Issue One: Twenty Twenty One

ADAPT | EVOLVE | TRANSFORM

Covisory Connect

MAGAZINE

INTRODUCTION:

NIGEL SMITH
Founder -
Covisory Group

We are not who we were a year ago.

Welcome to the latest issue of Covisory Connect. A constant theme that we have talked about is that change is inevitable but that it also creates opportunity.

None of us foresaw the impact that COVID would have on our lives 12 months ago. We are perhaps grateful to be in a lucky country to have had one of the best responses in the world and to have been relatively unaffected by worldwide standards.

However, it is a truism that we are not who we were a year ago. Not only have we seen change, but we have seen a generational change. The rate of change and magnitude of change has been far greater than any of us could have foreseen. It has created opportunities, and in many cases it has left people not wanting to go back to the way things were before.

The way we live, work, enjoy ourselves, spend our leisure time and holidays have all irrevocably changed. Some of that change is by choice and some of it has been imposed on us, ie working from home versus the inability to travel internationally up until recently.

Many businesses have done very well out of this change. They have pivoted and adapted and as a result are in a far better place than they could have hoped to have been even without COVID. Things that were simply talked about like using Zoom meetings are now a daily reality. As much as we want things to go back to the way they were, there are indeed many things that we want to keep the way they are now.

Not all change is welcomed, however. The recently announced and hastily cobbled together removal of interest deductibility on residential rental properties is an example of that. Ill thought out, ill-conceived and certainly ill executed these changes will have some impact on the New Zealand residential property market. However, as we know from international experiences, ultimately what determines house prices is not just tax deductions or the lack of taxing of capital gains. Instead, it is supply and demand, basic economic forces at work.

Again, these changes will create opportunities.

Internationally, share markets and investments remain at all time record highs given the remarkable record low interest rates. Again, opportunities abound but it is difficult to see how one can outperform the market.

At the end of the day, we should be grateful that we are so fortunate to be in New Zealand. While the change has affected us, much of it has been positive and more importantly we have been relatively unscathed by international standards. Opportunities abound and really the question is which ones do you want to pursue.

It is going to be another interesting year.

Nigel Smith

CONTENTS

About us

[but really all about how we can assist you with your issues and concerns]

Covisory

Are you looking to understand what is important to you from your perspective?

We partner with you to help you understand what is truly important to you. We help individuals, families, and their businesses to exceed their expectations for what matters most to them.

Have a problem?

We work with you to transform how you conduct your businesses and trusts. We help you to build enduring, resilient systems and capabilities across all that you do.

Our team defines us

Covisory is a team that are united by a strong set of values, with a deep commitment to making a positive impact through our work and how we connect with you, our client.

With an expert team with significant technical and commercial experience based in both New Zealand and Australia, we combine local insight and global expertise and contacts to help you turn your goals into reality.

Our consultants include accountants, lawyers, designers, business managers, entrepreneurs, strategists, researchers, and writers. We can provide you with the right team, with the right expertise and experience when you need it.

All our people have been drawn to Covisory for the opportunity to apply their expertise to important complex challenges that you face.

Our reputation is defined by our interactions with our clients

- We help clients build strong systems to achieve better performance through data.
- We work with you to build positive outcomes for your future, and for future succession.
- We create solutions that are always in partnership with you, that uniquely combine our expertise and the particular resources of your business and family circumstances. We deliver innovative solutions that create immediate results and a strong framework to sustain your progress into the future.

OUR PURPOSE

To be innovative customer-centric advisers exceeding your expectations for your business, trust, wealth & tax needs

Recent Work

What have we been working on during March and April 21?

Although the start to the year was initially slow, we have seen a rapid acceleration of work coming in. The work is diverse and interesting and currently includes the following:

Tax work relating to:

- Preparing Voluntary Disclosures to the Inland Revenue where errors have been identified in returns filed by their accountants.
- Filing ruling applications to Inland Revenue regarding property transactions.
- Advising clients on the changes to the “Brightline Test” announced late March 2021 and discussions around proposed changes to interest deductibility.
- Providing expert forensic analysis on historic accounting dispute
- Advice on succession planning for ownership of business to pass to child working in business
- Taxation advice on subdivision of land and building of new dwellings for mother and child to live in.
- Structure for funds to be lent to property developer as mezzanine finance

International Focus work relating to:

- Looking at feasibility of establishing a business hub for client in Vietnam for manufacturing and distribution
- Tax residency planning between nz and aussie
- Advice on Market Entry / Internationalisation for dialogue-based Human Capital SaaS solution (Asia Pacific, Scandinavia, Europe)
- Consolidation of Group Financial Accounts for international Financial Services group of companies – partnering with NASDAQ-listed firm Konsolidator.com
- Managing through COVID (in our capacity as Corporate Trustees) for NZ Foreign Trusts – incl. investment strategy and cash flow management
- Creating legal structure for global Machine Learning (ML) / Artificial Intelligence (AI) Strategic Partnership Alliance – specifically tailored for the United Kingdom market, incl. Ireland (in quite a challenging post-Brexit operating environment)

Trust work relating to:

- Advising on winding up of trusts and distribution of assets down to children and grandchildren.

We are happy to help you, please give us a call +64 9 3071777 or contact Nigel Smith or Chris Ng

Siezing the moment

What a global pandemic can do for time management in the 21st Century

Time management is an issue that plagues many of us from an early age. Time is finite, after all, while demands on our time are effectively limitless. This pressure starts at an early age in school, and only escalates later on in a professional environment with larger time commitments and greater stakes. This leaves us with the uncomfortable sense of not having enough hours in the day—a constant pressure telling us that we should be doing more with the time we have.

Those who manage their time best—by meeting their responsibilities competently in a timely manner—are rewarded with greater responsibilities and more work until they also reach and exceed their limits. As a result, we're all left with the feeling of sprinting on a treadmill, exerting ourselves to our limits without ever getting ahead of our own stress thresholds. We participate in this culture because we want to be productive and useful—but are we? And what is it costing us?

Years of research has shown that endlessly increasing the time and effort we spend on work doesn't make us more productive. Over the past year, though, the COVID-19 Pandemic has helped to show both employees and businesses just how much time we spend uselessly driving ourselves further toward burnout. Will it be enough, though, to change how we treat our time going forward?

The treadmill to nowhere

Even before the onset of the COVID-19 Pandemic, workers and businesses were suffering from a pandemic of a different sort. Overwork and burnout have affected us and our society at all levels, correlating to a wide range of related issues. Loneliness, depression, and work stress-related illnesses were on the rise not just in New Zealand, but across the developed world. Worst of all, this extra time spent hasn't actually made us more productive.

Diverse studies have shown that, while one or a few weeks of overtime work can temporarily result in increased productivity, prolonged overwork makes us less productive. As our hours increase, we experience sharply diminishing returns, until they begin to drive our productivity down. Over the past decades, researchers have identified 50 hours per week as the ceiling after which additional hours make us less productive overall. What has mostly been ignored so far, though, is that most of us are well over that threshold, because work doesn't just happen at work anymore.

Our work lives are built for burnout

Over 450,000 Kiwis worked over 50 hours per week in 2020, according to the Household Labour Force Survey (HLFS), while 330,000 worked between 41 and 49 hours per week. This, of course, doesn't include the additional hours we spend on commuting, taking calls, and answering after-hours emails at home and on the road.

What a global pandemic can do for time management in the 21st Century

While the largest segment of employees work 40-hour weeks, we often still experience work stress during every waking moment. Smartphones keep us connected to work and keep the ball rolling well after everyone has gone home for the night. Many—perhaps most—employers don't actually explicitly require employees to work overtime (at the office or at home), or to be available at all hours. However, our business culture as a whole, and the individual company cultures that shape it, do. Employees fear to be seen as prioritising their own time, health, or wellbeing over the success of their company. As a result, we sacrifice all of these in the name of productivity, wearing exhaustion and burnout as though it were a badge of honour.

The pandemic has brought informal overtime into focus

As the pandemic spread throughout the world in 2020, governments began to minimise in-person work, often encouraging those who could to telecommute from home, and pushing businesses to allow it. As a result, many also began to offer more flexible hours, theoretically giving employees more control over their workday, but also resulting in urgent emails circulating at all hours of the day and night. This has further isolated workers, giving rise to an even greater global mental health crisis on the back of an endless stopping-and-starting 24-hour workday. At the same time, though, it helped to reframe and legitimise at-home work.

Suddenly, sitting down to answer a few emails in the evening feels the same as sitting down for a Zoom meeting during the workday. It feels like going to work, because that's what it is. This growing awareness of the amount of time we actually spend working hasn't gone unnoticed. While some continue to lay the responsibility for managing time and health at the feet of workers themselves, both businesses and governments are looking at ways to address the issue from the top down.

Businesses and governments are taking action

Ultimately, it is in everyone's best interest to keep workers productive and healthy. Because of this, both businesses and governments are increasingly looking for ways to structurally reintroduce a healthier work-life balance. France, for example, passed a "right to disconnect" law in 2017, which forbids employees from sending emails after a set time to protect their private lives. Now, Germany's labour minister is pushing for a similar law to govern at-home working hours in response to the pandemic.

Businesses, for their part, are looking for ways to address the problem while discouraging additional regulation that would lead to expensive compliance checks. One popular strategy is introducing a 4-day work week. This allows for a longer period off of work to recover every week, while concentrating the work during a shorter period. Of course, this also has weaknesses, in that it doesn't actually reduce the workload that employees have, and does nothing to disincentivise informal overtime. To manage this, innovative businesses are trying a wide range of possible solutions ranging from comprehensive overtime policies to blocking emails after hours.

COVID-19 is an opportunity we need to seize

The pandemic has put enormous pressure on employees and businesses alike, but it has also provided us with an incredible opportunity to make changes that could raise productivity and restore sanity to our lives. The most significant of these are the rise of virtual firms, and changing our relationship to the clock.

Virtual firms come with enormous savings for everyone

COVID has illustrated something that proponents of the idea have been saying for years. In the 21st century, many businesses no longer need massive offices filled with uniform monotone cubicles. Most of these jobs can be done from home, eliminating the need for expensive office space for businesses and fuel costs for commuters. This, in turn, would also drive down the cost of work space for those businesses that continue to rely on it, such as manufacturers. Workers can also reclaim the hour that they spend, on average, to commute to and from work. Most importantly, though, they no longer need to live where they work, allowing them to escape urban centers for affordable priced homes in suburban or rural environments.

Changing how we relate to time

As we begin to work more independently, separated from a common workplace, the way that we schedule our time has to change as well. At the office, our activities are governed by the clock, often down to the minute. At home, we can choose the most opportune times to work more flexibly. This has the potential to make us more efficient, rather than just effective, and gives us the opportunity to wind down and take breaks when we need or want to.

To realise the potential benefits that virtual workplaces offer, we have to tackle the issue of burnout and overwork first. In that sense, the COVID-19 pandemic represents an opportunity, and a potential moment of change, ready to be seized.

7 Steps to using your time effectively to improve your productivity

Do you have a to do list and have no idea where to start?

On top of your main projects, you have meetings to attend in person or virtually, an endless stream of emails to respond to and a schedule to juggle and this does not even consider your personal life! Striking a balance between your work and personal life is hard.

We want to get the right balance of being productive in our work.

Being busy isn't the same as being effective. You may be working a lot but not finishing tasks or spending too much time in the wrong areas of your business so that you constantly feel that nothing is being achieved. Have you found yourself interrupting yourself with music, Facebook or LinkedIn notifications or Instagramming your dog's latest exploit?

How do you create an environment that stops you from falling into these avoidance traps and bring about your desired change - to learn to work smarter?

time to create time

You can't control time, but you can control where you put your attention.

Adopt these 7 steps to navigate your way back to finding focus and control over your routines.

1 Start with a bird's eye view.

a. Fly high, and visualise all the tasks that need to be done for each project you are involved in.

b. Having a bird's eye view allows a more holistic view of the projects that you need accomplishing.

c. Taking a high-level view helps you to define the main tasks – the most important tasks.

2 Compile a list of ALL your tasks

a. Ensure that your list includes the resources you need to accomplish each task and the goals you have.

b. Make separate to do lists for personal and professional tasks. Who says you cannot have two lists!

3 Prioritise, Prioritise, Prioritise!

a. By prioritising you gain an understanding of which tasks are important, and which are urgent.

  i. The aim here is to avoid focusing constantly on the urgent tasks and neglecting the important ones.

    1. Important tasks are those that align with your values and help to achieve your goals – these are more likely to have a long-term focus.

    2. Urgent tasks – time sensitive and tend to demand your immediate attention where you are in a reactionary mode – putting out fires and responding to the next urgent thing.

b. Once you have your list in order then cut out the fat! To optimise your time and avoid being overwhelmed you need to evaluate your lists and eliminate or delegate the non-essential tasks.

4 Create a Visual Schedule

a. Taking your pared down task list, you need to set up a Visual Schedule either using a Timeline or Calendar

b. Using a visual colour coded schedule quickly shows you what needs doing and when.

c. But do account in your schedule for spontaneity – life can be unpredictable – hasn't Covid taught us that and being fluid and adaptable allows you to have the tools to deal with the unexpected.

5 Focus on one task at a time.

a. Although you may think you can, don't multitask – work on one task at a time. Unless something more important – not something more urgent comes along we need to be disciplined and stick to the plan.

b. To ensure you can stick to this concept divide your tasks up into short achievable specific goals.

c. Practice looking at each of your tasks from various angles – use visuals, reminders, time limits – this helps to alleviate your fear that this is a daunting task.

6 Finish the task before starting on the next one

a. In short get the task done before starting on the next one

b. Work out what needs to be finished and what to leave undone.

   i. To avoid not completing a task you should time box or allot time to each task – and book this into your timeline or calendar.

   ii. The aim is to complete the task and sticking to your schedule. Sometimes you need to accept it may not be perfect, but that it's fit for purpose. We are all guilty of using perfection as a roadblock for action. Accept it and move on.

c. Get it done – the goal is to check it off the list and not have half-finished tasks on your list – they have no impact on results and end up filling up your calendar.

7 Evaluate on a regular basis how you are going.

a. Always follow up and compare against your initial plan and recycle.

b. Evaluate your results so that you can see what action you need to take for the next block of time (day, work week)

   i. Which tasks took longer than expected?

   ii. Which tasks were unplanned?

   iii. Which tasks could be reduced?

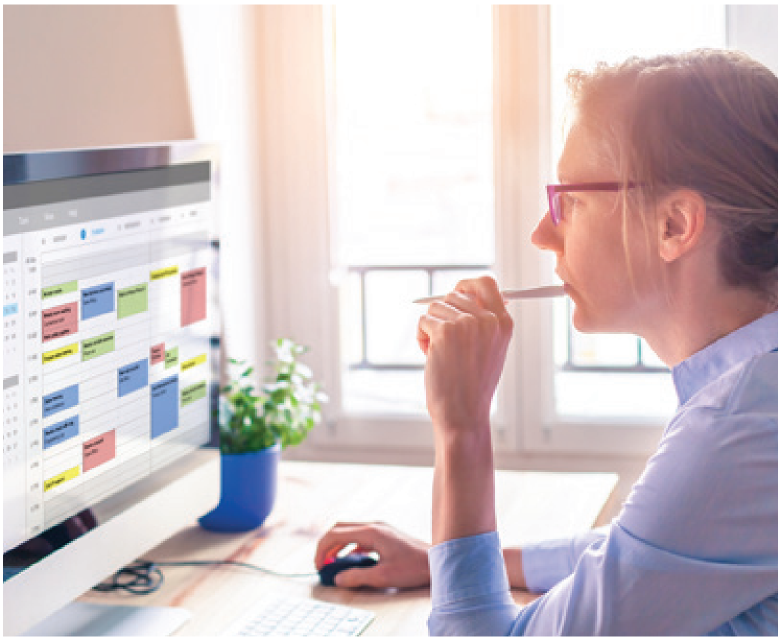
   iv. Which tasks could be delegated?

c. Most importantly by reviewing you also can quickly determine which tasks may have been forgotten or what has gone unfinished.

Before you go

Taking control of your time will need you to make it a priority. Failing to manage your time in the past is not a result of your genetics and something you cannot change.

Making a conscious decision on how you design your life and how you want to live it requires strategy and discipline. The self-discipline to keep a routine over time is like a muscle; it has to be trained.



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TECHNOLOGY:

5G: What you need to know about 5G networks

5G promises faster connectivity but there are a few steps to go before super speedy downloads are available in the Antipodes.

IN BRIEF

5G isn't a single technology; it's divided into two broad categories – sub 6GHz and mmWave.At the end of 2019 there were 26.66 billion IoT devices connected according to Security Today. With 5G being built into self-driving cars, the vision for an autonomous future could become a reality.

5G isn't a single technology

You've probably heard a lot about 5G, with telcos hyping the new technology as a faster way to get online with mobile. But 5G isn't a single technology. Instead, it's divided into two broad categories – sub 6GHz and mmWave, referring to the radio frequencies they use. The one we have in Australia is sub 6GHz (3.6GHz, in fact), while in New Zealand it's 3.5GHz – and both are a lot slower than mmWave. With sub 6GHz, you're looking at download speeds of about 200 megabits per second (in Australia), which isn't much faster in the real word than the 4G we're all currently using. But mmWave offers potential gigabit-per-second speeds.

mmWave will be here eventually – but don't get excited

The faster mmWave technology will come to the Antipodes – eventually. The radio spectrum it uses hasn't been auctioned off and won't be until 2021 in Australia. In New Zealand, no firm date has been set. But even when it becomes available, it may have only limited use. That's because mmWave, unlike sub 6Hz and the 4G we're all using today, is really bad at penetrating buildings and doesn't have much range. This means you may get super-quick speeds standing on one street corner, but walk across the road and you're back to the slower speeds of 5G or even 4G. Carriers would have to build tens of thousands of base stations to widen the mmWave map, and that's something they're unlikely to do, especially in regional and rural areas.

5G handsets are here today, but they're not all equal

You'll probably have seen carriers advertising 5G handsets and promoting all the things you can do with them. But as we've seen, in Australia and New Zealand those handsets are all operating on sub 6GHz or 5.5GHz. Even if they have mmWave compatibility, you won't be able to use that feature locally for the foreseeable future. Apple made a big splash a few months ago with the launch of its 5G iPhone 12 but, unlike in the United States where there is an mmWave-capable model, Down Under we get the sub 6Ghz version. Even when our local carriers build mmWave networks, your shiny new iPhone 12 won't take advantage of them.

mmWave will have a future with the Internet of Things

The Internet of Things (IoT) is an exciting use for mmWave. So, what's the IoT, you ask? It's all the devices surrounding us that are connected to the internet, from streetlights to industrial controllers, thermostats and more. In fact, at the end of 2019 there were 26.66 billion IoT devices connected according to Security Today, outnumbering the 14.02 billion mobile phones around the world. mmWave will connect those devices faster and give them new capabilities. So be nice to your Google Home and Alexa. They could become your robotic overlords.

5G could make autonomous cars real

Autonomous cars are just around the corner – and have been for the past decade. One of the things holding them back is network speeds. Self-driving requires huge amounts of data to be sent back and forth across the network to maintain a vehicle's safety and efficiency. With 5G built into self-driving cars, the vision of companies such as Tesla, Uber and Waymo for an autonomous future could become a reality.

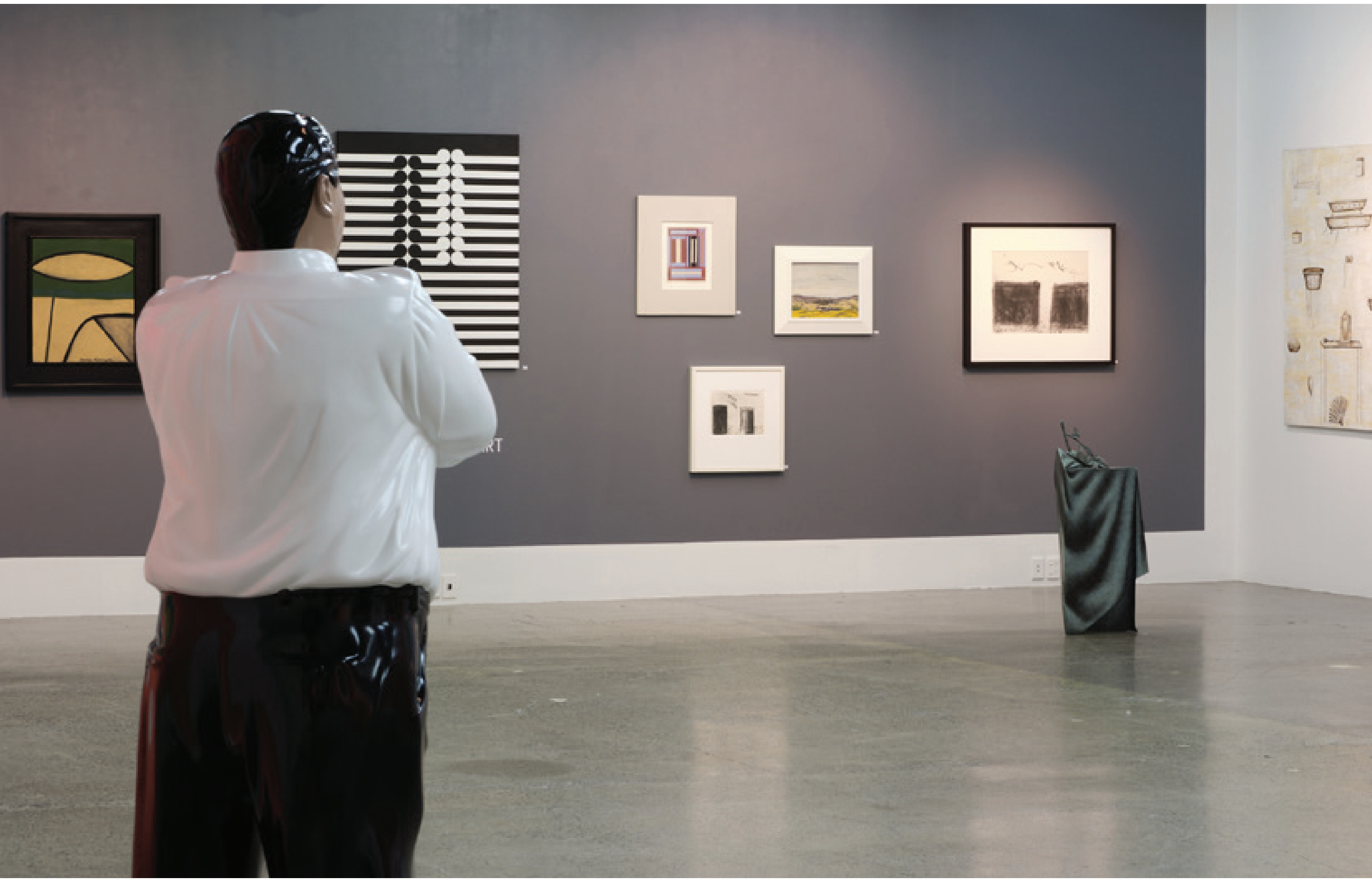
By Joshua Gliddon

Article Source:

Chartered Accountants Australia and New Zealand

www.acuitymag.com

NZ Art Market
2021 update



Installation view of Art + Object auction featuring Gordon Walters Mokoia. Image courtesy of Art + Object, image copyright Sam Hartnett

The continuing interest in the art market in New Zealand seems to have carried on from 2020 into 2021, with an extremely buoyant round of auctions in the first quarter of the year.

Art + Object was the first auction house to offer their selection of Important and Contemporary Art in late March and had a very good catalogue with works of high quality at reasonable price points. The highest price in that sale was achieved by Gordon Walters' classic black and white koru painting Mokoia 1965-1975. Last sold at auction in 2012 for $354,000, the market has seen an increase in his prices after a recent nationwide touring exhibition, and less than ten years on since that last public sale, a private buyer paid $540,000 via the Art + Object bidding app to secure the work.

Webb's did well with the work of Bill Hammond, one of New Zealand's most senior and well-respected artists who died in January this year. Hammond's loosely termed 'Bird Paintings' which date from the early 2000s and onwards are some of his most sought after works but are tightly held by collectors. A small painting from 2016 titled Manganese featuring anthromorphic bird figures realised $38,000 against a low estimate of $25,000-$35,000, a great result considering it had gone unsold in 2019 at the same estimate.

International Art Centre had a hugely successful sale which featured a number of works by British street artist Banksy, whose prices have seen a massive rise in market in the last year both internationally and in New Zealand. An original stencil on canvas by the artist titled Keep it Real 2003 achieved the highest price in this round of sales when it sold for $1,455,000 to a New Zealand phone bidder on the night. Another strong result was achieved for Peter Siddell, for an early work of an old villa in Avondale, which foreshadows his later very popular extensive suburban views. This painting, complete with original stickers and artist labels on the back realised $42,000 against a low estimate of $15,000.

Other general collecting trends appearing in 2020-2021 are a focus on modern and contemporary Maori artists whose work appears as part of the Toi Tu Toi Ora: Contemporary Maori Art exhibition at Auckland Art Gallery Toi o Tamaki. There has been a jump in prices and interest in the work of Robyn Kahukiwa and Paratene Matchitt amongst others. Mid and late career women artists are also having a moment in the sun, with record prices being achieved for Gretchen Albrecht and Seraphine Pick of late.

With strong prices across the board, it is highly likely that more good quality artwork will appear on the market, enticed out by the higher prices and competitive atmosphere in the auction rooms. It will be interesting to see what area of the market booms next!

All prices quoted are hammer only and do not include a buyer's premium of approximately 20.75%

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TAXATION:

Residential Property Tax Changes Catch Everyone Unprepared

Last month's Government announcements of tax changes for residential property caught many unprepared, including both the IRD and the Treasury who the Government had not even consulted.
The changes are designed to reduce demand for residential rental properties but will likely do very little to encourage more properties to be built. Landlords have already signalled that rents will have to rise to counter the added costs, even when there is already a shortage of rental accommodation pushing up rents.

1 Changes to the Brightline Test

1.1 These have been passed into law and will affect properties acquired on or after 27 March 2021. Existing properties will not be affected. A property is usually acquired when it goes unconditional.

1.2 The changes are:

a The 5-year period is now 10.

b Air B n B etc. properties will be caught.

c If your home is rented for part of the time that you owned it, and you sell it within the 10-year period, then that portion of the gain will be taxable.

2 Proposed changes to interest deductibility for money used to buy residential rental properties

2.1 These are proposals only at this stage and we do not even have proposed law. However, some of the changes will apply from 27 March 2021. The Government does however plan to consult with interested parties before issuing draft law.

2.2 Interest incurred on funds used to buy residential rental properties acquired on or after 27 March 2021 will be non-deductible from 1 October 2021 on.

2.3 Existing residential rental properties will see interest deductions phased out over 4 years starting 1 October 2021. By the 2026 income tax year (1 April 2025 on) all interest will be non-deductible if it is used to acquire residential rental properties.

2.4 Any interest incurred on further borrowings made on or after 27 March 2021 used to improve or extend existing residential rental properties will be treated as non-deductible from 1 October 2021.

2.5 The Government is "considering" whether interest incurred to acquired new build rental properties will be allowed to remain tax deductible. We cannot see this exception being allowed on policy grounds given it would see competition between first home buyers and investors.

2.6 Money borrowed and secured against a residential property but used for other purposes (eg business, share acquisition, commercial property) will remain tax deductible.

While the Government stated that allowing these interest deductions was a loophole that needed to be closed, in doing so they have overridden around 300 years of case law which clearly allowed interest as a tax deduction. If it is a loophole, why would a deduction remain for anyone claiming interest for any purpose at all?

The real issues that the current Government has failed to address remains the supply of housing and the excessive council fees for building. Nothing will be achieved until these are addressed.

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Government Announces

Significant Changes to Taxation of Residential Property

On Tuesday 23 March the Government announced significant changes to the taxation of residential property. While the exact detail will not be known for some time, a summary of the key points announced follows:

Brightline Test

The changes will apply to properties acquired on or after 27 March 2021. Existing properties that are acquired on or after that date will be subject to a new 10-year Brightline test.
Unless the property is a new build which will be defined as where a property is acquired within 1 year of receiving code compliance under the Building Act 2004.

In addition, where a person's home has also been rented out and is sold within the 5- or 10-year period as applicable, a portion of the gain will now be subject to income tax. Previously this would have been exempt if for most of the period the property was used as a private residence.

In addition, the Brightline test rules will be changed to pick up Air B n B, baches that are rented part time through Air B n B etc and other similar properties that have been up until now exempt from the Brightline test. These were more short term stay orientated properties.

Significant Changes to Interest Deductibility

If you own existing residential rental properties acquired before 27 March 2021, then from the 2022 income year to the 2025 income year a graduated reduction in interest deductibility will be applied.

From the 2026 year on, no interest will be deductible, but the rents will still remain fully taxable. Other costs will remain deductible.

For properties acquired after 27 March 2021, no interest will be deductible against residential rentals.

Note that this does not just apply to existing dwellings, it also captures new builds.

If you incur additional debt either from drawing on the same loan or taking a new loan on or after 27 March 2021, and the use of the loan relates to residential investment property, interest on that portion alone will not be able to be claimed as an expense from 1 October 2021 onwards.

The Government's intention is that the rule change will not apply to loans for non-housing business purposes, i.e. where business loans are secured against residential property.

Moreover, property developers, dealers and builders will still be able to claim interest expenses as they are taxed under different provisions.

Airbnb baches etc. that are sometimes rented out will now also be subject to the residential deduction ring fencing rules. These changes will apply from the 2022 income year.

So, what does it all mean?

1. The removal of interest deductibility is the major issue here, not necessarily the changes to the Brightline test. Interest remains the most significant expense for property owners.

2. Currently interest rates are low but over time they are expected to increase and as they do, the impact will continue to bite.

3. There is certainly no incentive to go buying new residential property stock in New Zealand.

4. Landlords will likely simply increase rents to compensate for their reduced after-tax return from their rental properties. The next question will be whether the Government then brings in legislation to limit rental increases on residential rental properties.

5. Remember that these rules pick up all residential properties except your personal home. These changes will have impacts on baches as much as residential rental property, especially where those baches are rented out partly during the year.

6. Expect the property market to stop in its tracks for a few months other than for new builds, while particularly investors get their head around the proposed changes. It will take a few months before we work out what impact this will have on the current hot property market.

7. Finally, it is now only 2.5 years to the next election, a time that will seem like an eternity for many investors. However, given that many previously National party voters voted Labour, we suspect that this will see a significant change back in voting patterns to the right with National still being seen as more business and investor friendly, and likely to repeal these changes at least as far as the interest deductibility rules go.

As always, we welcome the opportunity to advise you and assist further with how these changes impact on you.

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Tax in Brief

Sale and Purchase Agreements

From 1 July 2021, new legislation applies to force parties to sale and purchase agreements to agree on the allocation of sale proceeds for tax purposes.

The draft legislation will apply to businesses and properties valued over $1m in aggregate or to deductible or depreciable property with a value of $100,000 or more. Under current tax rules, parties could adopt different tax positions on the same asset creating a potential revenue loss.

Both parties are required to file their tax returns using the same agreed values. If there is no agreement, the allocation will be decided in the first instance by the seller. The seller only has three months from settlement date to make an allocation and notify the purchaser and Inland Revenue.

If this is not achieved within that time, the right to allocate then shifts to the purchaser.

The new legislation has the potential to some further uncertainty and increased costs to sale negotiations of businesses.

Business owners will need to consider the work required to agree sale price allocations.

Dealing with Tax Arrears

With the 2020 income tax return deadline has now passed, it is a good time to consider engaging with Inland Revenue to clear any tax arrears that may have arisen over the COVID period.

We have been involved in cases over the past nine months where Inland Revenue have taken a very practical approach to tax arrears. As part of arrangements with Inland Revenue, we have able to negotiate:

- Regular payment arrangements over periods of up to three years;
- Pausing of the imposition of late payment penalties while a payment arrangement is in place; and
- Write off significant portions of the arrears where the previous compliance record and financial information show potential for the business to continue to operate.

It is important with tax arrears to:

- Engage with Inland Revenue quickly and discuss an arrangement.
- Explain the situation over the COVID periods and how the tax arrears arose.
- Advise what action you have taken to mitigate future tax arrears; and
- Propose a payment plan which shows how much Inland Revenue will be paid and when.

We believe the window for the opportunity to discuss tax arrears with Inland Revenue and obtain significant assistance, will close over the next few months.

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TRUSTS:

IRD Blindsides Trust Community

Early December 2020

the Government passed legislation under urgency both raising the top income tax rate to 39% for individuals earning more than $180,000 from 1 April 2021, but completely unexpectedly imposing serious new disclosure obligations on trusts from the 2022 tax year on.

The Government cites the need for these increased information disclosures around the fact that trusts, which will remain subject to a 33% trustee tax rate, could easily be used as a conduit by wealthy taxpayers to avoid paying the higher 39% tax rate.

From the 2022 tax year on more onerous disclosure provisions will apply to trusts in their annual income tax return, including:

1 Financial accounting information, including profit and loss statements and balance sheet items, likely in the form of a modified IR10.

2 Loans to related parties including disclosure of who the related parties are.

3 Information on distributions and settlements made during the income year (including identifying information for beneficiaries such as their name, IRD number, date of birth and tax jurisdiction).

4 Names and details of settlors from prior years (if not already disclosed to Inland Revenue).

5 Names and details of each person who, under a trust deed, has the power to appoint/dismiss a trustee, to add or remove a beneficiary, or to amend the trust deed.

These new changes have completely blindsided both the trust and tax community. While it is easy to see that some of this information could be required by the IRD under the common reporting standards international disclosures, citing this as needed to bolster the 39% tax rate was a stretch to say the least.

It will be interesting now to see whether the IRD intends to go after high wealth individuals who simply transfer their assets to trusts to avoid paying the 39% tax rate. Naturally many of these would have these assets in existing trusts anyway, but for those that do not does the IRD intend to go after them where these assets are earning passive income?

It remains incredulous that the Government can think that it can actually put up the margin on the individual rate, but to leave the trust rate at 33%. Time will tell however.

In the meanwhile, expect a lot of interesting debate over this over the next 15 months to the point when you all have to start filing 2022 income tax returns and complying with these new onerous requirements. Couple that with potentially more disclosures from the IRD around how it intends to administer the 39% tax rate and the consequential avoidance pressures on the tax system, there will be some very interesting reading coming up.

For more details have a look at the Taxation (Income Tax Rate) and Other Amendments Bill.

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Should you have an Independent Trustee?

In short, Yes.

We have recently seen a trend – especially from banks – insisting that they cannot accept the trust structure if there is no independent trustee. The result is also the same if there is a trustee company, but all of the directors are beneficiaries of the trust as well.

An independent trustee is a trustee who does not benefit from the assets of the trust. For family trusts where there are personal trustees this might be one trustee out of three or a separate trustee company that is not a beneficiary under the terms of the trust. With a trustee company, you need to take care as often there is a class of beneficiaries in a trust which includes companies where a beneficiary has a more than 20% ownership or control stake.

The starting point is that there is no legal requirement to have an independent trustee in New Zealand. However, there are a number of benefits to having an independent trustee as follows:

1. An independent trustee brings an impartial view and a wealth of experience into the trust and the relationship between the beneficiaries. This is especially important where family relationships have become strained and the trustees who are often the husband and wife who formed the trust can no longer act in an impartial manner.

2. A lack of independence in a trust structure can often cause difficulties in relationship property or creditor claims as was pointed out in the Clayton case. In that case property held in the trust was available to settle a relationship property claim when one party was found to hold too many powers. An independent trustee can reduce the risk in this area.

3. The record keeping of the trust is often greatly improved with an independent trustee. Under the Trusts Act 2019 it is a legal requirement that all trustees have access to all trust documents which in our experience has been an issue in the past for a lot of trusts where there is no independent trustee.

4. In respect of trustee companies even though the legal position is that the trustee company is legally an independent trustee, third parties are often contending there is no independence in the structure where all the directors are also beneficiaries of the trust. If this happens, we recommend an independent director is appointed and the company adopt a constitution which requires director decisions to be unanimous.

What should you look for in an independent trustee?

Simply you need a trustee that has relevant professional expertise and skills that assist the trustees with the decision-making process for the trust.

Historically this has been the family lawyer or accountant, but we are often seeing situations where those parties are too close to certain members of the family and are struggling to act in an impartial manner. A number of families are turning to a truly independent trustee to bring an impartial viewpoint into the trust.

If you have a trust and need an impartial viewpoint from skilled Trust professionals, then consider Covisory Trust Services. Give us a call and talk to either Marcus Diprose or Nigel Smith on how we can help you by offering independent trustee services.

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Meet our Team

Michael Dall

As part of Covisory Connect we are highlighting members of the Covisory team and find out what they do outside of the Covisory family.

I was “born” into the family back in 2009, when I was first introduced to Covisory Principal, Nigel Smith – via my external CA and business advisory partner firm, WBB Chartered Accountants. At the time, WBB Company Directors, Lewis Beer and Phil Welham introduced me to Nigel and the wider Covisory team for advice on an optimal foreign trust structure for one of my many international business ventures; as they say “the rest is history”!

Actually, my birth country is Denmark; and while growing up and living all over the world (in Scandinavia, Copenhagen – Denmark; in Sussex on England’s South Coast – UK; in the Bay Area, California – USA; in Regensburg, Bavaria – Germany; and right here in 100% clean-green Aotearoa), my immediate family (wife and three boys) and I have called Auckland’s North Shore our home since 1996.

We live in the heart of Milford, and every morning (come rain or shine), my wife Helen and I set out on our morning walk. Most days, we catch the early sunrise over Rangitoto Island grabbing our morning coffees to kick-start the day at Takapuna Beach, before making our way back home; all up 60 minutes of regular exercise.

D.IN.E.:

Along with my ongoing Covisory engagements (incl. accounting and finance commitments, independent directorships, board appointments and corporate trustee obligations), I head up D.IN.E. – Develop IN Europe and our Develop IN Asia Pacific client activities and international business growth projects; this involves leadership and Export operations across 50+ locations spanning 30+ countries. We have our Scandinavian head office in Denmark, which is complimented by our key European locations, including Germany (D-A-CH), France, the Netherlands (Benelux), Italy, Spain and Eastern Europe.

Area of expertise:

I am a results-driven, decisive decision-maker with proven success in new market identification and strategic positioning for multimillion-dollar advertising, tech, IT and telecommunications organisations. I bring a strong track record of increasing sales and growing bottom line while cultivating operational improvements to drive productivity and reduce costs; excelling in dynamic, demanding environments (across family business, central and local government agencies, SMEs as well as large corporates) while remaining pragmatic and focused.

My background in short:

- 20+ years' experience in high-tech, finance, accounting, corporate management and general business administration.
- Specialising in internationalisation, strategic business development, digital marketing and partnering engagement.
- Proven track record in commercial governance, developing and implementing growth opportunities creating long-term client value.

Spare time:

Outside of Covisory, I am passionate about running and has previously represented New Zealand on a National level as well as at World Championships. As an endurance athlete and road marathoner at heart, I continue to raise awareness and funds for my favorite charities, participating in marathon events throughout the race year, combined with multiple half marathons, off-road / trail running events, cross country winter race series, and a bit of ultra running throughout the season too.

Wine is another true passion of mine, in particular red wine, interesting grape varieties and fascinating wine-making styles from around the world.

Cheers – Michael

Michael-Dall-b264b03a/

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