

AMCHAM NEWS

American Chamber of Commerce in New Zealand

P.O. Box 106-002, Auckland. Tel: 649 309 9140; Fax: 649 309 1090

Email: amcham@amcham.co.nz



Volume 9 Issue 1

January 2010

McCully names new Ambassador to United States

New Zealand's next Ambassador to the United States will be the Rt Hon Mike Moore, Foreign Minister Murray McCully recently announced.

"Mike Moore will bring a huge amount of experience to this position," Mr McCully said.

"As a former Prime Minister of New Zealand, Director-General of the WTO and co-chair of the US-NZ Partnership Forum, Mr Moore is the best possible candidate for this important role.

"New Zealand is working closely with the United States in the Asia-Pacific region, in Afghanistan, on the challenges of climate change, non-proliferation and efforts to counter terrorism.

"The United States has also agreed to join the Trans Pacific Partnership free trade negotiation. This will be a major focus for Mike Moore as Ambassador, working with the US administration and Congress, as well as business interests, as negotiations get underway."

Mike Moore served as Prime Minister in 1990. He was Minister of External Relations and Trade from 1988-90 and Minister of Overseas Trade and Marketing from 1984-90. He led the international effort to improve trade rules and access as Director-General of the World Trade Organisation from 1999-2002.

He takes up his appointment in July-August 2010, succeeding Roy Ferguson, who is returning to Wellington.

NZ, US sign science cooperation agreement

New Zealand and the United States have agreed to enhance cooperation in science and technology research to improve the shared capabilities of both nations to protect against acts of terrorism and other threats to domestic and external security.

"International collaboration in science and technology is a major part of our ongoing efforts to counter threats of terrorism. This agreement will enhance our ability to collaborate on research and share innovative technologies to ensure our mutual security and

protect the public," said US Homeland Security Secretary Janet Napolitano.

"The Agreement on Science and Technology Cooperation Contributing to Domestic and External Security Capabilities strengthens New Zealand's longstanding relationship with the US in research science and technology. Under the agreement, New Zealand transport security and civil defence emergency management researchers will now benefit from collaborative project work with their US counterparts," Foreign Minister Murray McCully said.

The agreement calls for close cooperation between the US and New Zealand on the development of threat and vulnerability analyses and new technologies, and strengthened collaboration on border and transport security and civil defence emergency management.

It draws on the collective technical expertise of government scientists from both countries, and encourages robust participation by universities, non-profit organization and the private sector through public-private partnerships and collaborative funding.

Two Americans honoured in New Year's Honours list

"I am delighted to offer my congratulations and gratitude to Julian Robertson and John Mullen, both of whom were recognised in the New Zealand New Year's Honours list. Both are American citizens who are very good friends of New Zealand and who have demonstrated that friendship through their contributions to the relationship between our two countries", said New Zealand Ambassador Roy Ferguson.

Julian Robertson was appointed an Honorary Knight Companion of the NZ Order of Merit for services to business and philanthropy. In addition to developing the Cape Kidnappers and Kauri Cliffs golf lodges, which were aimed at attracting top-end international tourists, he has invested in the New Zealand wine industry. He sponsored 'The Kiwi Challenge' golf challenge in 2008 and 2009. These were broadcast internationally and showcased New Zealand. He established the Robertson Scholarship Programme in 2000 to enable talented students to attend Duke University and the University of North Carolina at Chapel Hill and the Hood Fellowship Fund at the

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University of Auckland in 2004. Mr Robertson also supports the arts, and in 2009 he gifted part of his art collection to the Auckland Art Gallery. This gift has been recognised as the largest ever in Australasia.

John Mullen was appointed an Honorary Officer of the NZ Order of Merit for services to New Zealand – United States of America relations. He became President of the United States-New Zealand Council in 2004 and in 2006, Mr Mullen organised the first US-NZ Partnership Forum in Washington DC., a highly successful gathering of public and private sector leaders aimed at fostering trade relations, political cooperation, mutual understanding and networking. After bringing a distinguished US delegation to New Zealand in 2007, he organized the third Forum in Washington in October 2009, which added further positive momentum to the increasingly strong bilateral relationship. Under his leadership, the Council played a key role in the establishment of the Friends of New Zealand Congressional Caucus in the House of Representatives and has been an effective voice in support of the campaign for a free trade agreement between New Zealand and the United States.

AmCham would like to congratulate both Julian and John on these well deserved honours

U.S. Trade Priorities in the Asia-Pacific: TPP and Beyond

Remarks by Ambassador Demetrios Marantis at the Center for Strategic and International Studies - [Read here](#)

Nina Federoff: genes and food - Radio New Zealand Interview with Kim Hill

Molecular biologist who is Science and Technology Adviser to US Secretary of State Hillary Rodham Clinton, and to the US Agency for Independent Development. ([Audio MP3, duration: 28'14"](#))

Officials commission joint US-NZ Antarctic Wind Turbines

US Ambassador David Huebner and New Zealand Foreign Minister Murray McCully officially commissioned a joint effort to bring renewable energy to Antarctica. At a ceremony in Auckland on January 16, three wind turbines, which were completed last year and had been providing limited power to New Zealand's Scott Base and the American McMurdo Station, were put into full service. [\[read more\]](#)

Hillary Clinton honours 2degrees' investor

Read the story [here](#)

Submission Form: Department of Labour's Review of the Essential Skills in Demand Lists – First Review of 2010

The Department of Labour is about to commence the consultation process to inform the first review for 2010 of the Immediate Skill Shortage List (ISSL) and the Long Term Skill Shortage List (LTSSL). A form is attached, should your organisation wish to make a submission.

Please note submissions for the first review of 2010 are due by the close of business on 5 March 2010.

Updated skill shortage lists that reflected changes arising from the

second 2009 review came into effect from **26 November 2009**. The lists and an example of a completed submission form can be accessed from the Immigration New Zealand website - www.immigration.govt.nz/essentialskills.

If you plan to submit an occupation for consideration for the review, we encourage you to begin preparing now:

1) Start collecting your evidence. If you wish an occupation to be added to the lists, you will need to demonstrate that there is genuine labour shortage for a particular skilled occupation. The ISSL and LTSSL are not designed to cater for lower skilled labour shortages, seasonal labour shortages or recruitment and retention problems arising because the industry cannot, or does not, offer the terms and conditions necessary to recruit sufficient numbers of suitably qualified worker within the New Zealand workforce. As a general guide, skill levels should be at least commensurate with ANZSCO level three.

2) Consult and get support from relevant industry groups, unions and other employers in the industry.

3) Prepare a consolidated submission. If you are aware of related organisations that intend to make a submission for the same occupation then you should work together on a single submission.

4) Ensure that, if you wish to propose changes, the occupation is specific and appears on the Australian and New Zealand Standard Classification of Occupations (ANZSCO). The ANZSCO can be accessed at www.immigration.govt.nz/anzsco.

Leading US angel investor to help Kiwi businesses

A group of New Zealand businesses and business development agencies has clubbed together to bring leading American angel investor Bill Payne here for six months to share his knowledge with Kiwi entrepreneurs, investors and universities.

Payne will be based at business growth centre The ICEHOUSE from February as the BNZ University of Auckland Business School Entrepreneur in Residence. Other organisations that have supported his visit are the Foundation for Research Science and Technology, Investment New Zealand, Air New Zealand, the New Zealand Venture Investment Fund and Jucy Rentals.

Payne is one of the United States best known angel investors with an investment history stretching back almost 30 years. He has invested in over 50 companies, helped establish four angel networks in the United States and has been referred to as the closest thing America has to an Entrepreneur Laureate. In 2009 he was awarded the Hans Serveriens Award, the United States Angel Capital Association's highest honour. More about Bill Payne [here](#).

Hauraki Gulf Islands impress US journalist

Award-winning Los Angeles Times journalist, Rosemary McClure, joined Tourism Auckland's visiting media programme last year on invitation by Auckland City Council, who manage a longstanding partnership with Los Angeles. Rosemary was impressed with the Hauraki Gulf Islands and highlighted their uniqueness in an article featuring in the Los Angeles Times on 17 January [Read the article](#).

This is the second of two feature articles, the first of which praised Auckland's wine industry and appeared in a number of high profile newspapers across America and Canada.

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Logistics for
the future NOW



(Continued from page 2)

US Patent update – Changes to US patent system to make obtaining patents faster, more certain.

Protecting an invention in the USA can be difficult and expensive. In the past the US Patent and Trade Mark Office has been accused of being slow moving and frustrating to deal with. Making matters worse is the US patent legislation, which takes an idiosyncratic approach to ownership of an invention. Recent proposed changes look to address some of these criticisms, and may make protecting innovation in the USA less problematic.

Richard Clement, Associate @ Baldwins Intellectual Property provides [the inside story](#)

Fast growing non-profit is looking for sponsors and mentors

KiwiMentornet, the non-profit connecting Kiwi high schools students with business mentors around the world, is now inviting you to get involved. KMN aims to broaden the global opportunities available to Kiwi kids and encourage them to pursue University education and follow positive examples by building close links with successful business people in NZ and offshore. The non-profit was started in answer to the "Why do New Zealand kids too often settle for less?" question and originally funded by the Teece Family Foundation, whose president Leigh Teece will be visiting New Zealand in the first weeks of March to launch the project.

KiwiMentornet brings together innovative technology and a proven mentoring model to inspire and encourage Kiwi kids to pursue their dreams - the response from participants in the pilot programme has been overwhelmingly positive. There are two ways you can help - firstly through financially sponsoring KMN for its 2010 year operations, and more importantly, by dedicating your time and encouraging your colleagues to mentor a high school student over a 12 weeks project this year. The mentors will be provided with a training programme that is equally applicable for a workplace or home environment and will contribute to establishing a broader culture of mentorship in NZ. To find out more about KiwiMentornet or get involved, please directly contact Alexei Dunayev, the NZ Director, on adunayev@worldmentor.net or 021 0299 0403.

Reinforce your Public Speaking Skills

A new Toastmasters Club has now formed in Wellington--**Wellington Professional Toastmasters**--a speaking club like no other. In addition to a highly professional venue at the Wellington Holiday Inn where members and guests alike can hone their public speaking skills, the bi-weekly Monday evening format also allows for a short dinner break and timely concise meetings. Join the group at 5:45 pm on Monday, February 15 and every two Mondays after that. For more information, please check out the club's website: www.wptc.co.nz or contact Mark Wenig at the US Embassy at WenigML@state.gov or Steve Preston at steveprestonnz@gmail.com

The New Zealand – Australia Investment Forum 10-11 March 2010

This forum is more than just a conference! It's an interactive business -to-business and business-to-government networking extravaganza!

More than 100 industry leaders – chief executive officers, directors, chairmen – from around the region have already registered for this conference. You can't afford to miss out either – so register now.

They recognise that New Zealand and Australia are among the world's most investment-friendly and investment-ready destinations. These forward-thinking executives are going to be first in line when new opportunities present themselves.

Over 50 speakers have been assembled for the inaugural New Zealand-Australia Investment Forum. Senior representatives from government, finance and industry including:

Ken Christie, Chief Financial Officer, Bank of New Zealand who will share with you his thoughts on prospects and opportunities for New Zealand and Australia;

Stephen Robertson, Minister for Natural Resources, Mines & Energy, and Minister for Tourism, Government of Queensland, who will update you on the latest developments and opportunities in the resources sector;

Alan Lai, Chairman, Agria Corporation's (China) on recent international investments from Agria's point of view and how they hope to grow the business;

Scott St John, Chief Executive Officer, First NZ Capital and a member of the New Zealand Capital Markets Development Task Force & Geoff Weir, Director, Australian Financial Centre Forum, who recently reviewed and proposed new opportunities to grow the Australian financial services sector;

And many more speakers and sessions of outstanding quality.

There will be plenty of time for networking with your peers, including a not-to-be-missed conference dinner. On top of this we want to help you meet the right people and we are prepared to help you arrange confidential meetings with individuals or companies of interest. This is a unique and exceptional opportunity.

This forum will be very profitable and informative for those attending. Delegate places are limited, so register early to secure your attendance. **A limited number of tables are also available for the dinner on 10th**

For more information, visit <http://www.investmentnz.govt.nz/investmentforum.html>

2010 APCAC Spring Conference, Beijing April 14-17

"China: Growth Engine for the Next Decade" - AmCham-China cordially invites you to the APCAC 2010 spring meeting, China: Growth Engine for the Next Decade. The conference, which will take place on April 15-17 in Beijing, will be an excellent opportunity to network and hear prominent speakers on what the next decade will bring in China and the region.

(Continued on page 4)



Pernod Ricard New Zealand proud supporter of AmCham.

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They have launched the conference website, your portal for all information relating to the conference: www.apcac2010.org. On this website you'll find the agenda, information on where to stay, exciting travel packages for post-conference travel and sightseeing, and registration information. AmCham-China is hard at work to bring the most comprehensive conference program to you and make your trip valuable.

FROM NEW ZEALAND TRADE AND ENTERPRISE

US expected to adopt new food safety bill

The US Senate is expected to pass legislation granting new authority to the Food & Drug Administration (FDA) to ensure food safety. The Senate bill will expand FDA oversight of the food supply and shift its focus toward preventing food-borne outbreaks of illness.

The final bill is expected to include mandatory recall authority to enable the FDA to recall dangerous food and supplements, and also re-inspection fees for facilities that have failed initial safety inspections.

A similar version of the legislation was passed in July 2009 by the US House of Representatives.

New Zealand companies should be aware of different provisions that are likely to impact their exports to the United States, including a provision for country of origin labelling, as well as possible user fees for registration of manufacturing facilities.

The legislation will bring the United States into alignment with other countries in the world with more rigorous control around food safety and inspection.

Source: *Functional Ingredients, Reuters*

US establishing organic seafood standards

<http://www.nzte.govt.nz/explore-export-markets/Export-Intelligence/Pages/US-establishing-organic-seafood-standards.aspx>

US patent office accelerates 'green' applications

<http://www.nzte.govt.nz/explore-export-markets/Export-Intelligence/Pages/US-patent-office-accelerates-Green-applications.aspx>

OTHER NEWS BRIEFS

The State of American Business speech 2010 by Tom Donohue, President & CEO of the US Chamber of Commerce

http://www.uschamber.com/press/speeches/2010/100112_sab.htm

U.S. Chamber Urges Opposition to Counterproductive 'Buy American' Provisions in Senate Jobs Bill

http://www.uschamber.com/press/releases/2010/january/100127_jobs.htm

Fisher Funds' investment in US cosmetics pays off

<http://www.nbr.co.nz/article/fisher-funds-investment-us-cosmetics-pays-117214?headsup=1>

US approves Kiwi asthma inhaler

http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10612877

NZ buses may win \$84m deal in New York

<http://tvnz.co.nz/business-news/nz-buses-may-win-84m-deal-in-new-york-3241888>

Villa Maria signs its largest ever export deal in the USA

<http://www.villamaria.co.nz/Media/Villa-Maria-News/St-Michelle-partnership/default.aspx>

Bringing Silicon Valley to the Manawatu

<http://unlimited.co.nz/unlimited.nsf/startup/bringing-silicon-valley-to-the-manawatu>

NZ rated in top 5 places to live

http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10619027

TRADE, BUSINESS and INVESTMENT OPPORTUNITIES

Commercial News USA

The January-February issue of Commercial News USA, the official export promotion magazine of the U.S. Department of Commerce, is currently online at http://thinkglobal.us/pdf/2010_01_jan_feb.pdf

Trade Events in the USA [listed here](#)

See also www.exportyellowpages.com

Looking for Venison to export the USA

This contact is the representative of a major food manufacturing / distribution company in the United States that imports various food products from around the globe for sale into the US markets. This company has been in operation for many years and has all the required references to ensure that, you the exporter, will be dealing with a financially secure and professional organisation. For more info contact: info@nztc.co.nz

Export Runway - exporter training - Tackling the US Market 17 March

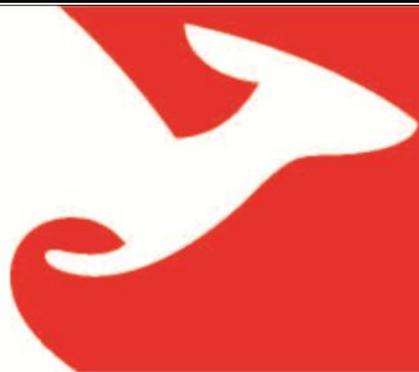
<http://www.whkbusinessgrowth.com/growth-centre/events/tackling-the-us-market.aspx>

Business Development Manager seeking work.

If your company is in need of a motivated BDM or Business Analyst who specializes in professional business case and or business model creation, strategy development and contract negotiations with experience in the import/export and infrastructure/transport industry then please contact me. I have a Bcom from the University of Auckland and 4 years experience working for a top NZ transport and infrastructure company, managing large projects. Have just returned from extensive overseas travel. Open to part-time, contract or full time offers. Please contact tristananderson@hotmail.com for a CV or more information.



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BUSINESS TRAVEL

News, views and information for Amcham business travellers from **Grant Bevin**, Managing Director Business World Travel.

Business World Travel is a member of the American Express Travel Service Network.

Sitting around the office waiting for business to improve, twiddling your thumbs waiting for existing customers to place seriously average orders isn't really going to cut the mustard, and definitely is a very un-New Zealander attitude! Get on a plane and head to one of our US Trade Fairs – you don't need to exhibit, simply being a trade show visitor will reap rewards. You'll meet innumerable new contacts who may well become future customers or suppliers, test your product or idea against the best, check innovation and learn plenty. We're the New Zealand representative of the two major hotel room operators for the major US trade shows, so we know the right show for your business and we have the contacts to access those hard to get hotel rooms! Whether you're an exporter or importer, get on a plane! Join industry experts from around the world at one of these industry leading trade events:

**International Home & Housewares Show 14-16 March 2010
Chicago**

FMI Show Supermarket Industry Convention 10-13 May 2010 Las Vegas

**Techtextil North America Trade Fair for Technical textiles 18-20
May 2010 Atlanta**

**NRA National Restaurant Hotel Motel Show 22-25 May 2010
Chicago**

**InfoComm International Information Communications Market 09-
11 June 2010 Las Vegas**

(event dates subject to confirmation at time of booking)

Call Nigel nseidelin@bwt.co.nz in Auckland or Sam sbhula@bwt.co.nz in Wellington to secure your trade fair hotel and airfare package to these key US events:

Air Transport World, the US based airline industry publication, is the most respected airline community publication, and their annual awards are the most prestigious and sought after amongst airlines. Air New Zealand has done tremendously well to have finally won this supreme Airline of the Year Award. Unlike most airline awards where in-flight service is the measure, the ATW Award acknowledges a high level of achievement in a range of areas, including a full analysis of the business model, commitment to safety, innovation, the

environment and the customer experience. Australia's REX won the regional Airline of the Year, for similar reasons.

Hong Kong based Cathay Pacific is increasing capacity between Hong Kong and Los Angeles by three flights weekly from 01 May, bringing the total to 17 flights weekly. Cathay offers a popular 'Circle Pacific' airfare, where Qantas can be used between Auckland and LAX. Cathay has also announced the start of a new route, between Hong Kong and Italy's business hub, Milan. This flight starts 28 March.

Planning your trip and want to see airline neutral schedules? The best place is on our website. Visit www.bwt.co.nz and click onto Online Resources, then Galileo Flight Schedules. This is perfect for mapping out your flights before starting to make your business appointments. It is not encumbered with airfares – it is pure airline timetabling and includes all airlines including most low cost airlines such as Jet Blue and Virgin America.

Our Executive Leisure has a wonderful short notice Silversea Cruise available from Santiago to Los Angeles departing 08 March 2010, available at reduced rates. The cruise is on board the new Silver Spirit vessel. This cruise can be taken as a 10, 14 or 21 day itinerary and travels along the fascinating west coast of South and Central America. The shorter 10-day section of the cruise can be taken between Acapulco and Los Angeles departing 22 March. SilverSea is a deluxe all-inclusive cruise operator. Call Agota in Wellington awatt@bwt.co.nz or Anne Hessell in Auckland ahessell@bwt.co.nz for details.

TRAVEL

US Service Security Update

US sites to see for updated information visit www.dhs.gov and www.safetravel.govt.nz
<http://www.tsa.gov/travelers/index.shtm>

Check out our website at www.bwt.co.nz

Reviewing your Corporate Travel? Call our Team:

Jane Higgie Business World Travel Wellington 04-470 6044 jhiggie@bwt.co.nz

Grant Bevin Business World Travel Auckland 09-529 3700 gbevin@bwt.co.nz



MEMBER NEWS

New Members

Broughton Consulting Ltd, Auckland – **Alex Broughton** - Business & corporate strategy & consulting. Property investment in NZ & USA.

People on the move

Nigel Gaymond is leaving the US for the UK to become the new Chief Executive of the BioIndustry Association, the UK's equivalent to NZBio.

Alex Broughton has left Microsoft New Zealand and has set up **Broughton Consulting Ltd**.

Conrad Headland is the new General Manager of **Pacific Network Global Logistics**.

Lex Henry has been appointed as Chairman of the **Researched Medicines Industry Association**

Peter Doherty is the new business development director of the **Westin Auckland Lighter Quay**

Kim-Marie Kerr is the new Sales Director for **AstraZeneca New Zealand**

Barry Hardy has been appointed Business Development Director for **International SOS (New Zealand) Ltd**

Stewart Sherriff is the new Chairman of **2degrees**.

Chris Liddell has been appointed Vice Chairman & CFO of **General Motors**

EVENTS & SERVICES

- 5th Feb – AmCham Auckland Golf Tournament at the Grange Golf Club
- 4th March – Member & Government officials Reception in Wellington
- 16th March – Lunch with Theresa Gattung, book launch at Rendezvous Hotel
- 25th March - Talent Management: how do we keep our best and brightest and how do we attract the best talent from abroad – panel with Rod Oram, Gareth Chaplin, the Chief Economist for NZ Trade and Enterprise & Paul Kennedy , CEO of Student Job Search, 4.- 5.30pm

US NZ CONNECTIONS IN NEW ZEALAND

OSAC New Zealand 2010 Security Symposium 27 April

The 2010 Security Symposium will be held in Deloitte's offices in Auckland on 27th April. Details of the symposium programme will be released at the end of February.

Membership of OSAC New Zealand is **free** for US companies and provides members with advices of Special Notices re security warnings, threat analysis and other security advisory services. For more info on OSAC see www.ds-osac.org (there is also a New Zealand county specific site at this website) or contact OSAC New Zealand Secretariat, Mike Hearn on tel: 09-309-9140 or email mike@amcham.co.nz

American Club – Auckland

<http://www.americanclub.org.nz/>

American Women's Club – Auckland

www.awcauckland.com

New Zealand-American Association – Wellington

www.nzaa.org.nz

Wanganui New Zealand American Association

donnarush@clear.net.nz

American Women's Network – Wellington

www.awn.co.nz

American Club of Christchurch –

www.american-club-chch.org

AmCham would like to acknowledge the passing of **Peter Brown**, the husband of Pat Brown, the Immediate Past President of the American Club and offer our condolences.

Billionaire 2degrees investor John Stanton attends AmCham breakfast briefing

Leading global telco player, John Stanton, visited Auckland for a business breakfast hosted by the American Chamber of Commerce on 21st January.



Above: Multi-billionaire telco investor John Stanton, chairman of Seattle-based Trilogy International Partners, receives a rau from 2degrees community liaison Mana Forbes. Trilogy began 2009 with a 26% stake in 2degrees. A mid-year equity swap with CVP saw Trilogy take majority control. Now, with Hautaki unable to afford its share of newly issued equity, and its holding due to fall to 12.7%, Trilogy is poised to up its stake again.

Regarded as one of the world's wireless pioneers, Stanton is the Chairman of the Board of Trilogy International Partners, the majority shareholder of 2degrees Mobile.

During the breakfast, he discussed what helped him co-found three top 10 wireless operators during nearly

25 years in the industry. Stanton offered his insights into how to build successful companies in competitive markets and why competition means better offerings for mobile customers.

Mr Stanton reiterated 2degrees' stance that mobile termination rates are too high. He said that while the average US user paid about the same a month for their mobile, lower call charges meant they used it a lot more. Americans use 839 minutes a month, said Mr Stanton, while the worldwide average was around 360 minutes a month. Although neither Telecom or Vodafone had volunteered local stats, the Trilogy boss estimated that, based on analyst reports, average New Zealand usage was around 110 to 114 minutes per month.

Also at the event were Auckland Mayor, John Banks as well as Telecommunications Users Association Chief Executive Ernie Newman and publicist Michelle Boag.

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(Continued from page 6) *2degrees Investor in NZ*

Stanton is also the former Chairman and CEO of Western Wireless Corporation, one of the largest providers of mobile communications services in the United States and, through its subsidiary Western Wireless International, the provider of mobile communications services to several other countries. Previously, Stanton was Chairman and a Director of T-Mobile USA, formerly VoiceStream, from 1994 to 2004 and was Chief Executive Officer of T-Mobile USA from February 1998 to March 2003. After building up T-Mobile, John Stanton sold the company to Deutsche Telekom for a reported \$US30 billion in 2003.

Marketing Opportunities for Members

Don't forget members have the opportunity of:

- Platforming your visiting CEOs by having them speak to AmCham
- Sponsoring an events including the Annual Success & Innovation Awards Dinner
- Sponsoring a professional speaker
- Launching products/service through AmCham
- Hosting of Forums,
- Sustaining Member Events or Committee meetings
- Use us for your Event management
- Advertising in our monthly newsletter

For more details - phone 09 309 9140

Transfer Pricing—part 3

This article is the third and final article on a three part series on transfer pricing and summarises two major US cases on transfer pricing in 2009.

It seems that 2009 was an eye for an eye with the IRS and transfer pricing. Two notable cases occurred in the United States in 2009, the IRS losing one case through the Appeals Court, subsequently having the opinion overturned, and winning the other case. Both notable for different reasons – one is a historic landmark case and the other for the dollar amount involved. Both involved section 482 of the Code.

The landmark case involved Xilinx, a Californian chip-making company against which the IRS won in May 2009.

The other was against Veritas Software Corporation against which the IRS lost on December 10, 2009. In this case the comparable uncontrolled method was used to allocate \$166m of costs of pre-existing intangibles by Veritas to a wholly owned subsidiary in Bermuda.

The IRS tried to allocate \$2.5b of income to the parent, by relying on an expert report which used methodologies which were not specified methods at the time. The report used the forgone-profits, market-capitalization and acquisition-price methods, however the IRS subsequently reduced the allocation from \$2.5b to \$1.675b as calculated by another economist.

The IRS determined that the payment must factor in access to the parent's resources including R & D, marketing, distribution channels, customer lists, trademarks, trade names.

Veritas argued that the IRS's assertions were 'arbitrary, capricious and unreasonable' and defended the comparable uncontrolled transaction method as the best method, which won the case.

In the Xilinx case the company had allocated R & D costs to an Irish subsidiary, but did not allocate any of the tax deductions on stock options granted to research employees. These deductions were all kept in the US.

As the US has significantly higher tax rates than Ireland it was held that the global taxes paid by Xilinx were reduced by the treatment of

the stock options. It was asserted that there was less taxable income in the US than if there had been an allocation of the tax deductions to the Irish subsidiary.

Xilinx argued that the cost of the stock options should not be allocated to unrelated companies. The IRS disagreed, and in a 2-1 vote the Court of Appeals for Ninth Circuit ruled in favour of the IRS, overturning a 2005 US tax court decision.

Xilinx subsequently appealed the case and the court ordered the IRS to respond to the appeal in August 2009.

In January 2010 the US Appeals Court withdrew the May 2009 opinion in a one-page document without further guidance. This reversal has left tax attorneys speculating that the Ninth Circuit may reinstate the 2005 decision or decide to hear further arguments, potentially exposing Xilinx to an IRS liability in excess of US\$40m.

In December 2009 the IRS announced the new "Transfer Pricing Practice" which has been established to administer transfer pricing issues. The move is in response to public and private sector frustrations about the way transfer pricing rules are administered, and is another indication of the IRS commitment to this complex area.

John Carr is a CPA based in San Antonio, Texas, United States of America.

Gina Wallace is a Chartered Accountant based in Auckland, New Zealand.

Collectively they have more than 40 years of experience in New Zealand and United States' taxation of all types of entity including individuals, companies, partnerships, and trusts.

Both have worked in industry prior to establishing their own accountancy practices. They currently are assisting US inbound and outbound clients with the provision of efficient and effective tax compliance and consulting services.

Whether you are relocating as an individual, expanding your business operations offshore or looking for an alternative tax provider, Gina and John would be pleased to assist you to avoid the minefield of international tax issues that frequently arise.

International Assignment Services Ltd.

Gina Wallace CA PP
Level 27 PWC Tower
188 Quay Street
Auckland
Office +64 9 525 5931
Cell phone +64 27 573 2242
ginawallace@expattax.co.nz

Better Business Services Inc

John M Carr MBA CPA CFP CVA CFE EA
22588 Scenic Loop Rd
San Antonio, Texas 78255
United States of America
+1 210 694 7884
+1 863 602 1274
john@bbstax.com

International Assignment Services Limited



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NEW ZEALAND VEX ROBOTICS COMPETITION

To inspire a passion for science and technology

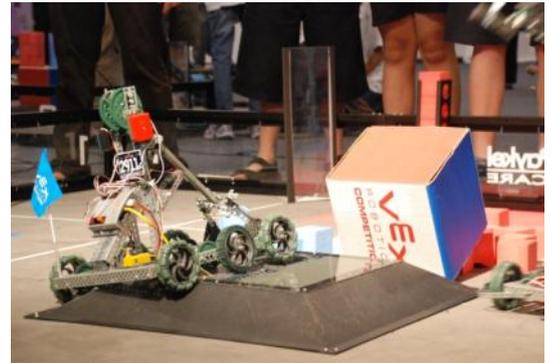


The VEX Robotics Competition offers unique and challenging team-based games that put intermediate and high school student's science and engineering skills to the test.

Students, with guidance from teachers and mentors, collaborate to build the most innovative robots possible and work together during competitions to obtain the most points possible in addition to having a great time and building amazing robots. Through their participation in the VEX Robotics Competition and their work within their team, students learn many academic and life skills.

Why a Robotics Competition?

Technology Companies in New Zealand are finding it increasingly difficult to find enough New Zealand graduate engineers to meet their demand. These companies have to turn to other countries to fill their vacancies. The increased costs associated with employing engineers from overseas has the effect of raising production cost through inflated overheads and reduced competitiveness in an international market. In order to improve the supply of engineers to industry, Universities have recognized that, inspiring school students to enter engineering degrees is the way forward. The Robotics competition is an ideal way of nurturing future engineers and converting 'fence sitters' to a career in engineering.



How it works.

The VEX Robotics Competition is launched in May each year with an announcement of the new game. Games are designed to test the ingenuity and lateral thinking of students, forcing them to develop a 'game plan' and closely examine the rules. It teaches them to carefully analyse what they have to do before they start to do it. This will stand them in good stead as, with any specification that they will encounter in their careers, it is wise to know what the 'customer/game' wants before you start.

The games are designed to be easy to compete in but hard to excel in. Students are able to feel satisfied with their designs no matter what their level of competency is.

Local and regional competitions operate from the launch until February the following year. The NZ VEX Robotics National competition is held in Auckland during March each year. The top teams from this win the right to compete in the VEX World Championship held in Dallas in April each year.

VEX allows students to:

- Learn from and play with the "pros" of the science and engineering world
- Apply math and science concepts to design, build, test and compete with robots
- Gain hands-on experience solving real-world problems
- Discover the excitement and rewards of science and technology careers
- Work with people they would normally be afraid to ask for help from.
- Find out that the things they are learning at school really do apply to the real world.
- Interact with Universities before they leave school

Every student, regardless of his or her scientific, mathematic or technological expertise can participate and benefit. The contribution and effort of every student is valued from the team member who spends all their time chatting to other teams to the 'head buried in a laptop' programmer.

We Need your help!

In order to sustain and grow the competition we are looking for Supporters and Sponsors. There are many areas that we need assistance in where you can help us. Please visit our Supporters page on our website <http://vexrobotics.co.nz> to see if there is any way you can help then call Chris Hamling, anytime, on 09 443 9710.