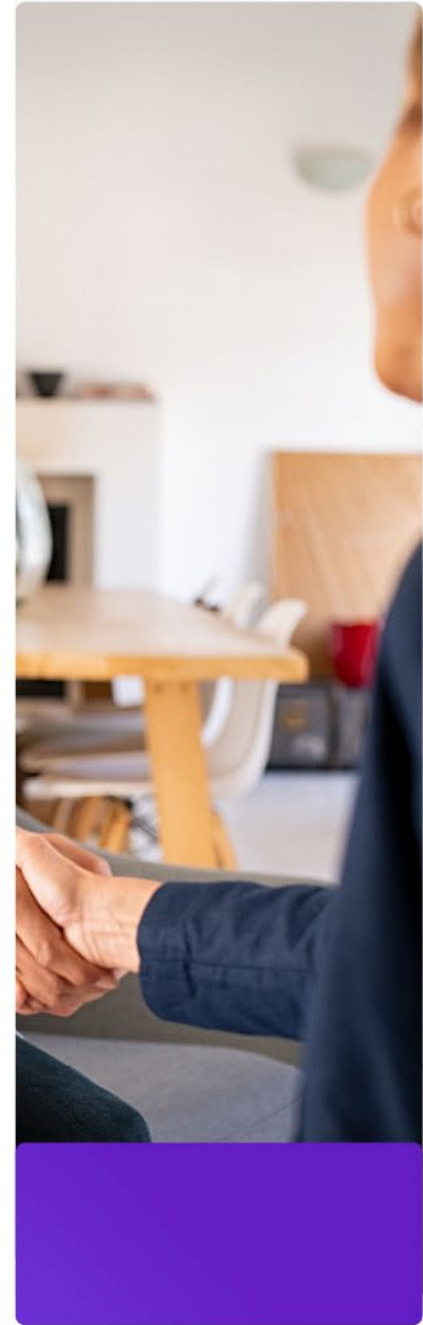


Trusts Intensive

6–7 June 2024

Online

8 CPD hours



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

Greg Judd, ATI, Chair, Organising Committee

Edward Hennebry, FTI, Sladen Legal

Mark Gioskos, FTI, Victorian Bar

Scott McGill, CTA, Pitcher Partners

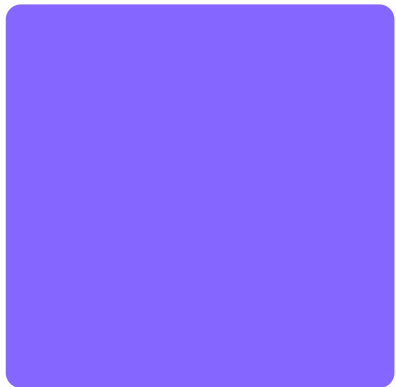
Matthew McKee, FTI, Brown Wright Stein

Melinda Peters, CTA, McCullough Robertson

Laura Spencer, ATI, KHQ Lawyers

Proudly supported by:

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Welcome

This year's Organising Committee are excited to bring you the 2024 Trusts Intensive.

Running over two days from 6-7 June 2024, this online intensive will feature expert presenters who will help you navigate practical issues when dealing with trusts in 2024, including:

- Trust distributions and the flow of income through trusts
- Division 7A and trusts
- Trusts and integrity
- Section 99B
- Trust variations
- Restructures and rollovers involving trusts
- The current state of play and a refresher for state taxes
- Investment trusts from the perspective of investors

A special thank you to our speakers and committee for their commitment and effort in putting together this fantastic program.

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



Greg Judd, CTA
Chair, Event Organising Committee

Early bird pricing offer
Register on or before Friday, 5 May 2024 to save!

Technical program

Day 1 Thursday, 6 June 2024

Time AEST	Session
10:25-10:30am	Welcome and opening address
10:30-11:30am	<p>Session 1: Distributions and flow Speaker: Warren Smith, CTA, Brentnalls NSW</p> <p>There are various issues that can arise for trustees and tax advisors in the ongoing administration of a trust. As well as the proper treatment of trust income and capital, complications may arise from succession issues, and corporate/family group planning considerations. Various integrity measures and current ATO administrative practices may add further complexity. This session will explore some of these issues and how to deal with them, for attendees who are involved in or advise on the administration of trusts.</p>
11:30am-12:30pm	<p>Session 2: Division 7A - How well do you think you know the provisions? Speaker: Alexis Kokkinos, ATI, Pitcher Partners</p> <p>It has been more than 26 years since Division 7A was introduced into the Income Tax Assessment Act 1936. One would think that basic principles about loans, distributions and payments by companies would be well established by now. However, recently the ATO have been forced to reconsider some of these basic principles and how Division 7A applies. This includes the release of TD 2022/11 concerning the ATO's view of unpaid entitlements and the recent AAT decision in Bendel which challenges that interpretation.</p> <p>We have also seen the ATO recently take different approaches on its application of Division 7A to partners in partnerships, and on how section 109R (the loan repayment provision) applies where there are interposed entities. This session will explore some of these key developments and discuss Division 7A risk management issues in light of these many current uncertainties.</p>
12:30-1:00pm	Delegate break

Technical program

Day 1 Thursday, 6 June 2024 continued

Time AEST	Session
1:00 – 2:00pm	<p>Session 3: Trusts and tax integrity provisions Speaker: Mark West, CTA, West Garbutt</p> <p>The use of trusts in Australia is becoming increasingly complex from a revenue law perspective – even the most fundamental act of distributing income from trusts raising complex revenue law considerations.</p> <p>This session will look at the myriad of integrity measures applicable to trusts, by reference to recent case law – in particular:</p> <ul style="list-style-type: none">• The application of Part IVA to trust distributions (as was considered in <i>Minerva Financial Group Pty Ltd v Commissioner of Taxation</i> [2022] FCA 1092 and the subsequent full Federal Court decision <i>Minerva Financial Group Pty Ltd v Commissioner of Taxation</i> [2024] FCFC 28) and how the principles considered by these cases might apply more broadly to small businesses or investments held via a family trust; and• Consideration of the application of the dividend stripping provisions, by reference to the recent decisions in <i>BBlood (B&F Investments Pty Ltd as trustee for the Illuka Park Trust v Federal Commissioner of Taxation</i> [2023] FCAFC 89) and <i>Michael Hayes (Michael John Hayes Trading Pty Ltd as trustee for the MJH Trading Trust v Commissioner of Taxation</i> [2023] AATA 3005). <p>The session will also consider the current state of play in relation to the application of 100A.</p>
2:00 – 3:00pm	<p>Session 4: Down the s99B rabbit hole Speakers: Kaitilin Lowdon, Sladen Legal, Neil Brydges, Sladen Legal</p> <p>Much like Lewis Carroll’s whimsical tale <i>Alice in Wonderland</i>, s99B is fraught with intricate rules, curious exceptions, unexpected twists and turns, and puzzling interactions with other provisions. Through a series of case studies, this session will consider:</p> <ul style="list-style-type: none">• When s99B applies, including:<ul style="list-style-type: none">– Which non-resident entities (including foreign superannuation funds) s99B applies to; and– When Australian entities need to give careful attention to s99B• The reductions to s99B(1) and the interaction between s99B, the CGT provisions and Division 855• When an asset is applied for the benefit of a beneficiary for the purposes of s99C; and• The ATO’s guidance on s99B. <p>So, put on your (mad) tax-hat and join us down the rabbit hole as we embark on a tax adventure where s99B becomes less of a mystery and more of a comprehensible path through the intricacies of s99B, when it applies, when it doesn’t apply, and the grey in-between.</p>

Technical program

Day 2 Friday, 7 June 2024

Time AEST	Session
10:30–11:30am	<p>Session 5: Trust variations Speaker: Dr Philip Bender, ATI, Victorian Bar</p> <p>Much has been said about resettlement, but what about trust variation more broadly?</p> <p>This session will consider how a trust deed may be varied while staying true to the substratum of the trust (with resettlement still a relevant consideration) and examine jurisprudence from different states when court ordered variations were sought.</p>
11:30am–12:30pm	<p>Session 6: Restructures and rollovers Speaker: Sally Preston, CTA, Smart Solutions Tax & Business Advisory</p> <p>In this presentation, Sally will explore key considerations for restructuring businesses that operate through trusts. This presentation will include practical case studies and include consideration of:</p> <ul style="list-style-type: none">• Overview of common trust structures and why they are chosen• Problems with these structures, and why you may wish to restructure• Explanation of CGT Roll-Overs available on restructures• Division 615 complexities; and• Common traps to avoid.
12:30–1:00pm	Delegate break
1:00–2:00pm	<p>Session 7: State Taxes (duties) and Trusts – State of play Speaker: Rachel O'Donnell, CTA, O'Donnell Tax Law</p> <p>Dealings with trusts can be fraught with danger when it comes to transfer and landholder duties. Amongst other things, we need to consider declaration of trust duty, potential changes of beneficial ownership, and the various landholder duty regimes, which vary between jurisdictions and are regularly the subject to legislative amendments and tweaks. That's before we even delve into the complexities of the 'trust acquisition duty' regime which (unlike landholder duty) has no thresholds!</p> <p>This session will consider some recent amendments and case law, as well as some of the aspects of duties that catch advisors out when they're working with trusts, including:</p> <ul style="list-style-type: none">• Refresher on land holding trusts and other duty issues for trusts across the states and territories• Varying interests in a landholding trust (with reference to the recent 'GLDT' case in the ACT)• What are many practitioners unaware of that they really need to know, and what are they getting wrong in relation to duties issues for trusts? and• Declarations of trusts and dissolutions of partnerships of trusts – drawing from <i>Rojoda, Benidorm</i>, and (more recently) <i>Leemhuis Investments Mitchell Pty Ltd v Cmmr for ACT Revenue</i>.

Technical program

Day 2 Friday, 7 June 2024 continued

Time AEST

Session

2:00 – 3:00pm

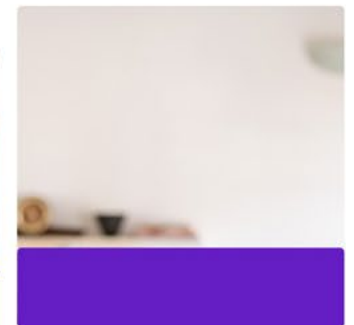
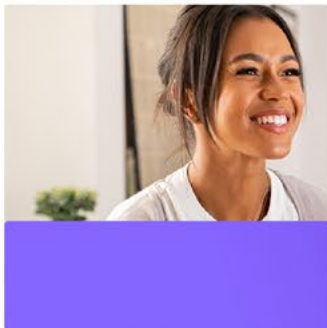
Session 8: Investment Trusts for investors

Speaker: Andrew Sharp, Alvarez & Marsal

Understanding the nature of investment trusts is just as important for investors as it is for the trustees that manage them.

This session looks at investment trusts, including MITs and AMITs, from the eyes of the investor, exploring:

- Differences between unit trusts, MITs and AMIT
 - Implications for different investor holding structures, e.g., “widely held”
 - “Fixed entitlement”, “clearly defined rights” and “safe harbour”
 - What they can do and invest in. Control of businesses, “negative control” and when a trust can be taxed like a company
 - Licensing
 - Distributions of income and capital from the different vehicles. “Present entitlement” and “attribution”
 - Implications of exit by disposal to a third party or redemption, and issues for the “last person standing”; and
 - Approaches to drafting the trust deed, including for periods when the trust is (or is not) an MIT/AMIT.
-



Presenters

Dr Philip Bender, ATI, is a barrister at the Victorian Bar. He is the author of *Bender's Australian Stamp Duties*, published by the Tax Institute. He acts in Federal and State taxation, superannuation, and trusts and estates matters for taxpayers and revenue authorities. In the trusts area, he has acted in many taxation disputes involving trusts issues, and has acted in many trusts matters involving, amongst other topics, trust deed and will interpretation, alleged breaches of trust; trustee removal applications; judicial advice; charitable trusts; and superannuation death benefits disputes.

Neil Brydges, CTA, is a Principal Lawyer in Sladen Legal's Tax group. Neil practises in all areas of direct and indirect tax, with a particular focus on the taxation of trusts, property, corporate tax, M&A and Div 7A. Neil has also advised extensively on cross-border taxation issues. Neil is an Accredited Specialist in Taxation Law and a member of the Tax & Revenue Law Committee with the Law Institute of Victoria, a member of the Tax Committee of the Law Council of Australia, and a Chartered Tax Adviser and member of Dispute Resolution Technical Committee with The Tax Institute.

Alexis Kokkinos, ATI, has over 28 years' experience providing taxation advice to a large number of corporate and private clients. He leads the Pitcher Partners' national association's Tax Technical division and is heavily involved in consultation with the Australian Taxation Office and the Federal Treasury. Alexis specialises in finance, investment and trust provisions relating to MITs, corporate taxation issues particularly relating to large corporate entities, tax consolidation, and Division 7A. He is the Chair of CPA Australia's Taxation Centre of Excellence, and a member of the Tax office's National Tax Liaison Group (NTLG). Alexis is a prior member of the Board of Taxation Advisory Panel and was involved in the review and advice provided to Government on the new Managed Investment Trust Regime, the Collective Investment Vehicle Regime, the review of the Trust Provisions, the Tax Consolidation Regime review (including the Rights to Future Income interim review) and the review of Division 7A. Alexis is a Fellow member of both the CPA and the CAANZ.

Kaitilin Lowdon, ATI, is Special Counsel at Sladen Legal. Kaitilin has acted on a variety of high-profile and complex

tax audits and disputes with the ATO, advising clients on all stages of the dispute process, including negotiation outcomes with the ATO. Kaitilin advises a range of clients, including high net wealth individuals, some of Australia's largest family groups and public companies.

Sally Preston, CTA, is a partner of Smart Solutions Tax and Business Advisory. Sally has an extensive compliance and advisory background, specialising in tax consulting and transaction advisory. With a diverse career background, Sally has worked across various industries and offers a wide range of services to both small and large organisations. These services have included tax advisory, compliance, complex group structures including structuring for listed inbound and privately owned businesses, and assistance with ATO and Revenue office audits.

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 20 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.

Andrew Sharp is a Managing Director with Alvarez & Marsal Tax in Sydney and leads the firm's Private Equity Tax team in Australia. He specializes in providing transaction tax advice on the deployment of capital and advising fund managers with the tax structure of their funds under management. With nearly 20 years of experience, Mr. Sharp has advised private capital fund managers spanning private equity, venture capital, credit and family offices on their investment activity. He provides end-to-end tax advisory services, assisting managers with the tax structure of their funds management business, the design of the funds under management, due diligence and tax structuring on the investments being made by the fund, as well as tax advice on the realization of investments.

Presenters

Warren Smith, CTA, has been advising business owners and accountants on a broad range of commercial and taxation issues over his 18 years in practice. Warren is the lead tax partner at Brentnalls NSW, and looks after a number of high wealth families and their business interests. He has extensive experience in business structures, trusts, deceased estates, ATO engagement including private rulings, objections and audits, property transactions including development and joint venture agreements, and retirement village and aged care taxation including GST. Warren holds a Master of Taxation, is a Chartered Accountant and Chartered Tax Adviser.

Mark West, CTA, of West Garbutt, is a qualified as a lawyer, Chartered Accountant and Chartered Tax Adviser. He 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

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 intensive counts for 8 CPD hours 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. 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 the registration to the new date or transition their registration to another event, provide a full refund or hold the amount as credit to be used in the future. If a registered delegate is unable to attend as a result of a diagnosis of COVID-19 or they are experiencing symptoms of COVID-19, a full refund will be offered with the provision that a medical certificate is produced explaining the diagnosis or a summary of the appropriate action to be taken i.e. a COVID-19 test and medical advice.

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.

For registration enquiries, please contact 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.



Discounts

Early bird registration

All registrations received and paid on or before Friday, 5 May 2024 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.

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 11 for registration inclusions.

Full registration – 8 CPD hours

	Member	New member*	Non-member
Early bird registration Received on or before Friday, 5 May 2024	<input type="checkbox"/> \$1,050	<input type="checkbox"/> \$1,440	<input type="checkbox"/> \$1,350
Standard registration Received after Friday, 5 May 2024	<input type="checkbox"/> \$1,250	<input type="checkbox"/> \$1,640	<input type="checkbox"/> \$1,550

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 and save with:

- up to **50% off membership** for the first 12 months
- member-only prices to this and future events
- free access to member-only technical resources.

Find out more about membership at 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:

Cardholder's
signature:

For our refund, cancellation and replacement policy visit 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

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

Join the conversation

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