



## New Tax Bill introduced / Canada DTA in force

### Snapshot

The [Taxation \(Transformation: First Phase Simplification and Other Measures\) Bill](#) has been introduced into Parliament. The Bill contains:

- Changes to progress Inland Revenue's Business Transformation by enabling electronic communications with taxpayers and information sharing in a greater range of circumstances.
- New rules for collecting tax on employee share scheme benefits. From 1 April 2017 employers will be able to deduct tax on benefits employees receive from employee share schemes under the PAYE regime. Currently employees are responsible for meeting their tax obligations on employee share benefits.

The Government has also announced that the [new Double Tax Agreement between Canada and New Zealand](#) (the "Canada DTA"), signed in 2012, has finally come into force. The new Canada DTA reduces withholding tax rates on interest, dividends and royalties from 1 August 2015.

**The new Tax Bill contains important changes to support Inland Revenue's Business Transformation. The other headline measure, to allow employers to pay tax on employee share benefits, will also impose additional obligations on employers**

**The new Canada DTA will reduce withholding tax rates from 1 August**

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## What's proposed?

### Enabling electronic communications by Inland Revenue

The Bill removes barriers to electronic communication with taxpayers by:

- Removing references in the tax legislation that restrict interactions to paper-based transactions.
- Providing a framework for electronic communication, including rules applicable to different electronic communication methods and new communication channels.
- Accepting electronic signatures for electronically submitted documents, such as returns.

### New (optional) mechanism to collect tax on employee share scheme benefits

The Bill proposes that, from 1 April 2017, employers:

- May elect to withhold tax on employee share scheme benefits using the PAYE system.
- Will need to disclose the value of benefits each employee receives from an employee share scheme organised by the employer. This will be regardless of whether tax is deducted via PAYE or paid by the employee.

### Information sharing and other changes

Under the Bill:

- Inland Revenue will be able to publish general tax information (such as statistical data) without approval from Government.
- Inland Revenue can share information with the Ministry of Business, Innovation and Employment and WorkSafe for enforcement of employment standards and information with KiwiSaver providers on funds transfers.
- Inland Revenue can share biometric information with the Ministry of Social Development (which will be used to research whether this can be used to identify/verify callers to the Ministry).
- The current Foreign Investment Fund ("FIF") exemption for Australian companies that are listed on the ASX All Ordinaries index will be extended, from 2016/17, to all ASX listed companies (that also meet certain other requirements).
- The rulings regime will be changed to allow Inland Revenue to rule on issues that are not the same as the issues that are the subject of a dispute and clarify when a ruling ceases to apply when an assumption in the ruling proves to be incorrect.

### New Canada DTA

From 1 August 2015, the withholding tax rate on:

- Dividends will fall from 15% to 5%, where the shareholder is a company that holds a more than 10 percent shareholding in the dividend payer.
- Interest will fall from 15% to 10%.
- Royalties on copyright and other specified items will fall from 15% to 5% (and 10% for royalties generally).

Other changes will take effect from 1 April 2016 (for NZ) and 1 January 2016 (for Canada).

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## Who should take note?

The changes in the Bill cover a range of issues. Everyone should take note of the changes in the Bill to support electronic communications by Inland Revenue. This is one of the pillars supporting Inland Revenue's Business Transformation programme and is necessary to deliver on its better digital services goal. This is the first substantive step in the business transformation journey, while the information sharing changes are designed to make cross-Government service delivery more efficient.

The changes to the tax collection mechanism for employee share scheme benefits should be noted by employers. Those operating employee share schemes, or looking to establish such schemes, should also take note of the additional information that will need to be provided to Inland Revenue.

The new Canada DTA, and its lower withholding rates, will be welcomed by New Zealand businesses that trade with, and invest in, Canada as well as Canadian trade/investment into NZ.

## Our view

### Electronic communication proposals welcome

We support the proposals in the Bill to increase the flexibility for Inland Revenue to communicate electronically. In an increasingly digitised world it is important that tax administration reflects the technology and communications methods that are commonly used by citizens (you can read KPMG's submission [here](#)).

Prima facie, we also support better information sharing between different parts of Government, if this leads to better delivery outcomes (e.g. in social policy). One proposal of note is a power for Inland Revenue to release non-taxpayer specific information. This is currently subject to approval by the Minister of Finance, who must have regard to whether the release is in the public interest and maintains taxpayer secrecy. It is proposed that the Commissioner of Inland Revenue will be able to self-apply these tests and release information if she considers these requirements are met. It is important that these tests are robustly applied.

### Employers providing employee share benefits will have additional obligations

The ability for employers to deduct PAYE on employee share benefits, rather than employees having to pay the tax in their returns, is a positive step. It provides choices for employers and employees on how to manage tax liabilities effectively. There will be practical issues to be resolved, such as how employers can fund the tax obligations on share benefits (particularly when the share benefits are a significant part of a remuneration package or exceed the cash component of a pay).

Further, regardless of whether employers opt into the new rules or not, there will be a requirement to provide information on the value of employee share benefits in the Employer Monthly Schedule. This will have an impact on employers' payroll processes and systems. Further, it is acknowledged that this may create reconciliation errors (i.e. if PAYE is not paid, although the suggestion is that these errors will be eliminated as part of the redesign of Inland Revenue's IT systems). Employers should take note and plan accordingly.

### ASX FIF exemption extension and ruling changes are supported

The change to extend the Australian FIF exemption is welcome, although it is disappointing these concerns were not listened to at the time the exemption was first brought in. This would have saved the legislative resource now required.

We do not believe this change goes far enough. While all companies listed on the ASX, not just the top 500 companies, will prima facie be covered, they will still need to meet other criteria to qualify for the FIF exemption. This includes being Australian tax resident, not a unit trust, and not issuing stapled securities.

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Determining compliance with these additional requirements imposes similar (if not higher) costs on taxpayers and Inland Revenue to determining the type of ASX listing. The exemption should be further simplified by also removing those requirements.

We support the changes to the binding rulings regime to:

- Allow taxpayers to apply for a ruling on issues where the same tax type is subject to a dispute with a different taxpayer (and the issues to be ruled on are not the same as the issues that are the subject of the dispute).
- Clarify that a ruling does not cease to apply if an assumption is not material to the ruling and the breach of a material assumption is not a material breach.

#### [New Canada DTA – watch out for the devil in the detail](#)

The current Canada DTA entered into force in 1981. The refresh is timely given Canada is one of our key trading partners (analysis at the time the new DTA was negotiated indicated that Canada was our 10<sup>th</sup> largest investment partner and 19<sup>th</sup> largest trade partner).

The headline change is a reduction in withholding tax rates, which is welcome. However, there are other changes, including to the definition of Permanent Establishment (e.g. to include a 6 month permanent establishment rule for services performed by an individual) which business should be aware of. Therefore, care needs to be taken in applying the new DTA.

#### [For further information](#)

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