BANKING LAW ASSOCIATIONB

"WILL SYDNEY BECOME AN INTERNATIONAL FINANCIAL CENTRE"

- Its Implications from a New Zealand Perspective

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Background

- Initiatives undertaken over recent years by the Australian Government have Australia well down the IFC path.

- Includes

  - The establishment of an Offshore Banking Unit (“OBU”) in 1992.
  - Taxation Laws Amendment Act (No. 2) 1999.
  - The establishment of the “Australian Centre for Global Finance”.
  - Invest Australia Campaign

Background - OBU

- Entity intermediating financial transactions between non-resident borrowers and lenders.
- Income (excl. capital gains) taxed at 10%.
- Activities, borrowing/lending, guarantees, trading, eligible contracts, investment, advisory, hedging and other regulatory declared.
- 1999 Tax Amendment Act expanded eligibility to include funds managers, life insurance companies, other financial sector companies approved by the Treasurer.
- Activities also extended to include custodial services, AUD $ FX trading with offshore parties, gold bullion trading, base metals trading, eligible contract activities.

Taxation Laws Amendment Act (No 2) 1999

- Widens exemptions from IWT to include debentures issued by Australian resident companies.

  Foreign Investment Funds

- Some investments for Australian investors in US FIF's are no longer subject to annual taxation on undistributed income including unrealised capital gains.

Australian Centre for Global Finance

- Established August 1999, by the Government.
- Mandate to develop, implement and enhance Australia's position as a global financial services sector.
- Includes promotion, policy issues, information, analysis, education and training.

www.globalcentre.asn.au

Invest Australia Campaign

- Investment incentives
  - Provides investment incentives for strategic investment projects.
  - Includes grants, tax relief or the provision of infrastructure services.

Invest Australia Campaign

- Regional Headquarters ("RHQ")
  - Immigration and tax incentives for companies considering Australia as a RHQ.
  - Streamlined immigration processing
  - Wholesale Sale Tax Exemption
  - Deductibility of business expenses

Implications for New Zealand

- To date has the Sydney OBU regime been a roaring success in NZ.
  - From my experience “NO”.
  - Why
    - Domestic banks remain competitive.
    - OBU sourced borrowing incurs NRWT or AIL.
    - Borrowers force lenders to absorb NRWT/AIL
    - Has only been limited use of OBU in NZ, some use for direct lending and parking of advisory fee income.

Implications for New Zealand

- Will an IFC directly affect NZ.
  - My view is “YES” - and not necessarily in a favourable manner.
  - Why
    - We are already seeing companies move their head offices and activities from New Zealand.

      Lion Nathan (Tooheys, Hahn)

      Fernz (Nufarm)

      Brierley’s

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Implications for New Zealand

- This results in negative economic and social effects. Domestic banks remain competitive.
  - Loss of management skill
  - Loss of tax
  - Reduced employment opportunities
  - Reduced spending
  - Downturn in real estate/office rental markets

Implications for New Zealand

- Can New Zealand successfully compete with an Australian IFC.
  - "YES" if there is a political will to do so.
  - Why - because on most fronts NZ is equally competitive.

    NZ still has lower personal tax rates.

    It has an excellent telecommunications infrastructure.

    It has a robust legal and regulatory environment.

    A well educated workforce.

    Competitive business services, rentals, light, electricity.

    Favourable timezone and lifestyle.

Implications for New Zealand

- Can New Zealand successfully compete with an Australian IFC (“cont.”).

  - But most importantly New Zealand as an IFC in its own right would have a target market that is seven times the size of the domestic market.
  - AUSTRALIA

Implications for New Zealand

- Is this likely to happen in the near term from a New Zealand perspective.
  - Who knows - the opportunity is there.
    - The new Labour Government is on record as saying that it wants :

      New Zealand to be a service/knowledge based economy.

      To reverse the “brain-drain” and entice expatriate New Zealanders back home.
    - Yet its signals and actions at this point are contradictory.

Implications for New Zealand

- Negative signals include
  - A replacing of the Employment Contracts Act with the Employment Relations Act.
  - A reversion back to Government provided Accident Compensation.
  - An increase in the marginal tax rate for income in excess of $60,000 from $0.33 to $0.39.

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Implications for New Zealand

- New Zealand needs international capital, we need access and the skills/expertise to deal with this need.
- The NZ Government needs to create the right environment for such an exciting opportunity.
- Potential positive outcomes include
  - Increased tax revenue from company and personnel tax sources I.e. 10% of xyz versus 33% of zero.
  - Increased employment.
- NZ needs to look at Singapore, Ireland and Australia to see the benefits of going down this path.