



Visiting New Zealand for sports tournaments?

What you need to know about indirect tax,
immigration and income tax



Major sporting events

With the world cup tournament commencing on 9 September 2011, visitors coming to New Zealand will need to be familiar with several indirect tax, immigration and income tax considerations. Visitors in this context include players, officials, rugby unions, visitors acting in a business capacity and tourists.

This update covers the following:

Indirect tax

- ▶ Overview of Goods and Services Tax (GST)
- ▶ GST refunds for non-established businesses
- ▶ New Zealand's place of supply rules
- ▶ New Zealand Customs
- ▶ GST refunds for visiting tourists

Immigration and income tax

- ▶ Visas
- ▶ New Zealand tax residency – individuals
- ▶ Non-resident sportspeople and entertainers' tax status
- ▶ Considerations for employers
- ▶ Non-resident contractors' withholding tax
- ▶ 'Permanent establishment' and taxable profit

Overview of GST

- ▶ The current rate of GST is 15% and is applied to most goods and services supplied in New Zealand, hence New Zealand's reputation for operating a conceptually pure form of Value Added Tax (VAT)
- ▶ The New Zealand GST system is not being amended to provide for concessionary treatment for activities in relation to the world cup
- ▶ Zero-rating is generally limited to exports of goods and exports of services. Exempt supplies primarily consist of financial services and residential accommodation
- ▶ The GST registration threshold is NZD \$60,000 of taxable supplies per annum

GST refunds for non-established businesses

New Zealand does not have a VAT refund mechanism to provide relief from GST for business established outside of New Zealand. In other words, there is no equivalent of a 13th VAT Directive mechanism.

In order to obtain a refund of GST, it is necessary to be registered for GST. This requires a person to carry on a taxable activity and the person must make taxable supplies in New Zealand as determined under New Zealand's place of supply rules.

New Zealand Customs imposes GST and duty (if applicable) in relation to goods imported into New Zealand.

New Zealand's place of supply rules

New Zealand's place of supply rules are principally based on the residency of the supplier and are summarised as follows:

- (a) A supply will be treated as being supplied in New Zealand if the supplier is resident for GST purposes
- (b) A supply will be treated as being outside of New Zealand if the supplier is a non-resident
- (c) However, a supply by a non-resident will be treated as being supplied in New Zealand in relation to B2C (business to consumer¹) transactions if the services are performed in New Zealand or if the goods are in New Zealand at the time of supply
- (d) A non-resident making B2B (business to business) supplies in New Zealand has the option of registering for GST and charging GST in respect of the supplies if the services are performed in New Zealand or the goods are in New Zealand at the time of supply. However, it also requires other conditions to be satisfied.

Therefore, non-resident businesses (including rugby unions) should carefully consider their activities in New Zealand in relation to the world cup to establish whether there is an obligation to register for GST or whether there is any benefit in registering for GST (for example, for the purposes of recovering GST in New Zealand).

New Zealand Customs

New Zealand Customs imposes GST and duty (if applicable) in relation to goods imported into New Zealand. The exceptions are as follows:

- ▶ Personal effects belonging to a traveller (e.g., clothing, sporting equipment and mobile phones)
- ▶ Goods accompanying a traveller up to a combined value of NZD \$700 (excluding alcohol and tobacco)
- ▶ Temporary imports
- ▶ Goods which do not generate revenue for Customs (GST and duty) of NZD \$60 or more per shipment (excluding alcohol and tobacco). For goods which only attract GST (and not duty), this equates to a value of less than NZD \$400

GST refunds for visiting tourists

New Zealand does not operate a tourist refund scheme. Concessions for tourist are limited to goods acquired at duty free shops and goods sold through a "sealed bag system" where the goods specifically qualify for zero-rating treatment.

Please note that the above does not represent advice and we strongly recommend that professional tax advice is obtained for specific circumstances and transactions.

¹An entity that makes exempt supplies (such as a financial institution) or an entity that does not acquire the goods and services in carrying on a taxable activity is effectively treated as a consumer.

Immigration considerations

If visiting New Zealand as a tourist or visitor (non-employment related purposes) you will not need a visa where you are coming from a visa waiver country. If you are from a country that is not on the Immigration New Zealand visa-free list you will need to apply for a visitor visa before you come to New Zealand.

Sales representatives of overseas companies who will enter New Zealand for a period of no longer than three months during the world cup to promote or sell their products should be able to enter New Zealand under the Business Visitors Visa immigration instructions.

Individuals entering New Zealand for all other work purposes (apart from sales representatives of overseas companies) and/or those who intend to work in New Zealand for more than three months in a calendar year, will be required to apply for a work visa prior to arrival.

Business visitors who are from a visa-waiver country will not need to apply for a visa prior to their arrival in New Zealand. However, on arrival in New Zealand they will need to have evidence of funds for the length of their visit, and an onward ticket. They will also need to meet health and character requirements, and be considered to be a genuine business visitor before allowed entry into New Zealand.

New Zealand tax residency – individuals

New Zealand taxes individuals on the basis of residency and source. An individual will be taxable in New Zealand where they are tax resident in New Zealand or where they are non-resident of New Zealand but receiving New Zealand sourced income that is not covered by an exemption.

An individual is considered a tax resident of New Zealand where they:

- ▶ Have a permanent place of abode in New Zealand, regardless of whether they also have a permanent place of abode outside of New Zealand
- ▶ Are physically present in New Zealand for more than 183 days in any 12 month period

Individuals who come to New Zealand for an extended stay during the world cup, and become a tax resident of New Zealand under the above tests, will be subject to tax in New Zealand on their worldwide income. Individuals who qualify for the New Migrant Exemption (see below) will be taxed differently.

Where an individual comes from a country with which New Zealand has a Double Tax Agreement (DTA) it will be necessary to consider their tax residency under tie breaking tests in the relevant DTA.

Non-residents of New Zealand are taxed on their New Zealand sourced income only unless they qualify for an exemption from tax (e.g. short visit 92 day exemption or a 183 day exemption under a DTA).

Individuals who are tax resident of New Zealand or who are non-resident and will have income that is not covered by a specific tax exemption will need to apply to Inland Revenue (IRD) for an IRD number.

Tax resident of New Zealand – new migrants exemption

This important exemption will provide an exclusion from New Zealand tax on any income arising from sources outside New Zealand (except foreign employment income) for a 48 month period. This exemption applies to New Zealand resident individuals who arrive in New Zealand on or after 1 April 2006 and have not been a tax resident of New Zealand in the previous 10 years.

Personal income tax rates

The personal tax rates from 1 April 2011 are detailed below:

\$0 – \$14,000	10.5%
\$14,001 – \$48,000	17.5%
\$48,001 – \$70,000	30%
\$70,001 and above	33%

Non-resident sports people and entertainers

Non-resident entertainers, including sports people, are persons who are considered to be non-resident in New Zealand and who while visiting New Zealand perform or participate in entertainment activities in New Zealand including sporting events, lectures, musical performances etc. Payments made to individuals falling into this category are liable to withholding tax at the rate of 20%, however, exemptions from this withholding tax may apply where income from activities or performances occur under certain cultural programmes or by an individual in their capacity as an official representative of a governing body.

Considerations for employers

There will be reporting obligations for New Zealand or overseas employers who employ New Zealand resident individuals or non-resident individuals not covered by one of the tax exemptions discussed above.

Employers are required to deduct withholding tax (PAYE) from payments of monetary remuneration such as salary, wages, bonuses, and accommodation allowances and remit this PAYE to the IRD. Furthermore, a monthly or fortnightly reporting obligation will exist for the employer.

Additionally, the Fringe Benefit Tax (FBT) regime imposes a tax on employers for non-cash benefits provided to employees or associates of employees. FBT is a tax borne by the

employer and is applied to the value of the benefit provided, unless the benefit is specifically exempt.

Lastly, although New Zealand does not have a compulsory social security system, there is a compulsory accident compensation insurance called ACC and employers will be liable for an employer component of these levies, payable to the IRD.

Non-resident contractors' withholding tax (NRCT)

A non-resident contractor is a non-resident who:

- ▶ Performs services of any kind in New Zealand (except as an employee)
- ▶ Supplies the use of, right to use, in New Zealand any personal property or services

A scheduler payment being made to a non-resident contractor may create a withholding obligation by the paying entity (tax rate of 15%, 20% or 30% depending on circumstances), unless the non-resident contractor is covered by the following:

- ▶ Payment is covered by an exemption certificate (available in certain circumstances)
- ▶ The payment is for services provided by the non-resident contractor who has full relief from tax under a DTA and who is present in New Zealand for no more than 92 days in a 12 month period
- ▶ The total amount paid to the non-resident contractor is no more than \$15,000 in a 12 month period

Permanent Establishment (PE)

In the event that a non-resident entity is operating in New Zealand (marketing products or services), with activities being carried out wholly or partly in New Zealand through individuals present here, it is important to consider whether a entity is considered to have a PE in New Zealand. Where a non-resident has a PE in New Zealand, business profits derived in respect of the activities performed in New Zealand, may be taxable in New Zealand, unless DTA relief is available.



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