Tax Tips

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New tax bill introduced

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On 6 April 2017, the Government introduced the [Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Bill] (the Bill). A key focus of the Bill is the implantation of the next steps in Inland Revenue's business transformation programme, being:

- the better administration of PAYE, and
- the provision of investment income information to Inland Revenue.

Both sets of proposals have been through the consultation process previously and therefore do not come as a surprise.

In this article, we consider these key proposals and comment on some of the proposed changes that relate to other policy matters.

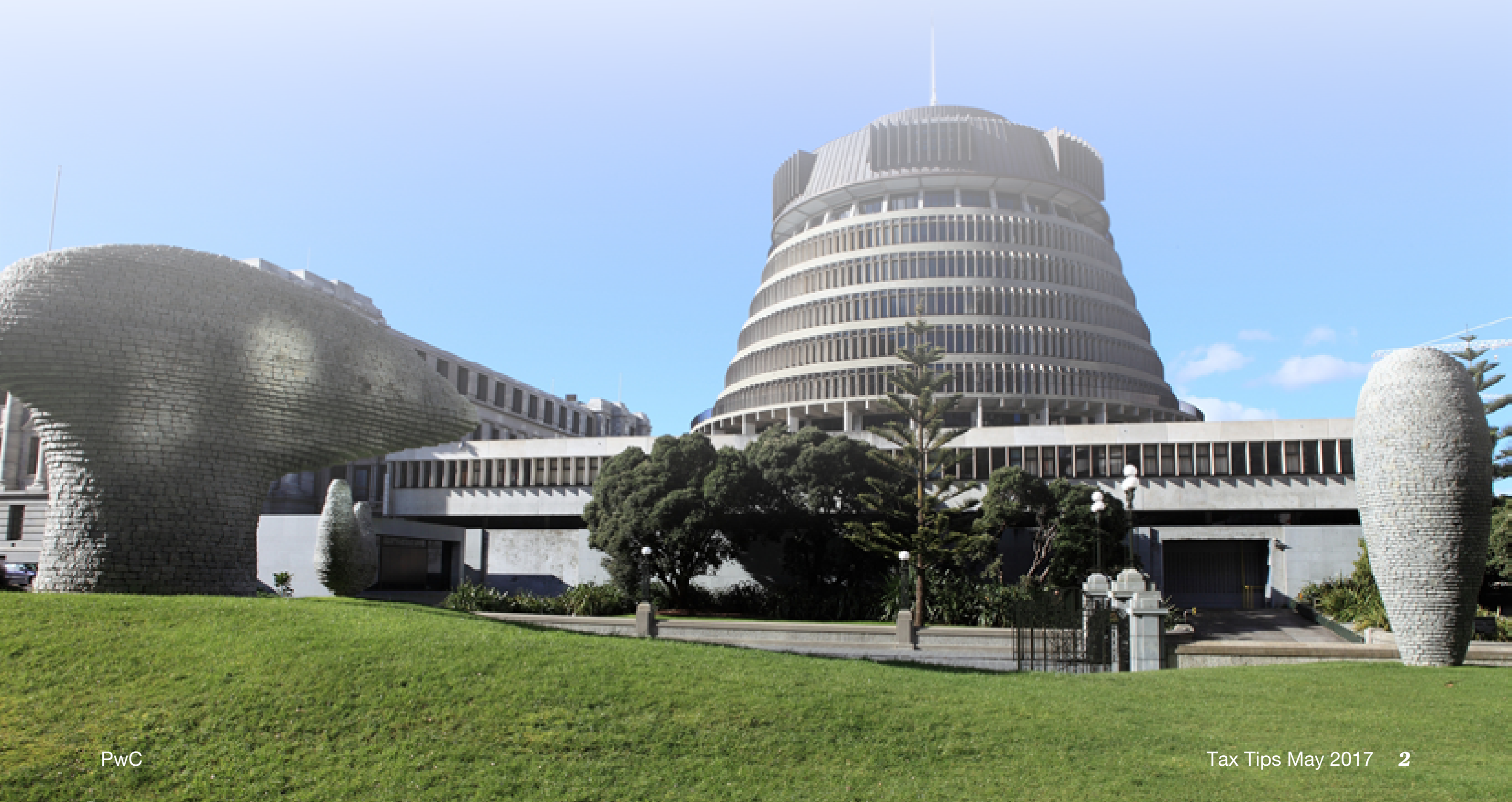
We note that the other key proposal contained in the Bill relates to the taxation of employee share schemes. We discussed the key aspects of these proposals in our [Tax Tips Alert: April 2017].

The deadline for submissions on the Bill will be set once the Bill has passed its first reading and has been referred to the FEC. Please contact us if you would like to discuss the proposed legislation or make a submission.

Better administration of PAYE

The central change to the administration of PAYE is the 'payday' provision of employment income information. The current monthly filing of Employer Monthly Schedules and Employer Deduction forms will be done away with and a new schedule will be required to be remitted to Inland Revenue on a 'payday' basis. Further, there are also proposals relating to the provision of employee information to Inland Revenue directly from the employer's payroll system.

The proposed changes present a significant change in payroll reporting and will affect all employers. While the rules will not be mandatory to apply until 1 April 2019 (although employers can choose to apply them from 1 April 2018), there is extensive work to be done by payroll providers, Inland Revenue, and payroll practitioners to ensure the relevant systems and checks are in place well before 'go-live'.



Pay day filing

The proposed new rules establish four employer groups. The group an employer falls into will determine whether they are required to file electronically.

The default group is the "Online Group". Employers in the Online Group will be required to provide payroll information to Inland Revenue in electronic form, and using a prescribed form of electronic communication, within two working days following payday.

The intention is that filing with Inland Revenue will form part of the business's existing pay cycle procedure. Ideally, the employers will deliver this information from within their payroll system, or alternatively through myIR.

However, as this will not be practicable or possible for all employers, the proposed rules provide three other groups:

- The Threshold Group – employers below a threshold of PAYE and ESCT withheld in a previous year and who do not use payroll software
- The Electronic Exempt Group – employers who are unable to access suitable digital services may be exempted by the Commissioner
- The New Group – new employers are afforded a transitional period before they are required to start filing electronically.

While an employer is in one of the above three groups, they are able to deliver their employment information in a non-electronic format and within seven working days after pay day.

Payment dates remained unchanged

The rules propose that employers will be able to remit PAYE (and related deductions) on a payday basis if they so choose. However, this is optional, and the employer will still be able to remit payment as they currently do so now (either once or twice monthly).

Employee information

The proposed rules also modernise and simplify the requirements for setting up new employees with Inland Revenue.

Ideally, employers will be able to (although not required to) send employee details to Inland Revenue prior to the employee first being paid. The intention is that Inland Revenue will be able to verify this information in "near real-time" to mitigate subsequent errors such as tax codes and deductions applicable.

Further, rather than having to send two paper forms to Inland Revenue (IR330 and KS2), it is intended that employees will be able to remit this information electronically into their employer's payroll system. The employer can then pass this on to Inland Revenue directly from the payroll system.

When employees cease employment with the employer, it is intended that the employer will also be able to advise Inland Revenue in a timely matter. This should enable Inland Revenue to delink the former employee and employer so that the employer does not receive information about former employees.

Repeal of subsidy for PAYE intermediaries

The Bill proposes to repeal the current subsidy available to PAYE intermediaries who assume PAYE obligations for employers who are required to remit PAYE monthly. The subsidy will no longer be available from 1 April 2018. If enacted, employers can still continue to transfer their PAYE and ESCT obligations to a PAYE intermediary but the use of the intermediary's services will no longer be subsidised.

Investment income

The changes proposed in respect of investment income are focussed on:

- ensuring that Inland Revenue receives detailed information in a useful time frame, and
- ensuring that investment and PIE income is linked to individual tax payers.

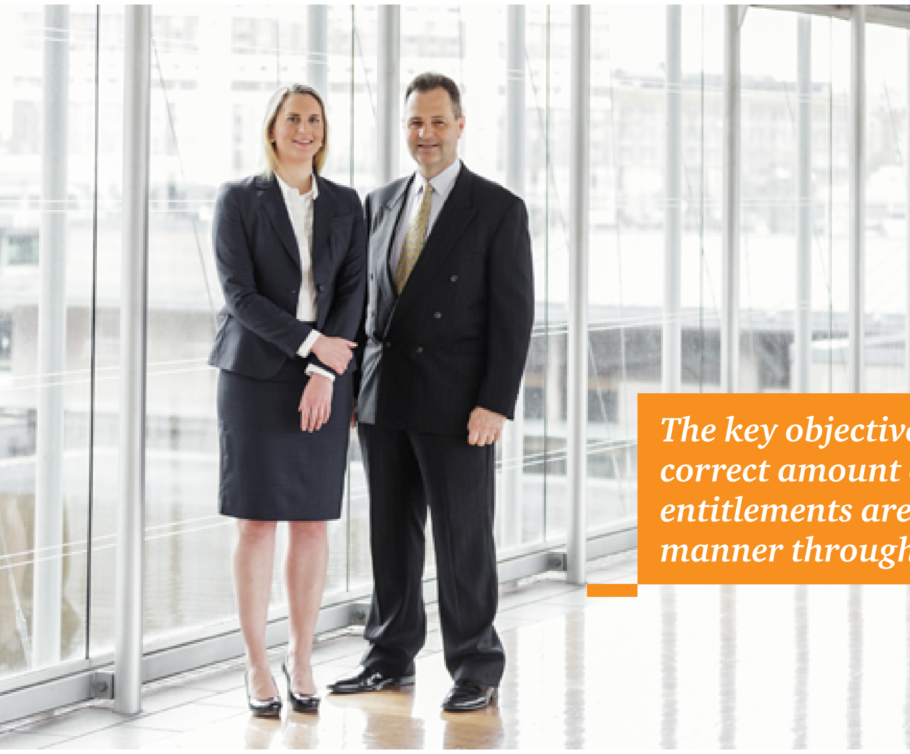
Both of these will enable Inland Revenue to better assess whether taxpayers are receiving the appropriate level of social policy entitlements (e.g. Working for Families entitlements) and meeting their social policy obligations (e.g. Student Loan and Child Support payments).

The proposed changes continue the modernisation of the New Zealand tax administration system and the move to a more real time basis. The key objective is to ensure the correct amount of tax and social policy entitlements are paid in a more accurate manner throughout the year.

We briefly set out some of the key proposed changes below:

- Payers of interest, dividends and taxable Māori authority distributions are to provide investment income information to Inland Revenue monthly.
- Payers of interest, dividends and taxable Māori authority distributions who are exempt from withholding are to report investment income information yearly by 20 April (but have the option to do so monthly).
- Multi-rate PIEs (excluding superannuation funds or retirement schemes) will be required to report detailed information to Inland Revenue by 15 May (rather than the current 31 May).
- Expanding the scope of information required to be remitted to Inland Revenue. This will include information such as the customer's contact details and date of birth.
- Requiring all investment income payers to remit their investment income information electronically to Inland Revenue. Payers will be able to apply to the Commissioner for an exemption from electronic filing.
- Changing the non-declaration rate in respect of interest income to 45% where a taxpayer has not provided their IRD number. We note that there are no proposed changes to apply this rate to dividends and taxable Māori authority distributions.
- Requiring investors in multi-rate PIEs to provide their IRD number within six weeks of becoming a member of the PIE. Failing this, the member's account with the PIE will be closed.
- The creation of an electronic register maintained by Inland Revenue of persons with RWT-exempt status (currently those persons "having an RWT exemption certificate"). Customers will notify their investment provider of their exemption, and the investment provider will be able to verify this against the register maintained by Inland Revenue.

For the majority of the proposed changes, the application dates will be from 1 April 2020. However, if enacted, the requirement of investors in multi-rate PIEs to provide their IRD number will come into force from 1 April 2018.

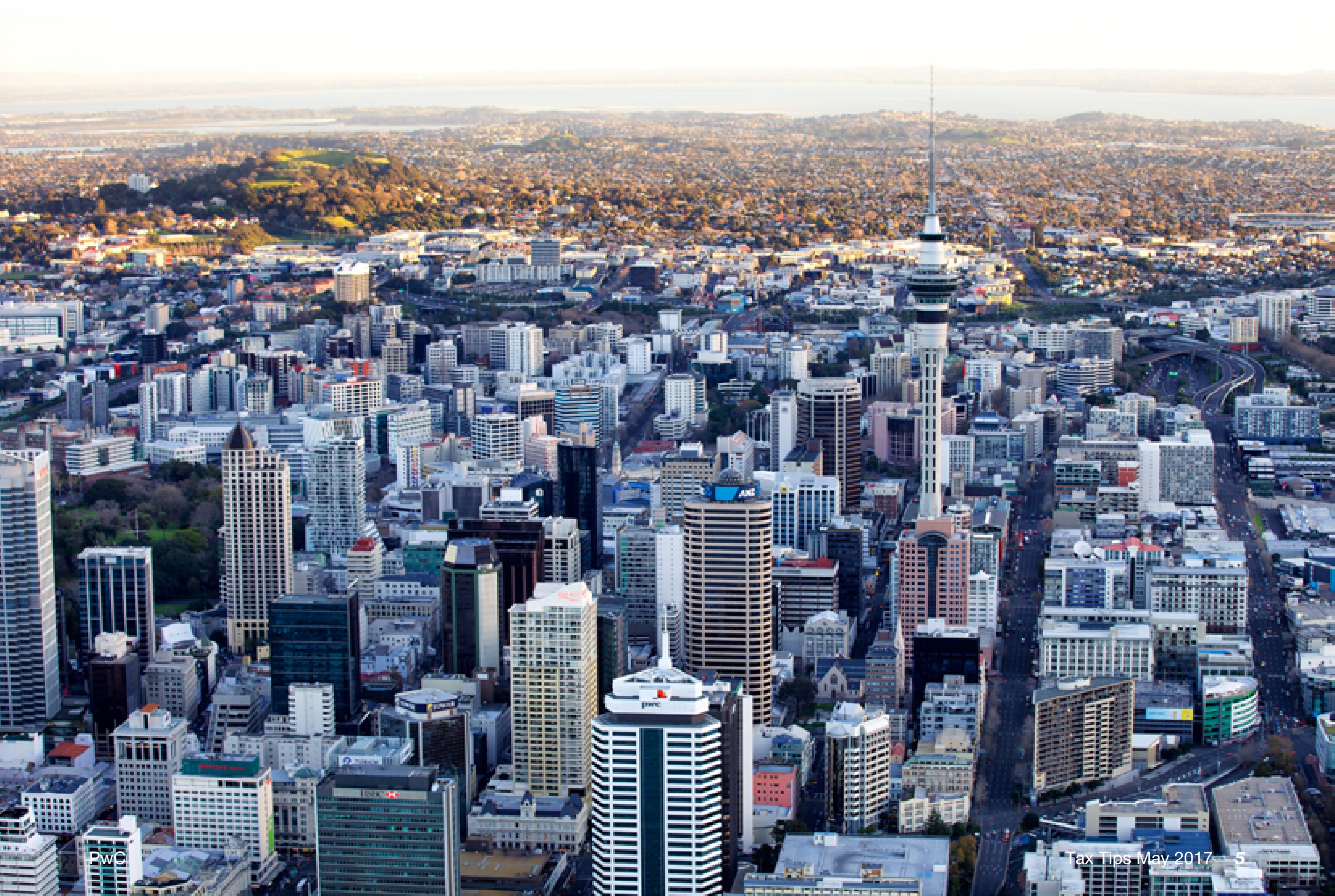


The key objective is to ensure the correct amount of tax and social policy entitlements are paid in a more accurate manner throughout the year.

Other policy matters

The Bill also contains a number of other policy changes including:

- A proposed amendment to give the Commissioner discretion to issue IRD numbers in cases where there is no New Zealand bank account but the Commissioner is satisfied with the applicant's identity. This change is intended to address the practical issues that have historically arisen due to the "functional bank account" requirement currently imposed on offshore persons applying for an IRD number.
- Amendments to the dividend rules so that certain transfers of shares received by New Zealand shareholders as a result of a company demerger by a listed Australian company are not treated as a dividend. The proposed change is targeted to address a specific area of concern, and is therefore intentionally narrow in scope. A more thorough review of these rules needs to be undertaken as part of the Government's tax policy work programme.
- A proposed amendment to replace the spread-back mechanism for deducting petroleum mining decommissioning costs with a refundable credit.
- The introduction of a general rule to distinguish between a trustee's personal or body corporate capacity and their separate trustee capacity (to address the potential overreach of the associated persons rules as a result of the Concepts 124 and Staithes decisions).



Further guidance on key tax changes enacted in recent Act

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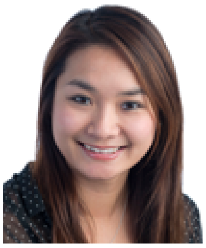

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Following the enactment of the *Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Act 2017* (the Act), Inland Revenue has published three special reports providing guidance on the application of the key areas of change:

- *NRWT: Related party and branch lending*
- *Closely held companies*
- *GST and services connected with land*

Several of the enacted amendments differ from those that were initially proposed when the *Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Bill* (the Bill) was first introduced to Parliament. The changes were made following public consultation and submissions to the Finance and Expenditure Select Committee (FEC).

In this Tax Tips, we discuss the key features of the new legislation in its final form.

Changes to the NRWT rules for related party debt

The changes to the non-resident withholding tax (NRWT) and approved issuer levy (AIL) rules are intended to address Inland Revenue's concerns about the application of the rules to ensure there is a level playing field for taxpayers to whom these rules apply (or are intended to apply).

More specifically, the amendments are intended to:

- ensure that the NRWT liability arising on interest on related party debt is better aligned to the income tax deduction available to the New Zealand borrower for that interest
- re-define which funding arrangements will be viewed as related party debt for the purposes of applying the NRWT and AIL rules, and
- confirm the availability of AIL for related party borrowing by New Zealand banks.

It would be timely for New Zealand businesses to review any related party borrowing to determine whether the new rules apply. Please contact your PwC adviser if you have any questions or would like to discuss the new rules in more detail.

Aligning NRWT liabilities and financial arrangements expenditure

Generally, the amendments to align the NRWT liability only apply in respect of financial arrangements between:

- borrowers that are New Zealand residents (or non-residents carrying on business in New Zealand through a branch), and
- lenders that are non-resident associated persons (other than where the financial arrangement is held through a New Zealand branch of the lender).

Previously, NRWT liabilities could differ depending on the particular type of financial arrangement that was used. Specifically, there can be a significant deferral in the payment of NRWT for instruments that accrue interest when compared to those that require payment of interest throughout the life of the loan. This is because NRWT is only payable when the interest is paid. However, this treatment is not mirrored in the income tax treatment for the borrower and the borrower is able to deduct the interest costs on an accrual basis (i.e. a deduction is available irrespective of whether the interest is actually paid to the lender).

The Special Report compares the tax treatment between an ordinary loan and a zero-coupon bond and highlights the timing benefit that is available for the zero-coupon bond. In the case of the zero-coupon bond, the interest is only accrued and not paid thereby deferring the payment of NRWT even though a deduction for that accrued interest remains available to the borrower in the same manner as an ordinary loan.

The new rules remove this mismatch for associated party borrowing. In broad terms, the new rules will require New Zealand borrowers who have received funding from an associated non-resident to calculate the ratio of interest payments made by the resident to which NRWT has applied as a percentage of the deductions claimed by the borrower in respect of this funding under the financial arrangements rules (referred to as the deferral calculation).

Where interest payments are less than 90% of the New Zealand borrower's deductions for financial arrangement expenditure, the borrower will be required to pay NRWT on an amount calculated by reference to the deductions being claimed in New Zealand. That amount is referred to as non-resident financial arrangement income (NRFAI).

This deferral calculation is required to be performed at the end of the second and subsequent year following the issue of the financial arrangement to determine if NRFAI arises. Where a New Zealand borrower is party to a financial arrangement that spans the enactment date then, in certain circumstances, the deferral calculation can be used to defer pre-enactment NRWT obligations until the arrangement is ultimately settled. Taxpayers may find this mechanism useful in situations where the payment of pre-enactment deferred NRWT results in a material cash cost.

These amendments include a de minimis threshold. A New Zealand borrower will not have an NRWT obligation in respect of related party debt where financial arrangement expenditure incurred by the borrower (together with financial arrangements expenditure incurred by related entities with 66% or greater common ownership) in the previous year was less than $40,000.

Extension of related party debt concept

The amendments also extend the funding arrangements that will be considered related party debt for the purposes of the NRWT and AIL rules. Specifically, the amendments explicitly exclude from the AIL rules:

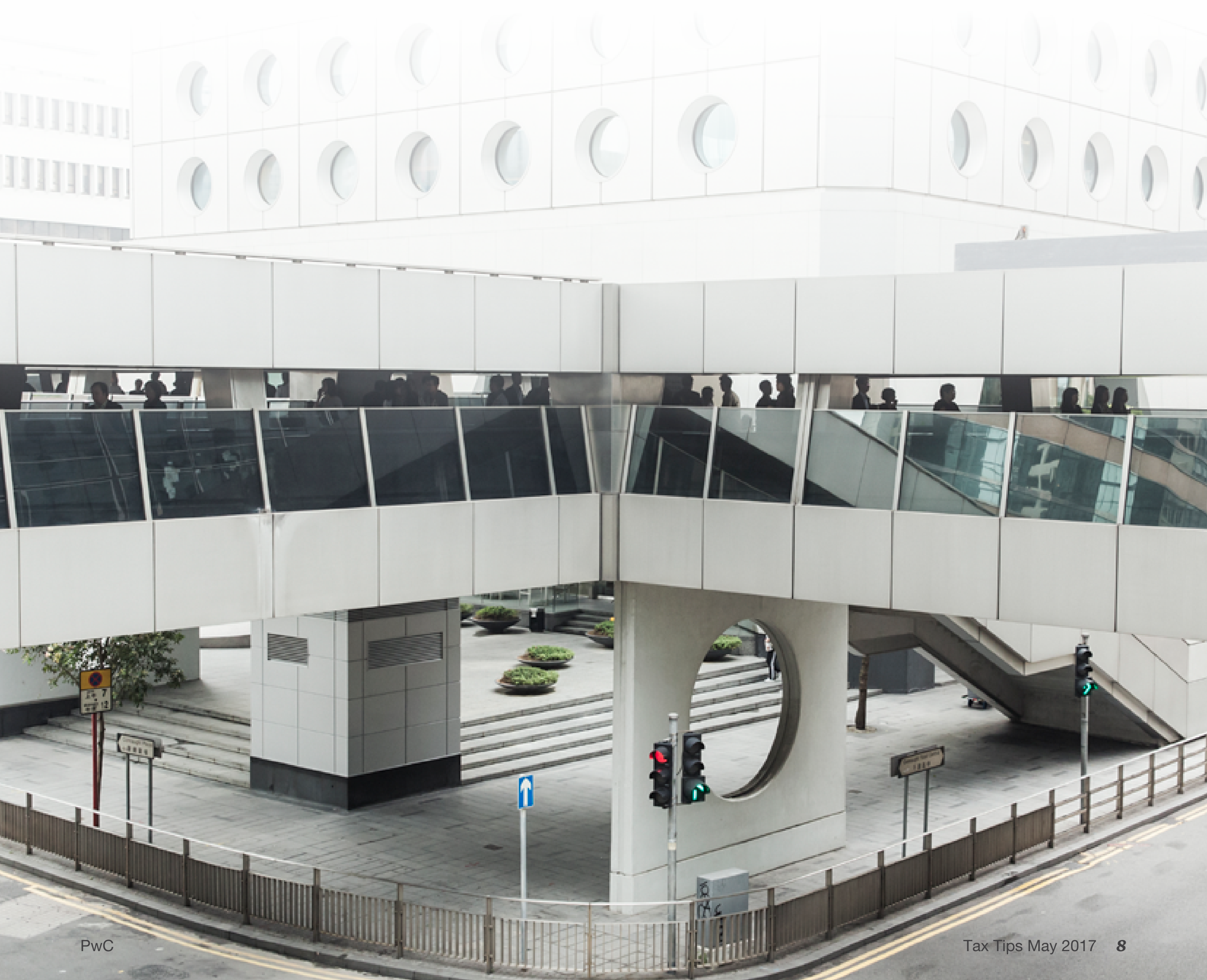
- arrangements entered into with the purpose or effect that funds are indirectly provided to a New Zealand borrower from an associated non-resident (e.g. through a back-to-back arrangement with a third party), and
- arrangements where funding is provided by a member of a non-resident owning body.

For the purposes of these amendments, the concept of a non-resident owning body is the same as that which applies in respect of the thin capitalisation rules. Broadly, a non-resident owning body is a group of non-resident owners "who act together" to exercise control over the decisions of the New Zealand borrower.

Application date

The new rules apply to every financial arrangement entered into after the date of enactment i.e. 30 March 2017. However, the deferral calculation is only required to be performed at the end of the second year following the issuance of the financial arrangement.

In relation to existing financial arrangements, where a taxpayer has a balance date between 30 March 2017 and 30 September 2017, the rules apply to existing arrangements from the start of the 2017-18 income year. Where a taxpayer has a balance date between 1 October and 29 March 2018, the rules apply to existing arrangements from the start of the 2018-19 income year.



Proposals on the AIL registration process

When first introduced, draft legislation proposed various restrictions on securities that will be able to be registered for AIL. These were stated as being aimed at reducing the risk that borrowers will pay AIL (rather than NRWT) on interest payments to non-residents that they were in fact associated with.

However, these proposals were abandoned and were not included in the Act as the FEC felt the proposals would impose compliance costs on many borrowers who are already compliant with the rules.

Branch lending changes

The Act makes several amendments to the NRWT rules and the source rules to the effect that interest payments from a New Zealand resident borrower (or branch of a non-resident) to a non-resident lender will be subject to NRWT or AIL irrespective of whether that funding is channeled through a branch or an entity that has a branch. This is achieved by significantly restricting the application of the onshore and offshore exemptions that exist in relation to NRWT and AIL.

Offshore branch exemption

Changes to the source rules will mean that interest payments from an offshore branch of a New Zealand borrower to a non-resident lender will be treated as having a source in New Zealand, and will therefore be subject to NRWT or AIL(as applicable), where the offshore branch lends those funds to New Zealand residents. This rule is subject to a de minimis threshold such that it will not apply where assets deriving New Zealand sourced income are less than 5% or greater than 95% of the offshore branch's total assets.

A grand-parenting period of five income years post-enactment will apply for payments to offshore branches under existing arrangements. Otherwise, the new rules apply from the date of enactment.

Onshore branch exemption

Changes to the NRWT rules mean that NRWT or AIL applies to an interest payment from a New Zealand resident (or branch of a non-resident) to a non-resident with a New Zealand branch unless the interest is derived by that New Zealand branch. However, these changes do not apply to a New Zealand borrower paying interest to a third-party non-resident that has a New Zealand branch holding a banking license.

A grand-parenting period of five years applies to payments made under existing arrangements:

- where a New Zealand borrower is paying interest to a third party borrower, or
- whether the New Zealand borrower is a bank or a securitisation vehicle that meets certain requirements.

Otherwise, the new rules apply to all interest payments made after the date of enactment.

Onshore notional loans

In addition, the Act introduces an NRWT or AIL liability (as applicable) on notional interest expenses of a New Zealand branch of a non-resident bank where such interest expense is claimed as a deduction by the New Zealand branch.

A grand-parenting period applies for a period of two years in respect of existing arrangements.

Closely-held companies

The Act contains several proposals relevant for closely held companies including ordinary companies, look through companies (LTCs) and qualifying companies (QCs).

The key proposals

Entities affected	Key proposal
LTCs	Stricter eligibility for LTCs owned by trusts
	Excluding charities and Maori authorities from being shareholders in LTCs or beneficiaries of trusts that own shares in LTCs (other than grand-parented structures that existed prior to introduction of the Bill (2 May 2016)
	On entry into the LTC regime, untaxed revenue reserves will be taxed at shareholders' marginal tax rates, rather than the current 28% company rate
	Restricting the ability of LTCs controlled by non-residents to earn foreign-sourced income
	Narrowing the application of the deduction limitation rule
	Allowing companies with more than one share class to qualify as an LTC
	Clarifying when debt remission income arises for an LTC shareholder
Qualifying companies (QCs)	Existing QCs will be allowed to continue but will lose QC status upon a change of control
Other companies	Tainted capital gains rules narrowed
	RWT simplification for dividends
	Shareholder salaries could be subject to a combination of PAYE and provisional tax

LTC eligibility

The final design of the LTC proposals remains largely the same as when the Bill was first introduced into Parliament. However, the Act does differ in some ways, which we outline below.

Existing LTCs need to carefully consider the changes to the eligibility criteria. In particular, any trustee shareholders of an LTC needs to review and monitor their distribution policies on an ongoing basis to ensure future distributions do not cause the LTC to breach the counted owners test.

From now on, we consider that LTCs will become a less attractive ownership structure in many cases, and will likely only be an option for companies with a small group of owners, the make-up of which is not expected to change in the future.

Trust beneficiaries counted as LTC owners

Generally, an LTC may have only five or fewer owners. Previously, a trustee shareholder counted as a single owner for these purposes. This has been amended so that each beneficiary of the trust that has received a distribution from the trust within the current and preceding three years will be treated as a counted owner. This is irrespective of whether the distributions are from funds sourced from the LTC or not, and irrespective of whether the distributions are of beneficiary income, trustee income, capital gains, or corpus.

A transitional rule ensures that this amendment only applies prospectively.

Existing LTCs need to carefully consider the changes to the eligibility criteria. In particular, any trustee shareholders of an LTC needs to review and monitor their distribution policies on an ongoing basis to ensure future distributions do not cause the LTC to breach the counted owners test.

Corporate beneficiaries

An LTC with a trustee shareholder will lose its LTC status if the trust makes a distribution to a corporate beneficiary.

Relaxation of rule that LTCs only have one class of shares

Previously, LTCs were required to have only one class of shares. However, it is now possible for LTCs to have multiple classes of shares, provided that all shares have the same right to distributions from the LTC.

Māori authorities and charities as LTC owners

Charities and Māori authorities are now precluded from being LTC owners either directly or indirectly through a trust.

However, a distribution from an LTC, or a trustee shareholder, to charities will be permitted where such distribution is a genuine gift and the charity exercises no influence over the LTC (or shareholder trust).

The restriction does not apply to "grand-parented" Māori authorities and charities that held ownership interests in LTCs as at the date the Bill was introduced into Parliament. This represents a change from the position adopted in the initial Bill, which only included a grand-parenting concession for Māori authorities

Restriction on foreign-controlled LTCs from deriving foreign income

The foreign income that a foreign-owned LTC (i.e. an LTC that is more than 50% owned by non-residents) can earn annually will be limited to the greater of $10,000 or 20% of the LTC's gross income.

This change only applies to foreign-owned LTCs. There are no restrictions on the ability of New Zealand owned LTCs to earn foreign income.

Transitional rule for LTCs losing eligibility

A particular focus of submissions was that (other than grand-parenting rules in respect of Māori authorities) initial proposals did not contain any transitional rules for existing LTCs that lost this status as a result of the new eligibility criteria introduced by the Act.

In the absence of a concession, upon exiting the LTC regime owners would have been deemed to have disposed and reacquired at market their proportionate share of the company's underlying assets and be required to pay any resulting tax at their marginal rates. For example, tax would have been payable on any depreciation recovery income from fixed assets, gains on revenue account property, and financial arrangement income from debt instruments. These tax liabilities could have caused cash flow issues for owners.

As a result of the submission process, the Act now includes a transitional rule that will allow LTCs losing eligibility as a result of these amendments to transition into a company with the same tax position it had as an LTC. That is to say, assets are treated as being transferred at book value, and the company is treated as having acquired those assets on the same day and with the same intention as the LTC.

As a result of the submission process, the Act now includes a transitional rule that will allow LTCs losing eligibility as a result of these amendments to transition into a company with the same tax position it had as an LTC.

Deemed income for shareholders on entry into the LTC regime

Prior to the introduction of these amendments, capital reserves of a company entering into the LTC regime were subject to tax on entry at the company tax rate (with an allowance for imputation credits available to the company).

In certain circumstances, where a company's owners had marginal tax rates higher than the company tax rate, application of this company rate provided an incentive to enter into the LTC regime prior to distributing these capital reserves.

However, from the 2017-18 and later income years, the entry tax will be calculated by reference to the marginal tax rates of the LTC owners (again with an allowance for imputation credits available to the company).

Deduction limitation rule for LTCs

Previously a deduction limitation rule operated to limit an LTC owner's LTC deductions to the economic amount they have at risk in the business. This operated in a similar way as the limitation that applies in respect of limited partnerships.

This rule has been removed for most LTCs on the basis that the rule creates compliance costs that outweigh the benefit of the rule. The rule is retained for LTCs that carry on business through a partnership or joint venture on the basis that this structure could be used as an alternative to a limited partnership and could be potentially widely-held. The limitation rule that applies to limited partnerships should therefore continue to apply in these circumstances.

Further, deductions that were previously restricted and carried forward will be available from the 2017-18 and later income years to be offset against the LTC owner's other income from that income year onwards.

Remission of debt owed by LTC to owner

Where debt owed by a borrower is remitted, this remission will typically give rise to an income tax liability to the borrower, equal to the amount of the debt remitted.

However, where the debt owed by an LTC to an owner is remitted, because LTCs are transparent for tax purposes, the owner is taxed on this debt remission income, despite the fact that they have made an economic loss overall (being the debt that the LTC is unable to repay to them),

To prevent this outcome, the Act provides that debt remission does not arise for an LTC owner (or a partnership) where the LTC of the partnership owes the debt to them.

Tainted capital gains

Capital gains can usually be distributed tax free to New Zealand shareholders on liquidation of a company. However, distributions of capital gains derived by a company from a sale of an asset to an associated person will often be treated as taxable dividends on liquidation. The future tax liability on such "tainted capital gains" is often overlooked at the time of sale and taxpayers get caught out during liquidation of the company.

The Act significantly narrows the scope of the tainted capital gains rules.

The new rules only apply to gains arising on inter-company sales of assets where:

- the companies have at least 85% common ownership at the time of disposal, and
- the company acquiring the asset still retains at least an 85% interest in the asset at the time of liquidation.

This means the tainted capital gains rule will no longer apply to:

- asset sales from a company to a non-corporate associated person,
- asset sales from a company to another company which is less than 85% commonly owned, and
- an asset sale between companies with 85% or greater common ownership provided the asset (or more than a 15% interest in the asset) is sold to a third party prior to each company being liquidated.

The proposed changes apply to distributions made on or after 30 March 2017. In the light of these changes, there is an opportunity for taxpayers to revisit their corporate structures and identify any related party gains not caught by the revised tainted capital gains rule that can be distributed tax-free on liquidation.

RWT simplification for dividends

RWT on fully imputed intercompany dividends

RWT is required to be withheld on dividends (other than inter-company dividends paid within a wholly-owned group) at a rate of 33% (with an allowance for any imputation credits attached). Even where dividends are fully imputed, this will require an additional 5% RWT to be withheld. Where dividends are paid to a corporate shareholder, this additional 5% RWT represents an initial over-taxation of these dividends.

A new rule allows companies to opt out of this RWT requirement in respect of fully imputed dividend paid to corporate shareholders. Previously, RWT was imposed, even from fully imputed dividends, at a rate of 33%.

The new rule applies from 30 March 2017.

Concurrent cash and non-cash dividends

A new rule allows cash and non-cash dividend paid concurrently to be treated as a single dividend for RWT provided the cash dividend is equal to or greater than the amount of RWT payable.

This rule applies from 30 March 2017.

Back-dated dividends to clear shareholder current accounts

A new rule confirms the ability of taxpayers to backdate dividends to clear an overdrawn shareholder current account and prevent deemed dividends (or the need to charge interest on that account) from arising.

Shareholder salaries and PAYE

A new rule provides that, in certain circumstances, shareholder-employees of close companies have the option of splitting their earnings so that a base amount of salary is subject to PAYE while an additional variable amount is subject to provisional tax.

Previously, amounts derived by shareholder-employees could only be subject to PAYE or provisional tax, but not both.

In order to treat a part of earnings as not subject to PAYE, the shareholder-employee will have to meet one of the following requirements:

- the shareholder-employee does not derive salary or wages of a regular amount for regular pay periods of one month or less,
- less than 66% of the shareholder-employee's annual gross income is salary or wages, or
- an amount is paid to them as income that may later be allocated to them as an employee for the income year.

There is an opportunity for taxpayers to revisit their corporate structures and identify any related party gains not caught by the revised tainted capital gains rule that can be distributed tax-free on liquidation.

GST and services connected to land

The Act introduces new rules expanding the application of GST to a variety of services that may be provided to non-residents outside of New Zealand in relation to land in New Zealand.

Under existing legislation, such services would only be chargeable with GST where the services were supplied "directly in connection" with New Zealand land. Otherwise, they would typically be zero-rated for tax purposes.

In the light of New Zealand case law that has considered this direct connection test, Inland Revenue was concerned that a variety of professional services provided in relation to land in New Zealand (such as architectural, real estate, and legal services) were potentially excluded from being subject to GST and that this was an inappropriate policy outcome.

From 1 April 2017, a broader range of services supplied in relation to land in New Zealand will be chargeable with GST. Specifically, GST will apply to services supplied in connection with land in New Zealand which are "intended to enable or assist a change in the physical condition, or ownership or other legal status of the land." The requirement that the connection be direct has been dropped for such services.

There is a corresponding change to the rules applicable to supplies of services made in relation to land outside New Zealand. Currently, such services will be zero-rated where the services are supplied directly in connection with land.

- From 1 April 2017, supplies made in connection with land outside New Zealand which are "intended to enable or assist a change in the physical condition, or ownership or other legal status of the land" will be zero-rated for GST purposes. This is irrespective of the residency or location of the recipient of the supply.
- The Special Report on the GST changes provides examples of services that might be supplied in connection with land, and how they might be expected to be treated for GST purposes. We reproduce this table below.

Type of services	Examples	GST treatment
Intended to enable or assist a change in the physical condition of land	• Construction • Earthworks	Covered by the existing "directly in connection" test
	• Architectural services • Engineering • Construction supervision	Covered by the new test
Intended to enable or assist a change in the ownership or other legal status of land	• Real estate services • Legal services, for example conveyancing • Valuation services • Advertising or marketing services	Covered by the new test
General services not connected to a specific piece of land	• Valuation services for the general property market • General legal services, for example advice on the tax implications of investing in land	Not covered by the new test

[1] In particular Malololailai Interval Holidays New Zealand Ltd v Commissioner of Inland Revenue (1997) 18 NZTC 13,137 and Wilson & Horton Ltd v Commissioner of Inland Revenue (1994) 16 NZTC 11,080.

Prosperity or peril: Australian Federal Budget 2017-2018

On 9 May, the Australian Treasurer delivered the 2017-18 Federal Budget. Although there were no major surprises, the Treasurer did announce an unexpectedly high number of tax measures including the announcement of a major bank levy, personal tax increases, and a litany of measures to improve housing affordability in Australia, combat multinational tax avoidance and clamp down on the black economy.

Summary of measures relevant to New Zealand businesses

- The Australian Government remains committed to lowering the corporate tax rate to 25% for all companies over next 10 years.
- Australia will adopt the majority of the OECD's recommendations from its work on anti-hybrid measures from the later of 1 January 2018 or six months after the relevant legislation is enacted.
- The multinational anti-avoidance law (MAAL) will be extended to target structures involving:
  - (1) the interposition of partnerships with foreign resident partners
  - (2) Australian trusts with foreign resident trusts, and
  - (3) foreign trusts that temporarily have management and control in Australia.
- For small business entities with annual turnover of less than $10 million, the $20,000 immediate write-off of depreciable assets will be made available through to 30 June 2018

PwC Australia's *full analysis of the Federal Budget* is available on our website.

Australia will adopt the majority of the OECD's recommendations from its work on anti-hybrid measures from the later of 1 January 2018 or six months after the relevant legislation is enacted.

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