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NEW ZEALAND TAX OVERVIEW

PERSONAL TAX:

BASIS – New Zealand tax resident persons are taxed on their worldwide income, with a foreign tax credit available for foreign income tax paid. The amount of the foreign tax credit available is the lesser of the New Zealand income tax payable or the amount of foreign tax paid. Conversely, non-residents of New Zealand are taxed only on New Zealand-sourced income.

RESIDENCE – A person is resident for New Zealand tax purposes if they have a permanent place of abode in New Zealand or has been in New Zealand for more than 183 days in any 12-month period. A person who is a resident for the first time (or who has been non-resident for more than 10 years) may qualify to be a transitional resident. In that case, the person will generally be taxable on only their New Zealand – sourced income and worldwide income from personal services for 48 months from the date they became resident.

TAXABLE INCOME – Tax is deducted at source for wage and salary earners. Most individuals are subject to pay-as-you-earn (PAYE) deductions from their employment income, and resident withholding taxes (RWT) on certain passive income. This eliminates the requirement to submit annual income tax returns. Taxpayers with other types of income, such as business income, certain capital gains and passive income are required to submit annual income tax returns.

DEDUCTIONS AND ALLOWANCES – Wage and salary earners are not generally permitted to claim deductions against employment income. Tax refunds may be claimed for charitable donations. For members of a partnership and sole traders not registered as companies (i.e. the self-employed), the same deductions apply as for corporate tax, except that FBT does not apply to benefits provided to the proprietor and the costs of providing the benefits are unlikely to be deductible.

RATES – Progressive rates up to 33% apply. There is no tax-free threshold.

CORPORATE TAX:

RESIDENCE – A company is resident if it is incorporated in New Zealand, control of the company by its director(s) is exercised in New Zealand, or its head office or center of management is in New Zealand.

BASIS – New Zealand resident companies are taxed on their worldwide income; non-resident companies are taxed only on income sourced in New Zealand.

TAXABLE INCOME – Taxable income is calculated by subtracting allowable deductions from assessable income.

TAX ON DIVIDENDS – New Zealand operates an imputation system under which the payment of company tax is imputed to shareholders. Shareholders are relieved of their tax liability on dividends to the extent profits have been taxed at the corporate level.

CAPITAL GAINS – There is no comprehensive capital gains tax regime in New Zealand*, although certain gains arising from profit-making schemes or undertakings and the disposal of personal property purchased with the intention of resale or for a business of dealing are taxable. Gains on the sale and transfer of land are taxable in certain cases and gains from the sale of residential property that is sold within five years (increased from two years for land acquired on or after 29 March 2018) of being purchased (with an exception for a family home) are taxable.

* The tax working group has recommended a broad based capital gains tax as at February 2019.

LOSSES – Losses may be carried forward indefinitely, subject to a 49% continuity of the ultimate shareholder.

TAX RATE – 28%

FOREIGN TAX CREDIT - A foreign tax credit may be allowed against New Zealand income tax applicable to foreign income. Any foreign tax credit is limited to the lesser of the actual foreign tax paid on the foreign income or the New Zealand tax applicable to that income.

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WITHHOLDING TAX:

DIVIDENDS – Dividends paid by New Zealand resident companies from profits already taxed at the corporate level may carry imputation credits for the tax paid. Dividends are referred to as 'fully imputed", 'partially imputed", or 'unimputed", depending on the extent to which a company has chosen to use its imputation credits. Dividends paid to a non-resident are subject to a 30% non-resident withholding tax (NRWT) to the extent they are not fully imputed. To the extent that dividends are fully imputed a 0% NRWT rate applies where the non-resident has a 10% or more voting interest in the company. In most other cases, the NRWT rate will be 15%. The RWT rate may be subject to further reduction under an applicable tax treaty.

Resident withholding tax (RWT) may be required to be withheld at source from certain types of dividend payments made to New Zealand resident taxpayers at a rate of 33%.

INTEREST – Interest paid to a non-resident is subject to 15% NRWT. This can be subject to further reduction under an applicable tax treaty. New Zealand also has an approved issuer levy (AIL) regime that allows an approved issuer to pay a 2% levy instead of NRWT in certain circumstances.

RWT may be required to be withheld at source from certain types of interest payments made to New Zealand resident taxpayers. The applicable rates are 10.5%, 17.5%, 28%, 30%, or 33%.

ROYALTIES – Royalties paid to a non-resident are subject to 15% NRWT. This may be subject to further reduction under an applicable tax treaty.

NON-RESIDENT CONTRACTORS' TAX (NRCT) - Payments made to a non-resident for services that have been performed in New Zealand, or for the use of personal property in New Zealand are subject to the 15% NRCT, withheld at source (subject to exemptions).

GOODS AND SERVICES TAX:

TAXABLE TRANSACTIONS – The Goods and Service Tax (GST) is a value-added or consumption tax for most goods and services consumed in New Zealand. GST is a broad-based tax applied to the total value of goods and services, including imported goods and, in some cases, imported services. Generally, financial transactions, residential property leases and residential property sales are exempt from GST. Exports are subject to GST, but at 0% (known as zero rated). This ensures that exporters can recover GST incurred on their costs. In addition, certain transfers of commercial land between GST-registered parties are zero-rated. GST applies to services and intangibles (including digital downloads) provided remotely by offshore suppliers to New Zealand resident consumers. Offshore suppliers of remote services to private consumers have a liability to register for New Zealand GST if supplies exceed the threshold of NZD 60,000 per 12 month period.

GST RATE – The standard rate is 15%, unless supplies are exempt or zero-rated.

REGISTRATION – Registration is compulsory where the value of supplies made in New Zealand exceeds NZD 60,000 over any 12-month period. Note that a person carrying on a business may register for GST on a voluntary basis.

FILING AND PAYMENT – GST returns must be filed monthly, bimonthly or every six months by each registered person, depending on the annual value of the supplies made. Generally, returns must be filed and GST paid by the 28th day of the month following the end of the taxable period.

OTHER TAXES ON CORPORATIONS:

RATES – Local authorities charge rates on land based on the government valuation of the land. The rates vary considerably from one location to another. The rates collected are used to fund local city services such as waste collection, local roads, the provision of parks, community facilities and activities.

KIWISAVER – An employer may be required to contribute a percentage of an employee's gross salary or wages to the KiwiSaver superannuation scheme.

OTHER – An employer is required to pay fringe benefits tax (FBT) on the value of benefits (e.g. motor vehicles and low-interest loans) provided to its employees. Accident compensation premiums, local government property rates, road tax and the employer superannuation contribution tax also may be payable.

There is no stamp duty or transfer tax in New Zealand.

INTERNATIONAL TAX & ANTI AVOIDANCE RULES:

TRANSFER PRICING – New Zealand's transfer pricing rules are set out in New Zealand legislation and align with the OECD transfer pricing guidelines. The rules are such that when a taxpayer correctly applies OECD transfer pricing guidelines and also demonstrates through documentation that its transfer pricing positions satisfy the arm's length principle, these tax positions should also meet the requirements of New Zealand's transfer pricing rules. However, New Zealand does differ from the OECD approach in some ways and advice should always be taken.

A new restricted transfer pricing rule applies to inbound cross-border related party debt between a non-resident lender and New Zealand borrower for income years beginning on or after 1 July 2018.

THIN CAPITALIZATION – Interest deductions claimed against New Zealand assessable income are limited where any entity's debt exceeds a certain allowable debt-to-assets ratio (debt percentage). For inbound companies, interest will be apportioned (and the deductible portion will be limited) where the debt percentage of the New Zealand group is more than 60% and exceeds 110% of the debt percentages of the worldwide group. Outbound companies have different thresholds. Interest will be apportioned if the debt percentages of the New Zealand group is more than 75% and exceeds 110% of the debt percentage of the worldwide group for outbound companies.

CONTROLLED FOREIGN COMPANIES (CFC) – Certain foreign income may be attributed to New Zealand resident shareholders. A foreign company is subject to the CFC rules when a group of five or fewer New Zealand residents have a controlling interest of over 50% in the company or, in certain circumstances, where a single New Zealand resident has a controlling interest of 40% or more or where there is a group of five or fewer New Zealand resident that effectively control the company's affairs. A CFC typically arises where a NZ resident has a business in their home country which they continue to hold the shares of after they move to New Zealand.

There are certain exemptions that can apply to CFCs.

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DISCLOSURE REQUIREMENTS – While it is best practice for all New Zealand taxpayers to keep and maintain adequate records, certain taxpayers are required to keep them. It is highly recommended that transfer pricing documents are prepared and retained. They should also be reviewed regularly. Such documents can be used as evidence of compliance with the arm's length principle.

There are a number of other disclosure requirements under certain regimes.

Note that the burden of proof in New Zealand in all civil tax matters sits with the taxpayer. It is for this reason that we highly recommend you seek advice in relation to your particular circumstances.

FOREIGN INVESTMENT FUND (FIF) – The FIF rules apply to investments in foreign entities where the control and income interest of the New Zealand resident shareholders are lower than the CFC thresholds. This typically arises when shares are held in overseas companies as part of an investment portfolio. Different methods are available to calculate attributable FIF income, depending on whether the investor has a portfolio (less than 10%) of a non-portfolio (between 10% and 50%) interest in the FIF.

ANTI-AVOIDANCE PROVISIONS – New Zealand's tax legislation contains specific anti-avoidance provisions that are supplemented by a general anti-avoidance rule (GAAR). The GARR operates as a 'back-stop" to protect New Zealand's tax base and can apply to arrangements that have the purpose or effect of avoiding tax.

There are also new anti-avoidance rules which apply in relation to international businesses and persons. These are part of a global movement to eliminate base erosion and profit shifting. Commonly referred to as BEPS

COMPLIANCE FOR INDIVIDUALS:

TAX YEAR – 1 April to 31 March

FILING AND PAYMENT – Tax on employment income is withheld by the employer under the PAYE system and remitted to Inland Revenue (IRD). Income not subject to PAYE is self-assessed, in which case the individual must file a tax return. Provisional tax (as discussed below) may be applicable when large amounts of untaxed income is received by an individual.

A tax return must be filed by 7 July that same year unless they are linked to a tax agency, in which case they are allowed up to 31 March the following year.

COMPLIANCE FOR CORPORATIONS:

TAX YEAR – The standard tax year is 1 April to 31 March. However, a company can apply to IRD to have a non-standard balance date in certain circumstances.

FILING REQUIREMENTS – The tax liability of a company is generally paid in three provisional tax installments during the year in which the income is earned. The date of which installments are due depends on the balance date of the entity. The amount payable depends on the taxpayer's income level in the previous year. For 'provisional taxpayers," payments must generally be made on the 28th day of the fifth, ninth, and 13th months after the start of the income year.

TAX ADMINISTRATION:

PENALTIES - A range of penalties and interest (known as use of money interest 'UOMI") may apply for failure to comply with tax laws, these are known as shortfall penalties. Shortfall penalties can be imposed as a percentage of a tax shortfall resulting from certain actions or behavior of taxpayers (e.g. for taking an unacceptable tax position, gross carelessness or for not taking reasonable care). Criminal penalties can be imposed for absolute liability, 'knowledge offenses," aiding and abetting, evasion and obstruction offenses.

UOMI is generally payable on over- and underpayments of taxes, at rates that encourage taxpayers to pay taxes on time. These rates are published on IRD's website, and are adjusted from time to time.

TAX POOLING - New Zealand legislation has a unique feature which allows taxpayers to buy their tax from groups known as 'tax pooling intermediaries" which can secure better rates for underpaid tax. This is a special feature of New Zealand tax law and can be particularly beneficial to seasonal businesses, businesses experiencing cash flow difficulties when tax is due (provisional or terminal), or when an unexpected tax bill arises.

RULINGS - The Commissioner of Inland Revenue may issue a binding ruling in respect of the application of tax legislation and how tax laws may apply to a particular arrangement. There are four types of rulings: public, private, product, and status.

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This document is a high level overview and is intended to be used for informational purposes only. It is not intended to be an exhaustive list of tax obligations in New Zealand. Trusts and foreign superannuation are two specific areas which have not been included due to them being very fact dependent. This document is not intended to replace specific tax advice. Content correct according to New Zealand law as at February 2019.