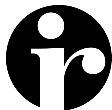

Inland Revenue
Te Tari Taake

IR288
April 2025

Trusts and estates income tax rules

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The information in this guide is based on current tax laws at the time of printing.

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Introduction

This guide explains:

- the basic concepts of a trust or estate
- how a trust's income is divided up for tax purposes
- how each part is taxed.

In this guide, the term "trust" also applies to estates unless specifically stated otherwise. This information does not apply to unit trusts (as these are treated as companies for income tax purposes) or trusts that are superannuation funds (as different rules apply).

A glossary of terms is on page 6.

Trust returns

If a trust, estate or testamentary trust (trust created by a person under their will) receives any income the trustee must complete a return and meet certain reporting obligations.

However, if the income is below set thresholds (see below) and certain criteria is met, it can be excused from filing returns by completing the **Non-active trust declaration - IR633** in myIR.

If it subsequently becomes active again, for example it derives income in a future year, then it must send in a return.

Filing thresholds

Trust and Estates

- Reportable income of $1,000 or less,
- No deductions,
- Not involved in any transactions that give income to an associated person or entity,
- No transactions that give a benefit subject to FBT to a current or former employee.
- Reasonable fees for administering the trust.
- Bank charges or minimal administrative costs that are $1,500 or less for the year.
- Insurance, rates, interest, and other costs related to living in a house owned by the trust and incurred by the beneficiaries of the trust.

Testamentary Trust

- Reportable income of $5,000 or less
- Non-reportable income of up to $1,000 with deductions that would reduce the net income to below $200.

Glossary

Associated persons

Associated persons are defined as:

- two companies
- a company and a person other than a company
- two relatives
- a person and a trustee for a relative
- a trustee and a beneficiary
- trustees with a common settlor
- a trustee and a settlor
- a settlor and a beneficiary
- a trustee and a person with the power of appointment or removal of the trustee
- a partnership and a partner
- two persons who are each associated with the same third person (tripartite test).

For full details on associated persons read **A guide to associated persons definitions for income tax purposes - IR620**. You can download this from **ird.govt.nz/forms-guides**

Corpus

This is the market value of any property settled on a trust, at the date of settlement.

Disabled beneficiary trust

A trust whose only beneficiaries (ignoring any residual beneficiaries, who can only receive trust property once all the disabled beneficiaries have died) are persons who, for some, or all, of the income year, derived the following:

- the disability allowance,
- the child disability allowance,
- the supported living payment on the ground of restricted work capacity, or
- the JobSeeker Health Conditions and Disability (if this has been paid for at least 6 months).

This also includes persons over 65 who derived these payments in the year, or year before they turned 65.

There can be more than 1 disabled beneficiary.

Disposition of property

Any form of transfer, conveyance, assignment, settlement, delivery, payment or other allocation of property to a trust (or for its benefit) is a disposition of property. This includes dispositions made under a person's will and through intestacy (dying without a will).

Foreign Exemption Trust

This is a trust that is a foreign trust, with a New Zealand resident trustee but also includes trusts where a trustee makes or has made use of the foreign sourced income exemption.

Inter vivos trust

This is a trust settled during the lifetime of the settlor. This term is used when working out whether trustee income from overseas is subject to New Zealand income tax.

Resident

You are a New Zealand tax resident in any of these situations:

- you're in New Zealand for more than 183 days in any twelve-month period, or
- you have an enduring relationship with New Zealand, or
- you have a permanent place of abode in New Zealand, or
- you're away from New Zealand in the service of the New Zealand Government.

Testamentary trust

A trust created by a person's will, codicil or intestacy (dying without a will), or by a court order at the time of the person's death.

Transitional resident

A transitional resident is an individual who has arrived in New Zealand after 1 April 2006 and qualifies for a temporary tax exemption on their foreign income.

To qualify as a transitional resident, the individual must not have been resident in New Zealand for the last 10 years, or have been a transitional resident before.

For more information see **ird.govt.nz/roles/nz-tax-residents/exemption**

Trust that is a tax charity

A trust that is a tax charity can only use income for charitable purposes. For more information, read our guide **Charitable organisations - IR255**.

Part 1 - Explaining the important concepts

How a trust starts

To create a trust, a person (the settlor) gives money or property to another person (the trustee), to be held in trust for the benefit of either the trust's beneficiaries, or a purpose recognised by law. There should be a signed trust deed (agreement) that acknowledges the settlement, but it's possible to establish a trust verbally.

Trustees

The trustee holds the trust's property in trust for the beneficiary, and administers or manages the trust. A trustee includes an executor or administrator of an estate, which may be the Public Trustee or the Mäori Trustee. Companies may also act as trustees.

Settlors

Note

When a trustee of a trust owes an amount to a beneficiary of the trust, the beneficiary does not become a settlor when either:

- the trust pays the beneficiary a market interest rate equal to or greater than the prescribed rate of interest, or
- the amount retained in the beneficiary's current account at the end of the income year is not more than $25,000.

A settlor of the trust can include any person who at any time:

- transfers value
  - to a trust, or
  - for the benefit of the trust, or
  - on terms of the trust
- provides financial assistance to the trust for its value.

These are called settlements.

Trusts may also be settled by companies.

Determining who is a settlor of a trust and whether they're a resident is important for establishing whether the trust's overseas income is taxable in New Zealand. These factors also affect the category of a trust (complying, foreign, or non-complying - explained in Part 2 of this guide) and which distributions to beneficiaries are non-taxable.

Settlement

A settlement is any action that makes a person a settlor of a trust and includes any of the following:

- disposal of any property to the trust for less than market value
- property or funds made available to the trust for less than market value
- services provided to the trust for less than market value
- any property acquired from the trust or any service from the trustee for greater than market value.

Settlement also includes any failure to act or enter into any or part of any of the above actions.

Note

The courts will only recognise that a valid trust has been created if it's covered in a trust deed. You should seek professional advice about drawing up a trust deed.

Information a settlor must give us

A New Zealand resident settlor must tell us the details within 3 months of making a settlement on a trust that does not have New Zealand resident trustees. The settlor must also give us the names and addresses of the trust's trustees and beneficiaries. For disclosure purposes, a settlement also includes a settlement made as a nominee of another person, or of a nominal amount made at the request of another person.

A settlor of a trust who is resident in New Zealand for any part of the income year, may be taxed as an agent of the trustee on trustee income which is derived in that income year, if the trust ceases to have a New Zealand trustee.

If all the trustees of the trust cease to be New Zealand residents, the settlor must tell us within 3 months of the date on which the trust ceased to have a resident trustee.

In each of these situations, the settlor must complete a **Settlors of trusts disclosure - IR462** form within 3 months and send it to us.

How the trust earns income

Usually, the money or property settled on the trust is used as an investment to earn further revenue, or as capital to fund a trading operation. This revenue becomes the trust's income as it's earned. The initial settlement on the trust is not income for tax purposes, but the settlor may have to pay gift duty on it if it's received before 1 October 2011, depending on the value of the settlement.

Estates

The trust tax rules also apply to estates of people who have died, if such an estate continues to earn income after the person's death. When we refer to "trusts" in this guide we also include estates, unless specifically excluded by the context.

The trust's income

The trust's income is deemed to include certain settlements of property on a trust.

- Property settled by a trustee of another trust so long as it would have counted as income if that trust had distributed the property to 1 of its beneficiaries instead (see page 22).
- A settlement of property on a trust, which would, if not for the settlement, have constituted:
  - gross income of the settlor, or
  - a dividend for which the settlor would have, if not for settlement, been liable to deduct FDP (foreign dividend payment) if the settlor is a resident or if the settlor had been a resident in New Zealand and subject to our income tax laws at that time.
- A settlement of property on a trust for which the settlor claims a deduction from gross income for New Zealand tax purposes.

These property settlements are excluded from the definition of corpus.

The trust's income is separated into 2 parts for tax purposes: beneficiary income and trustee income. The tax on these 2 parts is then calculated separately, to arrive at the total tax payable on the trust's income. Here's how the income is allocated:

- Beneficiary income is an amount of income derived by a trustee of the trust and allocated to a beneficiary during any income year that either:
  - vests absolutely in the beneficiary during that income year, or
  - is paid or applied for the benefit of the beneficiary within 6 months after the end of that income year.
- Trustee income is all income the trust earns in its income year that:
  - does not vest absolutely in the beneficiary during that income year, or
  - is not paid or applied for the benefit of the beneficiary within 6 months after the end of that income year.

Trusts can make other types of distributions, some of which will also be taxable. These other distributions are explained in Part 4 of this guide.

How the trust's tax is calculated depends on the type of trust, and whether the settlor and/or trustees are New Zealand residents. The different types of trust are explained in Part 2 of this guide.

Foreign exemption trusts disclosure and record keeping rules

New Zealand resident trustees are required, for each foreign exemption trust they administer, to:

- complete and submit to us a New Zealand foreign trust - IR607 form,
- comply with annual return filing requirements, and
- keep financial and other records for New Zealand tax purposes.

An IR607 can be completed in myIR or you can download the IR607 from **ird.govt.nz/forms-guides** or by emailing **nzforeigntrusts@ird.govt.nz**

Registration must be completed by New Zealand resident trustees on the later of:

- March 2023 or
- the due date of an income tax return of the trust relating to the first income year for which the trust meets the requirements to be a foreign exemption trust.

More information

Full details of the rules are in the **Tax Information Bulletin Vol 29, No 4 (May 2017)** and **TIB Vol 35, No 5 (June 2023)**.

Part 2 - Different types of trusts

For income tax purposes, there are 3 types of trust:

- complying trusts
- foreign trusts (including foreign exemption trusts)
- non-complying trusts.

The type of trust is important, because it determines whether some distributions from a trust are taxable.

Complying trusts

A complying trust is one that has been taxed in New Zealand on all its trustee income since the date it began.

Complying trusts include:

- trusts settled by New Zealand residents with New Zealand trustees
- estates of people who were New Zealand residents when they died
- other trusts which have elected to become a complying trust.

A trust remains a complying trust if, since settlement of the trust, the trustees have satisfied all their obligations for its income tax liabilities.

A trust is not a complying trust if:

- the only trustee income is non-resident passive income, or
- the trustees earn foreign-sourced income excluded from the meaning of gross income.

If a trust ceases to meet the conditions for a complying trust in an income year, it will no longer be a complying trust - it will generally become a non-complying trust (see definition on page 13).

A complying trust will not lose its complying status simply because 1 or more of the following apply:

- the trust has no trustee income and there is no tax liability
- the only trustee income is tax-exempt
- the trust's deductible expenses or losses exceed the trustee income, so there is no tax payable on the net trustee income.

Foreign trusts

A trust will be a foreign trust if none of its settlors have been resident in New Zealand since the later of these dates:

- 17 December 1987
- the date the trust was first settled.

A trust will cease to be a foreign trust if it makes any distribution after a settlor becomes a New Zealand resident, or if a New Zealand resident makes a settlement on the trust.

Non-complying trusts

A non-complying trust is any trust that is neither a complying trust nor a foreign trust at the time it makes a distribution. See page 23 for more information on distributions from a non-complying trust. It's generally a trust that has a resident settlor, has been established overseas with non-resident trustees, and has not been liable for New Zealand income tax since it was first settled. It also includes a trust where its trustee income has been liable for full New Zealand tax but the trustees have not paid the tax.

New arrivals in New Zealand

New residents who arrive in New Zealand may have settled a trust before they arrived in this country. Such a trust would normally be a foreign trust, but it can elect to become a complying trust. The benefits of such an election will become clearer in Part 4 of this guide, because the type of trust affects how some distributions to beneficiaries are taxed.

To change types, the trust must elect to pay New Zealand income tax on its trustee income within 12 months of when the settlor first arrives in New Zealand, unless the settlor is a transitional resident*. If the settlor is not a transitional resident the trustee income will become taxable in New Zealand, from the date the trust makes the election. If the settlor is a transitional resident, the 12 months to elect to change trust types starts on the date the settlor ceases to be a transitional resident. The trust should use an **Election to pay income tax on trustee income - IR463** form to make this election.

* See glossary

If the trust does not make an election, it'll be treated as 1 of the following:

- a foreign trust, for any distribution that consists of income, capital profits or capital gains derived before the election expiry date
- a non-complying trust, for any distribution that consists of income, capital profits or capital gains derived after the election expiry date.

Part 3 - How the trust's income is taxed

Tax on trustee income

Income	Tax Rate
Trusts with more than $10,000 net income (and nothing below applies)	39%
Trusts with up to $10,000 net income	33%
Disabled beneficiary trusts	33%
Deceased estates (for the year of death and 3 subsequent income years)	33%
Energy consumer trusts	33%
Widely-held superannuation funds and legacy superannuation fund trusts	28%

Distributions required to be taxed under the minor or corporate beneficiary rules are taxed at the rate of 39%. For more information, please see pages 18-20.

General rule

The trustee is liable for New Zealand income tax on income derived from New Zealand, irrespective of where the trustee lives. The trustee is also liable for New Zealand income tax on income derived from outside New Zealand where:

- any settlor is resident in New Zealand at any time during the income year, or
- any settlor of an *inter vivos* or a testamentary trust died while they were resident in New Zealand and a trustee is resident in New Zealand at any time during the income year.

Exceptions to the general rule

There are 2 situations in which a trustee is not liable for income tax on trustee income derived from outside New Zealand. These apply where the trustee is resident outside New Zealand at all times during the income year and either:

- no settlement has been made on the trust since 17 December 1987, or
- the only settlements made on the trust were by settlors who were not resident in New Zealand at the time of settlement and who have not been resident in New Zealand since 17 December 1987.

Neither exception applies where an election to pay tax on trustee income has been made by the trustee. These exceptions do not affect the liability to income tax for any settlor of the trust, for example, where the settlor elects to pay tax on trustee income.

The trustee income remains liable for income tax for the purpose of determining whether the trust is a complying trust.

Settlor liability

If a trust was settled before 17 December 1987, and no settlement has been made on the trust since then, the settlor is not liable for tax on trustee income unless they elect to pay tax on it.

Any settlor of a trust who is a resident in New Zealand at any time during the income year is liable for income tax on trustee income as an agent of the trustee, with certain exceptions. If there's more than 1 New Zealand resident settlor, these settlors are jointly liable for the tax on trustee income. This means that any or all of the New Zealand resident settlors are liable for this tax.

The New Zealand resident settlor will not be liable for the income tax on trustee income if any of these conditions are met.

- A trustee is resident in New Zealand at all times during the income year.
- The settlor, being a natural person (not a company), was not a New Zealand resident at the time they made any settlement on the trust, unless the settlor elects to pay tax on trustee income.
- The settlor can show to our satisfaction that their share of the trust's tax liability is excessive, taking into account the settlements on the trust made by all settlors.
- The trustee income is derived by the application of the financial arrangement rules of the Income Tax Act to any amounts remitted by the settlor under any financial arrangement.

Provisional tax

If a trust's residual income tax (RIT) at the end of an income year is more than $5000, it will generally have to pay provisional tax on the following year's income. RIT is the amount of tax due at the end of the year, after deducting all tax credits the trust can claim (except provisional tax payments).

Provisional tax for trusts is explained fully in Part 6 of this guide.

Tax on beneficiary income

New Zealand resident beneficiaries

Beneficiaries who are New Zealand residents are liable for New Zealand income tax on all their income, from any source in the world. Beneficiary income they receive from any trust will be taxable in New Zealand, at their normal income tax rates.

To calculate normal income tax rates the trustee must first calculate the tax payable on the total taxable income of the beneficiary and then determine the portion referable to just the beneficiary income and taxable distributions.

Example

During the income year beneficiary derives beneficiary income of $5,000 and salary $45,000, (not beneficiary income) total taxable income $50,000. Tax payable by the trustee on the beneficiary income is calculated as follows:

Tax payable on taxable income at current marginal rates

$48,000 × (10.5% to $14,000 then 17.5%) = $7,420

$2,000 × 30% = $600

Total = $8,020

Tax payable on beneficiary income

$8,020 × ($5,000 ÷ $50,000) = $802

Corporate beneficiaries and beneficiaries under 16 may be subject to special rules. For more information, please see pages 18-20.

Any amount derived by the trustee of a community trust is exempt from income tax. The distributions from community trusts are not taxed on beneficiary income, instead they're included in the gross income of the beneficiaries.

The trustee must pay tax on behalf of the beneficiary for income allocated to that beneficiary. The beneficiary can then claim a tax credit for the tax paid on their behalf. Beneficiaries are required to return all income received in their own personal tax return.

However, the trustee and beneficiary can agree between themselves not to have tax deducted from trust income before the beneficiary receives it. This is called having the income "transferred direct", and it may be useful in cases such as when the beneficiary has other tax losses to offset against the trust income in their tax return. If the income is transferred direct and the beneficiary does not pay any tax on it, the trustees can still be held liable for the unpaid tax.

Any distributions made from a non-complying trust to the beneficiary is taxed at 45%. If the trust subsequently gains its complying status, that distribution will be reversed.

There are also some other trust distributions beneficiaries must declare for income tax purposes. These are explained in Part 4 of this guide.

The nature of the trust's income continues when allocated to the beneficiaries. So interest earned by the trust and allocated to a beneficiary is interest income of the beneficiary.

The trustee cannot allocate a loss or a part of a loss to a beneficiary. This includes a negative amount for certain types of income even where the overall allocation of all income types is positive.

Tax credits such as RWT are attached to the income from which they were withheld, so credits can generally only be allocated in the same proportion as the relevant type of income allocated. For more information see page 27.

Timing of allocation of beneficiary income

The date by which income allocation to beneficiaries must be allocated, is the later of:

- six months after balance date, or
- the earlier of:
  - the date on which the trustee files the return of income for the income year, or
  - the date by which the trustee must file a return for the income year.

Example

Olive Family Trust is allocating income to beneficiaries for the year ended 31 March 2024. The trust return is due on 7 July 2024. The income should be allocated by the later of:

- 30 September 2024, or
- the earlier of:
  - the date the return is filed, or
  - 7 July 2024.

If the trust has a tax agent, the extension of time for filing an income tax return still applies.

Special rules for beneficiaries who are children (the "minor beneficiary rule")

The minor beneficiary rule applies to income derived from 1 April 2001 or the equivalent income year.

Certain distributions of beneficiary income to children under 16 (minors) on the balance date of the trust must be taxed as a final tax at the trustee tax rate of 39%.

The rule does not apply to income derived in that income year if the minor turned 16 during that year. Minor beneficiary income is taxed as trustees' income and is not the minor's gross income.

For the purposes of entries in a beneficiary's account with a trust, the tax on beneficiary income, although taxed as trustees' income, is still treated as being paid on behalf of the beneficiary.

The minor beneficiary rule applies to beneficiary income derived by a minor from property settled on a trust by:

- a relative or legal guardian of the minor, or
- a person associated with a relative or legal guardian.

The rule applies to all beneficiary income distributed to a minor from a trust unless all the settlements on that trust were made:

- by a settlor who received the property as an agent for the beneficiary from someone other than a relative, guardian or their associate
- by a settlor who's been ordered by a court to pay damages or compensation to the minor
- by a settlor against whom a protection order has been made under section 14 of the Domestic Violence Act 1995.*
- under the terms of a will, codicil, intestacy or any variations of these by a court, if the minor or their brother or sister, or half-brother or half-sister, was alive within 12 months after the date of the settlor's death.

If a trust includes some settlements that fit within 1 of these criteria, and some settlements that do not, special rules apply. For more information see your tax agent
or call us on 0800 377 774.

The rule does not apply if:

- the minor is a non-resident
- the minor derives a disability allowance or a child disability allowance under the Social Security Act 2018
- the minor receives beneficiary income from a group investment fund or Māori authority
- the trust is a disabled beneficiary trust**
- the beneficiary income derived is $1,000 or less in an income year.

However, if the beneficiary's income is over $1,000, all the beneficiary income is subject to the rule.

Corporate beneficiaries

From the 2025 tax year onwards, specific rules for distributions to beneficiaries that are close companies in certain circumstances apply.

* This exception only applies if the minor is a protected person in relation to the protection order and the settlement on the trust is made before the protection order is made, or during the time the protection order is in force.

** See glossary

Any income distributed to a beneficiary that is a close company will be subject to the corporate beneficiary rule where a shareholder is one or more of:

- a settlor of the trust
- the trustees of the trust
- a person for whom a settlor of the trust has natural love and affection, or
- another trust, if a settlor of the first trust has natural love and affection for a settlor or beneficiary of the other trust.

Allocations of beneficiary income that the corporate beneficiary rule applies to are treated as trustee income. This means they are:

- taxed at 39%
- included in the trustee's tax calculation in the IR6 return, and
- included in the trustees' provisional tax calculations.

An IR6B will still need to be completed to record any distributions.

This rule will not apply:

- where the company is a securitisation trust beneficiary, a Māori Authority or a tax charity.
- to foreign sourced amounts of income earned by non-resident companies that do not have a New Zealand shareholder.
- to dividend income if the payer of the dividend to the trust and the recipient of the beneficiary income from the trust are both companies within the same a wholly-owned group (under section CW 10 of the Income Tax Act 2007).

Income subject to the corporate beneficiary rule is excluded from section HC 26 of the Income Tax Act 2007 where it would have been treated as exempt income.

Beneficiaries and provisional tax

If a beneficiary's residual income tax (RIT) is more than $5000, they will generally have to pay provisional tax for the following year. RIT is the amount of tax due at the end of the year, after deducting all tax credits the beneficiary can claim, including tax paid by the trustee on the beneficiary's behalf, but excluding provisional tax payments.

Our guide **Provisional tax - IR289** explains these rules.

Non-resident beneficiaries

The trust must deduct NRWT (non-resident withholding tax) from any interest, dividends or royalties before the non-resident beneficiary receives them. This withholding tax is the final tax payable on the income. They should be able to claim a credit for their tax paid in their overseas tax return. Other income, such as income from a rental property, will be subject to New Zealand income tax at the normal rates.

Note

Beneficiary income retains its nature in the beneficiary's hands - for example, if the trust earned the income from dividends, the beneficiary should return it as dividends in their overseas tax return.

If a trust has non-resident beneficiaries, our **NRWT - payer's guide - IR291** contains information the trust administrators will need to know.

If a beneficiary is not a New Zealand resident, and they receive beneficiary income that did not come from New Zealand sources, the beneficiary will not have to pay New Zealand income tax on this income.

Beneficiaries temporarily ceasing to be resident

If a beneficiary ceases to be a New Zealand resident and then becomes a New Zealand resident again within 5 years, they must pay New Zealand income tax on any beneficiary income or taxable distributions (explained in Part 4) received from a foreign or non-complying trust. In this situation, any beneficiary income or taxable distributions the beneficiary received while they were a non-resident, will be taxable as such in the year in which the beneficiary again becomes a New Zealand resident.

Part 4 - Other distributions to beneficiaries

As well as distributing beneficiary income, as explained in Part 3, a trust can distribute money or assets to its beneficiaries by:

- distributing trustee income accumulated in previous years
- distributing capital profits or gains made from disposing of some of its assets or property
- supplying trust property or services to the beneficiary for less than full value
- acquiring property or services from the beneficiary for more than full value
- making a distribution from the trust's corpus
- settling sums or property for the benefit of another trust to the extent that if distributed to a beneficiary resident in New Zealand, the sum or property would have constituted beneficiary income or a taxable distribution to that beneficiary.

A beneficiary who receives such a distribution may have to pay income tax on it. This will depend on the type of trust making the distribution. This is why the difference between complying trusts, foreign trusts and non-complying trusts is significant.

Distributions of accumulated trustee income and capital profits or gains that were derived by the trust in the 1988 or earlier income years are not treated as taxable distributions.

Distributions from complying trusts

If a complying trust makes a distribution of any of the types listed above, the beneficiary receiving the distribution will not have to pay income tax on it. This is the principal advantage of being a complying trust.

Distributions from foreign trusts

When a foreign trust makes a distribution of any of the types listed on page 22, it will be a taxable distribution unless it's from the trust's corpus, or from capital profits or gains from transactions with non-associated persons (an adjustment is made for any capital loss incurred in the year the profit was realised). This means the beneficiary must pay tax on the distribution at their normal tax rate.

Order of sources of distributions to beneficiaries

When a foreign trust makes a distribution to a beneficiary, for tax purposes the distribution will be considered to have come from different sources in the following order:

1. Income the trust derived that is beneficiary income in the previous income year – see page 18
2. Income the trust derived in the current income year.
3. Income (other than beneficiary income) the trust derived in a previous income year (accumulated trustee income).
4. Any capital profit or gain realised in the current income year.
5. Any accumulated capital profit or gain realised in previous income years.
6. The corpus of the trust.

However, there are certain distributions not subject to the order listed above. These are:

- any distribution from a non-discretionary trust:
  - created by will, codicil or court order modifying the will or codicil
  - created on an intestacy, or
  - on which no settlement has been made since 17 December 1987
- any distribution from a foreign trust that has elected to become a complying trust
- any distribution under which a beneficiary acquired trust property for less than market value
- any distribution under which a beneficiary acquired services from the trust for less than market value.

Except for the last 2 items in this list, the distributions are deemed to consist of amounts that reflect the terms of the trust deed, or that the trustee(s) determine(s).

If a foreign trust does not keep enough records to accurately show the source of a distribution, it will be a taxable distribution.

Distributions that are taxable to the beneficiary

If a New Zealand resident beneficiary receives a taxable distribution from a foreign trust, this distribution must be included in the beneficiary's tax return as part of their assessable income. This is on top of any beneficiary income the beneficiary receives from the trust. The beneficiary will then pay tax on the distribution at their normal income tax rates.

If the beneficiary receiving the distribution from a foreign trust is not a New Zealand resident, then they only have to pay New Zealand income tax on any part of the distribution that came from a source in New Zealand.

Distributions from non-complying trusts

When a non-complying trust makes a distribution of any of the types listed on page 22, it will be taxable unless it's from the trust's corpus.

If the beneficiary receiving the distribution from a non-complying trust is a New Zealand resident, it's included in the person's tax return with their other income for the year. It will be taxed at a flat rate of 45 cents in the dollar. Distributions of beneficiary income are taxed at the beneficiary's normal tax rates.

A complying trust which has become a non-complying trust because of the trustee's income tax obligations not being met, will become a complying trust retrospectively if the trustee satisfies their obligations, including penalties and interest.

When a non-complying trust makes a distribution to a beneficiary, the same rules of order listed on page 23 apply.

If a beneficiary has a tax loss from some other source

If a beneficiary receives a taxable distribution from a non-complying trust, and that beneficiary has a loss or a loss to carry forward from some other source, they can claim a deduction against the distribution. Use this formula to calculate the amount of this deduction:

$$a \times \frac{b}{c}$$

In this formula:

- a is the amount of loss or loss carried forward
- b is the rate of tax on trustee income - 39 cents in the dollar (0.39), for the 2025 and later tax years
- c is 45 cents in the dollar (0.45).

Foreign tax credits

Credits for foreign tax paid on a taxable distribution can only be claimed if the tax deducted by the foreign country is similar to New Zealand NRWT.

Electing to become a complying trust

There are some situations in which a foreign trust or a non-complying trust can elect to become a complying trust.

If they want to do this, either the trustee, the settlor or the beneficiary must elect to pay tax on the trustees' worldwide income. The trustee income will then be taxed in New Zealand (when it otherwise may not have been taxable here), in the same way as a complying trust. This then allows it to make non-taxable distributions to its beneficiaries.

The person making this election should fill in an **Election to pay income tax on trustee income - IR463** form and send it to us.

Once an election has been made the person will need to indicate that the trust continues to qualify as a complying trust in their tax return each year or, if they are a non-active trust, through their myIR account each year.

The following 3 types of trust can elect to become complying trusts if they make the election within the relevant time limits - see the following pages.

New residents

A trust settled by a non-resident settlor who became a New Zealand resident after 17 December 1987 may elect to become a complying trust. This election must be made within 12 months of the settlor becoming a New Zealand resident. Unless the settlor is a transitional resident*, the 12 months to change trust type starts on the date the settlor ceases to be a transitional resident.

If the trust makes an election it will be treated either as:

- a foreign trust, for any distribution of income, capital profits or capital gains the trust derived before it made the election, or
- a complying trust, for any distribution of income, capital profits or capital gains the trust derived after it made the election.

* See glossary

This treatment does not apply if the trust fails to pay the tax on the trustees' income. The trust will be treated as a non-complying trust for any distributions made in the income year in which the tax is not paid and in subsequent income years. Only distributions from amounts derived after the trust made the election will be treated as having been made from a non-complying trust.

If the election is made part-way through an income year, the income, profits or capital gains for the year must be allocated to the appropriate period that the trust was a foreign or complying trust, according to the date they were derived on.

Settled in 1989 or later income years

A non-complying or foreign trust settled during the 1989 or later income years, and not otherwise liable to New Zealand income tax on its trustee income, may elect to become a complying trust. The election must be made within the time for filing the trust's tax return for the income year of settlement.

If New Zealand income tax is paid on all trustee income derived since the date of settlement, the trust will meet the complying trust definition at the date of the distribution.

Complying trusts no longer liable for New Zealand tax

A trust that was formerly a complying trust, but ceased to be liable for New Zealand income tax on its trustee income (for example, if the settlor becomes a non-resident), ceases to be a complying trust. However, such a trust can elect or re-elect to be a complying trust. The election must be made within the time for filing the tax return for the income year in which the trust ceased to be a complying trust. The income tax liability relating to trustee income for each income years since the trust began must also be satisfied.

The trust will again be treated as a complying trust from the date it would otherwise have ceased to be liable for New Zealand tax. If no election is made, the trust will become a non-complying trust.

Note

To become a complying trust, it must make its election before the relevant time limit expires. Late elections cannot be accepted.

Part 5 - Tax returns for trusts and beneficiaries

The trust's tax return

The trustee must file an IR6 tax return for the trust each year. This return is separate from the trustee's own personal tax return. In the IR6 return the trustee shows:

- all income derived by the trust, including any income from a Māori authority
- the tax credits relating to that income
- the allocation of income between beneficiary income and trustee income, and
- any taxable distributions made.

The trustee then calculates the tax payable on the beneficiary income, trustee income and taxable distributions.

Allocation of RWT credits

Any associated tax credits are generally also allocated in the same proportion as the income. However, if a trustee is paying income tax on beneficiary income on behalf of the beneficiaries, the trustee has the option of detaching some or all of the RWT credits associated with the resident passive income distributed to beneficiaries and reallocating the credits between beneficiaries and trustee to satisfy the income tax on beneficiary income and trustee income.

Note

The option of detaching RWT credits is only available to a trustee who pays income tax on beneficiary income on behalf of the beneficiaries.

If the trustee detaches RWT credits from resident passive income distributed to a beneficiary (Beneficiary A), the trustee must pay Beneficiary A an RWT substitution payment equal to the amount of the detached RWT credits. The trustee can then either:

- Reallocate the detached RWT credits to Beneficiary B by meeting Beneficiary B's income tax on beneficiary income;
- Retain the detached RWT credits to satisfy income tax on trustee income; or
- A combination of both.

The reallocated or retained RWT credit is not income of either Beneficiary B or the trustee – it is the transfer of RWT credits.

The RWT credits available to Beneficiary A are then reduced by the amount of the RWT substitution payment. The RWT substitution payment is treated as resident passive income that is beneficiary income of Beneficiary A. However, there is no liability or obligation on the trustee to withhold RWT in relation to the RWT substitution payment.

The practical effect of the reallocation exercise is that the RWT credit is transferred from one taxpayer (Beneficiary A) to another (Beneficiary B or trustee) and the transferred RWT credit is used to satisfy the trustee's obligations for satisfying the income tax liability on trustee income and/or Beneficiary B's beneficiary income. Reallocating the RWT credits also means that Beneficiary A will not need to seek a refund from the Commissioner for the excess RWT credits and, instead, receives a cash payment from the trustee in substitution for the RWT credits.

Example

The trustee of the Olive Family trust derives $100 in interest, from which 33% tax has been deducted, leaving $67 in cash, and the trustee receives an entitlement to $33 in RWT credits. The Olive Family trust distributes all of the interest to Brook as beneficiary income, with Brook receiving $67 in cash and $33 in RWT credits. Brook has a marginal tax rate of 17.5%, which means her tax liability on her beneficiary income is $17.50.

Since the trustee is paying income tax on beneficiary income for Brook, the trustee can detach $15.50 from the RWT credits allocated to Brook and pay her cash of $15.50 in substitution for the detached RWT credit. This leaves Brook with $17.50 of RWT tax credit – enough to satisfy her income tax on beneficiary income. Brook is in the same position as if she had obtained a refund of the excess RWT credit from the Commissioner.

The trustee can retain the detached RWT credit of $15.50 to satisfy income tax on trustee income.

Allocation of imputation credits

The imputation credits must be allocated in proportion to the total distributions received from the trust. This also applies to Māori authority credits and FDP (foreign dividend payment) credits attached to dividends distributed as beneficiary income. This means a trust cannot choose to allocate credits to beneficiaries who may be better able to use them than other beneficiaries.

Use this formula to allocate the imputation and FDP credits:

$$a \times \frac{b}{c}$$

In this formula:

- a is the total imputation and FDP credits attached to all dividends distributed to beneficiaries during the income year
- b is the total distribution, including capital distributions, to the particular beneficiary during the income year
- c is the total distributions made to all beneficiaries during the income year.

The beneficiaries can then claim a credit for tax paid on their beneficiary income and taxable distributions (and their share of tax credits) in their personal income tax returns.

If a imputation credit adjusted by the formula is allocated to a beneficiary, then the imputation credit included in the gross dividend as part of beneficiary's assessable income is also adjusted by the corresponding amount in the beneficiary's income tax return.

Note

If a trust receives any income the trustee must complete a return and meet certain reporting obligations.

However, if the income is below set thresholds (see page 5) and certain criteria is met, it can be excused from filing returns by completing the **Non-active trust declaration - IR633** in myIR.

If it subsequently becomes active again, for example, derives income in a future year, then it must send in a return.

The beneficiaries' tax returns

A person who receives beneficiary income from any type of trust, or a taxable distribution from a foreign trust, must include this income in their tax return for that year and pay tax on it at their normal rates. If the trust has deducted tax before paying the income to the beneficiary, the beneficiary can claim a credit for this tax deducted. However, if the tax was deducted overseas, the maximum credit a New Zealand beneficiary can claim is the amount of New Zealand income tax payable on their share of the overseas trust income. From 1 April 2025, if the beneficiary has been allocated overseas income and foreign tax credits, and the trust is retaining the expenses relating to that income, these expenses will need to be deducted from the gross income when calculating the amount of claimable foreign tax credits. They are not deducted when entering the total overseas income in the return.

If the trust's balance date is not 31 March, the beneficiary must include any income from the trust in their tax return for the year that corresponds with the trust's accounting year. There's no need to make any separate calculations to allow for a difference in balance dates.

Tax on distributions to corporate or minor beneficiaries, taxed at the trustee rate of 39% is considered a final tax and should not be included in the beneficiaries' tax return .

If a person receives beneficiary income or taxable distributions from a foreign or non-complying trust, they should fill in the details of the trust income on a **Schedule of beneficiary's estate or trust income - IR307** form, and include this with their tax return. If the trust has a New Zealand tax agent, they will usually fill in an IR307 form for each beneficiary to include with their individual tax return. These forms will then show the beneficiaries how much income to declare, and the amount of any tax credits to claim.

Note

Any taxable distributions a beneficiary receives from a non-complying trust are to be included separately in the beneficiary's tax return. These distributions will be taxed separately at a flat rate of 45 cents in the dollar.

Special rules for certain distributions to corporate beneficiaries

These instructions relate to specific situations where the corporate beneficiary rule may apply and how you will need to complete the tax return to ensure the income is taxed correctly.

Foreign beneficiaries allocated both overseas and New Zealand income and the corporate beneficiary rule applies.

In this situation you will need to enter the income and any tax credit as 2 separate entries on the IR6Bs when filing the trust return:

- In the 1st entry on the IR6B include the New Zealand sourced income and any tax credits associated, enter the beneficiary's IRD number and tick the box to show that the income should be taxed under the minor or corporate beneficiary rule.
- In the 2nd IR6B entry include the foreign income and any tax credits associated with it, enter the beneficiary's TIN (not their IRD number) or tick that they do not have one. Do not tick the box to show that the income should be taxed under the minor or corporate beneficiary rule.

This will ensure that only the New Zealand sourced income will be included as trustee income and taxed at the 39% rate.

Corporate beneficiaries subject to the corporate beneficiary rule that receive dividend income as part of a wholly owned group under section CW 10 of the Income Tax Act 2007.

In the IR6B enter the dividend income and any tax/imputation credits associated with it and enter the beneficiary's IRD number. Do not tick the box to show that the income should be taxed under the corporate beneficiary rule.

This will ensure the dividend allocated to the wholly owned group is not included as corporate beneficiary income and taxed as trustee income at 39%.

Corporate beneficiaries subject to the corporate beneficiary rule that receive both dividend income as part of a wholly owned group under section CW 10 of the Income Tax Act 2007 and other income.

In this situation you will need to complete 2 separate entries on the IR6B when filing the trust's return:

- In the 1st entry on the IR6B include all the income and any associated tax credits allocated to the beneficiary except for the wholly owned group dividend amounts, enter the beneficiary's IRD number and tick the box to show that the income should be taxed under the corporate beneficiary rule.
- In the 2nd IR6B entry include only the dividend income and any tax/imputation credits associated with it, tick that they do not have a TIN. Do not tick the box to show that the income should be taxed under the corporate beneficiary rule.

This will ensure the dividend income allocated to the wholly owned group is not included as corporate beneficiary income and taxed as trustee income at 39%.

Tax returns for a deceased person's estate

The personal representative, executor or administrator of a deceased person's estate must file all tax returns the deceased person would otherwise have had to file and make sure any tax due is paid. The tax return to be used for the period to the date of death is an **Individual tax return - IR3**. The return must show their IRD number and include all gross income the deceased person derived up until that date.

After the date of death, the person's estate will get a new IRD number and any income must be returned in an **Income tax return: Estate or Trust - IR6** form.
The first estate return will include all income derived and expenditure incurred from the date of death until the end of the return period.

From the 2022/2023 income year reportable income, for example, salary, pension or interest received up to 28 days following death can be included in either the return to date of death or alternatively in an estate return.

Even after an estate has been wound up, we can audit the deceased person's tax returns for previous years. If more tax becomes payable as a result of such an audit, the estate is still liable to pay this tax. If there are no estate funds available because the final distribution has been made, the executor or administrator is liable for the extra tax assessed.

Trusts that are tax charities or estates

A trust will be a tax charity if all income the trustee derives is held solely for charitable purposes, and no person associated with the trust can gain any personal profit from it. There are special tax exemptions available to trusts that are tax charities and estates.

You'll find more information about trusts that are tax charities and estates in our **Charitable organisations - IR255** guide.

Final trust or estate return

The trustees of a trust or estate are personally responsible for any tax payable on the trust income. This means that before an estate or trust is wound up and its assets distributed, all income must be returned and enough funds retained to pay any tax due.

The trustee must file a tax return to the date of winding up, which must show the final distribution of the income.

Part 6 - Provisional tax

The principle of provisional tax

The principle of provisional tax is that a trust pays tax as it earns income, instead of having a large tax bill at the end of the year. Provisional tax is charged in instalments during an income year. When the trust files its tax return, it can claim a credit for the provisional tax it's paid during the year.

Circumstances when a trust must pay provisional tax

One of the important concepts in provisional tax is residual income tax (RIT). This is the amount of tax payable on the trust's income for the year, after deducting any allowable tax credits (but not provisional tax payments). This includes tax payable by the trustee on both beneficiary income and trustee income.

- If a trust's RIT is $5000 or less, the trust does not have to pay provisional tax for the following year, but it can choose to make voluntary payments.
- If a trust's RIT is more than $5000, the trust will generally have to pay provisional tax for the following income year. There are 3 different methods for calculating the amount of provisional tax payable: the standard option, the estimation option or the ratio option. These methods are explained below.
- If a trust's RIT is more than $5000, but the trust expects its RIT at the end of the following year to be $5000 or less, it can estimate its provisional tax at nil. However, before making such an estimate please read the section on use-of-money interest - see page 35.

Provisional tax calculation methods

Standard option

Provisional tax calculations may change from year to year. For current and past rates go to **ird.govt.nz/income-tax/provisional-tax/provisional-tax-options/standard-option**.

If a trust uses the standard option, it can change to the estimation option at any time up until the due date of the final instalment of provisional tax. If a trust using the standard option wishes to change to the ratio option it must elect to use the ratio before the tax year in which it wants to use the ratio.

Estimation option

A trust can choose to estimate its provisional tax by estimating its income for the year and then calculating the tax on it. This is usually beneficial for trusts that expect the following year's income to be less than the current year's income. If the trust used the standard option in this situation, it would end up paying more tax than it had to during the year, and then receive a refund at the end of the year.

However, if a trust chooses the estimation option and the RIT is greater than the provisional tax paid, it can be charged interest from the first instalment date and may be liable for a shortfall penalty of 20% of the underpaid provisional tax for lack of reasonable care.

Once a trust chooses the estimation option, it cannot switch to the standard or ratio option during that income year. However, it can change the amount of the estimation at any time up until the due date for the final instalment of provisional tax.

Note

An estimate must be fair and reasonable at each instalment date.

Ratio option

A trust can choose to pay their provisional tax in line with when income is received. This option is only available to GST-registered trusts. Using the ratio option, 6 provisional tax instalments are made based on a trust's GST turnover.

We'll calculate a percentage based on the prior year's RIT divided by the total GST supplies for the corresponding year. To calculate each provisional tax instalment, a trust multiplies the percentage which is preprinted on their GST103 return, by the total taxable supplies for the two-month period (monthly payers will add the taxable supplies for 2 return periods).

If a trust makes the correct ratio payments by the due dates, it will not be charged interest if the provisional tax falls short of the RIT for the year.

To use the ratio option, a trust must apply by phone or in writing before the start of the tax year they want to use this option in.

Use-of-money interest (UOMI)

Only tax on trustee income is subject to UOMI. We will not charge or pay interest on tax on the trust's beneficiary income.

If the trust's RIT on trustee income is more than $5000, and the trust has paid too much provisional tax for this income, we may pay interest. However, if the provisional tax paid is less than the RIT, we may charge interest.

There are changes to when UOMI is charged for the 2018 income year onwards

There are changes in debit and credit use-of-money interest (UOMI) on provisional tax for the 2018 income year onwards when using the standard option, and when changing from the standard option to the estimation option for the final instalment, provided all required payments are made in full and on time. There is no change to debit or credit use-of-money interest when using the estimation option instalment(s) other than at the final instalment.

When determining the interest start date, the $50,000 RIT threshold for individuals using the standard option has been increased to $60,000. This threshold will also apply to non-individuals, including trusts.

Provisional tax amount	End of year residual income tax (RIT)	Credit or debit UOMI	Calculated from
More than RIT amount	Less than $60,000	Credit UOMI calculated on the difference between the provisional tax amount paid and the RIT	Terminal tax due date
More than RIT	$60,000 or more	Credit UOMI calculated on the difference between the provisional tax amount paid and the RIT	Final instalment date
Less than RIT	$60,000 or more	Debit UOMI calculated on the difference between the provisional tax amount paid and the RIT	Final instalment date
Less than RIT	Less than $60,000	Debit UOMI calculated on the difference between the provisional tax amount paid and the RIT	Terminal tax due date

If the trust has paid all but the last instalment in full and on time using the standard option then UOMI will apply from the final instalment due date. This will also apply if the trust has changed to the estimation option at or before the final instalment date due date.

If the trust has paid an instalment late or does not pay it at all UOMI will be charged from the due date of the instalment on the lesser of:

- the amount of the instalment that was paid less the amount that should have paid, or
- your RIT divided by the number of instalments for the tax year less the amount paid.

The above changes may not apply if the trust:

- is associated to a company and they are not covered by the above standard option rules or they do not use the GST ratio option, or
- has entered a provisional tax interest avoidance arrangement.

Interest applies from the day after each provisional tax instalment date, if the RIT on trustee income is more than $5000 when using the estimation option for the instalments other than the final instalment date. If they have elected to use the ratio option, interest applies from the day after the terminal tax due date.

If the trust's RIT on trustee income is $5000 or less, and it's paid too much provisional tax for trustee income, it can elect to be a provisional tax payer for that year. The trust may then still be paid interest on the overpaid provisional tax. A trust may elect to be a provisional tax payer if:

- it expects to have RIT on trustee income of more than $5000, and
- it pays provisional tax on trustee income of more than $5000 by the last provisional tax instalment date.

If you experience problems with the way UOMI for the trust is calculated, call us on 0800 377 774.

Any UOMI charged will generally be tax-deductible, while UOMI received is treated as gross income.

If a trust is charged UOMI, it should be paid by the due date for paying its end-of-year tax bill (usually 7 February, or 7 April if the trust has a tax agent). However, interest will continue to be charged on a daily basis until the tax is paid. The only way to stop interest from accruing is to pay the unpaid tax on trustee income.

Further information

For more information on provisional tax and UOMI, read our **Provisional tax - IR289** guide.

Late payment penalties

If tax is not paid by the due date, a late payment penalty will be charged.

An initial 1% late payment penalty will be charged on the day after the due date. A further 4% penalty will be charged if there's still an amount of unpaid tax (including penalties) at the end of the 7th day from the due date.

For income years before 2018

Every month after the due date, a further 1% will be added to any unpaid amount (including penalties).

Note

Penalties are not charged on unpaid amounts less than $100.

Summary - tax rates and time limits

The chart below summarises the tax rates for trustee income, the time limits that apply to other elections a trust can make and information it must give us. The information in this chart is fully explained in the earlier parts of this guide.

Situation	Type of trust		
	Complying trust	Foreign trust	Non-complying trust
Tax rate for trustee income	39 cents in the dollar unless exceptions apply (see page 15)	39 cents in the dollar (on NZ sourced income)	39 cents in the dollar
Taxable distributions	Not applicable	Accumulated trustee income included, corpus and most capital profits excluded Tax at beneficiary's normal rates	Accumulated trustee income and capital profits included, corpus excluded Beneficiary taxed at 45 cents in the dollar
Election to be a complying trust	Not applicable	On becoming a new resident: within 12 months of settlor becoming a New Zealand resident	Formerly a complying trust: within time for filing tax return for year in which it ceased to be a complying trust Other trust settled in 1989 or later income years: within time for filing tax return for year of first settlement
Disclosure to be made to Inland Revenue	Within 3 months if no trustee is resident at the time of settlement, or all trustees become non-residents	Changes to contact trustees or their contact details within 30 days of becoming aware. Other information, regardless of whether it was given on registration or in an annual return, would have to be provided in the next annual return at the latest.	Within 3 months if no trustee is resident at the time of settlement, or all trustees become non-residents

Services you may need

Need to speak with us?

Have your IRD number ready and call us on one of these numbers:

General tax, tax credits and refunds 0800 775 247

Employer enquiries 0800 377 772

General business tax 0800 377 774

Overdue returns and payments 0800 227 771

Find out more at **ird.govt.nz/contact-us**

0800 self-service number

Our 0800 self-service number, 0800 257 777, is open 7 days a week. Make sure you have your IRD number ready when you call.

For access to your account-specific information, you'll need to be enrolled with voice ID or have a PIN.

When you call, confirm what you want from the options given. If you need to talk with us, we'll re-direct your call to someone who can help you.

Privacy

Meeting your tax obligations means giving us accurate information so we can assess your tax and entitlements under

the Acts we administer. We may charge penalties if you do not.

We may also exchange information about you with:

- some government agencies
- another country, if we have an information supply agreement with them, and
- Statistics New Zealand (for statistical purposes only).

You can ask for the personal information we hold about you. We'll give the information to you and correct any errors, unless we have a lawful reason not to. Find our full privacy policy at **ird.govt.nz/privacy**

If you have a complaint about our service

We're committed to providing you with a quality service. If there's a problem, we'd like to know about it and have the chance to fix it.

If you disagree with how we've assessed your tax, you may need to follow a formal disputes process.

Find out more about making a complaint, and the disputes process, at **ird.govt.nz/disputes**

Publications

The following publications contain more information:

- **Taxes and duties - IR295**
- **Charitable organisations - IR255**
- **Provisional tax - IR289**
- **Penalties and interest - IR240**
- **Grants and subsidies - IR249**
- **RWT on interest - payer's guide - IR283**
- **Imputation - IR274**

How to get our forms and guides

You can get copies of our forms and guides at **ird.govt.nz/forms-guides**

New Zealand Government