

Hon Simon Watts, Minister of Revenue

Information Release

Order in Council: Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024

April 2024

Availability

This information release is available on Inland Revenue's tax policy website at:

<https://www.taxpolicy.ird.govt.nz/publications/2024/2024-ir-leg-24-sub-0013>

Documents in this information release

| # | Reference | Type | Title | Date |
|---|-----------------|---------------|--|------------------|
| 1 | LEG-24-SUB-0013 | Cabinet paper | Order in Council: Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024 | 22 February 2024 |
| 2 | LEG-24-MIN-0013 | Minute | Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024 | 22 February 2024 |
| 3 | CAB-24-MIN-0044 | Minute | Report of the Cabinet Legislation Committee: Period Ended 23 February 2024 | 26 February 2024 |

Additional information

The Cabinet paper was considered by the Cabinet Legislation Committee on 22 February 2024 and confirmed by Cabinet on 26 February 2024.

One attachment to the Cabinet paper is not included in this information release as it is publicly available: - Order in Council: Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024

Information withheld

- Not in Scope

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Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

ORDER IN COUNCIL: TAX ADMINISTRATION (REPORTABLE JURISDICTIONS FOR APPLICATION OF CRS STANDARD) AMENDMENT REGULATIONS 2024

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 Georgia, Kenya, Moldova, Montenegro, Morocco, Thailand, Uganda and Ukraine to the existing list of 98 '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. Georgia, Kenya, Moldova, Montenegro, Morocco, Thailand, Uganda and Ukraine are the new jurisdictions to be added for this year's update of the list.

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, these jurisdictions have also become participating jurisdictions that share tax information with New Zealand.

Timing and 28-Day Rule

9. I propose that the Order come into force on 31 March 2024, to coincide with the beginning of the next AEOI reporting/exchange cycle on 1 April 2024. This timing can be met without 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 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions (include a summary of any concerns raised);
 - 10.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 10.4 the principles and guidelines set out in the Privacy Act 1993 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
 - 10.5 relevant international standards and obligations;
 - 10.6 the Legislation Guidelines (2021 edition), 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 327.

Certification by Parliamentary Counsel

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

Impact Analysis

Regulatory Impact Statement

13. The Treasury's Regulatory Impact Analysis team has determined that the update to the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024* is exempt from the requirement to provide a Regulatory Impact Statement. This exemption is granted on the grounds that the government has limited statutory decision-making discretion or responsibility for the content of proposed delegated legislation.

Climate Implications of Policy Assessment

14. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this proposal as it not expected to result in any significant, direct emissions impacts.

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 Georgia, Kenya, Moldova, Montenegro, Morocco, Thailand, Uganda and Ukraine to the list raises any concerns and did not identify any. The Treasury was 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 2024* 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 Georgia, Kenya, Moldova, Montenegro, Morocco, Thailand, Uganda and Ukraine to the existing list of 98 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 2024*;
4. **note** that the *Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024* will come into force by 1 April 2024.

Authorised for lodgement

Hon Simon Watts
Minister of Revenue



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024

Portfolio **Revenue**

On 22 February 2024, the Cabinet Legislation Committee:

- 1 **noted** that the Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024 is a routine annual update made under section 226D of the Tax Administration Act 1994 and that no new policy decisions are required;
- 2 **agreed** to add Georgia, Kenya, Moldova, Montenegro, Morocco, Thailand, Uganda and Ukraine to the existing list of 98 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 **authorised** the submission to the Executive Council of the Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024 [PCO 25993/3.0];
- 4 **noted** that the Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024 come into force on 1 April 2024.

Rebecca Davies
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Bishop (Chair)
Hon Dr Shane Reti
Hon Simeon Brown
Hon Louise Upston
Hon Tama Potaka
Hon Casey Costello
Hon Andrew Bayly
Scott Simpson, MP
Todd Stevenson, MP
Jamie Arbuckle, MP

Officials present from:

Officials Committee for LEG
Office of the Prime Minister
Office of the Leader of the House
Office of the Minister of Revenue



Cabinet

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Report of the Cabinet Legislation Committee: Period Ended 23 February 2024

On 26 February 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 23 February 2024:

| | | |
|-----------------|---|------------|
| Not in scope | [Redacted] | |
| [Redacted] | [Redacted] | [Redacted] |
| LEG-24-MIN-0013 | Tax Administration (Reportable Jurisdictions for Application of CRS Standard) Amendment Regulations 2024 Portfolio: Revenue | CONFIRMED |
| Not in scope | [Redacted] | [Redacted] |

Diana Hawker
for Secretary of the Cabinet