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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

Vol. 2, No. 7: Jul 23, 2012

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Announcements

Special Issue: The New Zealand Offshore Trust Regime: Papers by John Prebble.

Victoria–Cornell Colloquium on Jurisprudential Perspectives of Taxation Law, Ithaca, NY, September 24 and 25, 2012, conveners Professor John Prebble, Victoria University of Wellington and Professor Bradley Wendel, Cornell University. For the Invitation and Call for Papers for this conference, click on "John Prebble" (above, to Professor Prebble's SSRN author page). Then click on the Victoria University Logo in the header of that page to reach the Victoria University of Wellington Law School home page and conference announcements.

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["New Zealand Trusts in International Tax Planning"](#)

British Tax Review, No. 5, pp. 554-564, 2000

[Victoria University of Wellington Legal Research Paper No. 27/2012](#)

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The trust is the most useful device that New Zealand offers to non-residents in the field of international tax planning. So long as settlors, beneficiaries, and income are all foreign the trust is unlikely to attract New Zealand tax. The residence of the trustee has no effect on the tax benefits of the trust so long as the former requirements have been met. This has been the case since 1988. Increasingly Australian planners have employed New Zealand trustees to hold investments in superannuation funds, a strategy that is thought to avoid Australian tax. In addition to Australians, people from many countries employ New Zealand trusts to hold their investments.

["The New Zealand Offshore Trust Regime"](#)

International Financial Centre Review, pp. 134-137, 2009

[Victoria University of Wellington Legal Research Paper No. 28/2012](#)

[JOHN PREBBLE](#), Victoria University of Wellington, Monash University, Institut für Österreichisches und

New Zealand is in general a high tax country. It is host to a thriving offshore trust industry established after an amendment to the income tax legislation in 1987. The successor to this amendment is section HC 26(1), which means that where non-residents settle income-producing property on New Zealand resident trustees. New Zealand does not tax the income in the hands of the trustees so long as that income has a foreign source.

["New Zealand's 1988 International Tax Regime for Trusts" !\[\]\(43d9217bb24978652ee990eeb5d584bb_img.jpg\)](#)

Australian Tax Forum, Vol. 6, pp. 65-87, 1989

[Victoria University of Wellington Legal Research Paper No. 29/2012](#)

[JOHN PREBBLE](#), Victoria University of Wellington, Monash University, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien
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In the late 1980s New Zealand undertook a process of adopting a new income tax regime for companies, and in particular for controlled foreign companies. The new rules reflected a change from a classical to an imputation system. The rules were designed to frustrate avoidance deferral that was previously achievable by residents through the use of controlled foreign companies. Coupled with the introduction of this reform was a new regime for the taxation of trusts, reflecting the fact that trusts are often employed as substitutes for companies.

["Minimal Presence New Zealand Trusts: Some Practical and Theoretical Issues" !\[\]\(8477bf165661a8d59b497faa5f014d14_img.jpg\)](#)

FURTHER GLOBAL CHALLENGES IN TAX ADMINISTRATION, pp. 309-329,
Margaret McKerchar, Michael Walpole, eds., Fiscal Publications, 2007

[Victoria University of Wellington Legal Research Paper No. 30/2012](#)

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There is an active but unpublicised industry of New Zealand trustees who look after foreigners' money. Also, taxpayers from other countries sometimes use New Zealand as a haven. Some trustees for foreign funds have a reasonably substantial presence in New Zealand; others may be single-purpose New Zealand-incorporated companies with nominal capital where the directors are resident abroad and where funds are administered abroad by custodian trustees on behalf of the New Zealand trustee. Issues relating to tax law and trust law arise from trusts that have a relatively minimal presence in New Zealand. The New Zealand legislature recently passed legislation that imposes compliance and reporting requirements on such trusts.

["New Zealand Trust Taxation: The International Dimension" !\[\]\(c1f32534a493397209d2857ba81a6e9d_img.jpg\)](#)

Bulletin for International Fiscal Documentation, Vol. 53, pp. 398-404, 1999

[Victoria University of Wellington Legal Research Paper No. 31/2012](#)

[JOHN PREBBLE](#), Victoria University of Wellington, Monash University, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien
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International aspects of New Zealand's trust regime are driven by three things. First, operating independently of the trust regime is New Zealand's policy to tax all income that has a New Zealand source. Secondly, there is the structural factor of the trust regime that trusts themselves are not taxpaying entities. Thirdly, New Zealand has adopted as policy the principle that the mere residence of a trustee should not determine tax liability. The effect of the policy to tax all income from New Zealand is that any income derived by any trustee is taxable if the income has its source in New Zealand. Trustees are taxed as the economic agents of the settlor.

Foreign-source beneficiary income is taxable if the beneficiary resides in New Zealand, but not taxable if the beneficiary is non-resident, even if the trustee is resident. Whether trustee income (that is, income accumulated within trusts) is taxable depends on the residence of the settlor. If the settlor is non-resident, then, ordinarily, the income is not taxable, even if the trustee is resident. If the settlor is resident, then the income is taxable, even if the trustee is non-resident.

["The New Zealand Trust as a Vehicle for Foreign Investment" !\[\]\(2bdfe261b986065ee0ac76460d6528c9_img.jpg\)](#)
Offshore Tax Planning Review, Vol. 6, pp. 47-56, 1996
[Victoria University of Wellington Legal Research Paper No. 32/2012](#)

[JOHN PREBBLE](#), Victoria University of Wellington, Monash University, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien
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Sections HH 1 and HH 8 of the New Zealand Income Tax Act 1976 contain a special regime for the taxation of trusts. Income that is distributed by the trustee is taxed in the hands of the beneficiary, and income that is accumulated is taxed to the trustee. The mere fact of the trustee being resident in New Zealand does not attract tax, instead the regime takes a substantive, economics-based approach to the taxation of trusts. This article outlines the effects of this regime on people wishing to use a trust in New Zealand as a vehicle for foreign investment.

As at 2009, the special regime for the taxation of trusts in the 1976 Act appears as subpart HC of the Income Tax Act 2007. Sections HC 17-HC 23 deal with the tax treatment of amounts that beneficiaries receive from a trust, sections HC 24-26 with the tax treatment of trustee income and sections 27-29 with the tax treatment of settlors. Section CV 13 makes it clear when these amounts will be "income".

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Solicitation of Abstracts

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions

and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Judicial Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the [Law School](#) has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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