



Estate and Taxation Planning Council New Zealand Inc

May 2005

Executive Report to the 2005 AGM

The purpose and aims of the Estate and Taxation Planning Council NZ Inc. are fourfold: -

1. To provide a forum for the exchange of knowledge and enhancement of professional skills in asset and income planning.
2. To encourage co-operation and fellowship between people and groups professionally involved in the process of estate conservation and taxation planning.
3. To give members a better understanding of how their respective skills can inter-relate for the wider benefit of their clients and the general public.
4. To promote the interests of its members and of the general public through education and professional excellence.

When I look back over the past 12 months and review the functions hosted by the Council over that time, I believe that members have been well rewarded for their time invested and their modest membership fee. More importantly I believe the purpose and aims of the Council have been satisfied. Let's just remind ourselves of those functions:-

April 2005 I'm fully protected, but are you?

The first seminar of 2005 featured two guest speakers, namely John Brown and Moya Nixon. John provides consultancy advice in the areas of business life insurance, trusts and asset planning and has 30 years experience, initially in legal practice and then as a consultant to two life offices. John covered the topic of income protection insurance in light of recent case law. He also covered ownership issues surrounding Trusts.

Moya Nixon is Governing Director of Nixon Cavan Insurances, a member of the Independent Insurance Brokers Association (I.I.B.A) and has been involved in the insurance industry for 25 years and has won numerous awards. She presented on some of the latest issues concerning Professional Indemnity Insurance.

November 2004 Our Christmas function with guest speaker Brian Gaynor

Our Christmas function was once again held at the Auckland Club, this year our guest speaker was Brian Gaynor whose topic was "The Re-birth of the New Zealand sharemarket" a look at what made the New Zealand sharemarket one of the world's best performing markets over the preceding couple of years.

August 2004 Trading Trusts – The good the bad and the ugly

A breakfast seminar with guest speaker John Hart who provided an overview of the positives and negatives of trading trusts. Topics included:-

- § What are the benefits?
- § An analysis /critique of the recent TRA case, Case W33.
- § Are Trading Trusts worth the trouble?
- § How to structure trading trusts to minimise risk for you, and your clients.

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June 2004 Divorce can seriously damage your client's wealth

A breakfast seminar with guest speaker Geoff Harrison. Geoff is a Barrister who specialises in Family Law and is a regular contributor and presenter for the New Zealand Law Society on issues relating to divorce and relationship property. He gave us an insight into recent cases and his interpretation on current issues in this area.

Once again the common theme for all of our functions with the exception of the Christmas function is to use the breakfast seminar format, at Romfords in Tamaki Drive. This continues to work well, with good attendance from members and guests.

More work has been undertaken on the Council's website over the past year, and it continues to improve, thanks largely to the efforts of Jeff Matthews. If you haven't visited the site recently, I do recommend having a look. We now have a good sized library of past Newsletters and of course the membership database. It also provides information on forthcoming events.

As this Council year draws to a close, I would like to formally thank Catherine Atchison who will be standing down from the Executive. Catherine has given many years of service to the Executive and has nominated Deeanah Winders as her successor. I would also like to thank the rest of my Executive Committee members for their support and hard work, namely Jeff Matthews (vice President), Gary Fitzpatrick (Secretary), Robert Knox (treasurer), Hugh McGuinness, and John Tonkin. I would also like to thank Deeanah Winders of Martelli McKegg Wells & Cormack, who has kindly taken the Executive Committee minutes over this past year, and Simpson Grierson who have kindly provided a venue for the regular Executive Committee meetings.

Finally, I have decided to step down as President this year and Jeff Matthews will be stepping up to the plate. I wish Jeff all the very best in his new role, and I will be remaining on the Executive Committee in my role as Past President, to offer my help and assistance over the coming year. I'm sure I speak for all on the Executive Committee when I say that we once again look forward to the challenge of meeting the needs of members, and the objectives of the Council over the coming 12 months.

Gary Morgan
President

AGM

The AGM was held on Wednesday 13th April at the offices of Simpson Grierson, Albert Street, Auckland. This was a short meeting with no contentious issues on the Agenda. After some discussion it was felt that we should keep our subscriptions at \$100 plus GST for the next year, and that we should start a drive for new members.

Gary Morgan stepped down as President and will be succeeded by Jeff Matthews. Gary will stay on the Executive as immediate past president. Gary Fitzpatrick is now Vice-President. Catherine Atchison has resigned from the Executive, and is replaced by Deeanah Winders who has agreed to be our Secretary. The following incumbent officers of the Executive Committee, by virtue of kindly offering to stand for another year, were duly voted to office once again. No other nominations for these offices were received: -

Jeff Matthews	President
Gary Fitzpatrick	Vice-President
Robert Knox	Treasurer
Deeanah Winders	Secretary
Hugh McGuinness	
John Tonkin	

The Executive would like to thank Gary and Catherine for their contribution to the Council over many years.

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Deeanah Winders, our new Executive Committee member

Deeanah graduated from the Australian National University in Canberra with a combined degree in Asian studies (Japanese) and law. Prior to commencing her legal studies, Deeanah spent a year in Japan studying the culture, language and legal system. She was admitted to the Supreme Court of the Australian Capital Territory in 2001 and the High Court of New Zealand in 2002. Deeanah practises in the estates and trusts department of Martelli McKegg Wells & Cormack, and has been with the firm since 2001.

Deeanah's interests include Travel, Movies, Reading, Cooking and Wine. She also enjoys Latin and Ballroom dancing.

Last Seminar - I'm fully protected – but are you?

Moya Nixon – Moya is Governing Director of Nixon Cavan Insurances, a member of the Independent Insurance Brokers Association (I.I.B.A). Moya has been involved in the insurance industry for 25 years and has won numerous awards.

Moya gave an example of an architect in the UK who was sued personally as a result of an alleged breach of professional duty in relation to the design of a house. The firm for which he worked at the time of the design had since been closed so he had to pay his own defence costs. The court found against him and damages in the amount of UK Pounds 40,000 were awarded.

Volunteer work-trustees often felt protected because trust deeds contain a clause which says that the trust will "indemnify the trustee" if the trustee is held personally liable. This presupposes that the trust has the means to pay defence costs and damages on behalf of the trustee whereas few trusts have the discretionary funds to do this.

Professional indemnity and Trustees Liability insurance are both "claims made" policies, which means that the policy which responds to a law suit is the one that covered you at the time you are sued, not the one that was in force when the alleged wrongful act occurred.

When changing to a new insurer, it is important to check that your new cover is retroactive to the start date of any prior and continuous cover, this will give you protection against alleged errors which occurred during a previous policy period but of which you are not yet aware as you have not yet been sued.

Unexpired liabilities-your exposure to liability claims continues even after you have retired or resigned and it is important to consider how you will protect yourself if your business ceases to trade. "Run off" cover protects you against claims made against you years after the event occurred which gave rise to the claim.

John Brown – John has extensive expertise in the areas of business life insurance, trusts and asset planning. John has 30 years experience, initially in legal practice and then as a consultant to two life offices. John looked at the issue of Income Protection and who should own such a policy to protect against a possible relationship property claim.

John covered some of the issues concerning the *Creighton v Creighton* case where Dr Creighton married in America in 1991, and purchased a disability/income protection policy, with an agreed value of US\$ 8,000 a month tax free. In 1995 Dr Creighton and his wife returned to New Zealand. In 1996 Dr Creighton developed a degenerative disease and was unable to work. The US insurance company accepted his claim, and he was paid regular instalments. In 2001 the Doctor and his wife separated, and an Actuary working for the wife assessed that the policy had a future value of US\$916,000, and formed part of the relationship property.

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John looked at some of the issues that the High Court had to consider in coming up with their verdict. Were the premiums paid from relationship property? Did Dr Creighton acquire any new or fresh rights after separation? John also covered some of the key issues that were raised in the *Nation v Nation* case.

After two excellent presentations both presenters were peppered with questions from members. It certainly caused a lot of people to look rather nervous, as they rushed back to their offices to read the fine print on their insurance policies.

New Members

Rob Wills

Rob has over 30 years experience in the law, some 23 years as a partner specialising in property and trust matters. Rob has been a partner at Haigh Lyon since 1992, and concentrates on property law, principally offering specialist advice to individuals in relation to house conveyancing, trusts, wills and estate administration and to small and medium size businesses.

Outside the law Rob is involved in many sports, principally multi-sport (a Coast to Coast veteran), triathlons and tennis. He is also an avid follower of most sports, particularly rugby and cricket. Rob is a keen Rotarian and has been involved over the years as patron and board member to several Auckland schools.

Hugh Thompson

Hugh is a solicitor and Trust Manager with Guardian Trust. Hugh began his legal career with Kirbys Solicitors in Harrogate. Hugh has worked at several other UK law firms in a solicitor/Trust manager roll, before moving to New Zealand in 2003. Hugh is Trust Manager with Guardian Trust's Remuera Office and has seven years experience in the area of Trust and Estate management.

Deeanah Winders

For details of Deeanah read our earlier comments under New Executive Member.

Next Function

Our next function is a breakfast seminar on the issue: Is New Zealand still a haven for Foreign Trusts?

Date Wednesday 22 June 2005
Time 7:15am for a 7.30am breakfast at
Venue Romfords, Tamaki Drive, Auckland

Mike Reynolds is our guest presenter. Mike has worked with several Auckland law firms in the areas of commercial law and litigation. He has specialised in corporate and trust structuring for seventeen years. He is a foundation member of the New Zealand Trustees Association, and is the New Zealand correspondent for several international publications. Mike is also a member of STEP and is a committee member of the New Zealand Branch.

Council Web Page

Just another reminder, that the Council webpage is now up and running. We have managed to convert a number of old printed newsletters into the new format, and they have been added to the Library section. If any members have some old or missing newsletters, we would be pleased to receive copies.

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As well as details of the Executive, we have an updated list of current members, their firm and their phone numbers. If you change firms, or phone numbers please let us know. We chose not to include the e-mail addresses of members on the webpage, but again please let us know if your address changes, mail any changes to: drw@martellimckegg.co.nz

We intend to ensure that the latest Newsletter and details of the next council activity are posted on the website page as soon as available. So please bookmark the council webpage at: www.etpc.co.nz

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