



NZLS CLE Ltd  
CONTINUING LEGAL EDUCATION  
NEW ZEALAND LAW SOCIETY



CONFERENCE

# TAX CONFERENCE – THE ROAD AHEAD

*September 2019*

**IN THIS CONFERENCE**

*... stimulating and informative to both tax specialists and any legal and accounting practitioners and in-house advisers grappling with today's tax issues and what these mean for the road ahead.*

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# TAX CONFERENCE – THE ROAD AHEAD

## FROM THE CHAIR

6  
CPD hours



*You are warmly invited to attend the 2019 New Zealand Law Society CLE Tax Conference to be held on Thursday 12 September 2019 at the Cordis, Auckland.*

*The full-day programme provides for an interesting and topical analysis of the current tax landscape, hot spots for change, and practical and technical issues affecting legal, accounting and in-house tax advisers.*

*In light of the coalition government's decision not to implement any capital gains tax, a burning question for tax advisers is how does that impact upon the current tax landscape? Particularly so in terms of taxpayer compliance and Inland Revenue audit activity, and changes to the tax system which can now receive a clear focus, such as those necessitated by the digital economy we live in and other implementation of emerging technologies, such as crypto-currency.*

*We have a varied programme for the conference with content which will navigate through the CGT-free world we now live in (at least, for a while anyway). The programme provides practical insights for tax advisors, from current trends in M&A activity to how Inland Revenue's transformation will affect day to day interactions. Other sessions will deal with recent and topical case law and legislative developments, with perspectives from Inland Revenue and private practice experts.*

*From a tax policy perspective, we will be provided with an update on the government's tax policy programme, in particular the latest developments in the taxation of the digital economy and the government's response to practical issues in terms of taxing the digital economy.*

*A highlight of the programme is an address from our keynote speaker, Sir Robert McLeod, on the burial of capital gains tax and where we now go without the lynch pin of a wholesale capital gains tax. Sir Robert has considerable experience in this matter, having been a member of a number of committees which have considered introduction of a CGT (including the Valabh and McLeod tax committees). He is one of the best placed to provide informed commentary on the outcomes of the rejection of a capital gains tax by the New Zealand government.*

*We look forward to you joining us for a topical and relevant day.*

*We hope to see you there.*



**Fred Ward**

## CHAIR

*Fred Ward, Russell McVeagh, Auckland*

Fred is an experienced tax specialist and has been a partner of Russell McVeagh since 1995. He advises on all aspects of New Zealand Tax Law, with particular interest in tax disputes, corporate restructuring and cross-border financing issues. Fred is a member of the New Zealand Law Society Tax Committee and is a regular presenter at NZLS CLE conferences. He has a pug.

# PROGRAMME

## DAY ONE

8.00-8.30 **REGISTRATION**

8.30-8.40 **WELCOME AND OPENING** | *Chair: Fred Ward*

### 8.40-9.10 **CHANGING FOR YOU – MEETING CUSTOMER NEEDS THROUGH INLAND REVENUE TRANSFORMATION**

Richard will provide an overview of Inland Revenue's transformation journey to date; what has been achieved and what is yet to come. This is the largest transformation of its kind in New Zealand in terms of scale, complexity and change implications. In particular Richard will focus on how the transformation looks to meet customer needs and provide greater certainty, speed and trust in the overall tax system including how these changes affect how Inland Revenue works with its customers.

**Presenter** *Richard Owen*

### 9.10-9.55 **GST: EXPANDING THE NET – WHERE TO FROM HERE?**

The theme of recent GST reform has been to react to the challenge of the growth in e-commerce and emerging technologies by expanding the scope of the New Zealand GST net, in tandem with many other countries. Most notably, overseas suppliers of certain goods and services may now be required to register and return GST depending on the nature of their business and customer bases. This, together with new technologies and classes of transactions, means that the New Zealand GST regime is undergoing a transformative phase that will present challenges and opportunities for tax practitioners. The session will cover topics such as:

- The upcoming imposition of GST on low value goods imported into New Zealand
- Revisiting the application and impact of the "Netflix" tax on remote services
- Looking to the horizon – application of GST to cryptocurrency, digital assets and emerging sectors such as the "gig economy"
- A summary of recent GST judicial decisions.

**Presenters** *Jared Otto*  
*Campbell Pentney*

9.55-10.25 **MORNING TEA**

### 10.25-11.25 **CHARITY AND NOT-FOR-PROFIT TAX DEVELOPMENTS**

Are you and your clients at risk of being caught up in the maelstrom of income tax and GST developments affecting charities and other not-for-profits?

This session will get you up to speed and show you how to navigate your way through these developments, using case studies, and will provide you with practitioner and Inland Revenue perspectives on:

- Recent and pending changes to the Income Tax Act and the GST Act
- The Tax Working Group's charity taxation recommendations and relevant aspects of Inland Revenue's tax policy work programme
- The tax implications of the Charities Act registration regime and the review of the Charities Act
- Use of the donation tax credit regime in light of recent litigation, Inland Revenue items and legislative changes
- What lies over the horizon in relation to the taxation of charities and not-for-profits.

**Presenters** *Nick Bland*  
*Stewart Donaldson*  
*Helen Johnson*

11.25-12.10

## TAX COMPLEXITIES IN AN EVOLVING M&A ENVIRONMENT

The volume of share M&A activity in New Zealand has continued to remain strong. Every share sale transaction has tax implications and requires an allocation of tax risk associated with the target company between the parties. This session will focus on emerging trends and key issues that can alter the dynamics of the tax negotiation process, including:

- Increased prevalence of warranty and indemnity (W&I) insurance, reflecting a vendor-friendly market combined with a stronger offering by insurers
- The continued popularity and refinement of locked-box transactions in New Zealand
- The complexities associated with the transfer, and breaking up, of consolidated groups (particularly when combined with the above transaction approaches).

Presenters

*Graham Murray*  
*Jai Nario*

12.10-1.10

**LUNCH**

1.10-1.55

## RECENT TAX CASES: THE GOOD, THE BAD, AND THE UGLY

There have been a number of significant tax cases over the last 12 months. This session focusses on the good, bad and ugly aspects of these cases, including:

- The state of tax avoidance law following the High Court's judgments in *Frucor Suntory New Zealand Ltd v CIR* and *Cullen Group Ltd v CIR*. Some had hoped the taxpayer's win in *Frucor* would usher in a recalibrated approach to avoidance, but those hopes have been dampened by the judgment in *Cullen Group*. The session will cover the impact of these cases on tax structuring and avoidance analysis generally.
- The ongoing uncertainty at the boundary between capital and revenue. The session will cover the Commissioner's win in *Easy Park Ltd v CIR*, and the taxpayer's win in *NRS Media Holdings Ltd v Commissioner of Inland Revenue*.
- Developments in GST law, in particular the interpretation of the "financial services" definition in *Provident Insurance Corporation Limited v CIR*, and the pre-requisites for a supply discussed in *Canterbury Jockey Club v CIR*.

Presenter

*Simon Akozu*

1.55-2.40

## PERMANENT ESTABLISHMENTS AND PROFIT ATTRIBUTION - NOW AND INTO THE FUTURE

The concept of permanent establishment is a central pillar in the traditional framework for allocating taxing rights between jurisdictions and has undergone important changes in recent times. This session surveys the current landscape and illustrates the circumstances in which a permanent establishment can arise through a series of examples and case studies. It also addresses the related topic of how to allocate the profits of an enterprise to a permanent establishment, and concludes with a discussion on whether there is a place for the concept of permanent establishment in the digital economy.

Presenters

*Vivian Cheng*  
*Robyn Rakete*  
*Sam Rowe*

2.40-3.10

**AFTERNOON TEA**

3.10-4.10

## GOVERNMENT'S TAX POLICY WORK PROGRAMME - CURRENT FOCUS AND PRESSURES

David will provide an insight into the Government's tax policy work programme, with a focus on the high priority projects. In particular, he will cover the latest developments on the taxation of the digital economy.

Presenter

*David Carrigan*

4.10-4.50

**KEYNOTE SPEAKER - WHAT HAPPENED TO THE CGT AND WHERE TO FROM HERE?**

This session will discuss the following topics:

- A brief history of CGT in NZ before the Cullen Review
- Why the Government rejected the CGT and the lessons learned
- The Cullen Review Summary of Recommendations of non-CGT issues. This Summary was released in the Final Report Vol 1 of the Cullen Review in Feb 2019. The Government responded to these on 17 April 2019, approving a long list of non-CGT issues to be considered for inclusion in the tax work programme and a shorter list of non-CGT issues considered a high priority for the tax work programme.

**Presenter**

*Sir Robert McLeod*

4.50-5.00

**WRAP UP** | *Chair: Fred Ward*

5.00-6.00

**DRINKS & CANAPÉS**

**LEARNING OBJECTIVES**

**In this Conference you will:**

- Hear about the latest tax developments and how these may impact you and your clients.
- Learn valuable tips from the various case studies that will be used to enable you to help your clients.
- Be updated on recent case law and possible legislative changes and their potential impacts.

**WE ACKNOWLEDGE AND THANK OUR SPONSOR**



## KEYNOTE SPEAKER



*Sir Robert McLeod, Barrister, Auckland*

Sir Rob is a tax barrister and professional director. He spent most of his professional career as tax and managing partner in the Big 4 accounting firms. Throughout his career, Sir Rob has been a tax advisor to corporate and private clients.

Sir Rob was a member of the Valabh Committee on CGT (1989-1992), the McLeod Review 2001, the Victoria University Tax Working Group (2009), and the Capital Market Development Task Force (2009). He was also a member of the Jordan Tax Working Group in Australia (2012) which was set up to advise the Commonwealth Government on an appropriate company tax rate.

Sir Rob was also Chairman of the New Zealand Business Roundtable from 2002 to 2010.

Sir Rob is Ngāti Porou and was awarded a KNZM in the 2019 New Year's Honours for services to business and Māori. He is married to Joanne Hodge, retired tax partner from Bell Gully and a member of the Cullen Tax Review (2018).

## SPEAKERS



*Simon Akozu, MinterEllisonRuddWatts, Auckland*

Simon is a tax specialist with extensive experience advising clients on the tax aspects of financing arrangements, M&A and property transactions. His clients include domestic and foreign corporates, funds, banks and high net worth individuals.



*Nick Bland, Simpson Grierson, Auckland*

Nick has vast charity and not-for-profit tax expertise, providing extensive advice on New Zealand tax concession issues, Charities Act registration matters and general tax issues affecting New Zealand and international organisations.



*David Carrigan, Inland Revenue, Wellington*

David has worked for Inland Revenue since 1996 and has been a Policy Director since 2013. He led the tax reform of savings that led to the PIE and FDR rules. David is currently the Policy Director responsible for Inland Revenue's policy work on Business Transformation and the taxation of the digital economy.



*Vivien Cheng, Chapman Tripp, Wellington*

Vivian is an experienced practitioner who advises on a wide range of New Zealand tax matters, with particular expertise in cross border taxation, investment and business structures, mergers and acquisitions and international information exchange.



*Stewart Donaldson, Inland Revenue, Wellington*

Stewart, a fellow Chartered Accountant, has been a Senior Policy Advisor at Inland Revenue since January 2016 and has been a board member of a number of charities and not-for-profits.



*Helen Johnson, PwC Legal, Auckland*

Helen has advised clients on a range of tax matters for over 15 years. Before joining PwC Legal, she worked at top tier law firms in New Zealand and London.



*Graham Murray, Bell Gully, Auckland*

Graham is a tax partner at Bell Gully. His areas of focus include corporate taxation, restructurings, M&A tax issues and the tax aspects of cross-border investment arrangements and financing



*Jai Nario, PwC Tax M&A, Auckland*

Jai is a Director at PwC specialising in Tax M&A. Her experience includes working at international accounting firms and Chapman Tripp, advising on tax structuring, M&A, cross-border investments and tax disputes.

## SPEAKERS



### *Jared Otto, Inland Revenue, Auckland*

Jared has worked solely in indirect taxes for over 21 years. He spent 15 years in the private sector variously in practice at a Big 4 firm and as the Head of VAT for a large multinational. Jared joined Inland Revenue six years ago as Principal Advisor – GST.



### *Richard Owen, Inland Revenue, Wellington*

Richard is an experienced Senior Manager at Inland Revenue. He has worked in a range of business lead, national leadership roles. Richard is currently Customer Segment Leader for Small & Medium Sized Businesses across New Zealand.



### *Campbell Pentney, Bell Gully, Auckland*

Campbell is a senior associate in the Bell Gully tax team and specialises in indirect taxes such as GST and custom and excise duties.



### *Robyn Rakete, Inland Revenue, Auckland*

Robyn, an experienced transfer pricing specialist, is responsible for negotiating mutual agreement procedures, providing advice within IR and is the New Zealand delegate on transfer pricing matters at OECD.



### *Sam Rowe, Inland Revenue, Wellington*

Sam works in the International Policy team at Inland Revenue. He worked on the recent BEPS measures, including the permanent establishment anti-avoidance rule. Sam previously worked in the private sector.

## VENUES

### **AUCKLAND**

12 September 2019

### **Cordis Hotel**

83 Symonds Street

Grafton

Auckland

09 379 5132

### **LIVE WEB STREAM**

12 September 2019

### **At Your Computer**

**Please note:** Live Web Stream registrations close 3pm Wednesday 11 September

## FEE

The registration fee includes morning and afternoon teas, lunch, and a book.

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**Please note:** Live Web Stream registrations close 3pm Wednesday 11 September

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*Please note: Minimum and maximum numbers apply. Registrations will be accepted on a first-come/first-served basis. Registrations close 10 working days before the presentation date (the closing date). NZLS CLE Ltd reserves the right to cancel any session that does not reach the budgeted minimum number of registrations. This decision will be made on the closing date and a full refund will be made to each registrant of the cancelled session. If you cancel your registration before the closing date, a refund will be made, less a \$200 administration fee. After the closing date, there will be no refund. You may transfer your registration to another person until five working days before the presentation. Please advise NZLS CLE Ltd in writing of the change.*

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