

# New Zealand Foreign Trust Disclosure Regime

May 2017

## Why Is The New Zealand Government Introducing The Foreign Trust Disclosure Regime?

The New Zealand government wishes to improve its oversight of the New Zealand trust industry, in order to protect the interests of the settlors and beneficiaries of trusts legitimately operating in New Zealand.

## Does This Affect Me?

Yes, all New Zealand foreign trusts with New Zealand trustees are subject to the regime.

## When Is It Effective?

All New Zealand foreign trusts existing on 21 February 2017 must be registered by 30 June 2017. All trusts established after this date have 30 days from establishment to register. (The legislation states that the implementation date is 1 April 2017 but, after enactment, the Inland Revenue Department ("IRD") released a policy document drawing all New Zealand foreign trusts existing on 21 February 2017 under the regime.)

## What Has Changed?

Currently we register the Trust's name and details of the qualifying resident foreign trustee with the IRD. From 1 April 2017 more detailed information will be required.

## What Information Is Now Required At Registration?

- Copy of the Trust Deed and any documents which amend the arrangements of the Trust Deed (including any later appointments of Protectors or Beneficiaries)
- Name, residential address, country of tax residence, email address & taxpayer identification number of all Settlers, Trustees and Protectors and name, country of tax residence & taxpayer identification number of certain types of Beneficiaries
- Details of all previous settlements received by the Trustee from the Settlor including name, residential address, country of tax residence, email address, taxpayer identification, amount of settlement and date received by Trustee

## What Information Is Now Required Annually?

- Confirmation of the details already registered and updated documentation to support any changes
- Financial statements for the Trust for the year
- Settlements received by the Trustee from the Settlor including name, residential address, country of tax residence, email address, taxpayer identification, amount of settlement and date received by Trustee

- Distributions made by the Trustee to any Beneficiary including (at this time) name, residential address, country of tax residence, email address, taxpayer identification, amount and date of the distribution

#### What Is The Cost?

- Registration is USD 270 which is payable by TTNZ to the IRD when the Trust is registered in 2017 (this will be billed in arrears in next year's annual invoice)
- Each year following registration there will be an annual return filing fee of USD 50 which will be billed in advance in that year's annual invoice
- The new rules create a significant additional reporting obligation for the Trustee and this will involve a fee increase for New Zealand foreign trusts (this will be billed in our annual invoice, in arrears for 2017 and thereafter in advance)
- The Trust will need to make arrangements to prepare acceptable financial statements and there will be associated costs with that

#### Do I Need To Do Anything?

The Trustee will provide you with a summary of the information currently on file and request it be confirmed as correct or, as necessary, updated.

#### How Long Will The Information Be Retained?

For the lifetime of the New Zealand foreign trust and for 7 years thereafter.

#### Will This Information Be Shared With My Revenue Authorities?

The registration process is for the New Zealand government's own purposes. This information is entirely confidential and protected by New Zealand's very strong privacy laws. However, if the IRD is approached by the authorities of a jurisdiction with whom New Zealand has an information sharing arrangement with a specific request about an individual or structure they will release information from this source.

#### Is This Part Of FATCA Or CRS?

No, it is important to understand that FTDR runs alongside but entirely separately from CRS or FATCA. The information collected by the IRD for the purpose of registering and monitoring the trusts cannot be used to supplement any information disclosed by TTNZ for the purposes of CRS or FATCA.

#### Are There Any Tax Implications To Registering The Trust?

No. The fact that the IRD are collecting and storing this information is not relevant to the tax exempt status of New Zealand foreign trusts. It should be noted, however, if we are not in a position to file an annual return on time the tax exempt status of the trust will be revoked and it will be subject, in New Zealand, to tax on its worldwide income.

#### Is This Part Of A Longer Term Strategy To Change The Availability Or Utility Of New Zealand Foreign Trusts?

It is not currently clear what the long term intention of the New Zealand government is with regard to New Zealand foreign trusts. It is clearly committed to increasing the transparency of these structures but this is not out of line with other jurisdictions; however, the New Zealand regime does seem to go further than other jurisdictions which have implemented, or are contemplating implementing, similar rules.

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