



**MINISTRY OF FINANCE AND ECONOMIC MANAGEMENT MEDIA RELEASE
GOVERNMENT OF THE COOK ISLANDS**

REVENUE MANAGEMENT DIVISION

**Changes to the criteria for determining whether or not a company is
resident in the Cook Islands for tax purposes**

New criteria introduced for determining Company Residence (December 2021)

The purpose of this update from Revenue Management is to notify tax service providers and companies of a change to the criteria that determine whether or not a company is resident in the Cook Islands for tax purposes. Regardless of whether a company is resident or not in the Cook Islands it is subject to tax on income sourced in the Cook Islands, in contrast, a company that is resident in the Cook Islands may also be taxed on its worldwide income. Note that for non-resident companies the tax rate is 28% and for resident companies the tax rate is 20%.

An essential element of the change in criteria means that being incorporated in the Cook Islands does not now necessarily make a company resident in the Cook Islands. The residence status of existing companies in the main should remain unchanged, however, companies need to be aware of the new criteria to ensure their own circumstances do not lead to any unexpected consequences.

Companies are encouraged to seek advice from a tax adviser or their service provider on how the information contained in this notice applies to their circumstances for tax purposes.

Company Residence test amendment Act

The Income Tax (Company Residence) Amendment Act 2021 amends section 82 of the *Income Tax Act 1997* which specifies how the place of residence of a company is determined (Company Residence test).

1. The existing Company Residence test has two criteria that make a company resident in the Cook Islands; either:
 - The company is incorporated in the Cook Islands; or
 - The company has its head office (that is the centre of its administrative management) located in the Cook Islands.

2. The new Company Residence test has three criteria that make a company resident in the Cook Islands; either:
 - The company is incorporated in the Cook Islands; and at any moment in the income year, 3 or more of the company directors are resident in the Cook Islands; or
 - The place of effective management of the company is in the Cook Islands; or
 - The directors exercise control of the company from within the Cook Islands.

Timing of the new Company Residence test - 1 January 2023

3. The new Company Residence test is timed to apply to all companies from 1 January 2023. Up to that time the current Company Residence test will apply unless a company chooses the earlier date of 1 January 2022 for the new Company Residence test to apply.
4. If a company wishes to have the new Company Residence test apply from the earlier date of 1 January 2022 (i.e. instead of the default date of 1 January 2023) then the company must notify Revenue Management of its choice (known as making an election) before 1 May 2022 using the prescribed notification and election procedures.

Notification and election to request the new Company Residence test - 1 January 2022

5. For companies that are currently registered with Revenue Management and have a tax identification number (RMD Number) the notification and election procedures can be summarized as follows:
 - The notification and election to have the new Company Residence test apply from 1 January 2022 must be received by Revenue Management before the end of 1 May 2022.
 - Download the notification form “Company Residence notification” from the Revenue Management web site using the link <http://www.mfem.gov.ck/rmd-tax/rmd-forms-guides/rmd-tax-return-and-registration#company>
 - Complete the notification form and email the form to tax.info@cookislands.gov.ck
 - Revenue Management will verify the form and process your tax records and send confirmation of the company residence status recorded with us.
6. For companies that have yet to register with Revenue Management and apply for a tax identification number (RMD Number) the notification and election procedures can be summarized as follows:
 - Download the notification form “Company Residence notification” from the Revenue Management web site using the link <http://www.mfem.gov.ck/rmd-tax/rmd-forms-guides/rmd-tax-return-and-registration#company>
 - Complete the notification form and attach it to your Business Application for RMD Number form
 - On the Business Application for RMD Number at Question 4. “Are you a Cook Islands Resident for tax purposes” tick the appropriate Yes/No option
 - Complete and submit your Business Application for RMD Number in the usual manner
 - Revenue Management will verify and confirm your Business Application for RMD Number in the usual manner and include your Company Residence status election.

Registration and application for a Cook Islands tax number (RMD Number)

7. Companies are required to make an application for a RMD number within 28 days of incorporation. For existing unregistered international companies with no RMD Number and given their tax exemptions are being removed on 31 December 2021, this means making an application for a RMD number before or soon after 1 January 2022.

8. Applying for a RMD number is made by completing and filing a Business Application RM2 form, along with relevant evidentiary documents, with Revenue Management. This form can be downloaded from the Revenue Management website at <http://www.mfem.gov.ck/rmd-tax> and by selecting 'Forms and Guides', 'Tax Return and Registration', 'Registrations', and then by selecting 'Business Application for RMD Number... – RM2'.
9. The completed RM2 and any enquires should be sent to tax.info@cookislands.gov.ck.

Enquiries and further materials

10. Enquiries for assistance, concerns or further information on understanding and fulfilling tax obligations may be emailed to tax.info@cookislands.gov.ck.
11. Tax guides and the ***Income Tax (Company Residence) Amendment Act 2021*** may be found on the Ministry of Finance and Economic Management website at www.mfem.gov.ck/rmd-tax .

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