

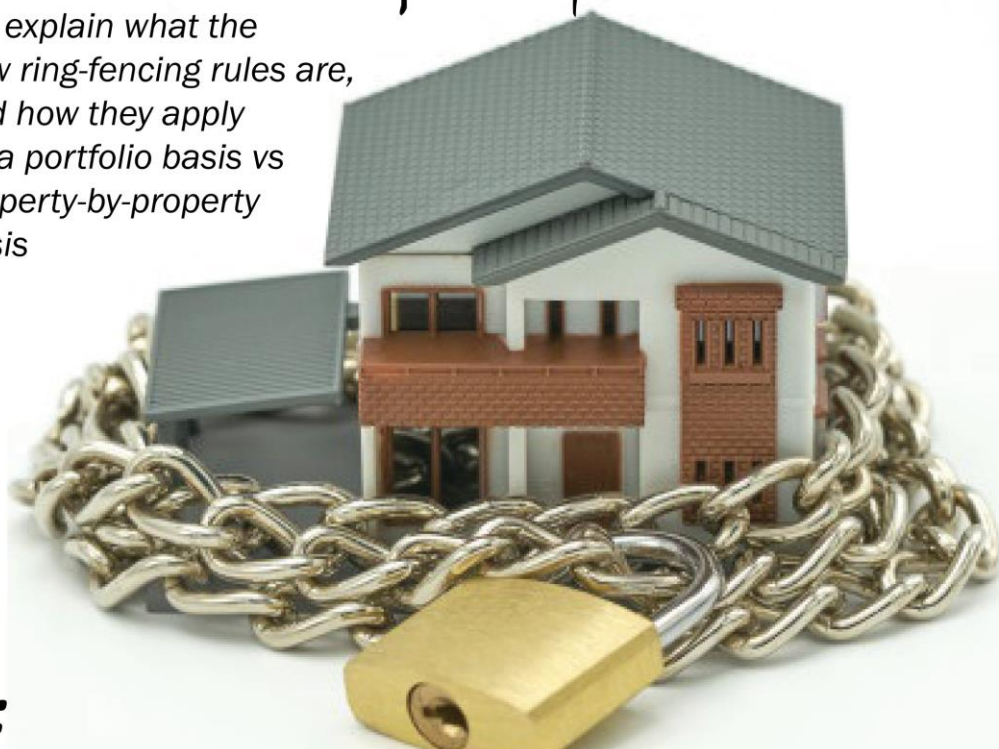
# UHY HAINES NORTON NEWSLETTER

OCTOBER 2019



## Ring-fencing of Residential Rental Property Losses

*We explain what the  
new ring-fencing rules are,  
and how they apply  
on a portfolio basis vs  
property-by-property  
basis*



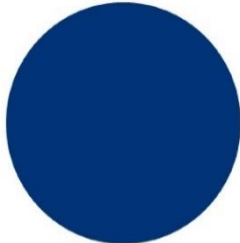
### **Plus:**

*New Rules For Trusts, New Privacy Laws,  
Resident Withholding Tax, and Changes To  
Incorporated societies Legislation*

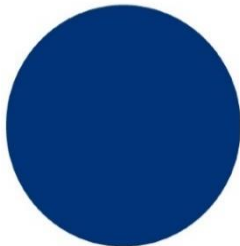
*People you know, advice you can trust*

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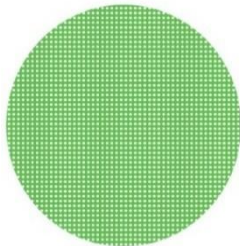
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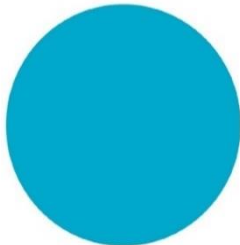
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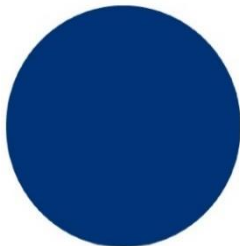
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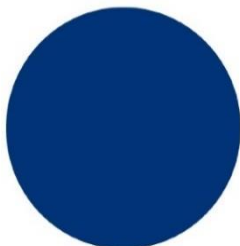
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## Ring-fencing Of Residential Rental Property Losses

The new ring-fencing rules of rental loss apply retrospectively from 1 April 2019 for the 2019/2020 and later income years. Inland Revenue issued an official paper entitled “[Ring-fencing rental losses](#)” in March 2018 outlining the proposal to ring-fence tax deductions on residential rental properties so that they could not be used to reduce tax on other income. Following the consultation process, the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill was introduced in Parliament on 5 December 2018 and it received the Royal Assent on 26 June 2019.



### Main Features Of The New Ring-Fencing Rental Losses Rules

- The loss ring-fencing rules will only apply to “residential land”, which means investors with residential properties will no longer be able to offset tax losses from these properties against other income. The definition of residential land includes:
  - land that has a dwelling on it; or
  - land for which there is an arrangement to build a dwelling on it;
  - but does not include land that is used predominantly as business premises or as farmland.
- The excess loss amounts will be carried forward to later income years and will be available to be off-set against any future residential rental income the person derives.
- The excess loss amounts are released from the ring-fencing restrictions when either there is sufficient net taxable rental income or when a fully taxed disposal of residential rental property occurs. For example, the property is sold within five years of the purchase, and as a result gain on the sale is subject to tax under the bright-line test for residential land. The excess loss amounts will be released from the ring-fencing restrictions and the person will be able to offset the losses against the taxable gain.
- If the property is held in a company, it cannot carry unused deductions forward to a later year unless the shareholder continuity requirements are satisfied.
- The rules are applied to residential properties on a portfolio basis. The investors are able to offset losses from one rental property against rental income from other properties. The person can make an election in their tax return to apply the ring-fencing rules on a property-by-property basis to some or all properties. However, if no election is made the default position is to apply the rules on a portfolio basis.
- There are special rules to ensure that a trust, company, partnership or Look-Through Company cannot be used to get around the ring-fencing rules. If an entity is regarded as a residential

land-rich entity, which means over 50% of its assets are residential properties, the entity will be within the scope of the ring-fencing rental losses rules.

- It is important to note that a residential rental property does not include certain types of property, including a person's main home, a property that is subject to the mixed-use asset rules (for example, a bach that is sometimes used privately and sometimes rented out), or land that is on revenue account (i.e. a property that was bought with the intention of resale and the residential exclusion does not apply).

*This information is intended as a general guide only. Please [contact](#) us on (09) 839 0087 to discuss your circumstances.*

## Ring-fencing Residential Rental Property Losses: Portfolio Basis Vs Property-By-Property Basis

A person may elect to apply the residential property loss ring-fencing rules either on a **portfolio basis** or on a **property-by-property basis**. Here we discuss and explain how the ring-fencing rules apply under each method.

### Portfolio Basis

Unless a taxpayer elects otherwise, the loss ring-fencing rules will apply on a portfolio basis. This means that investors can offset deductions for one residential rental property against income from other residential rental properties — essentially calculating their overall profit or loss across their entire portfolio.



“Residential portfolio” means one or more residential rental properties that a person holds in a portfolio in an income year. It includes any property the person has included in their portfolio at any time during the period they have a residential portfolio, whether or not they still own it.

The period for which a person has a residential portfolio begins at the start of the income year in which the person first acquires a property for the portfolio, and ends on the last day of the income year in which the last of the properties in the portfolio are disposed of.

### Property-By-Property Basis

A person may elect to apply the loss ring-fencing rules on a property-by-property basis for one or more residential properties. However, this approach is stricter than a portfolio approach. It means that each property the election is made for is looked at separately and deductions for one cannot be offset against income from another. This approach would add complexity because losses would need to be tracked separately for each property, thus increasing compliance costs.

A person makes an election to treat a property on a property-by-property basis by taking a tax position on that basis in their return of income for the income year in which the property becomes their residential rental property.

The election remains in effect for income years in which the person continues to take that tax position. However, if the person changes their tax position, the property becomes a property included in a residential portfolio. A transitional rule provides that for residential rental properties held at the start of the 2019/20 income year, the person must make the election in the return of income for that income year.

A person may elect to apply both the rules simultaneously. This means that certain properties can be included in a residential portfolio where the loss ring-fencing rules will apply on a portfolio basis, and certain properties can be treated on a property-by-property basis.

*Please note that the above information is only intended as a general guide. Please [contact us](#) to discuss your individual circumstances.*

## Times They Are A-Changing...For Trusts

The way in which New Zealanders manage trusts is changing due to reforms to trust law reflected in the [Trust Act 2019](#) (replacing the Trust Act 1956). The good news is the reforms governing trusts are effective from 30<sup>th</sup> January 2021.



### **New Disclosure Rules**

One of the major changes under the Trust Act 2019 is that there is a new level of disclosure placed on trustees, including providing beneficiaries or their representatives with basic information such as:

- The fact that a person is a beneficiary
- The names and contact details of trustees
- The details of each appointment, retirement and removal of trustees as it occurs
- Each beneficiary's right to request a copy of the terms of the trust or trust information

### **The Role And Duties Of Trustees**

The role and duties of trustees have also been clarified in the new Act. The mandatory duties are:

- Know the terms of the trust
- Act in accordance with the terms of the trust
- Act honestly and in good faith
- Act for the benefit of beneficiaries or to further the permitted purpose of the trust
- Exercise power for proper purpose

The default duties of trustees are:

- General duty of care
- Invest prudently
- Not to exercise power for their own benefit
- Consider exercise of power
- Not to bind or commit trustees to future exercise of discretion
- Avoid conflict of interest
- Duty to be impartial
- Duty to not profit
- Trustees must act for no reward
- Trustees must act unanimously

The days of trustees being able to enjoy a high level of privacy no longer exist under the new Act. In the past, distributions to beneficiaries were sometimes made for tax purposes and were not expected to be revealed to beneficiaries. This has resulted in large undisclosed current account balances owed to beneficiaries who may wish them repaid!

Now is the time to have a discussion with your advisers and fellow trustees about the future direction of your trust:

1. Is the trust still fit for purpose?
2. Will additional compliance costs impact on the viability of the trust?
3. Professional advisers may no longer wish to act as trustees due to the additional compliance exposure and risk of potential beneficiary legal action.

While trusts are still a valid asset protection and investment structure, the level of disclosure and trustee responsibilities is about to be substantially increased come 30<sup>th</sup> January 2021.

**Tim Livingstone** is a [Consultant](#) at UHY Haines Norton.





## Privacy Law Changes

New privacy laws to replace the Privacy Act 1993 are passing through Parliament. Digital technology has progressed so much that it is necessary to provide new measures of privacy protection for businesses that collect, store or use personal information about their employees and/or customers. This Privacy Bill is likely to come into effect by the end of this year.



The key changes to privacy laws that businesses should be aware of include:

- The requirement to report data breaches. If any breach of data carries the risk of harm (such as leaked personal information being used in identity theft or published online), the business must notify the people affected as well as the [Office of the Privacy Commissioner](#).
- New Zealand businesses using overseas service providers must ensure those providers comply with New Zealand privacy laws, and that personal information sent overseas is protected by acceptable privacy measures.
- The Privacy Commissioner will have the authority to shorten the timeframe in which a business must comply with investigations. Non-compliance will carry a penalty of \$2,000 to \$10,000.
- If someone requests personal information held by a business, the business is not permitted to destroy that information as an attempt to avoid providing it. The proposed penalty for this is a fine of up to \$10,000.
- The Privacy Commissioner will be able to issue compliance notices to require a business to do (or stop doing) something, and have the authority to make binding decisions on complaints regarding information access. This previously sat with the Human Rights Review Tribunal.

There are several steps your business can take to comply with the upcoming privacy laws, including:

- Ensuring you have an up-to-date privacy statement in place. The Office of the Privacy Commissioner has a [Privacy Statement Generator](#) to help create one.
- Making sure that everyone knows what steps to take in the event of a serious privacy breach.
- Ensuring personal information is stored and used in a safe and secure manner.
- Contacting any overseas suppliers you deal with to find out if they comply with New Zealand's privacy laws.
- Considering appointing a privacy officer who will take responsibility for keeping up-to-date with the new privacy laws and deal with the business' privacy issues as they arise.

For more information about the new privacy law changes, visit the [Office of the Privacy Commissioner website](#).

## Proposed Changes To Incorporated Societies Legislation

*You may not be aware that proposed changes to New Zealand's Incorporated Societies legislation are going through Parliament at the moment. Here is an update on the changes.*

# Inc.

In May, the Government agreed to make a number of proposed changes to the Incorporated Societies Act. The Act was designed to provide guidance to New Zealanders who run societies, but at more than 100 years old the original legislation is badly out of date.

The proposed changes will mean that **Incorporated Societies not registered as charities** will be required to report using [XRB standards](#) when they meet one or more of the following criteria:

- Make annual payments of \$10,000 or more; and/or
- Hold assets valued at \$30,000 or more; and/or
- Have “donee status” under the Income Tax Act 2007.

Incorporated Societies not registered as charities will require a mandatory audit if they meet one of the following criteria:

- Have annual expenditure over \$2 million; or
- Have assets worth more than \$4 million.

Note that a registered charity which is also an Incorporated Society is already required to have a mandatory **audit** when its annual expenditure is over \$1 million, and is required to have a mandatory **review** when annual expenditure is over \$500,000. Our recent article [“The Difference Between Audits, Reviews and Agreed-Upon Procedure Engagements”](#) explains in more detail the benefits each of these two procedures provide.

The Incorporated Societies Bill review is expected to be introduced to Parliament later this year. For more information please visit the [Ministry of Business, Innovation & Employment website](#), or contact a [UHY Haines Norton Director](#).

## Resident Withholding Tax

We explain what resident withholding tax is, who it applies to, rates and rules for making payments.

### What Is Resident Withholding Tax?

Resident withholding tax (RWT) is:

- The initial tax you pay on interest and dividends you earn from your New Zealand bank accounts and investments;
- Whereas the initial tax you pay on income from overseas accounts and investments is non-resident withholding tax (NRWT) paid to a foreign tax authority by the overseas payer. This creates foreign tax credits.



Your bank or fund manager deducts RWT from your investment income before you receive it.

If you have borrowed money from an individual, trust, partnership or company (other than registered financial institutions like banks), and pay more than \$5,000 in interest on those borrowings, you must deduct RWT and register with the IRD as a RWT payer. If you pay less than \$5,000 per year in interest you do not have to account for RWT.

### RWT Rates

The rate at which RWT is deducted depends on several factors:

- Your tax status - savings account or term deposit interest is taxed at a RWT rate elected by you, based on your income.
- The type of interest or dividends you earn. Dividends and unit trust distributions have between 5% and 33% RWT depending on the imputation credits available, while portfolio investment entities are charged at different rates depending on the type of fund.
- The information you provide to your payer. Interest payments by a company are taxed at the maximum rate of 33% if you haven't provided them with your IRD number. From April 2020, RWT will be deducted at the 'non-declaration' rate of 45% if you have not given your IRD number to your interest payer.

At the end of the financial year, your tax position will be calculated and IRD will assess whether your chosen RWT rate matches your income tax rate. If it doesn't they may issue an end-of-year tax bill.

### Frequency of RWT Payments

- Monthly for RWT payments of \$500 or more per month (due 20<sup>th</sup> of following month)
- 6-monthly for RWT payments less than \$500 per month (due in October and April)

### Reporting Requirements

RWT returns must be filed with IRD in line with your payments. This includes a nil return if you have no RWT to pay for the period.

From 1<sup>st</sup> April 2020 the reporting requirements for investment income will change. The [IRD's website](#) provides specific details of the reporting requirements for each type of business and organisation.

Please [contact us](#) if you have questions regarding resident withholding tax and how it applies to you.

## No More Cheques For IRD

From 1<sup>st</sup> March 2020 the IRD will no longer accept cheques. Although payment by cheque is becoming less and less frequent, there are still customers who make payments by cheque who will need to switch to another payment method by that date.



The IRD has several alternative payment options to choose from:

- Direct debit and card payments can be made in myIR.
- Online banking.
- Credit card or debit card via secure payment on the IRD's website.
- EFTPOS or cash payments can be made at any Westpac bank or ATM.
- Money transfer if you are living overseas.

Please [contact us](#) if you need help in changing from cheques to a different payment method.

## Credit Reporting Changes

The final changes to the Credit Reporting Privacy Code 2004 came into effect on 1<sup>st</sup> October 2019. This is good news for consumers, as the changes aim to make the credit reporting system fairer and improve compliance among providers.



The key changes to the code are:

- Credit providers who offer risk-based pricing must offer a quotation service for credit products. Previously, when a credit enquiry was raised the consumer's credit score was impacted – regardless of whether or not the credit facility was drawn. Now the quotation requirement will allow consumers to shop around for the best credit rates without any negative repercussions on their credit score.
- The threshold for small overdue payments to be listed in credit reports as credit defaults has been raised from \$100 to \$125.
- The maximum time for which previous enquiries can remain in a credit report and be used for calculating credit scores has reduced from five to four years.

For further details about the changes, please visit the [Privacy Commissioner's information paper](#).

## Taxing Matters

*A summary of the latest tax and business changes, updates and news.*

- The [Ministry of Foreign Affairs and Trade](#) provides assistance and resources for businesses who are looking to do business with other countries. One of their useful resources is a [tariff-finder tool](#), which allows you to compare and assess tariffs in more than 150 overseas markets. Importers and exporters can compare the special rates for the 20 countries which New Zealand has a free trade agreement with.
- New Zealand Food Safety is making it faster and easier for businesses in the food industry to meet their food safety requirements. It has launched three new tools:
  1. [My Food Rules](#), an online resource which helps you to understand which food safety rules apply to your business, as well as registration and verification.
  2. [My Food Plan](#), which is a Custom Food Control Plan targeted at businesses that make high-risk foods such as chilled or ready-to-eat foods, or who require multiple Food Act registrations.
  3. [Remote Verification](#) for businesses which are located in remote parts of New Zealand.
- If your organisation is doing research and development, you may be eligible for the R&D tax incentive. This is available for the 2019/20 income year onwards, and businesses must be enrolled before they can file a supplementary return at the end of their tax year. You can enrol with IRD through your myIR account. For more information, including eligibility criteria, visit <https://www.business.govt.nz/news/r-and-d-tax-incentive-2019/>.



Please [contact us](#) if you have questions regarding any of these areas.

## Beware Of The Impact Of Pricing Strategies

Choosing a pricing strategy can be one of the most important decisions a business owner makes. It is intrinsically linked to income, profitability, sales volume and market share, and can ultimately affect the life of a business.

It can be difficult to decide which pricing strategy best fits with your business model: premium pricing, penetration pricing, price skimming, cost plus pricing, product bundling... and the list goes on! In very broad terms, the market can be divided up into:

- 1/3 who are price sensitive (not loyal)
- 1/3 for whom price and quality are part of several deciding factors (semi-loyal)
- 1/3 who are content to pay premium pricing as it is not a deciding factor (loyal)



### Premium Pricing

Premium pricing works best when there is a unique attraction, point of difference and/or lack of competition. Although profit margins will increase, you run the risk of these being offset by declining sales volumes. Your customers must consider your offering to be differentiated enough to pay premium prices, otherwise declining sales will lead to reduced income and cash flow problems. For service businesses in particular, brand and reputation play an important role in the success of this strategy.

### Discount Pricing

A strategy of pricing a product or service below market rate can be effective when introducing new products/services to break into a market and aggressively build market share. But it can seriously impede cash flow and therefore have major consequences on profitability.

Discounting can also impact on your brand and existing customers. It poses the risk of a perceived drop in quality in line with the drop in price. It can raise doubts as to how good a business really is if it needs to engage in a competitive price war to get customers, thereby negatively impacting on brand and reputation.

Discount pricing strategies can lead to customer retention problems when prices are put back to normal market rates. This may not be an issue when the business has provided value over and above the price, such as exceptional service, convenience or technical knowledge. In fact, this can inspire loyalty and customer retention in spite of subsequently raised prices. However, if no value has been provided – from the customer's perspective – then there is nothing to stop customers from shopping around for the next competitive deal.

### Hook And Captive Pricing

Beware, too, of using pricing strategies with hooks, for example discounted prices based on certain terms like fixed contracts, or captive pricing where a base product is priced low but the necessary extras or parts are priced higher to recoup lost margin. A bank offering an attractive cash back incentive on

new home loans in return for signing for a minimum of 3 years isn't encouraging customer retention – it's enforcing it while implying they have no other reason for customers to stay loyal to them.

Most consumers are savvy and informed enough to recognise a discounted price which has a sting in its tail. Offers with hooks do nothing to encourage satisfaction or loyalty, and again can cause serious damage to the business' brand and reputation.

### **You Get What You Pay For**

All successful businesses have a product or service that is differentiated in some way from its competitors. Competing on price is a risky game if the substance isn't there to back it up. Think of the old saying: "you get what you pay for" in terms of high value products or services. If a professional services firm were to offer their services at a heavily discounted rate, what message would that send about the quality of those services?

Medical specialists, for example, train for years to become experts in their field. They charge premium prices for their time, never offer free consultations and don't lock you into fixed contracts for special rates. Patients go to specialists because they need their expertise and trust them to advise and treat them. If a specialist offered discounted rates would that inspire the same level of trust? Or would it make you wonder why they needed to campaign for new patients by competing on price?

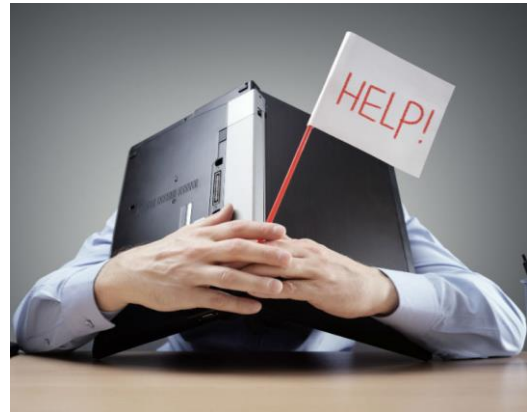
***Debbie Robson** is Marketing Coordinator at UHY Haines Norton.*



## Tips For Beating Burnout

The end of the year is rapidly approaching, and now is the time when many of us feel like we are being stretched even thinner than usual. It's that end-of-year burnout feeling after working hard and trying to juggle priorities and cope with high stress levels for 10+ months.

For many small business owners, running a business is often much more than a full-time job. While it's difficult to stop work from overtaking everything, we all know that there is a cost associated with overwork. This may manifest in different forms, such as physical health issues, emotional issues, or relationship and family issues, and unfortunately we don't tend to slow down until one of these issues becomes too big to ignore.



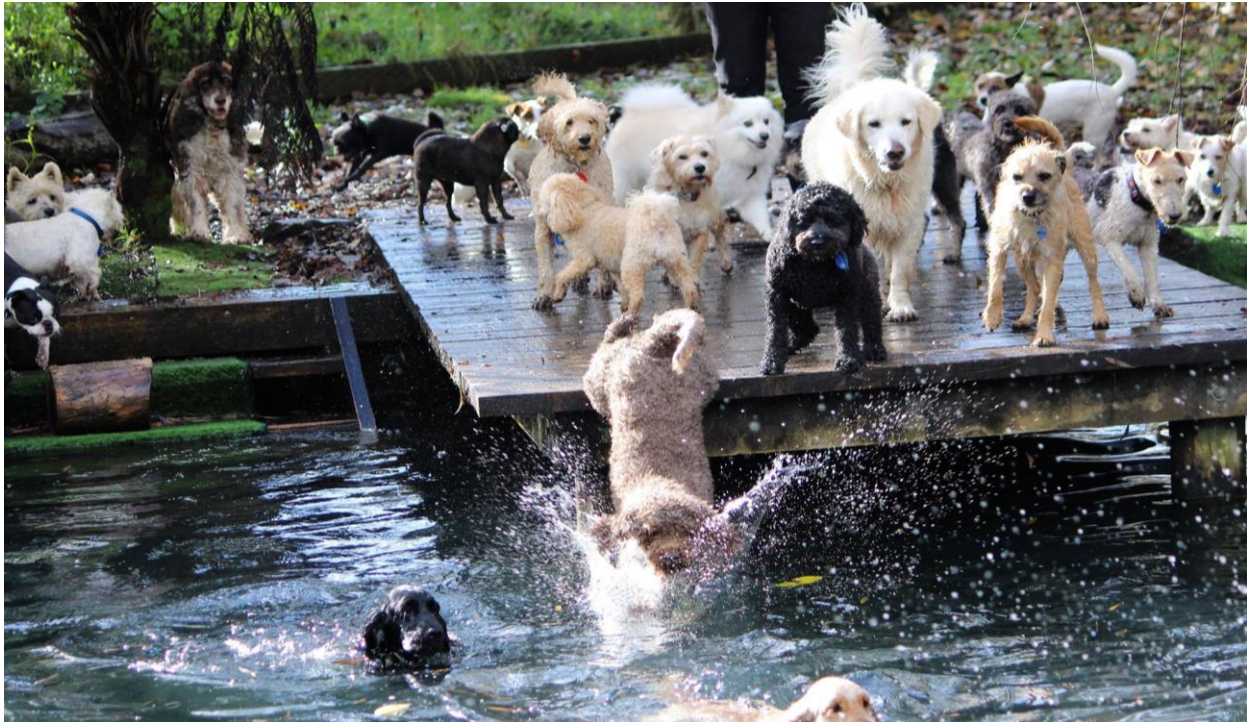
It's vital for small business owners to recognise their limits and take action to prevent burnout before it happens. It's not just about preserving your overall wellbeing – although this should be your top priority - but if you do get to the stage of suffering from burnout then there will inevitably be a cost to your business too. Here are some things to think about which can help to beat burnout before it begins:

1. **Decide What's Important.** Take some time to decide what is important in your life – and then reflect this in your actions. If your family and health really are important to you then make time to exercise, have that health check-up, be home in time for dinner, or plan some fun weekend outings. Deciding what is important will help you to re-evaluate your work schedule and spend time on your priorities.
2. **Say No.** There are only so many hours in a day, and saying yes to everything will put you under unnecessary pressure. It's so tempting when building up your business to say yes to last minute requests and orders. But if it gets to the point where you are automatically agreeing to unreasonable requests at the expense of other priorities then it's time to start saying no.
3. **Delegate.** Successful business owners – even of small businesses – recognise that they cannot do everything. Asking for help and delegating isn't a sign of weakness – it's a clever and resourceful way to get things done when you've reached your limit.
4. **Take Time Off.** Regularly take time off and enjoy it without feeling guilty. This will do wonders for your wellbeing, and will also result in you being more productive and focused when you are working. While many of us may work 6 or 7 days per week when it's necessary, if this becomes a habit it will begin to take its toll and put you on the track to burning out.
5. **Eat Well And Exercise.** Yes it's that old mantra, but it really can help to keep you healthy. At the very least, fitting in a quick walk during the day can reduce your stress levels, as well as benefitting your overall health. Eating healthily when you are working long hours can be a challenge, but reaching for high fat or high sugar convenience foods are only likely to make you feel tired and sluggish, and ultimately affect your productivity.

If you feel like you are heading towards burning out, there are many other things you can try to help avoid it. It may take some time to figure out what changes will work for you while enabling you to keep your small business on track. Just remember that beating burnout is all about prevention before the issues become too major.

**Debbie Robson** is Marketing Coordinator at UHY Haines Norton.

## Client News: 10 Year Anniversary For Bethells Farmstay For Dogs



Congratulations to our client [Bethells Farmstay for Dogs](#), who are celebrating their 10<sup>th</sup> year in business! The idyllic haven for dogs has never been more popular, often booked out a year in advance for the busy holiday periods. Recent purchases of a van (for pick ups and drop offs), and a Ford Ranger remote control car (for giving smaller dogs rides) ensure that both the canine and owner experiences just keep going from strength to strength.

Back in 2009 Sandra and Gerry Darcy were looking after several friends' dogs when they got the inspiration to start their own business. With a background in breeding and training greyhounds, the dog-lovers had a vision of creating a canine retreat where they would love to leave their own dogs. And they have done just that. The Bethells Farmstay for Dogs facility features:

- Special play areas complete with agility equipment.
- Wide open exercise areas separated by size of dog and energy levels.
- A freshwater spring waterhole with a jetty and ramp for water lovers.
- A custom-built chill-out zone where tired dogs can relax on couches after a busy day, and listen to the radio or TV.
- A choice of sleeping facilities including couches and hammock beds or crates in our chalets, and doggie cottages complete with air conditioning/heat pumps.
- Huge fully-fenced running paddocks.

The facility is designed so Sandra, Gerry and their three children can be fully integrated with the dogs, ensuring the dogs have access to all of the normal sights and sounds they would have at home. They spend all day every day with the dogs, and are constantly developing new attractions to continue to keep their guests happy. Much of the days' activities are captured on camera then shared on social media, so owners can see what their pets are up to from anywhere in the world.

Sandra and Gerry treat each of their guests like their own beloved pet. This isn't so much a business strategy but more an extension of their own values and lifestyle. And as they celebrate 10 years in business it's clear that their passion results in very satisfied dogs and owners!

## Staff News



We are excited to welcome on board our new Auditor, **Mark Manait**. Mark worked as an auditor in the Philippines after obtaining his Bachelor's degree in accountancy and qualifying as a CPA. He originally visited New Zealand in 2017 and enjoyed it so much he decided to return the following year, when he obtained a Diploma in Business Studies. He still loves travelling and has even travelled through the South Island on the TranzAlpine passenger train and taken a Milford Sound cruise.



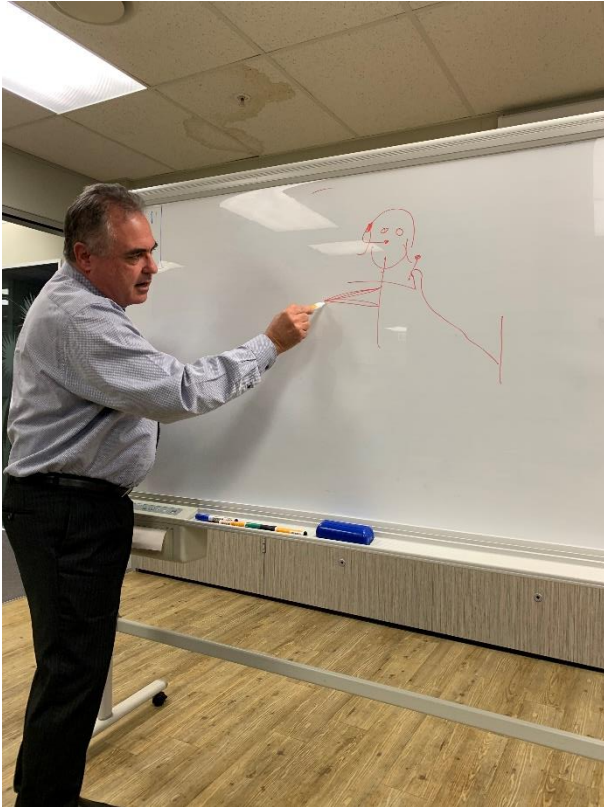
And a very warm welcome to **Matthew Dawson**, our new Graduate Accountant in our Henderson office. Matthew recently graduated from the University of Auckland. He has lived in West Auckland his entire life, and in his spare time enjoys both playing and watching football, travelling and cooking.



We are also delighted to welcome **Leesa Schultz** as an Assistant Accountant in our Helensville team. Leesa has always been a Helensville local. She previously worked as a Financial Administration Manager in the building industry, and then in an early childhood centre. When she is not working she loves gardening and spending time with her family.

We have said goodbye to **Sharon Zand**, our Kumeu Receptionist and Administrator, who has resigned to spend more time with her family.

We have also bid farewell to **Samson Ali** in our Audit department, who is embarking on the next chapter of his auditing career. We wish both Sharon and Samson all the very best for the future.



Competition has been rife in the UHY offices lately. The first ever games night, where a very enthusiastic game of Pictionary was held, brought out many talented (and fiercely competitive) artists. And the annual UHY Quiz Night was another popular occasion. Our knowledge of geography, history, science and a myriad of other topics that you haven't thought about since high school were all put to the test. Congratulations to the winning team of Andrew Scott, Ellen Herlihy, Dhruv Mehta, Bhavna