Beyond borders

Considerations for individuals

A New Zealand tax guide for internationally mobile people and business

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Let's get started →

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Introduction

“When you travel, remember that a foreign country is not designed to make you comfortable. It is designed to make its own people comfortable.”

Clifton Fadiman

1A Foreword

Tax rules are different in each country – navigating the rules and associated compliance obligations can be one of the more complex and bewildering parts of trying to relocate across a border.

Moving countries can be a time of significant upheaval.

Successful transition relies on establishing yourself in new employment and business, settling into a new home and integrating into the community, each of which can be fundamentally different to what you have been used to before the move.

If not managed well, tax can add to the stress of an international move.

This guide has been designed to help you become a little more familiar with New Zealand tax.

Unexpected taxes, penalties, interest, and other tax hooks all lie in wait for the unsuspecting.

This guide is not going to make you a tax expert (leave that to us), but it will highlight some of the key issues that you need to be aware of. It will also arm you with the right questions to ask your KPMG advisor.

If you are coming to New Zealand for the first time, or simply returning after a period away, on behalf of KPMG New Zealand, we welcome you to this part of the world. We look forward to helping make your transition here as comfortable as possible.

1B Let's get started

International mobility and business is vitally important to the New Zealand economy and future prosperity.

This includes individuals or businesses coming to New Zealand, and New Zealanders and their businesses broadening their horizons offshore.

At KPMG, we recognise the need to help smooth the process of investing overseas, and attracting offshore talent to New Zealand. Too often, effort and energy can be absorbed by dealing with regulatory and tax requirements, instead of being focused on the main purpose – relocating your family and career.
Our objective is to take these worries away, freeing you up to focus on what is important to you.

I am delighted to present this Beyond Borders publication as a guide to help inform you of some of the key issues you might face as you move to New Zealand. This guide is aimed at providing some initial information to individuals moving to New Zealand and to arm you with the key questions that might need to be considered to smooth your path.

This Beyond Borders guide is broken into three core chapters, each focused on specific activities relevant to an individual's obligations:

— Moving to New Zealand – tax residence

— Taxing your investments

— Trusts.

We have also included contact details for KPMG's range of experts at the end of this guide to assist you with any specific questions or issues you may have.

If you have a business either expanding offshore or investing into New Zealand, you may be interested in our companion guide – Beyond Borders guide for businesses.

What ever your endeavours, I wish you well.

Nick Cooke
Auckland
Tax – Director
KPMG New Zealand

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Moving to New Zealand

If you are coming to live in New Zealand, there are a few things you need to know about your tax residence position. This chapter will provide you with an overview of those essential facts.

2A Tax residence

You need to know

New Zealand taxes its residents on their worldwide income

Tax residence is not the same as your immigration residence status

Whether or not you are eligible for the transitional resident exemption

Tax residence

When moving to New Zealand, the single biggest influence on your tax position will be your status as a New Zealand tax resident. A tax resident is taxed on worldwide income, with a tax credit allowed if taxes are paid overseas on foreign sourced income. In contrast, a non-resident is taxable only on New Zealand-sourced income.

Tax residence under New Zealand's domestic rules is determined by meeting one of two tests.

The first test is a simple count of days. The second test considers whether you have an enduring connection to New Zealand based on the availability of a dwelling, i.e. a permanent place of abode. These tests are outlined in more detail below.

If you are also treated as tax resident in another country, your New Zealand tax liabilities may be impacted by the existence of a double tax treaty. Your KPMG advisor can work through the implications of dual tax residence with you.

Day count test

If you are in New Zealand for more than 183 days in any 12 month period, you are treated as tax resident from the first of those days. It's important to note the period in question is any rolling 12 month period – not the tax year or calendar year.

You are considered to be in New Zealand for 'the day' if you are here present in New Zealand for any part of the day.

Permanent place of abode

The permanent place of abode test is not as clear-cut as the day count test. Whether you have a 'permanent place of abode' is primarily determined by whether you have a dwelling in New Zealand that is available for your use. Whether the property is directly owned by you, or through a trust or company is not relevant to the test. In addition, even if the property is rented out to third parties, it could still be treated as available to you. If you have a dwelling in New Zealand, other factors will also be considered such as your economic, family and social ties to New Zealand.

This test is determined by case law, and will depend on your specific circumstances. As a consequence, this is a constant source of tension between taxpayers and Inland Revenue.

2A Tax residence

Transitional residence

A special concession is available to transitional residents. This group includes new migrants and New Zealanders returning after at least 10 years who have never had the benefit of transitional resident status before.

A transitional resident is exempt from tax on offshore investment income for four years. This creates a period in which overseas investments can be reviewed and restructured.

As a transitional resident you have the opportunity to implement tax planning strategies to help ensure your holdings are tax efficient and to minimise the administration associated with your tax compliance obligations. Your KPMG advisor can help with this.

Implications of becoming tax resident

In section 3 we discuss the main tax regimes that apply to the taxation of international investments including foreign equities, financial arrangements and foreign superannuation if you are not eligible for the transitional resident exemption, or after the transitional period expires.

Obligations for non-residents

Even if you are not tax resident in New Zealand, you could still trigger a tax liability here if you are in New Zealand more than either three or six months. A non-resident individual is taxed in New Zealand on income from employment services performed here.

If you are in New Zealand for less than three months, you are likely to be exempt from tax. Also, if you are here for 183 days or less in a 12 month period, you may be relieved from tax under a double tax agreement that New Zealand has in place with the other country where you are tax resident.

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Investing in New Zealand and offshore

This chapter provides an overview of the main tax rules applying to investments held by a New Zealand tax resident.

3A Overview

You need to know

The New Zealand tax year runs from 1 April to 31 March

The top marginal tax rate in New Zealand is 39% and applies to income over $180,000

New migrants may not be taxed on foreign investment income for four years

New Zealand does not have a capital gains tax

How your investments might be taxed when you are a tax resident

Tax impact of being a New Zealand resident

If you are a New Zealand tax resident, you will generally be subject to tax in New Zealand on your worldwide income. Non-residents are subject to tax in New Zealand on income only if it has a New Zealand source.

The New Zealand tax year is from 1 April to 31 March. As this may differ from the tax years in other countries, different information will need to be captured to calculate income earned and taxes paid that may need to be included in a New Zealand income tax return.

If you are also treated as tax resident in a country that has a double tax agreement with New Zealand, you may be relieved from tax in New Zealand on your worldwide income.

Where there is a double tax agreement in place between New Zealand and another country, tie-breaker provisions will determine which country has the primary taxing right as a result of your residence.

Personal income tax rates

Personal income tax is imposed at marginal rates up to 39%, as shown in the table.

Income band	Tax rate
$0 to $15,600	10.5%
$15,601 to $53,500	17.5%
$53,501 to $78,100	30%
$78,101 to $180,000	33%
$180,001 and above	39%

New Zealand does not have a capital gains tax. However, gains that might be considered to be capital gains are still taxed if they arise from financial arrangements (discussed below) or from the sale of a residential property if the bright-line rules apply to the transaction.

This can also apply if you are a trader, or if the asset was acquired for the dominant purpose of sale.

Taxation of international investments

As a tax resident in New Zealand, your investments in foreign companies may be taxable, even if you do not receive any dividends or other income.

If you maintain foreign currency bank accounts, loans or mortgages (known collectively as financial arrangements), you may also be liable to tax on foreign exchange fluctuation.

Income derived from investments is added to your taxable income, and taxed at your marginal tax rate. The rules applying to foreign equities and financial arrangements discussed in this guide do not apply to non-residents.

The rules for determining your New Zealand tax obligations in relation to international investments are set out on the following pages.

3B Foreign equities

You **need** to **know**

The FIF FDR regime taxes foreign equities on an assumed 5% return per annum

Other calculation options are available and might give you a better result

Whether or not an exemption applies to your shares

Offshore share investments

New Zealand tax residents with investments in overseas shares need to consider their tax position on an annual basis. The timing of transactions, particularly around 31 March each year, can also have a significant impact on your tax position.

The foreign investment fund (FIF) rules apply to offshore equity investments held by New Zealand tax residents. A FIF includes a share in a foreign company, units in a foreign unit trust or mutual fund, and some interests in foreign superannuation schemes, or retirement plans along with being a beneficiary of a foreign life insurance policy.

In this section we focus on the application of the FIF rules which apply where a New Zealand tax resident has a shareholding in a foreign company. If you have significant shareholdings in a foreign company, you may be subject to the rules applying to non-portfolio shareholdings or controlled foreign companies (CFCs). If that is the case, we recommend contacting your KPMG advisor who can assist with this.

Foreign investment funds

Dividends paid by New Zealand companies are subject to an imputation system. This means that dividend income carries credits resulting from tax paid by the company, which can be used by resident shareholders against their personal tax liability on the dividends. Any gain on sale is only taxed if held on revenue account. For example, if shares are actively traded or held as part of a business.

By contrast, investment in foreign equities will typically subject to the FIF regime. The FIF rules calculate the amount of income to be attributed to the shareholding. Several methods are available to calculate the attributed income, but the default (and most commonly used) method is the fair dividend rate (FDR) method.

If income is calculated under the FIF regime, this is the only income that is taxed from the foreign shares. This means, if income is calculated under the FDR method, dividends and gains are not separately taxable.

Some Australian shares that are listed on the ASX are exempt from the FIF regime and taxed in the same way as New Zealand shares (see further below).

Fair dividend rate method

The FDR method calculates income as 5% of the market value of shares held on 1 April (at the start of each tax year). Only the 5% is taxed, even if actual income and gains from the shares exceeds this amount.

The 1 April measurement date for calculating the market value of investments subject to tax means that shares acquired during the tax year will not always be taxed in the first year of ownership. Conversely, shares sold during the tax year will be taxed as if they were held for the full year. So the timing of transactions around the end of the tax year (31 March) is important.

Anti-avoidance rules ensure that shares bought and sold within a tax year are also subject to tax.

3B Foreign equities

Alternative methods

If the total return (income and gains) across an individual's portfolio of foreign shares is less than 5%, the comparative value method can be used instead of FDR. This taxes the actual dividends, as well as realised and unrealised gains or losses, derived from the shares. However, if your portfolio makes an overall loss, you cannot deduct or carry forward that loss.

Minor total holdings

If the total cost of all foreign shares held is less than $50,000, income does not get attributed under the FIF regime. In this case, dividends are taxable.

Australian share exemption

Shares are exempt from the FIF regime if they are shares:

- In an Australian resident company (not unit trust).
- Listed on the ASX.

This accounts for approximately 450 to 500 of the top Australian shares. These shares are exempt from the FIF rules, but taxed on dividends.

3C Financial arrangements

You **need** to **know**

These rules apply to all financial arrangements, including bank accounts, debt securities and derivatives

The income taxed can include unrealised foreign exchange gains

Whether you are eligible for the cash basis concession

How to manage the volatility created by these rules

Overview

The financial arrangements rules calculate taxable income arising from financial arrangements. 'Financial arrangements' is a broadly defined term that includes all bank accounts, term deposits, bonds, debt securities , mortgages and derivatives.The general intention of the rules is to tax the total economic return from the financial arrangements, spread over the life of the investment. For example, a USD bank account would give rise to income from both interest and a foreign exchange gain, or loss.

Example

If held for the entire tax year, the exchange movement from holding these currencies varies as to whether you would have a gain or loss. A loss may be deductible as long as there is a connection with an income earning purpose.

3C Financial arrangements

Spreading income

Income from a financial arrangement must be spread over the life of the arrangement, and complex rules direct how to do this. The consequence is that unrealised gains will typically be taxed on an annual basis. If your total holdings are under certain thresholds, there is a concession allowing income to be calculated on a cash basis, so only realised gains are taxed on an annual basis.

Cash basis concession

Income from financial arrangements can be returned on a cash basis if you meet one of the following criteria:

- Absolute value of all financial arrangements is $1,000,000 or less.
- Absolute value of all income/expenditure on financial arrangements is $100,000 or less.

In either case, the difference between cash basis income and accrual income over the period since the financial arrangement was entered, must be less than $40,000.

Regardless of whether you benefit from the cash basis concession, you will be taxed on the total return from your financial arrangements. The cash basis is only a timing benefit. This means you need to keep records to enable the income to be calculated when the financial arrangement matures or is sold, or if you become a non-resident for New Zealand tax purposes.

3D Superannuation

You **need** to **know**

Foreign superannuation schemes are generally taxed upon withdrawal

Some foreign superannuation schemes are taxed under the FIF regime

Whether or not your planned withdrawal or transfer will be taxed

Foreign superannuation

An interest in a foreign superannuation scheme that is not a regular pension or an annuity is generally taxed upon withdrawal from the scheme. A withdrawal includes a transfer made to a New Zealand or Australian superannuation scheme, but does not include transfers made from one foreign superannuation scheme to another foreign superannuation scheme.

A foreign superannuation scheme is broadly defined as a trust or company established for retirement savings. These rules will include most countries' employment-related superannuation schemes, although it will depend on their precise terms. It will typically include 401k plans from the US, and PEPs, SIPPs and ISAs from the UK.

Taxing foreign superannuation

For the most part, a withdrawal from a foreign superannuation scheme or transfer from a foreign scheme to a New Zealand or Australian scheme will be taxable on a schedular basis with the amount of the withdrawal that is subject to tax being dependent upon the number of years the individual is resident of New Zealand.

Withdrawals from Australian superannuation schemes are exempt from the taxing of foreign superannuation in New Zealand.

KiwiSaver

Employees who are considered to be 'usually living in New Zealand' and New Zealand resident employers (or non-residents with a fixed establishment in New Zealand) are subject to the provisions of the KiwiSaver Act.

You will not be eligible to join KiwiSaver if you hold a temporary, visitor, work or student permit or if you are living overseas.

KiwiSaver is a form of semi-compulsory superannuation (retirement) savings in New Zealand. This requires employees to contribute a minimum of 3% of the employee's earnings and employers to also contribute a minimum of 3%. The contributions are collected through Inland Revenue and passed to private retirement savings vehicles (KiwiSaver funds).

New (qualifying) employees are automatically enrolled (with some exemptions for certain employers). There is an opportunity for employees to opt out of KiwiSaver during the initial period of automatic registration (being 8 weeks after employment commences).

3E Your own business

You **need** to **know**

Dividends from a foreign company will not be taxed if you are transitional resident

New Zealand does not tax capital gains on sale of shares

Whether or not your company is a CFC

Whether you exercise management and control in New Zealand

Are you a transitional resident?

If you own a business overseas, you will need to consider how your move to New Zealand will impact on it.

If you are a transitional resident, you will not be taxed on foreign investment income for four years. This means foreign dividends, FIF income (discussed earlier) and CFC income (discussed below) are not taxed during this period. Any remuneration for services will still be taxable.

Even if you are not a transitional resident, New Zealand does not have a capital gains tax, so you will typically not be taxable in New Zealand on sale of shares in a business. This could be advantageous if you are planning to exit your business.

Is your business a CFC?

New Zealand's CFC rules tax income of a foreign company in the hands of its shareholders by imputing the income directly to them where ownership levels are above. A company is a Controlled foreign company (CFC) if it is controlled by five or fewer New Zealand residents, or if a New Zealand resident has de facto control.

Shareholdings held by associated parties are aggregated when working out whether a company is a CFC.

Income from a CFC will be attributed to you in accordance with the CFC rules.

There is an exemption from attributing CFC income from certain active businesses carried on overseas.

Management and control

A company is treated as resident in New Zealand if either the centre of management or director control is here. Both of these tests are fact-specific and the outcome will depend on how you operate. For example, holding board meetings overseas helps ensure director control is not exercised here – but will be of limited benefit if, in fact, decisions are made in New Zealand. Determining the location of the centre of management can be more difficult, as the answer may differ depending on whether day-to-day or senior management is considered.

The consequences of a company being tax resident in New Zealand can be significant. The company will become taxable on its worldwide income, subject to DTA relief and credit for foreign taxes, and dividends will no longer be considered to be foreign income for transitional residents.

3F Portfolio Investment Entities (PIEs)

You **need** to **know**

PIE is a widely held collective investment vehicle

The maximum tax payable in a PIE (28%) is less than the top marginal rate (39%)

Tax paid by an unlisted PIE on your behalf is a final tax (if paid at the correct rate)

What is a PIE?

Fund managers in New Zealand will typically offer managed funds that meet the requirements to be a portfolio investment entity, or PIE. Such funds must be widely-held and have restrictions on the minimum number of investors, the maximum interest those investors can hold, and the types of investments the fund makes.

If you invest in an unlisted PIE, you will need to advise the fund manager of your PIE tax rate (called the Prescribed Investor Rate, or PIR). This rate is determined based on your previous two years' income. The fund will then account for tax on your behalf.

Provided you have indicated the correct tax rate, the tax paid by the PIE will be a final tax. If you are a New Zealand tax resident, PIE income that is attributed to you, will need to be included in your tax return. Whereas, if you are a non-resident, you only need to disclose PIE income to Inland Revenue if you have been taxed at the incorrect rate.

The maximum PIE tax rate is 28%, so there may be a tax advantage to investing through a PIE.

Listed PIEs are taxed differently. They are taxed at 28% and impute dividends paid. The dividend is exempt, unless you choose to include it in your return. You would only do this if your tax rate was lower than 28%.

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Trusts

This chapter looks at the main issues associated with offshore trusts when coming to, or living in, New Zealand.

4A Classification of trusts

You **need** to **know**

An offshore trust will be classified as either a foreign or non-complying trust

The main consideration is the tax residence of the settlor(s)

Distributions from a non-complying trust are taxed at 45% of any income or capital gains distributed

Foreign or non-complying trust

An offshore trust that makes a distribution to a New Zealand resident beneficiary will be classified as either a foreign trust or a non-complying trust. The distinction is important because it determines both the amount of the distribution that is taxable, and the rate at which it is taxed. A trust is a foreign trust if no settlor of the trust is, or has been, tax resident in New Zealand. Distributions of income from a foreign trust are taxed at the beneficiary's marginal tax rate. Distributions of capital gains and corpus (the capital of the trust) are tax-free.

If a settlor of the trust is resident in New Zealand, the trust may be a non-complying trust. Distributions of both income and capital gains from a non-complying trust are taxed at 45%.

Separately from the consideration on the New Zealand tax that may apply in relation to a trust, you may also need to consider New Zealand's disclosure requirements, for instance, a New Zealand foreign trust has requirements such as:

- A registration requirement for foreign trusts, which allows regulatory agencies to search the register.
- Requiring foreign trusts to file an annual return.

4B Managing trust status and distributions

You need to know

An election needs to be considered when a settlor becomes resident

How to manage distributions from offshore trusts to manage the beneficiaries' tax

Settlor becoming New Zealand resident

If a settlor of a foreign trust becomes resident in New Zealand, an election must be made to bring the trust within the New Zealand tax system. Failure to do so will mean that the trust becomes a non-complying trust, with distributions being taxed at 45%. The settlor may also become liable to account for tax as agent of the trustee if any further settlements are made.

This election needs to be made within 12 months of the settlor becoming tax resident, or ceasing to be a transitional resident.

Ordering rules

Distributions from both foreign trusts and non-complying trusts are taxed depending on their composition – income, capital gains or corpus. The ordering rules dictate the composition of a distribution for tax purposes. These rules deem income and accumulated income to be distributed before capital gains. Corpus is the last to be distributed.

These rules can come into conflict with the actual composition of a trust distribution – for example, even if a beneficiary is only entitled to capital distributions, they may be deemed to receive income.

The rigidity of these rules means it is possible to manage the distributions to determine how income and capital are distributed to different beneficiaries.

Need for historic records

If a foreign, or non-complying, trust makes a distribution to a New Zealand resident beneficiary, it may be necessary to trace the history of income, gains and past distributions.

If the make-up of a distribution cannot be determined, it is assumed to be entirely taxable.

4C Issues for settlors leaving New Zealand

You **need** to **know**

What needs to be considered when a complying trust ceases to have a New Zealand resident settlor

You need overseas tax advice if you leave New Zealand as a trustee or settlor

There are some additional issues you need to consider when you leave New Zealand if you are the settlor of a New Zealand complying trust

Exemption for foreign income

New Zealand taxes trusts based, in part, on the residence of the settlor. So when the settlor ceases to be resident, it is possible that the trust may cease to be taxed on foreign income. This can happen when a trust has no New Zealand resident settlor at any time throughout the income year – regardless of whether the trustee is New Zealand resident.

Loss of complying status

Overseas income being earned by the trust with no New Zealand tax imposed can be a positive planning opportunity, but it is a double-edged sword. If you return to New Zealand, and become tax resident again, the trust will then become a non-complying trust – with distributions of income and gains taxed at 45%. If you are the settlor of a trust that holds foreign assets, and you are going to become non-resident, you need to manage these issues before the end of the tax year that you cease to be New Zealand tax resident.

Overseas tax issues

Trusts are taxed differently in different countries. Some countries focus on the trustee, while others look through to beneficiaries. The consequence of this is that trusts may complicate your tax affairs if you move to a new jurisdiction. It is important to seek advice in the country you are moving to, and to work with advisors who can manage the complexity of multiple jurisdictions.

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Contact us

A selection of experienced professionals offering skills and ideas that are second to none.

6A How we can help...

Tax issues become complicated when international borders are involved. KPMG has an international network of professionals who can help you to navigate the complexity and difficulties of doing business, or living and investing, in multiple tax jurisdictions.

Please contact **Nick Cooke** who will make sure that you are guided to the right person.

Nick Cooke
Tax – Director
T: (09) 363 3695
E: nickcooke@kpmg.co.nz