



Inland Revenue
Te Tari Taake

Multinational Enterprises

COMPLIANCE FOCUS



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Contributing to New Zealand

To maintain a healthy economy and society New Zealand needs to be an attractive place to do business. Inland Revenue's shift to a more open and strategic approach to tax compliance is supporting business to get it right from the start and contribute to New Zealand.

In the last few years Inland Revenue has placed an increased level of scrutiny on the tax practices of multinationals. I'm pleased we have found nearly all businesses open and willing to engage with us positively, and proud to contribute to New Zealand. Indeed, multinationals are major contributors. The 600 largest taxpayer groups, whose tax affairs we review every year, contribute more than \$6 billion tax to NZ annually.

But this is no time to rest on our laurels. Internationally there are serious challenges in collecting tax from multinationals. New Zealand needs to play our part in addressing that. And while I am confident that most are paying the tax they should in New Zealand, the public appears less convinced. We each need to conduct ourselves in a way to correct that misperception.

So being transparent about our expectations, how we apply international best practice, and compliance risks that raise red flags is important to Inland Revenue.

Global attention on Base Erosion and Profit Shifting ("BEPS") is still centre stage. Addressing BEPS requires an international effort, and New Zealand is contributing to thinking and action in this regard. We will continue to work closely with you as we implement agreed changes from the OECD action plan on BEPS, and tailor future changes to New Zealand conditions.

The next few years are among the most important in Inland Revenue's history as we continue to modernise the entire tax system. I want to thank significant enterprises and representative organisations for your professional input into our Business Transformation programme, and in implementing initiatives such as FATCA and automatic exchange of information. We appreciate your help in shaping a responsive tax system fit for business in the 21st century.

I'm proud to lead Inland Revenue's customer-centred change, and our work to protect New Zealand's economy and wellbeing. New Zealand continues to rate highly on international scales for ease of doing business and for integrity. This guide once again aims to encourage both, providing transparency on tax compliance so business can get on with business.

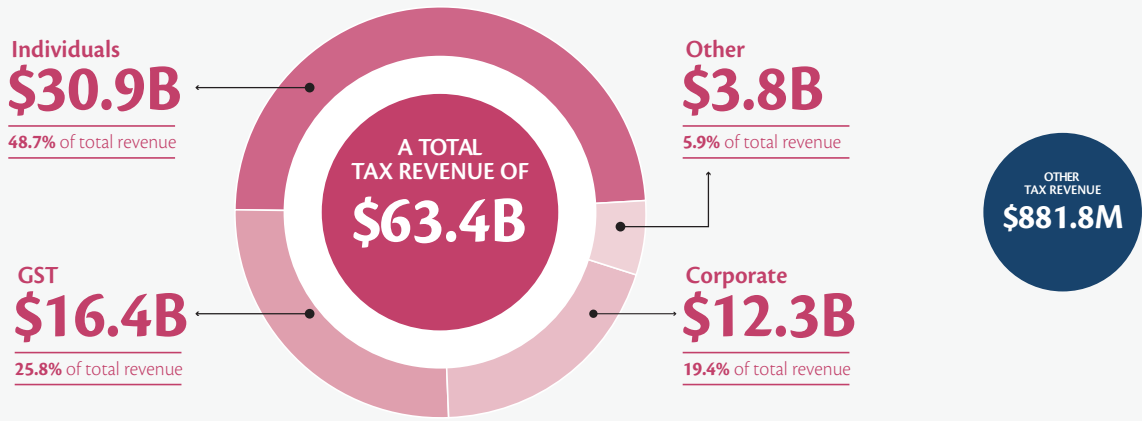
Naomi Ferguson
Commissioner of Inland Revenue



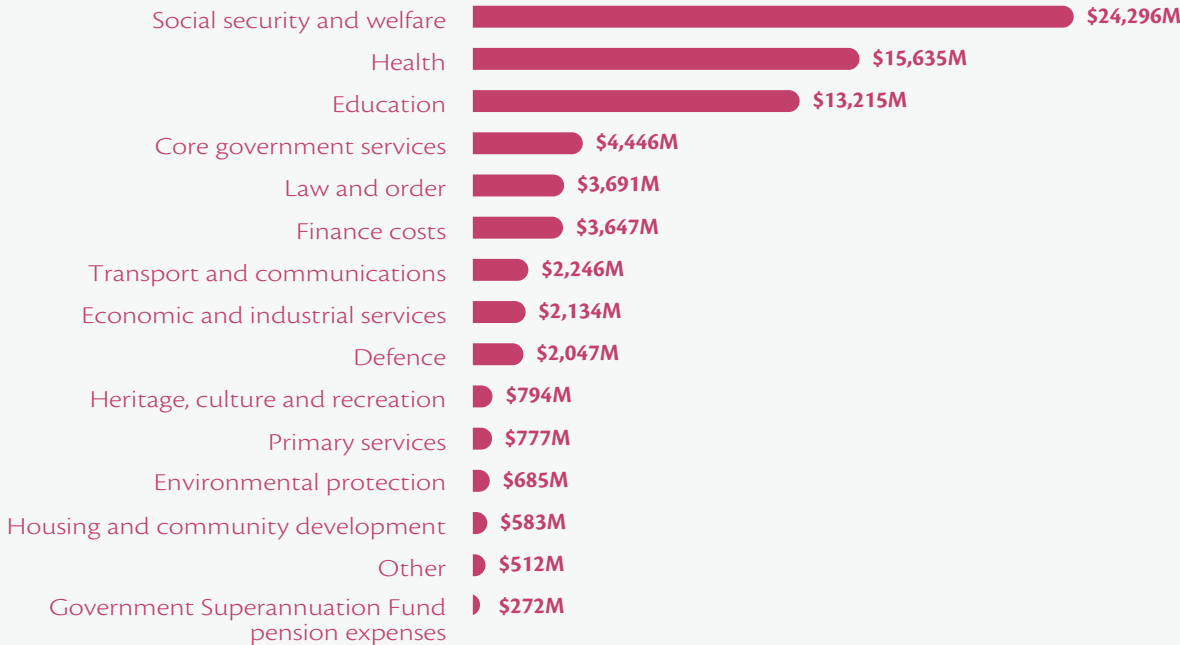
What your taxes pay for

Revenue collected and payments made

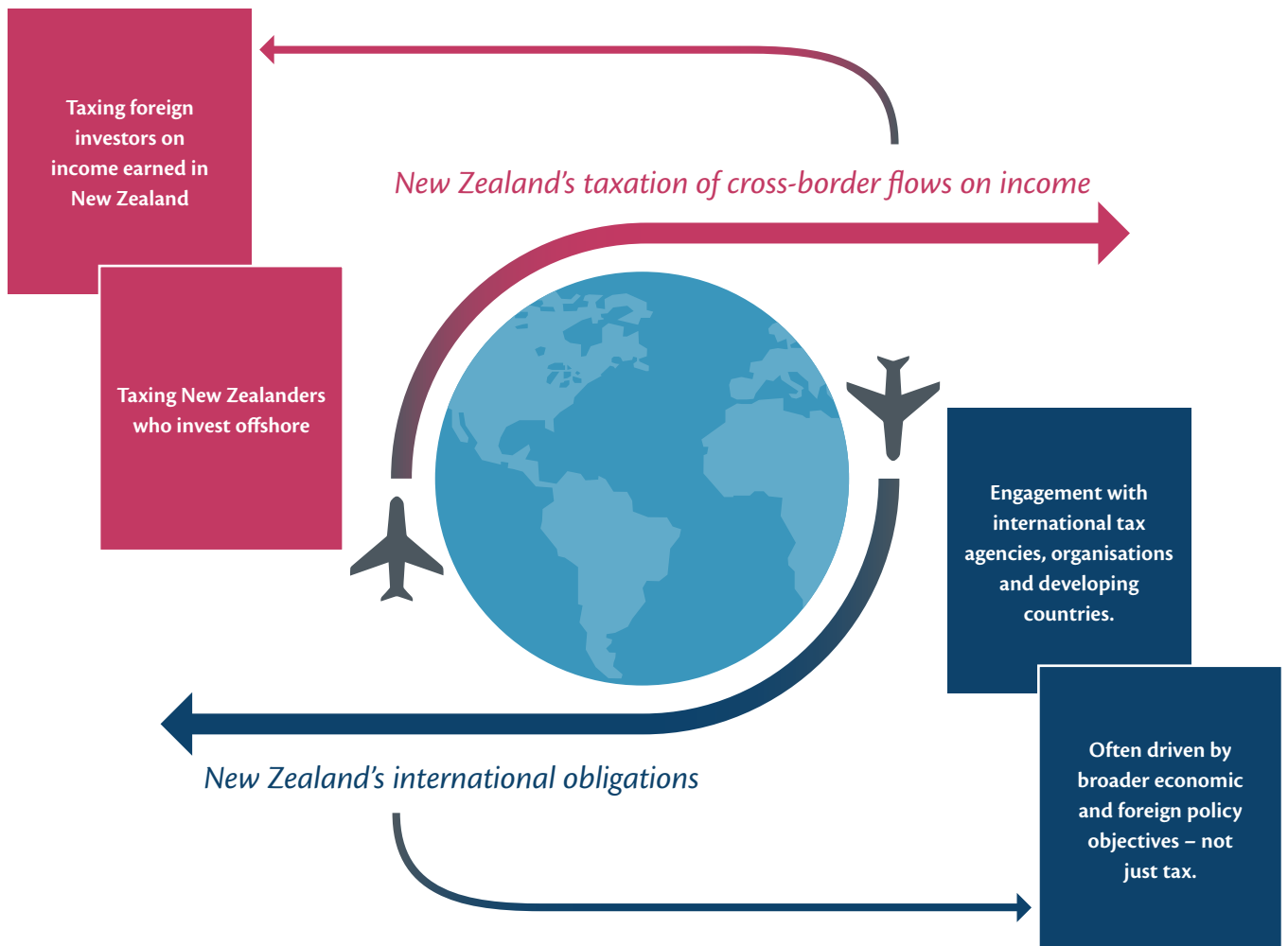
We collected \$63.4 billion of revenue to fund government programmes in 2015-16:



In 2015-16 the Government expected to spend in the following areas:



International tax strategy



HIGHLIGHTS FROM THE INTERNATIONAL QUESTIONNAIRE (2014)



292

foreign-owned groups

Ultimate ownership (largest jurisdictions)



77

Australia



55

USA



39

Japan



48%

had tax governance
documentation

How we manage multinationals' compliance

We have an extensive international compliance programme. Key performance data (including tax payments, operating margins and interest expenditure) are monitored closely with expert assistance from full-time in-house specialists on transfer pricing and financial arrangements.

An intelligence-led approach...right from the start...

Our top priority has been the Significant Enterprises customer segment which comprises nearly 600 taxpayer groups with turnover in excess of \$80m, 50% of which are foreign-owned, with a further 25% involved in international operations mainly through controlled foreign companies.

In 2012 we introduced a more proactive intelligence-led approach to ensure compliance by significant enterprises. This approach requires all significant enterprises to submit annually a basic compliance package (BCP) comprising a group structure, financial statements and tax reconciliations which are then examined closely. The risk rating from the review of the BCP, past history and other intelligence, determines our compliance interventions which can range from no action through to further review or an in-depth audit where required.

Based on the amount they pay, the top 50 taxpayer groups within the Significant Enterprises segment receive additional coverage, being account managed on a one-to-one basis.

Four years on, this approach has proven to be very successful as we have managed to secure a large part of the corporate tax base through a wider range of more tailored interventions rather than relying mainly on the traditional audit product.

International questionnaire

In 2015 we introduced the International Questionnaire to improve our understanding of major international risks, especially their relative significance for New Zealand. We have further refined the questionnaire and issued it to over 300 foreign-owned groups in 2016. For both years we have received a resounding 100% response rate.

Expanding coverage

We are extending our focus on multinationals still further next year by expanding coverage of this population to include all foreign-owned significant enterprises over \$30m in turnover. This is expected to increase the number of significant enterprises being reviewed annually through the provision of both BCPs and international questionnaires to nearly 900 taxpayer groups.

Largest industries

23% Distributors/wholesalers

16% Manufacturing (excluding food and beverage)

9% Food and beverage

Transfer pricing



79%
had documentation

Intangibles

Total R&D/gross revenue = **0.15%**

Total intangibles/total assets = **17.18%**

Finance costs/thin capitalisation

198 groups had net finance costs

14 groups exceeded the 60% thin capitalisation threshold

Corporate tax governance



OECD guidance

Guidance on tax control frameworks has recently been released by the OECD's Forum on Tax Administration ("FTA"). It follows on from two earlier OECD publications (Principles of Corporate Governance and Guidelines for Multinational Enterprises), and seeks to assist businesses in designing and implementing effective tax governance. We fully support this FTA guidance, a full copy of which can be found on the OECD website at the link below:

 www.oecd.org/tax/co-operative-tax-compliance-9789264253384-en.htm



Application in New Zealand


We consider the FTA guidance applies particularly to multinational enterprises. We agree with the FTA that the actual specifics of a tax control framework ("TCF") for any business will of course depend upon the particular circumstances of that business and the industry in question.

At a minimum, we recommend that the following key questions be addressed routinely by boards:

- **Is there a documented tax strategy and has it been kept up-to-date?**
- **Have effective systems, procedures and resources been put in place to manage tax risks and, if so, is a clear statement made in the annual report to that effect?**
- **Is annual reporting sufficiently transparent such that all stakeholders have the capacity to analyse and effectively interpret the information provided on taxes paid?**

Consideration should be given to providing an explanation in simple terms reconciling the tax expense in financial statements with the actual amount of cash taxes paid for the year, identifying major differences arising such as losses, the effect of specific tax regimes and capital gains.

In setting the right tone from the top, we also recommend that boards of directors consider endorsing a set of overarching principles. In this regard, the Business & Industry Advisory Committee ("BIAC") Statement of Tax Principles for International Business is reproduced as Annex A in the FTA guidance and can also be found at:

 www.biac.org/wp-content/uploads/2014/05/07-Final_5_September_BIAC_Statement_of_Tax_Principles_for_International_Business.pdf

What is BIAC?

BIAC is an international network of 2800+ business experts. It provides business perspectives through more than 30 policy groups to OECD committees, working parties and governments.

Top-down building block approach

The FTA guidance assumes that the essential features of a TCF will be determined at the top level of an enterprise rather than being an amalgamation of individual decisions made lower down in the organisation as to which particular controls may be needed.

Rather than attempting to prescribe a one-size-fits-all TCF, the guidance identifies the following six essential building blocks of a TCF:



Tax strategy – this should be clearly documented and owned by the senior management of the enterprise (ie the board of directors).



Comprehensive – all transactions entered into by an enterprise are capable of affecting its tax position in one way or another, which means that the TCF needs to be able to govern the full range of the enterprise's activities and ideally should be embedded in day-to-day management of business operations.



Responsibility – the board of an enterprise is accountable for the design, implementation and effectiveness of the TCF of that enterprise; the role of the enterprise's tax department and its responsibility for the implementation of the TCF should be clearly recognised and properly resourced.



Governance – there needs to be a system of rules and reporting that ensures transactions and events are compared with the expected norms and potential risks of non-compliance identified and managed; this governance process should be explicitly documented.



Testing – compliance with the policies and processes embodied in the TCF should be the subject of regular reporting, testing and maintenance.



Assurance – the TCF should be capable of providing assurance to stakeholders, including external stakeholders such as Inland Revenue, that tax risks are subject to proper control and that outputs such as tax returns can be relied upon; this is accomplished by establishing the entity's "risk tolerance" and then by ensuring that their risk management framework is capable of identifying departures from that with mechanisms for mitigating/eliminating the additional risk.

The final building block, assurance, can be seen as the overall result of having put in place all the other building blocks; if they are there, it is possible to provide the desired assurance.

Don't be surprised if we ask you questions

We are often quizzed about which particular issues attract our attention and the questions multinationals should expect from us.

This “familiar red flags” list may seem obvious, but is worth repeating here so you can prepare in advance, and be able to give us explanations with supporting documentation.



Effective tax rate – is the group's effective tax rate substantially less than the statutory rate of 28%?



Complexity – has the group been involved in any complicated arrangements (eg major restructures, use of special purpose vehicles or innovative financial arrangements)?



“Low or no tax” jurisdictions – has the group participated in any material transactions involving these jurisdictions?



Capital gains/tax credits – have any untaxed profits been derived or unusually high foreign tax/imputation credits been claimed by the group?



Differing accounting treatments – are there material differences in the treatment of major items for financial reporting and tax reporting purposes?



Tax losses – have any uncharacteristic losses arisen (or been utilised) within or across the group as a whole?



Large tax benefits – has the group taken part in any transactions where the anticipated net return is predominantly due to projected tax benefits?



Ownership changes – have any mergers, takeovers or ownership changes occurred and affected continuity tests for losses and imputation credits?



Cross-border mismatches – are there any differences in tax treatment of a transaction or an entity between countries (eg debt in one, but equity in another)?

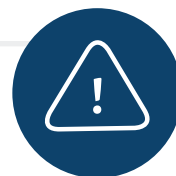


Variances between years – are there any material variances in profitability, tax payable, or major line items in supporting financial statements for the group?

International financing arrangements

Cross-border financing forms a substantial part of total associated party dealings by New Zealand members of multinational groups.

KEY RISK AREAS INCLUDE:



- The pricing of interest and guarantee fees at non-market rates
- Capital structuring within New Zealand's thin capitalisation rules
- Use of hybrid instruments and hybrid entities in structured arrangements
- Unusual financings or novel financial products
- Incorrect accounting for non-resident withholding tax and approved issuer levy

Documenting intragroup lending

Too often we see minimal or even non-existent documentation in respect of loans between associated parties. In particular, this can be problematic for companies when we are reviewing the interest rates on cross-border loans if the terms and conditions of such loans are uncertain.

Our expectation is that the following fundamentals are documented clearly:



Purpose or intention (should be unambiguous e.g. working capital, term finance, etc)



Term and repayment (start date and maturity or a specific period e.g. on demand, 5 years, etc)



Parties (all lenders and borrowers named in full)



Fees (specify any and all fees e.g. guarantee fee, facility commitment fee, etc)



Amount and currency (this includes the total amount available to be borrowed under a loan facility, not just the initial sum advanced)



Security (whether repayment obligations are secured or unsecured; if secured, the form of the security e.g. the borrower's assets)



Interest rate (an absolute rate or an external benchmark rate plus a margin, whether the interest rate is fixed or floating and how it was determined as being reasonable)



Guarantee (whether repayment obligations are guaranteed or indemnified; if so, the relevant names of the party or parties)



Interest payment dates (specific dates or periodic e.g. every 3 months)



Amendment (note any changes to the above that arise over the loan's life)

Transfer pricing

Transfer pricing remains as important as ever on the international scene. We continue to cover the full range of both inbound and outbound associated party transactions.



We maintain a special focus on the following:

- **Unexplained tax losses returned by New Zealand multinational operations**
- **Loans in excess of \$10m principal and guarantee fees**
- **Cash pooling arrangements**
- **Payment of unsustainable levels of royalties and/or service charges**
- **Material associated party transactions with no or low tax jurisdictions, including the use of offshore hubs for marketing, logistics and procurement services**
- **Appropriate booking of income arising from e-commerce transactions**
- **Any unusual arrangements or outcomes that may be identified in controlled foreign company disclosures**

Wholesalers/distributors

We monitor the profitability of foreign-owned wholesalers/distributors – firms that purchase and on-sell goods to other firms without significant transformation. They represent the most common form of multinational enterprise in New Zealand. For smaller businesses of this nature with annual turnover of less than \$30m, we will seek explanations for any performance resulting in a weighted average profit-before-tax margin of less than 3%.

Supply chain restructures

We keep a close eye on multinationals restructuring their operations involving the shifting of any major functions, assets or risks away from New Zealand. According to responses to our international questionnaire in 2015, some 10% of foreign-owned groups have experienced material structural changes in the last three income years. We make sure that such restructures have commercial substance and the actual conduct of the parties is consistent with the written agreements reflecting these changes.

Not only do we have concerns as to the level of profitability for income tax purposes, but also caution needs to be taken to ensure the GST consequences of any restructuring are addressed appropriately such as where goods are sold from offshore to a New Zealand distributor and the supplier wishes to register and charge GST. Residency issues may arise when setting up a new (or offshoring an existing) Business to Consumer (“B2C”) retail operation. For example, where the offshore supplier uses a New Zealand associate to facilitate shipping logistics and handle returns or warranty claims, a “fixed or permanent place” for GST residency purposes may result which then “onshores” the supplies.

Country-by-Country reporting

New country-by-country (“CbC”) reporting requirements are being introduced globally which will apply to multinationals with annual consolidated group revenue of EUR 750m and above. We have contacted all New Zealand-headquartered groups potentially affected by this new measure to ensure they are well prepared for first reporting from 2017.

We are looking forward to receiving CbC reports from our treaty partners covering the major foreign-owned multinationals operating in New Zealand. These reports will further strengthen our transfer pricing risk assessments, providing us with a full picture of supply chain profitability.

OECD recommendations

The OECD has recommended that transfer pricing documentation be maintained in two forms:

- a master file providing a high level overview of the multinational’s global business operations and transfer pricing policies, and
- a local file providing detailed information regarding material related party transactions.

We endorse these recommendations and consider the master file/local file approach provides a solid platform on which taxpayers with material transfer pricing risks can meaningfully describe their compliance with the arm’s length standard.

New Zealand exporters


We are seeing increased scrutiny of transfer pricing issues by other tax authorities, as countries continue to update their rules and regulations on international transactions. Make sure you:

- know the nature and extent of your overseas operations and all your cross-border associated party transactions;
- check operating margins to ensure they reflect commercial reality; and
- fully document any market development strategies and be prepared to explain any swings in profitability that may occur.

Making compliance easier

We endeavour to strike an appropriate balance between protecting the tax base and containing compliance costs. We have introduced several administrative measures to ease the transfer pricing compliance burden for multinationals:

- for the provision of management and other support services, consider applying the cost-plus method with a 7.5% mark-up if services are non-core or de minimis
- for small value loans up to \$10m principal in total per year, consider using a rate of interest set by reference to a relevant base indicator plus 250 basis points.

 We also try to provide practical guidance where possible to assist taxpayers in getting it right, so do pay a visit to the transfer pricing section of our website www.ird.govt.nz (search keywords: transfer pricing) where you will find guidance on a wide range of transfer pricing topics.

Controlled foreign companies

For income years starting on or after 1 July 2009, New Zealand's amended tax rules for controlled foreign companies ("CFCs") have included an active/passive division.

In focusing on CFCs, we check technical compliance with these new rules. We also watch for any possible abuse of the rules through aggressive tax planning schemes.

Given the total exemption from attribution of income for holders of sufficient interests in active CFCs, there are flow-on tax risks around:

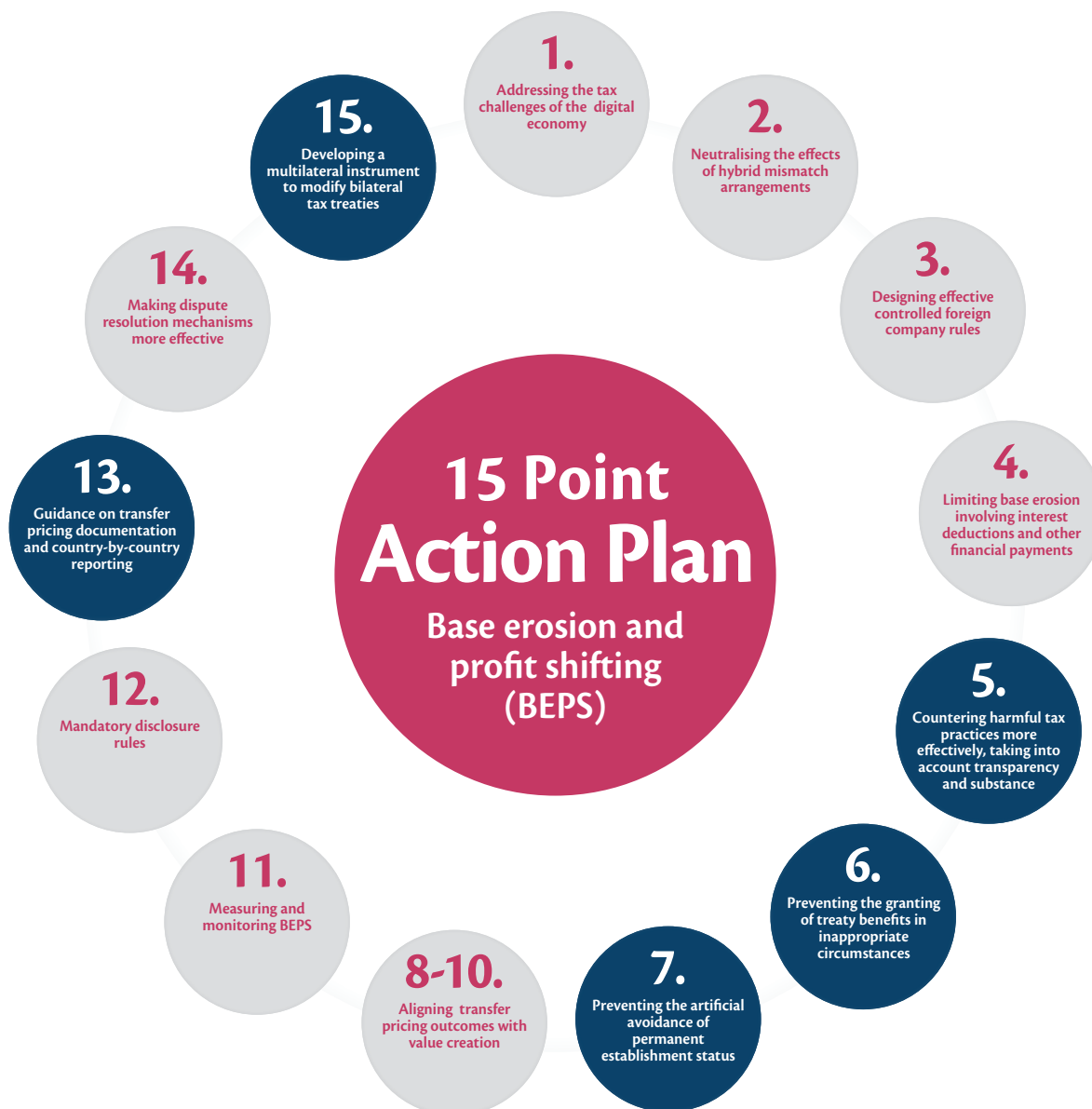
- whether foreign incorporated companies are New Zealand tax resident through their management, control or director decision making.
- the correctness of cross-border associated party transfer pricing methodologies.

Our recent reviews have focused on active business test calculations as well as calculations of taxable income or losses attributed from CFCs. We suggest you pay special attention to the following so that compliance errors do not occur:

- All interests in CFCs must be disclosed annually in a Foreign investment fund/Controlled foreign company disclosure (s) (IR458) form. You can file this electronically.
- To qualify to use the accounting standards method of the active business test, your financial statements (including those prepared for each CFC) must comply with IFRS or NZ GAAP with NZ IFRS and be supported by an unqualified audit opinion.

- Under the default method of the active business test, you must calculate a CFC's financial arrangement income and expenditure in New Zealand dollars in certain circumstances (for example, where the total value of financial arrangements is more than \$1m).
- Passive income, which is legislatively defined, is subject to a number of carve-outs. For example, rental income derived from land situated in the CFC's country of residence is excluded from passive income. You should check whether any of the carve-outs apply to you.
- Foreign exchange movements on financial arrangements must be taken into account when completing the active business test.
- The rules prescribe adjustments that are required to be made to deductions for funding costs when calculating taxable income or losses attributed from CFCs.
- The old branch equivalent rules no longer apply.
- You need to make adjustments to losses and tax credits brought forward from the old CFC rules. In most circumstances, losses and tax credits generated under the old rules are not fully available for offset under the current rules.

Base erosion and profit shifting



BEPS Action Plan

Like all developed countries, New Zealand needs to respond to domestic and international threats to our revenue from tax avoidance and evasion, as well as wider changes driven by technological innovation and volatility in the global economy.

Some multinationals are able to structure their business affairs to pay very little tax anywhere in the world. The wide range of international tax planning techniques used to achieve such results are collectively referred to as BEPS tax planning strategies. These strategies exploit gaps and mismatches in countries' domestic tax rules to make profits disappear for tax purposes or to shift profits to locations where there is little or no real activity but the taxes are low, resulting in little or no corporate tax being paid.

“International tax is getting sexy because of the financial crisis.”

– Pascal Saint-Amans,
Director, Centre for Tax Policy and
Administration, OECD

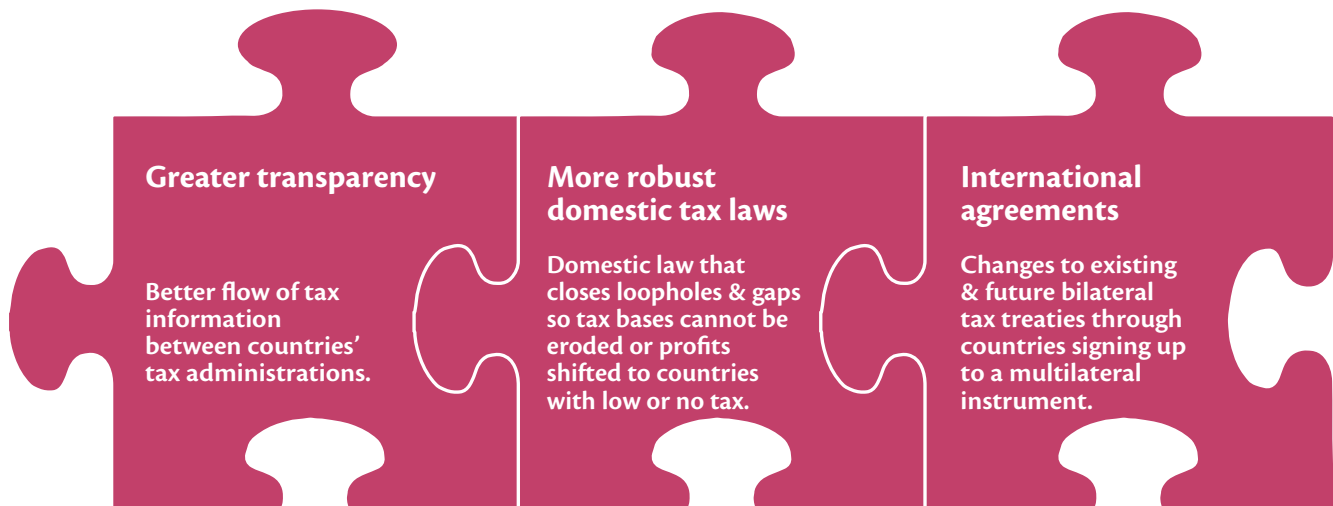
There are a number of initiatives that New Zealand has either already implemented or will implement in the near future to address BEPS. We have been working closely with the OECD, recognising that BEPS is a global problem which requires a global solution.

In an increasingly interconnected world, national tax laws have not always kept pace with global corporations, fluid movement of capital, and the rise of the digital economy, leaving gaps and mismatches that can be exploited to generate double non-taxation.

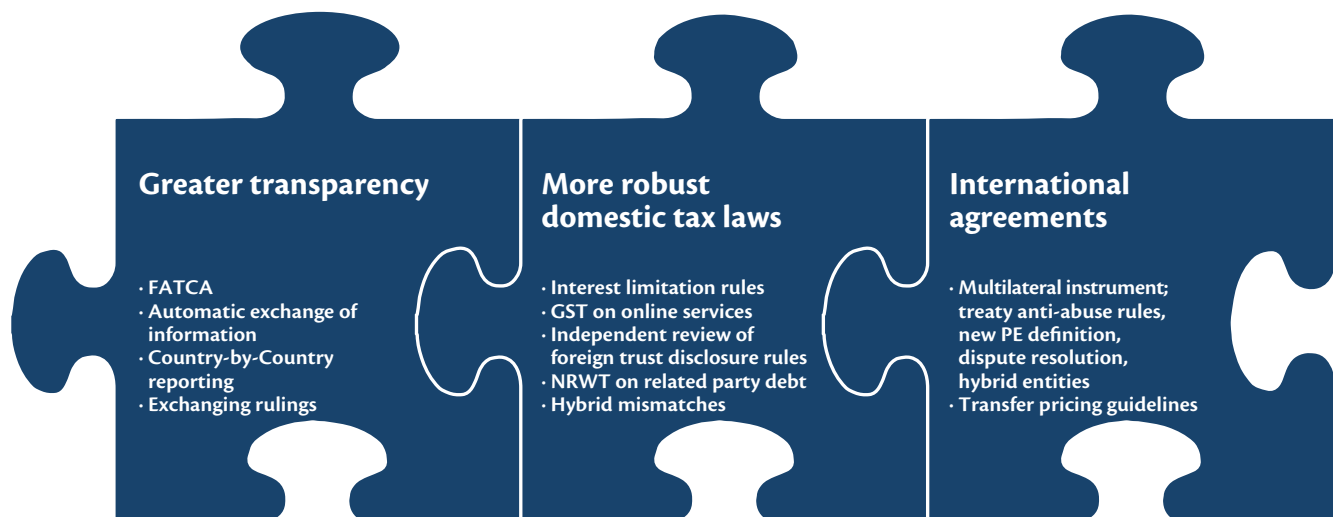
This undermines the fairness and integrity of tax systems. (OECD website)

OECD/G20 Base Erosion and Profit Shifting

15 Action items – 3 Key themes



How is NZ responding to the Action Plan?



Progressing the Action Plan

New Zealand has already...

- Reformed our controlled foreign company rules
- Progressively strengthened thin capitalisation rules
- Introduced bank minimum equity rules
- Enacted the re-characterisation of stapled stock provision
- Removed the foreign dividend exemption for deductible foreign equity
- Eliminated the conduit regime
- Signed the convention on Mutual Administrative Assistance in Tax Matters
- Introduced an international questionnaire to identify and monitor profit shifting
- Commenced exchanges of cross-border rulings/unilateral APAs
- Provided public guidance on international dispute resolution

New Zealand has legislated or is legislating to...

- Impose GST on online services consumed in New Zealand from 1 October 2016
- Strengthen non-resident withholding tax and approved issuer levy rules
- Confirm that the general anti-avoidance rule overrides double tax agreements
- Limit the use of look-through companies as conduit vehicles by non-residents
- Strengthen foreign trust disclosure rules
- Require certain multinationals to prepare country-by-country reports

New Zealand will be...

- Consulting on hybrid mismatch arrangements
- Consulting on interest limitation rules
- Signing up to the OECD's multilateral instrument
- Applying the revised OECD Transfer Pricing Guidelines

“There has been much concern internationally over the question of how much tax large multinational companies pay. The Organisation for Economic Co-operation and Development (OECD) has led a global response to the issue and produced an action plan which details key recommendations that governments around the world can use to strengthen their tax rules. New Zealand, like other countries, is now considering those recommendations and will act on them.

This is a major step forward. New Zealand has long had strong tax rules in this area, but the advent of the OECD changes will mean a hugely improved global environment where tax laws of different nations are generally of a higher standard, making it more difficult for tax avoidance and evasion.”

– Hon Michael Woodhouse,
Minister of Revenue, July 2016

International disputes

New Zealand has 40 double taxation agreements (“DTAs”), each with an Article establishing a Mutual Agreement Procedure (“MAP”) for resolving difficulties arising out of the application of the particular DTA. New Zealand has 11 Tax Information Exchange Agreements (“TIEAs”) in force which also contain a MAP Article, as well as six Supplementary Agreements to these TIEAs which include a MAP Article. In addition, the DTAs with Australia and Japan contain arbitration clauses for resolving disputes.


New Zealand’s DTAs generally follow the OECD Model Tax Convention (“OECD MTC”). New Zealand has made no observations or reservations on Article 25 of the OECD MTC which covers the MAP.

Under the MAP Article, the competent authorities of the Contracting States engage with each other and endeavour to resolve disputes that arise from the way one or both Contracting States are interpreting or applying the particular DTA. Article 25 effectively equips the tax administrations with the practical means to ensure that cross-border income earning activity is taxed correctly in accordance with DTAs.

The New Zealand competent authority role falls in the first instance on the Commissioner of Inland Revenue, but in practice is delegated to John Nash (Manager, International Revenue Strategy) who leads on double taxation cases arising from audit/compliance activities, and Carmel Peters (Policy Manager) who leads on treaty interpretation issues. These two competent authorities work closely together and interact with other divisions of Inland Revenue as needed to resolve MAP cases. The competent authorities act independently of others, forming their own view of issues in dispute.

Our overall aim is to complete MAP cases within 12 months of receiving a request for assistance. The time taken to resolve MAP cases will vary depending largely on the complexity of the matter in dispute. For the 2015 calendar year, 18 MAP cases were resolved taking between four months and 25 months to complete with an average cycle time to completion of 10 months.

We have recently updated our guidance on the Mutual Agreement Procedure covering its scope, the interaction with our domestic disputes process, the filing of MAP requests (including information required) and the implementation of MAP agreements. This updated guidance can be found at:

 www.ird.govt.nz/international/business/international-obligations/mutual-agreement-procedure/mutual-agreement-procedure-guidance.html

We recommend you tell us as soon as possible about any pending dispute with another tax authority. In nearly all cases when there has been early intervention by us as the competent authority, the double tax issue has been resolved successfully.



Binding rulings, factual reviews, indicative views and advance pricing agreements

To provide you with greater certainty about tax issues and to get it right from the start we have a range of options in place.

Binding rulings

We can issue binding rulings for customers to provide certainty about the interpretation of tax laws.

A binding ruling is Inland Revenue's interpretation of how a tax law applies to a particular arrangement. An arrangement is any agreement, contract, plan or understanding (whether or not it's enforceable), including any steps and transactions that carry it into effect.

If you have been given a binding ruling, you are not required to follow the approach. But if you do follow a binding ruling exactly as described in the ruling and satisfy any stated assumptions or conditions, Inland Revenue is bound by it.

A binding ruling does not remove the requirement to file an income tax return and pay any taxes arising from the arrangement.

Before you apply for a binding ruling, you can set up a pre-lodgement meeting to help clarify the issues and determine the scope of the ruling. We aim to complete binding rulings within three months of an application, although shorter timeframes may be possible in some circumstances.

For more information, please refer to our guide for Binding rulings (IR715).

Factual reviews

If you have applied for a binding ruling, you may request a factual review to obtain a level of certainty on whether a critical factual condition or assumption in the ruling will be satisfied. You can request a factual review (in writing) at any time before or immediately after the issue of the ruling.

Indicative views

In some circumstances, a request for an indicative view may be a more suitable option.

Indicative views are non-binding on the Commissioner and are available to larger enterprises. An indicative view would generally be provided for prospective major transactions. It will not be provided for arrangements involving potential tax avoidance or hypothetical situations.

Advance pricing agreements

Advance pricing agreements ("APAs") have also proven extremely useful as a robust upfront means of dealing with transfer pricing risk, especially the more complex issues that arise.

An APA is an agreement between us and the taxpayer which confirms the basis for their international pricing. Multinationals that complete an APA need to submit annual reports and supporting evidence to us to confirm their compliance with the agreement.

APAs represent a more co-operative approach to tax compliance as opposed to adversarial audits. The product is ideally suited to the more complex transfer pricing issues, such as intangibles and the provision of specialised services. We completed 20 APAs this last year, five more than 2015. As at 30 June 2016, we had completed 153 APAs in total.

Exchange of cross-border rulings

A new international standard has been agreed which requires the exchange of information between tax treaty partners concerning certain rulings. We are currently implementing this standard which for New Zealand covers essentially permanent establishment issues and unilateral APAs.

Tax treaty programme update

We continue to work with the OECD and treaty partners to ensure our international agreements are fit for purpose. We have double tax agreements with 40 countries and are currently negotiating several new DTAs and protocols. We are re-negotiating two key treaties – China and Korea. These two countries are major trade and investment partners for New Zealand, but our current treaties with them are more than 30 years old.

Because of historical international and legal principles that otherwise impose barriers to countries assisting each other in enforcing their tax laws, forms of tax co-operation between jurisdictions such as exchange of information are typically conducted under bilateral agreements. The joint OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters (“the Multilateral Convention”) has emerged internationally as the pre-eminent international instrument for tax co-operation generally. The Multilateral Convention has now been signed by over 100 jurisdictions. New Zealand signed the Multilateral Convention on 26 October 2012.

In 2010 the United States enacted provisions commonly known as the Foreign Account Tax Compliance Act or FATCA. These provisions require financial institutions to provide details about the accounts and investments they hold for American citizens, tax residents and others to the Internal Revenue Service in the United States.

We started transmission of information from New Zealand financial institutions to the United States in September 2015. We have also made good progress to continue to meet OECD timelines to implement the global automatic exchange of information to assist with offshore compliance.

Other on-going international commitments include:

- Supporting the Ministry of Foreign Affairs and Trade free trade agreement programme.
- Supporting and guiding the New Zealand delegation at the United Nations on tax matters.
- Active participation in the Study Group on Asian Tax Administration and Research (“SGATAR”). We will be chairing the 46th Annual Meeting in November.



Employee share schemes under review

Arrangements providing shares and share options by companies to employees are an important form of employee remuneration in New Zealand and internationally. Although the design and the accounting treatment of these plans have evolved considerably over recent decades, the tax rules applying to them in New Zealand have not been comprehensively reviewed during that period and are now out of date.

Employee share schemes can have beneficial economic effects and it is important that the tax rules do not raise unintended barriers to their use. In some circumstances, the current rules can result in over-taxation; in others they result in under-taxation. We are working on a number of proposals to address these problems in a manner consistent with New Zealand's broad-base, low-rate taxation principles. The goal of the proposals is to ensure that the taxation of employee share schemes is simple, efficient and fair.

New anti-corruption law

Globally, governments are actively working to curtail bribery and corruption which impact adversely international trade and investment, political stability, welfare and economic development.

New Zealand has a strong reputation for being free and intolerant of bribery and corruption. In November 2015, the Organised Crime and Anti-corruption Legislation Bill was passed. On 1 December 2015, New Zealand ratified the United Nations Convention Against Corruption. New Zealand's ability to combat bribery and corruption is now stronger than ever.

To assist New Zealand businesses in complying with our law, the Ministry of Justice has produced the following comprehensive set of guidance materials:

- Saying No to Bribery and Corruption – A Guide for New Zealand Businesses.
- Facilitation Payments and New Zealand's Anti-Bribery Laws.
- How to Create a Fraud and Corruption Policy.

 **These materials can be found on the Ministry's website: (<http://www.justice.govt.nz/justice-sector-policy/key-initiatives/bribery-corruption/>) and are recommended to all enterprises participating in international trade and investment, especially when securing contracts and starting business activities in emerging markets.**

Our business transformation

To deliver on our objectives and vision for a modern tax system, we have embarked on a major change programme. Our multi-year, multi-stage Business Transformation programme will re-shape the way the department serves New Zealanders. Simple, certain and open customer-centred services will be designed and delivered in partnership with others inside and outside government.

The overall result will be a modern, digital tax system that will serve the needs of all New Zealanders and fit seamlessly into their lives. It will also be a system that keeps pace with change, protecting the Government's ability to keep providing services.

Delivering our future tax system will require us to:

- Simplify policy and legislative settings.
- Make more intelligent use of information to ensure customers get it right from the start.
- Fit revenue processes seamlessly into people's lives and enable them to self-manage with speed and certainty.
- Become more agile, effective and efficient.
- Implement a modern technology platform that is digitally based and highly automated.

2016-2017



Enable Secure Digital Services

will allow the majority of customers to self-manage and reduce businesses' compliance burden in fulfilling their GST obligations, significantly contributing to Better Public Services Result 9 and the Business Growth Agenda.

2017-2019



Streamline Income and Business Tax

will build on the foundations delivered in the previous stage and further reduce the compliance burden that businesses face.

2018-2020



Streamline Social Policy

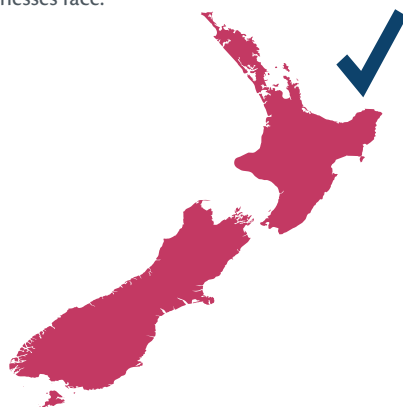
will improve the delivery of the social policies that Inland Revenue administers.

2019-2021



Complete Delivery

will include transitioning any remaining taxes and social policies to a new platform and decommissioning technology platforms that are no longer required.



Don't be surprised if we ask you questions

We are often quizzed about which particular issues attract our attention and the questions multinationals should expect from us.

This “familiar red flags” list may seem obvious, but is worth repeating here so you can prepare in advance, and be able to give us explanations with supporting documentation.



Effective tax rate – is the group's effective tax rate substantially less than the statutory rate of 28%?



Complexity – has the group been involved in any complicated arrangements (eg major restructures, use of special purpose vehicles or innovative financial arrangements)?



“Low or no tax” jurisdictions – has the group participated in any material transactions involving these jurisdictions?



Capital gains/tax credits – have any untaxed profits been derived or unusually high foreign tax/ imputation credits been claimed by the group?



Differing accounting treatments – are there material differences in the treatment of major items for financial reporting and tax reporting purposes?



Tax losses – have any uncharacteristic losses arisen (or been utilised) within or across the group as a whole?



Large tax benefits – has the group taken part in any transactions where the anticipated net return is predominantly due to projected tax benefits?



Ownership changes – have any mergers, takeovers or ownership changes occurred and affected continuity tests for losses and imputation credits?



Cross-border mismatches – are there any differences in tax treatment of a transaction or an entity between countries (eg debt in one, but equity in another)?



Variations between years – are there any material variations in profitability, tax payable, or major line items in supporting financial statements for the group?

Original release: September 2013

BIAC Statement of Tax Principles for International Business

Intention of statement of tax principles

This Statement of Tax Principles is intended to promote and affirm responsible business tax management by international business. These principles are based on five key observations:

- Public trust in the tax system is a vital part of any flourishing society and growing economy.
- Most businesses comply fully with all applicable tax laws and regulations, recognising the obligations of governments to protect a sustainable tax base.
- International businesses contribute significantly to the global economy and pay a substantial amount of tax comprising not only corporation tax, but also labour taxes, social contributions and other taxes such as environmental levies and VAT.
- Transparency, open dialogue and co-operation between tax authorities and business contributes to greater compliance and a better functioning tax system.
- Tax is a business expense which needs to be managed, like any other, and therefore businesses may legitimately respond to tax incentives and statutory alternatives offered by governments

The objectives

- To enhance co-operation, trust and confidence between tax authorities, business taxpayers and the public in regard to the operation of the global tax system.
- To promote the efficient working of the tax system to fund public services and promote sustainable growth.
- To support stability, certainty and consistency in global tax principles that will foster cross-border trade and investment.

Tax planning principles

- International businesses should only engage in tax planning that is aligned with commercial and economic activity and does not lead to an abusive result.
- International businesses may respond to tax incentives and exemptions.
- International businesses should interpret the relevant tax laws in a reasonable way, consistent with a relationship of 'co-operative compliance' with tax authorities.
- In international tax matters, businesses should follow the terms of the applicable Double Taxation Treaties and relevant domestic and OECD guidance. Business should engage constructively in international dialogue on the review of global tax rules and the need for any changes.

Transparency and reporting principles

Relationships between international businesses and tax authorities should be transparent, constructive, and based on mutual trust with the result that tax authorities and business should treat each other with respect, and with an appropriate focus on areas of risk. International businesses should, therefore:

- Be open and transparent with the tax authority in each jurisdiction about their tax affairs and provide the relevant, reasonably requested information (subject to appropriate confidentiality provisions) that is necessary to enable a reasonable review of possible tax risk.
- Work collaboratively with tax authorities to achieve early agreement on disputed issues and certainty on a real-time basis, wherever possible.
 - Seek, where necessary, to increase public understanding in the tax system in order to build public trust in that system, and, to that end:
 - Where they determine such explanations would be helpful to building public trust in the tax system, they should consider how best to explain to the public their economic contribution and taxes paid in the jurisdictions in which they operate.



Inland Revenue
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