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 Legalwise

February 2019

Accounting CPD Program

Trusts Essentials
Estate Planning

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TRUSTS ESSENTIALS

4TH ANNUAL

THURSDAY, 14 FEBRUARY 2019
9.00AM TO 5.15PM

\$695
192AS01

A client will expect much when they turn to you for advice on trusts. Are you caught up on game changing CGT concession changes and the ATO's latest rulings? Are you across the types of trust structuring and asset protection strategies that will keep your clients coming back while referring you to others? Do you have the cutting edge strategies necessary to flawlessly handle complex issues related to discretionary trusts, distributions, using technology to better manage trusts and more? Gain an edge on your competitors with practical, real world guidance into each of these critical areas.

Chair: **Simon How**, Tax Director, KPMG

Chair: **Dr Sylvia Villios**, Senior Lecturer, The University of Adelaide; CTA

★ OPENING ADDRESS

The Latest ATO Rulings and Developments in Trusts and the Impact on Your Clients

Presented by **Julie Van der Velde** TEP, CTA, Principal, VdV Legal; Co-Chair of STEP SA; Winner Chartered SME Tax Adviser of the Year 2017; Recommended Wills, Estates and Succession Planning Lawyer, *Doyle's Guide* 2018

PERFECTING TRUST STRUCTURES AND ASSET PROTECTION

Choosing the Right Trust Structure: Business vs Investment

The rules surrounding trusts can be extraordinarily complex which in turn can make it difficult when advising clients on how to best structure their affairs. This session will focus on trusts as business and investment structures and explore:

- The various trust structures that exist and related strategies
- The opportunities and pitfalls that exist with various trust structures and what you need to be aware of when advising clients
- The application of various small business concessions within the different trust structures
- Restructuring opportunities that exist within a trust
- How to deal with unpaid present entitlements and Division 7A
- Other recent ATO guidance and announcements

Presented by **Lisa Pritchard**, Director, Tax, Holman Hodge

Using Trusts for Asset Protection: The Strategies Your Clients Need and Expect

- Overview of asset protection benefits when using trusts
- Key terms of (and issues with) trust deeds and trustee powers
- Avoiding duty and land tax traps
- The rule against perpetuities and vesting
- Managing control of trusts
- Splitting and cloning

Presented by **Mary-Anne Sotiropoulos**, Associate, Piper Alderman

Small Business CGT Concessions: New Integrity Measures and Implications for Trusts

- Application of the Small Business CGT Concessions for trusts
- Recent amendments to the small business CGT concessions (integrity measures) and implications for trusts
 - Stricter active asset test
 - Changed timing of when a business must be carried on by either a taxpayer or underlying company/trust
 - 'Object entity' rules: satisfaction of modified maximum net asset test or satisfaction of small business (turnover) test
 - Denial of concession for partnership interest (Everett) assignments

Presented by **Briony Hutchens**, Director, DW Fox Tucker; CTA

Should a Trust Own the Family Home? What to Advise Your Clients

- How to access the CGT main residence exemption
- Necessary legal, tax and practical requirements
- Duty and land tax implications and exemptions
- Differences between the Australian jurisdictions

Presented by **Clifford Hughes**, Principal, Clifford Hughes & Associates; Accredited Specialist in Tax Law and Business Law; CTA

PRACTICAL TRUST STRATEGIES

Technology, Trusts and Taxation

Technology has changed how we do business every day and how we deal with trusts. Principles from the common law and existing legislation can be applied to understand how technology is impacting trusts and taxation practice.

- Can you swear a valid oath on a bible that is displayed on an iPad? Or stored on a USB drive?
- Is an electronic signature binding, and if so in what scenarios?
- Can trust deeds exist in paperless form, and how do you certify that they are true copies of the original?
- Can you sell 100,000 Instagram followers or leave your Facebook account to your successors?
- Can you hold your Bitcoins or Cryptocurrency in a trust?
- What (inexpensive) technology can you use to assist your practice now?

Presented by **Adrian Cartland**, Principal, Cartland Law; CTA

Practical Trust Distribution Strategies and What the ATO is Cracking Down on

- First principles: What can be distributed and how will it be taxed according to *Fischer v Nemeske* and s99B(2)(a)?
- Record keeping: evidencing trust distributions prior to 30 June
- Tax planning: deductibility of interest expenses on-lent to a discretionary trust (TD 2018/9)
- Staying vigilant: unexpected Division 7A consequences from 'ordinary commercial transactions' (TD 2018/13)
- 1 July 2019: circular trust distributions and Division 7A for UPEs

Presented by **Tom Hendrick**, Associate, Finlaysons Lawyers

Trust Loss Provisions and Family Trust Elections: The Consequences for You and Your Clients

- Losses and franking credits: the need for an FTE
- What are the implications of making a family trust election?
- FTEs and non-resident trusts: Is there a need? What are the practical implications?
- Complexities that arise with FTEs and IEEs in larger family groups
- Discretionary trusts vs 'fixed' trusts: What is the relevance of the distinction?
- Passing on the family baton: Can you revoke or alter an FTE or an IEE?

Presented by **Anetta Johnston**, Partner, Enterprise, KPMG; CTA

When the Fighting Starts: How Does the Family Court Treat Discretionary Trusts?

- When are the assets of a discretionary trust vulnerable to a property settlement claim under the *Family Law Act*?
- What is a 'financial resource' under the *Family Law Act* and how does an interest in a discretionary trust impact the property settlement claim?
- How to limit the inclusion of assets of a discretionary trust in a family law property settlement
- Latest cases as to the treatment of discretionary trusts by the Family Court

Presented by **Jane Miller**, Partner, Tindall Gask Bentley Lawyers; Leading Family & Divorce Lawyer, *Doyle's Guide* 2018

ESTATE PLANNING CONFERENCE

4TH
ANNUAL

FRIDAY, 15 FEBRUARY 2019
9.00AM TO 5.15PM

\$695
192AS02

It's an age old idiom that nothing is certain in life but death and taxes, and in the complex world of estate planning the two go hand in hand. Unlock the latest estate planning strategies regarding critical tax issues tied to death, dealing with a rapidly involving superannuation landscape, and deftly managing Division 7A issues and testamentary trusts. This diverse panel of experts will guide you to the results your clients expect in each of these areas and more, including dealing with blended families, foreign clients and assets, small businesses, aged care issues, and executor risks.

Chair: Andrea Michaels, Managing Director, NDA Law; CTA

SOPHISTICATED TAX AND ESTATE PLANNING STRATEGIES

Use and Misuse of Testamentary Trust in Estate Planning: Staying on Track

- Benefits of using testamentary trusts
 - When to use testamentary trusts: rules of thumb
 - Optional vs mandatory trusts
 - Structuring/flexibility issues
 - Choice of trustee/appointor
 - Estate planning to maximise a testamentary trust
- Presented by **Mark Jordan**, Partner, Carpenter & Associates; Preeminent Wills, Estates and Succession Planning Lawyer, *Doyle's Guide 2018*

Taxation of Deceased Estates: Coping with Complexity

- You will gain key tax issues and provide practical tips on effectively identifying and dealing with them including:
- Capital Gains Tax and withholding requirements
 - The principal place of residence
 - When and where stamp duties may apply
 - Taxation of testamentary trusts
 - How tax affects life interests and the remainder beneficiaries
- Presented by **Julie Van der Velde** TEP, CTA, Principal, VdV Legal; Co-Chair of STEP SA; Recommended Wills, Estates and Succession Planning Lawyer, *Doyle's Guide 2018* and **Victoria Malcolm**, Solicitor, VdV Legal

Superannuation as Part of Estate Planning: Avoiding the Pitfalls

- Most clients have super, and for many of them, super is a cornerstone of their estate plans. However, there are many aspects of super that are still widely misunderstood that have the potential to disrupt the estate plans. The 1 July 2017 super changes have further complicated death benefit planning in super. Take this time to review mistakes and misunderstandings to avoid when assisting clients including:
- Death benefit nominations
 - Death benefit dependants
 - Taxation of super death benefits
 - Death benefit pensions
 - SMSF specific issues
- Presented by **Julie Steed**, Senior Technical Services Manager, Australian Executor Trustees

Practical Estate Planning Strategies for Blended Families

- Common challenges faced by blended families in estate planning
 - Control: Who will hold all the cards?
 - Balancing the needs of the spouse and the children from an earlier relationship
 - Estate planning solutions including mutual Wills, life interests, insurance, superannuation and other strategies to minimise the risk of an estate challenge
- Presented by **Vanessa Varga**, Director, Varga Lawyers, Recommended Wills, Estates & Succession Planning Lawyer, *Doyle's Guide 2018*

Successful Estate Planning with Foreign Resident Beneficiaries

- If a beneficiary of an estate is a foreign resident, the beneficiaries may suffer adverse financial implications unless you put in place a plan to minimise the effects of those implications. You will look at the major issues associated with having a foreign resident beneficiary and then work through a case study to see how those issues may be dealt with in practice.
- Who is a foreign resident?
 - The potential tax implications of having foreign resident beneficiaries
 - The importance of the distinction between 'taxable Australian property' and 'non-taxable Australian property' in this context
 - The strategies to overcome potential adverse implications
- Presented by **Jeremy Duffy**, Director, Duffy Legal

ADVANCED ESTATE PLANNING TECHNIQUES

Should You be the Executor of Your Client?

- Examine practical matters and suggested solutions to allow you to make the best decision when considering whether to be your client's executor.
- Appointment of executor in a Will
 - Role and responsibility of an executor
 - Checklist of major estate issues to consider
 - Who is liable if it goes wrong?
- Presented by **Philip MacIsaac**, Partner, Walker Wayland Advantage

The Practical Realities of Death: Small Businesses and Funerals

- Keeping the business running after the business owner dies: dealing with companies and trusts
 - Executor vs family members: who should have control and why
 - Costs and payment for funeral, wake, burial plot and headstone expenses
 - Who should bear the costs and other considerations
- Presented by **Clifford Hughes**, Principal, Clifford Hughes & Associates; Accredited Specialist in Tax Law and Business Law; CTA

Estate Planning and Incapacity for Accountants: Is Your Client the Full Quid?

- General tests for determining capacity
 - Determining when clients do not possess capacity
 - Professional duties: acting for clients with reduced capacity
 - Alternative options for clients who do not have capacity
- Presented by **Jason Coluccio**, Principal, Welden & Coluccio Lawyers; Recommended Wills, Estates and Succession Planning Lawyer, *Doyle's Guide 2018*

Aged Care, Retirement and Estate Planning: Putting it all Together

- Retirement communities, independent living, supported living, residential aged care: What's the difference and what do accountants need to know about each?
 - Understanding ingoing/ongoing/outgoing costs
 - Granny flats and lifetime interests: Friend or foe?
 - Funding aged care: What could possibly go wrong?
 - Power of attorney/trusts/Centrelink/families and other challenges
- Presented by **Kate Phillips**, Financial Advisor, Tend Financial and **Drew Potts**, Senior Financial Advisor, Potts Duhring Financial Advisors, Accredited Aged Care Professional



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