NEW LEGISLATION > ORDER IN COUNCIL > SPECIAL REPORT

Taxation Administration (Financial Statements—Domestic Trusts) Order 2022

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This special report provides early information about minimum standards for financial statements prepared by domestic trusts ahead of an upcoming edition of the *Tax Information Bulletin*.

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Overview

Trusts with assessable income have increased disclosure requirements for the 2021–22 and later income years. This includes the requirement to prepare a statement of profit or loss and a statement of financial position.

The Tax Administration (Financial Statements—Domestic Trusts) Order 2022 (the Order) was made on 7 March 2022. This Order sets minimum standards for financial statements prepared by trusts subject to these new disclosure rules.

Application date

The Order applies for income years ending on or after 31 March 2022.

Background

The Taxation (Income Tax Rate and Other Matters) Act 2020 was enacted on 7 December 2020 and introduced a new top personal tax rate of 39% and increased disclosure requirements for trusts for the 2021–22 and later income years. The disclosure rules are contained in section 59BA of the Tax Administration Act 1994 (TAA) and support the Commissioner of Inland Revenue's ability to assess compliance with the new 39% personal income tax rate and assist the Commissioner in understanding and monitoring the use of structures and entities by trustees.

These disclosure rules apply to trustees of trusts that derive assessable income in a tax year. The following are excluded from the requirements:

- non-active trusts
- foreign trusts
- trusts incorporated under the Charitable Trusts Act 1957
- charitable trusts registered under the Charities Act 2005
- trusts eligible to be Māori authorities
- trusts that are widely-held superannuation funds
- trusts that are employee share schemes
- trusts that are debt funding special purpose vehicles
- lines trusts established under the Energy Companies Act 1992

The rules apply for the 2021–22 and later income years and require trustees to prepare a statement of profit or loss and a statement of financial position. Trustees must also disclose the following information in the form prescribed by the Commissioner.

- The amount and nature of settlements received (settlements do not need to be disclosed if they are minor services incidental to the activities of the trust and are provided to the trustee at less than market value).
- Settlor details, including details of previous settlors if not previously supplied to the Commissioner.
- The amount and nature of distributions made (an amendment to exclude distributions that are minor and incidental to the activities of the trust and are other than of money is included in the Taxation (Annual Rates for 2021-22, GST, and Remedial Matters) Bill).
- Details of beneficiaries who received the distributions.
- Appointer details.

Overview of the Tax Administration (Financial Statements—Domestic Trusts) Order 2022

The Order sets minimum standards for financial statements prepared by trusts and applies to all trusts subject to the disclosure rules in section 59BA of the TAA for income years ending on or after 31 March 2022.

General features

For the purposes of the Order, "financial statements" includes any notes and other supporting material forming part of the financial statements.

The standards set out in the Order are "minimum" standards. Financial statements may be prepared to any level above these requirements.

Trusts with non-standard balance dates

Financial statements may be prepared to a non-standard balance date (for example, a balance date that is not 31 March) used for accounting purposes, provided that the trust does not derive business income (which would require approval from the Commissioner of Inland Revenue for non-standard balance date reporting under section 38 of the TAA).

Trusts with early balance dates

The Order applies for income years ending on or after 31 March 2022. This means that for trusts with a balance date before 31 March 2022, the minimum requirements will apply for the 2022–23 and later income years.

For trusts with standard and late balance dates, the minimum requirements apply for the 2021–22 and later income years.

Valuation

Valuation of assets and liabilities can be either at market value, cost or tax adjusted value, at the discretion of the trustee. Tax value may only be used in relation to assets that produce assessable income (including income derived on the sale of the asset).

Core requirements for all trusts

The following minimum standards apply to all trusts subject to the disclosure rules in section 59BA of the TAA:

- The financial statements must consist of a:
  - statement of financial position setting out the assets, liabilities, and net assets of the trust as at the end of the return year, and
  - statement of profit or loss showing income derived, and expenditure incurred, by the trust during the return year.
- Financial statements must be prepared using the double-entry method of recording financial transactions.
- Financial statements must use the prescribed valuation principles (set out above) and disclose the valuation method adopted for land, buildings, and shares/ownership interests. A trustee can choose to adopt a different valuation method for each of these categories.
- If the Commissioner has prescribed under section 35 of the TAA a form that requires amounts to be copied from the trust's financial statements (for example, the IR10 form – *financial statements summary*), the financial statements must contain those relevant amounts.

Simplified reporting trusts

A trust qualifies for simplified reporting requirements for a relevant income year if the trustee reports:

- less than $100,000 assessable income
- less than $100,000 deductible expenditure, and
- total assets in the statement of financial position (including both private and income producing assets) valued at less than $5 million as at balance date.

The assessable income and deductible expenditure thresholds in this test do not include income assessed under section CB 6A of the Income Tax Act 2007 (residential property bright-line rules) or related deductible expenditure.

Assets must be valued using the valuation principles set out above.

Additional requirements for trusts that are not "simplified reporting trusts"

For trusts that do not qualify for simplified reporting for an income year, the financial statements must:

- Be prepared applying the principles of accrual accounting.
- Include a statement of accounting policies.
- Disclose comparable figures for the previous income year to the extent that the trustee has that information.
- Disclose several specific items:
  - A reconciliation between the profit or loss in the statement of profit or loss to taxable income.
  - An appropriately detailed schedule of the trust's fixed assets and depreciable property used for tax purposes.
  - Matters relating to trusts with forestry and livestock businesses:
    - information about the cost of timber as at the end of the income year and a reconciliation of movements in the cost of timber during the income year, and
    - if the trust is a specified livestock owner, details of livestock valuation methods, valuations, and calculations for tax purposes.
  - Details of transactions between the trust and any associated person of the trustee, unless the transaction is minor and incidental to the activities of the trust.

- Transaction details include the names of associated persons, the nature of the association, the nature of the transactions and the amounts involved.
- Disclosure is not required if the transaction is at a market rate.

If associated person disclosures have been made separately in any forms prescribed by the Commissioner of Inland Revenue, this information does not need to be duplicated in the financial statements.

Further information

A webinar on the trust disclosure requirements is available at www.ird.govt.nz/about-us/videos/webinars/2022-changes/trusts

More information about disclosure requirements for trusts will be available in April at www.ird.govt.nz/trusts

About this document

Special reports are published shortly after new legislation is enacted or Orders in Council are made to help affected taxpayers and their advisors understand the consequences of the changes. These are published in advance of an article in the *Tax Information Bulletin*.