



Auckland Chartered Accountants

Tax Update May 2023

Trust Tax Traps- Trustees Please Read

In the recent years there has been a global push towards automatic exchange of information between countries. This has made it easier for tax authorities to identify tax residents and their assets. This can create a number of potential tax issues for Trusts with international connections such as;

- If a trustee is a tax resident in a foreign country, this may impact the tax obligations of the trust in both New Zealand and the foreign country.
- If you have non-resident beneficiaries which the Trust makes a distribution to, or loans money to, this can have tax implications for the beneficiary in the foreign country

Example 1- Trustee moves overseas

Family Trust with 3 Trustees- Mum, Dad and their adult son Leon. The Trust owns a residential dwelling in New Zealand.

Leon moves to Australia and remains a Trustee. Australia taxes Trusts based on the residence Trustees. The Trust becomes a Dual tax Resident Trust in Aus and NZ. Trustees need to seek a determination to confirm the Trust tax residency.

Failure to do so can lead to the Australian capital gain tax regime extending to the Trust's NZ property.

Example 2- Non-Resident Beneficiary

Family Trust with Mum and Dad as Trustees and their 3 children as beneficiaries. Liam, one of the beneficiaries, moves to the United Kingdom. The

Trust makes a capital gain and wants to distribute this to the beneficiaries. No tax implications in NZ, however, the UK has a capital gains tax, so the distribution is likely to give rise to tax obligations for Liam in the UK.

Different countries also have different rules around what is considered to be a distribution from a trust. For example, a loan from a trust to a beneficiary may be considered a distribution that gives rise to tax consequences in certain countries.

Key Takeaway

If you have non-resident trustees, settlors, or beneficiaries please let us know so we can mitigate any adverse tax implications that may arise as a result.

If you have any questions, please do not hesitate to contact us on 09 524 9802

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Take care,
The team at Auckland Chartered Accountants

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