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# Alternative Investment Bootcamp

## State and International Issues for Higher Ed/Healthcare/NFP

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The information provided herein is educational in nature and is based on authorities that are subject to change.

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# Presenter Introductions


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# Welcome and Thank You!

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# Agenda

- State Unrelated Business Income Tax Reporting
  - Allocation and Apportionment
  - State Filing Considerations
  - State Specific Issues
  - State Withholding Considerations
  - Voluntary Disclosure Agreements

- International Tax Reporting
  - Foreign Reporting Consequences
  - International Tax Forms and Filings
    - Form 926, Form 8865, Form 5471, Form 8621
    - Fin Cen 114
  - Foreign Reporting Penalties
  - Top 10 Reminders

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# Polling Question

How would you describe your level of knowledge of state and international tax issues as a result of alternative investments?

A. None – what is an alternative investment?
B. I know just enough to be dangerous.
C. I consider myself experienced, but always looking for opportunities to sharpen my skills.
D. I would consider myself an alternative investment tax subject matter expert….I'm here for the CPE.

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# State Unrelated Business Income Tax Reporting

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# Polling Question

How many state returns do you file?

A. None
B. File in resident state only
C. 1-5 states
D. 6-10 states
E. 11-20 states
F. 20+ states

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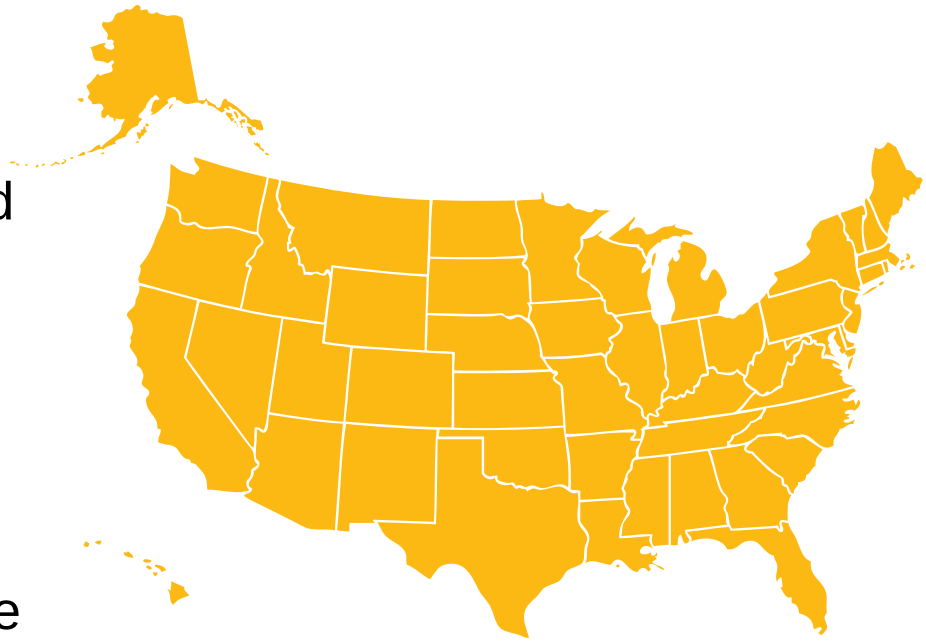
# Who Taxes UBI?

- Issue: No general rule that applies in every state and city.
- Sometimes the state or local rules parallel the federal tax statutes; and in others they are completely different.
- Most states conform in whole or in part to the federal definition of Unrelated Business Taxable Income ("UBTI") as defined under §512(a)(1).



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# State Unrelated Business Taxable Income

## Approximate number of states that . . .

. . . Tax unrelated business income:  40

. . . With distinct Form 990-T:  13

. . . Impose a minimum tax penalty (range $10 to $500):  12

. . . With UBTI minimum threshold – requiring initial filing:  9

. . . Allow allocation vs. apportionment:  5 (GA, HI, IL, MA, NY)

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# State Unrelated Business Taxable Income

Stay alert!

- State filing requirements subject to change
- Increased state audit activity
- States requiring tax withholding behalf of partners
- Nexus

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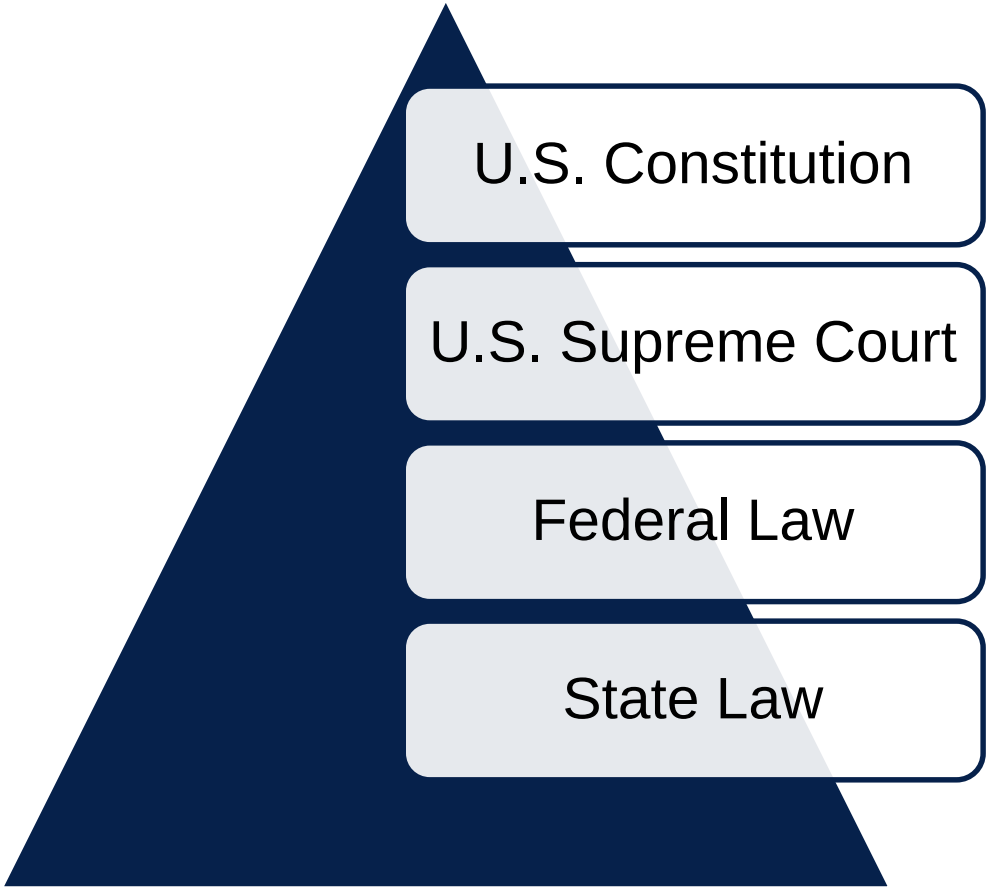
# State UBTI and Nexus

Jurisdiction to tax – nexus

Nexus (i.e., the link) describes the amount and degree of business activity that must be present before a state can impose tax

The jurisdiction to tax is governed by:

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# Pass-through Entities and Nexus

- General partner of a partnership is usually subject to tax on its distributive share of the income attributable to the state.
- Many states will tax a limited partner or LLC member on its distributive share of income derived from activities carried out by the partnership in the state, even where the limited partner itself has no contacts with the state and is a “passive investor.”
- Limited exception for investment partnerships where the investment relates to the tax-exempt purpose or mission (state specific)
- Generally subject to state income tax only on UBTI

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# Allocation and Apportionment

- A business that operates only in its home state reports 100 percent of its income is taxable in the home state
- A business that operates in its home state and another state will generally apportion and allocate income
- Most states require a business to be taxable in another state as a precondition to apportion

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# Allocation and Apportionment

- Different approaches that attempt to determine the amount of income earned in a particular state, based on state statute
  - If income is “non-business,” then it is *allocated (e.g.,* investment partnerships)
  - If it is “business income,” then it is *apportioned.*

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# Apportionment Calculations

Apportionment is a method of assigning the income of a multistate corporation among various states.

$$Property\ Factor = \frac{State\ Property}{Everywhere\ Property}$$

$$Payroll\ Factor = \frac{State\ Payroll}{Everywhere\ Payroll}$$

$$Sales\ Factor = \frac{State\ Sales}{Everywhere\ Sales}$$

Apportionment Weighting

- Standard Three Factor
- Double-Weighted Sales
- Single-Sales Factor

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# State Apportionment – Example

| | State A | | | State B | | |
|---|---|---|---|---|---|---|
| | Factors | Weighting | Weighted Factor | Factors | Weighting | Weighted Factor |
| **Property Factor** | 90% | 33.3% | 30% | 90% | 0% | 0% |
| **Payroll Factor** | 90% | 33.3% | 30% | 90% | 0% | 0% |
| **Sales Factor** | 10% | 33.3% | 3.33% | 10% | 100% | 10% |
| **Apportionment Factor** | 63.3% | | | 10% | | |
| **State Apportionable Income** | 10,000,000 | | | 10,000,000 | | |
| **State Apportioned Income** | **6,333,333** | | | **1,000,000** | | |

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# Polling Question

Is your organization tracking unrelated business income / losses in all states, even if you are not filing in all states?

A. Yes
B. No

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# State Filing Considerations

- Deciding
  - Filing threshold
  - How many years to file
  - Methods
- After first state filing
  - NOL availability
  - Dealing with notices
  - Extensions, and
  - Estimated payments
- Other potential consequences of state income tax filing
  - State registration (DOR and/or SOS)
  - Charitable solicitation registration
- Hours and volume involved
  - Staff and/or budget to handle

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# State Reporting & Filing Specific Issues

- State UBI filing requirement issues
  - Almost all states claim nexus over partners of a business entity (i.e., a partnership or Limited Liability Company) doing business in their state
  - Receipt of K-1s may trigger filings in the 40 jurisdictions that tax UBI

- State K-1 issues
  - State K-1s lack uniformity for presentation of UBI information
    - Often found in footnotes
    - However, no requirement for state UBI reporting
    - State UBI footnote frequently missing on the K-1
  - Whitepaper K-1 attachments should be carefully reviewed for state UBI information

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# State Reporting & Filing Specific Issues

- State specific UBI forms only exist in a few states and the remainder of states use corporate or fiduciary form

- Additional Filing Issues to Consider:
  - States with minimal taxable income
  - States with losses—file to preserve NOL carryforward?
  - Running statute of limitation or not
  - Once filing in a state, will commit to future year filings
  - Presentation of Allocable vs. Apportionable Income

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# State Specific Issues

- States are moving towards mandating electronic filing
- Some states will require additional filings, e.g., California requires an annual information return in addition to the income tax return
- States revenue departments have sophisticated systems to:
  - Identify inconsistencies or ability to flag potential errors
  - Automate return review (e.g., blank lines)
  - Automate sending notices

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# State Specific Issues – California

- Requires federal tax-exempt entities to apply for exempt status from the Franchise Tax Board
- Requires tax-exempts to file both an annual income tax (Form 109) and information return (Form 199) each year
- Requires electronically filing (mandatory)

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# State Specific Issues – New York

- Does not allow losses sustained during a year when the entity was not subject to UBTI in that state to be carried over
- Loss carryback limited to three years; otherwise conforms to the federal carryback and carry-forward provisions
- Uses a single-sales factor formula for taxable entities; exempt entities are required to use an equally weighted, three-factor formula to apportion UBTI

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# State Specific Issues – Illinois

- If you are only allocating UBI and have 0% apportionment – be mindful of presentation on the form
  - If you do not include a denominator in your apportionment factor, Illinois will assume 100% apportionment and issue a notice

- Two tax calculations, replacement tax and income tax – but both on the same form

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# Calculations Viewed in AIM

| State (click link for state instructions) | Filed in PY | Loss C/F | Overpayment C/F | UBI Amount | % of Federal UBI | Apportionment % | Withholding | Taxes UBIT | Minimum UBI Threshold | Tax Rate | C t |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | | 12 | 0 | 500 | 0.33 | 0 | 10 | ✓ | Follows Federal | 6.5% | |
| Arizona | | 0 | | 1,510 | 0.98 | 0 | 0 | ✓ | Follows Federal | 6.0% | |
| California | | 0 | | (94) | (0.06) | 0 | 0 | ✓ | $1,000 gross receipts | Graduated Rates: 1%-12.3% | |
| Idaho | | 0 | | 800 | 0.52 | 0 | 0 | ✓ | Follows Federal | 7.4% | |
| Illinois | | 0 | | 790 | 0.51 | 0 | 0 | ✓ | Follows Federal | 7.75% | |
| Kentucky | | 0 | | 890 | 0.58 | 0 | 0 | ✗ | | | |
| Michigan | | 0 | | (395) | (0.26) | 0 | 0 | ✓ | $350,000 MI sourced UBI gross receipts | 6% | |
| Minnesota | | 0 | | 0 | 0 | 0 | 0 | ✓ | No | 9.8% | |
| New York | | 0 | | 590 | 0.38 | 0 | 0 | ✓ | Follows Federal | 9% | |

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# Calculations Viewed in C-TRAC

| Name | | California | Illinois | New York | Total |
|---|---|---|---|---|---|
| Federal Taxable Income | | $ 152,498 | $ 152,498 | $ 152,498 | |
| State Modifications | | | | | |
| Total Modifications | | $ - | $ - | $ - | |
| Adjusted Federal Income | | $ 152,498 | $ 152,498 | $ 152,498 | |
| | | | | | |
| State Taxable Income Selection | | Allocation | Allocation | Allocation | |
| Apportionment Factor | | | | | |
| Apportioned State Taxable Income | | | | | |
| Allocated State Taxable Income | | $ (94) | $ 790 | $ 590 | $ 1,286 |
| Additional State Modifications<br>☐ Allocated Expenses from Form 990-T | | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ 2,000 |
| Loss Carry Forward | | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ - |
| **State Taxable Income** | | **$ (94)** | **$ 790** | **$ 590** | **$ 1,286** |
| State Tax Rate | | 0% | 7.75% | 42.373% | |
| **State Tax** | | **$ -** | **$ 61** | **$ 250** | **$ 311** |
| Payments, Credits, and Withholding | | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ - |
| **Tax Liability** | | **$ -** | **$ 61** | **$ 250** | **$ 311** |

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# Mandatory Nonresident State Withholding

- What is nonresident withholding?
  - The flow-through entity withholds and remits tax to the state taxing authority based on the investor's distributive share.
  - This generally does not satisfy the investor's tax filing obligation with the state. Rather, the investor must file its own return and may claim a credit for taxes deposited on its behalf by the flow-through entity.
  - Approximately 40 states now enforce mandatory nonresident withholding.
- Withholding was traditionally required for distributive shares attributable to nonresident individuals.
  - Withholding on passive income.
  - May not take into account intangible drilling costs and depletion.

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# Polling Question

How many Voluntary Disclosure Agreements has your organization entered with a state as a result of your alternative investments?

A. None
B. 1-5 States
C. 6-10 States
D. 10+ States

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# State Specific Issues – Voluntary Disclosure Agreements

- What is it?
  - States provide programs that allow taxpayers to come into compliance, voluntarily, by filing the prior 3 to 6 taxable year's returns (look-back period)
    - In exchange for the taxpayer coming forward, the state generally agrees to waive penalties that would have otherwise been due
    - Interest will be due in most cases
  - CPA firm (or other representative) negotiates the agreement with the state anonymously on behalf of the taxpayer
    - Note that in certain states, such as Illinois, the Department of Revenue will not allow the taxpayer to be anonymous and must disclose upfront
  - Once state approves the application, an agreement is signed, the prior period returns are filed and the tax is paid
    - Taxpayer must remain in compliance going forward

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# State Specific Issues – Voluntary Disclosure Agreements

- Benefits
  - Helps reduce penalties and interest
  - Practical way to begin filing and to mitigate exposure for prior years
  - Audit protection for years prior to agreement (in most cases)

- Considerations
  - Once taxpayer begins filing, must continue filing
  - Must pay 3 to 6 years worth of tax at once
  - Cost of negotiating the agreement and preparing the returns

- VDAs are usually recommended where penalties that would be waived, exceed the costs associated with negotiating the VDA

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# State Specific Issues – Voluntary Disclosure Agreements

- Taxpayers should take a holistic approach to voluntary disclosure agreements
- Review payroll, sales and use, real and personal property taxes in addition to income and franchise when applying for a VDA
  - Filing a VDA for UBI in a state could create unintended consequences for other state/local taxes, its best to perform due diligence on activities within a state before applying for a VDA

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# International Tax Reporting

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# Polling Question

On average, our organization completes ____ foreign disclosure forms:

A. 0-10
B. 11-25
C. 26-50
D. More than 50

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# Foreign Reporting Consequences of Alternative Investments

- An understanding of each investment is necessary to determine the international filing requirements.
  - Direct investments in domestic partnerships
    - Will need to look to the underlying investments made by the partnership
  - Direct investments in domestic corporations
    - Underlying foreign investments made will not be reportable
  - Direct investments in foreign partnerships
    - Will need to report the direct investment as well as any relevant underlying investments
  - Direct investments in foreign corporations
    - Will need to report the direct investment

- The entity type in the local jurisdiction may not be indicative of how it is treated in the U.S.
  - Check-the-box rules allow U.S. owners to choose the U.S. tax treatment of certain foreign entities
  - Often times certain structures are set up in a way to keep tax exempt entities from having UBTI
  - It is important to find out from the investment managers how the entities are treated in the U.S. because it affects which forms may be required to be filed

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# International Disclosures

- Investments in foreign partnerships and foreign corporations may give rise to additional filings with the IRS.
  - Why are we concerned??
    - PENALTIES!!!
    - BEWARE – State attachments as well!!

- Additional filing requirements:
  - Form 926, *Return by a U.S. Transferor of Property to a Foreign Corporation*
  - Form 3520, *Annual Return to Report Transactions with Foreign Trusts and Receipt for Certain Foreign Gifts*
  - Form 5471, *Information Return of U.S. Persons with respect to Certain Foreign Corporations*
  - Form 8621, *Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund*
  - Form 8858, *Information Return of U.S. Persons with respect to Foreign Disregarded Entities*
  - Form 8865, *Return of U.S. Persons with respect to Certain Foreign Partnerships*
  - Form 8886, *Reportable Transaction Disclosure Statement*
  - FinCEN 114, *Report of Foreign Bank and Financial Accounts*

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# Form 926 – Transfers to Foreign Corporations

- Used to report certain transfers of property to a foreign corporation.
- May need to file this form even if you aren't required to file a 5471
- Transfers by a partnership are deemed to be made by the domestic partners of the partnership and not the partnership. Each domestic partner is deemed to transfer his or her proportionate share of the property.
- Transfers of cash
  - Must be reported if immediately after the transfer the person holds directly or indirectly at least 10% of the vote or value of the foreign corporation or
  - The amount of cash transferred by the person to the foreign corporation **during the 12 month period** ending on the date of the transfer exceeds $100,000
- Certain exceptions apply for certain types of property contributed in exchanges described in section 354 or 356 (certain exchanges involving stock or securities)
- All other property transfers not specifically excepted in the Regs. MUST be reported REGARDLESS of the amount transferred (foreign currency, "other property," inventory, etc.)

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# Schedule K-1, Sample Form 926 Footnote

US RULES REQUIRE THAT US PERSONS DIRECTLY OR INDIRECTLY TRANSFERRING CASH OR OTHER PROPERTY IN A TAX-FREE TRANSACTION TO A FOREIGN CORPORATION TO REPORT THE CONTRIBUTION IN CERTAIN SITUATIONS ON FORM 926. THE DATA SET FORTH BELOW IS PROVIDED IN ORDER FOR YOU AND YOUR TAX ADVISOR TO DETERMINE IF YOU HAVE A FILING REQUIREMENT AND IF SO, TO PROVIDE YOU WITH THE DATA NEEDED FOR YOU TO COMPLETE THE FORM. THE LINE NUMBERS BELOW CORRESPOND TO THOSE ON FORM 926.

PART III - INFORMATION REGARDING TRANSFER OF PROPERTY

| Type | Date | Amount |
|---|---|---|
| CASH | VARIOUS | 269,133 |

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# Form 926 – Transfers in Foreign Corporation

- The amount of cash transferred by the person to the foreign corporation **during the 12 month period** ending on the date of the transfer exceeds $100,000

Transfer Summary

| Transferee Name | Foreign Corporation or Partnership | Transferee EIN (No Dashes) | De Minimis | Ownership % Before Transfer (Total) | Ownership % After Transfer (Total) | Current Year Transfer Amount (Total)* | Rolling 12 Month Transfer Amount |
|---|---|---|---|---|---|---|---|
| | No Selection | | | | | | |
| | | | ☐ | 0.000000 | 0.000000 | 79,143 (2) | 79,143 (2) |
| | | | ☑ | | | 50,000 (3) | 50,000 (3) |
| | | | ☐ | 0.000000 | 0.000000 | 0 (2) | 0 (2) |
| | | | ☐ | 0.000000 | 0.000000 | 0 (1) | 0 (1) |

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# Form 8865 – Foreign Partnerships

- Categories of Filers
  - Category 1 – U.S. person who controlled the foreign partnership at any time during the partnership's tax year.
    - Control is ownership of more than a 50% interest based on profits, income, or deductions
  - Category 2 –U.S. person who at any time during the tax year of the foreign partnership owned a 10% or greater interest in the partnership while the partnership was controlled by U.S. persons each owning at least 10%.
    - Cannot be a category 2 if anyone is a category 1
  - **Category 3 – U.S. person who contributed property during that person's tax year to a foreign partnership in exchange for an interest in the partnership if the person owned directly or indirectly at least a 10% interest in the foreign partnership immediately after the contribution or the value of the property contributed when added to all transfers in the last 12 months exceeds $100,000.**
    - If a domestic partnership contributes to a foreign partnership and the domestic partnership files Form 8865, the partners will not be required to file
  - Category 4 – U.S. person who had an acquisition, disposition, or change in ownership of 10% or more.

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# Schedule K-1, Sample Form 8865 Footnote

**FORM 8865 - RETURN OF U.S. PERSONS WITH RESPECT TO CERTAIN FOREIGN PARTNERSHIPS**
**SCHEDULE K-1 SUPPORTING SCHEDULE**

[redacted] is a foreign partnership. As a result of your interest in this partnership, a Form 8865 "Return of U.S. Persons with Respect to Certain Foreign Partnerships", may need to be completed for your interest in this entity. The tax rules related to foreign partnerships are complex. Please consult your tax advisor.

For Schedule O, Transfer of Property to a Foreign Partnership, please note that you transferred the following to this entity on various dates:

| | |
|---|---|
| Cash | **337,847** |

Please refer to Item J of your Federal Schedule K-1 for the applicable capital, profit, or loss percentage in the partnership immediately after the transfer.

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# Form 5471 – Foreign Corporations

Form **5471**

(Rev. December 2012)

Department of the Treasury
Internal Revenue Service

**Information Return of U.S. Persons With Respect To Certain Foreign Corporations**

▶ For more information about Form 5471, see *www.irs.gov/form5471*

Information furnished for the foreign corporation's annual accounting period (tax year required by section 898) (see instructions) beginning , 20 , and ending , 20

OMB No. 1545-0704

Attachment Sequence No. **121**

| | |
|---|---|
| Name of person filing this return | **A** Identifying number |
| Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address) | **B** Category of filer (See instructions. Check applicable box(es)): 1 (repealed) 2 ☐ 3 ☐ 4 ☐ 5 ☐ |
| City or town, state, and ZIP code | **C** Enter the total percentage of the foreign corporation's voting stock you owned at the end of its annual accounting period % |
| Filer's tax year beginning , 20 , and ending , 20 | |

**D** Person(s) on whose behalf this information return is filed:

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# Form 5471 – Foreign Corporations

- Categories of Filers
  - Category 1 - Repealed
  - Category 2 – U.S. citizen or resident who is an officer or director a foreign corporation in which a U.S. person has acquired stock meeting the 10% ownership requirement or acquires an additional 10% or more of the outstanding stock of a foreign corporation.
  - **Category 3 – U.S. person who acquires stock in a foreign corporation which when added to stock already owned meets the 10% stock ownership requirement, a person who becomes a U.S. shareholder while owning more than 10%, or a U.S. person who disposes of sufficient stock to reduce his or her interest to less than 10%.**
  - Category 4 – U.S. person who had control of a foreign corporation for an uninterrupted period of at least 30 days during the annual accounting period of the foreign corporation.
    - Control is greater than 50% of the vote or value of the stock
  - Category 5 – U.S. shareholder who owns stock in a foreign corporation that is a controlled foreign corporation for an uninterrupted period of 30 days or more during any tax year and who owned that stock on the last day of the year.

- Category 3 is likely the most common for tax exempt entities in a year in which they invest in a fund and acquire greater than 10% of the fund or make additional contributions increasing ownership by 10%, however if it is a majority owned subsidiary, the other categories will be applicable and additional reporting will be required

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# Controlled Foreign Corporation (CFC)

- Definition Of A CFC
  - Foreign corporation owned more than 50% by U.S. Shareholders
    - Ownership measured by greater of vote or value
- Definition Of A U.S. Shareholder
  - U.S. person who owns at least 10% of the total voting power in a foreign corporation
    - Actual, indirect, and constructive ownership all apply to the 10% test
- Definition Of A U.S. Person
  - U.S. citizen or resident, domestic corporation or partnership, and certain estates and trusts not classified as foreign

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# Potential Indications of a Form 5471 Filing Requirement Based on Form 926 Answers

1. Ownership Change

**9** Enter the transferor's interest in the foreign transferee corporation before and after the transfer:

**(a)** Before _____% **(b)** After _____%

If the "Before" ownership is less than 10% and after is greater than 10% or if the % increases by greater than 10%, will be a Category 3 filer

2. US Shareholder in a CFC

| | | |
|---|---|---|
| **8** | Is the transferee foreign corporation a controlled foreign corporation? . . . . . | ☐ **Yes** ☐ **No** |

If the answer to the above question is Yes and the ownership % above is greater than 10%, you may be required to file as a Category 5 filer. If the ownership % above is greater than 50%, you will be filing as a Category 4 filer

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# Form 8621 – Investments in Passive Foreign Investment Companies (PFICs)

- What is a PFIC?
  - A foreign corporation that meets either the income test or the asset test
    - Income test – 75% or more of the corporation's gross income for its taxable year is passive income
    - Asset test – At least 50% of the average assets held by the foreign corporation during the taxable year are assets that produce passive income or that are held for the production of passive income
- PFIC rules are very complicated
- Exempt entities cannot make a QEF election
- Exempt entities are subject to rules of section 1291 if they are a shareholder of a PFIC and the dividend received is taxable under Subchapter F
- **Exempt entities should not need to file this form unless they have received a dividend subject to subchapter F**

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# Report of Foreign Bank Accounts (“FinCEN 114”)

- US persons are generally required to file FinCEN 114 if
  - they have a financial interest in, or they have “signature or other authority” over one or more foreign financial accounts, and
  - The aggregate value of the foreign accounts exceeds $10,000 at any time during the calendar year.

- Requirement generally applies to:
  - Individuals
  - Corporations
  - Partnerships
  - LLC’s
  - Trusts

**FinCEN Form 114**

Department of the Treasury
OMB no. 1506-0009

(Rev. September 2013)

**REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS**

**Do NOT file with your Federal Tax Return**

**Do not use previous editions of this form**

- Timely filing procedures:
  - Calendar year basis
  - **Beginning for 2016 reports, the due date was changed from June 30 to April 15**
    - **An automatic 6-month extension is also available**
  - MUST be filed electronically

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# Definition of “Signature or Other Authority”

- A U.S. person has signature or other authority over a foreign financial account if such person (*alone or in conjunction with another*) can control the disposition of assets through direct communication (whether in writing or otherwise) with the foreign financial institution.

- NOTE: “Signature or other authority” is explicitly limited to individuals only

- Preamble: “The test for determining…signature or other authority is whether the foreign financial institution will act upon a direct communication from that individual regarding disposition of assets.”

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# Foreign Reporting Penalties

- Form 5471 – $10,000 penalty may be assessed for failure to file or filing an incomplete form as well as foreign tax credit reduction of 10%
- Form 8865
  - Category 1 and 2 filers – $10,000 penalty for failure to file complete or accurate form as well as foreign tax credit reduction of 10%.
  - Category 3 filer – 10% of the fair market value of the property contributed with a maximum penalty of $100,000
  - Category 4 filer – $10,000 penalty with an additional penalty for each month late after receiving notice from the IRS with a maximum penalty of $50,000
- Form 926
  - 10% of the fair market value of the property contributed with a maximum penalty of $100,000
- FinCEN 114
  - Failure to file – $10,000 unless reasonable cause is shown and all income related to the account has been reported
  - Willful failure to file – $100,000 or 50% of the account balance

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# Voluntary Disclosure

***The IRS has several foreign voluntary disclosure programs in place based upon facts and circumstances.***

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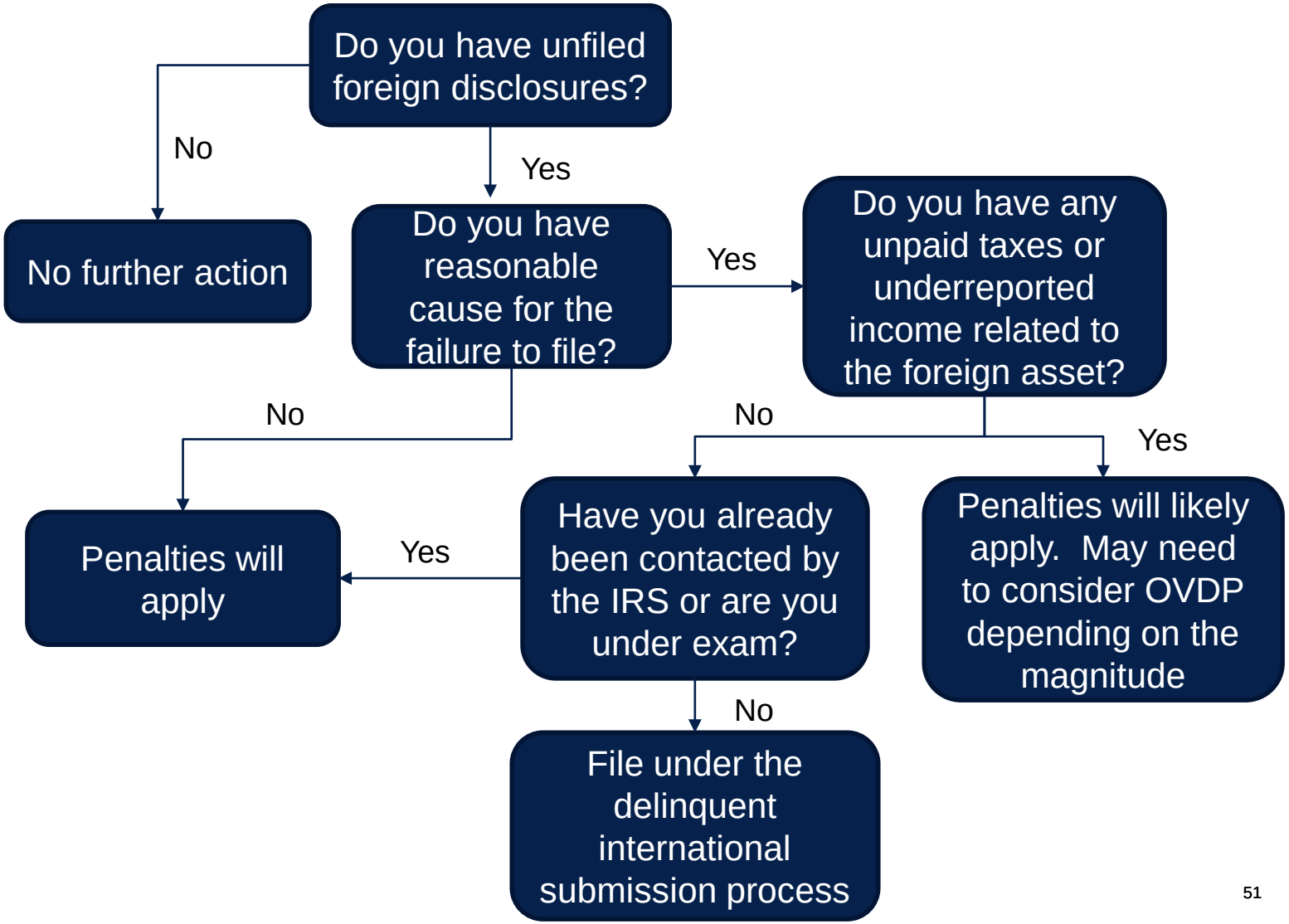
# Penalty/Voluntary Disclosure Analysis

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# Top 10 Reminders

1. Must aggregate all transfers to a foreign corporation or foreign partnership whether direct or indirect to determine whether the entity meets the filing requirements
2. Aggregate transfers include all transfers made within the past twelve months prior to the transfer (not just the calendar year)
3. Just because an entity is a partnership in the foreign jurisdiction does not mean the U.S. treats it as a partnership
4. Must read the K-1 disclosures carefully to determine whether the amount being reported in the statement is the total transfer made by the partnership or just the partner's share
5. Must aggregate the maximum balance of all foreign bank accounts to determine filing requirement and if the threshold for filing an FBAR is met, all accounts must be disclosed regardless of the balance
6. When invested in partnerships, you need to have an understanding of the investments the partnership is making to know if you need to report any indirect transfers
7. Failure to file these information returns could result in large penalties
8. The streamlined and voluntary disclosure programs will not be available forever
9. You MUST have a reference ID on the forms if there is no EIN for an entity
10. It can be very difficult to obtain the necessary information to properly file the foreign forms. The K-1 disclosures and investment managers are getting better but it is difficult to keep up with the changing international tax rules and disclosure requirements.

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# Polling Question

True or False: As a result of attending today's session, I feel like I have a better knowledge of state and international tax issues as a result of alternative investments.

A. True
B. False

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# Q&A

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# Thank you

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# 2016 C-TRAC Suite

Including the C-TRAC Alternative Investment Module, the State Module and more…

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# C-TRAC® - The Only IRS-Approved Software Developed by Tax Exempt Specialists for the Tax Exempt Community

IRS

Subscriptions | Language | Information For...

Search | Advanced

Filing | Payments | Refunds | Credits & Deductions | News & Events | Forms & Pubs | Help & Resources | for Tax Pros

**e-file Topics**

- e-file Provider & Tax Pro
- e-file Bus. & Self-Employed
- e-file Large Business
- e-file Char. & Non-Profits
- **e-file Home**

**e-File Providers Topics**

- e-File for Tax Pros
- e-File News Subscription
- QuickAlerts

## Exempt Organizations Electronic Filing (returns and notices)

The following companies have passed the IRS Assurance Testing System (**ATS**) and/or Business Acceptance Testing (**BATS**) requirements for Software Developers of electronic business returns to the IRS. Meeting the requirements means that the software can provide correct data in the proper format for processing by IRS systems. It does **not** mean that a software package includes every possible schedule or attachment, or that it will meet the needs of all filers.

**Software Developers Wanted** - If you are interested in developing e-file for Business Software, please visit our Software Developers' page for additional information.

**These providers are listed in no particular order.**

**File990.org**
310 Old Vine Street, Suite 101, Lexington, KY 40507, 859-309-3641

**ThinkTrade, Inc**
725 Cool Springs Boulevard Suite 600, Franklin, TN 37067 (866) 245-3918

**Aplos Software, LLC**
7638 North Ingram Ave, Suite 205, Fresno, CA 93711, 1 (888) 274-1316

**Crowe Horwath**
One Mid America Plaze, Suite 700, Oak Brook, IL 60522, 877-492-8722

**Lacerte Software**
5601 Headquarters Drive, Plano, Texas 75024-2262, (800) 765-4065

*Page Last Reviewed or Updated: 03-Apr-2015*

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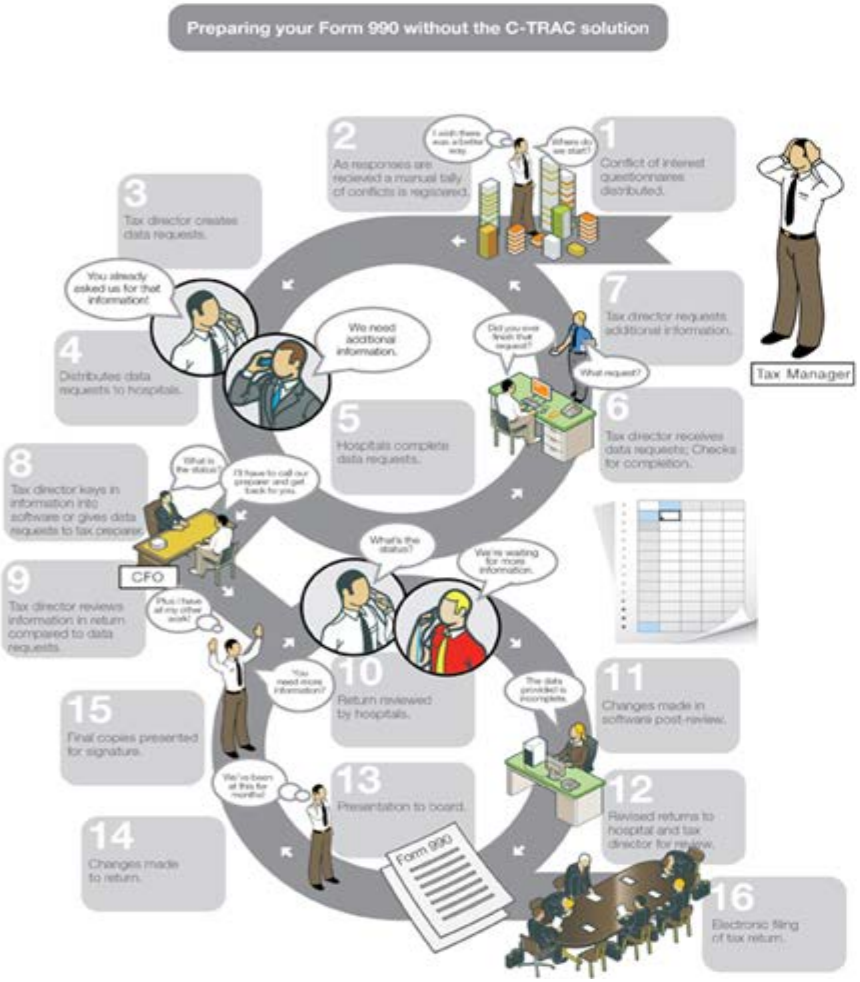
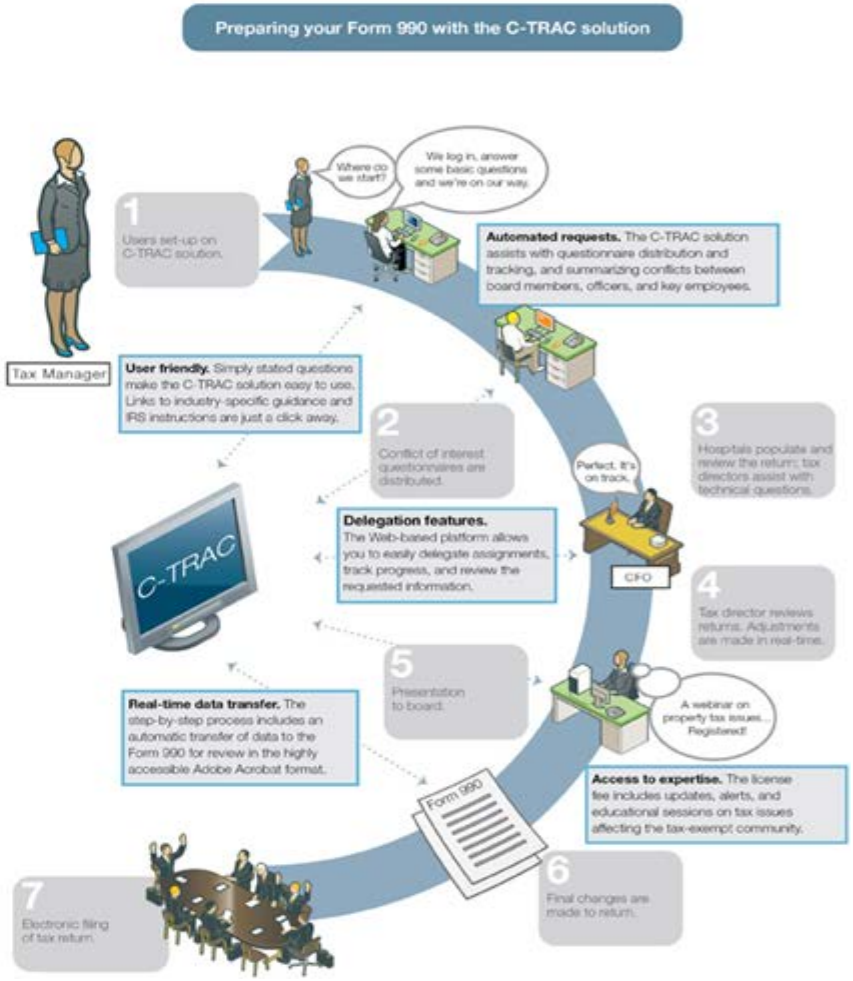
# Form 990 – With & Without C-TRAC

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# Alternative Investment Module

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# Web-Based Data Repository

Crowe Horwath. C-TRAC®

Resources 1 | Camron Momeni

## Alternative Investment Module

1. Manage Investments | 2. Manage Investment Managers | 3. Review Investments | 4. Federal Forms | 5. Reports

Add Investments | Import Investments | Lock All Investments | Investment Notes: All Notes | Download Notes
Delete All Investments | Export Investments | Unlock All Investments | Download Investments

| | Investment Name | EIN (No Dashes) | Group Name | Entity Type | Federal UBI | State UBI | Foreign Disclosures | | K-1 File | Status |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | All | | | | | | All |
| 1 | 333 INVESTMENT | 86-7530900 | | U.S. Partnership | ✓ | ✓ | ✓ | View Analysis | K-1 Received | Review 3 |
| 2 | ABC PARTNERSHIP | 51-6045046 | | U.S. Partnership | | | ✓ | View Analysis | Will Receive | No Data |
| 3 | BKP PARTNERSHIP | | | Foreign Partnership | | ✓ | ✓ | View Analysis | Will Receive | No Data |
| 4 | CROWE PARTNERS LLC | 12-3321233 | | Foreign Partnership | | | | View Analysis | Will Not Receive | Review 1 |
| 5 | CROWE PARTNERS OFFSHORE | 32-5640000 | | Foreign Corporation | | | ✓ | View Analysis | Will Not Receive | No Data |
| 6 | FAMILY INVESTMENT S-CORP | 98-1027207 | | S-Corp | ✓ | ✓ | | View Analysis | K-1 Received | No Data |
| 7 | FOREIGN CORP1 | | | Foreign Partnership | | | | View Analysis | Will Not Receive | No Data |
| 8 | INVESTMENT 2 | | | Foreign Partnership | | | | View Analysis | Will Receive | No Data |
| 9 | INVESTMENT TRUST A | 98-1027307 | | Trust | | | | View Analysis | Will Receive | No Data |
| 10 | NEW INVESTMENT | | | U.S. Partnership | | ✓ | | View | Will Receive | No Data |

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# Automates Requests to Investment Managers

Alternative Investment Module

1. Manage Investments | 2. Manage Investment Managers | 3. Review Investments | 4. Federal Forms | 5. State Forms | 6. General Attachments | 7. Reports

Add Investment Manager | Resend Reminder Emails | View/Edit Email Reminder

| View Details | Investment Manager | Title | Email Address | Edit | Delete | Original Sent Date |
|---|---|---|---|---|---|---|
| | Nicole Bencik | | nicole.bencik@crowehorwath.com | | | |
| | Jennifer Heng | | | | | |
| | Camron Momeni | Inv. Mgr. | camron.momeni@crowehorwath.com | | | |
| | John Doe | | jdoe@test.com | | | |
| | Kevin G | | | | | |
| | Racehl Spurlock | CFO | | | | |
| | Mallory Fairless | | mallory.galvin@crowehorwath.com | | | |
| | Jennifer Heng | | | | | |
| | Geralyn Hurd | Investment Manager | geralyn.hurd@investments.com | | | |

| Investment Name | Delegated to the Investment | Status | Overall Progress | Additional Questionnaire | Prior Year Questionnaire | Comments | Lock |
|---|---|---|---|---|---|---|---|
| ADAMS STREET PARTNERSHIP FUND - 2004 NON-U.S. | ☐ | Not Started | | N/A (None Requested) | View Prior Year Questionnaire Response | | |
| ADAMS STREET PARTNERSHIP FUND - 2004 U.S. FUND, L.P. | ☐ | Not Started | | N/A (None Requested) | View Prior Year Questionnaire Response | | |
| ADAMS STREET PARTNERSHIP FUND - 2007 NON-U.S. | ☐ | Not Started | | N/A (None Requested) | N/A (None Requested) | | |
| ADAMS STREET PARTNERSHIP FUND - 2007 U.S. FUND, L.P. | ☐ | Not Started | | N/A (None Requested) | N/A (None Requested) | | |

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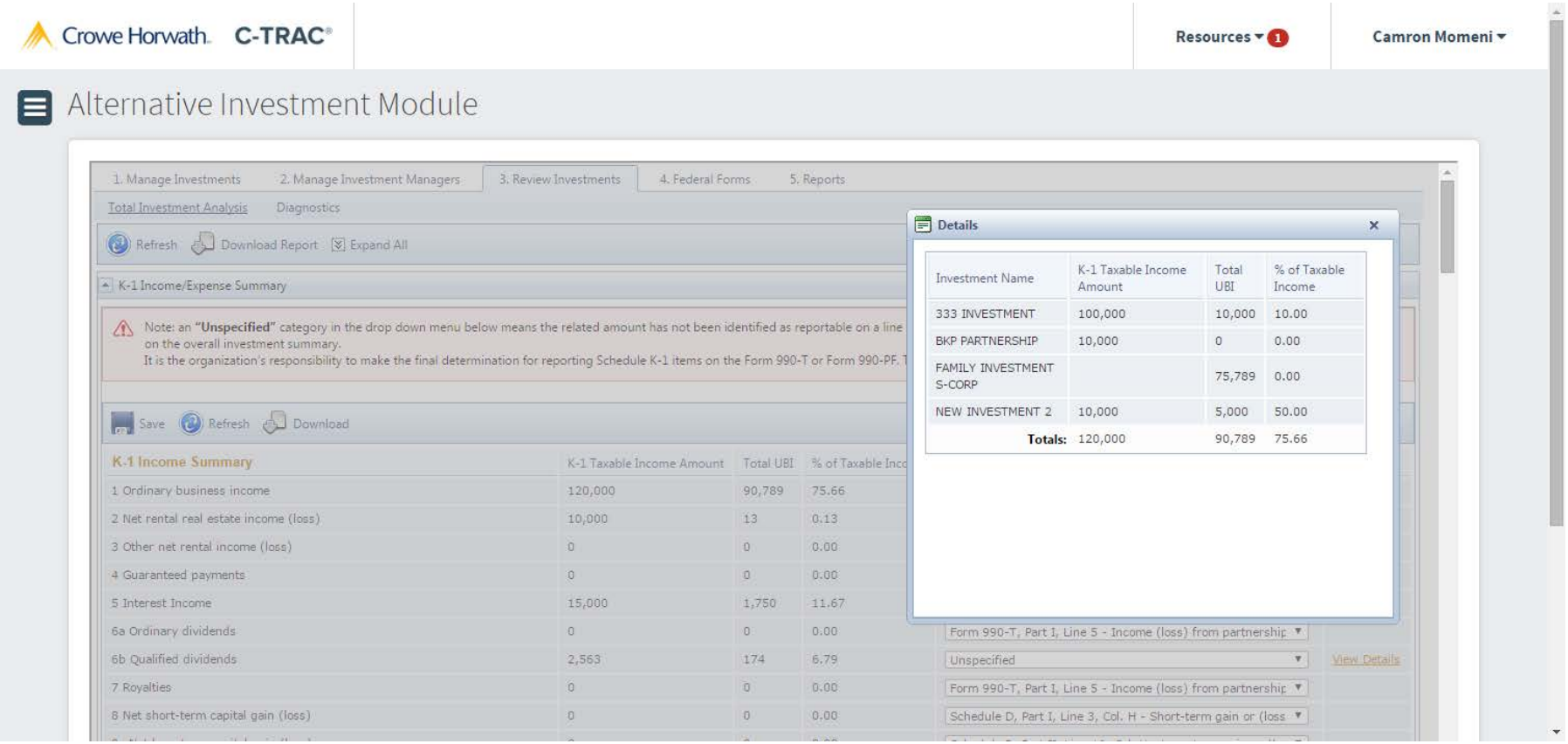
# View High-Level or Drill-Down to Detailed Information

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# Aggregates Federal, State & International Requirements

1. Manage Investments | 2. Manage Investment Managers | 3. Review Investments | 4. Federal Forms | 5. General Attachments | 6. Reports

Total Investment Analysis | Diagnostics

Refresh | Download Report | Expand All

K-1 Income/Expense Summary

Non K-1 Income/Expense Summary

990-T Reporting Summary

State Unrelated Business Income

Caution! State tax laws are complex and subject to change. The guidance provided cannot be considered tax advice. A full review of each state's requirements is required for compliance with state law.

606,414 Total Federal UBI

Save

| State (click link for state instructions) | Filed in PY | Loss C/F | Overpayment C/F | UBI Amount | % Of Total Federal UBI | Apportionment % | Withholding | Taxes UBIT | Minimum UBI Threshold | Tax Rate | Organization to file State Return | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | ☑ | 0 | 0 | 325 | 0.05 | 0.000061 | 50 | ✓ | | 6.5% | ☑ | View Details |
| Alaska | ☑ | 130,000 | 0 | 0 | 0 | 0 | 0 | ✓ | | Top rate:9.4% of the amount over $90,000* | ☑ | View Details |
| Arizona | ☐ | -100,000 | | 0 | 0 | 0 | 0 | ✓ | | 6.968% | ☑ | View Details |
| Arkansas | ☑ | | | 0 | 0 | 0 | 0 | ✓ | | Top rate:6.5% of the amount over $100,000 + $5,440* | ☑ | View Details |
| California | ☑ | 0 | | 59,875 | 9.87 | 0.408673 | 0 | ✓ | $1,000 gross receipts | 8.84% | ☑ | View Details |

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# Automatically Populates Required International Disclosures

1. Manage Investments | 2. Manage Investment Managers | 3. Review Investments | 4. Federal Forms | 5. General Attachments | 6. Reports

Click here for instructions on how to generate federal forms

Generate Tax Forms from Investments

Sort Report: Alphabetically by transferee | Download All Forms | Download All Completed Forms

Page Numbers: On Off

Include Attachments

Form 926 | Form 8865 | Form 5471 | Form 8886 | Form 8621 | Form 4626 | Schedule D (Form 1120) | Form 8949 | Form 4797 | Form 6781 | Form 4562 | Other Forms

Form 926

Instructions

Lock All Forms | Unlock All Forms | Delete All Forms | Download Status Report | Download All Forms | Download All Completed Forms | Download report generated on 12/2/2014 7:17 PM.

| | Transferee Corporation | Investment Name: Transferor | Status: | Edit | Attachments | Download | Notes | Delete |
|---|---|---|---|---|---|---|---|---|
| | | | All | | | | | |
| | 926Transferee 1 | VIEW TRANSFERORS(2) | Data Input | | Attachments (0) | | | |
| | Blackstone LLP | VIEW TRANSFERORS(5) | Data Input | | Attachments (0) | | | |
| | | | Data Input | | Attachments (1) | | | |
| | Bryan Capital | VIEW TRANSFERORS(4) | Data Input | | Attachments (0) | | | |
| | Bryan Partner Fund | VIEW TRANSFERORS(2) | Data Input | | Attachments (0) | | | |

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# Reports

## Federal Unrelated Business Income
## (Form 990-T Reporting)

| | Line Item | Value |
|---|---|---|
| 1 | Form 990-T, Part I, Line 1 - Balance of gross receipts or sales and less returns and allowances | 0 |
| 2 | Form 990-T, Part I, Line 2 - Cost of goods sold | 0 |
| 3 | Form 990-T, Part I, Line 4a - Capital gain net income | 0 |
| 4 | Form 990-T, Part I, Line 4b – Net Gain from Form 4797, Part II, Line 17, Col. g | 0 |
| 5 | Form 990-T, Part I, Line 4c - Capital loss deduction for trusts | 0 |
| 6 | Form 990-T, Part I, Line 5 - Income (loss) from partnerships and S corporations | |

| Investment Name | Amount |
|---|---|
| ADAMS STREET PARTNERSHIP FUND - 2004 U.S. FUND, L.P. | 10,000 |
| Archlight Energy Partners | 15,000 |
| Total | 25,000 |

## State Unrelated Business Income

| State | Filed In PY | NOL C/F | UBI Amount | Withholding | Taxes UBIT (1) | Min UBI Threshold (2) | Tax Rate | Disclosure of Reportable Transactions Required (4) | Org to file State Return | Details |
|---|---|---|---|---|---|---|---|---|---|---|
| California | | | 100 | 0 | ✓ | $1,000 gross receipts | 8.84% | ✓ | ✓ | |
| Illinois | | | 50 | 50 | ✓ | | 9.5% | ✓ | ✓ | |
| Massachusetts | | | 400,000 | 2,000 | ✓ | $1,000 of UBI | 8% | ✓ | | |
| Michigan | | | 25,000 | 10,000 | ✓ | $350,000 MI sourced UBI gross receipts | 6% | ✗ | | |
| | | Total: | 425,150 | 12,050 | | | | | | |

California Details:

| Investment Name | UBI Amount | Withholding |
|---|---|---|
| Archlight Energy Partners | 100 | 0 |
| Total: | 100 | 0 |

Illinois Details:

| Investment Name | UBI Amount | Withholding |
|---|---|---|
| Archlight Energy Partners | 50 | 50 |
| Total: | 50 | 50 |

Massachusetts Details:

| Investment Name | UBI Amount | Withholding |
|---|---|---|
| Archlight Energy Partners | 400,000 | 2,000 |
| Total: | 400,000 | 2,000 |

Michigan Details:

| Investment Name | UBI Amount | Withholding |
|---|---|---|
| Archlight Energy Partners | 25,000 | 10,000 |
| Total: | 25,000 | 10,000 |

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# C-TRAC State Module

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# State Collection of Data – Apportionment or Allocation

Select a Section: K-1 UBI (State) | Diagnostics | Investment Summary

Select a State | Add State | There is no prior year data for this investment

| States | UBI Source (Force Apportionment) | PY State UBI Amount | CY State UBI Amount * | PY Credits and Other Payments | CY Credits and Other Payments (Click for detail; Check if composite tax paid) | Withholding Statements | Delete |
|---|---|---|---|---|---|---|---|
| AL [Edit] | Allocable / Apportioned / Both | | 37,151 | | 0 | Statements (0) | Delete |
| AR [Edit] | Allocable / Apportioned / Both | | 7,781 | | 0 | Statements (0) | Delete |
| AZ [Edit] | Allocable / Apportioned / Both | | 17,695 | | 0 | Statements (0) | Delete |

| Federal UBI | Capital % | Profit % | Loss % |
|---|---|---|---|
| 1,324,598 | 0.812064 % | 0.85066 % | 0.85066 % |

State UBI Amounts | Apportionment Factors

**State: Alabama**
Click update once you've completed your input to add the total state sourced UBI to the table above.
Update | Clear All Fields

Federal K-1 Amount: Taxable Amount / UBI Amount

State K-1 UBI Amount

Multiply: Federal / State
K-1 Amount by: Profit % / Loss % / Capital % / State UBI % (Enter below)

Total State Sourced UBI: 37,151
Percent of Federal UBI: 2.8
Update Total UBI

CALCULATE STATE UBIT

| | Federal K-1 Amount | State K-1 UBI Amount | Multiply | Total State Sourced UBI |
|---|---|---|---|---|
| 1 Ordinary business income | -130,184 | | | 0 |
| 2 Net rental real estate income (loss) | -22,926 | -849 | | -849 |
| 3 Other net rental income (loss) | 0 | | | 0 |
| 4 Guaranteed payments | 0 | | | 0 |
| 5 Interest Income | 0 | | | 0 |

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# State Apportionment Output

## Boot Camp 112

## State Apportionment Summary

| | Total Property | Total Sales | Total Payroll | Federal UBI (All Investments) | State Apportioned UBI |
|---|---|---|---|---|---|
| Totals: | 415,923 | 139,653 | 6,021 | 1,501,536 | 1,426,029 |
| Override Totals: | 0 | 0 | 0 | | |

| State | Total Property | Total Sales | Total Payroll | Apportionment Factor | State Apportioned UBI |
|---|---|---|---|---|---|
| AR | 0 | 0 | 0 | 0 | 0 |
| CA | 413,726 | 133,310 | 4,295 | 0.904293 | 1,357,828 |
| CO | 0 | 0 | 0 | 0 | 0 |
| GA | 0 | 0 | 0 | 0 | 0 |
| LA | 0 | 0 | 0 | 0 | 0 |
| ME | 0 | 0 | 0 | 0 | 0 |
| MI | 0 | 0 | 0 | 0 | 0 |
| NM | 0 | 0 | 0 | 0 | 0 |
| NY | 2,197 | 6,343 | 1,726 | 0.045421 | 68,201 |
| OH | 0 | 0 | 0 | 0 | 0 |
| OK | 0 | 0 | 0 | 0 | 0 |
| WV | 0 | 0 | 0 | 0 | 0 |

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# Manage State Modifications, Apportionment Factors and Allocations

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Resources 3 | Camron Momeni

## State Module

**Note: Data entered on this page will automatically be saved.**

Tax year to import data from: | Import 990-T, Line 34 | Import AIM Data | Finalize Extension Grid | View Report

| Name | Alabama | Alaska | Arizona | Arkansas | Total |
|---|---|---|---|---|---|
| Federal Taxable Income | $ 1,500,000 | $ 1,500,000 | $ 1,500,000 | $ 1,500,000 | |
| State Modifications | | | | | |
| ST01 - Federal NOL Deduction | $ 500,000 | $ - | $ - | $ - | |
| Total Modifications | $ 500,000 | $ - | $ - | $ - | |
| Adjusted Federal Income | $ 2,000,000 | $ 1,500,000 | $ 1,500,000 | $ 1,500,000 | |
| State Taxable Income Selection | Allocation | Apportionment | Allocation | Allocation | |
| Apportionment Factor | | 0.000000 | | | 0.000000 |
| Apportioned State Taxable Income | | $ - | | | $ - |
| Allocated State Taxable Income | $ 37,550 | | $ (Set Value) | $ (Set Value) | $ 37,550 |
| Additional State Modifications<br>Allocated Expenses from Form 990-T | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ - |
| Loss Carry Forward | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ - |
| **State Taxable Income** | **$ 37,550** | $ - | $ - | $ - | **$ 37,550** |
| State Tax Rate | 6.5% | 0%* | 0% | 0% | |
| **State Tax** | **$ 2,441** | $ - | **$ 50** | $ - | **$ 4,211** |
| Payments, Credits, and Withholding | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ (Set Value) | $ - |
| **Estimated Liability** | **$ 2,441** | $ - | **$ 50** | $ - | **$ 4,211** |
| Extension Required? | Automatic Extension (6 Months). If tax due, File Form BIT-V. Payment required electronically if tax due is $750 or more. | Automatic Extension (6 Months) | Accepts Federal. Required to file Form 120-EXT if tax due. | Accepts Federal Extension; Can request an additional 60 days if Form AR-1155 is filed. | |
| Extension Due Date | 03/15/2016 | 06/15/2016 | 05/15/2016 | 05/15/2016 | |

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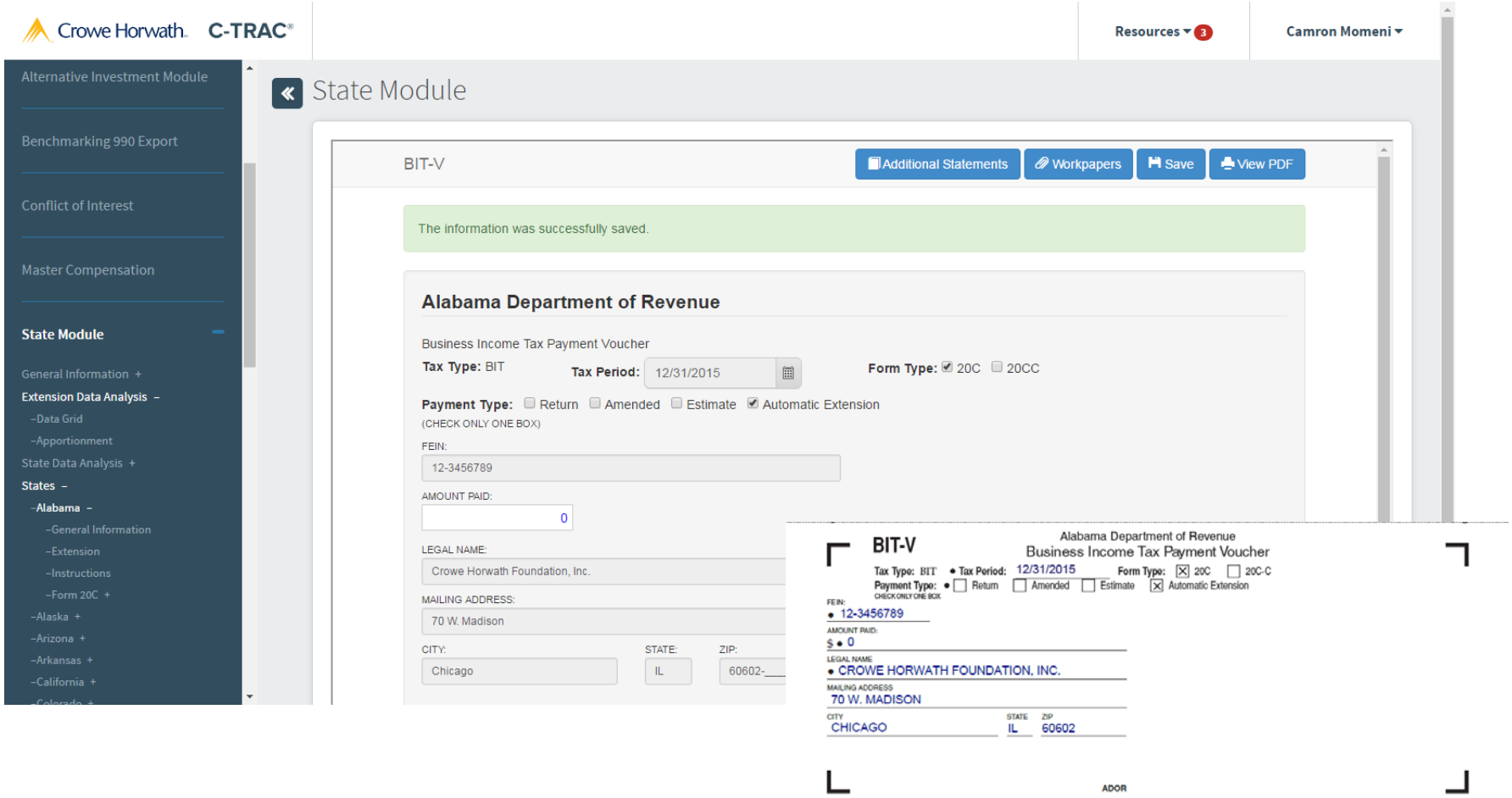
# Data Automatically Flows to State Forms

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# Benefits

- Provides a disciplined approach to compliance & communications
- Web-based; User-friendly
- Accommodates an unlimited number of users
- Puts the organization in control
- Access to real-time data

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