

TAXATION ESSENTIALS FOR PROPERTY LAWYERS

1. Demystifying Land Tax: Navigating the Terrain
2. Capital Gains Tax for Property Lawyers: Essential Principles, Strategies, and Insights
3. Decoding Duty: Unravelling Land Transfer Duty Essentials
4. GST and Real Property: The Key Essentials
5. GST Clauses in Property Contracts: Essential Drafting Techniques

5 PROGRAM ON-DEMAND WEBINAR SERIES



... Leaders in online professional development for lawyers & accountants

ABOUT THIS SERIES

What's covered

Property Lawyers are rarely also tax accountants and or tax lawyers, however, property transactions always entail some form of taxes that need to be discussed between a property lawyer and client in property matters.

In this practical 5-part webinar series, learn directly from the leading experts on how to navigate the common tax issues that can arise in property transactions. Dedicated sessions include demystifying land tax, insights into key capital gains tax strategies, as well as decoding land transfer duty essentials. Other sessions include GST implications of real property transactions, along with essential drafting techniques involving GST clauses.

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THE PROGRAMS

Program 1: Demystifying Land Tax: Navigating the Terrain for Property Lawyers

As property lawyers, we navigate the intricate world of real estate transactions, guiding clients through the legal maze of property ownership, transfers, and investments. Among the multitude of considerations that arise in our practice, land tax holds a prominent position. Understanding the basics of land tax is not only crucial for ensuring compliance with taxation laws but also for strategically advising clients on minimizing their tax burdens and optimizing their property portfolios. In this paper, we will delve into the fundamental concepts of land tax across Australia, exploring the key principles, exemptions, thresholds, and recent developments that shape this complex area of law. It covers:

- Defining land tax and its purpose within the Australian taxation system
- Jurisdictional variations: Examining the differences in land tax legislation and thresholds across various states and territories
- Calculation methods: Understanding the formulas and assessment methodologies used to determine land tax liabilities
- Exemptions and concessions: Identifying the various exemptions and concessions available to property owners, such as principal place of residence exemptions and primary production exemptions
- Recent legislative changes: Discussing any recent updates or amendments to land tax laws that property lawyers need to be aware of.
- Case studies and practical examples Illustrating key concepts and strategies through real-life scenarios commonly encountered by property lawyers

THE PROGRAMS

Program 2: Capital Gains Tax for Property Lawyers: Essential Principles, Strategies, and Insights

While property lawyers are not tax advisers, being comfortable with the fundamentals of CGT allows property lawyers to provide comprehensive guidance to clients, enabling them to navigate the complexities of taxation implications when buying, selling, or transferring real property. This practical webinar explores the basics of capital gains tax as it relates to real estate, including:

- CGT on property sales: Exploring the tax implications when selling or disposing of real estate assets, including the calculation of capital gains and applicable tax rates.
- CGT exemptions and concessions: Examining various exemptions and concessions available for property transactions, such as the main residence exemption, small business concessions, and rollover provisions.
- Determining the cost base: Understanding the components that make up the cost base of a property, including acquisition costs, improvements, and associated expenses.
- Calculating capital gains and losses: Exploring the methods used to calculate capital gains and losses
- Timing considerations: Discussing the importance of timing in relation to CGT events, including the concept of the CGT discount, holding period requirements, and the impact of changing residency status.
- Practical case studies

Program 3: Decoding Duty: Unravelling Land Transfer Duty Essentials for Property Lawyers

Property lawyers understand that real estate transactions involve complexities that extend beyond legal considerations. Among these crucial factors lies land transfer duty, commonly known as stamp duty, which carries significant implications for property transactions. To ensure compliance with taxation laws and provide effective guidance to clients, it is essential to grasp the basics of land transfer duty. In this paper, we will explore the fundamental principles of land transfer duty across various jurisdictions, including:

- Jurisdictional variations: Examining the differences in land transfer duty legislation and rates across different states and territories.
- Calculation methods: Exploring the formulas and assessment methodologies used to determine land transfer duty liabilities.
- Exemptions and concessions: Identifying the various exemptions and concessions available to property buyers or sellers, such as first-home buyer concessions or off-the-plan concessions.
- Thresholds and rates: Understanding the thresholds at which land transfer duty becomes applicable and the progressive rates applied to different property transaction values.
- Recent legislative changes and potential future reforms that property lawyers need to be across
- Practical examples and case studies

THE PROGRAMS

Program 4: GST and Real Property: The Key Essentials for Property Lawyers

From residential homes to commercial buildings, every property transaction is entwined with the intricate web of GST implications. This practical session unravels the mysteries of GST, and explores its rules, exemptions, calculations, and practical considerations that are vital for navigating the labyrinth of property taxation. It covers:

- GST applicability to real property: Understanding when and how GST applies to different types of real property, including residential, commercial, and vacant land
- GST registration and obligations: Exploring the requirements for property owners and businesses to register for GST and fulfill their reporting and compliance obligations.
- Input tax credits and acquisitions: Examining the availability of input tax credits for property-related expenses and acquisitions, such as renovations, construction, and professional services.
- GST on property sales and leases: the GST implications when selling or leasing real property, including the concept of taxable supplies, GST-free supplies, and adjustments
- Margin scheme: Explaining the margin scheme as an alternative method for calculating GST on certain property sales, including its eligibility criteria, calculations, and advantages
- GST exemptions and concessions: Identifying the exemptions and concessions available for specific types of property transactions
- Application of the GST withholding regime
- Practical examples and case studies involving small scale property development

Program 5: GST Clauses in Property Contracts: Essential Drafting Techniques

GST clauses are a critical component of property transactions, and their proper drafting plays a crucial role in ensuring compliance, mitigating risks, and facilitating smooth transactions. However, getting them right can often be harder than it seems. This practical session examines the key considerations, challenges, and strategies involved in drafting GST clauses in property contracts that withstand scrutiny. It covers:

- The common – and not so common – errors that can arise in GST clauses in property contracts
- Understanding the consequences of omitted GST clauses in property contracts
- Mistake and misrepresentation and their effect on GST clauses
- The role of GST withholding clauses in real property contracts
- Drafting lessons for practitioners and practical examples
- Lessons from recent cases

THE FACULTY

Matthew McKee, Partner, Brown Wright Stein Lawyers, Sydney, NSW

Matthew McKee is an experienced tax and superannuation lawyer who regularly provides tax and commercial related advice to accountants, financial planners, small to medium enterprises and private clients. Matthew has a particular expertise in New South Wales state taxes (duties, payroll tax and land tax) but advises on all aspects of taxation law, including income tax, capital gains tax (CGT), GST and the SIS Act.



Matthew also provides advice on trusts and structuring as well as commercial issues including asset and business acquisitions and disposals, share sale agreements, shareholder and joint venture agreements.

Philip Diviny, Partner, Madgwicks Lawyers, Melbourne, Vic

A highly regarded tax lawyer with a broad-based tax advisory, tax controversy and international tax practice, Philip works across a variety of industries, including property, infrastructure, agriculture, shipping, chemicals and health.

Philip is a highly numerate lawyer also qualified as a Chartered Accountant and Chartered Tax Adviser.



Through his experience as a Chartered Accountant and Chartered Tax Adviser as well as lawyer, Philip has expertise in all facets of tax and is able to communicate complex ideas simply. Philip is a current member of the Advisory Panel to the Board of Taxation and a regular speaker and presenter.

THE FACULTY

Andrew Rider, Barrister, Level 22 Chambers, Sydney, NSW

Andrew Rider is recognised in Doyle's Guide as a leading Australian tax barrister specialising in tax litigation and dispute resolution.

Andrew also advises on Australia-wide taxes, including stamp duties, land tax and payroll tax.

Andrew authors the national stamp duty section of the leading online service "Practical Guidance - Property Law" and edits the leading stamp duty publication "Australian Stamp Duties Law".

Andrew is a Chartered Tax Adviser and examiner with The Tax Institute and member of The Tax Institute/Revenue NSW Liaison Committee and Dispute Resolution Technical Committee. Andrew is also a member of the NCAT Revenue List Consultative Forum.



Rachel O'Donnell, Principal, O'Donnell Tax Law, Melbourne, Vic

Rachel has more than 15 years of experience advising on tax law and specialises in stamp duties, land tax and payroll tax in all Australian states and territories, as well as GST.

Rachel has significant experience advising large listed and unlisted corporates, high net worth individuals and small to medium enterprises. She is familiar with the operation and technicalities of the GST regime and the various state taxes regimes.

Rachel's clients include major international and national groups in the property development, property funds management, infrastructure, superannuation, retirement living and aged care industries.

Rachel is a member of The Taxation Institute (Chartered Tax Advisor) and the Law Institute of Victoria. She is also a member of The Taxation Institute's Victorian State Taxes Committee, The Taxation Institute's Annual States Taxation Conference Committee and the Property Council of Australia's Taxation Committee (Victoria).



THE FACULTY

John Russell, Special Counsel, MinterEllison, Melbourne, Vic

John has extensive experience advising both private and government clients on the GST implications arising across a vast array of property transactions and structures. In particular, John has assisted government clients in long running disputes with the ATO in respect of the application of the margin scheme to their sales, as well as advising private developers on large scale developments. More recently, he's assisted clients in preparing for, and the implementation of, the new GST withholding regime.



More broadly, John has experience in the retail, resources, education and cross-border sectors, and has helped clients to navigate through complex ATO reviews and disputes. He has a good working relationship with the ATO which has been developed over a number of years and clients value his clear, commercial advice.

WHAT YOU GET

This video webinar series includes the following components:

- Online access to the on-demand webinar programs. Programs are expected to be 1 hour each in length.
- The programs are being recorded in early October 2023 and will be available to purchasers online shortly thereafter
- Online access to the technical support papers and/or powerpoint presentations accompanying each program



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