

Multinational Enterprises

Compliance Focus 2024



Inland Revenue
Te Tari Taake

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Introduction from the Commissioner

I am proud of all that Inland Revenue has achieved in the last five years. New Zealand is now starting to recover from the major impacts of the global pandemic. During this challenging period, we have successfully completed our business transformation programme, which has modernised our country's tax and social policy system.



Our new systems meant we could respond quickly to legislative and policy changes, setting up a range of initiatives in a matter of days and weeks, to support the Government's COVID-19 response. We were able to help many businesses stay afloat at a critical time for them, moving at a pace that was not possible before transformation.

As the principal steward of New Zealand's tax system, we play a crucial role in maintaining and enhancing its integrity by striving for clarity, consistency and simplicity in meeting both domestic and global challenges.

We advise the Government on international tax issues and help to develop and implement New Zealand's international tax legislation. We actively work with groups such as the Organisation for Economic Co-operation and Development (OECD) and tax agencies in other jurisdictions. Internationally driven measures feature heavily in our work to ensure New Zealand's tax system contributes to global solutions for global tax issues. We are working actively with other jurisdictions bilaterally and multilaterally to promote tax transparency and facilitate international tax compliance.

We continue to work hard to ensure all individuals and businesses conducting cross-border transactions and investing overseas pay their fair share of tax. We are very fortunate that in New Zealand most individuals and businesses comply voluntarily and we aim to make tax matters as easy as possible for them. For those few who do not comply we are increasing our focus on enforcement and taking action where necessary.

I want to take this opportunity to thank all multinationals and their representatives for their cooperation and efforts to comply with their tax obligations, even when faced with considerable disruption through the recent challenging years. We value the contribution that we can make together to improve the wellbeing of current and future generations of New Zealanders.

A handwritten signature in black ink that reads "P. Mersi". The signature is written in a cursive, slightly slanted style.

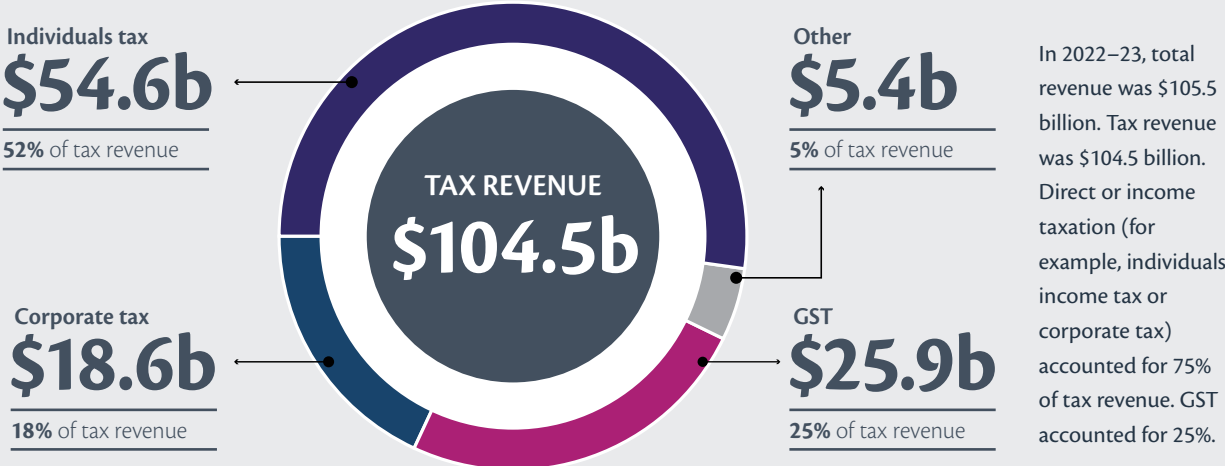
Peter Mersi

Kaikōmihana o Te Tari Taake
Commissioner of Inland Revenue

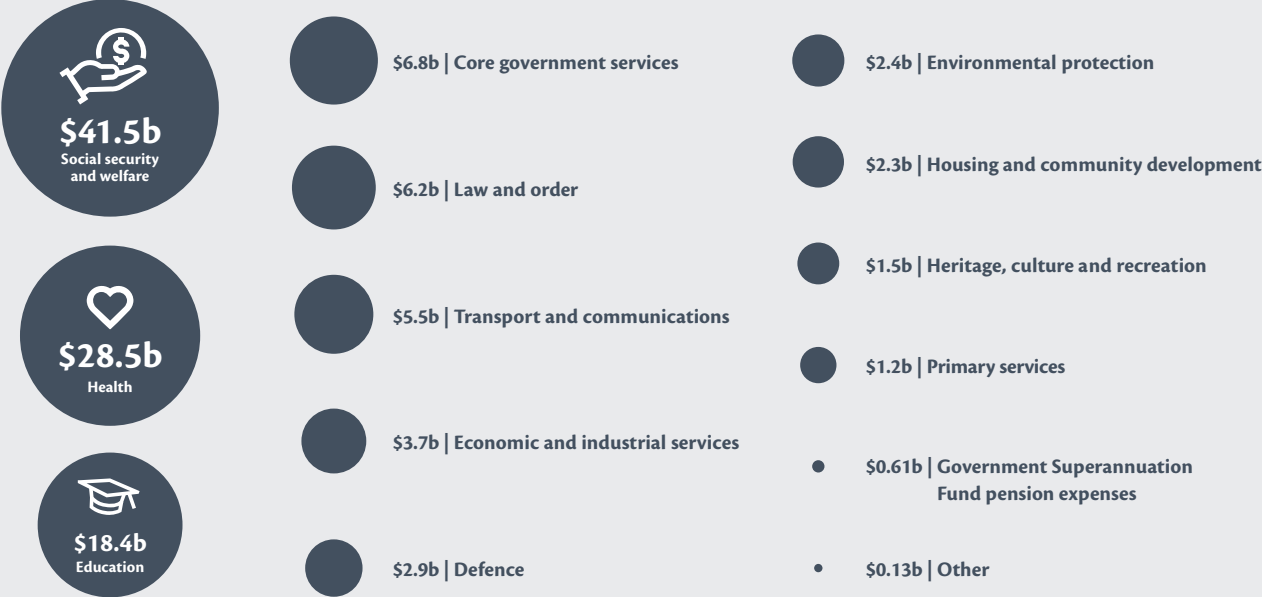
What Your Taxes Pay For

Everyone benefits from tax Ka puta he hua ki te katoa i te tāke

The money Inland Revenue collects helps pay for the essential services that all New Zealanders benefit from such as healthcare, social policy payments, education and protecting our environment. It's our responsibility to ensure government has funding for them.



In 2022-23, Government spend was as follows:¹



¹ From Te Tai Ōhanga, the Treasury's Budget Economic and Fiscal Update 2024, published in May 2024: treasury.govt.nz/sites/default/files/2024-05/befu24.pdf

New Zealand Context

New Zealand individuals and businesses have become increasingly involved in international trade and investment. Although the vast majority of taxpayers voluntarily fulfil their tax obligations, some look for ways to evade or avoid paying their fair share. In doing so, they place an unfair burden on others and erode Government programmes from which all New Zealanders benefit.

The New Zealand Government wants a productive and inclusive economy, and needs a sustainable revenue base to fund improvements to the wellbeing of New Zealanders and their families. This means it is important for everyone to pay their fair share of tax in New Zealand. New Zealand has a self-assessment tax system, which is based on people voluntarily complying with their tax obligations. Taxpayers are best placed to assess their tax liabilities, and specific obligations are set out in law. The integrity of the system is maintained because the majority of New Zealanders pay taxes and claim social support payments appropriately, and they are confident in Inland Revenue's ability to take appropriate action against those who do not.

In New Zealand there is a strong emphasis placed on tax policy and administration to ensure the integrity of the corporate tax base. A greater proportion of our tax base comprises corporate tax compared with other OECD member countries, together with the fact that a relatively small number of companies account for most of it, means that New Zealand remains vigilant on corporate tax base erosion. Foreign-owned multinational enterprises (MNEs) with an annual turnover of at least \$30m account for \$6.1b worth of corporate tax which is approximately 33% of the total corporate tax base.

MNEs are a significant force in New Zealand's economic environment and protecting New Zealand's tax revenue means we need to look at compliance internationally as well as domestically. The increasing complexity of global business requires us to be actively involved in international solutions to facilitate compliance, and apply best international practices. Our work in this area means New Zealand continues to be an attractive place for people to do business and invest. Inland Revenue plays a unique role in making New Zealand a great place to live, work and raise a family. It is important that we are ready to maintain this role in a changing world.

Inland Revenue's Role

At Inland Revenue we aspire to improve *oranga* for current and future generations.

We make our biggest contribution to *oranga* through economic activities including collecting and distributing money.

We deliver value for New Zealand and New Zealanders through three roles – being effective and efficient, active stewardship and making a broader contribution.

Oranga derives from *Te Ao Māori* and encompasses the physical, mental and spiritual wellbeing of an individual and their interconnectedness with the natural world around them.



The Last Five Years...

Our previous documents have sought to make our approach to tax compliance more transparent for businesses and to give more certainty. In this 2024 update we are again aiming to create greater certainty for businesses as we collectively work to facilitate compliance.

Considerable progress has been made in the last five years, as Inland Revenue saw the completion of the Business Transformation programme and successfully managed to move through the challenging period of the COVID-19 pandemic.

Since 2019 we have worked very hard domestically and globally to support our MNEs through any challenges they have faced as a result of the pandemic and all of its impacts.

We have now successfully embedded all the anti-BEPS measures as business as usual and increased our intelligence sources through more information-sharing arrangements both domestically and internationally.

Through this period there has also been a considerable amount of time and effort put into BEPS 2.0, as the Organisation for Economic Co-operation and Development has been working with countries from around the globe on the Two Pillar Solution. New Zealand has continued to actively participate in the international effort to find the right global solution for taxing all MNEs appropriately.

Inland Revenue continues to go through rolling peer reviews led by the OECD and we are pleased to report that New Zealand is meeting the international standards, helping us maintain a global reputation we can be all proud of and enjoy.

Over recent years the number of MNEs operating in New Zealand has also increased, with over 800 significant foreign-owned groups in the 2023 income year. These MNEs remain a high priority for our compliance programme. They are reviewed annually and risk-assessed on the information they provide coupled with the other intelligence we receive from various domestic and international sources.

Amongst the several information and intelligence sources for the MNEs, our short international questionnaire remains a top priority for Inland Revenue when it comes to collecting the right information in a timely and cost-effective manner.

We thank all the MNEs and their representatives who have worked very closely with us annually to achieve a 100% response rate to this questionnaire over the last five years. The responses we have received helped us shape our compliance campaigns as well as ensure we minimise compliance costs for our customers by not imposing on their time and resources unless considered totally necessary.

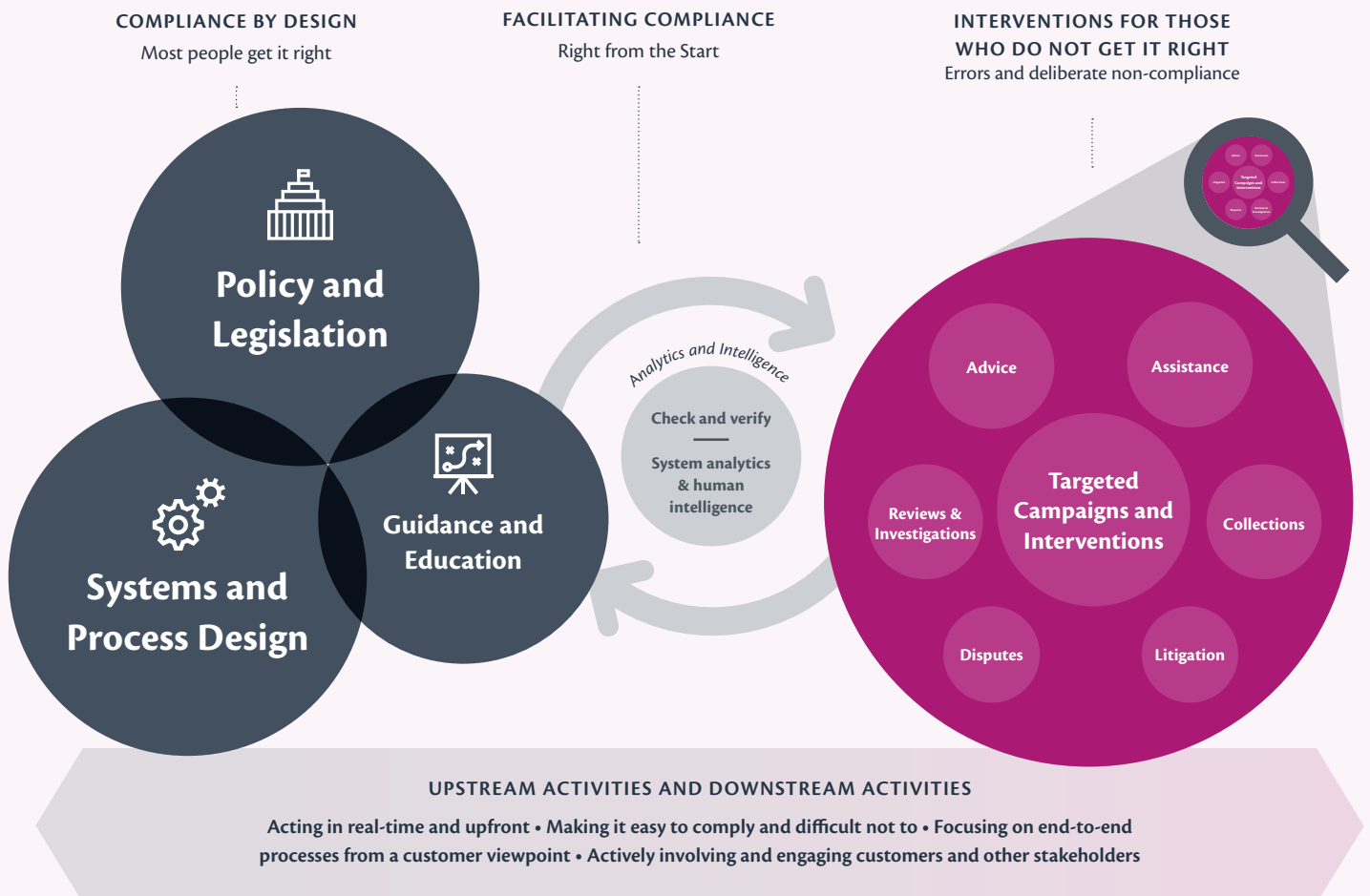


Our Compliance Framework

The framework illustrated in the diagram below demonstrates what we have been able to achieve through the success of our multi-year multi-stage transformation programme. This programme has enabled us to design our systems and introduce new policies that assure a larger part of our tax base which means we collect more revenue with reduced effort.

We have designed and enhanced our systems and processes to automate and make it easier for our customers. Through effective policy and smart system design buttressed by the appropriate guidance, we are now able to ensure that most New Zealanders get the right tax treatment at the right time through the right channels with minimal effort on their part.

Through our transformation programme we have also gained a wide suite of sophisticated analytical capabilities which enable us to work more in real-time and be intelligence-led. These new capabilities coupled with human intelligence allow us to design and deploy effective compliance campaigns, with multi-faceted tailored interventions. This ability to target our interventions to the right customers means we should only be in the lives of those customers who are deserving of further inquiries and interventions.







Our International Obligations/Standards

New Zealand is a member of the OECD. The OECD has over many years promoted international cooperation in tax matters through a range of international standards, including the initial BEPS Action Plan and more recently the comprehensive work on introducing the Two Pillar Solution.

New Zealand continues to actively participate in this work to do our part in tackling global tax problems and ensuring New Zealand's interests are also fed into the design and development of these standards to the extent possible.

New Zealand has signed up to all the international minimum standards, these include the following from the BEPS Action Plan:

-  Action 5 – exchanging summaries of cross-border tax rulings
-  Action 6 – preventing tax treaty abuse
-  Action 13 – country-by-country (CbC) reporting
-  Action 14 – making dispute resolution mechanisms more effective.

More recently New Zealand has also signed up to Pillar Two which will come into effect from 1 January 2025.

New Zealand is a net importer of information from treaty partners, hence, the additional information and intelligence we receive through international transparency initiatives further enhance Inland Revenue's ability to design better solutions for our MNEs and also prevent any base erosion in an effective manner.

The role of the Competent Authority

The role of the Competent Authority (CA) is defined in our tax treaties and generally involves serving as the primary point of contact for both domestic taxpayers with offshore links and competent authorities in other jurisdictions.

The CA function facilitates the exchange of information and intelligence with tax treaty partners, both individual requests for information and automatic exchanges of information

(such as the exchange of CbC reports, summaries of tax rulings and future Global Anti-Base Erosion Rules (GloBE) information returns). Mutual Agreement Procedure (MAP) cases to eliminate double taxation or resolve double taxation disputes are also handled by the CA function.

New Zealand's CA function sits within Inland Revenue's International Revenue Strategy (IRS) team. As New Zealand's competent authority office, IRS administers New Zealand's international tax agreements. The relevant contact details for the CA are listed on page 34 and our website:

 ird.govt.nz/international-tax/who-we-are

International Tax Strategy

Our international tax strategy aligns with Inland Revenue’s compliance model and the compliance framework which outlines the principles of how we should interact with our customers.



International taxation matters can generally be divided into the following two categories:



The taxation of cross-border flows of income



International cooperation on both a multilateral and bilateral basis

Through our strategy we continue to strive to achieve a future state with the following characteristics:

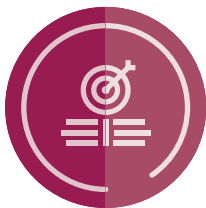
- > A New Zealand economy made more competitive and productive by ensuring there is a level playing field for all tax-compliant customers, fewer competitive distortions and the lowest possible compliance costs.
- > Increased assurance to the community that Inland Revenue is tackling abuse of the tax system, especially through eliminating any base erosion by MNEs.
- > Continued active collaboration across the globe with the aim to deliver the best outcomes right from the start for New Zealand.

Facilitating International Tax Compliance for MNEs

MNEs play a critical role in New Zealand’s overall revenue collection landscape. New Zealand’s compliance objective for MNEs is to collect the “right amount of tax at the right time through the right channels”.

In 2019 we launched our new compliance approach for MNEs – making a commitment to our customers that we will prioritise our efforts and focus mainly on prevention. We will be pragmatic and proportionate in reaching solutions to problems. In the intervening years, we have truly embedded this approach and remain committed to it.

As a refresher the key principles of this approach are:



Prioritisation

We will prioritise our work based on tax risk and materiality, keeping taxpayer compliance costs and Inland Revenue’s administrative costs as low as possible.



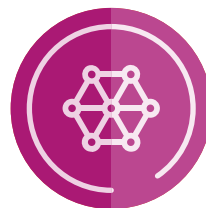
Prevention

We will embrace the “right from the start” concept and as far as possible our primary focus will be on working cooperatively with MNEs to prevent BEPS. We will capitalise on our law reform to drive behavioural change in any MNEs inclined to indulge in aggressive tax planning practices.



Pragmatism

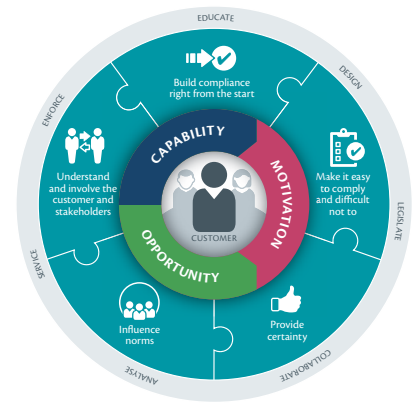
We will be reasonable and realistic, taking a pragmatic approach overall, especially in respect of transfer pricing given the various limitations in data and methodologies.



Proportionality

We will respect the additional dimensions presented by the MAP in our tax treaties as well as the global nature of MNE operations.

Our Compliance Approach



Helping customers get it right is at the heart of our approach.

The approach we take is to focus on collecting revenue, and ensuring New Zealanders get the social policy payments they're entitled to, with minimal effort for our customers and us.

Our international tax strategy is based on a customer-centric compliance model, which includes a number of principles setting out how we will interact with our MNE customers. We take a proactive “right from the start” approach, the aim of which is to engage with MNEs to ensure that they pay the right amount of tax at the right time through the right channels. This cooperative compliance environment also involves working closely with other tax administrations and key business interests to foster tax certainty and to facilitate trade and investment.

We continue to endorse the OECD's concept of “enhanced relationships” regarding MNEs based on risk management and transparency as well as a fair, open and responsive administration. Through this approach, we invest in cooperative and constructive relationships with taxpayers and their advisers, fostering an environment that supports full and frank dialogue. This is reflected especially in our “four Ps” commitment to taxpayers (prioritisation, prevention, pragmatism and proportionality).



Acting in real time and up-front.

Prompting our customers at the time they interact with us will help us prevent non-compliance or address errors as they occur. We do this by encouraging MNEs to apply for rulings and unilateral/bilateral advance pricing agreements (APAs) which also give them certainty.



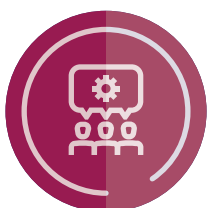
Focusing on end-to-end processes from a customer point of view.

Viewing the environment through the lens of a customer group allows us to build a comprehensive view of the customer's lifecycle and therefore align interventions at the point in time where choices leading to compliance or non-compliance are made. We endeavour to gather good intelligence on our customers and understand their context. MNEs can obtain earlier certainty through binding rulings, including unilateral APAs.



Make it easy to comply and difficult not to.

By designing a customer-centric system that is intuitive and has limited opportunities to get it wrong, we can achieve sustainable behavioural change and reduce compliance effort for our customers. Where possible and appropriate we provide practical guidance and promote simplification measures for our customers.



Actively involving and engaging customers and other stakeholders.

Working with third parties and other key stakeholders we can influence changing technologies and evolving service channels to align to customer processes, achieve a reduction in effort, and increase customer certainty. We work collaboratively with MNEs and their representatives as we design new products and processes to ensure they are fit for purpose and mindful of compliance costs.

Our Compliance Approach in Practice

As part of our right from the start approach, our objective is to head off any non-compliance before it occurs, by close monitoring, advance pricing agreements and practical guidance to allow MNEs to better self-manage their international financing and transfer pricing risks.

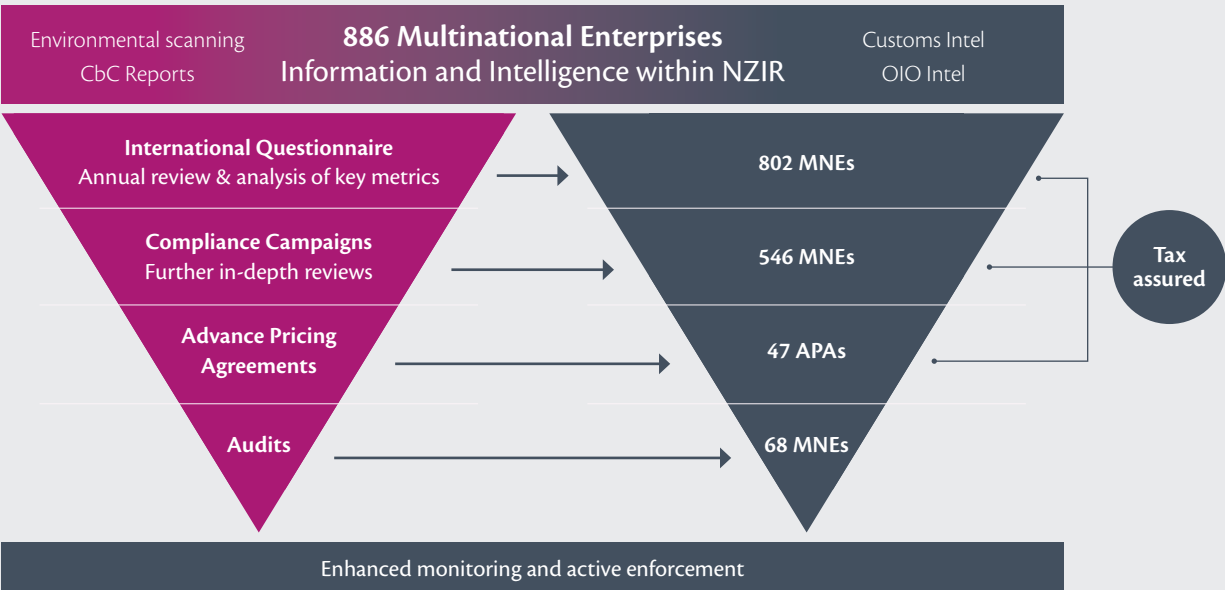
We have been actively monitoring all foreign-owned MNEs with an annual turnover of over \$30m for ten years now. Over and above the open relationships, we designed an international questionnaire that most foreign-owned groups are required to complete annually. The intelligence gathered from the information in this questionnaire assisted in shaping New Zealand’s anti-BEPS measures and continues to inform our strategic and operational risk processes and compliance interventions in relation to this population.

In more recent years, this intelligence has been further enhanced with additional information from the exchange of country-by-country reports and the summaries of cross-border tax rulings internationally, as well as information from the Overseas Investment Office (OIO) and the New Zealand Customs Service (Customs) domestically.

This enriched information helped shape our refreshed compliance approach. Based on our analysis of this intelligence, we developed a range of campaigns based around sector risks or specific issues. The primary intent of the campaigns was to ask for information and clarification of changes in MNE tax affairs to provide a clearer view of the impact of New Zealand’s anti-BEPS measures on MNE behaviour.

Targeted interventions have ranged from analysis of questionnaire responses through to in-depth reviews involving additional documentation requests and discussions with the customers and/or their representatives. This approach has resulted in the effective prioritisation of audit cases, minimising any disruption to the operations of the MNEs unless absolutely necessary and giving us the assurance required of compliance by MNEs.

MNE COMPLIANCE APPROACH IN ACTION (2020-2024)



CbC Reports / Country-by-Country Reports
 Customs Intel / New Zealand Customs Service Intelligence
 OIO Intel / Overseas Investment Office Intelligence

International Questionnaire – The Last Ten Years

The MNE population (excluding banks and insurers) is monitored via a range of sources that include an annual international questionnaire (IQ) and intelligence from domestic and international sources.

This year we have celebrated ten years of IQ in action. This was mainly designed to collect key information about financing and transfer pricing issues relating to foreign-owned MNEs operating in New Zealand. We now hold ten years of information and intelligence on MNEs that help us ensure they are complying with their tax obligations.

The data also helps us design tailored approaches as we consider implementing major international initiatives in New Zealand. This information was very useful as we were recovering from the impacts of the COVID-19 pandemic. Despite some significant losses reported by tourism and hospitality enterprises in the recent years, most MNEs have reported steady profits. Information from the IQ has also shown that the anti-BEPS measures taken here to reduce instances of MNEs' shifting profits overseas have been working well.

We carry out a macro analysis of the IQ data, examining patterns and trends, and identifying any potential anomalies. The following key performance indicators have been drawn from IQ data over the last three years:



Metric	Income Year		
	2021	2022	2023
EBIT/Sales (Median, IQ population)	5.7%	6.0%	5.0%
EBIT/Sales (Median, IQ Distributors/Wholesale)	4.4%	5.0%	4.1%
Proportion of MNEs reporting material structural changes	3.0%	2.8%	2.7%
Proportion of groups without non-resident associated party debt	64.9%	65.6%	62.3%
Median Debt/Capitalisation (All groups where Debt > 0)	47.3%	40.9%	38.0%

You can find a copy of our latest IQ and the annual summaries for the last ten years at the following link:

ird.govt.nz/international-tax/business/international-questionnaire

Key Factors That Influence MNE Compliance



1. Strengthening Legislation



Base Erosion and Profit Shifting – BEPS 1.0

BEPS refers to the various tax planning strategies used by MNEs to shift profits from higher tax jurisdictions (like New Zealand) to lower tax jurisdictions (including preferential tax regimes), exploiting loopholes and mismatches in tax rules. To address the growing concern about increasing BEPS practices, the 15-point BEPS Action Plan was agreed and published by the OECD in 2015. This action plan represented a major update of the international tax system, recognising that fundamental changes were needed in order to bolster its coherence, realign substance with taxation rights, and increase transparency.

A wide range of anti-BEPS measures were introduced subsequently in New Zealand:

Stronger rules as to permanent establishments
Revised transfer pricing rules
Revised thin capitalisation rules
Strengthened non-resident withholding tax rules
Anti-hybrid rules
Interest limitation/restricted transfer pricing rules
Anti-treaty shopping rules
Country-by-country reporting
Exchanges of cross-border tax ruling summaries
New administrative measures to obtain key information and collect tax from MNEs

Changes in New Zealand’s collection of goods and services tax have also helped to address the issues raised by globalisation and digitalised business models ensuring that GST is paid on goods and services consumed in New Zealand whether supplied by a local or overseas business.

The implementation of these initiatives has reduced the ability of MNEs to engage in aggressive tax planning. When combined with existing anti-avoidance rules and close compliance scrutiny, New Zealand’s position within the current international tax framework is robust. In particular, we have noted considerable behavioural change, with many foreign-owned MNEs having:

- 🌐 Introduced additional equity and/or reduced debt financing
- 🌐 Changed terms and conditions of loan agreements with associated parties
- 🌐 Unwound hybrid instruments, discontinued use of hybrid entities or otherwise eliminated previous hybrid or branch mismatch arrangements
- 🌐 Updated transfer pricing policies and documentation taking into account the adoption of revised OECD Transfer Pricing Guidelines
- 🌐 Commenced booking sales in New Zealand which had previously been booked offshore
- 🌐 Changed the local mode of operations, such as converting branches into subsidiaries or limited risk distributors into full risk distributors.






There are four BEPS minimum standards that are subject to peer review to ensure timely and accurate implementation and thus safeguard the global level playing field:

<p>Action 5 exchanges of summaries of cross-border tax rulings</p>	<p>Action 6 preventing tax treaty abuse</p>
<p>Action 13 exchanges of country-by-country reports</p>	<p>Action 14 making international dispute resolution more effective</p>

New Zealand has implemented these minimum standards and has been peer reviewed covering these minimum standards.

However, the following modern business practices have outgrown the international tax framework:

-  Scale without mass – MNEs are able to transact with customers over the internet without having the physical presence required by double taxation agreements (DTAs) for income tax to be charged in the customer’s country.
-  User value creation – even where an MNE does have a physical presence, the profit allocation rules do not recognise the new types of value that digital business models can generate in their market countries.
-  Intangibles – much of the value of modern MNEs is attributable to intangible assets which are both highly mobile and difficult to value, meaning that such businesses are able to shift their profits to low tax jurisdictions by locating their intangible assets there and charging royalties.

Addressing these issues requires fundamental changes beyond the concepts of source and residence that currently provide the basis for a jurisdiction’s taxing rights over income of MNEs. The OECD’s Two Pillar Solution aims to provide additional taxing rights for market jurisdictions (under Pillar One) as well as put a floor on tax competition and discourage profit shifting by way of an agreed global minimum effective corporate tax rate of 15% (under Pillar Two).

Base Erosion and Profit Shifting – BEPS 2.0



Pillar One

Reallocation of Taxing Rights (Amount A)

Amount A of Pillar One provides for a reallocation of taxing rights over a portion of the profits of the largest and most profitable MNEs based on the location of the customers or users. Unfortunately, there have been multiple delays in concluding this work. Updating the rules on a globally agreed, cohesive and principled basis remains the preferred option over other unilateral measures such as a digital services tax on gross revenues arising from highly digitalised business models that earn income from New Zealand.

Optional Simplified and Streamlined Approach to In-Country Baseline Marketing and Distribution Activities (Amount B)

The design of this approach was strongly focused on the specific needs of low-capacity jurisdictions who were unable to apply, or experienced extreme difficulties in applying, existing transfer pricing approaches (especially identifying local market comparables). New Zealand has not opted to apply this approach and, accordingly, the introduction of this approach in other jurisdictions does not change our current rules or practices.



Pillar Two

Minimum Global Effective Tax Rate of 15%

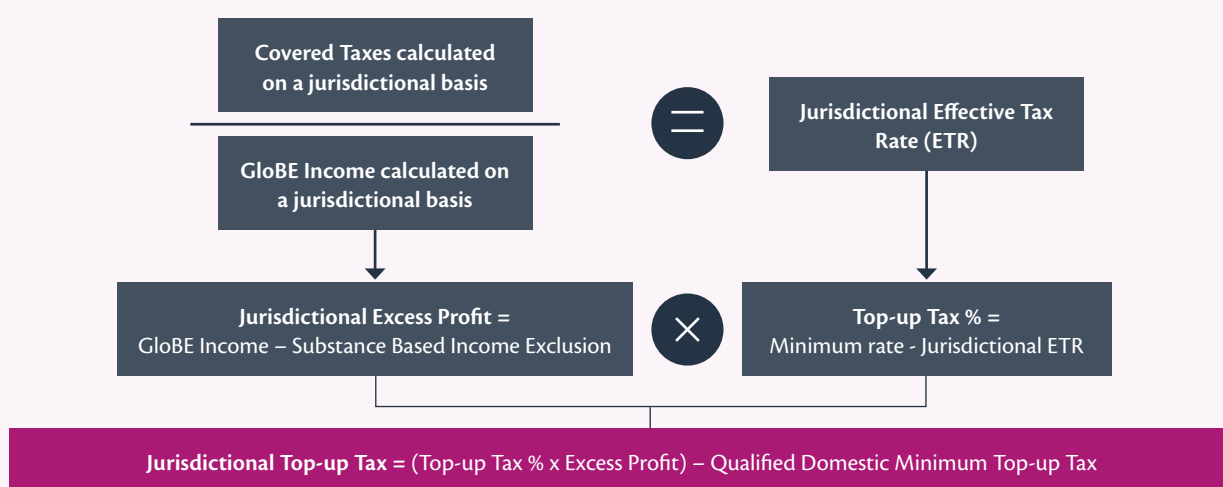
New Zealand will be implementing the Global Anti-Base Erosion (GloBE) rules from 1 January 2025. The GloBE rules are designed so that MNEs with annual revenues above EUR 750m pay a minimum effective tax rate of 15% on their income (less a mark-up on cost of tangible assets and employees) in every country where that income is earned.

Pillar Two Six-Step Determination

To identify tax liability under the GloBE rules, an MNE must broadly follow these six steps:

1. Identify whether in scope.
2. Determine which jurisdictions are not eligible for a safe harbour exclusion.
3. Determine GloBE Income of each group member in jurisdictions where there is no safe harbour (broadly this is financial accounting net income with some adjustments).
4. Calculate Covered Taxes attributable to each entity (broadly this is current and deferred taxes with some adjustments for timing differences).
5. Calculate the Top-up Tax rate and Jurisdictional Top-up Tax. This step includes a requirement to calculate the Substance Based Income Exclusion for each country (see Top-up Tax Calculation below).
6. Identify liable entities and allocate Top-up Tax.

TOP-UP TAX CALCULATION



Key Takeaways

- It is estimated that over 90% of MNEs globally that meet the scope criteria will be subject to the global minimum tax by 2025.
- Smaller MNEs are not impacted by the GloBE rules, whereas large MNEs with high levels of profits in countries where they have little or no substantial activity and little tax are the most affected.
- The Substance Based Income Exclusion relieves certain profits from the effect of the Top-up Tax based on the amount of economic substance reflected in tangible assets and payroll.
- MNEs should consider the use of safe harbour concessions to mitigate these new compliance costs.
- Source countries may implement a domestic minimum Top-up Tax to ensure they have priority taxing rights before other jurisdictions apply the GloBE rules.
- New Zealand is implementing a Domestic Income Inclusion Rule which will apply to undertaxed domestic source income of a domestic parent company and its domestic subsidiaries from 1 January 2026.
- The GloBE rules are complex and involve considerable collection and analysis of data to complete the standardised GloBE Information Return.
- Early planning and system development are critical in getting Pillar Two right from the start. Further guidance on Pillar Two can be found on our website:
- ird.govt.nz/international-tax/business/inclusive-framework-two-pillars-solution

2. Increasing Tax Transparency

Over the last 15 years, enormous progress has been made in establishing high standards of tax transparency and information-sharing globally so as to improve tax administrations' ability to gain a full picture of MNE business activities. The availability of timely, targeted, and comprehensive information is essential to enable tax administrations to quickly identify risk areas.

Exchange of information on request is the foundation of the international architecture for transparency and is the most widely used form of exchange. New Zealand has signed and ratified the Convention on Mutual Administrative Assistance in Tax Matters (the MAAC) which provides a global, unified legal basis for multilateral cooperation and has been adopted by 147 jurisdictions. The MAAC has greatly expanded New Zealand's network of exchange partners and the volume of information exchanged has increased markedly with the anti-BEPS initiatives involving the exchange of cross-border ruling summaries and country-by-country reports.

In accordance with the BEPS Action 5 minimum standard, New Zealand exchanges information on tax rulings, primarily summary details of unilateral advance pricing agreements and permanent establishment determinations. In the three years to 31 December 2023, New Zealand has exchanged details on 68 qualifying rulings and received details from treaty partners as to 149 qualifying rulings. The initiative has been aimed at "soft" or "sweetheart" rulings that may in effect provide tax holidays to MNEs. Not only has the receipt of details of rulings from treaty partners provided valuable insights into arrangements of MNEs, the initiative has provided much needed integrity to the overall system of rulings internationally.



New Zealand exchanges CbC reports with treaty partners in accordance with the BEPS Action 13 minimum standard. On average, New Zealand exchanges CbC reports for 25 MNEs headquartered here and we receive over 1,500 CbC reports annually from treaty partners. Over two-thirds of foreign-owned MNEs with annual group turnover in New Zealand above \$30m are subject to inward-bound CbC reporting. The rich information in these CbC reports as to how MNEs allocate their global income together with indicators as to the location of economic activity within these groups, further strengthens our BEPS risk assessments, providing us with a full picture of supply chain profitability.

Along with 41 other tax administrations, we are an active member of the Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC) which offers a platform to enable active collaboration within the legal framework of bilateral and multilateral conventions and tax information exchange agreements. New Zealand has benefited through the sharing of intelligence and strategies to deal with emerging tax risks involving MNEs as well as advances in analytical techniques and best practice compliance approaches.



3. Improving Corporate Tax Governance

Not only is a robust tax governance framework fundamental to tax compliance, but MNEs today are expected to demonstrate tax responsibility as part of their broader environmental, social and governance (ESG) commitments, aligning with global trends towards sustainability and ethical business practices.

Our approach to date has not been to mandate rules or dictate practices, instead we have encouraged improved fit for purpose corporate tax governance. In our view, a “one size fits all” approach does not work for tax governance purposes, we prefer an approach tailored to the specific facts and circumstances of the business. We have endeavoured to foster an environment of mutual trust and cooperation by working with taxpayers, and their representatives, and not taking a prescriptive or adversarial approach.



Both boards and management play key roles in tax governance. While the board sets strategy, management operationalises it with policies, procedures, and controls specific to the enterprise. For boards and management to better consider potential tax risks, we have highlighted some key “work-ons” to lift overall corporate tax governance:

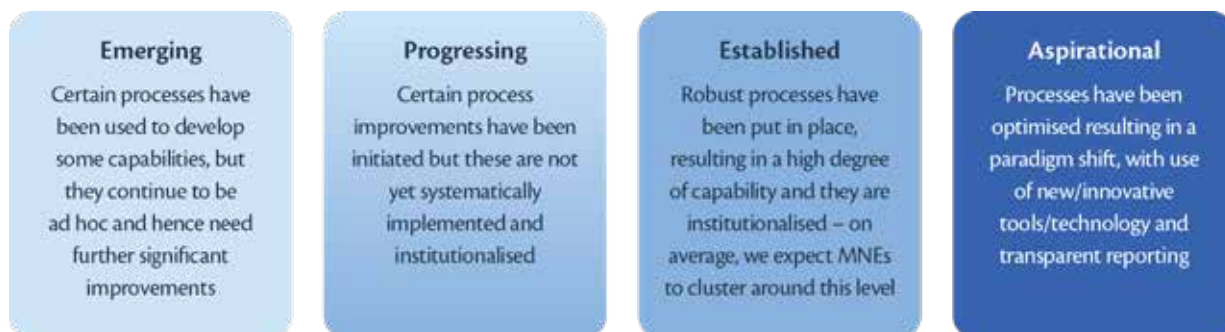
- > Documentation of tax strategy and tax control framework.
- > Regular testing and updating of tax controls.
- > Executive reporting to boards.

Additionally, for MNEs with overseas models, customisation to the New Zealand environment is necessary. Global tax policies need to be adjusted for New Zealand tax law and practice (for example, using appropriate transfer pricing methodology and local comparables), and relevant checks made of head office tax functions (for example, knowledge of possible upstream imported hybrid mismatch arrangements).

Risk	Mitigation
Reliance on key persons	Documentation of procedures
Set and forget	Test and update
Lack of direction	Report to the board
Lift and shift offshore model	Customise to New Zealand

Based on the insights gained from our compliance work and other commonly used OECD frameworks we developed a simplified model to demonstrate the different levels of maturity amongst businesses in New Zealand.

TAX GOVERNANCE MATURITY MODEL



Applying this “maturity model” approach, we consider the overall state of tax governance in New Zealand to be slightly above an intermediate level (i.e., between “Progressing” and “Established”). We are pleased with the recent direction of travel, with MNEs lifting their game and endeavouring to move to the desired “Established” stage, with a number progressing towards the “Aspirational” stage.

We recommend that MNEs operating in New Zealand set aside time to review their tax governance frameworks and test whether adequate policies, procedures and controls are in place as well as up-to-date documentation. A useful step in this process is to undertake a self-assessment as to their current

state of tax governance by using the checklist below. Boards may also want to use the Tax Risk Barometer and Transfer Pricing Tax Governance Questions in Appendices 1 and 2 respectively.

We not only consider the adequacy of tax governance in arriving at annual risk ratings for MNEs, but if adjustments arise as a result of future compliance activities, we will also take into account whether an MNE has paid sufficient attention to tax governance in our penalty deliberations. A board setting the appropriate “tone from the top”, coupled with a robust tax control framework, prevents risky tax positions being taken and reduces tax inefficiency.

TAX GOVERNANCE CHECKLIST

1. Does the company have a well-documented overarching tax strategy?
2. Does the chief financial officer or tax manager formally confirm, at least once annually, that this strategy has been regularly reviewed, updated where necessary and followed in practice?
3. Does the company have an effective tax control framework to manage day-to-day tax risks?
4. Has the operation of the tax control framework been tested independently in the last three years?
5. In the last three years, have any tax control deficiencies been identified? If so, have any follow-up actions been taken to remediate those deficiencies?
6. Are key internal policies, procedures and controls covering the data collection, analysis, calculation, recording and reporting for tax filing and other tax compliance requirements, documented and available for examination by Inland Revenue if required?
7. Does a review take place at least annually for changes to accounting policies upon which group financial statements are prepared and all items examined where tax treatment may differ materially from financial accounting treatment?
8. Is there a robust process in place for the finance and/or tax teams to stay on top of all relevant changes in tax law and related Inland Revenue guidance?
9. Is a process in place to identify significant transactions (including those which need to be reported to the board or relevant board sub-committees) in respect of which external advice and/or binding rulings may be required?
10. Does senior management report regularly to the board or relevant board sub-committees on potentially material tax issues or risks?

4. Providing Practical Guidance/ Increasing Certainty



To provide taxpayers with greater assurance 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 taxpayers 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 or to the tax status of a person or thing. An arrangement is any agreement, contract, plan or understanding (whether or not it is enforceable), including any steps and transactions that carry it into effect. In addition, we have the ability to rule on the status of a taxpayer, such as whether they are a "non-resident", and certain other matters, without the need to have an arrangement.

Inland Revenue also provides short process rulings. The basic criteria for being eligible to apply for this type of ruling are that the person's annual gross income for the tax year prior to the year in which the application is made is \$20m or less, and that the matter on which the ruling is sought concerns a tax (other than provisional tax), duty, or levy that is expected to amount to less than \$1m.

If you have been given a binding ruling, you are not required to follow the ruling. But if you do follow a binding ruling exactly as described in the ruling and satisfy any stated 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 either by following the ruling or taking a different tax position.

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 ten weeks of an application, although shorter timeframes may be possible in some circumstances. For more information, please refer to our guide for Binding Rulings (IR715).

ird.govt.nz/managing-my-tax/short-process-rulings/applying-for-other-types-of-rulings

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 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 not 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 transfer pricing arrangements or arrangements involving potential tax avoidance or hypothetical situations.

Advance Pricing Agreements

APAs have proven extremely useful as a robust upfront means of dealing with transfer pricing risks, especially the more complex issues that arise. They are a valuable tool to prevent transfer pricing disputes arising in the first place.

An APA is an agreement between Inland Revenue and the taxpayer which confirms the basis for their international pricing. MNEs 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 cooperative approach to tax compliance as opposed to potentially adversarial audits. The product is ideally suited to the more complex transfer pricing issues such as where intangibles are created and/or developed, specialised services are provided, and comparables cannot be identified.

We finalised 21 APAs in the year to 30 June 2024, and as at that date we had completed 297 in total. Most of our bilateral APA work has been with Australia. We have also completed bilateral APAs with Belgium, Canada, China, Japan, Korea, Switzerland, the United Kingdom and the United States.

We have found unilateral APAs successful in both inbound and outbound transfer pricing scenarios. Although unilateral APAs are one-sided, should double taxation arise on transactions covered by a unilateral APA, we will enter into competent authority negotiations with the other jurisdiction on the basis of the unilateral APA position. Unilateral APAs are especially viable where the amounts at stake are small and/or where most of the transfer pricing risk lies in New Zealand. Our aim is to complete unilateral APAs within six months of the date of acceptance of a formal application. Bilateral negotiations, especially beyond Australia, generally take considerably longer to conclude.

Mutual Agreement Procedure

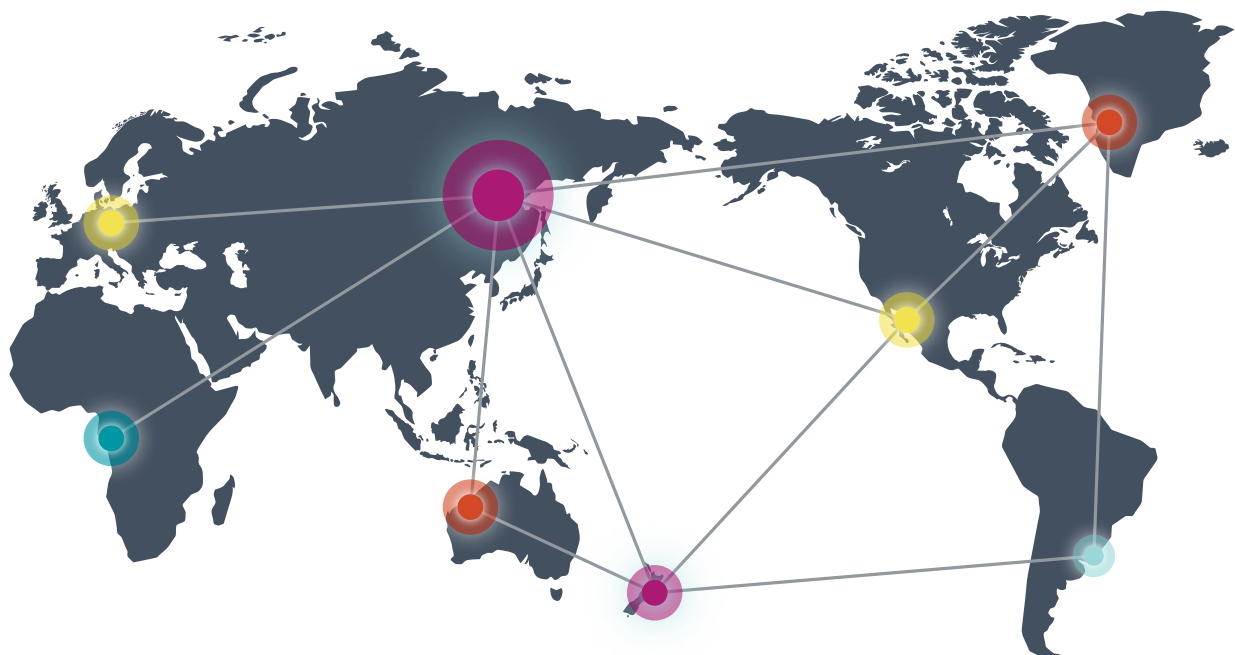
A key issue in increasing tax certainty is to improve the resolution of tax-related disputes between jurisdictions under the MAP Article in our tax treaties. Please refer to the section on Expediting Resolution of International Tax Disputes on page 28.

Global Mobility

The issue of employees working internationally or remote working, including senior decision-makers, is not a new phenomenon. However, the pandemic accelerated the deployment and widespread adoption of more flexible, global and remote work across all industries. We are actively participating in the work of the OECD in this area.

Permanent establishment recognition issues are the main concern, with consideration of residence, employment income, and pensions as secondary priorities. There are also a number of potential transfer pricing challenges for MNEs, in particular:

- 🌐 The accurate delineation of a transaction when functional/risk control contributions are made by globally mobile individuals
- 🌐 How to account for contributions that are made overseas by individuals on an irregular, periodic, or temporary basis
- 🌐 Assessing contributions to control of risks and DEMPE (development, enhancement, maintenance, protection and exploitation) of intangibles by senior employees who are globally mobile
- 🌐 The relevance and implications of dispersed senior management footprints for centralised business models
- 🌐 Business restructuring implications when a senior employee re-locates to another jurisdiction for business versus personal reasons.



5. Reducing Compliance Costs



International Questionnaire

Unlike detailed questionnaires and supplementary disclosures required by many other tax administrations, we focus on the information that really matters in our annual International Questionnaire issued to over 800 significant foreign-owned MNEs operating in New Zealand. This two-page questionnaire is a mix of group financial information and targeted questions as to performance.

We value additional contextual information provided by MNEs alongside their responses to the questionnaire, explaining any abnormal events or major changes in their performance or business operating model for the year in question. Such details enable us to have a clearer picture of their financial affairs and avoid unnecessary follow-up queries.

Transfer Pricing Simplification Measures

Over the years, the number of jurisdictions implementing transfer pricing rules has increased substantially. The rules themselves have become more sophisticated and nuanced. At the same time, increased global footprints of MNEs have progressively reduced the availability of comparable data from independent enterprises. Consequently, transfer pricing compliance and administration can be complex and costly, particularly when viewed on a global basis from the perspective of an MNE.

The situation is particularly acute for small and routine business operations (such as wholesale distributors), where compliance costs may become disproportionate to specific transfer pricing risks. Taking an economy-wide view, enterprises can be required to incur business-specific compliance costs, such as searching for comparable data, which do not produce significantly more accurate outcomes than could be achieved on a generic industry or functional basis. In these scenarios, it is appropriate to consider whether simplification measures could minimise compliance and administrative costs whilst maintaining or potentially improving overall compliance outcomes.

New Zealand's transfer pricing rules have always been about striking a balance between protecting the tax base and containing compliance costs. We have implemented a range of simplification measures targeted at reducing compliance costs in situations that are likely to present a low transfer pricing risk.

Small Wholesale Distributors

Foreign-owned wholesale distributors (i.e. firms that purchase and on-sell goods to other firms without significant transformation) are the most common multinational business model encountered in New Zealand. For foreign-owned wholesale distributors with an annual turnover of under \$30m, we currently consider a weighted average earnings before interest, tax and exceptional items (EBITE) ratio of 3% or greater is broadly indicative of an arm's length outcome in the absence of readily available transactional data for that distributor's transfer pricing transactions or other comparable market data for distributors operating with similar risk characteristics. Transfer pricing outcomes in accordance with this indicative ratio are likely to present a low transfer pricing risk and so no benchmarking is required to support the arm's length nature of the distributor's weighted average EBITE ratio.

Low Value-Adding Intra-Group Services

The OECD designed an elective, simplified approach for pricing low value-adding intra-group services. We recognised there were considerable benefits for taxpayers in aligning our practice with this international standard and initially adopted this simplification measure for qualifying low value-adding intra-group services with a total value below NZ\$1m per annum. For income years commencing on or after 1 July 2018, qualifying services could be priced at cost plus a mark-up of 5% without the need to provide benchmarking analysis. Finally, we removed the threshold requirement for income years commencing on or after 1 April 2021.

Small Value Loans

For small value loans (i.e. for cross-border associated party loans by groups of companies for up to \$10m principal in total), we currently consider 325 basis points (3.25%) over the relevant base indicator is broadly indicative of an arm's length rate, in the absence of a readily available market rate for a debt instrument with similar terms and risk characteristics. Transactions priced in accordance with this simplification measure are likely to present a low transfer pricing risk and as such no further benchmarking is required.

Risk Indicators

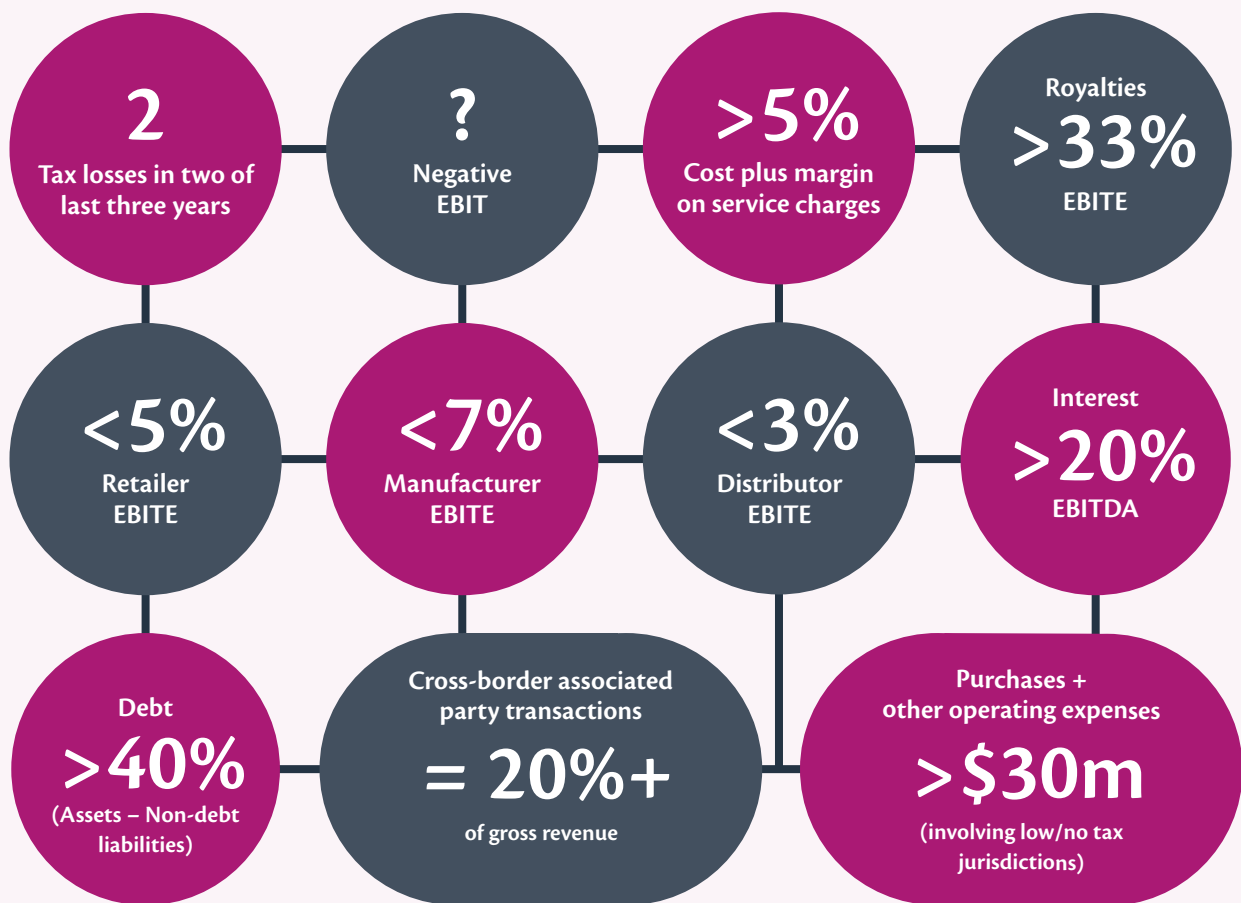
The provision of risk indicators assists MNEs to self-evaluate their compliance with anti-BEPS measures and identify potential deficiencies. See below for the 2024 update.

Application of Interest Limitation Rules to Outbound Loans

Certain related-party loans between a non-resident lender and a New Zealand-resident borrower are required to be priced using interest limitation rules referred to as restricted transfer pricing. To further reduce compliance costs, we will accept a symmetrical approach also being taken on outbound loans. Accordingly, where New Zealand-resident lenders correctly apply the interest limitation rules to set the interest rate on their loans to related non-resident borrowers, we will consider the result to be arm's length. This is on the basis that the amount deducted by the non-resident borrower in the foreign jurisdiction does not exceed the amount returned as income by the New Zealand resident lender.

“You Do The Math”

Draw a high-level risk picture by using the following simple checklist. If any one (or more) of the risk indicators listed below is present then don't be surprised if we ask you for additional information.



EBIT = earnings before interest and tax

EBITE = earnings before interest, tax and exceptional items

EBITDA = earnings before interest, tax, depreciation and amortisation

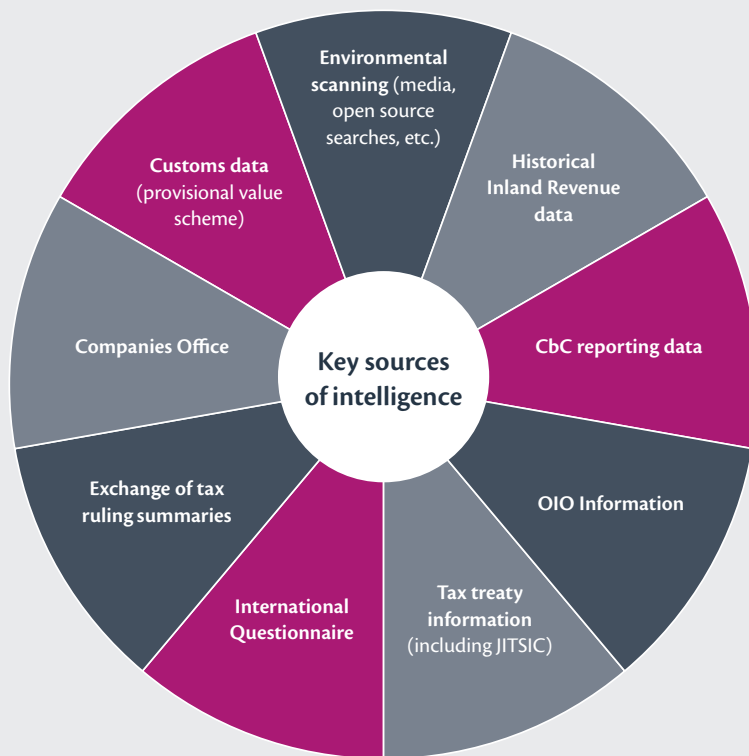
Low or no tax jurisdictions = those where company tax rates are less than 15%

6. Enhancing Intelligence and Analytics



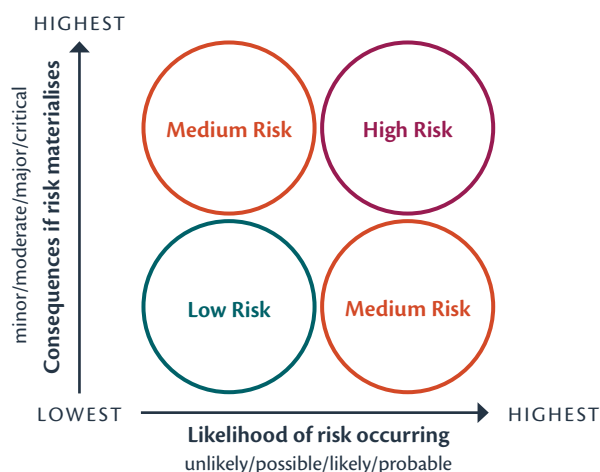
We pay close attention to the size and complexity of the New Zealand economy and its tax base, the nature and extent of cross-border financial flows, and the predominance of certain sectors. We assess risk against both likelihood and impact.

We draw on a wide range of intelligence sources.



Inland Revenue recognises that it must accept risk and uses thoughtful analysis to determine the level of risk it is willing to accept. We follow international best practice by employing a risk-based system of interventions, alleviating the compliance burden and costs as much as possible for low-risk MNEs and activities. We focus compliance and enforcement resources to the identified areas of highest risk.

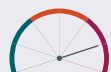
Risk ratings are assigned based on both quantitative and qualitative information with considerable judgement applied:



Low risk – accept and monitor



Medium risk – pay close attention in case of further deterioration



High risk – address with appropriate interventions, immediate priority given to critical-level risks

A wide range of factors are taken into account, including:

- > MNE history and ownership
- > Industry type and relevant commercial practices
- > Extent and complexity of cross-border transactions
- > Key performance indicators.

There is no single element capable of providing a complete picture of the existence and scale of BEPS. For example, the presence of material transactions with low/no tax jurisdictions may not be as strong an indicator of BEPS risk as the overall level of cross-border associated party transactions. However, where an MNE has both these features as well as low relative profitability then BEPS risk increases appreciably.

7. Extensive Monitoring and Targeted Enforcement



BEPS Campaigns

Background

As part of our “right from the start” compliance strategy, we have undertaken targeted BEPS campaigns focused on specific sectors and issues, making use of a range of information obtained from questionnaires and follow-up actions.

The campaigns were proactive in nature and reflected the cooperative approach that we took in general during the COVID-19 pandemic, achieving assurance as to a significant part of the tax base at a time when traditional audits were generally suspended. We also gained some key insights to factor into our risk assessment models and future interventions.

BEPS campaigns to date	
Sector/Issue	MNEs
Distributors/Wholesalers	372
Financing	84
Intangible property/royalties	30
Losses	14
Manufacturing	32
Services	44
COVID-19 wage subsidy	436
Transfer pricing documentation	65





Ten Key Insights from Campaigns

- 🌐 Bundled intangible property (i.e. a single payment for several types of rights) is the highest risk category of intangible, as it is difficult to identify (and price) the individual elements with specificity.
- 🌐 Geographic isolation and lack of competitive pressures lead to large MNEs dominating the New Zealand market and thus higher operating margins should result than most other markets.
- 🌐 Global transfer pricing policies and associated target rates of return should not be applied in isolation but customised to New Zealand circumstances and specific results.
- 🌐 Where losses have been incurred, detailed explanations as to how these have arisen as well as turnaround plans to return to profitability should be available.
- 🌐 High risk arrangements such as the provision of intangible property and specialised services, complex financing arrangements and market support payments should be supported by inter-company agreements and transfer pricing documentation (including additional contextual explanations and analysis).
- 🌐 Comparable data must be drawn from the same or similar markets as the New Zealand-tested party; it will generally involve reference to Australasian data. This is supported by both Governments' commitments to a process called the Single Economic Market agenda, designed to create a seamless trans-Tasman business environment. Australia is recognised as our closest reference country in terms of demographics, size of economy and stage of economic development. In contrast, the use of data from large Asian economies (such as China, India, Japan and Korea) provides weak support for New Zealand tested party results as none of these are considered comparable to the New Zealand market.
- 🌐 MNE distributors generally undertake more functions and hold higher inventory levels than those operating in other markets.
- 🌐 The Berry ratio is not a reliable profit level indicator apart from cases involving basic service providers.
- 🌐 Higher risk is associated with the application of the residual profit split method, as opposed to methods which rely upon market comparables; a cross-check using a secondary transfer pricing method is recommended to mitigate this higher risk.
- 🌐 Sales to end-consumers require more sales and marketing investment along with higher levels of service and after-sales care; higher operating margins are expected due to this increased functionality.



8. Expediting Resolution of International Tax Disputes



Mutual Agreement Procedure

New Zealand has 40 double taxation agreements (DTAs), each with an article establishing a mutual agreement procedure 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. 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.

Scope of MAP

Our general position is to support the availability of the MAP in a wide range of double taxation cases, including those arising from:

- 🌐 transfer pricing adjustments
- 🌐 attributing profits to permanent establishments
- 🌐 determining residence for individuals and companies
- 🌐 withholding taxes deducted incorrectly
- 🌐 the application of anti-abuse provisions in DTAs or the general anti-abuse doctrine applicable to the interpretation of DTAs
- 🌐 the application of domestic anti-avoidance provisions
- 🌐 bona fide taxpayer-initiated foreign adjustments.

The OECD Model Tax Convention allows for competent authorities to consult together for the elimination of double taxation in cases not provided for by a particular DTA. Our general approach is to allow taxpayers the benefit of the MAP where possible, so the terms of individual DTAs should be read broadly. If the terms of a DTA are unclear, New Zealand will allow access to the MAP.

MAP Performance

Article 25 effectively equips tax administrations with the practical means to ensure that cross-border income earning activity is taxed correctly in accordance with DTAs. 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. We have experienced a moderate case load in recent years with good turnaround times as follows:

Year to 31 December	Number Resolved	Average Cycle Time
2021	13	7 months
2022	26	7 months
2023	24	8 months

While we take a pragmatic approach to transfer pricing disputes especially, recognising limitations in data and transfer pricing methods, we will not be unprincipled in finding solutions. Best endeavours are made to reach satisfactory outcomes but resolution is not always possible so it is important for MNEs to also remain engaged in domestic disputes processes.



Information required in a MAP request

Taxpayers can facilitate the MAP by ensuring the competent authorities of both contracting states receive complete, accurate and timely information. Depending on what may be determined as a result of a pre-filing conference, the following information should be included in a taxpayer's MAP submission:

1.	Name, address and IRD number of the taxpayer.
2.	The provision of the specific article of the DTA which the taxpayer considers is not being applied correctly by either one or both contracting states.
3.	The relevant facts of the case, including any documentation substantiating these facts, the period involved and the amounts involved.
4.	An analysis of the issues involved supported by relevant documentation.
5.	Where a request has also been made to the competent authority of the other contracting state, a copy of that submission.
6.	If the issue has been previously dealt with by some other means (such as an advance ruling, advance pricing agreement or settlement agreement), then a copy of any relevant ruling or agreement.
7.	If the MAP request has been submitted to another authority under another instrument that provides for a mechanism to resolve treaty-related disputes, then a copy of that submission (including all related documentation) unless the content of both MAP submissions are exactly the same.
8.	If the MAP request is 'protective' (that is, submitted to ensure compliance with a time frame provided under the relevant tax treaty but not to be examined until further notification from the taxpayer to do so), then a clear statement to this effect.
9.	A final statement confirming that all information provided in the MAP request is accurate and additional information will be provided in a timely manner if required by the competent authority.
10.	In multilateral cases, the information required will include the above-mentioned across all relevant parties and treaties.

BEPS Action 14

The genesis of BEPS Action 14 developed from a recognition that the actions to counter BEPS must be complemented with actions that ensure certainty and predictability for businesses and individuals. It was therefore necessary to develop robust dispute settlement processes across jurisdictions to ensure that disputes are resolved in a timely, effective, and efficient manner. The Forum on Tax Administration's MAP Forum was established to support increased tax certainty through guidance and statistics on MAP cases and bilateral advance pricing agreements, as well as peer reviews of jurisdictional performance to improve dispute prevention and resolution. A minimum standard was introduced to ensure access to MAP is available and cases are resolved within a reasonable timeframe, with outcomes implemented quickly.

Two rounds of peer reviews have been completed by the MAP Forum and have led to changes in the management of MAP cases, a greater number of closed cases, an increase in the availability of country profiles and better guidance on rules and procedures. New Zealand has committed to resolving treaty-related disputes within an average timeframe of 24 months. We have also undergone two rigorous peer reviews by the

MAP Forum, with their main recommendation being that we update a number of our older DTAs to the latest wording of the OECD Model Tax Convention. We are progressing that through the implementation of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) and bilateral negotiations. New Zealand is scheduled to be reviewed for a third time by the MAP Forum in 2025.

Arbitration

New Zealand has opted to apply Part VI of the MLI which introduces arbitration as a means of dispute resolution. New Zealand has also had arbitration in the DTAs with Australia and Japan for several years. If a solution cannot be reached under MAP, taxpayers have the ability to request unresolved issues be taken to arbitration.

We consider the availability of arbitration incentivises competent authorities to resolve disputes within a reasonable time period (the general standard being two years). We are progressively concluding working arrangements with competent authorities of jurisdictions that have agreed to arbitration. We have had no requests for arbitration to date.

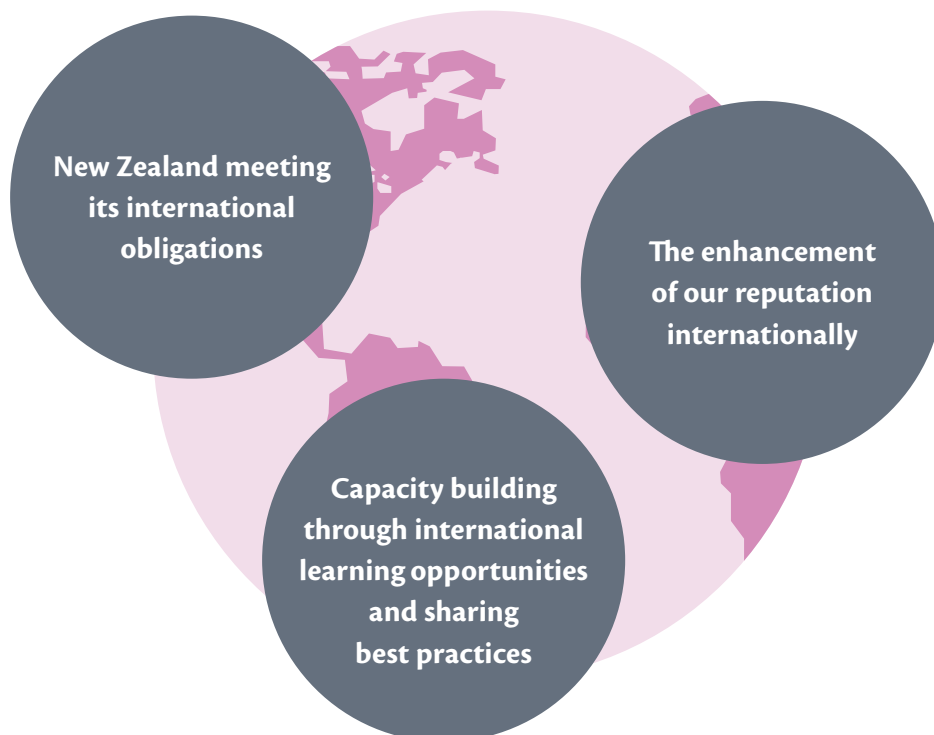
9. Building International Tax Capacity



Capacity building is essential to help developing countries implement their international tax policy and administration objectives. We do this by way of various one-to-many outreach activities and participation in joint training events. Inland Revenue seeks to work in partnership with international and regional organisations to reduce the risk of duplication and increase overall impact.

We work closely with the OECD Global Relations Programme in providing training to tax officials mainly in developing countries on key areas of international tax cooperation and on emerging issues including tax treaties, transfer pricing, dispute resolution, anti-BEPS measures and exchange of information. The goal of the programme is to enable tax officials to share their experiences, acquire a common understanding of international tax systems and develop solutions to common problems.

Together with the Asian Development Bank and other partners under the umbrella of the Pacific Initiative, Inland Revenue has been providing both in-person and virtual training to Pacific Island jurisdictions on international tax standards.



10. Expanding the Tax Treaty Network



New Zealand continues to work with the OECD and treaty partners to ensure our international agreements are modern and robust. We have DTAs with 40 countries and negotiate updates to those DTAs and conclude new DTAs as needs or circumstances arise. The most recent updates have been a new DTA signed with the Slovak Republic, and a protocol that modernises our DTA with Austria.

New Zealand is currently negotiating DTAs or protocols with Australia, Croatia, Germany, Hungary, Iceland, Korea, Portugal, Slovenia and the United Kingdom.

More information about New Zealand's international tax agreements, including the text of the DTAs, can be found at Tax Treaties:

taxpolicy.ird.govt.nz/tax-treaties

We have a number of on-going international commitments, including:

-  Active participation in various OECD, Global Forum on Transparency and Exchange of Information for Tax Purposes and Forum on Tax Administration working parties and projects
-  Membership of the Study Group on Asia-Pacific Tax Administration and Research
-  Membership of the Commonwealth Association of Tax Administrators
-  Observership with the Belt and Road Initiative Tax Administration Cooperation Forum
-  Supporting the Ministry of Foreign Affairs and Trade free trade agreement programme and the New Zealand delegation at the United Nations on tax matters.

Tax Treaty Abuse

BEPS Action 6 identified tax treaty abuse, and in particular treaty shopping, as one of the most important sources of BEPS concerns. Taxpayers that engage in treaty shopping and other types of treaty abuse undermine tax sovereignty by claiming treaty benefits in inappropriate circumstances, especially where companies route profits through low or no tax jurisdictions to avoid paying taxes in a third country.

Tackling treaty shopping is one of the four BEPS minimum standards, and jurisdictions have committed to include provisions in their tax agreements to ensure a minimum level of protection against treaty shopping. The majority of OECD/G20 Inclusive Framework members, including New Zealand, are progressing towards implementation of the minimum standard by modifying their treaty networks with the help of the MLI.

To ensure that DTAs are easy to understand, New Zealand will seek to incorporate the relevant anti-abuse provisions directly into any renegotiated treaty.



New Zealand's Major International Tax Instruments

Multilateral Instruments

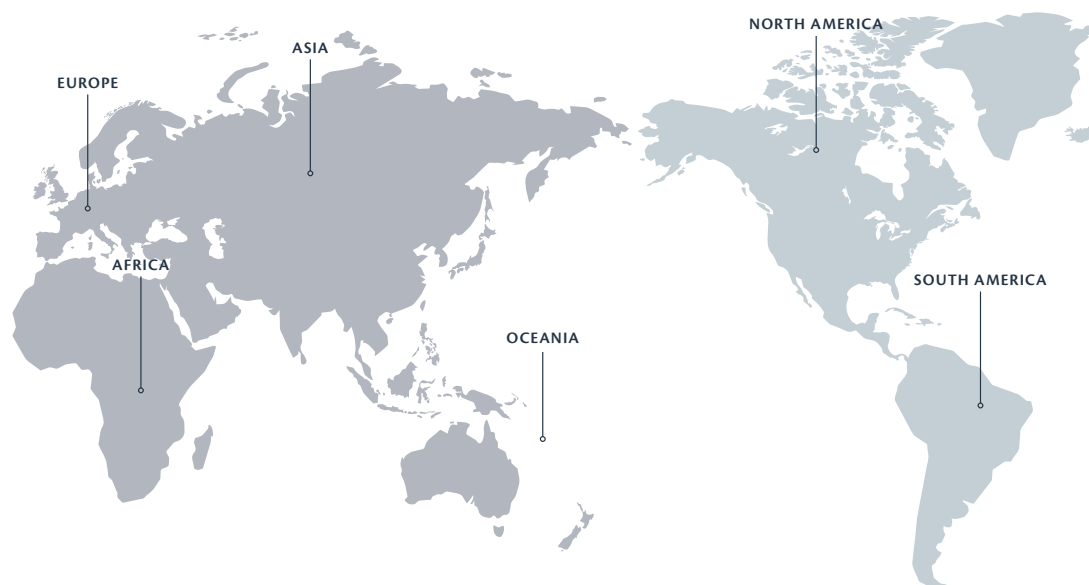
New Zealand is a party to:

- 🌐 Convention on Mutual Administrative Assistance in Tax Matters;
- 🌐 Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

Double Taxation Agreements

New Zealand has a network of 40 double tax agreements in force with its main trading and investment partners:

- | | | | |
|------------------|-------------|------------------------------|----------------------------|
| 🌐 Australia | 🌐 France | 🌐 Mexico | 🌐 South Africa |
| 🌐 Austria | 🌐 Germany | 🌐 Netherlands | 🌐 Spain |
| 🌐 Belgium | 🌐 Hong Kong | 🌐 Norway | 🌐 Sweden |
| 🌐 Canada | 🌐 India | 🌐 Papua New Guinea | 🌐 Switzerland |
| 🌐 Chile | 🌐 Indonesia | 🌐 People's Republic of China | 🌐 Thailand |
| 🌐 Chinese Taipei | 🌐 Ireland | 🌐 Philippines | 🌐 Türkiye |
| 🌐 Czechia | 🌐 Italy | 🌐 Poland | 🌐 United Arab Emirates |
| 🌐 Denmark | 🌐 Japan | 🌐 Russian Federation | 🌐 United Kingdom |
| 🌐 Fiji | 🌐 Korea | 🌐 Samoa | 🌐 United States of America |
| 🌐 Finland | 🌐 Malaysia | 🌐 Singapore | 🌐 Viet Nam |



Tax Information Exchange Agreements

New Zealand has the following tax information exchange agreements in force:

- | | | | |
|--------------------------|---------------|------------------------------------|----------------------------|
| 🌐 Anguilla | 🌐 Curaçao | 🌐 Jersey | 🌐 San Marino |
| 🌐 Bahamas | 🌐 Dominica | 🌐 Marshall Islands | 🌐 Sint Maarten |
| 🌐 British Virgin Islands | 🌐 Gibraltar | 🌐 Netherlands Antilles | 🌐 Turks and Caicos Islands |
| 🌐 Cayman Islands | 🌐 Guernsey | 🌐 Niue | 🌐 Vanuatu |
| 🌐 Cook Islands | 🌐 Isle of Man | 🌐 Saint Vincent and the Grenadines | |

Glossary

APA Advance Pricing Agreement	BEPS Base Erosion and Profit Shifting	CA Competent Authority
CbC Country-by-Country Reporting	Customs New Zealand Customs Service	DTA Double Taxation Agreement
EBIT Earnings before interest and tax	EBITDA Earnings before interest, tax, depreciation and amortisation	EBITE Earnings before interest, tax and exceptional items
G20 The Group of Twenty	GloBE Global Anti-Base Erosion	IQ International Questionnaire
IRS International Revenue Strategy	JITSIC Joint International Taskforce on Shared Intelligence and Collaboration	MAAC Multilateral Convention on Mutual Administrative Assistance in Tax Matters
MAP Mutual Agreement Procedure	MLI Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS	MNE Multinational Enterprise Group
OECD Organisation for Economic Co-operation and Development	OIO Overseas Investment Office	TIEA Tax Information Exchange Agreement

Contacts

Purpose	Contact
Principal Competent Authorities	<p>John Nash (Strategic Advisor, International) Anu Anand (Service Leader, International) Carmel Peters (Strategic Policy Advisor)</p>
Bilateral Advance Pricing Agreements	<p>John Nash (Strategic Advisor, International) Anu Anand (Service Leader, International) Inland Revenue PO Box 2198 Wellington 6140</p> <p>Competent.Authority@ird.govt.nz</p>
Mutual Agreement Procedure	<p>John Nash (Strategic Advisor, International) Anu Anand (Service Leader, International) Inland Revenue PO Box 2198 Wellington 6140</p> <p>Competent.Authority@ird.govt.nz</p>
Binding Rulings and Unilateral Advance Pricing Agreements (including advice and arranging pre-application meetings)	<p>Team Manager Technical Services Tax Counsel Office PO Box 2198 Wellington 6140</p> <p>Rulings@ird.govt.nz</p>
General Transfer Pricing Queries	<p>Transfer.Pricing@ird.govt.nz</p>
Exchange of Information	<p>John Nash (Strategic Advisor, International) Anu Anand (Service Leader, International) Inland Revenue PO Box 2198 Wellington 6140</p> <p>Competent.Authority@ird.govt.nz</p>
Country-by-Country Reporting	<p>CbC@ird.govt.nz</p>
Dual Residence	<p>Competent.Authority@ird.govt.nz</p>

Tax Risk Barometer



Risk appetite / Tone from the top

- 🌐 Tax strategy
- 🌐 Policy on facilitation payments
- 🌐 Rulings/APAs



Complexity

- 🌐 Corporate structure/diverse business models
- 🌐 Hybrid mismatches/special purpose vehicles
- 🌐 Innovative financial arrangements



Tax Control Framework

- 🌐 Documentation/reporting
- 🌐 Testing/updating
- 🌐 Remediation



Structural Changes

- 🌐 Ownership
- 🌐 Acquisitions/divestments
- 🌐 Functions/assets/risks

PERFORMANCE BENCHMARKING

Three-year operating margins/returns on assets	■
Local comparables	■
CbC report comparisons	■

CROSS-BORDER RELATED PARTY TRANSACTIONS

Extent of revenue/expenditure	■
Extent of transactions with no/low tax jurisdictions	■
Related party debt	■

TAX ACCOUNTING

Effective tax rate	■
Capital gains/foreign tax credits	■
Controlled foreign company results	■

Transfer Pricing Tax Governance Questions

-
- ① Do you know the nature and extent of your cross-border associated party transactions?
-
- ② If material, do you have documentation in support of the transfer prices and is this documentation kept updated (especially for changes in functions, assets or risks)?
-
- ③ In compiling this documentation, have you critically evaluated all intercompany agreements?
-
- ④ Does the documentation explain:
- 🌐 value adding functions of various parties to arrangements?
 - 🌐 actual conduct of the parties?
 - 🌐 how key risks are managed and controlled by the parties?
-
- ⑤ Has your local management and finance function been fully involved in the documentation process and signed off the factual analysis, as well as the final outcomes?
-
- ⑥ Have you given due consideration to an advance pricing agreement? If not, why not?
-
- ⑦ Consider overall reasonableness of results – do they make sense as to New Zealand value add?
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