Thinking beyond borders: Management of extended business travelers - New Zealand

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KPMG

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Key message

Individuals are subject to income tax on their worldwide income while they are a tax-resident in New Zealand, subject to the transitional residence rules.

1 Key message

Extended business travellers are likely to be taxed on employment income relating to their New Zealand workdays, unless relief is obtained under New Zealand's domestic legislation or an applicable double tax agreement.

Income tax is imposed on income derived by individuals at marginal tax rates that are set each year.

Residents are taxed on worldwide income. Transitional residents are taxed on their New Zealand-sourced income and any employment income derived overseas. Non-residents are taxed on their New Zealand-sourced income only.

Benefits-in-kind are subject to a fringe benefits tax, which is imposed on the employer.

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Income tax

2 Income Tax

2.1 Liability for income tax

A person's liability for New Zealand tax is determined by residence status. A person can be a resident, a transitional resident, or a non-resident for tax purposes.

A resident of New Zealand generally refers to an individual who is present in New Zealand for more than 183 days in any 12-month period or who has a permanent place of abode in New Zealand. The general rule is that a person who is a resident of New Zealand is assessable on worldwide income.

A transitional resident is a new tax resident of New Zealand who has been non-resident for 10 years prior to arriving in, or returning to, New Zealand.

A non-resident of New Zealand is generally someone who spends 183 days or less in any 12-month period in New Zealand and does not have a permanent place of abode in New Zealand.

Non-residents and transitional residents are generally assessable on income derived directly or indirectly from sources in New Zealand. Transitional residents are also taxable on foreign-sourced employment income.

Extended business travellers are likely to be considered non-residents of New Zealand for tax purposes, depending on their personal circumstances.

2.2 Definition of Source

Employment income is generally treated as New Zealand-sourced compensation where the individual performs the services while physically located in New Zealand. The location of the employment contract is irrelevant.

2.3 Tax trigger points for employment income

Employment income derived in New Zealand may not be taxable if the employee is present in New Zealand for 92 days or less in a tax year, performing services for (or on behalf of) a person who is not resident in New Zealand, and the income derived is taxed in the country/jurisdiction in which the person is resident.

In addition, where New Zealand has a double tax agreement with the individual's country/jurisdiction of residence, employment income may not be taxable if certain conditions are satisfied.

2.4 Types of taxable income

For extended business travellers who are non-residents of New Zealand and do not qualify for the above exemptions or relief, the income that is generally taxed in New Zealand includes remuneration for New Zealand-based employment and New Zealand-sourced income such as interest or dividends from New Zealand companies.

Fringe benefits, broadly non-cash employment income, are subject to a fringe benefits tax, which is generally levied on the employer.

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Social Security

3 Social Security

3.1 Liability for social security

New Zealand has an Accident Compensation Levy that is funded by employers and employees. The employer levy is determined by its industry classification, while the employee levy is charged at a flat rate.

For the tax year ended 31 March 2024 the earners' account levy per 100 New Zealand dollar (NZD) of liable earnings (including GST) is NZD1.53. The maximum amount of earnings subject to earners' levy is NZD139,384.

3.2 Superannuation contributions

There is no compulsory superannuation saving in New Zealand. There is, however, a government-run voluntary workplace savings scheme called KiwiSaver, which is available to any resident employers, employers who carry on business from a fixed establishment in New Zealand, or non-resident employers who elect into the regime.

In order for the employee to be eligible to join KiwiSaver they must be entitled to live in New Zealand indefinitely.

Minimum employer and employee contributions are currently fixed at 3 percent of gross income if the employee elects to participate in the KiwiSaver scheme offered by their employer.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

An income tax return is filed for a tax year (1 April to 31 March). Where Inland Revenue consider an individual to be a salary and wage earner an auto-assessment will be issued at year end and the individual would not be required to file a tax return if the auto-assessment is correct.

Tax returns must be filed by non-residents who derive any New Zealand-sourced income (other than New Zealand dividend, interest income, or royalties, which are subject to final withholding tax).

Tax returns are due by 7 July following the tax year-end. Tax agents can obtain an extension to the following 31 March.

4.2 Employer reporting and withholding requirements

PAYE withholding from remuneration

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable on employment income, the employer has a PAYE withholding requirement. This could include situations where an employer is non-resident and no exemptions or relief applies, such as the 92-day and 183-day exemptions.

Non-resident contractors tax on contract payments.

A non-resident contractor is an individual who is present in New Zealand for more than 92 days in a tax year, who is performing services in New Zealand, and payments are made by a New Zealand entity to the non-resident contractor for those services.

Such payments may be subject to a withholding tax known as non-resident contractor's tax unless the non-resident contractor holds an exemption certificate.

The Inland Revenue Department (IRD) may issue an exemption certificate to remove this withholding obligation if the IRD is satisfied that, for the income sourced in New Zealand, there is no income tax liability pursuant to a double tax treaty.

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Other issues

5 Other issues

5.1 Work permit/visa requirements

Depending on the country/jurisdiction of origin, an individual may need to apply for a visa prior to entry into New Zealand. In addition, an individual may need to obtain a work visa or work permit before being able to work in New Zealand.

5.2 Double taxation treaties

In addition to New Zealand's domestic arrangements that provide relief from international double taxation, New Zealand has entered into double taxation treaties with 40 countries/jurisdictions to prevent double taxation and allow cooperation between New Zealand and overseas tax authorities in enforcing their respective tax laws.

Relief from New Zealand taxation may be available under a double tax treaty. Generally, New Zealand's double tax treaties provide relief from tax on employment income if the employee is present in New Zealand for 183 days or less, is employed by a non-resident entity, and the remuneration is not borne by a permanent establishment (PE) in New Zealand.

5.3 Permanent establishment implications

There is the potential that a PE could be created as a result of extended business travel, but this would be dependent on the type of services performed, the functions and level of authority of the employee, and the specific terms of any applicable double tax treaty.

5.4 Indirect taxes

Goods and services tax (GST) is applicable at 15 percent on taxable supplies. GST registration may be required in some circumstances.

5.5 Transfer pricing

New Zealand has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction. This would also be dependent on the nature and complexity of the services performed.

5.6 Local data privacy requirements

Data privacy rules in the U.S. arise from a collection of federal, state, and industry case law, statutes, and practices. There is no independent oversight agency in the United States.

5.7 Exchange control and reporting of assets

New Zealand has data privacy laws and the Privacy Act 2020 controls how personal information is collected, used, disclosed and stored. Personal information includes data such as names, phone numbers and email addresses for example.

The Privacy Act 2020 includes the right for individuals to access their personal information, while recognizing that there are other rights and interests that may also need to be taken into account depending on circumstances

5.8 Non - deductible costs for assignees

A person is declined a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving income from employment. Some expenditures can be reimbursed tax-free. Generally, it is necessary to demonstrate that the expenditure being reimbursed was an additional expenditure resulting from employment duties or is of the type that the IRD has prescribed as relocation expenses.

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