



Chat Legal Pty Ltd

*Let's chat*

# TRUST CHANGES AND TAX CONSEQUENCES

DARIUS HII, CTA  
DIRECTOR, CHAT LEGAL PTY LTD

# Trust changes – why?

- ◆ Financier doesn't like a clause
- ◆ Settling error identified:
  - ◆ Witnesses
  - ◆ No date
  - ◆ Blank schedule items
- ◆ Drafting errors in deed
- ◆ Changes to control (bank requirement, asset protection)
- ◆ Changes to client circumstances (divorce, death)
- ◆ Need for distribution

# Trust changes – what?

- ◆ Change of trust terms:
  - ◆ Income/capital provisions
  - ◆ Vesting date
  - ◆ Succession clauses
  - ◆ Asset protection clauses
- ◆ Change of trustee
- ◆ Change of appointor/guardian
- ◆ Change of beneficiary
- ◆ Ending trust
- ◆ Rectifying issues or ratifying purported changes

# Trust changes – how?

- ◆ Read the deed
- ◆ By deed or deed poll
- ◆ Occasionally by resolution
- ◆ Online solutions
- ◆ Disclaimers

# Tax consequences

## ◆ CGT

- ◆ Common – CGT event E1 and E2
- ◆ Statement of principals – revoked
- ◆ *Clark*
- ◆ TD 2012/21
- ◆ Trust splitting determination?
- ◆ Also note, E5 and what is 'absolute entitlement' – TR2004/D25

## ◆ Stamp duty

- ◆ Dutiable transaction?
- ◆ Different per State
- ◆ Stamping requirements?

# Contact details



**Darius Hii, CTA**

**Director, Chat Legal Pty Ltd**

Phone: 0403923374

Email: [darius@chatlegal.com.au](mailto:darius@chatlegal.com.au)

Address: Level 6, 200 Adelaide Street, Brisbane, QLD 4000

Twitter: @darius\_hii