

A TEN ONLINE MASTERCLASS

# Family Business Taxation Online Masterclass

Friday 10<sup>th</sup> March 2023  
Online



Leaders in online CPD for Lawyers & Accountants

9.00 – 9.05am	<p><b>Introduction and welcome</b>  <b>Morning Chair: Mark Macrae, Senior Associate, Arnold Bloch Leibler, Melbourne, Vic</b></p>
9.05 – 9.55am	<p><b>Session 1: Family Business Succession Planning</b></p> <p>Planning for the continuity of a business beyond the current owners requires careful thought in advance of implementing the chosen strategy. This session delves into the options and issues that can arise on an intergenerational changeover, including:</p> <ul style="list-style-type: none"> <li>• Strategies for passing control to the next generation when dealing with: <ul style="list-style-type: none"> <li>○ a trust</li> <li>○ a company</li> </ul> </li> <li>• What are the tax considerations you should include in the succession plan?</li> <li>• When a restructure may be a viable option</li> <li>• How market value substitution rules can apply to succession planning</li> <li>• Using the small business CGT concessions to obtain a cost base uplift</li> <li>• Weighing up the pros and cons of dealing with the tax and duty issues of a transfer of control now or as part of an estate plan on death</li> <li>• The tax aspects of exit strategies that cover: <ul style="list-style-type: none"> <li>○ CGT rollovers or applying the small business CGT concessions for an intergenerational transfer</li> <li>○ the CGT implications on a sale where the next generation have conveyed their preference for the owner to “cash out”</li> </ul> </li> <li>• Case study</li> </ul> <p><i>Speaker: David Marschke, Principal, DBM Horizons, Brisbane, Qld</i></p>
9.55 – 10.05am	<p><b>Questions and Discussion</b></p>
10.05 – 10.55am	<p><b>Session 2: Looking Beyond the Losses and Franking Credits: Family Trust and Interposed Entity Elections</b></p> <p>Whilst the family trust election (FTE) can be a useful tool to ensure the benefits of trust tax losses and franking credits are maximized, there are other consequences that without proper planning, can lead to unforeseen tax consequences. This session sheds some light on these issues, including:</p> <ul style="list-style-type: none"> <li>• The extended definition of ‘distribution’ for family trust distribution tax purposes (FTDT)</li> <li>• When loans to parties outside the family group can lead to FTDT</li> <li>• Issues to consider when a trust with an FTE moves assets by way of sale or restructure</li> <li>• Future consequences of making an FTE and interposed entity election (IEE)</li> <li>• Can an FTE and IEE be revoked or varied</li> <li>• ATO guidance on strategies which may reverse FTDT subject to amendment periods (QC 48752)</li> <li>• The calculation of FTDT when it applies</li> <li>• Case studies</li> </ul> <p><i>Speaker: Mark Molesworth, Partner, BDO, Brisbane, Qld</i></p>
10.55 – 11.05am	<p><b>Questions and Discussion</b></p>
11.05 – 11.25am	<p><b>Morning Break</b></p>

11.25am –  
12.15pm

### **Session 3: Trusts and the Small Business CGT Concessions: Not as Clear Cut as you Think**

The small business CGT concessions are complex, in no small part due to the way the rules apply to trusts. This session drills down on the concessions as they specifically apply to trusts, including:

- How the CGT concessions apply to discretionary trusts
- How the control test applies to:
  - discretionary trusts
  - unit trusts
- Unit trust selling business or premises where the unitholders are two family trusts – how are the concessions applied?
- What is the significant individual test?
- How the active asset 50% reduction can trigger CGT event E4 in a unit trust and strategies to deal with the issue
- What extra conditions need to be satisfied if the CGT asset is an interest in a trust?
- Case studies:
  - Comparison of selling the CGT asset in a trust or selling the units
  - Comparison of selling a CGT asset in a discretionary trust or a unit trust

*Speaker: Jodie Robinson, Special Counsel, McCullough Robertson Lawyers, Brisbane, Qld*

12.15 – 12.25pm

### **Questions and Discussion**

12.25 – 1.10pm

### **Lunch Break**



1.10 – 1.15pm	<p><b>Introduction and Welcome</b>  <b>Afternoon Chair: Natalie Hewson, Director, FMA Partners, Sydney, NSW</b></p>
1.15 – 2.05pm	<p><b>Session 4: Reimbursement Agreements (Section 100A): Getting the Balance Right</b></p> <p>The ATO has recently issued guidance material on when they consider section 100A may apply to trust distributions. However, practitioners may be experiencing a feeling of uncertainty as to whether some trust distributions that they have helped shape could fall foul of the provision. This session reviews the ATO guidance as it currently stands, with tips to mitigate the risk, including:</p> <ul style="list-style-type: none"> <li>• What are the consequences of section 100A applying?</li> <li>• How the ATO classifies trust distribution arrangements for compliance action</li> <li>• What distributions could be at risk of section 100A applying? ie.:             <ul style="list-style-type: none"> <li>○ A beneficiary not calling for their entitlement ?</li> <li>○ A beneficiary able to utilise losses (income or capital)?</li> </ul> </li> <li>• If a trustee retains funds distributed to a beneficiary, does the risk of section 100A applying differ depending on whether the trust operates a business or is an investment trust?</li> <li>• Examples of arrangements “entered into in the course of ordinary family or commercial dealings” where the ATO have indicated section 100A shouldn’t apply</li> <li>• What types of records can be maintained to assist trust distributions standing up to ATO scrutiny?</li> <li>• Practical examples</li> </ul> <p><i>Speaker: David Hughes, Partner, McCullough Robertson Lawyers, Brisbane, Qld</i></p>
2.05 – 2.15pm	<p><b>Questions and Discussion</b></p>
2.15 – 3.05pm	<p><b>Session 5: The Division 7A Weather Report – Headwinds Developing with Storm Clouds Ahead</b></p> <p>Whilst practitioners are non the wiser on the progress of the introduction of the targeted amendments to Division 7A, in the meantime there is always ongoing ATO guidance material being released to keep practitioners on their toes. This session reviews recent guidance issued on Division 7A and UPEs, including:</p> <ul style="list-style-type: none"> <li>• When will an arrangement between a private company and a trust be considered “financial accommodation”? (TD 2022/11)</li> <li>• How to set up a sub-trust so the arrangement is not considered “financial accommodation”?</li> <li>• Are there any administrative or reporting requirements for a sub-trust?</li> <li>• Does the financial accommodation commence from the trustee’s distribution resolution or from finalising the financial statements?</li> <li>• What is the ATO’s compliance approach pre and post 30 June 2022?</li> <li>• Can any housekeeping be undertaken to minimise the risk of Division 7A exposure?</li> <li>• Practical examples</li> </ul> <p><i>Speaker: Raffi Tenenbaum, Tax Director, William Buck, Sydney, NSW</i></p>

3.05 – 3.15pm	<b>Questions and Discussion</b>
3.15 – 3.35pm	<b>Afternoon Break</b>
3.35 – 4.25pm	<p><b>Session 6: It Might Not be Assessable Income Now, But What About Later On?</b></p> <p>There are various types of income an entity can receive which may be excluded from being categorised as assessable income. However, this isn't necessarily the end of the story. What about when these amounts ultimately find their way to unitholders or shareholders? This session explores some of these amounts which may or may not have tax implications at the end of the line, including:</p> <ul style="list-style-type: none"><li>• The tax treatment of the CGT 15-year exemption amount and the 50% active asset reduction amount, when paid from a:<ul style="list-style-type: none"><li>○ company (ongoing)</li><li>○ company (in liquidation)</li><li>○ unit trust</li></ul></li><li>• How to treat the CGT retirement exemption amount not required to be paid into a superannuation fund, from a:<ul style="list-style-type: none"><li>○ company (ongoing)</li><li>○ company (in liquidation)</li><li>○ unit trust</li></ul></li><li>• Income that has been subject to family trust distribution tax subsequently paid out to shareholders/unitholders</li><li>• Income from the cash flow boost</li><li>• CGT events applying to distributions from:<ul style="list-style-type: none"><li>○ managed investment trusts</li><li>○ attribution managed investment trusts</li></ul></li><li>• Examples of other non assessable amounts derived in a company or trust paid out to shareholders/unitholders</li><li>• Practical examples calculating CGT events C2, E4 and G1</li></ul> <p><i>Speaker: Peter Bardos, Director, Tax, HLB Mann Judd, Sydney, NSW</i></p>
4.25 – 4.35pm	<b>Questions and Discussion</b>
4.35pm	<b>Masterclass Close</b>



### GENERAL INFORMATION

#### Masterclass Registration Fee

The registration fee includes attendance at the live online masterclass and 4 recorded webinars.

#### Masterclass Papers

Access to the papers and PowerPoints will be available online to all delegates in the lead-up to the masterclass (as they become available). The materials will be available in .pdf format for easy download to your local computer or portable device.

#### CPD

Accountants – 6 CPD/Training Hours

CPD

Certificate

All delegates will receive a CPD certificate confirming registration and the CPD units applicable



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17. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.





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Register online: [www.tved.net.au](http://www.tved.net.au) – go to Masterclasses

Please register me for **Family Business Taxation Online Masterclass** to be held online on Friday 10<sup>th</sup> March 2023. [code: SXTMAR23]

- Early Bird Registration** – for registrations paid on or before **24 February 2023** - **\$880** (\$800 + \$80 GST)  
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The papers from this masterclass will be available in electronic form only approximately 1 week after the masterclass has been held. You can pre-order the papers now online via our website at [www.tved.net.au](http://www.tved.net.au) [go to Conference Papers]. The papers are \$165 (\$150 + \$15 GST) (Code: PSXTMAR23).

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