



香港信託人公會
Hong Kong Trustees' Association

Hong Kong Trustees' Association Trust Training Certificate Course Part B (stream 1)

There are 7 units under stream 1.

The following electives units are not included in the May 2019 course offering.

- a. Unit 12 – International Taxation Part 2
- b. Unit 15 – Foundation Law Part 2
- c. Unit 16 – Charities and Governance of Charitable Funds

Law Society accreditation of 2.5 CPD points for Unit 13, 14 and 17

Unit	Module	Learning Objective	Outline
Unit 8 – Other Trust Vehicles in detail	M12: Other Types of Estate Planning Trusts and their uses.	Students will be provided with a more in depth look at other types of trusts. Upon completion of this module students will be able to: i) identify the appropriate types of trusts to suit specific settlor needs. ii) Be able to explain and compare the differences between these types of trusts iii) Identify the jurisdictions that these various types of trusts exist	Other Types of Estate Planning Trusts and their uses: (a) Accumulation and Maintenance (b) Non-Charitable Purpose (including STAR Trusts) (c) Business Trusts (d) VISTA/LST/SISTA with case studies (e) Trust combined with a Limited Partnership with case studies (f) Foreign Grantor Trusts with case studies and comparisons with other jurisdictions.



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Unit	Module	Learning Objective	Outline
Unit 9 – The contents of Trusts and Drafting	M13: Drafting and Important Deed Provisions	In this module students will: i) understand the specific drafting issues required for specific types of trusts and why these are important. ii) Understand the key features of jurisdictions commonly adopted for trust structures iii) Explain the reasons for selection of a specific jurisdiction given the drafting advantages or disadvantages	(a) A review of the usual provisions for: - Discretionary Trust, - Protective Trust, - Fixed Interest Trust, - Accumulation and Maintenance Trust, - Foreign Grantor Trust - Granny Trust (b) The choice of Trustee (c) Choosing the jurisdiction of the proper law (d) Reasons for selection of a particular jurisdiction to achieve specific objective for estate planning



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Unit	Module	Learning Objective	Outline
Unit 9 – The contents of Trusts and Drafting	M14: Variations required to a discretionary trust when drafting	In this module students will: i) understand the differences required for various aspects of discretionary trusts for specific purposes and ii) understand the requirements for different jurisdictions iii) be able to define the key requirements in the drafting for the various types of trusts and their purposes.	Variations required to a Discretionary Trust when drafting: (a) a Charitable Trust; (b) a non-charitable Purpose Trust; (c) a reserved powers Trust; (d) a VISTA/LST/SISTA; and (e) a Trust to be combined with a Limited Partnership (f) Special provisions need to be included in a Limited Partnership Agreement to be combined with a Trust



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Unit	Module	Learning Objective	Outline
Unit 10 – Testamentary Issues & Avoiding testamentary disputes	M15: Testamentary Issues - Wills	<p>This module teaches students the interplay between trusts and wills and the needs for care in drafting and co-ordination in order to avoid disputes. After completion of this module students will:</p> <ul style="list-style-type: none">i) understand the importance of making a willii) understand what is meant by testamentary capacity and be able to list the requirementsiii) be aware of and explain the need for care in the drafting of a will, in order to avoid disputes.iv) List the information to be contained in a willv) understand the interplay between trusts and wills and be able to explain the differences and where each is appropriatevi) Explain the issues in regard to multi jurisdiction assets and the need for multiple willsvii) Understand and explain the limitations of testamentary trusts/ standby trusts.	<p>Testamentary Issues - Wills</p> <ul style="list-style-type: none">(a) The reasons and need for making Wills(b) Can a Trust be used instead of a Will to avoid Probate?(c) The nature and use of limited Wills(d) The usual content of Wills(e) Information to be kept with Wills(f) Multiple jurisdiction Wills and probating(g) Testamentary trusts versus inter vivos trust(h) Standby trusts.



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Unit	Module	Learning Objective	Outline
Unit 10 – Testamentary Issues & Avoiding testamentary disputes	M16 - Other testamentary Issues	<p>This module reviews the issues surrounding divorce, common law spouses and Nuptial agreements and disputes which can arise.</p> <p>At the end of the Unit students will</p> <ul style="list-style-type: none"> i) understand be able to explain the legality of marriage in HK ii) Be able to explain the concept of 'community of property' iii) be able to list and describe the various types of Nuptial Agreements and requirements for validity and treatment by the courts iv) Understand the concepts of express, resulting and constructive trust and describe each v) Understand and explain when property under a discretionary trust might be treated as community property /a financial resource vi) current court cases and in relation to trusts 	<p>Other Testamentary issues</p> <ul style="list-style-type: none"> (a) Marriage & Common law spouses/partnership relationships (b) Community of property and financial resource property (c) Nuptial agreements and their implications (d) Matrimonial property and resulting, constructive and family trust issues (e) The above issues are set in the context of relevant HK Law and relevant legal cases



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Unit	Module	Learning Objective	Outline
11 - International Taxation Part 1	M17: Tax with regard to Trusts, Settlers & beneficiaries	<p>This module aims to impart an overview of the tax effect to trusts and their settlors and beneficiaries, and how settlors and beneficiaries are impacted by HK tax compared with other jurisdictions of domicile and nationality.</p> <p>At the end of the module students will</p> <ul style="list-style-type: none"> i) Understand the key elements of where taxation arises ii) Explain these key elements of taxation and the key triggers iii) Be able to compare HK and other key jurisdictions of China, US & UK in regard to tax on settlors and beneficiaries. iv) Explain how residence may affect tax for individuals 	<p>Tax with regard Trusts, Settlers & Beneficiaries</p> <ul style="list-style-type: none"> (a) General application: <ul style="list-style-type: none"> - Persons involved (Settlor/Founder and Beneficiaries) - Retention of assets and income without IEPS - Transfer of assets to a Trust/Foundation - Future income, benefits and assets derived from the structure. (b) The triggers for taxation: <ul style="list-style-type: none"> - Nationality - Domicile - Residence - Source (c) Domicile of origin <ul style="list-style-type: none"> - dependency - choice - deemed (Comparisons between UK, USA and China) (d) Residence of individuals & The tests: <ul style="list-style-type: none"> - Quantitative (183 days) - Quantitative (over more than one tax year) - Qualitative (connections with the country) - Reverse qualitative (connections with another country) - Mixed qualitative and quantitative (Comparisons between Australia, Canada, France, Singapore, UK, USA)



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Unit	Module	Learning Objective	Outline
11 - International Taxation Part 1	M18 - Tax With regard to assets	<p>In the module students will learn the effect of tax on assets in various jurisdictions and how they may apply under a trust structure.</p> <p>At the end of the unit students will</p> <ul style="list-style-type: none"> i) Understand the key elements impacting where taxation arises on assets ii) Explain the key elements of taxation and the key triggers on assets for various jurisdictions iii) Be able to compare HK and other key jurisdictions of China, US & UK in regard to tax on assets 	<p>Tax With regard to assets</p> <ul style="list-style-type: none"> (a) Nature – situs – recipient (b) Tax and funds – issues for HK funds (c) Tax and retirement schemes in HK (d) Exemptions & Reliefs: <ul style="list-style-type: none"> - Nature of assets/property - PPR - Business property - Agricultural property <p>[Comparisons between Hong Kong, Australia, Canada, UK and USA]</p> <ul style="list-style-type: none"> (e) Recipient – surviving spouse – charities



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Unit	Module	Learning Objective	Outline
<p>13 - Family Offices</p> <p><u>Law Society accreditation - 2.5 CPD points</u></p>	<p>M21: Family Offices Overview</p>	<p>Family Offices are growing. In this module students will :</p> <ul style="list-style-type: none">i) understand the nature of a family office,ii) be able to explain the requirements for good family officeiii) explain the structure of a family officeiv) explain key governance requirements and why these are necessary.v) understand how the family office may interact with the trustee and the role of the trustee in providing support for the family office	<p>Family Offices Overview</p> <ul style="list-style-type: none">(a) The nature of a Family Office(b) The role of a Family Office(c) How a Family Office may be brought into the structuring required(d) The need for good family governance<ul style="list-style-type: none">- family constitutions (requirements and drafting)- voting- family business management succession criteria(e) Comparison between single family offices and multi family offices and their pros and cons(f) Multi-family office considerations



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Unit	Module	Learning Objective	Outline
<p>14 – Foundations Law - Part 1</p> <p>Law Society accreditation - 2.5 CPD points</p>	<p>M22: Foundation overview</p>	<p>This module aims to teach students the fundamentals of foundations and their structure, which are used in place of trusts in certain jurisdictions.</p> <p>At the end of the unit students will be able to</p> <ul style="list-style-type: none">i) Understand how a foundation differs from a trustii) Explain when a foundation is more appropriate than a trustiii) Understand the legal form of documents and formalities of a foundation	<p>Foundations Overview</p> <ul style="list-style-type: none">(a) Establishment and registration(b) Charter and Articles/Rules(c) Language, form and validity(d) Purpose and change of Purpose(e) Asset protection and anti-forced heirship



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Unit	Module	Learning Objective	Outline
14 – Foundations Law - Part 1 Law Society accreditation - 2.5 CPD points	M23: Parties to a Foundation and their roles	<p>The parties to a foundation are different from a trust and this module examines the parties needed and their roles and responsibilities.</p> <p>At the end of this module students will :</p> <ul style="list-style-type: none">i) Understand the various parties to a foundationii) Be able to list the parties in a foundation and explain	<p>Parties to a Foundation and their roles</p> <ul style="list-style-type: none">(a) Founder · Council · Officers · Resident Agent · Secretary · Supervisory Person · Beneficiaries · Guardian(b) Duties and powers of parties(c) Retention of control:<ul style="list-style-type: none">- Founder's powers and rights- Foundation as a PTC- Foundation / Limited Partnership Structure



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		their roles compared with the parties and roles in a trust.	
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Unit	Module	Learning Objective	Outline
17 – Trusts and Issues for PRC Nationals	M26: Trusts and issues for PRC nationals	<p>This module is aimed at students who are dealing with PRC nationals and their estate planning issues. It covers some specific issues such as multi-jurisdictional assets and dual tax nationalities.</p> <p>At the end of this unit Students will ;</p> <ul style="list-style-type: none"> i) understand how PRC trust law compares with trust law in common law jurisdictions; ii) understand the reasons why Chinese clients wish to make foreign trusts and the types of trust which they require; iii) be aware of and list the challenges of compliance for Chinese clients; iv) be able to explain the consequences of dual nationality of Chinese clients with regard to trusts and assets; and v) understand how Chinese taxation specifically impacts Chinese clients as Settlers 	<p>Trusts and Issues for PRC nationals</p> <ul style="list-style-type: none"> (a) PRC trusts compared with common law trusts (b) Types of trusts required (c) Challenges of compliance requirements, KYC, AML, SOF etc (d) Specific issues of dual nationality and consequences (e) US Foreign grantor trust, Canada Trusts. (f) Trusts and PRC nationals - onshore versus offshore PRC trusts and compliance considerations (g) Overview of Tax provisions <ul style="list-style-type: none"> - RPC nationals as Settlers and Beneficiaries - PRC settlors with US beneficiaries



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		and as Beneficiaries.	
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