

A TEN POINT MASTERCLASS – GET YOUR 10 CPD UNITS

Tax Aspects of Estate Planning: One Day 10 Point Masterclass

Tuesday 6 February 2024
Online

- Estate Planning so that Getting the Same Doesn't Mean Getting Less
- Super Strategies for the Estate Plan - Pre and Post Death
- When Assets of a Testamentary Trust Become Assets of Beneficiaries
- Division 7A, Section 100A and Other Inter Entity Loan Issues
- How Family Trust Elections Impact the Estate Plan
- Don't Leave Me Out: Trustee Distributions and Discretion

Earn 10 CPD units including the compulsory subjects - attend this one-day live online Masterclass and we'll supply 4 free on demand video webinars - 3 covering each of the compulsory subjects plus one other substantive law program to view at your leisure



Leaders in online CPD for Lawyers & Accountants

Morning Theme: Tax Efficient Strategies in the Estate Plan

9.00 – 9.10am	Introduction and welcome Morning Chair: Michael Butler, Partner, Finlaysons, Adelaide, SA
9.10 – 10.00am	Session 1: Estate Planning So That Getting the Same Doesn't Mean Getting Less As certain assets have their own unique tax treatment and as certain individuals can have their own unique tax situations, the after tax amount of an inheritance can differ markedly between beneficiaries. This session explores why this is so and what may be considered to increase the after tax legacies from a deceased estate, including: <ul style="list-style-type: none">• Which CGT assets may be more tax friendly when left to which beneficiaries?• Should a “capital gains tax provision” for each CGT asset held by the willmaker be factored into the estate plan?• Should the personal tax attributes of each potential beneficiary be a consideration of the willmaker?• How CGT event K3 applying for one beneficiary's situation can reduce the pie for the remaining beneficiaries• When may a special disability trust be a beneficial insertion in a will for a beneficiary?• The pros and cons of tax equalization clauses in a will (Todd v Todd & Ors [2021] SASC 36)• Case study Speaker: Greg Russo, Principal, Greg Russo Law, Melbourne, Vic
10.00 – 10.10am	Questions and Discussion



10.10 – 11.00am

Session 2: Super Strategies for the Estate Plan – Pre and Post Death

Whilst death duties in Australia are a thing of the past, the taxing of superannuation death benefits is a topic gathering momentum to becoming very much front and centre in the minds of fund members and their advisors. This session explores the tax impact associated on the death of a fund member, including:

- The different ways super death benefits flow through to the beneficiaries depending on the estate planning documentation, if any, in place
- The circumstances that support an adult child or parent being either interdependent or financially dependent on the deceased and why it matters (*Tratter v Aware Super* [2023] FCA 491)
- Planning strategies to minimise the tax impact of superannuation proceeds to the next generation
- How pre death withdrawals can impact on both tax and the future recipient of those funds on death
- Strategies that direct the components of a deceased's estate to the tax preferred beneficiary for that particular asset, including the effect of incorporating a testamentary trust as a superannuation proceeds recipient
- Planning for a potential tax impact from life insurance proceeds within superannuation
- Case studies exploring the impact of the proposed 15% tax on super balances over \$3 million

Speaker: Jennifer Dixon, Practice Leader, Moores, Melbourne, Vic

11.00 – 11.10am

Questions and Discussion

11.10 – 11.30am

Morning Break



11.30am –
12.20pm

Session 3: When the Assets of a Testamentary Trust Eventually Become the Assets of the Beneficiaries

The lifespan of a testamentary trust will be reliant upon the terms of the deed. Some of those terms state that the trust is to exist for a number of generations, or until beneficiaries reach a certain age, or until a variety of other requirements are met. This session looks into the tax aspects of a TT that has assets remaining when it reaches the end of its life, including:

- Can a TT end before the conditions of its deed say it can?
- What are the tax consequences, if on the termination of a TT, the trustee:
 - sells CGT assets prior to, however in the same financial year, as the final distribution
 - transfers remaining CGT assets to beneficiaries?
- Can the trustee extend a vesting date, and if so are there any tax consequences?
- Can a discretionary TT continue to be discretionary if its vesting date has passed?
- When may beneficiaries be the “taxpayer” for a CGT asset, even though the asset is held or sold by a trustee of a TT, including:
 - why it may matter whether or not the asset in question is “fungible” (TR 2004/D25)
 - the tax treatment when there are multiple beneficiaries
- The tax implications when the CGT asset remaining on the cessation of a TT is a property remaining after the death of a life tenant, where:
 - the property is sold by the trustee and funds disbursed to remainder beneficiaries
 - the property is transferred to remaining beneficiaries
- Practical examples

Speaker: Nathan Yii, Principal lawyer, Nathan Yii Lawyers, Melbourne, Vic

12.20 – 12.30pm

Questions and Discussion

12.30 – 1.15pm

Lunch Break



Afternoon Theme: Distributions and Loans Impacting the Estate Plan

1.15 – 1.20pm

Introduction and welcome

Afternoon Chair: Paula Tallon, Founder, Salann Tax, Sydney, NSW

1.20pm – 2.10pm

Session 4: Division 7A, Section 100A and Other Inter Entity Loan Issues Impacting the Estate Plan

A balance sheet review of loans between associated entities is a necessary, yet sometimes overlooked, procedure in developing an estate plan.

Unravelling these loans after the death of an affected party without proper forethought can be messy and result in unintended consequences. This session explores the issues and strategies available when such loans are identified, including:

- What are the issues arising with associated entity loans that are going unaddressed until a deceased estate is being administered?
- Addressing issues where loans owing to a deceased estate are funding business operations
- How to deal with Division 7A loans and issues in the estate plan
- The unforeseen tax implications that may arise when writing off loans by journal entry
- How timing the forgiveness of a loan can impact the tax outcome (ATO ID 2012/77)
- Is recent ATO section 100A guidance material impacting on estate planning?
- How to manage loan issues associated with bucket companies
- Strategies pre death to minimise adverse tax consequences for a deceased estate, including:
 - reviewing dividend policies and the impact on loans
 - ensuring loans are tax compliant
- Case study

Speaker: Daniel Smedley, Principal, Sladen Legal, Melbourne, Vic

2.10 – 2.20pm

Questions and Discussion



2.20pm – 3.10pm

Session 5: How Family Trust Elections Impact the Estate Plan

Family trust elections are often made, amongst other reasons, to achieve a tax effective outcome for claiming carried forward losses or ensuring beneficiaries can access franking credit entitlements. However, it is also important to ensure the making of an FTE aligns with the longer term estate planning objectives of the controlling individuals. This session explores the issues, including:

- What is the impact on trusts that have and haven't made an FTE?
- What is the effect on a trust if a "test individual" dies?
- How important are the existing relationships of a "test individual" as at the date of the test individual's death?
- Can the effects of having a "test individual" create complications for blended families?
- Can you revoke an FTE if it is not meeting estate planning intentions?
- Does the death of a "test individual" restrict other entities from making an interposed entity election to be included in the family group? (ATO ID 2014/3)?
- Can a deceased estate be part of a family group, making it potentially eligible to receive trust distributions?
- Practical case studies

Speaker: Ian Burgess, Director, Burgess Chartered Accountants, Brisbane, Qld

3.10 – 3.20pm

Questions and Discussion

3.20 – 3.40pm

Afternoon Break



3.40 – 4.30pm

Session 6: Don't Leave Me Out: Trustee Distributions and Discretion

The financial year end is drawing to a close, marginal tax rates of potential beneficiaries have been considered and the trustee determines the income distribution allocation for the trust. If this is the annual procedure being followed for distributing trust income, recent developments arising from disgruntled beneficiaries may cause you to have a rethink. This session looks into how trustee discretion is being challenged, including:

- Why are trustee distributions being challenged?
- What are the duties of a trustee when distributing trust income?
- What are the rights of the potential beneficiaries of trust income?
- Case review and key takeaways of a successful challenge to discretion applied by a trustee (*Owies v JJE Nominees Pty Ltd* [2022] VSCA 142)
- What is the tax impact if distributions are held to be void?
- Tips for procedures for trustees and advisers to follow to minimise risk
- Case studies

Speaker: Edward Skilton, Principal, Sladen Legal, Melbourne, Vic

4.30 – 4.40pm

Questions and Discussion

4.40pm

Masterclass Close



In addition, all delegates will receive the following on demand video webinars.

These webinars will be provided online by end February 2024 for you to view at your leisure by 31.3.24 to make up the 10 CPD units.

<p>Substantive law – 1 unit</p>	<p>Preparing for the Long Haul: Intergenerational Family Business Planning</p> <p>Laying the groundwork for an intended long-term family business brings with it significant challenges and forethought. This session will examine some of the options and strategies for this significant estate planning activity, including:</p> <ul style="list-style-type: none"> • What does your client really want? Asking the right questions • Strategies for family consultation, information management and decision-making • Understanding the pros and cons of: <ul style="list-style-type: none"> ○ MOUs ○ family constitutions ○ shareholder agreements • Key issues for family businesses including authority and control, operational management and dispute resolution • Content and drafting guide to key documents and agreements • What can go wrong will go wrong - tips for pre-empting problems and risk minimisation planning • Building in the parachute for when all else fails <p><i>Presented by: Emma Woolley, Partner, Hall & Wilcox, Melbourne, Vic</i></p>
<p>Professional Skills – 1 unit</p>	<p>Estate Administration Litigation: Sharpening your Skillset When the Gloves Come Off</p> <p>While few succession lawyers want their matters to end up in court, it is unavoidable that certain matters will eventually result in litigation. This practical session delves into the potential issues that may emerge in succession law litigation and offers insights on how lawyers can effectively equip themselves with the necessary skill set to navigate such situations. Topic areas covered include:</p> <ul style="list-style-type: none"> • Probate caveats and the impact of the recent decision of <i>Re Estate Capelin, deceased</i> [2022] NSWSC 238 on their use in contested matters • The ins and outs of ex parte applications: <ul style="list-style-type: none"> ○ when are they appropriate? ○ how to present your case in accordance with current best practice standards ○ who to notify of the outcome (and when) • Notices and applications to bar claims: <ul style="list-style-type: none"> ○ when they ought to be considered ○ practical and strategic considerations if served with one • The duty of legal representatives in succession law litigation, as discussed in <i>Limberger v Limberger</i> [2021] NSWSC 474)



<p>Ethics – 1 unit</p>	<p>Ethical Considerations in Client Representation: Knowing when to Proceed and when to Refrain</p> <p>In succession law matters it can be common to take instructions from a couple and provide advice to ensure their testamentary wishes align. As time passes, people and circumstances change, family dynamics evolve, and relationships can break down. Such events can create challenges and lawyers who fail to stop to consider the ramifications of changed circumstances run the risk of falling foul of legal, professional and ethical obligations. This session will examine:</p> <ul style="list-style-type: none"> • An overview of the ethical duties and obligations surrounding when lawyers can (and when they should not) act and the continuing obligations towards client following termination of client relationship • Case examples to workshop through different scenarios which can create ethical conundrums, including acting for a former client or person connected with a former matter • Ethical rules surrounding duties owed to former clients, including confidentiality • Practical guidance about navigating the process when weighing up ethical considerations and how to create safeguards to prevent inadvertent breach of obligations
<p>Practice Management & Business Skills – 1 unit</p>	<p>Strengthening your Defences against Scams, Phishing and Cyber Security Attacks</p> <p>Around 300,000 cyber-crimes are committed in Australia every year. Many of these incidents arise not from hacking but from the behaviour of people who fall prey to scams, phishing and other social engineering methods. As the recent headlines have shown us, lawyers are no exception. This session assists succession lawyers keep on top of their cyber-security risk by examining:</p> <ul style="list-style-type: none"> • The different methods currently employed for scams • Spotlight on the particular cyber security vulnerabilities experienced by succession lawyers • Tips for how to identify scams and fraudulent communications • Suggestions for systems, policies and steps lawyers can take to minimise their risk • Potential consequences that can arise following a breach and what practitioners should do if they suspect a breach



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).

CPD – Lawyers

10 CPD units – 6 substantive law units for attending the Masterclass **PLUS** we will provide you with **4 free** on demand video webinars – 3 covering each of the compulsory subjects (Ethics, Practice Management & Business Skills and Professional Skills) plus one other substantive law program - for you to view at your leisure prior to 31 March 2024. The recorded webinars will be made available for viewing by end February 2024.

Please check your CPD rules to ensure that you are able to claim 4 CPD units from viewing recorded webinars. Most states have allowance for claiming CPD for viewing recorded webinars.

WA practitioners – *you cannot claim for recorded webinars as we are unable to verify that you have viewed them. You can claim 6 CPD units (substantive law) for attending the online masterclass.*

CPD

Certificate

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



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 - b. "you" means the person who has registered to attend or the person or persons who attend(s) the conference (if different from the person registered)
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 - a. State or national border closures
 - b. Restrictions on movement of persons imposed on persons by any responsible authority in Australia
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9. You are entitled to use those materials for private study and research only.
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Conference cancellation by TEN – all conferences

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Governing Law – all conferences

15. 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.



Registration Form

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Enquiries: Contact our Event Co-Ordinator, Jason Hooker (jason@tved.net.au) [direct: (03) 8601 7719]
Register online: www.tved.net.au – go to Masterclasses

Please register me for **Tax Aspects of Estate Planning: One Day 10 Point Masterclass Online** to be held online on Tuesday 6 February 2024. [code: SXEFEB24L]

Delegates will receive **4 free on demand video webinars** - 3 covering each of the CPD compulsory subjects + 1 additional substantive law unit to view at your leisure. Delegates will earn their 10 CPD units for the CPD year ending 31.3.24.

- Early Bird Registration** – for registrations paid on or before **15 December 2023** - **\$990** (\$900 + \$90 GST)
- Discount Registration** – for registrations paid on or before **19 January 2024** - **\$1100** (\$1000 + \$100 GST)
- Full Price Registration** – **\$1210** (\$1100 + \$110 GST)

Can't Attend – Purchase the Masterclass Papers

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 [go to Conference Papers]. The papers are \$165 (\$150 + \$15 GST) (Code: E/PSXEFEB24L).

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