

18. Taxation Privileges and Banking

18.1 Exemption from Income Tax

In accordance with Articles 34 and 37 of the VCDR and Articles 49 and 66 of the VCCR, members of the staff of a mission or post who qualify for privileges, and members of their officially recognised family members, are exempt from certain classes of income tax on any allowance, salary or other remuneration they receive in their official capacity, and on any private income received from sources outside New Zealand. New Zealand citizens or permanent residents do not qualify for these exemptions.

Nothing in the VCDR or the VCCR affects the liability for New Zealand income tax in respect of income arising from sources in New Zealand. This would include passive income such as interest and dividends, as well as any salary/wage derived by family members who have entered into local private employment.

In respect of interest and dividends, the New Zealand income tax liability also extends to the deduction of Resident Withholding Tax (RWT) by the person paying the interest or dividends. To ensure the correct rate of withholding tax is deducted, an IRD tax number must be supplied to the person paying the interest or dividend, otherwise a higher 'no declaration' rate will apply. Applying for an IRD tax number will not affect diplomatic or consular status - it simply enables the financial institution to levy the lower of the current New Zealand tax rates. If a double taxation agreement applies between the sending state and New Zealand this will affect tax liabilities (see below).

18.2 Double Taxation Agreements

New Zealand's double tax agreements (DTAs) normally include 'tie-breaker' tests that assist in cases where both countries claim tax residence in respect of the same person. This is important because residence plays an important role for determining a person's New Zealand income tax liability.

New Zealand's DTAs also normally specify lower rates of income tax that may be deducted from interest and dividends derived from New Zealand by a non-resident (normally 10% and 15% respectively). If residence is allocated under the tiebreaker rules to New Zealand, full income tax will be imposed on interest and dividends earned. However, if residence is allocated to the other country, New Zealand's income tax will be limited to the lower DTA rate.

18.3 Goods and Services Tax (GST)

Since its introduction in 1986, GST has been regarded by the New Zealand Government to be payable by all missions, posts and privileged persons on goods and services purchased in New Zealand.

Only goods and services imported directly by, or on behalf of, a mission, post or privileged person are exempt GST. To be exempt from GST on entry into New Zealand, goods must be clearly identified on all importation and customs documents and accompanied by a certificate from the mission or post stating the goods are being imported by a mission or post for official use or the personal use of a privileged person. Suppliers purchasing imported goods for the Corps should be advised of this requirement, as refunds of GST are not possible. Refer to Chapter 16 for more details on GST.

18.4 GST Registration

Missions and posts are not subject to registration for GST under the Goods and Services Act 1985 or the consequent liability under section 8 of that Act to pay goods and services tax on services they perform.

18.5 Summary of Fiscal Privileges

The following is a summary of individual exemption and refunds of duties, taxes and fees available to missions, posts and staff members depending on their diplomatic or consular status:

18.5.1 Missions and Posts

- Exempt from customs duties and GST on all goods imported into New Zealand for the official use of the mission or post;
- exempt from, or entitled to remission of, court and record fees, and registration fees on documents (e.g. agreements, transfer, leases and mortgages) concerning the office building and the land ancillary thereto used for the purposes of the mission or post; and
- entitled to a refund of rates levied by local councils on Chanceries, Official Residences and staff residences based on reciprocity (refer to Chapter 21 for further information).

18.5.2 Diplomatic and Consular Officers

- Exempt from customs duties and GST on their personal effects and goods intended for personal use when entering New Zealand on first arrival, and at any time during the course of the assignment;
- exempt from New Zealand income tax on any allowance, salary or other remuneration they receive in their official capacity, and on any private income received from sources outside New Zealand;
- exempt from customs duties payable under the Customs and Excise Act in respect of wines, spirits, beer, tobacco products and perfumes imported or purchased from licensed suppliers for personal consumption;
- entitled to a refund of motor spirit (petrol) duty;
- exempt from motor registration fees except ACC levies (refer to Chapter 11);
- exempt from driver's licence fees (refer to Chapter 11);

18.5.3 Administrative and Technical Staff and Consular Employees

- Exempt from customs duties and GST on their personal effects only when imported into New Zealand within six months of the staff member's arrival in New Zealand;
- exempt from New Zealand income tax on any allowance, salary or other remuneration they receive in their official capacity, and on any private income received from sources outside New Zealand;
- exempt from motor registration fees, except ACC levies (refer to Chapter 11);
- exempt from driver's licence fees (refer to Chapter 11); and

18.5.4 Service Staff

- Exempt from New Zealand income tax on the remuneration they receive by reason of their employment in the mission or post.

18.5.5 New Zealand Citizens or Permanent Residents

New Zealand citizens, permanent residents and dual nationals who also hold New Zealand nationality, employed in missions and posts, are not eligible for fiscal privileges.

18.5.6 Honorary Consular Officers

Refer to Chapter 8 for further information.

18.6 New Zealand's Anti-Money Laundering and Countering Financing of Terrorism Act 2009

The Ministry has urged New Zealand banks to implement their AML/CFT programmes in a respectful manner vis-à-vis the diplomatic corps. Protocol Division can provide some limited assistance, such as issuing a letter confirming accreditation and official position, should missions request it, but cannot intervene in relationships between financial institutions and their customers.

New Zealand's Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML/CFT Act) seeks to implement recommendations of the Financial Action Task Force (FATF). The FATF Recommendations have been endorsed by over 180 countries and are universally recognised as the international standard for anti-money laundering and countering the financing of terrorism.

The AML/CFT Act requires commercial banks (as "reporting entities"), to have internal procedures in place to detect money laundering and terrorist financing, and to manage and mitigate the risk of it occurring. In line with FATF Recommendations 10 and 12, banks must undertake Customer Due Diligence on all customers and Enhanced Customer Due Diligence on politically exposed persons (PEPs).

The New Zealand AML/CFT Act definition of PEP explicitly includes senior foreign representatives, ambassadors, high commissioners, and their immediate family members. This is in line with other international AML regimes and in line with the FATF PEP guidance.

Based on the framework of international expectations and domestic law, commercial banks are legally obliged to seek enhanced due diligence from heads of mission and other senior diplomatic representatives and their respective family members.

Examples of Enhanced Due Diligence measures include:

- Obtaining additional information such as volume of assets, the intended nature of the business relationship, source of funds or source of wealth, and reasons for performed transactions;
- more regular updating of identity verification data;
- requiring approval of senior management to commence or continue the banking relationship.

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