



New Zealand's plan to ensure multinationals pay their fair share of tax

Base erosion and profit shifting (BEPS) tax strategies allow multinationals to exploit gaps and discrepancies in tax rules to shift their profits to foreign countries where tax rates are lower.

New Zealand has been working with the OECD and G20 to develop a co-ordinated global solution to address BEPS. In October 2015, the OECD released an [international action plan](#) to help achieve this.

This fact sheet summarises the changes New Zealand is planning to make to address BEPS based on the OECD action plan, as well as the significant steps we have already taken as part of this global effort.

We want to ensure that all profits earned in New Zealand incur tax in New Zealand. This means that:

- all revenue earned in New Zealand should be reported; and
- any deductions from revenue should reflect actual costs of production, and not be designed to reduce tax.

It will often be legitimate for a New Zealand subsidiary to make payments to a foreign parent – such as when it is importing goods from the parent.

However, we need to ensure the amount of these payments is appropriate, and not designed to shift profits away from New Zealand to reduce or eliminate a company's tax liability.

Other BEPS strategies take advantage of international tax rules that are still grounded in a bricks and mortar, rather than a digital economy.

New Zealand's international tax rules are already sound. However, there are always areas for improvement and further changes are in the pipeline. This work broadly falls into three categories:

1. Making tax law more robust
2. Increasing international cooperation
3. Improving transparency and exchange of information.

1. Making tax law more robust

New Zealand has already...

- Reformed controlled foreign company rules, by closing gaps and repealing eight country-based exemptions for non-active subsidiaries, as well as putting limits on interest costs that could be deducted in relation to outbound investment.
- Strengthened the thin capitalisation rules to reduce the amount of debt a foreign-controlled entity can have before interest deductions will be disallowed. The rules were also widened to capture more foreign ownership structures.
- Introduced the bank minimum equity rules that limit interest deductions taken by foreign-owned New Zealand banks by requiring them to have minimum amount of capital.
- Removed the foreign dividend exemption for deductible foreign equity, removing an opportunity for tax arbitrage between New Zealand and other jurisdictions.
- Eliminated the conduit regime which allowed New Zealand subsidiaries controlled by foreign shareholders to flow foreign income through New Zealand without paying any New Zealand tax.

Further changes in the pipeline

- From 1 October, GST will apply to cross border services – including e-books, music, videos and software purchased from overseas websites.
- Limiting the use of look-through companies as conduit vehicles – that is, New Zealand companies used by non-residents to invest in foreign markets to generate income that is not taxable in New Zealand. This was included in the May 2016 *Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill*.
- The May 2016 tax Bill also strengthened non-resident withholding tax rules and clarified that New Zealand's general anti-avoidance rule may override the application of tax treaties.
- Introducing hybrid mismatch rules, which prevent companies avoiding tax by structuring their businesses or financing arrangements to take advantage of differences between New Zealand's rules and the rules of other countries. New Zealand will soon consult on proposed changes.
- Consultation in 2016 on strengthening the interest limitation rules, which will further limit the ability of multinationals to strip profits out of New Zealand through excessive interest payments.

2. Increasing international cooperation

New Zealand has already...

- Entered into bilateral tax treaties and tax information exchange agreements with over 50 countries.

- Signed the Convention on Mutual Administrative Assistance in Tax Matters in order to increase the exchange of tax information with the 93 other signatories.

Further changes in the pipeline

- New Zealand intends to sign-up to the OECD's Multilateral Instrument which strengthens the international rule for whether a business has a taxable presence in a country, introduces a treaty anti-abuse rule and provides for new dispute resolution/arbitration procedures.
- New Zealand will apply the strengthened OECD Transfer Pricing Guidelines, which determine how much of a multi-national's profit should be taxed in a particular jurisdiction.

3. Improving transparency and exchange of information

New Zealand has already...

- Introduced an International Questionnaire for 292 foreign-owned companies to collect further information about financing, debt and transfer pricing to help enforce current rules.
- Implemented FATCA measures to collect and exchange information from financial institutions about investments by US citizens in New Zealand.
- Begun exchanging information with foreign tax administrators on taxpayer-specific rulings on cross-border activities that could give rise to BEPS concerns.

Further changes in the pipeline

- The Government will soon issue a formal response to John Shewan's independent inquiry into the disclosure requirements for foreign trusts.
- Automatically exchange a non-resident's investment information internationally, limiting the ability of non-residents to hide assets offshore to evade tax obligations. This is much like FATCA, but not limited to the US.
- Requiring large multinationals to prepare country-by-country reports, including the allocation of income and taxes paid. This will be shared with other tax authorities to give a full picture of a company's activities in all countries.

As part of this work it is important to balance the need for our international tax laws to be robust, with the need to ensure that taxes do not unduly discourage foreign investment. The draft officials' paper, [New Zealand's taxation framework for inbound investment](#) outlines New Zealand's approach to taxing investment into New Zealand and sets out our policy framework for considering this trade-off.