



# After The Elections: **TAXES**

By

**Rick Lazio and Dean Zerbe** of alliantgroup



# alliantgroup<sup>®</sup> IN NUMBERS

FOUND  
MORE  
THAN

**\$10  
BILLION**

IN GOVERNMENT  
INCENTIVES

**\$10**

**BILLION**

IN GOVERNMENT  
INCENTIVES

MORE THAN  
**50,000**  
STUDIES  
COMPLETED

PARTNERSHIPS  
WITH MORE THAN  
**4,000**  
CPA FIRMS

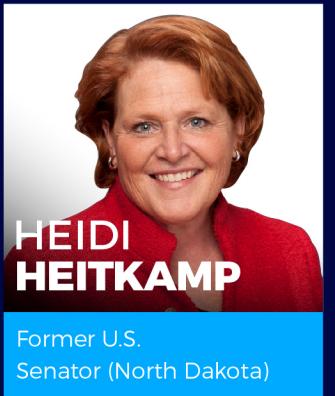
MORE THAN  
**18,000**  
BUSINESSES  
SERVED

MORE THAN  
**165,000**  
JOBS  
CREATED

THE

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Former IRS Acting  
Commissioner



**KATHY  
PETRONCHAK**

Former IRS Commissioner  
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**TOM  
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Former U.S. Secretary  
of Homeland Security



**MIKE  
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**DEAN  
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Former Sr. Counsel, U.S.  
Senate Finance Committee



**DAWN LEVY  
O'DONNELL**

Former Counsel, U.S.  
Senate Finance Committee



**FRANK  
TIRELLI**

Former CEO/Chairman,  
Deloitte | Deloitte Italy



**JIM  
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Former COO, Grant  
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## **ENFORCEMENT**

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Commissioners:

MARK W. EVERSON  
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## **LEGISLATIVE**

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Former Counsels  
to the Senate  
Finance  
Committee:

DEAN ZERBE  
DAWN LEVY  
O'DONNELL



The logo for alliantgroup, featuring the company name in a bold, lowercase, sans-serif font. The 'a' is blue, while the rest of the letters are white, set against a dark blue background.

## **INDUSTRY EXPERTS**

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PhDs



## RICK LAZIO

alliantgroup Senior Vice President



Rick Lazio is a former U.S. Representative from New York serving in Congress from 1993-2001. While there, he became a strong advocate for small businesses by sponsoring the successful Small Business Tax Fairness Act.

After Congress, Rick moved to the private sector working for JP Morgan Chase as a Managing Director and then Executive Vice President. Rick is committed to his continued interest and support of small to mid-sized businesses by brokering his insight and experience in the public and private sectors to provide strong incentives for job growth. Lazio has appeared across multiple media outlets, including:

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## DEAN ZERBE

**alliantgroup National Managing Director**



Dean Zerbe served as Senior Counsel and Tax Counsel to the U.S. Senate Committee on Finance, where he worked closely with the Chairman (and currently Ranking Member) of the Finance Committee, Senator Charles Grassley (R-IA) on tax legislation.

During his time on the Finance Committee, Zerbe personally shaped several major pieces of tax legislation that were signed into law. Zerbe has appeared across multiple media outlets, including:



## KEEP IN MIND

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- Congress, not the President, enacts new tax laws
- These changes could be effective the date of enactment, prospectively to the beginning of next tax year, or even retroactively to the beginning of 2021

## COVID RELIEF - TAXES

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- PPP Extension
- PPP Deductibility of Expenses
- Employment Retention Credit – Expansion
- Health and Safety Credit
- Checks to Individuals
- Unemployment Expansion/Extension
  
- McConnell Proposal
- Bipartisan Proposal

# POTENTIAL BUSINESS TAX CHANGES

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## **CORPORATE TAX RATE NOW**

- Tax Rate: 21%

## **PROPOSED BIDEN PLAN**

- Raise rate to 28%
- C Corporations with over \$100 million in book income to pay the greater of the normal corporate tax liability or 15% of book income, whichever is more

# **SMALL BUSINESS DEDUCTION**

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## **CURRENT LAW**

- Section 199 - allows for a 20% deduction for pass through income by certain small businesses

## **PROPOSED BIDEN PLAN**

- Phase out the Section 199 Deduction for income over \$400,000

## LIKE-KIND EXCHANGES

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### **CURRENT**

- Section 1031 allows the deferral of tax on gain from sale of real estate

### **PROPOSED BIDEN PLAN**

- Biden wants to eliminate "unproductive tax cuts for high-income real estate investors"

# DEPRECIATION

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## **CURRENT**

- 100% depreciation on qualified property through 2022, then phases down each year through 2026

## **PROPOSED BIDEN PLAN**

- Increase the depreciable life of rental real estate

# BUSINESS TAX CREDITS

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## **PROPOSED BIDEN PLAN**

- Expand the New Markets Tax Credit and make it permanent
- Expand the Work Opportunity Credit to include military spouses
- Expand the Low-Income Housing Tax Credit - tax credit for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income Americans
- Give tax credits for investments in infrastructure, green energy, transportation and manufacturing

# ENERGY PLANS

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## **PROPOSED BIDEN PLAN**

- Restore the tax credit for residential energy-efficiency improvements
- Permanently extend the residential solar investment tax credit

## POTENTIAL INDIVIDUAL TAX RATE

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### **CURRENT**

- Top marginal rate is 37% for income over \$518,400 (single) and \$622,050 (married filing joint) (MFJ). These rates will expire after 2025.

### **PROPOSED BIDEN PLAN**

- Raise the top marginal rate to the pre-TCJA of 39.6% for income above \$400,000

## PAYROLL TAXES

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### **CURRENT**

- Social Security wages, capped at \$137,700 in 2020 are taxed at 12.4% (6.2% paid by the employer, and 6.2% paid by the employee)

### **PROPOSED BIDEN PLAN**

- Additional Social Security tax 12.4% on wages of \$400,000. No social security taxes on wages between the base & \$400,000.

# CAPITAL GAINS

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## **CURRENT**

- Top tax rate is 20% for capital gains and qualified dividends if you are single and has income above \$441,450 with income above \$496,000. Additionally, a Net Investment Income Tax of 3.8%

## **CAPITAL GAINS (con't)**

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### **PROPOSED BIDEN PLAN**

- Tax capital gains and qualified dividends at ordinary rates for taxpayers with \$1 million or more of income
- Eliminated “carried interest” provision that allows certain fund managers to pay capital gains rate on then carried interest

## DEDUCTIONS

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### **CURRENT**

- Standard deduction for MFJ is \$24,800 (\$12,400 for single).  
After 2025, the standard deduction reverts back to pre-TCJA rates (\$13,000 for MFJ and \$6,500 for single)

### **PROPOSED BIDEN PLAN**

- Limit itemized deductions so tax benefit of the deductions are capped at 28%

## OTHER INDIVIDUAL CREDITS

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### **CURRENT**

- Earned Income Tax Credit - credit if you qualify - qualifications are based on earned income, AGI, meeting basic rules relating to filing status, income earned, and children
- No credit for first time home buyers
- No tax credit for renting a home

## **OTHER INDIVIDUAL CREDITS (CON'T)**

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### **PROPOSED BIDEN PLAN**

- \$5,000 refundable tax credit for first time home buyers up to \$15,000
- New renter's credit to reduce the rent and utilities to 30% of income for low income households

## ESTATE & GIFT

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### **CURRENT**

- Currently, the estate and gift tax exemption is \$11,580,000, beginning in 2026 will go back to pre-TCJA amounts of approximately \$5 million per taxpayer indexed for inflation, and top tax rate is 40%
- Transfer of appreciated property at death gets a stepped-up basis

## ESTATE & GIFT (CON'T)

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### **PROPOSED BIDEN PLAN**

- Eliminate stepped-up basis on transfers of appreciated property at death
- Return the estate tax to 2009 levels with a top tax rate of 45% and an exemption amount of \$3.5 million per taxpayer

QUESTIONS?

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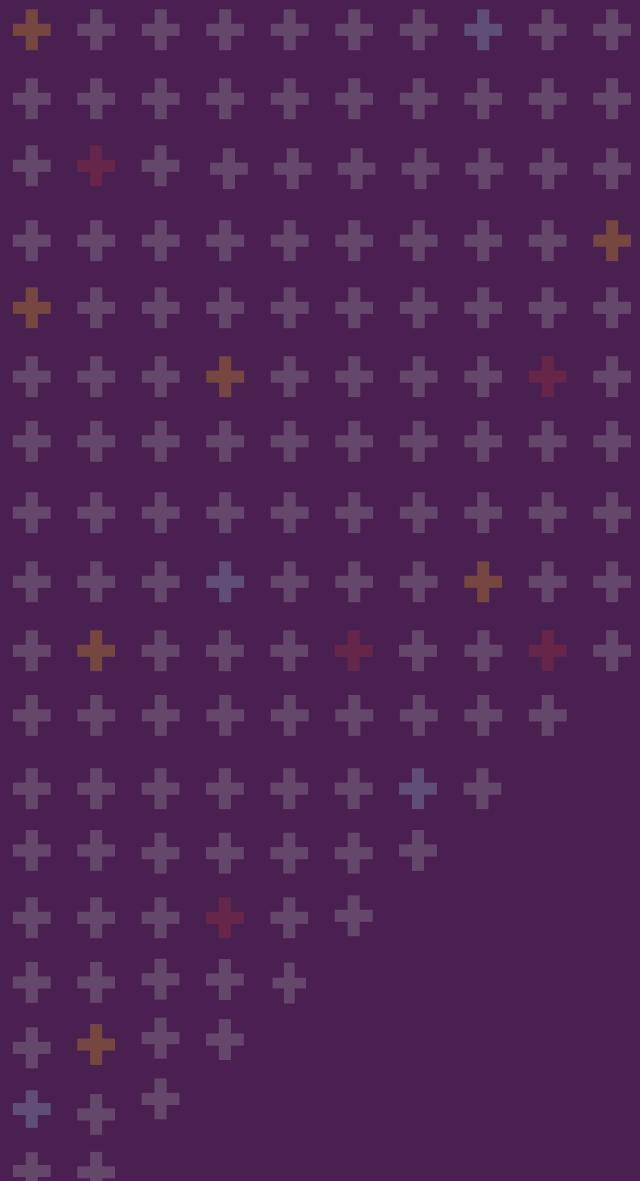
**THANK  
YOU!**

Please feel free to reach out if you have any further questions.

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# 2020 Federal Tax Update

December 2, 2020

# Presenter

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**Rick Woods**

CPA

Partner



# MCM CPAs & Advisors

## + What We Do:

- + MCM is a large regional CPA and advisory firm employing more than 350, including more than 160 CPAs. We serve both privately and publicly held businesses, non-profit organizations, small businesses and individuals

## + Mission: We exist to help both our clients and team succeed.

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**People Matter** – We genuinely care about our people, personally and professionally, and ensure relevance in their work.



**Leaders Inspire** – We inspire each other to sustain our vision and advance our mission as a firm.



**Excellence Rules** – We are committed to superb client service, high quality expertise and significant client relationships.



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# Items To Cover

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- + 2020 Key Legislation
  - + FFCRA
  - + CARES Act
- + 2019 SECURE Act
- + 2020 Key IRS/Treasury Developments
- + Where Do We Go From Here?



# Families First Coronavirus Response Act ("FFCRA")

# Paid Leave

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- + Currently enacted through December 31, 2020
- + Employers with fewer than 500 employees (mandatory)
- + Paid sick leave to employees forced to stay home due to:
  - + Quarantining or to care for a family member ("qualified paid sick leave")
  - + Care for child if school or place of care is closed ("qualified family leave")
- + Employer compensated through a refundable credit against the employer share of payroll tax

# CARES Act Tax Provisions

# Deferral of Employer Payroll Tax Payments

- + Employers and self-employed individuals can defer payment of the 6.2% employer share of Social Security taxes on employee wages otherwise required to be remitted after the date of the enactment.
- + Half of the deferred amount would be required to be paid by the end of 2021 and the rest by the end of 2022.



# Deferral of Employer Payroll Tax Payments

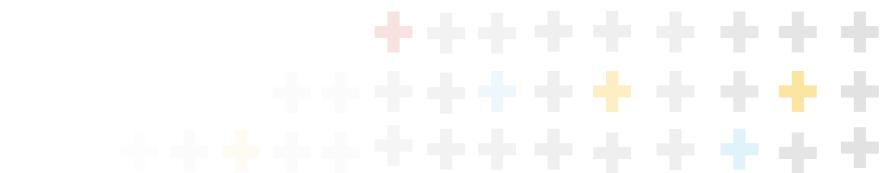
- + *Important Note!*
- + Cash basis taxpayers – any amount not remitted by 12/31/20 is not deductible on 2020 returns
- + Accrual basis taxpayers (recurring item exception for economic performance) – any amount not remitted by 9/15/21 is not deductible on 2020 returns
- + *Tax Planning Tip - consider whether you want to accelerate payment to pull deduction back into 2020*



# Revive & Enhance Net Operating Loss Carryback Refund Claims



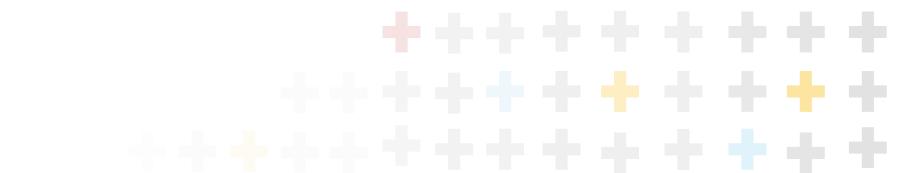
- + The provision in the bill removed the NOL limitations in the TCJA (which limited the deduction to 80% of taxable income and repealed carryback provisions).
- + It restores and enhances NOL carrybacks so that a loss from 2018, 2019, or 2020 can be carried back five years to obtain a refund of taxes paid in those years, and temporarily removes the taxable income limitation to allow an NOL to fully offset income.



# Elimination of Loss Limitations

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- + TCJA limited the amount of business loss that can offset nonbusiness income to \$250,000 for single taxpayers and \$500,000 for married taxpayers.
- + A provision in the CARES Act modifies the limitations on business losses applicable to pass-through businesses and sole proprietors, so they can also benefit from the NOL carryback rules above.
- + Applies to tax years beginning before January 1, 2021.



# Acceleration of Refunds for AMT Credit Carryovers

- + The TCJA eliminated the corporate alternative minimum tax but allowed corporations to claim a refundable credit of any unused portion through 2021.
- + The bill accelerates the year for which a fully refundable credit can be claimed from 2021 to 2019 and allows corporations to elect to claim the fully refundable credit in 2018.



# Increasing Deductions for Business Interest Expense

- + The business interest limitation under IRC Section 163(j), currently set at 30% of adjusted taxable income, would be set at 50% for 2019 and 2020 for corporations (including S corporations) and individuals.
- + For partnerships the increase to 50% of adjusted taxable income is delayed until taxable years beginning in 2020. A partner receiving an allocation of suspended interest in 2019 is permitted to deduct half of such interest in 2020, with remaining subject to previous carryover regime.



# QIP Technical Correction

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- + The bill addressed the so-called “retail glitch” to clarify that Qualified Improvement Property (“QIP”) is 15 year property under MACRS and eligible for 100% bonus depreciation
- + QIP is defined as any improvement to an interior portion of a building which is nonresidential real property if the improvement is placed in service after the date the building was first placed in service by the taxpayer and is not an enlargement of the building, an elevator or escalator, or part of the internal structure framework of the building



# Employee Retention Credit

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- + Subject to certain eligibility requirements and limitations, a one-year only credit is allowed against the employer's 6.2% share of Social Security payroll taxes for any business that is forced to suspend or close its operations due to COVID-19, but that continues to pay its employees during the shut-down.
- + The credit, which can be claimed on a quarterly basis, is equal to 50% of qualified wages paid but is capped at \$10,000 in aggregate per employee for all quarters.
- + The credit applies to wages paid after March 12, 2020 and before January 1, 2021. This credit is very similar to the paid leave credits granted to employers under the Families First Coronavirus Response Act, but significantly neither the employee nor the employer have to be directly impacted by infection.



# 2020 Recovery Rebates for Individuals

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- + The act provides direct payments of up to \$1,200 for individuals and \$2,400 for married couples, along with an extra \$500 per child.
- + Assistance would start to phase out for individuals earning more than \$75,000 and for couples with more than \$150,000 in income (complete phase-out at \$99,000 single and \$198,000 for couples).
- + In order to be eligible for the rebate, the individual must not be: 1) a nonresident alien, 2) able to be claimed as a dependent on another's tax return, 3) an estate or trust, and 4) must have included a SSN for both the taxpayer, the taxpayer's spouse, and eligible children.

# Penalty Free Early Withdrawals from Retirement Accounts



- + The bill provides special use for use of retirement funds
  - + Early withdrawal penalties waived on coronavirus related distributions to \$100k
  - + Taxation of distributions to be spread over three years
  - + Allow individuals to return distributions to the retirement account over three years, with such redeposits not subject to annual contribution limits.
  - + A coronavirus-related distribution is a distribution during the 2020 calendar year to an individual: (1) who is diagnosed with COVID-19, (2) whose spouse or dependent is diagnosed with COVID-19, or (3) who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary.

# Increased Deductions for Charitable Contributions

- + A provision in the bill increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the 60-percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income for the 2020 tax year. Note – applies to cash contributions directly to public charities (contributions to donor advised funds do not qualify).
- + The bill would provide an above-the-line deduction of up to \$300 for charitable contributions made in cash during 2020 for taxpayers that do not itemize deductions. Existing income limits would not apply to the new deduction. The new deduction would not be available for contributions to a donor-advised fund.



# SECURE Act Provisions

# Setting Every Community Up for Retirement Enhancement Act (SECURE)

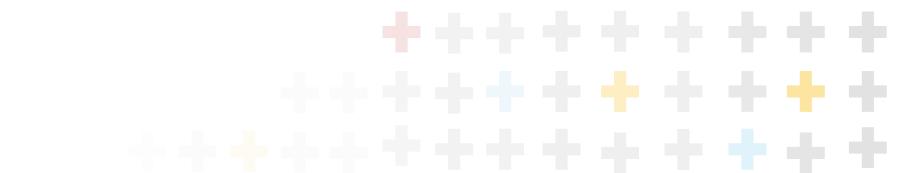


- + Effective January 1, 2020
- + Made several changes to retirement plan withdrawal rules
- + Required Minimum Distributions (RMDs) start at age 72
  - + RMDs begin April 1 of the year following the calendar year in which you reach age 72
- + Qualified plan beneficiary rules (after plan participant passes)
- + Old rules: most designated beneficiaries of an inherited retirement account could take required minimum distributions based on their own life expectancy
  - + Often referred to as a "stretch" IRA, this allowed the beneficiary to stretch distributions over their lifetime, thereby also continuing the tax deferral on earnings and appreciation in the retirement account out over a longer period



# SECURE Act

- + New Rules: (SECURE Act): largely eliminates the ability to "stretch" withdrawals out from inherited retirement accounts over a beneficiary's lifetime. Now distributions must be made over 10 years.
- + Five classes of beneficiaries still get to "stretch" the distributions over their own life expectancy:
  - (1) The participant's surviving spouse (caution if a trust is the beneficiary)
  - (2) Minor children of the participant (10-year rule at age of majority)
  - (3) Disabled beneficiaries (strict requirements)
  - (4) Chronically ill individuals (strict requirements)
  - (5) Beneficiaries less than 10 years younger than the plan participant
- + The surviving spouse may also roll over the inherited benefits into their own IRA
- + Also applies to Roth IRAs



# IRS & Treasury Developments

# Tax Filing Deadlines Postponed

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- + On March 20 IRS issued Notice 2020-18
- + Tax return filing and payment deadline postponed April 15<sup>th</sup> filing deadline to July 15<sup>th</sup>
- + Automatic (no extension required to be filed)
- + Includes first & second quarter estimated taxes (due 4/15 & 6/15)
- + No interest or penalties due on any unpaid tax
- + Most states and localities followed suit



# PPP Loan Forgiveness Tax Issues

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- + CARES Act provided forgiveness income is not taxable income
- + However IRS Notice 2020-32 provides that no deduction will be allowed for expenses paid with PPP loan proceeds (not what Congress intended)
- + Congress could act to restore the deduction through legislation but to date this has not occurred, despite broad bi-partisan support



# PPP Loan Forgiveness Tax Issues

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- + Timing dilemma – expenses paid in 2020, but in many taxpayers haven't yet applied for forgiveness and don't anticipate having their application approved by their bank and SBA until 2021
  - + In this situation, can you still deduct expenses in 2020 (and presumably recognize income under tax benefit rule in 2021)?
  - + IRS has taken the position if the taxpayer "reasonably expects to receive forgiveness" that the expenses are not deductible in 2020 (Revenue Ruling 2020-27)
  - + If reasonable uncertainty surrounding forgiveness still exists as of date 2020 return needs to be filed, should you take the deduction for the expenses on the 2020 return (and presumably disclose)?
- 

# PPP Loan Forgiveness Tax Issues

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- + What if the SBA ultimately doesn't forgive the loan? Revenue Procedure 2020-51 provides option to either:
  - + Deduct in 2020 on originally filed or amend return, or
  - + Deduct in 2021
- + Consider how forgiveness will be accounted for on the GAAP books (remember IRC Section 451(b)(1)(C) conformity rule)
- + Consider interaction with R&D tax credit
- + *This is a tax planning nightmare!!! Congress needs to fix this!!!*



# Employee Payroll Tax Deferral Order

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- + Withholding and payment of the 6.2% employee share of FICA would be deferred on wages paid between September 1, 2020 and December 31, 2020
  - + The order only applies to employees with bi-weekly pre-tax income of less than \$4,000 (\$104k annually)
  - + Implementation by the employer has been assumed to be optional
  - + *The order provides a short term deferral only and these taxes still have to be collected and paid over a four month period (January through April 2021)*
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# Final and Proposed Regulations Issued Section 163(j) Business Interest Limitation



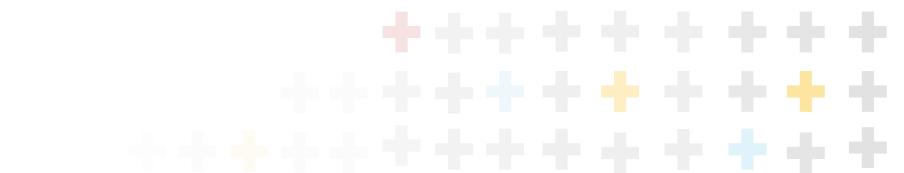
- + After issuing proposed regulations in December 2018, the IRS in late July 2020 published final regulations, as well as new proposed regulations that address other technical matters previously covered
- + The final regulations generally adopt rules from the proposed regulations with some modifications
- + One significant change applies to taxpayers with inventory that are subject to Section 263A capitalization requirements
- + Reversing an unpopular provision in the proposed regulations, the final regulations allow taxpayers to add back to tentative taxable income any depreciation or amortization that is capitalized into inventory under Section 263A (this is good news!!!)



# Captive tax update

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- + For the first time in 2020, Section 831(b) Micro-captives were not included on the IRS "Dirty Dozen" list
- + Regardless there is no question challenging "abusive micro-captive transactions" remains a high priority for the IRS
- + Notice 2016-66 disclosure requirements remain in effect (CIC Services v. IRS currently before Supreme Court)
- + The IRS announced the formation of 12 new examination teams focused on captive audits
- + "Soft warning letters" were sent to thousands of captive owners in March suggesting that if the captive isn't planning to shut down an audit is inevitable



# Where Do We Go From Here?

# President-Elect Biden Tax Proposals

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- + Increase the corporate tax rate from 21% to 28%
  - + Minimum tax on corporations with book profits of >\$100M
  - + Increase top rate individual rate back to 39.6%
  - + Phase out QBI deduction for incomes above \$400k
  - + Increase top marginal rate on capital gains to 39.6% for taxpayers earning more than \$1M annually
  - + Decrease lifetime exemption amount from \$11.58M to \$3.5M per person
  - + Increase the estate tax rate from 40% to 45%
  - + Eliminate stepped up basis for heirs
  - + Restore limitation on itemized deductions for higher incomes
  - + Eliminating the wage cap on FICA tax for taxpayers with incomes above \$400k
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# President-Elect Biden Tax Proposals

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- + Prospects for passage?
- + Potential “blue wave” did not happen
- + Current tax planning assumptions for 2021
  - + General assumption is that no comprehensive tax changes end up being passed in 2021 (divided government scenario)
  - + Continue to watch GA senate races and impact on GOP Senate majority

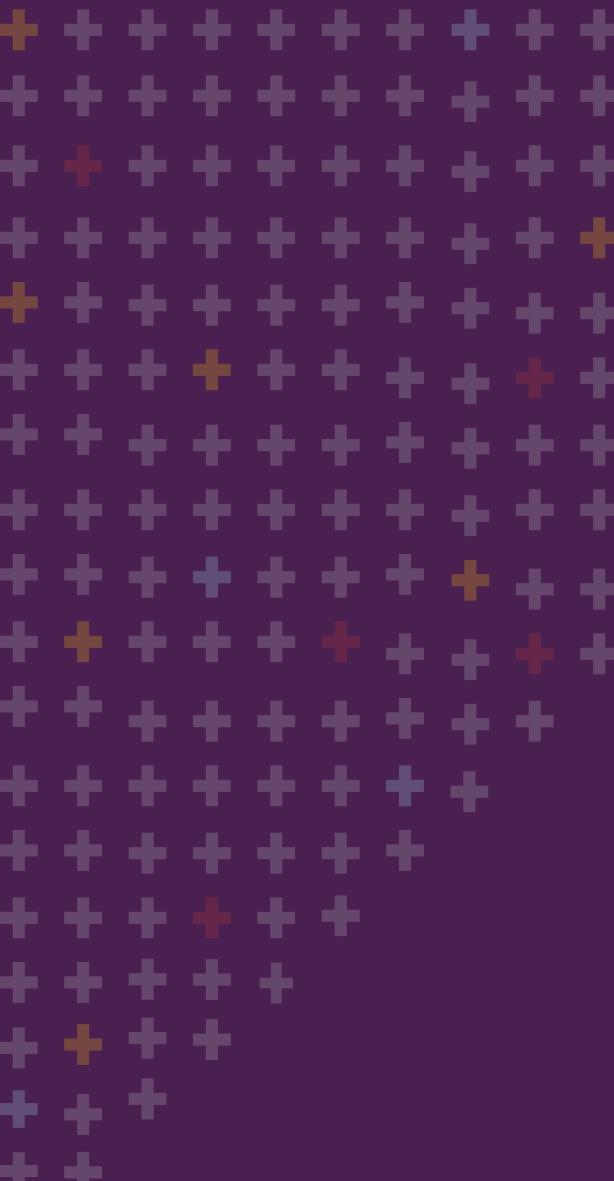


# Status of “CARES 2” Legislation

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- + House passed the HEROES Act in May 2020
- + Senate HEALS Act framework released in late July 2020
  - + Included various tax-related provisions including additional 2020 recovery rebates for individuals, enhanced hiring and retention payroll tax credits, expansion of the work opportunity credit, and a safe and healthy workplace tax credit
- + Republican and Democratic leaders spent months negotiating but ultimately were unable to reach a compromise prior to the election
- + No deal appears likely during the lame duck session
- + Post election, assuming we continue to have divided government (Senate retains GOP majority), any stimulus plan that passes is assumed to be more limited

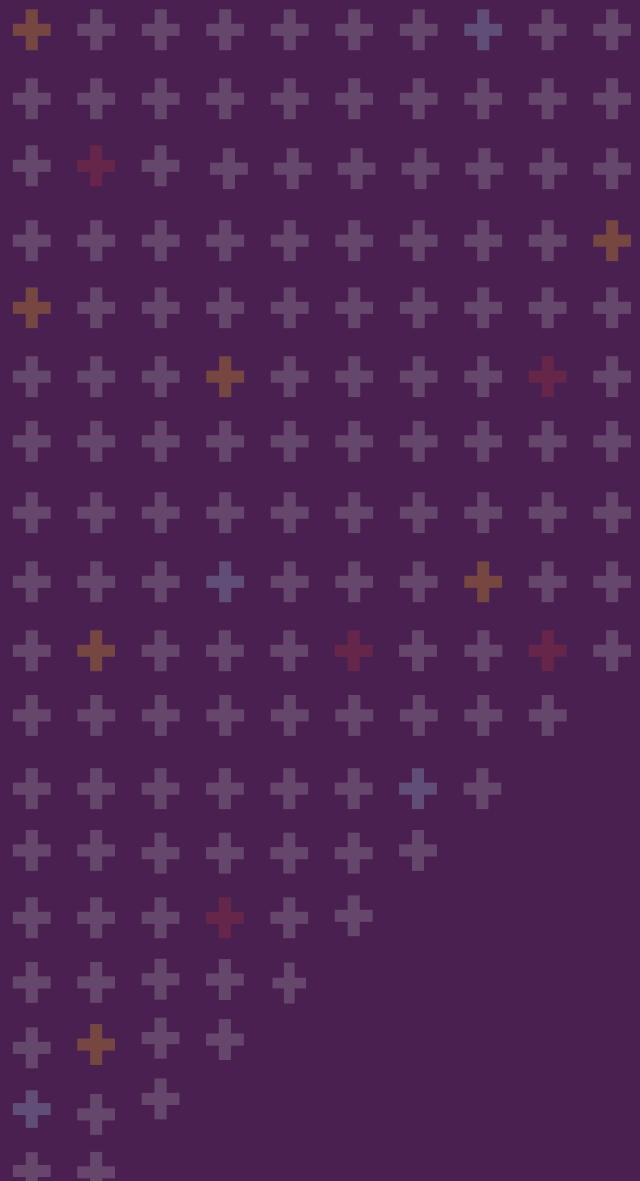




# Thank You for your time!



The banner features the MCM logo at the top left, which includes the text "CORPORATE", "BUSINESS INFORMATION", "TECHNOLOGY", "BANKING", and "ACCOUNTING SERVICES". To the right of the logo, the text "MCM COVID-19 Resource Center" is displayed in bold purple letters. Below this, a yellow button contains the website address "www.mcmcpa.com/covid-19".



# U.S. International Tax Annual Updates 2020

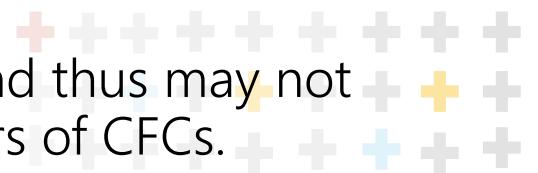
# TCJA's New Regime for Cross-Border Income



Tax Cuts and Jobs Act created a new system of taxing foreign income of U.S. resident individuals and entities in several respects:

- Global minimum tax on "GILTI" of controlled foreign corporations (CFCs)
- Significant deduction for U.S. C corporations earning GILTI and certain export income ("FDII")
- Base Erosion & Minimum tax
- New Foreign Tax Credit Baskets and calculations

The new rules were designed with U.S. multinational corporations in mind and thus may not achieve their intended purposes when applied to non-corporate shareholders of CFCs.



# Structuring Foreign Operations

- Significant revisions under the TCJA to how domestic corporations are taxed has led to reassessment of how foreign activities should be structured

Critically, one of the most universally impactful provisions of the TCJA – the reduction in corporate tax rates to 21% - can incentivize the use of corporations generally

- Incentives are more dramatic where entities have foreign operations, based on GILTI/FDII provisions

Determinations inherently fact-specific; however, the calculus has been shifted by the TCJA's implementation



## Section 958(b)(4) Repeal and Increased Reporting Burden

More Foreign Corporations are now CFC's

- Modification to the definition of "United States shareholder" under Section 951(b) to refer to 10% ownership by vote or value.
- Repeal of the 30-day rule as a pre-condition to inclusion of subpart F income.
- Modifications to the constructive ownership rules under Section 958(b)(4).
- IRS released for publication final regulations (T.D. 9908) relating to the modification of section 958(b) by the Tax Cuts and Jobs Act ("TCJA").
- By way of background, section 958(b)(4) prevented "downward attribution" of stock owned by a foreign person to a U.S. person. Thus, if a foreign person owned stock of a foreign corporation and a U.S. corporation, then the U.S. corporation was prevented from being attributed ownership of the stock of the foreign corporation.



# Increased Compliance Burden – Additional Filing Requirements



- Following the TCJA, Form 5471 has been greatly expanded.
- New Schedule I-1, Information for Global Intangible Low-Taxed Income.
  - Contains details relevant for GILTI calculations for the specific CFC.
- U.S. shareholders must also file new Form 8992 – U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI)
  - The form is used to provide information that a U.S. shareholder needs with respect to each of its CFCs to determine the U.S. shareholder's GILTI inclusion amount.
    - Such as tested income/loss, pro rata share of tested income/loss, pro rata share of QBAI, pro rata share of interest expense, etc. for each CFC.

# What is GILTI?

- Section 951A adds GILTI as a new form of income included under Subpart F mechanics

Each United States shareholder includes its pro rata share of GILTI, defined as the pro rata share of the aggregate “net tested income” of CFCs in excess of the “net deemed tangible asset return.”

Unlike subpart F, which is limited to certain categories of income, GILTI applies to essentially all of a CFC’s income in excess of certain formula-based thresholds.



# GILTI is a Modified (and Disadvantaged) Version of Flow-through Taxation



- Like income earned from a partnership or check-the-box entity, GILTI is subject to current taxation to U.S. Shareholder at ordinary rates as earned by the entity.
- However, U.S. shareholder may be worse off than in case of flow-through taxation because:

Generally, no foreign tax credit is available to the individual shareholder for taxes imposed on the CFC (but consider application of Section 962)

No flow-through of losses or carryforward of losses is available

No flow-through of capital gain character of income recognized by the CFC is available (i.e., all GILTI is ordinary income)

# Application of GILTI to Ownership Through Partnership

- Final Regulations impose the aggregate approach and therefore domestic partnerships and S-corporations are not U.S. shareholders of CFC for GILTI purposes.
- Each partner that is a U.S. shareholder of CFC owned through a partnership is treated as owning proportionally the stock in each such CFC owned by the partnership and computes its GILTI inclusion by taking into account its proportionate share of the partnership's pro rata share of each of the relevant items of such CFC.
- Partners that are not U.S. shareholders of the underlying CFC's will have no GILTI inclusion.
- Regs apply retroactively to tax year 2018. The proposed regulations differed in that they contained a hybrid approach.

## GILTI Foreign Tax Credit Rules (new Section 960(d))

- An indirect credit is allowed for the foreign taxes imposed on the GILTI of a U.S. C Corporation's CFCs. This follows the old indirect credit rules with important modifications:

FTC is haircut by 20% of the total foreign taxes imposed on the GILTI (i.e., only 80% of taxes are allowed as an FTC).

Old pooling rules of Section 902 are replaced by single year credit.

GILTI is a separate basket for Section 904(d) purposes

No FTC carryover / carryback is permitted.



# President-Elect Biden Tax Proposals

---

- Raise GILTI rate to 21% and impose it on a country-by-country basis.
- Eliminate GILTI exemption for qualified business asset investment (QBAI).
- Create a 10% Made in America tax credit applicable to qualifying expenses incurred to return production to the U.S., revitalize manufacturing plants, and increase wages paid to US manufacturing workers.
- Impose a 10% surtax on corporations that send manufacturing and service jobs overseas when goods are ultimately sold back into the U.S. This could raise the effective corporate tax rate on associated activity to 30.8%
- Establish a claw-back provision to require companies to return public investments and tax benefits when they close down jobs in the U.S. and send them overseas.



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# OHIO UPDATE



# COVID-19

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- + Ohio announced that it would extend deadline to file and pay taxes from April 15 to July 15, includes:
  - + Individual income tax, school district tax, pass-through entity tax; and municipal net profit tax (for those registered to file centrally with ODOT).
  
- + Ohio has enacted legislation excluding certain debt forgiveness for PPP loans from the definition of gross receipts for CAT purposes.



# Ohio Commercial Activity Tax

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- + *Great Lakes Minerals, LLC v. Testa*, U.S. Sup. Ct., Dkt. 20-24, cert. pet., Oct. 5, 2020.
  - + U.S. Sup. Ct. denied cert. to the *Great Lakes* case.
    - + Dismissed on grounds of sovereign immunity, comity, etc.
  - + Really an egregious case from a nexus standpoint:
    - + Kentucky mineral processing business
    - + All business operations and transactions occur solely within Kentucky
    - + Customers travel to Kentucky to select products and also arrange for transportation out of the Kentucky
    - + Taxpayer has no transportation obligation
    - + Stipulated no nexus whatsoever in Ohio, other than taxpayer's product ultimately ends up in Ohio



# Wayfair & Economic Nexus

---

## + Wayfair Economic Nexus standards:

### + Eff. August 1, 2019 in Ohio

- + \$100,000 or more in sales (very next sale after threshold is met)
- + 200 or more transactions (regardless of amount)
  - + Query: what constitutes a transaction?
  - + States have begun to eliminate transaction requirement
  - + Includes marketplace facilitators (e.g., AirBNB)
  - + Small business exception (\$1 million or less in gross annual sales)

### + Nearly every state with a sales tax (incl. D.C.) has adopted some form of economic nexus

- + Holdouts include Missouri and Florida
- + MCM maintains an updated Wayfair matrix and can assist with determining nexus, risk assessment, voluntary disclosures, registrations, etc.
- + Some states are moving toward Wayfair nexus standards for income/franchise tax
  - + Hawaii, Washington



# Wayfair & Economic Nexus

---

## + Marketplace facilitators:

- + Recent guidance from ODOT regarding sourcing of sales for marketplace facilitators:
- + Marketplace facilitators source sales they facilitate to the location where the consumer receives the property or service.
- + When the marketplace facilitator makes direct sales that are received in Ohio, the sales are sourced to the location where the order is received.
- + Sales and Use Tax Information Release ST 2009-03, ODOT, Jul. 24, 2020



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# KENTUCKY UPDATE



# New Kentucky Governor

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## + Strengthen Public Education:

- + Increase overall per-pupil funding
- + Invest in educational physical infrastructure
- + Raise teacher salary (\$2,000 across the board) and hire more teachers
- + Expand early childhood education
- + Lower costs of public college education

## + Affordable Health Care:

- + Increase availability of Medicaid to more Kentuckians



# New Kentucky Governor

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## + Job Growth:

- + Overall Kentucky's current incentives program
  - + Not provide incentives to "out-of-state CEOs" and companies not providing a living wage (KBI & KEIA)
- + Invest in Agritech and Advanced Manufacturing Jobs

## + Kentucky Infrastructure:

- + Build I-69 bridge between Henderson & Evansville

## + State Pensions:

- + Ensure Kentucky follows through on pension commitments



# New Kentucky Governor

---

## + Expanded Gaming:

- + Casinos, sports betting, and online poker
- + 100% of the revenues to fund pension shortfalls
  - + Anticipated \$500M/year in taxes lost to neighboring states

## + Legalize Medical Marijuana:

- + Proposes a constitutional amendment
  - + Both Michigan (this past weekend) and Illinois (eff. 1/1/2020) legalized marijuana for recreational use
  - + Ohio legalized medical marijuana in 2016 (first sales occurred in January 2019)
  - + What about Indiana? CBD Oil already legal
- + Would tax the use thereof to fund other initiatives

## + Boost Tourism & Hospitality Opportunities:

- + To create additional revenue



# COVID-19 Issues

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- + Extension of time to file/payment tax returns for LLCs, C-corps, S-corps, fiduciaries, and individuals from April 15 to July 15
- + As of 4/17, KDOR suspended all enforced collection activity
  - + Taxpayers may still receive a Seizure Notice but no actual collection activity will be involved.
- + Paycheck Protection Program Loan Forgiveness
  - + KDOR has stated that any PPP discharge of indebtedness will not be taxable income for Kentucky tax purposes.
- + Remote employees and nexus
  - + KDOR has indicated that whether remote employees working in Kentucky creates nexus for income tax purposes will be reviewed on a "case-by-case" basis.

# Direct Shipper License

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- + Effective July 15, 2020, a direct shipper license may be issued to ship alcoholic beverages to Kentucky consumers.
- + Eligible applicants are in-state or out-of-state manufacturers or licensed AB suppliers.
- + A licensee may sell or ship ABs that the licensee is authorize to sell.
- + Limits:
  - + Distilled spirits – maximum of 10 liters per consumer;
  - + Wine – maximum of 10 cases per consumer;
  - + Malt beverages – maximum of 10 cases per consumer.
- + Shipments must be made by common carrier.



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# INDIANA UPDATE



# COVID-19 Issues

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- + Indiana will not use an employee's relocation, that is the direct result of temporary remote work requirements arising from and during the COVID-19 pandemic health crisis, as the basis for establishing Indiana income tax nexus or for exceeding the protections provided by P.L. 86-272 for the employer of the temporary relocated employee.
- + **Temporary Protections**
  - + The temporary protections provided under this guidance will extend for periods of time where:
  - + there is an official work from home order issued by an applicable federal, state or local government unit; or
  - + pursuant to the order of a physician in relation to the COVID-19 outbreak or due to an actual diagnosis of COVID-19, plus 14 days to allow for return to normal work locations.
  - + If the person remains in Indiana after the temporary remote work requirement has ended, nexus may be established for that employer. Also, an employer may not assert that only having a temporarily relocated employee in Indiana under the circumstances described above creates nexus for the business or exceeds the protections of P.L. 86-272 for the employer.
  - + COVID-19 FAQs, Indiana Department of Revenue, April 10, 2020



# Comments/Questions?

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[mike.grim@mcmcpa.com](mailto:mike.grim@mcmcpa.com)





# ROADMAP FOR 2021

**MCM**  
HR SOLUTIONS



## **EMILY POSSIDENTO**

- Employee Engagement
- Performance Management
- Succession Planning



## **BETHANY LYNCH**

- Hiring Assistance
- Open Enrollment Process Assistance
- Compensation



## **TIFFANY CARDWELL**

- Diversity, Equity & Inclusion
- COVID Compliance – Federal & State
  - Company Best Practices - Remote Work, Wellness
- What Next? Vaccines



## **EMILY POSSIDENTO**

- Employee Engagement
- Performance Management
- Succession Planning

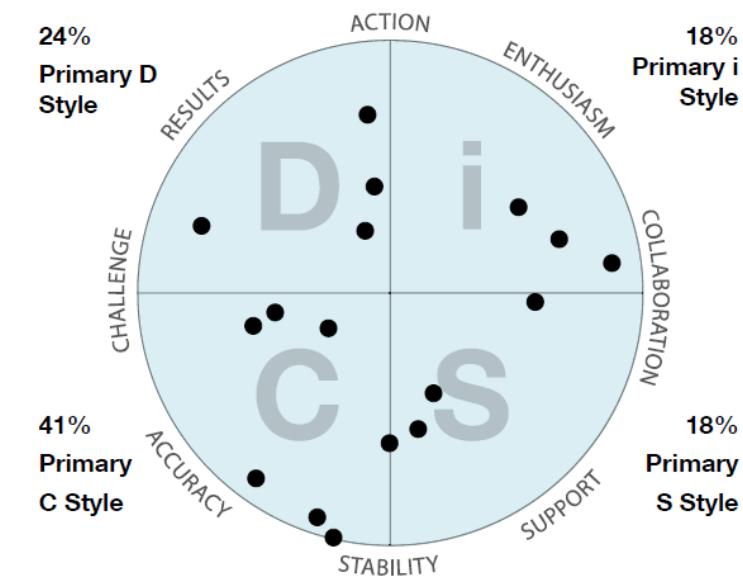
# Employee Engagement in the Middle of a Pandemic



A SHRM study found two out of three companies reported keeping employee morale up to be difficult during the pandemic, and one-third said maintaining company culture was a challenge.

Now more than ever employees need to feel wanted and needed. Employee engagement has everything to do with company culture.

Creating a company culture that you can be proud of takes intentionality in even the little things and consistency in who we are collectively.



# The Dreaded Feedback Season

---

- + Feedback → FeedForward Mentality Shift
- + Fixed Mindset → Growth Mindset
- + Fundamental to Self-Development
- + Source for Learning and Growth
- + Self-Awareness is Essential



# Succession Planning...

## How ready are you?



### Questions to ask yourself:

- + Do I have a cohesive, high functioning management team in place and are they aware of the growth strategy for the company?
- + Am I confident that my successor candidate has what it takes to take over when I retire? If not, how do I get them in shape for the leadership challenge they will eventually assume?
- + What skills and talents do I currently lack on my team and how can I fill out my bench?
- + How do I ensure that my key employees will stay with me for the long haul?
- + Have we had a major growth event or challenge (did someone say 2020?) that requires new talent or the development of existing talent?





## BETHANY LYNCH

- Hiring Assistance & Onboarding
- Open Enrollment
- Compensation

# Attracting Talent



S Skype  
zoom



# Candidate Assessments

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What's required  
for the position  
(Performance Model)

**JOB FIT**

Measure of  
candidates thinking  
style, behavioral  
traits  
and interests



# Onboarding



# Building Trust Starting on Day One:

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- + Respect
- + Transparency
- + Commitment



# Open Enrollment

---



- + Educate on Benefit options
- + Understand employee needs
- + Communicate Open Enrollment process and deadlines
- + Reach out to employees
- + Be available for questions



# Compensation

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+2020 Salary Increases:

- +Average 2.9% increase
- +First time in 12 years that the rate of increase has fallen from the prior year (3.2% Average increase in 2019)

+As for 2021 plans

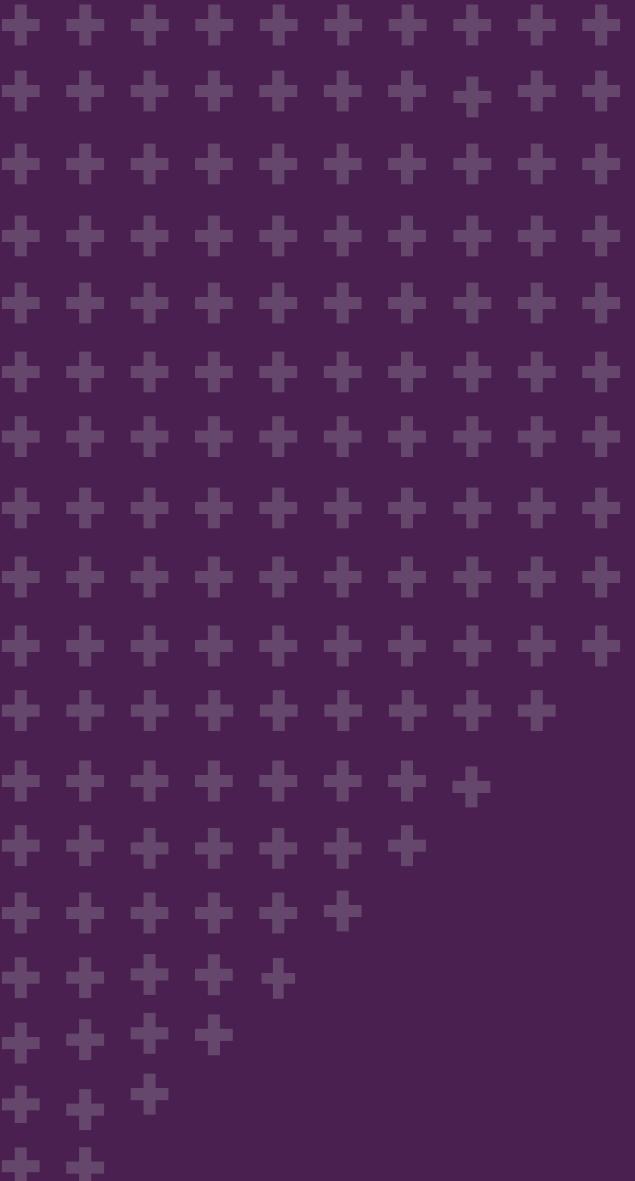
- +Projected 2.9% Average increase





## **TIFFANY CARDWELL**

- Diversity, Equity & Inclusion
- COVID Compliance – Federal & State
- Company Offerings - Remote Work, Wellness
- What's Next? Vaccines



# Diversity, Equity & Inclusion

Have you implemented a DE&I  
Strategy for your Company?

# What is Diversity, Equity & Inclusion?

## DIVERSITY

Workplace diversity is the collective mixture of differences and similarities that include individual and organizational characteristics, values, beliefs, experiences, backgrounds, preferences and behaviors.

## EQUITY

While diversity creates the potential for greater innovation and productivity, Equity refers to fair treatment in access, opportunity and advancement for individuals, identifying and working to eliminate barriers to fair treatment for disadvantaged groups...

## INCLUSION

Inclusion is what enables organizations to realize the business benefits of this potential



# COVID-19 Compliance





# Federal & State



**U.S. Equal Employment  
Opportunity Commission**



# What Are Your Companies Providing to Support Workers At Home or At Work?

- Flexible Time Off and Leave Policies Updated
- Offering Support
- Redesign Total Rewards
- Setting Realistic Expectations
- Additional Training & Development Opportunities
- Continue Critical Communications

# Communication





# How has your company provided self-care for your Employees?

- Additional Breaks
- Healthy Eating
- Home Gym
- Meditation &Yoga
- Office Equipment Reimbursements
- Virtual 5ks



# Can Employers Mandate Employees to take a COVID-19 Vaccine?



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PEOPLE  
MATTER



LEADERS  
INSPIRE



EXCELLENCE  
RULES

# IRS Circular 230 Disclosure.

As a result of perceived abuses, the Treasury has recently promulgated Regulations for practice before the IRS. These Circular 230 regulations require all accountants to provide extensive disclosure when providing certain written tax communications to clients. In order to comply with our obligations under these Regulations, we would like to inform you that any advice given in this presentation, including any attachments, cannot be used to avoid penalties which the IRS might impose, because we have not included all of the information required by Circular 230, nor have we performed services that rise to this level of assurance.

A decorative graphic located at the bottom right of the slide. It consists of a grid of small, semi-transparent plus signs in various colors, including grey, light blue, yellow, and white. The colors are arranged in a pattern that tapers towards the bottom right corner of the slide.



# GET A GRIP ON YOUR BUSINESS

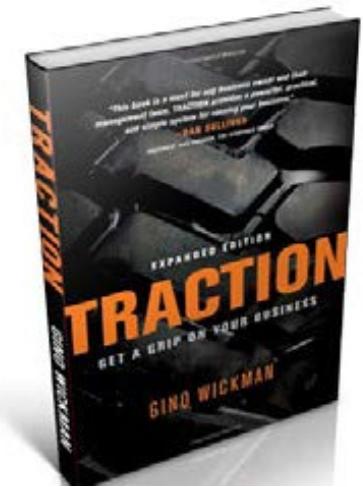
Six Keys to Getting What You Want  
Maximizing Value in your Organization

Crystal Faulkner  
@EOSWorldwide

**MCM**  
CPAs & ADVISORS

# Question

Are you familiar with or heard of EOS (Entrepreneurial Operating System) or the book Traction, written by Gino Wickman?



Get REAL

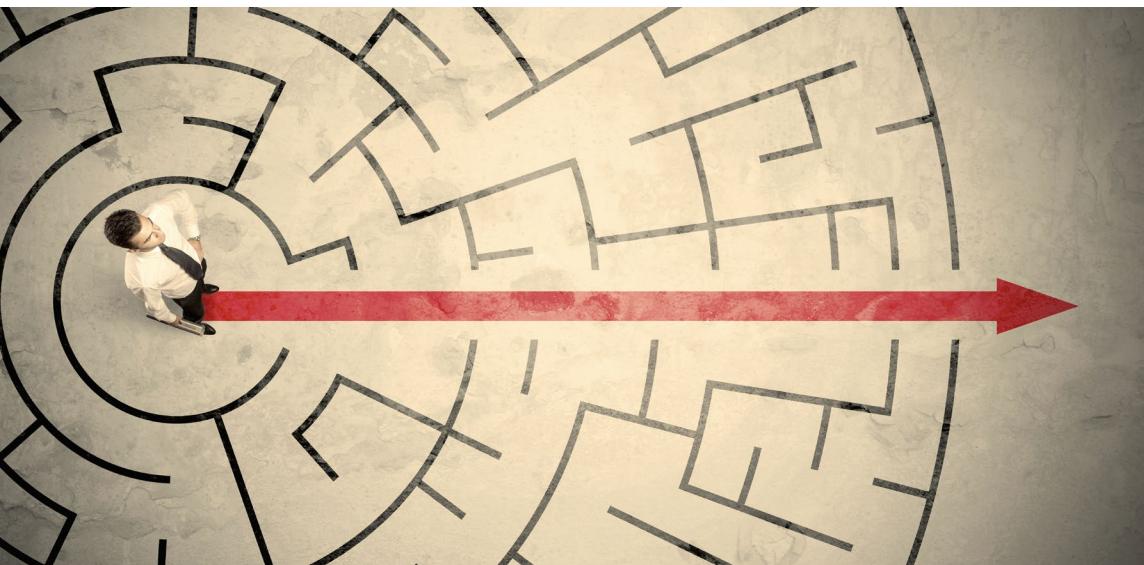


#GetAGrip



# Why EOS?

- Brief History
  - Where Did EOS Come From?
- The Power of EOS
- Vision, Traction, Healthy



# Why ME?

- CPA
- Business Exit & Transition Planning
- Helping Add Value to Clients
- Finding EOS
- CFS → MDM
- Advisory Mindset



# Discoveries



# Frustrations

- Control
- Profit
- People
- Hitting the Ceiling
- Nothing's Working



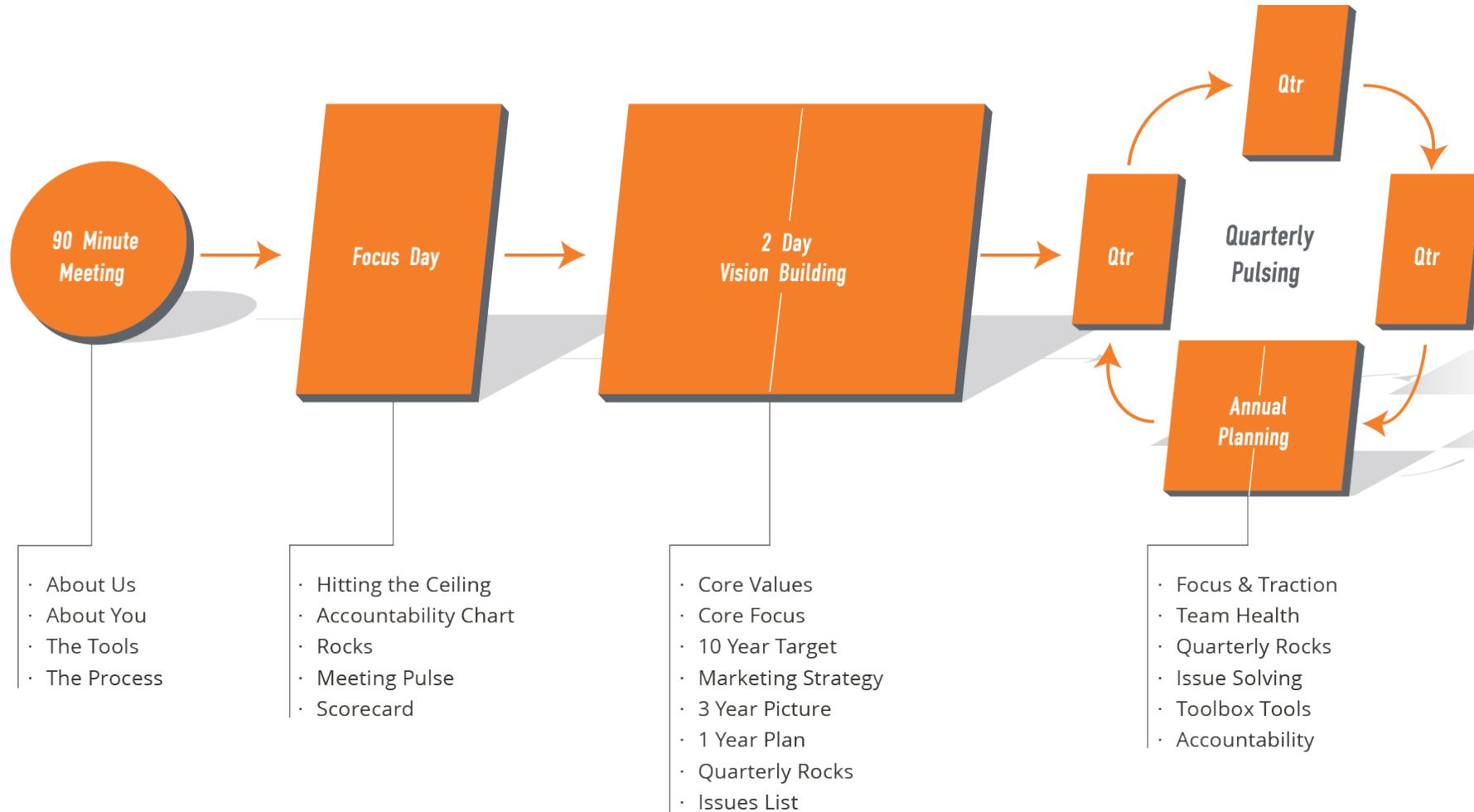
Keep it SIMPLE

#GetAGrip



# Proven Process

# The EOS Process™



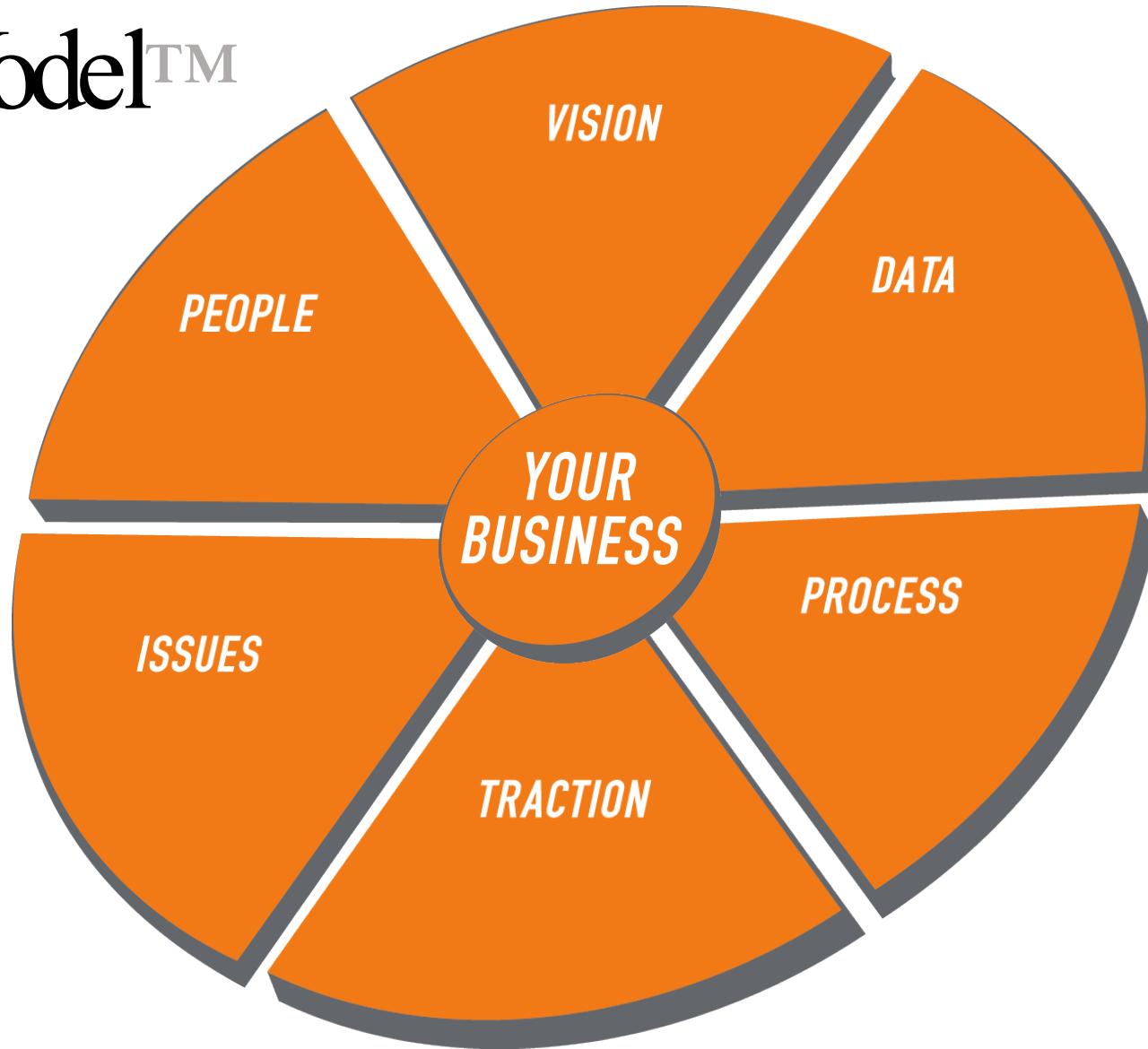
# The TOOLS

#GetAGrip

begin at the end, to illustrate what it looks  
like at the end of the journey

a discovery

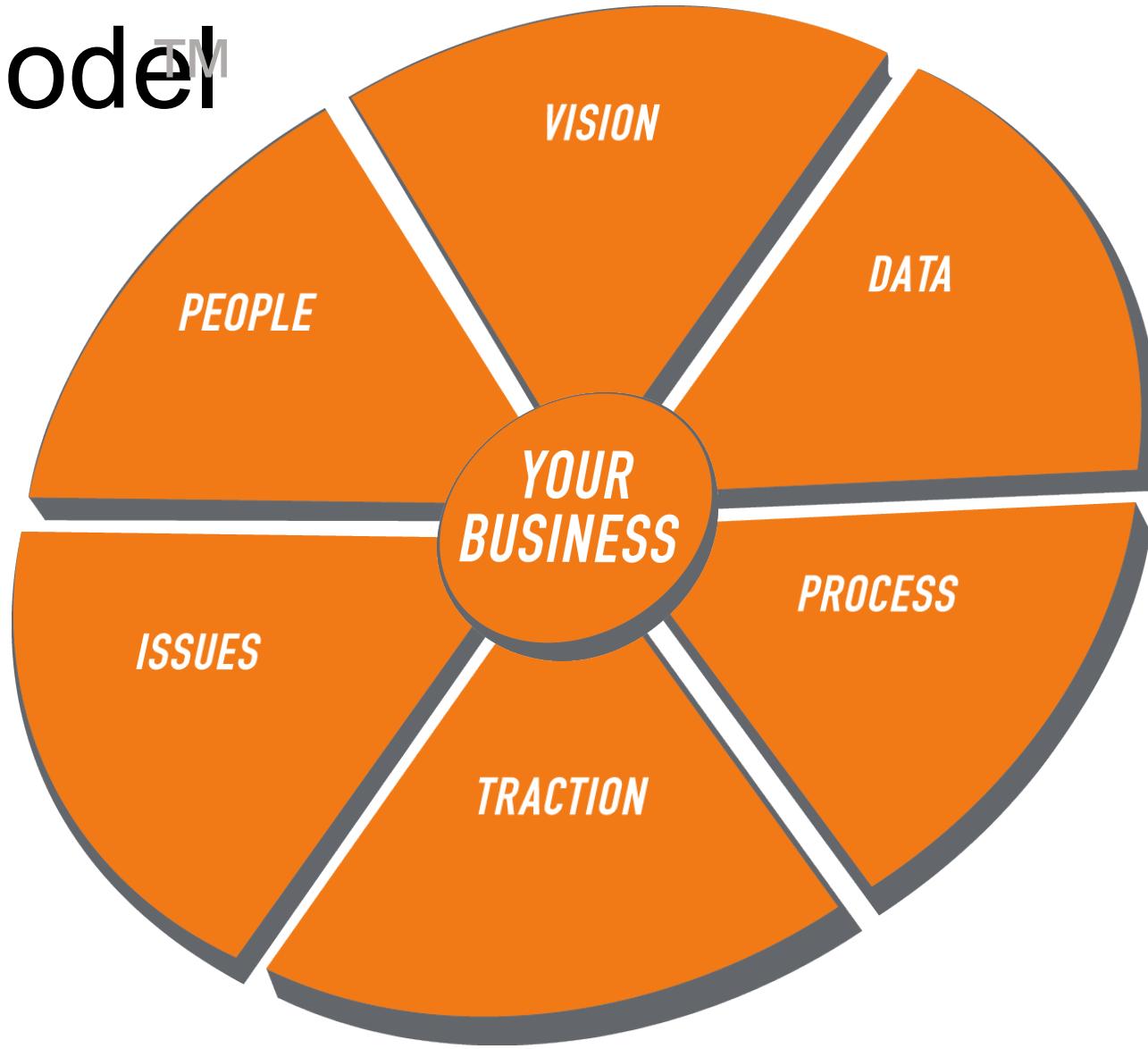
# The EOS Model™



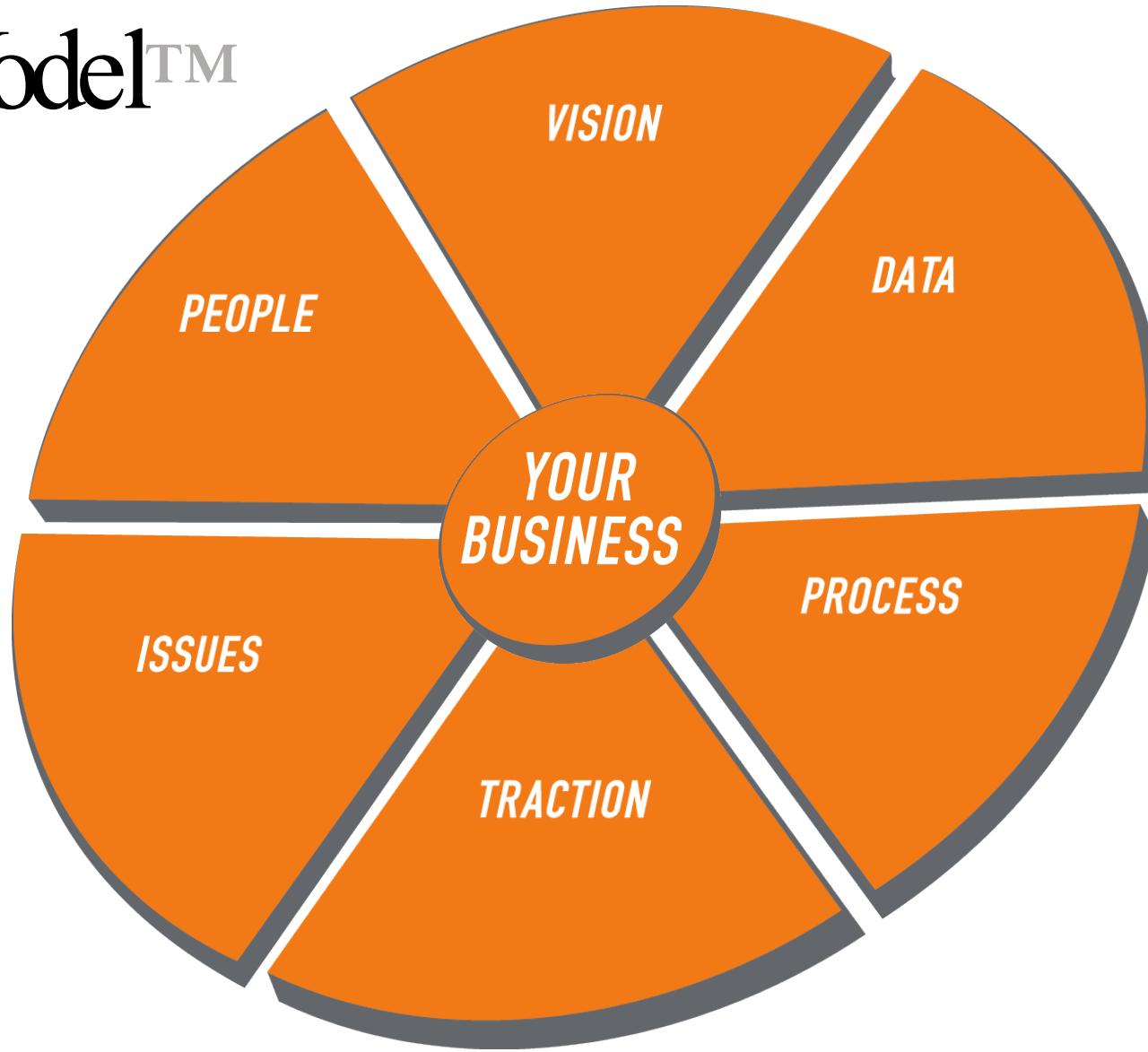
**“VISION without TRACTION is hallucination”**

- Gino Wickman

# The EOS Model™



# The EOS Model™



100%

MOST  
20%

0%



Get RESULTS

#GetAGrip

# The Vision/Traction Organizer™

CORE VALUES	1. 2. 3. 4. 5.	3-YEAR PICTURE™
CORE FOCUS™	Purpose/Cause/Passion:  Our Niche:	Future Date: Revenue: Profit: Measurables: <u>What Does It Look Like?</u> • • • • • • •
10-YEAR TARGET™	_____	
MARKETING STRATEGY	Target Market/"The List":  3 Uniques™: 1. 2. 3. Proven Process:  Guarantee:	

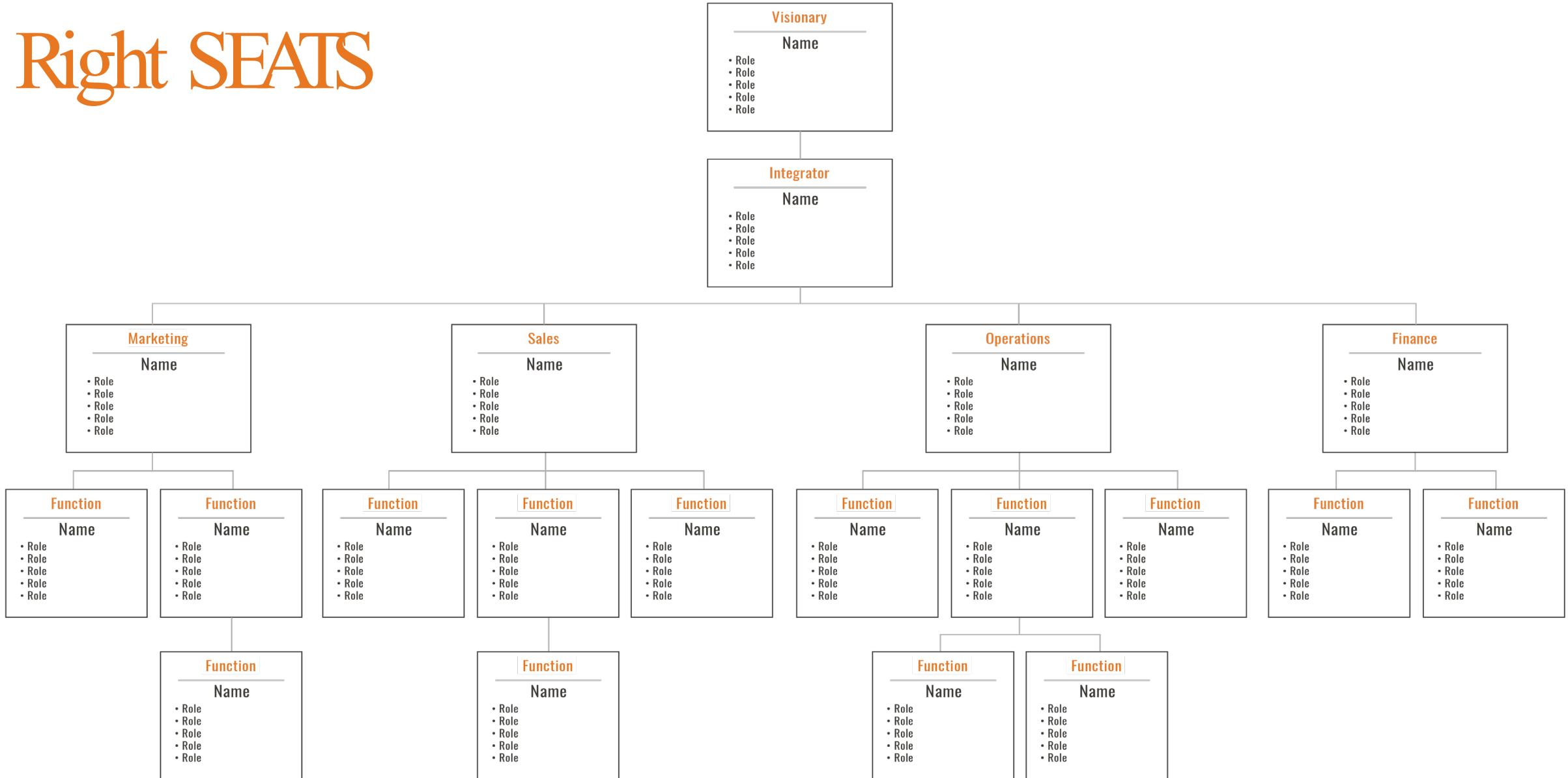
# VTO™

1-YEAR PLAN	ROCKS	ISSUES LIST																																										
<p>Future date: Revenue: Profit: Measurables:</p> <p><b>Goals for the Year</b></p> <table border="1"> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> <tr><td>5.</td><td></td></tr> <tr><td>6.</td><td></td></tr> <tr><td>7.</td><td></td></tr> </table>	1.		2.		3.		4.		5.		6.		7.		<p>Future date: Revenue: Profit: Measurables:</p> <p><b>Rocks for the Quarter</b></p> <table border="1"> <thead> <tr> <th>Who</th> </tr> </thead> <tbody> <tr><td>1.</td></tr> <tr><td>2.</td></tr> <tr><td>3.</td></tr> <tr><td>4.</td></tr> <tr><td>5.</td></tr> <tr><td>6.</td></tr> <tr><td>7.</td></tr> </tbody> </table>	Who	1.	2.	3.	4.	5.	6.	7.	<table border="1"> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> <tr><td>5.</td><td></td></tr> <tr><td>6.</td><td></td></tr> <tr><td>7.</td><td></td></tr> <tr><td>8.</td><td></td></tr> <tr><td>9.</td><td></td></tr> <tr><td>10.</td><td></td></tr> </table> <p>Prioritize</p> <ul style="list-style-type: none"> <li>• Identify</li> <li>• Discuss</li> <li>• Solve</li> </ul>	1.		2.		3.		4.		5.		6.		7.		8.		9.		10.	
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# The People Analyzer™

Name	Humbly confident	Grow or die	Help first	Do the right thing	Do what you say	Get it	Want it	Capacity
JoAnn Wright	+	+	+	+	+	Y	Y	Y
Martin Gilbert	-	+/-	-	-	+/-	Y	Y	N
Ellen Smith	+/-	+/-	+	+/-	+	N	Y	Y
The Bar	+	+/-	+	+/-	+	Y	Y	Y

# Right SEATS



# Company SCORECARD

WHO	MEASURABLES	GOAL	30-Sep	7-Oct	14-Oct	21-Oct	28-Oct	4-Nov	11-Nov	18-Nov	25-Nov	2-Dec	9-Dec	16-Dec	23-Dec
Anne	Weekly Revenue	>=\$84,500	\$92,000	\$85,238	\$81,200	\$80,934	\$88,678	\$88,200	\$85,321	\$80,282	\$95,291	\$100,281	\$86,200	\$78,290	\$83,498
Anne	Cash Balance	>=\$14,245	\$16,230	\$15,200	\$12,289	\$11,989	\$14,980	\$15,123	\$14,989	\$11,291	\$17,281	\$18,359	\$15,289	\$10,221	\$11,189
Robert	Sales Calls	50	54	55	61	59	32	48	51	72	61	54	50	52	54
Robert	Sales Meetings	10	10	10	10	8	10	10	12	11	15	10	9	8	8
Robert	Proposal	5	5	5	6	5	6	5	6	4	5	8	6	5	5
Robert	Closed Business	2	2	3	6	3	2	3	5	3	2	1	2	8	4
David	Customer Satisfaction	>=80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%
Claire	Accounts Payable	<\$8,000	\$8,450	\$9,234	\$3,450	\$5,500	\$4,300	\$8,900	\$2,300	\$5,409	\$4,390	\$9,032	\$3,445	\$2,300	\$5,009
David	Errors	<=4	3	2	2	2	2	1	2	3	0	0	0	2	1
John	Utilization/Capacity	>75%	75%	76%	75%	75%	75%	75%	75%	82%	75%	75%	78%	75%	75%

# Quarterly Rocks

- Most important strategic priorities to be accomplished within the next 90 days



# VITO

ROCKS

**Future date:**

#### **Revenue:**

### **Profit:**

## Measurables:

## Rocks for the Quarter

## Who

1.	
2.	
3.	
4.	
5.	
6.	
7.	



# ORGANIZATIONAL Checkup

Licensed to Crystal Faulkner

## ORGANIZATIONAL CHECKUP

For each statement below, rank your business on a scale of 1 to 5 where 1 is weak and 5 is strong.

	1	2	3	4	5
1. We have a clear vision in writing that has been properly communicated and is shared by everyone.	<input type="checkbox"/>				
2. Our core values are clear, and we are hiring, reviewing, rewarding, and firing around them.	<input type="checkbox"/>				
3. Our core business is clear, and our systems and processes reflect that.	<input type="checkbox"/>				
4. Our 10-Year Target™ is clear and has been communicated to everyone.	<input type="checkbox"/>				
5. Our target market is clear, and our sales and marketing efforts are focused on it.	<input type="checkbox"/>				
6. Our differentiators are clear, and all of our sales and marketing efforts communicate them.	<input type="checkbox"/>				
7. We have a proven process for doing business with our customers. It has been named and visually illustrated, and everyone is adhering to it.	<input type="checkbox"/>				
8. All of the people in our organization are the right people.	<input type="checkbox"/>				
9. Our accountability chart (organizational chart of roles and responsibilities) is clear, complete, and constantly updated.	<input type="checkbox"/>				
10. Everyone is in the right seat.	<input type="checkbox"/>				
11. Our leadership team is open and honest, and demonstrates a high level of trust.	<input type="checkbox"/>				
12. Everyone has Rocks and is focused on them (3 to 7 priorities per quarter).	<input type="checkbox"/>				

**Toolbox**

**Toolbox**

## ORGANIZATIONAL CHECKUP



**COMPLIMENTARY**90-Minute Meeting

TheEOSProcess™



**[www.mcmcpa.com/EOS90](http://www.mcmcpa.com/EOS90)**

EOSworldwide.com

#GetAGrip



“Real. Simple. Results.”

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Thank you!

Crystal Faulkner, CPA  
MCMCPAs & Advisors