



Australian Government

FNSTPB504 Apply legal principles in corporations and trust law

Release: 1

FNSTPB504 Apply legal principles in corporations and trust law

Modification History

Release	Comments
Release 1	This version first released with FNS Financial Services Training Package Version 1.0.

Application

This unit describes the skills and knowledge required to research and analyse legal principles and issues in corporations and trust law matters and then apply this knowledge to provide advice to clients.

It applies to individuals who work with corporations and trust laws in the workplace as determined by the job role, legislation, rules, regulations and codes of practice relevant to different jurisdictions.

Work functions in the occupational areas where this unit may be used are subject to regulatory requirements. This unit is designed to meet educational requirements of the Tax Practitioner Board (TPB). Refer to the FNS Implementation Guide Companion Volume or the relevant regulator for specific guidance on requirements.

Unit Sector

Tax practice

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<i>Elements describe the essential outcomes.</i>	<i>Performance criteria describe the performance needed to demonstrate achievement of the element.</i>
1. Research legal aspects of corporations and trust law relevant to client's circumstances	1.1 Identify client circumstances that require advice on corporation and trust law matters 1.2 Research corporations and trust law and related legislation, regulation and practice 1.3 Identify different types of relevant corporations and trust law transactions, and clearly outline their legal context, establishment procedures and purpose 1.4 Identify legal principles applying to corporation and trust

ELEMENT	PERFORMANCE CRITERIA
	matters that are relevant to client circumstances
2. Analyse issues and risks associated with operation of a business	2.1 Identify areas of risk in application of law in corporation and trust matters 2.2 Analyse how legal issues impact on different types of legal entities 2.3 Evaluate relevance to client circumstances and implication of risks for structure, operation and performance of different types of legal entities 2.4 Assess ways in which risk mitigation is addressed in formation and operation of different types of legal entities
3. Apply knowledge of law to business structures	3.1 Collect and collate client's business information for analysis 3.2 Interpret, analyse and process available information to obtain required knowledge on client's business structure requirements 3.3 Seek advice and guidance of specialist where required, to interpret, analyse and synthesise client's relevant information 3.4 Provide advice to client based on identified facts and relevant laws
4. Maintain legal knowledge	4.1 Review client's circumstances and business structure, and apply any changes in relevant aspects of corporations and/or trust law if necessary 4.2 Access and use systems for maintaining up-to-date knowledge about relevant legal aspects of corporations and trust law 4.3 Review relevant legal sources regularly and apply any changes in daily work

Foundation Skills

This section describes language, literacy, numeracy and employment skills incorporated in the performance criteria that are required for competent performance.

Skill	Performance Criteria	Description
Learning	3.2, 4.2	Identifies, plans and implements strategies to manage gaps in personal knowledge
Reading	1.1-1.4, 2.1-2.4, 3.1-3.3, 4.1, 4.3	Critically analyses complex documentation from a variety of sources and consolidates information

		relating to specific criteria to determine requirements
Writing	1.3, 1.4, 2.1-2.4, 3.2-3.4, 4.1, 4.2	• Prepares documents that are constructed logically, succinctly and accurately to express ideas and explore complex issues • Completes organisational documents and correspondence using clear language and correct spelling, grammar and terminology
Oral Communication	3.3, 3.4	• Participates in verbal exchanges using active listening and questioning techniques to elicit information from others and to confirm understanding • Provides instructions and presents information structuring tone, pace and content in line with the audience and purpose
Navigate the world of work	1.1-1.4, 3.4, 4.1	• Works autonomously, making high level decisions to achieve and improve organisational goals • Develops and implements strategies that ensure organisational policy, procedures and regulatory requirements are being met • Ensures knowledge of legislation and regulations is accurate, comprehensive and current to provide advice to others as required by role
Interact with others	3.3, 3.4	• Selects, implements and manipulates communications systems, processes and practices for maximum impact • Uses a variety of relevant communication tools and strategies in building and maintaining effective working relationships
Get the work done	1.1-1.4, 2.1-2.4, 3.1, 3.2, 4.2	• Develops plans to manage relatively complex routine and non-routine tasks with an awareness of how they might contribute to broader strategy and goals • Gathers and analyses data and seeks feedback to improve plans and processes • Addresses complex problems involving multiple variables, using formal analytical and lateral thinking techniques, experience and knowledge to generate solutions • Identifies key factors that impact on decisions and their outcomes, drawing on experience, competing priorities and decision-making strategies where appropriate • Uses digital systems and technologies to enter, store or access information

Unit Mapping Information

Code and title current version	Code and title previous version	Comments	Equivalence status
FNSTPB504 Apply legal principles in corporations and trust law	FNSTPB501A Apply legal principles in corporations and trusts law	Updated to meet Standards for Training Packages. Wording changes and clarification of performance criteria.	Equivalent unit

Links

Companion Volume implementation guides are found in VETNet -

<https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>

Assessment Requirements for FNSTPB504 Apply legal principles in corporations and trust law

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Release 1	This version first released with FNS Financial Services Training Package Version 1.0.

Performance Evidence

Evidence of the ability to:

- research changes to, or new, legislative requirements in relation to corporations and trust law relevant to the client's circumstances and business structure requirements
- apply current statute, common law and equitable principles in relation to corporations and trust law relevant to the client's circumstances
- present a recommendation on suitable business structures or legal entities to the client after considering the client's circumstances.

Note: If a specific volume or frequency is not stated, then evidence must be provided at least once.

Knowledge Evidence

To complete the unit requirements safely and effectively, the individual must:

- describe the operation of the Australian legal systems and processes relevant to corporations and trust law including:
 - basic principles, current statute, common law and equitable principles
 - roles and responsibilities of key organisations
 - constitutional considerations
 - separation of powers
 - basic principles of the law of torts, particularly relating to negligence and negligent misstatement
 - courts and regulatory bodies
- outline how laws are enacted and their underlying policy aims
- explain how those laws may be interpreted by existing common law and equitable rules and applied to corporations and trusts
- analyse legal concepts of business organisational structures, and underlying regulation including the application of these to:

- sole traders
- partnerships
- corporations
- trusts
- agencies
- joint ventures
- incorporated associations
- examine legal aspects of superannuation with reference to:
 - ways in which superannuation can be accumulated and taken
 - who can provide superannuation products and how those providers and their products are prudentially licensed and regulated
 - duties of superannuation trustees
 - how superannuation interests are protected and litigated
 - current and future developments in superannuation law and policy
- identify and reference the key features of Australian corporations law and requirements to analyse issues and risks relating to:
 - nature of a company
 - company registration
 - promoters and pre-registration contracts
 - company constitution and replaceable rules
 - contracting with others
 - fundraising
 - share capital
 - member meetings
 - corporate management
 - directors' duties
 - member remedies
 - bankruptcy and insolvency
- examine legal concepts and scope of law covering trusts with particular reference to:
 - structure of a trust
 - trust deed
 - common law duty
 - role and responsibilities of a trustee
 - types of trusts
 - member meetings
 - corporate management
 - member remediation
 - bankruptcy and insolvency.

Assessment Conditions

Assessment must be conducted in a safe environment where evidence gathered demonstrates consistent performance of typical activities experienced in the tax and legal fields of work and include access to:

- office equipment, technology, software and consumables
- relevant legislation, regulations and codes of practice.

Assessors must satisfy NVR/AQTF assessor requirements.

This unit is designed to meet the education requirements of the Tax Practitioner Board (TPB). Where registration with the TPB is sought, assessment must reflect the conditions described by the regulator which stipulate that a significant amount (at least 40%) must be completed under some form of independent supervision. Where recognition of prior learning (RPL) is used, it must also meet the requirements of the Board's policy on RPL.

Details of requirements can be accessed on the TPB website at <<http://www.tpb.gov.au>>.

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