



Public Information Bulletin

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PROTOCOL TO THE 1981
DOUBLE TAXATION CONVENTION
WITH THE KINGDOM OF DENMARK

NEW ZEALAND/KINGDOM OF DENMARK PROTOCOL:
ADDITION TO THE DOUBLE TAXATION RELIEF (DENMARK) ORDER 1981

A protocol to the 1981 New Zealand/Kingdom of Denmark Double Taxation Convention was signed in Copenhagen on 12 March 1985.

The purpose of the protocol is to include a non-discrimination article to prevent discrimination on the grounds of nationality.

Paragraph (1) establishes the principle that for taxation purposes discrimination on the grounds of nationality is forbidden. The paragraph prevents a State from imposing any more burdensome taxation or connected requirement on nationals of the other State than it imposes on its own nationals **in the same circumstances.**

Paragraph (2) is the definition of the term "national" for the purposes of the Article.

Paragraph (3) requires non-residents trading through a permanent establishment to be taxed no less favourably than a resident who carries on the same activities.

Paragraph (4) is designed to end a particular form of discrimination resulting from the fact that in certain countries the deduction of interest, royalties and other disbursements, allowed without restriction when the recipient is resident, is restricted or even prohibited when he is a non-resident.

Paragraph (5) prevents discrimination against enterprises which are wholly or partly owned by residents of the other state, e.g., a New Zealand subsidiary of a Danish company. This has no practical effect in New Zealand – we do not discriminate against such enterprises.

Paragraph (6) provides that this Article shall not apply to any provision in taxation laws which:

- (a) is reasonably designed to prevent or defeat the avoidance or evasion of taxes; or
- (b) is in force in Denmark and New Zealand at present and any subsequent laws which have substantially similar purpose or intent.

Provided that New Zealand/Denmark does not give greater benefits to residents or citizens of third countries than to residents or citizens of Denmark/New Zealand.

Paragraph (7) ensures that New Zealand may continue to distinguish in its taxation laws between residents and non-residents, e.g., grant to New Zealand residents rebates and special exemptions which do not extend to non-residents, or impose non-resident withholding tax on dividends paid by a New Zealand company to a Danish company.

Paragraph (8) restricts the scope of the Article to those taxes covered by the Convention.

The protocol entered into force on 22 July 1985 and will have effect in New Zealand for any income year beginning on or after 1 April 1986 and in the case of Denmark from 1 January 1986.

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