



NEW ZEALAND

EXEMPTIONS FOR NEW MIGRANTS

The New Zealand Government has introduced two new initiatives designed to remove some of the existing tax disincentives for individuals to migrate to New Zealand:

1. A temporary (four year) exemption from income tax for certain overseas income including dividends and interest derived by new migrants or New Zealanders who return to New Zealand after an absence of at least 10 years. The exemption applies to people becoming resident in New Zealand on or after 1 April 2006; and
2. An extension of an existing exemption from income tax for interests in foreign employment related superannuation schemes. The exemption applies to interests in such schemes held by returning residents as well as new migrants who become New Zealand tax resident on or after 1 April 2006. The exemption is permanent for interests acquired before and within the first five years of New Zealand residence.

Provisions to exempt interests in certain superannuation schemes in Australia from the foreign investment fund (FIF) rules are likely to be included in a tax bill expected to be introduced in May 2006.

CORPORATE MIGRATIONS

New rules enacted in March 2006 are intended to tax companies that migrate from New Zealand on their worldwide income earned while resident in New Zealand and thereby remove incentives for companies to migrate for tax purposes.

Essentially a migrating company is now treated as if it had liquidated and fully distributed the proceeds to its shareholders before migration. The rules that apply on the liquidation of a company apply in the event of a company ceasing to be a New Zealand resident. The resulting deemed distribution is free of withholding tax only to the extent of available imputation credits and the company's available subscribed capital. Companies migrating from New Zealand are subject to withholding tax obligations on all deemed distributions comprising retained earnings and, in certain cases, realised and unrealised capital gains.

The new rules apply to companies migrating on or after 21 March 2005, the date on which the Government announced the amendments.

FOREIGN-OWNED BANKS

The Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005, enacted on 21 June 2005, sets out new thin capitalisation rules specific to foreign-owned registered banks operating in New Zealand. The new rules apply from 1 July 2005 and deny foreign-owned registered banks interest deductions if they do not hold a level of equity equivalent to 4% of their New Zealand banking assets, weighted for risk. In addition, banks are required to have enough equity to equity fund offshore investments that do not give rise to New Zealand taxable income.

PETROLEUM EXPLORATION

Legislation enacted in 2005 provides an exemption from income tax for income earned from certain petroleum exploration and development work undertaken by a non-resident in New Zealand. The exemption applies to income derived from 'exploration and development activities' (a defined term) by non-resident companies between 1 January 2004 and 31 December 2009. The change is intended to remove a barrier to petroleum exploration in New Zealand and forms part of a wider package of Government measures introduced to boost exploration over the next five years.

RESEARCH AND DEVELOPMENT

Legislation enacted in March 2006 introduces new rules to enable companies to defer deductions for research and development (R&D) expenditure. The new rules remove a barrier to R&D investment by allowing R&D deductions (including depreciation) to be matched against income arising from that expenditure in certain circumstances in which a breach in shareholder continuity otherwise would result in the forfeiture of the losses arising from those deductions. This is achieved by allowing companies the choice of deferring the tax deductions until they can be offset against income resulting from the company's R&D expenditure. The amount not allocated is to be deducted in the year the relevant expenditure or depreciation loss is incurred. The new rules apply from the 2005/2006 income year.

FOREIGN TRUSTS

From 1 October 2006 New Zealand resident trustees of foreign trusts will be required to disclose certain information to the IRD and to keep financial and other records relating to the trust for New Zealand tax purposes. If a New Zealand resident trustee knowingly fails to comply with the new requirements the trustee will be subject to sanctions, including prosecution and, in certain circumstances, the foreign trust will be subjected to New Zealand tax on its worldwide income at 33% until the information that has been requested is provided to the IRD.

SECURITIES LENDING

New rules for transactions involving the lending for a fee of securities such as shares, units and bonds were enacted in March 2006. The rules are intended to bring the New Zealand treatment of such transactions into line with the international treatment and to remove barriers to the establishment of an onshore securities lending market.

Specific securities lending rules have been introduced to tax "qualifying" share lending transactions on the basis of economic substance rather than legal form and to change the imputation and non-resident withholding tax rules to ensure that non-qualifying share lending transactions do not give rise to an unintended fiscal cost.

TAXATION OF INVESTMENT INCOME

The New Zealand Government is proposing comprehensive reform of the rules governing the taxation of:

- Domestic equity investment via managed funds; and
- Offshore portfolio investment in equities.

The reforms are expected to be included in a bill to be introduced into Parliament in May 2006 and to be operative from 1 April 2007.

Under the proposals in respect of domestic equity investments, a pooled fund that qualifies as a "Qualifying Collective Investment Vehicle" (QCIV) will be able to elect into a new set of tax rules. QCIVs will not be subject to tax on domestic share gains and will be required to attribute dividends and interest to individual investors and deduct tax at source at each investor's elected tax rate.

In respect of offshore portfolio investments the Government is proposing to:

- Abolish the distinction between grey list and non-grey list countries, although the grey list concessions may remain for Australian investments.
- Tax investors on the change in market value of their offshore investments in all cases where there is a readily identifiable market value.
- Provide a capping mechanism which would operate to defer tax payable on gains in excess of 6% of the investment's value generally until the investor sells the offshore shares.
- Provide for a de minimis threshold of \$50,000 to apply to aggregate offshore portfolio investments held by a natural person, provided the companies in which the investments are held are listed on a recognised stock exchange and are in a country with which New Zealand has a double tax agreement.

KIWISAVER

The KiwiSaver Bill introduced into Parliament in February 2006 establishes a generic voluntary work-based savings scheme for employees.

KiwiSaver is expected to commence on 1 April 2007 which will coincide with the introduction of the new rules for the tax treatment of domestic equity investment through managed funds and for offshore portfolio investment in shares.

CLIMATE CHANGE

The New Zealand Government has decided not to introduce a carbon tax in 2007 as originally planned. It is considering other ways to ensure New Zealand meets its commitments under the Kyoto Protocol to reduce greenhouse gas emissions.

INTERNATIONAL FINANCIAL REPORTING STANDARDS

For financial statements covering periods beginning on or after 1 January 2007 it will be mandatory for New Zealand entities to adopt International Financial Reporting Standards (IFRS). Early adoption of the standards has been allowed from 1 January 2005. Entities which have adopted IFRS or are preparing to do so need to consider the tax implications of changes that arise under IFRS. These will differ from entity to entity.

DEPRECIATION

Legislation enacted in March 2006 makes significant changes to the depreciation rules.

It introduces a new method for calculating depreciation on shorter lived assets such as plant and equipment called the "double declining balance" method. Under the method an asset with an estimated useful life of 10 years gives rise to diminishing value (DV) depreciation deductions of 20% per annum i.e. double the straight line (SL) rate of 10% over the asset's 10 year life. The changes apply to assets acquired from 1 April 2005 (or in the case of late balance date taxpayers from the start of the 2005/2006 income year). Taxpayers have the option of continuing to depreciate assets purchased in 2005/2006 at the old rates.

The low value asset threshold at which the cost of an asset may be deducted immediately is increased from \$200 to \$500 for assets acquired after 19 May 2005.

The new rules reduce the depreciation rates for buildings and structures purchased on or after 19 May 2005, the date the legislation was introduced into Parliament.

FRINGE BENEFIT TAX (FBT)

The legislation enacted in March 2006 makes significant changes to the FBT rules.

From 1 April 2006 the rate of FBT payable on motor vehicles is reduced from 24% per annum (6% per quarter) to 20% (5% per quarter) where the taxable value of the fringe benefit (being the vehicle's availability for private use) is based on cost. Alternatively a taxpayer may elect to value the fringe benefit according to the book value of the vehicle, in which case the FBT rate is 36%. The treatment of leased vehicles is aligned with that of owned vehicles.

With effect from 1 April 2006 the minimum threshold for exempting low value benefits from FBT is increased from \$75 per employee per quarter and \$450 per employer per quarter to \$200 per employee per quarter and \$15,000 per employer per annum.

