

THE 12TH ANNUAL BUSINESS AND PROPERTY TAX CONFERENCE

OUR REGULAR TWO DAY CONFERENCE
DELIVERED **ONLINE** IN FOUR PARTS
OVER FOUR HALF DAYS

Part 1: Property Taxation and Market Values

Tuesday 9 February 2021 [10am to 12.45pm]

Part 2: Small Business Taxation

Wednesday 10 February 2021 [10am to 12.45pm]

Part 3: Trusts and Companies Taxation

Tuesday 16 February 2021 [10am to 12.45pm]

Part 4: Managing Tax Compliance Risks

Wednesday 17 February 2021 [10am to 12.45pm]

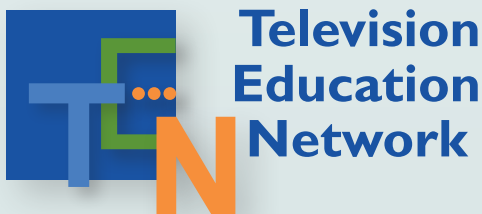
FEEDBACK FROM LAST YEAR'S CONFERENCE:

"The quality of the speakers were excellent and the topics were relevant and well presented."

"The quality of the presenters matched if not bettered similar sized conferences I have attended with other organisations. TVED punched well above its weight with this conference."

"Excellent content and presenters who are able to make the confusing understandable."

"Another well run conference with plenty of great information. Majority of content was insightful and practical."



Leaders in online CPD for Lawyers & Accountants

PART 1: TUESDAY 9 FEB 2021

**CHAIR PART 1: PHILIP DIVINY,
PARTNER, MADGWICKS, MELBOURNE**

**THEME: PROPERTY TAXATION AND MARKET
VALUES**

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 1: Tax Traps and Pitfalls for Property Developers

Average “mum and dad” investors are dabbling more and more in the property development space without being aware of the numerous tax traps and pitfalls. This session aims to inform accountants and advisers of the various tax issues their clients need to be aware of when they undertake a property development venture. The following areas will be discussed:

- The capital/revenue distinction - does the property development transaction constitute a mere realisation of a capital asset or is it a profit-making enterprise or business?
- Analysis of various practical scenarios (e.g. small scale property subdivisions, joint ventures with developers)
- Managing a dispute with the Commissioner (e.g. what documentary evidence is required to support your client's position)
- Analysis of the Commissioner's guidance on property development transactions
- Examination of recent cases (e.g. *Doyle v FCT* [2020] AATA 345)

Speaker: Andy Milidoni, Partner, Johnson Winter & Slattery, Sydney

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 2: Property Transactions and GST: A Ticking Timebomb for Advisers?

Clients regularly undertake property transactions without giving much thought to the possible negative GST consequences of a transaction. Even though the GST regime has been in place since the 2000 income year, advisers themselves are still uncertain about the application of the various rules and concessions that may apply to a particular property transaction. This session aims to clarify some of the uncertainty and covers the following areas:

- Does my client's property development venture constitute an enterprise for GST purposes (e.g. An adventure or concern in the nature of trade)?
- Analysis of the registration rules
- Analysis of concessions and interaction with practical scenarios (e.g. margin scheme, going concern)
- Change of use adjustments from taxable supply of new residential premises to input taxed supply of residential rent
- Examination of recent cases and rulings, including *The Trustee for the Seabreeze Estate Unit Trust* and *Commissioner of Taxation* [2019] AATA 1395

Speaker: Andrew Sommer, Partner, Clayton Utz, Sydney

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am

Short Break

11.55am - 12.35pm

Session 3: Market Value: Often Used, Rarely Understood

The concept of market value is fundamental to several areas of the tax law. Unfortunately, it is not adequately defined anywhere in the tax rules. Moreover, the tax effectiveness of particular schemes or arrangements will often be dependent on the market value of particular assets. This session examines this often misunderstood concept and provides practitioners with some clarity. The following areas are discussed:

- What is market value? Unpacking the key issues
- Analysis of case law, ATO guidelines and rulings
- Analysis of the legislative provisions which rely on the concept of market value (e.g. NAV test, market value substitution rules)
- Market value considerations in the post COVID-19 economy
- Practical scenarios (e.g. when is a professional valuation necessary?)

Speaker: David Hughes, Partner, McCullough Robertson Lawyers, Brisbane

12.35 - 12.45pm Questions and Discussion

12.45pm

Close

PART 2: WEDNESDAY 10 FEB 2021

**CHAIR PART 2: VANESSA PRIEST,
PARTNER, BASKIN CLARKE PRIEST,
SYDNEY**

THEME: SMALL BUSINESS TAXATION

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 4: Small Business CGT - Are My Assets Active?

The concept of an “active asset” is fundamental to the application of the small business CGT concessions. Recent cases have created confusion amongst advisers and their clients in this supposedly “basic” area. This seminar seeks to clarify some of the uncertainty and covers the following issues:

- What is an active asset? (i.e. analysis of section 152-40 of the ITAA 1997)
- Analysis of recent cases, guidelines and rulings (e.g. FCT v Eichmann [2019] FCA 2155 and SWPD and FCT [2020] AATA 555)
- Review of recent amendments to the definition of active asset (e.g. “new” active asset test for shares or interests in trusts)
- Practical case studies

Speaker: Andrea Carrick, Director, AG Tax Lawyers, Melbourne

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 5: Business Sales, Restructures and Rollovers in a post COVID landscape

The COVID-19 pandemic has prompted many business owners to rationalise, restructure, sell or transfer their operations. This session examines the tax consequences of such transactions and also highlights any concessions which may be available, as well as the impact of recent Federal Budget changes, it covers:

- Overview of various rollovers and concessions (e.g. small business restructure rollover, small business CGT rollover, section 122-A rollovers)
- Increase in small business turnover threshold for small business tax concessions
- Tax consequences of transfer of business assets (e.g. plant and equipment, trading stock, goodwill, other CGT assets)
- Intergenerational transfers
- Earn-out arrangements
- Practical case studies (e.g. should I crystallise a capital gain or apply a rollover)

Speaker: Linda Tapiolas, Partner, Cooper Grace Ward Lawyers, Brisbane

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am

Short Break

11.55am - 12.35pm

Session 6: Business Succession Planning - Ensuring the “Taxman” Does Not get your Retirement Nest Egg

Business owners are often too involved in the day-to-day operation of their businesses to give much thought to succession planning. Even where owners and their advisers have considered their exit strategies they seldom consider whether their plans are effective from a tax perspective. This session aims to outline the tax issues and possible concessions that practitioners need to be aware of when their clients are exiting their businesses. It covers:

- CGT issues (e.g. Inter-vivos vs testamentary transfer of assets, buy/sell agreements, put/call options)
- Tax and insurance (e.g. “key man” insurance, cross life insurance policies)
- Practical scenarios and strategies (e.g. share buybacks, management buy-outs, vendor financing, intergenerational transfers, arm’s length sale)
- CGT and restraints of trade

Speaker: Frank Hinoporos, Partner, Hall & Wilcox, Melbourne

12.35 - 12.45pm Questions and Discussion

12.45pm

Close

PART 3: TUESDAY 16 FEB 2021

**CHAIR PART 3: STEPHEN HOLMES,
PARTNER, WMS CHARTERED
ACCOUNTANTS, BRISBANE**

THEME: TRUSTS AND COMPANIES TAXATION

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 7: Interstate trusts Relocating to South Australia - Does Clarke v Ebdon Open the Door?

There has been much discussion over the last decade about whether trusts formed outside South Australia can take advantage of the abolition in SA of the “rule against perpetuities”. This session considers whether the recent decision of the SA Supreme Court in *Clarke v Ebdon* provides comfort for interstate trusts wishing to redomicile in SA, including:

- Why trusts cannot last forever—origins and rationale for the rule against perpetuities
- What happens when a trust reaches its vesting day?
- Special position in South Australia—why was the RAP abolished and what does this mean for SA trusts?
- Decision in *Clarke v Ebdon* and why it is important
- The \$64,000 question—when can interstate trusts redomicile themselves and be governed by SA law, and not be subject to the RAP?

Speaker: Michael Butler, Tax & Revenue Partner, Finlaysons, Adelaide

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 8: Division 7A: Practical Strategies in an Uncertain Landscape

The Government announcement that the proposed start date of the changes to Division 7A would be further deferred signals that no change to the rules is likely in the near future. In the interim, advisers are still required to comply with the existing rules. This session examines some of the areas of the existing law which are still causing concern, the recent rulings and announcements issued by the ATO, and the strategies you should be implementing now. It covers:

- Unpacking the interposed entity rules (section 109T of the ITAA 1936, TD 2018/13)
- UPEs and corporate beneficiaries (Subdivision EA)
- Division 7A and COVID-19 (Deferral of loan repayments for 12 months under section 109RD - ATO Guide QC 62915)
- Calculating distributable surplus (section 109Y)
- Interaction of Division 7A and other provisions of the tax law (e.g. Div 7A and the small business restructure rollover)
- Dealing with UPEs and subtrusts

Speaker: Arthur Athanasiou, Partner, Thomson Geer, Melbourne

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am

Short Break

PART 3: TUESDAY 16 FEB 2021

11.55am - 12.35pm

Session 9: Availability of Tax Losses in a Downturn Economy

There has always been widespread confusion amongst clients and advisers in relation to the application of the loss recoupment rules for companies and trusts. As the economy emerges from the devastation of the COVID-19 pandemic some taxpayers may now be in the position to recoup losses that they have previously accrued. This session seeks to examine the more complex areas of the loss recoupment rules, along with recent changes brought about by the 2020 Federal Budget, including:

- Loss carry back rules
 - How it works
 - To what entities does it apply?
 - To which years will it apply?
 - Impact of tax refund on franking account
 - What if the previous years' profits have been paid out?
- Analysis of the "new" similar business test
- Practical scenarios (e.g. do I satisfy the similar business test where I have shut down parts of my business in response to lock-down restrictions)
- Family trust elections - should I make a family trust or interposed entity election?
- Interaction of income injection test and family or interposed entity elections

Speaker: Raffi Tenenbaum, Director of Taxation, Prosperity Advisers Group, Sydney

12.35 - 12.45pm Questions and Discussion

12.45pm

Close

PART 4: WEDNESDAY 17 FEB 2021

**CHAIR PART 4: ROSS HIGGINS,
PARTNER, MILLS OAKLEY LAWYERS,
MELBOURNE**

THEME: MANAGING TAX COMPLIANCE RISKS

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 10: Fruit or Tree? - Recent Examinations of the Capital/Revenue Distinction

The capital/revenue distinction is a concept that has caused confusion in the courts and amongst tax practitioners for decades. Recent cases have added further uncertainty rather than provided clarity. This session examines some of the recent cases in detail and considers their practical implications. It covers:

- Brief overview of the capital/revenue concept
- Analysis of recent cases (e.g. Origin Energy v FCT, Sharpcan v FCT, Healius v FCT, Mussali v FCT [2020] FCA 544, Greig v FCT)
- Analysis of recent rulings (e.g. TR 2019/D6)
- Practical implications for various industries/taxpayers (e.g. FCT v Greig - share trading, Healius v FCT - medical and allied health practitioners, FCT v Sharpcan and Mussali v FCT - licensing and franchise arrangements)

Speaker: Mark Molesworth, Partner, BDO, Brisbane

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 11: Director Penalties - Does the "Buck" Really Stop with the Directors?

Advisers often neglect to brief their clients about their obligations and responsibilities as a director. Recent amendments extending the Director Penalty regime to unpaid GST, LCT and WET mean that now more than ever directors need to understand the extent of their liability for the tax obligations of their companies. This session seeks to examine the following areas:

- Overview of the DPN regime
- Liability of directors (i.e. DPNs can be issued by Commissioner where a liability is "unpaid and unreported")
- Remission of penalties/exclusions
- Extension of the regime to GST, LCT and WET
- 2009 changes
- Practical tips for managing DPNs

Speaker: Damian O'Connor, Principal & Chartered Tax Advisor, Tax + Law, Brisbane

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am

Short Break

11.55am - 12.35pm

Session 12: Debt Forgiveness and Restructuring - The Debt is Forgiven but is the "Taxman" Appeased?

The current economic environment has resulted in many businesses having to restructure their financing arrangements or waive debt obligations. While the arrangements entered into between debtors and creditors may be commercially prudent, the parties involved seldom consider the tax consequences that may arise from such dealings. This session aims to inform practitioners about the tax consequences of forgiving or restructuring debt. It covers:

- What is a debt forgiveness?
- Analysis of the commercial debt forgiveness provisions and the debt forgiveness provisions in Division 7A (e.g. Div 7A consequences of guarantee or debt parking arrangements)
- CGT implications of forgiving or restructuring debts
- Analysis of the bad debt provisions
- What are the tax consequences of writing-off an unpaid present entitlement?
- Practical case studies (e.g. tax issues for forgiving debit and credit loans)

Speaker: David Marschke, Principal, DBM Horizons, Brisbane

12.35 - 12.45pm Questions and Discussion

12.45pm

Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference, online access to the conference materials and recordings of each of the sessions provided after the conference.

Conference Materials

Access to the conference materials will be available online to all delegates. Access will commence in the lead-up to the conference as the materials become available. Following the conference delegates will have access to the conference materials online with no expiration date.

CPD Units/Points

Accountants: 10 CPD/Training hours

Lawyers (except WA): 7 CPD units (substantive law)

WA Lawyers: 6 CPD points (substantive law)

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

Online Conference Delivery

The conference will be delivered online. Delegates will receive a link to login and attend each of the 4 parts of this online conference.

This online conference will be delivered in a style similar to a live conference. There are Chairs for each part to introduce speakers and facilitate question time and the online portal allows delegates to pose questions to the speakers via the chat facility.

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

Conference Terms

Program subject to change without notice. The information and views presented in the conference are not necessarily those of TEN and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for conference cancellation or any other loss or liability is the refund of the registration fee paid.

TEN is not responsible for financial loss incurred by you as a result of the cancellation or postponement of the conference as a result of strikes, public health emergencies, natural disasters, and other Acts of God.

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