



INCOME OF NON-RESIDENT GENERAL INSURERS

1. A special rule applies to income of a non-resident general insurer. 10% of the gross premium derived by a non-resident general insurer is income if the following three conditions are all met:
 - (a) The premium has a source in New Zealand.
 - (b) The premium is paid for *specified kinds of insurance*.
 - (c) The premium meets *specified conditions*.[Section CR 3]
2. When the conditions are met, 10% of the gross premium is treated as having a source in New Zealand and the remainder of the gross premium is treated as not having a source of New Zealand.
[Section YD 8(2)]
3. The insurer is denied a deduction for any expenditure or loss incurred.
[Sections DW 3 & YD 8(3)(a)]
4. The person who pays the premium to the insurer (or to some other person), or a person who provides a bank with funds that pays the premium, is treated as the agent of the insurer. The agent must prepare and file a tax return setting out the income of 10% arising from the gross premium, and pay the required income tax if the non-resident insurer does not carry on a business in New Zealand through a fixed establishment in New Zealand.
[Sections HD 16 & YD 8(3)(b)]
5. There is an additional, separate, disclosure requirement, for a premium that is paid to an insurer who is treated as being resident in Switzerland: the agent must disclose details of the payment of the premium to the Commissioner.
[Section HD 17]
6. It is not necessary to pay provisional tax in relation to the tax liability on a premium derived by a non-resident general insurer who does not have a fixed establishment in New Zealand. The tax payable must be settled by the due date for payment of terminal tax. If the non-resident insurer has a standard NZ tax year that ends on 31 March, the terminal tax payment is due on 7th February following the end of the tax year on 31 March, or, if a tax agent is used, on 7th April following the end of the tax year.
[Sections RC 3(2) & RA 13]

Source in New Zealand

7. The premium is treated as connected with New Zealand if any of the following conditions are met:
 - (a) The insurance contract on which the premium is derived is offered or entered into in New Zealand.
 - (b) The insured person is resident in New Zealand.
 - (c) The insured person is a non-resident but enters into the insurance contract for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand.
8. The premium is treated as not connected with New Zealand only if both the following requirements are met:
 - (a) All risk covered by the premium is located outside New Zealand.
 - (b) The insurer deriving the premium is not associated with the insured person.

[Sections YD 8(5) & YD 8(6)]

Specified kinds of insurance

9. The specified types of insurance are:
 - (a) General insurance.
 - (b) A guarantee against risk given by an insurer to an insured person if:
 - (i) The insured person is liable to pay a premium to the insurer for the guarantee; and
 - (ii) The insured person is associated with the insurer.
 - (c) A guarantee against risk given by an insurer to an insured person if:
 - (i) The insured person is liable to pay a premium to the insurer for the guarantee; and
 - (ii) The risk arises from money lent to the insured person; and
 - (iii) The amounts the insured person is liable to pay for the money are significantly less than they would otherwise have been because of the guarantee; and
 - (iv) The effect of the guarantee on the amounts paid or is more than an incidental effect, or comes about as more than an incidental purpose, of the insurer's giving the guarantee.

Specified conditions relating to the premium

10. The specified types of premium are any of the following:
 - (a) A premium derived by an insurer who is not resident in New Zealand when they derive it.
 - (b) A premium that is not attributable to a fixed establishment of the insurer in New Zealand through which they carry on business in New Zealand.
 - (c) A premium to which at least one of the following applies:
 - (i) The insured person from whom the premium is derived is resident in New Zealand; or

- (ii) The insurance contract from which the premium is derived is offered or entered into in New Zealand; or
- (iii) The insurance contract from which the premium is derived is entered into for the purpose of a business carried on by the insured person in New Zealand through a fixed establishment in New Zealand.