



WELCOME

# Advanced Tax and Estate Planning Strategies Webcast

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- **For technical support, please use the Q&A window**

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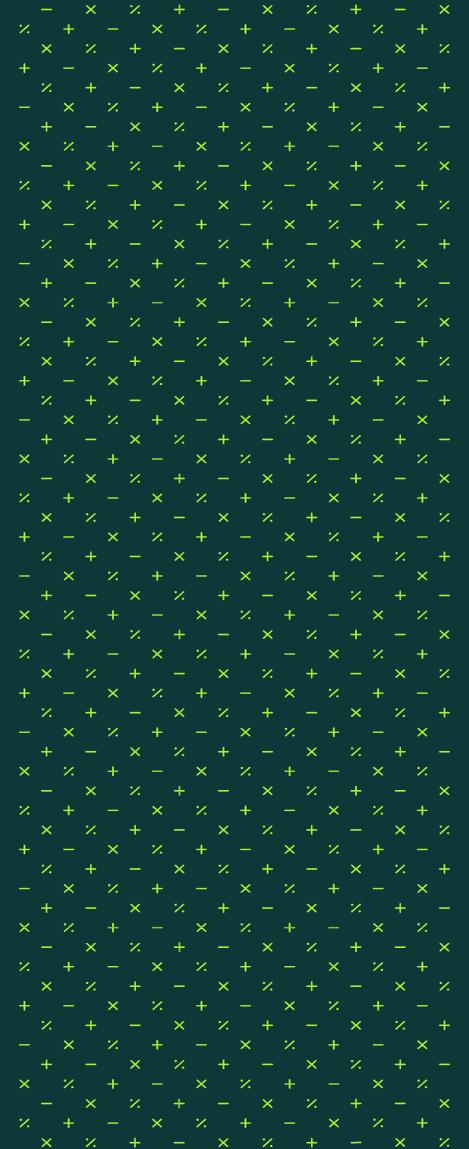


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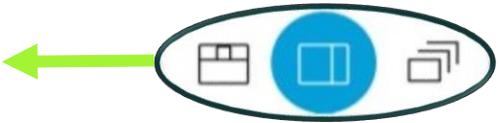
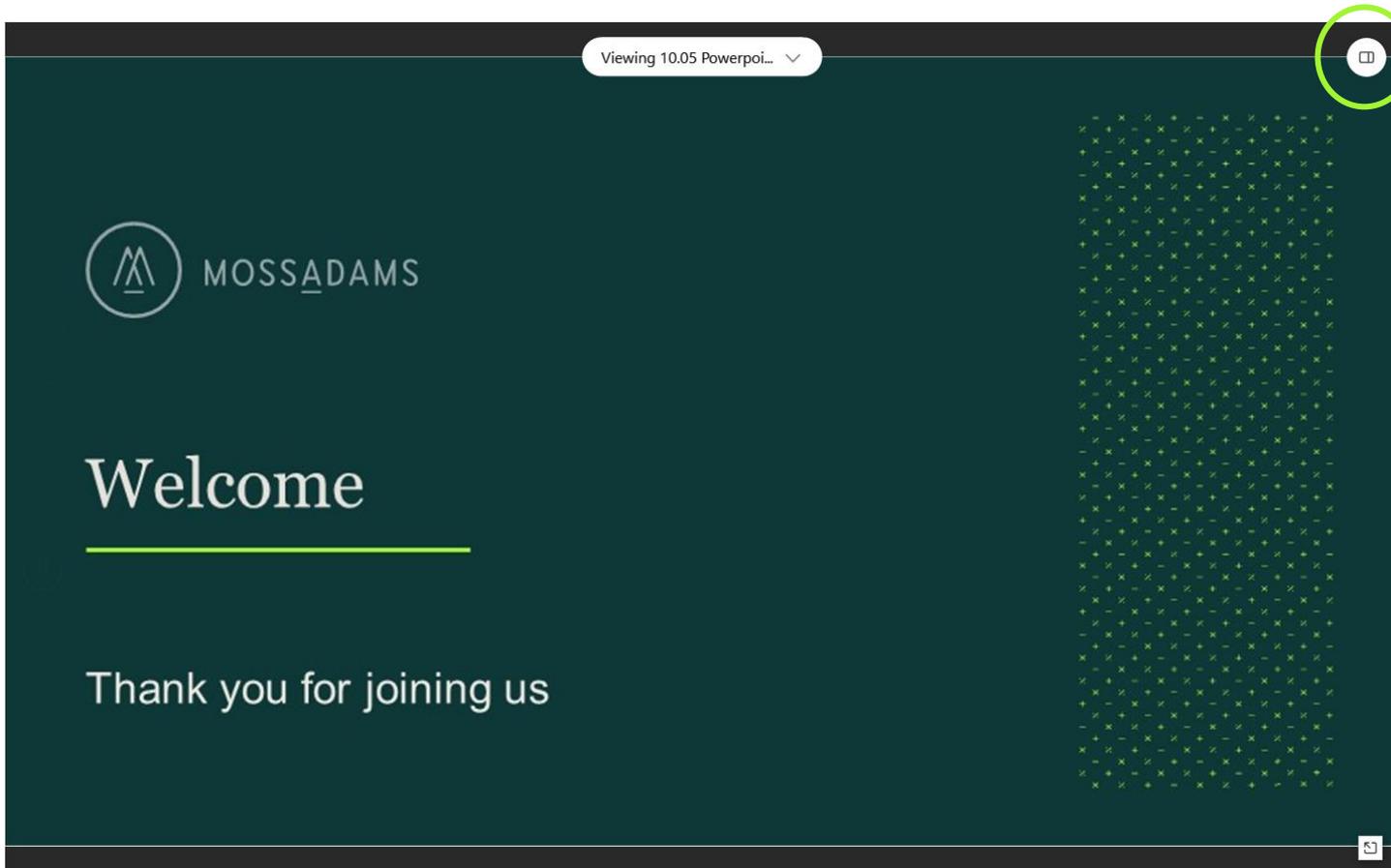
# Welcome

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Thank you for joining us



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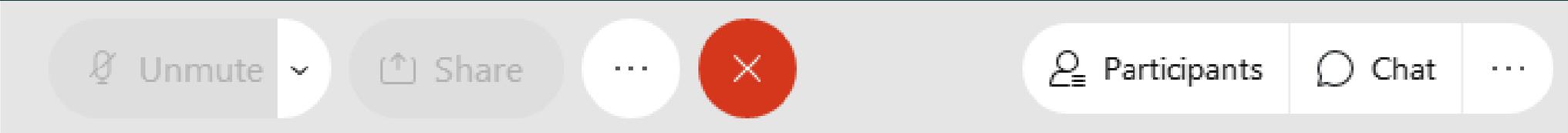
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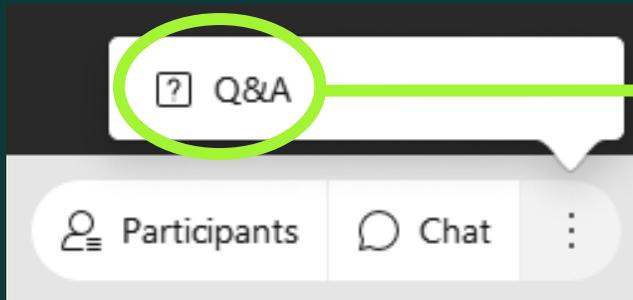
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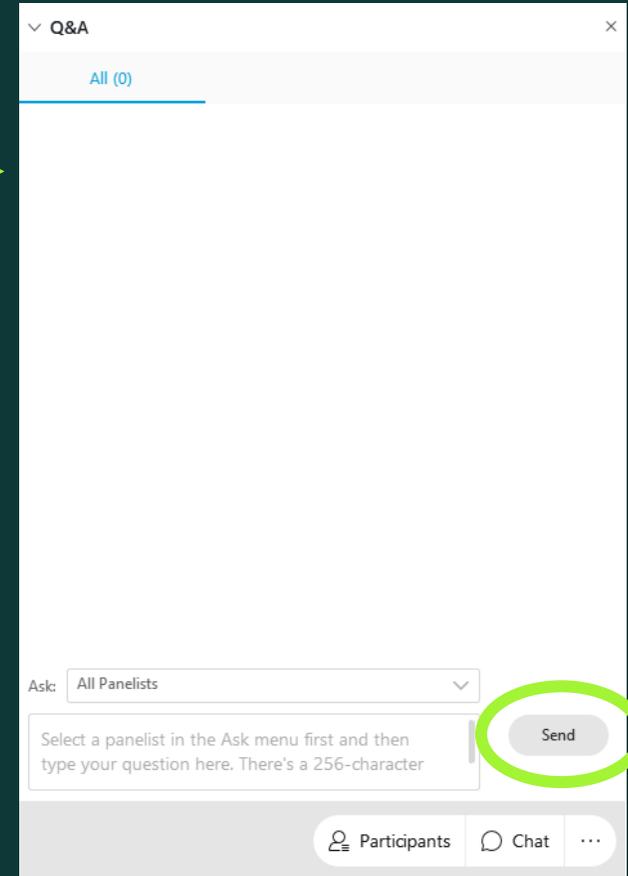
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November 2021

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# Presenters

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## MODERATOR



**Mark McMahon, CPA**

*Partner*

Moss Adams, LLP

(858) 627-1432

[mark.mcmahon@mossadams.com](mailto:mark.mcmahon@mossadams.com)

## SPEAKER



**Bruce Knowlton, CPA**

*Partner*

Moss Adams, LLP

(858) 627-1407

[bruce.knowlton@mossadams.com](mailto:bruce.knowlton@mossadams.com)

## SPEAKER



**Steven L. Hwang**

*Attorney, Guest Speaker*

Finch, Thornton & Baird, LLP

(858) 737-3100

[shwang@ftblaw.com](mailto:shwang@ftblaw.com)



# Agenda

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## MOSS ADAMS, LLP

1. Employee Retention Tax Credit
2. California Elective Pass-Through Entity Tax
3. Residency Transition Plan

## FINCH, THORNTON, & BAIRD, LLP

4. Incomplete Gift Nongrantor Trust (ING Trust)
5. Build Back Better Act (HR 5376)
6. 2025 Estate Tax Exemption Sunset
7. Planning Opportunities
  
8. Q&A



# POLLING QUESTION #1

Which topic listed in the agenda interests you the most?

- A. Employee Retention Tax Credit
- B. California Elective Pass-Through Entity Tax
- C. Residency Transition Plan
- D. Incomplete Gift Nongrantor Trust (ING Trust)
- E. Build Back Better Act (HR 5376)
- F. 2025 Estate Tax Exemption Sunset
- G. Planning Opportunities



# Employee Retention Tax Credit

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# Employee Retention Tax Credit

## **REFUNDABLE TAX CREDIT EQUAL TO 50% OF UP TO \$10,000 PER EMPLOYEE IN QUALIFIED WAGES**

- Eligible Employers
  - Operations were suspended due to COVID-19, or
  - Gross receipts were less than 50% in any quarter than that of the same quarter in 2019
- Now available to PPP borrowers retroactively
  - Qualified wages exclude those that were paid for with proceeds from a forgivable loan



# Employee Retention Tax Credit

## **EXTENDED THROUGH JUNE 2021 WITH FAVORABLE ADJUSTMENTS**

- Credit rate increased from 50% to 70% of qualified wages
- Qualified wages were increased from \$10,000 per employee per year to \$10,000 per employee per quarter
- Gross receipts threshold was reduced from a 50% decline to a 20% decline for the same quarter in 2019
- The 100-employee threshold has been increased to 500 or fewer employees

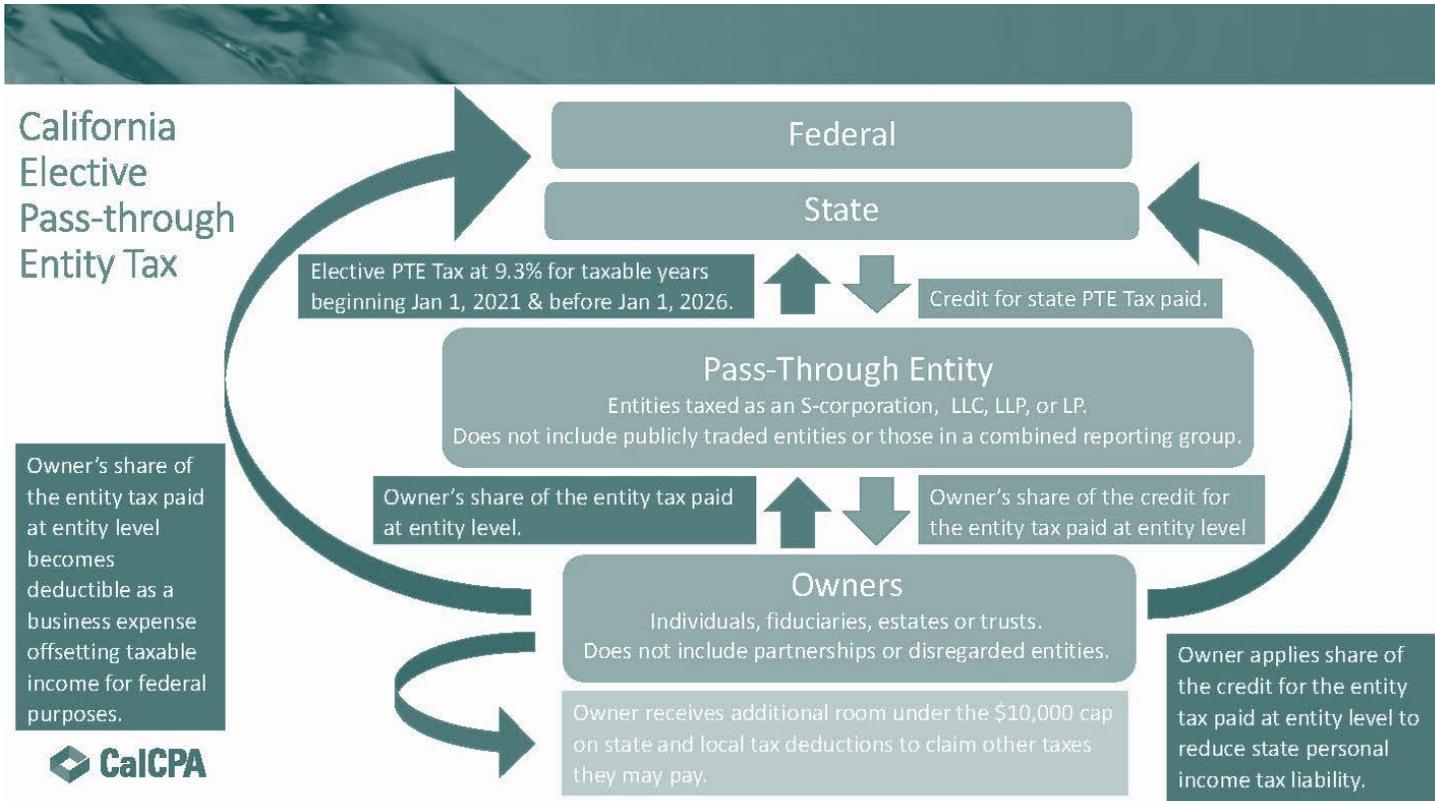


# California Elective Pass-Through Entity Tax

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# California Elective Pass-Through Entity Tax



# Residency Transition Plan

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# 10 Steps

## 1. INITIAL CONSULTATION

- Intent
- Discuss Audit Risk and Key factors
- Assess personal cost/benefits

## 2. PROVIDE RESIDENCY TRANSITION MATERIALS

- Explain the various tests

## 3. DOCUMENT EXISTING RESIDENCY TIES

- Client completes questionnaire
- Discuss results

## 4. DISCUSS SEVERING AND ESTABLISHING TIES IN NEW STATE OR COUNTRY

- Develop initial transition plan and timeline

## 5. IMPLEMENT TAILORED TRANSITION PLAN & TIMELINE

- Set proposed change of residency date



# 10 Steps (cont.)

## 6. REVIEW TRANSITION PROGRESS

## 7. UPDATE DELIVERABLES

## 8. CONFIRM DATE OF RESIDENCY CHANGE

## 9. FINAL DELIVERABLES

## 10. PROVIDE ADDITIONAL CONSULTATION, AS NEEDED

- Narrative transition plan
- Timeline of events
- Final recommendations to affirm change in residency





# Advanced Tax and Estate Planning Strategies

A PRESENTATION BY

**FINCH • THORNTON • BAIRD** <sup>LLP</sup>

ATTORNEYS AT LAW

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# Topics

- ⬠ Incomplete Gift Nongrantor Trust (ING Trust)
- ⬠ Build Back Better Act (HR 5376)
- ⬠ 2025 Estate Tax Exemption Sunset
- ⬠ Planning Opportunities

# Incomplete Gift Nongrantor Trust (ING Trust)

- ◆ Summary: Self-settled irrevocable trust offering state income tax savings and asset protection
  - Incomplete for gift tax purposes; separate taxpayer for income tax purposes
- ◆ Primary Objective: Eliminate state income tax on undistributed income and capital gain on sales of appreciated assets with low basis
- ◆ California income tax of 12.3% on income above \$590,742 and 13.3% on income above \$1,000,000
- ◆ Ancillary Objective: Asset protection
  - Assets held by trustee in irrevocable trust protected from settlor's creditors

# LEGISLATIVE UPDATES

# Build Back Better Act (HR 5376)

- ⬠ No change in estate, gift, and generation-skipping transfer tax exemption amounts
- ⬠ No change to applicability of valuation discounts
- ⬠ No change to estate inclusion of grantor trusts
- ⬠ No change to the treatment of sales or exchanges with grantor trusts

# 2025 Estate Tax Exemption Sunset

- ⬠ 2017: \$5.49M per person lifetime gift and estate tax exemption
- ⬠ December 22, 2017: Tax Cuts and Jobs Act enacted
- ⬠ 2021: \$11.7M per person
- ⬠ 2022: \$12.06M per person
- ⬠ December 31, 2025: TCJA sunsets
- ⬠ 2026: \$5M per person (indexed for inflation)

# PLANNING OPPORTUNITIES

# Planning Opportunities

- ◆ Lifetime Gifting (use it or lose it, no clawback)
  - Outright gifts (\$15,000 annual exclusion)
  
- ◆ Advanced Irrevocable Trust Planning
  - Spousal Lifetime Access Trust (SLAT)
  - Grantor Retained Annuity Trust (GRAT)
  - Sale to Intentionally Defective Grantor Trust (IDGT)
  - Irrevocable Life Insurance Trust (ILIT)

# Spousal Lifetime Access Trust (SLAT)

- ⬠ Summary: Irrevocable trust for the benefit of settlor's spouse
  - Completed gift for gift tax purposes; grantor trust for income tax purposes
- ⬠ Primary Objective: Remove assets (and future appreciation) from settlor's estate for estate tax purposes
- ⬠ Spouse can be trustee and has access to trust income and principal
- ⬠ Assets protected from settlor's and spouse's creditors

# Grantor Retained Annuity Trust (GRAT)

- ◈ Summary: Irrevocable trust in which settlor retains the right to receive a fixed dollar amount annually for a set term of years (at least 2)
  - At the end of term, any remaining property passes to designated beneficiaries (including spouse) outright or in trust for their benefit
  - Gift of remainder interest (contribution, annuity term, interest rate)
- ◈ Primary Objective: Remove assets (and future appreciation above IRC Section 7520 rate) from settlor's estate for estate tax purposes
  - Current IRC Section 7520 rate = 1.4% (November 2021)
- ◈ Gift can be “zeroed out” but settlor must survive the term

# Intentionally Defective Grantor Trust (IDGT)

- ◈ Summary: Irrevocable trust in which the trust income is the settlor's for income tax purposes, but the assets are excluded from the settlor's estate for estate tax purposes
  - Effective for estate tax purposes; “defective” for income tax purposes (tax burn)
- ◈ Primary Objective: Remove assets (and future appreciation above Applicable Federal Rate) from settlor's estate for estate tax purposes
- ◈ Sale of asset to IDGT in exchange for promissory note accruing interest at Applicable Federal Rate
  - Current long term Applicable Federal Rate = 1.86% (November 2021)

# Irrevocable Life Insurance Trust (ILIT)

- Summary: Irrevocable trust in which life insurance proceeds payable on a settlor's death are excluded from the settlor's estate for estate tax purposes and used to pay settlor's estate taxes
- Estate tax due within 9 months of death (extension up to additional 12 months)
- Primary Objective: Provide liquidity to settlor's estate to pay estate taxes
- At settlor's death, ILIT purchases assets from settlor's estate
- Premiums funded by annual gifts to ILIT beneficiaries

## LEGAL DISCLAIMER

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**FINCH ◊ THORNTON ◊ BAIRD**<sup>LLP</sup>

ATTORNEYS AT LAW

### Steven L. Hwang

*Attorney, Wealth Preservation*

*shwang@ftblaw.com*

Steven L. Hwang works with business owners and executives, multi-generational families, real estate owners, and professional advisors including CPAs, financial planners and advisors, and insurance brokers. His practice focuses on estate planning and business planning. Steven's clientele reflects businesses of all sizes and across broad industry segments, as well as individuals and families.

Steven's knowledge and experience in estate planning, trust administration, business planning, and real estate combine to provide beneficial holistic synergy for firm clients. Thoughtful and detail oriented, clients also appreciate Steven's practical advice and cost-effective approach to customer service.



# Contact Information

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## Moss Adams, LLP

4747 Executive Drive, Suite 1300  
San Diego, CA 92121  
(858) 627-1400 Fax (858) 627-1401

### Bruce Knowlton

Private Clients  
bruce.knowlton@mossadams.com  
(858) 627-1407

### Mark McMahon

Construction Practice  
mark.mcmahon@mossadams.com  
(858) 627-1432

## Finch, Thornton & Baird, LLP

4747 Executive Drive, Suite 700  
San Diego, CA 92121  
(858) 737-3100 Fax (858) 737-3101

### Steven L. Hwang, Esq.

Wealth Preservation Practice  
shwang@ftblaw.com  
(858) 737-3100

### Thomas Davis

Marketing & Business Development  
tdavis@ftblaw.com  
Direct (858) 737-3042



# ➤ QUESTIONS

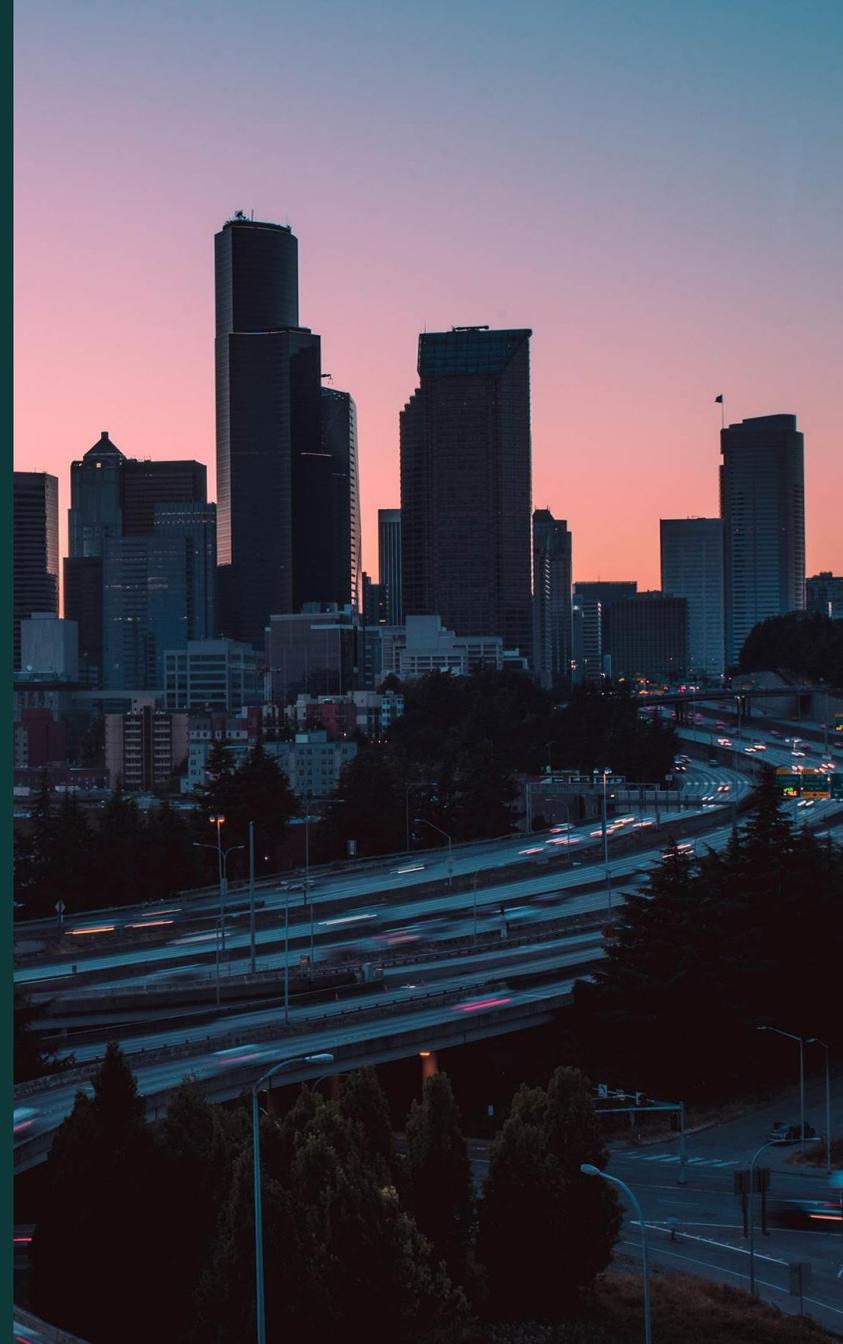
Let's start a conversation.

[bruce.knowlton@mossadams.com](mailto:bruce.knowlton@mossadams.com)

[mark.mcmahon@mossadams.com](mailto:mark.mcmahon@mossadams.com)

[shwang@ftblaw.com](mailto:shwang@ftblaw.com)

[tdavis@ftblaw.com](mailto:tdavis@ftblaw.com)



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