

## OPENING NEWSLETTER ARTICLE – DECEMBER 2011

Welcome!

It is December 2011 at the time of writing this, and the Christmas holidays are nearly here. The big news in New Zealand recently is, of course, the hugely successful Rugby World Cup tournament, which we hosted and won. I think it's fair to say that the tournament gave all New Zealanders a sense of belonging and camaraderie that had to be experienced to be believed. We have also had a general election recently, and views on the result vary depending on peoples' affiliations. The outcome is that we have no change in government. That should relieve some of the uncertainty that prevailed pre-election. The financial situation in Europe remains problematic but perhaps not quite as critical as it has been in past months. Hopefully the Canterbury reconstruction will prove to be a buffer for New Zealand against any deteriorating world financial conditions.

On the tax front, the Taxation (Tax Administration and Remedial Matters) Act 2011 was enacted in August, which contained among other things all of the earthquake-related tax depreciation concessions. The Taxation (Annual Rates, Returns Filing and Remedial Matters) Bill was introduced in September, with a number of further adjustments to the new GST and LTC regimes.

Meanwhile, the Taxation (International Investment and Remedial Matters) Bill that was reported from the Finance and Expenditure Committee on 9 May and contains major changes to the FIF and thin capitalisation rules affecting outbound companies has still not been enacted, despite most of the changes supposed to have been effective from 1 July onwards.

A government discussion document on GST Business-to-business neutrality across borders and an Officials Issues Paper on Mixed-use assets were released in August. Also in August, the Supreme Court handed down its judgment in the *Penny and Hooper* tax avoidance case, which was in favour of the Commissioner and generated considerable discussion on commercial salary levels in family-owned companies. Inland Revenue followed up in September with a Revenue Alert on diverting personal services income. And the double tax agreement with Hong Kong came into force in November.

The High Court issued its judgment on the *Alesco* tax avoidance case on 12 December. The case concerned optional convertible notes (OCNs) issued by a wholly-owned NZ subsidiary to its Australian parent company, which was held to be abusive tax avoidance. Inland Revenue released a draft Interpretation Statement INS0121, dated 16 December 2011, on the application of sections BG 1 and GA 1. The deadline for comments is 31 March 2012.

This website has been fully updated to include all of these developments and more. All you need to do to get fully updated on all of the tax changes in the 2011 calendar year is take your laptop with you on holiday and have an internet connection.

Happy reading!