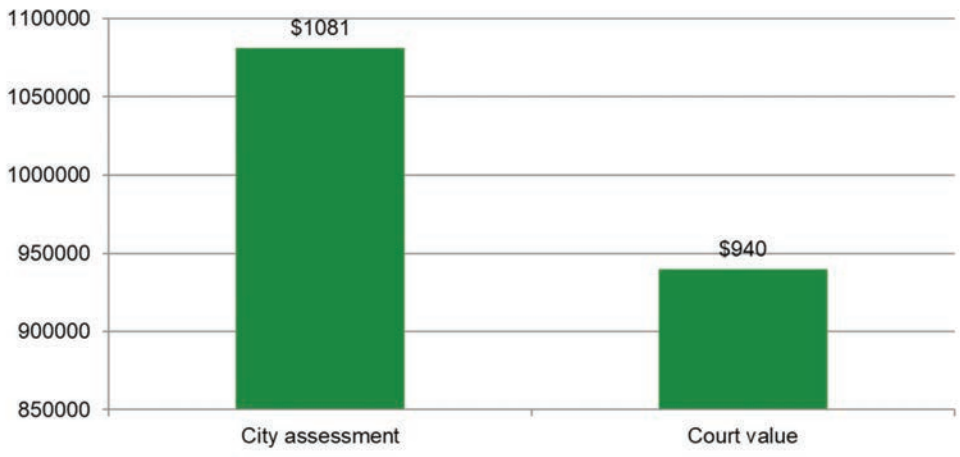
Matthews | Assessment versus adjudicated value

Tax year 2023 residence



$141,100
Reduction

$2,579.09
Refund judgment

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Scott K. Matthews v. City of Madison | Legal Framework

Wisconsin Court of Appeals | November 6, 2025

Wis. Stat. § 70.32	Provides hierarchy for assessing property.
Wis. Stat. § 70.49	The presumption of correctness is overcome when the taxpayer presents significant contrary evidence.

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Scott K. Matthews v. City of Madison | Holding

Wisconsin Court of Appeals | November 6, 2025

Decision

- Tier 1, recent arm's-length sale of the subject property, not applicable.
- Tier 2, recent arm's-length sales of reasonably comparable properties, applied.
- Mr. Matthews' property found to be unique within his assessment area and therefore comparable sales in other areas had to be considered.
- City failed to adjust for disparity in land values and make a location-based adjustment. City did not challenge other aspects of Mr. Matthews' comparative sales approach, such as adjustments made for lot sizes and the square footage of residences.
- City failed to show that the circuit court's findings of fact were clearly erroneous.
- Judgment affirmed.
- The City forfeited argument that the circuit court erred by not ordering a reassessment.

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Veritas Village, LLC v. City of Madison

Wisconsin Court of Appeals | July 16, 2026

Issue

- Did the City of Madison's 2022 property tax assessment of Veritas Village's property violate the Uniformity Clause (found at Article VIII, Section 1 of the Wisconsin Constitution)?

Key Facts

- Veritas Village, LLC owns an apartment building in the City of Madison.
- The City used mass appraisal techniques to arrive at the initial assessments.
- Veritas Village argued the City used assessment methodologies that resulted in other buildings in the "apartment strata" being assessed at values significantly below market value.
- The circuit court found Veritas Village met its burden to prove a uniformity violation.
- Circuit court also sanctioned the City in a discovery dispute and ordered payment of attorney fees totaling nearly $10,000.

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Veritas Village, LLC v. City of Madison | Legal Framework

Wisconsin Court of Appeals | July 16, 2026

Wis. Stat. § 70.32	Real property must be valued at full value, e.g., using recent arm's length sales.
Wis. Stat. § 70.49	Property assessments are afforded a presumption of correctness.
Uniformity Clause	May be violated if a property is assessed at market value and other comparable properties are undervalued – resulting in an excessive tax burden on the taxpayer whose property was assessed at market value.

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Veritas Village, LLC v. City of Madison | Holding

Wisconsin Court of Appeals | July 16, 2026

Decision

- Veritas Village expert testified that the City's mixing of different methodologies to assess sold and unsold properties resulted in a uniformity violation in which the majority of unsold properties (assessed through a trending process) were significantly underassessed.
- The City used an arbitrary and improper assessment methodology.
- The circuit court determined that the Veritas Village property was made to bear more than its fair share of taxes.
- As to remedy, the circuit court found it was unable to determine the amount of unlawful taxes and refund with reasonable certainty.
- The circuit court did not err when it determined that Veritas Village met its burden to show the Uniformity Clause was violated and when it ordered a discovery sanction.

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RDAR Corp. v. Milwaukee Board of Review

Wisconsin Court of Appeals | March 3, 2026

Issue

- Was a late appeal of a property tax assessment to the City of Milwaukee Board of Review properly denied?

Key Facts

- RDAR owns property located on South 1st Street in Milwaukee.
- 2022 property assessment increased to $845,400 – an increase of over 300% from the previous year's assessment.
- After discussions and meetings, the assessment was reduced to $591,800 by a notice dated October 5, 2022 (which the taxpayer indicated was not received).
- 15-day appeal deadline expired October 20, 2022.
- An appeal was filed with the Board of Review ("BOR") on November 18, 2022. The BOR denied the request, concluding good cause had not been established for the late appeal.
- Circuit court affirmed, finding the BOR's decision was not arbitrary or unreasonable.

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RDAR Corp. v. Milwaukee Board of Review | Legal Framework

Wisconsin Court of Appeals | March 3, 2026

Wis. Stat. § 70.47	Procedures for objecting and requesting a hearing before the Board of Review.

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RDAR Corp. v. Milwaukee Board of Review | Holding

Wisconsin Court of Appeals | March 3, 2026

Decision

- Review BOR's decision, which is presumed to be correct and valid.
- BOR's decision must contain only enough information for the court to "discern the basis" of the decision, not necessarily a "detailed or explicit explanation" of its reasoning.
- BOR made clear that permission for a late appeal not generally granted due to a postal error.
- Mail sent to the correct address and forwarded to a post office box.
- Even with transcript errors, record sufficiently demonstrated that the Board had a rational basis to deny RDAR's request for a late appeal.
- Denial of late appeal affirmed.

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Marinette Marine Corp. v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | February 18, 2026

Issue

- Was a portion of a property (known as Building 31) exempt from property tax as a waste treatment facility OR as manufacturing machinery and equipment?

Key Facts

- Marinette Marine Corporation ("MMC") is in the shipbuilding business.
- Two real estate parcels assessed as manufacturing property by the Wisconsin Department of Revenue (the "Department"), including one referred to as "Building 31".
  - MMC appealed the classification (and assessment) of the parcels.
- Building 31 included six bays - for prep, blasting, and painting.
  - Blasting emitted pollutants
  - Building subject to state and federal laws and regulations for air pollution control.
  - DNR has issued permits to MMC.
  - Includes special, customized ventilation, dust removal and filtration equipment
- Production occurred 12–20 hours daily; abatement operated continuously.
- MMC sought exemptions under Wis. Stat. § 70.11(21) and (27).

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Marinette Marine Corp. v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | February 18, 2026

Wis. Stat. § 70.11(21)

Property tax exemption for waste treatment and pollution abatement equipment.

- Property must be constructed (or purchased) as a waste treatment facility.
- Property must be used exclusively to "remove, store, or cause a physical or chemical change in . . . air contaminants for the purpose of abating or eliminating pollution of . . . the air . . . of the state."
- Property must be used directly to "remove, store, or cause a physical or chemical change in . . . air contaminants for the purpose of abating or eliminating pollution of . . . the air . . . of the state."

Wis. Stat. § 70.11(27)

Property tax exemption for manufacturing machinery and specific processing equipment.

Wis. Stat. § 73.01(4)(am)

The Commission may impose up to a $1,000 sanction for frivolous or groundless positions.

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Marinette Marine Corp. v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | February 18, 2026

Decision

- Assessments are presumed to be correct – and the burden is on MMC to prove it is entitled to exemption.
- Exemptions are given a strict – but reasonable – construction.
- Waste treatment exemption:
  - Building 31 was constructed to serve as a dedicated paint facility, not a waste treatment facility.
  - Building 31 was not "exclusively used to remove, store, or cause a physical or chemical change in air contaminants."
  - Building 31 did "remove, store, or cause a physical or chemical change in . . . air contaminants for the purpose of abating or eliminating pollution of . . . the air . . . of the state."
- Manufacturing exemption:
  - "The exemption under this paragraph shall be strictly construed."
  - Buildings are excluded.
  - Not "used exclusively and directly in the production process"
- $1,000 sanction imposed for frivolous/groundless claims.

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Thermo Fisher Scientific (Milwaukee) LLC / City of Milwaukee v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | August 28, 2026

Issue

- In manufacturing assessment appeals, could the City of Milwaukee **intervene as a party with full participation** v. limited participation as a non-party intervenor?

Key Facts

- Thermo Fisher appealed the assessments of its property for 4 years.
- State Board of Assessors sustained assessments.
- The City of Milwaukee filed appeals for two years.
- Numerous dockets, with complex procedural history.
- Parallel decisions addressed separate appeals filed with the Wisconsin Tax Appeals Commission by both Thermo Fisher and the City of Milwaukee.

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Thermo Fisher / City of Milwaukee | Legal Framework

Wisconsin Tax Appeals Commission | August 28, 2026

Wis. Stat. § 70.995(8) **Wis. Stat. § 73.01(5)**	If an assessment is reduced by the state board of assessors, the municipality affected may file an appeal or, if the party assessed files a petition for review, then file a cross-appeal. Any person aggrieved by a determination of the state board of assessors may appeal to the Wisconsin Tax Appeals Commission.
Wis. Stat. § 227.44	General statute addressing contested cases, notice, parties hearing, and records.
Specific Statutes Control	The manufacturing property appeal statute governs over the more general statutes and cases on cross-appeals in Wisconsin courts.

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Thermo Fisher / City of Milwaukee | Holding

Wisconsin Tax Appeals Commission | August 28, 2026

Decision

- As the assessments were not reduced, the City of Milwaukee was not "aggrieved."
- City of Milwaukee status limited to intervenor (rather than full party cross-appellant).
- Permitted to engage in discovery and participate fully in conferences, hearings, and at any trial that may be scheduled.
- As an intervenor, City of Milwaukee does not have the power to object to any stipulation or settlement entered into by Thermo Fisher and the Wisconsin Department of Revenue.

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Town of La Pointe v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | November 12, 2025

Issue

- Did Ashland County transfer responsibility for law enforcement services to the Town of La Pointe?

Key Facts

- Since 1979, Ashland County paid money to the Town to defray the cost of an additional police officer on Madeline Island.
- A formal agreement was entered into in 1995 -- and later revised in 2008.
- Agreement terminated effective December 21, 2022.
- Ashland County ended a $135,000 allocation to the Town (which supplemented the Town's law enforcement services budget).

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Town of La Pointe v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | November 12, 2025

Wis. Stat. § 66.0602	Municipal levy limits may be adjusted for a qualifying transfer of governmental service responsibility.
Statutory Requirement	Loss of county funding is not itself a transfer of legal responsibility for providing the service.

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Town of La Pointe v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | November 12, 2025

Decision

- Threshold question – whether a political subdivision "transfers . . . responsibility . . . for providing any service" – was not met.
- Tax levy limitations not adjusted.
- Ashland County tax levies not reduced.
- Town of La Pointe tax levies not increased.

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Calumet Sustainable Energy, LLC v. Wisconsin Department of Revenue

Wisconsin Tax Appeals Commission | February 18, 2026

Issue

- Did the renewable-natural-gas processing building qualify as manufacturing property under Wis. Stat. § 70.995?

Key Facts

- Calumet Sustainable Energy ("CSE") timely requested manufacturing classification.
- CSE's property housed equipment used to produce renewable natural gas ("RNG").
- CSE processed biogas through compression, membrane separation, methane polishing, drying, gas analysis, and final compression.
- The RNG is then inserted into a pipeline owned by an unrelated entity.
- Ownership of the RNG is transferred to CSE's customer, which sells the RNG for Low Carbon Fuel Credits in California.

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Calumet Sustainable Energy, LLC v. Wisconsin Department of Revenue | Legal Framework

Wisconsin Tax Appeals Commission | February 18, 2026

Wis. Stat. § 70.995	Defines "manufacturing property" and limits the inquiry to the productive process conducted on the property being classified.
Standard Industrial Classification Manual (1987)	The industrial-gases classification supported CSE only if the facility's primary activity fit manufacturing rather than the competing gas-service classification.
Wisconsin Property Assessment Manual	1) Is the activity more similar to those specifically classified manufacturing by law and the SIC Manual, or more similar to those specifically classified nonmanufacturing by law and the SIC Manual? 2) Is the activity more closely aligned with the general description of producing, assembling, fabricating, making or milling by machinery and equipment of a new article with a different form, use and name from existing materials, or is it more aligned with the general activities involved with services as generally described in the SIC Manual, wholesale trade, retail trade, agriculture, or construction? 3) Does the activity produce products more for wholesalers, interplant transfer, to order for industrial users or more for direct sale to domestic consumers?

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Calumet Sustainable Energy, LLC v. Wisconsin Department of Revenue | Holding

Wisconsin Tax Appeals Commission | February 18, 2026

Decision

- Reviewed SIC Manual Division D manufacturing and Division E nonmanufacturing.
- CSE's activities of removing impurities and unwanted materials from biogas, compressing and treating it until it becomes a saleable product of nearly pure methane renewable gas are similar to those activities of refining specifically classified manufacturing by law and the SIC Manual.
- CSE's activities more closely aligned with the general manufacturing description of producing, assembling, fabricating, making or milling by machinery and equipment of a new article with a different form, use and name from existing materials.
- CSE's customer is more like selling product to a wholesaler than to either an industrial user or directly to a domestic consumer.
- CSE's activity meets the definition of manufacturing.

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Hawthorne Place LLC, et al. v. Village of Dousman, et al.

Waukesha County Circuit Court | September 4, 2026

Issue

- Could the Village of Dousman and Village of Pewaukee fund fire and EMS availability through fire and EMS fees imposed on property tax bills?

Key Facts

- Village of Dousman passed an ordinance for "Village Fire Protection Fees" – an annual charge on all real property calculated through Domestic Use Equivalents, such as acreage and building and outbuilding square footage, as well as a flat fee for land.
- Village of Pewaukee charged a "Fire-EMS Protection fee" to developed property using Emergency Service Equivalents.
- Neither formula depended on actual fire or EMS calls to the charged property or the value of the property.

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Hawthorne Place LLC, et al. v. Village of Dousman, et al. | Legal Framework

Waukesha County Circuit Court | September 4, 2026

Wis. Stat. § 66.0627(2)	A municipality may impose a special charge against real property "for current services rendered by allocating all or part of the cost of the service to the property served."
Wis. Stat. § 74.01(4)	"Special charge" defined as "a charge against real property to compensate for all or part of the costs to a public body of providing services to the property."

***Town of Janesville v. Rock County*, 153 Wis. 2d 538 (Ct. App. 1989)**	Town of Janesville construed the predecessor statute to permit special charges for fire protection only for services actually performed (cost of fire services on a per call basis), not for services that may be available but not utilized.

Wis. Stat. §§ 75.001(1), 74.01(5)	Defines "tax" and "[s]pecial tax."
Wisconsin Constitution art. VIII, § 1	Uniformity Clause.

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Hawthorne Place LLC, et al. v. Village of Dousman, et al. | Holding

Waukesha County Circuit Court | September 4, 2026

Decision

- The charges were not authorized special charges because they were not for current services actually rendered to the properties served.
- The special charges were actually property taxes.
- Dousman and Pewaukee declined to refute the arguments that if property taxes, the amounts charged were illegal.
- The circuit court concluded that the fire-protection/EMS fees were unlawful, invalid, and unenforceable and permanently enjoined Dousman and Pewaukee from levying, enforcing, or collecting the fire-property/EMS charges.

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Miscellaneous

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Siebers v. Barca, Chandler, and Wisconsin Department of Revenue

Court of Appeals | March 31, 2026

Issue

- Was Siebers entitled to interest on unclaimed property returned to her?

Key Facts

- Siebers filed a claim for unclaimed property with the Wisconsin Department of Revenue.
- The unclaimed property, in the amount of $264.74, was returned to Siebers – without interest.
- Siebers pursued a Fifth Amendment takings clause action in federal court – which was dismissed.
- Filed action against Barca, Chandler, and the Department – arguing Fifth Amendment violation and requesting class action status, just compensation, and attorney fees pursuant to 42 U.S.C. § 1983.

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Siebers v. Barca, Chandler, and Wisconsin Department of Revenue | Legal Framework

Wisconsin Court of Appeals | March 31, 2026

Sovereign Immunity	Doctrine that "the State cannot be sued without its consent, and the legislature directs the manner in which suits may be brought against the State." *PRN Assocs. LLC,* 317 Wis. 2d 656, par. 51; Wis. Const. art. IV, Section 27 ("The legislature shall direct by law in what manner and in what courts suits may be brought against the [S]tate.")
Wis. Stat. § 177.26 (2019-20); Wis. Stat. § 177.0906	Action for judicial review must be brought within 90 days.

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Siebers v. Barca, Chandler, and Wisconsin Department of Revenue | Holding

Wisconsin Court of Appeals | March 31, 2026

Decision

- Action filed in circuit court in September 2022 not filed within 90 days of the date the Department paid Siebers $264.74 on her filed claim in April 2021.
- Untimely complaint violated statutory procedure for judicial review.
- Sovereign immunity deprived the circuit court of personal jurisdiction over the State – and barred Siebers' action.
- Section 1983 claim also barred by sovereign immunity.
- The Court of Appeals concluded that Siebers had not alleged sufficient facts to show that either secretary personally was involved in depriving her of just compensation.
- As the unclaimed property laws allowed for judicial review, Siebers failed to state a claim upon which relief may be granted as a direct action under the Fifth Amendment.

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Wisconsin Acts

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2025 Wis. Act 78

Key Provisions

- Business development credit:
  - Expands workforce housing and childcare program portion
  - Adds eligibility for contributions:
    - Made by a claimant to third parties responsible for building or rehabilitating workforce housing or establishing childcare program.
  - Removes requirement that only claimant's employees can be benefited.
- Effective for tax years beginning after December 31, 2025.

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2025 Wisconsin Act 108

Key Provisions

- Amends the sales tax exemption for memberships sold to licensed real estate brokers.
- A broker who obtains access to information about real estate listings from other real estate brokers is no longer required to offer, pursuant to the broker's membership agreement, to both compensate and cooperate with real estate brokers in brokering sales of properties.
- Effective June 1, 2026.

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2025 Wisconsin Act 112

Key Provisions

- Creates civil and criminal penalties for filing a claim with the Wisconsin Department of Revenue (the "Department") for the property of another person without the owner's consent and with intent to deprive the rightful owner of the property.
- Adds enhanced penalties for noncompliant claims submitted to the Department by a locator service.
- Requires posting by the Department of locator services that have been assessed penalties.
- Effective March 22, 2026.

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2025 Wisconsin Act 117

Key Provisions

- Adds a property tax exemption for Recreational Fabricated Structures.
  - Owners must file a Property Tax Exemption Request (Form PR-230) with the assessor by March 1, 2027 – for the 2027 assessment year.
  - Prefabricated structure – "to fabricate parts at a factory so that construction consists mainly of assembling and uniting standardized parts."
  - Originally designed to be towed upon a highway by a motor vehicle.
  - Used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes.
  - Located in a licensed campground under Wis. Stat. § 97.67.
  - Located on land not owned by the owner of the prefabricated structure.
- Includes accessory decks, sheds, and porches.

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2025 Wisconsin Act 118

Key Provisions

- Repeals expired credits and obsolete modifications.
- Consolidates and renumbers surviving provisions and updates cross-references.
- Uses delayed effective dates to allow for carry forward of unused nonrefundable tax credits that could offset tax in future years.

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2025 Wisconsin Act 120

Key Provisions

- Allows a neighborhood improvement district to approve special assessments for residential-development infrastructure.
- Operating plans must describe infrastructure and parcel repayment amounts or methodology.
- Assessments remain enforceable after district termination.

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2025 Wisconsin Act 124

Key Provisions

- Eliminates the requirement for sellers to obtain and purchasers to provide an exempt certificate for exempt sales and purchases of precious metal bullion.
- Effective March 29, 2026.

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2025 Wisconsin Act 137

Key Provisions

- Clarifies:
  - Pass-through withholding
  - Withholding for nonresident entertainers
- Eliminates method of computing the economic development surcharge that is no longer applicable.
- Effective March 29, 2026.

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2025 Wisconsin Act 164

Key Provisions

- Allows one Wisconsin business that manufactures biofuel, a majority of which is aviation biofuel, and is eligible for certain incentives from the Wisconsin Economic Development Corporation to claim a credit of up to $120,000,000.
- Effective for taxable years beginning after December 31, 2025.

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2025 Wisconsin Act 165

Key Provisions

- Creates sales/use tax exemption for tangible personal property used exclusively and directly for a nuclear fusion technology project and used solely at the nuclear fusion technology project's location.
- Includes purchases made by construction contractors who transfer the property to their customers in fulfillment of a real property construction activity.
- Nuclear fusion technology project means a project that has the purpose of undertaking the controlled fusion of atomic nuclei or research thereupon, including energy generation, propulsion systems, materials research, medical isotope production, neutron sources, plasma physics research, and any other application making use of fusion reactions or fusion-enabling technologies.
- Exemption certificate required.
- Effective July 1, 2026.

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2025 Wisconsin Act 174

Key Provisions

- For the retirement income subtraction, clarifies that:
  - Claimants must be 67 years of age before the close of the taxable year.
  - If the retirement income subtraction is claimed, no credits may be claimed for the same taxable year.
  - Part-year residents' subtraction may not exceed $24,000 pro rated by the ratio of Wisconsin income to federal adjusted gross income.
- Provides clarifications for the film production services credit and the film production company investment credit.
- Effective April 4, 2026.

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2025 Wisconsin Act 177

Key Provisions

- Provides subtraction from Wisconsin income for amounts received from a veterinary loan repayment grant program.
- Annual payments may not exceed $25,000; total award may not exceed $100,000.
- Payment requires completed year of full-time employment as a veterinarian in a rural county and provision of at least 50% of the veterinarian's care to farm animals.
- First applies to an individual who graduates from a school of veterinary medicine in 2025.

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2025 Wisconsin Act 183

Key Provisions

- Creates a nonrefundable Wisconsin employer-provided child care tax credit based on the federal employer-provided child care tax credit under IRC § 45F.
- Only Wisconsin facilities and services qualify.
- Federal recapture produces a corresponding Wisconsin addition to tax.
- Effective for taxable years beginning after December 31, 2025.

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2025 Wisconsin Act 190

Key Provisions

- Defines contract research services by reference to research that would be qualified research if performed by the customer's employees.
- Expands qualified research to customer-funded contract research.
- Adds persons performing contract research services in Wisconsin to the exemption.
- Effective July 1, 2026.

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2025 Wisconsin Act 191

Key Provisions

- New credit for insurance companies that make a qualified equity investment in a qualified community development entity.
- Nonrefundable.
- $125,000,000 maximum qualified equity investment for each of rural counties and metro counties.
- Effective for taxable years beginning after December 31, 2024.

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2025 Wisconsin Act 192

Key Provisions

- Allows subtraction from Wisconsin income for monies lost from a financial account due to “financial exploitation.”
- Loss must have been reported to law enforcement and have no reasonable prospect of recovery.
- Later recovery, reimbursement, or compensation must be added back to income.
- Effective for taxable years beginning after December 31, 2023.

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2025 Wisconsin Act 205

Key Provisions

- Subtraction from Wisconsin income created for members of the National Guard and Reserve.
- Applies only to amounts not otherwise subtracted from Wisconsin income under any other modification.
- First available for tax returns filed for the 2026 taxable year.

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2025 Wisconsin Act 211

Key Provisions

- Clarifies that the excise tax does not apply to electricity delivered or placed by a charger of an electric vehicle charging station located at a residence.
- Defines electric vehicle by reference to 23 C.F.R. § 680.104.
- Requires a single-owner entity that is disregarded as a separate entity for income tax purposes that owns, operates, manages, or leases an electric vehicle charging station to register and file tax returns with the Department (rather than the owner of the entity).

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2025 Wisconsin Act 212

Key Provisions

- Creates a levy limit exemption for regional emergency medical systems.
- Requires geographic or membership scale, an operating agreement, referendum approval, certification, and coordinated EMS responsibility.
- First applies to a levy imposed in December 2027.

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2025 Wisconsin Act 220

Key Provisions

- Carryover of unused research income/franchise tax credit: increased from 15 to 50 taxable years.
- Applies to research credits that are carried over, remain unused, and have not expired as of April 10, 2026.

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2025 Wisconsin Act 227

Key Provisions

- Creates credits for long-term care insurance assessments paid by insurers.
- Equal to 20% of the amount of the long-term care insurance assessment paid by the insurer in each of five years after payment.
- Effective for taxable years beginning after December 31, 2026.

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2025 Wisconsin Act 228

Key Provisions

- Amends the appropriation in Act 227 for the refundable long-term care insurance assessment credit available for disability insurers.
- Effective July 1, 2026.

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2025 Wisconsin Act 235

Key Provisions

- Authorizes residential TIDs for qualifying owner-occupied single-family or two-family residences.
- Provides a 20-year maximum life with a potential three-year extension.
- Effective October 1, 2026.

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2025 Wisconsin Act 236

Key Provisions

- Removes the requirement that projects be financed with tax-exempt bonds.
- Allows an insurer that is a member of a pass-through entity to claim the credit.
- Requires at least 35% of annual state credit value for qualified rural developments, subject to sufficient qualifying applications.
- Effective for taxable years beginning after December 31, 2024.

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2025 Wisconsin Act 238

Key Provisions

- Considers a qualified rehabilitated building to have been "substantially rehabilitated" if the qualified rehabilitation expenditures during the 24-month period are at least $50,000.
- If the federal credit is not claimed, only the State Historic Preservation Office must approve the rehabilitation.
- Changes the $3.5 million per-parcel limit for all projects undertaken on the same parcel from being a lifetime limit to a 15-year limit.
- Effective April 10, 2026.

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2025 Wisconsin Act 241

Key Provisions

- Creates a nonrefundable credit for parents who are full-time residents of Wisconsin and experience a stillbirth during the year that required a fetal death report.
- Joint filers may claim up to $2,000; separate or unmarried parents are limited to $1,000.
- Requires a copy of the fetal death report be submitted with the return.
- Effective for tax years beginning on or after January 1, 2026.

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2025 Wisconsin Act 242

Key Provisions

- Creates two income and franchise tax credits: one for rail infrastructure modernization expenditures and another for rail infrastructure maintenance expenditures.
- Modernization credit equals 50% of qualified new rail-infrastructure expenditures, capped at $2 million per application.
- Maintenance credit equals 50% of qualifying short line maintenance expenditures, capped at $5,000 per Wisconsin track mile.
- Credits are transferable and carry forward five years.
- Effective for taxable years beginning after December 31, 2025.

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Questions?

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This presentation provides information of a general nature and is not legal advice. Future developments may affect the subjects addressed.

Reinhart

Tuesday, Nov. 17, 2026
9:40 – 10:40 a.m.

Wisconsin Department of Revenue: Income, Sales & Excise Tax Update

Nate Weber, CPA, *Director, Office of Technical Services, Division of Income, Sales & Excise Tax, Wisconsin Department of Revenue*

Wisconsin Tax Updates

Fall 2026

Wisconsin Department of Revenue
Income, Sales & Excise Tax Division

Created: November 3, 2026

Agenda / Overview

Topics

- Wisconsin IRC Conformity for 2026
- New WI Tax Laws – Individual Income Tax
- New WI Tax Laws – Business & Corporate
- Other Income & Franchise Tax Updates
- Sales & Use Tax Updates
- Excise Tax Updates
- Unclaimed Property
- Enforcement & Litigation
- General Updates & Reminders

Wisconsin IRC Conformity for 2026

Wisconsin IRC Conformity – Overview

- Wisconsin uses **static** conformity – adopts a fixed-date IRC definition (certain exceptions apply). Updates require legislative action signed by the governor.
- Wisconsin law currently follows federal IRC as amended through December 31, 2022
- Most changes made by One Big Beautiful Bill Act (P.L. 119-21) do **not** apply to Wisconsin
- **Depreciation:** WI follows IRC as of Jan 1, 2014 (with a couple of exceptions)
  - No bonus depreciation; follow current federal law for sec. 179
- See IRC Conformity article in Wisconsin Tax Bulletin 234 (July 2026)

IRC Differences – Trump Accounts & Dependent Care

- **Trump Accounts** (sec. 530A, IRC):
  - Federal: New tax-advantaged savings for individuals under 18; contributions begin July 4, 2026
  - Wisconsin: Does **not** recognize Trump accounts or any related income exclusion
- **Dependent Care Benefits** (sec. 129, IRC):
  - Federal: Excludes up to $7,500 ($3,750 MFS)
  - Wisconsin: Only up to $5,000 ($2,500 MFS) may be excluded

IRC Differences – Student Loans & Moving Expenses

- **Student Loan Forgiveness – Death/Disability** (sec. 108(f)(5), IRC):
  - Federal: Permanently exempt
  - Wisconsin: Exemption expired after 2025
- **Employer Payments of Student Loans** (sec. 127, IRC):
  - Federal: Excludable as qualified education assistance
  - Wisconsin: Does **not** qualify for exclusion; taxable wages to employee
- **Moving Expense Reimbursement and Deduction** (secs. 132(g), 217, IRC):
  - Federal: Limited to Armed Forces and certain members of the intelligence community only
  - Wisconsin: Broader pre-TCJA eligibility

IRC Differences – Hazardous Duty & Mortgage Interest

- **Qualified Hazardous Duty Areas** (secs. 7508, 112, and other specified sections, IRC):
  - Federal: Sinai Peninsula, Kenya, Mali, Burkina Faso, and Chad treated as combat zones
  - Wisconsin: Except for extensions to file, WI does **not** recognize these as combat zones; income **must** be included in WI income
- **Mortgage Interest Deduction** (sec. 163(h)(3), IRC):
  - Federal: Interest deductible on up to $750,000 ($375,000 MFS) of acquisition debt; mortgage insurance premiums treated as qualifying interest
  - Wisconsin: Pre-TCJA rules – interest deductible on up to $1,000,000 ($500,000 MFS) of acquisition debt and $100,000 ($50,000 MFS) of qualified home equity debt; mortgage insurance premiums **not** deductible

IRC Differences – Charitable Contributions & Gambling Losses

- **Charitable Contribution Limitations** (sec. 170, IRC):
  - Federal: Qualified cash contributions by individuals deductible up to 60% of AGI; deduction floors adopted for individuals and corporations
  - Wisconsin: Cash gifts by individuals capped at 50% of AGI; **no** deduction floors adopted
- **Gambling Losses** (sec. 165(d), IRC):
  - Federal: Gambling losses limited to 90% prior to offsetting against gains/winnings; other allowable deductions treated as gambling losses and included in 90% limitation
  - Wisconsin: Except for professional gamblers, session gambling losses only allowed to offset session winnings if records kept; 90% federal limitation does not apply; other deductions from wagering transactions **not** treated as gambling losses (See Publication 600)

IRC Differences – ABLE Accounts & Itemized Deduction Limitation

- **ABLE Accounts** (sec. 529A, IRC):
  - Federal: $20,000 contribution limit for 2026; special beneficiary limit now permanent
  - Wisconsin: Limit remains $19,000 and no special beneficiary limit after 2025; accounts that allow more contributions are disqualified
- **Itemized Deduction Limitation** (sec. 68, IRC):
  - Federal: Highest marginal rate taxpayers reduce deductions to 35% marginal tax benefit
  - Wisconsin: Pre-TCJA "Pease" limitation applies - reduces deductions by lesser of 80% or 3% of income above threshold

IRC Differences - R&E Expenses

- **Foreign R&E:** Federal capitalizes/amortizes 15 years (sec. 174, IRC)
  - WI deducts in year incurred or amortizes 5+/10 years (pre-TCJA rules)
- **Domestic R&E:** Federal has multiple options incl. full deduction (sec. 174A, IRC)
  - WI deducts in year incurred or amortizes 5+/10 years (pre-TCJA rules)
  - Federal small business election (≤$31M gross receipts) does **not** apply to WI
  - Federal election to deduct remaining balance on 2025/2026 returns does **not** apply to WI
  - Amended WI returns may be needed – review Wisconsin Tax Bulletin 232 examples

IRC Differences – 1099 Reporting Thresholds

- **Information Reporting Thresholds** (secs. 6041(a), 6041A(a), IRC):
  - Federal: Thresholds for 1099-NEC and 1099-MISC increased to $2,000 for 2026
  - Wisconsin: Reporting required if WI tax withheld or if non-wage payments exceed $600

IRC Differences – W-2 Wage Reporting & Summary

W-2 Wage Reporting Differences for 2026:

Box 16 (WI wages) may differ from federal amount due to IRC differences:

- Sec. 112 – Combat zone compensation (hazardous duty areas)
- Sec. 127 – Education assistance (student loan payments)
- Sec. 128 – Employer contributions to Trump accounts
- Sec. 129 – Dependent care assistance (amounts exceeding WI limit)
- Sec. 132 – Fringe benefits (moving expense/bicycle commuting)

Key Takeaway: Employers must track federal vs. WI differences for 2026 W-2s

New WI Tax Laws: Individual Income Tax

New – Veterinary Loan Repayment Subtraction (Act 177)

- Effective: Tax years beginning on or after January 1, 2025 (*Note*: grant program began in 2026)
- Creates subtraction for amounts received from the veterinary loan repayment grant program
- Subtraction applies to the extent amounts are included in federal AGI
- Program established under sec. 39.389, Wis. Stats., to encourage veterinary professionals to practice in Wisconsin

New – Financial Exploitation Loss Subtraction (Act 192)

- Effective: Tax years beginning on or after January 1, 2024
- Subtraction for money lost from financial accounts due to financial exploitation
- Qualifying: theft, deception, force, coercion, unauthorized use of personal info, forgery
- Must be reported to law enforcement; no reasonable prospect of recovery
- Funds must have been included in federal gross income
- Subtracted in the year the withdrawal/disbursement occurred
- Recovery recapture: Any recovery must be added back to WI income
- Filing: Line 49 of Schedule SB or line 83 of Schedule M

New – National Guard/Reserve Pay & Stillborn Child Credit

- **National Guard and Reserve Pay Subtraction** (Act 205):
  - Effective: Tax years beginning on or after January 1, 2026
  - Subtraction for:
    - federal basic pay received by a National Guard or Reserve member under 37 USC 204(a)(2)
    - federal inactive-duty training pay received by a Reserve member under 37 USC 206 or 206a
- **Stillborn Child Tax Credit** (Act 241):
  - Effective: Tax years beginning on or after January 1, 2026
  - Nonrefundable credit for full-year Wisconsin residents
  - Credit amounts: $2,000 (MFJ) / $1,000 (all others)
  - Must submit copy of fetal death report with tax return

New – Repeal of Obsolete Tax Credits (Act 118)

- Effective: March 29, 2026
- Repeals numerous sunset tax credits including:
  - Armed forces member credit / Biodiesel fuel production credit
  - Community development finance credit / Dairy & livestock farm investment
  - Economic development tax credit / Electronic medical records credit
  - Jobs tax credit / Manufacturing investment credit
  - Postsecondary education / Technology zones / Veteran employment / Water consumption
  - Repeal of nonrefundable credits delayed until they can no longer offset tax

New WI Tax Laws: Business & Corporate

Research Credit Carry-Over Extension (Act 220)

- Effective: April 10, 2026
- Extends carry-over period for unused research credits from 15 years to 50 years
- Applies to previously claimed research credits that remain unused
- Credits must not have expired as of April 10, 2026

Low-Income Housing Credit Changes (Act 236)

- Effective: Taxable years beginning on or after January 1, 2025
- Removes requirement for tax-exempt bond financing
- 35% of WHEDA-allocated credits must go to rural areas
- Pass-through entities (not members) may be responsible for DOR audit assessments
- Allows insurers who are members of pass-through entities to claim the credit

Supplement to Federal Historic Rehabilitation Credit Changes (Act 238)

- Effective: April 10, 2026
- "Substantially rehabilitated" threshold: at least $50,000 in qualified expenditures during 24 months
- If only the Wisconsin credit is claimed (no federal credit), no approval from federal Secretary of Interior needed (only State Historic Preservation Officer approval needed)
- $3.5 million per-parcel limit changed from **lifetime** to **15-year** limit

Business Development Tax Credit Expansion (Act 78)

- Effective: Taxable years beginning on or after January 1, 2026
- Expands workforce housing and childcare program portions of the credit
- **New:** Contributions to third parties for building/rehabilitating workforce housing
- **New:** Contributions to local revolving fund loan programs now eligible
- **Removed:** Requirement that programs must only benefit the claimant's own employees

Enterprise Zone Tax Credit for Aviation Biofuel (Act 164)

- Effective: Tax years beginning on or after January 1, 2026
- Allows **one** Wisconsin biofuel manufacturer to be certified by WEDC
- Majority of production must be aviation biofuel
- "Biofuel" means fuel created by converting organic matter derived from wood, at least 80% of which, as measured by aggregate volume over a 5-year period, has been sourced in Wisconsin
- Maximum credit: $120,000,000
- Claimant certified under the enterprise zone tax credit program

New – Employer-Provided Child Care Tax Credit (Act 183)

- Effective: Tax years beginning on or after January 1, 2026
- Nonrefundable credit based on federal employer-provided child care credit (IRC sec. 45F)
- Credit equals the amount of the federal sec. 45F credit claimed
- Cannot claim for facilities/services outside Wisconsin
- Credit must be added to Wisconsin income for the year claimed
- Unused credits carry forward 15 taxable years

New – Film Production Tax Credits (Acts 15 & 174)

- **Film Production Servies Credit & Film Production Company Investment Credit**
- Effective: For taxable years beginning on or after January 1, 2026
- Must be certified and verified by the Wisconsin State Film Office
- Maximum $5 million certified per year and $1 million per applicant
- Application forms and FAQs at FilmWisconsin.com

New – CDE Investment Credit (Act 191)

- Effective: Taxable years beginning on or after January 1, 2025
- Nonrefundable credit for insurance companies that make equity investments in qualified Community Development Entities (CDEs) for the benefit of qualified low-income communities
- Credit is a percentage of purchase price of equity investment: 0% year 1, 0% year 2, then 10% for next 5 years = 50% total credit
- Investment caps: $125M for rural counties; $125M for metro counties
- Annual credit limit: $12.5M for rural counties; 12.5M for metro counties
- Metro counties: Columbia, Dane, Green, Iowa, Milwaukee, Ozaukee, Washington, Waukesha
- CDEs submitted applications to DOR on June 8, 2026. DOR prorated credit authority amongst qualified CDE applicants.

New – CDE Investment Credit (continued)

- CDEs receive cash investments and must use the cash to make capital or equity investments in, or loans to, qualified active low-income community businesses in the rural and metro counties for which they are authorized by DOR.
- Recapture triggers:
  - Federal recapture under sec. 45D
  - Redemption or principal repayment before 7th anniversary
  - Failure to invest/maintain 100% of purchase price within 12 months
- CDE must submit annual reports by May 1 to DOR
- DOR may conduct examinations and issue advisory letters
- revenue.wi.gov/Pages/Businesses/ComDevCredit.aspx

New – Railroad Credits (Act 242)

- **Rail Infrastructure Modernization Credit:**
  - Effective: Tax years after December 31, 2025 (claims for 2026–2030)
  - 50% of qualified new rail infrastructure expenditures

    Eligible: Class II/III railroads, owners/lessees of rail sidings/spurs, local governments

    Qualified: right-of-way acquisition, engineering, new track, rehabilitation, loading docks

    Maximum credit = $2,000,000 per taxable year per application

    WEDC may certify up to $10,000,000 annually for all applicants
- wedc.org/programs/rail-infrastructure-modernization/

New – Railroad Credits (continued)

- **Rail Infrastructure Maintenance Credit:**
  - Effective: Tax years after December 31, 2025 (claims for 2026–2030)
  - 50% of qualified short line railroad maintenance expenditures
  - Only Class II/III railroad companies eligible
  - Qualified: rail, tie plates, joint bars, fasteners, switches, ballast, subgrade, labor
  - Maximum credit = $5,000 × miles of track owned/leased in WI on December 31
  - Cannot claim for expenditures funded by federal credits or federal/state grants
- wedc.org/programs/rail-infrastructure-maintenance/
- **Both Credits:** WEDC certifies; nonrefundable, 5-year carryforward; transferable (with DOR notification and approval); credit amount included in WI income

New – Long-Term Care Insurance Assessment Credit

- Effective: Taxable years beginning on or after January 1, 2027 (Acts 227 & 228)
- Credit = 20% of long-term care insurance assessment paid to Insurance Security Fund
- Upon payment of assessment, insurer must elect either income/franchise tax credit OR insurer license fee credit
- Insurance Security Fund certifies amounts to DOR or Office of the Commissioner of Insurance
- Insurer may claim credit for the taxable year **after** payment and for the following 4 taxable years
- Refundable for disability insurers; nonrefundable for all others
- Insurers that are pass-through entities may claim the credit, but not their members

Other Income & Franchise Tax Updates

Education Subtractions - 2026

- **College Savings Account Subtraction** (inflation adjustment):
  - Single/MFJ: $5,130 → $5,280 per beneficiary
  - MFS: $2,560 → $2,640 per beneficiary
- **Tuition & Fees Subtraction** (inflation adjustment):
  - Previous: $7,649 → New: $8,030 (+$381)
  - Form: 2026 Schedule SB, line 8

2026 Income / Franchise Tax Form Changes

- Draft and finalized forms available at www.revenue.wi.gov – search "2026 income tax forms"
- New forms:
  - Schedule WI-8882, *Additional Employer-Provided Child Care Credit*
  - Schedule FP, *Film Production Services and Company Investment Credits*
  - Schedule RR, *Rail Infrastructure Modernization and Maintenance Credit*
- *Forms 1 and 1NPR* – individual income tax returns
  - New line added for stillborn child credit
  - New code 23 for extension of time to file due to federal extension for qualified state-declared disaster

2026 Income / Franchise Tax Form Changes

- *Schedules AD, SB, M, and 2M* – additions to and subtractions from income
  - New lines for addition to income for additional employer-provided childcare credit, film credits, and railroad credits
  - New line for subtraction from income for veteran loan repayment grant
  - Active duty pay subtraction changed to "qualified pay" for federal military pay subtractions
- *Form W-RA* - Required Attachments for Electronic Filing
  - Added check boxes for required attachments for stillborn child tax credit, film credits, and railroad credits

  Note: Form W-RA is only used when documents cannot be attached/submitted with an electronically-filed tax return

2026 Income / Franchise Tax Form Changes

- *Schedule I* – adjustments due to Internal Revenue Code differences
  - Created supplemental worksheets to show recomputed federal itemized deductions for Wisconsin and to compute Wisconsin's itemized deductions limitation (Pease limitation for Wisconsin)
- *Schedules CR and CF* – certain credits and carryforwards
  - Added lines or codes for biodiesel fuel production credit, film credits, railroad credits, and additional employer-provided childcare credit
  - Removed obsolete credits
- *Forms 2, 3, 4, 5S, and 6* – Estate, Trust, Partnership, and Corporation Tax Returns
  - Similar modifications made for reporting new tax credits

Advance Pricing Agreements (APAs)

- APAs are binding IRS agreements on arm's-length pricing for intercompany transactions
- APA ≠ Revenue Agent's Report (RAR) – APA is taxpayer-initiated; RAR from IRS examination
- If federal amended return filed due to APA → WI amended return generally required within 180 days
- APA does NOT extend Wisconsin's 4-year refund statute of limitations
- Protective claims: file within 4 years of original return's unextended due date
- Wisconsin Tax Bulletin 234

Common Errors – Apportionment Sales Factor

Exclude from Wisconsin Sales Factor:

- ✕ Gain/loss from sale of tangible business assets (except inventory, farms, mines, scrap)
- ✕ Securities proceeds (e.g., hedging), foreign exchange gain/loss
- ✕ Interest income (except trade accounts/notes receivable)
- ✕ Dividend income
- ✕ Refunds, rebates, and cost recoveries
- ✕ Accounting method change adjustments unrelated to "sales"
- ✕ Intercompany transactions within combined group: always excluded
- ✕ Reimbursements without markup from affiliates: excluded

Note: Reimbursements with arm's-length markup and economic substance may be considered sales relating to the production of business income and included in the sales factor

Sales & Use Tax Updates

New Sales & Use Tax Exemptions

- **Nuclear Fusion Technology Projects** – (Act 165 - effective July 1, 2026)
- Exemption: Tangible personal property exclusively and directly used for a nuclear fusion project and used solely at the project's location
  - Includes purchases by construction contractors who transfer such property to their customers in a real property construction activity
- Nuclear fusion technology project means a project that has the purpose of undertaking the controlled fusion of atomic nuclei or research thereupon, including energy generation, propulsion systems, materials research, medical isotope production, neutron sources, plasma physics research, and any other application making use of fusion reactions or fusion-enabling technologies
- How to claim: Exemption certificate required (Form S-211) - "Nuclear Fusion Technology Projects"

New Sales & Use Tax Exemptions

- **Contract Research Services** – (Act 190 - effective July 1, 2026)
- Exemption expanded to persons engaged in contract research services
- Exemption: Machinery and equipment, including attachments, parts, and accessories, and other tangible personal property that are sold to a person engaged in contract research services and that are consumed or destroyed or lose their identities while being used exclusively and directly in qualified research
- "Contract research services" means research conducted by a person on behalf of a customer that, if conducted by employees of the customer, would constitute qualified research
- "Qualified research" is defined in IRC 41(d)(1), except it includes research funded by a customer for whom contract research services are provided
- How to claim: Exemption certificate required (Form S-211) - "Contract Research Services"

Sales & Use Tax Exemptions Modified

- **Precious Metal Bullion**: exemption certificate **no longer required** (Act 124 - effective March 29, 2026)

- **Real Estate Broker Memberships**: exemption modified (Act 108 - effective June 1, 2026)
  - Removed requirement that brokers must offer to compensate other brokers pursuant to the membership agreement

Premier Resort Area Tax & Rate Changes

- City of Sturgeon Bay and Town of Minocqua: 0.5% PRAT effective July 1, 2026
  - Sellers must register to collect and report PRAT (email DORRegistration@wisconsin.gov)
  - File and pay through My Tax Account
- Use WI State and Local Sales Tax Rate Lookup tool for current rates applicable to a street address or 9-digit zip code: revenue.wi.gov/Pages/Apps/strb.aspx

Sales & Use Tax – Rounding For Penny Shortages

- The United States Treasury stopped minting or producing new pennies for general circulation.
- Many businesses are rounding transactions when a customer pays in cash and the business does not have enough pennies to provide exact change.
- The Wisconsin DOR and DATCP published guidance describing the impact on businesses that round cash transactions due to penny shortages. See the guidance by searching "penny" on each agency's website.
- The penny shortage does not impact how sales tax is calculated on a retail sale. Retailers multiply the sales price of taxable items by the Wisconsin sales tax rates and round that amount to the nearest cent ($0.01), as provided in sec. 77.61(3m), Wis. Stats., and sec. Tax 11.32(5), Wis. Adm. Code.
- If a retailer chooses to round the cash transaction to the nearest nickel, such rounding should occur after the sales tax is calculated.

Excise Tax Updates

Electric Vehicle Charging Tax

- Rate: 3 cents per kilowatt-hour (kWh)
- Applies to: Level 3 chargers (all) and Level 1/2 installed on or after March 22, 2024
- Tax due from businesses, governmental units, and non-profits (even if no charge to consumer)
- Act 211 clarifications (effective April 10, 2026)
  - Electric Vehicle defined per 23 CFR 680.104; **excludes** golf carts, e-bikes, micromobility devices
  - All chargers located at a residence are exempt
  - Single-owner disregarded entities: must register and file directly with DOR
- File and pay through My Tax Account
- Publication 305, *Electric Vehicle Charging Tax*

Electronic Vaping Device Directory

- As of July 2, 2026: **All** electronic vaping devices sold in WI must be listed on the directory
- Manufacturers must certify devices annually via My Tax Account
- Includes components, parts, accessories, and liquids/substances
- Unlisted devices: subject to seizure; $1,000 forfeiture per day per device
- Beginning September 1, 2026: hemp-containing (non-nicotine) devices also subject to forfeiture
- Violations constitute unfair and deceptive trade practices (sec. 100.20, Wis. Stats.)
- revenue.wi.gov/Pages/FAQS/ise-vape-directory.aspx

Unclaimed Property Updates

Unclaimed Property Updates

New Fraudulent Claims Penalties (Act 112 - effective March 22, 2026)

- New civil and criminal penalties for filing fraudulent claims
  - Penalty = total value of property
  - Class I felony
- Locator service penalties:
  - $1,000 for property valued ≤ $15,000
  - $2,500 for property valued > $15,000
  - DOR posts penalized locator name/address on website for 12+ months

Updated Publication 82 with new securities custodian information

Enforcement Actions

Criminal Enforcement Cases

Jenny Wicke – Wood County

- Sentenced March 13, 2026
- 2 years prison (imposed and stayed) + 4 years probation
- Operated West River Café; failed to report cash sales
- Pled no contest to 2 counts sales tax theft + 4 counts food stamp fraud

Mauricio Castaneda – Walworth County

- Sentenced March 6, 2026 – 4 years 6 months in prison
- Ordered not to prepare or file tax returns for others
- Operated El Nevado Taxes in Whitewater
- 33 false returns; $33,356 in fraudulent refunds
- DOR identified 307 additional fraudulent returns and prevented $298,300 refunds

Litigation Highlights

Litigation – Individual Income Tax

PANAHI & AKSARI v. DOR (WTAC, July 2, 2026) – WTB 234:

- Nonresident 2022 business loss sourced to state of Washington cannot be carried back to offset 2020 Wisconsin income
- Status: Taxpayer did not appeal

Litigation – Corporate & Franchise Tax Cases

INTERSYSTEMS v. DOR (WTAC, Nov 20, 2025) – WTB 232:

- Software licensing income sourced to WI based on purchaser billing location
- Dane County Circuit Court affirmed Tax Appeals Commission decision (August 20, 2026)
- Status: Taxpayer has appealed the decision

ASAP CRUISES v. DOR – WTB 233:

- Travel services ≠ tangible personal property; P.L. 86-272 does not protect
- Status: WI Supreme Court denied review; Court of Appeals decision stands

SKECHERS USA v. DOR – WTB 234:

- Intercompany royalty deduction denied – lacked business purpose / economic substance
- Status: WI Supreme Court denied review; Court of Appeals decision stands

Litigation – Corporate & Franchise Tax Cases

LFTD Partners Inc. v. DOR (WTAC, August 21, 2026) – WTB 235:

- Manufacturing income/franchise tax credit not eligible for taxable years in which the taxpayer was not classified as manufacturing.
- Status: Taxpayer has not appealed

Litigation – Sales & Use Tax Cases

STUBHUB v. DOR (Court of Appeals, Jan 13, 2026) – WTB 232:

- Court reversed Circuit Court; StubHub is a "person selling" subject to WI sales tax
- Marketplace provider law was clarification, not substantive change
- Status: Wisconsin Supreme Court denied StubHub's petition for review (September 2026)

TEKTON v. DOR (WTAC, Apr 23, 2026) – WTB 234:

- Michigan online hand tools seller assessed WI sales tax back to Oct 1, 2018 (post-Wayfair)
- Exceeded $100K in WI sales each year; nexus established
- Status: Taxpayer did not appeal

General Updates & Reminders

Other Income & Franchise Tax Reminders

- Entity-level tax election due dates:
  - Partnerships - September 15, 2027
  - S-Corporations - October 15, 2027
  - Approximately 8% of returns make the election to pay tax at the entity level.
- Pass-through withholding exemption requests (Form PW-2)
  - A nonresident partner, member, shareholder, or beneficiary of a pass-through entity may request an exemption from withholding. File Form PW-2 electronically through My Tax Account.
  - Nonresidents must make request by the end of the 1st month following close of the entity's tax year (last day of 2nd month for estates and trusts).
  - Request must by approved by DOR. Nonresident notifies its pass-through entity(s).

Other Income & Franchise Tax Reminders

- Veterans/surviving spouses property tax credit:
  - If certification for eligibility ended, must obtain recertification through WDVA
- Qualified Wisconsin Business (QWIB) capital gain exclusion or deferral program:
  - A business may register as a QWIB for its investors to obtain tax benefits
  - Registration must occur by the end of each year; registration deadline for 2026 is January 4, 2027
  - See Schedule QI, *Sale of Investment in a Qualified Wisconsin Business,* and instructions

Key Due Dates for 2026 Calendar Year-End Returns

Form	Description	Due Date	Extended Date
Form 1	Individual Income Tax	April 15, 2027	October 15, 2027
Form 2	Trust/Estate	April 15, 2027	September 30, 2027
Form 3	Partnership	March 15, 2027	September 15, 2027
Form 4/6	Corporation	April 15, 2027	November 15, 2027
Form 5S	S-Corporation	March 15, 2027	October 15, 2027

Reporting Reminders

- Wisconsin Identity Protection PIN available through MTA (voluntary)
- No changes to Wisconsin withholding rates
- File Form WT-7 only after all Forms WT-6 are submitted
- New Form 1099 submission via IRIS A2A schema (up to 100 MB)
  - DOR will support IRS FIRE (Publication 1220) 1099 submissions until September 30, 2027
  - DOR will not accept IRIS .csv files

Filing & Payment Reminders

- USPS postmark delays – regional processing may add 1+ days
- Three options: file electronically, mail early, or visit USPS retail for manual postmark
- Electronic filing options: WisTax, My Tax Account (MTA), approved third-party software
- Most returns processed within 12 weeks; refunds held until March 1 if W-2s not submitted
- Claiming Extensions:
  - File returns by extended due date; late filing fees apply after that date
  - Extension to file ≠ extension to pay; interest accrues from original due date

Filing & Payment News

- New: Payment pre-notification may cause some payments to be held for up to 4 business days
- Three new MeF reject rules; returns will be rejected if they claim any of the following:
  - Film production services or film production company investment credit without Schedule FP
  - Additional employer-provided child care credit without Schedule WI-8882
  - Rail infrastructure modernization or rail infrastructure maintenance credit without Schedule RR

Cybersecurity for Tax Practitioners

- Data breaches targeting tax professionals continue to rise
- Warning signs: unrecognized IP addresses, rejected returns (duplicate SSNs), suspicious emails
- Safeguards: anti-malware/anti-virus, firewalls, VPNs, multi-factor authentication, encryption
- Limit access to taxpayer data; train staff on phishing
- Regularly review IRS e-Services accounts for EFIN discrepancies
- Final review of return information before e-filing
- Regularly review who has access to your accounts in My Tax Account and encourage clients to do the same

New Options for Taxpayers

- New online business tax registration coming spring 2027
  - Rebranded to "permitting"
  - My Tax Account profile required prior to registering for tax account types (permits)
  - Cart system
    - ✓ Add each permit type, then "check out" and pay for all at one time
  - The "bill me later" option will be removed
- Pay-by-phone automated line coming soon (for collections customers only)
- Identity verification PIN automated phone line now available
- MTA: Send invitations to third parties

Forms Removed from Website

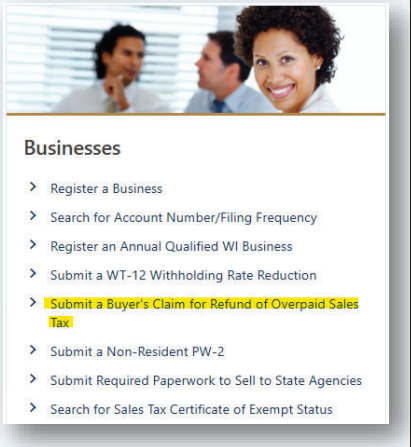
- Income tax forms prior to 2022 no longer available on our website
- Goals:
  - Improve search functionality
  - Ensure all web content is ADA compliant
- Contact customer service to receive removed files via mail or email
  - DORFormsRequests@wisconsin.gov
  - (608) 266-2772
  - Hours: Monday – Friday, 7:45 a.m. – 4:30 p.m.

My Tax Account (MTA) Reminders

- Use MTA to submit documents in response to letters (available for most letters)
  - Provide multi-page documents as one PDF
- My Case Manager is available to help you and your clients make the audit process smoother; see resources below to learn more
  - Publication 701, *My Case Manager User Guide*:
  - My Case Manager Common Questions
  - Audit Web Page
- Estimated payment lookup available from MTA homepage

My Tax Account (MTA) Reminders

- Sales tax paid in error (buyer's claim for refund)
  - Avoid paper claims with CDs and/or flash drives
  - File a buyer's claim for refund via MTA (businesses panel): https://tap.revenue.wi.gov/Buyer
    - Review Publication 216 (part IV) and common questions for help
    - Attach/upload invoices, proof of payment, and list of purchases
    - If files are too large, use DOR's Secure File Transfer process - contact dorstoa@wisconsin.gov to set up Workspace



Audit Tips and Reminders

- Prioritizing closure of long running audits
- Increasing efficiency in the audit process
  - Provide IT resources in initial meetings with auditors to identify requested electronic records
  - Provide requested records timely
  - DOR trains staff to write clear, detailed descriptions of records requested
- Uncertain tax position
  - Have documents ready for the auditor to support tax position
- DOR uses information received from the IRS and third parties to adjust taxpayers' Wisconsin returns
  - Taxpayers should appeal with supporting documentation if they receive an audit bill and disagree
  - Appeals must be submitted within **60 days**, or the audit bill becomes final

Statistics and Contact Information

ID Verification

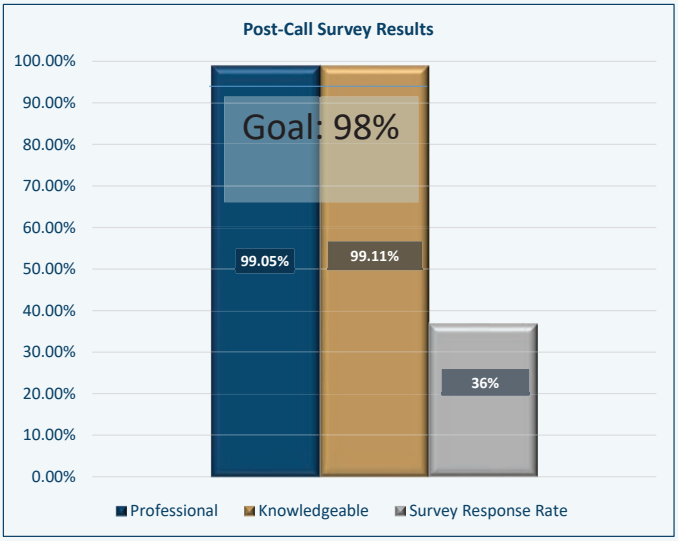
	FY26	FY25	FY24	FY23
Returns Evaluated	3,196,731	3,186,562	3,164,804	3,157,506
Quizzes Required	1,949	1,730	3,463	3,671
PINs Required	33,505	31,836	57,304	52,135
ID Docs Required	2,975	3,305	5,030	4,829
ID Docs Reviewed	4,452	5,521	6,758	6,306
Total ID Verification Actions Required	38,429	36,871	65,797	60,635
% of Returns Evaluated Requiring ID Verification	1.2%	1.16%	2.08%	1.92%
Refunds Denied for Failure to Verify ID	11,331	9,885	26,030	23,896

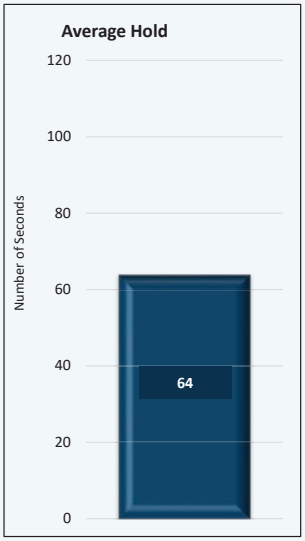
Refunds Denied or Reduced

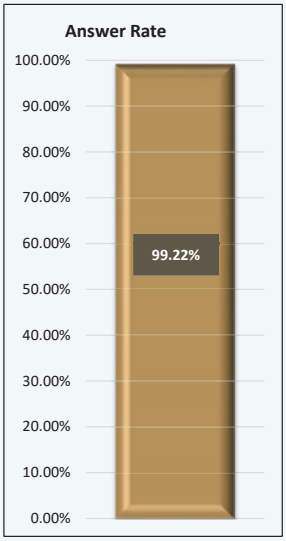
Refunds Denied or Reduced	Fraud Detection With Analytics	Processing Fraud - OCI	Processing Fraud - Tax Ops	Earned Income Credit	Homestead Credit	Total for Specific Initiatives
FY26	$7,123,616	$13,122,232	$7,627,355	$23,441,377	$13,458,520	**$64,773,100**
FY25	$6,006,638	$12,770,930	$6,761,079	$21,816,932	$15,440,064	**$62,795,643**
FY24	$12,623,912	$239,872,447**	$7,984,540	$19,487,216	$16,885,597	**$296,853,712**
FY23	$12,009,837	$296,182,433*	$9,126,383	$21,113,030	$18,943,325	**$357,375,008**
FY22	$5,705,235	$10,571,743	$6,662,514	$23,387,279	$23,197,939	**$69,524,710**
FY21	$3,190,632	$9,878,995	$4,631,190	$19,748,512	$24,148,497	**$61,597,826**
FY20	$5,613,849	$7,940,577	$2,656,902	$8,123,852	$4,776,598	**$29,111,778**
FY19	$8,595,686	$5,970,625	$6,020,804	$20,436,036	$14,358,603	**$55,381,754**
FY18	$7,052,669	$5,869,413	$5,628,995	$17,943,046	$14,862,551	**$51,356,674**
FY17	$9,300,745	$6,059,255	$8,044,070	$20,134,976	$16,046,799	**$59,585,845**
FY16	$11,149,599	$8,092,817	$6,849,591	$19,946,592	$17,004,928	**$63,043,527**
FY15	$11,050,119	$7,335,531	$6,889,513	$16,682,990	$15,828,093	**$57,786,246**
FY14	$3,550,473	$4,904,089	$8,195,222	$17,710,656	$15,299,425	**$49,659,865**
FY13		$3,434,613		$14,257,838	$12,480,794	**$30,173,245**
FY12		$1,702,300		$9,341,511	$14,694,458	**$25,738,269**
						$1,334,757,202

*FY23 OCI figure includes $279,946,028 from one fraudulent return
**FY24 OCI figure includes $220,179,828 from three fraudulent returns

FY26 IS&E Division Phone Statistics

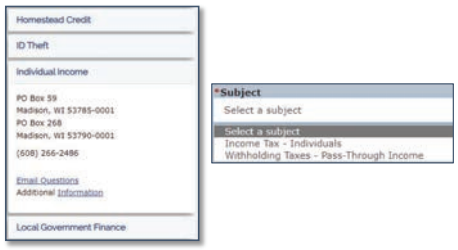


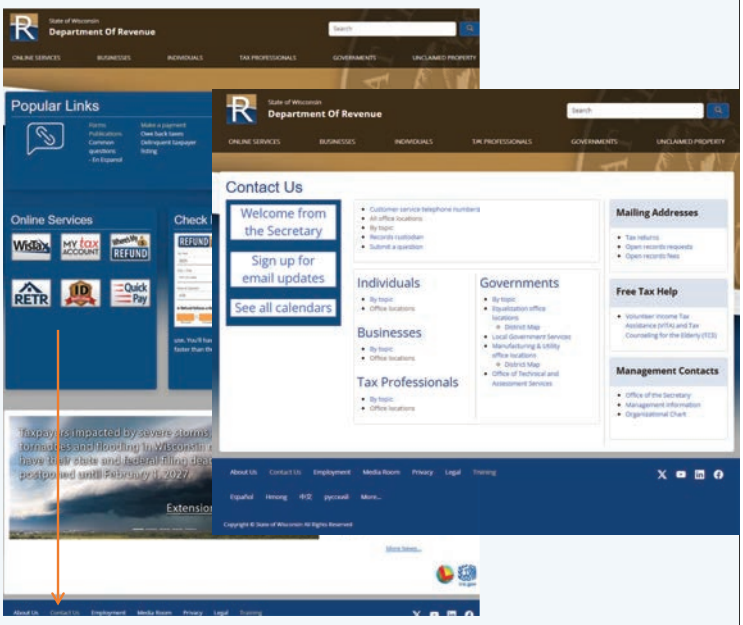




Contact Us

- Visit the "Contact Us" page to find contact information for each area of DOR
- Use the "Submit a question" link to email DOR
- Choose "By topic" to see contact information for specific areas of DOR
  - Using this option rather than "submit a question" will also filter the subject list on the email screen





Contact Us – Practitioners Only

- Practitioner email address and phone number
  - Do not share with your clients
  - DORTaxPractitioners@wisconsin.gov
  - (608) 261-5199

Presenter

- Nate Weber
  - Director, Office of Technical Services
  - (608) 266-8025
  - Nathaniel.Weber@wisconsin.gov

Thank you!

Questions?

Tuesday, Nov. 17, 2026
11 a.m. – 12 p.m.

Moving Pieces: State Tax Considerations for Individuals & Businesses on the Move

Kathryn Belz, CPA, *Managing Director, BDO USA*
Mike Santoro, JD, *Managing Director, BDO USA*



Moving Pieces: State Tax Considerations for Individuals and Businesses on the Move

November 17, 2026

BDO USA, P.C, a Virginia professional corporation, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

Individual & Trust Considerations

State domicile

- One, true, permanent home – the place you intend to return to when you're away
- Intent is key
- Continues until you establish a new one
- Factors
  - Principal home
  - Spouse/family
  - Driver's license
  - Voter registration
  - Vehicle registration
  - Location of valuables
  - Clubs, doctors

State residency

- Domicile OR statutory resident
- 183-day test is not universal
- Could be a resident in multiple states
- State law governs

Abandoning your domicile

- Primary home – sell the old home in the old domicile
- Spend substantially more time in the new state
- Document days!
- Spouse and family living in the new state
- Driver's license and vehicle registration
- Address used on important documents, tax returns and estate planning documents
- Keep travel logs, travel receipts, etc. for the year of the move

Common audit risks

- Keeping the former home; the new home is a small condo and valuables are not moved to it
- Spouse stays behind in the old state
- Poor records
- Lifestyle remains in the old state – doctors, clubs, church
- Timing right before a major transaction – documentation becomes even more important

Situs of income

- The state where income is sourced
  - W-2 wages – where the work is physically performed
  - Interest, dividends, publicly traded stock gains/losses – individual's state of residence
  - Rental income – where the real property is located
  - Partnership/S corporation income – follow the entity's apportionment rules

More complicated – require a deeper dive

- Gain on the sale of a partnership or S corporation interest
  - Can be treated as an intangible gain, but some states have a look-through rule
  - States to watch out for – CA, IL, MN
- Schedule C
  - Depends on each state's sourcing methodology (cost of performance, market-based, etc.)

Remote workers: wage sourcing

Wages

- Typically sourced to where the employee physically performs the services

Exception – convenience of the employer

- Could source days back to the location of the employer regardless of where work is performed
- NY example – if the employer doesn't require remote work (i.e., allows you to work from wherever), income could be sourced back to NY
- Different if you are required to work in another state to oversee operations, etc.

Remote workers: reciprocity and bonuses

Reciprocity

- Example – IL and WI: wages are only taxed by the employee's resident state regardless of where work is performed

Bonuses

- Sourced based on the period for which the bonus was earned, not the date it was paid
- Need to understand workdays/locations during the bonus performance period

Trust residency

Step 1

- Determine the important "players" and where they were located when the trust became irrevocable and now
  - Trustee (and co-trustees)
  - Beneficiaries
  - Grantor
  - Assets

Step 2

- After determining where each player is located, look to each state's residency rules to determine residency
- Trusts can be residents in multiple states or no states

Wisconsin's trust residency rules

Testamentary trust

- WI resident if the decedent was domiciled in WI at time of death

Inter vivos trust

- Became irrevocable pre 10/29/1999 – resident of WI if administered in WI (trustee in WI)
  - Trustee moves out of WI – likely a non-WI trust at that point, assuming actual administration moved out of WI
- Became irrevocable post 10/29/1999 – resident of WI if the grantor was a resident of WI

WI-sourced income

- Residency of the trust doesn't matter

California: trust taxation

Irrevocable nongrantor trust – focus on residency of trustee and noncontingent beneficiaries

- Noncontingent beneficiary vs contingent beneficiary
- CA uses an apportionment method

California: the accumulated income trap

- CA doesn't tax non-CA-sourced income when the only beneficiary is contingent
- Trust accumulates non-CA-sourced income
- Trust later distributes income to a beneficiary
- Need to determine what portion of the distribution is out of current-year income vs. accumulated income/capital gains vs. corpus

New York: trust taxation

Resident trust vs. subject to NY tax

- Resident – e.g., became irrevocable when the grantor was domiciled in NY

Even if a resident of NY, can still avoid NY tax if:

- All trustees are outside of NY, corpus is outside of NY, and income/gains are outside of NY
- File a return but check the box on page 1 to show no NY-sourced income

North Carolina: the Kaestner case

Kaestner – U.S. Supreme Court case (2019)

- Limits a state's ability to tax a trust solely because a beneficiary lives in the state
- Needs to be a sufficient minimum connection between NC and the trust income to be taxed

Steps

- Does the state's own law classify the trust as a resident/subject to tax?
- Even if so – does the trust have sufficient contacts within the state for that tax to satisfy due process?

Narrow opinion

- Distributions were not made to the resident beneficiaries in this case
- Beneficiaries did not have a mandatory income interest, withdrawal rights or meaningful control over the trust
- Useful ruling, but does not cover a lot of other scenarios

Corporate considerations

Nexus

- Physical presence
- Economic nexus
- P.L. 86-272
- Common traps
  - Remote employees
  - Service providers
  - Software implementation personnel
  - Inventory in third-party warehouses

Expanded footprint = Expanding filing obligations

New filing requirements

- Income/franchise tax registrations
- Initial returns
- Annual reporting obligations

Multistate compliance challenges

- Tracking state positions
- Varying filing methodologies
- Different tax bases

Risk areas

- States discovered during diligence
- Nexus created years before filing begins

Combined and consolidated reporting

Basic framework

- Water's-edge vs worldwide
- Joyce vs Finnigan
- New affiliates entering groups
- Nexus implications for combined groups
- State-specific group composition differences

Business growth can change the filing group

- Does the acquisition join the combined group?
- Does the state use water's-edge?
- Are foreign affiliates included?
- Does Finnigan change the sales factor?

Apportionment becomes important and challenging as businesses grow

Basic framework

- Why apportionment matters
- Single-sales-factor environment

Market-based sourcing

- Services
- SaaS
- Digital goods
- Intangible income

State-by-state complexity

- Different sourcing methodologies
- Throwback and throwout concepts
- Alternative apportionment controversies

Planning observations

- How business model changes can materially alter state tax burdens

Throwback and throwout: The hidden tax of business expansion

- Basic throwback rules
- States that still impose throwback
- Economic nexus vs. throwback
- P.L. 86-272 interaction
- Foreign sales
- Common planning opportunities

PTET Elections

PTET progression

Why PTET emerged

The federal deduction for individual state and local taxes changed dramatically under the TCJA

Before TCJA



Individuals who itemized could generally deduct:

- State and local income taxes
- or general sales taxes
- Real and personal property taxes

No overall dollar cap on the SALT itemized deduction*

TCJA



For tax years beginning in 2018, the TCJA imposed an aggregate cap:

$10,000

$5,000 if married filing separately

The cap applied to the combined total of deductible state and local income or sales taxes and property taxes.

**Subject to itemization rules and other limitations, including the alternative minimum tax.*

PTET progression

How a PTET creates an owner-level benefit

Four equal partners | $1,000,000 income | 10% state tax and PTET rates | 37% illustrative federal rate

Before PTET

Partnership

Federal impact

Entity-level tax deduction
$0

Federal income passed through
$1,000,000

State impact

State tax paid by partnership
$0

Cash distributed
$1,000,000

Partner

Federal impact

Federal taxable income
$250,000

Federal tax at 37%
($92,500)

State impact

State taxable income
$250,000

State tax paid personally
($25,000)

With PTET

Partnership

Federal impact

Federal income before PTET
$1,000,000
PTET deduction
($100,000)
Federal income passed through
$900,000

State impact

State taxable income
$1,000,000
PTET paid by partnership
($100,000)

Partner

Federal impact

Federal taxable income
$225,000

Federal tax at 37%
($83,250)

State impact

State tax before credit
$25,000
PTET credit
($25,000)

Net partner-level state tax
$0

Federal benefit per partner: $25,000 income reduction × 37% = $9,250

The $25,000 state tax is shifted from the partner to the partnership; the partner's $25,000 credit reduces net partner-level tax to $0.

PTET general considerations

- **Eligibility and tiered structures vary by state.** Eligible entities and owners may exclude corporations, trusts, exempt owners, disregarded entities or upper-tier partnerships. Confirm whether lower-tier credits can pass through and reach the ultimate owners.
- **The PTET base, rate and owner credit may not align.** States differ on resident and nonresident income, guaranteed payments, separately stated items, losses and modifications. The owner benefit may be refundable, nonrefundable, carried forward, or structured as a deduction or exclusion.
- **The federal benefit must be modeled owner by owner.** Marginal rates, the individual SALT deduction, Section 199A, passive losses, basis and at-risk limitations may reduce or defer the expected savings. The gross deduction is not the same as the net cash benefit.
- **Cash, timing, estimates and penalties matter.** Elections may be early or irrevocable, and payment timing may control the year of the federal deduction. PTET estimates can follow separate schedules and safe harbors, with penalties and interest for missed payments.
- **The economics may not follow ownership percentages.** The owner funding the PTET may not be the owner receiving the credit or federal benefit. Model resident credits, double-tax risk, liquidity, tax distributions, financing costs, compliance fees and partnership-agreement adjustments.

PTET – Coordinate with composites

Do not assume that electing PTET eliminates composite filing, nonresident withholding or separate owner returns.

- The interaction is state-specific. A state may permit PTET and composite filing together, require an either-or choice, or prohibit composite filing after a PTET election. PTET may also leave nonresident withholding obligations in place.
- The regimes solve different problems. PTET is generally an entity-level tax intended to create a federal deduction. A composite return generally pays an owner-level liability and provides filing convenience for qualifying nonresident owners.
- Duplicate payments and mismatched estimates are major risks. PTET, composite tax and nonresident withholding may all be paid for the same owner. Separate payment schedules, safe harbors and penalty rules may require active coordination.
- Confirm who claims the PTET credit and on which return. The credit may be usable on the composite return, require a separate owner return, pass through an upper-tier entity, or become stranded. Refundability, carryforwards and resident-state credit treatment must also be tested.
- Use an owner-by-owner, state-by-state matrix. Identify each owner's filing method, payment mechanism, eligibility, PTET-credit claimant, refundability, withholding obligation, resident credit and tiered-entity treatment before cash moves.

Business expansion considerations

Expansion considerations

Before entering a new state

- Evaluate nexus
- Evaluate sourcing impacts
- Evaluate filing obligations

Before hiring remote workers

- Review income tax implications
- Review payroll tax implications

Before making PTET elections

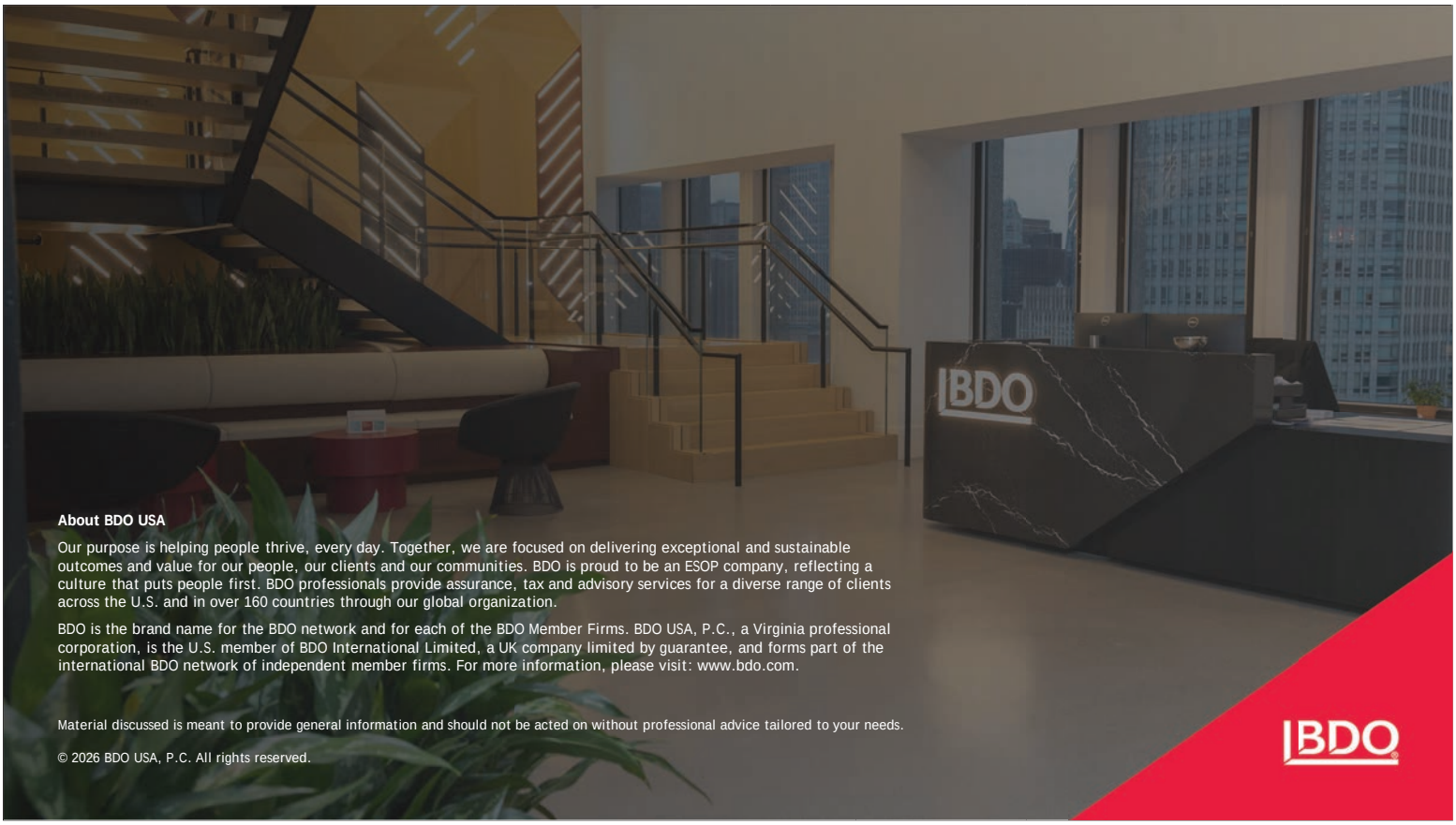
- Model owner benefit
- Assess administrative burden

Before an acquisition

- Review historic state exposure
- Review filing footprint

Conclusion

- Where are we creating nexus?
- Are we protected by P.L. 86-272?
- How will our receipts be sourced?
- Are PTET elections creating value?
- Are we filing everywhere we should?



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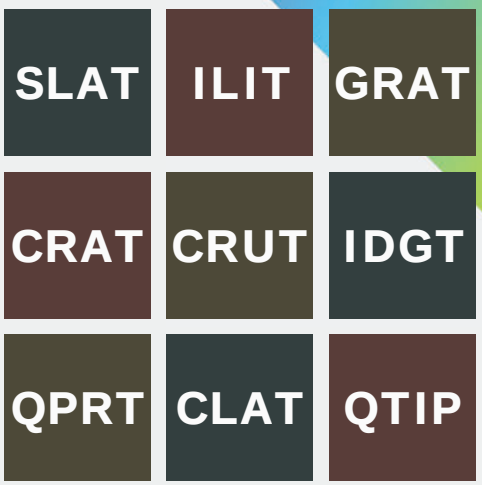
Tuesday, Nov. 17, 2026
11 a.m. – 12 p.m.

No Soup From You! Alphabet Soup of Trusts

Joseph Bukowski, JD, *Senior Associate, Michael Best & Friedrich LLP*
Bradley Kalscheur, CPA, JD, *Partner, Michael Best & Friedrich LLP*
Jordan Robinson-Delaney, JD, *Associate, Michael Best & Friedrich LLP*

No Soup for You!

Alphabet Soup of Trusts



Wisconsin Institute of Certified Public Accountants 2026 Tax Conference

Bradley J. Kalscheur
Joseph W. Bukowski
Jordan Robinson-Delaney
Michael Best & Friedrich LLP

What we'll cover today

Trusts can quickly turn into a bowl of alphabet soup, especially when lawyers, clients or AI-generated research start tossing around acronyms. This session will provide an overview of the most frequently used types of trusts, how they are treated for income tax purposes and what accountants should look for when working with each type of trust. You'll gain practical insights to help you better understand the terminology, identify key tax considerations and confidently navigate trust-related questions with clients.

PANELISTS

Bradley J. Kalscheur
Michael Best & Friedrich LLP

Joseph W. Bukowski
Michael Best & Friedrich LLP

Jordan Robinson-Delaney
Michael Best & Friedrich LLP

The alphabet soup, decoded

SLAT	Spousal Lifetime Access Trust	**ILIT**	Irrevocable Life Insurance Trust
GRAT	Grantor Retained Annuity Trust	**CRAT**	Charitable Remainder Annuity Trust
CRUT	Charitable Remainder Unitrust	**NIMCRUT**	Net Income with Makeup CRUT
IDGT	Intentionally Defective Grantor Trust	**QPRT**	Qualified Personal Residence Trust
CLAT / CLUT	Charitable Lead Annuity Trust / Unitrust	**QTIP**	Qualified Terminable Interest Property Trust

SLAT

Spousal Lifetime Access Trust

WHAT IT IS

- Irrevocable trust by one spouse for the other (and descendants)
- Completed gift that uses the grantor's exemption
- Beneficiary spouse gets access under health, education, maintenance, and support (HEMS) or broader standards

WATCH FOR

- Reciprocal trust doctrine: make dual SLATs sufficiently different
- Divorce or death of the beneficiary spouse ends indirect access
- Candidates: married couples above ~$30M combined
- Turning off grantor trust status when spouse is Trustee/beneficiary

TAX AT A GLANCE

GST
Allocate exemption (IRC 2631, 2632); inclusion ratio under IRC 2642 of zero

Estate
Outside both estates if no retained interest (IRC 2036, 2038)

Gift
Complete under IRC 2511 / Treas. Reg. 25.2511-2

Income
Grantor trust under IRC 677(a)(1); Rev. Rul. 2004-64; carryover basis (IRC 1015)

ILIT

Irrevocable Life Insurance Trust

Michael Best

WHAT IT IS

- Owns and is beneficiary of life insurance outside the estate
- Funded with annual gifts used to pay premiums
- Crummey notices create present-interest withdrawal rights

WATCH FOR

- Three-year rule for transferred policies (IRC 2035); buy new policy in trust
- Missed Crummey notices
- No incidents of ownership; independent trustee; monitor for lapse

TAX AT A GLANCE

GST
Allocate exemption to dynasty ILITs (IRC 2631, 2632, 2642)

Estate
IRC 2042 incidents of ownership; IRC 2035 three-year rule

Gift
IRC 2503(b) present interest via Crummey

Income
Grantor trust where income pays premiums (IRC 677(a)(3))

GRAT

Grantor Retained Annuity Trust

Michael Best

WHAT IT IS

- Grantor retains a fixed annuity for a term of years
- Remainder passes to beneficiaries
- Gift = remainder value at the Section 7520 rate; zeroed-out GRATs use little or no exemption

WATCH FOR

- Mortality risk: death during term pulls assets back in
- Higher 7520 rates raise the hurdle
- Rolling short-term GRATs require ongoing administration
- Do not substitute a promissory note from grantor that will be used to make annuity payments (recent *Eclan* case)

TAX AT A GLANCE

GST
ETIP delays allocation until term ends (IRC 2642(f)); value under IRC 2642(b)

Estate
IRC 2036; Treas. Reg. 20.2036-1(c)(2

Gift
IRC 2702 and Treas. Reg. 25.2702-3

Income
Grantor trust; Rev. Rul. 85-13 disregards grantor-trust transactions

CRAT

Charitable Remainder Annuity Trust

Michael Best

WHAT IT IS

- Fixed annuity to non-charitable beneficiaries for life or a term
- Remainder to qualified charity
- No additional contributions after funding

WATCH FOR

- 5% minimum / 50% maximum payout; 10% remainder test
- Fixed payment erodes with inflation
- Self-dealing prohibited
- Trust instrument should order income/principal distributions to make annuity payment: ordinary income, capital gain, tax-exempt, return principal

TAX AT A GLANCE

GST
Allocation and inclusion ratio if skip persons hold interests (IRC 2631, 2632, 2642)

Estate
Charitable deduction framework (IRC 2055(e)(2)(B))

Gift
Charitable deduction (IRC 2522(c)(2)(B

Income
IRC 664(d)(1); trust exempt, tier system for payments

CRUT

Charitable Remainder Unitrust

Michael Best

WHAT IT IS

- Pays a fixed percentage of assets, revalued annually
- Remainder to charity
- Accepts additional contributions; NICRUT and flip variations

WATCH FOR

- Payments fall when assets decline
- Annual valuation; appraisals for non-traded assets, if settlor is trustee, must be done by an independent party
- Flip triggers must be outside trustee and beneficiary control

TAX AT A GLANCE

GST
Allocation and inclusion ratio if skip persons hold interests (IRC 2631, 2632, 2642)

Estate
Charitable deduction framework (IRC 2055(e)(2)(B))

Gift
Charitable deduction (IRC 2522(c)(2)(B

Income
IRC 664(d)(2): 5%-50%, 20-year cap, 10% remainder; Treas. Reg. 1.664-3

NIMCRUT

Net Income with Makeup Charitable Remainder Unitrust

Michael Best

WHAT IT IS

- Pays the lesser of trust income (IRC 643(b)) or the unitrust percentage
- Makes up prior shortfalls when income later exceeds the percentage
- May flip to a standard CRUT on a permissible trigger

WATCH FOR

- Trust-accounting income definition and state principal-and-income rules
- Makeup account may never be paid
- Trustee independence; no self-dealing

TAX AT A GLANCE

GST
Allocation and inclusion ratio for skip-person interests (IRC 2631, 2632, 2642)

Estate
Charitable deduction framework (IRC 2055(e)(2)(B))

Gift
Charitable deduction (IRC 2522(c)(2)(B))

Income
IRC 664(d)(3) and Treas. Reg. 1.664-3; trust exempt; tier system

IDGT

Intentionally Defective Grantor Trust

Michael Best

WHAT IT IS

- Grantor trust for income tax, outside the estate for estate tax
- Seed gift plus installment sale freezes estate value
- Advanced variant: Beneficiary Defective Inheritor's Trust (BDIT)

WATCH FOR

- Adequate seed capital (often ~10%) and AFR interest
- Note included in estate if grantor dies during the term; potential gain if note exceeds basis of property sold
- Preserve grantor status; aggressive valuations draw scrutiny
- Grantor trust status at death of first settlor when trust created by two settlors

TAX AT A GLANCE

GST
Allocate exemption to seed gift (IRC 2631, 2632, 2642)

Estate
Review retained interests under IRC 2036, 2038

Gift
Completed seed gift (IRC 2511); formula clauses: Wandry; Nelson

Income
IRC 675(4)(C) swap power; Rev. Ruls. 85-13 and 2004-64; IRC 1015 basis

QPRT

Qualified Personal Residence Trust

Michael Best

WHAT IT IS

- Residence transferred; grantor keeps the right to live there for a term
- Remainder to family at a discounted gift value
- Limited to two QPRTs per grantor

WATCH FOR

- Death during the term means full inclusion
- Fair market rent after the term
- No step-up in basis for the remainder beneficiaries

TAX AT A GLANCE

GST
ETIP rules delay allocation (IRC 2642(f)); IRC 2642(b) valuation

Estate
IRC 2036

Gift
IRC 2702(a)(3)(A)(ii) residence exception; Treas. Reg. 25.2702-5

Income
Grantor trust during term; carryover basis under IRC 1015

CLAT / CLUT

Charitable Lead Annuity Trust / Unitrust

Michael Best

WHAT IT IS

- Mirror image of a CRT: charity first, family gets the remainder
- CLAT pays a fixed annuity; CLUT pays a percentage
- Grantor or non-grantor versions; zeroed-out CLAT strategy

WATCH FOR

- Returns must beat the 7520 rate
- Grantor CLAT: upfront deduction, but grantor taxed on income for the term
- Avoid deathbed CLAT

TAX AT A GLANCE

GST
Special CLAT inclusion ratio rule (IRC 2642(e))

Estate
IRC 2055(e)(2)(B)

Gift
Charitable deduction (IRC 2522(c)(2)(B)); Form 709

Income
Grantor CLT deduction (IRC 170(f)(2)(B)); otherwise IRC 643, 651, 661

QTIP

Qualified Terminable Interest Property Trust

Michael Best

WHAT IT IS

- Qualifies for the marital deduction
- Surviving spouse receives all income at least annually
- First spouse controls the ultimate remainder

WATCH FOR

- QTIP election on Form 706 is irrevocable (partial elections possible)
- Assets included in survivor's estate (IRC 2044)
- Coordinate with the DSUE portability election

TAX AT A GLANCE

GST
Reverse QTIP election (IRC 2652(a)(3))

Estate
IRC 2056(b)(7); IRC 2044; portability under IRC 2010(c)(4)-(5)

Gift
Lifetime marital deduction (IRC 2523); IRC 6019

Income
DNI and beneficiary taxation (IRC 643, 651, 661); IRC 1014 basis at second death

Side-by-side comparison

Michael Best

Trust	Primary purpose	Key tax benefit	Key risk	Charitable?
SLAT	Use exemption, retain access	Estate removal	Reciprocal trust doctrine	No
ILIT	Insurance out of estate	No estate tax on proceeds	3-year lookback	No
GRAT	Transfer appreciation	Gift-tax-free shift	Mortality risk	No
CRAT	Income + charity	Income tax deduction	Inflation erosion	Yes
CRUT	Income + charity	Income tax deduction	Payment volatility	Yes
NIMCRUT	Deferred income + charity	Deduction, deferral	Unpaid makeup	Yes
IDGT	Freeze + transfer	Grantor pays income tax	Death during note	No
QPRT	Transfer residence	Discounted gift value	Mortality risk	No
CLAT/CLUT	Charity first, family later	Gift/estate deduction	Below-hurdle returns	Yes
QTIP	Marital deduction + control	Defer estate tax	Survivor estate inclusion	No

Key distinctions for accountants

Grantor vs. Non-Grantor

GRATs, IDGTs, most SLATs, and grantor CLATs are grantor trusts. CRTs, non-grantor CLATs, and QTIPs are separate taxpayers.

Uses Lifetime Exemption

SLATs, QPRTs, some IDGTs, and ILITs above the annual exclusion. Zeroed-out GRATs and CLATs minimize use.

Mortality Risk

GRATs, QPRTs, and IDGTs with outstanding notes. SLATs, ILITs, CRTs, and CLATs generally do not, once funded.

Value Back to Grantor

GRATs, CRTs, and QPRTs return income or use. SLATs give indirect access. ILITs and IDGTs generally do not.

Combining trust strategies

GRAT + IDGT

GRAT remainder pours into an IDGT for a second layer of freeze

SLAT + ILIT

SLAT uses exemption; ILIT uses annual exclusions for liquidity

CRT + ILIT

Wealth replacement: CRT income funds insurance for heirs

CLAT + Dynasty

Zeroed-out CLAT remainder to a GST trust

QTIP + Bypass

Blended-family protection with credit shelter planning

GRAT + QPRT

Freeze business assets and the residence together

Hypothetical: John and Mary

$40M

combined estate, both age 60, two children, charitably inclined

~$4M

federal estate tax on the $10M above the $30M combined exemption

1. **Use the exemption**
   Each spouse funds a differentiated SLAT with $15M
2. **Transfer appreciation**
   John's business interests to a GRAT; remainder to an IDGT
3. **Charitable + income**
   Mary funds a CRUT with $2M of low-basis stock; remainder to a donor-advised fund (DAF)
4. **Liquidity**
   ILIT buys a $3M second-to-die policy
5. **Residence**
   12-year QPRT for the $2M vacation home

Myth vs. Fact

MYTH Once assets are in an irrevocable trust, you can never access them.	**FACT** SLATs give indirect access through the spouse; IDGTs can include swap powers.
MYTH GRATs are only for billionaires.	**FACT** Zeroed-out GRATs use little or no exemption and can work for $5-10M estates with appreciating assets.
MYTH CRTs are only for people who want to give everything to charity.	**FACT** CRTs pay the donor or beneficiary first; only the remainder goes to charity.
MYTH With portability, nobody needs trust planning anymore.	**FACT** Portability provides no asset protection, no GST benefit, no shelter for appreciation, and no control after the survivor.

Acronyms and definitions (1 of 3)

BDIT	**Beneficiary Defective Inheritor's Trust** third-party-funded trust where the beneficiary is treated as owner for income tax
CLAT / CLUT	**Charitable Lead Annuity Trust / Unitrust** charity paid first, family gets the remainder
CRAT / CRUT	**Charitable Remainder Annuity Trust / Unitrust** family paid first, charity gets the remainder
DAF	**Donor-Advised Fund** charitable account at a sponsoring charity; immediate deduction, later grants
DNI	**Distributable Net Income** measures income a non-grantor trust passes to beneficiaries
DSUE	**Deceased Spousal Unused Exclusion** unused exclusion ported from a deceased spouse by timely election
ETIP	**Estate Tax Inclusion Period** period that delays GST exemption allocation

Acronyms and definitions (2 of 3)

GRAT	**Grantor Retained Annuity Trust** grantor keeps an annuity; remainder to beneficiaries
GST	**Generation-Skipping Transfer** transfers to skip persons and later generations
HEMS	**Health, Education, Maintenance, and Support** ascertainable distribution standard
IDGT	**Intentionally Defective Grantor Trust** grantor-owned for income tax, outside the estate
ILIT	**Irrevocable Life Insurance Trust** holds life insurance outside the estate
IRA	**Individual Retirement Account** retirement account passing by beneficiary designation
NIMCRUT	**Net Income with Makeup CRUT** pays lesser of income or percentage, with makeup

Acronyms and definitions (3 of 3)

POA	**Power of Attorney** authorizes an agent, including gifts if expressly allowed
QPRT	**Qualified Personal Residence Trust** residence held for a retained-use term
QTIP	**Qualified Terminable Interest Property Trust** marital deduction with control of remainder
RMD	**Required Minimum Distribution** minimum annual withdrawal from certain retirement accounts
SLAT	**Spousal Lifetime Access Trust** trust by one spouse for the other
TOD	**Transfer on Death** designation passing an asset to a beneficiary without probate



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Tuesday, Nov. 17, 2026
1 – 2 p.m.

SALT Considerations in M&A

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SALT Considerations in M&A

bakertilly

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Overview

Federal income tax consequences are often a primary focus in business sale transactions; however, state and local tax (SALT) considerations can also have a significant impact on both buyers and sellers. State income, sales and use, and other state and local tax issues should be evaluated in any M&A transaction, regardless of deal structure, particularly when the seller operates, or the buyer plans to operate, in multiple states. This presentation will explore key SALT considerations for buyers and sellers throughout the transaction lifecycle, including issues to consider when planning, negotiating, structuring, and closing the sale of a business.

Agenda

01 SALT in the M&A Lifecycle: Why it Matters

02 Pre-Sale Readiness: Identifying Historical Exposure

03 Cleaning Up the Past: Remediation & Risk Management

04 Deal Structure & Transaction-Specific SALT Considerations

05 Successor Liability, Closing & Post-Close Considerations

01

SALT in the M&A Lifecycle: Why it Matters

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Impacts to Deal Economics

- SALT exposures can be material even when federal tax issues lead transaction planning
- Historical liabilities may surface during buyer diligence and affect deal economics
- Exposure can arise from income/franchise tax, sales tax, use tax, and other state/local taxes
- Multistate businesses create additional complexity because rules vary significantly by jurisdiction
- SALT should be considered before diligence begins, not just when an issue is identified

Buyer vs Seller Views

Seller	Buyer
• Identify & quantify exposures before buyer diligence • Determine appropriate remediation to avoid purchase-price reductions or unfavorable indemnities/escrows • Prepare support for filing positions and exemptions • Minimize post-closing obligations	• Understand liabilities being acquired or potentially inherited • Determine whether historical filing positions are supportable • Identify successor liability exposure • Negotiate appropriate contractual protections • Establish compliant post-close filing footprint

Stock Sale vs. Asset Sale

Stock/equity acquisition	Asset acquisition
• Legal entity generally continues with its historical tax attributes and liabilities • Historical SALT exposures therefore generally remain with the acquired entity • Buyer diligence focuses heavily on identifying and quantifying those exposures	• Asset acquisitions do not necessarily eliminate SALT exposure • Successor-liability statutes can impose certain seller liabilities on a buyer • Transfer of assets itself may trigger sales/use, real estate transfer, or other transaction taxes

02

Pre-Sale Readiness: Identifying Historical Exposure

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Sales Tax Nexus

- Determine where the business has established nexus by considering both:
  - Physical presence
  - Economic nexus
- Compare nexus footprint to states where the company is actually registered and filing
- Identify exposure/lookback periods in states where nexus existed but returns were not filed
- Review local sales tax requirements as well

Taxability of Products & Services

- Review major revenue streams by product/service as taxability can differ significantly among states
- Increased analysis for following:
  - SaaS / software
  - Digital products
  - Information/data services
  - Professional and other services
  - Bundled transactions
- Confirm invoicing and ERP systems apply the correct tax treatment
- Consider whether customer location/sourcing methodology is appropriate
- Review outsourced compliance engine if applicable (e.g. Avalara or Vertex)

Exemption Certificates

- Tax-exempt sales generally require appropriate documentation
- Determine whether certificates are:
  - On file
  - Complete and valid
  - Applicable to the products/services sold
  - Current where required
- Missing certificates can turn otherwise exempt sales into diligence exposure
- Evaluate certificate-management processes and retention
- Obtain missing documentation before diligence where possible

Use Tax: Purchasing Practices

- Sales tax diligence shouldn't focus only on the revenue side
- Review whether the company has a formal use-tax accrual process
- Determine how purchases with no vendor-charged sales tax are treated
- Review accounts payable procedures and tax coding
- Focus on large-dollar and recurring expense categories (e.g. SaaS purchases or major leasehold improvements)
- Test invoices to determine whether tax was appropriately paid or accrued

Income Tax Nexus & Filing Footprint

- Compare operational footprint to state income/franchise tax filings
- Consider nexus arising from:
  - Employees / remote employees
  - Property
  - Sales
  - Services performed
  - Bright-line thresholds
- Identify states where returns may historically have been required
- Don't assume sales-tax and income-tax nexus standards are identical
- Consider non-income-based franchise/gross receipts taxes as well

P.L. 86-272

P.L. 86-272 generally

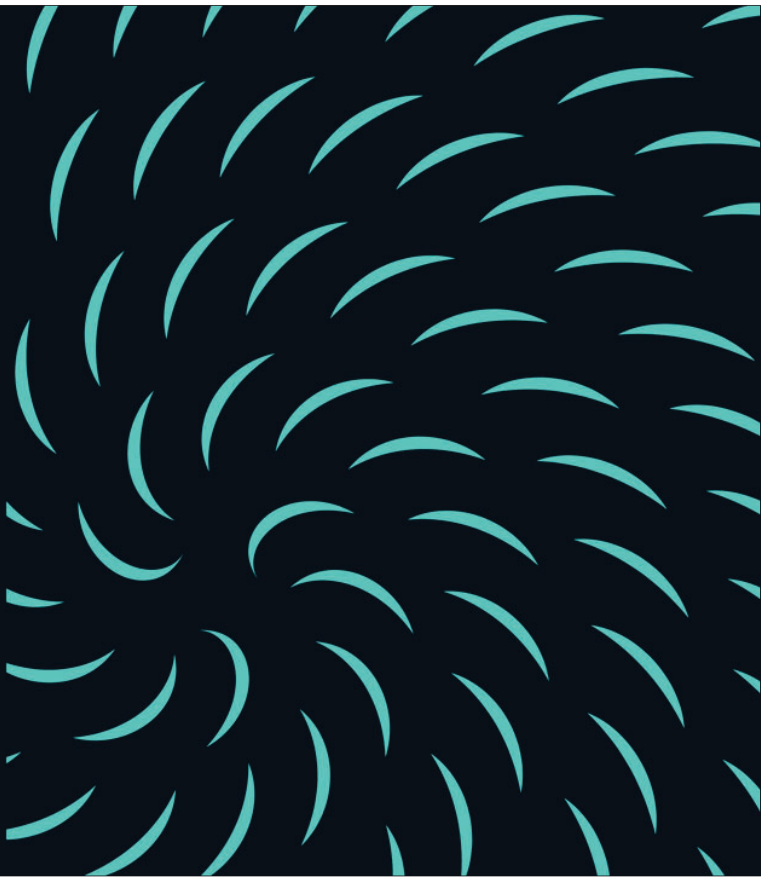
- Provides federal protection against state net income taxes
- Applies to qualifying solicitation activity involving tangible personal property
- Does not provide blanket protection from all state taxes
- Activities exceeding protected solicitation will eliminate protection

Diligence considerations

- What does the company sell?
- What activities do employees/representatives perform in the state?
- What post-sale/customer support activities occur?
- What activities occur through the company's website?

03

Cleaning Up the Past: Remediation & Risk Management



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Quantifying Historical Exposure

- Prioritize material jurisdictions/issues
- Develop reasonable exposure estimates
- Consider statutes of limitation, if any
- Evaluate whether exposure is recurring or isolated
- Document assumptions supporting estimates

Voluntary Disclosure Agreements (VDAs)

Potential benefits

- Limit lookback periods
- May provide penalty relief and interest relief
- Allows exposure to be addressed before buyer diligence

Considerations

- Eligibility varies by state
- Contact with the taxing authority can affect eligibility
- Interest generally remains due
- Process can take time
- Registration and ongoing compliance typically follow

How SALT Exposure Impacts Deal Economics

Identified exposure may result in:

- Purchase-price adjustment
- Specific indemnification
- Escrow / holdback
- Pre-closing remediation requirement
- Representation and warranty negotiations
- Buyer assumption of certain compliance obligations

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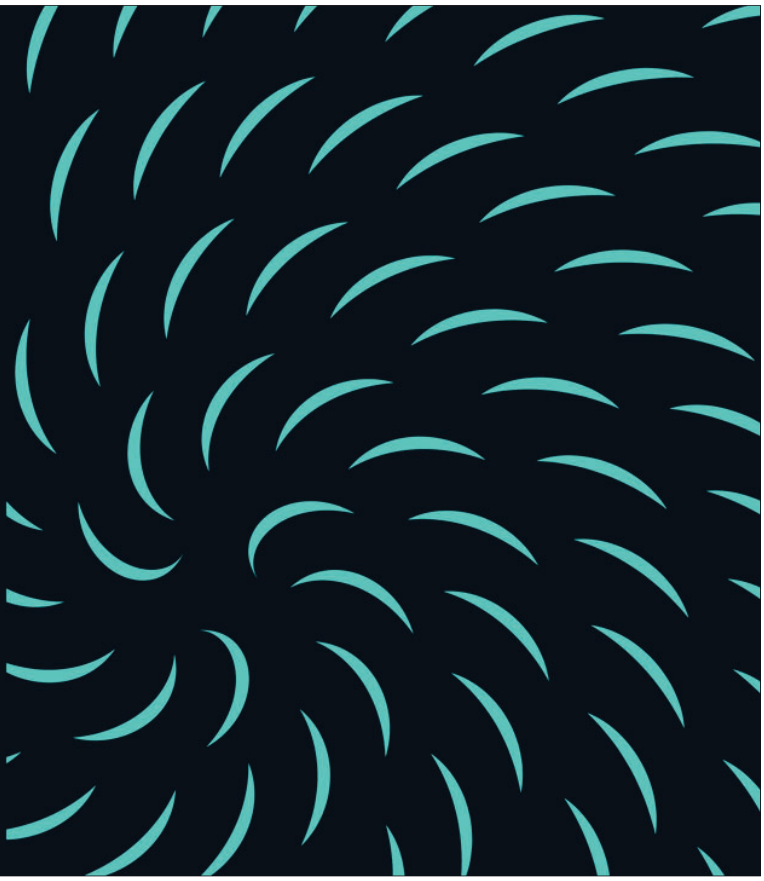
04

Deal Structure & Transaction-Specific SALT Considerations



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Sales & Use Tax on the Transaction Itself

- Asset sales can themselves create sales/use-tax obligations
- Determine which transferred assets are taxable by considering:
  - Tangible personal property
  - Equipment
  - Furniture and fixtures
  - Software/intangibles
- Evaluate available exemptions

Business vs. Nonbusiness Income

- Classification can determine whether gain is:
  - Included in apportionable/business income, or
  - Allocated to a particular jurisdiction as nonbusiness/nonapportionable income

Factors to evaluate

- Relationship of the asset/entity to the seller's trade or business
- How the asset was used
- Applicable state statutes and case law

Apportionment Issues

- Transaction gains may significantly alter state apportionment
- Determine whether gain is included in the sales factor
- Determine applicable sourcing methodology
- Consider special rules for:
  - Sale of intangible property
  - Sale of business interests
  - Receipts from services
- Evaluate distortion and alternative-apportionment considerations

F Reorganizations

- Generally, sale of intangible for sales tax purposes (w/ exception of WI that treats it as sale of underlying asset)
- Outside WI – no sales tax issue but income tax issue if you're in jurisdiction that doesn't recognize S Corps (i.e. NYC, DC, TN)

05

Successor Liability, Closing & Post-Close Considerations

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Successor Liability

A buyer may become liable for certain unpaid state taxes of the seller (even in an asset acquisition)

Potentially relevant taxes

- Sales/use tax
- Withholding/payroll taxes
- Income/franchise taxes in some circumstances
- Other state/local taxes

Why it matters

- Liability can arise under statute, not just under the purchase agreement
- Contractual indemnification doesn't necessarily prevent the taxing authority from pursuing the buyer
- Rules vary significantly by jurisdiction

Purchase Agreement Protections

- Tax representations and warranties
- Indemnification for pre-closing taxes
- Escrow / holdback
- Responsibility for audits
- Control of voluntary disclosures
- Preparation/filing of pre-closing returns
- Tax clearance requirements
- Effect of Representation and Warranty Insurance
- Prohibited Actions

Post-Close Registrations & Compliance

- Determine required registrations
- Close/transfer seller accounts where appropriate
- Establish buyer sales-tax collection processes
- Implement use tax procedures
- Update income/franchise filing footprint
- Update payroll/withholding registrations
- Confirm local filing requirements

Post-Close Nexus & Filing Footprint

- Reassess nexus based on the combined post-transaction business
- Acquisition may introduce:
  - New employees
  - New locations
  - Inventory/property
  - New customer markets
  - New products/services
- Buyer and target may have had different historical filing methodologies
- Review income-tax apportionment and combined/unitary reporting implications
- Harmonize filing positions and compliance processes

The earlier SALT enters the transaction process, the more options the parties generally have to address identified issues.

When a client says "I'm buying/selling a business…"

Ask:

- Where does the business operate and have customers?
- Where is it registered and filing?
- What products/services does it sell?
- Does it collect sales tax?
- Are exemption certificates maintained?
- Does it accrue use tax?
- Are there unfiled states?
- Does it rely on P.L. 86-272?
- Asset or stock transaction?
- What historical exposures have been identified?
- Are VDAs/remediation needed?
- Are successor-liability/tax-clearance procedures applicable?
- What registrations are needed after closing?

Tuesday, Nov. 17, 2026
1 – 2 p.m.

The Modern Tax Firm: How AI, Cybersecurity & Disaster Recovery Are Reshaping Client Trust

Keegan Bolstad, *Vice President, Ontech Systems*
Justin Vredeveld, *Business Development Manager, Ontech Systems*



The Modern Tax Firm

How AI, Cybersecurity, and Disaster Recovery Are Reshaping Client Trust

Justin Vredeveld & Keegan Bolstad | Ontech Systems

How AI, Cybersecurity, and Disaster Recovery Are Reshaping Client Trust

Agenda

- What is AI, Trust & Data Governance
- AI Attacks and real world examples
- Where AI plays a role in protecting your business
- Internal use cases and deployment

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What is AI?



In simple terms, AI (Artificial Intelligence) is when machines can perform tasks that typically require human intelligence, like learning, problem-solving, and decision-making.

GenAI (generative AI) creates outputs—text, images, code, audio—based on patterns in data. Agentic AI uses similar models but adds autonomy, decision-making, and the ability to act in digital environments.

Trust & Data Governance

Trust

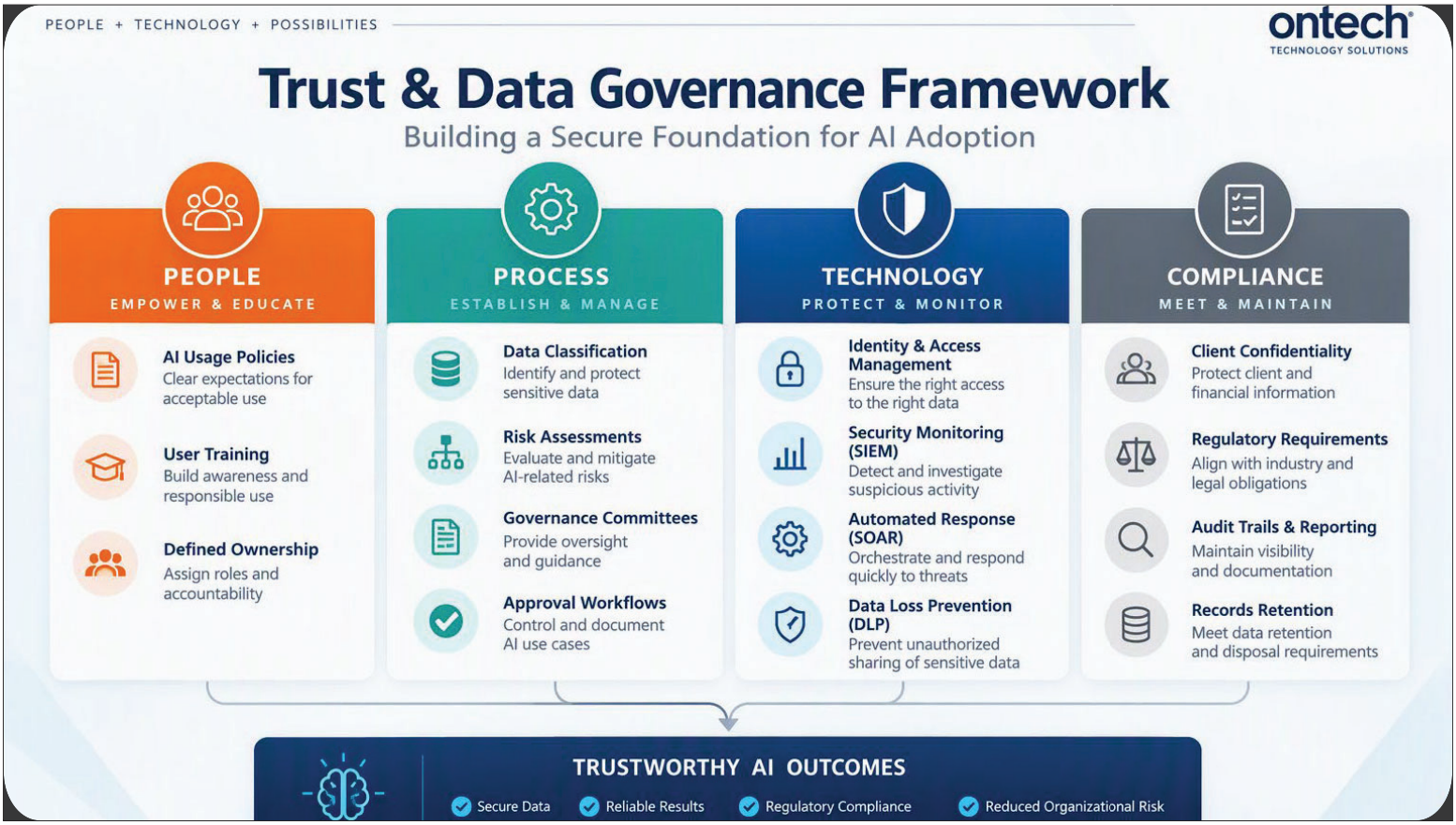
- Can AI outputs be relied on?
- Are responses accurate and explainable?
- How do we verify AI-generated content?
- Maintaining client confidence and professional integrity

Data Protection

- Where is firm and client data stored?
- Who has access to sensitive information?
- Preventing unauthorized use of financial and tax data
- Meeting security and privacy requirements

Governance

- Policies for AI use within the organization
- Defined roles, responsibilities, and oversight
- Compliance with industry regulations
- Monitoring, auditing, and continuous improvement



Public vs Business Grade Tools

"Public AI increases productivity. Business-grade AI increases productivity while protecting company data, managing risk, and maintaining governance."

Area	Public AI	Business-Grade AI
Data Security	Basic	Enterprise-grade
Company Data Protection	Limited	Strong
IT Management	Minimal	Full admin controls
Compliance	Limited	Extensive
Integration with Business Systems	Basic	Deep integrations
Cost	Low	Higher ROI-focused investment

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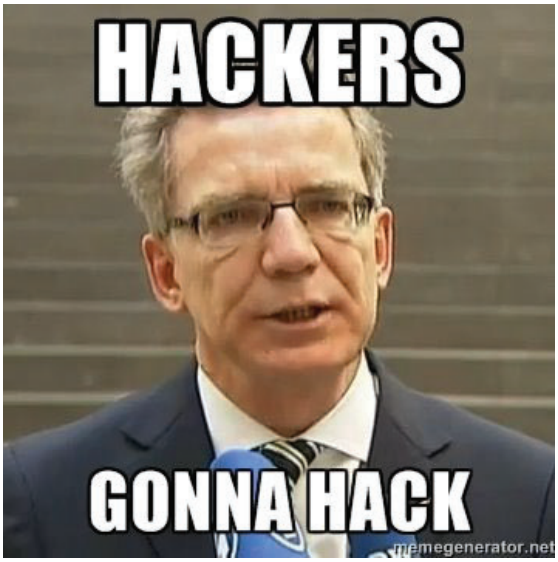
AI Driven Attack Examples



Personal Level

1. Deepfake Scams
2. Identity Theft
3. Financial Fraud
4. Privacy Invasion
5. Job Displacement
6. Chatbot Impersonation
6. AI Data and Confidentiality

Business Level

1. Deepfake Technology
2. AI-Driven Phishing
3. Automated Hacking
4. Enhanced Malware
5. Automated Reconnaissance
6. Prompt Injection
7. Identity Spoofing

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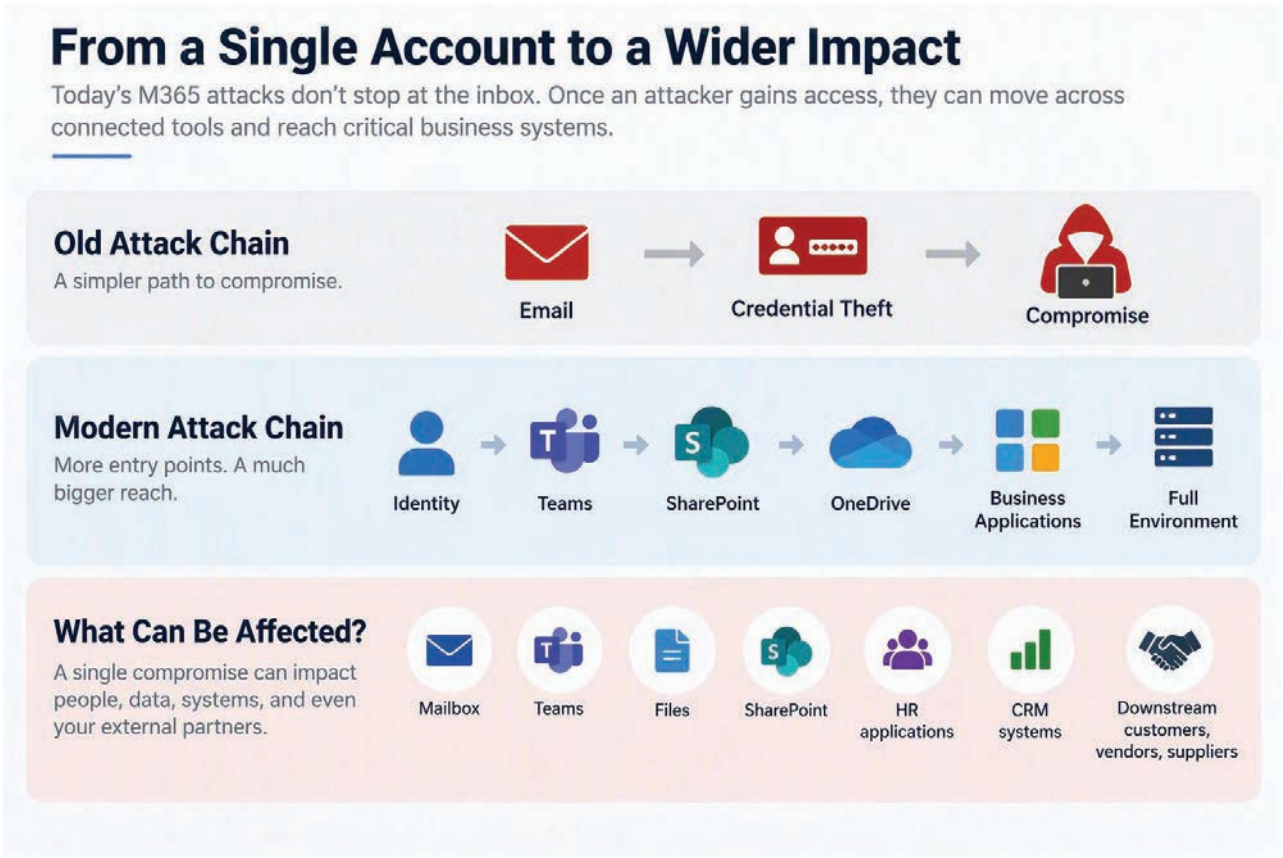

The Rise of Phishing Attacks Since ChatGPT Launch

Key Statistics:

- 4,151% increase in malicious emails since ChatGPT launch (late 2022)
- 1,265% rise in phishing emails
- 967% increase in credential phishing attacks
- AI tools like ChatGPT used to craft sophisticated phishing messages

AI-Related Security Incidents

OpenAI Credential Leak: 20 mil OpenAI user credentials leaked. Used in AI-enhanced phishing and social engineering attacks.

WordPress Exploit: AI-assisted exploit script targeting WordPress admin panels sold for $2k. Allows bypassing firewalls and security plugins. Low-skilled attackers can use this.

Ransomware: AI automated attacks, identified high-level targets, and evaded detection.

Clawdbot, Moltbot, OpenClawd: Clawdbot—an open-source autonomous AI agent—went viral in early 2026 and then rapidly became a high-profile security failure.

Where AI Plays a Role in Protecting Your Business

How Organizations Protect & Monitor AI Data

Trust in AI requires visibility, security, and rapid response.

Users → Applications → Firm & Client Data → Security Monitoring (SIEM) → Automated Response (SOAR) → Secure & Compliant Operations

SIEM - Security Monitoring

- Collects activity across systems
- Identifies suspicious behavior
- Detects threats faster
- Supports audit & compliance reporting

SOAR - Automated Response

- Automates security workflows
- Accelerates incident response
- Reduces manual effort
- Improves consistency & documentation

Why This Matters to Accounting Firms

Protect Client Data | Support Compliance | Improve Audit Readiness | Reduce Cyber Risk

AI is only as trustworthy as the controls protecting the data behind it. SIEM provides visibility. SOAR provides action.

Where Ontech Uses AI, SIEM & SOAR the Most

Helping clients detect, investigate, and respond to security incidents faster

Suspicious Activity → SIEM Collects Data → AI Investigation → SOAR Response → Ontech Review → Client Protected

How AI Helps Ontech

- Summarizes incidents
- Identifies suspicious patterns
- Prioritizes high-risk alerts
- Accelerates investigations
- Reduces alert fatigue

Real-World Example

Microsoft 365 account shows:
- Impossible travel
- MFA failures
- Unusual file downloads

AI flags risk and SOAR locks account.

Why Clients Benefit

- Faster detection
- Faster containment
- Better compliance
- Less downtime
- Improved protection

Technology identifies the threat. Automation contains the threat. Ontech provides the expertise to protect the client.

Building an AI Foundation

Governance → Use Cases → ROI → Deployment

Create AI Policy → **Identify Use Cases**

Creating AI policy

1. IP Protection
2. Approved Tools
3. Quality Assurance
4. Documentation
5. Compliance
6. Copyright
7. Ethics & Human Oversight

Identify Use Cases

1. Begin with Business problem or opportunity
2. Define Scope and criteria of problem
3. Explore Solutions/Best Practices
4. Brainstorm Potential AI solutions
5. Prioritize use cases

Start small, measure results, then scale.

Measuring ROI on AI Use Cases

1. Identify Use Case
2. Measure Current Process
3. Pilot AI Solution
4. Measure Savings
5. Calculate ROI
6. Scale

What to Measure

- Hours saved
- Labor cost reduction
- Faster turnaround
- Accuracy improvements
- Employee productivity
- Client experience

ROI Formula

(Annual Savings - Annual AI Cost) ÷ Annual AI Cost

ROI Calculator Example

Monthly Time Saved: 7 Hours
Loaded Labor Rate: $50/Hour

Annual Savings:
7 × 12 × $50 = $4,200

Annual AI Cost:
$1,440

ROI:
($4,200 - $1,440) ÷ $1,440
= 192%

Start with a business problem, prove value with a pilot, then scale successful AI use cases across the firm.

AI vs. RPA: What's the Difference?

Automation follows rules. AI makes decisions and adapts.

RPA (Automation)

- Follows predefined rules
- Best for repetitive tasks
- Same result every time
- Structured data
- "If this, then that" logic

AI

- Learns patterns
- Analysis & decision support
- Adapts to new information
- Structured & unstructured data
- Context-aware recommendations

Accounting Examples

RPA Example: AP Invoice Processing
Receive Invoice → Match PO → Route Approval → Enter ERP

AI Example: Tax Return Review
Identify missing forms, flag anomalies, recommend follow-up questions

RPA automates the work. AI augments the decision-making. The greatest value comes when they work together.

Report Building & Data Analysis with RPA

Automate data collection, report preparation, and distribution.

DATA SOURCES

ERP
Tax Software
Excel
CRM

→ RPA →

AUTOMATED TASKS

Collect Data
Refresh Reports
Format Output
Send Reports

→

BUSINESS OUTPUT

Financial Packages
Board Reports
KPI Dashboards
Compliance Reports

Accounting & Tax Firm Use Cases

- Monthly financial statement preparation
- Budget vs. actual reporting
- Tax workflow status reporting
- Partner and board reporting packages
- Client KPI dashboards
- Automated report distribution

Example:
Every month, RPA gathers data from the ERP, updates Excel workbooks, refreshes charts, creates PDF reports, and emails them to leadership automatically.

RPA does not analyze data. RPA automates the repetitive steps required to produce and distribute reports.

Report Building & Data Analysis with AI

Spend less time gathering data. Spend more time delivering insights.

DATA SOURCES

- ERP
- Tax Software
- CRM
- Excel
- Microsoft 365

→ AI →

INSIGHTS

- Trends
- Dashboards
- Forecasts
- Executive Summaries

Copilot Example

"Analyze the last 12 months of financial data and explain major variances."

Common Accounting & Tax Use Cases

- Monthly Financial Packages
- Board & Management Reports
- Revenue and Expense Analysis
- Cash Flow Forecasting
- Tax Research & Compliance Reviews
- Client Advisory Services

Before AI → Hours gathering data
With AI → Minutes gathering data + faster insights

AI helps accountants focus on interpretation and client advice.

AI does not replace accountants. It helps transform data into insights faster.

What is an AI Agent?

An AI agent can understand goals, make decisions, take actions, and interact with systems with minimal human involvement.

Traditional AI Assistant

Ask Question
↓
AI Responds
↓
Human Takes Action

AI Agent

Receive Goal
↓
Gather Information
↓
Make Decisions Based on Rules
↓
Take Actions Across Systems
↓
Escalate Exceptions to Humans

Accounting & Tax Examples

- Tax Readiness Agent
- State Tax Research Agent
- Client Onboarding Agent
- Audit Preparation Agent

Think of an AI Agent as a digital team member that can complete tasks, not just answer questions.

AI Agent Use Cases for Tax & Accounting Firms

Moving from AI assistants to AI agents that can take action and streamline tax workflows

Tax Preparation Readiness Agent

Client uploads tax documents

↓

Agent reviews submission

↓

Checks for W-2s, 1099s, K-1s, and other required forms

↓

Automatically requests missing items or approves return for preparation

State Tax Law Research Agent

Monitors states where clients file returns

↓

Tracks tax law and regulatory changes

↓

Identifies filing impacts and compliance risks

↓

Delivers alerts, summaries and recommendations to tax professionals

AI Agents help firms reduce administrative work, improve consistency, and allow professionals to focus on advisory services and client relationships.

Tuesday, Nov. 17, 2026
2:15 – 3:45 p.m.

The Best Tax Planning Ideas for Wealthy Clients in the Current Environment

Robert Keebler, CPA/PFS, MST, AEP (Distinguished), *Partner, Keebler & Associates, LLP*

The Best Tax Planning Ideas for Wealthy Clients in the Current Environment

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Course Overview

- Roth Conversions
- 529 Plans
- Trump Accounts
- Tax Shelters
- AI and the future of tax planning



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Trusts & Estates

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Estate & Gift Tax Exclusion

Increased BEA Made Permanent

- The TCJA doubled the Basic Exclusion Amount (BEA) through 12/31/25 ($13,990,000 in 2025)
- TCJA sunset uncertainty made planning difficult over the last several years
- The OBBBA permanently increases the estate, gift and GST exclusion to $15,000,000 for 2026 and will be indexed for inflation thereafter
- This provides meaningful relief to many families who may be subject to the estate tax but are not wealthy enough to undertake simple & effective tax planning.

OBBBA § 70106

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Estate & GST Taxes

IDEAS

- **Paths to Portability**
  1. Timely filed Form 706
  2. Portability only filed Form 706
  3. Late Filed Portability Only Form 706 Pursuant to Rev. Proc. 2022-32
  4. 9100 Late Election Relief – the PLR process

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Estate & GST Taxes

IDEAS

- **Use Trusts to Create Additional Taxpayers**
  - $10,000 - $40,400 SALT deduction per trust (2026)
  - $201,750 Section 199A Threshold Amount per trust (2026)
  - $15,000,000 Section 1202 exclusion per trust (2026)
  - Creating an additional taxpayer now may provide a grandfathered opportunity to shift income & avoid tax increases



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Estate & GST Taxes

IDEAS

- **Use trusts to avoid state income taxation**
  - Completed Gift Non-grantor Trusts
  - Incomplete Gift Non-grantor Trusts –
    - A trust settled in state with a trust code which facilitates the strategy
    - Transfer to the trust is not a completed gift and therefore does not incur gift tax because the settlor retains certain powers
    - Trust is a non-grantor trust
    - Useful to avoid income taxation in the settlor's resident state
    - Only possible in certain states including: Alaska, Delaware, Nevada, Wyoming

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Estate & GST Taxes

IDEAS

- **Use trusts to avoid state income taxation**

		Full SALT Deduction	No SALT Deduction	No State Tax
Income		$ 100	$ 100	$ 100
State Tax	**5%**	(5)	(5)	-
Federal Tax	**37%**	(35)	(37)	(37)
		$ 60	$ 58	$ 63

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Estate & GST Taxes

Decanting

- Decanting Ideas
  - Turn a grantor trust into a non-grantor trust
  - Turn one non-grantor trust into several (e.g. one for each beneficiary)
  - Add a Power of Appointment (or other terms to force inclusion) in order to capture the basis “step-up”

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High v. Low Interest Rates

Low Rates Favor

- GRATs
- CLTs
- IDGT Sales
- Private Annuities
- Freeze Partnerships

High Rates Favor

- QPRTs
- CRTs
- Reduced valuations

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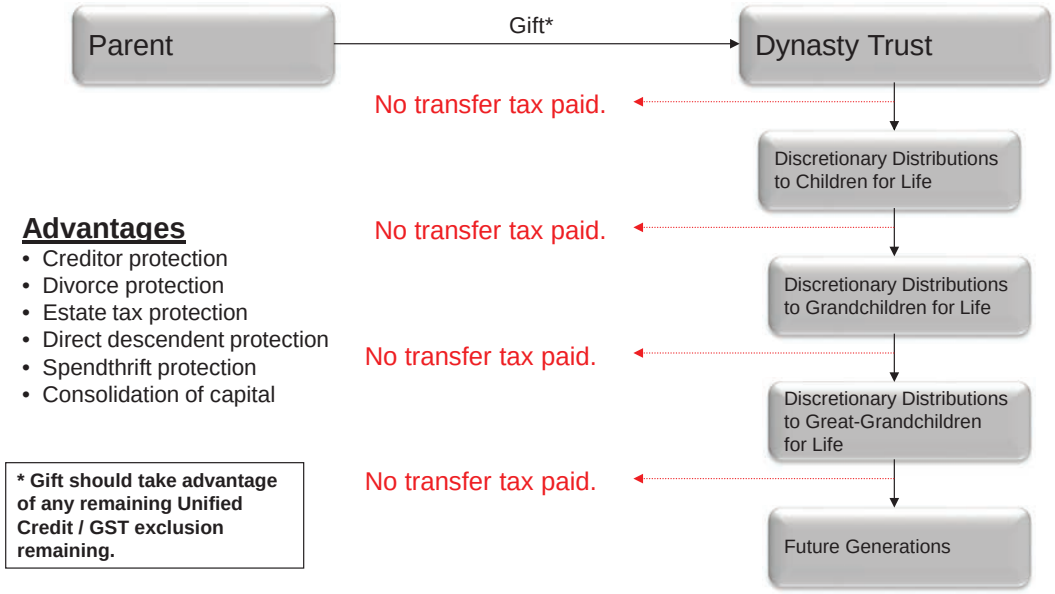
Dynasty Trust Overview



Advantages

- Creditor protection
- Divorce protection
- Estate tax protection
- Direct descendent protection
- Spendthrift protection
- Consolidation of capital

*** Gift should take advantage of any remaining Unified Credit / GST exclusion remaining.**

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Erosion of Estate at Each Generation Level*

Wealth of Parents	$ 10,000,000	$ 10,000,000	$ 10,000,000
Estate Tax Rate	40%	40%	40%
Estate Tax	**$ 4,000,000**	**$ 4,000,000**	**$ 4,000,000**
Wealth of Children	$ 6,000,000	$ -	$ -
Estate Tax Rate	40%	40%	40%
Estate Tax	**$ 2,400,000**	**$ -**	**$ -**
Wealth of Grandchildren	$ 3,600,000	$ 6,000,000	$ -
Estate Tax Rate	40%	40%	40%
Estate Tax	**$ 1,440,000**	**$ 2,400,000**	**$ -**
Wealth of Great-Grandchildren	**$ 2,160,000**	**$ 3,600,000**	**$ 6,000,000**
% of Original Wealth Passing to Great-Grandchildren	**21.6000%**	**36.0000%**	**60.0000%**

* For sake of simplicity, it is assumed that the marginal estate tax rate at each generation's death is 40%.

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Tax Savings from Avoiding Estate Tax

	5% Growth	7% Growth	9% Growth
Value of Trust in 20 years	$ 13,266,489	$ 19,348,422	$ 28,022,054
Estate Tax Savings @ 40%	$ 5,306,595	$ 7,739,369	$ 11,208,822
Value of Trust in 40 years	$ 35,199,944	$ 74,872,289	$ 74,872,289
Estate Tax Savings @ 40%	$ 14,079,977	$ 29,948,916	$ 29,948,916
Value of Trust in 60 years	$ 93,395,929	$ 289,732,134	$ 880,156,460
Estate Tax Savings @ 40%	$ 37,358,372	$ 115,892,854	$ 352,062,584
Value of Trust in 80 years	$ 247,807,205	$ 1,121,171,938	$ 4,932,758,341
Estate Tax Savings @ 40%	$ 99,122,882	$ 448,468,775	$ 1,973,103,336

Initial investment of $5,000,000

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Advantages

- Can take maximum advantage of lifetime gift tax exemption
- Can take maximum advantage of the GST tax exemption
- Appreciation of assets will be free from estate tax
- Provides a layer of asset protection from the beneficiaries' creditors

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Advantages

- No estate/gift/GST tax will be paid at the death of the grantor's descendants
- Future trustees can be given the discretion to make distributions as appropriate, given the circumstances that exist at the time the distributions are made
- Grantor can use the trust to positively affect future behavior

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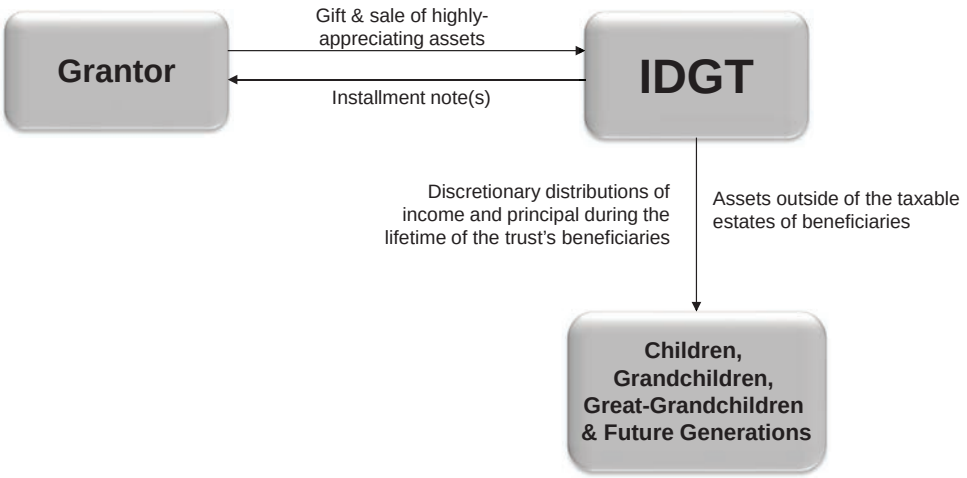
IDGT Sale Overview



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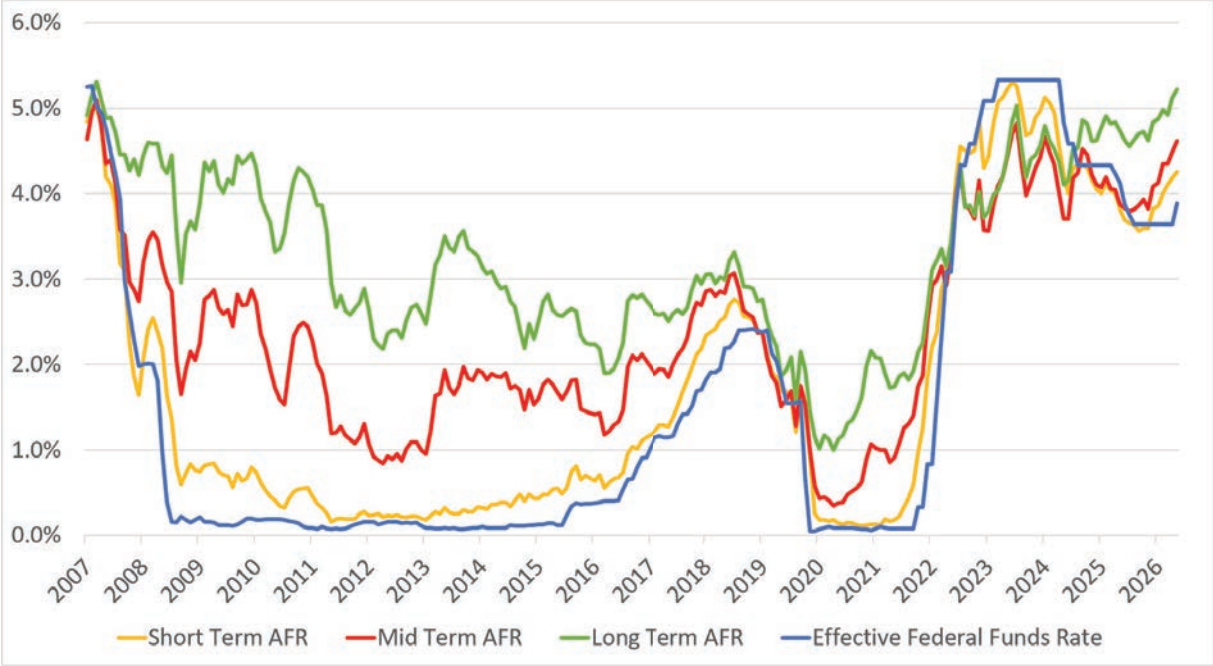
Applicable Federal Rates (AFRs)



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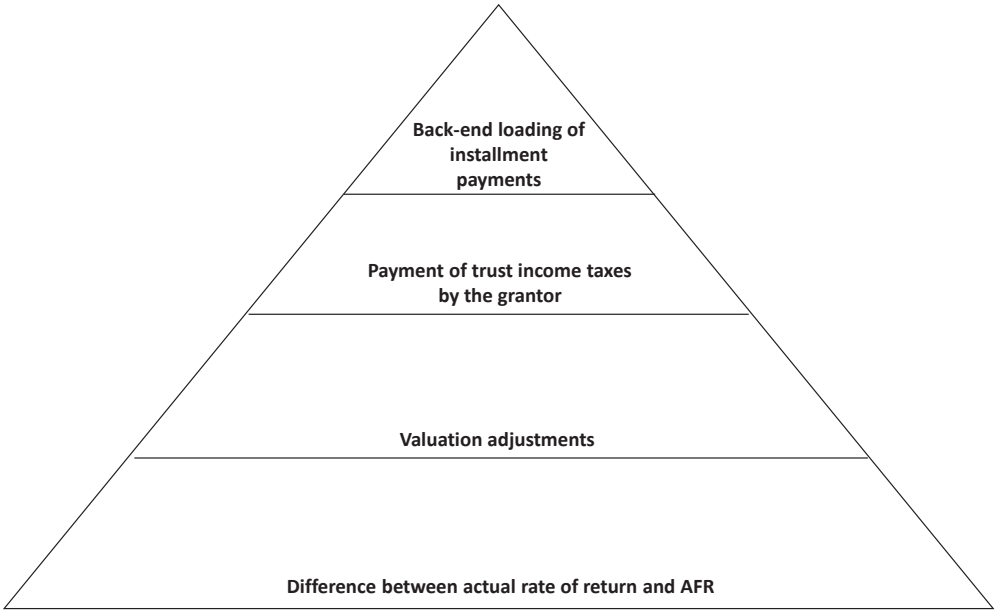
Why an IDGT Sale Works



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Advantages

- Freezes value of appreciation on assets sold in the grantor's taxable estate at the low interest rate on the installment note payable
- No capital gains tax due on installment sale
- Interest income on installment note is not taxable to the grantor
- Grantor pays income tax on trust income, leaving more assets in the IDGT for remainder beneficiaries
- Valuation adjustments increase effectiveness of sale for estate tax purposes

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Disadvantages

- Estate inclusion of note if grantor dies during term of installment note
- No step-up in basis at grantor's death
- Trust income taxable to grantor during his/her life could cause a cash-flow problem if there is not sufficient income earned by the grantor

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Disadvantages

- Possible gift and estate tax exposure if insufficient assets are used to fund the trust
- Possible taxable gift for amount of loan
- Possible taxable estate inclusion under *Karmazin* (retained life estate)

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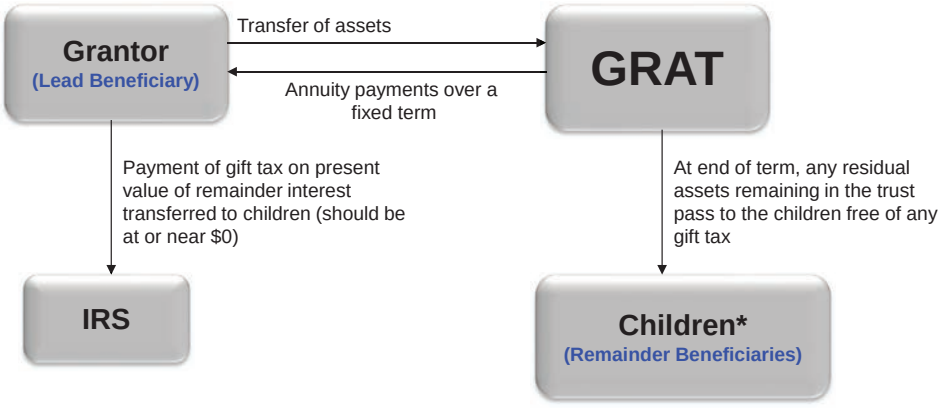
GRAT Overview



*Instead of naming the children as outright remainder beneficiaries of the GRAT, a grantor trust could be used (thus producing a greater estate tax benefit).

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GRAT

Example

Year	Beginning Balance	Taxable Income 10.00%	Annual Payment	Ending Balance
1	$ 10,000,000	$ 1,000,000	$ (845,937)	$ 10,154,063
2	$ 10,154,063	$ 1,015,406	$ (845,937)	$ 10,323,531
3	$ 10,323,531	$ 1,032,353	$ (845,937)	$ 10,509,947
4	$ 10,509,947	$ 1,050,995	$ (845,937)	$ 10,715,005
5	$ 10,715,005	$ 1,071,500	$ (845,937)	$ 10,940,568
6	$ 10,940,568	$ 1,094,057	$ (845,937)	$ 11,188,687
7	$ 11,188,687	$ 1,118,869	$ (845,937)	$ 11,461,618
8	$ 11,461,618	$ 1,146,162	$ (845,937)	$ 11,761,843
9	$ 11,761,843	$ 1,176,184	$ (845,937)	$ 12,092,090
10	$ 12,092,090	$ 1,209,209	$ (845,937)	$ 12,455,361

BENEFIT: $12,455,361 transfers estate/gift tax-free
(3.6% Section 7520 Rate)

***Note, the annual payment also assumes to 30% valuation discount ($7,000,000 value).**

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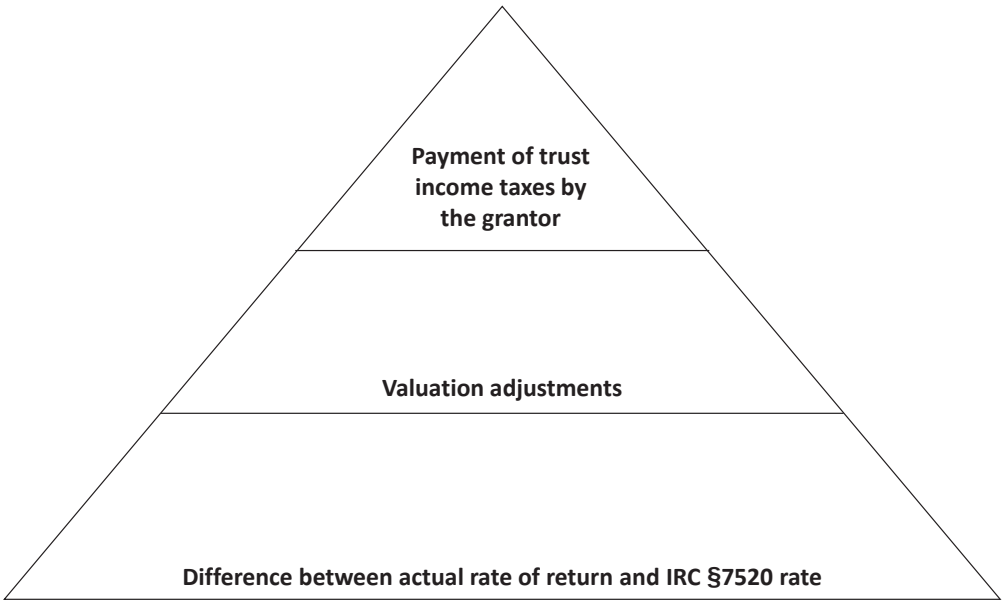
Why a GRAT Works



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Estate Inclusion Issue

- **If the grantor dies before the end of the GRAT term, a portion (or all) of the GRAT is included in the grantor's gross estate**
  - The amount that is included in the grantor's gross estate is the lesser of
    - The FMV of the GRAT's assets as of the grantor's date of death
    - The amount of principal needed to pay the GRAT annuity into perpetuity
  - The amount of principal needed to pay the GRAT annuity into perpetuity is determined by dividing the annuity payment by the IRC §7520 rate in effect during the month of the grantor's death

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Advantages

- Annuity payments provide income stream to the grantor
- Ability to make gifts of substantial amounts of property tax-free
- Grantor pays income tax on trust income, leaving more assets in the GRAT for remainder beneficiaries
- Reduces the taxable estate of the grantor
- Valuation adjustments increase effectiveness of sale for estate tax purposes

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Disadvantages

- If the grantor dies before the end of the GRAT term, the assets in the GRAT are included in the grantor's gross estate
- The remainder beneficiaries will have the same basis in the property transferred to the GRAT as the grantor had at the time the property was transferred (no step-up in basis)
- Risk that rate of return will not exceed interest rate resulting in no assets being transferred to remainder beneficiaries

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Qualified Personal Residence Trust



- The elder generation gifts the residence to trust, but retains the right to occupy it rent free for a term of years
- The value of the retained use, reduces the value of the home for gift tax purposes

- The younger generation receives the full-value of the home in the future
- Parents pay rent after their retained occupancy period ends

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Qualified Personal Residence Trust

- Home must be a primary residence or one other residence with at least part-time personal use. IRC § 280A(d)(1) test.
- Additional property can include residential appurtenant structures and additional land reasonably appropriate for residential uses; but cannot include personal property such as furnishings.
- Short-term rental of a home in a QPRT is possible if that use is secondary to the personal use and no substantial additional services are provided (such as those a bed & breakfast might provide).
- Spouses with ownership interests in the home may also transfer their interests in the property to the trust.
- Treas. Reg. § 25.2702-5. Personal residence trusts.

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QPRT – Example

- Assumptions:
  - Rural Midwest modest lakefront home
    - Purchased for $150,000 decades ago
    - $500,000 fair market value
    - $42,500 fair annual rent
    - Family has rented it out for a premium during the peak of the summer vacation season in the past
  - Currently its grandma and grandpa's second home, however younger family members frequently gather for recreation
    - Grandpa is the owner of the house and he is 72 years old
    - Based on health and personal preferences, they expect to use the vacation home for no more than 10 more years
  - Elder generation has a net worth of approximately 15M
    - You do the math – considering a reasonable asset growth rate, their spending habits, and inflation of the exclusion amount – you calculate they will be subject to the estate tax in 10-15 years

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QPRT – Example

- Calculating the net value of the gift, assuming a $500,000 asset and a 5% 7520 rate:
  - The present value of the gift considering a 10-year term is: $306,957
  - You target a 10-year term because you project the estate tax will apply to them in 11 years
- You figure the family has little to lose and everything to gain by putting the family cottage into a QPRT:
  - Funding the trust is an efficient use of the exclusion, due to the reduction for the retained interest
  - Death during the term, before the estate tax applies, causes inclusion and a basis step-up
  - Death after the term, excludes the value of the asset from the taxable estate

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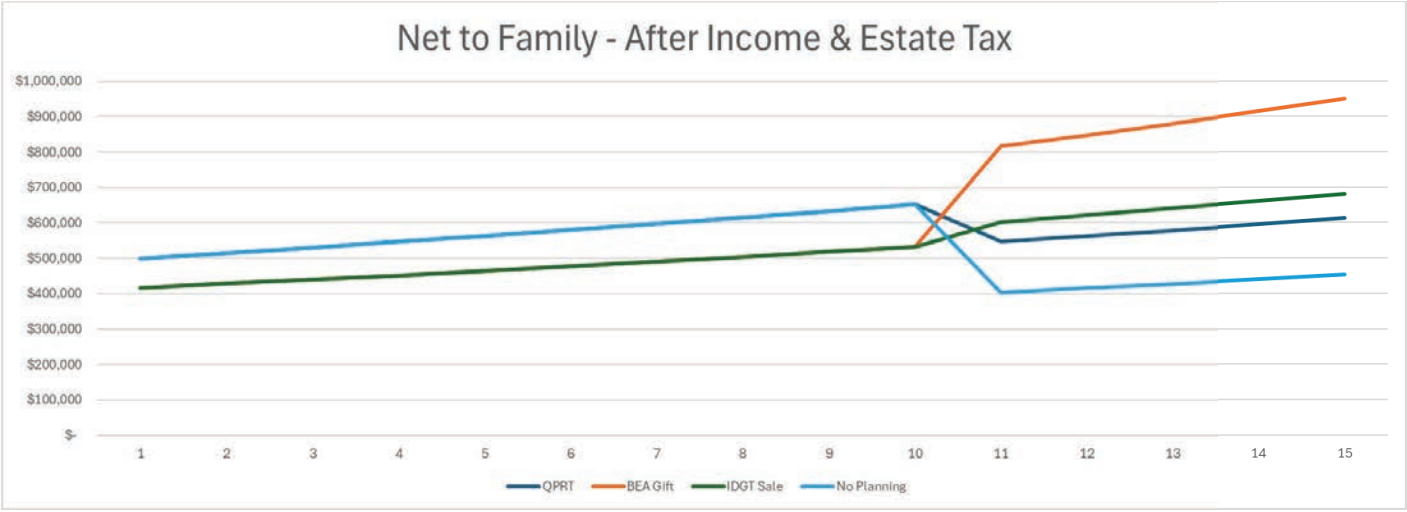
QPRT v. Other Options



The diversion at year 10-11 is caused by the end of QPRT term, the estate tax applying, the end of IDGT sale term, and the estate tax savings caused rent paid to the grantor trusts to avoid 2036 inclusion.

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FIDUCIARY TAX & ACCOUNTING ISSUES

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Foundational Concepts

Distributable Net Income (DNI)

- Determines the amount of the trust's or estate's income distribution deduction.
- Determines how much the beneficiaries must report as income on their tax returns.
- Determines the character (e.g. interest, dividends, etc.) of the taxable income in beneficiaries' hands.



IRC § 661

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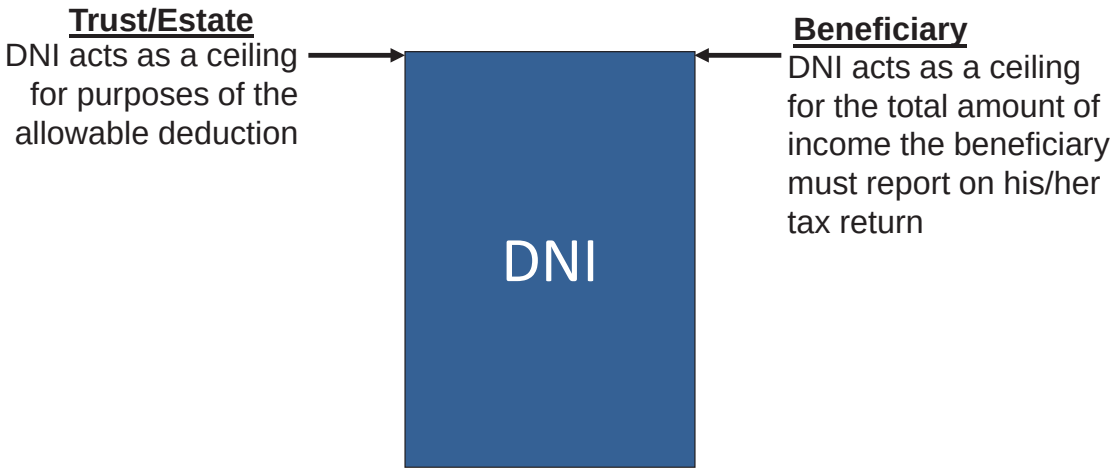
Foundational Concepts

Distributable Net Income (DNI)



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Foundational Concepts

Types of "Income"

- Fiduciary accounting income
  - Governed by state law and the trust instrument
  - Determines the amount that may or must pass to the trust's or estate's beneficiaries
- Tax accounting income
  - Governed by state and federal income tax law
  - Determines who is taxed on the income

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Foundational Concepts

Distributable Net Income (DNI)

Additional Issues

- Normally, capital gains and losses are trapped at the trust or estate level.
  - However, in the year of termination, the capital gain/loss passes out to the beneficiaries.
- Specific bequests do not carry out DNI to the beneficiaries.

IRC § 661

Treas. Reg. § 1.643

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Foundational Concepts

Tier Rules

- Apply to estates and complex trusts
- Two tiers
  - First tier beneficiary
    - Required distribution of income on a current basis
  - Second tier beneficiary
    - Receives any amount remaining (at the discretion of the trustee/executor)

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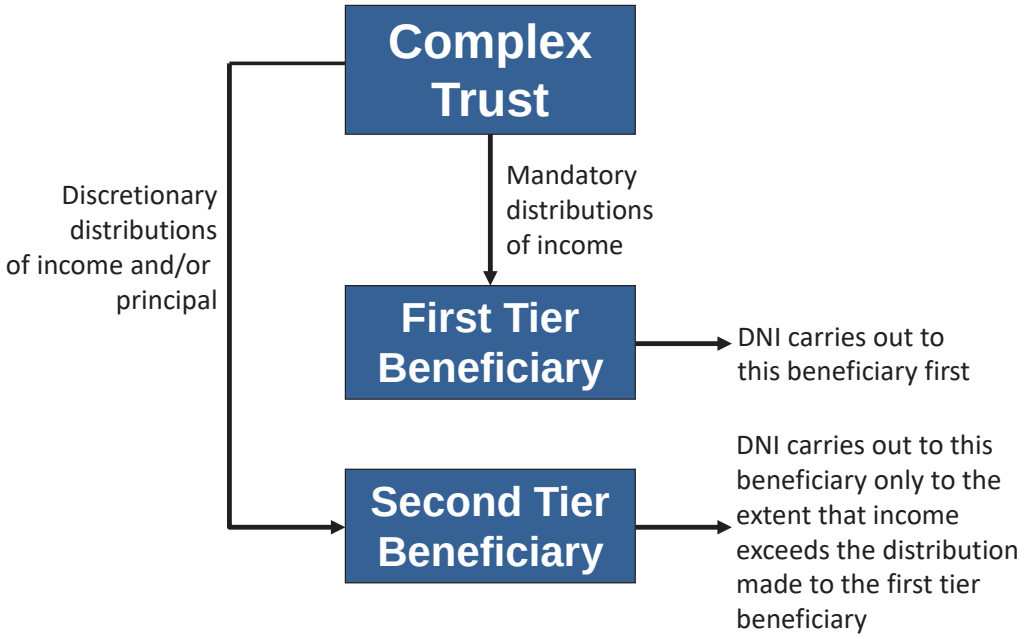
Foundational Concepts

Tier Rules



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Foundational Concepts

Separate Share Rule

- Applies to both estates and complex trusts
- Treats multiple beneficiaries of an estate or single trust as if each were the sole beneficiary
- Determines how DNI carries out to each beneficiary
  - DNI is computed separately for each share

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Foundational Concepts

Separate Share Rule

Example

Assumptions

- Complex trust
- Two equal beneficiaries (S & D)
- Distributable Net Income (DNI) in 2025 = $30,000
- Distributable Net Income (DNI) in 2026 = $10,000
- Trust distributes $15,000 to ***S*** and $5,000 to ***D*** in 2025
- Trust distributes $5,000 to ***D*** in 2026

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Foundational Concepts

Separate Share Rule

Example (cont.)

	2025 Tax Year	2026 Tax Year
Son	$15,000	$0
Daughter	5,000	5,000
Trust	10,000	5,000
Total	$30,000	$10,000

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Foundational Concepts
"65-Day" Rule (IRC §663(b))

- Applies to estates and complex trusts
- Allows fiduciary to treat distributions made within 65 days after year-end to be treated as if they were made as of December 31st of the prior year
  - Limited to DNI (reduced by distributions made during the prior year)
- Election must be made by the due date of the tax return
  - Election is irrevocable
  - Annual election

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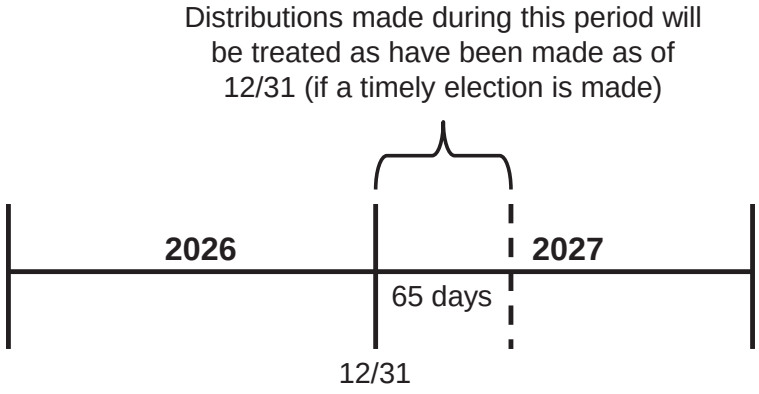
Foundational Concepts
"65-Day" Rule (IRC §663(b))



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Foundational Concepts
Specific Bequests

- Do not carry out DNI
- Not taxable to trust/estate or beneficiaries
- Requirements
  - Paid at once OR
  - Paid in not more than three installments

Examples

"I leave my brother Randy $250,000."

"I leave my sister Mary my boat"

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Foundational Concepts
Charitable Deduction (IRC §642(c))

- Requirements
  - Paid from gross income
  - Paid pursuant to the governing document
- Must be actually be paid in the current year
  - Exception – pre-1969 trusts
- Unlimited in amount
- Taken as a deduction in computing adjusted gross income (AGI)

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Foundational Concepts

Pecuniary Bequests to Charity

CCA 200644020

- Pecuniary bequest to charitable beneficiary
- Acceleration of income on IRD
- No IRC §642(c) deduction - terms of trust did not direct or require that the trustee pay the pecuniary legacies from the trust's gross income

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Kenan v. Commissioner,

114 F.2d 217 (2d Cir. 1940).

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Kenan v. Commissioner, 114 F.2d 217 (2d Cir. 1940).

- A testamentary trust satisfied a pecuniary (dollar amount) bequest with a mix of cash and securities.
- The issue was whether the distribution of securities required the trust to realize the unrecognized capital gains?
- The court agreed with the Service that the distribution required the trust to recognize capital gain.
- The appeals court affirmed, reasoning that there was never a chance that securities distributed would change in value between the date of death and the date of distribution.

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Kenan v. Commissioner, 114 F.2d 217 (2d Cir. 1940).

- The basis "step-up" usually minimizes any difference between fair market value and basis, minimizing risk that the *Kenan Doctrine* will force an early recognition event for the family.
- However, in a volatile market, estates are much more likely to have unrecognized gains and losses.
- Therefore, estate planners and administrators must consider how best to avoid the issue.

Note, the *Kenan Doctrine,* generally applies to items of income in respect of a decedent (IRD). This may include IRAs.

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Kenan v. Commissioner, 114 F.2d 217 (2d Cir. 1940).

- The basis "step-up" usually minimizes the any difference between fair market value and basis, minimizing risk that the *Kenan Doctrine* will force an early recognition event for the family.
- However, in a volatile market, estates are much more likely to have unrecognized gains and losses.
- Therefore, estate planners and administrators must consider how best to avoid the issue; ideas may include:
  - Using fractional and residuary bequests
  - Planning for liquidity
  - Careful allocation of assets amongst beneficiaries

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Kenan Gains

- *Kenan* gains are undesirable for two reasons:
  1. Loss of deferral – the tax paid early reduces future compounded asset value growth
  2. Potential exposure to a higher marginal income tax rate at the fiduciary compared to the individual level

- *Kenan* gains are often frustrating because:
  1. They are difficult to understand and therefore lead to conflict amongst family members and with advisors.
  2. They are often entirely avoidable recognition events.

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Kenan Losses

- If the assets used to satisfy a pecuniary bequest have basis greater than fair market value (Kenan Losses) special rules apply.
  - The rule that bars recognizing losses on sales or exchanges of property between related parties, specifically does not apply to an estate. That is, the estate will be able to claim the loss. IRC § 267(b)(13).
  - **There is no exemption to the related party rules if the distribution is from a trust.**
    - A loss cannot be claimed by a trust which uses built-in-loss property to satisfy a pecuniary bequest. The general rule of § 267 applies to block claiming a related party loss and unlike an estate there is no exception.
    - However, the loss does not simply disappear. Rather, the transferor can generally use the previously disallowed loss to offset gain at a future sale. IRC § 267(d).
    - A Section 645 Election is a useful tool which can solve this problem.

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CHARITY



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0.5% Floor for Itemized Charitable Deductions

- The OBBBA added a new limitation – contributions must exceed 0.5% of the taxpayer's contribution base to be deductible
- Effective to taxable years beginning after 12/31/25

OBBBA § 70425

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Overall Limitation on Itemized Deductions

- The TCJA suspended the overall limitation on itemized deductions (the PEASE limitation)
- The OBBBA created a new limitation (effective 2026+)
  - The new formula is as follows:

$$Reduction = \frac{2}{37}\ x\ the\ \boldsymbol{lessor}\ of \begin{cases} Total\ Itemized\ Deductions \\ Total\ taxable\ income,\ plus\ itemized\ deductions,\ subject\ to\ the\ 37\%\ bracket \end{cases}$$

OBBBA § 70111

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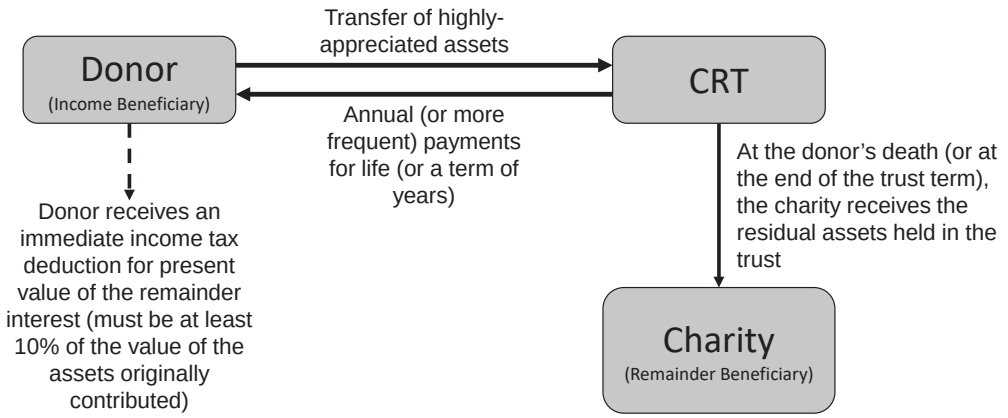
Charitable Remainder Trusts

Overview

- Charitable Remainder Trust (CRT)



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Charitable Remainder Trusts

Types of CRTs

- Charitable Remainder Annuity Trust (CRAT)
  - The beneficiaries receive a fixed percentage of the initial trust value or a stated amount annually or more frequently.
  - The amount paid doesn't change from year-to-year.
  - The annual payment must be 5-50% of the fair market value of the assets at the time of contribution.
  - The term of the annuity can be:
    - For a term up to 20 years,
    - Over the life of the annuitant(s),
    - Over the shorter of the two, or
    - Over the longer of the two
- Charitable Remainder Unitrust (CRUT)
  - Income beneficiaries receive a stated percentage of the trust's assets revalued each year.
    - The distribution will vary from year to year depending on the investment performance of the trust assets and the amount withdrawn

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Charitable Remainder Trusts

Taxation of the Donor & Trust

- Donor generally does *not* realize gain or loss when property is transferred to the trust
- The donor generally will *not* realize gain or loss if and when the transferred assets are subsequently sold by the trustee of the CRT*
- Distributions in kind are treated as a sale of the property distributed, resulting in gain recognition by the CRT. [Reg. §1.664-1(d)(5)]

*Need to consider the binding commitment issue. See Rev. Rul. 78-197.

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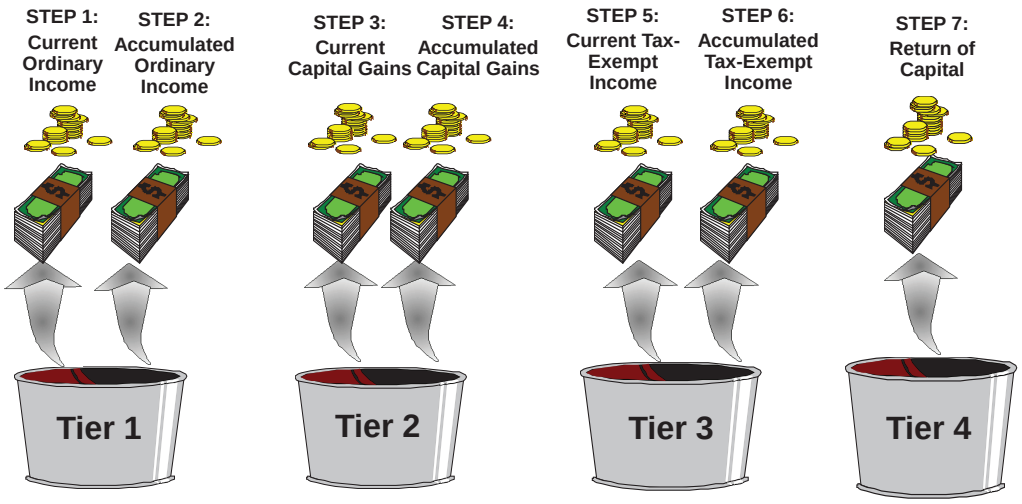
Charitable Remainder Trusts

Taxation of Distributions



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Charitable LEAD trusts

Effective for those without charitable intent?

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Charitable Lead Trusts

Overview

- A Charitable Lead Trust (CLT) is a split interest trust consisting of an income interest and a remainder interest.
- During the term of the trust, the income interest is paid out to a named charity.
- At the end of the trust term, the remainder (whatever is left in the trust) is paid to non-charitable beneficiaries (e.g. children of the donor) that have been designated in the trust document.

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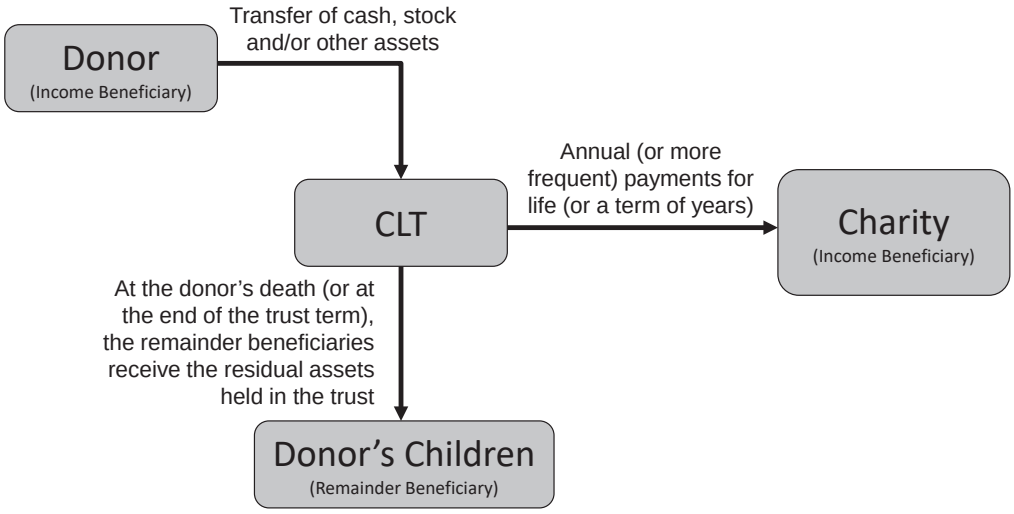
Charitable Lead Trusts

Overview



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Charitable Lead Trusts

Types

- Charitable Lead Annuity Trust (CLAT)
  - The charitable beneficiary receives a stated amount of the initial trust assets each year
    - The amount received is established at the beginning of the trust and will not change during the term of the trust regardless of investment performance (unless inadequate investment performance causes the trust to run out of assets)
- Charitable Lead Unitrust (CLUT)
  - The charitable beneficiary receives a stated percentage of the trust's assets each year.
    - The distribution will vary from year to year depending on the investment performance of the trust assets and the amount withdrawn

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Testamentary IRA TRANSFERS

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IRAs and Charity

"Testamentary" Transfers of IRAs

- Available Options to Transfer IRD Assets of Charity
  - **Name the charity as the designated beneficiary of the assets**
  - Specific Bequest of IRD assets to charity under a will
  - Power of Executor to make a non-pro rata distribution to Residuary Beneficiaries
  - Assignment of IRD to charity of satisfy a Pecuniary Bequest
  - Recognition of income with § 642(c) charitable deduction
  - **Recognition of income without § 642(c) charitable deduction**

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ROTH CONVERSIONS

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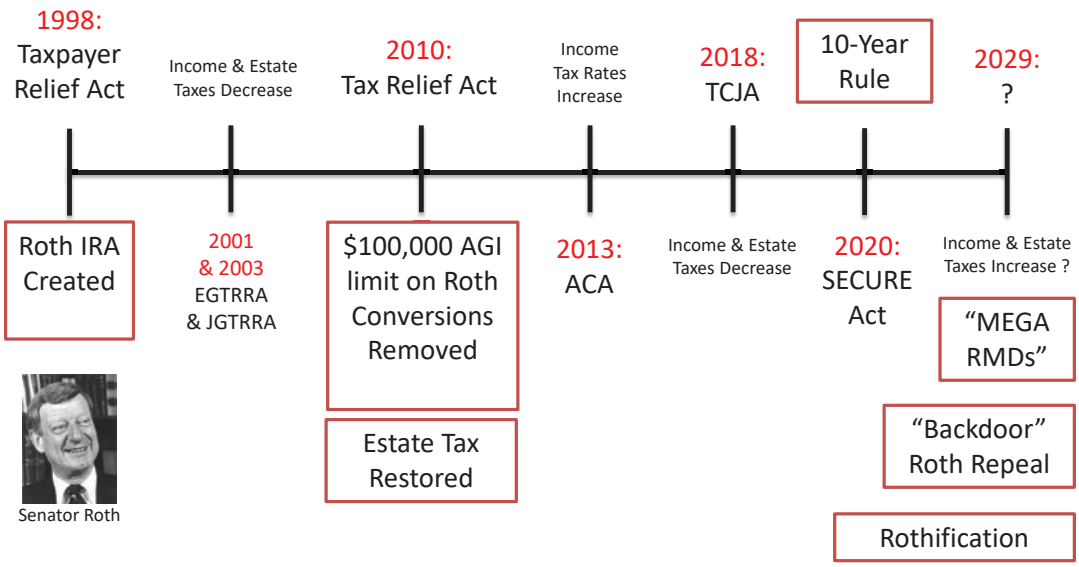
ROTH IRA TIMELINE



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Raising Revenue via IRA Reform

- Base broadening changes to raise revenue may impact IRAs. Potential options include:
  - Limiting accruals in retirement accounts
    - Limitations have been proposed in many prior budgets, which is a common pattern before eventual enactment
    - In 2015, the Obama administration proposed a limit of about $3,400,000
    - During the Biden administration, a limit of $10,000,000 was proposed
  - Repeal backdoor and mega-backdoor Roth Conversions
  - "Rothification" of contributions for high-earners
  - NUA exclusion repeal

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RMDs after Death

The SECURE Act

Basically, requires all IRAs, Roth IRAs, and Qualified Plans to be distributed within 10 years of death

EFFECTIVE DATE:

Deaths which Occur After 12/31/19

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Post-mortem Distributions

The general rules are maintained:

	Eligible DB	Qualified DB	No Qualified DB
Death Before RBD	*EBD's Life Expectancy Annual RMDs*	10-Year Rule *(No Annual RMDs)*	5-Year Rule *(No Annual RMDs)*
Death After RBD	*EBD's Life Expectancy Annual RMDs*	Life Expectancy Annual RMDs & the 10-Year Rule*	Ghost *Life Expectancy Annual RMDs*

*Annual RMDs may not be required for Roth IRAs & the greater of decedent's or DB's life expectancy is used

Treas. Reg. § 1.401(a)(9)(E)(ii)(IV)

Mathematics of Roth IRA Conversions

- In simplest terms, a traditional IRA will produce the same after-tax result as a Roth IRA provided that:
  - The annual growth rates are the same
  - The tax rate in the conversion year is the same as the tax rate during the withdrawal years (i.e. A x B x C = D; A x C x B = D)

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Mathematics of Roth IRA Conversions

	Traditional IRA	Roth IRA	Life Insurance
Current Account Balance	$ 1,000,000	$ 1,000,000	$ 1,000,000
Less: Income Taxes @ 40%	-	(400,000)	(400,000)
Net Balance	**$ 1,000,000**	**$ 600,000**	**$ 600,000**
Growth Until Death	300.00%	300.00%	300.00%
Account Balance @ Death	$ 3,000,000	$ 1,800,000	$ 1,800,000
Less: Income Taxes @ 40%	(1,200,000)	-	-
Net Account Balance to Family	**$ 1,800,000**	**$ 1,800,000**	**$ 1,800,000**

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Mathematics of Roth IRA Conversions

- Tactical considerations
  - Unused charitable contribution carryovers
  - Current year ordinary losses
  - Net Operating Loss (NOL) carryovers from prior years
  - Alternative Minimum Tax (AMT)
  - Credit carryovers
  - Dollar-cost averaging to reduce the risk that the amount converted will decrease in value

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Mathematics of Roth IRA Conversions

- Critical decision factors
  - Tax rate differential (year of conversion vs. withdrawal years)
  - Use of “outside funds” to pay the income tax liability
  - Need for IRA funds to meet annual living expenses
  - No RMDs
  - Time horizon
  - Tax-free post-mortem distributions
  - Ten Year “Roth Reprieve” period
  - Estate tax considerations

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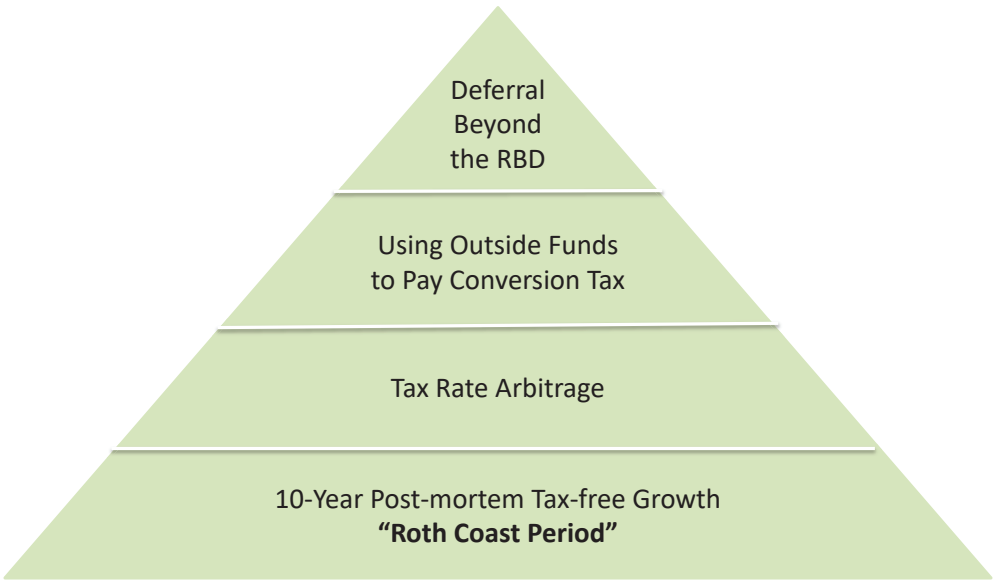
Mathematics of Roth IRA Conversions



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Roth Conversions

Frustrating Traps for the Unwary Professional & Client

- Consider the impact of Roth Conversion income on:
  - The taxation of Social Security benefits
  - Medicare part B premiums
  - ACA health insurance premium credit



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Estate Tax Considerations

- The same amount GST exemption must be allocated for a Traditional IRA or a Roth IRA – the Roth is much more efficient

		Traditional IRA	Roth IRA
Value of Assets		$ 1,000,000	$ 1,000,000
Less: Income Tax	37%	(370,000)	-
Net to Trust		$ 630,000	$ 1,000,000
GST Exemption Allocated		$ 1,000,000	$ 1,000,000

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Estate Tax Considerations

- "Missing" IRC § 691(c) deduction
  - To prevent double-taxation, a beneficiary can claim an income tax deduction for estate taxes paid on IRD
  - However, the deduction is equal to the amount of federal estate tax paid
  - The deduction state estate tax paid is "missing"

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Estate Tax Considerations

- "Fading" IRC § 691(c) deduction
  - The deduction is calculated on the date of death value
  - Post-death appreciation of pre-tax assets is not offset
  - This results in the relative amount of the deduction "fading" over time

Frozen-in-Time

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TAX SHELTERS

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Tax Shelters

- Clients will approach you with tax saving ideas.
- These will range from sound and prudent, to scams pitched by unscrupulous promoters, and many will be “grey-area” ideas.
- In general, if it sounds too good to be true, it probably is; the Tax Code has many complicated and obscure provisions to prevent abuse which are poorly understood.

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Tax Shelters

- Questionable planning ideas currently being promoted:
  - Equipment leasing
  - Conservation easements
  - Partnerships with Donor Advised Funds
  - Medical research charitable contributions
  - Phantom losses generated by Non-Economic Residual Interests in Real Estate Mortgage Investment Conduits (REMIC NERIs)

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Annual Checklist

- ❑ Bracket Management
  - ❑ Bonuses
  - ❑ Recognition events
  - ❑ Time business expenses –AMT & state tax awareness
- ❑ Itemized Deduction Timing
  - ❑ Medical expenses
  - ❑ Property tax
  - ❑ Charitable contributions
  - ❑ Casualty & theft losses
- ❑ Gain Harvesting
  - ❑ Current < Future rate ?
  - ❑ Consider forced recognition events (e.g., warrants)
- ❑ Loss Harvesting
  - ❑ Offset gains
  - ❑ $3,000 ordinary income offset
- ❑ Trump Account Funding
  - ❑ Compare savings options (e.g., 529 v Trump)
  - ❑ Capture employer & government contributions
  - ❑ Plan for exit strategy before funding

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Annual Checklist

- ❑ Retirement Planning
  - ❑ Fund IRAs
  - ❑ Fund 401ks
  - ❑ Fund pension plans
  - ❑ Optimize Traditional/Roth mix
  - ❑ Consider Roth conversions
  - ❑ Review RMDs
  - ❑ Review NUA
- ❑ Education Planning
  - ❑ Time tuition payments
  - ❑ Fund 529 plans
  - ❑ Fund Coverdell accounts
- ❑ Executive Planning
  - ❑ Review NQCD
  - ❑ Review NQSOs / ISOs
  - ❑ Review concentrated positions
- ❑ Charitable Planning
  - ❑ Consider QCD
  - ❑ Consider appreciated assets
  - ❑ Consider DAF
- ❑ Estate Tax Planning
  - ❑ Make annual exclusion gifts
  - ❑ Make medical gifts
  - ❑ Make tuition gifts

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CONCLUSION

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