

# Property Intensive

**1 November 2023**

**Online**

**6 CPD hours**



**The Tax Institute gratefully acknowledges the generous assistance of members of the Organising Committee:**

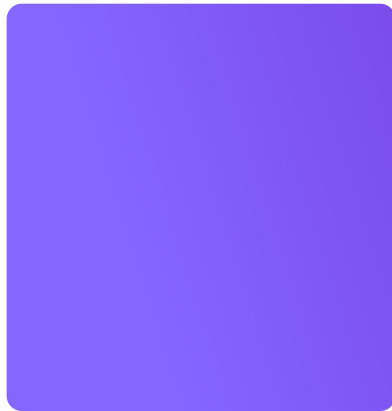
Scott McGill, CTA, Chair, Property Intensive Organising Committee

Sam Ayoubi, PwC

Jim Koutsokostas, CTA, Hall & Wilcox

Irina Tan, ATI, Pitcher Partners

Rajan Verma, CTA, Velocity Legal





# Welcome

Property and tax. These three simple words are enough to build a national program every year which is relevant to almost all practitioners. This year's Property Intensive promises to be outstanding.

With property being one of the key elements of the Australian economy and a constantly changing taxation landscape, the Organising Committee has had a tough job in narrowing down the sessions to the few that were chosen. With speakers who are at the cutting edge of policy, technical skill and practicality, we believe the sessions will be very valuable to those who attend the online program.

## Program highlights include:

- The duty and land tax update with Rachel O'Donnell, CTA, O'Donnell Tax Law.
- Cautionary tales from experts on GST adjustment events from Rebecca Lawrence, CTA, KPMG and Andrew Sommer, CTA, Clayton Utz.
- An informative breakdown on options for disposing of landholdings from Michael Bennett, CTA, 13 Wentworth Chambers

On behalf of The Tax Institute and the Organising Committee, I invite you to attend the Property Intensive; I also send a huge thanks to the Organising Committee and the speakers for their time and efforts in developing and delivering what will no doubt be a fantastic intensive program.



A handwritten signature in black ink, appearing to read 'Scott McGill'.

**Scott McGill, CTA**  
Chair, Intensive Organising Committee

**Early bird pricing offer**  
**Register on or before Friday, 6 October to save!**

# Technical program

## Day 1 Wednesday, 1 November 2023

Time	Session
9:00 – 9:15am	<b>Welcome and opening address</b> Speaker: Scott McGill, CTA, Chair, Property Intensive Organising Committee
9:15 – 10:15am	<b>Session 1: Duty and Land Tax – Recent duty developments</b> Speaker: Rachel O'Donnell, CTA, O'Donnell Tax Law It has been a busy year for state taxes, with significant developments in the areas of duties and land taxes. Amongst the many developments, the shift from transfer duty to an annual property tax has commenced in several jurisdictions, as has the windfall gains tax in Victoria. Questions about the potential validity of foreign surcharge duties and land taxes have arisen. The recent Oliver Hume case has highlighted the risk of landholder duty applying to small investors who participate in capital raises. The list goes on! In this session, Rachel will provide an update on some notable developments in duties and land taxes over the past 12 months, as well as some insights as to what is to come in the near future.
10:15 – 11:15am	<b>Session 2: GST and Adjustment events – Beware the sleeping giant</b> Speakers: Rebecca Lawrence, CTA, KPMG, Andrew Sommer, CTA, Clayton Utz This session will cover: <ul style="list-style-type: none"><li>• An overview of the key provisions for property – change of use (Div 129), Deregistration (Division 138) and going concern clawback (Div 135)</li><li>• The time and value limits in 129 &amp; interaction with 138 and 135 – The conundrums of GSTR 2009/4 – does it work? Is it correct at law?</li><li>• Limitations and ATO “issues” with projects outside 10 adjustment periods – BTR &amp; retirement villages; and</li><li>• Other areas of tension between industry, advisors and ATO.</li></ul>
11:15am – 12:00pm	<b>Delegate break</b>
12:00 – 1:00pm	<b>Session 3: Foreign surcharge and double tax</b> Speakers: Peter Scott, FTI, King & Wood Mallesons, Irina Tan, ATI Pitcher Partners Revenue NSW has announced that it accepted that the non-discrimination article in eight tax treaties overrode surcharge purchaser duty and surcharge land tax liability for individuals who are citizens of any of the eight countries and acknowledged that liability of “non-individuals, such as corporations, trusts or partnerships that arises because of an entity’s affiliation with these nations, may also be affected by the international tax treaties.” In contrast, the State Revenue Office of Victoria indicated that it was aware of this announcement but that the “position in Victoria has not changed and the SRO will continue to apply the Victorian provisions to all foreign purchasers and absentee owners. This session will consider these announcements and indicate some of the confusion arising as to why more tax treaties are not included and why such differing views have been adopted by Australia’s largest states, and outline various technical and practical considerations that are relevant to the acquisition and holding of real property by persons who may be treated as foreign for duty and land tax purposes in Australia.

# Technical program

**Day 1**      Wednesday, 1 November 2023 continued

Time	Session
1:00 – 1:30pm	<b>Delegate lunch break</b>
1:30 – 2:30pm	<p><b>Session 4: Death and taxes ... on property – Not just a soap opera</b> Speakers: Michael Parker, CTA, Hall &amp; Wilcox, James Whiley, Hall &amp; Wilcox</p> <p>Death of a relative. Wealth held in property. Quarrelling family members. This is not just rich fodder for soap operas, but a reality for many. Real estate – including a deceased’s main residence – typically forms a significant part of a deceased estate. Although encountered regularly, the taxation of a deceased’s real assets can be complicated and, if not structured and dealt with properly, can potentially lead to considerable tax leakage, disputes between beneficiaries, and personal liability for the executor.</p> <p>During this session, learn more about:</p> <ul style="list-style-type: none"><li>• Estate planning considerations when dealing with real estate, including tools to accommodate asset protection aims and beneficiaries with different competing interests – such as testamentary trusts and life interests</li><li>• Tax implications of an estate’s administration – and the responsibilities and obligations of an executor – in the context of real estate, including CGT considerations on the disposal of a deceased’s main residence; and</li><li>• Tax complexities arising from the use of certain estate planning tools for real estate, particularly life interests and testamentary trusts.</li></ul>
2.30 – 3.30pm	<p><b>Session 5: Options for disposing of landholdings</b> Speaker: Michael Bennett, CTA, 13 Wentworth Chambers</p> <p>Landholders have many options for disposing of their land, be it by simple sale, subdivision, development or some kind of joint venture (JV). Just as important as the option taken is the manner in which the land was acquired, has been held and has been used.</p> <p>The implications could be variable and result from any combination of capital gains tax (CGT), trading stock and revenue asset classifications, and whether the disposal was done as part of a business. In addition, the goods and services tax (GST) implications can be complicated at best.</p> <p>This session will look at some practical case studies that are common, but complex.</p> <p>Specific issues that will be covered in this session will be:</p> <ul style="list-style-type: none"><li>• Whether activities in preparation for sale have been done as a business, isolated transaction or mere realisation</li><li>• Whether a CGT event K4 has arisen, or some other mechanism for how a property may ‘transition’ or ‘blend’ between capital, revenue and trading stock; and</li><li>• Some of the GST issues to consider, including margin scheme and apportionment.</li></ul>

# Technical program

**Day 1**      Wednesday, 1 November 2023 *continued*

Time	Session
3:30-4:00pm	Delegate break
4:00-5:00pm	<p><b>Session 6: Foreign owned property trusts – Upheaval in thin capitalisation &amp; related issues</b> Speaker: Steve Whittington, Ashurst</p> <p>This session will discuss:</p> <ul style="list-style-type: none"><li>• Thin cap changes from 1 July 2023</li><li>• Non-MIT structures generally tax taxed at 30%, but issues with thin cap and impact on withholding tax</li><li>• Interest with tax at 10%, but cross-border debt subject to transfer pricing</li><li>• MIT's generally taxed at 15%, but can be difficult to qualify depending on the status of the foreign investor (and captive MIT issues) , and issues with thin cap and impact on tax rate</li><li>• Related party debt – withholding tax, transfer pricing, thin capitalisation; and</li><li>• Is there a better way?</li></ul>



# Presenters

**Michael Bennett, CTA**, is barrister practicing from 13 Wentworth Chambers in Sydney. He practices in the following areas, tax planning (including Superannuation, Estate Planning and Structuring), Federal and State Tax litigation, General Equity & Commercial litigation, Bankruptcy, and Insolvency litigation. Before coming to the Bar, Michael was a solicitor in two boutique SME tax and commercial practices. He was a Judges Associate before that. Michael has lectured in tax law and is a Chartered Tax Advisor.

**Rebecca Lawrence, CTA**, is a Director at KPMG, specialising in providing GST advice for property investors, managers and developers. Rebecca has more than twenty years of indirect tax experience having worked for leading professional services firms in the UK and Australia. Rebecca also spent almost two years leading the in-house indirect tax team at an ASX 100 listed entity. Rebecca is a Chartered Tax Adviser with The Tax Institute and the UK's Chartered Institute of Taxation, and a member of the PCA capital markets sub-committee for indirect tax.

**Rachel O'Donnell, CTA**, of O'Donnell Tax Law, specialises in GST, and duties,

land tax and payroll tax across all Australian states and territories. Rachel has significant experience advising large listed and unlisted corporates, high net worth individuals and small to medium enterprises. With more than 15 years of experience advising on tax law, she has a broad range and depth of experiences and is very familiar with the operation and technicalities of the GST and various state and territory tax regimes, which are constantly evolving. Rachel's clients have included major international and national companies / trusts / groups in the property development, property funds management, infrastructure, superannuation, and retirement living / aged care industries, as well as high net wealth family groups.

**Michael Parker, CTA**, is a Partner in the Taxation section of Hall & Wilcox Lawyers. His practice focuses on tax disputes, domestic income tax issues, including CGT and Div 7A, business sales, acquisitions and restructures and GST. Michael has extensive experience handling a broad range of taxpayer disputes, including disputes concerning the small business CGT concessions, having acted for the taxpayers in *White v FCT* [2009] FCA 880, *White v FCT* [2012] FCA 109 and *Alnot v FCT*

[2013] AATA 140, among other cases. Michael regularly consults to the Board of Taxation and Treasury, including in respect of Div 7A, small business impediments and the small business CGT concessions. He is a regular presenter for The Tax Institute.

**Peter Scott, FTI**, is a Senior Associate in the King & Wood Mallesons taxation group. He provides strategic and technical tax advice to Australian and international clients, including listed companies, fund managers, super funds and private groups. Peter's practice covers income tax and GST with a particular focus on corporate and international tax, deals, funds/trusts and tax controversy matters.

**Andrew Sommer, CTA**, is an expert in indirect taxation, with a particular specialty in complex GST issues. He is called upon to advise on all aspects of the GST for any major projects or transaction. He advises clients on financial structuring (including securitisation), property dealings and commercial transactions. Andrew has extensive experience in conducting and managing disputes with revenue authorities. Although Andrew's practice is primarily focused on GST, he has also worked in a range of other

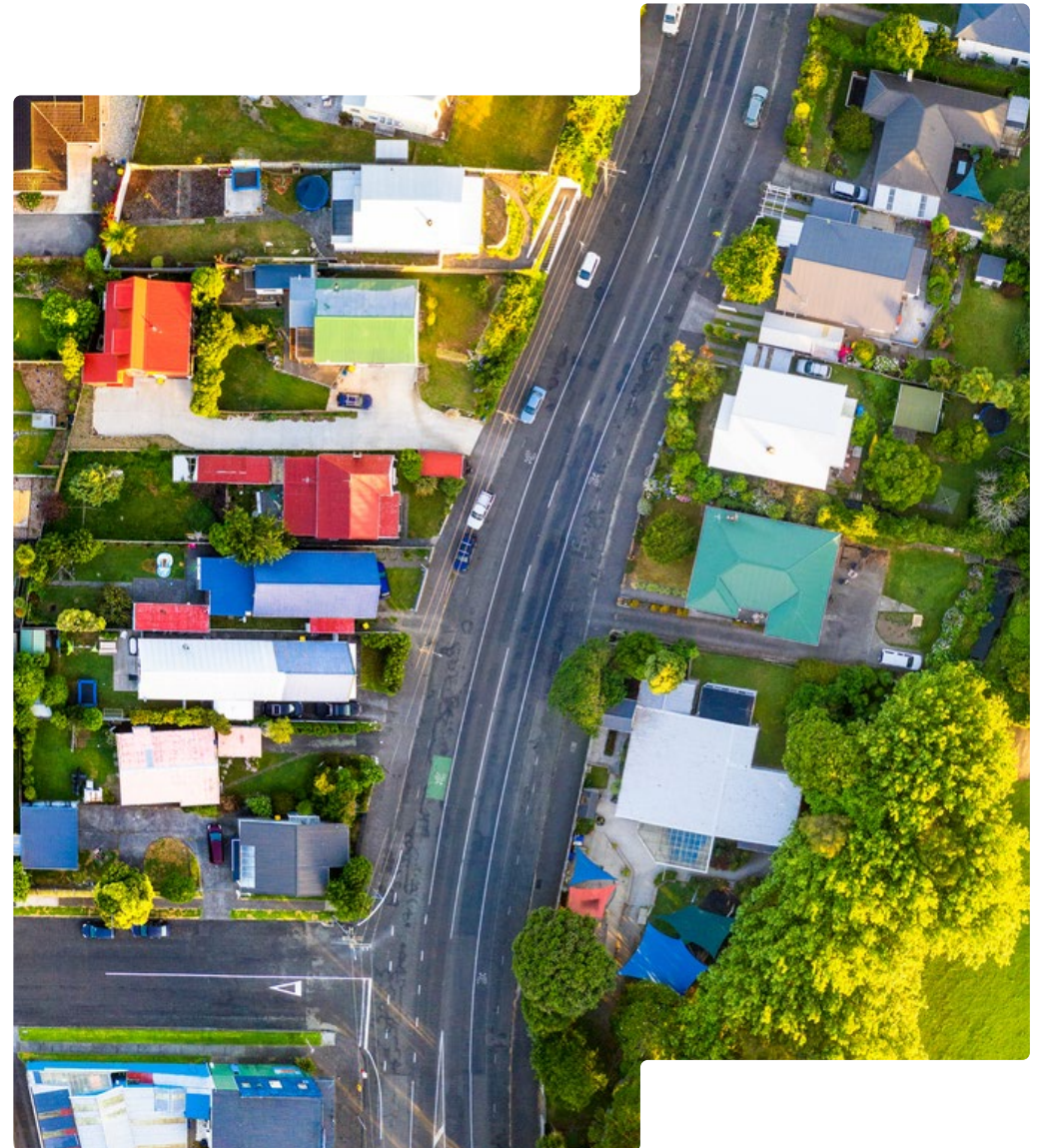
taxation areas including income tax, payroll tax, fringe benefits tax and R&D tax incentives. Before joining Clayton Utz, Andrew worked at a major accounting firm. Andrew has taught post graduate courses in taxation for both the University of New South Wales and Sydney University. Andrew is a member of the Academic Board of the Tax Institute's education program and a member of the ATO's Public Advice and Guidance Panel.

**Irina Tan, ATI**, is an Executive Director in the Tax Advisory Group of Pitcher Partners Melbourne. Irina specialises in state taxes (predominantly duty and land tax) and assists clients in various sectors, including property development and funds management. She advises on a range of state tax aspects across Australia, including business and asset acquisitions, restructures, landholder duty and trust acquisition duty, foreign duty and land tax surcharges, and various exemptions and concessions. As an Australian Lawyer, she also acts in tax dispute matters. Irina has been involved with the development of state taxes in current and previous roles, including at the State Revenue Office and as a member of the Tax Institute's Victorian State Taxes Committee.

# Presenters

**James Whiley** is a Partner in the Private Clients team at Hall & Wilcox. He specialises in estate and succession planning for high and ultra-high net worth clients in Australia and internationally (UK, Europe, USA and Asia). He is experienced in estate and trust disputes including cross-border succession issues and conflicts, tax planning and related advice to trust structures for Australian and UK non-residents, and probate and estate administration. James enjoys guiding his clients through the difficult process of ensuring that their estate and succession planning affairs are dealt with comprehensively and compassionately to achieve their intentions in relation to their private wealth and/or business.

**Steve Whittington** is a partner in the direct tax practice at Ashurst. Steve advises on a wide range of tax matters, with a focus on funds, real estate acquisitions, mergers and acquisitions, and financial arrangements. His expertise in advising on the establishment of funds extends to commercial office, build to rent, hotels, logistics, retail, and infrastructure. Steve has participated heavily in the consultation process relating to thin capitalisation, including as a representative of the Property Council's Capital Markets Committee.





# Event information

## Confirmation of registration

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

## Continuing Professional Development (CPD)

Attendance at the conference counts for 6 hours of CPD with The Tax Institute.

## The Tax Institute's attendee hub

As an online event, 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. Should a face-to-face event be cancelled due to an event beyond The Tax Institute's reasonable control including 'an act of god', 'pandemic', 'health-related event' or 'government requirements', we will endeavour to transition to an online format to deliver the event. If there is a difference in price, a credit will be provided to delegates to be used at a future event.

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.

The Tax Institute cannot accept responsibility for delegates' late transport arrivals or non-arrivals due to delays.

## Privacy

We take your privacy seriously, and our policy can be viewed at: <https://www.taxinstitute.com.au/about-us/privacy-copyright-disclaimer>.

## Enquiries

For further information regarding this event, please contact the Events Team on 1300 829 338 or [nationalevents@taxinstitute.com.au](mailto:nationalevents@taxinstitute.com.au).

For registration enquiries, please contact [customeradmin@taxinstitute.com.au](mailto:customeradmin@taxinstitute.com.au).

# Registration

## Registration inclusions

Online access to presentations  
and technical papers

### Full registration

This registration option entitles one delegate to attend the entire event.



\*Additional tickets to the Networking function can be purchased on the registration form.

## Discounts

### Early bird registration

All registrations received and paid on or before Friday, 6 October 2023 will be entitled to an early bird discount.

### Group discount

Purchase three full registrations (early bird or standard) and receive a fourth full registration for free. The free fourth registration must be of equal or of less value to the four 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](mailto:nationalevents@taxinstitute.com.au).

Register now!



Register online ▶

Register via form ▶  
included in this brochure



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

Please see page 10 for registration inclusions.

### Full registration – 6 CPD hours

	Member	New member*	Non-member
<b>Early bird registration</b> Register on or before 6 October 2023	<input type="checkbox"/> \$850	<input type="checkbox"/> \$1,220	<input type="checkbox"/> \$1,150
<b>Standard registration</b> Register after 6 October 2023	<input type="checkbox"/> \$1,050	<input type="checkbox"/> \$1,420	<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!

Not a member of The Tax Institute yet? Sign up for membership along with your event registration to:

- save \$215 off Affiliate membership to 30 June 2024
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Find out more about membership at [taxinstitute.com.au/membership](http://taxinstitute.com.au/membership)

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:

JOIN TODAY

## 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:

First name:

Last name:

Position:

Company:

Address:

Suburb:       State:       Postcode:

Telephone:       Mobile:

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)  
 **Credit card** Card type:  AMEX  Visa  MasterCard  Diners

Name on card:

Card no.:  Expiry date:

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For our refund, cancellation and replacement policy visit [taxinstitute.com.au/professional-development/event-policy](https://taxinstitute.com.au/professional-development/event-policy).

For event enquiries, please contact the National Events Team on **1300 829 338** or [nationalevents@taxinstitute.com.au](mailto:nationalevents@taxinstitute.com.au)

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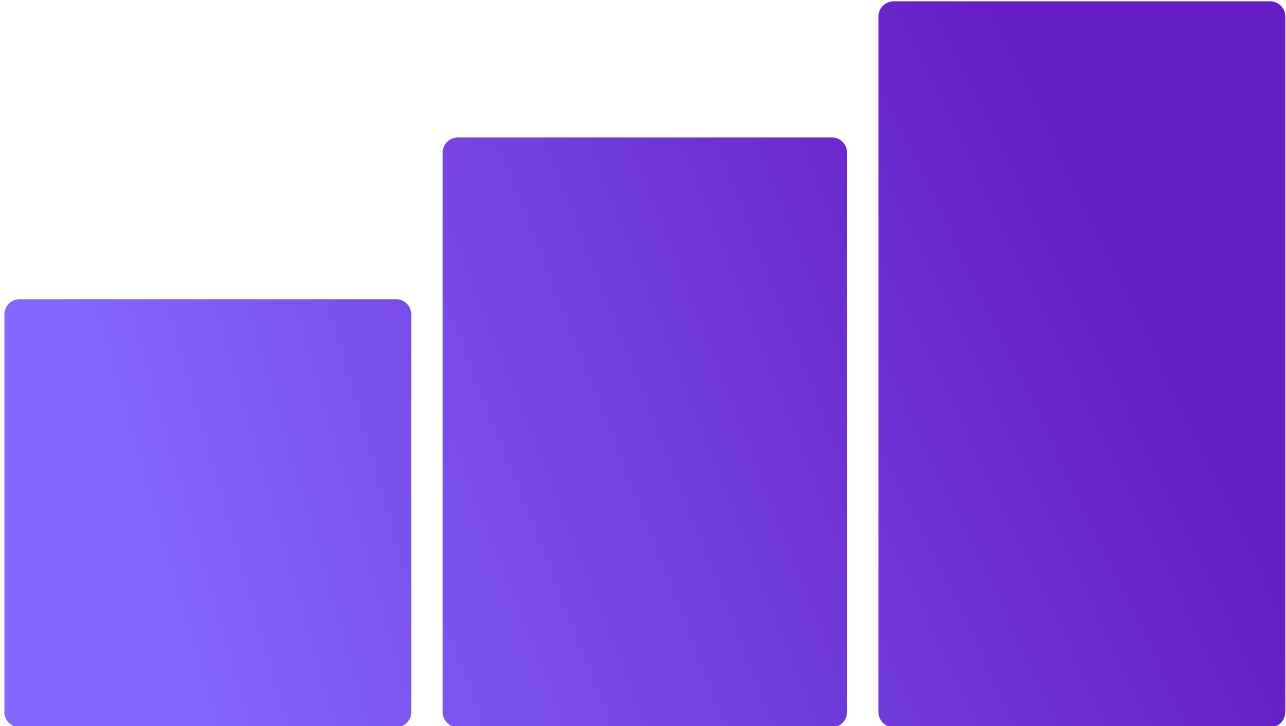
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**To register**





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