Doing Business in New Zealand

2009

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1. Introduction

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in over 70 countries throughout the world. Business partners work together through the network to conduct trans-national operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in New Zealand has been provided by the office of UHY representatives:

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UHY Haines Norton (Auckland) Limited is a corporate chartered accounting and advisory firm located in the western suburbs of New Zealand's largest city, Auckland.

Our business is as much about helping people with all their financial concerns and issues as it is about the businesses they run and are involved in. We get to know businesses and the people within them and strive to support our clients professionally and personally as they work towards their business goals.

We have an extensive range of clients and provide services including:

Accounting	Succession Planning
Assurance	Taxation consulting and planning
Audit	Taxation compliance
Business advisory	Personal financial planning
Business development	Strategic planning
Due diligence	Business valuation
Business management systems	Financial analysis
Retirement planning	Business Planning

Our core values are: 'To be innovative, forward looking, proactive, professional and a learning institution.'

Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at April 2009.

We look forward to helping you do business in New Zealand.

2. Business environment

New Zealand is situated in the South Pacific Ocean, approximately 1,500 kilometres east of Australia. The country has an area of 270,000 sq km and consists of two main islands – called the North Island and the South Island. The capital city, Wellington, is located at the bottom of the North Island.

New Zealand's time zone is 12 hours ahead of Greenwich Mean Time (GMT). In summer New Zealand uses 'daylight saving'. Clocks are put forward one hour on the last Sunday in September and put back again on the first Sunday in April.

Population

New Zealand has a population of approximately 4.3 million. This is expected to increase to over 5 million by late 2020's. Auckland is the largest region with a population of about 1.3 million; Wellington has 450,000, Canterbury 500,000 and Otago 190,000.

New Zealand is truly a multicultural society. The original inhabitants of New Zealand were Maori. European settlers arrived in the early 19th Century. The majority of the population today are Europeans. Maori make up approximately 15% of New Zealand's total population. Over the past century migrants have arrived from Europe, the Middle East and increasingly from the Asia Pacific Region.

Language

There are two official languages in New Zealand - English and Maori. English is the common and everyday language. However there are a number of newspapers, radio stations and television programmes catering for various ethnic communities.

Standard of Living

New Zealanders enjoy a high standard of living. New Zealand has spectacularly beautiful landscapes including vast mountain chains, steaming volcanoes, sweeping coastlines, deeply indented fiords, lush rainforests and unique wildlife. The climate in the North is sub-tropical and in the South it is temperate. There are attractive working conditions, a high standard of health and education, high quality housing and an affordable cost of living.

Employment

In December 2008 the labour force was 2.191 million and the unemployment rate was 4.6%.

GDP

The real GDP was NZ$135.5 billion in the year ended 31 March 2008.

CPI

The inflation rate was 3.4% in December 2008.

Interest Rates

The cash rate in March 2009 was 3.00% and the 90-day bill rate was 3.40%.

Currency

The unit of currency is the New Zealand dollar, quoted as NZD. There are 100 cents to the dollar.

System of Government

New Zealand became fully independent from Britain in 1947. It has become a well-developed economy and has a government structure based on the British parliamentary system

New Zealand is a constitutional monarchy with the Queen as the Head of State, represented by the Governor-General. The head of the Government, the Prime Minister, is the leader of the party, or coalition of parties, holding the majority of seats in the Parliament.

Three Branches of Government

The democratic parliamentary government is based on the Westminster system – fundamentally separating the powers between the Legislature, the Executive and the Judiciary.

Legislature

This branch passes legislation dealing with the concerns which affect New Zealanders on a day-to-day basis, such as trade, health, education, law enforcement, agriculture, mineral resources and industry. They examine and debate bills and when bills have passed the process they become law.

Executive

This branch governs and administers law. They control matters such as defence, treasury, foreign policy and trade, customs and excise, communication, banking and insurance.

Judiciary

The Judiciary branch applies law in New Zealand. The courts make decisions based on the laws passed by the Parliament.

The Legal System

The New Zealand legal system is based on the English system and the two main sources of law are:

- Legislation enacted by the Parliament
- Common law comprising judicial decisions.

The Governor-General appoints judges. Appointed judges must have held a practicing certificate as a barrister or solicitor for at least seven years.

The legal profession is closely modelled on the English legal profession with a distinction between barristers, who mainly appear in court, and solicitors, who maintain offices to which the public may go for advice.

Market Conditions in New Zealand

The Economy

New Zealand follows the free enterprise system with an orderly marketing of products and is heavily dependant on international trade.

New Zealand is a growing economy which has strengthened over the years by suiting the needs of niche markets and dealing with a diverse range of trading partners.

Industry Base

New Zealand has a diverse industry base. With its vast array of natural resources, New Zealand has traditionally been well known for its primary sector - agriculture, horticulture, forestry, fishing, energy and minerals.

New Zealand also has a competitive advantage in food-processing technologies, telecommunications, plastics, textiles, electronics, apparels and plantation forestry products. The greatest growth has been in the services sector, and in particular in business and finance, communication, property, health, education and tourism services.

Trade

New Zealand is a strong supporter of reductions in trade barriers as well as the concept of open and multilateral trading systems. It has a special trading relationship with Australia called a Closer Economic Relationship (CER); is a member of the Asia Pacific Economic Co-operation (APEC) and the Association of South East Asian Nations (ASEAN) and is a signatory to the General Agreement on Trade and Tariff; and is involved in the WTO Doha Development Round.

New Zealand is ideally situated to take advantage of the trading opportunities in the Asia Pacific region. It has close cultural, commercial and political ties within the region and this enhances trading and business partnerships. New Zealand's main relationships are with Australia, the US, the EU, Japan, the Pacific Island countries and China. The country is broadening the base of its relationships by strengthening ties with existing partners, e.g. Southeast/South Asia and the Russian Federation and building ties with newer partners e.g. in the Middle East and Latin America.

Traditionally, New Zealand exported primary sector commodities - beef, wool and timber.

Major exports included dairy products, meat, manufactured products, primary products, metals, fruit and vegetables, and fish. Tourism is one of New Zealand's largest export industries.

Main Trading Partners and Export Destinations

Traditionally New Zealand's trading partners were Australia and the United Kingdom. However, over the past two and a half decades New Zealand's trading partners have become more diverse and especially include Asia.

New Zealand's main trading partners currently are: Australia, the US. Japan, People's Republic of China, United Kingdom and Republic of Korea.

Banking and Finance Sector

The central bank in New Zealand is the Reserve Bank of New Zealand. The Reserve Bank is responsible for maintaining the stability and efficiency of the financial system. It does this by:

- Operating monetary policy so as to maintain price stability
- Promoting the maintenance of a sound and efficient financial system
- Meeting the currency needs of the public.

New Zealand's banking industry is substantially deregulated. There are four major commercial banks in New Zealand:

- ANZ National Bank Limited
- ASB Bank Limited
- Bank of New Zealand
- Westpac Banking Corporation.

These banks have the majority share of the banking business in New Zealand, although there is a comprehensive range of other sources of finance. These include merchant or investment banks, finance companies, building societies, credit operatives or unions, development banks and venture capital companies.

NZX

The New Zealand Stock Exchange Limited (NZX) has facilitated and regulated the stock market in New Zealand for over 100 years. NZX is New Zealand's primary national stock exchange for equities, derivatives and fixed interest securities. All trading of shares between NZX members is conducted by electronic trading using comprehensive, high-quality information technology systems.

NZX's business is founded on the belief that a healthy capital market infrastructure is essential for the economic well being of the country. The NZX has taken a broad approach in every aspect of the marketplace to enhance its services to New Zealand's capital markets.

There are three securities markets providing a diverse offering for companies wishing to raise capital and investors looking for secure and liquid investment products.

The NZSX includes over 200 listed companies. These are the cornerstone companies of New Zealand's economy.

The NZAX Alternative Market is designed for fast-growing developing companies and companies with non-traditional structures (such as co-operatives) with a need for market facilitation.

The NZDX Debt Market offers a range of investment securities including corporate and government bonds and fixed income securities.

Exchange Control

Currently there are no Exchange Control Regulations restricting movement of funds in and out of New Zealand.

Business Environment Controls

Securities Commission

The Securities Commission (SC) is an independent government body responsible for strengthening domestic and overseas confidence in New Zealand's capital markets by promoting efficiency and integrity of those markets. It administers and reviews the laws to ensure fair play in the corporate and financial services industry, protecting investors and consumers and preventing corporate crime. The SC was established under the Securities Act 1978.

Commerce Commission

The Commerce Commission is an independent statutory authority that monitors the commercial activity in New Zealand and is responsible for enforcing the Commerce Act 1986, Fair Trading Act 1986 and associated legislation.

Commerce Act 1986

This act prohibits and restricts business practices which may lessen competition in trade and commerce and applies to virtually all businesses in New Zealand. The Act covers: anti-competitive and unfair market practices; mergers or acquisitions of companies; product safety/liability; and third party access to facilities of national significance.

Fair Trading Act 1986

This act is aimed at consumer protection which prohibits unfair trade practices such as misleading or deceptive conduct, false representation and various advertising practices. Other consumer protection legislation, such as the Consumer Guarantees Act 1993, Sale of Goods Act 1908 and Credit Contracts and Consumer Finance Act 2003, cover conditions and warranties, product safety standards, information, and lending arrangements.

3. Foreign investment

New Zealand actively welcomes and encourages foreign investment and has a strong commitment to business development. It is widely recognised that foreign investment fosters higher levels of economic activity and employment, brings access to new technology and skills and introduces new markets for trade and commerce.

Foreign investors are generally held to be:

- A natural person not ordinarily resident in New Zealand
- Companies that are either incorporated outside New Zealand or have 25% or more foreign ownership.

Reasons for Investing in New Zealand

There are a large number of sound reasons for investing in New Zealand:

- Long-term political stability
- Sound economic management and growth
- Low rates of inflation
- Favourable location within the Asia Pacific region
- Highly skilled, diverse workforce
- Technologically advanced with a rapid uptake of communications technology
- Open and efficient regulatory systems.

Foreign Investor Options

In order to transact business in New Zealand a foreign investor can:

- Register as a foreign company
- Enter into a joint venture / partnership
- Acquire a New Zealand company
- Establish a new business.

Registering as a Foreign Company

A foreign company or similar entity is able to carry on a business on its own account (i.e. as a branch or subsidiary) provided it has registered in New Zealand. Registration generally involves:

- Appointing and authorising at least one local agent to act on its behalf
- Maintaining a registered office in New Zealand
- Lodging specific company documents and audited financial statements with The Registrar of Companies

This is the most common entity used by foreign investors.

Joint Ventures / Partnerships
Foreign investors may also enter into a joint venture or partnership with a New Zealand business or organisation. Partners or joint venture parties that are companies incorporated overseas are required to register in New Zealand as detailed above under foreign company. The participants are generally taxed on an individual basis.

Acquiring a New Zealand Company or Business
Alternatively, investors can acquire the shares in or assets of an existing New Zealand company. This has to be undertaken in accordance with the Overseas Investment Act 2005 as well as in accordance with New Zealand foreign investment policy, which is administered by the Overseas Investment Office.

Establishing a New Business
Details about establishing a new business in New Zealand are provided in Chapter 4.

Legislation Affecting Foreign Investment
While it recognises the importance of foreign investment, New Zealand is also aware of the importance of looking after its own affairs. It retains a minimum level of controls over significant levels of overseas investment. There is natural apprehension about New Zealand assets being owned and controlled by foreign concerns, particularly in certain types of land.

New Zealand's foreign investment policy is accordingly designed to:
Encourage foreign investment
Ensure that foreign investment enhances New Zealand's economic development
Ensure that foreign investment is consistent with New Zealand's needs.

These policies are administered by the Overseas Investment Office (OIO) and contained within the Overseas Investment Act 2005.
The OIO generally examines all foreign investment proposals involving acquisition or control of 25% or more of a New Zealand:

- Business or property worth more than $100 million
- Fishing quota
- Sensitive land which includes:
    - Non-urban land over 5 hectares
    - Land on specified and other offshore islands
    - The foreshore and seabed
    - Lake beds over .4 hectares
    - Land held for conservation purposes over .4 hectares

- Reserves over .4 hectares
- Historic and heritage land over .4 hectares
- Land over specified area thresholds that includes or adjoins "sensitive" land (e.g. land held for conservation purposes, reserves, regional parks, historic or heritage areas, lakes, the foreshore, or the sea)

In most industry sectors smaller proposals are exempt from investigation by the OIO and larger proposals are approved unless they are held to be contrary to the national interest.

Government Assistance and Incentives for Foreign Investment

Investment New Zealand
The New Zealand Government has established Investment New Zealand, a specialist national investment promotion agency working within New Zealand Trade and Enterprise, the national economic development agency.

Investment New Zealand actively assists international corporate investors to:

- Relocate their businesses to New Zealand
- Establish Greenfield operations
- Invest in and work with New Zealand companies in global ventures.

And provides services for overseas investors:

- Access to a global network of investment specialists
- Expert analysis and market information
- Onshore facilitation of investment projects.

And services for New Zealand businesses:

- Communication of New Zealand's advantages and opportunities for global investors
- Expert analysis of international markets and trends
- Facilitation of partnerships with overseas investors.

Additionally, the Government realises the importance of foreign investment and is actively working towards providing an environment which encourages overseas investors to bring or establish operations or join New Zealand companies.

One example is the CER agreement with Australia which enables New Zealand operating businesses to gain duty free access to Trans-Tasman markets. Free trade agreements such as the New Zealand and Singapore

Closer Economic Partnership agreement 2001, the New Zealand and Thailand Closer Economic Partnership Agreement 2005 and The Free Trade Agreement between New Zealand and China (NZ-China FTA) 2008 provide competitive advantages and future prospects for New Zealand businesses.

Further agreements with countries in Asia and the Pacific, are under negotiation.

4. Setting up a Business

There are a number of legal structures available for setting up a business in New Zealand. These are essentially the same as those used in the United Kingdom, the United States, Australia and other English-speaking countries. The most common structures include:

- Companies – close or limited attribution
- Partnerships
- Limited Partnerships
- Trusts
- Sole traders.

Companies
Foreign investors may find a company the easiest structure to use, particularly if opening a branch or subsidiary of their existing overseas business. In New Zealand, a company is regarded as a separate legal entity from its owners and therefore provides them with limited liability to the extent of the capital they are obliged to contribute.

All companies are regulated by the Companies Act 1993.

Close / Closely Held Company
Smaller businesses will generally use a close company or closely held structure as it is easier and less expensive to manage and administer.

Close / closely held companies:

- Must have at least one director
- At least one director must ordinarily reside in New Zealand
- Must have at least one but not more than 5 shareholders
- May offer shares to existing shareholders or employees
- Are prohibited from offering shares, debentures or other forms of security to the public
- Usually restrict the right of shareholders to transfer shares.

Limited Attribution Companies
These are listed or unlisted public companies. A listed public company trades through the New Zealand Stock Exchange (NZX).

Limited Attribution Companies:

- Must have at least three directors
- At least two directors must ordinarily reside in New Zealand
- Must have at least one shareholder
- May offer shares to the public
- Must comply with the Companies Act before offering shares
- Place no restriction on the transfer of shares.

Incorporating a company is a straightforward process requiring registration with The Registrar of Companies and lodging of the company name. The company name has to include 'Ltd', to show the company's legal status.

Listing with the New Zealand Stock Exchange (NZX)

Companies wishing to list on the stock exchange have to conform to the requirements of both the NZX and the Companies Act.

The NZX requirements vary for the different markets and the documentation required depends on whether the listing is a compliance listing or for raising capital.

Compliance listings require disclosure of:

- Information regarding business activities, financial activities and statements
- The returns investors can expect from the securities
- Other relevant information for investment decision making
- Description of business, business risks and key drivers to performance.

If the company is offering securities to the public, it is required to prepare a detailed prospectus.

Partnerships

In New Zealand two or more people, up to a maximum of 20, can establish partnerships. Partnerships are a popular structure with many small and medium-sized businesses as they have low set up costs and minimal formal set up requirements, and are reasonably flexible for taxation purposes.

In New Zealand partnerships are covered by the Partnership Act and by contract law. The partners share profits and costs equally unless specific provisions are made in the partnership agreement. The partners are held jointly and severally liable for debts and obligations.

The partnership is required to lodge a partnership tax return but is not taxed as a separate entity. Each partner lodges an individual tax return, paying tax on his or her share of profit.

Limited Partnerships (LP)
Legislation to allow LPs was brought in to encourage foreign investors to operate in New Zealand.

No audit is required unless the partnership agreement requires it.

LPs comprise of at least one General Partner and one or more Limited Partners. The General Partner is liable for the actions of the partnership and for this reason it is prudent to use a New Zealand tax resident limited liability company as the General Partner. The General Partner's details are registered at the Companies Office on Public record but the Limited Partners can maintain anonymity.

With the exception of their capital at risk the Limited Partners cannot be liable for the actions of the partnership. However this immunity only applies provided the Limited Partner does not become involved in the management of the partnership. Limited Partners can become involved with some aspects of the decision making process at the strategic level without compromising their limited liability.

All the Partners are required to file New Zealand tax returns.

An overseas partner should obtain tax advice in relation to their home tax jurisdiction to verify whether any losses will be accessible and whether any tax paid in New Zealand will be available as a tax credit in their country of tax residence.

The legislation requires a written partnership agreement to be executed as there is no statutory default for a deemed partnership agreement.

Trusts
In New Zealand, trusts are used as a structure for small or medium-sized businesses. They have become popular because of their flexibility and ability to minimise income tax.

Trading trusts are usually set up using a company as a trustee, whereby the company's shares are held by an individual who is also the director. This has the advantage of providing limited liability protection.

Other trusts, commonly known as family trusts, are normally of a discretionary nature. This allows them to distribute income within the family, or to related entities, in the most efficient manner.

Sole Traders

This is the simplest and most cost-efficient method of legally establishing a business. The owner is the sole proprietor and so retains complete control. The business is subject to less regulation and all profits go to the owner.

Sole traders can trade under their name or choose to register a business name. A sole trader is treated as an individual for tax purposes.

This structure does not have the limited liability protection provided by a company, a Limited Partnership or a company / trust structure.

Regulation of Businesses

Company Law

Company law in New Zealand is governed by the Companies Act 1993 and the Financial Reporting Act 1993, which is administered by the Commerce Commission. This regulates the rules, procedures and accounting and reporting requirements for companies.

Registration of Business Names

All business names must be registered unless the business operates under the full names, or initials, of the business owner or owners. Companies that carry out their businesses under a name other than their company name must also register their business name.

To register, the entity must provide:

- The business name
- The address where it will operate
- The names and addresses of the business owners
- When it will start trading.

Registering for Tax

All businesses are required to have an Inland Revenue Department Number (IRD No) and to lodge an annual tax return with the Inland Revenue Department.

GST (Goods and Services Tax)

GST is an indirect consumption tax imposed at the rate of 12.5% on supplies of goods and services consumed in New Zealand. A business must register if it has annual taxable supplies (turnover) of $60,000 or more. Some goods and services are exempt – e.g. financial services and residential rental properties – and some are zero-rated – e.g. exports and businesses sold as a going concern.

Business Licences and Permits

Most businesses require some form of licence or permit in order to operate legally. These depend on the nature of the business and are obtained from local government authorities.

Insurance

All employers are required to have work-related accident insurance for employees. All self employed and private domestic workers must also have accident and personal injury cover. The compensation schemed was introduced under the Accident Compensation Act 1982. All business vehicles must be covered by compulsory third-party motor insurance which provides cover against legal liability from death or injury due to the motor vehicle use.

5. Labour

There has been a change of trend in the employment sector. Traditionally the workforce was skilled in construction and production, but there has been a shift towards the services sector. Working conditions have improved due to the increasingly open and competitive economy that has developed over the last two decades. At the same time there has been considerable deregulation of the labour market bringing with it more flexible work conditions and wage determination.

Employment Statistics

In December 2008 approximately 2.191 million people were in the New Zealand labour force. The standard working week is 40 hours. About 30% of the population work a standard 40-hour week. There are increasing numbers of part-timers working less than 30 hours per week, and increasing numbers working at least 50 hours per week. All employees are entitled to a minimum of four weeks annual holiday under the Holidays Act 2003.

The average weekly earnings in December 2008 was $824 for females and $1,023 for males.

Service industries employ the largest proportion of people. This is followed by the manufacturing and construction industries, and then primary type industries such as agriculture, horticulture and forestry.

The unemployment rate was 4.6% as at December 2008.

The general retirement age for New Zealand employees is 65 for men and between 60 and 65 for women, which is when they become eligible for the Government pension.

Industrial Relations

Trade Unions

New Zealand has had a tradition of strong trade unions with the Labour Party a strong supporter of these unions when in power. In recent times, to improve international competitiveness, the Government has encouraged employers through Government policies to seek greater labour market flexibility. This has led to increased changes in legislation concerning workplace health and safety, industrial relations and training, working conditions and rates of pay.

The New Zealand Council of Trade Unions (CTU) brings together 350,000 union members under 40 affiliated unions. These unions are usually based on industry or occupation. Union membership is voluntary however "closed shop" arrangements in certain industries make membership almost compulsory.

In New Zealand only members registered with trade unions can be a party to a collective employment agreement otherwise employees can negotiate individual employment contracts with their employers. The Employment Relations Act 2000 governs the negotiation, content and enforcement of employment agreements, and provides protection for employees.

The key objectives of the Employment Relations Act 2000 are to promote:

- good faith
- collective bargaining
- the effective resolution of employment relationship problems.

Other employment statutes include the Holidays Act 2003, the Parental Leave and Employment Protection Act 1987, the Minimum Wage Act 1983, the Wages Protection Act 1983, the Health and Safety in Employment Act 1992 and the Human Rights Act 1993.

These statutes govern:

- Annual leave
- Long service leave
- Minimum rates of pay
- Termination of employment
- Workers' compensation
- Equal opportunity employment
- Sexual harassment
- Occupational health and safety.

They are designed to ensure equitable and fair treatment of all employees whilst still encouraging a competitive and flexible business environment. It is illegal for employers to make arrangements with employees to circumvent these legislative provisions, irrespective of whether the employee may consent to the altered conditions.

Employer Obligations

Workplace Accident Compensation

All employers pay Workplace Accident Compensation (ACC) insurance to cover their employees. The Accident Compensation Act 1982 introduced a comprehensive no-fault accident insurance scheme covering all personal injury by way of accident and occupational disease.

This scheme is funded by payroll levies imposed on both the employers and employees. Employer levies are calculated according to the industry risk based on claims history. The levy is limited to earnings of NZD $102,922 per annum for each employee for the year ended 31 March 2009.

Occupational Health and Safety

All businesses have to comply with the legislation requiring employers to provide safe workplaces together with safe work practices, such as safe handling of hazardous substances and dangerous goods.

Tax Compliance

Taxation legislation requires the employer to withhold an appropriate amount of tax from an employee's income and to submit this to the Inland Revenue Department.

Superannuation (Pension Contributions)

In New Zealand there are no compulsory superannuation schemes. However many employers pay superannuation contributions for their employees. Employer contributions are subject to specified superannuation contribution withholding tax (SSCWT). Superannuation payments are then non-taxable in the hands of the recipient.

KiwiSaver (Employer Contributions)

On 1 July 2007 KiwiSaver was introduced. This is a voluntary savings scheme available to individuals who are either New Zealand citizens or permanent residents.

Besides voluntary contributions, participating members contribute either 4% or 8% (or 2% from 1 April 2009) of their gross salary or wages to the scheme. Employers contribute to their employees' accounts at a rate of 1% of the employee's remuneration for the year ended 31 March 2009. The employer contribution rises to and stays at 2% from 1 April 2009 onwards. Employers only contribute to the accounts of employees that are participating members.

Members are entitled to a one-off $1000 Kick-start contribution from the Government on joining. Members are also entitled to a tax credit matching their own contributions dollar for dollar, capped at $1,042.86 pa.

Any employer contributions in excess of the stated limits are subject to SSCWT.

Contributions are normally locked in until later when the member is entitled to New Zealand Superannuation (currently at age 65) or 5 years. There are some narrow exceptions to this.

KiwiSaver schemes would normally be Portfolio Investment Entities (PIE) and would therefore take advantage of the special tax rules for PIEs.

Unfair Dismissal and Social Benefits

It is illegal for an employer to dismiss an employee in circumstances that could be held unjust, harsh or unreasonable. Specific procedures must be followed when dismissing an employee and an employer who fails to comply may have to reinstate the employee.

The Government provides benefits through Work and Income, a service of the Ministry of Social Development, for unemployment, sickness and superannuation. Assistance with residential care is available for needy elderly people and there are residential support subsidies to help younger people with health or disability related issues. Working for Families pays extra money to many thousands of New Zealand families to assist them in raising a family. Childcare subsidies are provided for pre-school and out of school care. A student loan scheme assists with tertiary education costs.

The loans are interest free subject to certain conditions. Government assistance is funded by general taxation proceeds.

Ninety Day Trial Period

From the 1 Mach 2009, employers who employ nineteen or fewer employees will be able to employ new employees on a trial period of up to ninety days. There are considerations to take into account which are discussed in more detail at www.ers.dol.govt.nz

Employee Implication when Buying or Selling a Business

There is no legislation in New Zealand that stipulates all employees will automatically transfer from the seller to the buyer upon sale of a business. Should an employee remain with the business, the contract of employment must be terminated by the seller and the buyer must make a new offer of employment to the employee.

In some circumstances, the business purchaser may be bound by the terms and conditions of employment established in accordance with the purchase agreement.

Work Permits

New Zealand welcomes people wanting to work here. Work permits are granted for Skilled Migrants who intend to work and live permanently in New Zealand; highly qualified specialists under the Work to Residence category; Temporary Work where the applicant has a job offer from a New Zealand employer or is skilled in an area for which there is demand; and Working Holidays for 18 to 30 year olds and employees of relocating companies moving their operations to New Zealand. Depending on the category, there are a number of conditions to be met. These include:

- Evidence of an offer of employment
- Having sufficient funds for accommodation, maintenance and repatriation on termination of employment
- Good health and good character (medical and police clearances)

The New Zealand employer recruiting overseas employees must demonstrate that the occupation's requirements cannot be fulfilled by a New Zealand resident and that comprehensive measures have been taken to attempt to fill the position locally.

6. Taxation

In New Zealand the Income Tax Act (Tax Act) is extremely complex and is constantly changing. It is only possible to provide a broad outline here.

Tax Authorities and Responsibilities

New Zealand's taxation is the sole responsibility of the Government. The Inland Revenue Department (IRD) is the national taxation authority.

The main direct tax levied by the government is income tax. Income tax applies to companies, trusts and individuals.

Indirect taxes include goods and services tax, sales tax, local authority rates, import and excise duties, fringe benefit tax and registration fees such as motor vehicle registration. Fringe Benefit Tax is payable on benefits employees receive as a result of their employment.

Liability for Income Tax

The general rule is that New Zealand residents must pay income tax on all their income from sources anywhere in the world.

Non-residents are taxed on all income sourced in New Zealand and the way this income is taxed may vary from normal rules where New Zealand has a double tax agreement with the non-residents' country.

The Income Tax Act 2007 and the Tax Administration Act 1994 govern income taxes and are administered by the Commissioner of Inland Revenue (Commissioner) who is responsible for the operation of the IRD. The system operates by self-assessments, with random IRD audits to verify assessments.

New Zealand's income tax year ends on the 31st March. Companies, trusts, partnerships and individuals are required to file annual income tax returns. There are some exceptions particularly for individuals deriving only income already taxed at source.

Tax Rate for Individuals

The incoming National Government after the November 2008 elections has stated that over several years it intends to implement a gradual reduction of personal tax rates. The first of these changes has been enacted with effect from 1 April 2009.

The rates of tax for resident individuals for the two years from 1st April 2008 to 31 March 2010 are set out below:

Personal Tax Rates from 1 April 2008 to 31 March 2009

Marginal Income Band	Tax Rate
$0 - $9,500	13.75%
$9,501 - $14,000	16.75%
$14,001 - $38,000	21.00%
$38,001 - $40,000	27.00%
$40,001 - $60,000	33.00%
$60,001 - $70,000	36.00%
$70,001 and over	39.00%

Personal Tax Rates from 1 April 2009 to 31 March 2010

Marginal Income Band	Tax Rate
$0 - $14,000	12.5%
$14,001 - $48,000	21.0%
$48,001 - $70,000	33.0%
$70,001 and over	38.0%

Non-Resident Tax Rates

Non-residents are taxed at the same tax rates as residents except in cases where income is subject to non-resident withholding tax.

There are a few exemptions from New Zealand tax available to non-resident employees in regards to performing employment duties in New Zealand provided that:

- The visits to New Zealand do not exceed 92 days in total in any tax year
- The employee is subject to tax elsewhere in respect of that income
- The work is performed for a non-resident.

This exemption is distinct from the exemption that may apply under New Zealand's double tax agreements.

Residence

There are many issues determining residency, but generally individuals are deemed 'residents' if they:

Are personally present in New Zealand for more than 183 days in total in any 12 month period or

Have a permanent place of abode in New Zealand irrespective of whether they also have a permanent place of abode outside New Zealand or

Are absent from New Zealand serving the New Zealand Government.

Individuals are classified as a 'non-resident' when they:

- Do not maintain a permanent place of abode in New Zealand
- Are absent from New Zealand for more than 325 days in any 12 month period.

Taxable Income

Taxable income is the total assessable income less total deductions and any available losses.

Deductions are all expenditure or loss incurred in deriving income, or in carrying on a business for the purpose of deriving income although there are some exceptions. Allowable deductions normally include stock purchases, manufacturing, trading and administration expenses – wages and salaries, interest, rentals, and royalties. Depreciation is allowed on fixed assets such as income-producing plant and equipment, and some intangible property.

New Zealand does not have a capital gains tax. However there are circumstances where capital receipts may be taxable e.g. where assets are frequently traded; the taxpayer is in the business of trading assets; assets are purchased with the intention of selling at a profit. Also from 1 April 2007 the new 'Foreign Investment Fund' (FIF) rules require a deemed income to be taxable on investments in foreign shares where the shareholding is less than 10%. The deemed income is 5% of the investment's opening market value for the relevant year. This is a form of tax on capital gains from direct investment in foreign companies by New Zealand resident taxpayers. Many Australian companies are excluded from these rules.

Taxpayers who comply with the loss-carry-forward rules are allowed to carry forward tax losses from earlier years for offset against future income.

Distributions from a New Zealand company to its shareholders are generally dividend income of the shareholders except when they represent a return of paid-up capital. Dividends are paid from a company's retained profits after tax and, to avoid double taxation within New Zealand, imputation credits (from company tax paid) can be attached to dividends. Resident withholding tax is deductible from dividends to ensure that after imputation credits attached and after withholding tax deductions, the dividend has tax credits to 33%. The recipient of a dividend can offset the imputation credits against the tax payable by them and can claim resident withholding tax deductions.

Resident withholding tax, at the recipient's relevant rate, is also deductible from interest payments. The recipient of the interest can claim the resident withholding tax deductions.

Companies

From 1 April 2008 the tax payable by New Zealand resident companies is a flat rate of 30% (previously a flat rate of 33%).

Resident Companies

A company is resident in New Zealand if it meets any one of the following criteria:

- It is incorporated in New Zealand
- It has its head office in New Zealand
- It has it centre of management in New Zealand
- Control of the company by its directors is exercised in New Zealand, whether or not decision-making by directors is confined to New Zealand.

Resident companies are required to declare both New Zealand and overseas income.

Non-Resident Companies

A non-resident company has to file a tax return disclosing its New Zealand sourced income. New Zealand subsidiaries of a foreign parent company may apply to the IRD to change their tax year accounting period to align with financial year-end reporting requirements of the parent company. This can be modified if the parent country is part of New Zealand's network of double tax treaties.

Overseas companies carrying on business in New Zealand are required by the Companies Act 1993 to register in New Zealand and file annual returns including audited financial statements with the Ministry of Economic Affairs.

Partnerships and Limited Partnerships

The Partnership files a tax return including details of the taxable income earned and the distribution of it to each partner. Partners file tax returns including their share of the partnership income.

Trusts

Depending on the Trust structure and the Trustees' decisions, tax is either payable by the Trustee or the beneficiary. A trust is a resident trust during the year if either the settler is resident in New Zealand or if the central management and control of the trust is in New Zealand.

Sole Traders

Sole traders are taxed as individuals.

Portfolio Investment Entities (PIEs)

From 1 October 2007, legislation for a new type of entity 'Portfolio investment entities' (PIEs) came into force. A PIE is a collective investment vehicle, like a managed fund, that meets the definition of a PIE.

PIEs are subject to new tax rules whereby each PIE is taxed on its income at the marginal tax rates of its investors, capped from 1 April 2008 at 30% (previously capped at 33%). PIEs are not taxable on any capital gains and losses they make on New Zealand shares and certain Australian shares.

Provided an investor who is an individual has informed the PIE manager of their correct 'Prescribed Investor Rate' (PIR) (capped at 30%), the PIE income is excluded from the individual's tax return. Besides tax free capital gains, this provides a clear advantage to the investor when their correctly notified PIR is less than their personal top marginal tax rate.

Double Tax Agreements

New Zealand has a network of 36 Double Tax Agreements (DTA's) with its main trading and investment partners. These are aimed at reducing tax impediments to trade and assisting tax administration by:

- Eliminating certain forms of double taxation
- Reducing withholding taxes on cross border investments
- Prescribing how certain profits are to be calculated
- Exempting certain short-term activities in the host state from income tax
- Providing certainty of treatment
- Providing dispute resolution procedures and
- Enabling information to be exchanged between tax administrations.

Countries with which New Zealand currently has Double Taxation Agreements are listed in Appendix 1.

The tax rates that generally apply to investment income of non-residents under DTA's are as follows:

- Dividends: 15%

- Interest: 10%
- Royalties: 10%

Rates and any limitations should be confirmed by reference to the relevant Double Tax Agreement.

Anti-Avoidance Provisions for Foreign Entities

These regulations are extremely complex and apply to investment into and out of New Zealand.

Thin Capitalisation

Thin capitalisation rules operate to prevent foreign-controlled or multinational corporations allocating a disproportionate amount of debt to their New Zealand operations and thereby reducing their taxation liabilities. The regime applies to:

- Non-resident individuals
- Any trustee of a non-complying trust which is 50% or more settled by a non-resident
- Any New Zealand resident company in which a non-resident has more than a 50% direct ownership interest
- Any non-resident company (including a unit trust) in which non-residents have more than a 50% direct ownership interest
- Any New Zealand resident company where a non-resident has control of the company by any means.

This regime is intended to act as a back-up to the transfer-pricing regime.

Transfer Pricing

The transfer prices adopted by a multinational directly affect the amount of profit derived by that multinational in each country in which it operates. New Zealand's transfer pricing rules are based on the arm's length principle (using market values) and are intended to measure the amount of income and expenditure of a multinational which is properly attributable to its New Zealand operation.

Goods & Services Tax (GST)

Goods & Services Tax (GST) is a tax on the supply of most goods and services in New Zealand. It is charged at the rate of 12.5%. There are exemptions for charitable activities, financial services, salaries and wages and residential rental accommodation.

GST is essentially a value added tax and is generally applied at each stage of the production / distribution chain. Businesses may incur GST liability at either the issue of an invoice or receipt of any payment.

All businesses with annual taxable supplies (turnover) exceeding $40,000 ($60,000 from 1 April 2009) must register for GST. Businesses registered for GST are required to file GST Returns monthly, two-monthly or six-monthly depending on their annual turnover. Returns for businesses with annual taxable supplies not exceeding $1.3 million ($2 million from 1 April 2009) may be prepared on a payments (cash) basis. Returns for businesses with annual taxable supplies exceeding this limit, are prepared on an invoice (accruals) basis. The GST return summarises GST collected on outputs (sales and other receipts) and GST paid on inputs (purchases, expenses and other payments). The difference is payable to, or refundable by, the Inland Revenue Department.

When goods enter New Zealand, NZ Customs will assess GST on the value of the goods, which may be different from the value of the sales price. A GST registered importer can claim back this Customs GST provided the goods are in relation to the importer's taxable activity for GST e.g. purchased Inventory or Fixed Assets like Plant and Equipment etc.

Fringe Benefits Tax (FBT)

Non-cash benefits provided by businesses to their employees are generally subject to Fringe Benefits Tax (FBT). New Zealand has a multi-rate FBT system which allows employers to choose to pay FBT at 64% or at a rate based on the remuneration paid to the employee. This system ensures that high tax bracket income earners do not substitute fringe benefits for salaries and wages. The FBT expense paid by the employer is deductible for income tax purposes.

FBT applies to benefits such as private use of a motor vehicle, waiver of a debt, interest-free or low-interest loans, private healthcare, income protection insurance, subsidised meals, cheap housing and some discounted goods or services.

Employee Taxes (PAYE)

Employers must register with the IRD and deduct appropriate amounts of Pay As You Earn (PAYE) tax from their employees' earnings (at individual tax rates) and pay this directly to the IRD.

Compulsory Accident Insurance (ACC)

Employees pay the earner levy to ACC on earnings from employment. The levy for the 2008 / 09 year was set at 1.4% and capped at maximum earnings of NZ$102,922. The earner levy provides cover for non-work accidents.

Customs and Excise

Customs duty is payable on certain goods at the time they enter New Zealand. The amount of duty payable is generally levied on the customs value of the goods which may differ from the sale price.

Excise duties are imposed on the manufacture of alcohol, tobacco and fuels i.e. motor spirits, CNG and LPG.

Gift Duty

Gift duty is payable on the dispositions of property for inadequate considerations. The liability for gift duty arises for gifts:

- By persons domiciled in New Zealand irrespective of where the disposed property is situated or
- By persons not domiciled in New Zealand where the disposed property is situated in New Zealand.

With some limited exceptions (e.g. gifts to charitable trusts) Gift duty applies to the total value of gifts made within any 12-month period. The rates are:

Value of Gifts (NZD$)	Rate of Gift Duty
0–27,000	0
27,001–36,000	5%
36,001–54,000	10%

54,001–72,000	20%
72,000 or more	25%

Stamp Duty

Stamp duties are not levied in New Zealand.

Capital Gains Tax

Capital gains tax is not levied in New Zealand.

Estate Taxes

Inheritance, estate or death duties are not levied in New Zealand.

Other Impositions

Annual fees are payable on all motor vehicle registrations.

Taxes Deducted at Source

In New Zealand five categories of income are taxed at source. The obligation to deduct and pay the tax to the Inland Revenue lies with the payer of income.

The categories are:

- Non-resident withholding income – a deduction of tax from interest, dividends and royalties earned in New Zealand by non-residents who are subject to non-resident withholding tax (NRWT). The rates of NRWT deductions differ according to the availability of double tax treaty agreements.

  The rates are:

  Dividends 30% reducing to 15% if fully imputed and a DTA exists

  Interest 15% and limited to 10% if a DTA exists

  Royalties 15% subject to final assessment but limited to 10% if a DTA exists

- Resident withholding income – a deduction of tax from interest and dividends earned in New Zealand by residents who are subject to resident withholding tax (RWT).

  The rates are:

  Interest (if IRD number supplied) 19.5%, 33% or 39% as requested

  Interest (if no IRD number supplied) 39.0%

  Dividends (to extent not fully imputed) 33.0%

- Income from employment – deductions from salaries and wages that are subject to PAYE deductions. The tax rates vary according to income levels.

- Income from the performance of various specified personal services – such as sales commissions, agricultural work, directors' fees, entertainment, journalism, television and film production and labour-only contracts which are subject to withholding tax. The tax rates for different classes of payment vary from 15% to 33%. These rates can be higher when no tax code declaration form is provided to the payer.

- Income from work undertaken in New Zealand by non-resident contractors, including companies and individuals. This income is subject to non-resident contractor withholding tax (NRCWT) of 15% gross of payments.

Provisional Tax

New Zealand has a provisional tax system whereby payments of tax are made during the year in which the income is earned.

Resident taxpayers whose "residual income tax" (RIT) in the previous year exceeds NZ$2,500 are subject to provisional tax. RIT is the total tax liability of the previous year less tax deducted at source. Provisional tax is calculated on the basis of 105% of prior year's RIT. Provisional instalment dates vary depending on the taxpayer's tax balance date, whether the taxpayer is GST registered or not and the taxpayer's GST payment dates. This means taxpayers' tax payment due dates can vary significantly from taxpayer to taxpayer.

The provisional tax is taken into account in determining the terminal tax payable for the year.

Terminal Tax

Terminal tax is the amount of the tax payable for the year less provisional tax paid and tax deducted at source (e.g. PAYE, RWT, NRWT and Imputation Credits).

Approved Issuer Levy

Interest payments made to non-residents are subject to 0% rate of NRWT if the borrower has an approved issuer status. The approved issuer levy deducted and paid to IRD is 2% of the interest payable. Borrowers need to apply to the IRD for approved issuer status in respect of securities. This only applies to interest payments to non-residents that satisfy the conditions for zero-rating.

Attributed Foreign Income

New Zealand taxes foreign income which is earned by New Zealand residents who hold interest in overseas entities including companies, unit trusts, superannuation schemes, investment funds and life insurance policies. There are two categories of foreign investment:

- Controlled Foreign Companies (CFC)
- Foreign Investment Funds (FIF).

A CFC is a foreign company (including a unit trust) in which at any time during the year:

- Five or fewer New Zealand residents hold an aggregate control interest exceeding 50%; or
- A single New Zealand resident holds a control interest of not less than 40% and a non-resident does not hold an equivalent or greater interest; or
- Five or fewer New Zealand residents who as a group have power to control the exercise of shareholder decision making rights and they control the company in accordance with the wishes of that group.

FIFs - from 1 April 2007 the rules relating to FIFs were changed.

These FIF rules apply to interests in:

- Foreign companies and foreign unit trusts, where there is a less than 10% interest
- Foreign life insurance policies not offered in New Zealand by overseas insurers
- Foreign Superannuation Schemes established outside New Zealand
- Foreign pensions or annuities.

There are some exclusions. The main exclusions and exemptions include:

- Where the cost of all FIF interests owned by an individual during the year do not exceed NZ$50,000 at any time – the income from those interests is not calculated under the FIF rules;
- Interests in most AXS-listed companies and some Australian unit trusts (special rules for determining whether the exclusion applies);
- Investments in Australian Superannuation Funds that are either an approved deposit fund, an Australian exempt public sector superannuation scheme, an Australian regulated superannuation fund or an Australian retirement savings account, are excluded from the FIF rules, but are taxed under general principles. However upon becoming New Zealand tax resident the income from these investments can be exempted for 48 months under the transitional resident exemption;
- Venture capital exclusion - in some circumstances;
- FIF income derived by an individual under the Transitional Resident provisions (see 'Transitional Residents – Foreign passive income exemption) . Foreign passive income of a transitional resident is exempt from income tax.

Excluded FIF income that is from a grey list country is taxed under general principles i.e. taxed as foreign income.

(e.g. dividends converted to New Zealand dollars and included in the annual tax return). This rule also applies to interests of 10% or greater in foreign companies that are grey list companies; where that company is liable to income tax in its country of residence. Where this income is not from a grey list company, the taxable income derived from the investment is calculated under the comparative value method.

Dividends from companies that fall within the FIF rules are taxed under the FIF rules. Generally the FDR 'Fair Dividend Rate' method is the compulsory method used to calculate a deemed income on these shares. These calculations can be complex, but in simplistic terms the income is deemed to be 5% of the investment's opening market value for that tax year. Complexities arise when shares are bought and sold during the same year. FDR rules apply regardless of whether the investment is held on revenue or capital account. Actual dividend revenue is ignored when it is replaced by deemed FDR income.

Other FIF income calculation methods can be used where it is impractical to apply FDR. For shares in unlisted foreign companies the Cost Method can be used. This is similar to FDR except the opening cost is used and each year the cost base is uplifted by 5% for the purposes of the calculation.

The CV 'Comparative Value' method is used to calculate income for other types of foreign interests. As already mentioned investments in non-grey list foreign companies where ownership is greater than or equal to 10%.

For a foreign investment, CV income is closing market value plus sale proceeds and revenues, minus the sum of opening market value, expenditure and the cost of purchases during the year.

Grey List Jurisdictions

Attribution of income of a CFC or a FIF, which is outside the FIF thresholds, are excluded when the investment is held in a 'grey list' jurisdiction and does not enjoy the tax incentives or preferences in that jurisdiction. In these situations the revenue is recognised and taxed under general principles, e.g. as dividend income.

The grey list jurisdictions are:

- Australia
- Canada
- Germany
- Japan
- Norway
- Spain
- UK
- USA.

Foreign Dividend Withholding Payments

The dividend withholding payments (DWP) regime applies to dividends received by New Zealand resident companies from overseas companies. Dividends received from overseas companies are exempt from tax but the regime requires New Zealand tax resident companies to deduct a foreign withholding payment (FDWP) at a rate of 33%, transitioning fully to 30% by 1 April 2010.

The amount of deduction is aligned with the company's tax rate of 30% (33% prior to 1 April 2008) but with a full tax credit available in respect of foreign withholding tax paid and any underlying foreign tax credit. This will be the case when it is presumed that the overseas company making a distribution has paid overseas tax equal to the New Zealand tax if the overseas country is a 'grey list' country and 10% of the overseas company is owned by the New Zealand company.

If the overseas country is not a 'grey list' country then the overseas tax credit is determined on the proportion of overseas tax paid on the income distributed.

Conduit Tax Relief

The conduit tax relief regime provides tax relief to New Zealand companies from the CFC and from DWP on foreign-sourced dividends, to the extent that non-resident shareholders own the companies.

Transitional Residents – Foreign Passive Income Exemption

Transitional residents are not taxed on their foreign passive income during the transitional residency period e.g. income from foreign investments.

A Transitional Resident is a natural person who becomes New Zealand tax resident after 1 April 2006 and is not a transitional resident immediately prior to becoming resident and for a continuous period of at least 10 years, was non-resident.

Transitional residency commences from the beginning of the month they became tax resident until the end of the 48th month, or when they cease to be New Zealand resident – which ever occurs first.

A new tax resident can elect not to be a transitional resident. This may be advantageous if the individual has foreign tax losses. Also if an individual or their life partner is receiving New Zealand Family Support, the individual will be deemed to have elected out of the transitional residency regime.

7. Accounting & reporting

The Companies Act 1993 and the Financial Reporting Act 1993 regulate accounting and reporting for companies and other entities in New Zealand.

There are requirements for the audit or review of financial statements of specified entities. The Companies Act 1993 requires that all companies appoint an auditor annually to audit their financial statements unless a unanimous resolution than no auditor be appointed is passed. The contents of Auditors Reports are set out in the Financial Reporting Act 1993.

The reporting requirements for exempt companies are less rigorous than those for other companies. Exempt companies can not be an issuer, an overseas company, a subsidiary or have subsidiaries. Exempt companies are companies that meet two out of three of the following:

- Have total assets, as reported in the statement of financial position, not exceeding NZD$1,000,000 at balance date and/or
- Have total turnover not exceeding NZD$2,000,000 for the year ended and/or
- Five or fewer full time employees at balance date.

Accounting Standards

The Financial Reporting Standards Board (FRSB) is responsible for developing financial reporting in New Zealand. These standards apply to entities preparing general purpose financial statements in accordance with generally accepted accounting practice.

The FRSB also develops New Zealand equivalents to interpretations issued by the International Financial Reporting Committee.

The New Zealand Accounting Standards Review Board (ASRB) has issued a series of standards which must be followed by companies and registered schemes governed by the Companies Act.

Financial statements need to comply with the New Zealand Generally Accepted Accounting Practice (NZ GAAP). The accounts need to comply with applicable financial reporting standards or where there is no applicable standard then appropriate accounting policies that have authoritative support from the accounting profession in New Zealand.

In some aspects, NZ GAAP differs from the international standards:

- The Financial Reporting Act 1993 allows standards to be overridden when compliance with GAAP does not provide a true and fair view;
- Exempt companies are allowed to prepare financial statements containing less information than those of reporting entities. This is inconsistent with GAAP but authorised under the Financial Reporting Order 1994;
- Entities are exempt from complying with certain financial reporting standards (such as preparing a Statement of Cash flows and segment reporting) if they meet the criteria for differential reporting (explained later).

NZ GAAP is being aligned with International Accounting Standards (IAS). All International Accounting Standards are being customised to suit the New Zealand market. NZ IAS could be implemented from 1st January 2005 on a voluntary basis and must be applied from 1st January 2007.

The Board has decided that companies which satisfy certain criteria are permitted to apply existing approved New Zealand Financial reporting Standards. They are therefore not required to apply NZIFRS for period beginning on or after 1 January 2007 until further notice. If you require any details on the criteria please contact UHY Haines Norton (Auckland) Limited.

Compliance with Regulation

The Companies Act sets out a number of requirements for public companies, including:

- Maintenance and retention of accounting records
- Maintenance of registers and minutes relating to directors and shareholders and their meetings
- The form and content of annual accounts
- Publication of shareholders and the public filing of annual accounts

- Requirements for annual accounts to be audited.

Other structures, such as sole traders, partnerships and trusts, not governed by the Companies Act must still comply with the following requirements:

- Maintenance of reliable records showing a true and fair view of their circumstances
- Retention of relevant records and documents for 7 years to support tax claims.

Certain structures may be required by their governing documents to produce their financial statements in accordance with the Companies Act.

Financial Reporting

The Companies Act 1993 and the Financial Reporting Act 1993 set out the requirements for the financial statements of Companies and other entities. Companies, other than exempt companies, are required to prepare annual reports that provide a true and fair view of their financial position and performance and comply with accounting standards.

Annual financial reports include:

- A director's report
- An auditor's report
- A profit and loss statement for the year
- A statement of recognised income and expenses
- A balance sheet as at the end of the year
- Cash flow statement for the year
- Comprehensive notes to the financial report and other disclosures
- Annual report declaration.

Listed companies must make their annual financial report available to shareholders if requested. They may choose, however, to present their shareholders with a concise report instead of the full report. This must include the director's and auditor's reports, balance sheet, profit and loss, statement of recognised income and expenses and cash flow statements. In addition it must include a discussion and analysis of each statement and information relating to earnings per share, dividends, extraordinary items, segment information and subsequent events.

Reporting Requirements

Companies are required to:

- Hold an annual general meeting within five months of the end of the financial year
- Distribute the annual financial report, or concise financial report, to shareholders at least 20 days prior to the annual general meeting
- Exempt companies have up to 9 months after the end of the financial year to complete their financial accounts.

Differential Reporting

Differential reporting is available to entities that do not have public accountability, provided there is no separation between the owners and the governing body, or the entity is not large. The size criteria are reviewed regularly. Under the equivalents to International Financial Reporting Standards Reporting Regime, which can be applied now, and must be applied for financial statements commencing on periods from 1 January 2007, entities are considered large if they exceed and two of the following thresholds:

- Total income of $20,000,000;
- Total assets of $10,000,000;
- 50 employees.

There are specific concessions available to entities that qualify for differential reporting in relation to compliance with accounting standards.

Audit Requirements

The Companies Act requires an audit report to be obtained for:

- Subsidiaries of foreign companies
- Branch of foreign companies
- Companies controlled as to 25% or more by overseas persons whether directly or indirectly
- Entities that raise funds from the public or are listed on the New Zealand Stock Exchange.

Filing of Information and Accounts

Companies are required to file an annual return with the Registrar of Companies every year.This return includes details of Company Directors, Company Address, Shareholdings, Annual General Meeting and Auditor and can be filed in paper form or online.

Companies that are issuers are required to file their audited financial statements, and any group financial statements, annually with the Registrar of Companies. Section 18 of the Financial Reporting Act 1993 requires that these must be filed, together with a copy of the auditors' report, within 20 working days after the date the financial statements are required to be signed.

Companies listed on the New Zealand Stock Exchange must also submit their financial statements to the NZX within a specified time, according to the NZX Listing Rules. Overseas companies and their subsidiaries operating in New Zealand generally have to file audited financial statements of the company, and any group financial statements, annually with the Registrar of Companies.

8. Business and Executive Migration

New Zealand has a strongly controlled migration regime regulated by the Immigration Act 1987. Approximately 50,000 migrants are permitted into New Zealand each year. This total includes skilled and business migrants, refugees and family reunions and each category of migrant has a relevant visa.

Visa Requirements

New Zealand actively encourages skilled and business migrants, who make up the largest proportion of migrants. Occupation, education, age and English language ability are considered.

There are different entry options – Skilled Migrant, Work to residence, Temporary Work Visa and Working Holiday (for 18 to 30 year olds). Business Migrant Visas are granted to applicants with enough money to establish their business and make a viable contribution to the economy; sufficient experience; and who have not been involved with any business failures or fraud.

Business visa requirements are complicated and the choice of business structure and how it is applied may have a critical impact on residency, taxation and commercial issues.

Submitting the Application

Prospective migrants can choose to use a migration agent or to submit their visa applications themselves. However, because of the complexities of the different visas it is recommended that business and skilled migration applicants go to a reputable registered migration agent, based either overseas of in New Zealand. Visa approvals are often delayed or even refused due to minor errors in the application form.

Applicants must ensure the migration agent is registered with the New Zealand Association for Migration & Investment, Inc. (NZAMI). This body is appointed to regulate the migration advice industry.

UHY Haines Norton (Auckland) Limited would be pleased to recommend reputable registered migration agents.

9. UHY firms in New Zealand

UHY Haines Norton (Auckland) Limited
P O Box 21-143,
Henderson
Waitakere 0650
Auckland
New Zealand

Phone: +64 9 839 0087
Web: www.uhyhn.co.nz
Email: grantb@uhyhn.co.nz

10. UHY offices worldwide

For contact details of UHY offices worldwide, or for details on how to contact the UHY executive office, please visit www.uhy.com

Appendix One

Double Tax Treaty Countries

New Zealand currently has a comprehensive double tax agreement with the following countries:

Australia
Austria
Belgium
Canada
Chile
China
Czech Republic
Denmark
Fiji
Finland
France
Germany
India
Indonesia
Ireland
Italy
Japan
Korea
Malaysia
Mexico
Netherlands
Norway
Philippines
Poland
Russian Federation
Singapore
South Africa
Spain
Sweden
Switzerland
Taiwan
Thailand
United Arab Emirates
United Kingdom
United States of America

Appendix Two

Sources of Information and Helpful Websites

New Zealand Government Online	www.govt.nz
New Zealand Legislation	www.legislation.govt.nz
Companies Office	www.companies.govt.nz
New Zealand Ministry of Foreign Affairs and Trade	www.mfat.govt.nz
Immigration New Zealand	www.immigration.govt.nz
Inland Revenue Department	www.taxpolicy.ird.govt.nz
Investment New Zealand	www.investmentnz.govt.nz
New Zealand Department of Labour	www.dol.govt.nz
Business Migrant Liaison Unit	www.movetonz.govt.nz
Overseas Investment Office	www.oio.linz.govt.nz
Reserve Bank of New Zealand	www.rbnz.govt.nz
Statistics of New Zealand	www.stats.govt.nz
Tourism New Zealand	www.tourismnewzealand.com
New Zealand Trade and Enterprise	www.nzte.govt.nz
The Treasury	www.treasury.govt.nz
Work and Income	www.workandincome.govt.nz
Business Information Zone	www.biz.org.nz
Council of Trade Unions	www.union.org.nz
International English Language Testing System	www.ielts.org
Working in New Zealand	www.workingin-newzealand.com
Move2NZ	www.move2nz.com
Money Online Limited	www.moneyonline.co.nz
New Zealand Institute of Chartered Accountants	www.nzica.com
New Zealand Stock Exchange	www.nzx.com