



Automatic Exchange of Information

Request for submissions – excluded entities (non-reporting financial institutions) and excluded accounts lists

Overview

Inland Revenue plans to issue the New Zealand lists of “other low risk” excluded entities (non-reporting financial institutions, or NRFIs) and excluded accounts as soon as possible after the legislation from the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill is enacted.

Financial institutions and interested parties are invited to submit details of entities and accounts that they believe meet the criteria for exclusion.

Submissions should be sent to policy.webmaster@ird.govt.nz by 31 January 2017.

Criteria for exclusion

The general criteria for excluded entities (NRFIs) and excluded accounts are set out in the Common Reporting Standard (CRS), available at <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

Entities and accounts that meet the general criteria are automatically excluded – they do not need to be separately approved or published on a list.

However, for both excluded entities (NRFIs) and excluded accounts, the CRS contains “other low risk” categories that involve a consideration of risk and substitutable criteria:

NRFIs – CRS section VIII.B(1)(c)

...any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;

Excluded Accounts – CRS section VIII.C(17)(g)

...any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs

C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

The Common Reporting Standard (CRS) requires these other low risk categories to be defined in domestic law.

The bill implementing the CRS in New Zealand proposes that entities and accounts will only be within the other low risk excluded entities (NRFIs) or excluded account categories if approved by Inland Revenue and published in a Commissioner's determination.

Submission information

Excluded entities (NRFIs)

Submissions to treat a financial institution as a non-reporting financial institution should cover:

- Why the entity is a financial institution under the CRS in the first place.
- Why the entity does not come within any of the other specific categories of non-reporting financial institution.
- Whether the entity has substantially similar characteristics to any of the entities described in subparagraphs B(1)(a) and (b) of section VIII of the CRS, focussing specifically on those characteristics which are/are not similar, and whether there are substitute characteristics that provide a similar level of assurance that the entity presents a low risk of being used to evade tax.
- Why the entity presents a low risk of being used to evade tax in terms of the following factors (refer to pages 170–173 of the CRS commentary):
 - Regulation: Is the entity subject to regulation in New Zealand? If so, please describe the regulatory regime.
 - Reporting: Is the entity required to report information on account holders to Inland Revenue?
 - Anti-money laundering: Is the entity subject to the anti-money laundering/know your customer procedures?
 - Other: Are there any other reasons why the entity presents a low risk of being used for tax evasion? What are they?

Excluded accounts

Submissions to treat a financial account as an excluded account should cover:

- Why the account is a financial account under the CRS in the first place.
- Why the account does not come within any of the other specific categories of excluded account.

- Whether the account has substantially similar characteristics to any of the accounts described in sub-paragraphs C(17)(a)-(f) of section VIII of the CRS, focussing specifically on those characteristics which are/are not similar, and whether there are substitute characteristics that provide a similar level of assurance that the account presents a low risk of being used to evade tax.
- Why the account presents a low risk of being used to evade tax in terms of the following factors (refer to pages 187–190 of the CRS commentary):
 - Regulation: Is the account subject to regulation in New Zealand? If so please describe the regulatory regime.
 - Tax-favoured: Is the account tax-favoured (are contributions to the account that would otherwise be subject to tax deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or is the taxation of investment income from the account deferred or taxed at a reduced rate)?
 - Reporting: Is information required to be reported to Inland Revenue for the account?
 - Limited contributions: Are contributions to the account (or the associated tax relief) limited?
 - Limited service: Does this type of account provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes?
 - Anti-money laundering: Is this type of account subject to the anti-money laundering/know your customer procedures?
 - Other: Are there any other reasons why this account presents a low risk of being used for tax evasion? What are they?