Business and Taxation Guide to New Zealand
Preface

This business and taxation guide was prepared by William Buck New Zealand in 2012. It is designed to provide guidelines on how to establish and conduct business in New Zealand. In particular, there is a brief summary of the tax rules and regimes that should be considered by investors in New Zealand, and the various business structures that can be used.

Aside from taxation, there are a number of other considerations when investing in New Zealand. These are especially relevant if you are going to pursue active investment in New Zealand. In particular there are specific requirements in:

- Corporate governance/company law
- Employment law
- Environmental law and
- Health and safety.

Please note that this is intended as a general guide only and is not a substitute for obtaining appropriate professional advice and guidance when investing in New Zealand. If you are contemplating doing business in New Zealand, you should contact an advisor to obtain professional advice.

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This guide is intended as a general guide only and should not be acted upon without further advice.
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1. General information

1.1 Attractions and possible obstacles for foreign investors

New Zealand offers investment opportunities in many fields, in both traditional business sectors and in new areas. Several areas where New Zealand performs exceptionally well include information and communications technology, tourism, film and special effects production, biotechnology, agricultural research, and wood-based technology.

Just a few of the positive features that foreign investors might consider include New Zealand’s stability, transparency and fair dealing. Worth noting is New Zealand is:

- Rated the least corrupt country in the world on Transparency International’s 2011 Global Corruption Index (the country is consistently at or very near the top of this index)
- Ranked No. 1 in the world for protecting investors by the World Bank in its 2011 Doing Business report
- No.1 in the world for absence of protectionism (IMF, World Competitiveness Yearbook 2010)
- Low risk for business investment – in 2012, the credit-reporting company Dun & Bradstreet named New Zealand as Asia Pacific’s fourth safest country ahead of Japan, South Korea, Taiwan, Malaysia, China, India, Indonesia, Philippines and Thailand.

Setting up business in New Zealand is relatively straightforward. However, when establishing a business in New Zealand, several important factors should be considered:

- Professional advice in New Zealand should be sought.
- Investors should introduce a robust business structure before commencing business in New Zealand.
- Corporate governance is an important issue and it is essential to ensure that robust compliance and governance procedures are in place.
- The country places high importance on environmental concerns and if your business is likely to effect the environment, it’s advisable to seek legal instruction.
- Before commencing business in New Zealand, the IRD must be made aware of your presence – employers should apply for an IRD number and if necessary register for GST and register as an employer.
- New Zealand has strict employment laws and workplace health and safety laws. If you are to have a physical presence and employ people in New Zealand, it is important that advice is sought in complying with these laws and regulations.

1.2 Area and population

Geographically, New Zealand comprises two main landmasses, these being the North and South Islands, and numerous smaller islands. New Zealand is situated approximately 1,500 kilometres (900 miles) east of Australia across the Tasman Sea and roughly 1,000 kilometres (600 miles) south of the Pacific island nations of New Caledonia, Fiji and Tonga.

The estimated population of New Zealand, as of March 2012, is 4,430,400.

New Zealand climates range from semi-arid to very wet in areas west of the Southern Alps.
1.3 Government and law

New Zealand’s political system is based on the British model and is stable. There is a single house of Parliament with an elective government, and the role of head of state is held by the British monarchy - Queen Elizabeth II. The Governor-General, appointed on the advice of the Prime Minister, represents the Queen.

New Zealand is organised into 11 regional councils and 67 territorial authorities for local government purposes. New Zealand is hit by a tropical cyclone once every eight to nine years.

New Zealand’s legal system is based on English law. The judicial system is independent and robust. Private property rights are strongly protected, contracts are secure and intellectual property rights are enforced.

1.4 Economic situation

A long term drive for diversification means that New Zealand’s economy, although still powered mainly by agriculture, now also benefits from a flourishing manufacturing sector, a thriving tourism industry, and a strong renewable energy resource base.

New Zealand’s commitment to economic freedom has resulted in a policy framework that has shown impressive economic resilience. Openness to global trade and investment are firmly institutionalised, and the economy rebounded quickly from the global recession. Recovery has been led by exports with strong demand from major trading partners Australia and China. There have been small budget deficits in recent years, but public debt remains under control at 33.7% of GDP (2011).

In 2012, the New Zealand Treasury forecast economic growth would increase to 2.6% and 3.4% in 2013 and 2014 respectively, and then settle at around 3%.

1.5 Currency

The currency of New Zealand is the New Zealand dollar, represented by the currency code $, with NZ$ used to differentiate it from other dollar denominated currencies. The International Standards Organization (ISO) currency code is NZD.
2. Regulation of foreign investment

There is very little regulation of inward investment. Foreign residents are free to invest into New Zealand and derive either passive or active income. For foreigners (non-residents) undertaking passive investment in New Zealand there is very little regulation. Foreigners are free to undertake any form of passive investment in New Zealand without scrutiny.

In relation to foreign investment in sensitive land the Overseas Investment Office will need to grant approval. The term ‘sensitive land’ is defined in the *Overseas Investment Act 2005*.

Active investments in New Zealand come under greater scrutiny, to the extent that a business must comply with New Zealand domestic laws. Any business that operates in New Zealand must comply with domestic laws in terms of company law, employment law and health & safety. New Zealand has stringent rules on workplace health & safety. In addition, all corporate governance requirements must be adhered to, including the likelihood of being subject to a statutory accounting audit.

Any foreign business investing in New Zealand will also have to comply with New Zealand taxation laws and IRD (Inland Revenue) requirements. Among the numerous requirements are, investors will need to:

- Register with the IRD
- File an income tax return
- Register for Goods and Services Tax (GST) - equivalent to VAT
- File GST returns
- Register as an employer
- File PAYE (payroll tax) returns
- File Fringe Benefit Tax (FBT) returns
- Register new employees in a Kiwisaver Scheme (employee superannuation)
- File Kiwisaver Returns.

It is strongly recommended when establishing a business in New Zealand to seek appropriate guidance from an advisor with expertise in setting up and conducting business in the territory.
3. **Government incentives**

The New Zealand government offers various incentives to encourage investment, and these typically apply equally to domestic and foreign investors. These incentives will generally be focused on specific industries.

### 3.1 Environmental incentives

Complying with the Kyoto Protocol, New Zealand offers a system of carbon credits. This is termed the ‘emissions trading scheme’ and it is currently a voluntary regime. It is designed to provide an incentive for businesses to reduce their greenhouse gas emissions.

Under this emissions trading scheme, participants are entitled to claim units from the government for removing or reducing greenhouse gases from the environment. In addition, participants are required to surrender units to the government based on the tonnage of greenhouse gases they emit when undertaking their business activities. In general, emissions units are treated like trading stock. The disposal of an emissions unit will, in most cases, be excluded income. In addition, the disposal value will usually be zero. There are exceptions to this as the emissions trading scheme is a new and complex regime.

### 3.2 Government grants

The New Zealand government also offers funding provisions, for example funding support linked to research and development (R&D) activities. In order to claim a R&D grant, the activity will generally provide some sort of benefit to New Zealand. An example maybe a grant for development of a material or product that’s specific to New Zealand that can be exported. Applications for grants of this nature should be made to the Ministry of Economic Development, which can be contacted for more information.

In recent years, economic growth has been focused on the export sector, which as a result has meant the New Zealand government has offered grants to certain exporters. In order to be eligible for a grant of this nature the business must satisfy specific criteria.

In general, government grants received by businesses are non-assessable for tax purposes. However, the expenditure that the grants are spent on is also non-deductible for tax purposes.

#### 3.2.1 Film industry grants

The New Zealand government is very supportive of the film industry, recognising that whilst the domestic expertise in film and television production has increased, resources are still limited. In order to attract overseas producers, the government will, in particular, provide incentives for large budget productions filmed in New Zealand by overseas producers. Incentives usually take the form of a government grant and tax relief. In order to obtain a government grant, an application must be submitted to the appropriate authority.
4. Business organisations available to foreigners

New Zealand offers investors a large range of business organisations from which to operate. These include:

1. Sole Trader
2. Partnership
3. Trust
4. Company
5. Branch
6. Portfolio Investment Entity
7. Limited Partnership
8. Look Through Company

4.1 Sole Trader

A sole trader is a single person operating a business in his or her own name. They have no limitation of liability.

4.2 Partnership

A partnership is a group of people that come together with a collective view to make a profit. Under the Partnership Act 1908, a partnership in New Zealand can have an unlimited number of partners. All the members of the partnership are joint and severally liable.

A partnership can have more partners in certain circumstances. This is usually reserved for professional service type partnerships (such as law and accountancy).

A person can exit a partnership on death or by deciding to leave. If a partner opts to leave, the existing partners can decide to either:

- Dissolve the partnership
- Buy the exiting partners’ share out or
- Bring in a new partner.

4.3 Trust

A trust is a unique ownership structure. Persons termed trustees hold or administer property on behalf of persons termed beneficiaries. The trustees are deemed to have a fiduciary duty to the beneficiaries (this is like a duty of trust and confidence).

A person called the settlor, transferring property to the trust, creates a trust. The property of the trust is termed the trust corpus. It is possible to run a business out of a trust, with the trustees being the key decision makers.
4.4 Company

A company is the most common form of ownership structure in New Zealand. It separates the shareholder ownership from the management/day to day running of the business by the directors. The advantage of a company structure is that it has limited liability, which means that the shareholders personal assets are protected.

In New Zealand there is no distinction between a private company and a public company. In addition, there are no Articles of Association. Instead they are all termed companies if they are registered with the New Zealand Companies Office. A company can elect to adopt a constitution for its corporate governance guidelines. If the company chooses not to adopt a constitution, their corporate governance must be in accordance with the Companies Act 1993.

If an overseas entity decides to operate in New Zealand through a subsidiary company it is likely that it will require a statutory audit. A statutory audit is required when the corporate foreign ownership is greater than 25%. In this instance the subsidiary company will have to file annual audited financial statements with the Companies Office, which will be publically available. There are exemptions if the company is deemed to be a small company and the foreign individual owns more than 25%.

4.5 Branch

An alternative for an offshore company is to operate through a branch structure. A branch structure is essentially like another division of an overseas entity, but based in New Zealand. A branch will require an annual statutory audit.

Even though a branch is not a New Zealand company, it will still have to register with the Companies Office. This is a legal requirement for all branches of an overseas company.

4.6 Portfolio Investment Entity (PIE)

A PIE is an investment vehicle. The tax rules for PIEs came into force on 1 October 2007. The aim of the rules is to allow investors in collective investment vehicles (e.g. managed funds) to be taxed on their investment earnings in a manner similar to those who invest directly. Any gains on the sale of shares in New Zealand resident companies and certain Australian resident companies are excluded income in the hands of a PIE and are therefore not subject to tax. A PIE that is also a multi-rate PIE is taxed at the marginal rate of the investors, capped at 30% (28% from 1 October 2010).

A PIE is the generic term that covers five different types of PIE:

1. Multi-rate PIE
2. Listed PIE (LP)
3. Benefit fund PIE (BFP)
4. Life fund PIE (LFP) and
5. Foreign investment PIE (FIP).

4.7 Limited Partnership

A limited partnership is a relatively new type of legal business entity in New Zealand. It is similar to the limited liability partnership that is found in other jurisdictions. There are a number of limited partners and one general partner that is responsible for the day-to-day management of the limited partnership. The general partner has no limitation of liability.

The limited partners are not involved in the day-to-day management of the limited partnership. The limited partners liability is limited to their investment in the limited partnership.
In addition, a limited partnership is a tax flow through entity. This means that the tax losses of the limited partnership flow through to the limited partners in proportion to their partnership holding. However, the loss flow through is limited to the extent of the economic loss suffered.

4.8 Look Through Company (LTC)

A LTC is a new types of business structure that replaces the old loss attributing qualifying company regime.

A LTC allows for its income, expenditure and tax credits to be passed through to its shareholders. To the extent that it is in a profit position, the profit will be passed to the shareholder in proportion to their shareholding. The same applies if a LTC is in a loss position. However, there is a loss limitation rule that prevents the losses passing to the shareholders that exceeds the amount of their investment.

LTC’s have restrictions on their shareholding. There must be five or fewer shareholders and they must be natural persons or trustees (all trustees of the same trust count as one shareholder).

The shareholders must all elect into the LTC regime. In addition, one shareholder can elect to revoke the LTC status. There is a LTC tax on entry. This is based on the Qualifying Company Election Tax (QCET) formula.
5. Setting up and running business organisations

Setting up and running business organisations is relatively straightforward in New Zealand. The requirements will depend on the business structure selected.

5.1 Sole trader

Operating as a sole trader is relatively simple, with no set up required. The person must take into account all of the income earned and all of the expenses incurred. A sole trader differs from an employee in that they are able to deduct expenses from the income they earn.

There are no statutory corporate governance requirements for a sole trader. The only requirement is that they must file the required tax returns. Depending on the financing methods used, banking covenants may impose additional requirements.

5.2 Partnership

A partnership is established when a group of persons decide to jointly undertake an activity with a view to making a profit. A partnership is usually established through a partnership deed and the specifics outlined in the deed will govern how it is run.

In terms of returning taxable income, a partnership will be required to submit a tax return (and returns for other tax types as required). In addition, individual partners must submit individual returns of income for the proportion of the profit/loss distributed, which relates to each person's share of the partnership.

5.3 Trust

A trust is established when a settlor transfers property to the trust corpus. The trust deed details the trustees who will administer the trust and beneficiaries who will receive distributions of property from the trust. The trust deed will likely establish the circumstances in which a trustee can distribute property to a beneficiary plus general restrictions on the powers of the trustees.

In running a trust, trust governance is vital as the trustees have a fiduciary relationship to the beneficiaries. Any decisions must be carefully documented, as must all trustee meetings.

In terms of income tax returns, the trust is responsible for filing its own tax returns. Beneficiaries may have to file returns if they receive distributions.
5.4 Company

A company is established by registering it with the New Zealand Companies Office. The procedure is relatively simple and there are very few checks required. On registration the company will need to provide a list of shareholders, at least one director and a registered place of business.

Once a company is established it can choose to adopt a constitution, which sets out the corporate governance requirements, rules and procedures. If the company does not establish a constitution the governance requirements must follow the *Companies Act 1993* (which regardless is a minimum standard.)

Each year, the company is required to file an annual return with the Companies Office. The annual return must detail any changes to the company’s details (e.g. directors, change of address). If there are any changes the company must file the requisite forms with the Companies Office.

A company is required to submit tax returns (depending on the tax types they are registered for) to the IRD. This is likely to include filing a:

- Income tax return
- Goods and Services Tax (GST) return
- PAYE return
- Kiwisaver return, and
- Fringe Benefit Tax (FBT) return.

5.5 Limited Partnership

The operation of a limited partnership as a business structure is virtually identical to that of a partnership. The partnership agreement will prescribe a general partner and the limitations in relation to the powers of the general partner.

The general partner has unlimited liability, with all of the limited partners having limited liability. The general partner accepts ultimate responsibility for the day-to-day running of the partnership. A limited partnership must be registered with the Companies Office.

5.6 Portfolio Investment Entity (PIE)

An entity can choose to become a portfolio investment entity (PIE) providing it meets the eligibility requirements and files the appropriate election.

The eligibility criteria are as follows:

(a) The entity must choose to become a PIE and notify the CIR of the election

(b) The entity must be either a multi-rate PIE, a listed PIE, a benefit fund PIE or a life fund PIE

(c) The entity must maintain its eligibility to be a PIE and not lose its PIE status under the exit rules

(d) The entity must be resident in New Zealand and not treated under a double tax agreement (DTA) as a non-resident

(e) The entity must be one (or more) of the following:

(i) A company
(ii) Superannuation scheme

(iii) A group investment fund

(iv) A separate identifiable fund forming part of a life insurer, or

(v) A trust that would be a unit trust if there was more than one subscriber, purchaser or contributor participating as beneficiaries

(f) The entity must not be a life insurer, unless it is a life fund PIE

(g) Where the entity is not a life fund PIE all investor interests that give rights to proceeds must give the same rights in relation to all types of proceeds from the investment.

If the entity ceases to be a PIE it cannot become a PIE again for a period of at least five years.

It is important to note that a company that is not listed on a recognised exchange in New Zealand can become a listed PIE if it satisfies all of the following criteria:

(a) Has 100 shareholders or more

(b) Has resolved to become a company listed on a recognised exchange in New Zealand if it were to obtain the required consent

(c) Has applied to the Securities Commission for an exemption to disclose in a prospectus its intention to become a listed company

(d) Satisfies the CIR that the company would apply to become a listed company if it were to obtain the required consent.

If the company is not listed within two years of the election, it loses PIE status from the last day of that two-year period.

Investors in multi-rate PIEs elect a tax rate (called a ‘notified rate’) based on their ‘prescribed investor rate’. In simple terms, the prescribed investor rate is a little bit like a deemed marginal tax rate (but only for the purposes of the options for taxing income in a multi-rate PIE). The notified rate is the rate that the person advises to the multi-rate PIE.

Currently, the rates are 28%, 17.5% and 10.5%. Prior to 1 October 2010, the rates were 30%, 21% and 12.5% respectively. For all investors who do not notify the multi-rate PIE of their elected tax rate the default rate of 28% (30% prior to 1 October 2010) applies.

5.7 Look Through Company (LTC)

The operation of a LTC is very similar to that of a company (but note that they are excluded from the definition of ‘company’ in the Income Tax Act). An LTC has shareholders, although they will be fewer than five and there cannot be corporate shareholders. In addition, an LTC appoints directors that are responsible for controlling the day-to-day decision-making and they will need to be registered with the New Zealand Companies Office.

A LTC must submit an annual return with the Companies Office. In this annual return they must notify the Companies Office of any changes in shareholding, directorship or registered address.
A LTC is also required to submit the necessary tax returns with the IRD (depending on the tax types it is registered for). In addition, the shareholders will all be required to make an election to be a LTC to the IRD and renew this election annually by filing a subsequent election. One shareholder can annul a company's LTC status by revoking the election.
6.  *Corporate taxes and social charges*

6.1 Tax residency

New Zealand taxes all income on a gross global basis. This means that all income sourced or derived in New Zealand will generally attract some form of taxation in New Zealand. There is a comprehensive set of source rules that determine whether any income has been derived in New Zealand. If there is any controversy over where an item of income is sourced, New Zealand has an extensive list of double tax agreements with its major trading partners (see section 8).

In addition, New Zealand taxes its tax residents on income sourced or derived from all countries. A New Zealand tax resident is likely to be entitled to tax credits on their foreign sourced income to the extent they have paid tax on it.

The tax authority in New Zealand is called the Inland Revenue Department (IRD) and extensive powers. They may randomly select a taxpayer for investigation or the taxpayer may fall into an industry that the IRD have considered to be a risk industry. IRD investigations can last up to 18 months and the process may be drawn out further if the IRD wishes to initiate a disputes process.

6.1.1 Tax residency individuals

New Zealand determines tax residency for an individual with two tests:

1. If a person has a permanent place of abode in New Zealand, they will be classed a tax resident. A permanent place of abode includes a taxpayer’s economic, financial and social ties to New Zealand.
2. A count test, where if a person has been in New Zealand for a total of 183 days in any rolling 12-month period, they will be classed a tax resident.

A taxpayer need only satisfy one of these tests to be a New Zealand tax resident.

In addition, a taxpayer will be deemed to be a non-resident when they have been absent from New Zealand for more than 325 days in a 12-month period.

6.1.2 Tax residency companies

The test of tax residency for companies is different. A company will be classed a New Zealand tax resident if it:

- Is incorporated in New Zealand, or
- Has its head office in New Zealand, or
- Has its centre of management in New Zealand, or
- Control of the directors is exercised in New Zealand.

The test for trusts is also different. A trust will be a New Zealand resident trust if it has at least one New Zealand resident settlor (for example a person that transfers any property or services to a trust for less than market value). The definition of a settlor is very broad, so it is easy to fall within it.
It is possible for a taxpayer (individual, company or trust) to have dual residency (i.e. satisfies the tax residency tests in more than one country). In these instances New Zealand has a network of Double Tax Agreements (see section 8) with its major trading partners that provide tiebreaker tests for tax residency.

The standard tax balance date for all entities is 31 March. An alternative balance date may be applied for but will only be granted if it matches the balance date of an overseas major shareholder, or if it falls into certain industry categories granted special balance dates.

### 6.2 Corporate tax

Corporate tax in New Zealand is imposed on the net company income at a rate of 28%. The net company income is the gross income less the allowable deductions. In general, provisional tax is paid (by all types of business structures) in three instalments throughout the year based on its expected profit or an uplift of prior profits. At the end of the year the company files a tax return containing its actual profit for the year. The difference between the provisional tax paid during the year and the tax on the actual profit makes up the tax payable or refund due for the year.

In addition, certain tax credits may be available. For example, companies will usually be granted credits for withholding taxes and foreign taxes. These are split into refundable credits and non-refundable credits. Refundable credits are generally domestic tax paid. Non-refundable credits are generally foreign tax.

New Zealand operates an imputation system (similar to a franking system). This means that all companies must maintain an imputation account, which is a memorandum account that has debit for transactions such as IRD refunds and tax credits attached to dividends paid and credits for items such as tax paid. Imputation credits are generally used to attach to dividends paid to shareholders to prevent double taxation of shareholders.

### 6.3 Employees

#### 6.3.1 Pay as you Earn (PAYE)

If a company has employees, it is mandatory to pay payroll tax on behalf of them in relation to their salary or wages. Payroll tax in New Zealand is called PAYE (Pay as you Earn). The amount of PAYE that an employer must pay is relative to how much each individual employee is earning. New Zealand operates a progressive tax system. As a result, the amount of PAYE an employer pays on behalf of each employee will depend on the marginal tax bracket they are in. Employers file PAYE returns monthly.

#### 6.3.2 Fringe Benefit Tax (FBT)

In addition, employers need to pay fringe benefit tax (FBT) on any benefits provided to its employees. The amount or rate of FBT that needs to be paid depends on the amount of the benefit and the salary or wage being earned by the employee.

#### 6.3.3 Kiwisaver scheme
New Zealand does not require an employer to provide a compulsory employee superannuation scheme. However, employers are required to provide access to a Kiwisaver scheme and administer contributions on behalf of their employees.

Kiwisaver is an optional employee savings contribution scheme. When an employee first takes up employment they are automatically enrolled in a Kiwisaver scheme (there are numerous ones in New Zealand). They have the choice to opt out between week two and week eight of employment. If they do not, then they will be automatically enrolled in Kiwisaver. If they do opt out and subsequently change employment, the process for enrolment starts again.

Employees who are enrolled in Kiwisaver receive NZ$1,000 upfront from the government. Employees then elect the percentage of their salary that they want to deduct and contribute to Kiwisaver. The employer is required to match that contribution. The employer is required to file a Kiwisaver return monthly.

6.4 Social Charges

New Zealand has a comprehensive social welfare system. Residents are entitled to an unemployment benefit if they are unemployed. In addition, those that are unable to work due to illness are entitled to a sickness benefit.

Lower income earning families are entitled to a Working for Families tax credit. The amount of the credit depends on the amount of income being earned and the number of children in the family. This Working for Families tax credit is available to all eligible New Zealand residents.
7. **Personal taxation**

New Zealand operates a progressive tax system. New Zealand individual taxpayers are taxed at their marginal tax rates. The marginal tax rates are as follows:

The rates in this table apply from 1 April 2012 to 31 March 2013.

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Income tax rates for every NZ$1 of taxable income (excluding ACC earners’ levy)</th>
<th>PAYE rates for every NZ$1 of taxable income (including ACC earners’ levy*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $14,000</td>
<td>10.5 cents</td>
<td>12.20 cents</td>
</tr>
<tr>
<td>From $14,001 to $48,000</td>
<td>17.5 cents</td>
<td>19.20 cents</td>
</tr>
<tr>
<td>From $48,001 to $70,000</td>
<td>30 cents</td>
<td>31.70 cents</td>
</tr>
<tr>
<td>$70,001 and over</td>
<td>33 cents</td>
<td>34.70 cents</td>
</tr>
<tr>
<td>No notification**</td>
<td>45 cents</td>
<td>46.70 cents</td>
</tr>
</tbody>
</table>

* The earners’ levy rate (including GST) for the period 1 April 2012 to 31 March 2013 is **1.70% (NZ$1.70 per NZ$100)**

** Employers are legally required to use the no notification rate when an employee does not fully complete the Tax code declaration (IR330). A completed form must include name, IRD number and tax code. The form must also be signed.

Employees deriving salary and wages have tax deducted from their income by their employer at the appropriate marginal tax rate. Sole traders are responsible for deducting income tax at the appropriate marginal tax rate and for filing payment for this with their return of income submitted to the IRD.

All employees must pay ACC earners’ levy to cover workplace injuries. ACC is a comprehensive scheme to cover compensation for personal injuries. Earners’ levy is charged at a flat rate and can change each year. There is a maximum amount of income that earners’ levy is charged on. ACC is built into the PAYE tables and is deducted at the same time as PAYE.
8. **Double taxation agreements**

New Zealand has a vast network of double tax agreements (DTAs) with its major trading partners to alleviate the effect of double taxation on cross border transactions with these countries. In particular, New Zealand has DTAs with:

1. Australia
2. Austria
3. Belgium
4. Canada
5. Chile
6. China
7. Czech Republic
8. Denmark
9. Fiji
10. Finland
11. France
12. Germany
13. Hong Kong (drafted but not ratified at time of writing)
14. India
15. Indonesia
16. Ireland
17. Italy
18. Japan
19. Korea
20. Malaysia
21. Mexico
22. Netherlands
23. Norway
24. Philippines
25. Poland
26. Russia
27. Singapore
28. South Africa
29. Spain
30. Sweden
31. Switzerland
32. Taiwan
33. Thailand
34. Turkey
35. United Arab Emirates
36. United Kingdom
37. United States of America

The articles of all of these agreements differ in their contents and should to be read and considered in isolation.
9. **Sales and use taxes**

9.1 General Sales Tax (GST)

New Zealand has a comprehensive sales tax called Goods and Services Tax (GST). GST is imposed at either a rate of 15% or 0%.

GST is an indirect consumption tax imposed at the rate of 15% on most goods and services supplied in New Zealand by registered persons in the course of carrying on a taxable activity. It is also imposed on goods, other than fine metal, imported into New Zealand for manufacturing or home consumption.

GST operates on a credit offset basis. It is charged on all taxable supplies, whether made by importers, manufacturers, wholesalers or retailers. At each stage along this chain, businesses making taxable supplies must account for GST on each supply. At the same time, they are able to offset the GST that they pay on the goods and services that they receive. Therefore, the business does not bear the burden of GST — this is reserved for the final consumer of the good or service.

9.1.1 GST exempt

Some supplies are specifically exempted from GST, while others are zero-rated. Supplies that are exempt from GST include:

- Financial services
- Donated goods and services sold by non-profit organisations
- Residential rental accommodation
- The sale of a property which has been used for residential rental accommodation for at least five years
- The supply of fine metals (pure gold, silver, and platinum).

A reverse charge mechanism applies to imported services under certain circumstances. This results in the importer of the services being liable for GST on the value of those services.

Exempt supplies are completely excluded from the GST regime — no GST is charged on them and GST cannot be claimed back on the expenses incurred in supplying them.

9.1.2 GST zero-rated

Supplies that are zero-rated include:

- Exported goods,
- Goods not situated in New Zealand at the time of supply
- Taxable activities sold as going concerns to registered persons
- New fine metal supplied by a refiner to a dealer
- International transportation of passengers and goods
- Services in connection with land or moveable personal property situated outside of New Zealand,
- Services provided to non-residents
- Services physically supplied outside New Zealand.

With zero-rated supplies, no GST is charged on the supply, but GST can be claimed back for expenses incurred in making the supply.
9.2 Registering for GST

GST is charged only on supplies made by registered persons. A person must be registered for GST if they conduct a taxable activity and their total taxable supplies in any 12-month period exceeds, or is expected to exceed, NZ$60,000. Persons with an annual turnover of less than NZ$60,000 have the option of registering for GST, providing they are carrying on a taxable activity. The purpose of this threshold is to reduce compliance and administration costs by excluding part-time traders, non-profit organisations, and hobbyists whose GST liabilities would be insignificant.

A taxable activity is any activity carried on continuously or regularly, whether or not for profit, which involves the supply of goods and services for consideration. It includes any such activity carried on in the form of a business, trade, manufacture, profession, vocation, association, or club. The activities of public and local authorities are specifically included. Private recreational pursuits or hobbies, employment (including engagement as a company director), and activities which involve the making of exempt supplies are not taxable activities.

9.3 Paying and filing GST returns

Registered persons are required to provide returns and pay the tax owing (if any) within one month after the end of their taxable period, except in the case of returns otherwise due on 31 December, in which case returns are not required until 15 January. The normal taxable period is two months, although if taxable supplies are less than NZ$500,000 per year, a person can apply to file six-monthly returns. Where taxable supplies have been less than NZ$500,000 per year, but increase above that threshold, the CIR has the discretion to allow the registered person to remain on a six-monthly filing basis. Any person can apply to file returns on a monthly basis. In addition, any person whose annual taxable supplies exceed, or are likely to exceed, NZ$24 million must file monthly returns.

There are three ways in which registered persons can account for GST — on the invoice basis, the payments basis, or the hybrid basis.

- **The invoice basis** is the default method and must be used by all registered persons unless they apply to use, and meet the criteria for, either of the other two methods. Both output tax (tax on sales, or outputs) and input tax (tax on supplies received, or inputs) must be accounted for in the taxable period in which the supply is made.

- **The payments basis** may be used by persons whose taxable supplies do not exceed NZ$2 million per year (formerly NZ$1.3 million, before 1 April 2009). The payments method also applies to local authorities listed in an Order in Council, and non-profit bodies, and also in circumstances where it would be appropriate for the person to use the payments basis because of the nature, volume and value of the taxable supplies made, and the nature of the person’s accounting system. Under the payments basis, GST is accounted for in the taxable period in which the person receives payment for taxable supplies made, and makes payment for taxable supplies received.

- **The hybrid basis** may be used by any registered person. As its name suggests, the hybrid basis is a combination of the invoice and payments methods — GST on sales is accounted for on an invoice basis, while GST on purchases is accounted for on a payments basis.

The amount of tax payable for each taxable period by registered persons is the difference between their output tax and input tax for that period. If the amount of input tax exceeds output tax, the registered person receives a GST refund. Output tax is the tax on all taxable supplies made by the person. Input tax is the tax charged to the person in respect of all taxable supplies they receive. A number of adjustments must be made to input tax and output tax when completing the return. For example, for private use of business assets, entertainment expenditure, bad debts recovered, barter transactions, and changes in the accounting basis used.
A credit for input tax can only be claimed if the registered person holds a tax invoice, or a debit or credit note. A tax invoice must be provided by all registered persons making a taxable supply in excess of NZ$50. Where the price of the supply is between NZ$50 and NZ$1,000, a simplified form of tax invoice can be used. Inland Revenue may approve the use of modified tax invoices in special cases, or may even exempt a supplier from issuing tax invoices altogether. Invoices may be transmitted electronically, providing they contain the necessary information.
10. Portfolio investments for foreigners

Foreign investors can invest in New Zealand freely. That is, there is no restriction on what they can invest in. The only restrictions apply to the investment/purchase of what is termed ‘sensitive land’ by the Overseas Investment Act 2005.

This would become an issue if non-residents decide to establish a portfolio and as part of their portfolio they purchase ‘sensitive land’. In these situations, the investor would require consent from the Overseas Investment Office, which can take a long period of time to secure.

In terms of portfolio investments, New Zealand operates a number of group investment funds. Income that is derived by foreigners from these group investment funds will likely attract Non-Resident Withholding Tax (NRWT). This means that NRWT will be deducted from these payments. The rate of NRWT will depend upon whether there are any double tax agreements in place.
11. Trusts

Trusts are a very common business and family planning structures utilised in New Zealand. They are most commonly used as an asset protection vehicle.

There are unique rules governing the taxation of trusts in New Zealand. Firstly, a trust will be a New Zealand resident trust if it has at least one New Zealand resident settlor. The term settlor is widely defined for New Zealand tax purposes and could encompass anyone who transfers property or provides services to the trust. A New Zealand resident trust is taxed on its worldwide income.

If there is no New Zealand resident settlor, the trust is deemed to be a foreign trust for New Zealand tax purposes. If the trust is a foreign trust it will only be taxed on its New Zealand sourced income. However, because of the broad definition of settlor, care must be taken if a New Zealand resident transfers any property or provides any services to the foreign trust, as activities of this nature could result in it becoming a New Zealand resident trust.

Trusts have two categories of income. These are trustee income and beneficiary income.

- Trustee income remains in the trust and is generally taxed at 33%.
- Beneficiary income is distributed to the beneficiaries and is taxed at the beneficiaries’ individual tax rates. Beneficiary income must be distributed within six months of the end of the income year or when the return of income is filed or due to be filed, whichever is earliest.

If a foreign trust changes to become a New Zealand resident trust its official status is termed a non-complying trust. From this time it has 12-months to elect to become a complying trust. If it does not make this election, its trustee income will be taxed at 45%, rather than the usual rate of 33%.

There are no flow through rules for trusts. This means that any losses are quarantined in the trust and cannot be passed out to beneficiaries. The tax losses can be carried forward indefinitely until there is income to offset them against. There is also no flow through in relation to tax credits. Tax credits generally cannot be carried forward or carried back.

A trust may also be established for charitable purposes. In order to be recognised as a charitable trust, it must be registered with the New Zealand Charities Commission.
12. Practical information

12.1 Transport
The New Zealand government has made significant investments in land transport in recent years and is investing record amounts in the transport system. In the next decade it has committed to invest more than NZ$36 billion through the National Land Transport Fund, including NZ$19.5 billion on state highways, NZ$8.5 billion on local roads, and NZ$4 billion on public transport.

The main international airports according to passenger numbers are Auckland Airport, followed by Christchurch Airport and Wellington Airport respectively.

12.2 Language
Although English is not an official language in New Zealand, it is the most widely spoken. The country’s two official languages are Māori and New Zealand Sign Language (NZSL), which was adopted on the 10 April 2006. NZSL is now legal for use and access in legal proceedings, including in court and access to government services. Other languages are also used by ethnic communities.

12.3 Time relative to Greenwich Mean Time (GMT)
The New Zealand Standard Time zone is 12 hours ahead of Greenwich Mean Time (GMT+12).

During the summer months (October to March) New Zealand operates daylight savings times (GMT+13).

12.4 Business hours
Standard business hours are 9:00am to 5:00pm, Monday to Friday.

12.5 Public holidays
Public holidays observed by most businesses and government offices include:

- New Year’s Day – 1 January
- Day after New Year’s Day – 2 January
- Waitangi Day – 6 February
- Good Friday and Easter Monday – varies according to Church calendar
- ANZAC Day – 25 April
- Queen’s Birthday – 1st Monday in June
- Labour Day – 4th Monday in October
- Christmas Day – 25 December
- Boxing Day – 26 December

The public holidays over the Christmas and New Year period have special arrangements:

- If the holiday falls on a Saturday or Sunday and that day would not otherwise be a working day for the employee, the holiday is transferred to the following Monday or
Tuesday so that the employee still gets a paid day off if the employee would usually work on these days.

- If the holiday falls on a Saturday or Sunday and that day would otherwise be a working day for the employee, the holiday remains at the traditional day and the employee is entitled to that day off on pay.

An employee cannot be entitled to more than four public holidays over the Christmas and New Year period, regardless of their work pattern.

All other public holidays are celebrated on the day on which they fall. In years where Waitangi Day (6 February) or ANZAC Day (25 April) fall at the weekend, employees that do not normally work on the weekend and have no entitlement to payment for the day.

Following the *Holidays Amendment Act 2010* an employer and employee can now agree to transfer a public holiday from the day listed in the *Holidays Act 2003* to another day.