Inland Revenue
Te Tari Taake

Declaration for trusts and estates not required to file returns

IR633
April 2023

Tax Administration Act 1994

- **To be completed by a complying trust, estate or testamentary trust which does not want to file an income tax return for a tax year, because it is non-active, and it satisfies Criteria A below or it is a testamentary trust that satisfies Criteria B below. The trust, estate or testamentary trust will need to file a return if it becomes active again or no longer meets the relevant criteria**
- **Read the notes before you fill in this form.**
- **You will need to have ceased your GST or employer registration before we can action this request.**
- **You can complete this declaration in myIR.**

Trust name

Postal address

IRD number (8 digit numbers start in the second box. 1 2 3 4 5 6 7 8)

Balance date
Day Month Year

Criteria A

The trust is a:

☐ Complying trust ☐ Estate

The complying trust or estate has met all the following conditions throughout the income year corresponding to the tax year:

1. It has not derived any assessable income from any source.
2. It has no deductions.
3. It has not been party to, or perpetuated, or continued with, any transactions with assets of the trust that give rise to any of the following during the tax year:
   a. income in any associated person's hand
   b. fringe benefits to any employee or former employee

See the notes below for further clarification on what should be considered and what can be ignored.

Criteria B

The trust is a:

☐ Complying testamentary trust

The testamentary trust does not meet the conditions of Criteria A but has met all the following conditions throughout the income year corresponding to that tax year:

1. The trust earned less than $5,000 of assessable reportable income.
2. The trust earned less than $1,000 of non-reportable income and had allowable deductions that reduces the net income to $200 or less for the income year

The trust or estate has met Criteria A or B from the _____ tax year onwards.

If the trust, estate or testamentary trust has made a declaration and stops meeting any of the above conditions at any time, the trustee(s) must tell us that it is no longer a non-active trust or meets Criteria B and start filing annual income tax returns. If the trust, estate or testamentary trust needs to request to be active again, either file a return for the year that it became active again, send a message through myIR, phone us, or advise us in writing.

Name of authorised person

Designation or title

Email address

Phone number ( )

Signature

Date
Day Month Year

Send this declaration to:
Inland Revenue
PO Box 39010
Wellington Mail Centre
Lower Hutt 5045

RESET FORM

Notes

Criteria A

Factors not considered when establishing non-active criteria for complying trusts and estates

When deciding whether a complying trust or estate is "non-active" the following should not be considered:

- bank charges or other minimal administration costs that total $1,500 or less in the tax year
- reasonable fees paid to professional trustees to administer the trust or estate
- reportable income derived during the tax year that totals $1,000 or less
- insurance, rates, interest, and other expenditure incidental to the occupation of a dwelling owned by the trust or estate and incurred by the beneficiaries of the trust.

An estate is different to a testamentary trust that Criteria B are relevant for. Estates refer to the property of a deceased held by an executor or administrator in the period before a trust (testamentary or otherwise) arises.

Criteria B

The above criteria do not apply to testamentary trusts that are making a declaration under criteria B.

A testamentary trust is a trust that is created by the terms of the will which provide (or from which it be implied) that trustees must hold some assets in trust for beneficiaries. This can include situations where the dispositions provided for in the will cannot be made because the assets of an estate are unable to vest absolutely in the interest of the beneficiary until a specific event occurs.

For income years prior to 2021/22

Criteria A and B only apply for the 2021/22 income year onwards. When deciding if your complying trust or estate was non-active in an earlier year it needs to meet all the following conditions:

1. It has not derived any gross income from any source.
2. It has no deductions.
3. It has not been party to, or perpetuated, or continued with, any transactions with assets of the trust that give rise to any of the following during the tax year:
    a. income in any associated person's hand
    b. fringe benefits to any employee or former employee

When deciding whether the trust or estate is "non-active" the following shouldn't be considered:

- bank charges or other minimal administration costs that total $200 or less in the tax year
- reasonable fees paid to professional trustees to administer the trust
- interest earned on any trust assets in any bank account during the tax year that totals $200 or less
- insurance, rates, and other expenditure incidental to the dwelling owned by the trust and incurred by the beneficiaries of the trust.

Ending non-active status

To assist in the future if the trust, estate or testamentary trust becomes active again, you may wish to record the following information when you make this declaration:

- losses available
- contact details of the trustees, settlors, and beneficiaries of the trust.

If the trust, estate or testamentary trust stops meeting any of the Criteria A or B conditions after it has made a declaration, it must tell us it is no longer a non-active trust or satisfies Criteria B.

Request for returns

A trust, estate or testamentary trust who has completed this declaration must still file income tax returns if we ask for them.