

A TEN POINT MASTERCLASS – GET YOUR 10 CPD UNITS

# Tax Aspects of Estate Planning 10 Point Online Masterclass

Online - Tuesday 25 February 2025

Vic, NSW, ACT, Tas: 9:00am to 4.40pm

QLD: 8:00am to 3.40pm

SA: 8:30am to 4:10pm

NT: 7:30am to 3:10pm

WA: 6:00am to 1:40pm

- Dealing With the Bank of Mum and Dad Pre and Post Death
- When the Deceased's Liabilities Include a Division 7A Loan
- Deceased Estates: How Exempt is the Main Residence Exemption?
- Existing Inter Vivos Trusts and the Estate Planning Glitches
- Deceased Estates and the CGT Trigger Points
- Dealing With the ATO on the Death of a Taxpayer

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

9.00 – 9.10am	<b>Introduction and Welcome</b>  <b>Morning Chair: Jennifer Maher, Director, Velocity Legal, Melbourne, Vic</b>
9.10 – 10.00am	<b>Session 1: Dealing With the Bank of Mum and Dad Pre and Post Death</b>  With high cost of living pressures and housing prices are proving challenging, early inheritances are a way for parents to pass on their assets to the next generation and see the benefits of the gift in their own lifetime. So, from a tax perspective, what difference does it make whether assets are realised pre or post a parent's death? This session explores the question, including: <ul style="list-style-type: none"><li>• A comparison of the tax implications of an investment property sale pre death and in the course of administering an estate</li><li>• Transferring a property to a family member pre death or in accordance with a will – what are the tax differences?</li><li>• Are there stamp duty or land tax implications if:<ul style="list-style-type: none"><li>○ a property title is transferred from parents to a family member to live in?</li><li>○ a property is used by a family member and subsequently transferred to them in accordance with a will</li></ul></li><li>• The tax consequences of entering into a formal agreement with a family member to use a property financed by parents:<ul style="list-style-type: none"><li>○ if the property will be subsequently transferred to the family member (ATO ID 2005/216), and</li><li>○ how to calculate CGT event B1 if triggered</li></ul></li><li>• Case study examining: Parents plan to knockdown home and subdivide, building new home on one block and a residence for adult child on second block:<ul style="list-style-type: none"><li>○ What are the tax, including land tax, implications if the property remains in the name of the parents?</li><li>○ What are the tax and stamp duty implications if the title to the second block is transferred to the adult child?</li><li>○ Could main residence exemption be lost from date of original purchase to date original dwelling ceased to be occupied? (Sec. 118-150(5) ITAA 1997)</li></ul></li></ul> <b>Speaker: Briony Hutchens, Partner, Finlaysons Lawyers, Adelaide, SA</b>
9.55 – 10.10am	<b>Questions and Discussion</b>

10.10 – 11.00am

## Session 2: When the Deceased's Liabilities Include a Division 7A Loan

Managing Division 7A loans during a person's lifetime is tricky enough. So, spare a thought for the executor that is faced with the challenge of dealing with Division 7A loans left behind by the deceased. This session explores the issues, including:

- Whether the executor "inherits" the obligations of complying with the Division 7A requirements
- Can a deceased estate be assessed on a Division 7A deemed dividend? (ATO ID 2002/741)
- Can the lending company write off the debt after death without any adverse tax implications applying?
- What to do if the estate has insufficient funds to repay the loan
- Does the ATO apply its discretion to disregard Division 7A deemed dividend issues when dealing with executors?
- Dealing with:
  - timing issues when company financial statements uncover Division 7A issues that surface after granting of probate
  - tax implications for loans by the deceased that don't exceed the company's distributable surplus
- Practical tips for managing Division 7A issues in a deceased estate
- Case study

**Speaker: Paige Edwards, Special Counsel, McCullough Robertson, Brisbane, Qld**

11.00 – 11.10am

## Questions and Discussion

11.10 – 11.30am

## Morning Break



11.30am –  
12.20pm

### **Session 3: Deceased Estates: How Exempt is the Main Residence Exemption?**

During a person's lifetime, their main residence is exempt from CGT if certain conditions are satisfied. However, once the residence becomes an "inherited main residence", the conditions for the exemption can have added complexities. This session explores the issues, including:

- The conditions to be met for the main residence CGT exemption to apply in a deceased estate
- How the rules apply to a main residence owned by the deceased with another party, either jointly or as tenants in common?
- The ATO's safe harbour provisions when time limits for the sale are not met (PCG 2019/5)
- Dealing with situations where deceased moved from the solely owned residence prior to death (ie. nursing home, family member's home), and:
  - the spouse remained in the family home, or
  - the residence became income producing
- How to calculate a capital gain on a main residence if the exemption conditions are not met
- Tax issues to consider if the executor:
  - subdivides the land the main residence is situated on prior to sale
  - demolishes the family home as part of the subdivision prior to the sale
- How state and revenue taxes and duties can apply post death
- Practical examples

**Speaker: Paula Tallon, Founder, Salann Tax, Sydney, NSW**

12.20 – 12.30pm

**Questions and Discussion**

12.30 – 1.15pm

**Lunch Break**



1.15 – 1.20pm	<b>Introduction and welcome</b>  <b>Afternoon Chair: to be advised</b>
1.20pm – 2.10pm	<b>Session 4: Existing Inter Vivos Trusts and the Estate Planning Glitches</b>  One way of looking at it is that an existing trust will continue to exist on the death of a trustee intrinsically involved in the trust's operations. However, does this way of thinking assist with ensuring the trust continues on in the most tax effective manner? This session looks at some of the proactive actions that can be addressed in the estate plan, to assist with ensuring tax headaches are kept to a minimum when a change of trustee representation on death occurs, including: <ul style="list-style-type: none"><li>• The family trust election issues that are arising on the death of a test individual</li><li>• Is now a good time to modernise the trust deed for:<ul style="list-style-type: none"><li>○ variation powers?</li><li>○ beneficiary inclusions/exclusions?</li><li>○ streaming?</li><li>○ income definitions?</li><li>○ Division 7A purposes, including sub-trust arrangements?</li></ul></li><li>• Tax issues to consider if varying a trust deed (incl. TD 2012/21)</li><li>• Carving out the tax work between the correct professionals when dealing with proactive trust law issues and their tax consequences</li><li>• A checklist of housekeeping items to assist with addressing the tax aspects of estate planning involving existing trusts, including:<ul style="list-style-type: none"><li>○ the treatment of unpaid present entitlements and loan balances</li><li>○ a list of trust documentation that should be on hand</li><li>○ pending vesting date issues</li></ul></li></ul> <b>Speaker: Nathan Yii, Principal lawyer, Nathan Yii Lawyers, Melbourne, Vic</b>
2.10 – 2.20pm	<b>Questions and Discussion</b>



2.20pm – 3.10pm

### Session 5: Deceased Estates and the CGT Trigger Points

An important part of administering a deceased estate is being aware of the trigger points that cause a CGT event to occur. Some of these events may not be common knowledge and if they unwittingly go unnoticed, can result in tax headaches and executor liability issues down the track. This session reviews some of the CGT events that may occur when administering a deceased estate, including:

- How CGT applies to pre 20 September 1985 assets in an estate
- How CGT applies to:
  - shares sold by the executor
  - shares transferred to beneficiaries
- How CGT applies to assets left to:
  - non-residents
  - charitable entities
- Tax implications when distinguishing whether an asset “passes” to a beneficiary, or is acquired by a beneficiary under a “power of sale”
- How the CGT small business concessions can be applied to deceased estates
- When the executor is responsible for capital gains tax and when it is the beneficiary’s responsibility
- Practical examples

**Speaker: Patrick Ellwood, Director, Clover Law, Brisbane, Qld**

3.10 – 3.20pm

### Questions and Discussion

3.20 – 3.40pm

### Afternoon Break



3.40 – 4.30pm

### Session 6: Dealing With the ATO on the Death of a Taxpayer

When the person whose tax affairs you have been administering is no longer around to assist, complications can quickly set in. This session explores the issues that can arise when dealing with the ATO to finalise a deceased's tax obligations, including:

- How the ATO deals with tax agents, legal practitioners and the authorised contact status when a client dies
- How to access the tax information for a deceased person from the ATO
- Dealing with the ATO when irregularities or omissions of income are uncovered by the executor relating to pre death returns lodged
- Case study exploring managing executor liability with ATO amendment periods (PCG 2018/4)
- How the ATO deals with outstanding tax liabilities when an estate is insolvent
- Whether executor is liable to tax arising from CGT event K3, which subsequently results in insufficient funds held to cover the tax liability?
- Can an executor obtain a "tax clearance" from the ATO to obtain certainty regarding liability exposure?
- Checklist of executor obligations to the ATO

**Speaker: Brian Hor, Principal, WillWorks, Sydney, NSW**

4.30 – 4.40pm

### Questions and Discussion

4.40pm

### Masterclass Close



**In addition to attending the online masterclass, all delegates will receive 4 on-demand video webinars.**

These webinars will be provided online for you to view at your leisure by 31.3.25 to make up the 10 CPD units. The compulsory subject webinars will be provided by end February 2025 and the substantive law program by 10 March 2025.

<p>Substantive law – 1 unit</p>	<p><b>Mis-Deeds, Irregularity and Deficiencies: The Estate Planner’s Nightmare</b></p> <p>Nothing strikes fear into the heart of estate planning practitioners quite like the discovery of problems in the family trust document chain. This session will explore the implications for neglected, incorrectly followed or missing family trust deeds through recent cases and options for rectification, including:</p> <ul style="list-style-type: none"> <li>• The impact of non-compliance and invalid process on a trust</li> <li>• What to do if trust documents cannot be located</li> <li>• Common problems and potential solutions</li> <li>• When to seek the assistance of the courts</li> <li>• The nuclear option, new trusts and the consequences of triggering a resettlement</li> <li>• Practical tips for reviewing and checking the chain of trust documents</li> <li>• Cases and examples including <i>Vanta Pty Ltd v Mantovani</i> [2023] VCA53; <i>Application by Ellasil Pty Ltd</i> [2023] VSC 69; <i>M &amp; L Richardson Pty Ltd</i> [2021] NSWSC 105; <i>Re McGowan &amp; Valentini Trusts</i> [2021] VSC 154; <i>Owies &amp; Owies v JJE Nominees Pty Ltd</i> [2022] VSCA 142; <i>Re Narumon Pty Ltd</i> [2018] QSC 183</li> </ul>
<p>3 CPD Compulsory units</p>	<p><i>Professional Skills</i></p> <p><b>Nothing Ever Goes to Plan: The Reality of Judicial Advice Applications</b></p> <p>It is an inevitable fact of life that people change, life gets more complicated and relationships sour. It is no wonder that even the best laid estate plans can go awry. While judicial advice applications are often a prudent option to take, knowing how to get the most out of them is another matter. To assist practitioners sharpen their skills in this area, this session shall look at:</p> <ul style="list-style-type: none"> <li>• When do you need to apply to court for judicial advice, including examples of factual circumstances in which it would be prudent to seek judicial advice</li> <li>• Practical steps lawyers should take to identify potential problems when taking instructions and drafting a will</li> <li>• What to do when you do come across a problem, such as a property owned by a trust</li> <li>• How to apply for judicial advice (and what alternatives may be available) and cost implications of applying, or failing to apply</li> <li>• Issues which arose in recent cases including <i>Wheatley v Lakshmanan</i> [2022] NSWSC 583, <i>Yuen &amp; Anor v Louey</i> [2023] VSC 423, <i>Alexopoulos v Krasovec</i> [2022] VSC 749, <i>Mantovani v Vanta Pty Ltd &amp; Ors</i> (No.3)</li> </ul>



	<p><i>Practice Management &amp; Business Skills</i> <b>Navigating the Storm: Handling Difficult Clients (and Non-clients) in Your Practice</b></p> <p>Dealing with difficult third parties who have an interest in your client's affairs can be a common yet challenging task for succession lawyers. This practical session provides the strategies for identifying your obligations to clients and non-clients, effective ways to manage harassment, and guidance for addressing concerns from disappointed beneficiaries in order to safeguard your practice. It covers:</p> <ul style="list-style-type: none"><li>• Identifying client v non-client in the context of succession planning</li><li>• Managing expectations and communications with all parties involved</li><li>• Strategies for monitoring and managing negative reviews and social media harassment from disgruntled third parties</li><li>• Legal recourses and professional conduct in the face of online attacks</li><li>• Crafting appropriate and effective responses to online harassment</li><li>• Techniques for managing confrontations and complaints from disgruntled third parties</li></ul>
	<p><i>Ethics</i> <b>Learning from the Mistakes of Others: A Lesson in Ethics for Busy Practitioners</b></p> <p>When work gets busy, it is all too easy to fall into the routine of everyday life. It is often not until we hear of the publicised mistakes of others that we get the big wake-up call and take the time to reflect on our practices to consider whether we have developed any bad, risky or unethical habits. To help succession lawyers avoid repeating mistakes made by others, this session shall:</p> <ul style="list-style-type: none"><li>• Examine the facts and identify the takeaway lessons for practitioners from recent cases in which a practitioner was found guilty of professional misconduct or unsatisfactory professional conduct</li><li>• Spotlight on ethical and professional risks in not clearly following client or court's instructions</li><li>• Scope and limitations on the practitioner duty of care</li><li>• Explore cases including <i>LSC v Cass</i> [2023] QCAT 320 (the ethical issues which can arise when taking instructions from joint clients) and <i>Council of the Law Society of NSW v Ip</i> [2023] NSWCATOD 157 (dealing with mistakes in a legal document and as to execution and witnessing of document).</li></ul>

### 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.

#### 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 2025. The 3 compulsory topic recorded webinars will be made available for viewing by end February 2025 and the substantive law recorded webinar by 10 March 2025.

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 please note that TEN is not able to verify that you have viewed the recorded webinars. TEN is an accredited CPD provider]. If you would like to take advantage of this offer and you are available to attend the live sessions of the 4 webinars please contact Jenna who will assist with your registration – no extra fee is required.**

CPD  
Certificate

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



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Please register me for the **Tax Aspects of Estate Planning Online 10 Point Masterclass** to be held online on Tuesday 25 February 2025. [code: SXEFEB25L]

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 31.3.25.

- Early Bird Registration** – for registrations paid on or before **19 December 2024** - **\$990** (\$900 + \$90 GST)
- Discount Registration** – for registrations paid on or before **7 February 2025** - **\$1100** (\$1000 + \$100 GST)
- Full Price Registration** – **\$1210** (\$1100 + \$110 GST)

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