

New Zealand - Information on residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

A person will be a New Zealand resident for tax purposes under New Zealand law if any of the following apply:

- The person has a permanent place of abode in New Zealand. If they do have a permanent place of abode in New Zealand they are considered to be a New Zealand resident, even if they also have a permanent place of abode elsewhere.
- The person has been personally present in New Zealand for more than 183 days in total in any 12-month period, and has not ceased to be resident by: (a) not having a permanent place of abode in New Zealand, and (b) having been absent from New Zealand for more than 325 days in any 12-month period.
- The person is personally absent from New Zealand in the service, in any capacity, of the New Zealand Government.

These tests are set out at [section YD 1 of the Income Tax Act 2007](#).

The “permanent place of abode” concept is not defined in legislation, but its meaning has been determined and refined over time through Court decisions. The concept essentially looks to the overall strength of a person’s ties to a place of abode in New Zealand (the strength of their connections to New Zealand generally are relevant to this). This can be a complex test to apply in marginal cases (which explains why the Courts periodically need to consider the rules).

New Zealand’s Inland Revenue Department has published comprehensive guidance on the residence rules (see [Interpretation Statement IS 14/01](#), with application from 1 April 2014). Periodic updates, including case notes on any legal decisions, are published in [Tax Information Bulletins](#).

Section II – Criteria for Entities to be considered a tax resident

A company will be a New Zealand resident for tax purposes under New Zealand law if any of the following apply:

- The company is incorporated in New Zealand.
- The company has its head office in New Zealand.
- The company has its centre of management in New Zealand.
- The company’s directors, in their capacity as directors, exercise control of the company in New Zealand, even if the directors’ decision-making also occurs outside New Zealand.

These tests are set out at [section YD 2 of the Income Tax Act 2007](#).

For the purposes of section YD 2, the term “company” means a body corporate or other entity that has a legal existence separate from that of its members. The term includes (amongst other things) a limited partnership, a unit trust, certain group investment funds, an airport operator, a statutory producer board, a society incorporated under either the Incorporated Societies Act 1908 or the Industrial and Provident Societies Act 1908, a friendly society and a building society. A “look-through company” is resident for certain purposes.

For the avoidance of doubt, the legislation clarifies that the Crown is to be regarded as resident for tax purposes. Thus, for example, Government agencies and instruments of the Crown are resident.

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Section III – Entity types that are as a rule not considered tax residents

Fiscally transparent entities themselves are not considered to be resident for tax purposes. Instead, the residence test is applied to each of the partners, shareholders or other members of the fiscally transparent entity. Thus, for example, the New Zealand residence tests would be applied to each of the partners of a partnership rather than to the partnership itself.

New Zealand fiscally transparent entities include partnerships (other than limited partnerships). Look-through companies may be New Zealand tax resident for certain purposes.

In respect of the beneficiary income of a trust, the trust is generally considered to be fiscally transparent, and the rules look through to the residence of the beneficiaries. However, in respect of the trustee income of a trust, any tax liabilities generally fall on the trustee(s) of the trust. New Zealand law generally provides that any trust with a New Zealand resident settlor will be subject to New Zealand income tax as if it were a resident (even if none of the trustees of the trust are also resident).

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Section IV – Contact point for further information

New Zealand's Inland Revenue Department can be contacted as per the details on their internet site:

<http://www.ird.govt.nz/contact-us/>