

Tax Disputes Masterclass

1 March 2023

Sofitel Melbourne on Collins

7 CPD hours





Welcome

Now making its stand as a National event, The Tax Institute, the organising committee and I are very excited to welcome delegates to this year's Tax Disputes Masterclass in Melbourne.

Navigating the tax dispute landscape has never been more complicated, making this area as topical as ever. Significant disputes are continuing to arise in many areas of tax, including transfer pricing, Part IVA and section 100A, as new issues such as the diverted profits tax emerge before the courts. The ATO received significant further funding again in the 2022 Federal Budget and remains committed to achieving Justified Trust with as many large corporate and large private group taxpayers as possible.

In this environment, the efficient and effective resolution of tax disputes has become increasingly important.

This year our program provides a unique focus on the key technical and practical issues that arise in tax disputes in both the large corporate market and the private wealth market. Once again we have assembled an esteemed line-up of presenters headlined by the Honourable Jennifer Davies SC and also including senior ATO officers, experienced tax counsel and tax controversy professionals.

I look forward to seeing you in Melbourne for what should be another insightful and enjoyable Tax Disputes Masterclass.



Keith Swan
Chair, Conference Organising Committee

Early bird pricing offer
Register on or before Friday, 3 February to save!

Technical Program

Day 1 Wednesday , 1 March 2023

| Time | Session |
|-------------------|--|
| 8:00 – 8:25am | Registration |
| 8:25 – 8:30am | Welcome and opening address |
| 8:30 – 9:30am | <p>Session 1: Keynote address: Reflection of tax disputes over the last quarter century Speaker: The Hon. Jennifer Davies SC, Victorian Bar</p> <p>This keynote will describe the cycles of tax disputes seen over the last few decades. The Hon. Jennifer Davies SC will cover periods of litigation and alternative dispute resolution processes in the context of the political environment and the tax landscape which has developed. There will be a focus on tax issues which have dominated our Courts over the recent past and which tax issues are anticipated to be at the forefront of future litigation. Jennifer will draw from her extensive tax experiences as a former judge of the Federal Court of Australia and as a leading tax barrister within the Victorian Tax Bar in providing her insights.</p> |
| 9:30 – 10:30am | <p>Session 2: Recent developments in anti-avoidance Speakers: Daniel McInerney KC, CTA, Victorian Bar, Catherine Pierce, Victorian Bar</p> <p>This session will cover technical aspects of recent amendments to Part IVA of the Income Tax Assessment Act 1936, including as they relate to ‘ordinary’ Part IVA and the diverted profits tax provisions. Those technical aspects will include:</p> <ul style="list-style-type: none">• The operation of s 177CB• The meaning of ‘a principal purpose’ in the diverted profit tax provisions, as distinct from ‘dominant purpose’ and• The factors identified in s 177J(b)-(d). <p>Our speakers will also identify some practical issues which may arise in the conduct of objections and the preparation of cases involving the application of anti-avoidance provisions, including the potential operation of the ‘restricted evidence’ provisions associated with diverted profits tax.</p> |
| 10:30 – 11:00am | Morning tea |
| 11:00am – 12:00pm | <p>Session 3: The ATO’s approach to debt recovery and security – what’s the latest and what can taxpayers expect? Speakers: Fiona Knight, CTA, Australian Taxation Office, Alex Patrick, KPMG Law</p> <p>The ATO has a wide range of powers available to secure and pursue taxation debts. This presentation focuses on the burning issues pertaining to the use of security, and debt recovery powers by the ATO, including:</p> <ul style="list-style-type: none">• Freezing orders and security arrangements in the context of M&A transactions• Garnishee notices• Director penalty notices and• Insolvency & stays. <p>The session will also address what taxpayers can expect from the ATO, and some practical tips for navigating these often challenging and time-sensitive interactions.</p> |

Technical Program

Day 1 Wednesday , 1 March 2023 continued

| Time | Session |
|----------------|---|
| 12:00 – 1:00pm | <p>Session 4: Resolving state tax disputes Speaker: Tim Grace, Victorian Bar</p> <p>This session will consider practical examples and cover:</p> <ul style="list-style-type: none">• How to resolve a state tax dispute without litigating• Important considerations in a state tax dispute including:<ul style="list-style-type: none">– Choice of forum– Knowing the Court/Tribunal – knowing all the judge’s/member’s previous decisions– Considering all potential outcomes – and all potential strategies – at an early stage– Commencing litigation preparation at the earliest possible time– Narrowing the taxpayer’s case to its simplest and strongest ground(s)– The efficient preparation of evidence and the use of expert evidence– How to challenge penalties (and interest)– How to maximise costs protection for the client– The different procedure for bringing refund claims/proceedings in court• Strategic approaches to negotiating with state revenue authorities and• Anticipated future areas of dispute. |
| 1:00 – 2:00pm | Lunch |
| 2:00 – 3:00pm | <p>Session 5: Evidence Speakers: Stewart Grieve, CTA, Johnson Winter Slattery, Frank O’Loughlin KC, CTA, Victorian Bar</p> <p>From Transfer Pricing to R&D and everything in between, expert evidence continues to be a critical aspect of numerous tax disputes. This session will provide practical guidance to be followed when parties are considering the use of expert evidence, including:</p> <ul style="list-style-type: none">• How to identify experts• How to brief expert witnesses, including consideration of the Federal Court guidelines to be followed• Practical tips and traps to be considered when preparing expert evidence and• Learnings from recent cases where expert evidence has been accepted and rejected. |
| 3:00 – 3:30pm | Afternoon tea |

Technical Program

Day 1 Wednesday , 1 March 2023 continued

| Time | Session |
|---------------|---|
| 3:30 – 4:30pm | <p>Session 6: Alternative Dispute Resolution Speakers: Chris Peadon, FTI, New Chambers, Anne Smyth, Australian Taxation Office</p> <p>In the current tax disputes climate, most taxpayers prefer to resolve and settle disputes early and proceeding to hearing is usually a last resort. As a result, various options for alternative dispute resolution exist as a useful mechanism for taxpayers to achieve resolution. In this session our speakers will explore what options are available, which mechanism may suit which type of dispute, at what point in the dispute they are best employed and key insights from our speakers as to how to successfully apply these options in practice to achieve a positive outcome for the parties.</p> |
| 4:30 – 5:30pm | <p>Session 7: Combined Assurance Reviews – Practical learnings and perspectives Panellists: Bevan Grace, KPMG Law, Karen Krautz, EY, Michelle Sams, Australian Taxation Office Facilitator: Keith Swan, KPMG Law</p> <p>Since the introduction of the concepts of Justified Trust and assurance reviews in 2016, the ATO has provided detailed guidance on what large corporate taxpayers can expect under this new approach to regulator engagement. Having now evolved from Streamlined Assurance Reviews to Combined Assurance Reviews, the ATO's approach has been modified slightly and many taxpayers have used their experience to help prepare for subsequent ATO engagement. These reviews are time-consuming and resource intensive for taxpayers and the ATO alike. Each of our panel members have been heavily involved in these processes from the perspective of the ATO, the taxpayer and the advisor, and will share practical insights and tips that will help taxpayers prepare, provide guidance as to what taxpayers can expect during a Combined Assurance Review and where this may lead next.</p> |
| 5:30pm | Event close |



Presenters

The Hon. Jennifer Davies SC is a retired judge of the Federal Court of Australia and during her time on the bench was the national co-ordinating judge of the Taxation National Practice Area. Prior to her appointment to the Federal Court she was a judge of the Supreme Court of Victoria, sitting in the Commercial Court division and before then, a member of the Bar from May 1983. She took silk in 2004. She is on the board of the International Association of Tax Judges. She is also an Honorary Principal Fellow at the University of Melbourne lecturing in postgraduate courses and on the Melbourne University Tax Advisory board and a member of the Australian Academy of Law, the International Academy of Estate and Trust Law and the International Fiscal Association, and a Fellow of the Taxation Institute of Australia. She has resumed practice at the Victorian Bar in advice work, early neutral evaluations, arbitrations, and mediations.

Bevan Grace is a Partner in KPMG's Deals, Tax & Legal team. Bevan has more than 20 years financial services tax experience, specialising in the taxation of large Australian superannuation funds and has significant experience in tax governance and ATO engagement. Bevan recently joined KPMG having previously established and led the in-house Group

Tax function at AustralianSuper for a period of 9 years, and prior to that, was a Director with KPMG for 14 years providing complete tax advisory and compliance services to large financial services organisations.

Tim Grace is a member of the Victorian Bar, practising in revenue law and specialising in property taxes. Tim has an active advice and objection and appeal practice, and has appeared in a number of state tax cases at VCAT, in the Supreme Court and the Court of Appeal.

Stewart Grieve, CTA, is a partner and the National Tax Practice Group Head at Johnson Winter Slattery. He is also a Senior Fellow of the Law Faculty of the University of Melbourne, involved in teaching tax subjects to post graduate students in the Melbourne Law School Masters program, and in 2009/10 was the global head of tax at the then listed Foster's Group Limited. Stewart's practice is principally advising clients on all aspects of taxation review engagement with the ATO and he has acted as instructing solicitor for MNEs in significant taxation litigation.

Fiona Knight, CTA, is Deputy Commissioner, Litigation and Legal Services at the ATO. She has over 20 years experience in taxation law and

administration. Fiona currently leads the ATO's Litigation and Legal Services area and is Chair of the Test Case Funding Panel. She previously worked in the Tax Counsel Network providing advice on the most complex technical issues with a focus on international tax and anti-avoidance provisions, including as a member of the ATO's General Anti-Avoidance Rules (GAAR) Panel.

Karen Krautz is a Director in EY's Tax Policy & Controversy Practice, specialising in tax corporate governance and risk management. With over 20 years experience at EY, Karen has worked with a broad range of large corporations and multinationals across multiple industries. Karen has extensive experience advising clients on the design, review and implementation of tax corporate governance frameworks, considering the ATO's guidance and the client's bespoke requirements to ensure a practical and relevant deliverable. In this context, Karen regularly teams with others in the EY practice to provide a multi-disciplinary approach to assisting clients prepare for and respond to Combined Assurance Reviews.

Daniel McInerney KC, CTA, is one of Australia's leading taxation barristers. Since being called to the Bar in 2007 he has appeared in many significant

tax cases and is regularly called upon for his advice on complex tax issues by taxpayers and the Australian Taxation Office.

Frank O'Loughlin KC, CTA, is a practising barrister and member of the Victorian Bar. He is also a Principal Fellow of the Law Faculty of the University of Melbourne, involved in teaching tax subjects to post graduate students in the Melbourne Law School Masters program, and a part time Deputy President of the Commonwealth Administrative Appeals Tribunal. Previously, Frank was a partner, board member and the national practice division leader at Corrs. Frank's practice is principally taxation advice and disputes.

Alex Patrick is a Partner in KPMG Law's Tax Dispute Resolution & Controversy practice. Alex has over 15 years' expertise in tax dispute management and resolution, focusing on proactive, efficient and early resolution of disputes. Alex's experience includes ongoing management of lengthy ATO assurance review, risk review and audit processes, managing complex tax litigation and debt management / security matters. Alex supports taxpayers from a variety of sectors, achieving successful outcomes at risk review, audit, objection and litigation stages.

Presenters

Chris Peadon, FTI, is a Barrister at New Chambers and has practised at the NSW Bar since 2011. He previously worked as a solicitor for a decade. He regularly advises and appears for taxpayers and the Commissioner.

Catherine Pierce practises primarily in federal tax, in respect of direct and indirect taxes, and in various aspects of state tax litigation. She has appeared in the Federal Court, the High Court and the Victorian Supreme Court for the Commissioner and for taxpayers. Before joining the Bar in 2012, Catherine was employed as a solicitor in Hong Kong where she advised in respect of international financial instruments. She has also worked as an interpreter in French and Mandarin Chinese.

Michelle Sams is an Assistant Commissioner in the Public Groups and International business line at the Australian Taxation Office (ATO). Michelle has 18 years corporate tax experience. Prior to joining the ATO in 2017 Michelle was a Director in KPMG's Deal Advisory Tax Team.

Anne Smyth is a Principal Litigator in the Litigation and Legal Services team of the ATO. Anne works primarily on tax technical and administrative law disputes in the AAT and Federal Court. She has previously worked in a case leadership role in objections, and leading the Independent Review Small Business team.

Keith Swan is a Partner in KPMG Law's Tax Dispute Resolution & Controversy team. Keith has over 20 years' experience specialising in tax disputes and litigation. Keith's experience includes managing ATO reviews and audits, negotiating favourable settlements, and liaising with the courts and a range of leading tax counsel in litigating matters against the Commissioner of Taxation and State revenue authorities. Keith has also resolved disputes by way of the various Alternative Dispute Resolution mechanisms that are available in tax matters. His clients have included large multinationals, private wealth businesses and high net wealth individuals. Keith was admitted as a solicitor in NSW in May 2005 and holds a Masters of Taxation from Sydney University.



Venue and accommodation



Sofitel Melbourne on Collins

25 Collins Street, Melbourne VIC 3000

Located at the Paris-end of Collins Street in the heart of the Melbourne CBD, Sofitel Melbourne on Collins offers luxurious rooms and suites. Each room offers floor-to-ceiling windows offering panoramic views over the city with the highlight overlooking the Yarra River and out to Port Phillip Bay.



Getting there

The Sofitel Melbourne on Collins is approximately a 30-minute drive from Melbourne Tullamarine Airport.

For those in Melbourne, the Sofitel Melbourne on Collins is conveniently located near Stop #8 (Spring Street) on the Collins Street tram routes.

Parking

Sofitel Melbourne on Collins car parking prices are: In-house guest parking \$75.00 (overnight) or casual valet parking from \$85.00 (day use). Car spaces subject to availability.

Alternatively, self-car parking can be found at Collins Place Wilson Parking – 28 Flinders Lane, Melbourne VIC 3000.



Accommodation

Favourable room rates have been negotiated and secured at the Sofitel Melbourne on Collins. Accommodation bookings can be made by following the link on the event web page or via this [link](#).

Please note that as per hotel booking conditions, all accommodation booked is non-refundable. All additional hotel incidentals, including breakfast, remain the responsibility of delegates, and individuals will be responsible for payment of the balance of their account when checking out of the hotel. Please note that extra charges may be incurred for additional guests and will be charged to individual room accounts upon checkout.

Event information

Registration options and inclusions

| | Online access to presentations and technical papers | Morning/afternoon tea/conference lunches |
|--|---|--|
| Face to face registration This registration option entitles one delegate to attend the entire event. | ✓✓✓ | ✓✓✓ |
| Online full registration This registration option entitles one delegate to attend the entire event. | ✓✓✓ | |

Early bird registration

All registrations received and paid on or before Friday, 3 February 2023 will be entitled to an early bird discount.

Please note: The registration fee does not include accommodation, hotel incidentals or transfers.

Group Discounts

Purchase four full registrations (early bird or standard) and receive a fifth full registration for free. The free fifth 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.

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

Attendance at the conference counts for 7 hours of Continuing Professional Development with The Tax Institute.

The Tax Institute's Attendee Hub

As a hybrid event, both in person and online, 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.

Dress code

Business or business casual attire is suitable for the duration of the conference.

Special dietary and accessibility requirements

Please indicate any special dietary requirements at the time of registration. Please email us with any accessibility requirements at nationalevents@taxinstitute.com.au.

COVID-19 Event Guidelines

At The Tax Institute, the health and wellbeing of our members, delegates and employees is our top priority. Whilst returning to face-to-face events, we continue to actively monitor the situation regarding COVID-19 and follow the latest advice and guidelines issued by the Department of Health, the World Health Organisation and relevant State authorities.

Please note, final implementation of any of these measures is subject to Federal and State Government requirements at the time of each event. To see The Tax Institute's full COVID-19 Event Guidelines, click [here](#).

Event information

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 to an online format to deliver the event. If there is a difference in price, a credit will be provided to delegates to be used at a future event.

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.

If a registered delegate is unable to attend a face-to-face event as a result of interstate border closures or they reside in or visited a COVID-19 hotspot, we will endeavour to transition the registration to an online registration for the event. If there is a difference in price a credit will be provided to delegates to be used at a future event. If a delegate does not wish to transition their registration to the alternate online event, a full refund/credit will be provided.

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.



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 9 for registration inclusions.

Face to face registration – 7 CPD hours

| | Member | New member* | Non-member |
|--|----------------------------------|----------------------------------|----------------------------------|
| Early bird registration Received on or before 3 February 2023 | <input type="checkbox"/> \$1,100 | <input type="checkbox"/> \$1,440 | <input type="checkbox"/> \$1,400 |
| Standard registration Received after 3 February 2023 | <input type="checkbox"/> \$1,300 | <input type="checkbox"/> \$1,640 | <input type="checkbox"/> \$1,600 |

Online registration – 7 CPD hours

| | Member | New member* | Non-member |
|--|----------------------------------|----------------------------------|----------------------------------|
| Early bird registration Received on or before 3 February 2023 | <input type="checkbox"/> \$1,100 | <input type="checkbox"/> \$1,440 | <input type="checkbox"/> \$1,400 |
| Standard registration Received after 3 February 2023 | <input type="checkbox"/> \$1,300 | <input type="checkbox"/> \$1,640 | <input type="checkbox"/> \$1,600 |

I understand that the registration fees do not include printed materials. Access to materials will be electronic.

Promotional code:

*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 info.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:

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

Collection notice: The Tax Institute (TTI) complies with its obligations under the Privacy Act 1988 (Cth) with respect to how it handles personal information. For information on how TTI collects, uses, holds and discloses personal information, please see its privacy policy at www.taxinstitute.com.au. [You can also request TTI's consultants to provide you with a copy of TTI Privacy Policy.] By submitting your application to TTI, you confirm that you have read TTI's Privacy Policy and you consent to your personal information being collected, used and held by TTI and disclosed to third parties in accordance with TTI's Privacy Policy.

To register

Email customeradmin@taxinstitute.com.au

Mail L37, 100 Miller Street North Sydney NSW 2060

Online taxinstitute.com.au

Thank you.

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

Keith Swan, KPMG Law

(Chair, Tax Disputes Masterclass Organising Committee)

Kathryn Bertram, FTI, Johnson Winter Slattery

Nick Gangemi, CTA, William Buck

Mark Gioskos, FTI, Victorian Bar

Andrew Howell, PwC

Luke Imbriano, FTI, KPMG Law

Alex Mossman, Australian Taxation Office

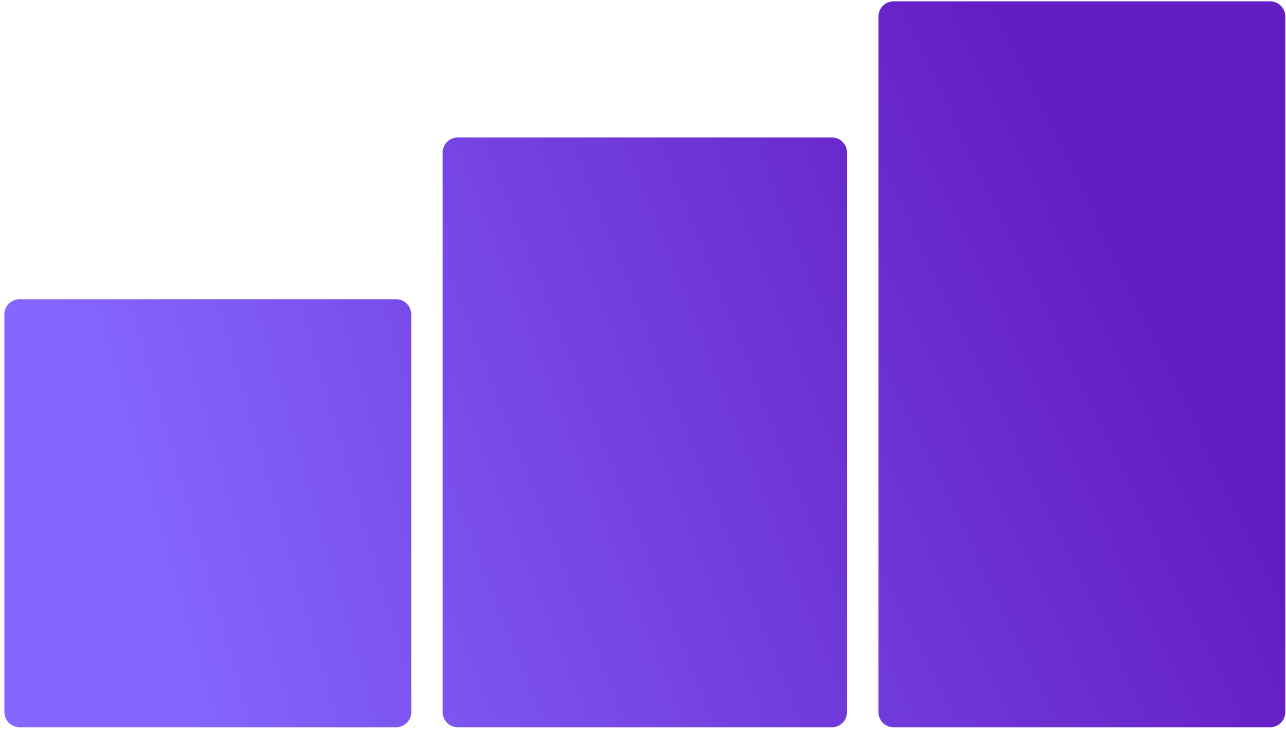
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Lisa To, CTA, Bartier Perry





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