

New Zealand

Corporate Tax Guide

1. Jurisdiction

Parameters for Determining Income or Gain Subject to Corporate Income Tax

Companies resident in New Zealand are liable to New Zealand income tax on their worldwide income. Non-resident companies are liable to New Zealand income tax only on income that is derived from New Zealand.

This treatment may be modified by the provisions of an applicable double tax agreement (see Section 12).

A company is deemed to be tax resident under New Zealand's domestic law if it is incorporated in New Zealand, has its head office or its centre of management in New Zealand, or control of the company by its directors (or persons acting in that capacity) is exercised in New Zealand.

2. Major taxes on corporations

Corporate Income Tax

All companies are taxed at the same flat rate:

From the beginning of the 2008/09 income year the tax rates for both New Zealand resident companies and non-resident companies (branch) is 30%. Prior to that year the rate was 33%.

3. Organisations taxable as corporations

Principal Forms of Business Entities

Subject to Corporate Income Tax

For New Zealand income tax purposes, a "company" means any body corporate or other entity which has a legal personality or existence distinct from those of its members. This includes:

- limited liability companies
- unit trusts
- incorporated societies

Resident companies with five or fewer shareholders who are natural persons may elect to enter the

"qualifying company" regime whereby the companies are effectively treated as quasi-partnerships. The regime allows capital gains realised by a qualifying company to be distributed tax-free to shareholders without the need to liquidate the company. Losses can be attributed directly to shareholders. Various conditions regarding shareholders apply.

4. Taxable income of resident corporations

The Tax Base

Income tax is imposed on the taxable income of a company, which is calculated by deducting from assessable income all allowable deductions and any available net losses (losses brought forward or offset from group companies).

The assessable income of resident companies includes foreign and domestic income derived from all sources that is not exempt or excluded income.

New Zealand does not have a formal capital gains tax regime although capital gains may be taxed in limited circumstances, for example, in the case of gains arising from certain property transactions and from the disposal of certain financial instruments.

Losses and expenses are allowable deductions to the extent to which they are incurred in deriving assessable income or incurred in carrying on a business for that purpose, provided they are not of a capital or private or domestic nature or incurred in relation to deriving exempt income. Certain categories of entertainment expenditure are only 50% deductible.

There are prescribed regimes for the treatment of income and expenditure relating to financial arrangements and the attribution of income from certain foreign entities in which New Zealand residents have interests. There are special rules governing the timing of deductions for prepaid expenditure.

Dividends Received

From New Zealand Resident Companies

Dividends received from New Zealand resident companies are taxable, unless paid between members of a wholly-owned group who have the same tax balance date. The amount of taxable dividend includes any imputation credits attached.

From a Foreign Source

Dividends received from foreign companies are exempt from income tax but subject to a 33% foreign dividend withholding payment ("FDWP"). The FDWP liability is reduced by any foreign withholding tax paid in respect of the dividend and any underlying foreign tax credit and conduit tax relief available (see below).

A credit may be available against FDWP for underlying foreign taxes paid where the recipient company owns 10% or more of the foreign company. A full deemed 33% tax credit can generally be claimed where the dividend is received from a foreign company that is tax resident in a "grey list" country (being Australia, Canada, Germany, Japan, Norway, Spain, the United Kingdom, and the United States) and a "tracking account" has been maintained. In broad terms, the tracking account is a mechanism to measure the extent to which profits of the foreign investee company are fully tax paid on a basis that excludes tax preferences and is consistent with the basis of taxation in New Zealand. The underlying foreign tax credit benefit is reduced to reflect any concessions or tax preferences in the investee company's jurisdiction.

New Zealand provides "conduit tax relief" to New Zealand resident companies that have non-resident shareholders. In broad terms, this relief comprises a rebate against tax payable on income attributed to the New Zealand company under the international tax regime and a reduction in FDWP payable on foreign dividends received. The relief is proportionate to the level of non-resident shareholding.

A company in a tax loss position may elect to forfeit tax losses in lieu of paying FDWP or, alternatively, an election can be made to forfeit the tax losses of a fellow group company.

The FDWP paid results in a tax credit that can be attached to dividends paid to shareholders.

In the 2008 Budget the Government announced that it is proceeding with the introduction of an exemption from income tax for active income earned from offshore operations of New Zealand resident businesses which is common in a number of overseas jurisdictions. As a result most foreign dividends will be exempt from tax. This is expected to apply from the 2009-10 income year.

Deemed Dividends

Deemed dividends may arise from low-interest loans or other non-market transactions that transfer value from a company to its shareholders or to persons associated with its shareholders. The deemed dividend is derived by the shareholder or associated person who benefits from the transaction. The benefit is taxed as a dividend and is generally subject to the normal dividend rules.

Stock Dividends/Bonus Shares

Stock dividends/bonus shares issued out of the distributable reserves of a company can be treated as taxable or non-taxable at the option of the company. A taxable bonus issue is a dividend but gives rise to share capital for tax purposes that can be returned tax-free to shareholders. A non-taxable bonus issue is not a dividend but the subsequent return of the capital will be a dividend.

Depreciation

A depreciation deduction is allowed in respect of capital assets (including buildings and other improvements but not land) that decline in value when used, unless an election is made not to depreciate an asset. Tax depreciation is generally calculated on a straight-line or diminishing value basis at rates determined by the New Zealand Inland Revenue Department. Certain intangible property (excluding goodwill) is depreciable on a straight-line basis over the term of its legal life.

Assets with a cost of less than \$500 can generally be written off.

Typical depreciation rates for major asset categories are:

| | DV Rate % | SL Rate % |
|---------------------|--------------|--------------|
| Buildings | 3 | 2 |
| Plant and machinery | 9.6 – 48 | 7.2 – 36 |
| Motor vehicles | 36 | 25.2 |
| Office equipment | 9.6 – 80.4 | 7.2 – 80.4 |
| Computers | 60 | 48 |

Gains on the disposal of depreciable assets are taxable to the extent of any excess of the sale price over tax written-down value. However, any gain in excess of original cost is generally not taxable. Losses on disposal can generally be deducted except in the case of buildings (other than where the building has been irreparably damaged and rendered useless for the purpose of deriving income).

Financial Arrangements

Income and expenditure relating to financial arrangements is required to be calculated and returned in accordance with the financial arrangements rules. Financial arrangements are essentially any arrangements that involve a deferral of consideration and include bank accounts, loans, bonds and derivatives.

As a general rule, the income or expenditure is required to be recognised over the term of the financial arrangement on a yield-to-maturity or alternative basis. Unrealised foreign exchange gains and losses must generally be recognised.

Any forgiveness of debt will generally be taxable to the borrower.

Capital Gains

New Zealand does not have a formal capital gains tax regime. However, gains resulting from the disposal of real and personal property acquired for the purpose of resale or as part of a dealing business are subject to income tax at the normal rate. Land developers are similarly taxed but various exemptions may apply. Gains arising in the normal course of business are taxed as ordinary income.

Income Tax Losses

Tax losses can be carried forward without time limit provided there has been at least 49% continuity of voting and economic ownership interests in the company at all times from the beginning of the year

of loss to the end of the year of loss utilisation. Losses cannot be carried back. Ownership interests must generally be traced through interposed companies.

A company's tax losses can be offset against the net income of another company where there has been at least 66% commonality of shareholding from the beginning of the year of loss to the end of the year of offset. Provision also exists for part-year loss offsets where a change of shareholding occurs. A non-resident company with a permanent establishment in New Zealand may group its New Zealand source taxable income or losses.

International Tax Regimes Transfer Pricing

New Zealand's transfer pricing regime seeks to protect the integrity of the New Zealand tax base by ensuring that all cross-border transactions between associated parties are priced, for tax purposes, on an arm's-length basis.

In the case of charges made to a New Zealand company by its overseas parent or affiliate, the emphasis of the transfer pricing regime is to ensure that the charges are not excessive having regard to the services provided. Although there are no formal documentation requirements, documentation should be maintained to evidence the services provided, how the charge was calculated and its arm's length justification.

Thin Capitalisation

New Zealand's thin capitalisation rules may apply to deny interest deductions where a New Zealand taxpayer is controlled by a single non-resident entity and has a disproportionately high level of group debt funding. Broadly, the rules apply where the ratio of total interest-bearing debt to total assets for the New Zealand taxpayer exceeds 75% and also exceeds 110% of the worldwide group debt percentage.

Specific thin capitalisation rules apply to foreign-owned registered banks operating in New Zealand. In broad terms, the rules apply to deny interest deductions where a bank's New Zealand net equity is less than the prescribed level of required equity based on 4% of the bank's New Zealand risk-weighted exposures (assets weighted for risk).

Attributed Foreign Income

New Zealand residents holding interests in certain overseas entities may be subject to the controlled foreign company (“CFC”) and foreign investment fund (“FIF”) rules. Where applicable, these rules aim to tax the New Zealand resident on its share of the overseas entity’s underlying income either on the basis of actual earnings or by some arbitrary method.

A CFC is a foreign company, including a unit trust, in which:

- five or fewer New Zealand residents hold an aggregate interest exceeding 50%; or
- a single New Zealand resident holds an interest of 40% or more and a non-resident does not hold an equivalent or greater interest.

A FIF comprises an interest in a foreign company (that is not also a CFC), a foreign superannuation scheme or a foreign life insurance policy. There are various exemptions that can apply to provide full or partial relief from the FIF rules.

A general exemption from the CFC and FIF rules applies where an interest is held in a foreign company resident in a “grey list” jurisdiction and that company does not enjoy tax incentives or preferences in that jurisdiction. The “grey list” comprises Australia, Canada, Germany, Japan, Norway, Spain, the United Kingdom, and the United States.

End to FIF Grey List Exclusion – New “fair dividend rate method”

From 1 April 2007 the grey list has effectively been abolished and a fair dividend rate (“FDR”) method been introduced for all FIFs excluding those investments held in securities listed on the Australian Stock Exchange. Under the FDR method tax is paid on 5% on the opening market value of their opening market value of their investments each year. Under this method a taxpayer’s portfolio is treated as one rather than each individual parcel of shares being treated separately. For individuals and certain family trusts, if the total gain, dividends and unrealised capital gains, is less than 5% then tax is payable on this lower amount. If the investment makes a loss then no tax is payable. There is no deduction available for any loss.

In the 2008 Budget the Government announced that it is proceeding with the introduction of an exemption from income tax for active income earned from offshore operations of New Zealand resident businesses which is common in a number of overseas jurisdictions. This active income exemption will apply to all countries except Australia who retains the previous “grey list” exemption meaning that New Zealand businesses investing into Australia will not be faced with compliance costs associated with meeting the active business test.

Foreign Taxes

Foreign taxes paid in respect of income that is taxable in New Zealand may be credited against the company’s New Zealand tax liability, but only to the extent of the New Zealand tax payable on that income.

Consolidation Regime

Two or more resident companies that are 100% commonly owned may elect to be treated as a “consolidated group” for income tax purposes and be taxed as if they were one company. A consolidated group files a single tax return and is assessed and pays tax accordingly. Each company must elect to be jointly and severally liable for the income tax liability of the consolidated group.

The ability to ignore or defer the income tax consequences of transactions between consolidated group members is a significant advantage arising from the formation of a consolidated group. However, taxation consequences can arise when a member withdraws from the consolidated group (for example, where that member company is sold) or assets are subsequently transferred outside the consolidated group.

5. Taxation of non-resident corporations

Taxation of Registered Branch or Other Permanent Establishment

A non-resident company is subject to New Zealand income tax on business profits derived in New Zealand from the operation of a branch or other permanent establishment, subject to the operation of any relevant double tax agreement. The profits are taxed at the same rate as resident companies, 30% (33% prior to the 2008/09 income year). After-tax profits may be repatriated free of any further tax.

Film Rentals and Insurance Premiums

Film rentals and insurance premiums derived from New Zealand by a non-resident who does not operate a New Zealand branch are subject to tax at 30% based on deemed taxable income equal to 10% of the gross amount derived – an effective tax rate of 3.0%.

In the case of insurance premiums, the New Zealand payer is deemed to be an agent for the non-resident insurer and is required to submit an income tax return to the New Zealand Inland Revenue Department (“IRD”) and pay the resulting income tax liability.

Payments to Non-Resident Contractors

Payments made to a non-resident for services performed in New Zealand may be subject to non-resident contractors' withholding tax (“NRCWT”). The tax is deducted at a rate of 15%, although this increases to 20% (or 30% for non-corporates) if the non-resident is not registered with the IRD. NRCWT is an interim tax on account of the non-resident's annual income tax liability.

Exemption from NRCWT applies where the non-resident is eligible for total relief from New Zealand tax under a double tax agreement and is present in New Zealand for 92 days or less in a 12-month period. Exemption also applies where contract payments are NZ\$15,000 or less in a 12-month period. A certificate of exemption or a reduced rate certificate may be granted in other circumstances.

Taxation at Source of Investment Income Paid to Non-Residents

Non-resident withholding tax (“NRWT”) is imposed on dividends, interest and royalties derived from New Zealand by non-residents. The tax is deducted at the time of payment, including when an amount is credited to account.

The rates of non-resident withholding tax are as follows:

| | |
|------------------|--|
| Dividends | 30% (reducing to 15% if fully imputed, but see Section 8) |
| Interest | 15% |
| Royalties | 15% |

These rates may be reduced by an applicable double tax agreement (see Section 12).

NRWT is a final tax in the case of dividends, cultural royalties and interest paid to a non-associated person. Non-cultural royalties and interest paid to an associated person are subject to annual assessment. In this case, the NRWT is a minimum tax unless the non-resident's liability is limited by a double tax agreement.

Interest paid by an "approved issuer" to a non-associated overseas lender can, by election, be subject to a levy of 2% of the interest paid in lieu of NRWT.

6. Liquidations

Taxation of Liquidation Gains

On liquidation, any amounts distributed to the shareholders of a company in excess of its paid-up capital will generally be treated as a dividend, except for realised capital gains arising from transactions with unrelated persons and unrealised gains on capital assets distributed.

Taxation of Non-Resident Shareholders

Amounts distributed to non-resident shareholders upon liquidation that constitute dividends will be subject to the non-resident withholding tax rules (see Section 5). For this purpose, distributions of realised and unrealised capital gains to related corporate shareholders will be treated as dividends.

7. Reorganisations

Amalgamation/Merger

The tax consequences of the merger or reorganisation of entities is dependent upon the manner in which it is undertaken. As a general rule, assets must be transferred between group companies at market value, which may result in taxable income in the form of depreciation recovered or profits on the sale of trading stock.

Wholly-owned group companies that have elected to form a consolidated group can generally transfer assets between group members at tax book value and defer any tax consequences until either the transferee ceases to be a member of the consolidated group or the assets are otherwise transferred outside the consolidated group.

New Zealand company law provides for the statutory amalgamation or merger of two or more companies into one continuing company or a new company. An amalgamation of existing group companies can generally be undertaken without any adverse tax consequences, although care is required in the case of intra-group financial arrangements (such as loans) where the borrower is insolvent.

Where a merger takes the form of an exchange of shares, a key issue is often shareholder continuity and the ability to carry forward tax losses and/or imputation credits. Minimum shareholder continuity of 49% and 66% respectively is required.

Share Capital Reduction or Cancellation

New Zealand companies are generally able to repurchase their own shares. A distribution to shareholders upon the repurchase or other cancellation of shares is treated as a dividend unless certain conditions are met. Very broadly, the distribution must generally exceed 15% (reducing to 10% with Inland Revenue approval) of the market value of the company if it is made pro rata to all shareholders (or represent at least a 15% interest reduction if only paid to selected shareholders) and cannot be in lieu of a dividend. Where these criteria are met, the distribution will only be a dividend to the extent that the proceeds exceed the company's paid-up capital.

8. Taxation of shareholders (corporations and individuals)

Dividends Paid to Non-Resident Shareholders

Dividends paid to non-resident shareholders are subject to the deduction at source of a final non-resident withholding tax ("NRWT") of 30%. This rate generally reduces to 15% where a double tax agreement applies or where the dividend is fully imputed.

A foreign investor tax credit ("FITC") mechanism enables non-resident shareholders to receive dividends from New Zealand companies at a total effective underlying tax cost of 33%, being the New Zealand company tax rate.

The mechanism involves the New Zealand company paying overseas shareholders a supplementary dividend that wholly or partly funds the NRWT

obligation in respect of both the ordinary and supplementary dividends. An amount equivalent to the NRWT is credited against the income tax liability of the company paying the dividend.

The FITC rules place non-resident shareholders in the same cash position as resident shareholders by effectively allowing them to benefit from the imputation credits attached to dividends.

Dividends Paid to Resident Shareholders

Dividends paid to New Zealand resident shareholders by companies resident in New Zealand are subject to the deduction at source of resident withholding tax ("RWT") of 33%, reduced by any imputation and withholding payment credits attached to the dividend. RWT is not required to be deducted from dividends paid to group companies or where the shareholder provides a certificate of exemption.

Dividend Imputation System

The imputation system allows New Zealand resident companies to pass on income tax paid at the company level to resident shareholders in the form of a tax credit ("imputation credit") attached to dividends. Non-resident shareholders may also benefit by application of the FITC rules described above.

Resident companies are obliged to establish and maintain an imputation credit account ("ICA") and file an annual imputation return. The ICA records the New Zealand tax paid by the company, less imputation credits attached to dividends paid. Anti-avoidance rules exist to prevent trafficking in imputation credits and other perceived abuses.

Capital Gains Realised by Non-Residents

Gains derived by non-residents from the sale of shares in New Zealand companies will not normally be subject to New Zealand income tax unless the shares were acquired for resale or were realised as part of a business that includes dealing in shares. The provisions of any applicable double tax agreement must be considered.

Taxation of Domestic Shareholders of Foreign Corporations

Foreign dividends received by resident companies are exempt from income tax but subject to a 33% foreign dividend withholding payment (“FDWP”). The FDWP liability is reduced by any foreign withholding tax paid in respect of the dividend and any underlying foreign tax credit and conduit tax relief available (see Section 4 for further details). Foreign dividends received by resident individuals and trusts are taxed at normal income tax rates.

A New Zealand shareholder of a foreign company may be required to attribute income under the controlled foreign company (“CFC”) or foreign investment fund (“FIF”) rules, unless the foreign company is resident in a grey list jurisdiction or another exemption applies (see Section 4 for details). Various options are available to calculate the attributed income. An imputation-type system also exists to prevent the double taxation of attributed income and dividends paid out of that income.

Gains derived by New Zealand residents from the sale of shares in foreign companies are not ordinarily taxable in New Zealand unless the shares were acquired for resale or were realised as part of a business that includes dealing in shares. Gains arising on the sale of shares that constitute FIFs can be taxed as part of FIF income depending upon the calculation method used.

Reforms are proposed in relation to the taxation of offshore portfolio investments whereby investors will be taxed on distributions and unrealised gains or losses, with some exceptions (see Section 4).

9. Returns

Taxable Period and Filing Requirements

The New Zealand tax year ends on 31 March and this is the standard balance date for tax purposes. An alternative balance date can be obtained in limited circumstances, which include the alignment of the balance date with that of an overseas parent company, or where the nature of the business activity is seasonal and an alternative balance date reflects a natural conclusion of the annual business cycle.

New Zealand operates a self-assessment regime whereby taxpayers file an annual tax return and self-assess the tax liability for the year. In preparing the return, the taxpayer calculates the amount of any tax payment outstanding after allowing for tax credits and any provisional tax paid.

The filing date for a company’s tax return is generally 4 months after the end of an accounting period. This may be extended to 31 March following the normal due date where the company has appointed a tax agent.

Payment Dates and Advance Payments

Companies are generally required to make four income tax payments for a year: three instalments of provisional tax paid in advance and a final terminal tax payment.

Provisional Tax

Provisional tax obligations arise where a taxpayer’s residual income tax (“RIT”) in the previous tax year exceeds NZ\$2,500. In general terms, RIT is the total tax liability for the year less taxes deducted at source (PAYE, RWT and withholding taxes). Non-resident contractors liable to deductions of NRCWT are not subject to provisional tax.

Provisional tax is generally based upon 105% of the prior year RIT and is payable in three equal instalments that are due on the 7th day of the fourth, eighth and twelfth months of the tax year. For example, in the case of a standard 31 March balance date, provisional tax is due on 7 July, 7 November and 7 March.

From 1 April 2008 will be able to pay provisional tax on a turnover basis derived from their GST returns but it is not expected that this will be widely used.

From 1 April 2008 the payment dates will change to the 28th of the following month e.g. Provisional tax previously due on 7 July will now become payable on 28 August, provisional tax previously due on 7 November will be due on 15 January (to take account of the Christmas break) and the instalment previously due on 7 March will be due on 7 May (to take account of the Easter Break and practitioners workloads).

Terminal Tax

The due date for payment of terminal tax varies according to the taxpayer's balance date. The due date applying to balance dates ending in the months of March to September inclusive is 7 February following year-end. For example, terminal tax in respect of the year ended 31 March 2006 is normally due on 7 February 2007. For taxpayers with other balance dates, terminal tax is due on the 7th of the eleventh month following year-end. For example, a 31 December balance date taxpayer has a terminal tax due date of 7 November in the following year.

Where the taxpayer is registered with a tax agent, the due date for payment of terminal tax is extended by a further two months (e.g. from 7 February to 7 April).

Use of Money Interest

Use of money interest ("UOMI") is payable to and by Inland Revenue on under and overpayments of provisional tax at each installment date. For this purpose, the actual tax liability for the year is deemed to be due in three equal instalments. UOMI is calculated on a simple interest basis and is tax-deductible where paid by a company and assessable if paid by Inland Revenue. The present rates of UOMI are 6.6%% in respect of overpayments and 14.24% in respect of underpayments.

Amended Assessments

Inland Revenue can amend an assessment to increase the amount of income tax payable within four years after the end of the year in which the tax return is filed. There is no time limit on amending an assessment where the taxpayer omits all mention of an item of income or files a tax return that is fraudulent or wilfully misleading.

10. Investment incentives

New Zealand has negligible tax or financial incentives designed to assist the development of business as, generally, Government policy is to avoid advantaging particular businesses or industry sectors in preference to others. However, where there is perceived benefit to New Zealand in proposed commercial and industrial initiatives, Government will assist in facilitating any regulatory processes that may be a pre-requisite to the implementation of such initiatives.

However from the 2008/09 income year New Zealand has a Research and Development Credit

scheme whereby a 15% tax credit will be available to businesses that carry on R&D activities. A minimum of \$20,000 of expenditure is required before the credit is available.

To qualify for the credit, the activity must be "systematic, investigative and experimental. They must seek to resolve either scientific or technological uncertainty, or involve an appreciable element of novelty and be directed at acquiring new knowledge or creating new or improved products or processes."

11. Other significant taxes

Goods and Services Tax ("GST") Tax Base

GST is a tax imposed on final private consumption in New Zealand. It is levied at a rate of 12.5% on virtually all supplies of goods and services with limited exemptions; notable exemptions are financial services (such as the issue and sale of debt instruments and equities), salaries and wages, and the provision of residential accommodation.

GST is imposed at each stage of the production and distribution process leading to private consumption; meaning that GST is imposed in respect of business to business transactions. However, businesses registered for GST can claim an input tax credit for GST paid on supplies acquired for the purposes of the business.

Transactions with non-residents that involve the export of goods and services are generally zero-rated (imposition of GST at 0%). Imported goods are subject to GST on importation which is collected by New Zealand Customs. New Zealand recipients of imported services must self-assess GST in certain situations.

The supply of financial services by a financial services provider to a GST registered business customer who has a predominant activity of making taxable supplies, can be zero-rated (imposition of GST at 0%).

The Government introduced in 2005 a limited regime for the zero-rating of financial services to businesses. Presently, the exempt nature of financial services means that businesses suffer the cost of GST paid by financial services suppliers and that outcome is inconsistent with the broad policy intent.

Registration

Registration for GST is mandatory if supplies of taxable goods or services exceed NZ\$40,000 in any twelve month period. Voluntary registration is permitted, enabling businesses making annual taxable supplies below the NZ\$40,000 threshold to obtain GST refunds in respect of supplies received from other GST-registered businesses.

Returns

GST returns are filed on a one-monthly, two-monthly, or six-monthly basis according to taxpayer requirements and annual turnover. A one-month return basis is mandatory where taxable supplies exceed NZ\$24 million per annum.

Taxpayers may also file on either an invoice (accruals) or cash basis. The invoice basis is mandatory where the annual value of taxable supplies exceeds NZ\$1.3 million.

Other Taxes

- Fringe benefit tax (“FBT”) is payable by employers on most non-cash benefits provided to employees. FBT is a tax deductible expense. The rate of FBT varies from 49% to 64% depending on the type of benefit provided to an employee and the level of remuneration the employee earns in an income year.
- accident compensation levies are imposed on employers and employees based on employee earnings. The levies provide personal accident insurance cover for employees for loss of earnings as a result of workplace and recreational injury and disability. The levy payable by employees for the 2006-07 year is 1.3% (inclusive of GST) and is capped at annual earnings of NZ\$96,619 (for the 2005-06 year the levy was 1.2% capped at \$94,226). The levy payable by employers varies according to the type of business activity.
- Gift duty is imposed in respect of dispositions of property for inadequate consideration. From a practical viewpoint, this is unlikely to apply to companies.

12. Tax treaties and withholding tax rates

Modification of Tax Principles by Treaty

Tax treaties modify the general principles of taxation described herein and have been concluded with the countries listed in the table below.

In all instances it is necessary to review the individual double tax agreement as the base rates of taxation shown below may vary depending on a particular fact scenario.

Withholding Tax Rates

| Treaty Country | Royalties % | Interest % | Dividends % |
|----------------------|----------------|---------------|----------------|
| Australia | 10 | 10 | 15 |
| Belgium | 10 | 10 | 15 |
| Canada | 15 | 15 | 15 |
| Chile | 10 | 10 or 15 | 15 |
| China | 10 | 10 | 15 |
| Denmark | 10 | 10 | 15 |
| Fiji | 15 | 10 | 15 |
| Finland | 10 | 10 | 15 |
| France | 10 | 10 | 15 |
| Germany | 10 | 10 | 15 |
| India | 10 | 10 | 15 |
| Indonesia | 15 | 10 | 15 |
| Ireland | 10 | 10 | 15 |
| Italy | 10 | 10 | 15 |
| Japan | 15* | 15* | 15 |
| Korea | 10 | 10 | 15 |
| Malaysia | 15 | 15 | 15 |
| Netherlands | 10 | 10 | 15 |
| Norway | 10 | 10 | 15 |
| Philippines | 15 | 15 | 15 |
| Poland | 10 | 10 | 15 |
| Russian Federation | 10 | 10 | 15 |
| Singapore | 15 | 15 | 15 |
| South Africa | 10 | 10 | 15 |
| Spain | 10 | 10 | 15 |
| Sweden | 10 | 10 | 15 |
| Switzerland | 10 | 10 | 15 |
| Taiwan | 10 | 10 | 15 |
| Thailand | 10 or 15 | 10 or 15 | 15 |
| United Arab Emirates | 10 | 10 | 15 |
| United Kingdom | 10 | 10 | 15 |
| United States | 10 | 10 | 15 |

* This is the domestic withholding tax rate, as there is no relevant treaty article.

13. Corporate tax calculation

The following is an example of a typical corporate tax calculation:

| | \$ |
|--|-----------------|
| Net accounting surplus | 100,000 |
| <i>Plus</i> | |
| Non-deductible entertainment expenditure | 3,000 |
| Non-deductible legal fees | 5,000 |
| Increase in provisions | |
| (doubtful debts, holiday pay) | 10,000 |
| Accounting depreciation | <u>25,000</u> |
| | 43,000 |
| <i>Less</i> | |
| Exempt foreign dividends | 50,000 |
| Tax depreciation | <u>20,000</u> |
| | <u>(70,000)</u> |
| Net income | 73,000 |
| Losses brought forward | <u>(13,000)</u> |
| Taxable income | <u>60,000</u> |
| Tax at 33% | 19,800 |
| Less provisional tax paid | <u>(15,000)</u> |
| Terminal tax to pay | <u>4,800</u> |

14. Superannuation

New Zealand does not have a compulsory superannuation scheme as such but has introduced a “voluntary” scheme that begins on 1 July 2007. Automatic registration will occur for new employees from that date (unless they opt out within 8 weeks). The government will tip-in \$1,000 as an initial contribution, make a contribution to fees of the fund, and enable some mortgage diversion and first home grant ability. The contribution is either 4% or 8% of gross wages.

Once a person opts into Kiwisaver, they are in it for life (a point not often recognised) although there are limited opportunities to defer contributions and even more limited opportunities to withdraw funds. Permanent emigration overseas remains one of the few opportunities to opt out once a person is in. In order to enhance the desirability of the scheme the government has offered the following “incentives”:

- employer contributions which match employee contributions (capped to 4%) will be exempt from specified superannuation contribution withholding tax (SSCWT).
- a further tax credit to employees matching dollar for dollar their contribution up to \$20 per week (\$1,040 per annum), effective from 1 July 2007.
- employers will be required to contribute where an employee is a Kiwisaver contributor. At a maximum of the employee contributions, it will start at 1% of gross wages in the 2008/9 year (from 1 April 2008), rising by 1% each year until a maximum of 4% is achieved. To compensate employers they will receive up to \$20 per week (\$1,040). This tax credit will be available to employers through the PAYE regime, minimising cash flow issues.

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