

No. 49586

**New Zealand
and
Cook Islands**

Agreement between the Government of New Zealand and the Government of the Cook Islands on the allocation of taxing rights with respect to certain income of individuals and to establish a mutual agreement procedure in respect of transfer pricing adjustments. Rarotonga, 9 July 2009

Entry into force: *13 December 2011 by notification, in accordance with article 10*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *New Zealand, 1 May 2012*

**Nouvelle-Zélande
et
Îles Cook**

Accord entre le Gouvernement de la Nouvelle-Zélande et le Gouvernement des Îles Cook sur la répartition des droits d'imposition à l'égard de certains revenus des personnes physiques et l'établissement d'une procédure amiable en matière d'ajustement des prix de transfert. Rarotonga, 9 juillet 2009

Entrée en vigueur : *13 décembre 2011 par notification, conformément à l'article 10*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Nouvelle-Zélande, 1^{er} mai 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Agreement
between
the Government of New Zealand
and
the Government of the Cook Islands
on
the Allocation of Taxing Rights with Respect to Certain Income of
Individuals and to Establish a Mutual Agreement Procedure in
Respect of Transfer Pricing Adjustments**

The Government of New Zealand and the Government of the Cook Islands
("the Contracting Parties"),

Having regard to the principles underpinning the special relationship of
partnership and free association between the Contracting Parties,

Recognising that the Contracting Parties have concluded an Agreement
on the Exchange of Information with Respect to Taxes, and

Desiring to conclude an Agreement for the allocation of taxing rights with
respect to certain income of individuals and to establish a mutual
agreement procedure in respect of transfer pricing adjustments,

Have agreed as follows:

Article 1

Persons Covered

This Agreement shall apply to persons who are residents of one or
both of the Contracting Parties.

Article 2

Taxes Covered

- 1 The existing taxes to which this Agreement shall apply are:
 - (a) in the Cook Islands, the income tax;
(hereinafter referred to as "Cook Islands tax").
 - (b) in New Zealand, the income tax;
(hereinafter referred to as "New Zealand tax").

2 This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other within a reasonable period of time of any substantial changes to the taxation laws covered by this Agreement.

3 This Agreement shall not apply to taxes imposed by municipalities, local authorities or possessions of a Contracting Party.

Article 3

Definitions

1 For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term "the Cook Islands" means the territory of the Cook Islands;
- (b) the term "New Zealand" means the territory of New Zealand but does not include Tokelau; it also includes any area beyond the territorial sea designated under New Zealand legislation and in accordance with international law as an area in which New Zealand may exercise sovereign rights with respect to natural resources;
- (c) the term "competent authority" means, in the case of the Cook Islands, the Collector of Inland Revenue or an authorised representative of the Collector and, in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commissioner;
- (d) the term "Contracting Party" means the Cook Islands or New Zealand, as the context requires;

- (e) the term "person" includes an individual, a company and any other body of persons;
- (f) the term "tax" means Cook Islands tax or New Zealand tax, as the context requires; and
- (g) the term "transfer pricing adjustment" means an adjustment made by the competent authority of a Contracting Party to the profits of an enterprise as a result of applying the domestic law concerning taxes referred to in Article 2 of that Contracting Party regarding transfer pricing.

2 As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting Party, for the purposes of the taxes to which this Agreement applies, with any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4

Resident

1 For the purposes of this Agreement, the term "resident of a Contracting Party" means:

- (a) in the case of the Cook Islands, a person who is a resident of the Cook Islands for the purposes of Cook Islands tax; and
- (b) in the case of New Zealand, a person who is a resident of New Zealand for the purposes of New Zealand tax.

2 A person is not a resident of a Contracting Party for the purposes of this Agreement if the person is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party.