



## Estate and Taxation Planning Council New Zealand Inc

May 1997

Dear Member

### Fourth Estate

The December newsletter reported that the Christchurch branch of the Council was thriving, with well-attended seminars and a membership approaching 90 people.

We aren't sure what has happened to all those members, but we have recently received notice from George Scrimshaw of the Christchurch Executive Committee that the support from the Canterbury Law Society and the Accountants Society, in particular, and their members, has diminished to such an extent that it is no longer feasible to keep the Christchurch branch of the Council in operation.

We are indeed saddened to learn of the rather sudden demise of what was a seemingly healthy offshoot of our own Council. Perhaps there is more amiss in our health system than we all suspect?

Marguerite Brien, Editor

### New Tax Disputes Resolution Process

The Tax Administration Act 1996 gave effect to the new disputes resolution process, effective for all tax returns processed on or after 1 October 1996. The procedures affect all parties: the IRD, Taxpayers and Tax Agents/Advisers.

#### The New Process

The Commissioner must issue a NOPA (Notice of Proposed Adjustment) if:

- § an assessment is to be issued which differs from the amount or basis declared in a return, or
- § an amending assessment is to be issued based upon new information and in either case, the Taxpayer does not agree with assessment.

If the Commissioner does issue an assessment or determination without first issuing a NOPA and the Taxpayer wishes to dispute the decision, the Taxpayer must issue a NPOA to the Commissioner. This must be issued within two months of the date of the assessment or else the Taxpayer is deemed to have accepted the assessment.

The Commissioner is not required to issue a NOPA if there are simple mistakes or oversights in the return (e.g. arithmetical error or figure transpositions). Section 113 lists other grounds on which the Commissioner is also required to issue a NOPA.

The Commissioner cannot issue a NOPA where:

- § the proposed adjustment is already the subject of a challenge
- § the statute barred period has expired

## New Interest and Penalty Regime

The new interest and penalty regime affects all returns for the 1997-1998 tax years. The obligation to comply is on the Taxpayer – i.e.: it cannot be transferred to a third party. However, the Taxpayer is able to recover from a Tax Agent if the contractual obligations have not been met by the Agent.

### Interest

The rationale for introducing the new interest regime:

- § paying interest compensates for the loss of use of money if the Taxpayer pays too much tax;
- § charging interest compensates the Government for the loss of use of money if not enough tax is paid;
- § the new rules encourage people to pay the correct tax, on time.

Interest rates are set by the Government based on market rates and will vary from time to time. The rate applicable from 8 January (for provisional tax) is 7.1% for overpayments and 13.9% for underpayments.

Interest starts on underpaid tax from the day after it is due and ends when fully paid. On overpaid tax, it is payable from the day after the due date or the day after the return was filed dependent on the circumstances. Interest ends when the refund is made.

There are no obligation rights to the imposition of interest except for incorrect calculation by Inland Revenue.

### Penalties

Part IX of TAA 1994 covers the penalty provisions. These have been enacted to:

- § encourage taxpayers to comply voluntarily with their tax obligations;
- § ensure that penalties for breaches of tax obligations are imposed impartially and consistently;
- § act against non-compliance with tax obligations effectively and at a level that is proportionate to the seriousness of the breach.

The penalties are Civil being late filing fees, late payment fees and shortfall penalties.

The Criminal penalties (Section 143-148) are in 3 main categories: absolute offenses, knowledge offenses and evasion offenses.

Contributed by  
Colin McEwan, Assistant Manager  
New Zealand Guardian Trust

## Survey of Members

How can we enjoy the pleasure of your company at more Council events?

With the ACM over the executive committee re-elected for another term we really must address the low attendance at our meeting. Low attendance makes it difficult and indeed embarrassing when we try to secure high profile speakers, or sponsorship events.

The Committee puts work into the hard part: organizing the events. All you need to do is turn up and enjoy – let's face it, we only meet four times a year. We will gain poll members for their preferences in the content, style, venue and timing of future council events. Complete and return the questionnaire to let us make the Council's meeting irresistible.

Make a real contribution to our Council

## Committee Member Announces Sole Practice

Steve Murray, a long-serving Executive Committee member, has recently announced his commencement in sole legal practice.

The Murray Law Office is situated at Level 1, Ideal House, cnr Gillies Avenue & Eden Street, Newmarket. Members are always welcome to drop in, but chocolate biscuits have been replaced with plain crackers.

## 1997 Annual General Meeting

The Annual General Meeting for 1997 was held on April 15<sup>th</sup>, at the Tamaki Yacht Club. Approximately 30 members and guests attended (despite a confirmed response rate of 45 members) to listen to the guest speaker, David Nottage.

David is a member of Toastmasters International and is the first Kiwi toastmaster to have won the prestigious International Toastmasters' Award (1996)

He regaled us with the story of his four-year long campaign to win the title, culminating in a finale competition held in St Louis, Missouri. He used his presentation as an allegory for his true message, which was Effective Communication.

A delightfully witty and fast-paced presentation, coupled with fine dining and a superb venue, guaranteed the success of this year's AGM.

The fact that the Committee held a number of members' proxy votes in hand going into the AGM meant that business was able to be transacted smoothly and efficiently.

Those who attended seemed to enjoy the opportunity they had to meet with colleagues and friends socially over the dinner hour.

This is a format which the Committee is considering using again.

## New Member of Executive Committee

The Executive Committee has co opted Jeff Matthews to represent the financial planning industry. Jeff has a degree in International Economics and has worked in foreign exchange, international finance and trade finance, both here and overseas.

Since 1986, he has been involved in share broking, and investment advisory work. He is a Certified Financial Planner and last year was appointed the Northern Regional Manager for Spicers Financial Services.

The Committee welcomes Jeff, who replaces the retiring Bill Patterson