ALLIOTT NZ LTD

ACCOUNTING SERVICES, **STRATEGIC GUIDANCE** & PRACTICAL FINANCIAL ADVICE FOR YOUR BUSINESS

DOING BUSINESS IN NEW ZEALAND
A STRUCTURE GUIDE FOR AUSTRALIAN BUSINESSES

xero GOLD PARTNER

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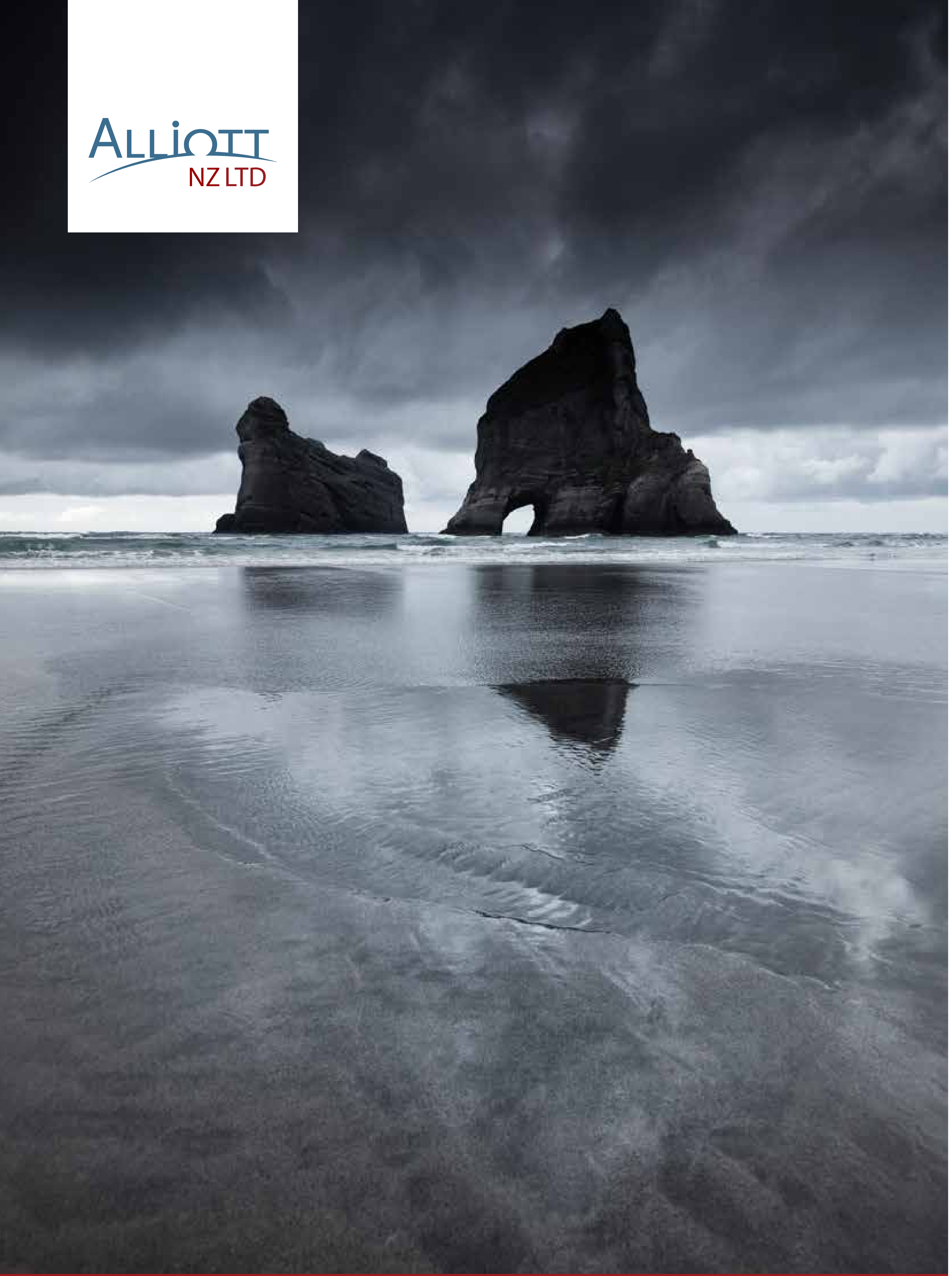

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ACCOUNTING SERVICES, STRATEGIC GUIDANCE & PRACTICAL FINANCIAL ADVICE FOR YOUR BUSINESS

DOING BUSINESS IN NEW ZEALAND

If you're an Australian business then New Zealand is often the obvious choice when you're ready to expand offshore.

The easy business environment, proximity to Australia, language and exchange rates make it a cost-effective and logical place to start. Plus NZ's extensive free trade agreements provide additional incentive, especially if you're targeting markets in the wider Asia Pacific region.

Although New Zealand has similar tax structures and taxes to Australia (e.g. GST), when setting up a business here it is essential that you seek expert local advice to ensure the correct structures for your business are put in place at the beginning.

This guide outlines the various structures available to you together with the tax implications and compliance requirements.

It also factors in other things you night want to consider, such as import/export processes and using overseas contractors in NZ.

The information in this booklet is in summary form and is intended as a guide only.

ABOUT NEW ZEALAND'S FREE TRADE AGREEMENTS

- New Zealand has free trade agreements with a number of countries
  - Australia (CER - Closer Economic Relations)
  - China
  - South East Asian Nations (ASEAN) – including Indonesia, Malaysia, Philippines and Vietnam
  - Thailand
  - Singapore
  - Brunei
  - Chile
  - Hong Kong
- Under the Australia New Zealand CER Trade Agreement, Australian products receive preferential tariff treatment.
- Australian made products, with over 50 per cent Australian content, are not subject to tariffs, and import licences are no longer required to import goods into New Zealand.
- New Zealand is the first country in the world to complete a free trade agreement with China, which has seen zero duty rates or significantly reduced rates on imports.
- It has also seen the elimination of tariffs on most of New Zealand's exports to China, which can be a major advantage for Australian businesses operating in New Zealand.

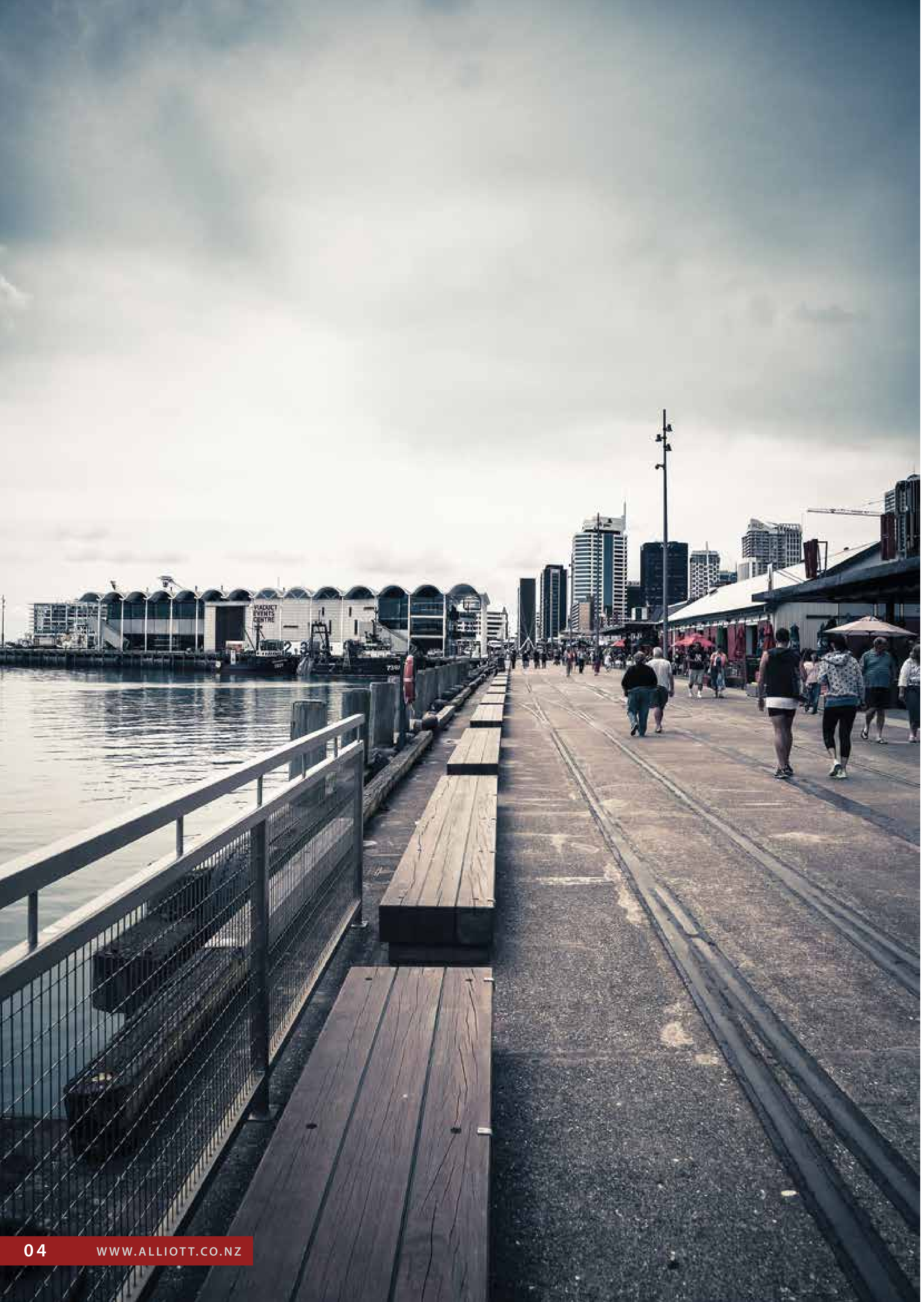
WHY PARTNER WITH ALLIOTT NZ?

Alliott NZ provides Australian businesses looking to operate in the New Zealand market with strategic guidance and practical advice on how to structure your business here. Our experience in this area has helped many of our clients achieve success and growth in NZ.

> OUR DECISION TO USE ALLIOTT NZ TO SET UP OUR NEW ZEALAND COMPANY IS ONE WE'VE NEVER REGRETTED.
>
> CLAIRE BODY – MANAGER OF FINANCE & ADMINISTRATION, DEPLOYPARTNERS (AUSTRALIA)

FULL SERVICE OPTIONS

We offer 'full service' accounting solutions to clients that want to focus on generating business instead of the daily grind of accounts administration and New Zealand regulatory compliance. We look after all your accounting requirements from reporting, GST and invoicing to payroll, tax and paying creditors. Plus we use Cloud accounting applications, like Xero, so we can both track how you're doing at any time.



ALLIOTT NZ RECOMMEND XERO

We are proud to be a Xero Gold Partner in New Zealand and recommend Xero software as a simple, easy and smart way to manage your accounts offshore. If you already use other accounting software at Head Office, our Xero certified advisors have the knowledge and expertise to help you effectively integrate Xero as part of your accounting strategy.

GOLD PARTNER

Let's build a better business together. Connect you and us with your data in real-time, in the Cloud.

XERO IS BEAUTIFUL ACCOUNTING SOFTWARE

- Designed to help you grow your business. Fixed assets, expense claims, budgets and complete financial reporting.
- Bank feeds automatically import and categorize your latest banking, credit card and PayPal transactions. One-click reconciliation.
- Streamline invoice and manage cashflow by scheduling bill payments and sending invoices automatically.
- Connect to Add-on apps to help you manage all aspects of your business. Pick from CRM, inventory timesheets, payroll, job management and other specialized tools to suit your individual needs.
- Login anytime, anywhere on your Mac, PC or Smartphone.

BUSINESS STRUCTURE OPTIONS

for Australian entities doing business in New Zealand

NOTES

1 **Definition of a Large Company**
A company is defined as large if it exceeds any one of the following:
- $20,000,000 or more in total assets
- $10,000,00 in revenue

STRUCTURE	STRUCTURE OVERVIEW	LIMITED LIABILITY	REQUIREMENT TO FILE ACCOUNTS WITH NZ COMPANIES OFFICE OR ANNUAL RETURN	NEEDS TO BE AUDITED		GST POSITION – CURRENT RATE 15%	TAX POSITION	TAX RATES	DIVIDEND POSITION
Non-Permanent Establishment	The Australian organisation conducts business in New Zealand but does not have a permanent establishment. The critical issue here is that the power to negotiate and conclude sales must reside in Australia. While you may visit New Zealand to see clients or customers, you cannot have the power to conclude sales or negotiate. While for most Australian organisations this may not be a viable option, it can appeal if Australian businesses want to test the viability of the market in New Zealand with minimal setup costs. **Note** - there are certain business operations (i.e. installation projects, licencing and IT software projects), which can be considered as a permanent establishment if they exceed a certain time period. Speak to your advisor for more information.	Yes	No	No		Register Australian company for GST. Supply must take place in NZ. To achieve this you must have a) an agreement in writing and and b) goods must be through NZ borders before payments are received from customers. This then allows you to claim the GST paid on importation and other NZ expenses, and you must account for the GST on the sale of the goods.	N/A - all tax is paid in Australia.	N/A - all tax is paid in Australia.	Not applicable.
NZ Branch of Overseas Company	The overseas company opens a branch in NZ. The NZ operations form part of the Australian business so there is no separation of risk.	Yes	No requirement to file accounts, unless classed as a Large Company or an issuer. Annual Return only.	No, unless classed as Large Company or an issuer.		Register Australian company for GST. This then allows you to claim the GST paid on importation and other NZ expenses, and you must account for the GST on the sale of the goods.	Pays tax in NZ on branch income. Receives full credit in Australia for tax paid in NZ.	28% company tax rate in NZ.	Not a separate NZ entity so there are no NZ dividend implications. Can only allocate actual costs to branch operation i.e. can't pay a management fee from branch to Head Office. Tax paid for NZ branch is not available as franking credits in Australia for distribution to shareholders.
NZ Incorporated Company 100% Owned by an Overseas Company (subsidiary)	A company is set up in NZ wholly owned by the overseas company. This structure does allow for separation of risk as the business assets for the NZ company are separate from their Australian operations.	Yes	No requirement to file accounts, unless classed as a Large Company or an issuer. Annual Return only.	No, unless classed as Large Company, or an issuer.		Register NZ company for GST. This then allows you to claim the GST paid on importation and other NZ expenses, and you must account for the GST on the sale of the goods.	Pays tax in NZ in same way as any NZ company.	28% company tax rate in NZ.	Dividends are paid after allowing for imputation credits. No franking credits are available to the Australian holding company for distribution to shareholders. Dividends received in the holding company from the NZ subsidiary are exempt income until the income is distributed to the ultimate business owners. For overseas ownership of greater than 10%, there is no NRWT if dividend is fully imputed (fully franked). If not fully imputed, NRWT is 5%.
NZ Incorporated Company Owned by Non-Residents	A company is set up in NZ wholly owned by the non-resident individuals, is not large and is not an issuer.	Yes	No requirement to file accounts, unless classed as a Large Company or an issuer. Annual Return only.	No, unless classed as Large Company, or an issuer.		Register NZ company for GST. This then allows you to claim the GST paid on importation and other NZ expenses, and you must account for the GST on the sale of goods.	Pays tax in NZ in same way as any NZ company.	28% company tax rate in NZ.	Dividends are paid after allowing for imputation credits. Overseas individuals cannot claim NZ imputation credits as franking credits. For overseas ownership of greater than 10%, there is no NRWT if dividend fully imputed (fully franked). In other cases NRWT 15%.

BUSINESS STRUCTURE OPTIONS Continued

STRUCTURE	SUMMARY	LIMITED LIABILITY	REQUIREMENT TO FILE ACCOUNTS WITH NZ COMPANIES OFFICE OR ANNUAL RETURN	NEEDS TO BE AUDITED		GST POSITION – CURRENT RATE 15%	TAX POSITION	TAX RATES	DIVIDEND POSITION
Trading Trust	A trust is formed with non-residents as trustees and beneficiaries. You may choose to have a corporate trustee to use for trading purposes. This will be a complying foreign trust if its NZ tax obligations are satisfied. Ideal for related persons. This will be an Australian trust for Australian tax purposes.	Yes if using a corporate trustee.	Only an annual return needs to be filed for the corporate trustee company.	No		Register the trading trust for GST.	Income is returned in the trust and distributed to individual non-resident beneficiaries who need to obtain NZ IRD numbers. Tax is paid at their marginal tax rate in NZ. A credit for this tax is generally allowed when the income is returned in their own jurisdiction. **Note** - the income is NOT retained as trustee income.	Returned in Australia at individual marginal tax rates.	Not applicable.
Australian Unit Trust	A unit trust is treated as a company where the unit holders are treated as shareholders, and income and other payments to the unit holders are treated as income. The remuneration paid to the manager and to the trustee of the unit trust is deductible from the income of the trust. Unit holders need to be individuals, or a Trust, to be tax effective.	Yes	No	No		Register the unit trust for GST.	Taxed in NZ as a company. As long as the Unit holders in Australia are individuals or a Trust they receive a tax credit for the tax paid in NZ. In setting up the Trust in Australia, need to elect a "flow through" so tax can flow through to unit holders.	28% company tax rate in NZ.	Distributions from unit trust are taxed as dividends.
Limited Partnership	A limited partnership is a legal entity separate from its partners. It has two types of partners - general and limited partners. General partners manage the partnership and are liable for the partnership's debts and liabilities if the partnership is unable to honour them. Limited partners must be individuals to be tax effective. Individual partners have limited liability to the amount of their investment in the partnership as long as they do not take part in the management of the partnership. Otherwise the limited liability can be lost. This is ideal if you have different ownership proportions and unrelated partners as each partner can obtain a full tax credit.	Yes for limited partners to the extent of their investment. No for general partners.	Annual return only.	No		Register the limited partnership for GST but it is treated as a company for GST purposes.	The individual Limited partners pay tax in NZ on NZ sourced income and then partners receive a full tax credit in Australia for tax paid in NZ.	At individual marginal rates. Returned in Australia with a credit for tax paid in NZ.	Not applicable.

NOTES

1 Definition of a Large Company

A company is defined as large if it exceeds any 2 of the following:

- $20,000,000 in annual turnover
- $10,000,000 in company assets
- 50 Employees

2 NZ Company Directors

The minimum number of directors currently required for an NZ company is one and they do not need to be a NZ resident. However, this is due to change on 30 June 2015. After this date they are required to be either an NZ resident director, or a resident in an 'enforcement country'. An enforcement country is likely to include Australia.

3 Transfer Pricing Enforcement programme

Over 2/3 of world trade involves multinational enterprises. Well over 50% of world trade comprises associated party transactions which must be transfer priced for taxation purposes. Multinational enterprises are a significant force in New Zealand's economic environment.

The overall goal of NZ's transfer pricing enforcement programme is to maintain NZ's share of multinational tax in accordance with our tax law, acceptable income recognition principles and best international practices.

From their inception, New Zealand's transfer pricing rules have always been about striking a balance between protecting the tax base and containing compliance costs. Our regime is effective in terms of its coverage of transactions, including a specific anti-avoidance provision to capture collateral arrangements. The regime is also moderate in placing the burden of proof on the Commissioner to demonstrate a more reliable arm's length amount, provided there has been co-operation in the provision of requested relevant information.

This reverse burden of proof and the lack of specific rules about maintaining any specific transfer pricing documentation has meant that the costs of compliance with New Zealand transfer pricing rules are less than those in other countries.

We are not alone in wanting to maintain our fair share of the multinational tax pie – revenue authorities around the world are implementing and updating their rules and regulations on international transactions as well as increasing their audit activities.

One of the key messages is that if taxpayers make a conscientious effort to establish transfer prices that comply with the arm's length principle and prepare documentation as evidence of that.

and prepare documentation as evidence of that compliance, the IRD is likely to determine prima facie that those taxpayers represent a low risk.

4 Thin Capitalisation Rules

In brief, the thin capitalisation rules apply to non-resident controlled groups and deny an interest deduction where a taxpayer's debt/asset ratio exceeds 60% (the safe-harbour threshold) or 90% of its worldwide ratio.

For the purposes of the safe-harbour calculation, debts are measured by reference to the tax rules for financial arrangements and assets are measured by reference to generally accepted accounting practice.

The interest apportionment rules apply to the following shareholders:

1 A non-resident who is not a company.

2 A non-resident company (unless a NZ resident) has direct ownership of 50% or more and no non-resident has a direct ownership of 50% or more.

3 A company that is resident in NZ if a non-resident has ownership of 50% or more or has control by other means.

4 The trustee of a non-complying trust settled by a non-resident if the settlement made by them is 50% or more of the value of the settlements made on the trust.

An excess debt entity must apportion the interest expenditure for an income year if the debt percentage of its NZ group is more than 60% and, for a company or trust, is also more than 90% of the debt percentage of the worldwide group.

The interest apportionment is calculated as follows: total deduction x (total debt - concession/total debt) x (group debt percentage - threshold amount/group debt percentage).

5 NRWT

NRWT is deducted from non-resident passive income including dividends, interest and royalties.

There are various rates of NRWT applicable to different countries under DTA with those countries.

For Australia, the interest NRWT rate is 10% (or 0% if AIL is deducted), the dividend rate is between 0 and 15% depending on % ownership of shareholding and the royalty rate is 5%.

6 Other Payments to Non-Residents by a NZ Company

Personal services of a non-resident company director - tax is not payable in NZ on the payment of a salary to a non-resident director except for the portion of the time the director was in NZ. For example, if they were in NZ for 1 month of the year, 1/12 of the salary is taxable in NZ. The non-resident can claim a credit for the tax paid in their own jurisdiction.

Administration costs - non-residents are able to charge a NZ company actual administration costs.

Management fees - management fees paid to non-residents are subject to the transfer pricing rules.

OTHER BUSINESS CONSIDERATIONS

Setting up the correct structure in New Zealand is only part of the equation. There's also what's required to get your product into NZ from overseas, staffing and other regulatory business matters to comply with when starting a business here.

NON-RESIDENT GST CLAIM

There may be opportunity for non-resident entities to claim back GST on costs incurred in NZ. In order to qualify the following three criteria must be met:

1. Non-resident entities must be registered for GST in Australia;
2. The GST claim must be NZ$500 or more in the first return; and
3. The customers must be registered for GST.

Who's eligible?

✓ An Australian company sends a group of employees to attend a conference in NZ. GST on the conference costs and accommodation may be able to be claimed.

✗ An Australian entity sells goods over a website and has incurred some NZ expenses. All its customers are not registered for GST in NZ.

NEW ZEALAND CUSTOMS

Any overseas business importing goods into New Zealand requires a customs code from NZ Customs prior to shipping and proof of a NZ resident entity or non-permanent establishment that will receive the goods on arrival in NZ. We are able to help you obtain the appropriate documentation.

CONTRACTING TO NEW ZEALAND BUSINESSES

In some cases Non-Resident Contractors Tax (NRCT) may be payable when overseas companies are doing contractual work with NZ clients. The NZ client may be required to deduct NRCT from the payment it makes to the overseas entity. It depends entirely on the nature and the length of the contract.

OVERSEAS EMPLOYEES OR CONTACTORS WORKING IN NEW ZEALAND

If you bring employees from overseas to work in New Zealand you may be required to deduct schedular payments (i.e. PAYE, ACC and Kiwisaver), or Withholding Tax. It depends on the nature of the business, length of time they are in NZ and where they are from.

EMPLOYING PEOPLE IN NEW ZEALAND

When you employ or contract NZ residents to work, whether on a permanent, part-time or casual basis, an employment or contractor agreement is required under NZ law. Provision needs to be made for the deduction of scheduled payments such as PAYE, Withholding Tax or Kiwisaver.

KIWISAVER

Kiwisaver is a voluntary superannuation scheme that NZ employees can elect to join. For those employees that do join Kiwisaver, they have the option to contribute 3, 4 or 5% of their pre-tax pay. Employers are required to contribute an amount equivalent to 3% of an employees pre-tax pay to the Kiwisaver account of every employee enrolled in Kiwisaver.

INSURANCES

In New Zealand employees are covered by Accident Compensation (ACC). This is deducted from employees pay and covers them for accidents in general. Employers are required also to pay an Annual ACC Levy to cover workplace accidents specifically. Consideration should also be given to any general business insurances such as Public Liability, if applicable. Always check with your Australian insurers as they are often able to extend existing policies to cover business interests in New Zealand.

PAYROLL

While payroll in NZ is similar to Australia we encourage business to use a NZ electronic payroll system, even for 1 or 2 employees. This is to ensure the correct deductions (i.e. Kiwisaver and ACC) are made for each employee. We recommend SmartPayroll, a cloud application that integrates well with the accounting software Xero.

ABOUT AUSTRADE

The Australian Trade Commission – Austrade – helps Australian businesses grow their business in international markets by providing quality information and advice, and services such as the TradeStart program and Export Market Development Grants (EMDG). They generate market information and insight, promote Australian capabilities, make connections through their extensive global network of contacts and leverage the badge of government offshore.

http://www.austrade.gov.au/

WITH ALLIOTT NZ YOU GET A TEAM OF FINANCIAL PROFESSIONALS WITH THE SKILLS, EXPERTISE AND LOCAL KNOWLEDGE TO ESTABLISH THE RIGHT STRUCTURE FOR YOUR BUSINESS IN NEW ZEALAND

ABOUT US

A member of the Alliott Group, an international alliance of independent accounting, law and consulting firms, Alliott NZ has access to all the resources and contacts this global network provides.

We are also a member of the New Zealand Institute of Chartered Accountants and the Proactive Accountants Network (PAN) across Australia and New Zealand.

We support our clients on a local, regional and international basis, offering a truly global business solution. We'll happily align with any international firm on an assignment.

PROACTIVE ACCOUNTANTS NETWORK > ACCREDITED MEMBER

ALLIOTT GROUP
A Worldwide Alliance of Independent Accounting, Law and Consulting Firms

CONTACT US

At Alliott NZ we understand that your business is unique. Please call or email us to discuss your particular situation and receive advice that is relevant to you.

If you are an accounting firm, please call or email us to discuss the best business structure for your client.

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