

# 2019

## APCPAA Business Advisory Journal



### 2019 SCHEDULE OF EVENTS

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| <b>April 29 2019</b>    | APCPAA & Asian Business Association Networking Golf Tournament |
| <b>July 17 2019</b>     | Business Networking & Recruiting Event at XLanes LA            |
| <b>August 07 2019</b>   | Business Owners Series – Networking with New Century BMW       |
| <b>August 15 2019</b>   | 3rd Annual Networking & Business Advisory Symposium            |
| <b>September 2019</b>   | Leadership Appreciation & Transition Luncheon                  |
| <b>November 03 2019</b> | 4th Annual Board & Officer Installation Gala                   |



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## PRESIDENT'S MESSAGE



The Asian Pacific CPA Association (APCPAA) invites you to enjoy our 2nd Annual Business Advisory Journal. “Knowledge is King,” and in our professional advisory business, it is paramount for advisors to stay abreast of rapid regulatory changes and market trends.

APCPAA prioritizes professional knowledge as the cornerstone of our organization’s mission. Each year, our APCPAA Officers and Board Members contribute their time to write relevant articles to share their technical expertise on Accounting, Law, Real Estate, Banking, Wealth Advisory, and Business in General. It is our goal for the Business Advisory Journal to serve as a leading, timely, and authoritative resource for professional advisors and their clients.

APCPAA is also proud to serve as a bridge in the Asian community, by creating a professional network for Chinese, Korean, Japanese, Vietnamese, and all other Asian business professionals. Together, we can collaboratively solve all of our clients’ global business matters.

Tony Yu, ESQ, CPA, CPCU, CFP®, ACI, CLU, ChFC, PFS, CFS, TEP APCPAA President 2018-2019



# Asian Foreign Nationals – Heart – US Life Insurance



Over the past 10 years, Asian Foreign Nationals have purchased an immense quantity of US life insurance, many of which regularly exceed \$50M in coverage.

## Industry professionals attribute this commercial phenomenon to 3 main motivations:

1) “Global asset diversification.” The US economy, while it certainly has its own weaknesses and volatility, still has a proven and long-term track record of reliability and resiliency, especially when compared to other emerging Asian economies. Therefore, Asian Foreign Nationals feel safer when parking a portion of their global assets in the US.

2) The US life insurance industry is highly regulated, both in claims practices and the financial health of each company. Especially when comparing against the rest of the world, Asian Foreign Nationals feel that their US life policies will pay out as agreed upon and that the insurance companies will remain solvent.

3) Asian Foreign Nationals are able to gift an unlimited amount of premium dollars into life insurance

trusts, without incurring any gift taxes. Gifts from foreigners trigger the filing of a Form 3520, but no gift taxes are triggered. Therefore, Asian Foreign Nationals are encouraged to move a large amount of wealth into the US, and often times into irrevocable life insurance trusts that would purchase large life insurance policies which create even more financial leverage and return for their families. Because of their unlimited gifting right, Asian Foreign Nationals do not have to rely on annual gift exclusion amounts and the associated pesky Crummey withdrawal notices that are required to qualify for annual present gifts.



US life insurance companies have cautiously managed the Asian Foreign National clientele. On the one hand, the insurance companies can greatly increase current revenues by approving every submitted application, but on the other hand, the insurance companies are also worried about the mortality risks of Asian Foreign Nationals, taking into account of their high frequency of travel, potentially unreliable access to medical treatments, and uncertain actuarial mortality data.

As a result, every US insurance company imposes underwriting requirements for foreign nationals that are more strict than the requirements for domestic US applicants.



## Three common requirements include:

1. Maximum policy coverage limits due to the applicant's foreign country of residency.
2. Medical underwriting must take place on US soil.
3. Required amounts of cash deposits in a US bank account for a minimum period of time.

There are also additional practical challenges, such as the procurement and translation of medical records from the Asian Foreign National applicant's home country, and also capital outflow restrictions (like China) to move money out of their home countries to the US for paying the insurance policies.

Despite all of these hurdles, the wealth and tax planning benefits are overwhelmingly worthwhile for the Asian Foreign National clients to invest the additional efforts and monies to purchase US life insurance policies.



**Tony Yu**  
President  
& Board Member

Tony Yu is an ESQ, CPA, CPCU, CFP®, ACI, CLU, ChFC, PFS, CFS, TEP. He is the 2nd Generation Owner of DSG Business, Tax, & Wealth Planning.

Tony is also the Managing Attorney of DSG Wealth & Trust Law, a DSG-affiliated company which helps those same clients with estate planning design and implementation.

See:  
<http://www.dsgwealth.com/>



# IRC Section 199A the Qualified Business Income Deduction

The Tax Cuts and Jobs Act passed in 2017 included Section 199A that applies to sole proprietorships, partnerships, limited liability companies (LLCs), S-corporations, trusts, and estates. The maximum potential deduction is 20 percent of qualified business income (QBI).

## General Rule

The QBI deduction is effective for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026 and is equal to 20% of the taxpayer's "qualified business income" earned in a "qualified trade or business." The deduction is limited, however, to the greater of:

- 50% of the W-2 wages with respect to the qualified trade or business; or
- The sum of 25% of the W-2 wages with respect to the qualified trade or business, plus 2.5% of the unadjusted basis immediately after acquisition of all qualified property.

The deductible amount of qualified business income for each of the taxpayer's qualified trades or businesses is determined separately and added together at the individual, trust, and estate level. The sum of these amounts is then subject to a second limitation equal to 20 percent of the excess of:

- The taxable income for the year, over
- The sum of net capital gain

## Taxpayers Below the Taxable Income Threshold (\$315,000 for married filing joint, or \$157,500 for all other taxpayers)

If a taxpayer has income below the lower threshold, calculating the Sec. 199A deduction is fairly easy.

The taxpayer first (1) calculates the deductible QBI amount (20% multiply by QBI) for each qualified business and (2) combines the deductible QBI amounts to determine the combined QBI amount. The taxpayer then applies the overall taxable income limitation to the combined QBI. Thus, the taxpayer's Sec. 199A deduction is equal to the lesser of (1) the combined QBI amount or (2) the overall limitation (20% x taxpayer's taxable income in excess of any net capital gain).

## Taxpayers Above the Taxable Higher Income Threshold

If the taxpayer has taxable income above the higher threshold amount, two issues arise in the calculation of the Section 199A deduction. First, a business of the taxpayer will not be treated as a qualified business, and the income of the business of the taxpayer will not be included in QBI, if the business meets the definition of a specified service trade or business

(see Regulation Section 1.199A-5 for more information on SSTBs). Second, if a business is a qualified business (i.e., it is not a specified service trade or business), the deductible QBI amount for the business is subject to a W-2 wage and capital limitation.

Regulation Section 1.199A-5(c)(1) provides a de minimis rule that the SSTB categorization will not apply if the business has gross receipts of less than \$25 million and less than 10 percent of the gross receipts are derived from SSTB-type activity or if gross receipts exceed \$25 million and the SSTB-type activity is less than 5 percent of those receipts.

## Going Forward

Section 199A is extraordinarily complex and will continue to evolve. The full text of the regulations is available at <https://www.irs.gov/pub/irs-drop/td-reg-107892-18.pdf> and it is important that details in the regulations be reviewed when advising clients.

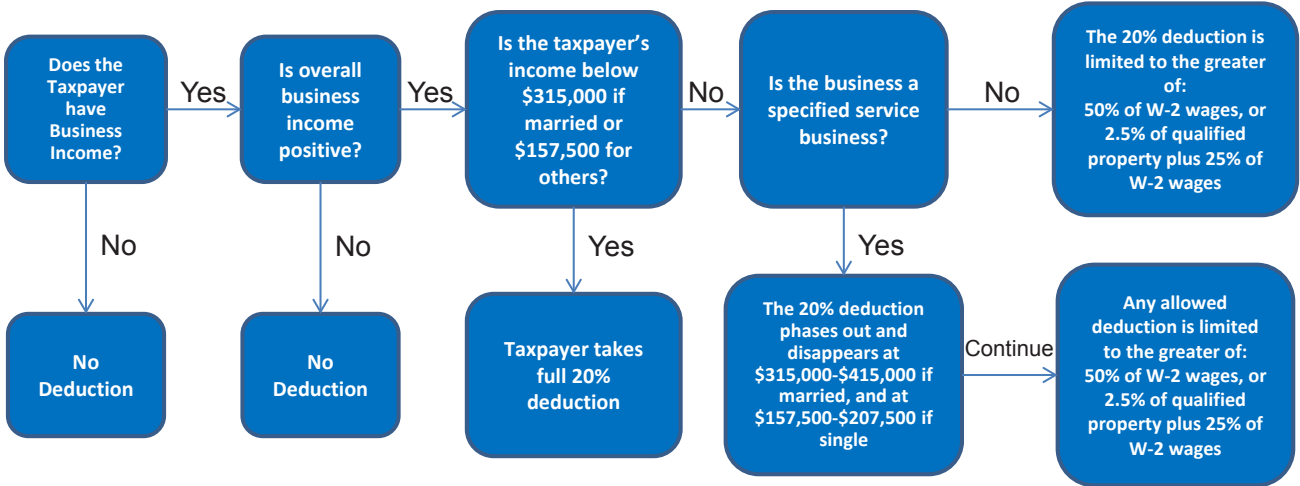


**Wendy On**  
Vice President  
& Board Member

Wendy On is a Tax Partner at Fineman West & Company where she serves as the trusted tax and business advisor for public and privately held businesses and individuals. Wendy provides business and tax planning strategies and share best practices in the industry to help companies achieve their financial goals.

See:  
<http://www.fwllp.com/>

## Section 199A Decision Tree





# Intellectual Property Enforcement Re Amazon Brand Registry

Many businesses and manufacturers rely on Amazon.com to make their products available to consumers. To help manufacturers maintain control of their product listings and protect their intellectual property, Amazon.com introduced Amazon Brand Registry. This program allows manufacturers to enroll their brand and registers themselves as the brand owner. This not only gives a certain level of regulatory power to the brand owner, but also enforces consumer trust in the registered product.

## What are the benefits of Brand Registry?

There are a number of benefits to a brand owner registered their trademarks in the Amazon Brand Registry.

### 1) Reporting

The key feature of the Brand Registry is that it helps protect your registered trademark on Amazon.com. Brand Registry facilitates the removal of counterfeit or inauthentic product listings on Amazon.com. If the inauthentic product is utilizing the Transparency by Amazon program, Amazon.com will additionally dispose of the inauthentic products.

### 2) Prioritized Product Listing Editing

Amazon.com's product listing information allows seller's to edit the descriptions. Brand registry prioritizes the information from registered brands above all other sellers in the listing, which effectively gives the brand owner added control over their product listing titles, details, images, etc.

### 3) Enhanced Brand Content

Registered brand owners have the ability to add enhanced brand content to their listings. The product conversion rate has been seen to have increased by as much as 30% from this enhanced content.

### 4) Ad Approval

Ads for brand registered products are approved by Amazon.com at an expedited rate. Amazon.com has approved ads for registered brands as quickly as 24 hours.

### 5) UPC and EAN codes

Generally, Amazon.com requires a new product listing on their site to fall under certain product identification codes, specifically UPC and EAN codes. Owners of brands in the Amazon Brand registry may also provide other attribute codes or numbers.

## What is eligible for the Amazon Brand Registry?

A brand is eligible to join the Amazon Brand Registry must:

1. Have a registered trademark
2. Be a standard character mark; a typeset word(s)/letter(s)/number(s); an illustration drawing which includes words, letters, and/or numbers; or words, letters, or numbers in a stylized form
3. Match the brand name printed on an existing product or its packaging
4. Be an active trademark
5. Be a trademark issued by the government patent and trademark offices in the United States, Canada, Mexico, India, Australia, Japan, France, Germany, Italy, Spain, the United Kingdom, and/or the European Union

## How do I register my trademark with Amazon Brand Registry?

The steps to register your brand with Amazon are straightforward. First, you may only enroll your brand if you have a "text-based mark or an image-based mark with words, letters, or numbers" registered in the country you would like to enroll from. In the United States, it must be a text-based or image-based mark with a live registration filed with the United States Patent and Trademark Office.

Next, you must sign into the Amazon Brand Registry website using your existing Vendor or Seller Central credentials.

To enroll your brand, you will need the following:

1. The Brand name with a live registered trademark
2. Trademark Registration or Serial Number
3. Images of the Brand's logo
4. Images of products and packaging carrying the brand name
5. A list of product categories in which the brand should be listed
6. A list of countries where the products are manufactured and distributed

After you have submitted this information, an Amazon representative will contact you to verify your identity and trademark. Once the information has been reviewed and verified, you will have access to the Amazon Brand Registry services.



**Tommy Wang**  
Vice President

Legal Counsel & Board Member

Tommy Wang is a Registered Patent Attorney. He is also the founder and principal of Wang IP Law Group, P.C. specializing in Intellectual Property Law. Tommy has extensive experience representing clients in both federal and state courts as well as throughout the country. He also advises numerous international clients on U.S. Patent law.

See:

<https://www.thewangiplaw.com/>



# Moving a Trust over State Lines Can Offer Tax Savings and Other Benefits



People who live in states with high income taxes sometimes relocate to a state with a more favorable tax climate. A similar strategy can be available for trusts. If a trust is subject to high state income taxes, you may be able to change its residence — or “situs” — to a state with low or no income taxes.

## What can a “trust-friendly” state offer?

In addition to offering low (or no) tax on trust income, some states:

- Authorize domestic asset protection trusts, which provide added protection against creditors’ claims,
- Permit silent trusts, under which beneficiaries need not be notified of their interests,
- Allow perpetual trusts, enabling grantors to establish “dynasty” trusts that benefit many generations to come,
- Have directed trust statutes, which make it possible to appoint an advisor or committee to direct the trustee with regard to certain matters, or
- Offer greater flexibility to draft trust provisions that delineate the trustee’s powers and duties.

- If another state’s laws would be more favorable than your own state’s, you might benefit from moving a trust to that state — or setting up a new trust there.

## Take states’ laws into consideration

It’s important to review both states’ laws for determining a trust’s “residence” for tax and other purposes. Typically, states make this determination based on factors such as:

- The grantor’s home state,
- The location of the trust’s assets,
- The state where the trust is administered (that is, where the trustees reside or the trust’s records are kept), and
- The states where the trust’s beneficiaries reside.

Keep in mind that some states tax income derived from in-state sources even if earned by an out-of-state trust.

## Making the right move

To enjoy the advantages of a trust-friendly state, establish the trust in that state and take steps to ensure that your choice of residence is respected (such as naming a trustee in the state and keeping the trust’s assets and records there). It may also be possible to move an existing trust from one state to another.

We can assist you in determining if setting up trusts in another state would help you achieve your estate planning goals.

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# Mortgage Basics - the Components of a Mortgage Payment

A mortgage payment is typically made up of four components: principal, interest, taxes and insurance.

The Principal portion is the amount that pays down your outstanding loan amount.

Interest is the cost of borrowing money. The amount of interest you pay is determined by your interest rate and your loan balance.

Taxes are the property assessments collected by your local county/city tax department. Lenders typically collect a portion of these taxes in every mortgage payment and hold the funds in an account, called an escrow account, until they are due.

Property insurance offers financial protection from risk. Like property taxes, homeowners insurance payments are typically held in an escrow account, and then paid on your behalf to the insurance company.

Homeowners insurance is required financial protection you must maintain in case your property is damaged by fire, wind, theft, or other hazards. Depending on your geographic location, you may be required to get flood insurance if your property is in a flood zone.

This covers the escrow account portion of your payment if your down payment is less than 20%, you

are required to pay a monthly mortgage insurance.

Mortgage insurance protects your lender in case you fail to repay your mortgage. This is one of the components that could be removed during the loan terms.

The requirements for removing your mortgage insurance premium (MIP) or private mortgage insurance (PMI) depend on your loan. Here are some general guidelines.



**Canceling MIP on FHA loans** (which is a type of government loan).

Depending on when you applied, FHA guidelines may allow for MIP to be canceled if you:

**Applied between January 2001 and June 2013:** MIP will be removed if you've maintained a good payment history without any 30-day late payments for the past 12 months and when you reach 78 loan-to-value (LTV) based on the original value of your home.

**Applied after June 2013:** If your original loan amount was less than 90% LTV, MIP will be removed after 11 years.



MIP cannot be canceled and will remain for as long as you have the loan if you **Applied after June 2013** and your loan amount was 90% LTV or more

**Canceling PMI** (PMI if you have a conventional loan (non-government loan) and your down payment was less than 20% at the time loan was originated)

For loans covered by the Homeowners Protection Act of 1998 (HPA), you can request to have PMI removed when your balance reaches 80% loan-to-value (LTV) based on the original value of your home. If your home's value went up since closing, you may be able to cancel your PMI earlier, based on its current value. In some cases this can happen if you've made significant improvements to your home. You'll need to get a home value assessment to confirm its value.

When you understand the components of your mortgage, how they change over time, and how they can affect equity, you are in a better position to manage it.



**Melanie Pong**  
Vice President  
& Board Member

Melanie Pong is a multilingual Private Mortgage Banker - NMLSR ID 485535 for Wells Fargo Home Mortgage with over 10 years in mortgage lending experience. Melanie is also on the Executive Board for the Asian Real Estate Association of America (AREAA) IE Chapter.

See:  
[www.wfhm.com/loans/melanie-pong](http://www.wfhm.com/loans/melanie-pong)





# Limitation on Business Interest Deduction

Interest on a business or investment related debt is a deductible expense of the borrower and taxed as income to the lender. Some corporations used to take advantage of this deduction through “earnings stripping” as a means of reducing taxable income. Code Section 163(j), enacted in 1989, curbed this activity by disallowing the interest deduction for certain interest payments, including interest paid or accrued to related parties not subject to federal income tax on the interest income, and to unrelated parties in instances where a related party guaranteed the debt.

## New Tax Law:

The TCJA overhauled Code Section 163. For tax years beginning after December 31, 2017, under new Code Section 163(j)(1), the interest deduction allowed for business interest for any tax year cannot exceed the sum of:

- The taxpayer’s business interest income for the tax year; plus
- 30% of the taxpayer’s adjusted taxable income (ATI) for the tax year; plus
- The taxpayer’s “floor plan financing” interest for the tax year (generally, pertaining to vehicle dealerships).

For taxable years beginning before January 1, 2022, a taxpayer’s ATI roughly corresponds to EBITDA, taxable income with add-backs for interest, depreciation and amortization deductions. For taxable years beginning on or after January 1, 2022, the add-back for depreciation and amortization is eliminated.

Any business interest that isn’t deductible because of the business interest limitation may be carried forward indefinitely.



## Exceptions:

This limitation applies to all taxpayers, except for certain small businesses (defined as those with average gross receipts of \$25 million or less) and certain “excepted” trades or businesses, including Real Property Trade or Businesses and Farming Businesses. An excepted trade or business must make the election. Once the election is made, the election is irrevocable. However, an excepted trade or business must use an alternative depreciation system, which requires the assets of the business to be depreciated over a longer period and forfeits the benefit of immediate expensing by using bonus depreciation for certain types of property.



## Tax Planning:

1) Interplay with Code Section 168(k), Bonus depreciation: As mentioned earlier, for taxable years beginning on or after 2022, the add-back for depreciation and amortization is eliminated. Therefore, if a taxpayer takes advantage of bonus depreciation, its “ATI” for purposes of applying Code Section 163(j) will be lower, resulting in less interest deduction. For example, taxpayers expecting to make large capital investments may wish to do so prior to 2022, so they can take advantage of the depreciation add-backs under the definition of “ATI” that exists prior to 2022. For example, a taxpayer can now purchase a \$1,000,000 of business equipment and take advantage of an increased \$1,000,000 depreciation add-back due to bonus depreciation, thus resulting in a \$300,000 single-year increase to the business interest limitation. However, after 2022, a taxpayer making the same capital investment would not get the benefit of the increased interest deduction limitation arising out of the depreciation deduction.

2) Highly leveraged taxpayers may wish to reduce their debt loads or change their capital structure to decrease their debt and increase their equity so that they are not affected by the limitation.



**Sofia Lin**  
Secretary  
& Board Member

Sofia Lin, CPA, is a tax partner with Chen & Fan Accountancy Corporation. Sofia has more than 20 years of experience serving clients in both domestic and international income tax planning, consulting, and compliance for corporation, individual, and flow-through entity taxation and related IRS and State tax audits.

See:  
<https://www.chenfan CPA.com/>



## Updates to 401(k) Hardship Withdrawals

As part of the Bipartisan Budget Act of 2018, hardship withdrawal rules in 401(k) plans were changed, making it easier to take a larger hardship withdrawal. Here are the major changes:

The first change expands the pool of money sources available for a hardship withdrawal. Under the old rule participants were only able to withdraw the salary deferral, nonelective and matching contributions made to the plan. The new rule amends section 401(k) of the Internal Revenue Code to expand the money types available for hardship withdrawal to include qualified nonelective contributions (QNECs), qualified matching contributions (QMACs), as well as earnings on salary deferral contributions, QNECs and QMACs.

The second change removes the rule that suspended contributions after taking a hardship withdrawal. Under the old rule, participants taking a hardship withdrawal from their 401(k) plan were required to suspend salary deferral contributions to the plan for the six month period following withdrawal. Not only were salary deferral contributions suspended, if employers made matching contributions participants missed out on the match as well. The new rule requires the removal of the six month suspension of deferral contributions allowing participants to continue making

deferral contributions to the 401(k) plan and, if applicable, receive matching contributions.

The last change makes it easier to take a hardship withdrawal. Under the old rule, prior to taking a hardship withdrawal a participant was required to take a plan loan if available. The new rule amends section 401(k) to remove the requirement to take a plan loan. Removing this requirement is not mandatory and many employers see the loan requirement as beneficial. Loans made from the plan are repaid back to the plan whereas hardship withdrawals are not paid back causing leakage from the plan.

While the Bipartisan Budget Act makes it easier to take larger hardship withdrawal amounts, this may not be beneficial for participants saving for retirement. A hardship withdrawal permanently reduces the participant's retirement account balance and is subject to income tax. If the participant is under 59 1/2 years old, a 10% penalty for early withdrawal is also applicable to a hardship withdrawal.

As always, hardship withdrawals should be seen as a last resort and other options for taking money out of the 401(k) plan should be considered prior to a hardship withdrawal.

## GILTI? For Owning a Foreign Company?

### What is GILTI?

The Global Intangible Low-Taxed Income (GILTI) is new provision to report certain undistributed foreign taxable income, based on the U.S. shareholder's pro rata share income of a controlled foreign corporation (CFC) when it is earned, even though it may not actually be distributed and may not actually be income from intangibles. A CFC is any foreign corporation more than 50% of the stock of which (by vote or value) is owned by U.S. shareholders on any day during the taxable year.

### Who is subject?

Any U.S. shareholder who owns, directly, indirectly, or constructively, at least 10% of the CFC (by vote or value) at the last day of the CFC's tax year is subject to GILTI tax. U.S. shareholders include:

- U.S. Citizens
- Resident Alien Individuals
- Corporations
- Partnerships
- Trusts

### How to report?

GILTI is defined to include most business income of a CFC, reduced by 10% of the adjusted tax basis of the CFC's depreciable tangible personal property (generally, plant and equipment, but not real property). C corporation U.S. shareholders (other than RICs and REITs) are eligible for a 50% deduction against their GILTI and deemed paid foreign tax credit. Individuals including partners in partnerships and shareholders in S corporations, who make the Section 962 election, are eligible for the deemed paid foreign tax credit, but are not eligible for the 50% deduction against their GILTI, which are taxed as ordinary income.

GILTI is reported on Form 8992, U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI), which is attached to the taxpayer's income tax return. Also, the U.S. shareholder must file a new Schedule I-1, Information for Global Intangible Low-Taxed Income, to Form 5471, Information Return of U.S. Person With Respect to Certain Foreign Corporations.



**Jeremy Yang** Industry Liaison & Board Member

Yang's Pension is a family owned third-party administration firm that designs and administers pension plans for small businesses. Jeremy Yang holds the Enrolled Retirement Plan Agent designation from the Internal Revenue Service (IRS), the Qualified Plan Administrator and Qualified 401(k) Administrator designations from the American Society of Pension Professionals & Actuaries (ASPPA)

See: <https://www.yangspension.com>

**Norman Ko** Board Member

Norman Ko is a co-founder of KF Professional Group, a certified public accounting firm. He serves clients in various sizes, from start-up to multi-million companies. Norman has extensive experience in audit and assurance, cash flow projection and analysis, due diligence, agreed-upon procedures, mergers and acquisitions, and business reorganization, as well as tax planning for business and individuals.

See: <https://www.kfpgcpa.com>





# What You Need to Know About Filing Gift and Estate Tax Returns

Have you made substantial gifts of wealth to family members? Or are you the executor of the estate of a loved one who died recently? If so, you need to know whether you must file a gift or estate tax return.

## Filing a gift tax return

Generally, a federal gift tax return (Form 709) is required if you make gifts to or for someone during the year (with certain exceptions, such as gifts to U.S. citizen spouses) that exceed the annual gift tax exclusion (\$15,000 for 2018 and 2019); there's a separate exclusion for gifts to a noncitizen spouse (\$152,000 for 2018 and \$155,000 for 2019).

Also, if you make gifts of future interests, even if they're less than the annual exclusion amount, a gift tax return is required. Finally, if you split gifts with your spouse, regardless of amount, you must file a gift tax return.

The return is due by April 15 of the year after you make the gift, so the deadline for 2018 gifts is coming up soon. But the deadline can be extended to October 15.

Being required to file a form doesn't necessarily mean you owe gift tax. You'll owe tax only if you've already exhausted your lifetime gift and estate tax exemption (\$11.18 million for 2018 and \$11.40 million for 2019).



## Filing an estate tax return

If required, a federal estate tax return (Form 706) is due nine months after the date of death. Executors can seek an extension of the filing deadline, an extension of the time to pay, or both, by filing Form 4768. Keep in mind that the form provides for an automatic six-month extension of the filing deadline, but that extending the time to pay (up to one year at a time) is at the IRS's discretion. Executors can file additional requests to extend the filing deadline "for cause" or to obtain additional one-year extensions of time to pay.

Generally, Form 706 is required only if the deceased's gross estate plus adjusted taxable gifts exceeds the exemption. But a return is required even if there's no estate tax liability after taking all applicable deductions and credits.

Even if an estate tax return isn't required, executors may need to file one to preserve a surviving spouse's portability election. Portability allows a surviving spouse to take advantage of a deceased spouse's unused estate tax exemption amount, but it's not automatic. To take advantage of portability, the deceased's executor must make an election on a timely filed estate tax return that computes the unused exemption amount.

Preparing an estate tax return can be a time consuming, costly undertaking, so executors should analyze the relative costs and benefits of a portability election. Generally, filing an estate tax return is advisable only if there's a reasonable probability that the surviving spouse will exhaust his or her own exemption amount.

## Seek professional help

Estate tax rules and regulations can be complicated. If you need help determining whether a gift or estate tax return needs to be filed, contact us.

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## Factoring: No Longer Just a Fashion Statement

A surge in online sales, the rise of new business models and continuous, unpredictable shifts in consumer buying habits have fundamentally changed the retail industry. Despite these changes, most companies in and outside of the consumer products industry share similar goals: to increase sales, reduce operating expenses and improve cash flow.

Accounts receivable factoring is an all-in-one, cost-effective solution that provides companies with the financing they need to fund working capital or expand their business, and at the same time provides them with protection against potential credit losses and performs their back office A/R management functions so that they can focus on sales. For years, factoring has been largely concentrated in the apparel, accessory, textile and footwear industries that sell into the retail market. Since the utilization of factoring by companies in these industries has proven successful, wouldn't the same hold true for consumer products companies in other industries such as furniture, health and beauty, consumer electronics, and housewares?

In fact, all of these industries often share the same customer base. Any consumer product company selling into retail on open terms can benefit from factoring.

Advancements in technology continue to encourage the creation of new industry niches and more product choices from top tier, second tier and third tier brands. They have become more accessible to consumers via online retail and e-commerce channels, which in turn has contributed to an increase in demand. New and established consumer electronics manufacturers therefore need access to more financing solutions to fund the production of inventory to fill those demands. Furthermore, these companies would benefit tremendously from the expertise of a factoring company to help them navigate through the retail world to grow their customer base and protect them against credit losses just as the apparel, footwear and textile industries have done for decades.

Flexible financing and A/R management solutions allow companies to expand their businesses without worrying about financial hiccups. CIT has been supporting this mission for decades and the growing marketplace is an opportunity for CIT to educate and expand into new industries as well as continue its long history of serving its valued clients.



**Teresa Huang** Board Member

Teresa Huang is a Vice President, Business Development Officer at CIT Commercial Services' Los Angeles office. She earned her MBA and BS from California State Polytechnic University and is fluent in various dialects of the Chinese language.

See: <https://www.cit.com>

## TCJA Implications for Domestic Business and Foreign Investments

Tax Cuts and Jobs Act ("TCJA") was effective for over one year now and has impacted both individual and business taxpayers significantly. This article will discuss some major changes for business as below.

### C Corporation tax rates

For tax years beginning before 2018, the C Corp has federal graduate tax rate structure with maximum tax rate of 35% and a deduction is allowed for dividends received from other taxable domestic corporation. The deduction is 70% of the dividends received, increased to 80% for a 20% owned corporation, and 100% for a member of the same affiliated group of corporations.

Effective for tax years beginning after 2017, all taxable income of a C Corp is taxes at a flat rate of 21%. The 70% dividends received deduction is reduced to 50%. The 80% dividends received deduction is reduced to 65%.

### Qualified Business Income Deduction

For tax years beginning after December 31, 2017 and before January 1, 2026, an individual taxpayer generally may deduct 20% of qualified business income ("QBI") from a partnership, S Corp., or sole proprietorship. A limitation based

on Form W-2 wages and capital is phased in when the taxpayer's taxable income exceeds a threshold amount (\$315,000 for MFJ and \$157,500 for other filing status). A disallowance of the deduction with respect to specified service trades or businesses is also phased in when taxable income exceeds the threshold amount.

### Territorial tax system

The TCJA moves the U.S. to a modified territorial tax system, through which U.S. C Corporations will not pay U.S. tax on certain profits earned outside the U.S. The way was the new law allows an exemption for certain foreign income by means of a 100% deduction for the foreign-source portion of dividends received from specified 10% owned foreign corporations. The deduction is available for dividends from any foreign corporation other than passive foreign investment companies or hybrid dividends.

**Kevin Yeh** Board Member

Kevin Yeh, CPA earned his bachelor degree in accounting from Chung Kung University in Taiwan and MBA from University of California, Riverside. Prior to start up Chen and Yeh Accountancy Corporation ("CYAC") in 2012, Kevin was with a large regional CPA firm located in southern California as audit manager serving public and private companies.





## Specializing In Tax Credits & Incentives

### Federal Work Opportunity Tax Credit (WOTC):

Federal income tax credit to the employer averaging approximately \$2,000 per qualified new hire employee who are typically employees who received food stamps (or employees living with family members of the same household) or other government assistance prior to being hired. Veterans also are qualified new hires. **The documentation must be submitted to government within 28 days from hire date.** We cannot go back; we can go forward only.

Typical clients are: franchised restaurants, nursing / senior care, supermarkets, security companies, catering companies, manufacturing, wholesaling, retailing, janitorial services, and other businesses that hire over 20 lower hourly rate or minimum wage employees. New businesses, expansions and other one-time hirings are great opportunities as well.

### Federal and State research income tax credits:

The federal credit is at a rate of 20% of the qualified research expenses (QRE); CA credit rate is 15%. Typical clients are technology startups, manufacturing businesses, software and gaming, construction & engineering, biotech and

pharmaceuticals. **Refunds can be claimed going back 3 years on the federal side and 4 years on the CA side.** For startups with net losses, there is a payroll tax election to claim refunds of the employer portion of the 6.2% Social Security payroll tax -- up to \$250,000 per year for up to 5 years.

### 30 year deferral of capital gains tax:

The capital gains tax can be deferred up to 30 years using an installment sale when an owner sells a low tax basis capital asset (e.g., real property of any kind, mineral & water rights, stock in a privately held business, partnership/LLC interest, personal residence, art collection, or other capital assets). The seller can also receive an optional business loan that is not taxable. Applies to sales of dental, insurance, law, medical, tax or other service businesses, restaurants, manufacturing, wholesaling & retailing, hotels, office towers, apartments, and other real estate (commercial & residential). This method can also be used when there is a potentially failed section 1031 like kind exchange (not able to meet the 180 day rule). The key is to plan ahead of the actual sale.

## A Look Ahead

Trump's tax reform impacts real estate investors, big or small in many different ways. One thing for sure it has brought uncertainty to the real estate market in 2019. Throughout the legislative process of the Tax Cuts and Jobs Act, the National Association of Realtors (NAR) had remained concerned that the overall structure of the bill diminishes the tax benefits of homeownership, home buyers, and its 1.2 million Realtor members. Here are some major provisions of the final bill that affect current and perspective homeowners. These provisions are effective after December 31, 2017 and will expire on December 2025.

- TCJA retains the current qualification of exclusion of gain on sale of a principal residence where the home owner must live 2 out of the past 5 years. The Senate-passed bill would have changed the qualification to 5 out of the 8 years.
- TCJA reduces the mortgage interest deduction from \$1 million to \$750,000 for new loans taken out after 12/14/2017.
- TCJA allows an itemized deduction of up to \$10,000 for the total of state and local property taxes. This limit applies for both single and married filers.

NAR has projected a slow growth in home prices of 1-3% as low supply continues to fall behind demand. However, in some of the high tax high cost local market, we will likely see declines as a result of the new tax reform restricting the mortgage interest deduction and the state and local property taxes.

On the commercial side of the real estate market, professionals related to leasing and property management will continue to stay busy due to the booming economy requiring more office and warehouse spaces. However, investors seeking commercial properties should be careful as the interest rate continue to rise while the cap rate has remained unchanged for the last 5 years. The net effect will lead to decrease in property value. The return of the commercial real estate investment outside of the urban area will continue to outperform the big cities.

"Time-on-market is starting to rise, and sales-to-list are seeing some modest discounts on active listings", says Jordan Levine, senior economist for the California Association of Realtors. For year 2019 in California, we are likely to see a less competitive market due to the rising interest rate, TCJA disfavoring homeowners, and an increasing number of people migrating out of California seeking for more affordable housings.



**Charles Lee** Board Member

Charles Lee is the CEO of Reliant Tax Consulting, Inc. which specializes in certain income tax credits & incentives. There are over \$30 billion of tax credits claimed every year to save on income taxes. Charles has over 27 years of experience as an income tax planner reducing and deferring income & capital gains taxes. Reliant works with CPAs and other professionals -- we do not replace CPAs.

See: <https://www.reliantez.com>

**Paul Yang** Board Member

Paul Yang, MBA, CCIM is the founder and the president of PYC Commercial, City of Industry, CA. Paul have been working closely in partnership with business co-operation lawyers, accountants, business administrators, insurance companies, commercial lenders and banks. Over hundreds and hundreds of transactions, Paul has become one of the top salesperson of RE/ MAX.

See: <https://www.pycfinancial.com>





# Building an On-Off Switch into Your Estate Plan

The right estate planning strategy for you likely is the one that will produce the greatest tax savings for your family. Unfortunately, there can be tension between strategies that save estate tax and ones that save income tax. This is especially true now that the Tax Cuts and Jobs Act nearly doubled the gift and estate tax exemption — but only temporarily. Through 2025, income tax might be a greater concern, but, after that, estate taxes might be a bigger issue.

Fortunately, it's possible to build an “on-off switch” into your estate plan.

## Why the conflict?

Generally, the best way to minimize estate taxes is to remove assets from your estate as early as possible (through outright gifts or gifts in trust) so that all future appreciation in value escapes estate tax. But these lifetime gifts can increase income taxes for the recipients of appreciated assets. That's because assets you transfer by gift retain your tax basis, potentially resulting in a significant capital gains tax bill should your beneficiaries sell them.

Assets held for life, on the other hand, receive a stepped-up basis equal to their fair market value on the date of death. This provides an income tax advantage: Your beneficiaries can turn around and sell the assets with little or no capital gains tax liability.

Until relatively recently, estate planning strategies focused on minimizing estate taxes, with little regard for income taxes. Why? Historically, the highest marginal estate tax rate was significantly higher than the highest marginal income tax rate,

and the estate tax exemption amount was relatively small. So, in most cases, the potential estate tax savings far outweighed any potential income tax liability.

Today, the stakes have changed. The highest marginal estate and income tax rates aren't too different (40% and 37%, respectively). And, the gift and estate tax exemption has climbed to \$11.40 million for 2019, meaning fewer taxpayers need to be concerned about estate taxes, at least for now.

## Flipping the switch

With a carefully designed trust, you can remove assets from your taxable estate while giving the trustee the ability to direct the assets back into your estate should that prove to be the better tax strategy in the future. There are different techniques for accomplishing this, but typically it involves establishing an irrevocable trust over which you retain no control (including the right to replace the trustee) and giving the trustee complete discretion over distributions. This removes the assets from your taxable estate.

If it becomes desirable to include the trust assets in your estate because income taxes are a bigger concern, the trustee can accomplish this by, for example, naming you as successor trustee or granting you a power of appointment over the trust assets.

Of course, irrevocable trusts also have their downsides. Contact us to discuss what estate planning strategies make the most sense for you.

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## Behavioral Finance in Investing

Behavioral finance is a relatively new field that seeks to explain why people may at times make irrational financial decisions. Understanding some of the pitfalls of irrational financial behavior will provide an edge when it comes to long term investing.

### Anchoring:

Anchoring is a common practice by investors to base decisions on irrelevant figures or statistics. For example, some investors look at the performance of a particular bond or stock index and then compare that performance with how your own investment did. However, it may not be appropriate if your portfolio is concentrated or holds very different stocks than that of the Dow Jones Index. When it comes to avoiding anchoring, there's no substitute for rigorous critical thinking. Be careful about which figures you use to evaluate a stock's potential and not fixate on a random historical price.

### Herd Behavior:

This is the tendency for individuals to mimic the actions (rational or irrational) of a larger group. Investors with a herd-mentality typically buy and sell their investment assets in pursuit

of the newest and hottest investment trends. Unfortunately this usually leads to higher trading costs and losing money as they enter into the stock too late and after other investors already took advantage of the news. The best way to avoid the herd mentality is to always do your homework before following any trend and steer clear of the herd.

### Confirmation bias:

In investing, confirmation bias suggests that an investor would be more likely to look for information that supports his original idea rather than looking at all the facts. When receiving a "hot" stock tip the investor research will focus on all the positive data for the stock and ignore the red flags that are encountered. Avoid confirmation bias by seriously considering all the data relevant to your analysis, particularly those contrary to your initial theory.

These are just some of the common behavioral biases that every investor should be aware of when looking at the investment decision process. Proper analysis and awareness of these tendencies will make for stronger long-term investing performance.

## Knowledge is Power: How Data Fuels Tomorrow's Economy



I've wondered what the world would be like if the Dodgers could just win another World Series. It's been over 30 years! Part of the joy and frustration is that the Dodgers have made it to the World Series the last two years, only to lose. When I watch these games, I can't help but think how much baseball has evolved since the Dodgers last won the World Series. Like most baseball teams, Data Analytics is used to select players based on predicting an outcome, such as home runs, outs, or hits. Well sports fans, Data Analytics is not just for baseball anymore.

Data Analytics and Benchmarking are no longer relegated to the upper echelons of the S&P 500 but rather all businesses with the keen sense to extract this data can use it to their advantage.

Data Analytics represents that knowledge is power. This information will fuel tomorrow's economy by giving companies honest, and at times unforgiving, insights about themselves and their target clients. Using Data Analytics in conjunction with Benchmarking allows Companies to compare their performance to their industry group. This can open new doors but can also reveal threats and weaknesses. Knowing where we stand against our peers is important but knowing how to use this information to provide meaningful results is Data Analytics.

For companies to use Data Analytics and Benchmarking effectively, they must understand its purpose, whether to win the World Series or to win that next client. Companies must have the ability and resources to gather, evaluate and develop insights from this information. Lastly, these insights derived from the data must be turned into actions. The Dodgers have used this effectively, but have fallen short, which proves to me that their Data Analytics is good but not perfect.



### Alan K. Chuang Board Member

Alan K. Chuang, a Chartered Financial Analyst charterholder, Certified Financial Planner practitioner, and Certified Public Accountant, has been involved in the finance industry for almost 20 years. Alan's varied investment and business experience and academic background provide a unique set of skills and perspective in serving the investment and wealth management needs of his clients.

See: <http://twotalents-asn.com/>

### Keith Hamasaki Board Member

As a CPA and trusted advisor with over a decade of experience, Keith Hamasaki specialize in audit and business advisory services to emerging and middle market companies in areas such as process improvement, internal controls, and technical GAAP implementation.

See: <https://www.krostcpas.com/management/keith-hamasaki>





## L-1A & EB-1C Green Card in the Trump Era

The L-1A intracompany executive transfer and its associated EB-1C permanent green card have been the popular choice of immigrating into the U.S. The benefits over the traditional EB-5 route are mainly: short wait time to enter and live in the U.S. (3-4 months); and faster green card. This path is common for foreign entrepreneurial business owners who want to avoid the long EB-5 wait, come into the U.S. with their family members faster, and start their American lives earlier. Great!

However, we are witnessing unprecedented high failure rates, especially in the L-1A Renewal and EB-1C petitioning stages the past two years. What has changed? How can we better advise our clients?

### The Problem

While a Start-Up L-1A can be approved within a few months to allow the foreigner quick entry into the U.S., the immediate hurdle thereafter is the L-1A Renewal. Many L-1As fail at this stage, because the U.S. start-up is unable to establish itself as a stable operation that can support a high-level executive. If the case fails at the Renewal stage, then it is likely the foreigner and family members would have to quickly exit the U.S. This is devastating to the business as well as family members, especially children attending school.

So, what is a stable operation that can support the position of a high-level executive? It is an operation with distinct job positions of varying ranks and qualification requirements, whereby the foreigner directly manages others occupying high management positions and have those then manage others below. The U.S. company will also need to establish reporting structure and salary range.

### Recommendations

The laws of L-1A and EB-1C are silent on how many W-2 employees and how much profitability a U.S. company needs to achieve. This is unlike the EB-5, where the minimum investment and the number of jobs needed to be created is written into law. For many petitioners, pursuing the L-1A and EB-1C feel like going to a gun range not knowing where the target is.

Fear not. For a new L-1A facing renewal, we recommend hiring at least eight W-2 employees of varying salary with corresponding sales figures sensible to the industry. For a successful EB-1C petition, we recommend having at least twelve W-2 employees.

Each case is unique. The best advice is to have professional, tailored solution to a smooth immigration path.

## Business Email Compromise Is a Constantly Evolving Trend and It's Occurrence Continues to Rise

A growing wave of email phishing known as Business Email Compromise is finding success across organizations globally. It makes up nearly 27% of all email fraud.<sup>1</sup> BEC is a sophisticated scam characterized by tricking businesses into making fraudulent changes to supplier and customer accounts and targeting individuals that perform wire transfer payments. Bad actors compromise legitimate business email accounts through social engineering or computer intrusion to conduct the unauthorized transfer of funds.

### What you should know BEC scams are continuously changing

BEC scams continue to grow, evolve and target all size and business segments. Between January 2015 and December 2016, there was nearly a 2400% increase in this type of scam. BEC is reported in all 50 states, in 131 countries and the latest figures show that it's exceeds \$12B in total losses since 2013.<sup>2</sup>

### Top Email Schemes

- **CEO scam** - a fraudulent message appears addressed from a senior executive within the company to execute a payment.
- **Supplier email** - an email is addressed from a supplier's spoofed email address requesting a change in beneficiary account.

- **Attorney email** - A business acquisition email appears addressed from an attorney with a fraudulent payment account because the bad actor has compromised a third party.

- **Non-financial data phishing scheme** - a spoofed Instruction to send personal information other than payments, like payroll records.

### Best Practices

If you receive a suspicious email, be mindful of the following:

### If you "don't recognize" the sender:

- Avoid clicking on links or opening attachments.
- Do not "reply" to the email, as you will be responding to a bad actor and not the legitimate contact.
- Report the email to your IT or information security department.



**Danny Chen** Board Member

Danny Chen practices immigration law and is based in Orange County, California. He has served as expert witness on immigration related litigation cases, and has been a panel speaker for the American Immigration Lawyers Association.

See: <https://www.greenmaplelaw.com>

**Joey Fan** Board Member

Joey Fan is a Vice President, Senior Relationship Manager for Bank of America's City of Industry San Gabriel Valley Business Banking Group. Joey joined Bank of America Merrill Lynch in 2015. Prior to joining the bank, he was a Business Relationship Officer, Business relationship Manager and Business Client Advisor for the Los Angeles, Inland Empire / Orange Business Banking Group of Union Bank for 13 years.

See: [https://www.bofaml.com/content/boaml/en\\_us/home.html](https://www.bofaml.com/content/boaml/en_us/home.html)





# APCPAA EVENTS

