

Business Guide – New Zealand

DM Gibson Accountants Limited

Don Gibson

mail@gibsonca.co.nz

+64 9 529 1907

New Zealand

18 September 2024

Market Overview

New Zealand has a stable democratic political system, with strong legal institutions and a resilient, transparent open-market economy and free-floating currency.

In 2023 New Zealand ranked sixth on the Index of Economic Freedom and is consistently one of the least corrupt countries in the world in Transparency International's Corruption Perception Index.

Legal and Regulatory Framework

New Zealand is an independent nation and its Government is modelled on the Westminster system.

The system is based on separation of powers, a concept intended to prevent abuses of power within Government with each branch acting as a check on the others. The Government is led by the Prime Minister and consists of three branches, Parliament, Executive and Judiciary.

Cultural Insights

New Zealanders place great importance on the Maori culture and embrace local traditions and history.

The stunning landscapes provide opportunities for outdoor activities and adventure sports while the love of rugby and the All Blacks is deeply ingrained in the culture.

New Zealand is renowned for its high quality meat and dairy products including butter, cheese, lamb, fruits, vegetables and wine.

New Zealand was the first country to grant woman the right to vote in parliamentary elections and maintains a progressive stance on woman's rights and gender equality.

Business Structures

Limited Liability Companies

The most commonly used corporate entity in New Zealand is the limited liability company.

They are relatively easy to set up and costs are minimal.

Companies are governed by the Companies Act 1997.

To incorporate a company, the company must have at least one director, one shareholder, and one share. It also must have a physical registered office and an address for service which are in New Zealand.

There are no residency requirements on shareholders but there must be one New Zealand resident director or one Australian resident director who is also a director of an Australian resident company.

Overseas Branches

If an overseas company is carrying out business in New Zealand it will be required to register as an overseas branch on the Companies Office Overseas Register.

A New Zealand branch is required to nominate a representative resident in New Zealand to accept service of documents on behalf of the branch.

In order to register a branch in New Zealand the overseas company must provide certified copies of its home jurisdiction's certificate of incorporation and constitutional documents along with details of its directors. If documents are not in English a certified translation must be provided.

Branches of overseas companies registered to carry out business in New Zealand may be required to file audited financial statements with the Companies Office if they are deemed large.

Limited Partnerships

Under New Zealand law a limited partnership (LP) constitutes its own separate legal entity and must have at least one general partner and one limited partner.

A general partner is responsible for the management of the LP and is liable for its debts and liabilities to the extent that the LP is unable to meet them.

A limited partner is liable only to the extent of their financial contribution to the LP.

In order to preserve their limited liability, limited partners must not participate in the management of the LP.

LP's are treated as flow through entities for income tax purposes.

Taxation

Residence

A New Zealand tax resident's worldwide income is subject to tax in New Zealand. A non-New Zealand tax resident is also subject to tax in New Zealand to the extent the income has a source in New Zealand.

Tax residency for an individual is generally based on whether the individual has a "permanent place of abode" in New Zealand or is present in New Zealand for more than 183 days in a 12 month period. Tax residency for a company is generally based on whether the company is incorporated in New Zealand, has its head office or centre of management in New Zealand, or control of the company by its directors is exercised in New Zealand.

Income Tax

Currently individual tax rates are on a graduating scale with marginal tax rates from 10.5% (on annual income up to \$15,600 NZD) to 39% (on annual income over \$180,000 NZD).

Companies are taxed at a flat rate of 28%. Dividends are subject to income tax in New Zealand and potentially withholding tax if paid to a non-resident. New Zealand operates an imputation regime that enables New Zealand shareholders to obtain a credit for the tax paid at the company level.

A business is subject to income tax in New Zealand if it is a business of a New Zealand tax resident, has sufficient physical presence here or has New Zealand sourced income.

Withholding tax

New Zealand imposes resident withholding tax on passive income paid to residents (e.g. interest and dividends) and non-resident withholding tax on passive income paid to non-residents (e.g. interest, dividends and royalties) subject to applicable double tax agreement (<https://www.taxpolicy.ird.govt.nz/tax-treaties>). New Zealand borrowers may be able to apply New Zealand's approved issuer levy regime to reduce the withholding tax cost on interest paid to a third party non-resident lender.

Withholding tax is also imposed on other types of payments including payments to non-resident contractors, entertainers and sports people, and New Zealand contractors within specified industries. Exemption certificates can be obtained in specified circumstances.

Goods and Services Tax

New Zealand imposes a goods and services tax (GST) at a rate of 15% of the value of the supplies of goods and services in New Zealand (subject to certain exclusions). Tax payers are required to register for GST and file regular returns if they make (or expect to make) supplies worth more than \$60,000 a year.

Importers

The majority of goods imported into New Zealand are subject to GST at 15% of their declared customs value, being the total of the value of goods, any amount of tariff duty (if any) and international transport and insurance costs. The import GST can be recoverable via the importer's GST return if the importer of record is GST registered and uses the goods for its taxable supplies in New Zealand.

Losses

Tax losses may be carried forward and offset against future income. In the case of a company, this is subject to maintaining a 49% continuity of shareholding from the income year in which the loss was incurred to the year in which it is used to offset the income.

A tax loss of a company may be made available to another company in certain circumstances where both companies are in the same group of companies and other conditions are also met.

For a company if there is a break of the 49% shareholder continuity requirement for carrying forward tax losses, if it satisfies the business continuity test (BCT) this will generally allow the tax losses to be carried forward if there is no "major change" in the nature of the company's business activities within 5 years of the continuity breach and other criteria are met.

Employment tax

Businesses intending to employ people in New Zealand must register with Inland Revenue. Filing requirements depend on the number of people being employed. Employer tax obligations include KiwiSaver Contributions, PAYE and employer

superannuation contribution tax. If a business provides a benefit outside of normal salary and wages the employer may be subject to fringe benefit tax.

Employment

The Employment Relations Act 2000 is the primary piece of legislation that governs relationships between employees and employers, and establishes New Zealand's employment dispute resolution process.

All employers must have written employment agreements which contain certain minimum terms required by legislation.

All employees aged 16 years or over must be paid the minimum wage, which is reviewed annually and is currently NZD \$23.15 per hour before tax.

Each year employees are entitled to 12 public holidays, four weeks of paid annual leave (after 12 months of continuous employment) and paid sick leave (10 days), family violence leave and bereavement leave.

Eligible employees are entitled to up to 52 weeks unpaid parental leave with up to 26 weeks paid by the government.

Businesses can also engage independent contractors to provide services. Independent contractors are not afforded the same minimum statutory entitlements as employees and are responsible for their own taxes.

The Health and Safety at Work Act 2015 and related regulations set out New Zealand's comprehensive health and safety regime. Businesses are responsible for the health and safety of their workers (including employees and any independent contractors) and anyone affected by their work, and must provide and maintain a safe working environment taking into consideration both physical and mental wellbeing.

Accident Compensation is a form of social insurance which provides personal injury cover for everyone in New Zealand. It is a no-fault system that provides compensation to people who are injured in accidents (including those suffered at work). Legal action for damages as a result of personal injury is generally prohibited in New Zealand.

KiwiSaver is a voluntary, work based savings scheme designed to help New Zealanders save for their retirement. While KiwiSaver is not compulsory, employees must opt-out, meaning all employers that are resident in New Zealand must enrol any eligible new hires and provide them with opt-out information.