



# 2 half day Masterclasses

# THE LIFE AND DEATH OF TRUSTS

Organised by Television Education Network Pty Ltd

Radisson Hotel & Suites, Sydney, Wednesday 11 September 2019

Next exit: trusts?

Amending trust deeds and avoiding tax nasties

The right to bare trusts

Family discretionary trusts – protecting the family jewels and maintaining harmony

Post death trusts: better late than never?

Testamentary trusts: tax treatment of non-resident beneficiaries

**ALSO BOOKABLE AS SEPARATE HALF DAYS**  
(AM) THE LIFE & DEATH OF FAMILY DISCRETIONARY TRUSTS  
(PM) THE LIFE & DEATH OF TESTAMENTARY TRUSTS



**Television  
Education  
Network**

The professional development specialists

# TIMETABLE – WEDNESDAY, 11 SEPT, 2019

**CHAIR: RAYMOND LIM, SOLICITOR-DIRECTOR, TEP LEGAL, SYDNEY**

## MASTERCLASS 1: FAMILY DISCRETIONARY TRUSTS

**9.00 - 9.10am**

Introduction and welcome

**9.10 – 10.00am**

### **Session 1: Family Discretionary Trusts – Protecting the Family Jewels and Maintaining Harmony**

The main advantages of family trusts are to protect assets and reduce tax. However, family trusts are vulnerable to attack and depredation – particularly from within. This session examines how to minimize the risk of family disputes involving trusts, including:

- Managing control of family trusts – understanding the formal legal mechanisms
- How to manage trust control
- Establishing the groundwork – use of family agreements and shareholder agreements to keep the peace
- In what circumstances will the Courts interfere with trustee decisions?
- If they do interfere what remedies will they grant?
- Structuring trusts to avoid disputes – key provisions to include
- Lessons from the Mercanti decision

*Speaker: Paul Hockridge, Partner, Mutual Trust, Melbourne*

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

**10.10 – 11.00am**

### **Session 2: Amending Trust Deeds and Avoiding Tax Nasties**

Given the long life of trusts, there is often a need to change the terms of the trust as it matures. This session considers the intricacies of trust amendments, and in particular examines the possibility of amending a trust deed to extend the vesting date. Issues discussed include:

- Amending trust deeds:
  - What powers of amendment arise under the trust deed?  
Jenkins v Ellett and Mercanti v Mercanti
  - What makes an amendment valid?
  - Which types of amendments will attract stamp duty?
  - Which types of amendments might give rise to resettlement?
- ATO guidance on trust vesting TR 2018/6
- Effective strategies to defer trust vesting:
  - Extending vesting date?
- How to make a trust a South Australian trust?

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

**11.00 – 11.10am** Panel Comments and Questions

**11.10 – 11.30am** Networking Break and Morning Tea

**11.30am – 12.20pm**

### **Session 3: Next Exit: Trusts?**

As the Division 7A reforms move closer to fruition and the ATO take a more aggressive approach on trusts, more taxpayers are considering the value of exiting trust structures. This session examines the tax issues that advisers need to consider when advising on trust restructures, including:

- Options for restructuring – what are the issues to consider?
- Which rollovers are available?
  - Division 122-A (trust to wholly owned company)
  - Division 124-N (trust to company)
  - Division 328-G (small business restructure)
  - Can Part IVA apply if several rollovers are used sequentially to get to desired structure?
- When is duty relief available for rolling assets out of a trust?
  - Corporate reconstruction relief

*Speaker: Andrea Carrick, Director, AG Tax Lawyers, Melbourne*

**12.20 – 12.30pm** Panel Comments and Questions

**12.30 – 1.30pm** Luncheon

# TIMETABLE – WEDNESDAY, 11 SEPT, 2019

## MASTERCLASS 2: TESTAMENTARY TRUSTS

1.30 – 2.20pm

### Session 4: Structuring Testamentary Trusts to Bullet Proof the Estate Plan

The creation of testamentary trusts is challenging. Finding the balance between flexibility and protection require careful consideration and drafting. This presentation will cover the issues that arise when drafting testamentary trusts and practical strategies to avoid them. It covers:

- Optional testamentary discretionary trusts
  - advantages and disadvantages including flexibility, protection and taxation advantages
- Single vs multiple testamentary trusts
- Cascading testamentary trusts
- Post-death testamentary trusts
- Testamentary trusts and property acquired after death
- Trustees duties and powers – how wide?
- Rights of beneficiaries – how much is too much?
- Inter vivos trusts

*Speaker: Warwick Gilbertson, Partner, Turnbull Hill Lawyers, Sydney*

2.20 – 2.30pm Panel Comments and Questions

2.30 – 3.20pm

### Session 5: Use of Different Types of Trusts and Estate Planning

This session looks at the ins and outs of trusts in estate planning to ensure you have the best strategy in place for your client. We will look at what trusts are available to your clients and why you would use them. It covers:

- Generation skipping trusts – when can they work?
  - Providing for grandchildren and protecting assets from relationship breakdown in the second generation
  - Cascading generation skip trusts
- Hybrid unit trusts – estate planning when hybrid unit trusts are involved – pros, cons and the concerns of the ATO
- Capital protected trusts – using for the benefit of the second spouse and protecting assets of children from the first marriage
- PS LA 2003/12 and recent ATO comments

*Speaker: Trudy Naylor, Barrister, Queensland Bar, Brisbane*

3.20 – 3.30pm Panel Comments and Questions

3.30 – 3.50pm Networking Break and Afternoon Tea

3.50 – 4.40pm

### Session 6: Tax Efficient Use of Super Proceeds Trusts and Testamentary Trusts for Super

With the creation of the \$1.6million transfer balance cap, some clients may need to direct all or part of their death benefits (which would otherwise have been paid as a pension) to their estate and perhaps to a super proceeds trust. Now is the time to understand when a SPT is appropriate and how the concessional tax treatment applies. This session looks at:

- How do SPTs work?
- How are they established?
- Who is a death benefit dependent?
- SPT and income beneficiaries
- Can you establish a SPT after death?
- Capital requirements
- What are the key advantages of a SPT? Tax efficiency, flexibility and asset protection
- SPTs v child pensions
- When would you consider a TT receiving a super death benefit?

*Speaker: Ian Burgess, Partner, Ernst & Young, Brisbane*

4.40 - 4.50pm Panel Comments and Questions

4.50pm

Masterclass close

# GENERAL INFORMATION

## Conference 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 - Lawyers

**Half day morning masterclass: The Life & Death of Family Discretionary Trusts** – 3 CPD units (substantive law)

**Half day afternoon masterclass: The Life & Death of Testamentary Trusts** – 3 CPD units (substantive law)

**One-day Masterclass: The Life & Death of Trusts** – 6 CPD units (substantive law)

## The Masterclass Venue

### Radisson Hotel & Suites

72 Liverpool St, 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 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.

© 2019 Television Education Network Pty Ltd. All rights reserved. The program for this conference is copyright and may not be reproduced in any form without the prior written consent of the copyright owner.

# 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 Life & Death of Trusts: One Day Trusts Masterclass** to be held in Sydney on Wednesday 11 September 2019 [conf code: SXTSEP19]

- Early Bird Registration** – for registrations made on or before 16 August 2019 - **\$880** (\$800 + \$80 GST)  
 Full Price Registration – \$1100 (\$1000 + \$100 GST)

The papers from this conference 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](http://www.tved.net.au). The papers are **\$165** (\$150 + \$16 GST) (Code: PSXTSEP19).

---

Please register me for **The Life & Death of Family Discretionary Trusts: A Half Day Masterclass** to be held in Sydney on Wednesday 11 September 2019 [conf code: SXTSEP19M]

- Early Bird Registration** – for registrations made on or before 16 August 2019 - **\$495** (\$450 + \$45 GST)  
 Full Price Registration – \$605 (\$550 + \$55 GST)

---

Please register me for **The Life & Death of Testamentary Trusts: A Half Day Masterclass** to be held in Sydney on Wednesday 11 September 2019 [conf code: SXTSEP19A]

- Early Bird Registration** – for registrations made on or before 16 August 2019 - **\$495** (\$450 + \$45 GST)  
 Full Price Registration – \$605 (\$550 + \$55 GST)

---

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

*Fill out personal details on next page ...*

