

A ONE-DAY MASTERCLASS

The Use and Misuse of Trusts

Wednesday 11 March 2020
Radisson Hotel & Suites, Sydney

- Passing Control of Family Trusts to the Next Generation
- Maintaining Control When the Appointor Loses Capacity
- Tax Effective Strategies for Separating Trust Assets
- Testamentary Trusts - Latest Developments in Inter-Generational Asset Protection
- Options for Managing a Trust About to Vest
- A Matter of Trust: Protecting Special Needs Family Members in the Estate Plan



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Morning Theme: Maintaining and Passing Control of Trusts

9.00 – 9.05am	Introduction and welcome Chair: Chris McCaffery, Special Counsel, Bartier Perry, Sydney
9.05 – 9.55am	Session 1: Passing Control of Family Trusts to the Next Generation: Avoiding WWill A big part of estate planning is trying to do it effectively and minimise family disputes. This session looks at how your estate plan can transfer control of the family trust cleanly and effectively, in order to minimise family disputes. It covers: <ul style="list-style-type: none">• Determining the components of trust control:<ul style="list-style-type: none">○ the trustee's role○ control of the corporate trustee○ the appointor's role○ the guardian's role• Case law on control of trusts - Mercanti (WASC)• Determining the objective of the transfer:<ul style="list-style-type: none">○ to one child/family group○ to some children○ to all children• Techniques in effective control transfer to a single child/group - minimising risk of disputes with other family members• Techniques in transfer to more than one child:<ul style="list-style-type: none">○ joint control - covering all bases○ how to avoiding ganging up○ dispute resolution procedures• Rights of discretionary objects in disputes:<ul style="list-style-type: none">○ the right to be considered○ the right to due administration of the trust○ the right to information - recent cases• How to exercise discretions to avoid review• Recent cases on the rights of beneficiary <i>Speaker: Chris Balalovski, Partner, BDO, Sydney</i>
9.55 – 10.05am	Questions and Discussion
10.05 – 10.55am	Session 2: Maintaining Control When the Appointor Loses Capacity What sort of provisions should be in your trust deed and estate planning documentation to deal with loss of capacity? This session looks at the challenges when passing control from one generation to the next, how to do it effectively and avoid family disputes. This session covers: <ul style="list-style-type: none">• Should the trust deed directly deal with loss of capacity?• How should loss of capacity be defined for these purposes?• Who should take over?<ul style="list-style-type: none">○ an attorney under enduring power?○ a successor family member?• Sidestepping the problem - using a corporate appointor:<ul style="list-style-type: none">○ plusses and minuses of corporate appointors○ dealing with director of the corporate appointor who loses capacity○ it's all about control - shareholders and voting the shares

	<ul style="list-style-type: none">○ shareholder losing capacity - who exercises voting power?● Structuring the loss of appointor capacity rules in the deed/constitution to minimize the risk of family fights - what approach is best:<ul style="list-style-type: none">○ protecting the non-business parent from their children○ protecting siblings from each other○ balancing the interests of the second spouse and the children of the first marriage <p><i>Speaker: Warwick Gilbertson, Partner, Turnbull Hill Lawyers, Sydney</i></p>
10.55– 11.05am	Questions and Discussion
11.05 – 11.25am	Networking Break and Morning Tea
11.25am-12.15pm	<p>Session 3: No Splitting, No Cloning? No Worries! Tax Effective Strategies for Separating Trust Assets</p> <p>With the ATO's crackdown on trust splitting and trust cloning in recent years, taxpayers and advisers need to look to other options for tax effective separation of trust assets. This session explores the options for getting a similar legal or economic position as trust splitting, including:</p> <ul style="list-style-type: none">● Using CGT concessions and rollovers to transfer assets● Tailored or bespoke company constitutions● Deeds of family arrangement● Using loan agreements to get similar outcome together with capital distributions● Amendments to trust deed to allocate particular assets to adult children beneficiaries after the death of the parents <p><i>Speaker: Matthew Burgess, Director, View Legal</i></p>
12.15 – 12.25pm	Questions and Discussion
12.25 – 1.25pm	Luncheon



Afternoon Theme: Trusts and the Estate Plan

12.25 – 1.25pm	Luncheon
1.25 – 1.30 pm	Introduction and welcome Chair: Robert Monahan, Principal, Monahan Estate Planning, Sydney
1.30 – 2.20pm	Session 4: Testamentary Trusts - Latest Developments in Inter-Generational Asset Protection Testamentary trusts provide testators with the ability to protect assets and pass on wealth in a tax-advantaged manner. It is a rare opportunity - but it must be done right. This session looks at these key issues, including: <ul style="list-style-type: none">• Critical issues - beneficiaries, appointors and trustees• Testamentary trusts and changes under 2018 budget:<ul style="list-style-type: none">○ concessional tax rates available to minors limitations○ when will adult marginal tax rates apply?○ are superannuation assets outside deceased's estate○ setting up a Superannuation Proceeds Testamentary Trust• Income streaming with testamentary discretionary trusts• Testamentary trusts and family law - trusts and property of the parties versus financial resource• Testamentary trusts and managing bankruptcy and litigation risk• Structuring testamentary trusts to address personal issues connected with the family:<ul style="list-style-type: none">○ warring siblings○ blended families <i>Speaker: Nathan Yii, Director, Nathan Yii Lawyers, Melbourne</i>
2.20 - 2.30pm	Questions and Discussion
2.30 – 3.20pm	Session 5: A Ticking Time Bomb: Options for Managing a Trust About to Vest The issue of trust vesting has become particularly important in recent years, especially for those about to reach their vesting date with the associated obligations such as distribution of the assets. There may be a number of reasons to delay this date, including for financial and estate planning reasons. This session will look at the key considerations around trust vesting and the steps that can be taken to minimise or avoid potential liabilities, including: <ul style="list-style-type: none">• Auditing the trust deed and preparing for the future• The concepts of perpetuity and vesting• What happens on the vesting date?• CGT and duty liabilities - how and when do they arise?• Other reasons for delaying the vesting date• Extending the vesting date under the terms of the trust deed• Court applications for extension - relevant legislation and cases• Rulings TR 2017/D10 and TR2018/6 - how the ATO will view trust vesting and date extensions• The South Australia solution - availability and practicalities• What to do when vesting is the only option <i>Speaker: Paul Evans, Partner, Makinson d'Apice Lawyers, Sydney</i>
3.20 – 3.30pm	Questions and Discussion

3.30 – 3.50pm	Networking Break and Afternoon Tea
3.50 – 4.40pm	Session 6: A Matter of Trust: Protecting Special Needs Family Members in the Estate Plan The biggest single worry of parents with a special needs' child is how to protect their child after the parents have passed away. This session will look at the options for setting up appropriate structures to safeguard the interests of special needs children through the Will and trust arrangements, including: <ul style="list-style-type: none">• Predicting the unpredictable - looking at the capacity and needs of the child into the future• Assessing ongoing physical, accommodation, medical, financial, social and other support required• Management of equality of distribution and sibling issues and heading off potential challenges to the estate• Setting up a protective trust in the Will to meet the needs of the beneficiary<ul style="list-style-type: none">○ Asset share and distributions including family business arrangements○ Balancing reliance by the child on government benefits and financial consequences○ Appropriate limitations and conditions in the trust deed○ Trustee selection and sibling involvement• The use of a Special Disability Trust:<ul style="list-style-type: none">○ Eligibility criteria○ Financial implications for the beneficiary and eligible family members○ The Model Trust Deed clauses and ensuring deed compliance○ Assets and gifts○ Tax treatment○ What happens when an STD ends? <i>Speaker: Allan Swan, Director, Estate Planning Equation, Melbourne</i>
4.40 – 4.50pm	Questions and Discussion
4.50pm	Conference Close



GENERAL INFORMATION

Masterclass Registration Fee

The registration fee includes attendance at the masterclass, online access to the conference papers and refreshment breaks and lunch.

This masterclass can be booked as 2 separate half day conferences or you can attend for the whole day.

Masterclass Papers

TEN no longer provides printed copies of conference papers at its events. Access to the papers will be available online to all delegates in the lead-up to the masterclass (as the papers become available), during the masterclass and for 30 days after the conference. The papers will be available in .pdf format for easy download to your local computer or portable device.

At the masterclass TEN will supply printed copies of the PowerPoint presentations used at the masterclass.

CPD – Accountants and Lawyers

One day masterclass: 6 CPD hours/units/points

Either half day masterclass: 3 CPD hours/units/points

CPD Certificate

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

The Masterclass Venue

Radisson Hotel & Suites

72 Liverpool Street, Sydney

Web: <https://www.radisson.com/sydney-hotel-ns-2000/ausydney>

Masterclass Dress

Smart casual attire is suitable. *(note: the temperature in the conference room varies depending on where you are sitting. Light attire is generally OK, but it is advisable that you bring a jacket/long sleeved top in case you need it.)*

Cancellation Policy

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

Masterclass Terms

Program subject to change without notice. The information and views presented in the masterclass 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 masterclass 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 masterclass as a result of strikes, natural disasters, and other Acts of God such as volcanic ash clouds in Australian airspace. We therefore strongly advise you to take out travel insurance if your attendance plans involve air travel or other significant travel to the conference venue.



Registration 1 of 2

REGISTRATION IS SIMPLE: complete the form below and fax or post your registration to us or register online.

Television Education Network Pty Ltd (ABN 19 052 319 365)

Mail: GPO Box 61, Melbourne, Victoria 3001 **Fax** (03) 9670 0588 **Phone** (03) 9670 2055

Enquiries: Contact our Event Manager, Jenna Pickrell (jenna@tved.net.au)

Register online: www.tved.net.au – go to Masterclasses

Please register me for **The Use and Misuse of Trusts – One-Day Masterclass** to be held on Wednesday 11 March 2020 [conf code: SXTMAR20]

Early Bird Registration – for registrations paid on or before Friday 7 February 2020 - \$880 (\$800 + \$80 GST)

Full Price Registration – \$990 (\$900 + \$90 GST)

Please register me for the morning masterclass – **Maintaining and Passing Control of Trusts** to be held on the morning of Wednesday 11 March 2020. [conf code: SXTMAR20M]

Early Bird Registration – for registrations paid on or before Friday 7 February 2020 - \$440 (\$400 + \$40 GST)

Full Price Registration – \$495 (\$450 + \$45 GST)

Please register me for the afternoon masterclass – **Trusts and the Estate Plan** to be held on the afternoon of Wednesday 11 March 2020. [conf code: SXTMAR20A]

Early Bird Registration – for registrations paid on or before Friday 7 February 2020 - \$440 (\$400 + \$40 GST)

Full Price Registration – \$495 (\$450 + \$45 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 + \$16 GST) [Code: PSXTMAR20].



Registration 2 of 2

NAME & ADDRESS DETAILS

Mr/Mrs/Miss/Ms (circle appropriate) Name:
Position in Company/Firm:
Company/Firm:
Postal Address:
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PAYMENT DETAILS (Note: This form will be a Tax Invoice for GST when you make payment)

I enclose a cheque for \$..... payable to: **Television Education Network Pty Ltd** or

Please debit my: **Amex** **Mastercard** **Visa**

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Name on Card: _____ Signature: _____

