

Trusts Intensive

2 – 3 June 2022

Online

8 CPD hours





Welcome

This year's Organising Committee are excited to bring you the 2022 Trusts Intensive.

Running over two days from 2-3 June 2022, this online intensive will feature expert presenters who will highlight practical issues when dealing with trusts in 2022, including:

- How to identify and deal with fixed trusts and public trading/institutional trusts
- Potential implications of FTEs and FTDT
- Importance of understanding the terms of the trust deed
- What happens if there is an insolvency event
- Succession and estate planning considerations
- International aspects of using trust structures
- Distributions from trusts and s100A.

A special thank you to our speakers and committee for their commitment and effort in putting together what I believe is a fantastic program.

We look forward to seeing you all at the upcoming event!



Kim Reynolds
Chair, Event Organising Committee

Early bird offer

Register on or before Friday, 6 May 2022 to save!

Technical Program

Day 1 Thursday, 2 June 2022 – Trust Structuring

Time	Session	Presenter
	Welcome and opening by Chair	Kim Reynolds, CTA Vincent
10.00–11.00am	Session 1: I say unit trust you say fixed trust But let's not call the whole thing off. Unit trusts have an important role as an alternative to companies as a multi-party co-investment vehicle in the SME market. In this session, Daniel will address some federal tax traps that arise in the administration of unit trusts and the fixed / non-fixed debate including: <ul style="list-style-type: none"> • isn't the pattern of distributions the same all? • when is fixed not fixed? • the blanket approach under PCG 2016/16 has some holes • short and long positions, deltas, vested and indefeasible interests all required to get a franking credit • CGT E4 and payments and • in specie distributions and no CGT E5. 	Daniel Smedley, CTA Sladen Legal
11.00am–12.00pm	Session 2: Public Trading trust/Institutional Trust Understanding the tax treatment of institutional trusts is becoming more important for private client advisers. This session will cover the following: <ul style="list-style-type: none"> • how is the income of a managed investment trust taxed, including under the attribution managed investment trust regime? What do advisers of investors need to be aware of? • when could a closely held trust become a public trading trust and what happens if it does? How can this be managed? • what are the implications for investors of an institutional trust making investments in early-stage innovation companies? and • What do advisers need to be aware of? 	Himashini Weeraratne, ATI Grant Thornton
12.00–12.30pm	Lunch	

Technical Program

Day 1 Thursday, 2 June 2022 – Trust Structuring

Time	Session	Presenter
12.30–1.30pm	<p>Session 3: Anatomy of a Trust Deed</p> <p>There is a myriad of clauses in any trust deed which sit outside of the income and capital distribution provisions but may substantially impact the operation and administration of the trust. The aim of this session is to explore a number of these provisions from a legal perspective and consider their implications in a taxation context, including:</p> <ul style="list-style-type: none">• Determination of the beneficiaries of the trust and who is excluded• What is the perpetuity period of a trust, and why does it matter?• Can the trust deed be amended, or rectified, and what is the difference?• Who controls the trust and how succession of control can be managed.	Julie Van der Velde, CTA VDV Legal
1.30–2.30pm	<p>Session 4: FTEs and FTDTs – the potential limitations of a wide class of discretionary beneficiaries</p> <p>Having a wide class of beneficiaries in a discretionary trust can provide flexibility of distributions of income/capital, but what if the trust incurs losses or holds shares? The FTE and FTDT rules can significantly limit the beneficiaries that can practically benefit from the trust. If not dealt with correctly, a distribution, which is itself widely defined for the purposes of the FTE and FTDT rules, may inadvertently trigger a significant tax cost.</p> <p>This session will explore some of the hidden tricks and traps with dealing with FTEs and FTDTs including:</p> <ul style="list-style-type: none">• When should an FTE or IEE be put in place?• What is a “family” v “family group”?• What are “distributions” for FTE and FTDT purposes?• Does it matter what the deed says?• How does FTDT work?	Linda Tapiolas, CTA Cooper Grace Ward Lawyers

Technical Program

Day 2 Friday, 3 June 2022 – Hot topics

Time	Session	Presenter
10.00–11.00am	Session 5: Insolvency When things are going well, trusts are often the vehicle of choice for establishing a business or managing family wealth. But what happens if a trust gets into financial trouble? This presentation explores some of the issues that may arise in this context, including: <ul style="list-style-type: none"> • Is my trustee insolvent? • What happens to the trust's assets when a liquidator is appointed? • Liabilities and rights of indemnity, and how they apply to the trustee, creditors and beneficiaries and • Automatic removals of trustees and other common terms in trust deeds, and what they mean. 	Mark Gioskos, FTI Victorian Bar
11.00am–12.00pm	Session 6: International aspects of Trust planning / 99B When the borders are open or closed, private groups can encounter some tricky cross-border issues. This session will focus on: <ul style="list-style-type: none"> • Living with foreign trusts – accidental change in residency • Section 99B and managing tax efficiency • CGT concessions – applying Division 152 to foreign assets or beneficiaries, and the current scope of Division 855 	Jim O'Donnell, CTA Jackson McDonald
12.00–12.30pm	Lunch	
12.30–1.30pm	Session 7: Estate and succession planning considerations Trusts are undoubtedly one of the most popular vehicles for carrying on a business, holding family wealth, and planning for intergenerational succession. A proper understanding of the trust-related tax consequences that may arise on an individual's death is vital for any practitioner advising on estate planning, preparing wills, and managing deceased estates (and of course, testamentary trusts). This session will cover some of the more central concepts such as testamentary trusts and when to use them, the rights, powers, duties and liabilities of LPRs versus trustees, and transferring control of trusts and potential taxing points, as well as addressing recent developments including the new rules for taxing distributions from testamentary trusts to minors.	Michael Flynn QC, CTA (Life) Victorian Bar

Technical Program

Day 2 Friday, 3 June 2022 – Hot topics

Time	Session	Presenter
1.30–3.00pm	<p>Session 8: Trust distributions in the new world order? Where are we on Section 100A</p> <p>The updated ATO PCG and Ruling on Section 100A issued in February 2022 will have had a few months being digested.</p> <p>This session will refresh participants on the history, fundamentals and status of Section 100A matters as a platform for a more lively and practical session focussed on the examples in the ruling and circumstances that are perhaps not covered.</p> <p>We cannot of course ignore the companion rulings on Div 7A and unpaid present entitlements.</p> <p>The panel will seek to extract practical examples and offer guidance to practitioners around what is now an area of key focus and concern for practitioners to ensure their clients affairs are in order.</p>	<p>Presenter</p> <p>Louise Clarke Australian Taxation Office</p> <p>Mark West, CTA West Garbutt</p> <p>Facilitator</p> <p>Scott McGill, CTA Pitcher Partners</p>



Presenters

Louise Clarke commenced her role as Deputy Commissioner, Private Wealth, on 23 August 2021. Prior to that Louise was the ATO's Deputy Commissioner for Policy, Analysis and Legislation. Louise has worked for the ATO for over 25 years and has held senior roles in Public Groups & International and Tax Counsel Network where she has had extensive experience leading work on new law design, strategic litigation, public and private advice and audits.

Michael Flynn QC, CTA (Life), is a Barrister at Owen Dixon Chambers West, specialising in taxation, and was National President of The Tax Institute in 2014. He is the author, with Miranda Stewart, of *Death and Taxes* (7th edition, 2022). Michael has appeared in the Administrative Appeals Tribunal, the Federal Court and the High Court in taxation cases. Michael has been a member of various committees of The Tax Institute for over 20 years.

Mark Gioskos, FTI, specialises in advising in complex tax disputes and audits, with an emphasis on achieving efficient and commercial outcomes for his clients. He also regularly advises on both Federal and State based revenue laws, corporate and family

structuring and compliance, trusts and estate administration, as well as general commercial and public law matters. After having practised as a solicitor for nearly 10 years, Mark will be commencing the Victorian Bar Readers' Course in March 2022. Mark is a Fellow of The Tax Institute, and lectures on various topics for The Tax Institute's Chartered Tax Adviser Program. He is also a member of the Victorian Engagement Committee and regularly serves on other committees and working groups. He has written several articles published in professional journals and is a regular presenter at seminars and discussion groups.

Scott McGill, CTA, is a Partner at Pitcher Partners Sydney where he focuses on taxation, business, structuring and succession issues for a wide range of clients including high net 2021 Trusts Intensive taxinstitute.com.au 6 worth and large private SME's. He is closely engaged in the property industry across income tax, GST and state taxes and actively involved number of technical forums including the Property Council, Retirement Living Council and CAANZ taxation working groups. Scott does not shy away from complex issues or disputes and has a

reputation for achieving commercial outcomes. He is active in The Tax Institute as former New South Wales State Chair, remaining active in State Council and the Professional Development committees. He has presented a number of papers for The Tax Institute and other bodies and is always willing to have a robust discussion.

Jim O'Donnell, CTA, is a Partner of Jackson McDonald Lawyers in the tax and succession arm of their corporate and commercial team. Jim has nearly 25 years professional experience. He advises and represents a wide range of clients including high net worth families and professionals, SME business structures and not for profit entities with respect to trusts, succession planning, deceased estates, SMSFs, property development and transactions, legal structuring and asset protection. He advises on all areas of Federal and State taxation. Jim holds various degrees and qualifications, including a Master of Taxation, a Bachelor of Laws, a Bachelor of Commerce (Accounting major) and an Advanced Certificate of Public Administration. Jim is a CTA of The Tax Institute. He served on the WA State Council 2015-2018. Jim is a

co-Vice Chair and the immediate past Chair of STEP WA. He chairs STEP WA's Policy Sub-committee, and he is the Secretary of STEP Australia. Jim is also currently serving on a working group with the Law Society of Western Australia to set up a specialist accreditation programme for Wills and Estate Practitioners in WA.

Daniel Smedley, CTA, enjoys solving complex taxation and trust law issues for private enterprise clients. He is also a trusted confidant in planning the succession of his client's personal and business affairs. Daniel is a Chartered Tax Advisor with The Tax Institute, accredited as a specialist in Taxation Law with the Law Institute of Victoria, and the principal author of the *Trust Structures Guide* published by The Tax Institute. Since 2016, Daniel has appeared in the list of one of Australia's "Best Lawyers of the Year" in the practice of tax law. The list is compiled by Best Lawyers and published in the *Australian Financial Review*. Daniel has also been recognised in *Doyle's Guide* as a recommended tax lawyer since 2016. Daniel is a regular presenter at state and national industry conventions, conferences and workshops.

Presenters

Linda Tapiolas, CTA, is a Partner in the Cooper Grace Ward Lawyers Commercial team. She provides a range of support services to accountants, financial planners and other professional advisers. This includes technical advice on complex tax, CGT and Div 7A issues, as well as acting on business sales and acquisitions to ensure clients achieve commercial and tax-effective outcomes. Prior to joining Cooper Grace Ward, Linda worked as an accountant for 18 years advising clients on capital gains, business acquisitions and restructuring. She also conducted seminars and training sessions on various topics including CGT small business concessions.

Julie Van der Velde, CTA, is the principal of a specialised commercial law firm, VdV Legal, and has degrees in Business and in Law and a Masters of Taxation Law. With over 20 years' experience advising Australian businesses, her practice focuses on taxation and trust law with an emphasis on business structuring, tax planning, business succession and intergenerational transfers. Julie is The Tax Institute's SME Chartered Tax Adviser for 2017 and is regularly listed as a recommended Tax lawyer and a recommended Wills, Estates and Succession Planning lawyer in Doyle's Guide.

Himashini Weeraratne, ATI, has over 16 years' experience providing tax advisory and compliance services to financial service providers, fund managers, private equities, managed funds, superannuation funds and their advisors. She has experienced first-hand the operational and process issues of taxation affecting financial services providers through secondments and working closely with mid-tier to large custodians. Himashini is passionate about the financial services industry, identifying risks and opportunities for her clients, and providing a differentiated value added service that's timely and commercially astute.

Mark West, CTA, is a qualified as a lawyer, chartered accountant and chartered tax adviser, Mark provides advice across the spectrum of taxes. Mark assists with all legal matters involving taxation law. He advises on appropriate business or investment structures/restructures and on making applications for rulings from the ATO. He assists with tax audits and with related settlement negotiations with the ATO and State revenue authorities. He has acted for clients in tax cases before the Administrative Appeals Tribunal and the Full Federal Court. Mark been listed as a leading tax lawyer in Queensland by DoYLES Guide and The Best Lawyers™ in Australia.



Event information

Early bird registration

All registrations received and paid on or before Friday, 6 May will be entitled to an early bird discount.

Group Discounts

Purchase three full registrations (early bird or standard) and receive a fourth full registration free. The free registration must be of equal or lesser value to the paid registrations.

This offer cannot be redeemed in conjunction with any other promotional offer or code.

All attendees must be from the same firm and all registration forms must be submitted together. For further information please contact the national events team on 1300 829 338 or nationalevents@taxinstitute.com.au.

Confirmation of registration

Please note you will receive two separate emails in the form of a confirmation email and tax invoice at the time of payment and registration completion.

Continuing Professional Development

Attendance at the conference counts for 8 hours of Continuing Professional Development with The Tax Institute.

The Tax Institute's Attendee Hub

This event will be accessible to all delegates via our dedicated Attendee Hub. Program information, materials (technical papers and presentations), survey forms and more will be available via The Tax Institute's virtual Attendee Hub. All delegates are encouraged to access the platform prior to the event. Technical papers and PowerPoint presentations will be available on the Attendee Hub to all participating delegates approximately five days before the event. Delegates will receive instructions on accessing the virtual Attendee Hub by email.

Delegate list

A delegate list will be included on the Attendee Hub to assist with networking. Please indicate at the time of registration if you do not want your name to be included. Alternatively, you can edit your profile visibility settings in the Virtual Attendee Hub at any time during the event.

Cancellation Policy

The Tax Institute reserves the right to alter, amend or cancel all or any of the arrangements contained in the program. It is a condition of acceptance of registration that an administration fee of 20% of the registration fee be charged for cancellation if you can no longer attend the event. Cancellations must be received in writing by The Tax Institute five working days prior to the event. No refund will be given for cancellations received within five working days of the event. A replacement may be nominated. If the replacement is not a member, the non-member registration fee will apply. CPD hours will be allocated to the designated attendee.

Privacy

We take your privacy seriously, and our policy can be viewed at: www.taxinstitute.com.au/privacypolicy.

For further information regarding this event, please contact the Events Team on 1300 829 338 or email nationalevents@taxinstitute.com.au

For registration enquiries, please contact customeradmin@taxinstitute.com.au



A tax invoice and confirmation letter will be sent on receipt of your registration. Please photocopy for additional delegates and retain original copy for your records. All prices quoted are in Australian dollars and include GST where applicable. ABN 45 008 392 372.

1 Registration

Online registration | 42539

	Member	New member*	Non-member
Early bird registration Received on or before 6 May 2022	<input type="checkbox"/> \$850	<input type="checkbox"/> \$1,190	<input type="checkbox"/> \$1,150
Standard registration Received after 6 May 2022	<input type="checkbox"/> \$1,050	<input type="checkbox"/> \$1,390	<input type="checkbox"/> \$1,350

☐ I understand that the registration fees do not include printed materials. Access to materials will be electronic.

*Become a member and save!

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- up to 50% off membership to 30 June 2023
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I hereby apply for membership of The Tax Institute and declare that I am a person of good fame, integrity and character. I agree to be bound by the Constitution of The Tax Institute.

Signature:

Date of signature:

2 Delegate contact details

Member no.:

If your member details are up-to-date, you can skip this section.

Title: ☐ Mr ☐ Mrs ☐ Miss ☐ Ms

Date of birth:

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Address:

Suburb:

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Postcode:

Telephone:

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Email:

☐ Please tick this box if you do not wish your name to be included on the delegate list provided to all attendees for networking

3 Payment summary

Registration fees

\$

Total payable

\$

Please note: The Tax Institute cannot accept responsibility for delegates' late flight arrivals. Transfer costs are non-refundable and non-transferable.

4 Payment method

Please note: all registration payments must be made prior to the event, unless other arrangements have been made with The Tax Institute.

☐ **Cheque payable to The Tax Institute** (in Australian dollars)

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For registration enquiries, please contact customeradmin@taxinstitute.com.au

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To register

Email customeradmin@taxinstitute.com.au

Mail L37, 100 Miller Street North Sydney NSW 2060

Online taxinstitute.com.au/trusts-intensive

Thank you.

The Tax Institute gratefully acknowledge the generous assistance of members of the Trust Intensive Organising Committee

Kim Reynolds, CTA, Vincents (Chair, Organising Committee)

Mark Gioskos, FTI, Victorian Bar

Greg Judd, ATI, Arnold Bloch Leibler

Scott McGill, CTA, Pitcher Partners

Matthew McKee, CTA, Brown Wright Stein

Melinda Peters, CTA, McCullough Robertson

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