

A busy year ahead - Government's tax priorities for 2015/16

The Government has released its tax policy priorities for the next 12 to 18 months, with the focus on:

- Inland Revenue's Business Transformation ("BT") programme.
- International tax and base erosion and profit shifting ("BEPS") concerns.
- Further enhancing New Zealand's broad-base low rate ("BBLR") tax framework.

Over the next 10 months there will be public consultation on a range of issues, including:

- The overall "policy vision" for BT, in April, followed by consultation later in the year on changes to PAYE.
- The non-resident withholding tax rules for related-party debt and New Zealand's interest limitation and hybrid arrangements rules.
- The taxation rules for employee share purchase schemes, closely-held companies, and the interaction of the tax loss grouping and imputation rules. Consultation on these issues is expected between April and July this year.

The Government's 2015/16 tax policy work programme and consultation timeline can be found [here](#).

KPMG comment

The next few months are shaping up to be the busiest in a packed tax calendar. It is important that business takes the time to consider the impact of these proposals and make their views known to Government. Some of these proposals will have immediate and specific impacts for business; others will impact the economic picture that business needs to consider. All have the potential to affect the economic prosperity of "NZ Inc" and, therefore, all New Zealanders.

Business Transformation

BT will fundamentally change how taxpayers interact with Inland Revenue. It is not simply a technological upgrade for Inland Revenue's systems. It will have real business impacts. The BT vision paper in April will set out the priorities as well as the framework needed to support greater digital delivery of services by Inland Revenue.

We expect digital communication to be a two way street. Modernising PAYE, for example, is likely to result in a greater role for employers' payroll systems and processes in providing information to Inland Revenue, in real time. Similarly, future changes to the individual and business tax systems are likely to focus on greater electronic data collection to pre-populate returns and improve tax collection.

BT will mean that it is not just Inland Revenue that will change. Business will also need to gear up to meet greater requirements to communicate and interact digitally with the tax authorities and taxpayers.

BEPS

Domestic law changes to combat specific BEPS concerns are likely. It is worth noting that these solutions will only have effect if there is international co-ordination on the approach. The billion dollar question remains the degree of consensus around the BEPS issues and, more importantly, the solutions. While countries have generally endorsed the OECD's action plan on BEPS, it is not at all clear whether there will be agreement on the actual solutions, let alone the ability to implement them. Governments' domestic political constraints may figure prominently in what can be achieved globally.

A lack of consensus on reform may lead to some countries imposing their own domestic rules to capture what they consider to be a "fair (or fairer) share" of tax from business, in particular multinational businesses. New Zealand, as a small capital importing economy, will not be ideally placed to respond to such unilateral moves. New Zealand's multinationals may run the risk of double taxation as a result.

The tax policy work programme will impact all businesses. Business should assess the potential impact and respond and plan accordingly

GST on low value imports and digital services

Government has directed Officials to report on applying GST to imports below the NZ\$400 “low value” threshold and imported digital services (such as digital downloads and streaming services). This has attracted attention, both in New Zealand and internationally, as part of the wider OECD BEPS work. There are a number of recent factors which suggest to us that it is a matter of when, and not if, these transactions become subject to GST.

The Government’s concern is that as more economic activity moves online and across borders, the GST take will reduce. Broadening the GST base to include these goods and services will allow the Government to maintain its GST take without having to compensate by raising the rate (or other taxes). There is also a question of fairness. As GST is a consumption tax, it should not matter how the consumption occurs; the GST consequences should be the same. Finally, the international trend is to tax these transactions, so New Zealand would not be out of step if the rules change.

The key will be to make sure the GST rules are as simple and easy to comply with as possible. Business will need consider the impact of a possible change on their current operating models.

BBLR “care and maintenance”

New Zealand’s tax system requires on-going maintenance to ensure that it operates fairly and efficiently. This requires considering where the tax system over as well as under taxes. It should also address situations where there are uncertain outcomes. We comment on three issues which illustrate these points.

The proposed review of employee share purchase scheme taxation is welcome. The application of these tax rules is uncertain and has the potential to affect many schemes. Clarity on the taxation treatment will help business design employee share plans which allow them to keep and attract talented employees. The opportunity should also be taken to align the New Zealand and Australian tax rules for employee share plans, where possible. This would allow Trans-Tasman employers to give fair access, to such share schemes, to their employees in both countries.

Similarly, the tax rules for closely held companies have been uncertain since the introduction of the look through company tax rules, and removal of loss attributing qualifying companies, in 2010. The look through company rules are complex and difficult when simple and straight-forward is what is required for closely held companies. (These are typically family companies and owner-operated businesses.) The tax rules should allow shareholders in close companies to access capital gains without winding up the company, but without the current complexity of the look through company tax regime. It is important that this objective is given clear focus in the proposed review.

A final example is the GST treatment of debt and equity raising costs for businesses. Inland Revenue’s current view is that no GST deduction is allowed for these costs despite the funds being used to make taxable supplies. GST is meant to be a cost to the end consumer and not business. Inland Revenue’s view means that it is business that suffers the GST. There is a clear over-taxation which needs to be corrected.

Action and further information

We have outlined the direction of tax policy over the next 12 to 18 months. There will be a mix of direct and indirect impacts which business will need to consider. We will provide updates as consultation commences. If you would like to discuss how the work programme will impact your business, please contact your regular KPMG advisor or:

John Cantin
Partner – Tax
Wellington
Phone: +64 4 816 4518
E-mail: jfcantin@kpmg.co.nz

Darshana Elwela
National Tax Director
Auckland
Phone: +64 9 367 5940
E-mail: delwela@kpmg.co.nz

© 2015 KPMG, a New Zealand partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in New Zealand.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International.