

# The Treasury

## Budget 2016 Information Release

### Release Document July 2016

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

[1]	to prevent prejudice to the security or defence of New Zealand or the international relations of the government	6(a)
[4]	to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial	6(c)
[11]	to damage seriously the economy of New Zealand by disclosing prematurely decisions to change or continue government economic or financial policies relating to the entering into of overseas trade agreements.	6(e)(vi)
[23]	to protect the privacy of natural persons, including deceased people	9(2)(a)
[25]	to protect the commercial position of the person who supplied the information or who is the subject of the information	9(2)(b)(ii)
[26]	to prevent prejudice to the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied	9(2)(ba)(i)
[27]	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information - would be likely otherwise to damage the public interest	9(2)(ba)(ii)
[29]	to avoid prejudice to the substantial economic interests of New Zealand	9(2)(d)
[31]	to maintain the current constitutional conventions protecting collective and individual ministerial responsibility	9(2)(f)(ii)
[33]	to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials	9(2)(f)(iv)
[34]	to maintain the effective conduct of public affairs through the free and frank expression of opinions	9(2)(g)(i)
[36]	to maintain legal professional privilege	9(2)(h)
[37]	to enable the Crown to carry out commercial activities without disadvantages or prejudice	9(2)(i)
[38]	to enable the Crown to negotiate without disadvantage or prejudice	9(2)(j)
[39]	to prevent the disclosure of official information for improper gain or improper advantage	9(2)(k)
[s18(c)(i)]	that the making available of the information requested would be contrary to the provisions of a specified enactment	
[40]	Not in scope	

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [23] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) and section 18 of the Official Information Act.



# Cabinet Economic Growth and Infrastructure Committee

## Minute of Decision

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*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.*

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### Non-Resident Withholding Tax: Related Party and Branch Lending

**Portfolios**                      **Finance / Revenue**

On 17 February 2016, the Cabinet Economic Growth and Infrastructure Committee:

- 1        **agreed** to extend the definitions that require non-resident withholding tax (NRWT) to be paid on related party interest payments, so that NRWT is payable if the borrower is able to claim a deduction under the financial arrangement rules;
- 2        **agreed** that the obligation to pay NRWT should not be able to be deferred in related party loans, subject to a *de minimis*;
- 3        **agreed** to require a New Zealand borrower to pay NRWT on interest paid to a non-resident lender who is a member of a group of non-residents who are acting together and, viewed in the aggregate, are associated with the borrower;
- 4        **agreed** that interest paid in respect of back-to-back loans and multi-party arrangements, intended to avoid the application of NRWT by interposition of a third party, be subject to NRWT;
- 5        **agreed** to limit the ability to register a security for approved issuer levy (AIL) to situations where the risk that interest will be paid to an associated person is acceptably low, and to make certain provisions for securities which are already registered;
- 6        **agreed** that the decisions in paragraphs 1-5 above apply to existing arrangements from the start of the income year commencing after the date of enactment, and for all other arrangements from the date of enactment;
- 7        **agreed** that when a non-resident with a New Zealand branch which does not hold a New Zealand banking licence, or is lending to an associated party, earns New Zealand-sourced interest, that interest should be subject to NRWT (or AIL if the lender is a bank), unless the loan is made in the course of the branch business;
- 8        **agreed** that the decision in paragraph 7 above apply to:
  - 8.1      existing loans from an associated non-resident which is not a bank from the date of enactment;
  - 8.2      existing loans from an unassociated non-resident which is not a bank from the income year commencing six years after the date of enactment;

- 8.3 existing loans from a non-resident which is a bank from the income year commencing three years after the date of enactment;
- 8.4 all other loans from the date of enactment;
- 9 **agreed** that New Zealand resident companies which are members of a New Zealand banking group be able to pay AIL on interest paid to non-resident associated lenders;
- 10 **agreed** that the decision in paragraph 9 above apply from the date of enactment;
- 11 **agreed** that AIL apply to interest paid by the offshore branch of a New Zealand resident company to the extent that the branch lends the funds to New Zealand residents;
- 12 **agreed** that the decision in paragraph 11 above apply to existing arrangements from the start of the income year commencing six years after the date of enactment and for all other arrangements from the date of enactment;
- 13 **agreed** that NRWT or AIL be imposed on amounts of notional interest which are deducted by the New Zealand branch of a non-resident with respect to funding from other parts of the entity;
- 14 **agreed** that the decision in paragraph 13 above apply to existing arrangements from the start of the income year commencing three years after the date of enactment, and for all other arrangements from the date of enactment;

**Financial implications**

- 15 **noted** that the decisions in paragraphs 1-14 have the following impact on the operating balance:

	\$m – increase/(decrease)							
Vote Revenue Minister of Revenue	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23 & out years
Tax Revenue	-	7	21	37	51	53	55	57
<b>Total Operating</b>	-	7	21	37	51	53	55	57

**Legislative implications**

- 16 **agreed** that the amendments outlined above be included in the next available tax bill;
- 17 **authorised** the Ministers of Finance and Revenue to make decisions on the detail of the proposals without further reference to Cabinet.

Janine Harvey  
Committee Secretary

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**Hard-copy distribution: (see over)**

