

# AMCHAM NEWS

## American Chamber of Commerce in New Zealand

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### Trans Pacific Partnership Update from USTR

The 15th round of Trans-Pacific Partnership (TPP) negotiations were held in Auckland from December 3-12. The Trans-Pacific Partnership (TPP) negotiators were pleased to report further solid steps forward in closing the remaining gaps between them during the 15th round of negotiations. Their announcement of new progress followed recent discussions between President Obama and the Leaders of other TPP countries, during which the Leaders reaffirmed their mutual priority of concluding a state-of-the-art, comprehensive agreement as quickly as possible and of smoothly integrating the newest members, Canada and Mexico, into the negotiations.

Canada and Mexico, the United States' two largest export markets, participated in the TPP negotiations for the first time this round. Over the past several months, United States and the other eight TPP countries – Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam – worked with Canada and Mexico as they prepared to join, and both countries contributed to the progress achieved during this 10-day round. Their participation adds significantly to the economic importance of the agreement as well as to establishing TPP as the most promising pathway to promote regional economic integration and to support the creation and retention of U.S. jobs.

During the 10-day round, the 11 delegations concentrated on finding pragmatic and mutually-beneficial outcomes to remaining issues under consideration, while isolating the outstanding challenges to be addressed in the months ahead. They furthered their efforts to close the outstanding legal texts of the 29 chapters of the agreement covering all trade and investment-related issues between them, making progress across the agreement. With most chapters far along, the United States and its TPP partners agreed to work between now and the next round to address the handful of issues still open in them, in such areas as customs, telecommunications, technical barriers to trade, sanitary and phytosanitary issues, and other issues; and to intensify their efforts on the chapters where the volume of remaining work is more substantial.

Through the TPP, the United States is seeking to address new issues that respond to concerns raised by U.S. stakeholders and that will enhance U.S. competitiveness in the 21st century and support the expansion of U.S. exports. The United States also is committed to advancing core U.S. values, such as transparency, labor rights and environmental protection.

Further steps forward were also made on goods, services and investment, and government procurement during this round; leaders of the 11 TPP countries have agreed to comprehensive access to each other's markets in all areas. TPP member delegations continued to advance their work to develop the tariff packages on industrial goods, agriculture, and textiles, as well as on rules of origin promoting the development of supply chains that include companies based in the United States and the other TPP countries. In addition, they discussed their respective market-opening commitments on services and investment, and government procurement. The TPP delegations recognize that further work is needed to meet the Leaders' goals for a high-standard result in the market access negotiations, and were able to set timetables for intersessional work that would ensure additional progress at the next round.

On December 7, the TPP negotiations were temporarily adjourned so that negotiators could engage with the more than 300 stakeholders registered to join the TPP stakeholder events in Auckland. This included more than 70 stakeholders from virtually all TPP countries, who made presentations on a wide range of issues and met informally with TPP negotiators. Also that day, U.S. Chief Negotiator Assistant U.S. Trade Representative Barbara Weisel and fellow Chief Negotiators briefed stakeholders and took questions on the substance and process of the TPP talks.

The 16th round of TPP negotiations will be held in Singapore, from March 4-13

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## United States Trade Representative Ron Kirk Announces Plans to Depart in Late February

Ambassador Ron Kirk has announced that after nearly four years of service as United States Trade Representative, he intends to depart the position in late February.

"It has been no less than my greatest professional privilege to serve President Barack Obama alongside the dedicated professionals of USTR," said Ambassador Kirk. "Together, we have made great strides to bring about the President's vision of a more robust, responsible, and responsive trade policy that opens markets to products stamped 'Made-in-America' and enforces Americans' trade rights around the world – and does so in a way that is more consistent with America's core values on issues like the rights of workers and the environment.

"In President Obama's first term, trade has been a major part of this Administration's efforts to support American jobs right here at home. I am proud of USTR's contribution to America's on-going economic recovery."

## The President Needs Trade Promotion Authority

TPA would enable the president to submit trade agreements that Congress would have to vote on without altering. Myron Brilliant, the U.S. Chamber's Senior Vice President for International Affairs asked Congress and the administration to begin talking about TPA: "We want to encourage them to have a conversation about what the right process is and how to move this forward. I think it's not too early to begin to have those private conversations. Clearly, it's a priority for us in the business community".

## U.S. Chamber Welcomes Plans for Trade Agreement on Services

On January 15, the Chamber welcomed the Obama administration's letter of notification to Congress that the United States intends to initiate negotiations within 90 days for an International Services Agreement (ISA) to liberalize trade in services. A group of nearly 50 countries (including New Zealand) plans to launch negotiations for the ISA early this year. "The International Services Agreement will be an economic boost for the U.S. and the world economy," said Myron Brilliant, the Chamber's senior vice president for international affairs. "It will create new markets for U.S. exporters and generate a host of business and job opportunities from coast to coast."

## [US Chambers International Trade and Investment Priorities paper for the Second Obama Administration](#)

## Nunes, Rangel to Lead House Ways and Means Trade Subcommittee

Earlier this week, it was announced that Rep. Devin Nunes (R-CA) would become Chairman of the House Ways and Means Trade Subcommittee in the 113th Congress. Nunes succeeds Rep. Kevin Brady (R-TX), who will become Chairman of the Health Subcommittee. During his five terms in Congress, Nunes has been a strong supporter of international trade. In a statement, Rep. Nunes identified "progress toward a U.S.-EU free trade agreement and the expansion of the Trans-Pacific Partnership" as priorities for his tenure as Chairman of the Trade Subcommittee.

Separately, it was announced that Rep. Charles Rangel (D-NY), the former Chairman of the Ways and Means Committee, will become the Ranking Member on Trade Subcommittee. Rangel succeeds Rep. Jim McDermott (D-WA),

## United States-New Zealand Strategic Dialogue

New Zealand's Secretary of Foreign Affairs and Trade John Allen hosted the United States Assistant Secretary of State for East Asian and Pacific Affairs, Kurt Campbell, for the United States-New Zealand Strategic Dialogue on Saturday 15th December in Wellington. The Strategic Dialogue was the second held in 2012, following one hosted by Assistant Secretary Campbell in Sperryville, Virginia on 19 March.

The Dialogue was an opportunity to further the enhanced strategic political and defence relationship between New Zealand and the United States since the signing of the Wellington Declaration in November 2010 by Foreign Minister McCully and Secretary of State Clinton and the Washington Declaration in June 2012 by Defence Minister Coleman and Secretary of Defense Panetta.

The issues discussed by New Zealand and the United States during the Dialogue included:

- The United States' strategic rebalance to the Asia-Pacific region;
- The strategic and economic architecture of the Asia-Pacific, including Asia-Pacific Economic Cooperation, the East Asia Summit, and the Trans-Pacific Partnership;
- The state of New Zealand-United States defence cooperation;
- Cooperation in the Pacific Islands region in areas such as development, democracy and rule of law, including defence cooperation in humanitarian assistance/disaster relief;

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- Strengthening regional cooperation in the Pacific Islands region through our joint efforts as we look ahead to next year's Pacific Islands Forum in the Republic of the Marshall Islands.

Joint decisions made during the Dialogue included:

- Regularizing contact between New Zealand and the United States at all levels, including regular dialogues on issues such as cooperation with Pacific Island states, development efforts in the region, and the dynamic changes taking place in East Asia.
- Working together to secure approval of the Ross Sea Region Marine Protected Area proposal submitted by our two countries to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR);
- Working to ensure the successful conclusion in the near future of negotiations on the Multilateral Treaty on Fisheries between the Pacific Islands and the United States.
- Continued close bilateral cooperation, including with our nine other partners, to reach expeditious conclusion of the Trans-Pacific Partnership negotiation, to increase trade and economic opportunity for both our countries.

The two sides looked forward to holding the next Strategic Dialogue in Washington in the first half of 2013.

## **New Zealand Seafood Industry Welcomes NZ and US Food Safety Agreement**

The New Zealand seafood industry today welcomed the joint agreement between United States Food and Drug Administration (FDA) and the Ministry for Primary Industries (MPI) recognising each other's food safety systems as comparable to each other.

"The agreement is a vote of confidence in New Zealand's food safety system and in the high quality of New Zealand's seafood products," says Lesley Campbell, Acting Chief Executive of Seafood New Zealand.

Ms Campbell says the agreement will mean greater commercial certainty for the seafood industry, as well as providing US consumers with even more confidence in New Zealand seafood.

"At a practical level it will reduce compliance costs, for example, with less inspection and oversight of our products at the border we can expect those products to move more quickly into the United States.

Ms Campbell says that New Zealand exports around ten per cent of its seafood to the United States directly, with a value of NZ\$147 million for the year ended 31 October 2012.

"United States is our number one market for Greenshell™ Mussels with exports valued at NZ\$59 million for the year ended 31 October, 2012.

The agreement is a significant achievement for New Zealand and has been closely followed and supported by the New Zealand seafood industry since the initial discussions started in 2010.

"We would like to thank both the FDA and MPI for their commitment in bringing this historic agreement to the table," says Ms Campbell.

## **U.S. Food and Drug Administration's (FDA) - Food Safety Modernization Act (FSMA)**

### OVERVIEW

- - Many countries work towards improving the availability of safe food for their citizens. Foodborne illness has taken too great a toll on American consumers, causing nearly 3,000 annual deaths and putting almost 130,000 in the hospital each year. The U.S. Food and Drug Administration (FDA) has proposed two new food safety regulations to help prevent foodborne illness in the United States.
- - The two proposed rules open for public comment are "Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food", and "Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption." The text for the two proposals can be found on the FDA's website at: <http://www.fda.gov/Food/FoodSafety/FSMA/default.htm>

For more see our website <http://amcham.co.nz/Default.aspx?pagelid=1338233>

## **Pacific Energy Summit and Energy Investment Showcase, 24h – 27th March 2013**

### **Viaduct Events Centre, Auckland**

"Accelerating access to clean and affordable energy through generating new investment"

The Pacific Energy Summit is a unique event, bringing together Pacific island leaders, international development agencies, multilateral banks, private sector investors and companies who are working to provide efficient, clean, and affordable energy solutions for the Pacific region.

[www.pacificenergysummit2013.com](http://www.pacificenergysummit2013.com)



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## SUCCESS STORIES WITH USA

New app rounds up posse for business

Cyberpower Systems Signs On With Ingram Micro

Top 100 honour for LanzaTech

Zeacom founder on US, patent trolls and why he didn't float the company

Endace's US buyer gets OIO approval for \$156m buyout, continued access to taxpayer funding

Wynyard gets toehold in US market with Northrop Grumman tie-up

Giant McDonald's supplier buys Wellington-based Groenz

Angel Food

### Half your luck

US-based Gower Smith of Zoom Systems has grown six tech startups into significant companies. He shares tips on how to get lucky — and get money — in Silicon Valley.

### High flyer

Colorado-based Claudia Batten left New Zealand a decade ago and has reached the top of her game in business. She reckons there's no better place she could be to give back to Kiwi companies.

## TRADE, BUSINESS and INVESTMENT OPPORTUNITIES

### Commercial News USA

The March/April issue of Commercial News USA, the official export promotion magazine of the U.S. Department of Commerce, is currently online at <http://cnusa.thinkglobal.us/i/108787>

**International Buyer Program – Trade Show Schedule 1 Jan to 31 Dec 2013 – for details and support contact Janet Coulthart: [janet.coulthart@mail.doc.gov](mailto:janet.coulthart@mail.doc.gov)**

**The Nevada Investment Summit 26-26 March 2013 Bellagio Hotel, Las Vegas, Nevada**

[www.gic2020.com/nis](http://www.gic2020.com/nis)

**From NZTE – [www.nzte.govt.nz](http://www.nzte.govt.nz)**

**Candace Kinser talks about the America's Cup**

Candace Kinser, CEO of NZICT, explains how Kiwi businesses can achieve more on a global scale by working together at events like the America's Cup. [www.nzte.govt.nz](http://www.nzte.govt.nz)

**Carnival Labs**

Cody Bunea, CTO and Technical Director of Carnival Labs, explains how they've manoeuvred into the US market and stayed ahead in the global app market through working with Kraft, Dreamworks, and other domestic as well as international brands while still basing themselves in Wellington. [www.nzte.govt.nz](http://www.nzte.govt.nz)

**From NZBio- [www.nzbio.org.nz](http://www.nzbio.org.nz)**

NZBIO is holding its 9th Annual Conference in Auckland on March 18-20. This is the key gathering of the industry each year, with the investment, research, company and government bioscience communities coming together to celebrate our success and take on the challenges of the future. I look forward to seeing you all there.

NZBIO will also be taking the New Zealand bioscience industry to meet the world at BIO2013 in Chicago in April. This is still the best place to meet the full range of the global industry, make contacts and gain market intelligence and I encourage you to be part of the delegation

## GENERAL

### Mens World Softball Championship

The Men's World Softball Championship will be held in Auckland, New Zealand this year.

Hosted by the Tradestaff International Softball Federation, the tournament goes from 1-10 March 2013.

Sixteen nations will be competing in this tournament.

The matches will be held at the North Harbour Softball Association, Rosedale Park, Albany and the North Shore.

We would love to see as many people as possible at these events. If you have further questions or would like to be kept informed of the U.S. team's schedule, please e-mail Helen Ellis at [Helen@softball2013.com](mailto:Helen@softball2013.com)



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# Qantas International Sale

There has never been a better time to book a flight with Qantas. Great fares available to Bangkok, Singapore, LA, New York, Dubai, Johannesburg and more.

\*Sale ends 11:59pm 25 February 2013, unless sold out prior. Conditions and selected departure dates apply. Flights to Dubai commence 31 March 2013 and are subject to Government and regulatory approval.



## 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 GlobalStar Travel Management**

United's very popular PS (premium Service) between LAX, SFO and New York JFK is being enhanced. The basis was that every economy set in the house had additional legroom and food and beverages were inclusive. The changes mean that an enhanced Premium Economy and United First's lie flat beds will be fitted into the fleet of Boeing 757s. There will be a standard economy section at the rear of the aircraft. United has 15 aircraft being re-configured for these two routes and they advise the task will be completed by the end of 2013. Your usual BWT Consultant can tell you which aircraft type you're on.

**Hawaiian Airlines** (HA) commences its wide-body non-stop Airbus A330 flights between Auckland and Honolulu on 14 March. Together with the Air New Zealand twice weekly (3 x weekly in peak season), Honolulu will enjoy a better flight schedule than in recent years offering improved passenger and cargo capacity.

Airline	AKL to HNL	Depart	Arrive	Aircraft
Air New Zealand	Tu Th Sa	1100hrs	2045hrs - 1 day	Boeing 767*
Hawaiian Airlines	Tu Th Sa	2355hrs	0945hrs	Airbus A330

Airline	HNL to AKL	Depart	Arrive	Aircraft
Air New Zealand	Mo We Fri	2300hrs	0630 + 2 days	Boeing 767
Hawaiian Airlines	Mo Wed Fri	1345hrs	2155hrs	Airbus A330

\*Air NZ operate Boeing 777 between 25 June and 12 October; schedule may vary for Air NZ until 06 June 13. Flight time around 8hrs 45mins northbound and 9hrs 15mins southbound

**Air New Zealand** has extended the ticketing deadline on a couple of very good value airfares: San Francisco and Vancouver child fares (with the age limit extended to include 2-17year olds) now closes 25 Feb 13; fares for NZ\$1440 return (plus taxes/fees around \$250) between Auckland and Los Angeles for travel 22 April – 19 June, 16 July – 30 Sep, 20 Oct – 27 Nov has also been extended for sales by 25 February 13. Our Consultant will be able to search out the available dates for you. Close out dates southbound coincide with the July and September school holidays.

It's not safe to assume that even First Class travellers will be allowed access to airline pre departure club lounges within the US. However many airlines do have a very good substitute by allowing any traveller to pay for a one-day or one-visit Lounge access pass. Virgin America recently opened The Loft and LAX – a trendy Virgin-esque lounge that you'll be charged US\$40 for access to. American Airlines has a very good Admirals Club at LAX and many other throughout the US and they charge US\$60 per day pass; Delta SkyClub's one day pass is US\$50 and United's lounges are US\$50 per visit..

Lights, camera, action – its Oscar's time in the US and luxury hotel network Leading Hotels of the World celebrates its 85<sup>th</sup> Year in business by celebrating the 85<sup>th</sup> Anniversary of the Oscars. Many LHW hotels have appeared in Oscar winning movies. Here is just a few of them:

- "Ocean's 11", "Ocean's 12", "Ocean's 13", "What Happens in Vegas", "The Hours" at The Biltmore (Coral Gables, Miami, Florida)
- "Lucky You" at Bellagio (Las Vegas, Nevada) "Ray" at Le Pavillon (New Orleans, Louisiana)
- "Something's Gotta Give" at Shutters on the Beach (Los Angeles, California) "Scent of a Woman", "First Wives Club", "Arthur (remake in 2011)",
- "Bad Boys", "The Specialist", "Fair Game", "Meet Joe Black" at The Pierre, New York
- "The Waiter" at Hotel Granduca (Houston, Texas)

## US Service Security Update

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

Check out our website at [www.bwt.co.nz](http://www.bwt.co.nz)

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## MEMBER NEWS

### Online membership database plus companies trading with USA

All members should have received their passwords so please go online and make sure your information is correct so that other members can get see who you are and what you do. [www.amcham.co.nz](http://www.amcham.co.nz)

### Five New 25 Year Members added to role of honour

The flowing companies will be recognised for their support at this year's awards dinner.

Dun & Bradstreet (New Zealand) Ltd

Ernst & Young Ltd

Federal Express Pacific Inc

Qantas Airways Ltd

Wallenius Wilhelmsen Logistics AS

### New Members

**PartsTrader Markets**, Wellington – **Andrew Morrow**, General Manager - an online marketplace for sourcing car parts for collision repairs. PartsTrader connects repairers, insurers and parts suppliers in an integrated vertical market. PartsTrader has been operating in NZ for 5 years and is in pilot in the US market. <http://www.ptml.co.nz/>

**Pattillo & Associates Pty. Ltd**, Sydney - **Stephen Pattillo**, Managing Director – The company has been working with pan Asian and American based international companies for many years, to help them plan future business development, growth and movement. Stephen is also the Director, Australia & New Zealand of the **Indiana Economic Development Corporation, the business development arm of the State of Indiana, USA and Representative for Asia/Pacific and NSW, Business Development for AusBiotech Ltd**

<http://www.pattillo-and-associates.com>

### AmCham Role of Honour

#### Founding Members:

3M New Zealand, Chartis Insurance New Zealand Limited, Air New Zealand, ANZ Bank, Fonterra Co-Operative Group Ltd, IBM New Zealand, Merck Sharp & Dohme (New Zealand) Ltd, Mobil Oil New Zealand Limited, National Bank of New Zealand

#### 25 Year + members:

Ace Insurance Ltd, DHL Express (New Zealand) Ltd, Eagle Technology Ltd, Hesketh Henry, Kensington Swan, KPMG, The Langham Hotel, Dun & Bradstreet (New Zealand) Ltd, Ernst & Young Ltd, Federal Express Pacific Inc, Qantas Airways Ltd, Wallenius Wilhelmsen Logistics AS.

### Congratulations on New Year Honours

Dame Wendy Pye, MBE, for services to business and education.

Stewart Ian Buckley, CNZM for services to technology, business and motorsport.

Dr David John Teece, of Berkeley, California, USA, CNZM for services to New Zealand-United States relations.

Ian Maurice Phillips, of New York, USA, NMNZ for services to New Zealand-United States relations

Ms Kathleen Brader, of Centreville, Virginia, USA, Honorary NMNZ for services to kiwi conservation.

The Honourable Christopher Robert Hill, of Denver, Colorado, USA, Honorary NMNZ for services to New Zealand-United States relations.

### People on the move

Bell Gully has appointed 3 new partners in Auckland, **Toby Sharpe** (corporate), **David Friar** (Litigation), **Joanne Hodge** (Tax)

**Peter Morris**, General Manager of **Chevron New Zealand** has moved to Manila to be the GM of Chevron in the Philippines

**ATEED** (Auckland Tourism, Events and Economic Development) has appointed **David Caselli** - General Manager Business Attraction and Investment, and **Patrick McVeigh** - General Manager Economic Growth

**Air New Zealand** has appointed **Lorraine Murphy** as Chief People Officer

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**PEOPLE ON THE MOVE** (Continued from page 6)

Jeff Walters has joined **Lowndes Associates** as a Partner.

Thomas Chin has been appointed as General Manager to the **New Zealand Grain and Seed Trade Association** and the **New Zealand Plant Breeding and Research Association**.

Michael Fletcher has left **American Airlines**; **Laura Glaze** (Regional Sales Director Asia Pacific) in Tokyo is the key contact until a new Sales Manager is appointed.

Unisys has appointed **Steve Griffin** as NZ country manager

**FOR YOUR DIARY**

15th February	Hawaiian Airlines-AmCham Ambrose Golf Tournament at the Grange Golf Club. Auckland
6th March	Wellington Reception to farewell for Dr The Rt Hon Lockwood Smith (invite only) sponsored by Deloitte.
7th March	Wellington CEO roundtable lunch (invite only)
12th March	Auckland CEO roundtable lunch (invite only)
(Date to be rescheduled)	Simon Gault, Restaurateur & NZ Masterchef Judge, to launch book "Simon Gault Homemade" afternoon forum with refreshments.
20th March	Sir William Gallagher, Chairman of Gallagher Group of companies to launch his book "Legend", afternoon forum with refreshments at AUT University.
10th April	Auckland CEO roundtable lunch (invite only)
11th April	Sustaining Members soiree at Cavit & Co, Auckland (invite only)
10th May	Auckland lunch with Theo Spierings, CEO of Fonterra Cooperative Group Ltd.
4th June	Select USA, Auckland for companies that are looking at investing and doing business in the USA
6th June	AGM and reception in Auckland at AUT University.
8th August	AmCham-DHL Express Success and Innovation Awards, Auckland

**US NZ CONNECTIONS IN NEW ZEALAND**

Kiwi Expat Association – <a href="http://www.keanewzealand.com">www.keanewzealand.com</a>	Wanganui New Zealand American Association <a href="mailto:donnarush@clear.net.nz">donnarush@clear.net.nz</a>
American Club – Auckland <a href="http://www.americanclub.org.nz/">http://www.americanclub.org.nz/</a>	American Women's Network – Wellington <a href="http://www.awn.co.nz">www.awn.co.nz</a>
American Women's Club – Auckland <a href="http://www.awcauckland.com">www.awcauckland.com</a>	American Club of Christchurch – <a href="http://www.american-club-chch.org">www.american-club-chch.org</a>
NZ/American Association, Wellington <a href="http://www.nzaa.org.nz">www.nzaa.org.nz</a>	Kiwi Club of New York Inc - <a href="http://www.kiwiclubny.org">www.kiwiclubny.org</a>

## Marketing Opportunities for Members

Don't forget members have the opportunity of:

- |  |   |
|--|---|
| <p>Platforming your visiting CEOs by having them speak to AmCham</p> <p>Sponsoring an events including the Annual Success &amp; Innovation Awards Dinner</p> <p>Sponsoring a professional speaker / Launching products/service through AmCham</p> <p>Hosting of Forums / Sustaining Member Events or Committee meetings</p> <p>Use us for your Event management / Advertising in our monthly newsletter</p> <p>Direct mail or fax marketing to members</p> | <p>Don't forget your Membership gives you access to:</p> <ul style="list-style-type: none"> <li>◆ Key advisors on tax, immigration, setting up a company and doing business in the USA</li> <li>◆ Possible sources of equity.</li> <li>◆ A network of several thousand companies who are trading with the USA</li> <li>◆ The U.S. Chamber of Commerce which is the world's largest business federation representing 3 million businesses with over 8,000 Chambers of Commerce throughout the USA.</li> <li>◆ 112 AmChams in 99 countries including 27 in the Asia-Pacific region.</li> <li>◆ Free global membership to Regus Plc's 1,000+ serviced offices worldwide, including over 400 in the USA.</li> <li>◆ Discounted costs &amp; special rates for remitting foreign exchange through AFEX - Associated Foreign Exchange Pty Ltd</li> </ul> |
|--|---|

For more details - phone 09 309 9140

## TAXATION ISSUES

### United States tax update By Gina Wallace, Director, NZ US Tax Specialists Limited

[gina@nzustax.com](mailto:gina@nzustax.com)

What a cataclysmic end to 2012 in the US! Whilst most of New Zealand was on summer vacation the nail-biter fiscal cliff crisis left the markets on edge, and payroll administrators tearing their hair out over unreleased information on 2013 payroll withholding, as the politicians battled a seemingly unresolvable situation. There is certainly never a dull moment over there, what with the country momentarily falling over the fiscal cliff before being clawed back into a temporary state of relief with the enactment of the American Taxpayer Relief Act (ATRA) on January 2. Extending the Bush tax cuts once again, the ATRA also increased the top individual income tax rate from 35% to 39% on incomes over \$400,000. The IRS certainly got walloped with the fallout from the crisis with delays to the commencement of the 2013 tax season and a mad rush for programmers to attend to late changes to IRS systems as required under the newly enacted legislation.

\*\*\*\*\*

Final regulations for FATCA were released by the Treasury Department and the IRS on 18 January. These supersede the temporary regulations issued in February 2012 with what is termed a balanced and integrated approach. There are now two intergovernmental model agreements, Model 1 IGA and Model 2 IGA, with the second IGA developed in response to concerns around clashes between FATCA and local law. Partner jurisdictions will call the shots as to how their financial institutions will answer to the US under FATCA, depending on whether the jurisdiction enters into Model 1 IGA (partner jurisdictions report directly to the IRS) or Model 2 IGA (FFIs to register and report directly to the IRS). A FATCA portal (the Portal) to facilitate interaction between the IRS and FFIs is scheduled to be live in mid-2013. Through the Portal FFIs will register, obtain a Global Intermediary Identification Number, certify compliance by filing various documents with the IRS including new Form 8966 "FATCA Report", and conduct various other communications with the IRS.

The US government has now negotiated agreements (referred to as the inter-governmental agreements) with seven countries. Those countries are Norway, United Kingdom, Mexico, Denmark, Ireland, Switzerland and Spain. The process of entering into an intergovernmental agreement is underway by both New Zealand and Australia. However, as of March 2012 only five intergovernmental agreements were in place. Ten months later there are only seven, which indicates that this is currently a slow process.

\*\*\*\*\*

IRS National Taxpayer Advocate Nina E Olsen presented the Advocacy Service's annual report to Congress in January, turning out some eye-openers with a raft of deficiencies in the IRS uncovered, and the number one recommendation being the need for tax reform in tax administration. Perhaps this is not surprising given there have been nearly 5,000 changes to the Internal Revenue Code since 2001. Many themes in US taxation were evident in the report, including issues associated with the fiscal cliff, international tax evasion and FATCA, and controlling the effects of the GFC. Seems the IRS and the Treasury have developed a beast, the IRC, that cannot be easily tamed. Also included in the report was the alleged colossal failure of the Offshore Voluntary Disclosure Programme to distinguish between inadvertent failure to file FBARs and wilful evasion of this disclosure.

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As the dust settles after the 2012 fiscal cliff crisis, tax season is in full swing. In the US many taxpayers are rushing to file their 2012 returns and claim their much-heralded refund, often arising as a result of refundable tax credits. One such credit is the Earned Income Tax Credit. This is such a major benefit for many taxpayers that last week the credit had its very own day, Earned Income Tax Credit Awareness Day, as the IRS recognizes the shifting eligibility for this credit as a result of changed circumstances of taxpayers.



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