

THE THIRD ANNUAL SEPTEMBER ESTATE PLANNING CONFERENCE

A two-day conference organised by Television Education Network Pty Ltd

Sofitel, Broadbeach, Thursday 12 & Friday 13 September 2019

The Wisdom of Solomon – How to Ensure Equalisation in Estates
Options for Protecting Beneficiaries with Disabilities in the Estate Plan
Dodging the Traps with Inter-Generational Living Arrangements
Estate Planning for Second Spouses and Children of First Marriages
Dividing up the Family Pie: Trust Splitting Changes and the Estate Planning Implications
Establishing Multi-Generational Business Structures in the Estate Plan
Death Benefit Nominations for Self-Managed Superannuation Funds: What are the Pitfalls?
Taking Care of Business in the Estate Plan
Estate Planning Strategies when the Family Trust is Vesting
Digital Life and Death – Can the Show Go On?
Bullet-Proofing Your Estate Plan to Minimise Challenges
The Role of Equitable Remedies in Compromising Estate Planning

FEEDBACK FROM LAST YEAR'S CONFERENCE:

"Excellent speakers - probably one of TVED's best."
"It covered great topics and the presenters were engaging and really gave practical advice instead of feeling like you were back at a university lecture."
"These conferences are always well put together and very informative - I always have a few take home points from each session."



**Television
Education
Network**

The professional development specialists

DAY 1 - THURSDAY 12 SEPTEMBER 2019

**CHAIR DAY 1: PAUL PAXTON-HALL,
DIRECTOR, PAXTON-HALL LAWYERS,
BRISBANE**

**MORNING THEME: IMPACT OF CHILDREN
AND FAMILY DYNAMICS ON THE ESTATE
PLAN**

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: The Wisdom of Solomon - How to Ensure Equalisation in Estates

Many parents wish to leave their estates split equally between their children. In practice this can be challenging to achieve because of the specific facts and circumstances which apply for each child. This session considers when equalisation challenges arise, including:

- Tax equalisation issues:
 - Resident versus non-resident beneficiaries
 - Splitting the family home
 - Who should bear the tax? Achieving tax equalisation through the will
- What happens when different children receive different assets - how is parity of value to be achieved?
 - Managing fluctuations in asset value between the time of the will and the date of death
- Assets held in parents' name but substantially paid for by child:
 - Getting assets out of the estate pool without tax and duty implications
 - Constructive trust issues

Speaker: Steve Grant, Director, Merthyr Law, Brisbane

9.55 - 10.05am Panel Comments and Questions

10.05 - 10.50am

Session 2: Options for Protecting Beneficiaries with Disabilities in the Estate Plan

Where a major beneficiary of an estate has significant disabilities, there are special considerations and options available as part of the estate plan. This session provides a practical discussion of the options available and how best to implement them, including:

- The use of protective trusts and special disability trusts
 - what are the options for implementation?
 - Set it up right now and feed in money so it's parallel to estate
 - Set up framework but don't transfer assets yet
 - Don't do anything now but carve out provision under will to deal with on death
- Implications of the 2018/19 Budget announcements on exempted trust income
- Using protective trusts for high wealth beneficiaries with disabilities
- Eligibility issues and how to structure if there is uncertainty as to whether the beneficiary will qualify for a special disability trust?
- Managing Centrelink requirements and eligibility issues
 - maintaining the beneficiary's eligibility to the disability support pension and access to the Health Care Card

Speaker: Jennifer Dixon, Principal, Moores, Melbourne

10.50 - 11.00am Panel Comments and Questions

11.00 - 11.25am Networking Break and Morning Tea

11.25am - 12.10pm

Session 3: Dodging the Traps with Inter-Generational Living Arrangements

Many families embark on intergenerational living arrangements without due consideration for legalities or the risks of changes in circumstances in the future. This session considers the issues that can arise and provides strategies for how to manage the risks, including:

- Issues around granny flats or annexed houses:
 - Managing Centrelink: gifting money and granting a licence to occupy
 - Provisions where the arrangements aren't suitable for either party
 - What happens when the parent moves into a nursing home?
 - Should the parental contribution to the granny flat be a loan or gift? Is there security offered?
 - Where the siblings are at war - structuring to avoid conflict after death
 - Documenting family living arrangements and use of legally binding family agreements
 - Incorporating effective dispute mechanisms and allowing for 'what if' situations
- Rights and obligations where younger generation is providing almost full-time care

Speaker: Dr John de Groot, Special Counsel, de Groot's Wills & Estate Lawyers, Brisbane

DAY 1 - THURSDAY 12 SEPTEMBER 2019

12.10 - 12.20pm Panel Comments and Questions

12.20 - 1.05pm

Session 4: Estate Planning for Second Spouses and Children of First Marriages

Each unhappy family is unhappy in its own way, and a blended family increases the likelihood of unhappiness when it comes to estate planning. When a blended family consists of adult children of the first relationship and minor children of the second, there is a tension between the needs of the minor children and the expectations of the adults. This session reviews the practical issues that often arise in the context of blended families and how to deal with these, including:

- Identifying the needs of the surviving spouse, minor children vs adult children of the previous relationship
- Using testamentary trusts to ensure the surviving spouse is taken care of whilst guaranteeing residual capital to the children
- Mutual wills - what can you do to avoid the second partner spending the entire estate and the adult children missing out?
- The sufficiency of a life interest over the family home - keeping the second spouse and adult children from the first marriage happy
- The advantages and disadvantages of providing the spouse with a right to reside in the main residence
- Second spouse planning and SMSFs

Speaker: Nathan Yii, Director, Nathan Yii Lawyers – Structuring & Estate Planning Law, Melbourne

1.05 - 1.15pm Panel Comments and Questions

1.15 - 2.15pm Luncheon

AFTERNOON THEME: CONTROL ISSUES IN ESTATE PLANNING

2.15 - 3.00pm

Session 5: Dividing up the Family Pie: Trust Splitting Changes and the Estate Planning Implications

With the ATO finally releasing its position on trust splitting, how can estate planners divide assets in a family discretionary trust between two or more siblings without triggering CGT? This session examines the current landscape on trust splitting and explores the alternatives, including:

- Exploring the ATO position on trust splitting:
 - Is it technically correct?
 - What are the implications?
- Status of private rulings previously published by the ATO on trust splitting
- Advising clients with existing trust splits in light of the retrospective changes
- Alternatives to trust splitting - how to achieve intergenerational trust succession without triggering any tax or duty consequences:
 - Key inclusions in your trust deed
 - Trust cloning for Queensland assets
- Can Clark's decision and TD 2012/21 be used to incorporate the power to split into the trust deed itself?
- How to draft trust deeds and resolutions in light of the ATO ruling

Speaker: Matthew Burgess, Director, View Legal

3.00 - 3.10pm Panel Comments and Questions

DAY 1 - THURSDAY 12 SEPTEMBER 2019

3.10 - 3.55pm

Session 6: Establishing Multi-Generational Business Structures in the Estate Plan

As Australia's population gets older, there is an increasing trend towards older generations maintaining an interest in the family business as a way to continue deriving income for retirement. This session considers the consequences of a family business that is supporting 3 or 4 generations of a family and the control issues that arise for clients and estate planners as a result, including:

- Who is the business accountable to? Managing decision-making and control across the generations
- Inter-generational conflicts of interest in relation to the older generation's need for income versus the younger generation's desire for capital growth and access to capital
- Are the demands on the business reasonable? Can the pie be grown?
- Splitting out resources for effective operation of the business from resources for managing family shareholder relations
- Setting up formal governance programs and agreements on where decisions sit

Speaker: Dung Lam, Team Leader-Tax, Argyle Lawyers, Sydney

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

4.25 - 5.10pm

Session 7: Death Benefit Nominations for Self-Managed Superannuation Funds: What are the Pitfalls?

For many clients, superannuation is their biggest asset after the family home - so the stakes are high. Death benefit nominations can be a useful way of ensuring the death benefit gets to the right intended beneficiary. But, in order to be effective, you need to avoid the common traps and hazards. These are examined in this session, including:

- Does the trust deed allow for the making of a death benefit nomination, of a binding/non-binding and lapsing/non-lapsing nature?
- What does the trust deed require for a non-lapsing BDBN?
- Choosing appropriate beneficiaries
- Is renewal of the death benefit nomination necessary?
- Can an EPOA make a BDBN?
 - Issue around conferring benefits in NSW
 - Issue re: conflict transaction in Qld
 - Re Narumon Pty Ltd [2018] QSC 185
- To bind or not to bind - considerations in the decision as to whether to make a BDBN

Speaker: Kylie Wilson, Partner, Holding Redlich, Brisbane

5.10 - 5.20pm Panel Comments and Questions

DAY 2 - FRIDAY 13 SEPTEMBER 2019

MORNING THEME: TIDYING UP ASSETS IN THE ESTATE PLAN

9.00 - 9.05am

Introduction and Welcome

9.05 - 9.50am

Session 8: Taking Care of Business in the Estate Plan

Although the focus in estate planning is usually on the family, it's important for business owners to give due consideration to passing on their business interests as well. This session reviews the issues that estate planners should raise when discussing business succession, including:

- What are the risks and contingencies you need to deal with?
- What issues arise in the context of total and permanent disability versus death?
- Ways to pass control to remaining partners/business owners
- Managing life and TPD insurance in the succession plan
- Using buy-sell arrangements to deal with succession issues
- The importance of shareholder agreements - and what should be in them regarding estate planning

Speaker: Edward Skilton, Special Counsel, Sladen Legal, Melbourne

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 9: Estate Planning Strategies when the Family Trust is Vesting

When a family discretionary trust vests, beneficiaries' interests become fixed, and significant tax consequences may arise. The ATO's 2018 tax ruling on the vesting of trusts makes it clear that once a trust vests, there is no action that can be taken to turn back the clock for tax purposes. This session explores the options available to advisers when clients are living with a trust that has vested, or where a vesting date is imminent. It covers:

- The trust has vested - now what?
 - Understanding TR 2018/6 Income tax: trust vesting - consequences of a trust vesting:
 - Does vesting trigger any income tax consequences?
 - Unwinding an ineffective distribution - what do trustees need to consider?
- What does the ATO ruling mean for the second generation of family trusts?
- Varying the vesting date:
 - When is it possible?
 - Will extension of a vesting date trigger resettlement?
- Planning around an inevitable vesting - directing the trust assets and exploring restructuring opportunities
- Is it time to revisit South Australian trusts?
 - Is it possible to convert an existing trust to a SA trust with perpetual succession?
 - The degree of connection required to SA

Speaker: Paul Evans, Partner, Makinson d'Apice Lawyers, Sydney

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2 - FRIDAY 13 SEPTEMBER 2019

11.15am - 12.00pm

Session 10: Digital Life and Death - Can the Show Go On?

The internet as a public domain is only three decades old, with widespread adoption an even more recent phenomena, and yet it has become ubiquitous in our lives. Issues of how to manage digital assets and accounts are becoming increasingly pressing. This session addresses issues that can arise in relation to estate planning for social media accounts and digital assets, including how the assets should be held and the mechanisms available to transfer these assets to third parties. It covers:

- Identifying digital assets with substantial value:
 - Twitter and Instagram accounts with bulk followings
 - LinkedIn networks
 - Large cryptocurrency holdings
- Issues for the estate planner:
 - How are the digital assets currently owned?
 - Who/what should hold valuable digital assets - can they be held by entities?
 - Getting access to the online assets and accounts post-death
 - Valuing and transferring valuable digital assets
- Managing business succession issues when data is stored in the cloud and on proprietary and subscription-based software and banking is done online

Speaker: Daniel Smedley, Principal, Sladen Legal, Melbourne

12.00 - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

AFTERNOON THEME: MANAGING DISPUTES

1.10 - 1.55pm

Session 11: Bullet-Proofing Your Estate Plan to Minimise Challenges

What steps can an estate planner take to minimise the risk of challenge to the estate post-death? This session considers the use of contractual arrangements to protect the estate plan, including:

- Ways to manage family provision claims:
 - The use of binding financial agreements - can they prevent a claim?
 - Release of family provision claim entitlements - when is this an option?
- Inter vivos strategies:
 - Gifting assets to intended beneficiaries
 - Transferring assets into tailored discretionary trust
 - Gift and loan back arrangements
- Mutual wills and option agreements
- Documenting decisions to exclude a potential beneficiary from the will:
 - Do you need an affidavit or statutory declaration?
 - Has the testator been advised about consequences and potential risks?

Speaker: Robert Monahan, Principal, Monahan Estate Planning, Sydney

1.55 - 2.05pm Panel Comments and Questions

2.05 - 2.50pm

Session 12: The Role of Equitable Remedies in Compromising Estate Planning

Equitable remedies can unravel carefully constructed estate plans and understanding how equitable remedies apply from the get-go may affect structuring decisions. This session reviews the more common types of equitable remedies that may be relied upon to challenge an estate plan and how best to bullet proof the estate from attack, including:

- Equitable claims - how might they arise to challenge the estate plan?
- Showing duress in the development of the estate plan
- When will unconscionable conduct be found?
- Implications of and proprietary estoppel and the consequent constructive trust on the estate plan
- Strategies when the risk of equitable remedies arises - how can the risks be managed to protect the estate plan from attack
- Case study - what happens if a younger family member relies on representations as to the estate in the provision of services to the family business?

Speaker: Scott Whitla, Partner, McCullough Robertson Lawyers, Brisbane

2.50 - 3.00pm Panel Comments and Questions

3.00pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

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

The registration fee does not include any travel or accommodation. Delegates are advised to make their own travel arrangements.

Conference 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 conference (as the papers become available), during the conference 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 conference TEN will supply printed copies of the PowerPoint presentations.

CPD Units/Points

Lawyers (except WA): 7 CPD units (substantive law)

WA Lawyers: 6 CPD points (substantive law)

The Conference Venue

Sofitel Gold Coast, 81 Surf Parade, Broadbeach, Qld

The Sofitel Gold Coast is located in Broadbeach in the heart of the Gold Coast, Queensland.

Conference Delegate Rate at the Sofitel Gold Coast

Television Education Network has negotiated a discount delegate rate with the Sofitel Gold Coast which guarantees 10% off the best available flexible rate (not applicable with any other promotion at the time). To book, please contact the Sofitel reservations team directly.

Hotel Reservations: Phone: (07) 5592 2250 Email: h0454@sofitel.com

www.sofitelgoldcoast.com.au

If you encounter any problems booking your accommodation **please do not hesitate to contact our Conference Executive, Jenna Pickrell**, on (03) 8601-7729 or email: jenna@tved.net.au

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

The Gold Coast is easily accessed via Coolangatta Airport - 20 kms away and Brisbane Airport is an easy 1 hour drive. There are also rail and coach services from Brisbane into the Gold Coast.

Conference Dress

Smart casual attire is suitable. (*note: the temperature in the conference room varies depending on where you are sitting. Light dress 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 Conference for a 85% refund. Substitute delegates accepted at any time.

Conference Terms

Program subject to change without notice. The information and views presented in the conference 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 conference 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 conference 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 FORM – TAX INVOICE*

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)

GPO Box 61, Melbourne, Victoria 3001

Fax (03) 9670 0588 Phone (03) 9670 2055 Enquiries Jenna Pickrell

Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **Third Annual September Estate Planning Conference** – a 2-day conference to be held at the Gold Coast on Thursday 12 & Friday 13 September 2019 [conf code: GEPSEP19]

Early Bird Registration – for registrations made on or before **2 August 2019** – **\$1870** (\$1700 + \$170 GST)

Full Price Registration – **\$2145** (\$1950 + \$195 GST)

Subscriber First Discount Registration – I am a Subscriber First member and entitled to a **10% discount** off the full registration fee – **\$1930.50** (\$1755 + \$175.50 GST)

Multiple registration discount? If you would like to send more than one person from your company to this conference, please ask Jenna about the discounts available for multiple registrations: The more you send, the greater the discount. jenna@tved.net.au or phone (03) 8601 7729.

One-day only? We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Jenna Pickrell (details above).

The papers from this conference will be available in electronic form only approximately 2 weeks after the conference has been held. You can pre-order the papers now online via our website at www.tved.net.au. The papers are **\$198** (\$180 + \$18 GST) [Code: PGEPSEP19].

Personal Details

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