



NZ TRUST: Important changes

On April 2017 new amendments are contained in the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act that require existing trusts to apply for registration by 30 June 2017.

New section 59B replaces the previous section 59B which covered the disclosure of information for foreign trusts.

A foreign trust that is not registered on time will lose its exemption tax status.

Copy of the trust Deed will be submitted for the registration.

Information relating to settlers, beneficiaries and trustees, as well as other persons with certain powers will be communicated (for the Discretionary Trusts also each beneficiary and each class of beneficiary will be communicated and such details should sufficient for the Commissioner to determine when a distribution is made, whether a person is a beneficiary).

As part of the application process for registering a foreign trust, section 59B(4)(c) requires the trustee to provide a signed declaration that each person referred to in section 59B(3)(c)(i)–(vii) has been informed of, and has agreed, to provide information necessary for compliance with the requirements relating to the provision of information regarding the trust and persons connected with the trust.

Foreign trust must prepare financial statements and the annual return in order to meet their obligations under the foreign trust disclosure requirements.

So, an exception to the secrecy provisions will allow the information contained in the foreign trust register to be shared with the Department of Internal Affairs and New Zealand Police.

The Finance and Expenditure committee also recommended that Inland Revenue should be able to share information with the Overseas Investment Office. This will take the form of an Approved Information Sharing Agreement between Inland Revenue and the Overseas Investment Office.

Inland Revenue is also able to share information internationally with its tax treaty partners under exchange of information arrangements (double tax agreements, tax information exchange agreements, and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters). Inland Revenue can provide information in relation to foreign trusts to other tax authorities under exchange of information agreements if relevant parties (for example, settlers and beneficiaries) are resident in those jurisdictions.

We highly recommend to verify with your professionals the above changes soon!

PLEASE FEEL FREE TO CONTACT US WITH ANY QUESTIONS OR QUERIES.

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