NEW ZEALAND

KEY FACTS
COMPANIES

WITH THE INCREASED USE OF NEW ZEALAND AS A TRUST DOMICILE THERE HAS BEEN A CORRESPONDING RISE IN INTEREST IN NEW ZEALAND COMPANIES. THESE KEY FACTS PROVIDE AN OVERVIEW OF THE NEW ZEALAND CORPORATE REGIME AND THE TAX TREATMENT OF NEW ZEALAND COMPANIES WITH NON-RESIDENT SHAREHOLDERS EARNING NON-NEW ZEALAND SOURCE INCOME.

COMPANY FORMATION & ADMINISTRATION

Formation of a company in New Zealand is straightforward and reflects the modern corporate code which New Zealand adopted in 1993. The salient features of the company law which will be of interest to clients include:

> A company must have at least one director and one share.

> There is no capital requirement although the shares are denominated according to a monetary value. The minimum value for a share is 1NZ$.

> No need for a memorandum of association as the company is deemed to have all the powers of a natural person.

> No need for articles of association; if required a standard form regulating the administration of the company may be used.

> Directors must be natural persons and can be resident anywhere in the world.

> Shareholders may be corporate bodies or natural persons and may be either resident or non-resident.

> If over 25% of the shares of the company are owned by a non-resident, audited annual -accounts must be filed in the New Zealand Companies Office. This requirement does not apply where the shares are held by a New Zealand nominee which holds the shares on behalf of an overseas shareholder.

> A New Zealand company can be formed in 24 hours. The minimum information required to form a company is:

  > proposed company name

  > full name and residential address for the directors

  > full name and residential address for the shareholders

TAXATION OF NEW ZEALAND COMPANIES

A company resident in New Zealand is assessable on worldwide income whether derived from New Zealand or elsewhere, subject to the provisions of the Income Tax Act, 1994. A company not resident in New Zealand is liable only in respect of income derived from New Zealand.

A company is resident in New Zealand if any one of the following four tests are satisfied:

> It is incorporated in New Zealand.

> Its directors exercise control in New Zealand.

> It has its centre of management in New Zealand – the place from where the company as a whole is managed on a regular basis.

> It has its head office in New Zealand – the office from which the business of the company is directed and carried out.

All companies operating in New Zealand whether they are resident, non-resident or a branch of a non-resident company, are taxed at the flat rate of 30% on their annual taxable profit.

An overseas company may commence business in New Zealand as a “branch operation” and will be taxed at the flat rate of 30%.

New Zealand’s network of tax treaties can be used in international tax planning.

NEW ZEALAND LTC LEGISLATION

New Zealand has limited liability company legislation which allows the company to be treated as a “pass-through” or disregarded entity for tax purposes.