

Information for non-residents who invest in PIEs

This factsheet helps you understand your tax obligations as a non-resident when investing in a portfolio investment entity (PIE).

A portfolio investment entity (PIE)—such as a managed fund—invests the contributions from investors in different types of investments.

Entities that meet the eligibility requirements can elect to become a PIE if they are a:

- managed fund, such as a:
 - unit trust, or
 - superannuation fund
- company
- benefit fund
- life fund
- group investment fund.

How PIEs calculate tax

Most PIEs will calculate their tax based on the prescribed investor rate (PIR) provided by their investors rather than at the entity's tax rate. This type of PIE is called a multi-rate PIE (MRP).

PIEs that are not MRPs include:

- listed PIEs
- benefit fund PIEs
- certain life fund PIEs.

These PIEs don't calculate their tax using their investors' PIR. Instead, their tax is calculated using the entity's basic tax rate.

Notified foreign investor

A notified foreign investor is a new class of investor. A non-resident who holds an investment in a foreign investment PIE may notify the PIE that they wish to be treated as a notified foreign investor.

The investor must not be:

- resident in New Zealand
- a controlled foreign company (CFC)
- a foreign investment fund (FIF) with a New Zealand resident who has an income interest of 10% or more
- a non-resident trustee of a trust that isn't a foreign trust.

The investor must also provide the following additional information:

- date of birth, if applicable
- home address in their country or territory where they reside for tax purposes
- their equivalent of their tax file (IRD) number in the country or territory where they reside for tax purposes, or a declaration if they're unable to provide this number.

New prescribed investor rates for notified foreign investors

Previously non-resident investors could only use the 28% PIR. This meant they were over-taxed compared with the tax rates they would pay if they invested directly in the PIE's investment. In particular, in the case of a non-resident's direct investment in foreign-sourced assets, the income was not subject to New Zealand tax.

Two new categories of PIE have been introduced to correct this situation.

- The first category is a foreign investment zero-rate PIE (zero-rate PIE) that invests the vast majority of its funds in non-New Zealand based assets. A zero-rate PIE applies the 0% PIR to all income attributed to notified foreign investors.
- The second category is a foreign investment variable-rate PIE (variable-rate PIE) that invests its funds both in New Zealand and non-New Zealand based assets. Non-resident investors in this category of PIE face various tax rates, depending on the source and type of income.

Variable rates

New PIRs for non-residents have been introduced that apply to various types and sources of income attributed to non-residents. A non-resident investor who meets the criteria and notifies their foreign investment PIE can become a notified foreign investor.

The variable-rate PIE applies the following rates based on the type and source of income:

1	A dividend derived from a company resident in New Zealand and attributed to an investor who doesn't reside in a country with which New Zealand has a double tax agreement, to the extent to which it's not fully imputed	30%
2	An amount other than an amount referred to in 1, and 3 to 5, that has a source in New Zealand	28%
3	A dividend derived from a company resident in New Zealand, and attributed to an investor who resides in a country with which New Zealand has a double tax agreement, to the extent to which it's not fully imputed	15%
4	Interest derived	1.44%
5	A fully imputed dividend derived from a company resident in New Zealand	0%
6	A foreign-sourced amount	0%
7	An amount derived under a financial arrangement that has a New Zealand source other than an amount of interest referred to in 4	0%

Other investors in either type of foreign investment PIE continue to have the existing PIR applied.

PIR for non-residents who aren't notified foreign investors

The prescribed rate for non-residents (whether an individual or non-individual) who aren't notified foreign investors or who haven't invested in one of the new foreign investment PIEs is 28%. You can't choose a lower rate.

IRD numbers

If you've been issued with an IRD number you must provide your IRD number within one month of a request from the MRP. A notified foreign investor must also provide their home country IRD number equivalent or complete a declaration that they don't hold one.

Ceasing to be represented by a proxy

If you're represented by a PIE investor proxy and then cease to be represented by that proxy, their obligations will pass direct to the PIE that holds your investment. You should give the PIE your correct PIR and IRD number.

When a zero rate may be applied for a non-resident

You may be taxed at a zero rate by an MRP that files returns using the quarterly option, when you exit the MRP during a quarter. There are no other situations where you may have a zero rate applied.

This doesn't apply to notified foreign investors.

Arriving/leaving New Zealand and your PIR

If you're a New Zealand-resident individual who has invested in an MRP and you then cease to be resident you should have a PIR of 28% from the date you leave New Zealand, unless you qualify as a notified foreign investor who invests in a foreign investment PIE. You should tell the MRP of the change as soon as possible. For further information on ceasing to be, or becoming a notified foreign investor, see the section "You change country of residence".

New residents

If you become a resident of New Zealand on or after 1 April 2012 you need to include your worldwide income when determining your PIR. However, you may choose not to include your worldwide income for either or both of the previous income years, if you reasonably expect your taxable income in either of the first two years as a resident will be significantly lower than your total income from all sources for the previous income year(s). Note that if you choose not to include your worldwide income, the PIE income is no longer excluded income and must be included in your income tax return. The income will then be taxed at your marginal tax rate which may be higher than the 28% top resident PIR.

If you were a non-resident individual, without New Zealand sourced income and you then become a New Zealand resident before 1 April 2012, you can use a PIR of 10.5% for two years after arriving in New Zealand.

If you were a non-resident individual, with an existing investment in an MRP or other New Zealand sourced income and you then become a New Zealand resident, you can generally use a PIR of 10.5% for two years after arriving in New Zealand, provided you also satisfy the resident individual PIR thresholds (ie, PIR based on income taxable in New Zealand received in the previous two income years). You must also advise the MRP of the change from 28% to 10.5%.

Transitional residents

If a transitional resident invests in a zero-rate PIE, they qualify for the 0% PIR. If they've notified the 0% PIR correctly, the income isn't included in their tax return.

Record-keeping requirements

If your income from the MRP is taxed at your actual PIR it doesn't have to be included in your tax return. You don't have to keep records.

If your income from the MRP has been taxed at a zero rate on exiting the MRP or if you have given the MRP a PIR lower than your actual rate, you must keep your records relating to that income for seven years for tax purposes.

Income attributed by the MRP

PIE tax and NRWT (non-resident withholding tax)

The NRWT rules don't apply to MRP investments of non-residents who aren't notified foreign investors or who don't invest in one of the new foreign investment PIEs.

If you're a resident of a country New Zealand operates a double tax agreement (DTA) with, under the NRWT rules the tax you pay on interest, dividends and royalties is limited to agreed DTA tax rates (usually 10% or 15%).

As the tax on income from your investment in the PIE is actually paid by the PIE:

- the limitation under the DTA will **not** apply, and
- the tax on your investment will be calculated at 28%, and
- you may not be able to claim the tax paid by the PIE as a credit in your country of residence.

A PIE that is a listed company and doesn't use your PIR may continue to pay dividends to non-residents, which will be subject to NRWT.

A variable-rate PIE that derives dividends from New Zealand based companies can pay certain dividends to a notified foreign investor as non-resident passive income and deduct NRWT.

There are four requirements for treating a particular dividend as liable for NRWT:

- The NRWT applies only to the unimputed portion of a New Zealand dividend.
- A payment of an amount that represents some or all of the unimputed dividend is made to a notified foreign investor.
- The payment must be made by the time the PIE is required to file a PIE return in which that dividend would have had to be included.
- The variable rate PIE chooses to treat the amount paid as liable for NRWT.

This allows the variable-rate PIE to provide the notified foreign investor with a tax credit that should be claimable in their country of residence. PIE tax generally can't be claimed in foreign countries as it isn't similar in nature to income tax paid by the investor.

Income treated as non-resident passive income isn't included in the variable-rate PIE's assessable income and doesn't appear in any of the PIE returns and the investor statement as PIE income.

When income attributed by the MRP has to be included in your New Zealand tax return

Where:

- you have notified an incorrect PIR
- you had a zero rate applied in a quarter on exit from a PIE that files returns using the quarterly option
- a new resident chooses not to include their worldwide income when determining their PIR

your PIE income must be included in your New Zealand income tax return.

Where the PIE income has been taxed at a rate lower than your actual rate, the tax already deducted by the MRP can be used as a tax credit.

When is your MRP income received?

In New Zealand, MRP income is treated as being received in your income year that includes the end of the MRP's income year. If you and the MRP have standard 31 March balance dates, the year in which the MRP attributes the income and you receive it, will be the same.

If you have a balance date other than 31 March, the year in which the income is received may be different from the year in which the MRP attributes the income.

Dividends/distributions

Dividends or distributions received from an MRP are excluded income and are not required to be included in your New Zealand income tax return.

A PIE that is a listed company and doesn't use your PIR may continue to pay dividends to non-residents, which will be subject to NRWT.

A variable-rate PIE has the option to on pay to a notified foreign investor an amount of a dividend that will be treated as non-resident passive income (see left hand column).

Investor statements

MRPs are required to issue investor statements providing investors with information about:

- their interest in the MRP
- the income derived from their investment in the income year
- the tax calculated by the MRP on their investment.

Generally, investor statements are required to be issued by 31 May or 30 June after the end of the MRP's tax year.

Where you are required to include MRP income in your New Zealand tax return, what information on the investor statement do you use?

The investor statement issued by the MRP provides details of the income and tax paid to include in your tax return.

The following table shows where an investor has been taxed at a zero rate on exit from an MRP that files returns using the quarterly option. The investor won't have had PIE tax paid. The MRP will attribute the income and any associated tax credits.

Investor statement – to be included in the tax return		
Taxable income/loss	\$300	Total income attributed by the MRP. There is no tax paid by the MRP.
FTC	\$5	The foreign tax credits attributed to the investor for the year.
IC	\$10	The imputation credits attributed to the investor for the year.
RWT credits	\$10	The resident withholding tax credits attributed to the investor for the year.

The income tax return will include \$300 income with total tax credits of \$25.

Where there's a rate change during a year you may receive two investor statements, one for each rate applied during the year.

Residual interests

If, at the end of the quarter in which you exit an MRP that files returns using the quarterly option there's any residual value of your interest in the MRP, the residual interest will be paid to Inland Revenue by the MRP, within one month of the end of the quarter in which the exit period falls. You'll be entitled to a tax credit equal to the residual interest paid. This credit can be included in the RWT question on the tax return.

Where does PIE income go in the income tax return?

Where you are required to include PIE income in your New Zealand tax return you'll need to provide details of the income, tax credits and tax paid in a separate letter and attach it to the return. Inland Revenue will then complete the required details.

Tax credits

Foreign tax credits (FTCs) are taken into account by the MRP when it calculates its tax. They can only be used to the extent of the New Zealand tax payable on the PIE attributed income.

If you're a notified foreign investor your foreign-sourced income is taxed at 0%, therefore you can't use FTCs.

Where your income attributed by the MRP has been taxed at a PIR of 0% on exit from the MRP, the foreign tax credits can be claimed in your tax return up to the amount of the tax you're required to pay on the income attributed by the MRP.

New Zealand tax credits are taken into account by the MRP when it calculates its tax. They can only be used by the MRP to the extent of the New Zealand tax payable on the PIE attributed income.

Where you have been taxed at a zero rate by the MRP on exit, the amount of the attributed New Zealand tax credits flow directly to your New Zealand tax return.

Note: Notified foreign investors can't be taxed at a zero rate due to exit from their PIE.

Excess New Zealand tax credits and losses

Most MRPs that have excess New Zealand tax credits or losses in a tax calculation period receive a tax credit calculated at the individual investor's PIR. The MRP then credits the investor by adjusting their interest in the MRP, or making a distribution to the investor.

Notified foreign investors can't have a loss so won't receive a credit adjustment for a loss.

Student loans/child support

If the attributed income from a PIE isn't required to be included in your income tax return, it isn't taken into account when determining student loan repayments or child support payments.

If you're required to include the income attributed by the PIE in your income tax return, it will be taken into account in determining student loan repayments or child support payments.

Withdrawing your investment in an MRP

If you exit an MRP that files returns using the quarterly option part-way through a quarter, the MRP may calculate tax at the zero rate on your share of the income attributed. The zero-rated income must be included in your tax return. Alternatively, the MRP may voluntarily pay tax on the attributed income for the exit period, in which case the income won't have to be included in your tax return.

A partial withdrawal may not be significant enough to be treated as an exit, or switches from one investor class to another within the same entity may not reduce your interest in the MRP. In these situations the MRP may make voluntary tax payments. If the tax calculation has been made at the correct PIR and is sufficient to meet the tax liability, the income doesn't have to be included in your tax return.

Investor expenses

Investor expenses charged by the MRP, incurred by you in relation to your interest, may be taken into account by the MRP when it calculates the income to attribute to you. You won't be able to claim the expenses in your tax return.

If you're a notified foreign investor you can't claim expenses.

You change country of residence

A number of scenarios can occur when a notified foreign investor changes residence. A notified foreign investor can become a resident, a resident can become a notified foreign investor and a notified foreign investor can move to another foreign country or territory. For the last scenario the change could affect the PIR applied to unimputed dividends based on the DTA to non-DTA country rule.

The issue is further complicated by the foreign investment PIE's ability to apply a change in residency. For example, a quarterly PIE may only be able to apply the status for the whole quarter instead of applying a change part-way through a quarter. Therefore flexibility has been built in to allow the PIE to make the change to an investor's status as soon as practicable, but no later than the start of the next tax year.

The following table set out the various scenarios and results for a living person.

Scenario 1

A notified foreign investor becomes a resident and advises the PIE straight away or during the year		
If ...	and ...	then ...
the PIE makes the change straight away	the PIE applies the correct PIRs for each part of the year	provided the investor has notified the correct PIRs the attributed PIE income is excluded income.
the PIE makes the change at the start of the next tax year	the PIE applies the transitional rule and doesn't change the PIR during the tax year	provided the investor has notified their correct PIRs for each year, the attributed PIE income is excluded income.
the PIE omits the change	the PIE corrects for its period of omission	the income is excluded income.

A notified foreign investor becomes a resident and advises the PIE during the next tax year		
If ...	and ...	then ...
the PIE makes the change straight away	the PIE applies the new rate to income from then on	for the period from the start of the next tax year when the notified foreign investor rates have been applied, the income needs to be included in the investor's income tax return.
the PIE makes the change at the start of the next tax year	the PIE treats the investor as a resident for all of the next tax year	provided the investor has notified their correct PIRs, the income for both years remains excluded income.
the PIE omits the change	the PIE corrects for its period of omission	the income is treated as per the first or second row as applicable.

Scenario 2

A resident becomes a notified foreign investor and advises the PIE straight away or during the year		
If ...	and ...	then ...
the PIE makes the change straight away	the PIE applies the correct PIRs for each part of the year	provided the investor has notified the correct PIRs, the attributed PIE income is excluded income.
the PIE makes the change at the start of the next tax year	the PIE applies the transitional rule and doesn't change the PIR until the start of the next tax year	provided the investor has notified their correct PIRs, the income for both years remains excluded income.
the PIE omits the change	the PIE corrects for its period of omission	the income is treated as excluded income.

A resident becomes a notified foreign investor and advises the PIE during the next tax year		
If ...	and ...	then ...
the PIE makes the change straight away	the PIE applies the new rate to income from then on	for the period from the start of the next tax year when the incorrect investor rate was applied, the income may need to be included in the investor's income tax return.
the PIE makes the change at the start of the next tax year	the PIE treats the investor as a resident investor for the year of change, then applies the notified foreign investor rates for the next tax year	provided the investor has notified their correct PIRs, the attributed PIE income is excluded income.
the PIE omits the change	the PIE corrects for its period of omission	the income is treated as per the first or second row as applicable. If the PIE hadn't corrected the position the investor may not have any recourse if taxed at a PIR greater than required.

Scenario 3

A notified foreign investor changes foreign country of residence (DTA to/from non-DTA)
Where the investor has had a rate applied to their attributed PIE income, which is less than their correct PIR, the income is no longer excluded income. The investor should file an income tax return to correct the shortfall.

For resident investors who become notified foreign investors, the PIE should treat the investor as a notified foreign investor from the day it's notified of the change of status, if possible, but no later than the start of the next tax year.

If the investor has misrepresented their status to the PIE by indicating they're a notified foreign investor when in fact they're a resident, the rules ensure the income attributable to the period when the PIE has treated them as a notified foreign investor should be taxable to the investor as if they were a resident (with credits for any tax paid at the PIE level).

For a notified foreign investor who becomes a resident investor, the foreign investment PIE has the choice of changing the investor's status immediately or waiting until the beginning of the next tax year to do so. If the PIE waits, the investor can continue to be treated as a notified foreign investor for the tax year and any income attributed to the investor during this transitional period won't be subject to further tax at the investor level. Among other things, this is to handle situations when residency applies retrospectively, ie, due to the application of the 183-day rule.



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