

In Confidence

Office of the Minister of Revenue
Chair, Cabinet Legislation Committee

ORDER IN COUNCIL: TAX ADMINISTRATION (REPORTABLE JURISDICTIONS FOR APPLICATION OF CRS STANDARD) AMENDMENT REGULATIONS 2023

Proposal

- 1 This paper seeks approval to submit an Order in Council, amending the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Regulations 2017*, to the Executive Council.
- 2 The Order, to be made under section 226D of the Tax Administration Act 1994, will add Jamaica to the existing list of 97 'reportable jurisdictions' that New Zealand maintains for the purpose of the *Automatic Exchange of Financial Account Information in Tax Matters* (the Common Reporting Standard, or AEOI) rules.
- 3 Reportable jurisdictions are those that Inland Revenue is authorised to share financial information with under the AEOI rules.

Policy

- 4 The making of the proposed Order is a routine matter and has not required any new policy decisions.
- 5 AEOI is an international initiative, led by the G20 and OECD, for cooperation between jurisdictions in the detection and prevention of 'offshore tax evasion'. Offshore tax evasion occurs when people hide their wealth from tax authorities by locating it in offshore accounts. To counter this, AEOI rules require financial institutions worldwide to (i) identify accounts held or controlled by non-residents and (ii) annually report information on those non-residents and accounts to local tax authorities. The tax authorities then may exchange the information under tax treaties, to ensure that each country receives the relevant information needed to be able to verify that its residents are correctly reporting all offshore wealth and income for tax purposes.
- 6 New Zealand incorporated the AEOI rules into the Tax Administration Act 1994 in 2017 and Inland Revenue has been conducting annual exchanges of AEOI information since then. The original list of reportable jurisdictions established in 2017 for the initial exchanges has grown each year as additional jurisdictions joined the initiative. For this year's update of the list, the only country to be added is Jamaica.

- 7 The AEOI rules, as enacted, authorise Inland Revenue to provide AEOI information to jurisdictions approved by Order in Council as 'reportable jurisdictions'. The Order in Council mechanism was included because AEOI involves automated exchange of a considerable amount of highly sensitive personal and financial information. Government oversight and the ability to refuse exchange with particular jurisdictions is a safeguard. It is, however, a safeguard of last resort as it co-exists with many other international and domestic safeguards that are designed to ensure information is only exchanged, held and used as intended.
- 8 By joining the AEOI initiative, Jamaica has also become a Participating jurisdiction that shares tax information with New Zealand.

Timing and 28-Day Rule

- 9 I propose that the Order come into force on 31 March 2023, to coincide with the beginning of the next AEOI reporting/exchange cycle on 1 April 2023. This timing can be met without any need for a waiver of the 28-day rule.

Compliance

- 10 The proposed Order complies with:
- 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020;
 - 10.4 relevant international standards and obligations; and
 - 10.5 the Legislation Guidelines, which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 11 I am not aware of any grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

- 12 The Parliamentary Counsel Office has certified that the Order is ready to be submitted to Cabinet.

Impact Analysis

- 13 The Treasury's Regulatory Impact Analysis team has determined that the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2023* is exempt from the requirement to provide a Regulatory Impact Statement. This is granted on the grounds that the Government has limited statutory decision-making discretion or responsibility for the content of proposed delegated legislation.
- 14 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Communications

- 15 As for previous updates, Inland Revenue will advise all financial institutions and others registered as an AEOI stakeholder of the change to the reportable jurisdictions list by email. Inland Revenue will also publish an article about the change in its monthly *Tax Information Bulletin* publication.

Proactive Release

- 16 I propose to proactively release this Cabinet paper, associated minutes, and key advice papers (except for officials' names) within 30 working days of Cabinet making final decisions.

Consultation

- 17 Public and Agency consultation on the reportable jurisdictions list was undertaken during the development of the initial list of reportable jurisdictions in 2017. When the list was first amended, financial institutions and AEOI stakeholders were asked to provide feedback on whether adding additional reportable jurisdictions would create any difficulties or concerns. No issues were raised during either of these consultation rounds. For most New Zealand financial institutions, this change will have no implications as they have taken a wider approach and provide AEOI information of tax-residents for all jurisdictions
- 18 Given the lack of any concern during these prior rounds, no additional public consultation was undertaken on this occasion. The Ministry of Foreign Affairs and Trade was consulted on whether the addition of Jamaica to the list raises any concerns and did not identify any. The Treasury were informed.

Recommendations

The Minister of Revenue recommends that the Committee:

- 1 **note** that the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2023* is a routine annual update made under section 226D of the Tax Administration Act 1994 and that no new policy decisions were required;
- 2 **agree** to add Jamaica to the existing list of 97 reportable jurisdictions that Inland Revenue is authorised to provide financial account information to under the OECD *Automatic Exchange of Financial Account Information in Tax Matters* initiative;
- 3 **authorise** the submission to the Executive Council of the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2023*;
- 4 **note** that the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2023* come into force on 31 March 2023.

Authorised for lodgement

Hon David Parker

Minister of Revenue