

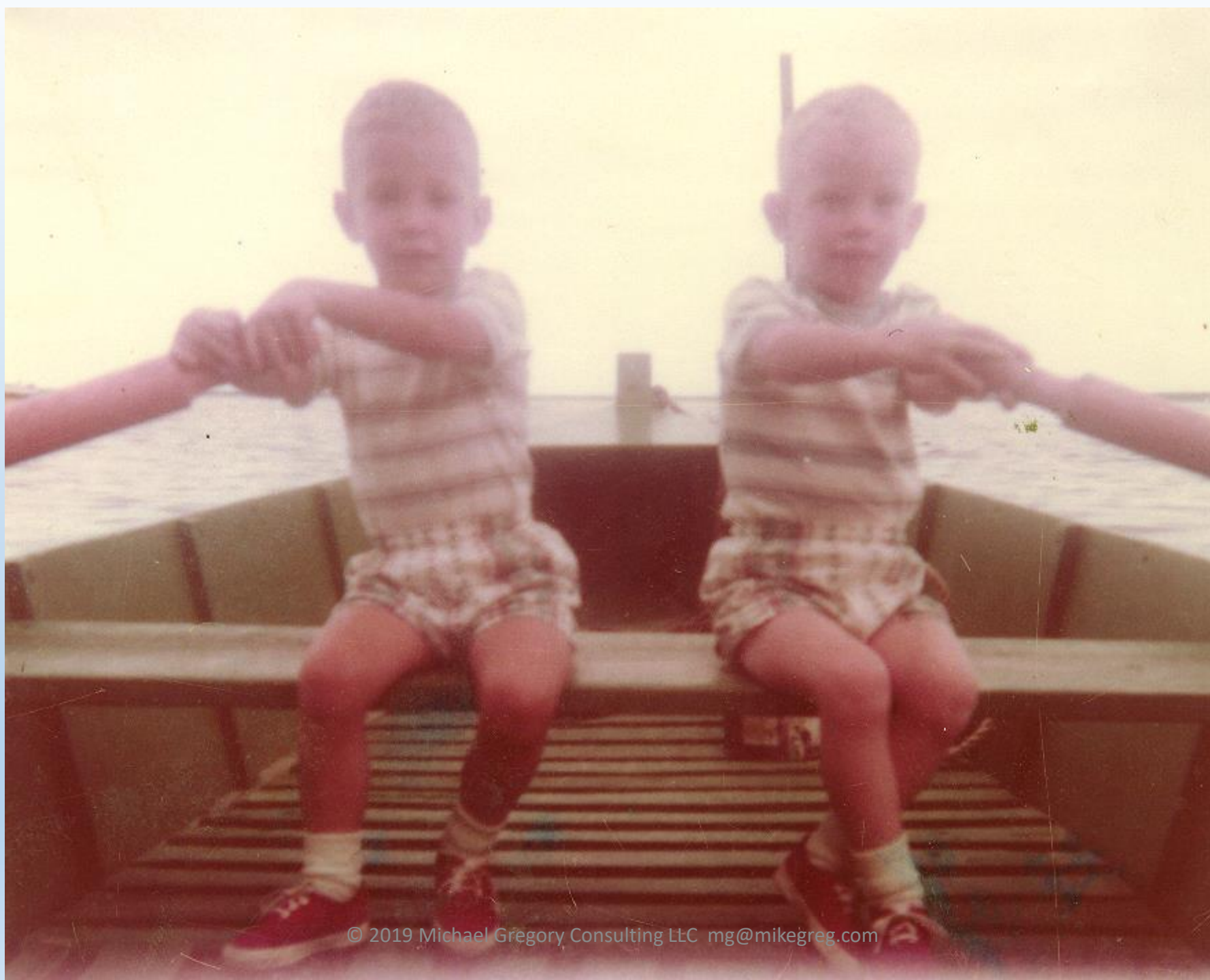


How to Avoid and What to do if Audited by the IRS



Presented by Michael Gregory







The Collaboration Effect™

Enhancing Relationships, Resources & Revenues

Disclaimer

- The opinions presented here are those of Michael Gregory. **Michael Gregory does not represent the IRS.** Any opinions presented in this seminar are those of the author and do not represent an official position of his current or previous employers. This **material is offered for educational purposes only.** The author and his employer expressly disclaim any liability, including incidental or consequential damages, arising from the use of this material or any errors or omissions that may be contained in it.

Introduction

- You will learn some key concepts from **neuroscience**
- **Two examples** are provided to set the tone
- You will take away information on the **IRS** with an **emphasis** on **exam**
- You will be able to share information on the **IRS** from **Examination Appeals and Litigation**
- *Tips to help resolve any conflict and negotiate winning solutions with the IRS or others*

Thanks, Neuroscience!



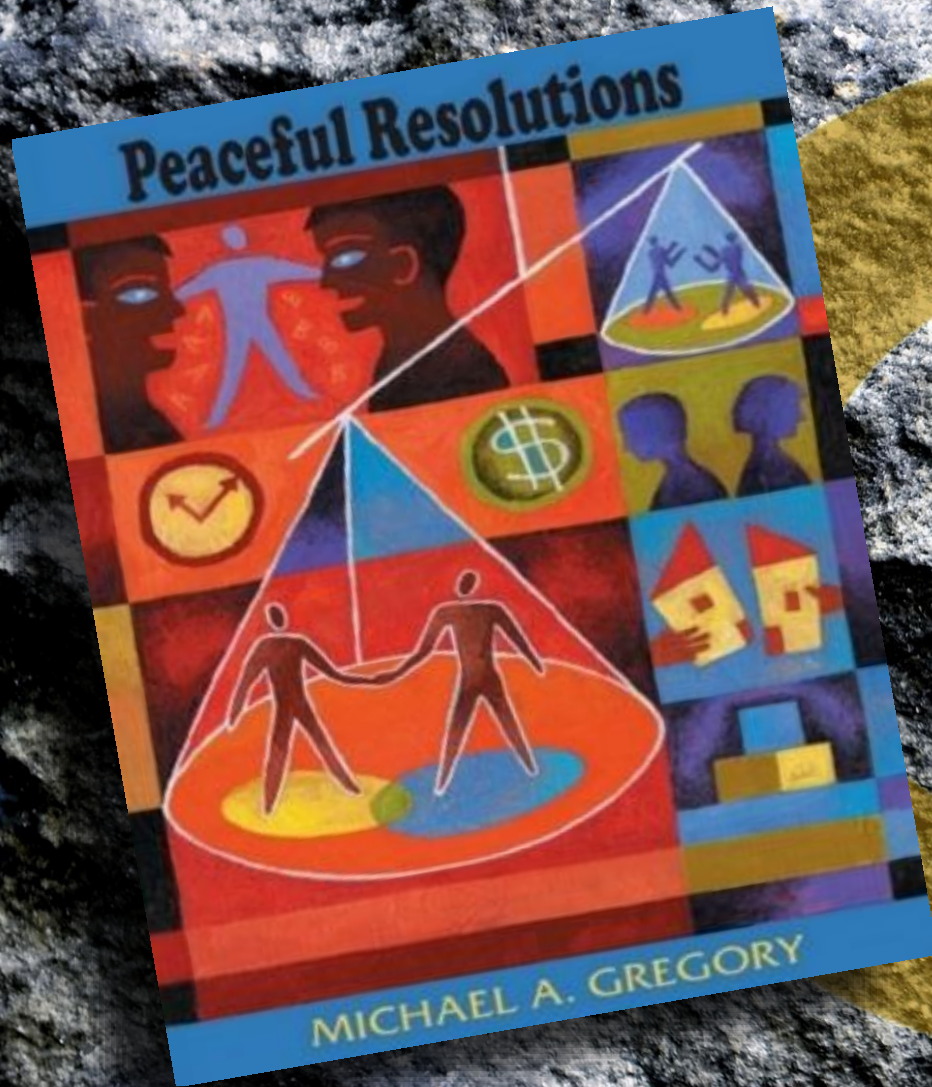
- **Ericka Garms**, PhD U of MN and Her Team, Neuroscientist
- **John B. Molidor**, PhD Assoc. Dean MSU Medical School
- **Rick Hanson**, PhD Psychologist, Greater Good U of CA Berkeley

BUSINESS VALUATIONS and the IRS

Five Books in One



MICHAEL A. GREGORY





Shed Light On Relationships, the IRS and Neuroscience

**What is the study of the brain
and nerve system called?**

A. Neuroscience

B. Bioscience

C. Limnology

D. Myrmecology

**What is the study of the brain
and nerve system called?**

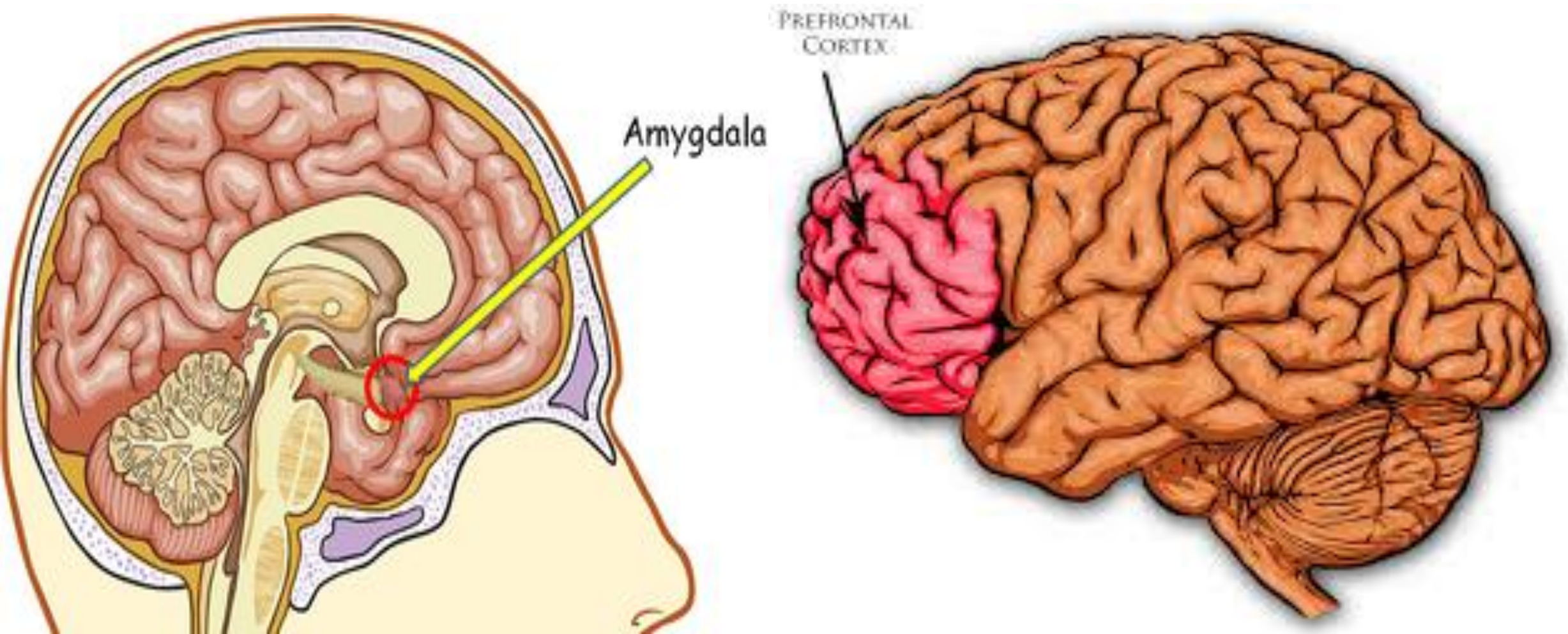
A. Neuroscience

B. Bioscience

C. Limnology

D. Myrmecology

Amygdala & Prefrontal Cortex



信賴

Trust

trust

Two Real World Examination Examples to Set the Tone



- **Discount for Lack of Marketability 10% IRS and 30%)**
 - Relationship, Listening, Education, Negotiation
 - Don't Underestimate **Neuroscience**
 - Prepare, Prepare, **Prepare** and Relationships
- **Filing** for Multimillion Dollar Estates
 - How to Prepare **Administratively**
 - How to Prepare **Technically**

Introduction

- 1. What the IRS is intending to do in 2019**
- 2. What are the implications?**
- 3. What should you do?**

What the IRS Intends to Do

- Quality Audit
- Quantity of Returns
- Taxpayer Bill of Rights Publication 1

Where to File Estate Tax Returns

- **Form 706**
- ***Mailed January 1, 2019 thru June 30, 2019***
- Department of the Treasury
Internal Revenue Service Center
Cincinnati, OH 45999
- If submitting Form 706 by private delivery service, mail to:
- 201 W. River Center Boulevard
Covington, KY 41011
Attn: Submission Processing, Stop 31

Where to File a Gift Tax Return

- Form 709
- *Effective January 1, 2019*
- Department of the Treasury
Internal Revenue Service Center
Kansas City, MO 64999
- If submitting Form 709 by private delivery service, mail to:
- Internal Revenue Service
333 W. Pershing Rd
Kansas City, MO 64108

Historical Perspective of E&G Filings and Audits

Category	Year	Year	Year	Year
	Totals	% Audited	Totals	% Audited
	2015	2016	2016	2017
< \$ 5 Mil	25,334	2.3%	23,013	2.5%
\$5M<x<\$10M	7,165	17.3%	8,095	13.4%
>\$10 Mil	3,631	37.6%	3,934	31.0%
Estate Totals	36,130	8.8%	35,042	8.2%
Gift Totals	238,324	0.8%	244,974	0.8%

Classification of Estate and Gift Tax Returns



- **National Classification Process**
- **Local Classification Process**

Who are you most likely to interact with on an Estate/Gift Tax Audit Situation?

- **Estate and Gift (E&G)Tax Attorneys** in the Small Business and Self Employed Division (SBSE)
- **Business Valuers in Engineering** in the Large Business and International Division (LB&I)

Role of the IRS Examiner

- **Independent**
- **Owns the Case**
- **May or May Now Want Assistance** from Valuation Specialist

Role of the Valuation Specialist

- **Consultant**, not a decision maker
- **Taxpayer may request** their involvement, but **not guaranteed**
- If involved, can provide **informal consultation, formal consultation, limited scope examination or full examination**

How Are Business Valuation Cases Selected for Examination?

- **Discounts**
- **Income Approach**
- **Market Approach**
- **Cost Approach**
- **Reconciliation**
- **Assumptions and Limiting Conditions**

Who is the Decision Maker on an Estate or Gift Tax Examination

- **Estate and Gift Tax Attorney** has the ability to decide the case
- **Estate and Gift Tax Attorney Manager** is the ultimate decision maker

LB&I has an Informal Mediation Process – SBSE Uses This Too

- Specialists, Engineers, and Valuers Trained in Mediation
- Model – **FIFI** – Facts Issues Feelings and Interests

Mediation **FIFI** Model

- What are the **F**acts?
- What are the **I**ssues?
- What are the **F**eelings behind each issue?
- What are the **I**nterests?

**Knowing FIFI it is possible to
work towards a solution**

Working E &G Cases at the Examination Level

- **SBSE Examination Case with a Business Valuation Issue-Information Document Requests –LB&I Directive on Information Document Requests**
- **SBSE Examination Case with a Business Valuation Issue and Step Process**
 - **Valuer and Estate Tax Attorney (ETA)**
 - **ETA and ETA Manger**
 - **ETA Manager**

Ideas to Assist you in the Appeals Process

- **Prior to the Appeals Conference, Summarize Major Issues on One Page & Follow Up with the Appeals Officer After Your Meeting**
- **Always be Professional**
- **Be There to Help/Educate the Appeals Officer**
- **Offer to do Computations**

Real World Examples at the Appeals Level

- Taxpayer with Qualified Appraisal and **IRS with No Valuation**
- Taxpayer with a Qualified Appraisal and **IRS with An Opinion of Value**
- Taxpayer with a Qualified Appraisal and **IRS with a Qualified Appraisal**
 - Internal Appraisal by IRS Valuer
 - Outside Fee Appraiser

Litigation Setting

- **U.S. Tax Court**
 - Special rules
 - 90% choose this option
 - Years for a determination
 - IRS attorneys
- **Pay the tax and file a claim**
 - **U.S. District Court or U.S. Court of Federal Claims**
 - 10% choose these options
 - Timely closure
 - U.S. Department of Justice Attorneys

Litigation Setting

- **Quick Overview U.S. Tax Court Process**
 - Prepare a Report for the Judge
 - Understand Roles of Attorney and Appraiser
 - Write a New Report Consistent with Rule 702
 - Understand Timing with Litigation
- **Quick Process Check with U.S. Tax Court**
 - Overloaded and Overworked
 - A Very High Percentage Settle but You Never Know
 - Let Go to Bite Harder
 - Issue Resolution Still Works

Important Take Away Information



Relationship

Know Who Your Working with

Role of Participants

Understand Interests

Ask Open Ended Questions

How to Resolve Conflict and Negotiate Winning Solutions

- *Tips to help resolve any conflict and negotiate winning solutions with the IRS or others*

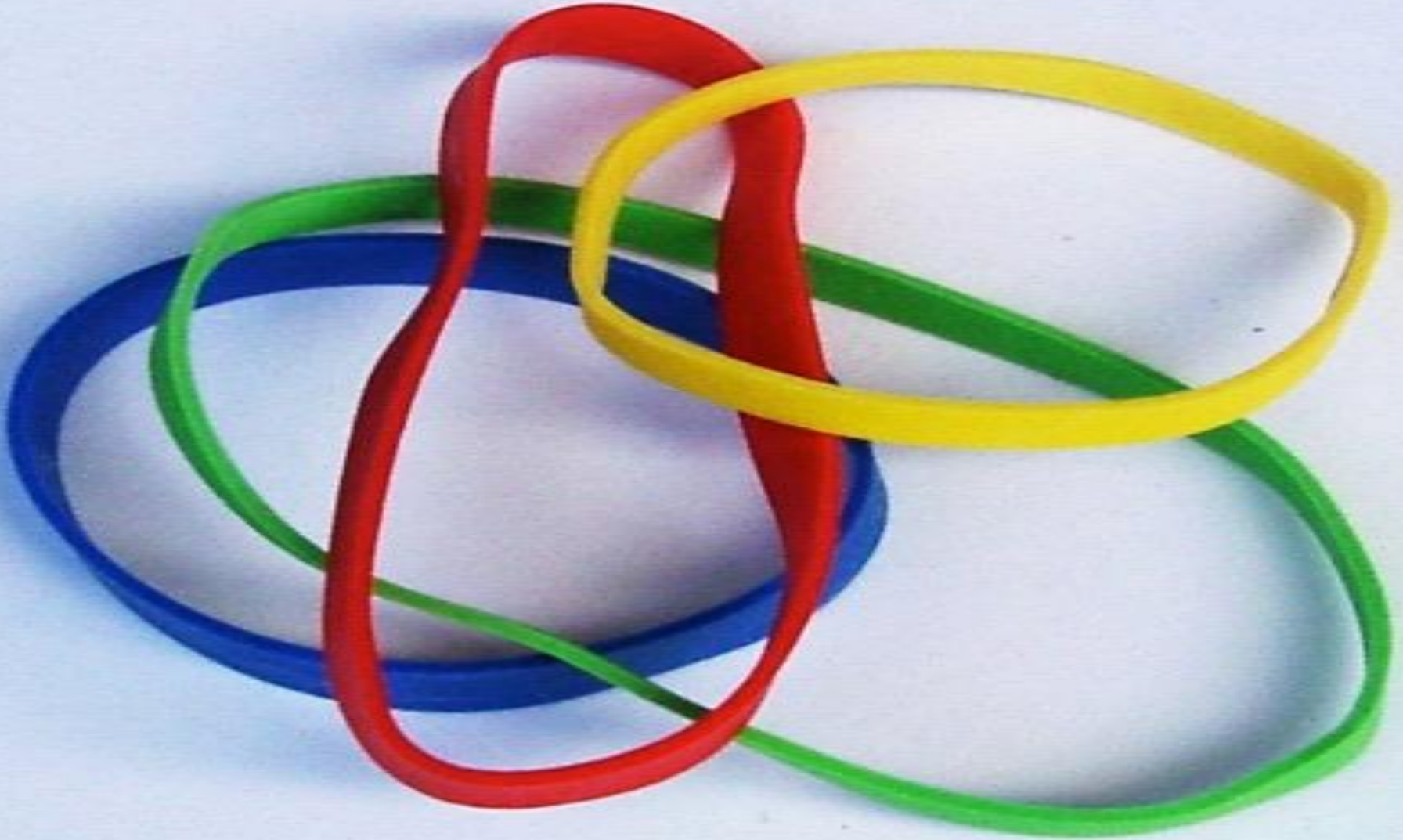


Escalation

© 2019 Michael Gregory Consulting LLC mg@mikegreg.com



Neuroplasticity – Ability to Change



Emotions Priorities Impacts



**Our brains are ____% emotional
and ____% rational.**

A. 10% and 90%

B. 25% and 75%

C. 75% and 25%

D. 98% and 2%

**Our brains are _____% emotional
and _____% rational.**

A. 10% and 90%

B. 25% and 75%

C. 75% and 25%

D. 98% and 2%





CENTER OURSELVES FIRST

Communication



Listening...



The keys to active listening are:

- A. Making sure I tell the other person my point of view.**
- B. Paraphrase, summarize, ask open-ended questions, empathize.**
- C. Talking more to make sure I am understood.**
- D. Providing solutions from my perspective.**

The keys to active listening are:

- A. Making sure I tell the other person my point of view.**
- B. Paraphrase, summarize, ask open-ended questions, empathize.**
- C. Talking more to make sure I am understood.**
- D. Providing solutions from my perspective.**

Communication is a learned skill



Conversational Intelligence

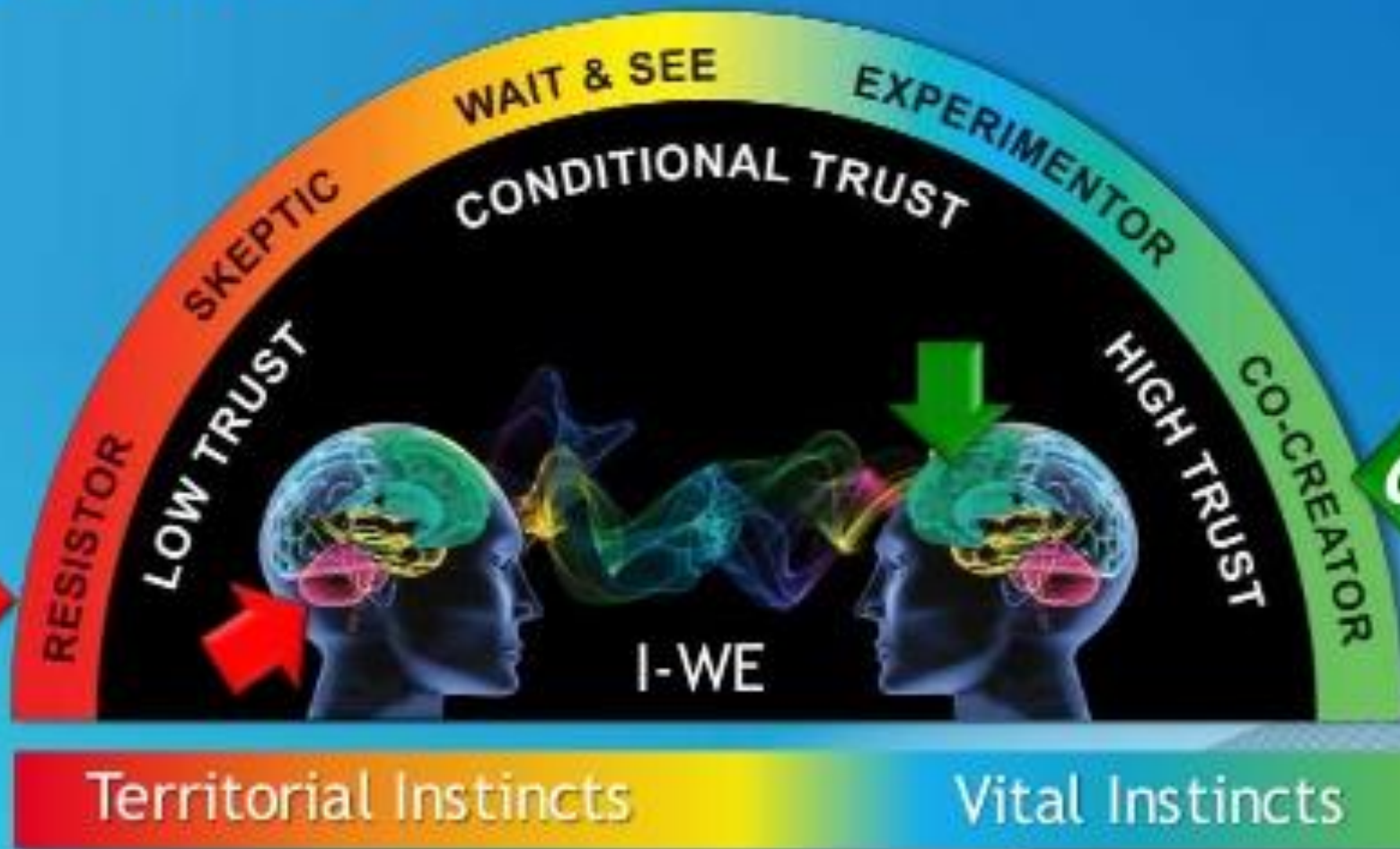
Dashboard™

Making the Invisible Visible!

PROTECT

Fight
Flight
Freeze
Appease
Distrust

Cortisol



PARTNER

Wisdom
Innovation
Strategy
Empathy

Oxytocin

Foresight
Insight
Trust

Listen to Connect

© 2019 Michael Gregory Consulting LLC mg@mikegreg.com

Copyright 2015 Benchmark/
Creating WE® Institute All Rights Reserved



Negotiation





Negotiation



SOAK UP THE ROAD

Helpful Questions for Exploring Interests

- What do you want to have happen?
- What do you hope to accomplish?
- What concerns do you have?
- What is the problem we are trying to solve?
- Are there any other problems?
- What will it take for us to work together?
- What would need to happen for you to feel satisfied?
- What is the best-case scenario?

Key Terms

Issues – Problems to be solved

Positions – Demands/statements of what someone says they will or will not do; one party's solution

Interests – Underlying needs, concerns, hopes, fears

Options – Possible - often creative - pieces of an agreement. Options are not commitments

Standards – Customary, objective, and widely-accepted criteria for handling similar situations

BATNA – Best Alternative to a Negotiated Agreement: One way to satisfy your interests if the negotiation fails

WATNA – Worst Alternative to a Negotiated Agreement: An alternative that is the worst possible outcome if the negotiation fails

PEACEFUL RESOLUTIONS



A Pocket Tool for Conflict Resolution

Michael Gregory Consulting, LLC

For additional information contact

Michael Gregory at (651) 633-5311

or email mg@mikegreg.com

©2016 Michael Gregory Consulting, LLC

Ten Steps for an Interest-Based Resolution

1. **Define** the problem (issues) and take on one issue at a time
2. **Listen** to understand the emotion and facts associated with the issue
3. **Identify** and clarify interests
4. **Generate** options
5. **Determine** the impacts of options
6. **Evaluate** the impacts of the options
7. **Select** a solution
8. **Consider** implementing the solution or go back to an appropriate step
9. **Before** implementing the solution consider testing the solution
10. **Consider** BATNA and WATNA if no solution can be found

Guidelines for Raising an Issue

- Find a private place and don't be rushed
- Center yourself – calm yourself – focus
- Raise the issue and describe your interests with the other party
- Talk about behaviors, not personalities
- Be specific, respectful, and brief
- Speak for yourself
- Talk about the “good news” too
- Invite cooperation and collaboration
- Stop, listen, and learn
- Be patient and tolerant of different styles of communication

Active Listening

- Listen with respect
- Check for understanding
- Ask questions
- Don't challenge or interrupt
- Paraphrase/summarize basic viewpoints

People and Problems

- Distinguish between the people and the problem
- Acknowledge your emotions and theirs, without blame
- Put yourself in their shoes
- Turn face-to-face confrontation into side-by-side
- Listen actively

Positions and Interests

- Positions are limiting
- Positions polarize – interests integrate
- Behind every position is at least one interest
- Interests hold the seeds of solution
- Interests are more numerous than positions and can be satisfied in many ways

- **Relationships**
- **Listening**
- **Education**
- **Negotiation**

Before someone in conflict can be receptive to education or negotiation, it's important to:

A. Build a relationship.

B. Actively listen and empathize.

C. Build a relationship and actively listen with empathy.

D. Take control and tell them what they need to do.

Before someone in conflict can be receptive to education or negotiation, it's important to:

A. Build a relationship.

B. Actively listen and empathize.

C. Build a relationship and actively listen with empathy.

D. Take control and tell them what they need to do.

Important Take Away Information

Relationship



Know Who Your Working with

Role of Participants

Understand Interests

Ask Open Ended Questions



Important Offer



- **Send Me Your Email Address and I'll Send You**
 - **Newsletter**
 - **De-escalation Handout**
 - **Negotiation Handout**
 - **Link up with you on LinkedIn**
- **Don't want Newsletter – NO TIPS**

This is Your Chance to....





How to Avoid and What to do if Audited by the IRS



Presented by Michael Gregory

mg@mikegreg.com

651-633-5311

