



Winter Wilco 2011

If you'd prefer to receive future newsletters by email then please email us at hcmal@hcpartners.co.nz



Risk and Reward

Family Trusts - the story continues

The Law Commission's review of Family Trusts continues. A paper on Trustees' duties, the office of Trustee, trust administration, and trustees' powers is due out shortly, with the final analysis - on trading trusts, the potential registration of trusts and the obligations of trust advisors - to be delivered to Government in approximately 3 months' time.

It appears we are heading for a major shake up on the entire manner in which trusts operate and are administered. As your accountants (and for some of you, your professional trustees) we're on a mission to ensure your Family Trust's administration processes are robust. If you haven't heard from us yet, you may well soon....

'In the business world, the rear-view mirror is always clearer than the windshield.' **Warren Buffett**

Coping with employment changes

In our Special Employer Alert in April, we highlighted major changes to the Employment Relations and Holidays Acts that came into force on 1 April 2011. Of particular concern to us is the requirement for employers to maintain employee personal files from 1 July this year.

We understand all too well the administration that comes with being an employer. To make our employer clients' lives easier, we've developed a simple Employer Documentation Kit, which you now have the opportunity to acquire.

The kit includes almost 50 checklists, forms and letters as well as a detailed procedure that guides you through its use. The kit covers recruitment, induction, trial & probation, remuneration, training & career development, performance management, leave & sick leave, resignation & termination. (Please note that we have not included an Employment Agreement template in the kit, simply because there are a number of recognised agreement providers).

If you do want help with individual Employment Agreements, you can use the Employment Agreement builder on the Department of Labour website www.dol.govt.nz/er/starting/relationships/agreements/builder.asp

Alternatively you can use a specialist provider, such as one of those listed below:

- The Employment Relations service offered by the Department of Labour, <http://www.dol.govt.nz/er>
- Employers Assistance Ltd, www.employers.co.nz or 0800 15 8000
- Employers And Manufacturers Association Inc (EMA), www.ema.co.nz or 0800 800 362
- Federated Farmers of New Zealand, www.fedfarm.org.nz or 0800 327 646
- Or, of course, your local or preferred legal specialist

To acquire our Employer Documentation Kit, call or email any one of the team and we'll get that out to you in both paper and DVD format.



Substantial depreciation allowances still available

While depreciation allowances on most building structures ended on 1 April this year, depreciation can still be claimed on a wide range of commercial and industrial building fit-out assets.

Just before Christmas, legislation was passed confirming that depreciation will continue to be allowed on building services assets such as lifts, air conditioning systems, plumbing and electrical reticulation in commercial buildings. The legislation recognises the practical reality that fit-outs in commercial, retail and industrial buildings suffer significantly higher wear and tear when compared to residential property.

Those clients who have never separately itemised the building fit-out assets acquired at the same time as the building can now take 15% of the building's adjusted tax value (that's the original cost price of the building less any depreciation claimed so far) less the adjusted tax value of any separately itemised fit-out assets acquired subsequent to acquisition of the building, call it fit-out and depreciate it at the rate of 2% for the 2011-12 year onwards.

For all new property purchases, building and fit-out assets should be properly segregated at acquisition date.



Talk to us about shareholding changes

We've recently experienced two cases where clients have decided to make shareholding changes in their companies, have gone online to the Companies Office website and Bob's your Uncle, shareholding changes updated!

Actually, it wasn't such a smart idea as it turns out. Changing shareholding in your company without talking to us first can have dire tax consequences. These consequences can be far reaching. Continuity of losses carried forward can be affected, imputation tax credits can be lost forever, and under the new Look Through Company regime the flow of losses will be affected.

Moral of the story? Talk to us when you're contemplating share changes. Even better, get us to be your Registered Office. In fact, we do this for most of our clients. We'll file your annual return for you, and we'll make sure you comply with all of your statutory records requirements under the Companies Act.



Proposals to make the tax system fairer

The 2011 budget included some measures to protect the tax base. The Government is concerned about three areas and proposes to release public consultation documents on each of these later this year. Livestock elections are covered separately in a Wilco Special Alert and we summarise below the other two areas of Government concern.

The first concern is whether non-cash benefits should be added to income for social assistance purposes, such as Working For Families and whether salary that is traded for non-taxed in kind benefits should be subject to income tax. Typical non-cash benefits may include company cars, gym and sporting club subscriptions, staff discounts, use of company owned holiday accommodation and subsidised health insurance to name a few. Some employees choose to receive a company car by taking a salary sacrifice thereby reducing PAYE deducted from salary.

The second relates to mixed-use high value assets such as holiday homes set up as rental properties that have a very low occupancy or are used privately during their peak season when high rentals would be received. Yachts and launches that are chartered may well come under scrutiny in this document too.

The net continues to tighten.

Business Perspective

Risk management basics

We should all now realise what business disaster recovery planning really means and that a pre-emptive strike can positively influence your recovery. There are *many* aspects to review when it comes to your business recovery plan with no 'one size fits all' model available. Below are some important basics that you can implement readily.

1. Internal safety - Have you reviewed your premises to be sure the fit-out is safe and items are secured? Do you have the regulatory fire equipment? Do you have food and water stocks on-site? First aid? Do you have a clear and documented evacuation plan? Review and cement your plans as a team. Impose regular reviews and discussions of the plan, keeping new team members up to speed.
2. Evolving cloud technology and the virtual workplace have had a hugely positive effect on the recovery process. Important documentation can now easily be stored offsite 'in the cloud' as well as there being a definite trend towards web based software. At the very least, review (and test!) your current backup procedures.
3. Which of your staff could work remotely with minimal disruption? Why not investigate remote computer connections in the short term rather than as a reaction to a disaster? There can be positives to having the right staff work remotely. It's also easier than it seems and for some industries it's becoming the way of the future.
4. Have you reviewed your paperless possibilities? What do you currently store in hard copy that should be scanned and sucked into your server or a 'cloud' based backup solution?

5. What about your most vital of business documents? Do you have the originals stored in a safe location as well as 'soft' copies (stored in your computer server with adequate backup of course)? Examples include: insurance policies, key client and staff contracts.
6. Insurances - Do you have cover for site and equipment, vehicles, electronics, furniture and fittings, stock, wages and salaries, loss of profit, additional/increased cost of operating your business, claim preparation costs (accountant, solicitor, and insurance advisor fees), reinstatement of records? And the list goes on.
7. Finally, do you have the names, mobile and home phone numbers and personal email addresses of all your team members stored in your mobile phone? A Christchurch acquaintance could not stress strongly enough his relief at having this information readily available, not only in the immediate aftermath but when he needed to coordinate his team remotely in the following weeks.

We recommend you do your research and establish risk management that best fits your business. The NZ civil defence website (www.civildefence.govt.nz) is a great starting point.



'If you see a bandwagon, it's too late.' **James Goldsmith**

Rebuilding community spirit

'Climate change and the alarming increase in extreme weather patterns are a new reality. Since 1960 natural disasters and extreme weather events have increased from 50 to 400 per year.... Bouncing back from adversity is the foundation of resilience. Bounce back is learned.' Profound words from Dr Sven Hansen of the Resilience Institute.

Dr Hansen outlines a number of key focus points to strengthen your resilience in the aftermath of a natural event. In summary:

1. Be around others, working or relaxing. Commit to using positive language, focus on the small wins and be aware of the future you are working towards together.
2. Repel negative emotions (grief, rage, terror, etc). Constructively identify them and move forward.
3. Relaxation - even the most resilient succumb to psychological damage, destructive emotions, fatigue, insomnia, injury and dietary lapse. Practice daily relaxation and appreciate the human courage as it spreads around you.



Rebuilding community spirit (cont.)

4. Move forward. Focus on what you can control - aim for deliberate action, even if simple and routine. 'What can I do/achieve/start/support'? Constantly reflect on positive stepping stones.
5. Maintain daily routine. Critical events change everything. Take regular breaks, stretch tired muscles, snack and rehydrate. Powernap. Establish routine in recovery efforts. 'Sleep is mission-critical in long-term recovery'.

Resilience is one of the cornerstones of a successful business. Like the world we live in, a business (a unique ecosystem in its own right) regularly experiences natural events, as well as the odd disaster. Check out the Resilience Institute at: www.resiliencei.com.



Reminder – NZ Emissions Trading Scheme

What needs to be done and by when?

There are two very important dates looming:

- 30 September 2011 - the final date for applying for the 50 hectare exemption
- 30 November 2011 - the final date for applying for carbon credits (NZUs) for pre-1990 forests

There are various steps involved in both gaining the exemption and applying for the units. Lessons can be learned from applications that have already been filed:

- The application process can be lengthy (up to six months), so it's important the process is started well ahead of the cut-off dates
- The area MAF thinks you have and the area you think you have may not tally - you may think you have under 50 hectares but in fact have more
- Continuous ownership can be an issue - especially if land changed hands in recent years or a trustee has changed
- **DO NOT WAIT.... IT COULD BE TOO LATE**

What about exemptions?

If you own less than 50 hectares in total of pre-1990 exotic forest land you may be eligible for an exemption. The 50 hectare exemption is not on a per property basis - it is on a per owner basis. If you own multiple properties the 50 hectare exemption must be counted over all properties.

Gaining an exemption for areas of less than 50 hectares means that this land can be deforested in the future without incurring an ETS liability.

If you have less than 50 hectares you can claim an exemption for some of this area (land that you want to deforest), and claim carbon credits for part of this area (land that you want to retain in forestry).

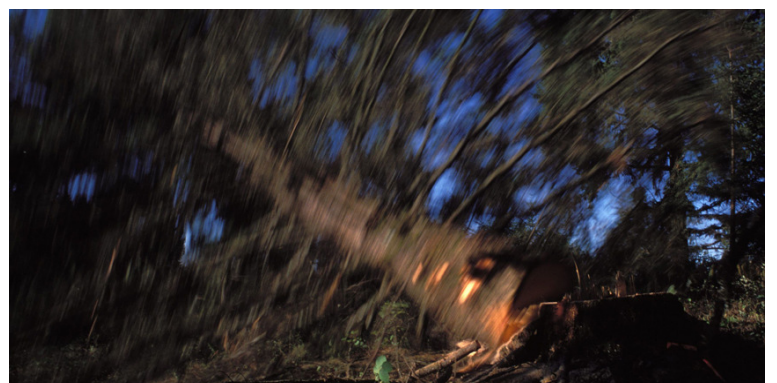
So what exactly makes a forest?

This sounds like it should be easy. However, there may be some areas of your land which you don't think of as forest but which come under the definition of a forest when MAF look at their records (e.g. satellite photos).

A pre-1990 forest must have the following attributes:

- Land that was in forest on 31 December 1989 and was in predominantly exotic forest at the end of 2007
- Must be at least one hectare
- Capable of reaching five metres in height
- Capable of attaining a canopy cover of 30% or more

The width of the forest must on average be 30 metres or more. This means that your shelter belts are likely to be excluded from the pre-1990 definition. On the other hand if you have a stand of say poplar trees or other exotic species on hillsides these may be included.



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.