Russell McVeagh

New Zealand bound

Tax insights for Australian founders considering relocation

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If you would like to discuss the matters raised in this article, please get in touch with one of our experts or your usual Russell McVeagh contact.

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01. Background

The Australian Federal Budget announcement in May 2026 generated plenty of attention in both Australia and New Zealand. The Australian Treasurer announced major reforms to the Australian capital gains tax ("**CGT**") rules, the tax benefits of "negative gearing" residential properties and the taxation of trusts, among other measures that have proved controversial. On 18 June 2026, the Australian Government announced some proposed changes to the measures announced in the Budget, which would extend the small business tax concessions to entities with turnover of up to A$10 million per year, as well as to retain the CGT discount for interests in certain start-up vehicles, including employee share-related interests.

These tax announcements, including the general removal of the 50% CGT discount on assets held for more than a year, have led many Australian founders to consider a potential relocation of their personal and business interests to New Zealand. The attraction of a shift has been fuelled by statements in the Australian media labelling New Zealand a "tax haven", primarily on the basis of New Zealand's lack of a comprehensive capital gains tax and lack of stamp duty.

New Zealand has several other attractive tax features for Australian business owners. It has a lower corporate tax rate (28% vs Australia's 30%) and a lower top marginal tax rate for individuals (39% vs Australia's 45%). It has a helpful four-year transitional resident exemption for those considering a move across the Tasman, and a straightforward superannuation portability regime if that move might become permanent, among other features discussed further below.

But moving yourself and your business across the Tasman requires careful planning. For those Australian founders contemplating a move, the following provides a summary of the key New Zealand and Australian tax matters to consider both from an individual and business perspective.

This is a high-level summary only that is not intended to provide legal advice tailored to your circumstances. We have elsewhere provided more comprehensive summaries of the tax system in New Zealand (see Russell McVeagh's "Guide to Investing in New Zealand" here), and please reach out to us if you have specific questions based on your circumstances.

02.
New Zealand tax matters

The New Zealand and Australian tax systems bear a lot of similarities, with one major caveat: New Zealand generally does not tax capital gains. As with all tax rules, there are exceptions. Before moving, among the important issues migrants from Australia (including Kiwis who are tax resident in Australia) will want to understand are when and how New Zealand will tax their non-New Zealand source income (that is, income earned in Australia or elsewhere), and the major tax consequences of moving their business to New Zealand.

Individual tax residence - general

New Zealand taxes residents on their worldwide income and non-residents only on their New Zealand-source income.

An Australian individual becomes a New Zealand tax resident if they satisfy either the "day count" test or the "permanent place of abode" test. For an Australian individual relocating permanently to New Zealand, tax residence in New Zealand will be readily obtained under both tests and will apply retrospectively from the first date a person is personally present in New Zealand.

Under the "day count" test, an individual is a New Zealand tax resident if they are personally present in New Zealand for more than 183 days in a given 12-month period. The day count is cumulative and does not reset once an individual leaves New Zealand. In addition, the test is based on a given 12-month period and not on a calendar year.

The "permanent place of abode" test is not "black and white" like the day count and involves an assessment of an individual's overall connection with New Zealand having regard to certain relevant factors. The primary question is whether an individual has a place in New Zealand where they habitually reside from time to time even if they spend periods of time overseas.

If you might be resident in both Australia and New Zealand under these tests, the Australia-New Zealand tax treaty might provide relief, through the application of certain "tie-breaker" tests. How these tests apply tends to be fact-specific, emphasising the importance of obtaining tax advice tailored to your specific circumstances.

Relief for transitional tax residents

Upon becoming a New Zealand tax resident, an Australian individual would generally be entitled to concessionary tax treatment as a "transitional resident". An individual may be a transitional resident if they have never previously been a New Zealand tax resident or have been non-resident for at least 10 years.

Status as a transitional resident effectively means that no New Zealand tax is paid on non-New Zealand sourced income for the first four years of your residency in New Zealand. This would typically apply to investment income (such as foreign interest or dividends) and any rent or taxable gains derived from the sale of property located outside New Zealand. The concessionary treatment excludes employment income and income from the supply of services.

An individual may be a transitional resident if they have never previously been a New Zealand tax resident or have been non-resident for at least 10 years.

Individuals are subject to income tax at graduated marginal rates up to a maximum of 39% imposed on income exceeding NZ$180,000 per annum

Comparing the tax rates

When deciding whether to jump the Tasman, it is also worth comparing the rates at which New Zealand taxes income with the rates paid in Australia. For capital gains, New Zealand's rate is essentially zero – it does not generally tax capital gains, subject to some exceptions discussed below. That is the case regardless of who earns the capital gain (individual, company or other entity).

Income earned by companies is taxed at a flat rate of 28%, regardless of the company's size. Like Australia, New Zealand operates a credit-based system of corporate taxation, allowing companies to attach "imputation credits" (roughly equivalent to Australian "franking credits") to dividends, reducing a shareholder's net tax burden.

Individuals are subject to income tax at graduated marginal rates up to a maximum of 39% imposed on income exceeding NZ$180,000 per annum. Some types of income, notably investment income earned through certain types of widely-held "portfolio investment entities", are taxed at a maximum of 28%.

Taxation of capital assets and real estate

New Zealand has no comprehensive capital gains tax, and generally does not impose tax on assets that are acquired for longer-term investment purposes. Practically, this means New Zealand residents may invest in real estate, shares and other investment assets, without a risk of paying tax on any gain derived on sale.

There can be exceptions to these rules. Gains on the sale of real estate could be taxed, for example, if an individual engages in regular trading in that property, acquired the real estate with a dominant purpose of producing gains on sale (ie not an investment purpose) or if the individual is associated with a land dealer, developer or builder.

Land investments in Australia would typically remain taxable only in Australia, due to the Australia-New Zealand tax treaty. In less common cases where New Zealand may seek to tax the sale of Australian land sold by a New Zealand resident, a credit should generally be available in New Zealand for taxes paid in Australia, reducing the risk of "double taxation" of the same gain.

Taxation of personal investments

Once your transitional residence expires (generally after four years), you may become subject to New Zealand's "foreign investment fund" ("**FIF**") rules on offshore portfolio investments. These rules use certain prescribed "methods" to deem a certain amount of income to be derived from portfolio investments and taxable in New Zealand each year. The rules only apply if your non-New Zealand holdings exceed NZ$50,000 (expected to soon be $100,000) and there are specific exemptions for: certain ASX-listed shares, Australian unit trusts and Australian super interests. Some of the methods are also designed to better align tax liabilities with periods during which the investment produces cash returns (thereby reducing the sting of being taxed on unrealised gains in foreign investments that may not be easy liquidated or returning cash amounts to investors). For larger (over 10%) ownership stakes, different rules may apply.

Land investments in Australia would typically remain taxable only in Australia, due to the Australia-New Zealand tax treaty.

Your superannuation

As noted, Australian super should generally be exempt from the FIF rules. If moving to New Zealand permanently, super can be transferred to in the first four years of residency on a tax-free basis, and may be able to be ported into an equivalent New Zealand "Kiwisaver" scheme on a tax-favourable basis thereafter.

There are important differences between how Australia and New Zealand tax superannuation. In New Zealand, contributions to KiwiSaver are made from after-tax income, and annual growth is subject to tax at the saver's marginal rate (but capped at 28%). The balance is not taxed again when it is available to be withdrawn.

New Zealand offers a 15% tax credit for eligible R&D expenditure over NZ$50,000 per annum, up to a maximum credit of NZ$18 million

Moving your business

There is an array of tax issues to consider when deciding whether to move your business to New Zealand, including:

- Company residence and business profits. Managing your Australian business from New Zealand might cause it to be treated as tax resident here, and may subject the profits to New Zealand income tax. Cross-border management should be carefully considered.
- How to structure any New Zealand ownership and operations and the consequences of transferring assets and liabilities to a New Zealand business structure. This may also include personal shareholding or ownership considerations, including the use of a family trust or other structures that are very common in New Zealand. These can be structured in a tax efficient manner while also providing asset protection and other advantages to business owners.
- Employing or contracting individuals still based in Australia. Generally there should not be taxes imposed on Australian remuneration for services performed there, but it is important to consider the details, especially if workers may be traveling between jurisdictions.
- Local tax compliance considerations and the consequences for your shareholders, employees and suppliers.
- The taxation of employee share option plans (ESOPs) or long term incentive plans (LTIPs). New Zealand has introduced favourable rules that allow unlisted companies to elect into a regime whereby their employee share plans are tax-deferred for employees until the company lists, or the shares are disposed of by the employee. These rules may prove particularly attractive to start-ups. Default rules generally impose tax on employees when the employee has a right to the shares free of restrictions (eg when shares are vested).
- The availability of research and development (R&D) incentives. New Zealand offers a 15% tax credit for eligible R&D expenditure over NZ$50,000 per annum, up to a maximum credit of NZ$18 million (ie maximum expenditure of NZ$120 million). The rules governing the New Zealand credit are likely to differ from Australia's R&D incentives, and if your business involves R&D, you may wish to seek advice before jeopardising your eligibility for R&D incentives.

03. Australian tax matters

For Australian founders considering a move to New Zealand, the key Australian tax point is that relocating does not, of itself, relieve you of potential Australian tax consequences. The Australian tax consequences will depend on whether and when you cease to be an Australian tax resident, what assets you hold at that time, whether any Australian real estate or business operations remain, and whether Australian entities continue to carry on their business activities.

Individual tax residence - general

An Australian individual who moves to New Zealand may cease to be an Australian tax resident. Australian tax residence is determined by reference to a number of tests, including whether the individual continues to reside in Australia according to ordinary concepts, whether their domicile remains in Australia (unless that person's permanent place of abode is outside Australia), and the extent of their physical presence in Australia.

The analysis is practical and fact-specific. Relevant considerations will include whether the move is intended to be permanent or temporary, whether the individual retains an Australian home, where their family lives, where personal assets and business interests are located, and the pattern of return visits to Australia.

A founder who relocates to New Zealand but keeps substantial personal and business connections in Australia may remain an Australian tax resident for a period, even if they also become a New Zealand tax resident. As is noted above, in this scenario the Australia-New Zealand tax treaty might provide relief, through the application of certain "tie-breaker" tests.

If you remain an Australian tax resident, Australia will generally continue to tax you on your worldwide income and gains. If you cease to be an Australian tax resident, Australia will,subject to any relief under a double tax treaty, generally tax you only on Australian-sourced income and gains from certain land-rich assets (such as interests in real property, or non-portfolio interests (10% or more) in entities that are considered land rich).

Moving your business

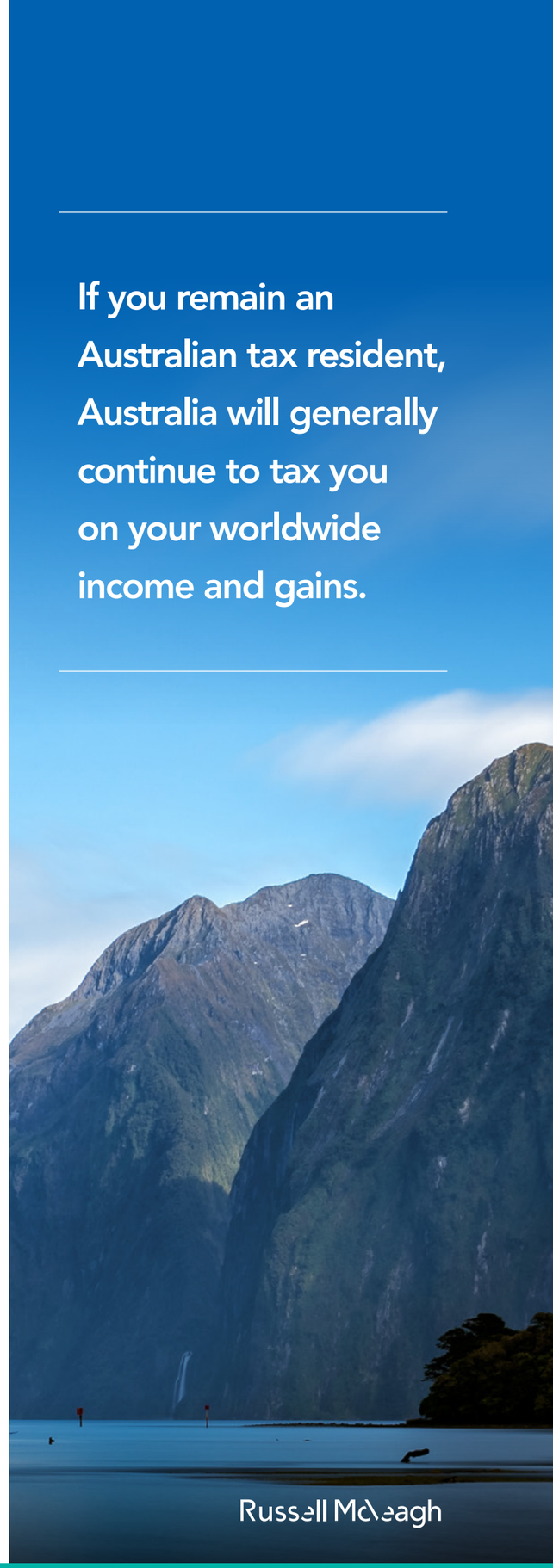
A founder moving from Australia to New Zealand is very different to moving a business to New Zealand. An Australian incorporated company will remain an Australian tax resident, even if its founder relocates to New Zealand. If strategic decisions are made from New Zealand, the company may also become subject to New Zealand tax rules. There is a tie-breaker in the double tax treaty, which would require detailed consideration.

If a non-Australian company is used, Australian tax residence may still arise if the company carries on business in Australia and has its central management and control in Australia, or if it carries on business in Australia and has voting power is controlled by Australian resident shareholders. Board composition, decision-making protocols and actual governance practices should therefore be considered carefully.

Where Australian operations remain, Australia will ordinarily continue to tax the profits attributable to those operations. This may be because the company remains Australian tax resident, because it carries on business through an Australian permanent establishment, or because particular income has an Australian source (subject to relief under a double tax agreement). Employees, contractors, premises, agents, intellectual property and customer contracts can all be relevant to this analysis.

Transferring business assets, intellectual property or customer contracts from Australia to New Zealand can also trigger Australian tax consequences.

If you remain an Australian tax resident, Australia will generally continue to tax you on your worldwide income and gains.



Ceasing Australian tax residence - CGT exit consequences

Ceasing to be an Australian tax resident can have immediate Australian CGT consequences. Broadly, an individual who ceases Australian tax residence is taken to have disposed of their CGT assets (other than assets that are "taxable Australian property") for their market value at that time. Note that the concept of CGT assets includes assets that are held on revenue account, such that (in effect) any gains on any assets held by that individual should generally be brought to tax for Australian tax purposes.

One exception to this is where you are an Australian tax resident who is a "temporary resident". Many New Zealanders who live in Australia may be classified as temporary residents, in which case only a more limited set of CGT assets are subject to tax on ceasing to be an Australian tax resident. As these rules are highly fact-dependent, you should seek advice on your specific circumstances.

For founders, the Australian tax implications on ceasing to be an Australian tax resident may be material. The deemed disposal of CGT assets applies to shares in private companies, options, crypto assets, foreign investments, intellectual property and other assets, even though no actual sale has occurred and no cash has been received. Obtaining valuations prior to ceasing being an Australian tax resident may therefore be critical, especially where a founder holds shares in a high-growth company with a low cost base. Note, however, that provided the individual ceases to be a tax resident prior to 1 July 2027, the CGT discount should apply to assets held for 12 months at the date of ceasing to be an Australian tax resident.

There may be a choice available to disregard the deemed gain or loss on departure. However, making that choice generally keeps the relevant asset within the Australian CGT net until it is later disposed of. That may be helpful from a cash-flow perspective, but it also means that Australia continues to tax a later sale even after the individual has become a New Zealand resident. The choice should be modelled carefully, particularly where transaction (such as an IPO or trade sale) is expected. Note that the Government's draft legislation enacting the Budget measures include a transitional rule that is intended to result in accrued gains up to 1 July 2027 being subject to the CGT discount, and only subsequent gains being subject to indexation of costs. However, the draft legislation does not appear to work appropriately with respect to an Australian resident who ceases to be an Australian resident but elects for their assets to remain subject to capital gains tax in Australia – potentially, they would lose access to the CGT discount on pre-1 July 2027 gains, and also not be able to access cost base indexation (as a non-resident) – which highlights the importance of considering the tax implications in detail before ceasing to be an Australian resident.

Assets that are taxable Australian property, such as Australian real estate and non-portfolio interests in land-rich Australian entities, are not subject to this deemed disposal rule because they generally remain within Australia's taxing jurisdiction after departure. However, the draft legislation enacting the measures would appear to prevent non-residents from accessing the CGT discount, even in respect of gains which accrued while an Australian resident. If this issue is not rectified, it may be preferable (from a tax perspective) to effect a disposal of these assets prior to ceasing to be an Australian resident.

Many New Zealanders who live in Australia may be classified as temporary residents, in which case only a more limited set of CGT assets are subject to tax on ceasing to be an Australian tax resident.

Trusts and family groups

Australian family trust arrangements should be reviewed before any relocation. A trust may remain an Australian resident trust if it has an Australian resident trustee or if its central management and control remains in Australia. Moving a founder, appointor, controller or director to New Zealand may also affect the practical management of the trust and should not be treated as a simple administrative change. In addition, if the entity ceases to be an Australian resident as a consequence of the founder moving, similar CGT exit considerations will arise at the entity level (i.e., deemed disposal on migration of the relevant entity).

Distributions from Australian trusts to a New Zealand resident beneficiary can raise Australian tax issues, particularly where the trust derives Australian-sourced income or capital gains from taxable Australian property. There may also be withholding tax consequences depending on the character of the income distributed.

Care is also needed with private company loans, unpaid present entitlements and other arrangements within a founder's group. Division 7A (which can apply to a number of arrangements involving private companies, including loans), trust reimbursement rules and other integrity provisions can remain relevant notwithstanding the founder's relocation.

New Zealand may offer attractive tax settings for Australian founders, but the Australian tax consequences of leaving can be significant.

Employment and founder remuneration

If a founder continues to perform services in Australia after becoming a New Zealand resident, Australia may retain taxing rights over remuneration referable to those services. Short business trips back to Australia should therefore be monitored, especially where the founder remains an employee, director or consultant of an Australian entity.

Equity-based remuneration also requires specific advice. Options, rights and other employee share scheme interests can have Australian taxing points that do not align neatly with the date of relocation, exercise or sale.

Practical steps before moving

Before relocating, Australian founders should generally:

- determine the likely date on which Australian tax residence will cease;
- obtain valuations for material assets that may be subject to the CGT exit rules;
- model whether to trigger or defer any deemed CGT liability on departure;
- assess whether companies, trusts or partnerships will remain Australian tax residents or subject to Australian tax;
- plan ongoing Australian tax compliance, including the final resident-year return and any later non-resident returns.

New Zealand may offer attractive tax settings for Australian founders, but the Australian tax consequences of leaving can be significant. For many founders, the most important Australian tax planning happens before the move, not after it.

About Russell McVeagh

Widely regarded as New Zealand's premier law firm, Russell McVeagh is committed to operating on the cutting edge of legal practice. With an impressive track record of attracting clients from throughout Australasia and internationally, the firm acts for many of New Zealand's major corporates, including numerous energy and utilities companies, most of New Zealand's retail banks, and a number of New Zealand's largest listed and unlisted companies.

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- Litigation
- Employment
- PPP/Infrastructure
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- Technology
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- Privacy, Cybersecurity and Data Protection

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