

# 2021 Trusts Intensive

8 CPD hours | Online

*Focusing on topical and pertinent issues, the Trust Intensive Series covers everything you need to know relating to trusts and their effective use.*

## Outline

Trusts are commonly used entity structures in Australia, providing trustees with flexibility when dealing with the distribution of profits. However, the administration of trusts under trust law and for income tax purposes is complex and requires trustees and their advisers to be alert to the various issues that can arise during the life of a trust so that appropriate planning can be undertaken, and issues can be managed.

This series will focus on topics relevant for understanding and managing a trust during its lifecycle and highlighting some recent “hot topics” including, dealing with trust distributions, residency, and state taxes.

## Presenters

Chris Ardagna, CTA	Pitcher Partners
Antony Barrier, FTI	Munro Doig
Dr Philip Bender, ATI	Victorian Bar
Michael Butler, CTA	Finlaysons
Rosalie Cattermole, CTA	Arnold Bloch Leibler
Louise Clarke	Australian Taxation Office
Dudley Elliott, CTA	Trove Advisory Group
Scott McGill, CTA	Pitcher Partners
Melinda Peters, CTA	McCullough Robertson
Daniel Smedley, CTA	Sladen Legal
Rachel Vijayaraj, CTA	Brown Wright Stein Lawyers

## Choose a format that suits you best.

Attend the live webinars to interact with our expert presenters or replay the webinars (post-event) at a time that suits you.


### Event Details

Wednesday, 8 September 2021  
10.00am–2.00pm (AEST)

Wednesday, 15 September 2021  
10.00am–2.00pm (AEST)

Location  
Online

### CPD proficiency level:

Proficient/  
advanced 

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# Technical program

## Day 1 – Wednesday, 8 September – Life Cycle of a Trust

Time	Topic	Presenter
10.00–10.05am	Welcome and Opening Address	<b>Kim Reynolds, CTA</b> Chair, Organising Committee
10.05–10.55am	<b>Session 1: Trust law 101 - different types of trust, and what does it mean for your client?</b>  Your client is considering using a trust structure, so what type of trust might best suit their circumstances? Alternatively, your client describes an arrangement they have entered into – there is no trust deed, but you wonder, is it a form of trust? This session will examine and compare various types of trusts, roles within the trust and highlight some of the tips & traps of using trusts to be aware of in practice. Some of the structures to be examined include: <ul style="list-style-type: none"><li>– Unit trust v discretionary trust</li><li>– Fixed v non-fixed trust</li><li>– Sub-trusts</li><li>– Bare trusts</li><li>– Resulting trusts</li></ul>	<b>Rachel Vijayaraj, CTA</b> Brown Wright Stein Lawyers
10.55–11.00am	Break for delegates	
11.00–11.50am	<b>Session 2: I've set up a trust – now what? Day to day considerations</b>  No business structure should be treated as “set and forget”, but this is particularly the case for structures involving trusts, which require regular attention to ensure the activities of the trust are consistent with its objectives and that the trustee(s) satisfy their legal obligations throughout the life of the trust.  This session will focus on questions such as: <ul style="list-style-type: none"><li>– When should we change the trustee having regards to asset protection, land tax and other issues?</li><li>– How should a trust be operated, and what are the key terms?</li><li>– What record keeping and reporting responsibilities does the trustee have?</li><li>– Does the trust need a bank account?</li><li>– What are the trustee's responsibilities? How extensive are “fiduciary duties” and when does the prohibition on fettering discretions apply?</li><li>– Do beneficiaries automatically have a right to trust records, and what notifications should be provided each year?</li><li>– Casual trust arrangements – does a trust need a deed? What happens if there isn't one?</li><li>– Trust checklist: addressing distributions to corporate beneficiaries, TFN reporting and family trust elections, unit trusts and CGT event E4</li></ul>	<b>Antony Barrier, FTI</b> Munro Doig  <b>Dudley Elliott, CTA</b> Trove Advisory Group

<b>11:50am–12.10pm</b>	<b>Virtual networking session</b>  Take a break or join our session to network with your colleagues from around Australia.  Indicate your preference when registering for the event.	
<b>12.10–1.00pm</b>	<b>Session 3: Transitioning for changes in control. It's simple, isn't it?</b>  Trusts have a limited lifespan, but much can happen throughout that life - meaning that changes to the terms of the trust are required. However, often such changes may give rise to hidden tax costs if not properly considered.  This session will provide a summary of the legal issues and the practical implications to consider when readying a trust for future changes, including: <ul style="list-style-type: none"> <li>– Amending the trust deed for changing circumstances</li> <li>– Responsibilities of the appointor and trustee</li> <li>– Has the trust been resettled?</li> <li>– The trust deed is missing – now what?</li> </ul>	<b>Melinda Peters, CTA</b>  McCullough Robertson
<b>1.00–1.10pm</b>	<b>Break for delegates</b>	
<b>1.10–2.00pm</b>	<b>Session 4: Winding up a trust structure – what happens next?</b>  Generally, trusts will have a limited life, dictated by the deed or trust law, this session will explore: <ul style="list-style-type: none"> <li>– The process of vesting a trust</li> <li>– What happens to the assets of the trust</li> <li>– Recent case law including McGowan &amp; Valentini</li> <li>– What happens if the vesting date has passed?</li> <li>– Jurisdiction of the Trust</li> </ul>	<b>Dr. Philip Bender, ATI</b>  Victorian Bar

# Technical program continued

## Day 2 – Wednesday, 15 September – Hot topics/Practical session

Time	Topic	Presenter
<b>10.00–10.50am</b>	<b>Session 5: Trust distributions</b>  The multitude of issues that arise when considering trust distributions due to the many and varied trust deeds, nature and source of income derived and the mix of intended beneficiaries continue to pose challenges for taxpayers and their advisors. Trust documentation (such as trust deeds and trustee distribution minutes) are likely to continue to attract scrutiny from the ATO whether that arises on a complex Next 5,000 Review or a targeted review of a particular asset realisation event.  In this session we will consider some of the key issues facing practitioners including: <ul style="list-style-type: none"> <li>– Determining the distributable income of a trust and the role of the trust deed.</li> <li>– Reclassification of income and implications of reassessments.</li> <li>– Streaming of income and capital gains.</li> <li>– Ever-present s100A 100A reimbursement agreement issues.</li> </ul>	<b>Daniel Smedley, CTA</b>  Sladen Legal
<b>10.50–10.55am</b>	<b>Break for delegates</b>	

Time	Topic	Presenter
10.55–11.45am	<b>Session 6: Trusts and beneficiaries – residency matters</b> <p>The residency of entities and individuals has become increasingly important as the world has become a smaller place, making it easier for businesses and individuals to relocate anywhere in the world. This ease of movement (COVID restrictions aside) means that determining the residency of trusts, and individuals involved in trusts including appointors, trustees and beneficiaries is critical. This session will examine:</p> <ul style="list-style-type: none"> <li>– How to determine the residency of a Trust</li> <li>– Proposed changes to rules for determining residency of a Trust</li> <li>– the tax implications of distributing income/capital to non-resident beneficiaries</li> <li>– the tax issues to be considered when a resident beneficiaries receive distributions from non-resident Trusts (s99B)</li> </ul>	<b>Chris Ardagna, CTA</b> Pitcher Partners
11.45am–12.05pm	<b>Virtual networking session</b> <p>Take a break or join our session to network with your colleagues from around Australia.</p> <p>Indicate your preference when registering for the event.</p>	
12.05–12.55pm	<b>Session 7: Tips and traps: Duty exemptions and concessions for trusts</b> <p>There are duty concessions and exemptions for transactions involving trusts in each state and territory. The rules are similar across Australia but not uniform.</p> <p>In this session, we'll consider common place transactions such as:</p> <ul style="list-style-type: none"> <li>– Declaration of trust</li> <li>– Change of trustee</li> <li>– Transfer of trust assets to a beneficiary</li> <li>– Concessions and exemptions for superannuation funds</li> <li>– Transfer of shares in trustee company</li> </ul> <p>Is there an obligation to lodge? If required to self-assess, can we still lodge and have the document stamped?</p> <p>Is nominal duty payable or is the transaction exempt from duty?</p> <p>We'll provide answers to these questions and more as we take a deep dive into duty and trusts!</p>	<b>Rosalie Cattermole, CTA</b> Arnold Bloch Leibler
12.55–1.00pm	<b>Break for delegates</b>	
1.00–2.00pm	<b>Session 8: Panel discussion</b> <p>Now that we have heard about the many issues and complexities surrounding the use of trusts, the panel will discuss how these issues and complexities can be best managed, how to deal with ATO queries regarding the use of trusts in client structures</p>	<b>Michael Butler, CTA</b> Finlaysons Lawyers <b>Louise Clarke</b> Australian Taxation Office <b>Facilitator</b> <b>Scott McGill, CTA</b> Pitcher Partners

# Presenter profiles

## *Led by tax practitioners for tax professionals*

**Chris Ardagna, CTA** is a Partner at Pitcher Partners in Sydney specialising in all areas of taxation. He acts primarily for high-wealth individuals and large private groups, and has a particular focus on the property industry, advising clients on all aspects of property transactions, both in Australia and internationally. Chris also has expertise in dealing with the revenue authorities in terms of ruling applications, the conduct of audits, objections, litigation and settlement negotiations. Chris was previously a Partner at Brown Wright Stein Lawyers and a Director of Schurgott Noolan Ardagna.

**Antony Barrier, FTI** has been practising in tax, estate planning, superannuation and commercial law for over 10 years and provides advice in most areas of Australian Federal and State taxation, with a particular interest in international tax. In addition to his work at Munro Doig, Antony has spent time in the Taxation group of a large Australian law firm and a boutique firm in London specialising in international tax planning. Antony has a Master's degree in Law and is a fellow of the Tax Institute.

**Dr Philip Bender, ATI** is a barrister at the Victorian Bar and member of Chartered Accountants ANZ. 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.

**Michael Butler, CTA** is the Partner in charge of the Finlaysons Tax & Revenue Group. Michael advises domestic and foreign clients on federal, international and state tax matters, and has a special interest in corporate restructurings, cross-border investment, property, wine and mining taxation, trusts, and estate and succession planning. Michael is a past chair of The Tax Institute's South

Australia State Council and a regular contributor to Institute events.

**Rosalie Cattermole CTA** is a Special Counsel at Arnold Bloch Leibler specialising in stamp duty Australia wide. Prior to recently moving back to Victoria, Rosalie was the founding Chair of TTI Queensland's State Taxes Committee and a Queensland State Councillor for TTI. Rosalie has a strong background in both indirect and direct taxes with over 17 years of experience acting for a broad range of clients including private groups and high net worth individuals. She has significant experience across the property and mining sectors. Rosalie holds a Master of Taxation from Monash University and is a regular presenter for TTI.

**Louise Clarke** became the ATO's Deputy Commissioner for Policy, Analysis and Legislation in May 2018. Before that she was acting Deputy Chief Tax Counsel in the Tax Counsel Network with a leadership role for ATO public guidance and advice. Since joining the ATO in 1995 Louise has had senior roles in both Public Groups & International and Tax Counsel Network where she has had extensive experience leading work on law design, strategic litigation, advice and audits.

**Dudley Elliott, CTA** is a Director with Trove Advisory Group. He has over 30 years' experience in advising businesses on taxation issues, structuring, financing and exit strategies. Dudley commenced his career in the early 1980's in banking, before moving into public accounting in 1988 firstly with BDO and then later with Deloitte where he became a partner in 1999. In 2007, Dudley left Deloitte to establish his own practice advising clients and other practices. This has evolved into Trove Advisory Group which operates from Subiaco. Dudley is a recognised taxation specialist, he holds a Masters of Taxation and is a Chartered Accountant. He is a Chartered Tax Advisor and a Senior Fellow of FINSIA.

**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

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.

**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 Doyles Guide as a recommended tax lawyer since 2016. Daniel is a regular presenter at state and national industry conventions, conferences and workshops.

**Melinda Peters, CTA** is a specialist tax and duty lawyer, focusing on corporate and resources taxation at McCullough Robertson. Melinda currently acts for multinational corporations with Australian resource interests, a number of ASX-listed companies, widely held investment

funds and a number of Australian start-ups. In addition to providing transaction structuring advice and tax opinions, Melinda advises on employee incentive arrangements for both listed and private groups. She also regularly acts for clients in taxation objections and disputes with the ATO.

**Rachel Vijayaraj CTA** is a senior associate at Brown Wright Stein Lawyers with a broad practice advising individuals and SME owners on commercial, tax, trust, estate planning and deceased estate matters. Rachel values forming meaningful relationships with clients and providing advice in collaboration with their accountants on their personal, business and tax affairs. Rachel also heads up the not-for-profits practice, assisting clients establish charitable funds and organisations.

*“The Organising Committee are excited to bring you the 2021 Trust Intensive Series, online. We encourage you to join us for a series that will focus on many of the complex issues that can arise during the life of a trust. The series will focus on diverse areas impacting trusts including, different issues to consider, understanding the interaction between trust law obligations and income tax issues, managing distributions, residency and the many state tax issues that can arise when dealing with trusts in Australia.”*

**Kim Reynolds, CTA**, Chair, Organising Committee



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# 2021 Trusts Intensive Registration form

42018 | WD

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 select your registration type: (Includes all 8 Sessions)

	Member	Non-member
Early bird (before 13 August)	<input type="checkbox"/> \$825	<input type="checkbox"/> \$1125
Standard (after 13 August)	<input type="checkbox"/> \$1025	<input type="checkbox"/> \$1325

Yes, I will attend the virtual networking session Day 1: 11:50am-12.10pm	<input type="checkbox"/>
Yes, I will attend the virtual networking session Day 2: 11:45am-12.05pm	<input type="checkbox"/>

3+1 Group Discount	<input type="checkbox"/>
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Purchase three full paying registrations and receive a fourth full registration for FREE. The FREE registration must be of equal or lesser value of the other registrations. Please fill out separate forms for each member of the group.

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8 CPD hours allocated for this event. In case of a registration transfer, CPD hours will be allocated to the designated attendee.

## 2 Delegate contact details

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

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