New Zealand

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1. Types of tax

1.1 Inheritance tax

New Zealand abolished estate duty with effect for persons dying on or after 17 December 1992 and currently has no form of estate duty, inheritance tax or capital transfer tax.

1.2 Gift tax

Gift duty has been abolished for gifts made on or after 1 October 2011.

1.3 Real estate transfer tax

New Zealand has no form of real estate transfer tax.

1.4 Endowment tax

New Zealand has no form of endowment tax.

1.5 Transfer duty

New Zealand has no form of transfer duty.

1.6 Net wealth tax

New Zealand has no net wealth tax.

1.7 Income tax

Income tax liabilities may arise in relation to assets that: are gifted, are transferred to executors or administrators on an individual's death, are distributed to beneficiaries under a will or the intestacy rules, or that are distributed by trustees. The general rule deems the assets to have been disposed of and acquired at market value, which may result in income tax liabilities in relation to assets within the tax base. Exclusions and rollover relief may apply in some circumstances when transferees are spouses, civil union or de facto partners or close relatives. Rollover relief generally applies in relation to assets that are transferred under relationship property agreements or court orders.

1.8 Goods and services tax

Goods and services tax (GST) is similar to a value-added tax (VAT) and is imposed on supplies of goods or services in New Zealand by persons who are formally GST-registered or who are liable to be registered (because the level of their supplies of a GST-taxable nature in the current and preceding 11 months is NZD60,000 or more, or is expected to exceed that amount over the current and subsequent 11 months). GST may also be levied on goods imported into New Zealand, regardless of the GST status of the importer, and may apply by way of a reverse charge in relation to imported services in some circumstances.

GST is also imposed on supplies of digital and other remote services by nonresidents to New Zealand residents (other than GST-registered business customers). From 1 December 2019, GST is generally imposed on low-value (NZD1,000 or less) goods imported by New Zealand consumers from offshore suppliers. These offshore suppliers are required to register for and return GST on these supplies. Offshore suppliers may have the option to also charge GST on their supplies of goods over NZD1,000 to consumers in New Zealand.

GST-exempt activities include supplies of financial services (although some may be zero-rated in certain circumstances, which enables suppliers to claim related GST input tax credits), supplies of certain fine metals and certain supplies of residential dwelling accommodation (other than in relation to commercial dwellings) and related land. Recent legislative changes have also excluded cryptocurrency assets from GST.

2. Who is liable?

Income tax

New Zealand residents are generally subject to income tax on their worldwide income and may be taxed on attributed income in relation to interests in controlled foreign companies or foreign investment funds. Nonresidents are subject to income tax on New Zealand-sourced income only. Transitional resident individuals (please see below) may be exempt from New Zealand income tax for a four-year period (sometimes slightly longer) on foreign-sourced and attributed income other than foreign-sourced employment or services income.

New Zealand-sourced income may arise, for instance, when:
- A business is carried on wholly or partly in New Zealand.
- Contracts are made or wholly or partly performed in New Zealand.
- Employment income is earned in New Zealand.
- Income is derived by the owner of land in New Zealand.
- Income is derived from shares in or membership of New Zealand-resident companies.
- Income is derived from the disposal of depreciable or revenue account property situated in New Zealand.

The New Zealand income tax treatment of trusts (and the estates of deceased individuals) can be complex (please see further below). The treatment of income derived through trusts and of distributions (other than of current-year income) generally depends on whether any New Zealand residents have made any settlements on the trusts and whether there is New Zealand-sourced income.

Double tax treaties may modify the above treatment for individuals (and other entities) to whom they apply.

GST

Any business entity or individual who supplies goods or services of a GST-taxable nature in New Zealand may choose to register for GST or may be liable to register if the value of their annual supplies is NZD60,000 or more (as outlined above).

Supplies made to associated persons for less than market value are generally treated as being made at open market value, with GST-registered suppliers liable to return GST at the appropriate fraction (currently 3/23rds for standard-rated supplies) of that value. Such deemed supplies may affect a supplier's liability to register for GST. Exceptions may apply if recipients are already GST-registered and would be able to claim input tax credits for any GST charged or if they would be applying items acquired for no consideration for the purpose of making GST-taxable supplies from the time of acquisition (which may be the case, for instance, in respect of assets distributed to beneficiaries by trusts or deceased estates).

On the death of a GST-registered individual, their executor or administrator is generally regarded as carrying on their GST-taxable activity as a specified agent. He or she must notify the Commissioner of Inland Revenue, make GST returns and account for GST on relevant assets sold or supplied to beneficiaries.

Situation of property — income tax

The income tax legislation does not specify where property is situated for the purposes of the source rules. Common law principles may therefore apply so that land and tangible personal assets will generally be treated as situated according to their physical location, and company shares may be treated as situated where the share register is kept.

Situation of supplies — GST

Supplies of goods and services are treated as made in New Zealand for GST purposes if they are made by New Zealand residents (as defined for GST purposes). Supplies made by nonresidents are generally regarded as made outside New Zealand unless they relate to goods that are in New Zealand at the relevant time or services that are physically performed by someone in New Zealand.

Notwithstanding the general rule, nonresident suppliers and GST-registered recipients may generally agree to treat supplies as made in New Zealand, which may enable the supplier to register for GST and claim input tax credits for GST levied on importation of goods and other costs under the general rules. Nonresident suppliers can also register for GST and claim input tax credits if they meet certain other criteria.

Certain supplies of digital and other remote services by nonresidents to New Zealand residents are treated as made in New Zealand for GST purposes. From 1 December 2019, supplies of low-value distantly taxable goods by nonresidents are also generally treated as made in New Zealand for GST purposes.

2.1 Residency

Income tax

Individuals are considered resident in New Zealand for income tax purposes if they meet either of the following conditions:
- They have a permanent place of abode in New Zealand, regardless of whether they also have a permanent place of abode in another country
- They are physically present in New Zealand for more than 183 days in any 12-month period (the "day-count test")

Individuals "stranded" in New Zealand, due to the COVID-19 pandemic, will not become tax resident in New Zealand under the day-count test provided they:

- Were practically restricted from leaving, either due to border controls, entry restrictions or the lack of available commercial flights
- Leave New Zealand within a reasonable time after they are no longer practically restricted in traveling

Transitional residents

Individuals who first arrive and become resident in New Zealand after 1 April 2006, or who have been nonresident for at least 10 years before returning to New Zealand after that date, may choose to be treated as transitional residents. Transitional residents may be exempt from New Zealand income tax on certain foreign-sourced and attributed income for the first four years (possibly up to four and a half years in some circumstances) of their New Zealand residence. The transitional resident exemption does not apply to foreign-sourced employment or services income derived during the transitional residence period and is available only once.

Trusts (including estates of deceased individuals)

Trust income is subject to New Zealand income tax if it is sourced in New Zealand or if it is derived by beneficiaries who are New Zealand resident or by trustees where there is a settlor (generally any person who provides some benefit to the trust) who is New Zealand resident. Please see further below.

GST

The concept of residence may also be relevant for GST purposes, particularly in relation to whether supplies are regarded as made in New Zealand. The GST concept of residence is based on the income tax concept but is extended to also cover others to the extent they carry on any activities through related fixed or permanent places in New Zealand. Unincorporated bodies are treated as New Zealand resident for GST purposes if their center of administrative management is in New Zealand.

3. Rates

Income tax

The current rates of income tax applicable for resident, nonresident and transitional resident individuals are as follows:

Income bracket (NZD)	Year ended 31 March 2024 (2023-24 income year) and subsequent income years
0–14,000	10.5%
14,001–48,000	17.5%
48,001–70,000	30%
70,001-180,000	33%
Over 180,000	39%

Income derived through trusts (including the estates of deceased individuals) is taxable at adult beneficiaries' individual rates if treated as beneficiary income, generally at 33% if treated as beneficiary income of minor beneficiaries or if treated as trustee income. From 1 April 2024, the trustee tax rate will align with the 39% top personal tax rate.

The income tax treatment of other distributions depends on the residence of the beneficiaries and how trusts are categorized for New Zealand income tax purposes at the time distributions are made. Trusts can be categorized as:

- Complying trusts, in which there are no taxes on such distributions.
- Foreign trusts, in which distributions are generally taxable at beneficiaries' individual rates. Distributions of realized capital gains and amounts settled on the trust as corpus may be distributed tax free but are generally subject to ordering rules.
- Noncomplying trusts, in which distributions are taxable at 45% except for distributions of amounts settled on the trust as corpus, which may be distributed tax free, but which are generally subject to ordering rules.

As outlined below, the New Zealand income tax treatment of trusts is complex.

GST

The standard rate of GST is 15%. Zero-rating applies to a number of types of supplies, particularly in relation to exports, international transportation, business-to-business supplies of financial services in certain circumstances and supplies that include land between GST-registered persons.

4. Exemptions and reliefs

Income tax

As outlined above, transitional residents may be exempt from income tax on foreign-sourced and attributed income for a period of four years (slightly longer in some circumstances) after they first become resident in New Zealand, although this exemption does not apply to foreign-sourced employment or services income derived during that period.

Charitable purpose trusts and organizations may be wholly exempt from income tax if they are registered under the Charities Act 2005 (or, in limited circumstances, if the Commissioner of Inland Revenue approves a nonresident body for these purposes). If they derive income directly or indirectly from business activities, rather than solely from passive investments or carrying out their charitable purposes, the exemption is unlikely to apply (or may be limited) where they carry on their charitable purposes outside New Zealand or if those with some control over the business can procure or influence certain personal benefits or advantages.

5. Filing procedures

Income tax

The standard New Zealand income tax year runs from 1 April to 31 March of the following calendar year, although taxpayers may seek the Commissioner of Inland Revenue's approval of nonstandard balance dates in certain circumstances (such as the date of death for continuing deceased estate returns). In some cases, deceased estates that derive no income can apply to the Commissioner of Inland Revenue to be excused from the obligation to file income tax returns.

Taxpayers with 31 March balance dates must generally file returns of income by the following 7 July unless they obtain a specific extension or are on a tax agency list, in which case filing extensions to the following 31 March may be available.

Inland Revenue issues individual taxpayers "automated assessments" of their taxable income. For individuals with only taxed-at-source income (such as employment income or investment income subject to resident withholding tax), Inland Revenue is able to issue the taxpayer a complete record of their tax obligation for the year ended 31 March and pay automated refunds or issue automated bills. Taxpayers who have nontaxed-at-source income need to amend their assessments to include this income. Taxpayers who are expected to have nontaxed-at-source income will need to file returns of income.

Taxpayers may need to make advance payments of provisional tax, generally in the 5th, 9th and 13th months following the beginning of their income year if their preceding year's residual income tax liability (after source deductions, withholding taxes, imputation and foreign tax credits) exceeded NZD5,000. This threshold was previously NZD2,500 but was increased to NZD5,000 from the 2020-21 income year. Interest may be imposed in certain circumstances if provisional tax paid at each instalment date is less than the amount required to be paid under the legislation. Any terminal tax balance is generally payable by 7 February of the year following the income tax year-end date, unless the taxpayer is on a tax agency list, in which case the time for paying terminal tax is extended by two months.

GST

GST return periods may cover six-month periods (this option is generally only available if annual GST taxable turnover does not exceed NZD500,000), two-month periods (this is the default option and is generally applicable for annual GST taxable turnover between NZD500,000 and NZD24 million) or a one-month period (required if annual GST taxable turnover exceeds NZD24 million or if taxpayers elect). A quarterly return period generally applies to nonresident suppliers of distantly taxable goods or digital and other remote services. Returns and payment of any net GST output tax liability (after deducting any relevant input tax credits on supplies acquired) must generally be filed by the 28th of the following month except for the periods ending 30 November (due by 15 January) and 31 March (due by 7 May).

6. Assessments and valuations

Income tax and GST

New Zealand has a formal self-assessment regime for income tax and GST purposes, with taxpayers effectively making their own assessments when taking tax positions by accepting/confirming or amending automated assessments of income tax or by filing (or not filing) relevant returns. Such self-assessments may be reviewed and amended by the Commissioner of Inland Revenue at any time, although amendments that increase income tax or GST liabilities must generally be made within a four-year period (from the end of the tax year in which an income tax return is filed; from the end of the GST return period in which a GST return is filed). No such time limit applies for income tax purposes if returns are fraudulent or willfully misleading or do not mention income of a particular nature or from a particular source. No such time limit applies for GST purposes if the Commissioner of Inland Revenue considers taxpayers have knowingly or fraudulently failed to disclose all material facts.

Interest and/or penalties may be imposed where returns are not filed on time or tax is not paid on time. In addition, shortfall penalties may be imposed, and interest charged by the Commissioner of Inland Revenue in relation to errors that result in shortfalls of income tax or GST compared with the positions taken by taxpayers in their returns.

7. Trusts, foundations and private purpose funds

Trusts

Trusts are well-established and recognized under New Zealand law and are commonly used for asset protection and succession planning purposes. The terms of discretionary trusts can provide considerable flexibility as to income and capital entitlements and distributions, while retaining significant influence or control by those who initiate or settle the trust. Assets held on trust for others are generally not regarded as part of the estate of a deceased that may be subject to claims under the Family Protection Act 1955 or the Law Reform (Testamentary Promises) Act 1949.

From 31 January 2021, under the Trusts Act 2019 (see further below), the maximum duration of express trusts is 125 years. Previously, the maximum length of time a trust (other than certain public or charitable trusts) could continue was limited to 80 years by the Perpetuities Act 1964.

The settlement of property on a trust is likely to have New Zealand income tax implications.

There may be income tax and GST implications if trust assets are distributed in-kind or are made available for use by beneficiaries or associated persons for less than market value.

In some circumstances, settlements of property to be held on trust or other property transfers or payments may be challenged and reversed by creditors if transferors subsequently become bankrupt or contested if the transfers are intended to defeat the rights of spouses/partners under the Property (Relationships) Act 1976.

The general law governing trusts in New Zealand has been updated by the Trusts Act 2019. This Act largely came into force on 31 January 2021. It is intended to modernize and clarify trust law and replaces the Trustee Act 1956 and the Perpetuities Act 1964. It imposes additional duties on trustees and much greater transparency in the administration of trusts by requiring regular disclosures of trust information to beneficiaries.

Income tax treatment of trusts

The New Zealand income tax treatment of trusts can be complex, particularly if there are any cross-border elements, whether in terms of assets, settlors, trustees or beneficiaries. Unit trusts are generally treated as companies for income tax purposes (although trusts in a family context are not normally unit trusts).

In very general terms, New Zealand seeks to tax income derived through trusts (other than unit trusts) if it is sourced in New Zealand, if settlements on the trust have been made directly or indirectly by New Zealand tax residents or if beneficiaries receiving or being credited with distributions are tax resident in New Zealand. The New Zealand income tax treatment of trusts is therefore not necessarily determined by the place where the trust was established or by the residence of the trustees.

Current year taxable income may be taxed in the trustees' hands (at 33%, increasing to 39% from 1 April 2024 for any trust with taxable income in excess of NZD10,000) or as beneficiary income (at adult beneficiaries' personal tax rates or, generally, at 33% in relation to minor beneficiaries under 16 years of age) if the income vests in or is paid to, credited or applied for beneficiaries within prescribed time frames.

For income tax purposes, the concepts of settlor and settlement are defined broadly and may generally include any person who has transferred value or provided services (that are more than incidental to the operation of the trust) or financial assistance to the trust without receiving equivalent market value consideration in return. In some circumstances, for instance, beneficiaries with trust current account credit balances over NZD25,000 (subject to certain adjustments) may be regarded as settlors for New Zealand income tax purposes where market interest is not charged.

Categorization of trusts under the income tax rules as complying, foreign or non-complying affects the income tax treatment of distributions (other than of current year taxable income) to beneficiaries, with the most advantageous treatment (no further income tax liability) applying to distributions (other than of current year income) from complying trusts. Distributions from foreign trusts may be tax free if they are of realized capital gains or of corpus, while the only tax-free distributions from noncomplying trusts are those of corpus. The concept of corpus is defined narrowly for New Zealand income tax purposes. Distributions from foreign and noncomplying trusts are generally subject to ordering rules and may result in double taxation without effective relief under double-tax treaties.

A comprehensive Inland Revenue Interpretation Statement on the income tax treatment of trusts was issued in 2018. A separate Interpretation Statement on the income tax treatment of distributions from foreign trusts was issued in 2019.

Disclosure requirements for trusts

Where foreign trusts have New Zealand-resident trustees but no New Zealand settlors, assets, income or beneficiaries, and would therefore not normally need to file New Zealand income tax returns, specific information about the trusts must be maintained in New Zealand and disclosed to the Commissioner of Inland Revenue.

From 1 April 2021, most other trusts also became subject to disclosure requirements. These disclosure requirements are intended to assist the Commissioner of Inland Revenue in understanding the impact of the new 39% top income tax rate for individuals on the operation of trusts. Prior to 1 April 2021, the top income tax rate for individuals was 33%.

The disclosure requirements will generally apply to all trusts other than non-active trusts, foreign trusts (which are subject to their own disclosure requirements as noted above), charitable trusts or trusts that are Māori authorities.

Under the disclosure requirements, trustees must provide certain information to the Commissioner of Inland Revenue on an ongoing basis, alongside income tax returns. Information required includes:

- Financial accounting information
- Details of in-period settlements, including identifying information for each settlor
- Information on distributions made in the period, including identifying information for each receiving beneficiary
- Identifying information of those with the ability to alter the trust deed or appoint/remove trustees or beneficiaries
- Any other information requested by the Commissioner (such as information on any transfers to the trust by associated persons and information on loans to or by related parties).

"Identifying information" includes information such as the person's name, date of birth, IRD number and jurisdiction of tax residence.

While this information is required from the 2021-22 income year, the Commissioner can make similar requests for information in relation to any trust returns prepared from the 2013-14 income year onwards.

Starting from the 2021-22 income year, trusts that derive New Zealand-sourced assessable income for a tax year will also generally be required to prepare financial statements for the tax year.

Foundations

Trusts are commonly used to establish foundations for charitable or other nonprofit purposes. If such trusts are registered under the Charities Act 2005 or otherwise approved as donee organizations for income tax purposes, settlements or donations to them may provide income tax credits for resident individual donors or tax deductions for company donors (subject to their having sufficient taxable income). From 1 April 2020, all entities with charitable purposes that qualify for registration under the Charities Act 2005 are required to be registered with the Department of Internal Affairs — Charities Services, to qualify for or retain donee tax status.

The income of trusts or other bodies that are registered under the Charities Act 2005 is generally exempt from income tax unless it is derived directly or indirectly from business activities and is used primarily for purposes outside New Zealand, or persons who can control the business can also influence or determine benefits or advantages for themselves. The net income of other nonprofit organizations is generally taxable, although they may be entitled to a statutory deduction up to NZD1,000 in addition to deductions for their normal operating costs.

GST may apply to charitable and other nonprofit bodies, although there is generally no GST on unconditional gifts or on supplies of certain donated goods and services.

8. Grants

Regarding estate taxes, there are no specific rules regarding grants in New Zealand.

9. Life insurance

Life insurance proceeds are generally regarded as capital receipts that are not subject to income tax. However, rights (including contingent or discretionary rights) to benefit from foreign life insurance policies may constitute foreign investment fund (FIF) interests in relation to which New Zealand resident holders (other than transitional residents) may be taxable on attributed FIF income.

10. Civil law on succession

10.1 Estate planning

New Zealand does not have an inheritance or gift tax.

10.2 Succession

Choice of law to govern succession

New Zealand laws should be regarded as potentially applying in any situation where individuals are domiciled or resident in New Zealand at death or where they have assets situated in New Zealand. Property previously settled on trust by the deceased person is not subject to their will and remains governed by the terms of that trust.

New Zealand law provides rules for the succession to individuals' net assets if they die without effective wills that meet the requirements of the Wills Act 2007 (see 10.5 below). Otherwise, adult individuals are generally free to leave their assets by will, as they choose, although their estates may be subject to claims by certain affected relatives and others under specific statutory provisions, such as those contained in the:

- Property (Relationships) Act 1976 (claims by spouses, civil union or de facto partners)
- Family Protection Act 1955 (claims for maintenance or support by a limited class of relatives who consider the deceased may not have made adequate provision for them)
- Law Reform (Testamentary Promises) Act 1949 (claims by those who have performed services for the deceased based on promises to reward them by some testamentary provision)

Wills are generally revoked automatically by entry into marriage or civil union unless they are made specifically in contemplation of that event. Dissolutions of marriage or civil unions or formal separation orders generally revoke dispositions in a will to the former spouse or civil union partner.

Application of the New Zealand rules may be affected by the domicile of the deceased person at the date of making any will or at the date of death and on the location and movable or immovable nature of their assets.

In 2019 it was announced that the New Zealand Law Commission will review the law of succession. This review concluded in late 2021 and made a large number of recommendations (including bringing together the succession law currently dealt with in various Acts into a new Act). There has, as yet, been no detailed response from the government.

10.3 Forced heirship

New Zealand does not impose any forced heirship provisions, although statutory provisions allow relatives and others to make claims against estates in certain circumstances.

10.4 Matrimonial regimes and civil partnerships

Marriage or civil union does not, by itself, alter either spouse's or partner's ability to own or deal with property in his or her own right. However, the existence of a marriage, civil union or de facto partnership (between members of the same or different sex) may affect property rights in various ways. Examples include:

- Property becoming subject to claims by the other spouse, civil union or de facto partner, primarily under the Property (Relationships) Act 1976, to determine their share or to provide for them and any children. There is a general presumption of entitlement to an equal share in the family home, family chattels and other relationship property (based on a presumption of equal contributions of all types) unless (i) the relationship has been of short duration (generally less than three years' cohabitation) or (ii) there are extraordinary circumstances that would mean equal sharing was repugnant to justice. In some circumstances, the courts may order compensation where relationship property has previously been transferred by one spouse/civil union/de facto partner to trusts or controlled companies.

Claims may be brought under the Property (Relationships) Act 1976 after the death of one of the spouses, civil union or de facto partners, whether or not the deceased left a valid will. The parties to such relationships may generally contract out of the Act's provisions (but cannot do so with the intention of defeating creditors) and agree as to how property will be dealt with, but each party must have appropriate and separate independent legal advice and such agreements must meet certain formal criteria to be valid.

Income tax "rollover" concessions may apply where property interests are transferred under Property (Relationships) Act 1976 orders or agreements but may also effectively transfer latent income tax liabilities to transferees.

10.5 Intestacy

The Administration Act 1969 provides rules stipulating who inherits a deceased person's assets if the person dies intestate, or to the extent there is no valid will dealing with particular assets. Those intestacy rules provide primarily for set proportions and types of assets to pass to spouses, civil union or de facto partners, issue (children or other descendants) and surviving parents, but if there are no individuals in any of those categories, assets may pass to siblings, in default to grandparents, aunts and uncles. If there are no individuals in any of these categories, the assets pass to the Crown, which has discretion to apply them to other dependents or persons for whom the deceased might reasonably have been expected to make provision.

10.6 Probate or letters of administration

Executors of an individual's will generally must apply to the High Court Registry for probate to establish their authority to act, deal with the deceased's estate and distribute assets to the beneficiaries in accordance with the will. Probate may not be required for small estates that do not include any interests in land and certain other investments (for instance, money in bank accounts, shares, life insurance policies) which do not individually exceed NZD15,000 in value.

Applications for probate are generally made ex parte unless someone is contesting the will or there are possible issues as to the validity of the will.

If there is no will, application should be made to the High Court to appoint an administrator, generally the surviving spouse or a close relative, to deal with the deceased's estate. In this situation, the grant of administration is called "Letters of Administration."

As the New Zealand courts have general jurisdiction over all property in New Zealand, it may be necessary to apply for probate or letters of administration if foreigners die owning New Zealand property. Probate or administration granted in certain foreign jurisdictions (such as those of Commonwealth countries) may be recognized and resealed in New Zealand for these purposes.

11. Estate tax treaties

New Zealand has not concluded any estate tax treaties with foreign states. The provisions of its double-tax treaties that deal with income tax may be relevant in relation to New Zealand property interests and income streams owned by deceased individuals and their estates.