

Want to keep your Investment Plan on Track? Avoid These Five Mistakes

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WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

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Learning Objectives

At the end of the session, you will be able to:

- Describe commonly made investment mistakes
- Review behavioral factors in financial decision making
- Recognize the impact of an election year on the investment marketplace



Our Current Market Environment

- The coronavirus pandemic has impacted global markets, increasing market **volatility** and shaking investor **confidence**.
- While the stock market has rebounded significantly from the market bottom in March, the large drop was another example of how events outside of our control, can cause sudden movements in the markets, which can be stressful for even the most seasoned investors.
- The current market volatility provides an **opportunity** for investors who do not allow **emotions** to rule their investment decisions.



Five mistakes that investors continue to make

1. Letting *emotions*, rather than a *plan*, drive investment decisions
2. Ignoring the benefits of diversification
3. Trying to “time” the market
4. Over-focus on gains, Under-focus on risk
5. Procrastination: waiting for the right time...the “perfect” investment, etc.

And just because: Election year mistakes



1. Letting emotions, rather than a well thought-out plan, drive your investment decisions.

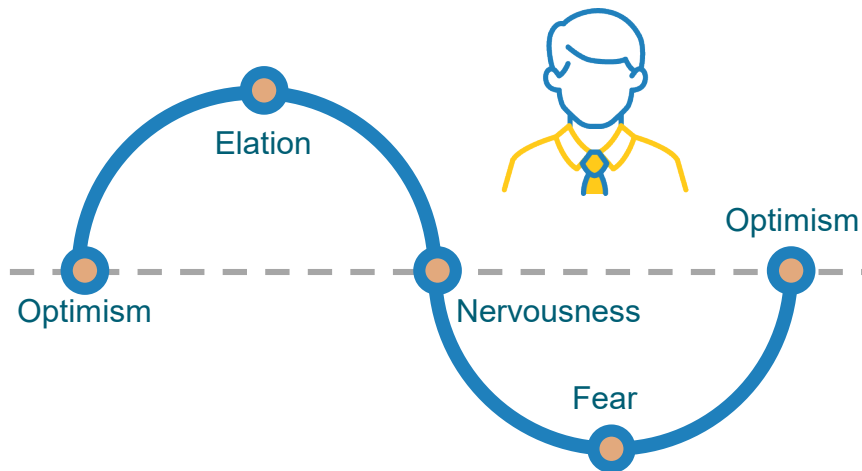
The combination of a 24/7 news cycle, social media, even well-meaning friends and family can all add to the stress of managing our finances.

Our emotions can lead us to make impulsive investment decisions that undercut our long-term goals and strategies.

The Emotional rollercoaster

People may struggle to separate their **emotions** from their investment decisions.

Following a reactive cycle of excessive optimism and fear may lead to poor decisions at the worst times.



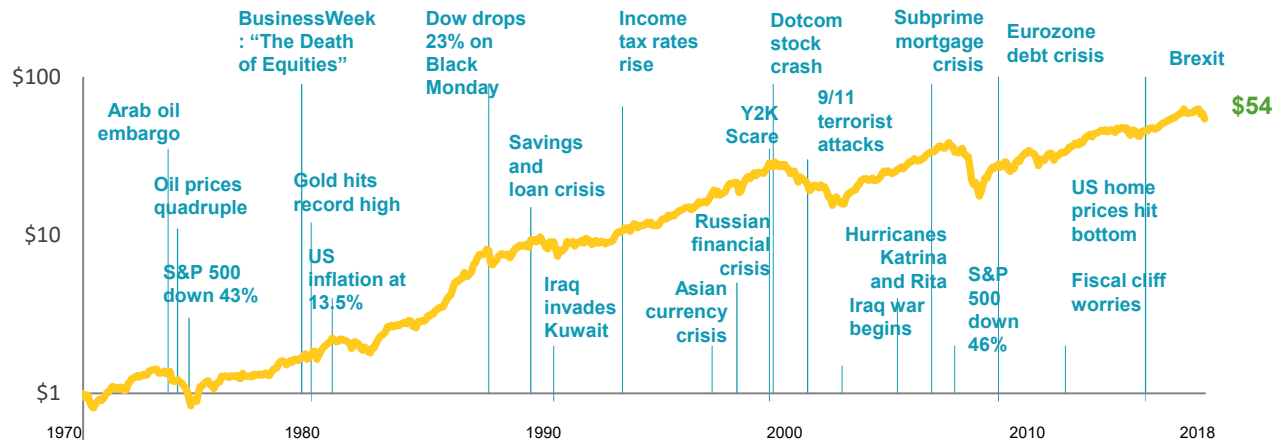
“I can’t take this bear market—
I’m getting out!”

“Everyone’s making money—
I want a piece of the action.”



Markets Have Rewarded Discipline

Growth of a dollar—MSCI World Index (net dividends), 1970–2018



A **disciplined** investor looks beyond the concerns of today to the long-term growth potential of markets.



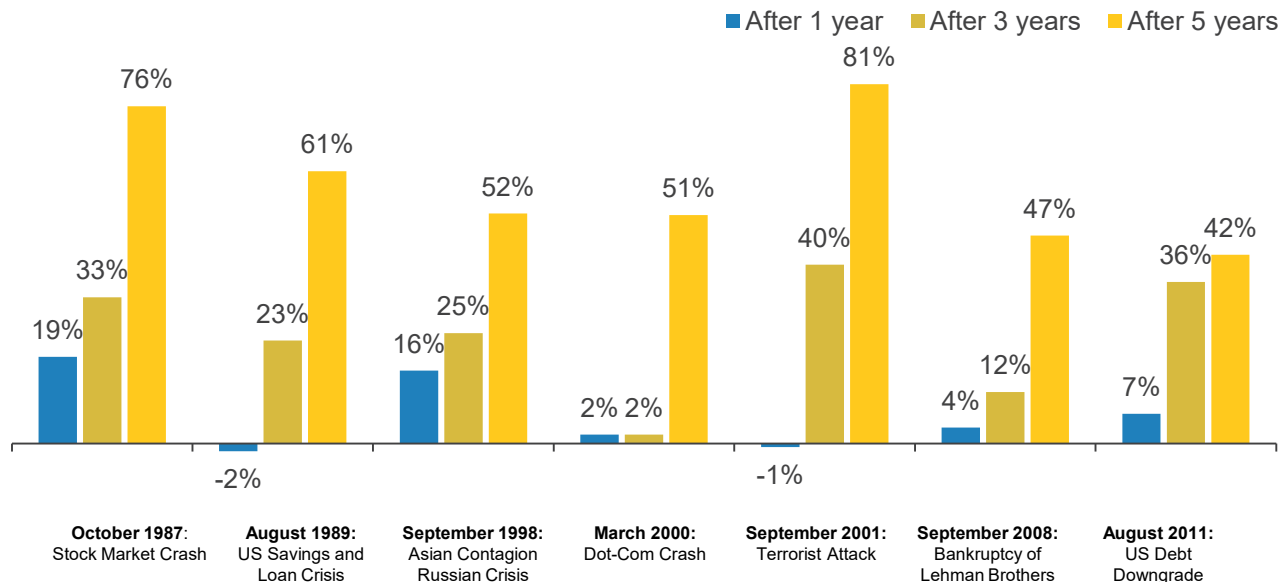
In US dollars. MSCI data © MSCI 2019, all rights reserved. Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio. Past performance is no guarantee of future results.



Create Opportunities

The Market's Response to Crisis

Performance of a Balanced Strategy: 60% Stocks, 40% Bonds
Cumulative Total Return



In US dollars.

Represents cumulative total returns of a balanced strategy invested on the first day of the following calendar month of the event noted. Balanced Strategy: 12% S&P 500 Index, 12% Dimensional US Large Cap Value Index, 6% Dow Jones US Select REIT Index, 6% Dimensional International Value Index, 6% Dimensional US Small Cap Index, 6% Dimensional US Small Cap Value Index, 3% Dimensional International Small Cap Index, 3% Dimensional International Small Cap Value Index, 2.4% Dimensional Emerging Markets Small Index, 1.8% Dimensional Emerging Markets Value Index, 1.8% Dimensional Emerging Markets Index, 10% Bloomberg Barclays Treasury Bond Index 1-5 Years, 10% FTSE World Government Bond Index 1-5 Years (hedged), 10% FTSE World Government Bond Index 1-3 Years (hedged), 10% ICE BofAML 1-Year US Treasury Note Index. Assumes monthly rebalancing. For illustrative purposes only. S&P and Dow Jones data © 2019 S&P Dow Jones Indices LLC, a division of S&P Global. All rights reserved. ICE BofAML index data © 2019 ICE Data Indices, LLC. FTSE fixed income indices © 2019 FTSE Fixed Income LLC. All rights reserved. Bloomberg Barclays data provided by Bloomberg. Dimensional indices use CRSP and Compustat data.

Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio. Past performance is not a guarantee of future results. Not to be construed as investment advice. Returns of model portfolios are based on back-tested model allocation mixes designed with the benefit of hindsight and do not represent actual investment performance. See "Balanced Strategy Disclosure and Index Descriptions" pages in the Appendix for additional information.



The Takeaway? Have a Plan...and stick to it



Your successful financial journey begins with a complete **roadmap** specific to your needs and the aspirations you have for yourself, your family, and your business.

Financial planning is important because it allows you to make the most of your assets and helps ensure you meet your future goals.



2. Failing to Diversify

Portfolio diversification — the process of allocating money across many asset classes, geographical regions and sectors — can not only help mitigate a disaster in a downturn but can provide a broader base of investment returns.

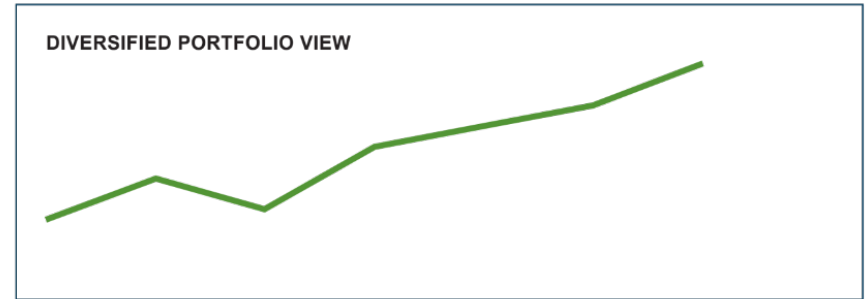
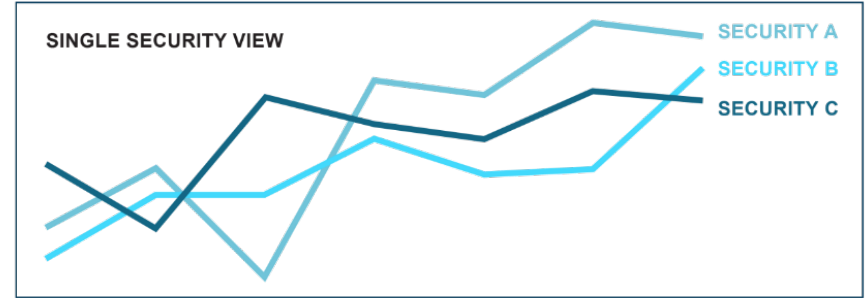
”I agree with diversification, which is why I have several advisors”



Why Diversify Your Portfolio?

A **well-diversified portfolio** can provide the opportunity for a more stable outcome than a single security.

When the market goes off the tracks, knowing why you originally made a specific investment can help you evaluate whether your reasons still hold, regardless of what the overall market is doing.



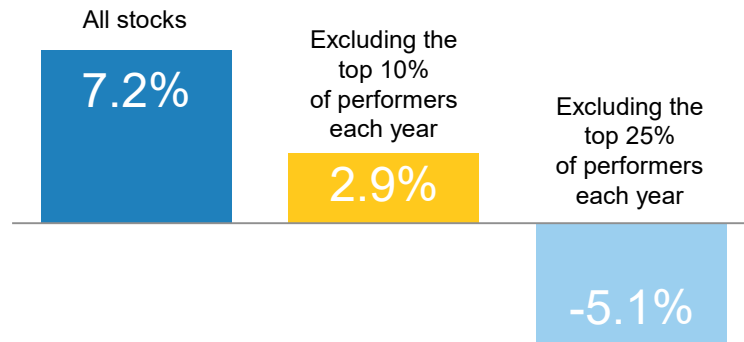
Diversification smooths out some of the bumps

Benefits of Diversification

Compound average annual returns: 1994–2018

Research shows there is no reliable way to **predict** top performers.

Broad diversification helps reduce unnecessary idiosyncratic **risk**.¹



¹ Idiosyncratic risk is unsystematic (diversifiable) risk associated with exposure to a single stock, sector, or country.

* "All stocks" includes all eligible stocks in all eligible Developed and Emerging Markets at their market cap weights. Eligible stocks are required to meet a minimum market capitalization requirement. REITs and investment companies are excluded. Compound average annual returns are computed as the compound returns of the value-weighted averages of the annual returns of the included securities. "Excluding the top 10%" and "Excluding the top 25%" are constructed similarly, but exclude the respective percentages of stocks with the highest annual returns by security count each year. Individual security data are obtained from Bloomberg, London Share Price Database, and Centre for Research in Finance. The eligible countries are: Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hong Kong, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Republic of Korea, Malaysia, Mexico, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Portugal, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Taiwan, Thailand, Turkey, United Kingdom, and the United States. Diversification does not eliminate the risk of market loss. Past performance is no guarantee of future results.



Diversification helps take the guesswork out of Investing

You never know which markets will outperform from year to year.

By holding a globally diversified portfolio, investors are positioned to capture returns wherever they occur.

																	2005 - 2019	
2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	YTD	Ann.	Vol.	
EM Equity 34.5%	REITs 35.1%	EM Equity 39.8%	Fixed Income 5.2%	EM Equity 79.0%	REITs 27.9%	REITs 8.3%	REITs 19.7%	Small Cap 38.8%	REITs 28.0%	REITs 2.8%	Small Cap 21.3%	EM Equity 37.8%	Cash 1.8%	Large Cap 31.5%	Fixed Income 6.8%	Large Cap 9.0%	REITs 22.2%	
Comdty. 21.4%	EM Equity 32.6%	Comdty. 16.2%	Cash 1.8%	High Yield 59.4%	Small Cap 26.9%	Fixed Income 7.8%	High Yield 19.6%	Large Cap 32.4%	Large Cap 13.7%	Large Cap 1.4%	High Yield 14.3%	DM Equity 25.6%	Fixed Income 0.0%	REITs 28.7%	Large Cap 5.6%	REITs 8.3%	EM Equity 22.1%	
DM Equity 14.0%	DM Equity 26.9%	DM Equity 11.6%	Asset Alloc. 25.4%	DM Equity 32.5%	EM Equity 19.2%	High Yield 3.1%	EM Equity 18.6%	DM Equity 23.3%	Fixed Income 6.0%	Fixed Income 0.5%	Large Cap 12.0%	Large Cap 21.8%	REITs -4.0%	Small Cap 25.5%	Cash 0.5%	Small Cap 7.9%	Comdty. 18.6%	
REITs 12.2%	Small Cap 18.4%	Asset Alloc. 7.1%	High Yield -26.9%	REITs 28.0%	Comdty. 16.8%	Large Cap 2.1%	DM Equity 17.9%	Asset Alloc. 14.9%	Asset Alloc. 5.2%	Cash 0.0%	Comdty. 11.8%	Small Cap 14.6%	High Yield -4.1%	DM Equity 22.7%	Asset Alloc. -0.1%	EM Equity 7.8%	Small Cap 17.7%	
Asset Alloc. 8.1%	Large Cap 15.8%	Fixed Income 7.0%	Small Cap -33.8%	Small Cap 27.2%	Large Cap 15.1%	Cash 0.1%	Small Cap 16.3%	High Yield 7.3%	Small Cap 4.9%	DM Equity -0.4%	EM Equity 11.6%	Asset Alloc. 14.6%	Large Cap -4.4%	Asset Alloc. 19.5%	High Yield -0.6%	High Yield 7.2%	DM Equity 17.3%	
Large Cap 4.9%	Asset Alloc. 15.3%	Large Cap 5.5%	Comdty. -35.6%	Large Cap 26.5%	High Yield 14.8%	Asset Alloc. 0.7%	Large Cap 16.0%	REITs 2.9%	Cash 0.0%	Asset Alloc. -2.0%	REITs 8.6%	High Yield 10.4%	Asset Alloc. -5.8%	EM Equity 18.9%	EM Equity -0.9%	Asset Alloc. 6.6%	Large Cap 14.0%	
Small Cap 4.6%	High Yield 13.7%	Cash 4.8%	Large Cap -37.0%	Asset Alloc. 25.0%	Asset Alloc. 13.3%	Small Cap -4.2%	Asset Alloc. 12.2%	Cash 0.0%	High Yield 0.0%	High Yield -2.7%	Asset Alloc. 8.3%	REITs 8.7%	Small Cap -11.0%	High Yield 12.6%	DM Equity -6.7%	DM Equity 5.3%	High Yield 10.9%	
High Yield 3.6%	Cash 4.8%	High Yield 3.2%	REITs -37.7%	Comdty. 18.9%	DM Equity 8.2%	DM Equity -11.7%	Fixed Income 4.2%	Fixed Income -2.0%	EM Equity -1.8%	Small Cap -4.4%	Fixed Income 2.6%	Fixed Income 3.5%	Comdty. -11.2%	Fixed Income 8.7%	Small Cap -8.7%	Fixed Income 4.1%	Asset Alloc. 10.0%	
Cash 3.0%	Fixed Income 4.3%	Small Cap -1.6%	DM Equity -43.1%	Fixed Income 5.9%	Fixed Income 6.5%	Comdty. -13.3%	Cash 0.1%	EM Equity -2.3%	DM Equity -4.5%	EM Equity -14.6%	DM Equity 1.5%	Comdty. 1.7%	DM Equity -13.4%	Comdty. 7.7%	Comdty. -12.1%	Cash 1.3%	Fixed Income 3.4%	
Fixed Income 2.4%	Comdty. 2.1%	REITs -15.7%	EM Equity -53.2%	Cash 0.1%	Cash 0.1%	EM Equity -18.2%	Comdty. -1.1%	Comdty. -9.5%	Comdty. -17.0%	Comdty. -24.7%	Cash 0.3%	Cash 0.8%	EM Equity -14.2%	Cash 2.2%	REITs -12.3%	Comdty. -2.6%	Cash 1.0%	

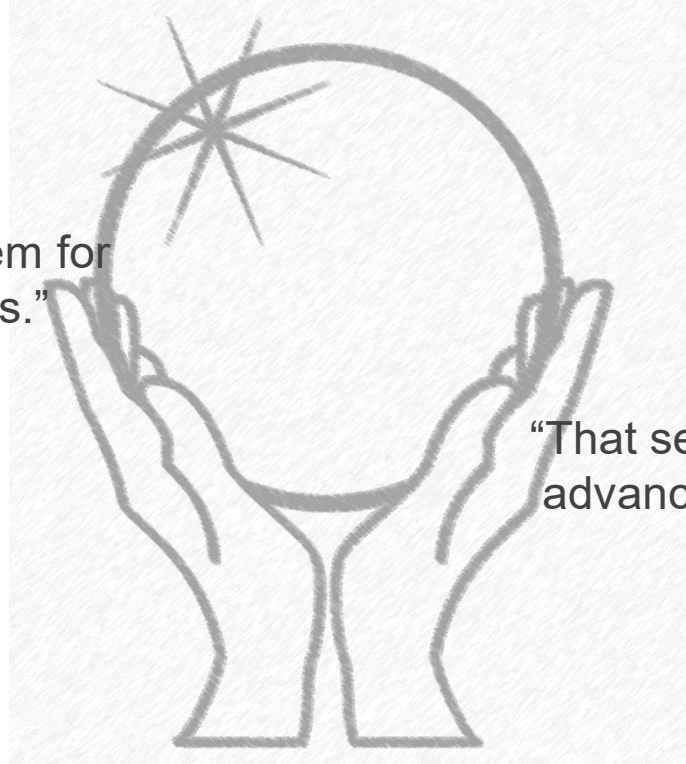
Source: Barclays, Bloomberg, FactSet, MSCI, NAREIT, Russell, Standard & Poor's, J.P. Morgan Asset Management.

Large cap: S&P 500, Small cap: Russell 2000, EM Equity: MSCI EME, DM Equity: MSCI EAFE, Comdty: Bloomberg Commodity Index, High Yield: Bloomberg Barclays Global HY Index, Fixed Income: Bloomberg Barclays US Aggregate, REITs: NAREIT Equity REIT Index, Cash: Bloomberg Barclays 1-3m Treasury. The "Asset Allocation" portfolio assumes the following weights: 25% in the S&P 500, 10% in the Russell 2000, 15% in the MSCI EAFE, 5% in the MSCI EME, 25% in the Bloomberg Barclays US Aggregate, 5% in the Bloomberg Barclays 1-3m Treasury, 5% in the Bloomberg Barclays Global High Yield Index, 5% in the Bloomberg Commodity Index and 5% in the NAREIT Equity REIT Index. Balanced portfolio assumes annual rebalancing. Annualized (Ann.) return and volatility (Vol.) represents period of 12/31/04 – 12/31/19. Please see disclosure page at end for index definitions. All data represents total return for stated period. The "Asset Allocation" portfolio is for illustrative purposes only. Past performance is not indicative of future returns.
Guide to the Markets – U.S. Data are as of September 30, 2020.



3. “Timing” the markets- aka: Predicting the Future

“I have a proven system for picking winning stocks.”



“That sector will continue advancing through next year.”

“The market is primed for a retreat.”

Trying to “time” the markets

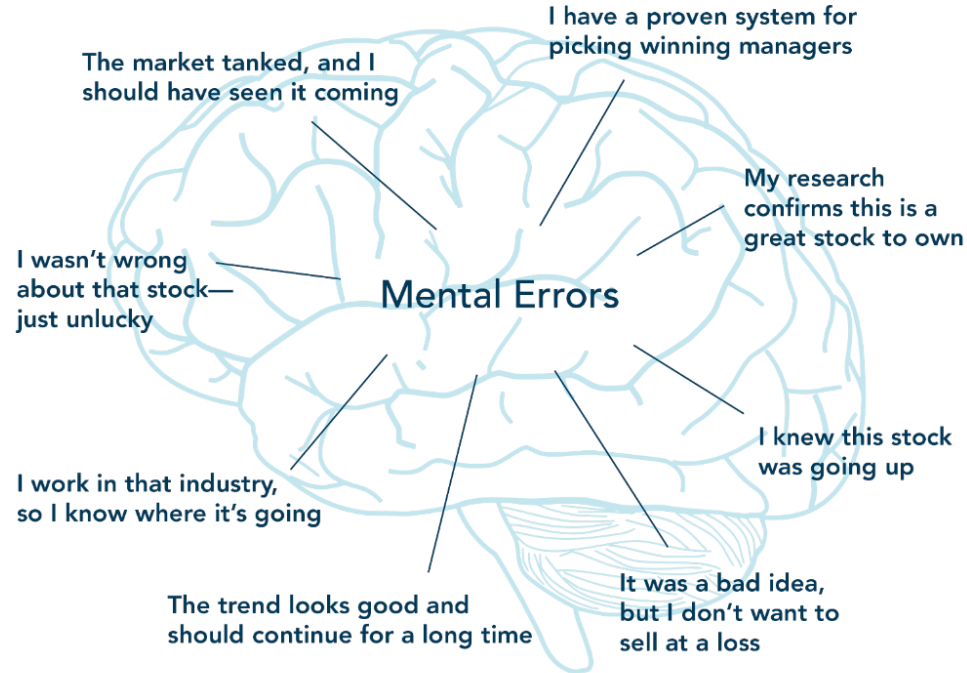
Trying to predict the market’s movements is at best, extremely difficult and at worst-impossible. The average investor loses thousands of dollars a year because of bad decisions about when to get in and when to get out — often because their **emotions** get the best of them and they forget the fundamentals.

An adviser who is looking out for your best interests will tell you that sticking to a plan based on your goals, your time horizon and your individual risk tolerance is a better way to go.



Humans Are Not Wired for Disciplined Investing

When we follow our natural instincts, we tend to apply faulty reasoning to investing.



Discipline beats Market Timing...every time!

Investor discipline is the ability to **avoid** reacting to sudden shifts in the markets. Persevering through market declines allows investors to avoid recognizing potential portfolio losses.

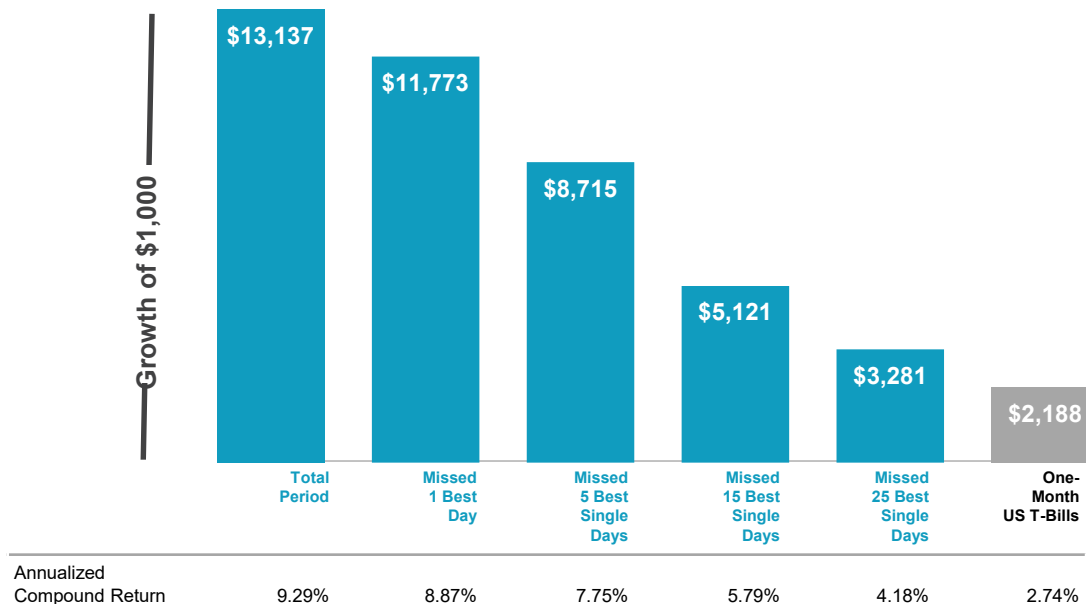
Don't miss out on potential market **rebounds**. Although recoveries aren't guaranteed, taking your money out of the market during declines means that if you don't get back in at the right time, you'll miss the full benefit of market recoveries.



Don't try to time
the market

Reacting Can Hurt Performance

Performance of the S&P 500 Index, 1990–2018



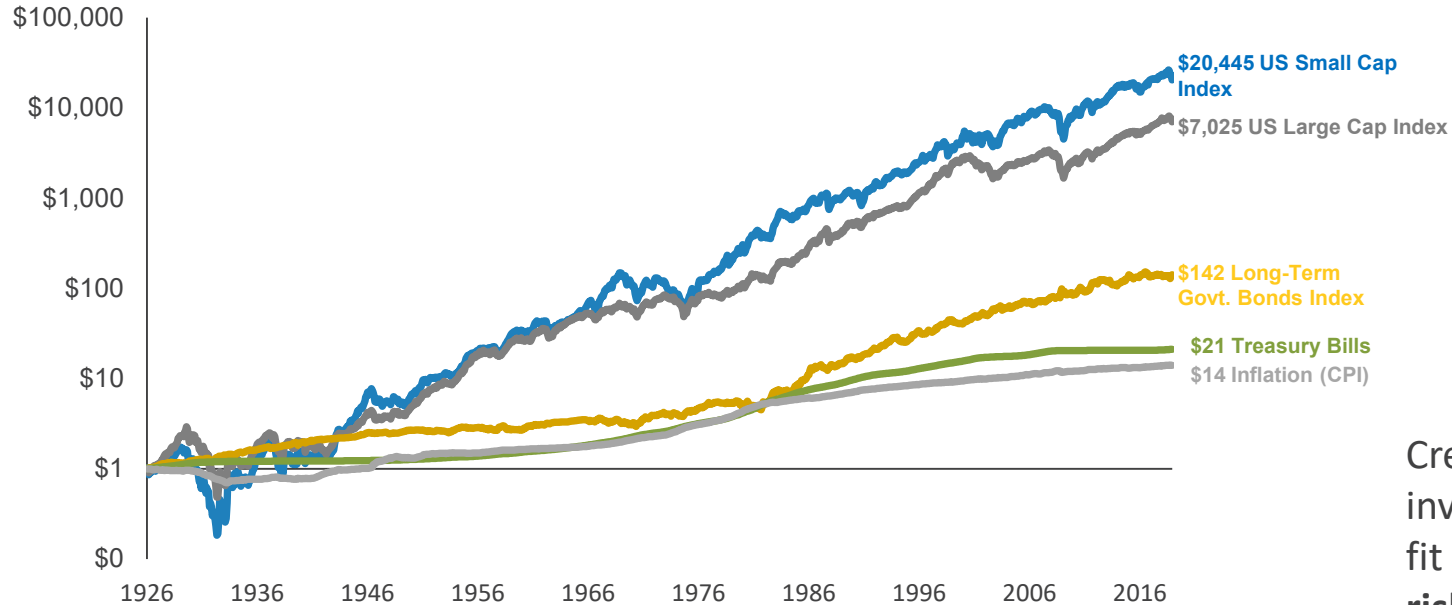
Missing only a few days of strong returns can drastically impact overall performance.

- In US dollars. For illustrative purposes. The missed best day(s) examples assume that the hypothetical portfolio fully divested its holdings at the end of the day before the missed best day(s), held cash for the missed best day(s), and reinvested the entire portfolio in the S&P 500 at the end of the missed best day(s). Annualized returns for the missed best day(s) were calculated by substituting actual returns for the missed best day(s) with zero.
- S&P data © 2019 S&P Dow Jones Indices LLC, a division of S&P Global. All rights reserved. "One-Month US T-Bills" is the 1A SBB1 US 30 Day TBILL TR USD, provided by Ibbotson Associates via Morningstar Direct. Data is calculated off rounded daily index values. Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio. Past performance is not a guarantee of future results.



Capital Markets Have Rewarded Long-Term Investors

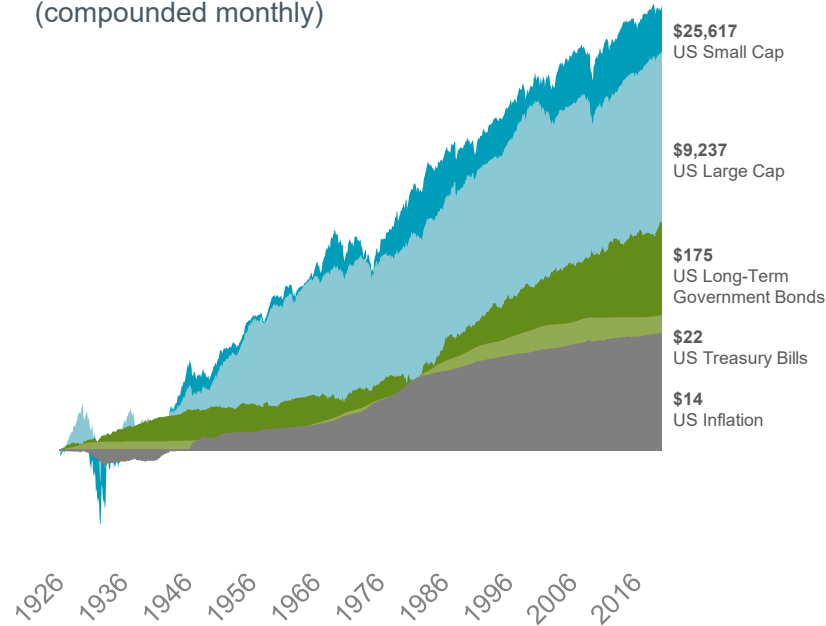
Monthly growth of wealth (\$1), 1926–2018



Create an investment plan to fit your **needs** and **risk tolerance**.

In US dollars.
US Small Cap Index is the CRSP 6–10 Index; US Large Cap Index is the S&P 500 Index; Long-Term Government Bonds Index is 20-year US government bonds; Treasury Bills are One-Month US Treasury bills; 1-Month Treasury Bills Index is the IA SBBI US 30 Day TBill TR USD. Treasury Index data sourced from Ibbotson Associates, via Morningstar. Direct Inflation is the Consumer Price Index. CRSP data provided by the Center for Research in Security Prices, S&P data © 2019 S&P Dow Jones Indices LLC, a division of S&P Global. All rights reserved. Bonds, T-bills, and inflation data provided by Morningstar.
Past performance is no guarantee of future results. Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio.

Growth of a Dollar, 1926–2019 (compounded monthly)



Investors expect a positive return on the capital they supply, and historically, the equity and bond markets have provided growth of wealth that has more than offset inflation.

In USD. US Small Cap is the CRSP 6–10 Index. US Large Cap is the S&P 500 Index. Long-Term Government Bonds is the IA SBBI US LT Govt TR USD. Treasury Bills is the IA SBBI US 30 Day TBill TR USD. US Inflation is measured as changes in the US Consumer Price Index. CRSP data is provided by the Center for Research in Security Prices, University of Chicago. S&P data © 2020 S&P Dow Jones Indices LLC, a division of S&P Global. All rights reserved. Long-term government bonds and Treasury bills data provided by Ibbotson Associates via Morningstar Direct. US Consumer Price Index data is provided by the US Department of Labor Bureau of Labor Statistics. Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio. Past performance is no guarantee of future results.

4. Over-focus on GAINS / Under-focus on RISK

What's more important- maximizing gains, or minimizing risk?

As investors we have all been trained to concentrate on accumulating as much money as we can for retirement. But when you're closing in on the finish line, the focus should switch from *accumulation* to *preservation*.

For many of us, Social Security and if we are lucky enough to have a pension, may not be enough, leaving us to have to fill the gap with withdrawals from our savings. If the market just happens to blow up right before or after you retire, and you haven't protected enough of that money, your retirement could blow up with it.



Don't fall victim to "S&P Envy"

A perfect market for "S&P Envy" during the last 20 years

Years	S&P 500 Index	Diversified portfolio
2000*-2002	-39.0%	-17.7%
2003-2007	+82.9%	+73.8%
2008	-37.0%	-24.0%
2009-2019	+351.0%	+191.7%
2020†	-19.6%	-13.1%
Total Return	+154.8%	+175.6%

Growth of

\$100,000

\$254,794

\$275,556



"I lost money"



"I didn't make as much"



"I lost money"



"I didn't make as much"



"I lost money"

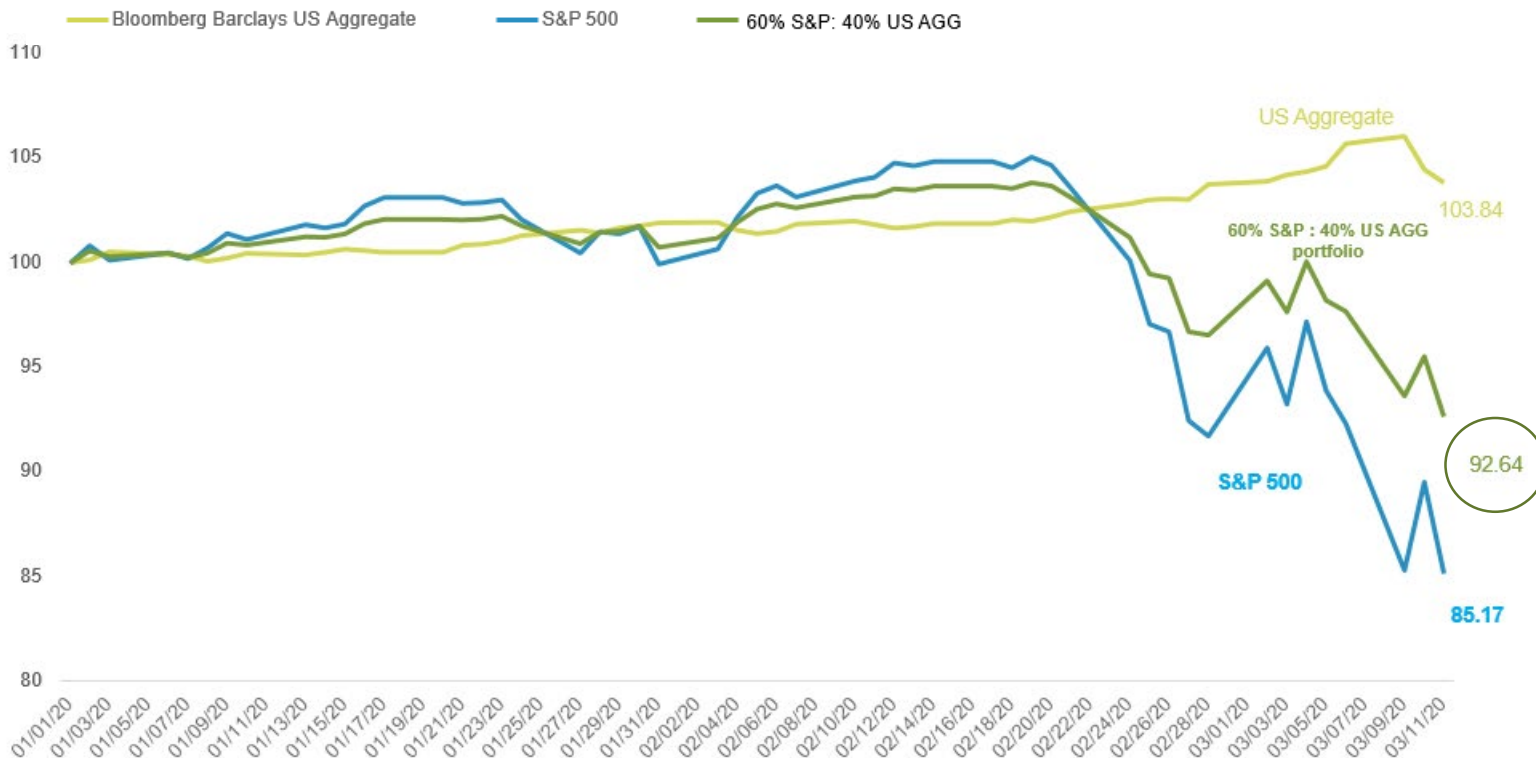


"Diversification can work even when it feels like it's losing"

Source: Morningstar as of 3/31/20. *Performance is from 3/31/2000 to 12/31/2002. †YTD as of 3/31/20. Past performance does not guarantee or indicate future results. Diversified Portfolio is represented by 40% S&P 500 Index, 15% MSCI EAFE Index, 5% Russell 2000 Index, 30% Bloomberg Barclays US Aggregate Bond Index, and 10% Bloomberg Barclays US Corporate High Yield Index. Past performance does not guarantee or indicate future results. Index performance is for illustrative purposes only. You cannot invest directly in the index. Diversification does not guarantee a profit or protect against a loss in a declining market.



Diversification may help mitigate losses



Past performance is no guarantee of future results. It is not possible to invest directly in an index. All market indices are unmanaged.

Diversification does not ensure a profit or guarantee against a loss.

For illustrative purposes only.

Source: Factset, as of 03/11/2020 For Investor Use



5. Procrastination: The enemy we all know

If 2020 has taught us anything so far, it's that you never know what life has in store.

The pursuit of investment “perfection” drives far too many people into getting nothing done and that comes at a cost. (Jonathan Shenkman, August 2000)



When it comes to saving, It's not always about how much. Just get started.

YOU ¹ SAVING EARLY AT 7%		YOUR SISTER ¹ SAVING LATER AT 7%			
AGE		AGE			
18	\$2,000				
19	\$2,000				
20	\$2,000				
21	\$2,000				
22	\$2,000				
23	\$2,000				
24	\$2,000				
25	\$2,000				
26	\$2,000				
27	\$2,000				
NO FURTHER INVESTING FROM AGE 27 TO 65		NO INVESTING UNTIL AGE 31			
TOTAL INVESTMENT: \$20,000		31	\$2,000		
		32	\$2,000		
		33	\$2,000		
		34	\$2,000		
		35	\$2,000		
		36	\$2,000		
		37	\$2,000		
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		60	\$2,000		
		61	\$2,000		
		62	\$2,000		
		63	\$2,000		
		64	\$2,000		
		65	\$2,000		
YOUR TOTAL AT AGE 65:		YOUR SISTER'S TOTAL AT AGE 65:			
\$361,418		\$276,474			
VS					
Your Difference Due to Starting Early: \$84,944					

¹ The investment periods shown reflect 10 complete years for "You" and 35 complete years for "Your Sister." Investments are assumed to be made annually and at the end of the investment period.

And just for fun: Presidential Elections & Your Investments

Presidential elections come around every four years, during these times politics and finance appear to converge leaving investors questioning how their investments will be impacted.

- Political elections can bring forth strong **emotions** and **biases** that can impact investment decisions.
- Many believe the health of the economy and the state of the financial markets is dependent on their acting **President**.
- Do election years require investors to change their investment strategies?



Market Returns and Election Years

Elections have historically, made essentially no difference when it comes to long-term investment returns.

It is difficult to identify systematic return patterns in elections years.

On average, market returns have been positive both in election years and the subsequent year.

Market expectations associated with election outcomes are embedded in security prices.

Sources: S&P data © 2019 S&P Dow Jones Indices LLC, a division of S&P Global. All rights reserved; MSCI data © MSCI 2019, all rights reserved; Bloomberg Barclays Capital data provided by Bloomberg. Past performance is not a guarantee of future results.



Common Mistakes Investors Make During an Election Year

Mistake #1

Investors try to **time the markets** around presidential elections.

Remember that markets can be especially choppy during election years, with sentiment often changing quickly. Applying the same reactive behaviors to your portfolio can have long-term negative effects.



Common Mistakes (Continued)

Mistake #2

Investors worry too much about which **political party** wins the election.

Investors should not base their investment decisions on which political party takes office. Focus on the long-term strategies and connect with an advisor to help with investment related questions and concerns.

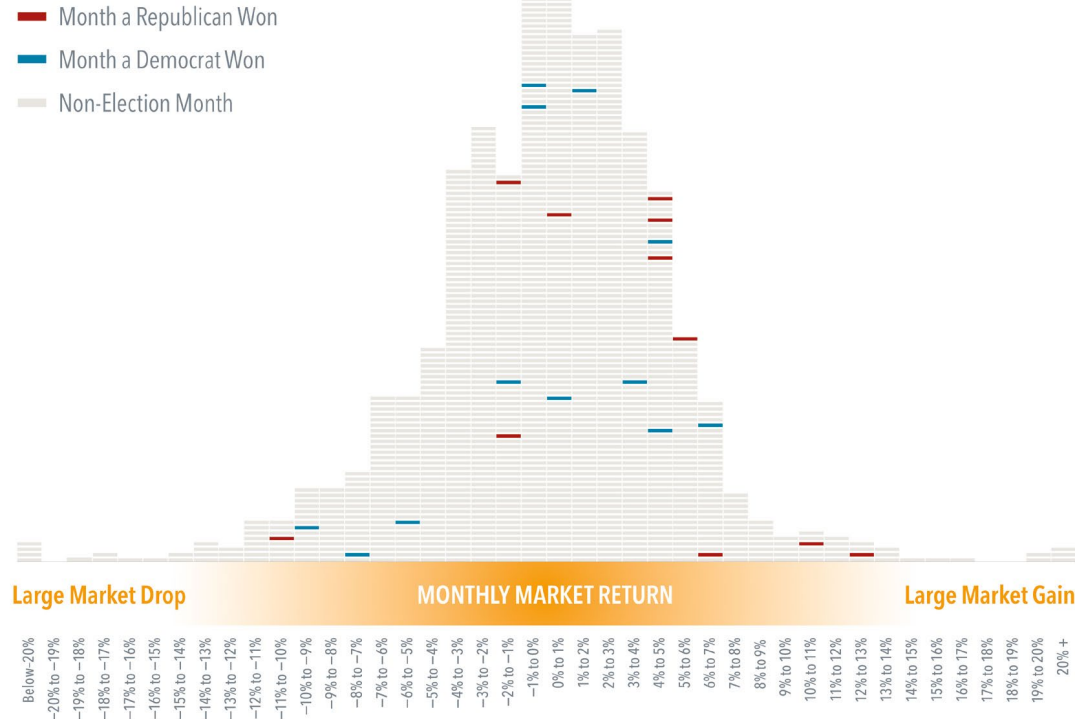


US Presidential Election and Monthly Returns

Distribution of returns for Fama/French Total US Market Research Index

January 1926—June 2020

There are multiple **variables** that determine economic **growth** and market **returns**. However, **Presidents** have very little influence over the markets.



1. Dashes representing returns for a given month are stacked in ascending order of return within each column, with highest return within that range on top. Past performance is not a guarantee of future results. Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio.

In US dollars.

Fama/French Total US Market Research Index: This value-weighted US market index is constructed every month, using all issues listed on the NYSE, AMEX, or Nasdaq with available outstanding shares and valid prices for that month and the month before. Exclusions: American depositary receipts. Sources: CRSP for value-weighted US market return. Rebalancing: Monthly. Dividends: Reinvested in the paying company until the portfolio is rebalanced.



Common Mistakes (Continued)

Mistake #3

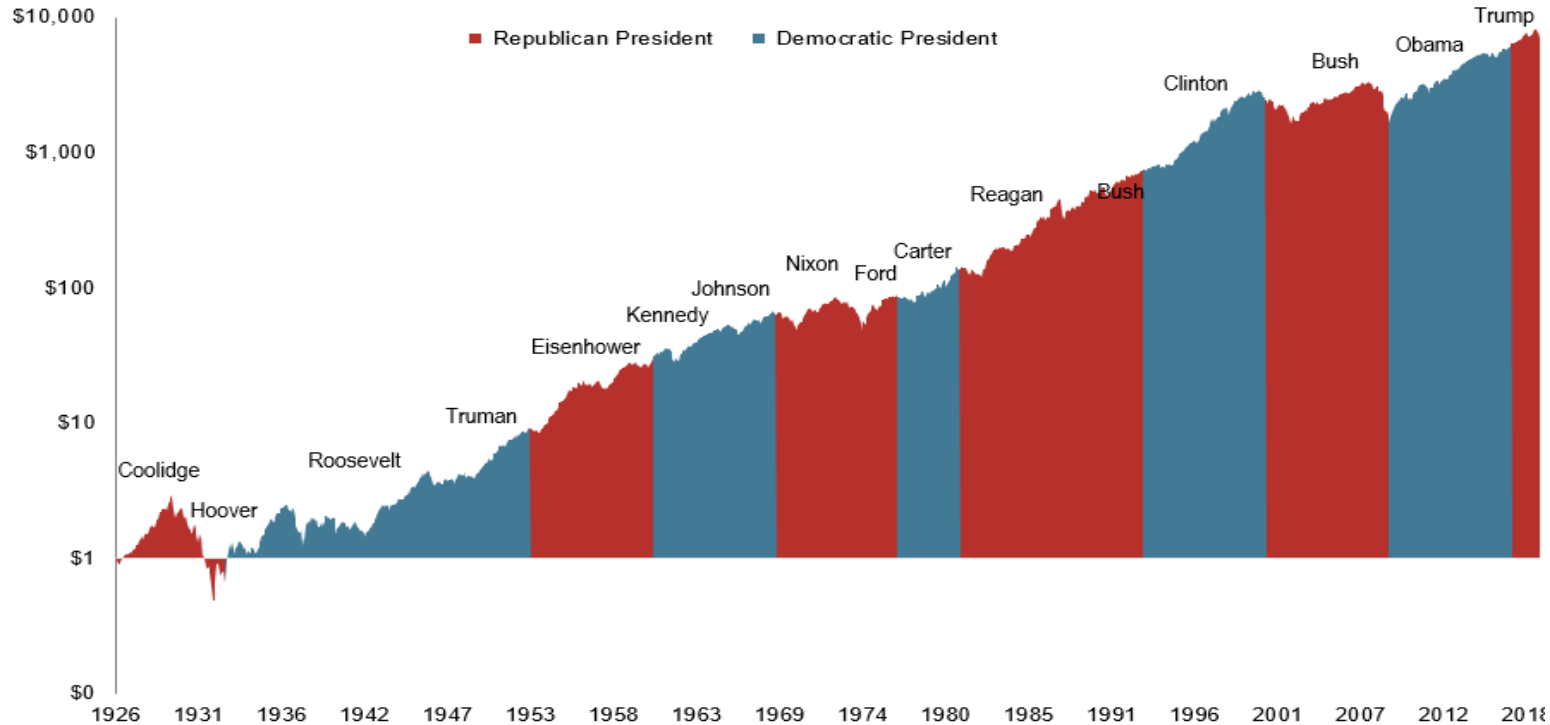
Overweighting **Cash or Money Market** prior to a presidential election.

Investors have traditionally poured assets into money market funds—leading up to elections. Equity funds have seen the highest net inflows in the year immediately after an election. Remember that Market Volatility caused by Presidential uncertainty is often short-lived.



Markets Have Rewarded Long-Term Investors under a Variety of Presidents

Growth of a Dollar Invested in the S&P 500: January 1926–December 2018

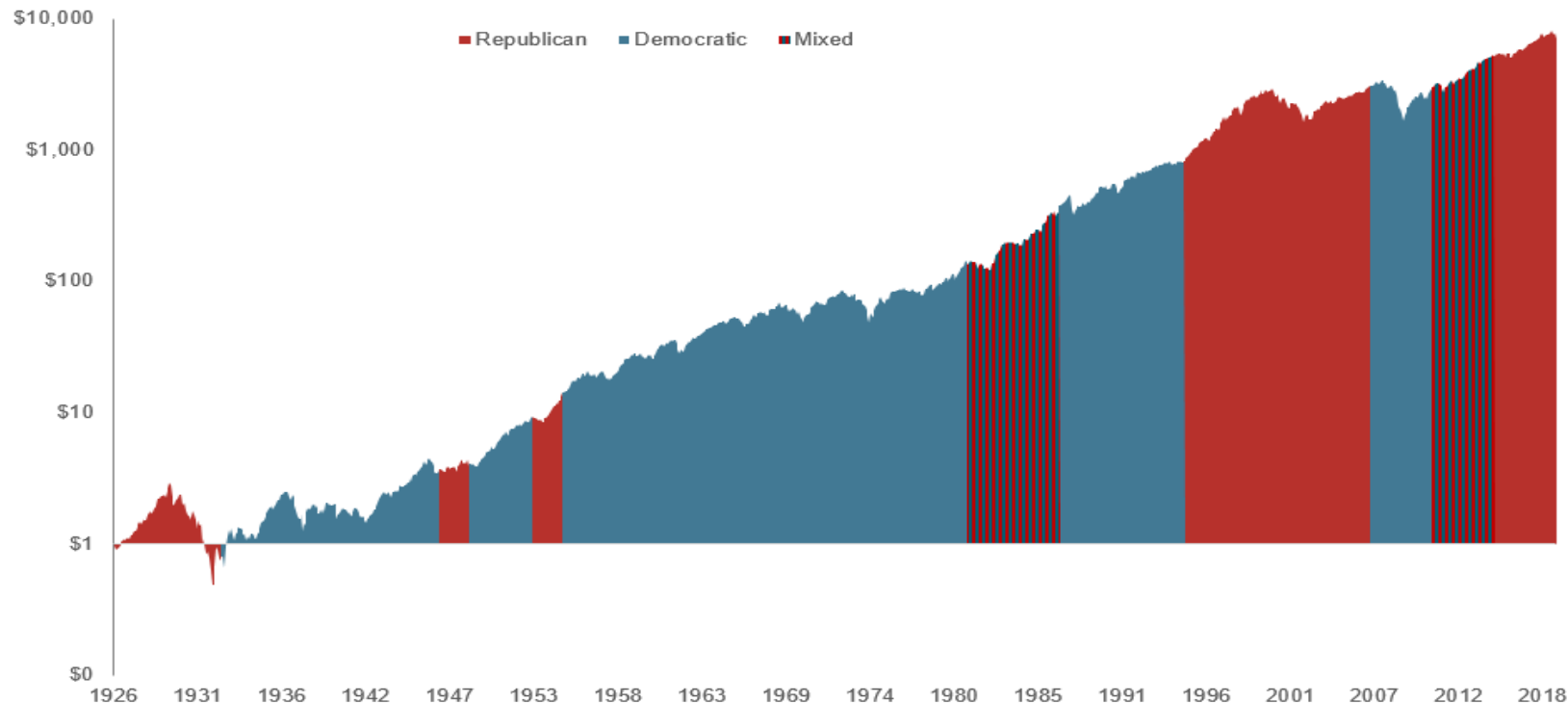


Past performance is not a guarantee of future results. Indices are not available for direct investment; therefore, their performance does not reflect the expenses associated with the management of an actual portfolio. Source: S&P data © 2019 S&P Dow Jones Indices LLC, a division of S&P Global. All rights reserved.



Hypothetical Growth of \$1 Invested in the S&P 500 Index and Party Control of Congress

January 1926–December 2018



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Summary

Elections have clear winners and losers. But the real winners are investors who **avoid** the temptation to base their decisions around election results and **stay invested** for the long term.

Findings

- Investors attempt to time the markets around presidential elections.
- Investors worry too much about which party wins the election.
- Investors go to Cash/Money Market prior to presidential elections.

Strategies

- Successful investing involves focusing on long-term goals and objectives.
- Stay disciplined and maintain portfolio diversification.



THANK YOU!

Questions?



Outbound Tax Implications of the Tax Cuts and Jobs Act

Jill Boland, Director

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Create Opportunities

Learning Objectives

At the end of the session, you will be able to:

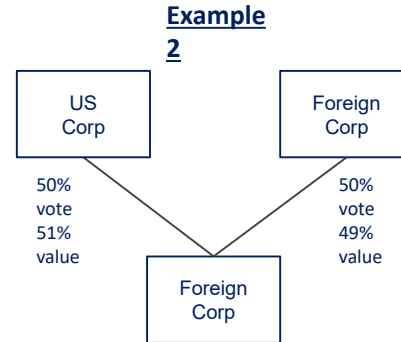
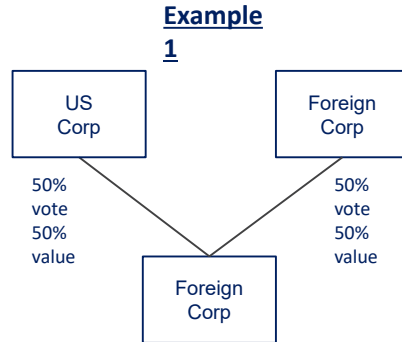
- Identify controlled foreign corporations (“CFCs”)
- Recognize US tax implications of CFC ownership before and after the Tax Cuts and Jobs Act



Controlled Foreign Corporations

Definition of Controlled Foreign Corporation

- A foreign corporation is a “controlled foreign corporation” (“CFC”) under US tax law if both of the following apply:
 - It has at least one US shareholder; and
 - All of the US shareholders, in the aggregate, hold more than 50% of the vote or value of the foreign corporation.
- A US person (including a US individual or entity) is a US shareholder if they own at least 10% of the vote or value of the foreign corporation.



Controlled Foreign Corporation - US Tax Implications

- Anti-deferral regimes applicable to US shareholders of CFCs include:
 - Sec. 951 (“Subpart F”)
 - Sec. 965 (“transition tax”)
 - Sec. 951A (“GILTI”)
 - Sec. 956
 - Sec. 1248
- To the extent that the undistributed income of a CFC is subject to tax in the US under an anti-deferral regime, the amounts are not subject to US tax again once actually repatriated.
- However, there are US tax implications of distributions of previously taxed earnings and profits (“PTEP”), including:
 - Fx gain/loss on distributions;
 - Foreign tax credit limitation issues with respect to foreign withholding on dividends.
- To the extent a CFC distributes a dividend to its US shareholder that is not previously taxed, the US tax treatment will differ depending upon the ownership.
 - US corporate owner: may be excluded from gross income under sec. 245A
 - US individual owner: fully includible in gross income



Subpart F and Transition Tax – Sec. 951 and 965

- A CFC that generates foreign base company income may create a subpart F inclusion for its US shareholders:
 - Foreign base company sales income
 - Foreign base company services income
 - Foreign personal holding company income
- Certain special rules with respect to subpart F inclusions:
 - De minimis rule
 - Full-inclusion rule
 - E&P limitation rule
- Taxed as ordinary income
 - US corporations allowed indirect foreign tax credits; sec. 78 gross-up required.
- Transition tax (sec. 965)
 - One-time repatriation of deferred foreign earnings of CFCs (and SFCs).
 - Treated as a subpart F inclusion for some purposes of US tax law; taxed at preferential rate in the US.

Global Intangible Low Taxed Income – Sec. 951A

- Sec. 951A added to the Internal Revenue Code pursuant to the Tax Cuts and Jobs Act and effective for tax years beginning on/after January 1, 2018.
- GILTI is generally equal to the CFC's foreign income, excluding Subpart F income, that exceeds a 10% rate of return on its Qualified Business Asset Investment ("QBAI"). Businesses with heavy investments in tangible assets will have a lower portion of earnings subject to GILTI as compared to businesses with little or no investment in tangible assets.
- A US shareholder includes his or her pro rata share of GILTI in their taxable income for the relevant year.
 - Individual US shareholders: GILTI is taxed at ordinary rates, generally not offsets or credits.
 - ◊ Sec. 962 election option
 - Corporate US shareholders: US shareholders that are domestic Subchapter C corporations benefit from a 50% deduction on their GILTI inclusion, and are eligible to offset the resulting US tax liability with the use of an indirect foreign tax credit.
- High taxed tested income exception election
 - Annual
 - Binding on all US shareholders of a CFC
 - Same-country grouping required for testing effective tax rates

CFC Investments in US Property – Sec. 956

- A US shareholder of a CFC is also subject to tax on such CFC's investments in US property under IRC 956:
 - Tangible property located in the US;
 - Stock of a US corporation; and
 - Obligations of a US person.
 - ◊ This may arise when a CFC pledges a certain percentage of its assets to guarantee a loan on behalf of a US person.
- The amount subject to tax (i.e., the “956 amount”) is the US shareholder's pro rata share of US property held by the CFC (as measured on a quarterly basis), but cannot exceed the US shareholder's pro rata share of the earnings and profits of such CFC.
- However, the US shareholder is not required to include this amount in US taxable income for each year during which the property is held; rather, only increases in the adjusted basis of the property would be required to be included in the 956 amount for subsequent years.
- Taxation of sec. 956 inclusions differ between types of US taxpayers:
 - US corporations – excluded from gross income under sec. 245A.
 - Individuals – included and taxable as ordinary income.

Sale of Stock of CFC - Sec. 1248

- Sec. 1248 applies to recharacterize a portion of gain from the sale of CFC stock.
 - Generally, stock of a corporation is a capital asset, the sale of which generates capital gain
 - To the extent that a CFC has untaxed E&P as of the date of the sale, a portion of the gain is recharacterized as ordinary income.
- Treatment of the recharacterized gain will receive different treatment depending upon the type of US taxpayer:
 - US individuals have a deemed dividend from the CFC taxed as ordinary income.
 - US corporations are allowed to exclude the deemed dividend from taxable income.



Repatriation of Earnings

CFC - Categories of Earnings & Profits

- Earnings and profits not previously taxed in the US - *Sec. 959(c)(3)*
- Earnings and profits attributable to amounts that were included in gross income under sec. 956 – *Sec. 959(c)(1)*
- Earnings and profits attributable to amounts that were included in gross income under subpart F (and sec. 965) and GILTI – *Sec. 959(c)(2)*



CFC Distributions – Ordering Rules for Earnings and Profits

- Sec. 959(c)(1) – PTEP within this category deemed distributed on a last-in, first-out (“LIFO”) basis
- Sec. 959(c)(2) – PTEP within this category also deemed distributed on a LIFO basis
 - Subject to priority rule for Sec. 965(a) and Sec. 965(b) PTEP
- Sec. 959(c)(3) – untaxed E&P is deemed distributed only after all categories of PTEP are cleared.

US Tax Implications of PTEP Distributions

- Sec. 986 gain/loss on distribution
 - Treated as foreign-source income for sec. 904 purposes
 - Only the applicable percentage of gain / loss is included with respect to distributions of sec. 965 PTEP

- Foreign tax credit implications:
 - Sec. 960(c) – increase to foreign tax credit limitation to the extent of the lesser of:
 - ◇ Excess limitation account; or
 - ◇ Amount of tax withheld on the PTEP distribution
 - Sec. 965(g) – foreign tax credits limited to applicable percentage
 - ◇ Potential GILTI PTEP haircut



US Tax Reporting for Controlled Foreign Corporations

US Tax Reporting - US Shareholders (Corporations) of Controlled Foreign Corporations

- Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*
- Form 8992, *U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI)*
- Form 8993, *Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI)*
- Form 1118, *Foreign Tax Credit—Corporations*



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SALT Update – December 2020

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Create Opportunities

Pass-Through Entity Payments

- Learning Objectives –
- Review IRS Notice 2020-75 and opportunity re Pass Through Payments
- Wayfair Update
 - Marketplace Facilitators
- Sales Tax Compliance Process
- COVID-19 Impact and Audit Activity Update
- Ohio CAT Supreme Court Case
- New Oregon CAT
- West Virginia High-Wage Credit

Learning Objectives

At the end of the session, you will be able to:

- Provide a 2020 overview of various state & local tax changes and pending items that will be applicable. This will assist in attendee in planning and/or determining potential exposure or opportunities.
- Recognize key changes with state & local tax with regard to various taxes (income tax/gross receipt tax and sales tax).
- Discuss various state court cases decided in past year and pertinent pending cases or legislation.
- Explain current Wayfair status and various state audit activity.





Pass-Through Entity Payments (IRS Notice)

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Pass-Through Entity Payments

- Treasury and Internal Revenue Service Issues Notice 2020-75
 - Clarifying State & Local Taxes Paid by PTE are allowable as a deduction at the entity level.
 - The IRS said it would issue proposed regulations allowing S corporations and partnerships to deduct "specified income tax payments" paid to state and local governments above the line and not as passthrough items for partners and shareholders. Notice 2020-75 defines the specified income tax payments as any amount a partnership or an S corporation pays to a state, a political subdivision of a state, or the District of Columbia to satisfy its liability for income taxes imposed on the partnership or the S corporation.

Pass-Through Entity Payments

- Treasury and Internal Revenue Service Issues Notice 2020-75
 - The Tax Cuts and Jobs Act (TCJA) capped the SALT deduction for individuals at \$10,000 for the 2018-2025 tax years. The limit generally applies to any SALT liability, including tax on income received from a partnership or S corporation. In response, seven states enacted laws designed to provide individuals with SALT deductions notwithstanding the \$10,000 limitation by imposing tax directly at the PTE level.

Pass-Through Entity Payments

- States Impacted Include:
 - ◇ Connecticut
 - ◇ New Jersey
 - ◇ Louisiana
 - ◇ Oklahoma
 - ◇ Rhode Island
 - ◇ Wisconsin
 - ◇ Maryland
- Anticipated additional states may adopt similar elections to pay tax at the entity level



Wayfair Update

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How is sales tax nexus created?



Physical presence through remote employees, attendance at trade shows, product training



Solicitation of new sales by employees or 3rd party reps



Inventory in 3rd party warehouses or consigned inventory



Economic nexus

Why do we have economic nexus?

- South Dakota v. Wayfair, Inc.
- South Dakota asserted that nexus could be created through an economic presence
- U.S. Supreme Court sided with South Dakota
- Provided a blueprint for other states to enact similar laws



What is Economic Nexus?

- In general - \$100,000 in gross sales or 200 transactions in current or prior year
- Remote sellers may need to collect sales tax
- Variances include
 - Number of transactions or no transaction threshold
 - Meet sales AND transaction thresholds
 - Sales of TPP, taxable sales, retail sales
 - Sales threshold (CA, NY and TX are \$500,000)
 - Last 4 quarters, rolling 12 months



Who is a remote seller?

- Any company making sales that are delivered into a state without the company having a physical presence in that state
- This can be fair-reaching – not just e-commerce and online retailers
- Companies impacted include:
 - Technology companies without an in-state physical presence that sell digital products that are utilized nationwide
 - Retailers and wholesalers that are selling across state lines
 - International businesses selling in United States
 - Any company selling products or services across state lines

Marketplace Facilitators

- In general, a business that provides a forum for other to sell their products or services for a fee.
- The definition in most states includes the collection of payment either directly or indirectly.
- Many states consider forums for services in the definition of a marketplace.
- Each state has their own rules – procedural for filing, notice, etc.





California/Washington State Developments – Marketplace Facilitators

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California - Amazon Notices

- Focus is on FBA clients
 - Have inventory in Amazon warehouses in CA
- Inventory creates nexus from day 1
- Inventory also breaks PL 86-272 protection
- Sales tax
 - State sent notices regarding this a couple years ago
 - Online Merchants Guild lawsuit
- Income tax
 - State has started sending notices in recent months



Washington – Marketplace Facilitators

- Determination 18-0255
- In summary, a fulfiller uses several sellers with similar/same products. If the marketplace has inventory from seller1 in the Washington warehouse, but a sale is made through seller2, the marketplace can digitally reassign ownership of that inventory between the two sellers and credit the seller2 for the sale. The Washington DOR determined that this “digital” inventory was nexus creating for seller2.
-

Washington – Marketplace Facilitators

- A marketplace seller can establish physical presence and sales tax liability in Washington state as a result of inventory stored in a marketplace facilitator's warehouse — even when ownership of the inventory was transferred digitally by the facilitator and the seller didn't know it had inventory in Washington.

Washington – Marketplace Facilitators

- Not knowing the inventory was in the state doesn't preclude a marketplace seller from delinquent penalties or interest on the unpaid tax.
- Will other states follow this treatment?



What should I think about?

- The SALT team can help you determine the answers to these types of questions:
- Is my client a marketplace?
- Does a facilitator include marketplaces for tangible personal property or does it include services and intangibles?
- Do the sales count toward economic nexus for the seller?
- Who is responsible for the sales tax collection and remittance?



Why does Nexus and Collection Responsibility Matter?

- Sales tax is a pass-through tax. The customer is the one ultimately responsible for paying the tax
- If sales tax is collected and remitted, the tax comes out of the buyer's pocket
- If our client is the seller does not collect the sales tax and should have, the sales tax comes out of our client's pocket.
 - Sales tax questionnaire from state
 - Business Registrations
 - Customer is audited for sales tax
- If missed, 8% HIT TO MARGIN!



Risks of Not Collecting

- Accounting Standards Codification 450 (ASC 450)
 - Disclosure and possible accrual for contingency losses or gains
 - Sales tax exposure for tax not collected could be significant
 - If we have a client that sells remotely, need to review as part of the assurance process if they are registered and collecting sale tax in the states where they have nexus
 - The risk is the sales tax on all taxable sales could be assessed on the remote seller
- Potential exposure estimated using sales by state and then layering taxability and procedures to collect and maintain exemption certificates.



How SALT Can Help

- Full Nexus review
- Economic nexus analysis
- Taxability review
- Compile exemption certificates
- Calculate potential prior exposure back to when taxable sales first made into the state
- Voluntary Disclosures
- Business and sales tax registrations
 - SOS
- Assist with setting up a front-end and/or back end sales tax software solution
- Sales Tax Outsourcing (STO) at CLA



Caution

- Cannot simply review, determine a requirement and register with a current date.
 - States will challenge a sales tax registration date if there is a perceived prior date.
- Should determine past exposure, if present.
- Understand that a sales tax registration could trigger other state filings in that state (income/franchise, annual report)
- Implement best practices in sales tax compliance process with exemption certificates.
 - Existing customers
 - New customer process





Solutions and Sales Tax Compliance

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Sales Tax Compliance Steps

- Nexus Review
- Get Registered
- Determine what is taxed
- Determine what rate to use
- Obtain reports to assist in filing
- Filing Returns

Automated or Manual

- Software solutions automatically update rates, can update taxability decisions, can file returns as well, but they can be expensive
- Manual solutions can work for smaller clients but can end up taking a lot of time to maintain or risk taxing items incorrectly



Most Common Sales Tax Providers

- Avalara
- Vertex
- Sovos
- Thomson Reuters ONESOURCE
- CCH Sales Tax
- TaxJar
- Tax Cloud

How can CLA help?

- Provide nexus study including a Wayfair analysis
- Assist in Registrations
- Help select software providers on assist in setting up a manual process
- We file returns!!! Thousands of them.

What is Sales Tax CLA Outsourcing? A comparison.

STO

- Software Assisted Filings
- High Volume
- Managed by SALT Team

BizOps

- Manual Filings
- Small Volume
- Managed by Local Office





Various State Updates

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Agenda - Controversy

- Amnesty Programs (pending)
- State Tax Audit Updates
- Trending Issues – Ohio CAT

COVID-19 Impact

- It is estimated that state tax revenue will decrease \$22 billion (4.7% decrease) for 2020 and then there will be continued decreases into 2021 and 2022.
- We anticipate state will communicate how they will address the conformity with Federal rules regarding PPP loans, etc.



COVID-19 Impact

- Remote workers and nexus concerns. States could apply nexus for employees working at home under a pandemic mandate.
- New Jersey and Pennsylvania will not count temporary remote employees toward nexus thresholds. During the COVID-19 pandemic, wage income will continue to be sourced as determined by the employer in accordance with the employer's jurisdiction.
- Philadelphia issued guidance stating that non-resident employees who work for Philadelphia-based employers are not subject to the Philadelphia Wage Tax during the time they are required to work outside of Philadelphia.

COVID-19 Impact

- Remote workers and nexus concerns. States could apply nexus for employees working at home under a pandemic mandate.
- State of Ohio has indicated they do not have the authority to “waive” nexus.
- Ohio municipal withholding rules were maintained during the pandemic. Withholding to stay at employer location (principal place of work) pre-pandemic.



COVID-19 Impact

- Remote workers and nexus concerns. States could apply nexus for employees working at home under a pandemic mandate.
- State of Michigan has indicated they do not have the authority to “waive” nexus while (for example) two aggressive state tax states California and Wisconsin will not assert nexus.
- West Virginia has not provided any guidance yet.
- Each state will make their own determination.
 - ◇ Residency for individual tax.

Amnesty Programs

- State Programs - Pending
 - Nevada
 - ◇ Nevada Department of Taxation authorizes an amnesty program providing for waiver of penalties and interest upon payment of delinquent taxes during the 90-day amnesty period to be established by the Department, ending not later than June 30, 2021.
 - Ohio
 - ◇ Ohio pending Legislation Ohio House Bill 609 Proposed Amnesty. Originally wanted to start 1/1/21. All taxes once approved.



State Tax Audit Updates

- Audit Updates
 - ◇ Covid-19 continuing to have an impact on auditors
 - Delays initially but now in-process audits started back up and new audits started.
 - Inconsistency in whether onsite review is allowed
 - Left to personal decision of the auditor
 - Starting to see more onsite requests.



State Tax Audit Updates

- Audit Updates
 - Client's required to pull documentation, scan, and send to auditor for review
 - Increased client time
 - Audits moving slowly
 - Additional interest on tax assessed due to time spent to complete audit
 - Waivers being requested on most all audits



State Tax Audit Updates – Pennsylvania/New York

- Audit Updates
 - PA
 - ◇ Pass-Through Entities
 - ◇ Individual Desk Audits
 - ◇ SUT – Data Analytics Notices
 - NYS
 - ◇ Residency Audits
 - NYC
 - ◇ Increased Activity
- Trends
 - ◇ Nexus/Discovery Notices – Local Levels
 - ◇ Wayfair Audits – Expected to Increase



State Tax Audit Updates – Ohio

- Audit Updates
 - ◇ Ohio
 - Use Tax
 - Commercial Activity Tax
 - Bright line nexus for non-Ohio taxpayer
 - Related member filing: combined vs consolidated
 - Handled 100% remotely
 - Same method as federal tax return



State Tax - Ohio Commercial Activity Tax

- Trends
 - ◇ Defender Security vs. McClain court case (September 2020) – intangible/contracts sourcing
 - benefit of a service is received from the sale of a service or an intangible asset
 - possible refund opportunity/change in compliance



Oregon Corporate Activity Tax

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Oregon Corporate Activity Tax

- Oregon CAT
- State took various aspects from Ohio CAT, other gross receipt taxes and traditional income tax. Effective 1/1/20.
- The CAT is in addition to the state's current corporate income tax.
- The CAT is imposed on businesses for the privilege of doing business in this state. It is measured on a business's commercial activity, which is the total amount a business realizes from transactions and activity in Oregon. Certain items are excluded from the definition of commercial activity and, therefore, will not be subject to the CAT. In addition, Oregon's CAT allows a 35 percent subtraction for certain business expenses.
- The CAT is applied to taxable Oregon commercial activity in excess of \$1 million. The tax is computed as \$250 plus 0.57 percent of taxable Oregon commercial activity of more than \$1 million. Only taxpayers with more than \$1 million of taxable Oregon commercial activity will have a payment obligation.

Oregon Corporate Activity Tax

- Oregon CAT
- A unitary group is a group of entities that form a unitary business enterprise in which members share or exchange value. A unitary group of entities is united by more than 50% common ownership.
- In addition, a unitary business enterprise exists if at least one of the following conditions is met:
 - Centralized management or a common executive force;
 - Centralized administrative services or functions resulting in economies of scale;
or
 - Flow of goods, capital resources or services demonstrating functional integration.

Oregon Corporate Activity Tax

- Oregon CAT
 - Members of a unitary group may be in the same general line of business, such as manufacturing, wholesaling or retailing. Or, members may be in multiple lines of business that constitute steps in a vertically integrated process, such as the steps involved in the production of natural resources, which might include exploration, mining, refining, and marketing.
 - Unitary groups must register, file, and pay as a single taxpayer.

Oregon Corporate Activity Tax

- Oregon CAT

– Important Filing Dates		
– Filing or Payment Requirement	Period Dates	Due Date
– 1st Quarter Estimated Payment	January – March	April 30
– 2nd Quarter Estimated Payment	April – June	July 31
– 3rd Quarter Estimated Payment	July – September	October 31
– 4th Quarter Estimated Payment	October – December	January 31
– Annual Return	January – December	April 15



West Virginia High-Wage Growth Business Tax Credit

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West Virginia High-Wage Growth Business Tax Credit

- The Program has a statewide cap of \$5 million for the Development Office to use each fiscal year and limits the maximum credit available to each eligible employer to 10% of the total salary amount for the new jobs.
- The current state median wage is \$33,379.86 based on workforce data provided by WorkForce West Virginia, which means interested companies must create at least 10 new jobs with wages greater than \$75,104.69 in order to qualify as an eligible employer.



West Virginia High-Wage Growth Business Tax Credit

- If the application is approved, the credit must be applied in a specific order: first against the business franchise tax, next, the corporate net income tax, and then the personal income tax. Unused credits may be refunded up to \$100,000 per year per taxpayer, including owners and the controlled group.
- Any unused credit available after refunds may be carried forward to succeeding taxable years until the full amount of the credit is used or 10 years after the taxable year in which the salaries of the new jobs were paid, whichever is earlier.



The four essential elements of the CLA Promise

OUR PURPOSE

CLA exists to create opportunities — for our clients, our people, and our communities.

OUR PROMISE

We promise to know you and help you.

OUR CLA FAMILY CULTURE

We're one family, working together to create opportunities.

STRATEGIC ADVANTAGES

- Deep industry specialization
- Seamless, integrated capabilities
- Premier resource for private business and owners
- Inspired careers





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Tax Effects of CARES Act, SECURE Act and PPP

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Create Opportunities

Learning Objectives

At the end of the session, you will be able to:

- Identify the effects of the new tax laws passed during 2020, including the effect on 2020 tax filings
- Discuss future tax implications for 2021 and beyond





Tax Implications of the CARES & SECURE Acts

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Implications for Businesses

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Business Interest Limitation

- Business interest deduction limited to sum of:
 - ◇ Business interest income;
 - ◇ 30% of Adjusted Taxable Income (ATI); and
 - ◇ Floor plan financing interest
- CARES Act increases limit to 50% of ATI for '19 and '20
 - ◇ Remains 30% in 2019 for partnerships, but partners can deduct 50% of suspended interest from '19 in '20
 - ◇ Election to use '19 ATI in computing '20 limit
 - ◇ Election to use 30% of ATI limit in lieu of 50%



Qualified Improvement Property (QIP)

- Any improvement to an interior portion of a nonresidential real property building
- Placed in service after building is first placed in service (even 1 day)
- Excluded from QIP:
 - ◇ An enlargement of a building
 - ◇ Any elevator or escalator
 - ◇ Internal structural framework (i.e., load bearing)

The Fix Is In

- CARES Act adds QIP to list of 15-year property
 - ◇ Change made retroactive to 1/1/18
 - ◇ Change thus makes QIP bonus eligible
- ADS recovery period reduced to 20 years



Correcting Depreciation for QIP

- Two options:
 - ◇ Amended return or AAR (for 1-year QIP only)
 - ◇ Accounting method change
- Accounting method change (DCN 244)
 - ◇ 5-year and final year of business limitations waived
 - ◇ Reduced filing requirement for Form 3115
 - ◇ Can be filed on single form with depreciation (DCN 7) or late bonus election (DCN 245) changes



Late Bonus Depreciation Elections

- Allowed to make late or revoke 2018-2020 elections:
 - ◇ Use ADS
 - ◇ Early bonus for fruit or nut bearing plants
 - ◇ Not to claim bonus depreciation
 - ◇ Claim 50% rather than 100% bonus (year including 9/28/17 only)
- Make late or revoke elections by:
 - ◇ Amended return or AAR
 - ◇ Accounting method change (DCN 245)
 - ◇ ADS election “withdrawn” by amended return or AAR only

NOL Carrybacks

- 5-year NOL c/b allowed for '18 through '20
- NOLs can offset 100% of taxable income through '20
- Summary of NOL rules:

Year of loss	Carryback period	Carryover period	% of TI NOL can offset
Pre-2018	2 years	20 years	100%
2018-2020	5 years	Indefinite	100% (80% for losses carried to 2021 and later years)
2021 and later	N/A	Indefinite	80%



NOL Carrybacks



- Planning to increase NOL
 - ◇ Accelerate equipment purchases
 - Utilizing Bonus Depreciation as opposed to Section 179
 - ◇ Evaluate accounting methods
 - ◇ Make retirement contributions
 - ◇ Write off bad A/R and harvest losses
 - ◇ Evaluate transfer pricing
- Consider PA treatment

Minimum Tax Credits

- TCJA – Corporate AMT repealed
 - ◊ MTC became refundable in '18 to '21
- CARES Act – MTC fully refundable in '19 (can elect '18)
- For corporations carrying NOLs back, AMT NOL treated as zero



FFCRA Payroll Tax Credits

- Applicable for eligible leave paid 4/1/2020 – 12/31/2020
- Paid Sick Leave
 - ◇ 80 hours at regular rate (up to \$511/day) if employee is:
 - Quarantined pursuant to government order
 - Advised by health care provider to self-quarantine
 - Experiencing COVID-19 symptoms and seeking a medical diagnosis
 - ◇ 80 hours at two-thirds regular rate (up to \$200/day) if:
 - Employee must care for individual subject to quarantine
 - Care for a child (under 18 years of age) because school or daycare is closed due to COVID-19



FFCRA Payroll Tax Credits

- Expanded Family and Medical Leave
 - ◇ Additional 10 weeks
 - ◇ Two-thirds regular rate (up to \$200)
 - ◇ Employee has been employed for ≥ 30 days
 - ◇ Care for a child because school or daycare is closed due to COVID-19
- Covered employers
 - ◇ Public employers
 - ◇ Private employer w/ < 500 employees



FFCRA Payroll Tax Credits

- 100% payroll tax credit covers:
 - ◇ Qualified sick leave wages
 - ◇ Qualified family leave wages
 - ◇ Qualified health plan expenses
 - ◇ Medicare tax credit
- Governmental entities are not eligible for the credit
- Qualified health plan expenses = health insurance costs allocable to wages
- FFCRA wages are not subject to employer SS tax (6.2%)



FFCRA Payroll Tax Credits

- Claiming the payroll tax credit
 - Form 941
 - Offset employment tax deposits
 - File Form 7200
- Self-employment tax credit
 - Credit available to offset self-employment tax



CARES Act Employee Retention Credit

- Refundable payroll credit for qualified wages paid after 3/31/2020 and before 1/1/2021
 - ◇ 50% of qualified wages up to \$10,000 = \$5,000 credit/employee
- Eligible employer (including tax-exempt organizations)
 - ◇ Fully or partially suspended operating during any quarter in 2020 due to order from a governmental entity due to COVID-19, or
 - ◇ Experience significant decline in gross receipts
 - 1st quarter in 2020 where gross receipts are < 50% for same quarter in 2019
 - Ends when gross receipts are > 80% for same quarter in 2019 (or 12/31/2020 if earlier)
- Not eligible for the credit if received PPP loan



1099-NEC

- Existed since 1983
- Non-Employee Compensation (NEC) has been on 1099-MISC
- Form 1099-NEC for 2020
 - ◇ Due last day of January (will be Feb 1 this year)



Implications for Individuals

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Key takeaways – SECURE Act

- Repeals maximum age for traditional IRA contributions (was 70 ½)
- Allows long-term, part-time workers to participate in 401(k) plans
- Permits parents to withdraw up to \$5,000 from retirement accounts penalty-free within a year of birth or adoption for qualified expenses
- Allows withdrawal up to \$10,000 from 529 plans to repay student loans
- Changes to RMD (cont. next)



RMD Changes – SECURE Act

- Increases age for RMDs to 72
- RMDs after death of participant:
 - ◇ Generally, balance must be distributed within 10 years
 - ◇ Exception for eligible designated beneficiary
 - Balance distributed over life or life expectancy
- Eligible designated beneficiary:
 - ◇ Surviving spouse;
 - ◇ Child who has not reached majority;
 - Once majority age reached, balance must be distributed within 10 years
 - ◇ A chronically ill or disabled individual; or
 - ◇ Any other individual not more than 10 years younger than participant

RMD Changes – SECURE Act

- Tax planning in response to death of the Stretch IRA
- Convert IRAs to Roth IRAs
 - Participant's income tax reduces estate tax
 - Can be done as “death bed” conversion
- Set up a Charitable Remainder Trust (CRT)
 - Distributions from CRT can be made over the life of beneficiaries of the trust
 - Income is taxed when distributions are made
 - Generates estate tax deduction



RMD Changes – CARES Act

- RMDs waived for 2020
- If participant received RMD in 2020, IRS extended 60-day rollover period to August 31, 2020



Coronavirus-related Distributions and Loans

- A distribution from a qualified retirement plan before the participant is age 59½ is generally subject to a 10% penalty
- A loan from a qualified employer plan is also subject to the 10% penalty unless the loan does not exceed the lesser of:
 - ◇ \$50,000; or
 - ◇ 1/2 of the PV of the employee's benefit, but not less than \$10,000



Coronavirus-related Distributions

- CARES Act – 10% penalty does not apply to any coronavirus- related distribution
 - ◊ Up to \$100,000
 - ◊ Made during 2020
- Qualified individual
 - ◊ Individual (or spouse) is diagnosed with COVID-19 (approved test)
 - ◊ Individual experiences adverse financial consequences as a result of:
 - Being quarantined, furloughed/laid off, not able to work due to lack of childcare, reduction in pay or job offer rescinded
 - Or spouse experience any of the above
- Income also recognized over 3-year period
- Recipient can also repay distribution



Coronavirus-related Loans

- CARES Act – temporarily increases allowable loan amount to lesser of:
 - ◇ \$100,000; or
 - ◇ PV of employee's accrued benefit
- Applies to plan loans made or outstanding on or after March 27, 2020 and before September 23, 2020
- 1-year moratorium on loan repayments



Charitable Contributions

- Above-the-line Deduction available for non-itemizers
 - \$300 per taxpayer deduction for cash donations to public charities even if not itemizing deductions
- Increase in AGI limit to 100%
 - Raises AGI limit on charitable contribution deductions for individuals from 60% to 100% (2020 only)
 - ◇ Only for cash donations to public charities
 - ◇ Other contribution limits remain the same



CARES Act Stimulus Payments

- Stimulus payments were pre-payment of Recovery Rebate Credit
 - ◇ 2020 Tax credit to be calculated/claimed on 2020 tax return
- Was based on either 18 or 19 return (if 19 filed)
 - ◇ Credit calculation will be based on 2020 income
- Non-taxable credit
- If “overpaid” credit during 2020, do not need to repay



Other CARES Act Provisions

- Student Loan Payment Deferral
 - ◇ Suspend loan payments
 - ◇ Stop collections on defaulted loans
 - ◇ Set interest rates to 0% for a period of 60 days
 - ◇ Originally through 9/30/20, now through 1/31/21
- Unemployment Payments
 - ◇ Additional \$600 paid to many claimants of Unemployment Coverage
 - ◇ All UE Compensation will be taxable
 - Taxed by Fed, not by PA. Other states may tax
 - May mean surprise tax bill for recipients



PPP Loan Updates – What we know so far

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Paycheck Protection Program

- Refresher:
 - ◇ SBA guaranteed loans – 2.5 months of 2019 payroll
 - ◇ Forgiveness if used to pay qualified costs
 - ◇ Forgiveness requires application and documentation – File application within 10 months after covered period
 - ◇ Forgiveness not taxable *
 - ◇ Tax determined based upon tax year
- There is a lot of uncertainty regarding the PPP program's forgiveness and new round of funding, but we will cover what we know at this point



Paycheck Protection Program - Forgiveness

- Notice 2020-32: No deduction for qualified costs
 - ◇ Effect on 199A W-2 expenses
 - ◇ Effect on R&D credit
 - ◇ No guidance on how to allocate costs on tax returns
- Rev. Rul. 2020-27 (11/18/2020)
 - ◇ Clarifies timing of reduction in expense
 - ◇ Must match year expenses were paid if forgiveness is granted or *reasonably expected* to be forgiven
- House proposal addresses this issue and makes expenses deductible
 - ◇ Not currently one of the sticking points with Senate Republicans



Paycheck Protection Program – Next Round?

- House proposal adds another round of PPP funding:
 - ◇ \$300 billion allotted for SBA (PPP) loans
 - ◇ Eligibility would be limited:
 - Small businesses with 300 or less employees
 - Must have sustained a 30% revenue loss (compared to PY) in any quarter of 2020





What might 2021 bring?

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Unprecedented Uncertainty

- Changes in political leadership normally come with uncertainty, but with the addition of the pandemic, 2021 is a particularly hard year to plan for
- Tax changes likely to take a backseat to COVID-19 relief strategies



To C-Corp or not to C-Corp?

- C-Corp rates may rise under Biden, proposed change from 21% to 28%
- The Minimum Tax may be revived
 - ◊ May make taking advantage of MTC even more important in 2020
- 199A deduction also may be limited for higher taxable income levels

Foreign Operations Considerations

- Biden proposed tax plan increases GILTI tax rate and applicability
- Possible 10% surtax for offshoring of manufacturing and service jobs
- Possible tax credit programs for domestic manufacturing and job creation/retention



Estate Planning Considerations

- Estate Tax levels likely to drop under new tax regime
 - ◇ Estate planning may be important for taxpayers with large estates
 - ◇ Best estate planning tool = starting early!



Questions?

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