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When you expand into New Zealand, what tax implications do you face?

Expand Into New Zealand

You need to look at GST and income tax as well as customs duty when you expand into New Zealand. But what this exactly means, Mike Reddy of NZTax.com.au will tell you in this episode

Here is what we learned but please listen in as Mike explains all this much better than we ever could.

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Expand into New Zealand

When you expand into New Zealand, you have three issues to sort out tax wise:

1 – Customs Duty – and this one we don't touch at all in this episode, so let's put that aside.

2 – GST

3 – Income tax

GST in New Zealand

If you just sell a few products into NZ, nothing to do – neither for GST nor income tax.

However, the moment your shipment is over NZ$1,000 or your total sales in NZ exceed NZ$60,000 GST becomes an issue.

If the value of the shipment is over NZ$1,000, NZ customs will hold the shipment back and charge NZ GST.

If you sell more than NZ$60,000 in NZ, you need to register for GST.

Ways To Charge GST

When New Zealand charges GST on your sales, they do this in one of three ways:

1 – If you sell via a platform like Shopify or Amazon, the platform will take care of the NZ GST.

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2 – If your shipment exceeds NZ$1,000, then NZ customs will hold your shipment until your NZ customer pays the NZ GST.

3 – If total sales in NZ exceed NZ$60,000, you or your company – or whoever it is who makes those sales – that entity is required to register for GST in NZ, charge NZ GST and lodge NZ GST returns.

Input Tax Credit and GST

If the goods are still in Australia at the time of sale, you have the Australian input tax credit – to the extent that you paid Australian GST to obtain the goods – and then when you export the goods, there is no Australian GST, since exports are GST-free. So in Australia you just have the input tax credit.

Now the goods arrive in NZ and there you incur GST on the sale. All as usual, input tax credit and the GST on the sale. The only difference is that the input tax credit is in Australia and the GST on the sale is in NZ.

If the goods are in New Zealand at the time of the sale, it means you must have already exported them from Australia to NZ.

And so it would also have started with an Australian input tax credit and then no Australian GST on the export.

Now the goods arrive in NZ. And you possibly pay NZ GST on the import of the goods into New Zealand, but if you are registered for GST, you can claim that New Zealand import GST back and when you sell the goods, that sale of course is subject to NZ GST again if you are registered or supposed to be registered for GS.

Income Tax

In Australia you are taxed on your worldwide income (assuming you are a tax resident of Australia) and so any profits you make in NZ are taxable in Australia.

But how much tax you actually pay depends on what you are doing in NZ and also how you are structured in NZ and Australia. And so there are four scenarios:

Scenario # 1 – You have no presence in NZ

You have no employees, no warehouse, no office, no company, no trust, nothing – and so you pay no income tax in NZ. Everything is taxed in Australia.

Scenario # 2 – New Zealand Entity

The next scenario is at the opposite side of the spectrum – You have a NZ entity in NZ, and so that NZ entity will pay NZ income tax in NZ like anybody else in NZ.

When this NZ entity distributes profits to Australia, they arrive in Australia as NANE or as foreign income with foreign income tax offsets attached, depending on whether the NZ entity is a company, trust or partnership. So all well until here, apart from any withholding tax.

The problem really only starts in Australia, when you have an Australian company that now distributes those profits and of course those profits don’t have franking credits attached, since they arrived as NANE or with foreign income tax offsets. So that is when you have tax leakage.

But you might be able to avoid this by using trusts in NZ and Australia, or you just don’t distribute the NZ profits but use them to grow the business in NZ and/or in Australia.

Scenario # 3 – Permanent Establishment

And now the third scenario is in the middle. You have no legal entity in NZ but a presence – be it employees, a warehouse, an office or something else – then you have a so-called permanent establishment, either a real

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physical establishment like an office or a warehouse – or just a deemed one thanks to employees or dependent contractors. But whether it is real or deemed doesn't really matter, this permanent establishment does pay tax in NZ.

And just by the way, not everything triggers a permanent establishment. You can have 3PL services in NZ and you can have independent contractors there without triggering a PE.

So the NZ permanent establishment pays NZ tax. And then the Australian company gets an offset for the tax paid in NZ, but as before you have tax leakage when those NZ profits are distributed to Australian shareholders without franking credits. However, if you trade through an Australian trust or as an individual, then you could claim the NZ tax as a foreign income tax offset without tax leakage.

Scenario # 4 – TR 2018/5

You have a New Zealand company but this New Zealand company is actually an Australian tax resident. And you get NZ to agree that there is no New Zealand tax residency. This would actually be an ideal outcome because it means you only pay Australian tax and hence get full franking credits.

And this scenario was a viable option after Bywater and after TR 2018/5, when everything was focused on the location of central management and control, meaning the location of the company directors and key decision makers.

However, this is about to change. The Board of Taxation reviewed the issue and published its recommendations around the Central management and control test in July last year. And the 20/21 budget on the 6 October 2020 already included these recommendations.

And what those changes basically mean is that the Central management and control test now requires a significant economic connection to Australia, meaning the core commercial activities must be in Australia and of course the central management and control as well, so the core commercial activities must be in Australia before this company would be an Australian tax resident.

So with those changes it will no longer be enough to only have the Australian directories, meaning your central management and control, in Australia if your core commercial activities are in New Zealand. And so the fourth scenario won't really work anymore going forward.

CFC Rules

New Zealand is a listed country, so the CFC rules, the Controlled Foreign Company rules don't apply. Well, they do apply, but they are not really relevant.

So that means you are back to three options. 1 – Nothing in NZ apart from 3PL services and independent contractors. Or 2 – a NZ company or other entity and 3 – a permanent establishment in NZ .

Bank Account

There are two things that trigger the need for a New Zealand bank account.

The first one is your customers. As soon as your NZ customers are no longer happy to pay by credit card or transfer money to Australia, you need a NZ account.

The second reason is GST. To register for GST, you need an IRD number. And you only get an IRD number, if you have a fully functional bank account in New Zealand.

As soon as you need a bank account in NZ, you face New Zealand's anti-money laundering legislation.

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It is tricky for a small non-resident business to open up a New Zealand bank account. And that is, even if you are a longtime customer of an Australian bank with a subsidiary bank in NZ.

Australian banks with banks in NZ are ANZ, Westpac, NAB and Commonwealth Bank. NAB owns Bank of New Zealand. And Commonwealth Bank owns ASB, a long time ago known as Aucklands Saving Bank, but now just ASB.

So even if you bank with one of those, it is still difficult. However, if you have a designated banker, then those bankers seem to be able to speed things up in NZ. So get your personal banker involved, if you have one.

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