



**Inland Revenue**  
Te Tari Taake

**IR461**  
August 2022

# Guide to foreign investment funds





# Contents

<b>Foreign investment funds (FIFs)</b>	<b>4</b>
What is a FIF?	4
When does FIF income arise?	5
What is a direct income interest?	5
What is a FIF superannuation interest?	5
Exemptions	6
ASX-listed Australian share exemption	7
Exemption for income interests in Australian-resident FIFs	8
The \$50,000 threshold exemption	9
How is FIF income calculated?	10
<b>Calculating FIF income</b>	<b>11</b>
Market value	12
Currency conversion	13
<b>Fair dividend rate (FDR) method</b>	<b>14</b>
General rule	14
Option to compare results with CV method for certain persons	14
Quick sale adjustment for the FDR method	15
Continued use of the FDR method	16
The FDR method cannot be used for non-ordinary shares	16
<b>Cost method</b>	<b>17</b>
<b>Attributable FIF income method</b>	<b>17</b>
<b>Losses under the FIF rules</b>	<b>18</b>
<b>Foreign tax credits (FTCs)</b>	<b>19</b>
Imputation or resident withholding tax on some Australian dividends	19
<b>Making a disclosure</b>	<b>20</b>
<b>Other notes</b>	<b>21</b>
<b>Glossary</b>	<b>22</b>
<b>Services you may need</b>	<b>26</b>

# Foreign investment funds (FIFs)

This guide explains the tax rules relating to FIFs. They are primarily located in subparts CQ, DN and EX of the Income Tax Act 2007 (the Act). This can be found at [legislation.govt.nz](http://legislation.govt.nz)

The rules apply to New Zealand tax residents who are not transitional residents if they have attributing interests in certain types of investments overseas, such as foreign shares.

If the FIF regime does not apply, other rules may be relevant and tax income on the investments. Some investments need to be disclosed regardless of whether any FIF income is derived.

There are penalties for not declaring FIF income and for not making a disclosure when required to do so. We can make default assessments in certain circumstances.

We exchange financial account information with many countries annually and check this against returns of income.

We encourage taxpayers who discover that they have not met their obligations to make a voluntary disclosure. If one is made before we begin an audit, shortfall penalties may be reduced by up to 100%.

The guide explains:

- when the FIF rules apply
- how to calculate FIF income and
- when a person needs to make a disclosure.

FIF income includes a reference to FIF losses, where applicable.

Go to the glossary on page 22 for definitions. Section YA 1 of the Act is the main source of technical definitions.

## What is a FIF?

A FIF is:

- a foreign company, including a foreign unit trust
- a foreign superannuation scheme
- an insurer under a life insurance policy (if it is not offered or entered into in New Zealand).

A FIF does not include:

- debt instruments such as bank accounts, term deposits and loans as these are dealt with by the financial arrangements rules
- ownership of a rental property overseas
- being a beneficiary of a foreign trust
- an income interest of 10% or more in a controlled foreign company
- income from foreign employment.

## When does FIF income arise?

A person may have FIF income if they hold rights in FIFs which are not exempt. These are called attributing interests.

There are 3 categories of rights:

- a direct income interest in a foreign company, including a foreign unit trust
- a right to benefit from a FIF superannuation interest, either as a beneficiary or a member, and
- a right to benefit from a life insurance policy where a FIF is the insurer and the policy was not offered or entered into in New Zealand.

The second and third categories include contingent or discretionary rights.

Individuals and eligible trustees (type A) do not need to apply the FIF rules if the total cost of their attributing interests is below \$50,000 throughout the year. Other rules may tax income on the investments.

## What is a direct income interest?

It is the highest percentage a person holds in any of the following categories:

- shares in the foreign company
- shareholder decision-making rights in the foreign company
- a right to receive or apply any income of the foreign company, or
- a right to receive or apply the value of the net assets of the foreign company.

## What is a FIF superannuation interest?

Generally, it means rights in a foreign superannuation scheme as a beneficiary or member, which were acquired when the person was:

- resident in New Zealand, or treated as a New Zealand tax resident under a double tax agreement, or
- not a New Zealand tax resident, if the rights were held before 1 April 2014 and treated as an attributing interest in a tax return filed before 20 May 2013 and then in subsequent returns.

If the right to benefit from a foreign superannuation scheme is not a FIF superannuation interest, the foreign superannuation scheme rules apply. Under these rules, tax is generally payable when a lump sum is received or when the interest is transferred to a New Zealand or Australian superannuation scheme. A withdrawal may be exempt if certain conditions are met.

The foreign superannuation scheme rules also apply to a low-value FIF superannuation interest. This is where the total cost of attributing interests in all FIFs is below the \$50,000 threshold and the person does not elect to apply the FIF rules. It applies to natural persons and eligible trustees (type A).

## Exemptions

The table below summarises exemptions from the FIF rules if a person holds rights in one of the 3 categories. If an exemption applies, the right is not an attributing interest for that investment but other tax rules may apply.

Section	Foreign company	FIF superannuation interest	Foreign life insurance policy
EX 31	Certain shares in an ASX-listed Australian company		
EX 32	Direct income interests in an Australian unit trust with adequate turnover or distributions		
EX 33		Natural persons who have rights in certain Australian regulated superannuation schemes	
EX 34	The FIF is not a CFC, the income interest is 10% or more and the person is not a portfolio investment entity		
EX 35	The FIF is resident in Australia and the income interest is 10% or more		
EX 36	A direct income interest for 10 years in a New Zealand venture capital company which emigrates to a grey list country		
EX 37	A direct income interest for 10 years in a grey list company which owns a New Zealand venture capital company		
EX 37B	A share or option in a grey list company acquired under a venture investment agreement		
EX 38	Certain employee share schemes		
EX 40	Foreign exchange controls prevent a natural person from disposing or converting rights into New Zealand dollars	Foreign exchange controls prevent a natural person from disposing or converting rights into New Zealand dollars	Foreign exchange controls prevent a natural person from disposing or converting rights into New Zealand dollars

Section	Foreign company	FIF superannuation interest	Foreign life insurance policy
EX 41		A natural person acquires the rights when a non-resident or transitional resident and they are a non-resident or transitional resident	A natural person acquires the rights when a non-resident or transitional resident and they are a non-resident or transitional resident
EX 42B		A right to benefit from a foreign superannuation which is not a FIF superannuation interest	
EX 43		A natural person's right to benefit from a pension or annuity which was acquired during a period of non-residence and which has restricted rights of assignment or cashing in	
CQ 5(1) (c)(xv)	A non-attributing active FIF		

## ASX-listed Australian share exemption

This is a common exemption from the FIF rules.

The exemption applies when a person holds shares in a company that:

- is listed on the official list of ASX Limited
- is an Australian resident (and not treated as resident in another country under an agreement between Australia and that other country)
- maintains a franking account, and
- is not stapled stock.

If the person is an individual, no FIF income arises from this investment but they will usually need to account for dividends in their tax return and may need to pay tax on capital gains if shares are sold which were held on revenue account.

We have developed a tool to help you determine if this exemption applies to a share.

Go to [ird.govt.nz/fif-australia-tool](http://ird.govt.nz/fif-australia-tool)

## Exemption for income interests in Australian-resident FIFs

There is also an exemption for a person who has an income interest of 10% or more in a FIF resident in Australia. The FIF must be subject to tax in Australia. There are several other conditions specified in s EX 35.

Income interests are calculated under the controlled foreign company rules. These look at direct and indirect income interests as shown in the example below.

### Example

James Stock is a New Zealand resident who is not a transitional resident. James owns shares in 2 foreign companies, which have the following shareholders.

Shareholders	Japan Co	Australia Co
James Stock	5%	8%
Non-residents	95%	42%
Japan Co		50%
Totals	100%	100%

James has a direct income interest of 5% in Japan Co. No exemptions apply so James has an attributing interest in a FIF and will need to calculate FIF income.

James also has a direct income interest of 8% in Australia Co and an indirect interest of 2.5% (5% x 50%). James' income interest in Australia Co is therefore 10.5% (8% + 2.5%).

As this is more than 10% and assuming the other conditions in s EX 35 are met, James will not have an attributing interest in Australia Co and will not need to calculate FIF income. He will apply general tax rules to the investment. This means he will report dividends in his IR3 return and pay tax on capital gains if he sells the shares and he held them on revenue account. He will also need to make a disclosure.

## The \$50,000 threshold exemption

If ...	and the ...	then ...
you are a natural person or a trustee of an eligible trust (type A) with an attributing interest in a FIF	total cost of attributing interests does not exceed the \$50,000 threshold at any time in the year	<ul style="list-style-type: none"> <li>• you will pay tax only on dividends received and gains from the disposal of shares (if the interests are held on revenue account) and will not be required to calculate income under the FIF rules.</li> <li>• you will pay tax on any withdrawals or transfers from your low-value FIF superannuation interest under the foreign superannuation scheme rules applicable since 1 April 2014.</li> </ul>
	total cost of attributing interests does not exceed the \$50,000 threshold at any time in the year but you choose to include FIF income or loss in a return	<p>all attributing interests are subject to the FIF rules from the year in which you opt out of the threshold, and for each subsequent year until you have less than \$50,000 of interests in FIFs in the current year, and for each of the 4 previous tax years you had:</p> <ul style="list-style-type: none"> <li>• no attributing interests in FIFs; and/or</li> <li>• more than \$50,000 in attributing interests in FIFs (note that for these years you would have been required to apply the FIF rules).</li> </ul>
	total cost of attributing interests exceeds the \$50,000 threshold on any day in the year.	all your attributing interests are subject to the FIF rules - the first \$50,000 is not exempt.

## Joint ownership and the \$50,000 exemption

If ...	then ...
you and your spouse/partner jointly hold attributing interests which cost \$100,000 or less	neither of you would be subject to the FIF rules because the \$50,000 threshold would not be exceeded individually.
you or spouse/partner holds attributing interests individually in addition to the jointly-held interests which cost \$100,000	the person holding only the jointly-held interests would not be subject to the FIF rules but the other person would be as the threshold would be exceeded.

The cost of an attributing interest is generally the amount paid but refer to “cost of attributing interests for the \$50,000 threshold” in the glossary for some special situations.

## How is FIF income calculated?

If a person has an attributing interest in a FIF and the \$50,000 threshold exemption does not apply, they must choose from the following 5 methods to calculate FIF income:

- fair dividend rate (FDR)
- comparative value (CV)
- cost method (CM)
- deemed rate of return (DRR), or
- attributable FIF income method.

There are restrictions on which methods can be chosen.

If a person calculates their FIF income under the first 4 methods above, dividends and other gains are not usually taxed separately.

Use the following questions to check if you are required to calculate FIF income.

Questions	If Yes	If No
1. Were you a New Zealand tax resident who was not a transitional resident at any point during the income year?	Go to question 2.	You are not affected by the FIF rules but you may have other tax obligations.
2. Did you hold rights in any of the following at any time during the income year: <ul style="list-style-type: none"> <li>• a direct income interest in a foreign company</li> <li>• a FIF superannuation interest, or</li> <li>• a foreign life insurance policy?</li> </ul>	Go to question 3.	You are not affected by the FIF rules but you may have other tax obligations.
3. Were your rights exempt from being attributing interests? See the table on exemptions on page 6.	You are not affected by the FIF rules for the rights which are exempt but you may have other tax obligations. Go to question 4 in respect of your other rights.	Go to question 4.
4. Were you a natural person or an eligible trustee (type A) during the income year and the total cost of your attributing interests was equal to or less than \$50,000 at all times in the year?	You are not affected by the FIF rules unless you opt into them but you may have other tax obligations.	You are affected by the FIF rules and you will need to calculate FIF income.

# Calculating FIF income

A person must choose from the 5 methods below to calculate their FIF income and file a return accordingly. There may be some constraints on which methods can be chosen as shown in the table below. A person is also generally required to use the same method each year for an attributing interest unless a change of method is permitted.

If a person does not declare their FIF income or files their return late, they need to use a default calculation method when they correct their tax affairs. This is usually the fair dividend rate method.

We have developed a tool to help you with the calculations for the main methods. Go to [ird.govt.nz/calculate-my-fif-income](http://ird.govt.nz/calculate-my-fif-income)

Method	Description of calculation	Main constraints
Fair dividend rate (FDR) – annual method	<p><b>(0.05 multiplied by opening market value) plus quick sale adjustment</b></p> <p>The opening market value is the total of the market values of the attributing interests in FIFs held at the beginning of the income year.</p> <p>The quick sale adjustment is an extra amount calculated when a person buys and sells an attributing interest in the same FIF in the same income year and makes a gain.</p>	FDR cannot be used if the attributing interest is a non-ordinary share, or if the person uses CV for another attributing interest that is a share in a foreign company if FDR would be allowed. If it is not possible to determine the opening market value except by an independent valuation, the person may use the cost method.
Comparative value (CV)	<p><b>(Closing market value plus gains) minus (opening market value plus costs)</b></p> <p>Gains are amounts received from holding (includes dividends) or disposing of the attributing interest and foreign withholding tax or other credits.</p> <p>Costs include expenditure on buying attributing interests plus foreign income tax a person is liable to pay in another country.</p>	If the attributing interest is a share in a foreign company, its use is limited to natural persons, eligible trustees (type B), non-ordinary shares and share users under a returning share transfer. It must be used if the attributing interest is a non-ordinary share unless it is not practical to determine the market value at the end of the year.
Deemed rate of return (DRR)	<p><b>Opening book value multiplied by deemed rate</b></p> <p>The opening book value is the book value of the attributing interest at the end of the previous income year.</p> <p>The deemed rate is set by the Governor-General by order in council for the relevant income year.</p> <p>There is another formula that applies in the event that an attributing interest changes during the income year. A person using this method may also need to calculate “top-up” FIF income in certain situations.</p>	It can only be used in the case of a non-ordinary share if the CV method is not practical.

Method	Description of calculation	Main constraints
Cost method (CM)	<b>(0.05 multiplied by opening value) plus quick sale adjustment</b> There are different methods that can be used to arrive at the opening value depending on the circumstances – see the glossary. The formula for the quick sale adjustment is the one used for calculating the peak holding method amount for FDR.	If the attributing interest is a share in a foreign company, it can only be used if FDR is allowed but not practical because it is not possible to determine the market value at the start of the year except by an independent valuation.
Attributable FIF income method	<b>Net attributable FIF income or loss multiplied by income interest.</b> A person using this method may also have additional items of income described on page 17.	In general, the FIF must be a company, the income interest of a person must be 10% or more and sufficient information must be available to do calculations under modified CFC rules.

A person also has FIF income in certain situations if they have an income interest of 10% or more in a CFC which has an income interest in a FIF. This applies if FIF income or loss is not taken into account in calculating the net attributable CFC income or loss of the CFC for that person.

The DRR and attributable FIF income methods cannot be used to calculate FIF income for FIF superannuation schemes and foreign life insurance policies.

FIF income does not arise to the extent that income arises solely from receiving a death benefit under a life insurance policy. This applies when:

- the person or deceased entered the policy at a time they were non-resident and had not been a resident for at least the previous 10 years, or
- the policy was entered into before 2 July 1992.

In both cases, the benefit must not have been increased by a voluntary action taken after the person became resident on or after 2 July 1992.

## Market value

Market value is generally the share price on a recognised exchange. Other information that is verifiable and may be used includes published unit prices or the net asset values at which units can be redeemed. Exit values that incorporate a penalty for early withdrawal or redemption are not acceptable.

The market value of rights, in the case of a superannuation scheme, is equal to the total costs of acquiring the rights if it is not reasonably practical to calculate the actual value and no material gains have been derived.

In the case of a life insurance policy, market value equals surrender value but only for the purpose of calculating the cost of a person's rights when they enter the rules due to a change of residence or an exemption no longer applying.

## Currency conversion

There are rules relating to currency conversions when calculating FIF income.

If a person calculates FIF income other than by using the attributable FIF income method, one of the following ways to convert income must be chosen and applied consistently to all attributing interests:

- the actual rate for the day for each amount derived or incurred or when determining market value
- the rolling 12-month average rate for a 12-month accounting period or income year, or
- the rolling average for accounting periods or income years greater or lesser than 12 months calculated using the mid-month rate.

The rolling 12-month average cannot be used for the attributable FIF income method.

Examples of how to convert foreign currency amounts can be found in **Tax Information Bulletin Vol 31 No 11 (December 2019)** at page 2. To view the Tax Information Bulletin, go to [taxtechnical.ird.govt.nz](http://taxtechnical.ird.govt.nz)

### Note

For the actual rate, we accept the mid-month rate as equivalent to an actual rate for transactions occurring in that month. The end-of-month, mid-month and rolling average rates for a selection of currencies are available at [ird.govt.nz/overseas-currency](http://ird.govt.nz/overseas-currency)

## Fair dividend rate (FDR) method

There are two FDR methods. The annual FDR method is the primary method for calculating FIF income. A person is generally eligible to use this method for attributing interests in foreign companies if:

- the attributing interest is an ordinary share, and
- they can determine the market value of their investment at the start of the income year.

The periodic FDR method is generally used by unit trusts and not described further.

### General rule

If a person uses the annual method, they will generally be taxed on 5% of the opening market value of their attributing interests in foreign companies. Dividends and capital gains are not usually taxed separately. However, this does not apply to fee rebates, which should be returned as additional income.

If a person decides to use the FDR method for one investment, then they must use this method for all their FIF investments that year, unless the legislation prevents them from doing so.

### Option to compare results with CV method for certain persons

If you are ...	and ...	then you ...
an individual or trustee of an eligible trust (type B)	your return under the CV method is less than the FDR method	generally have the option of using your total return under the CV method noting that a loss on the total portfolio is reduced to zero.

For all investments where you can choose between the FDR and CV methods, you must use the same calculation method and the total result cannot be less than zero. You cannot claim a FIF loss from these investments.

#### Example

Bill Murphy holds shares in 3 foreign companies and can use the FDR method. No dividends are paid and there is no movement in share numbers.

FIF name	Opening market value	Closing market value	FDR income	CV income
Company A	\$100,000	\$102,000	\$ 5,000	\$ 2,000
Company B	\$100,000	\$110,000	\$ 5,000	\$10,000
Company C	\$100,000	\$ 80,000	\$ 5,000	-\$20,000
		<b>Total</b>	<b>\$15,000</b>	<b>-\$ 8,000</b>

(reduced to 0)

In the example, Bill Murphy can either return FIF income of \$15,000 under the FDR method or zero income under the CV method. The CV loss cannot be offset against any other income.

## Quick sale adjustment for the FDR method

The FDR method ignores purchases and sales unless shares in an attributing interest are increased and decreased in the same year. In that case, a person is required to calculate a quick sale adjustment and add any income to the amount calculated by multiplying the opening market value by 5%. The quick sale adjustment is the lesser of the peak holding method amount and the actual gain.

The peak holding method amount formula is  $5\% \times \text{the peak holding differential} \times \text{average cost}$ .

The peak holding differential is the lesser of:

- the difference between the greatest shareholding in the year and the shareholding at the start of the year, and
- the difference between the greatest shareholding in the year and the shareholding at the end of the year.

The average cost is calculated across all purchases for that share and class in the income year.

The actual gain is calculated for each disposal to the extent that it follows acquisitions made earlier in the income year.

### Example

Company A

Date	Action	Number	Amount	Total number
1 April	Opening	10,000	\$200,000	10,000
1 October	Acquisition	5,000	\$110,000	15,000
1 December	Disposal	4,000	\$100,000	11,000
23 December	Acquisition	2,000	\$ 44,000	13,000
	Closing		\$254,000	

The peak holding differential is the lesser of:

$$15,000 \text{ to } 10,000 = 5,000$$

$$15,000 \text{ to } 13,000 = 2,000$$

The average cost is  $\$110,000 + \$44,000 = \$154,000$

$$5,000 + 2,000 = 7,000$$

$$\$154,000 \div 7,000 = \$22$$

The peak holding method amount is  $5\% \times 2,000 \times \$22 = \$2,200$

The actual gain is  $\$100,000 - (4,000 \times \$22) = \$12,000$

The quick sale adjustment is the lesser of peak holding adjustment and actual gain =  $\$2,200$

Total FIF income is  $5\% \times \$200,000 = \$10,000 + \$2,200 = \$12,200$

## Continued use of the FDR method

If you are ...	then you ...
an individual or trustee of an eligible trust (type B)	are generally able to switch freely between the FDR and CV methods in different income years (but not within an income year).
any other type of tax person	are generally required to continue to use the FDR method in succeeding years.

## The FDR method cannot be used for non-ordinary shares

The FDR method cannot be used to calculate FIF income for the following types of investments:

- fixed-rate foreign equities
- non-participating redeemable shares
- investments in foreign entities that have assets of which 80% or more by value at a time in the income year are in fixed-rate shares, or financial arrangements, denominated or hedged in New Zealand dollars
- investments in foreign entities that have assets of which 80% or more by value at a time in the income year are in fixed-rate shares, or financial arrangements, denominated or hedged in New Zealand dollars if the non-resident is not listed on a recognised exchange or is listed on a recognised exchange but is a certain type of foreign PIE equivalent
- shares that involve an obligation to provide more than the issue price of the share and are non-contingent or subject to a contingency sufficiently remote to be immaterial
- an interest in a non-resident that is not a foreign PIE equivalent, where the holding is a part of a structured arrangement and the non-resident is allowed a deduction for a dividend in another country, or
- shares determined by the Commissioner for which the FDR method is not available.

Copies of determinations are printed in Tax Information Bulletins and are also available at [taxtechnical.ird.govt.nz](http://taxtechnical.ird.govt.nz)

For non-ordinary shares, a person is required to use the CV method or the DRR if it is not practical to determine the closing market value of the attributing interest.

A person can claim a FIF loss under the CV method for attributing interests that are non-ordinary shares.

## Cost method

If the attributing interest is a share in a foreign company, this method can only be used if the FDR method is allowed but the market value of the attributing interest at the start of the income year cannot be determined (except by independent valuation).

See the glossary for how to determine “opening value” in the formula.

The quick sale adjustment differs from the FDR method and is simply the result of applying the peak holding method amount formula.

## Attributable FIF income method

Generally, the attributable FIF income method can only be chosen by a person with an income interest of 10% or more in a FIF which is a foreign company if sufficient information can be provided to the Commissioner to check the relevant calculations. The calculations can be complex and are based on the CFC rules with certain modifications.

A person who is eligible to use the method can instead use one of the other methods if permitted to do so.

No FIF income arises if the company is a non-attributing active FIF but a person may have to report dividends in their tax return and pay tax on capital gains if the attributing interest is held on revenue account. In general, a non-attributing active FIF is one in which passive income is less than 5% of gross income.

It is possible to make an election for a non-attributing active FIF to be treated as though it did not qualify.

A person has additional FIF income in certain circumstances if the FIF has an income interest in another foreign company. If this applies, the additional amount is calculated by multiplying the income interest in the FIF by the FIF's FIF income or loss from the foreign company.

If the person uses the method, a taxable distribution from a non-complying trust is excluded from the calculation of net attributable FIF income and loss. It is taxed separately by multiplying the distribution by the person's income interest and applying a tax rate of 45%.

## Losses under the FIF rules

If a person uses the...	then ...
FDR method	the formula means no losses can arise. Losses cannot be claimed on the disposal of the attributing interest.
Cost method	the formula means no losses can arise. Losses cannot be claimed on the disposal of the attributing interest.
CV method	if a person has a choice between using the FDR or CV because they are a natural person or a trustee of an eligible trust (type B), no losses can be claimed. Losses on disposal of an attributing interest are taken into account in the formula. If the attributing interest is a non-ordinary share, the CV method must usually be used and losses can be claimed.
Deemed rate of return method	An adjustment for any unrealised gains previously included as income can be claimed in certain circumstances.
Attributable FIF income method	Losses can usually be claimed but the amount is limited each year to CFC or FIF income derived in the same country.

## Foreign tax credits (FTCs)

New Zealand residents who derive assessable income from overseas may be entitled to a tax credit for foreign tax paid if the tax is covered by a double tax agreement (DTA). The credit cannot exceed the amount allowable in the DTA.

### Example

Peter has some shares in Switzerland and received dividends with Swiss withholding tax deducted of 30%. The DTA between New Zealand and Switzerland limits Swiss tax to 15%. Peter's foreign tax credit in New Zealand is limited to 15%. He should approach the Swiss tax authority regarding the balance.

If there is no treaty, a credit might be allowed if the tax paid is substantially the same in nature as income tax in New Zealand. Australian franking credits and tax paid on dividends from the United Kingdom are not eligible.

The amount of the credit in both cases is generally limited to the lesser of the tax paid and New Zealand liability on the segment of foreign income.

When methods other than the attributable FIF income method are used, subpart LJ of the Act applies. The credit is based on the segment of foreign income calculated under one of the methods, rather than the amount on which the foreign tax was deducted. No credit is available if the segment has a loss. Unused credits cannot be refunded or carried forward.

If a person uses the attributable FIF income method, they calculate tax credits under subpart LK of the Act as though the FIF was a CFC. Unused tax credits situations can be carried forward.

For more information about foreign tax credits, go to [taxtechnical.ird.govt.nz - IS 21/09 Income tax – foreign tax credits – how to calculate a foreign tax credit](https://www.ird.govt.nz/taxtechnical/ird.govt.nz-IS-21/09-Income-tax-foreign-tax-credits-how-to-calculate-a-foreign-tax-credit).

## Imputation or resident withholding tax on some Australian dividends

Australian companies and unit trusts may attach imputation credits and resident withholding tax to dividends if they are an Australian imputation credit company. The shareholder dividend statement will show “New Zealand imputation credit”.

These amounts are not FTCs and are treated as follows:

- Imputation credits are used to reduce tax payable. If the dividend exceeds the FIF income from the attributing interest, the amount of the imputation credit that can be claimed is calculated on the basis of the FIF income. If the FIF income exceeds the dividend, the entire imputation credit attached to the dividend can be claimed. Any excess imputation credit cannot be carried forward to the next year or converted to a loss.
- Resident withholding tax is used to offset tax payable with any excess refundable. The full amount of these tax credits can be entered in the return even where the FIF income is reduced to zero or there is a FIF loss. Please put a note explaining this in your return.

## Making a disclosure

If a person has an income or control interest in a foreign company or an attributing interest in a FIF, they may have to make a disclosure in their tax return.

Each year we publish a notice called the International Tax Disclosure Exemption. This exempts certain persons from making disclosures. The notice is usually published in the April's Tax Information Bulletin.

The notice does not exempt persons from declaring FIF income if it arises.

Disclosures are made as part of filing a tax return in myIR.

## Usual exemptions

The International Tax Disclosure Exemption will usually exempt any person who:

- holds an income interest of less than 10% in a foreign company that is not an attributing interest
- has attributing interests in FIFs if the \$50,000 threshold exemption applies
- has a direct income interest in a FIF less than 10%, uses the FDR or CV method, and the FIF is incorporated or tax resident in a country which has a double tax agreement with New Zealand and is not one of the following:
  - a portfolio investment entity
  - a widely-held company
  - a widely-held superannuation fund
  - a widely-held group investment fund
- any person who is one of the 4 types of entities above and meets certain requirements.

## Other notes

1. New Zealand tax residents who are not transitional residents are taxable on their worldwide income even if tax has been paid in another country. In general, the person can claim a credit for tax paid overseas on income which is also taxed here.
2. We have published a package of documents to help individuals with their tax obligations in relation to foreign income. Go to [ird.govt.nz/indiv-compliance-focus](http://ird.govt.nz/indiv-compliance-focus)  
The package includes:
  - **Offshore Tax Transparency -IR1246**
  - **Foreign Income Guide – IR1247**
  - **Foreign Income Checklist – IR1248**
  - **Transitional Residency Flowchart – IR1249.**
3. The exemption for transitional residents ceases if an application is made for Working for Families Tax credits.
4. FIF income can arise under the FIF rules even if there are no receipts during the year.
5. FIF income can arise under the FIF rules even if a person's shares perform poorly as a result of currency movements.
6. If a person uses FDR and acquires an attributing interest in a foreign share during the year, the opening market value will be zero and there will be no FIF income unless there is a quick sale adjustment. Conversely, in the year of sale, there will be FIF income based on the opening market value even though the share is not held at the end of the year.
7. There are specific anti-avoidance rules if acquisitions and disposals are not at market values.
8. There are various rules not mentioned in this guide dealing with change, such as a non-resident becoming a resident and an exemption ceasing to apply. In general, a change results in a deemed disposal and acquisition at market values.
9. Lump sum withdrawals or transfers from foreign superannuation funds are generally excluded from the FIF rules and are taxed at the time of withdrawal or transfer. For more information, read our **Overseas private pensions - IR257 guide**.
10. Generally, pension payments are taxable in New Zealand. However, some offshore social security pensions do not need to be returned here. For more information, read our **Overseas social security pensions - IR258 guide**.
11. If you need to correct your tax affairs, go to [ird.govt.nz/fixmistakes](http://ird.govt.nz/fixmistakes) and, if necessary, **Standard Practice Statement (SPS) 19/02 Voluntary disclosures at taxtechnical.ird.govt.nz**
12. If you are unsure how the FIF rules apply, we suggest consulting a tax advisor for professional advice.

# Glossary

## Capital account

When a person holds shares to receive income, such as dividends, the holding is on capital account if:

- they did not purchase the shares for the purpose of disposing of them, and
- they are not a share trader.

## Company

This is a body corporate or entity with a legal existence separate from its members. It includes a unit trust and certain other types of entities.

## Controlled foreign company

In general, this is a company in which a group of 5 or fewer New Zealand residents have more than 50% of the control interests or a single New Zealand resident holds a control interest of 40% or more.

## Cost of attributing interests for the \$50,000 threshold

If ...	then ...
you acquired an interest due to a share split, non-taxable bonus or similar event and the acquisition is not income	the cost is an allocation of the original cost based on fair market valuations at the time of the event.
you acquired an interest for a non-monetary cost	the cost is equal to the market value of the non-monetary item.
the attributing interest is a foreign life insurance policy.	term life insurance premiums are excluded if they do not increase the surrender value.
you acquired an attributing interest before 1 January 2000	you may use either the: <ul style="list-style-type: none"> <li>• actual cost, or</li> <li>• half of the market value on 1 April 2007.</li> </ul>
you acquired an attributing interest before 1 January 2005 that was previously exempt due to EX 39 until the beginning of the 2013 income year	you may use the market value at the beginning of the 2013 income year.

## Eligible trustees (type A)

Trustees are not subject to the FIF rules if the amount of their attributing interests in FIFs is below the \$50,000 threshold and the trust is:

- a testamentary trust:
  - arising on the death of a person and the current income year begins on or before the date that is five years after the person's death, and/or
  - where the settlor is required by a court order to settle the proceeds of damages or compensation on the trust for the beneficiaries.
- a compensatory trust, where the settlor is:
  - a relative or legal guardian of a beneficiary of the trust, or a person associated with a relative or legal guardian of a beneficiary of the trust, and
  - required by a court order to pay damages or compensation to the beneficiary.
- settled by the Accident Compensation Corporation.

## Eligible trustees (type B)

Trustees can usually use the CV method and may switch between the FDR and CV methods in different income years if:

- the settlor is a natural person or deceased person and
- the trust is a complying trust for a distribution and
- the trust is mainly for the benefit or natural persons for whom the settlor has or had natural affection or for the benefit of a charity.

## Foreign company

A foreign company is a company that is not resident in New Zealand or is treated under a double tax agreement as not being resident in New Zealand.

## Foreign superannuation scheme

A superannuation scheme created outside New Zealand to provide retirement benefits to natural persons or pay benefits to a superannuation fund. It may be a trust, a unit trust, a company, or a statutory scheme (not being an arrangement under the Social Security Act 2018).

## Foreign unit trust

A unit trust is a scheme or arrangement in which funds are pooled and investors participate in the income and gains from the unit trust's investments based on how many units are held. A foreign unit trust is treated as a foreign company under the FIF rules.

## Grey list company

Generally, this is a company which is resident and liable for tax in the following countries: Australia, Canada, Germany, Japan, Norway, Spain, the United Kingdom and the United States.

## Natural person

A natural person is an individual person, not a company or other entity.

## New Zealand tax resident

An individual is tax resident in New Zealand if they have a permanent place of abode here or have been here for more than 183 days in total in a 12-month period.

A company is resident in New Zealand if:

- it is incorporated here
- it has its head office here
- its centre of management is here, or
- its directors exercise control here.

## Opening value

Opening value for the cost method is:

- (a) zero, if the attributing interest was acquired in the year
- (b) the net asset value of the interest in audited financial statements made available to the general public for the relevant year if (a) does not apply and the investor chooses this method
- (c) the independent valuation of the market value of the interest at the start of the relevant income year if a person chooses to use this method, certain other conditions are met and neither (a) nor (b) apply
- (d) the result of the following formula if none of the above apply and the shareholding is the same as the previous year:  $1.05 \times \text{last year's opening value}$ .
- (e) the result of the following formula if none of the above apply and the shareholding has increased:  $1.05 \times \text{last year's opening value} + (\text{the increase} \times \text{average cost})$
- (f) the result of the following formula if none of the above apply and the shareholding has decreased:  $(\text{opening shareholding} / \text{previous year's shareholding}) \times 1.05 \times \text{last year's opening value}$ .

## **Revenue account**

When a person buys and sells investments on a regular basis or buys with the intention of making pecuniary profits from the investments, the investments are considered to be held on revenue account.

## **Stapled stock**

Stapled stock is an investment that can only be disposed of if it is attached to a right in another company.

## **Transitional resident**

A transitional resident is a natural person who is a New Zealand tax resident and:

- has not previously been a transitional resident
- has been non-resident for 10 years or more
- has not made an application for Working for Families Tax Credits.

# Services you may need

## Need to contact us?

Find the best way to contact us at [ird.govt.nz/contact-us](https://ird.govt.nz/contact-us)

## Tax Information Bulletin (TIB)

The TIB is our monthly publication containing detailed technical information about all tax changes. Subscribe at [taxtechnical.ird.govt.nz/subscribe](https://taxtechnical.ird.govt.nz/subscribe) and we'll send you an email when we publish each issue.

## ird.govt.nz

Go to our website for information and to use our services and tools.

- **Log in or register for myIR** - manage your tax and entitlements online.
- **Calculators and tools** - use our calculators, worksheets and tools, for example, to check your tax code, find filing and payment dates, calculate your student loan repayment.
- **Forms and guides** - download our forms and guides.

## 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](https://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.

Find out more about making a complaint at [ird.govt.nz/disputes](https://ird.govt.nz/disputes)



