

## Winter Wilco 2011

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**WOW!**



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

## 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....

## 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.

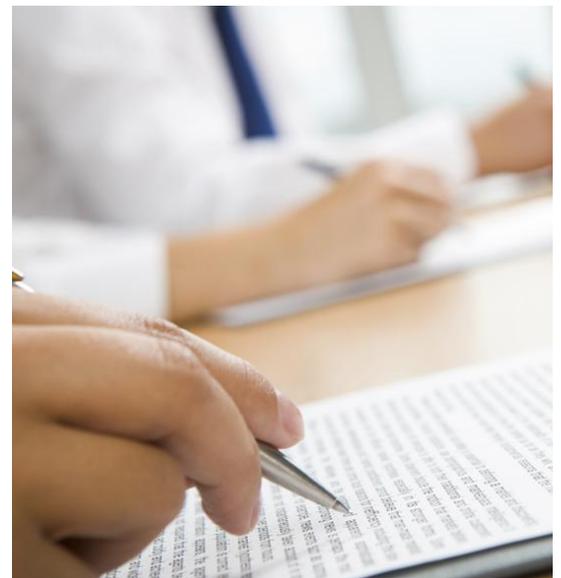
The kit includes almost 50 checklists, forms and letters as well as a detailed procedure that guides you through its use. The kit covers recruitment, induction, trial & probation, remuneration, training & career development, performance management, leave & sick leave, resignation & termination. (Please 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](http://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](http://www.employers.co.nz) or 0800 15 8000
- Employers And Manufacturers Association Inc (EMA), [www.ema.co.nz](http://www.ema.co.nz) or 0800 800 362
- Federated Farmers of New Zealand, [www.fedfarm.org.nz](http://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.



# Tax Talk

## 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](http://www.civildefence.govt.nz)) is a great starting point.



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



## ACC Levies – Beware of overcharging

- Are you self-employed and work less than 30 hour per week? This classifies you as part-time for ACC purposes and if you have made a loss or earned very little income, you have a choice as to whether you pay for cover at a minimum full-time rate or pay levies based on your actual earnings which will be zero in a loss situation. ACC will automatically charge at the full-time rate unless you advise them of your part time status.
- Have you moved from self employment to forming a company? ACC must be advised of this change or you may be charged levies as both self-employed and as a shareholder employee.
- Check your invoices to ensure ACC have your correct occupation (ACC Classification Unit) listed, so you are not charged a higher rate than necessary.

If in doubt, don't hesitate to contact us for advice.

## Roasting guru gives green world first

Christchurch one-stop coffee supplies shop Caffe Prima is introducing a green alternative for coffee enthusiasts. They've launched the world's first fully biodegradable pack for freshly roasted coffee - the Econic coffee pack.

With coffee consumption rising significantly each year, so is packaging waste. The Econic coffee pack gives coffee drinkers a feel-good alternative to dumping millions of standard foil bags every year.

Caffe Prima uses about 90,000 foil bags annually. Geoff Johnson (owner of Caffe Prima) explains, "We're a medium-sized player so there are millions [of foil bags] going out every year in New Zealand. We thought 'what should we be doing to be better corporate citizens?'"

Hamilton-based Convex Plastics developed the compostable bag. The 3 layer lamination process has a middle cellulose layer sprayed with an aluminum coating. The three films are made from sustainably-produced wood pulp and corn sources and have all been internationally certified to the British Standard EN13432 for composting and biodegradability.

The empty Caffe Prima bags will break down well in a home composting environment. When tested in a Waikato bark composting facility the final prototype all but disappeared. It started to soften after a fortnight and was down to a few small fragments by week 14.

The Econic packs have been specifically developed by Convex Plastics to provide the ideal sealing and barrier properties for coffee and dry foods. They are available both with and without an innovative biodegradable vent to allow the CO2 gases given off by hot roasted coffee beans to be vented through the top and bottom bag seals. The vent replaces the traditional non-renewable one-way valve button, and is activated by positive pressure inside the bag.

Caffe Prima was established in 1995 and contract roasts for a wide range of customers, as well as supplying a range of coffee, tea and related paraphernalia.

We're tracking Geoff and the Caffe Prima team's progress - we think their initiative is a fabulous example of clean green sustainable kiwi business ingenuity. Stay tuned for our interview with Geoff Johnson of Caffe Prima in your edition of Spring Wilco 2011.



# Shareholder Exits

## Are you Prepared?

In Company's where there are more than one shareholder, it is important that there is a clear roadmap for a shareholder exit. A shareholder can exit in a number of different ways. The most discussed is death; however disability, retirement and disputes are also ways in which a shareholder may have cause to exit a Company. Often in the event of an exit, shareholders are frustrated in the length of time and money it takes to resolve the resulting issues.

## Straightforward or Messy? You choose!

On exit a new shareholder may be introduced or an existing shareholding may gain a further interest. For the remaining shareholders it is important that the new shareholding mix is "workable". There are numerous examples of the remaining shareholders finding themselves unexpectedly in business with the exiting shareholders family members or unknown third parties. Often Company's believe that their standard constitution offer protection with the pre-emptive rights clause; however this clause only gives existing shareholders the first option to purchase the exiting shareholders shares. It does not address how the shares are to be valued, how the shares will be financed and what process to take.

It is also important to remember that it is not just the value of shares that needs to be considered. An exiting shareholder is able to demand repayment of their current account by the company and also cease to guarantee Company debt. The retained earnings of the Company may also be required to be distributed on exit and tax credits will need to be available. All of these events can create a cashflow burden on the Company and the remaining shareholders. Any disputes or documentation that needs to be prepared also creates costly bills.

Thankfully there are a number of things shareholders can do to make a shareholder exit as painless as possible.

## Got Insurance?

Life insurance is a common tool to enable one shareholder to buy the exiting shareholders shares in the event of a death. Death is however only one type of exit. It is more likely that a shareholder exists due to disability, long-term illness, or other health related matters. Insurance policies need to be reviewed to ensure that policy ownership is effective and that the most likely events are covered. Policies can in some circumstances take some time to be paid so interim cashflow measures may need to be taken. Insurances also do not cover instances where there is a dispute, or retirement of a shareholder.

## Shareholders Agreement = No surprises!

Insurances couple with a written shareholders agreement is a more comprehensive approach. A shareholders agreement sets out the intention of shareholders and what process the remaining shareholders will take in the event of an exit.

Issues an agreement can address include:

1. Identifying who is involved and who to consult. Who are the professionals and parties to turn to? Does a spouse/ accountant/ lawyer/ insurer hold important information?
2. Timing of shareholding changes, finance and payment. The shares may be changed straightaway or over a pre-determined period of time.
3. Guidance around the value or consideration of the shares involved. Shareholders can agree on a valuation intermittently or prescribe a valuation model to follow.
4. Any other issues that are specific to the business. For example an exiting shareholder may be paid a fee for continuing to guarantee a line of credit.

## Peace of Mind

Discussing shareholder intentions may seem like an uncomfortable conversation, however in the event of an exit, some pre-planning can save significant time, effort and money.

If you have any questions or would like to discuss the above shareholder issues further please don't hesitate to contact us and make an appointment.

Policies can in some circumstances take some time to be paid so interim cashflow measures may need to be taken. Insurances also do not cover instances where there is a dispute, or retirement of a shareholder.



# WHAT'S NEW AT WILLIAMSON & CO?

## New Staff

We are very pleased to welcome the following new staff to our team:

- Brenda James – PA to Stephen and Human Resources
- Kylie Scott – Chartered Accountant
- Elliot Agate – Junior Accounting Technician



## Pay your Account by Credit Card

You can now pay your Williamson & Co account by Eftpos or Credit Card.

Either come into our office where we will process your payment, or phone the details through to Brenda on 09 2370021.

### 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.*

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