

# 2021 NATIONAL INCOME TAX WORKBOOK

CHAPTER 6: INDIVIDUAL  
TAX ISSUES: PART I




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## LEARNING OBJECTIVES

P. 227

- Know **what contributions qualify** for a charitable contribution deduction
- **Apply the limits** on a charitable contribution deduction
- Understand what remodel costs **increase basis**
- Claim **energy credits** for improvements to a residence
- Know when **gain is excluded** on the sale of a principal residence
- Understand the tax treatment on the **sale of a residence converted** from rental to a principal residence

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## CHARITABLE CONTRIBUTIONS

P. 228

In 2021 \$300 (\$600 MFJ) **above-the-line deduction** for **qualified cash contributions**

**Increased percentage limitations** for **cash and non-cash** contributions are extended through **2021**

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**QUALIFIED CHARITABLE ORGANIZATION**

P. 228

**Qualified organizations:**

US government, state, District of Columbia, US possession, or political subdivision  
 Corporation, trust, or community chest, fund, or foundation  
 Post or organization of war veterans  
 Domestic fraternal society, order or association operating under the lodge system  
 Cemetery company

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**INELIGIBLE ORGANIZATIONS**

P. 229

**Not qualified organizations:**

Political candidates, political parties, lobbying organizations  
 Bar associations  
 Chambers of commerce  
 Civic leagues, country clubs, social clubs  
 Homeowner's associations  
 Labor unions

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**CONTRIBUTIONS TO INDIVIDUALS**

P. 229

**Contributions to individuals do not qualify**

Ex. 6.1 Flooding destroyed the home. **GoFundMe page** to raise money for the family. American Red Cross provided disaster relief services.

A contribution to the **American Red Cross is tax deductible**, but contributors cannot deduct contributions to the GoFundMe campaign.

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**DONATIONS WITH BENEFIT TO THE DONOR**

P. 230

If payment is **partly a contribution** and **partly for goods or services**, it is a quid pro quo contribution. Organization must provide the donor written statement

- Inform the donor the contribution is limited to the excess of the contribution over FMV of goods/services received
- Provide the donor with an estimate of FMV of goods/services received

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**EX. 6.2 CHARITY BALL**

P. 230

Anna bought a **\$50 ticket** to the Rainbow Fashion Show. The show was held to benefit the local Rainbow Pride Organization, a qualified nonprofit organization. **Everyone** who attended the show **had to purchase** a \$50 ticket.

FMV of the ticket is \$50. Anna **cannot deduct** the cost of the ticket, even if she does not attend the show.

If Anna makes a **\$50 contribution** to the nonprofit organization and **refuses the ticket**, she **can deduct** the full contribution [Rev. Rul. 67-246, 1967-2 C.B. 104].

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**EX. 6.3 CHARITY SYMPHONY CONCERT**

P. 230

Mary bought a **\$75 ticket** to a symphony concert to benefit the local symphony, a qualified nonprofit organization. The **regular price** of a symphony concert ticket is **\$50**.

Mary **can deduct \$25** (\$75 - \$50) as a **charitable contribution**.

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**DONATIONS FOR RIGHT TO PURCHASE  
ATHLETIC TICKETS**

P. 231

For tax years **after December 31, 2017**:

I.R.C. § 170(j) was amended to provide that **no charitable deduction** is allowed for a **payment** to an institution of higher education **in exchange for** which the payer receives the **right to purchase tickets** or seating at an athletic event.

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**EX. 6.6 RIGHT TO PURCHASE  
AND RECEIPT OF ATHLETIC TICKETS**

P. 230

Mitch donated \$500 to the University of North Dakota for the **right to purchase** football tickets. He paid **\$200** for **football tickets with a \$200 FMV**.

Mitch **cannot deduct** any portion of the \$500 donation as a charitable contribution, or the \$200 paid for football tickets

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**CONTRIBUTIONS OF PROPERTY**

PP. 231-233

Contributions of property generally must be for the **entire interest**. Some exceptions apply. Specific rules apply to certain types of assets:

**Clothing and Household Items**

- Must be in **good used condition**; Appraisal if over \$500

Car, Boat, or Airplane, FMV more than \$500

- **Valued at lesser of gross sales proceeds or FMV if used by charity**

Inventory

- **Lesser of FMV or cost basis**; special rules for food inventory

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**CONTRIBUTION OF SERVICES**

PP. 233-234

No deduction allowed for time performing services. Certain unreimbursed costs are deductible:

## Meals and Lodging

- Incurred while away from home

## Automobile Expenses

- Actual out-of-pocket operating expense or \$.14/mile standard mileage rate

## Travel Expenses

- Actual costs incurred if no "significant element of personal pleasure"

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**EX. 6.8 CHARITABLE TRAVEL EXPENSES**

P. 234

Jasmine volunteered for a qualified charitable organization that was building a house for a low-income family.

She drove her personal automobile 100 miles to the jobsite. She worked on the construction of the house for 3 days, slept at a volunteer's house within walking distance of the construction site, and ate her meals in a local diner. At the end of the 3 days, Jasmine traveled 100 miles back to her home.

Jasmine can deduct the cost of her meals because she was away from home overnight. Additionally, she may deduct \$28 (200 miles × 14¢) for travel.

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**EX. 6.9 CHARITABLE TRAVEL WITH PERSONAL BENEFIT**

P. 234

Sofia volunteered for a qualified charitable organization that was building a house for a low-income family.

She drove her personal automobile 75 miles to the jobsite. She worked on the construction of the house for 2 hours per day for 3 days, slept at her sister's house, and visited with family in the evenings. She and her sister ate most of their meals at a local restaurant. At the end of 3 days, Sofia traveled 75 miles back to her home.

The cost of Sofia's meals and travel is not deductible as the trip was partially for personal pleasure.

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**SUBSTANTIATION**

PP. 235-237

Substantiation depends on the **nature of the contribution**.

Cash

- \$250 or more must have **contemporaneous acknowledgement**

Quid Pro Quo Contributions

- Over \$75 **must have statement** from donee organization

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**SUBSTANTIATION (CONT.)**

PP. 235-237

**Noncash Contributions Substantiation - Additive**

- < \$250 – receipt with name, address, date, location, and description
- \$250 - \$500 – **plus** any goods, services, or religious benefit
- > \$500 - \$5,000 – **plus** how acquired, cost basis
- > \$5,000 – **plus** qualified appraisal

**Qualified Appraisal**

- Dated **no earlier than 60 days** prior to donation and before due date w/extension
- See Treas. Reg. § 1.170A-13(c)(3)

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**CONTRIBUTION LIMITS**

PP. 238-239

Charitable contributions are **limited to a percentage** of the **contribution base** depending on the type of property and the type of recipient organization

Practitioner Note - Contribution Base

- **AGI** under I.R.C. § 62, computed **without regard** to any **net operating loss carryback** to the tax year under I.R.C. § 172

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**CONTRIBUTION LIMITS (CONT.)**

PP. 238-239

CARES Act - 100% of the contribution base for cash contributions by individual filers in 2020 and 2021

For tax years beginning before 1/1/26, the limit is 60% of the contribution base for contributions to 50%-limit organizations

General limitation rules:

50%-Limit Organizations – churches, education, hospitals, governments, etc.

30%-Limit Organizations – Vet groups, fraternal societies, etc.

20%-Limit applied to capital gain property to non-50% organizations

Ordinary Income property – generally limited to basis

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**EX. 6.11 CALCULATING THE LIMITS**

P. 239

In March 2021, Josef gave the local humane society (a section 501(c)(3) organization) \$2,000 cash and land with a \$28,000 FMV and a \$22,000 basis. Josef held the land for investment purposes for more than 1 year.

He did not make the capital gain property election to reduce the land's FMV by the appreciation in value.

Therefore, the amount of Josef's charitable contribution for the land is its \$28,000 FMV. Josef also gave \$5,000 cash to a private nonoperating foundation to which the 30% limit applies. Josef's 2021 AGI was \$50,000.

Pages 240 – 241 calculation of his deduction limit and carryover

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**SPECIAL CARRYOVER RULES**

P. 242

Practitioner Note

Special carryover rules apply to taxpayers who

- (1) are married in some years, but not married in others due to marriage, divorce, or death of a spouse;
- (2) change from a separate return to a joint return or vice versa;
- (3) have a net operating loss carryover; or
- (4) claim the standard deduction in a carryover year.

See Treas. Reg. § 1.170A-10 for more information.

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**QUALIFIED CONSERVATION CONTRIBUTION**

PP. 242 -244

A qualified conservation contribution (QCC) is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. The conservation purpose must be protected in perpetuity. Must be

Qualified Real Property Interest - I.R.C. § 170(h)(2), Page 242, Col. 2

Qualified Organization - Page 243, Col. 1.

Conservation Purpose - I.R.C. § 170(h)(4)(A), Page 243, Col. 2

- Recreation or education
- Protection of environmental system
- Preservation of open space
- Historic preservation

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**EX. 6.15 VALUING A CONSERVATION EASEMENT**

P. 246

In 2021, Delma donated a conservation easement on 20 acres of undeveloped land that is valued at \$200,000 at its highest and best use.

The FMV of the land after the donation is reduced to \$110,000.

Accordingly, the value of the easement, and the amount eligible for a deduction under section 170(f), is \$90,000 (\$200,000 - \$110,000).

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**WENDALL FALLS DEV. VS. COMMISSIONER**

P. 246

The taxpayer purchased 1,280 acres for development of a planned community. The taxpayer granted the county a conservation easement that required use of 125 acres as a park, and the taxpayer claimed a QCC deduction for the easement.

The court found that the taxpayer received a substantial benefit from the easement because the park enhanced the value of the residential and commercial properties on the remaining acres.

The court also found that the highest and best use of the 125 acres was for a park, so the grant did not reduce its value. The taxpayer was not entitled to a charitable contribution deduction.

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**OTHER PARTIAL INTERESTS**

PP. 247-249

**Retain life estate** – deduct value of remainder to charity

**Undivided Portion of Entire Interest** – If meet requirements, deduction allowed

**Charitable remainder interest** – income for life or term and remainder to charity

Deduction for **present actuarial value** of interest that will pass to charity

**Ex. 6.16** Contribution of remainder interest, Page 248-249

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**REPORTING CHARITABLE DEDUCTIONS**

P. 250

Reporting depends on **amount and type**.

**Non-itemized for 2021**, above-the-line for qualifying cash contributions of \$300 (\$600 MFJ)

Schedule A (Form 1040) Itemized Deductions

**Form 8283 for Noncash** Charitable Contributions

**Form 8282, Donee** Information Return

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**TAX PLANNING W/ CHARITABLE CONTRIBUTIONS**

PP. 250-252

Contribution to a Donor Advised Fund (DAF)

- This allows the taxpayer to **receive a current deduction** while **giving** to the ultimate charity **in a future year**. Especially useful when **"bunching"** to itemize in one year and take standard deduction another.

Qualified Charitable Distribution (QCD)

- Making a payment **directly from a traditional IRA to a charity**
- Distribution meets **RMD requirements** and is **not taxable**
- **Reduces AGI** for numerous computations (SSA, QBI, etc.)

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**EX. 6.17 DEDUCTION FOR CONTRIBUTIONS TO DAF**

P. 251

Sam and Winona file a joint return. The Watsons typically pay \$5,000 in state and local taxes and make a \$15,000 charitable contribution each year.

Figure 6.3 shows their 2019, 2020, and 2021 deductions claiming the standard deduction, and Figure 6.4 shows their deductions with a \$45,000 contribution to a DAF in 2019, and no contributions in 2020 and 2021.

The DAF can then make annual charitable contributions.

**\$24,700 more in itemized deductions**

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**PLANNING POINTER – CHARITABLE BENEFICIARIES**

P. 252

If an IRA owner has specified bequests to charitable beneficiaries in his or her estate plan, it may be preferable to fund those bequests from an IRA. The owner can designate the charity as a full or partial beneficiary of the IRA.

Unlike an individual beneficiary, who must pay tax on distributions, distributions to the charity are generally not taxable.

Practitioner Note IRA Contributions – SECURE Act Changes

**Repeals Max Age IRA Contributions** – If contribute after age 70 ½, then **Reduces Excludible QCD, Once.**

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**REMODELING A RESIDENCE**

P. 253

I.R.C. § 1016 provides that generally:

The cost or other basis of a residence is increased by improvements and betterments. On the contrary,

Repair expenditures that do not add much to the value, utility, or the life of the property and instead keep the property in good condition are not added to basis [Plainfield-Union Water Co. v. Commissioner, 39 T.C. 333 (1962)].

See Figure 6.5 Improvements vs. Repairs

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**NONBUSINESS ENERGY PROPERTY  
CREDIT – I.R.C. § 25C**

PP. 254-255

The nonbusiness energy credit is the **sum of:**

**10% of the amount paid** or incurred by the taxpayer for **qualified energy efficiency improvements installed** during the tax year, and

The **amount** of the **residential energy property expenditures** paid or incurred by the taxpayer during the tax year, **Limited To:**

- **Lifetime** credit of \$500, Cumulative since 2005
- \$200 for **exterior windows**
- \$50 for advanced main **air circulating fan**
- \$100 **qualifying furnace**
- \$300 energy **efficient building property**

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**NONBUSINESS ENERGY PROPERTY  
CREDIT – I.R.C. § 25C**

PP. 254

**Qualified Energy Efficiency Improvements mean:**

Any energy efficient building envelope **component**, if such component is **installed** in or on a **dwelling unit** (which includes a house, houseboat, mobile home, cooperative apartment, condominium, and certain manufactured homes) **located in the United States** and **owned and used** by the taxpayer as the taxpayer's **principal residence** (within the meaning of I.R.C. § 121).

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**NONBUSINESS ENERGY PROPERTY  
CREDIT – IRC § 25C**

PP. 255

Residential energy property expenditures means:

Expenditures made by the taxpayer for qualified energy property that is installed on or in connection with a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121), and originally placed in service by the taxpayer. They **include labor costs** that are properly allocable to the **onsite preparation, assembly, or original installation of the property.**

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**RESIDENTIAL ENERGY EFFICIENT  
PROPERTY CREDIT - I.R.C. § 25C**

P. 256

Installations available for credit on individual returns:

Solar electric

Solar water heating

Fuel cell, \$500 Limit

Small wind energy

Geothermal heat pump

Biomass fuel - Low Change, TCDTRA added to list if used to heat or heat water for taxpayer's residence

Credit Percentage = 26% Through 1-1-23

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**EX. 6.18 ENERGY EFFICIENT WOOD STOVE**

P. 256

Mary and Gary remodeled their home in 2021. They purchased and installed an energy efficient wood burning stove. The stove cost \$4,500, and they paid \$1,000 for installation.

Figure 6.6 shows the technical data for the stove.

The stove has a thermal efficiency rating of 78%. Mary and Gary can claim a residential energy efficient property credit equal to 26% of the \$5,500 (\$4,500 + \$1,000) cost of the stove and installation.

Value = \$1,430 tax credit

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**FIGURE 6.8 COMPARE 25C AND 25D CREDITS**

P. 258

	Section 25C	Section 25D
Amount of the credit	10% of qualified energy efficiency improvements Residential energy property expenditures	26% of eligible expenditures for 2021
Refundable credit	No	No
Excess carries forward	No	Yes
Lifetime limit	\$500 (\$200 for windows)	No
Dollar limits	\$50 for any advanced main air circulating fan \$150 for any qualified natural gas, propane, or oil furnace or hot water boiler \$300 for any item of energy-efficient building property	No
Claim for new construction	No (addition or renovation to existing allowed)	Yes
Claim for second home	No	Yes, except fuel cell
Labor included	Includes costs for onsite preparation, assembly, original installation. Not building envelope component	Includes costs for onsite preparation, assembly, or original installation, piping and wiring to connect to dwelling unit
IRS form to claim credit	Form 5695	Form 5695

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**ENERGY EFFICIENT HOME CREDIT – I.R.C. § 45L**

P. 258

Qualified new energy efficient home

Eligible contractor

Inspections required to certify requirements are met

\$2,000 credit (\$1,000 manufactured home)

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**EXCLUSION OF GAIN ON SALE OF PERSONAL RESIDENCE**

P. 259

A taxpayer's principal residence is a

Personal capital asset

Sold at a loss it is a nondeductible personal loss

Sold at a gain it is a capital gain subject to tax

- Long-term or short-term capital gains rates
- Net investment income tax, when applicable
- Exclusion under I.R.C. § 121 possible up to \$250,000 (\$500,000 MFJ)

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**TESTS FOR PERSONAL RESIDENCE EXCLUSION**

PP. 259-260

Ownership and Use tests:

Owned 2 of 5 prior years

Used as Principal Residence 2 of 5 prior years

Minimum 2 years since last exclusion

Principle place of residence

- Facts and circumstances, Page 260, Col. 1
- May include adjacent land, Page 260, Top Col. 2
- Ex. 6.19, Sale of Adjacent Land.
- Can exclude adjacent land not used for business

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**EXCEPTIONS 2-YEAR TEST**

PP. 260-263

Allow for a partial exclusion, Page 260, Col. 2

Facts &amp; Circumstances, if no safe-harbor applies, Page 261, Top Col. 1

- Work-related move, Health-related move, Unforeseeable events
- Ex. 6.21, Reduced Exclusion Amount

Gerald and Emily bought their principal residence on October 1, 2020, for \$200,000.

On August 1, 2021, sold the residence for \$350,000, moved to Kansas for Gerald's new job.

Realized Gain \$150,000 = (\$350,000 - \$200,000) on the sale.

Can exclude Gain \$208,333 [ $\$500,000 \times (10 \text{ months} \div 24 \text{ months})$ ] **No Recognized Gain**

Note: Not % of Gain, but % of Maximum Exclusion Amount, 250K, 500K, MFJ

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**SURVIVING SPOUSE SALE OF HOME**

P. 262

If Spouse died before sale:

Surviving spouse can:

Exclude Gain, IF

Less than 2 Years after Spouse Death,

Met requirements at death of Spouse

Surviving Spouse did not remarry before sale.

Ex. 6.22, Unmarried Co-Owner Sale of Residence

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**SALE OF RESIDENCE WITH BUSINESS USE**

P. 264

When part of the home is used as an office, there may be additional computations:

Business use within the living area

- Recapture section 1250 gain, depreciation on business use

Separate structure

- Allocate sale price, treated as two separate transactions

Safe harbor using Rev. Proc. 2013-13

- No allocation or recapture
- Limited \$5 per Square Foot, 300 SF limit

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**BUSINESS USE – SEPARATE STRUCTURE**

P. 267

Ex. 6.24, Business Use in Separate Structure

Purchase 2015, allocate purchase price to home, \$88K, garage, \$ 12K, 1.5K, Land

5-Year use, Depreciation, \$1,846

Sold in 2021, \$250K, allocated 20K to garage

Realized Gain Garage \$8,346 = (\$20K sale price – 11,654, ATB)

Exclude gain Personal Res. \$91.5K(230K sales price – (120K home + 1.5K land))

Recognized Gain \$4,500 LT Cap Gain = (\$8,346 - \$1,846) + \$1,846, Sect. 1250

Recaptured Depreciation taxed at Maximum 25% Rate

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**FIGURE 6.12 SALE OF FORMER VACATION HOME**

P. 267

**Jack Bourbon's Gain on Sale of Former Vacation Rental Home**

Sale price	\$375,000
Cost basis before depreciation	(250,000)
Total gain for proration	\$125,000
Eligible for exclusion $[(6 \div 11) \times \$125,000]$	(68,182)
Gain allocable to nonqualified use	\$ 56,818
Accumulated depreciation	18,000
Total reportable gain	<u>\$ 74,818</u>

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**CROSS-REFERENCE - DEFERRAL OF GAIN**

P. 269

Gain on real estate can be deferred if structured under I.R.C. Section 1031.

Relinquished property and replacement property held for investment or business

Principal residence does not qualify

Vacation home may qualify

◦ See Rev. Proc. 2008-16 for safe harbor

See "Business Tax Issues" chapter for additional guidance

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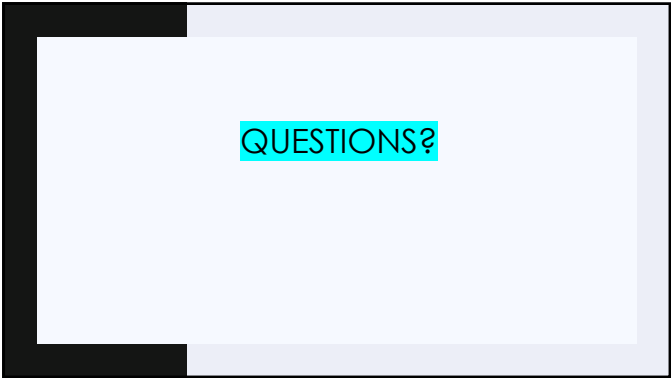
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