



# Estate and Taxation Planning Council New Zealand Inc

May 1993

Dear Member

## Fourth Estate

We look forward to some new directions in 1993-94. The Executive were pleased with the attendance at the AGM and have planned an active year.

My thanks to the Executive Committee for their support, evident in this newsletter. My colleagues responded promptly and generously with articles of interest. Initiatives are being taken by the Committee for the coming year: the politicians' seminar in July (?), a taxation seminar in June, and participation in the Continuing Education programme of the IAFP. Any member who would like to speak at our seminars need only contact me or Des Trigg. As an exercise in *profile-raising*, it has merit. This is also the year when a complete review of our Rules is due, under direction of Steve Murray.

Now that we have swallowed the bitter pill of the *Entertainment Tax*, readers may find something meaty in Des Trigg's article on the subject. He has carefully outlined the menu of ingredients that go into the making of yet another complicated and expensive tax-compliance *mélange*. Bon appetite and happy reading.

Marguerite Brien, Editor

## Entertainment Tax

The much publicised *lunch tax* is now law. Some of the more unsavoury ingredients of the original proposal have been taken off the menu. While the re-hash is a bit more palatable, the proposal will still leave an unsatisfactory taste in the mouths of taxpayers.

*Entertainment* covers the provision of food and beverages, any form of recreation and any accommodation/transport for the purpose of providing food beverages or recreation. 50% of expenditure on entertainment is non deductible. This is subject to specific exemptions and allowances. The expenditure will not be subject to fringe benefit tax. Some entertainment will remain fully deductible, including:

- Promoting or advertising one's goods or services to the general public where any entertainment is purely incidental;
- Sponsorships generally unless there is some form of reciprocal entertainment as consideration (in which case that reciprocation has to be valued where employees/clients/customers have greater opportunity to enjoy the benefit than members of the public);
- Any entertainment consumed or enjoyed outside New Zealand;
- Food and non-alcoholic beverages ordinarily and regularly provided as a morning and afternoon tea to employees or provided as light refreshments, for example, at conferences or education seminars.

Where entertainment is not fully deductible, there are allowances before the 50% non deductibility rule applies:

- Up to \$25 per day incurred on business-related entertainment while travelling;
- A similar daily allowance in respect to *eligible seminars* (prima facie the seminar must be of at least 4 hours continuous duration);
- \$25 per head (up to a maximum of \$500) for food or beverages consumed at a function or activity for non public promotional activities.

What are some of the practical issues that taxpayers need to consider? Among them are:

- Only 50% of the cost of in-house lunches provided to executives and clients, dining out at restaurants and Friday staff drinks will be deductible.
- Where entertainment is provided to employees other than in the course of their employment, that will be subject to FBT.
- An *entertainment facility* used wholly or principally for entertainment comes within the 50% deductibility rules. For example, an in-house gymnasium provided for staff would mean that only 50% of all associated costs would be deductible.
- Opportunity exists to do some deals with those in the hospitality industry. There is no longer a requirement to separate *entertainment* costs when quoting package deals. However care needs to be taken that one does not go overboard as the Tax Commissioner has the discretion to make his own assessment.
- Check the opportunity to maximise the use of the three separate \$25 daily allowances. A meal consumed enroute to a business conference might qualify for separate allowances of \$25 per day (while travelling) and \$25 per day (eligible conference).
- Taxpayers will note that where entertainment (which was previously fully deductible) neither enjoys an exemption nor an allowance, costs will increase by 34%.

Remember there are now two tax hurdles to clear:

- The expenditure on entertainment itself must be business-related.
- The business-related expenditure will enjoy only 50% deductibility unless an exemption/allowance applies.

Contributed by  
Des Trigg, Tax Partner,  
Spicer & Oppenheimt

## New Members

Please welcome to our functions:

Jeremy Goodwin is a solicitor who has practised Estate and Taxation Planning for the past 15 years. Originally from Wellington, Jeremy has been a partner at Brookfields for the past eight years and is now in their Auckland office.

Ross North has been in estate and trust administration with the New Zealand Guardian Trust for the past 4 years, as the Waikanae Branch manager and (more recently) as the assistant manager in the Auckland office. He was employed by the Public Trust from 1992 – 1993.

## Coming Events

Estate Duties are finally a dead issue....and who knows what form of tax may replace them – and when? Nevertheless, our clients still need advice today. Members, colleagues and guests are invited to hear tax lawyer John Hart speak on *Planning in the Vacuum: Advising Clients since the abolition of Estate Duties*.

Note in your diaries – and invite your clients now – for Tuesday 22 June, at the offices of Rudd Watts and Stone, 125 Queen Street, Auckland.