

## Summer 2010

### Risk and Reward

#### Shattered buildings, businesses and dreams

##### Business Lessons from the Christchurch Earthquake

During the aftermath of the major earthquake that hit Christchurch and its surrounding communities we all watched news coverage horrified and saddened at the devastation. Thankfully, there were no fatalities but the extensive damage to homes, offices and infrastructure will be very expensive to reinstate or replace and will take months, and in some cases years, to complete.

A disaster like the Christchurch earthquake can happen at any time, day or night. Our nation sits precariously on islands that straddle fault lines and volcanic vents and eruptions from Mount Ruapehu have at times disrupted businesses, roads and airports. These 'acts of God' send a very real warning to both businesses and private citizens to check that insurance cover is both comprehensive in type and of sufficient value to indemnify losses. Some Christchurch businesses are facing serious financial hardship because their risk cover was inadequate or, even worse, non-existent.

An insurance broker has provided us with the following list of business risks that need to be covered:

1. **Commercial Building Insurance:** Full replacement value including loss of rental income for 12-24 months minimum and landlord liability.
2. **Stock:** Insured for full value and allowing for seasonal fluctuations and multiple locations.
3. **Plant & Equipment:** Again, for full replacement value at today's costs.
4. **Business Interruption:** The sum insured should be for the full Gross Profit figure allowing for trends over the next year or two. An adequate indemnity period is vital, 12-24 months minimum.
5. **Marine/Transit Insurance:** For stock being transported within the country and overseas.
6. **Public Liability Insurance:** Including Statutory Liability and Employer's Liability.



The above list is certainly not exhaustive and you should seek advice from an insurance broker or company to ensure your business assets are protected with comprehensive cover of all risks and losses. The unthinkable can and does happen, just remember Christchurch barely two months ago.

*For the want of a nail, the shoe was lost; for the want of a shoe the horse was lost; and for the want of a horse the rider was lost, being overtaken and slain by the enemy, all for the want of care about a horseshoe nail.*

- Benjamin Franklin

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## Gift duty

On 1 November Government announced that it will abolish gift duty with effect from 1 October next year. This decision seems quite a sensible one. Gift duty raises a paltry \$2.2M each year for Government, when in fact it collectively costs trusts around \$70M per annum to file gift duty statements, most of which are for no gift duty to be paid. At last some simplification!

It's natural to be concerned that the removal of gift duty creates an 'open slather' environment, encouraging people to hide assets in trusts to avoid creditors. Not so, says Government, who suggest that there is plenty of protection in the Insolvency Act to safeguard creditors. For those of you with trusts and gifting programmes in place, we'll keep you updated over the coming months on how the abolition of gift duty should best be administered.

## The review of trust law in New Zealand Out with the old

The Law Commission has just released the first in a series of papers that aim to review and modernise the law of trusts.

In that paper, the Commission first points out that the current legislation (the Trustee Act 1956) has been neglected and that there are concerns about its usefulness and outdated language.

Following on from that, the present law does not have enough mandatory provisions. For example, it is not unusual for a trust deed to include clauses exempting trustees for breaches of trust. The Commission sees a rewrite of the legislation as helping to clarify certain basic obligations that must be adhered to.

Even though the Act is called the 'Trustee Act', it contains only one statement about the standard expected of trustees. The new legislation will spell out the duties and powers of trustees, as well as beneficiaries' rights.

It will be some months before the likely changes become clear. Having said that, we have concerns about the standard of trust administration in a number of our clients' trusts and we're continuing to step up our trust administration activities, to make sure those trusts are robust and cannot be challenged by any third party.

## Tax Talk

### Here, there and everywhere

#### The Hidden Cash Economy

In the 2010 Budget, the Government announced it will be providing additional funding of \$119 million to the Inland Revenue Department (IRD) to expand its taxpayer audit activity with one-third being targeted to investigate the 'hidden cash economy'.

What is the 'hidden cash economy'? Basically, it is not returning sales as taxable income either by pocketing cash for goods and services sold (colloquially called 'cashies') or by swapping goods and services with other businesses without returning their value as income. Both amount to tax evasion in the eyes of the IRD. In biblical times tax collectors were treated with contempt and two thousand years later some attitudes to the nation's tax collectors haven't changed, indeed, some see taking cash as a God-given right in 'God's own'.

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## Here, there and everywhere

### The Hidden Cash Economy

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How is the Government through the Inland Revenue Department going to tackle this multi-million dollar problem? We believe they will use the tactics of their trans-Tasman counterpart, the Australian Tax Office who have accumulated Australia's biggest business benchmarking performance database, providing valuable information to measure whether businesses' profit margins are appropriate for their industry.

Take a painting contracting business for example. From the firm's paint supplier invoices the IRD can add up the quantity of paint purchased in a given tax year.

Their statistics will tell them the average number of litres that can be applied in an hour and the average hourly charge out rate. They can then estimate what the firm's sales should be and compare this with the amount returned for tax purposes. If the firm is doing 'cashies', or undisclosed contra deals with other businesses, the sales figure returned will be deficient and runs the risk of being reassessed for back tax over several years with interest, late payment charges and shortfall penalties adding to the debt.

The Government through IRD is very serious about plugging up the holes in the country's tax base and any taxpayer participating in the 'hidden cash economy' can expect serious consequences if caught with their hand in the till!!

## Death of the LAQC (Loss Attributing Qualifying Company)

Inland Revenue's policy division has prepared draft legislation to implement far-reaching changes to the Qualifying Company regime. Although the legislation is still in a draft form, it is likely to become final before Christmas. We recently sent a separate newsletter to clients outlining the proposed changes, so if you didn't receive one or have mislaid it, just let us know and we'll get another out to you.

There are a number of options available for clients who have LAQCs and we will be in regular communication with those clients over the coming months. This is not a case of one size fits all, each situation needs a fresh look. The solution will be straightforward for some clients and complex for others.

Please watch this space.



## The GST rate increase – She's not over yet!

October sure was an interesting month. Some clients who prepare their own GST returns (despite our best efforts to motivate them into early action) realised at the last minute the implications of the GST rate increase. Apart from that, the transition went pretty smoothly.

But the switch to 15% GST is not quite complete. We have clients whose GST returns span 1 October 2010, the date on which the GST rate increased. These clients will need to file a special 'Transitional GST Return' (GST 104A). These included clients who had a two-monthly or six-monthly return with a period ending 31 October, and also includes those clients with a six-monthly return with a period ending:

- 30 November 2010
- 31 December 2010
- 31 January 2010
- 28 February 2010

The Transitional GST Return splits the GST calculation into two parts, each part covering transactions at the old or the new rate. This is a complex return so for those of you who do complete your own GST returns, don't be shy about asking for help.

## Did you know we can be your ACC online agent?

Being recognised by ACC as your online agent gives us secure online access to your levy information, your cover status and invoices and allows us to work with ACC on your behalf. A simple signed authority from you is all it takes to get this happening.

A number of clients have gone one step further and asked that we just 'attend' to all of their ACC cover and premium requirements. We can certainly do this at a very reasonable annual price, so do let us know if this service appeals to you.

## Business Perspective

### The Hobbit – A fairytale ending

Prime Minister John Key announced late in October that *The Hobbit* movies will be made in New Zealand, following industrial action and intense negotiations with film producers Warner Bros.

Government then moved swiftly to introduce legislation clarifying the distinction between independent contractors and employees, but only as it relates to the film industry. This Bill amends the Employment Relations Act 2000 so that workers involved with film production work will be treated as independent contractors, unless they choose to be employees by entering into an agreement that provides that they are employees.



The New Zealand government will give Warner Bros a \$15 million tax rebate (subject to the success of the movies) and offset \$10 million of Warner Brothers' marketing costs as part of a strategic partnership, designed to promote the real middle earth as both a film production and tourist destination. NZ will also host one of the world premieres of the *Hobbit* movies.

The Government's handling of the dispute leading to a payout and a change to industrial laws to suit Warner Bros has polarised public opinion.

But let's face facts. The *Hobbit* movies are a \$670M project involving work for thousands of New Zealanders and promoting New Zealand on the world stage.

The production of a movie is big business and in business we all make decisions that involve intricate negotiations and the investment of cash to bring in revenue.

As Henry Ford said so eloquently, *"The man who will use his skill and constructive imagination to see how much he can give for a dollar, instead of how little he can give for a dollar, is bound to succeed"*.

#### Disclaimer

*This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation.*

### When the world of business, risk and tax gets you down, contemplate these facts:

1. According to the new Global Peace Index (GPI), New Zealand tops the list of countries that are the safest in the world.
2. According to the just released Human Development Report released by the UN, New Zealand is the third best country to live in the world, climbing 17 places in this year's index.
3. According to the IFC and World Bank, among 183 economies, New Zealand is in the top 3 for ease of doing business for local firms.
4. Australia and New Zealand shared first place, in a first-of-its-kind survey ranking 153 nations on the willingness of their citizens to donate time and money to charity. China ranked near the bottom, barely higher than last-place Madagascar.
5. And if that doesn't put a smile on your face, the world recession has created an oversupply of bubbly from France. Retailers are waging a 'champagne war', with prices for Moët slumping by almost 30%!



### Christmas Closing Period

Our office will be closed from Thursday 23<sup>rd</sup> of December, until Monday 17<sup>th</sup> of January...

To all of our wonderful clients, business associates and supporters, we wish you a joyous Christmas and an exciting and successful 2011. From the team at:

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