

TRUST DISCLOSURES

Presentation to
Estate & Tax Planning Council NZ
6 July 2022

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The New Trust Disclosure Regime - 31 March 2022

- Financial Statements required to be prepared for all reporting trusts
- Trust Disclosures required with details on
 - Settlor and Settlements
 - Beneficiaries and Distributions
 - Appointors
- Name, DOB, tax residence, and IRD Number or Tax Identification Number
- For Appointors - date of appointment and date of cessation of appointment if applicable
- Note IR can request additional information going back to the end of the 2013-2014 income year.



Why the Need?

The purpose of the trust information gathering powers is to collect further information from Trustees to:

- i. Gain insight into whether the top personal tax rate of 39% is effective; and
- ii. To provide better information to understand and monitor the use of structures and entities by trustees.

The commissioner may use the information collected for compliance and audit purposes.

IR Operational Statement OS 22/02 Reporting Requirements for Domestic Trusts issued 6 April 2022

Financial Statements - from 2021/22

Financial Statements	Description	Standard	Simplified
Profit & Loss Account	Accrual accounting or cash basis	Accrual	Cash basis
Balance Sheet	Choice of market value, cost or tax book value per asset	Y	Y
Taxable Income	Reconciliation profit to taxable income - permanent and timing differences - tax free capital gains etc	Y	N
Accounting Policies	Statement of policies and notes	Y	N
Comparable figures	Prior year including 2020/21	Y	N
Schedule of Fixed Assets	Tax fixed asset register	Y	N
Associated Person transaction	Name, the association, the transaction and the \$\$	Y	N
Forestry/ Livestock	Relevant methods and calculations	Y	N
Owners Equity	Corpus, settlements less distributions and current accounts	Y	Y

Trust Disclosures - Settlers (IR6S)

For every settlor of the Trust the trustee will be required to disclose (if previously have not been disclosed):

- Full name of the Settlor
- Date of birth / commencement date of the Settlor
- Jurisdiction of tax residence of the Settlor
- IRD number or Tax Identification number (TIN) of the Settlor

Settlor details	
Settlor's full name	Settlor's date of birth or commencement date
<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
	Day Month Year
Settlor's jurisdiction of tax residency	
<input type="text"/>	
<input type="checkbox"/> 1 ▶ Jurisdiction does not issue tax identification numbers (TINs)	Settlor's IRD number
<input type="checkbox"/> TIN not required in Jurisdiction	<input type="text"/>
	Settlor's TIN
	<input type="text"/>

Trust Disclosures - Settlements (IR6S)

Settlement events:

- Cash (\$Advance)
- Shares/ownership interests (market value)
- Financial arrangements (market value)
- Land (market value)
- Buildings (market value)
- Services
- Other

Settlements	
4 ▶ <input checked="" type="checkbox"/> If no settlement has been made by this settlor in this income year tick the box	
Cash	
5 ▶ \$	_____ , _____ . _____
Shares / Ownership interests	
6 ▶ \$	_____ , _____ . _____
Financial arrangements	
7 ▶ \$	_____ , _____ . _____
Services	
8 ▶ \$	_____ , _____ . _____
Land	
9 ▶ \$	_____ , _____ . _____
Buildings	
10 ▶ \$	_____ , _____ . _____
Other	
11 ▶ \$	_____ , _____ . _____
Description of 'other'	
12 ▶	_____
13 ▶ <input type="checkbox"/> If there has been a settlement by this settlor but it has been valued at zero tick the box	



Trust Disclosures - Settlements (IR6S)

- If the ‘transfer of value’ where the trust corpus doesn’t increase and it can’t later be distributed, there are no entries to the financial statements, then they can be disclosed at nil value.
- Beneficiary who is owed an amount by the trust greater than \$25K and charged at nil interest (disclose but nil value)
- provision of services by settlor to the trust (disclose but nil value)
- provision of an interest free loan to a trust (disclose but nil value)
- Nominee settlors
- Non-active but becomes active then disclose in next return

Trust Disclosures - Distributions & Beneficiary Information (IR6B)

Beneficiary details:

- Name
- Date of birth/commencement date of the beneficiary
- Tax jurisdiction
- IRD number/taxpayer identification number (non NZ taxpayers)

Estate or trust name		IRD number	
		(8 digit numbers start in the second box. 1 2 3 4 5 6 7 8)	
Beneficiary's full name		Beneficiary's date of birth or commencement date	
Beneficiary's full address		Day	Month
Street address or PO Box number		Year	
Suburb, box lobby or RD		Town or city	
Beneficiary's jurisdiction of tax residency		Beneficiary's IRD number	
<input type="checkbox"/> Jurisdiction does not issue tax identification numbers (TINs)		Beneficiary's TIN	
<input type="checkbox"/> TIN not required in Jurisdiction			

Trust Disclosures - Distributions & Beneficiary Information (IR6B)

Beneficiary Income Information:

Beneficiary income:

Interest
27D ▶ \$, , , .

Dividends
27E ▶ \$, , , .

Māori authority distributions
27F ▶ \$, , , .

Overseas income
27G ▶ \$, , , .

Other income
27H ▶ \$, , , .

Taxable income (sum of Boxes 27D to 27H)
27I ▶ \$, , , .

Estate or trust paying tax on beneficiary's income
27J ▶ No Yes (if no, only complete boxes 27K, 27M, 27O, 27Q, 27U, 27V, 27W, 27X, 27Y, 27Z, 27AA, 27AB & 27AC)

Taxable distribution by non-complying trust
27K ▶ \$, , , .

Tax on taxable income
27L ▶ \$, , , .

Overseas tax paid
27M ▶ \$, , , .

Subtract Box 27M from 27L. Print your answer in Box 27N
27N ▶ \$, , , .

Imputation credits
27O ▶ \$, , , .

Subtract Box 27O from Box 27N. Print your answer in Box 27P.
 If 27O is greater than 27N print 0.00 in Box 27P
27P ▶ \$, , , .

RWT and other tax credits (exclude any amounts shown in box 27M and 27O)
27Q ▶ \$, , , .

Subtract Box 27Q from Box 27P. Print your answer in Box 27R - if the result is negative, put a minus in the last box
27R ▶ \$, , , .

Calculate tax on Box 27K at 45 cents in the dollar
27S ▶ \$, , , .

Total tax payable on beneficiary's income. Add Boxes 27R and 27S. If the result is negative, put a minus sign in the last box
27T ▶ \$, , , .

Beneficiary Current Account Movements

Beneficiary account movements	
Opening balance	
If the amount is negative, put a minus sign in the last box	
27U ▶	\$
Accounting income and other distributions	
27V ▶	\$
Corpus	
27W ▶	\$
Capital	
27X ▶	\$
Use of trust property for less than market value	
27Y ▶	\$
Distribution of trust assets	
27Z ▶	\$
Forgiveness of debt	
27AA ▶	\$
Amounts withdrawn from the trust during the year	
If the amount is negative, put a minus in the last box (Negative amount indicates repayments made to previous withdrawals – this is to be added to the closing balance)	
27AB ▶	\$
Closing balance. Add boxes 27U, 27V, 27W, 27X, 27Y, 27Z, 27AA and then subtract 27AB if amounts were withdrawn. Print your answer in box 27AC. If the result is negative, put a minus sign in the last box	
27AC	\$

Box 27U:

- debit opening balance, enter as a negative figure

Box 27V - 27AA:

- enter positive figures.

Box 27AB:

- if it is drawings, put a positive figure;
- if it is funds introduced, put a negative figure.

Box 27AC = Box 27U + (Box 27V to Box 27AA) - Box 27AB

Beneficiary Current Account Exceeds \$25,000 Example

The Bronwen Trust makes a \$50,000 distribution to Bronwen during the 2021/2022 year. The amount is credited to her beneficiary current account but has not been withdrawn from the trust.

- i. Disclosure: Distribution nature and amount, and details of beneficiary.
- ii. Recognition: Movements in trust capital and beneficiary account.

Dr Trust Capital - Distribution

Cr Beneficiary account

As Bronwen is owed more than \$25,000 the trustee will also need to disclose this as a settlement as follows:

- ii. Disclosure: settlement nature & amount and details of settlor including name, date of birth, jurisdiction of tax residency and IRD number.
- iii. No transaction will need to be recognised against the trust corpus in the financial statements of the trust.



Non-cash distributions & Beneficiary Information (IR6B)

Example: beneficiary uses trust property for less than market value

Trust: John Smith Trust, Beneficiary: Julie Smith, who uses the property owned by the trust at no cost. An equivalent property is rented to a third party: \$600/week (or \$31,200/year).

Disclosure:

- the trustees can choose to use the market rent value as the amount of the beneficiary distribution; or
- they can value the distribution at nil as there has been no reduction in the net assets of the trust.



Distributions

- Distributions, other than of money, that are minor and incidental to the activities of the trust do not need to be disclosed.
- The disclosure of distributions and details will be captured in the IR 6B, which will also capture all movements in the beneficiary current account.
- The amount of non-cash distribution will be determined with reference to the tax value, historical cost or market value of the asset being determined in accordance with the minimum standards for the financial statements required by the OIC.
- For non-cash distributions, a transfer of value (and therefore distribution) has occurred. However, if there is no reduction in the net assets of the trust the trustee can choose to value the distribution as nil.
- Disclosure is required for distributions made from the 2022 tax year onwards.
- Minor Beneficiary exclusions - different treatment if more than \$1000.
- Amounts paid and applied in the following income year but recognised as beneficial income in the prior year is disclosed in different years.



Conclusions

Closing Practical Thoughts

- Impact will vary from trust to trust.
- Operational Statement is a helpful start.
- Increased visibility for Inland Revenue on the connectedness of trusts.
- Non-cash settlements and Non-cash distributions may not be evident from the preparation of financial statements.
- Question the benefit of having to disclose use of property even if at nil.
- What are the penalties for inadvertent non-disclosure.
- The information gathered will no doubt end up shaping future policy.

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Iain has been advising on NZ tax matters for over 30 years.

He is a specialist tax partner with BDO Auckland and advises a wide and varied client base in the mid-market on all aspects of tax.

He has a particular interest in international aspects of tax and other more interesting pursuits!



Thank You

