

# The Treasury

## Foreign Trust Inquiry Information Release

### Release Document July 2016

[www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules](http://www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules)

Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

[1]	to prevent prejudice to the security or defence of New Zealand or the international relations of the government	6(a)
[2]	to protect the privacy of natural persons, including deceased people	9(2)(a)
[3]	to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials	9(2)(f)(iv)
[4]	to maintain the effective conduct of public affairs through the free and frank expression of opinions	9(2)(g)(i)
[5]	that the making available of the information requested would be contrary to the provisions of a specified enactment [the Tax Administration Act 1994]	18(c)(i)

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [2] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9 and section 18 of the Official Information Act.

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Dear Sir

**SUBJECT: Inquiry into foreign trust disclosure rules**

CPA Australia is one of the world's largest accounting bodies with 22 offices globally and more than 155,000 members in 118 countries. Our history stretches back to 1886, and we have been actively involved in Asia since the early 1950s.

We provide the following comments to the inquiry into the foreign trust disclosure rules.

The issue at hand is whether the current foreign trust rules are appropriate or out of step with best practice worldwide.

Much of the public debate seems to be based on a misunderstanding of the general principles of New Zealand taxation law. For example, a non-resident trust that does not derive income in NZ and has non-resident beneficiaries should not be subject to tax in NZ.

This principle is not dissimilar to how income tax laws operate in other countries. For example, in Australia there are the conduit foreign income (CFI) laws to ensure, amongst other things, that tax will not be attracted where a trust distribution that is declared to be a CFI flows from a trust to a non-resident beneficiary.

There have also been allegations made about the integrity of the NZ law given the opaqueness of the foreign trust arrangements. However we also note that there have been foreign trust disclosure arrangements for those that administer foreign trusts in place since at least 2006<sup>1</sup>.

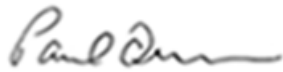
If the review considered that the current arrangements are insufficient, and that the allegations warranted a response by way of additional disclosure requirements being imposed, some options may be as follows:

- require trustees to provide the IRD with a copy of the trust deed at the time the trust is first registered
- consider introducing ultimate beneficiary disclosure rules
- require trustees to notify the IRD of any beneficiary changes annually, and/ or
- require trustees to provide the IRD with annual financial accounts.

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<sup>1</sup> IRD form IR607, <http://www.ird.govt.nz/forms-guides/keyword/trustsandestates/ir607-form-foreigntrustdisclosure.html>

If you have any queries please do not hesitate to contact me on +61 3 9606 9701 or [paul.drum@cpaaustralia.com.au](mailto:paul.drum@cpaaustralia.com.au).

A handwritten signature in black ink, appearing to read "Paul Drum". The signature is fluid and cursive, with the first name "Paul" being more prominent than the last name "Drum".

Paul Drum FCPA

Head of Policy