



# WINTER WEALTH RETREAT: TAX STRATEGIES ON THE GOLD COAST

A Two-day Conference  
**Thursday 22 & Friday 23 August 2024**

JW Marriott Gold Coast Resort

Lifting the Corporate Veil - How Protected are You?

Debt Forgiveness - It Can be Cruel to be Kind

Taxing Profits from Professional Services

Payroll Tax - It Has a Habit of Sneaking Up On You

Which Structures Suit Property Acquisitions?

Whilst Generally the Sale of a Home is Free from CGT,  
Its History Can Tell Another Story

Common Issues Backfiring in the GST Space

The Business Lifecycle of Steve the Sparkie - as a Partner in a Partnership

The Business Lifecycle of Steve the Sparkie - Time to Incorporate

The Business Lifecycle of Steve the Sparkie - Can You Trust a Trust?

Tax Implications of Debt Funding and Refinancing  
in a High Interest Rate Environment

Time to Get Exit Ready: Minimising the Tax Risks



**The Professional Development Specialists**

# DAY 1: THURSDAY 22 AUGUST 2024

**CHAIR DAY 1: DAVID MARKS KC,  
BARRISTER, QUEENSLAND BAR,  
BRISBANE**

## **MORNING THEME: TAX COMPLIANCE RISKS IN PRACTICE**

**9.00 - 9.15am**

**Introduction and welcome**

**9.15 - 10.00am**

### **Session 1: Lifting the Corporate Veil - How Protected are You?**

Traditionally, the limited liability aspect of conducting a business in a company provided a certain peace of mind that over the years is gradually being diminished. This session delves into when federal, state and territory authorities may be in a position to lift the corporate veil, including:

- The ATO's Director Penalty Regime - a refresher
- Why lodgements are important even if payment isn't made
- Action to take if in receipt of a Director Penalty Notice
- What capacity does the ATO have to recover outstanding company amounts from:
  - new directors?
  - resigning directors?
- The processes the ATO uses to recover company debts from directors
- How the ATO recovers unpaid amounts when there is more than one director
- How exposed is a director when the family home is in the spouse's name? (*Bosanac v FC of T* [2022] HCA 34)

*Speaker: David Marschke, Principal, DBM Horizons, Queensland*

**10.00 - 10.10am Panel Comments and Questions**

**10.10 - 10.55am**

### **Session 2: Debt Forgiveness - It Can be Cruel to be Kind**

Whilst the act of forgiving a debt may relieve all obligations between the borrowing parties, it is not always the end of the story. Before moving on, the income tax implications may require a close look to determine the impact. This session looks into the issues, including:

- When is a debt a "commercial debt" and why does it matter?
- The interaction of the debt forgiveness rules and Division 7A
- How the "natural love and affection" exclusion applies in various situations (TD 2022/1)
- In what situations can the Commissioner's discretion be exercised to not treat debt forgiveness as a dividend?
- The future tax impact on retained earnings and franking credits after a shareholder forgives a loan owed by a company
- Can converting a debt to equity trigger the commercial debt forgiveness rules?
- Case study and practical examples

*Speaker: Mark Molesworth, Partner, BDO, Brisbane*

**10.55 - 11.05am Panel Comments and Questions**

**11.05 - 11.30am Networking Break and Morning Tea**

**11.30am - 12.15pm**

### **Session 3: Taxing Profits from Professional Services**

The ATO has made clear its approach on how profits from professional services are to be taxed, in the form of practical compliance guideline PCG 2021/4. With the guidelines applying from 1 July 2022, this session provides a timely reminder of the issues to consider, including:

- Which industries are covered by the guideline?
- How to determine if income from a professional firm is subject to the professional services income regime and not PCG 2021/4
- What are the two gateways that need to be passed to rely on the guidelines and what action to take if they are not passed?
- How to risk assess an arrangement
- Records that should be maintained to satisfy self-assessment of an arrangement
- How the ATO's service entity arrangement guide (QC 20302) and IT 2503, for medical and other professional practices, interact with PCG 2021/4
- How the ATO is targeting its compliance resources
- Case studies

*Speaker: Fletch Heinemann, Partner, Cooper Grace Ward Lawyers, Brisbane*

**12.15 - 12.25pm Panel Comments and Questions**

# DAY 1: THURSDAY 22 AUGUST 2024

12.25 - 1.10pm

## Session 4: Payroll Tax - It Has a Habit of Sneaking Up On You

Payroll tax is levied on wages paid or payable by an employer to its employees when the total taxable wages of an employer (or group of employers) exceeds a threshold amount. Sounds simple enough. However, current activity in the payroll tax space confirms that payroll tax is a lot more complex than it first seems, with a minefield of issues waiting for unsuspecting and uninformed employers and advisors. This session explores the issues, including:

- The grouping provisions and how the grouping net can be cast much wider than you think
- Once you are in the grouping net, when might you get the benefit of a Revenue Authority exercising their discretion to exclude an entity from a group?
- Where are Revenue Authorities not exercising the discretion to exclude an entity from a group and what strategies have come under attack from Revenue Authorities
- The current state of play regarding contractor payments, including:
  - the impact of the Thomas and Naaz and The Optical Superstore cases for other states and territories as well as industries other than medical practitioners
  - where we stand with the approach of the Revenue Authorities to medical practices and similarly structured businesses
  - tips and traps that have come to light since the issue of rulings and granting of amnesties, etc.
- Unravelling the employment agency provisions, including:
  - where taxpayers are getting tripped up by the employment agency provisions
  - how audits are treating the arrangements
  - the latest case updates
- War stories, including the impact of unexpected assessments

*Speaker: Taryn Hartley, Principal, McInnes Wilson Lawyers, Brisbane*

1.10 - 1.20pm Panel Comments and Questions

1.20 - 2.15pm Luncheon

AFTERNOON THEME: TAXING ISSUES WITH REAL PROPERTY

2.15 - 3.00pm

## Session 5: Which Structures Suit Property Acquisitions?

The answer to the question as to the type of structure to hold a property acquisition is not always straightforward, with not necessarily one right answer. This session explores the tax issues to consider for the various alternatives available and the pros and cons of each, including:

- Spouses with differing income levels and who really owns the property (Bosanac v FC of T [2022] HCA 34)
- Property and tax law partnerships - in receipt of income jointly
- The pros and cons of using a company versus a trust for property acquisitions
- The tax issues associated with property development and investment and a private unit trust structure (CGT event E4)
- Structuring when non family members are involved
- Tax effectively structuring the borrowings for each structure
- How the choice of structure may impact on the entitlement to future small business CGT concessions
- The SMSF as the owner, including:
  - addressing liquidity issues
  - dealing with business real property
- Case study

*Speaker: Philip Diviny, Partner, Madgwicks Lawyers, Melbourne*

3.00 - 3.10pm Panel Comments and Questions

# DAY 1: THURSDAY 22 AUGUST 2024

3.10 - 3.55pm

## Session 6: Whilst Generally the Sale of a Home is Free from CGT, Its History Can Tell Another Story

It is common that the sale of a main residence is exempt from CGT. However, this is not always the case as the history of use of the main residence should be reviewed prior to determining the correct tax outcome. This session explores the main residence exemption and the situations that can result in the exemption being denied, including:

- The CGT implications of entering into a granny flat arrangement on the property of a main residence
- How the rules apply to a property ceasing to be a main residence, including:
  - the choice that is available
  - the market value rule
- The CGT implications of:
  - renting out part of your home
  - operating a business from part of your home
- WFH - working from home
  - using part of your home for activities relating to a family company or trust - can TD 1999/71 apply?
- Applying the rules for spouses with different main residences
- Subdividing land that a main residence is situated on and transferring the vacant parcel to a family member
- Tips when applying the two hectare rule (TD 1999/67)
- How the CGT main residence provisions apply for:
  - a knockdown of main residence and sale
  - a knockdown of main residence and rebuild
- Practical examples

Speaker: Paula Tallon, Founder, Salann Tax, Sydney

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

4.25 - 5.10pm

## Session 7: Common Issues Backfiring in the GST Space

Tax practitioners sometimes have the unenviable task of dealing with one off matters that arise that can have significant GST implications, without having the luxury of being an expert in the field. Some of these situations can even have the GST experts scratching their heads as to how the rules apply. This session delves into some such issues as well as raising awareness as to when certain situations may just require a more specialised pair of eyes as insurance, including:

- Situations where the GST going concern exemption can be disallowed and tips for getting it right, including:
  - when the "all things necessary for the continued operation of an enterprise" condition has not been met
  - when premises used are subject to a tenancy at will (GSTR 2002/5)
  - selling a business to one entity and business premises to another
- The GST adjustments that can be required when a change of use or intention occurs for a property
- GST related contract clauses causing disputes between buyer and seller
- Determining whether a property sale is on revenue or capital account and the GST impact of getting it wrong
- Practical examples

Speaker: Andy Milidoni, Partner, Johnson Winter & Slattery, Sydney

5.10 - 5.20pm Panel Comments and Questions

# DAY 2: FRIDAY 23 AUGUST 2024

**CHAIR DAY 2: STEPHEN HOLMES,  
PARTNER, WMS ADVISORY GOLD  
COAST**

**MORNING THEME: TAXATION OF TRADIES:  
A CASE STUDY**

**9.00 - 9.05am**

**Introduction and welcome**

**9.05 - 9.50am**

**Session 8: The Business Lifecycle of Steve the Sparkie  
– as a Partner in a Partnership**

Steve the sparkie has found that after operating as a sole trader for a number of years, the work he is performing can be better handled by two. He has a friend, Stan, from trade school days that is interested in forming a business partnership, which is the structure they have decided on to “give it a go”. They have both come to you for advice to ensure their partnership is tax compliant. This session covers suggested discussion points, including:

- The partnership agreement, including:
  - the taxable income allocations if agreeing to allow partner salaries
- The tax treatment of:
  - existing equipment owned by each partner with tax written down values
  - one partner lending funds to the partnership at a commercial rate of interest
  - motor vehicle and mobile phone claims and private use apportionment
- How tax is paid on partnership income, including
  - how to apportion partnership income if the partners derive “personal services income”
- The types of small business tax concessions that may apply
- The asset protection and joint and several liability discussion

*Speaker: Arthur Athanasiou, Partner, Thomson Geer, Melbourne*

**9.50 – 10.00am Panel Comments and Questions**

**10.00 – 10.45am**

**Session 9: The Business Lifecycle of Steve the Sparkie  
– Time to Incorporate**

Business been good for the partnership between Steve and Stan, and with the intention to obtain licences that allow an increase in the contract value of work they can undertake, the partners foresee potential for growth on the horizon. A previous consultation Steve and Stan had with you on asset protection is now meaning more to them and they are coming to you for advice on the next phase of their business venture. This session covers suggested points for discussion, including:

- The structuring options available, including the pros and cons of:
  - retaining a partnership structure with the individual partners incorporating
  - incorporating the business
  - using a trust or trusts
- Are there tax consequences with restructuring and if so, is there scope to minimise using rollovers?
- Who will be subject to tax regarding the various restructure options, including:
  - a comparison of the applicable tax rates that may apply in each case
  - how the “personal services income” rules apply to companies and trusts
- The administrative obligations that may come with a restructure (incl. renewed ATO registrations)
- Practical examples

*Speaker: Linda Tapiolas, Partner, Cooper Grace Ward Lawyers, Brisbane*

**10.45 - 10.55am Panel Comments and Questions**

**10.55 - 11.15am Networking Break and Morning Tea**

# DAY 2: FRIDAY 23 AUGUST 2024

11.15 - 12.00pm

## Session 10: The Business Lifecycle of Steve the Sparkie – Can You Trust a Trust?

Steve and Stan have built a successful company that they own as equal individual shareholders. Along the way, Steve's personal situation has changed from single to married with children and his thoughts have turned to how he can arrange his own assets and investments for the longer term benefit of his family. Advice from his solicitor is that a discretionary trust may be useful and suggests that he seeks advice from his accountant, so that he is fully informed of the tax implications if he proceeds. This session covers suggested points for discussion, including:

- How income of a trust is taxed:
  - when applied to adult beneficiaries
  - when applied to children
  - to the trustee
- Trustee requirements and time limits to effectively resolve to distribute trust income
- The methods and tax implications of bringing investments in own name into a trust, including:
  - if any CGT rollovers or concessions are available to transfer the building company shares
- The ATO's views on distributing income to beneficiaries when tax savings are apparent
- Whether distributions have to be paid or can they accumulate for a "rainy day"
- The tax consequences of falling foul of ATO requirements
- Franking credit eligibility for beneficiaries, including:
  - the holding period rule
  - the small shareholder exemption
  - the family trust election option
- Practical examples

*Speaker: Raffi Tenenbaum, Director, William Buck, Sydney, NSW*

12.00 - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

## AFTERNOON THEME: TAX ASPECTS OF DEBT AND BUSINESS EXITS

1.10 - 1.55pm

## Session 11: The Tax Implications of Debt Funding and Refinancing in a High Interest Rate Environment

The progressive recent increases in interest rates has changed the landscape for business entities on a number of fronts. Other than the fundamental side effect of the increased rates eating into profits, there are also several tax considerations to be mindful of. This session explores the issues, including:

- The ATO's increased scrutiny of the tax treatment of refinanced debt and how the interest calculations should be performed (TR 2000/2)
- The impact of the ATO's increased adjusted interest rate requirements for:
  - strategies to comply with Division 7A
  - SMSFs and limited recourse borrowing arrangements (PCG 2016/5)
  - FBT calculations involving the statutory interest rate
- Tips, traps and tax consequences of just relying on the accounting journal:
  - to write off associated entity loans
  - to convert debt to equity
- Practical examples

*Speaker: Matthew McKee, Partner, Brown Wright Stein Lawyers, Sydney*

1.55 - 2.05pm Panel Comments and Questions

# DAY 2: FRIDAY 23 AUGUST 2024

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2.05 - 2.50pm

## Session 12: Time to Get Exit Ready: Minimising the Tax Risks

Your excited client rings, conveying an unbelievable offer just received for the business. Just the due diligence to attend to and a lifetime of hard work will have just paid off. However, the potential buyer's enthusiasm diminishes when due diligence uncovers issues that raise concerns. This session looks into matters that may need to be addressed on an ongoing basis to assist in ensuring that when exit time does come, it can be handled smoothly, including:

- The tax matters commonly raised in a due diligence review that can make a potential buyer nervous
- How to determine if your current structure is user friendly for an exit and what to do if it isn't
- What are the types of ongoing issues an accountant can raise to ensure they are adequately addressed to assist with exit readiness?
- What to do if your client has a potential time bomb in the form of:
  - overlooked fringe benefits tax
  - tax and superannuation issues with employee/contractor classification
- How the impact of temporary full expensing is affecting buyers
- Tax implications of selling either the business or the shares in a company and tips to make the preferred option more attractive for a purchaser
- Strategies to "clean up" an entity when dealing with:
  - excessive cash
  - inter entity loan accounts
  - debt for equity swaps, the tax implications and documentation required
- Dealing with Division 7A loan accounts and action to take if Division 7A issues haven't been addressed

*Speaker: Alex Whitney, Senior Associate, West Garbutt, Brisbane*

**2.50 - 3.00pm** Panel Comments and Questions

**3.00pm** Conference Close

# GENERAL INFORMATION

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## Conference Registration Fee

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The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunches are included for face to face attendees.

## Conference Papers

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TEN does not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

## CPD

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**Accountants:** 11 CPD hours

**Lawyers (except WA):** 11 CPD units/points (substantive law)

**Lawyers WA:** 6 CPD points (substantive law) – being the maximum allowable per conference by the LPBWA. TEN is an accredited provider.

## CPD Certificate

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All delegates attending the conference will receive a CPD Certificate confirming attendance.

## The Conference Venue

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**JW Marriott Gold Coast Resort & Spa**

158 Ferny Avenue, Surfers Paradise, Qld

**Hotel Reservations:**

Phone: (07) 5592 9800

Website: Family Resort in Surfers Paradise | JW Marriott Gold Coast Resort

## Travelling to the Conference Venue

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Delegates are advised to make their own travel arrangements.

## Conference Dress

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Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).



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