



Doing business in New Zealand?

With increasing global trading, it is timely to consider the perspective of an overseas investor wishing to set up and conduct business in New Zealand.

Business Structure

An investor should choose the structure that best suits their particular circumstances. The most common business structures being:

- Subsidiary of an overseas company;
- A branch of an overseas company;
- A New Zealand incorporated company other than a subsidiary.

Regardless of which company structure is chosen, all have legal (Companies Office registration) and tax (Inland Revenue Department registration) requirements.

Registration

The New Zealand Government has made it relatively simple to either incorporate or register a business. This can be done online via the Companies Office website - www.companies.govt.nz. The online business tools, amongst others, enable the user to:

- Reserve a company's name;
- Register a branch;
- Apply for an IRD number for the company;
- File the incorporation application, containing details of company address, share constitution, shareholders, and directors.

Capital and Management Requirements

There is no minimum share capital requirement; i.e. at the time of company registration the company may have any number of shares.

An incorporated company must have at least one director and one shareholder who can be either a New Zealand or overseas resident.

Financial Reporting and Filing Requirements

Currently, all New Zealand registered companies are obliged to prepare financial statements. These must be prepared in accordance with the Companies Act 1993 and a pre-defined set of New Zealand financial reporting standards.

Small businesses, meanwhile, tend to have relatively simple requirements for their financial reports and provided they meet certain criteria as outlined in the Financial Reporting Act 1993 may qualify for certain exemptions. These exemptions include: not needing to file financial statements, or being able to opt out of the audit obligation. The criteria to be met before these exemptions apply are:

- a) The company is not an issuer i.e. sells shares to the public, either in the current or preceding accounting period;
- b) The company is not 'large' i.e. it does not meet two of the following criteria:
 - total income of \$20 million; or
 - total assets of \$10 million; or
 - 50 employees.
- c) The company is not a subsidiary of a company/body corporate incorporated outside New Zealand;
- d) The company is not an overseas company;

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Mixed Use Assets - Holiday Homes & Boats

You may have heard about proposed changes in tax treatment to holiday homes. The changes have now been legislated and took effect from 1 April 2013.

Holiday Homes

Owners of holiday homes can claim an expense if the holiday home is rented to the public for short-term stays albeit using the new rules.

From 1 April 2013, if the holiday home is used for:

- Private use (including family members regardless of whether rent is paid or not), and
- Income-earning use i.e. by non-associated people paying at least 80% or more of the market rates, and
- It is unoccupied for 62 days or more,

then it is regarded as a mixed-use asset. Related expenses may be deductible as follows:

- Expenses which relate directly to the income-earning use may be claimed in full e.g. advertising for tenants or cost of repairs for damage caused by tenants.
- Expenses which relate to private use are not deductible e.g. a locked garage storing personal items is unavailable for renting.
- Expenses relating to both income-earning and private use such as rates, insurance, mortgage interest etc are apportioned using the formula below:

$$\text{Expense} \times \frac{\text{income earning days}}{\text{income earning days} + \text{private use days}}$$

In relation to mortgage interest, where the sum borrowed is greater than the value of the holiday home, special rules apply in calculating the "interest expense" subject to apportionment before using the formula above.

Some records that need to be kept for holiday homes are:

- the number of days in use
- the person's relationship to you (e.g. son, friend)
- the rent charged to each person
- details of any repairs carried out
- reason for repairs

Boats

The new rules for boats start from 1 April 2014. They apply to boats either owned or leased and costing over the value of \$50,000.

Again, as per holiday homes, direct expenses relating to the hireage of the boat are fully deductible. Other expenses are either apportioned using the same formula as above or not deductible if related to personal use.

Other Rules

Exemption - If the income-earning use is less than \$4000 for the year, you can opt out altogether i.e. keep the mixed-use asset outside the tax system and not include the rental activity in your income tax return.

Ring Fencing – or quarantining rules apply where the mixed-use asset constantly incur losses. Expenditure will be quarantined where the income derived is less than 2% of the mixed-asset value. Unused losses may be carried forward to future years and used if the mixed-use asset makes a profit in future.

Companies - Additional rules apply where companies own mixed-use assets, for example concerning interest deductibility. Also, companies cannot use the above opting out provisions.

As with any piece of legislation, the new rules applying to mixed-use assets are not straight forward and the foregoing is by no means comprehensive. We recommend you seek tax advice from your advisor if you have a bach, boat or aircraft that you are renting out.

New identifier for Companies

In December 2013, the New Zealand Companies Office started issuing a New Zealand Business Number (NZBN) to all limited liability companies. This 13-digit unique identifier can be used here and, in the future, internationally.

Companies can use their NZBN immediately in transactions with the Companies Office and some private business-to-business transactions. While the NZBN will become the main identifier for most companies in future, it doesn't replace agency identifiers such as IRD, GST and ACC numbers and the Company Incorporation number.

Work is underway to allow NZBNs to be allocated to other businesses, such as sole traders and state sector organisations.

You can find more on the NZBN at www.mbie.govt.nz (search keyword: nzbn).

New ACC levy rates for 2014-15

The new ACC levy rates for the 2015 tax year have been set and will be formalised when passed into legislation.

The earners' account levy per \$100 of liable earnings (including GST) is \$1.45.

The minimum liable earnings for self-employed workers increases from \$28,080 to \$28,600. The maximum liable earnings will increase for:

- work and earners' account for self-employed—from \$113,768 to \$116,089
- work account and the earners' account for employees and private domestic workers—from \$116,089 to \$118,191
- work account for employees and private domestic workers to calculate the residual portion—from \$113,768 to \$116,089.

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e) The company has an overseas aggregated interest of 25% or more but is not large.

If **none** of the above criteria is met, the company will need to prepare audited financial statements in accordance with New Zealand financial reporting standards and file them with the Companies Register. The accounts must be signed by two directors (or if the company has only one director, by that director) no later than five months from its balance date. The financial statements must be delivered to the Registrar of Companies for registration within 20 working days after the date that they are required to be signed. Note: This costly and time-consuming obligation remains even if the subsidiary has stopped trading or the statements present "Nil" balances.

In order to reduce compliance costs, overseas investors may instead chose to set up a company rather than a subsidiary particularly as New Zealand registered company with 25% or more overseas held shareholding will not have to file financial statements with the Companies Register, provided they are not 'large'. Also, they do not have to audit the accounts if the shareholders unanimously resolve not to appoint an auditor.



Life Policies offered by Banks

Many of the major banks now offer life cover to their clients who have mortgages with them and often encourage their clients to switch their insurance to the bank.

Before switching to any new insurer, please take care to thoroughly check the life insurance policy as not all policies are the same. You may find that your new policy does not protect you against previously covered events. In the event of a claim you or your family may be shocked to find your claim denied or void.

For example, were you to die or be paralysed in a motor accident, and it is later determined that you were driving above the speed limit, your new policy may not provide cover on the basis that you, as the insured, were involved in an "unlawful" act.

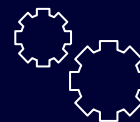
question time >>

Q: Online trading - Do I have to pay tax?

A: You may have to...

Are you trading online as part of your business? Do you sell goods or services over the internet? The IRD's new factsheet Online trading tax implications (IR1022) helps online traders work out whether their online trading activity is a business. It also explains your tax obligations and responsibilities.

Find this factsheet on www.ird.govt.nz, keyword: IR1022



GST SOLUTIONS

Are you finding it a hassle to do your own GST Returns? We have a solution for you. We can save you time and money and a lot of stress by doing your GST returns for you.

Our services includes sending you a reminder letter when you GST return is due so that you can get your records to us in time and ensure your GST Return is filed on time in order to have you avoid being charged late penalties. Contact us today for more



WEB SOLUTIONS

Did you know that you can create your own on-line surveys for free? Go to www.surveymonkey.com and you will find you can create surveys which you can send to your customers to get feed-back from them. Customer feedback is very important for your business as it allows you to find out what your customers may think of your products or services. It also allows you to probe your customers for new ideas on what other types of products they may be looking for. It also gives your customers the opportunity to help you provide them better service by giving them a chance to tell you what they think of your business



PROHUB SOLUTIONS

Do you record all of the phone calls that come into your business? If you don't you should as often potential sales leads are lost due to simple forgetfulness to record an enquiry properly. You need a customer database where you can keep a record of all enquiries made and then make sure that each enquiry is allocated to a team member for further follow-up. Even if an enquiry is made that isn't a sales lead it's good to keep a record of it and so when you are looking back at a customer's contacts history you can see the reasons why they contacted your business. This allows you to tailor your sales approach to this customer based on what has happened in the past. Contact us today for more information on how this program could help your business

News from KiwiSaver

Last year, KiwiSaver reached an important milestone. From 1 July 2012, the first group of KiwiSaver members were eligible to withdraw their savings. This applied to members who qualified for New Zealand Super (currently aged 65 or over) or who joined KiwiSaver between ages 60 and 65 and have been in KiwiSaver for five years.

If any of your employees ask what they need to do regarding their eligibility, please tell them to contact their scheme provider direct, especially if they have not already received information.

Also note that once an employee becomes eligible to withdraw (normally meaning that they are over 65 and have been a KiwiSaver member for five years), employers are no longer required to make compulsory employer contributions. However, they may continue to make voluntary employer contributions if they wish to. For more information about KiwiSaver go to www.kiwisaver.govt.nz

New Zealand and Australia have enacted legislation that allows New Zealanders who had worked and put away superannuation in Australia to bring it back to New Zealand and combine it with their local KiwiSaver account.

Australia has more than one superannuation account, unlike New Zealand which only has KiwiSaver. New Zealanders who have worked for various employers in Australia will have several super accounts with different super fund managers.

Additionally, Australia's superannuation is 9% of salary whereas in New Zealand it is 3%.

It is estimated that more than four billion Australian dollars (\$4,000,000,000) belonging to New Zealanders have not been claimed! If you have worked in Australia in the last 25 years and think you may be eligible to claim from your Australian superannuation funds, you should consider contacting your insurance broker to see if they can help locate these funds.

Quick Quote

The tragedy of old age is not that one is old, but that one is young.
~ Oscar Wilde



Stephen Larsen and Co

TAX AND BUSINESS ACCOUNTANTS

Important: This is not advice. Clients should not act solely on the basis of the material contained in the Tax Talk Newsletter. Items herein are general comments only and do not constitute nor convey advice per se. Changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Tax Talk Newsletter is issued as a helpful guide to our clients and for their private information. Therefore it should be regarded as confidential and should not be made available to any person without our prior approval.

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