

Following the leaked information contained in the Panama Papers, the New Zealand Government launched an inquiry into foreign trust disclosure rules. The inquiry was set up to examine and make recommendations regarding disclosure rules and other related matters to ensure that New Zealand's reputation as having best practice in contributing to global exchanges of information is maintained.

The inquiry recommended a formal registration process for foreign trusts and increased disclosures of information, as well as information sharing with the Department of Internal Affairs and the New Zealand Police.

A number of recommendations made have been adopted by the New Zealand Government which are outlined below.

Overview of new regime

The new regime is effective from 21 February 2017 and is imposed on New Zealand resident trustees of foreign trusts.

The new regime requires the New Zealand resident trustees of foreign trusts to:

- + Register the foreign trust and pay a one-off fee of \$270.00
- + File annual returns and pay an annual fee of \$50.00

The new regime prescribes various time limits for New Zealand resident trustees to complete the initial registration process. These time limits are:

- + 30 days from the date a resident trustee is required to register i.e. the date the resident trustee was appointed as a trustee or the date the foreign trust was established.
- + 30 June 2017, for foreign trusts with a resident trustee in existence at 21 February 2017.
- + For trustees not in the business of providing trustee services four years and 30 days after the date the trustee becomes a resident foreign trustee.

Annual returns are required to be filed within six months of the foreign trusts balance date. If the foreign trust does not have a balance date, the annual return is required to be filed by 30 September.

The registration and annual returns require the New Zealand resident trustees disclose significant detailed information about the foreign trust. This information includes names and addresses of all parties associated with the trust, including ultimate controllers and detailed information regarding each settlement on the foreign trust.

The New Zealand resident trustees are also required to provide confirmation that each person whose details have been provided as part of the registration process have been informed of and have agreed to provide all information and that it complies with the provision of information requirements in the Tax Administration Act 1994 and the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

All information disclosed in the registration and annual return process can be shared with the Department of Internal Affairs and the New Zealand Police.

Consequence for failure to comply

If a foreign trust with a resident trustee does not comply with the new regime, it will lose its tax exemption for foreign-sourced amounts.

Way forward

If you have any questions regarding the new regime or would like assistance completing the registration process please contact your current McCulloch + Partners advisor.

