



# Estate and Taxation Planning Council New Zealand Inc

March 2003

Dear Member

## Seminar Report

### The Beneficiaries are coming!

This was the topic for first meeting of the year, held on February 26<sup>th</sup> and very encouraging to see nearly 60 of our members in attendance. This was our first breakfast meeting, a format that clearly suits many members, and one your Executive will use again.

Geoff Clews set the scene with his opening address touching on recent case law and his interpretation of how the Judiciary are interpreting the law in relation to Trustees. One of the important messages from Geoff's address was his observation that Trustees must now apply a higher standard of care; no longer is it enough to simply demonstrate that due process was followed. Geoff also made mention that whilst the Judiciary acknowledge that Modern Portfolio Theory exists, in his view they are still very sceptical of it.

Peter Bould covered the topic wearing his accountant's hat. He touched on the difficulties of applying the GAP standards and the liability issues surrounding Corporate Trustees i.e. do the directors of a Corporate Trustee company have any liability for the actions of those acting on behalf of the Corporate Trustee? He also recommending that Trustees communicate with the accountant, highlighting any proposed changes to the assets of the Trust and inviting comments from the accountant. He finished flagging an issue surrounding Deeds containing a Hotchpot clause. Peter simply asked the question who takes responsibility for keeping track of this? In his experience it's not the accountant.

Trevor Peacock was our final speaker of the session and he talked about the "Prudent Man" regime that was established by Judge Samuel Putnam in Massachusetts in 1830.

Trevor then went on to cover the issues raised by Corporate Trustees in reviewing the Prudent Man rule, which highlighted that this process is not just about asset allocation decisions, but that it should also include factors such as, duration of the Trust, ages and domicile of beneficiaries, their income requirements, and any other factors that are relevant to the Trust.

The seminar then finished off with a quick question and answers session, with a timely wrap up at 9am.

## Executive

At the last executive meeting, the issue of updating and maintaining the Council web page was discussed. We need to update the membership list, post the latest newsletters and install a "hits" button to monitor the amount of visit the site is receiving. It was decided that it was more cost effective to use an out side contractor to maintain the webpage, as it only required about 30 minutes of work a month.

The executive discussed the success of our first seminar for 2003 "The Beneficiaries are Coming", and have started planning the next seminar scheduled for late June.

Catherine Atchison reported on the formation of a local chapter of STEP's, and her comments are covered in more detail in the following section.

## STEP'S

The Society of Trust and Estate Practitioners ("STEP") – a professional body for the trusts and estate profession in the UK and worldwide – has now established a New Zealand branch based in Auckland.

In a short period of time STEP has become known in the UK and Europe as the premier body of trust and estate practitioners. It is hoped by opening a branch in New Zealand to raise the profile of trust and estate work as a specialist profession in its own right. The STEP committee is currently planning this year's agenda which will in due course be available to Council members.

STEP was founded in 1991, with the aim of providing a forum for individuals drawn from legal, accountancy, corporate trust and related professions, whose occupations include significant involvement at a specialist level with any of the planning, creation and management of and accounting for trust and estates, executorships and related taxes.

It currently has 8,000 members worldwide, with more than half practising outside the United Kingdom, making it a truly global organisation. As well as providing a network for professionals working in this area, it also aims at providing education programmes to advance knowledge and learning in respect of trusts, estates and allied subjects; to undertake research; to organise and hold conferences and meetings in all aspects of trusts, estates and related disciplines and to maintain standards for practitioners by way of education and training.

Practitioners with a minimum of five years' experience at specialist level in the planning, creation, management and accounting for trusts and estates are eligible for membership.

## Future Events

Our AGM is scheduled for 5.15pm on 8 May at the offices of Simpson Grierson, 92-96 Albert Street, Auckland. The AGM will be held in conjunction with the executives regular monthly meeting.

Our next seminar is scheduled for 25 June, and the executive is currently working on the subject matter and speakers. Mark these dates in your calendar for future events.

8 May	Annual General Meeting
25 June	Seminar Activity / Speaker
24 September	Seminar Activity / Speaker
3 December	Christmas Dinner & Speaker

## New Members

Lewis Grant has been a member of the NZ Law Society for over 25 years. Lewis worked at Neumagen & Neumagen before moving to NZI Trust where he was the manager of their Sydney Office for three years. On his return to New Zealand Lewis moved to Russell McVeagh, where he worked for 17 years as a Senior Associate specializing in Trusts & Estates. In 2002 he became a founding partner of Taylor Grant Tesiram, a boutique law firm specialising in trusts and personal asset planning.

Lewis is a trustee of numerous Family, Charitable and Business Trusts, and tutors at Auckland University. His outside interests are soccer and vintage cars.