

Briefing note

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To Revenue Advisor, Minister of Revenue – Angela Graham
Private Secretary, Minister of Revenue – Melissa Zhen

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Subject **International tax: Taxation of multinational enterprises**

Purpose

- 1 This briefing note, and the attached speaking notes, respond to your request for options for taxing multinational enterprises (MNEs) in light of recent discussion of 'tax minimisation' practices, particularly by digital businesses.

Taxation of multinational enterprises

- 2 Some stakeholders (such as Tax Justice Aotearoa) have regularly raised concerns that MNEs use tax minimisation strategies to shift otherwise taxable profits away from New Zealand, reducing revenue collection and resulting in inequitable outcomes for different taxpayers.
- 3 Such stakeholders propose solutions, including using existing tax mechanisms such as transfer pricing reviews and withholding taxes, as a way of collecting more tax from these large multinationals [BN2025-471 refers]. One proposal is to classify certain service payments from a local subsidiary to its overseas parent as a royalty payment to which existing withholding tax rules could be applied.
- 4 Royalties are a defined term in both domestic and international law. Whether a royalty exists is subject to careful legal and factual analysis. We are also constrained in how we can tax royalties by our international treaties (which also benefit New Zealanders operating offshore). We seek to apply our current rules in way that is consistent with our agreements.
- 5 Recently, the Australian Tax Office has asserted broad definition of "royalty" and sought to tax some cross-border transactions accordingly. However, this has driven legal disputes. Further, this approach has drawn adverse international reaction on the basis that it is inconsistent with international legal principles and agreements. We [REDACTED] s6(a), s9(2)(g)(i) [REDACTED] note that it has been unsuccessful before the courts so far.
- 6 We take concerns about profit shifting through excessive service and licence fees seriously. Our current law requires these to be charged at arm's length rates, so they cannot be inflated to strip profits out of New Zealand. We have also introduced specific anti-avoidance rules to address service company arrangements, which had some success in changing taxpayer behaviour.
- 7 Finally, New Zealand is among the jurisdictions who have implemented the OECD's Pillar Two global minimum tax rules. These rules ensure that large multinational

enterprises are subject to a minimum level of tax in each country. This sets a floor on tax competition which supports our tax system. There are approximately 1,400 multinational enterprises in scope of New Zealand's rules. However, United States businesses are exempt, as they operate under the US's own global minimum tax rules. Many of the concerns raised by stakeholders relate to US businesses.

- 8 Aside from policy settings, Inland Revenue has a comprehensive compliance programme covering large foreign-owned MNEs. We actively monitor and follow up MNEs that we consider are leaving insufficient profits in New Zealand because of mispricing related party transactions. This covers several tech companies. Some of these tech companies have sought pricing arrangements on a full transparency basis to resolve these issues on a mutually acceptable basis.

Other options

- 9 The international tax framework has been challenged by modern business practices and increasing digitalisation. This challenge is expected to grow given the increasing adoption of artificial intelligence. AI is likely to impact not only the taxation of enterprises, but also of labour, increasing the pressure on revenue collection, while the existing tax base is at risk of shrinking.
- 10 Three key options to address existing concerns about the under-taxation of MNEs have emerged (not including Pillar Two, which has been implemented):
- **Amount A of Pillar One.** This was developed as part of the OECD's Two Pillar Solution. Amount A of Pillar One seeks to reallocate a portion of super-profits earned by very large MNEs to the countries in which their products and services are consumed.
 - Amount A's progress had stalled, but discussions have just restarted. Both the timeline and the form of any solution are currently unclear. s6(a)
s9(2)(g)(i)
 - **Digital services taxes (DSTs).** DSTs are unilateral measures that tax the gross revenues of in-scope businesses at a flat low rate, based on revenue attributable to local users. Some jurisdictions, such as the United Kingdom, France and Italy have implemented these as an interim measure until a multilateral solution is agreed. The United States opposes DSTs and has threatened trade retaliation against jurisdictions that implement them. In New Zealand, the Digital Services Tax Bill introduced in 2023 in New Zealand was discharged on 21 May 2025 to reflect the Government's s6(a) and preference for a multilateral rather than unilateral solution.
 - **Withholding taxes (WHTs).** WHTs are another unilateral measure that has been adopted by some typically less developed jurisdictions (such as Colombia, India and Kenya). These jurisdictions apply special WHT regimes to digital services. Each of these regimes has different scoping and rates.
- 11 There is also work underway at the United Nations for a new tax convention. Work commenced in 2025 and final texts are due by August 2027. Progress on this work has been slow and failed to narrow the gap between the ambitions of developing countries and the scepticism of developed countries. Effectiveness will depend on broad uptake, s6(b)(i), s9(2)(g)(i). New Zealand has made no decision about whether it would sign the convention.
- 12 We continue to monitor the international landscape to inform future policy. Our advice has been to prefer a multilateral solution, but this depends on the global context, including the direction taken by other likeminded countries.

Consultation

13 The Treasury was consulted on this note.

Next steps

14 Please see the attached appendix for speaking notes on these topics.

15 We can provide further advice on any of the above issues at your request.

Rory Tait

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s9(2)(a)

s9(2)(g)(i)

