

BEPS Actions implementation by country

New Zealand



Last reviewed by Deloitte: June 2017

On 5 October 2015, the G20/OECD published 13 final reports and an explanatory statement outlining consensus actions under the base erosion and profit shifting (BEPS) project. The output under each of the BEPS actions is intended to form a complete and cohesive approach covering domestic law recommendations and international principles under the OECD model tax treaty and transfer pricing guidelines. The G20/OECD output broadly falls into the following categories:

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OECD categorisation	Definition
Minimum standard	All G20/OECD members are committed to consistent implementation
Revision of existing standard	
Common approach	Common approaches to facilitate convergence of national practices
Best practice	Guidance drawing on best practices

It is now for governments to digest and introduce the necessary legislation. The table below sets out a summary of the expected local country implementation and timing in New Zealand.

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Action	OECD categorisation	Notes on local country implementation	Expected timing
VAT on business to customers digital services (Action 1)	Common approach	<p>Legislation extending the New Zealand goods and services tax (GST) to certain cross-border services has been enacted.</p> <p>The government is still assessing options for imposing GST on cross-border low value goods.</p>	<p>1 October 2016</p> <p>Not yet known</p>
Hybrids (Action 2)	Common approach	A discussion documentation was released for public consultation in September 2016, which proposed reforms that broadly follow the G20/OECD recommendations. Due to the complexity of these proposals, further consultation is being undertaken in 2017 before legislation is introduced into parliament.	Not yet known
CFCs (Action 3)	Best practice	New Zealand already has a comprehensive CFC regime. No further reform is expected in light of the G20/OECD recommendations.	N/A
Interest deductions (Action 4)	Common approach	Consultation is underway on proposals to strengthen the existing thin capitalization rules. Options being explored include an interest rate cap (based on the parent company's credit rating) and adjusting the measurement of assets and liabilities.	Legislation is not expected until 2018
Harmful tax practices (Action 5)	Minimum standard	<p>New Zealand has no harmful tax practices as identified by the G20/OECD.</p> <p>New Zealand has an active unilateral APA and other binding rulings regime; the country has confirmed it will disclose any rulings given that fall into one of the six categories highlighted as part of Action 5.</p>	<p>Information exchange obligations will apply to:</p> <ul style="list-style-type: none"> • Past rulings issued on or after 1 January 2010 and still in effect on or after 1 January 2014 • Rulings issued on or after 1 April 2016

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Prevent treaty abuse (Action 6)	Minimum standard	<p>New Zealand already has an anti-treaty shopping/limitation-on-benefits provision in its model tax treaty, and such a clause has been included in recent treaties.</p> <p>Officials have indicated that New Zealand intends to sign up to the multilateral instrument including the principal purpose test (see Action 7).</p>	<p>Subject to implementation of the multilateral instrument (MI) and individual treaty negotiations</p>
Permanent establishment status (Action 7)	Revision of existing standard	<p>New Zealand signed the MLI at the signing ceremony on 7 June 2017. (Changes to domestic law are not required to give effect to the MLI as tax treaties are given effect in New Zealand by way of Order in Council.)</p> <p>New Zealand has not reserved on the MLI articles relating to the amended definition of permanent establishment and therefore will adopt those articles.</p> <p>Consultation is underway on unilateral options to counter the avoidance of PE status; the measures would apply where a related entity (e.g. a wholly owned subsidiary) carries out sales activities for a nonresident in New Zealand under an arrangement that is contrary to the purpose of the PE provisions.</p>	<p>Subject to implementation of the MI and individual treaty negotiations</p> <p>Legislation is not expected until 2018</p>
Transfer pricing (Actions 8-10)	Revision of existing standard	<p>New Zealand endorses the OECD transfer pricing guidelines and the Inland Revenue has publicly stated that it will apply the strengthened guidelines. Legislation should not be required to give effect to any changes to the guidelines, but the government intends to amend the legislation to include an explicit reference to the latest OECD transfer pricing guidelines (this is part of the consultation referred to below).</p> <p>Consultation is underway on a package of reforms to strengthen New Zealand's transfer pricing rules. Proposals include aligning transfer pricing rules with economic substance, the ability to recharacterise transactions, reversing the burden of proof (which is currently on Inland</p>	<p>Timing will follow OECD updates to transfer pricing guidelines</p> <p>Legislation is not expected until 2018</p>

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		Revenue when contemporaneous documentation is prepared by the taxpayer), extending the statute of limitations for transfer pricing adjustments from four to seven years and applying the transfer pricing rules to investors acting in concert.	
Disclosure of aggressive tax planning (Action 12)	Best practice	No major reforms have been signalled in this area, but Inland Revenue has begun issuing an annual international tax questionnaire to multinational entities.	N/A
Transfer pricing documentation (Action 13)	Common approach	Consultation is underway on a package of reforms to strengthen New Zealand's transfer pricing rules, including shifting the burden of proof to the taxpayer. The shifting of the burden of proof will increase the importance of having adequate documentation. It is not intended to introduce a statutory requirement to prepare and maintain transfer pricing documentation.	Legislation is not expected until 2018
CbC reporting (Action 13)	Minimum standard	<p>The IRD has contacted all New Zealand-headquartered taxpayers that have global revenue in excess of EUR 750 million and requested compliance with CbC reporting as set out in Action 13. New Zealand subsidiaries of foreign-owned multinational groups for which CbC reporting is required to be filed overseas are not required to provide notification to Inland Revenue.</p> <p>New Zealand is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.</p> <p>Consultation is underway on a package of reforms to strengthen New Zealand's transfer pricing rules. As part of this consultation New Zealand is considering whether to modify CbC reporting requirements in legislation.</p>	<p>Effective for years commencing on or after 1 January 2016</p> <p>Announcements on current consultation expected in mid-2017. Legislation is not expected until 2018</p>

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Dispute resolution (Action 14)	Minimum standard Complemented by best practice	New Zealand is one of the countries committed to binding arbitration.	Subject to implementation of the multilateral instrument
Multilateral Instrument (Action 15)	Applicable across all four categories	Inland Revenue has launched a consultation on its proposed position with respect to the MI. It is expected that New Zealand will adopt most of the reforms however this is still subject to government sign-off.	Application dates are dependent on when jurisdictions sign and ratify the MI

Unilateral BEPS Actions

Legislation enacted in March 2017 broadens the application of non-resident withholding tax.

As noted above, consultation is underway on proposed unilateral actions to counter excessive interest deductions, avoidance of PE status and transfer pricing.

Other Tax Developments

No other tax developments to note.



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