



NZ foreign trust inquiry recommendations accepted

Snapshot

The Government's [response](#) to the [independent review of New Zealand's foreign trusts](#) has accepted all of the recommendations to expand disclosure and reporting requirements (with some modifications). (You can read our taxmail on the review [here](#).)

Legislation will be introduced in August to require NZ foreign trusts to comply with enhanced disclosure requirements. Existing NZ foreign trusts will have until 30 June 2017 to comply with the enhanced requirements. Annual returns will need to be provided from the year commencing 1 April 2017. The Government will also establish a register of NZ foreign trusts that is searchable, initially, by the Department of Internal Affairs and the Police.

The review also recommended speeding up the application of Anti-Money Laundering (AML) rules to lawyers and accountants by removing the current reporting exemption via regulation. The Government, while supportive of the objective, has indicated that this can only be achieved via legislation, which it expects to pass in the first half of 2017.

The review's objective assessment of New Zealand's current regime and its deficiencies means it is unsurprising the Government has acted decisively. This will help ensure that New Zealand's reputation as a good global citizen is maintained.

The review's detailed and considered recommendations to enhance the current "light touch" disclosure and reporting requirements for NZ foreign trusts were difficult to ignore

The Government, as expected, has accepted the changes, in some cases adding to the requirements

This decisive response demonstrates the importance of ensuring that New Zealand is (and is seen to be) a good global citizen

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What is the Government proposing for NZ foreign trusts?

The review's detailed recommendations included:

- More detailed disclosure (e.g. about the settlors, beneficiaries, trustees and any persons effectively exercising control) on establishment of a NZ foreign trust.
- Annual returns including financial statements to be provided to Inland Revenue.
- Removing the tax exemption on foreign source income if a NZ foreign trust has not complied with the disclosure obligations.
- A register of foreign trusts, which is searchable by Government agencies.
- A registration and annual fee of \$500 to cover administration costs of the new regime.
- Early extension of AML laws to lawyers and accountants via Government regulation (such that AML due diligence and reporting requirements will apply when they establish/administer NZ foreign trusts).
- Providing more and better guidance on how AML requirements apply to trusts, in particular around verifying beneficial ownership and settlors' sources of wealth or funds.

All recommendations accepted, some with modifications

The Government has accepted all of the review's recommendations, with the following specific modifications:

- The annual return information requirements have been increased to include details of settlements on the trust and the identity and tax details of the settlors. The annual return will need to be filed within 3 months of the trust's balance date.
- The register of NZ foreign trusts will be maintained by Inland Revenue, but search privileges will be restricted, at least initially, to the Department of Internal Affairs and the Police.
- The tax exemption on foreign source income will still be available if non-registration or lack of disclosure was unintentional and is remedied immediately.
- A grace period of 2 years is proposed before a new migrant who is a trustee of a NZ foreign trust (but is not in the business of providing trustee services) needs to register or file returns. (The review did not recommend a grace period.)
- Extension of AML requirements to lawyers and accountants will be via legislation (not Government regulation) due to legal privilege and supervision issues needing to be addressed.
- The registration fee will be \$270 with an annual filing fee of \$50.

Implementing legislation to be introduced later this year

The Government is proposing to introduce draft legislation in August to implement the new tax disclosure and reporting requirements. The suggestion is that the new disclosure rules will apply to new NZ foreign trusts from date of enactment, with a transitional period to 30 June 2017 for existing NZ foreign trusts to comply. The annual return requirement will commence for income years beginning on or after 1 April 2017.

The AML extension to lawyers and accountants (and potentially real estate agents) is expected to be legislated in the first half of 2017. At the same time, changes to regulations and supervisory guidance to address the other AML recommendations could necessitate changes to reporting entities' AML programmes.

Our view

We welcome the Government's quick and decisive response to the review's considered, detailed, and wide-ranging recommendations. This is important to provide certainty to those affected as well as to confirm New Zealand's reputation as a good global citizen.

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