



Tax Administration (Financial Statements—Foreign Trusts) Order 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 21st day of August 2017

Present:

Her Excellency the Governor-General in Council

This order is made under section 21C of the Tax Administration Act 1994 on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Revenue after consultation in accordance with section 21C(2) of that Act.

Contents

		Page
1	Title	1
2	Commencement	1
3	Interpretation	2
4	Minimum requirements for preparing financial statements	2
5	Minimum requirements apply to resident foreign trustees	3

Order

1 Title

This order is the Tax Administration (Financial Statements—Foreign Trusts) Order 2017.

2 Commencement

This order comes into force on 2 October 2017.

3 Interpretation

- (1) In this order, unless the context otherwise requires,—

Act means the Tax Administration Act 1994

financial statements includes any notes giving information relating to those statements

foreign trust means a trust for which a resident foreign trustee must provide a return to the Commissioner under section 59D of the Act

return year, in relation to a foreign trust, means every year for which a resident foreign trustee must provide a return to the Commissioner under section 59D of the Act for the trust.

- (2) The following terms or expressions have the meaning given to them by accounting principles:
- (a) accrual accounting:
 - (b) assets:
 - (c) double-entry:
 - (d) expenditure:
 - (e) historical cost:
 - (f) income:
 - (g) liabilities:
 - (h) net assets.

4 Minimum requirements for preparing financial statements

The minimum requirements for the preparation of financial statements for foreign trusts for a return year for the purpose of section 21B of the Act are as follows:

Form of financial statements

- (a) the financial statements must consist of—
- (i) a balance sheet setting out the assets, liabilities, and net assets of the trust as at the end of the return year; and
 - (ii) a profit and loss statement showing income derived, and expenditure incurred, by the trust during the return year; and

Principles with which statements must comply

- (b) the financial statements must be prepared applying the principles of accrual accounting; and

Valuations

- (c) the financial statements may, however, disclose amounts using the following valuation principles:

- (i) tax values, when those values are consistent with double-entry and accrual accounting; and
- (ii) historical cost with impairment or depreciation as appropriate; and
- (iii) market values, when, in the preparer's opinion, market values provide a better basis of valuation than those in subparagraphs (i) and (ii); and

Statement of accounting policies

- (d) the financial statements must contain a statement of accounting policies setting out, in sufficient detail so that a user can understand the material policies that have been applied or changed,—
 - (i) the policies and assumptions that have been used in the preparation of the financial statements; and
 - (ii) a description of the effect of any material changes in the accounting policies used since the previous year for which financial statements were prepared; and

Matters that statements must show

- (e) the financial statements must—
 - (i) disclose comparable figures for the previous return year (if financial statements were prepared for that previous year); and
 - (ii) include a statement of the foreign trust's New Zealand taxable income (if any) in New Zealand dollars for the return year; and
 - (iii) include a reconciliation of movements, on a line by line basis, from opening to closing balance, of—
 - (A) all settlor and beneficiary accounts, including loans; and
 - (B) net assets; and

Currency

- (f) the financial statements may be prepared in any currency that is appropriate, having regard to the circumstances of the trust and its settlors and beneficiaries.

5 Minimum requirements apply to resident foreign trustees

Resident foreign trustees who must provide a return to the Commissioner under section 59D of the Act for the trust and for the return year are a class of taxpayers to whom the minimum requirements in clause 4 apply.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order comes into force on 2 October 2017 and applies when a resident foreign trustee is required by section 59D of the Tax Administration Act 1994 to provide a return to the Commissioner of Inland Revenue for the foreign trust.

This order prescribes, for the purpose of section 21B of that Act,—

- minimum requirements for preparing financial statements. These requirements are similar to those already applying to certain companies under the Tax Administration (Financial Statements) Order 2014:
- resident foreign trustees as a class of taxpayers to whom these minimum requirements apply.

Regulatory impact statement

The Inland Revenue Department produced a regulatory impact statement on 5 July 2016 to help inform the decisions taken by the Government relating to the response to the Government Inquiry into Foreign Trust Disclosure Rules. This order facilitates 1 of those decisions.

A copy of this regulatory impact statement can be found at—

- <http://taxpolicy.ird.govt.nz/sites/default/files/2016-ris-bteirm-bill-1.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-ird-atd-aug16.pdf>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 24 August 2017.

This order is administered by the Inland Revenue Department.