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New Zealand

New Zealand's changing international tax rules and relationships

What's next?

The international tax landscape has undergone substantial renovation in a number of countries since the OECD released its final recommendations to address Base Erosion and Profit Shifting ("BEPS") late last year. And, for many countries, attention has quickly turned to implementation.

In New Zealand, both the Government and Inland Revenue support the OECD's final recommendations. However, to date, public announcements have been limited about the actions New Zealand has taken, and continues to take, as part of the global BEPS effort.

On June 27, 2016, the Government released several papers¹ outlining New Zealand's BEPS implementation strategy.

On the same day, the Government also released a report following a review of New Zealand's foreign trust rules undertaken by tax expert and former PwC Chairman, John Shewan.

Key Things you Need to Know

1. The Government intends to consult on hybrid mismatch and interest limitation rules in August/ September this year. Draft legislation could be introduced in March 2017. These timeframes are ambitious, and suggest that the Government is keen to ensure New Zealand does not fall behind its main trading partners on these issues. Taxpayers should consider the potential impact of any changes to their New Zealand operations upon release of the consultation papers.
2. While the papers state that the Government will review diverted profits tax regimes introduced in other countries (namely the United Kingdom and Australia), recent comments made by Prime Minister John Key to the media suggest this is unlikely to be implemented under the current government. Instead, attention should be directed towards the Government's commitment to work closely with the OECD to give effect to multilateral rather than unilateral solutions.
3. The announcement that the Government may make legislative changes to facilitate implementation of the revised OECD Transfer Pricing Guidelines confirms Inland Revenue fully supports the OECD's focus on 'substance' in relation to multinationals' operating models and transfer pricing arrangements. While we are already observing this focus during Inland Revenue reviews, we anticipate legis-

lative changes will be required to give full effect to the revised OECD transfer pricing analysis. In New Zealand, both the Government and Inland Revenue support the OECD's final recommendations. However, to date, public announcements have been limited about actions New Zealand has taken, and continues to take, as part of the global BEPS effort.

4. New Zealand's support of the OECD recommendations has been indicated by the Government's signals to sign up to the multilateral instrument to modify its tax treaties in December this year and by Inland Revenue's implementation of several key measures to improve transparency. However, we note that no announcements have been made with respect to mandating New Zealand transfer pricing documentation (although there is already a clear expectation from Inland Revenue that documentation should be prepared). Arguably, with many other countries moving to compulsory documentation initiatives in line with the OECD's recommendations, the Government and Inland Revenue will have to consider whether New Zealand is at risk of not being prioritized by multinationals whose focus will be on those jurisdictions where they see the most compliance risk.
5. John Shewan's independent inquiry into the disclosure requirements for foreign trusts produced a number of recommendations that would greatly increase the amount of information that foreign trusts make available. These recommendations considered strengthening regulations regarding the initial registration of foreign trusts, allowing regulatory agencies to search the register and requiring foreign trusts to file a detailed annual return. On July 13, 2016, in response to the release of the independent inquiry report, the Government released a statement advising that it was going to act on all recommendations from the Shewan inquiry into foreign trust disclosure rules (with a few tweaks to the way in which some are to be implemented).²
6. New Zealand's implementation strategy indicates that Inland Revenue will be dedicating significant resources to consider and implement a number of changes. In our view, this will also require Inland Revenue to make substantial additional personnel available to adequately administer such changes in the future.

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NOTES

¹ <http://taxpolicy.ird.govt.nz/news/2016-06-27-foreign-trust-inquiry-recommendations-and-beps-papers-released>

² <http://taxpolicy.ird.govt.nz/news/2016-07-13-governments-response-shewan-inquiry-recommendations>