



Tax Administration (Financial Statements—Domestic Trusts) Order 2022

Cindy Kiro, Governor-General

Order in Council

At Wellington this 7th day of March 2022

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.

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Order

1 Title

This order is the Tax Administration (Financial Statements—Domestic Trusts) Order 2022.

2 Commencement

This order comes into force on 31 March 2022.

3 Interpretation

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

Act means the Tax Administration Act 1994

cost of timber has the meaning given to it by section YA 1 of the Income Tax Act 2007

financial statements includes any notes giving information relating to those statements

income year has the meaning given to it by section YA 1 of the Income Tax Act 2007

minimum requirements means the minimum requirements for the preparation of financial statements prescribed in this order

ownership interest has the meaning given to it by section YA 1 of the Income Tax Act 2007

share has the meaning given to it by section YA 1 of the Income Tax Act 2007

simplified reporting trust has the meaning set out in clause 6(2).

(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 Application

This order applies to a trustee of a trust who is required to file a return that complies with section 59BA(2) of the Act in respect of income years that end on or after 31 March 2022.

5 Minimum requirements for preparing financial statements

- (1) The minimum requirements for the preparation of financial statements of the trustee of the trust 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 statement of financial position setting out the assets, liabilities, and net assets of the trust as at the end of the income year (or as at the end of a period permitted under subclause (2)); and
 - (ii) a statement of profit or loss showing income derived, and expenditure incurred, by the trustee during the income year (or during a period permitted under subclause (2)); and

Principles with which statements must comply

- (b) the financial statements must be prepared applying the following accounting principles:
- (i) the double-entry method of recording of financial transactions; and
 - (ii) the principles of accrual accounting; and

Valuations

- (c) the financial statements must disclose amounts of assets and liabilities using 1 or more of the following valuation principles:
- (i) historical cost with impairment or depreciation as appropriate;
 - (ii) tax value, but only in relation to assets that produce assessable income (including income derived on the sale of the asset);
 - (iii) market value (which may include, as a proxy for the market value, the most recent rating valuation under the Rating Valuations Act 1998); and
- (d) the financial statements must disclose the type of valuation principle adopted (whether historical cost, tax value, or market value) for each of the following:
- (i) shares or ownership interests;
 - (ii) land;
 - (iii) buildings; and

Trustee may choose whether to gross up interest or dividends

- (e) when showing interest and dividends received in the financial statements, the trustee may choose whether or not to show those amounts as grossed up for resident withholding tax; and

- (f) when showing dividends received in the financial statements, the trustee may choose whether or not to show that amount as grossed up for imputation credits; and
Statement of accounting policies
 - (g) 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 financial statements prepared for the previous income year (or for the previous period permitted under subclause (2)); and
Matters that statements must show
 - (h) the financial statements must show the matters prescribed in the Schedule; and
 - (i) the financial statements must disclose comparable figures for the previous income year (or for the previous period permitted under subclause (2)), but only to the extent that the trustee has that information.
- (2) Instead of preparing the financial statements on the basis of an income year, the trustee may elect to prepare the financial statements based on an accounting period that the trustee uses for accounting purposes if—
- (a) the accounting period ends in the period starting on 1 October in the tax year in respect of which the trustee of the trust is required to file a return under section 59BA of the Act and ending on 30 September immediately after that tax year; and
 - (b) the trustee of the trust does not, during the tax year referred to in paragraph (a), derive income associated with a business activity.
- (3) *See also* section 45 of the Trusts Act 2019, which requires the trustee to keep certain core documents (including records that identify assets, liabilities, income, and expenses of the trust).

6 Certain requirements do not apply to simplified reporting trust

- (1) Despite clause 5, the following requirements do not apply in relation to a simplified reporting trust:
- (a) clause 5(1)(b)(ii) (the requirement to apply the principles of accrual accounting):
 - (b) clause 5(1)(g) (the requirement to include a statement of accounting policies):
 - (c) clause 5(1)(i) (the requirement to disclose comparable figures):

- (d) clause 1(a) of the Schedule (the requirement to disclose a reconciliation):
 - (e) clause 1(b) of the Schedule (the requirement to include a schedule of fixed assets and depreciable property):
 - (f) clause 1(c) and (d) of the Schedule (the requirement to include information for particular types of business):
 - (g) clause 2 of the Schedule (the requirement to include information about associated person transactions).
- (2) A trust is a **simplified reporting trust** in relation to an income year if—
- (a) the assessable income derived during the income year by the trustee of the trust is less than \$100,000; and
 - (b) the deductible expenditure or loss incurred during the income year by the trustee of the trust is less than \$100,000; and
 - (c) the amount of total assets of the trust as at the end of the income year (or as at the end of a period permitted under clause 5(2) in relation to that income year) is less than \$5 million.
- (3) For the purposes of subclause (2)(c), the amount of total assets must—
- (a) include all assets whether or not the assets are revenue account property (as defined in section YA 1 of the Income Tax Act 2007); and
 - (b) in relation to each asset referred to in clause 5(1)(d)(i) to (iii), be calculated using the same valuation principle that is disclosed for the asset under that paragraph; and
 - (c) be consistent with the amounts disclosed in the financial statements.
- (4) In this clause,—
- assessable income—**
- (a) has the same meaning as in section BD 1 of the Income Tax Act 2007 (and includes both beneficiary income and trustee income referred to in section HC 5 of that Act); but
 - (b) does not include an amount of income derived under section CB 6A of the Income Tax Act 2007
- deductible expenditure or loss—**
- (a) means a deduction for an amount of expenditure or loss that is allowed under Part D of the Income Tax Act 2007; but
 - (b) does not include a deduction for expenditure allowed under section DB 23 of the Income Tax Act 2007.

Schedule

Matters that financial statements must show

cl 5(1)(h)

1 Matters that trustee must show in financial statements

The matters that a trustee must show in the financial statements are as follows:

Reconciliations

- (a) a reconciliation of the profit or loss in the statement of profit or loss with the trustee's taxable income for the income year; and
- (b) an appropriately detailed, taxation-based, schedule of the trust's fixed assets and depreciable property; and

Trusts with particular types of business

- (c) if the trustee derives income from forestry, information about the cost of timber as at the end of the income year (or the end of the period permitted under clause 5(2)) and a reconciliation of movements in the cost of timber during the income year (or during that period); and
- (d) if the trust property includes specified livestock, details of livestock valuation methods, valuations, and calculations for tax purposes; and

Items from prescribed forms

- (e) all relevant amounts that any form prescribed by the Commissioner under section 35 of the Act requires to be copied from the trustee's financial statements.

Examples

The following forms require certain amounts to be copied from the trustee's financial statements:

- the IR10 form entitled *Financial statements summary*;
 - the IR6 form entitled *Income tax return estate or trust*;
 - the IR6B form entitled *Estate or trust beneficiary details*.
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2 Associated person transactions

- (1) A trustee must also show in the financial statements the matters listed in sub-clause (2) for each transaction in connection with the trust that is entered into between the trustee and any associated person of the trustee within the meaning of subpart YB of the Income Tax Act 2007.
- (2) The matters are—
 - (a) the name of the associated person; and
 - (b) the nature of the association with the associated person; and
 - (c) the nature of the transaction, including the amounts involved.
- (3) This clause does not apply to a transaction if—

- (a) it is a minor transaction that is incidental to the activities of the trust; or
- (b) it is at market value; or
- (c) the trustee has already separately disclosed the information required by this clause to the Commissioner in a form prescribed by the Commissioner under section 35 of the Act.

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, which comes into force on 31 March 2022, applies to trustees of trusts that are required to file annual returns that comply with section 59BA(2) of the Tax Administration Act 1994. The order applies to income years that end on or after 31 March 2022.

Section 59BA(2) requires the return to contain a statement of profit or loss and a statement of financial position. This order sets out the minimum requirements for preparing the financial statements. The requirements include matters relating to—

- the form of the financial statements; and
- the principles with which the financial statements must comply; and
- the valuation of assets and liabilities; and
- a statement of accounting policies; and
- matters that the financial statements must show.

The order provides that certain requirements do not apply to simplified reporting trusts (for example, the requirement to apply the principles of accrual accounting). A trust is a simplified reporting trust if—

- the assessable income derived during the income year is less than \$100,000; and
- the deductible expenditure or loss incurred during the income year is less than \$100,000; and
- the amount of total assets of the trust as at the end of the income year (or as at the end of a period permitted under *clause 5(2)*) is less than \$5 million.

The order does not apply in the circumstances set out in section 59BA(3) of the Tax Administration Act 1994. For example, it does not apply to non-active trusts that are excluded from the requirement to make a return, foreign trusts, and charitable trusts registered under the Charities Act 2005.

**Tax Administration (Financial Statements—Domestic
Trusts) Order 2022**

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Wellington, New Zealand:

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