Inland Revenue
Te Tari Taake

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Guide to foreign investment funds and the fair dividend rate

Contents

Foreign investment funds (FIFs)

This guide explains the tax rules relating to FIFs. Investors who have certain types of offshore investments may have FIF income.

The FIF tax rules that were introduced for the years beginning on or after 1 April 2007 aimed to encourage savings by low and middle income earners and to remove inconsistencies in the old rules which:

- overtaxed some investors using New Zealand-based managed funds
- were biased in favour of direct investment in offshore shares
- favoured investment in certain countries over others.

What is a FIF?

A FIF is

- a foreign company
- a foreign unit trust
- a foreign superannuation scheme (prior to 1 April 2014)
- a FIF superannuation interest (from 1 April 2014)
- an insurer under a life insurance policy (and the policy is not offered or entered into in New Zealand).

Note: There are potentially different rules for holdings of 10% or more.

A FIF does not include term deposits, bonds, debentures, money lent, foreign employment, pensions, qualifying foreign private annuity or rental investments.

Foreign superannuation changes from 1 April 2014

From 1 April 2014, interests in foreign superannuation schemes will no longer be taxed under the FIF rules unless they are a "FIF superannuation interest".

A FIF superannuation interest generally means:

- an interest in a foreign superannuation scheme acquired while you were resident in New Zealand, or treated as a New Zealand tax resident under a double tax agreement, or
- an interest in a foreign superannuation scheme where you complied with the FIF rules for an income year ending before 1 April 2014, returned that income in your income tax returns filed before 20 May 2013 and continue to return the income on that interest in succeeding years.

An interest in a foreign superannuation scheme, that is not a "FIF superannuation interest" will be taxed under a new set of rules. Under these rules, tax is payable when a lump sum or pension is received, or if the interest is transferred to a New Zealand or Australian superannuation scheme.

The new rules will also apply to a "low-value FIF superannuation interest". A low-value FIF superannuation interest generally means that the total value of a person's interest in all FIFs is below the de minimis threshold of $50,000 and the person does not calculate income for all FIFs under the foreign investment fund rules.

Using the FIF rules (grandparenting rule) for 1 April 2014 - 31 March 2015 and future income years

If you correctly applied the FIF rules to your foreign superannuation scheme in a tax return lodged before 20 May 2013, you can either continue to apply the FIF rules to that interest or apply the new rules.

The following criteria must be met each time you apply the FIF rules to a particular foreign superannuation interest:

- you must have had an attributing interest in a FIF for an income year up to and including the 2014 income year (the qualifying year), and
- for the relevant income year, the FIF must have been a foreign superannuation scheme, and
- you must have calculated your FIF income or loss resulting from that attributing interest under one of the methods specified in section EX 44 of the Income Tax Act 2007, and
- the FIF income or loss must have been included in your tax return and filed with Inland Revenue before 20 May 2013.

You must then continue to return FIF income or losses in relation to your grandparented interests for all future years. If you continue to apply the FIF rules and return the taxable income or loss, any subsequent withdrawal or transfer related to that interest will not be taxed under the new rules.

If you don't return FIF income in a year where you still hold an interest, that interest will cease to be grandparented. Any subsequent transfer or withdrawal will be taxed under the new foreign superannuation schemes tax rules.

What is FIF income?

If you have an investment that is an attributing interest in a FIF, even though you may not have received any income or gain directly, you may have FIF income.

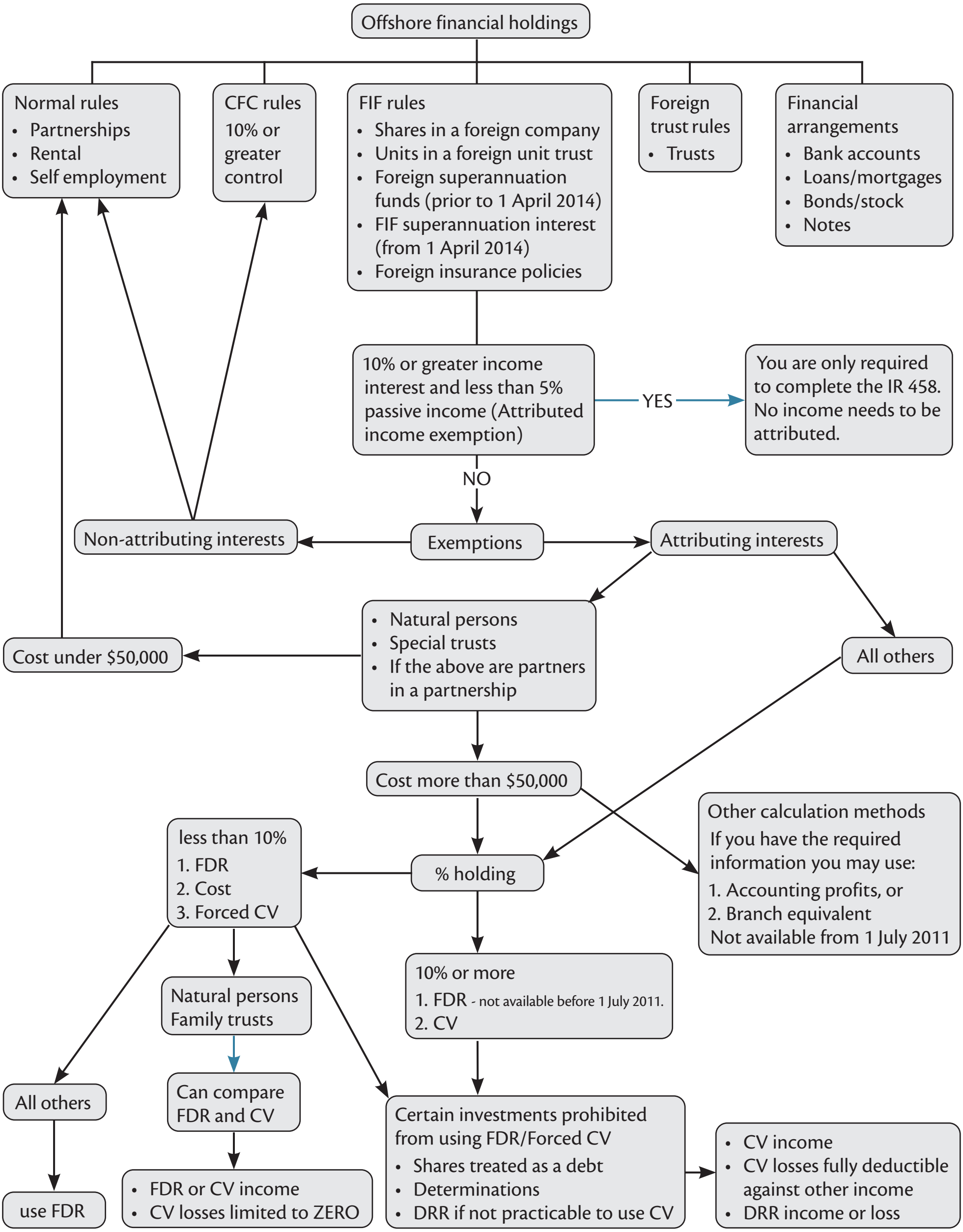
Attributing interest

Attributing interest includes:

- a direct income interest in a foreign company or unit trust, eg,
  - shares in a foreign company (except shares in certain Australian companies)
  - units in a foreign unit trust (except units in certain Australian unit trusts)
- a right to benefit from a FIF superannuation interest, either as a beneficiary or a member
- 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.

Foreign investment flow chart

Use this chart to assist in determining the tax treatment of offshore financial holdings.



How is FIF income calculated?

For income years beginning on or after 1 July 2011 you can use any of the following five calculation methods depending on the type of your foreign investment and the extent of information you have available. They are the:

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

For the income years prior to 1 July 2011 the following two methods were also available:

- branch equivalent (BE) - only available for income years beginning on or prior to 30 June 2011
- accounting profits (AP) - only available for income years beginning on or prior to 30 June 2011.

See page 16 for more information about the different methods and when to use them.

Accounting for your foreign income

The tax rules for offshore portfolio investments came into effect from 1 April 2007. This may have changed the usual way you account for foreign income.

Prior to 1 April 2007, dividend income was usually counted on a cash/receipts basis for individuals. The FDR method of calculating income from holding offshore investments on an annual basis changed these rules.

The non-attributing active income rules came into effect for income years beginning on or after 1 July 2011. These rules may relieve you from all tax on your FIF income. No income needs to be attributed as long as the passive income of the FIF doesn't exceed 5% of the gross income. Note that this method is only available to FIF holdings of more than 10%. However, if you hold more than 10% interest in the FIF and the FIF's passive income doesn't exceed 5% then you're only required to complete and file a **Foreign investment fund/Controlled foreign company disclosure(s) - IR458** form for this investment. Please see page 17 to check if your investment qualifies.

This guide also explains:

- when the rules apply
- the Australian share exemption
- other temporary exemptions for specific investments
- the effect of exemptions on investors.

Use the questions on the following pages to check if you have invested in FIFs, and if you are required to do anything under the FIF rules. If your investment(s) meet the criteria of non-attributing active income you may have no income to attribute on that investment. Please see page 17 for more details.

Questions		If Yes	If No
1.	Are you a New Zealand resident for tax purposes?	Go to question 2.	You're not affected by the FIF rules. You also don't need to file an income tax return unless you're a non-resident individual taxpayer and earn other New Zealand-sourced income. In this case you may be required to file a **Non-resident income tax return - IR3NR**.
2.	Are you a transitional resident who has been in New Zealand for less than four years? A transitional resident is a New Zealand resident who is a: • new migrant • returning New Zealand resident who has not been a resident for tax purposes for at least 10 years before their arrival in New Zealand.	You're not affected by the FIF rules at this time, but you may have other tax obligations.	Go to question 3.
3.	Do you hold investments in any of the following: • shares or rights in a foreign company • units in a foreign unit trust • a foreign superannuation scheme or • a foreign life insurance policy?	Go to question 7 if you only have an investment in a foreign superannuation scheme that is a FIF superannuation interest, ie, you complied with the FIF rules prior to 20 May 2013 and all subsequent income years or acquired the interest while a New Zealand resident, or a foreign life insurance policy. Otherwise go to question 4.	You're not affected by the FIF rules but you may have other tax obligations.
4.	Are your interests 10% or more of the direct income interest?	Go to question 4A.	Go to question 5.
4A.	Is your investment in a CFC?	To determine what your obligations are go to **taxpolicy.ird.govt.nz** (keywords: CFCs foreign dividends).	Go to question 4B.
4B.	Is your investment in a non-attributing active FIF?	See page 17 for more detail.	Go to question 5.

<table>
<tr><th colspan="2">Questions</th><th>If Yes</th><th>If No</th></tr>
<tr><td>5.</td><td>Do you only have any of the following:
investment in Guinness Peat Group plc and have not opted out from the exemption in the initial year (exemption applies only until the 2011-12 income tax year)
shares in grey-list companies acquired through an employee share scheme which restricts the disposal of the shares and you are a natural person
venture capital investments in a grey-list company, previously New Zealand resident or with significant New Zealand business (maximum 10-year exemption)
units in an Australian unit trust that meet the minimum turnover test and RWT (resident withholding tax) proxy requirements
an interest in an Australian regulated superannuation scheme
rights covered by the foreign exchange controls exemption as a natural person
shares in foreign companies acquired under an employee share scheme for which the share scheme taxing date has not passed (exemption applies to changes in value of the shares until the first income year after the share scheme taxing date has passed).</td><td>You are not affected by the FIF rules but you may have other tax obligations.</td><td>Go to question 6.</td></tr>
</table>

Questions		If Yes	If No
6.	Do you only have shares in an Australian company that is: a) listed on the ASX and b) maintains a franking account. This criterion will be met if you have received a franked dividend directly from the company (ie. not passed through another entity such as a unit trust). Otherwise check the company's annual report. and c) resident in Australia and not treated as resident in another country under an agreement between Australia and that other country. An indication that this criterion is met is if the registered office is in Australia. This can be found from the annual report or the ASX. For periods after 31 March 2017, please use the Foreign Investment Fund (FIF) exemption check tool. You'll find it at **ird.govt.nz/asx-fif** and d) not stapled to another security. This can be confirmed from the prospectus or annual report of the investment.	You're not affected by the FIF rules but you may have other tax obligations relating to your investments.	Go to question 7.

For more information about the Australian share exemption see page 12.

<table>
<tr><th colspan="2">Questions</th><th>and ...</th><th>then ...</th></tr>
<tr><td rowspan="3">7.</td><td rowspan="2">Are you're a natural person or eligible trust</td><td>either the total cost of your attributing interests is more than NZ$50,000, or,</td><td>you're affected by the FIF rules, and you will need to work out your tax obligations.</td></tr>
<tr><td>the total cost of your attributing interests is equal to or less than NZ$50,000.</td><td>you're not affected by the FIF rules but you may have other tax obligations.</td></tr>
<tr><td>If you're not a natural person or eligible trust and hold offshore investments not covered by the exemptions</td><td></td><td>you're affected by the FIF rules, and you will need to work out your tax obligations.</td></tr>
<tr><td></td><td colspan="3">Important
If you answer "No", you must have interests of NZ$50,000 or below at all times in the income year.
Note
• To find out if you qualify for the NZ$50,000 threshold see page 15.
• Include all of your offshore interests in companies, unit trusts, FIF superannuation interests and life insurance policies to determine if your total cost is less than the NZ$50,000 threshold.
• Exclude those investments that come within the CFC rules, or that fall within the various exemptions mentioned in Questions 4, 5 and 6.</td></tr>
</table>

Australian share exemption

When you hold shares in a company that:

- is listed under Australian Stock Exchange (ASX) market rules
- is Australian resident (and not treated as resident in another country under an agreement between Australia and that other country)
- maintains a franking account
- isn't stapled stock

these shares are exempt from being an attributing interest and are not treated as FIFs. Where these shares are held on capital account, the only income to be returned is the dividend income.

If your dividend statement shows your dividends are franked (ie, have Australian franking credits attached) this tells you the company is an Australian resident.

Some companies that are Australian resident may not be able to pay out dividends with franking credits attached. If your dividend statement does not show franked dividends you will need to ask the company if they maintain a franking account. If they do and meet the other requirements, then your shares are exempt from being an attributing interest in a FIF.

An Australian resident unit trust cannot maintain a franking account so does not qualify for this exemption.

On its website, the ASX has identified a list of companies that have stapled securities.

You need to ensure that the stapled security isn't stapled to shares you hold with the same company.

Exemption check tool

To help investors decide whether or not an Australian company satisfies the exemption criteria, we have provided a tool to identify companies which qualify for this exemption from the FIF rules.

Investors can rely on the tool and treat the investment as subject to tax under the general rules. We will treat any investor who relies on the tool as having taken reasonable care in taking that tax position. They won't be subject to any shortfall penalty if the shortfall arises from errors in our tool.

When will the tool be available?

The tool will be updated annually in May and will relate to the previous income year and apply to taxpayers who have an income year ending 31 March (ie, most individuals).

Investors will be able to rely on the tool, if they:

- own the shares in the company on 1 April in that income year
- first acquire a share in a company that has been added to the ASX list during the year on or after the listing date
- don't hold a share after the date that it no longer meets the residence or no-stapling criteria (this date will be noted in the tool).

Note

- This may not be a complete list of the companies that qualify for exemption.
- Investors aren't required to rely on the tool.

The Foreign investment fund (FIF) exemption check tool is available on our website **ird.govt.nz/asx-fif**

For the income year ending 31 March 2016 and earlier periods, we prepared a list of the companies which qualify for the exemption. The **Australian share exemption list - IR871** is available on our website **ird.govt.nz/forms-guides**

Individuals and eligible trusts guide to calculating the cost of your FIF interests

Please note you may need to make a number of calculations if you increase or decrease the size of your foreign investment during your income year.

Worksheet

	Subtotal	Total
Cost of interests acquired after 1 January 2000		
Cost or half of market value as at 1 April 2007 of interests acquired before 1 January 2000		
Cost of total holdings		
Less exempt interests		
Q 4 and 4A greater than 10% CFC*		
Q 5 shares in GPG*		
Q 5 employee share purchases*		
Q 5 venture capital*		
Q 6 Australian shares*		
Q 6 Australian units*		
Other		
Cost of exempt holdings		
Deduct cost of exempt holdings from cost of total holdings		
Cost of FIF interests for determining if threshold exceeded		
		$50,000

* See pages 8 to 10 for detail on each question.

The NZ$50,000 threshold

The NZ$50,000 threshold is intended to reduce compliance costs for investors with relatively small amounts invested offshore.

If ...	and the ...	then ...
you're a natural person or a trustee of an eligible trust with an attributing interest in a FIF	total amount of the interests doesn't exceed the NZ$50,000 threshold at any time in the year when you're a New Zealand resident (for a natural person), or any time in the year for the trustee of an eligible trust	• you will continue to pay tax only on dividends received (if the interests are held on capital account) and not be required to calculate income under the FIF rules • you will pay tax on any withdrawals or transfers from your low-value FIF superannuation interest under the new rules applicable since 1 April 2015 • you will continue to pay tax on dividends received and gains from disposal of the shares (if the interests are held on revenue account) and not be required to calculate income under the FIF rules.
	total amount doesn't exceed the NZ$50,000 threshold in the year when you're a New Zealand resident and you opted out of the threshold after 1 April 2012.	all your offshore 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 four previous tax years you had: • no attributing interests in FIFs; and/or • more than $50,000 in attributing interests in FIFs (note that for these years you would have been required to apply the FIF rules).
	NZ$50,000 threshold is exceeded at any time in the year when you're a New Zealand resident (for a natural person), or any time in the year for the trustee of an eligible trust	all your offshore interests are subject to the FIF rules - the first NZ$50,000 is not exempt.

How are shares in Australian companies taxed?

There are two different methods depending on whether the shares are covered by the Australian share exemption. Shares that:

- fall within the Australian share exemption are taxed under the general income tax rules, the same as investments in New Zealand. They are not attributing interests so the FIF rules don't apply.
- don't fall within the Australian share exemption, will generally be taxed using the FDR, CV, CM, or one of the other two methods. FIF interests of 10% and more may qualify for the non-attributing active income exemption which results in no income to attribute on this investment.

Methods for calculating your FIF income

You may use one of these methods to calculate your FIF income but there may be some constraints on your choice, eg, access to the company's financial statements or the company not having a market value. Please note that the attributable FIF income method also applies for the income year beginning on or after 1 July 2011 - see page 17 for more detail.

Method	Description of calculation
Fair dividend rate (FDR)	**(0.05 multiplied by opening market value) plus quick sale adjustment** Opening market value is the total of the market values of the attributing interests in FIFs held at the beginning of the income year. Quick sale adjustment is an adjustment amount calculated when you buy and sell attributing interest in the same FIF in the same income year.
Comparative value (CV)	**(Closing market value plus gains) minus (opening market value plus costs)** Gains are amounts received from holding (includes dividends), or disposing of the attributing interest and foreign withholding tax or other credits. Costs include the cost of buying your investment(s) plus foreign income tax you are liable to pay and have paid on the FIF income.
Accounting profits (AP)*	**(Accounting profits/losses minus foreign tax) multiplied by income interest** Accounting profits or losses are the net after-tax accounting profits or losses of the FIF for the accounting period.
Deemed rate of return (DRR)	**Opening book value multiplied by deemed rate** Opening book value is the book value of the attributing interest at the end of the previous income year. Deemed rate is the rate set by the Governor-General by order in council for the relevant income year. There is another formula that applies in the event that your interest in the investment changed during the income year.
Cost method (CM)	**(0.05 multiplied by opening value) plus quick sale adjustment** There are five different methods that could be used to arrive at the opening value.
Branch equivalent (BE)*	**Branch equivalent income/loss multiplied by income interest** Total branch equivalent income or loss is the total branch equivalent income or loss from all the attributing interests in the FIF for the accounting period.
Attributing FIF income method**	**Net attributable FIF income or loss × income interest** See page 17 for more details.

* Not available for the income years beginning on or after 1 July 2011.

** Available for income years beginning on or after 1 July 2011.

Attributable FIF income method

If your income interest in the FIF is between 10% and 50% and the FIF has more than 5% passive income then your FIF may be a non-attributing active FIF. Passive income includes royalties, rent, lease income, interest etc. To qualify for the attributing FIF income method you must hold sufficient records for Inland Revenue to be able to review the passive income of the FIF. If you don't hold sufficient records to be able to ascertain the level of passive income then you must account for your FIF income using FDR or one of the other methods listed below.

Once your FIF meets the criteria of attributing FIF, you must complete an electronic IR458 and submit it to Inland Revenue by the due date of the income tax return for that year.

Which calculation method should you use?

If your FIF doesn't meet the requirements of a non-attributing active FIF or you hold less than 10% interest, you may choose either the FDR or CV method. For other methods see the table below.

If ...	then you ...	Note
there is a choice	should consult your agent or financial advisor.	If you can choose a particular calculation method and fail to do so, then generally the FDR method applies.
your shareholding is less than 10% in a foreign company and you don't have the market value of your shares	can't use the FDR or CV methods. Generally you may use the CM or one of the other methods.	This covers FIFs that are a family business or not listed on a recognised stock exchange.
your shareholding in a foreign company is 10% or greater and you come within the CFC rules	go to: **taxpolicy.ird.govt.nz** (keywords: CFCs foreign dividends) to determine what your obligations are.	The FIF rules will not apply. The CFC rules apply.

Fair dividend rate (FDR) method

We expect the FDR method to be the primary method for calculating attributing interests in a FIF. You're generally eligible to use this method if you have the market value of your investment at the start of your income year.

General rule

If you use this method you will generally be taxed on 5% of the opening market value of all your attributing interests in offshore investments. No tax is payable for investors that are individuals or family trusts if the total return (dividends plus capital gains) is a loss. Where you decide to use the FDR method for one investment, then you must use this method for all your FIF investments that year, unless the legislation prevents you from using the FDR method for a particular investment, such as a guaranteed return investment.

Dividends aren't taxed separately under FDR. The only income you return is the income calculated under FDR. However, this doesn't apply to fee rebates for offshore holdings. The fee rebates should be returned as additional income.

However, if you are ...	and ...	then you ...
an individual or family trust or charitable trust	your return under the CV method (dividends plus changes in value) is less than 5%	have the option of using your total return under the CV method in place of 5% of the opening market value.
a non-natural person, such as a company	your return under the CV method (dividends plus changes in value) is less than 5%	don't have the option to use your total return in place of 5% of the opening market value.

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. To determine which method you prefer you may wish to calculate the FIF income result under both the FDR and CV methods. Under the CV method, a FIF interest may have a loss, and if so, that loss can be offset within the portfolio only.

On the portfolio basis you can either return FIF income of $15,000 under the FDR method or zero income under the CV method. The CV loss is reduced to zero and cannot be offset against **any** other income.

Example

Bill Murphy holds three offshore investments that 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
Coy A	$100,000	$102,000	$ 5,000	$ 2,000
Coy B	$100,000	$110,000	$ 5,000	$10,000
Coy C	$100,000	$ 80,000	$ 5,000	−$20,000
		Total	**$15,000**	**−$ 8,000**
				(reduced to 0)

Where you have no acquisitions or disposals in the income year, the amount calculated under the FDR method is opening market value × 5%. Ignore purchases or disposals made during the year, unless you dispose of shares in a company after acquiring shares in the same company in the same income year. In that case you will be required to make a quick sale adjustment. A further calculation is required to identify if additional FIF income arises from the quick sale transactions.

Quick sale adjustment for the FDR method

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% × peak holding differential × 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 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	

Peak holding differential is the lesser of:

15,000 to 10,000 = 5,000
15,000 to 13,000 = 2,000
= 2,000

Average cost $110,000 + $44,000 = $154,000
5,000 + 2,000 = 7,000
$154,000 ÷ 7,000 = $22.00

Peak holding method amount is 5% × 2,000 × $22 = $ 2,200

Actual gain $100,000 – (4,000 × $22) = $ 12,000

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

Total FIF income 5% × $200,000 = $10,000 + $2,200 = FIF income of $12,200

Note: If a share reorganisation occurs in the income year a different calculation is required. Refer to the **Tax Information Bulletin (TIB) Vol 19, No 3** for further details or call 0800 443 773.

Continued use of the FDR method

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

What does it mean?

This calculation method means that:

- one simple calculation is made for the total (pooled) of all the attributing interests you can use the FDR method for, ie, 5% of the total opening market value of your FIF interests
- the calculation is based on the market value of your investments at one point in time, ie, the start of your income year
- you don't have to keep numerous records (unless you are an individual or family trust choosing to use the actual return rather than the opening market value)
- it generally ignores sales and purchases during the year.

Non-portfolio share can't use the FDR method

The following types of investment can't use the FDR method to calculate FIF:

- fixed-rate foreign equity
- 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 in New Zealand dollars. The instrument which hedges the investment to New Zealand currency can be held by the New Zealand investor as well as a non-resident entity.
- 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
- shares determined by the Commissioner not to be able to use the FDR method, ie, denominated in New Zealand dollars.

As at 31 March 2010, 18 determinations have been issued for specific investments. Copies of the determinations are printed in the **Tax Information Bulletin**. Six of the determinations have stated that the particular investment may not use the FDR method to calculate FIF income. All the determinations to date are available at **ird.govt.nz/technical-tax/determinations**

Investments that clearly don't qualify to use FDR may not have a determination. In this case you're required to use the CV method or if you cannot determine the opening and closing market value, the deemed rate of return method to calculate FIF income or loss on these investments.

If under the CV method for these investments the calculation results in a FIF loss, you can claim this loss in your tax return.

Making a FIF disclosure

The majority of the tax rules for attributing interests in FIFs came into effect from 1 April 2007 while the non-attributing active FIF method came into effect for income years beginning on or after 1 July 2011. The disclosure requirements are reviewed, and updated annually. They can be found at **ird.govt.nz**

Each year the requirements for making a FIF disclosure will be published in the April issue of the **Tax Information Bulletin**.

The disclosure exemptions should remove the need for many investors to complete these forms, but you are still required to declare any FIF income or loss in your tax return.

Cost method

If you use the cost method to calculate your FIF income, you'll need to complete and file the **Interest in a foreign investment fund disclosure schedule (cost method) - IR449** or **IR458** form. You will need to disclose the:

- name of the investment
- country of incorporation, organisation or registration
- opening market value at the beginning of your income year in New Zealand dollars.

FDR and CV methods

The disclosure requirements for the FDR and CV methods vary depending on which of the following groups you belong to.

Individuals and non-widely held entities

These are, an individual, a trustee of a trust, a closely held company or another entity not covered in the section below.

If your FIF investment is in a country we don't hold a double tax agreement with as at 31 March of the year for which the return is being filed, and you use the FDR or CV methods, you will need to complete and file the relevant disclosure form(s) for either:

- the FDR - **Interest in a foreign investment fund disclosure schedule for individuals and closely-held entities (fair dividend rate method) - IR447** or **IR458**
- the CV method - **nterest in a foreign investment fund disclosure schedule for individuals and closely-held entities (comparative value method) - IR448** or **IR458**.

You'll need to include the:

- name of the security
- stock exchange code if known
- country of incorporation, organisation or registration
- opening market value at the beginning of your income year in New Zealand dollars.

Widely held companies, widely held superannuation funds, widely held group investment funds, or portfolio investment entities (PIEs)

For each calculation method used, you must separately disclose the end-of-year market value of your investments split by the jurisdiction in which the entity is incorporated, resident or managed in.

Alternatively, a split by the currency in which the investment is held will be accepted as a reasonable proxy, as long as it is at least 90-95% accurate for the underlying jurisdiction.

If your investments are in euros you will need to split these into the underlying jurisdictions.

Use the IR458 disclosure form for the FDR and the CV.

These forms are available from **ird.govt.nz**

Currency conversion changes

There are rules relating to currency conversions when calculating FIF income or loss. You need to apply one of the following methods:

- actual rate for the day for each transaction
- rolling 12-month average rate for a 12-month accounting period or income year
- mid-month actual rate as the basis of the rolling average for accounting periods or income years greater or lesser than 12 months.

You must apply the chosen conversion method to all interests for which you use the FIF or CFC calculation method in that and each later income year.

For more information go to **ird.govt.nz/overseas-currency**

Note

For the actual rate we accept the mid-month rate as equivalent to an actual rate for transactions occurring in that month. The rates are available at **ird.govt.nz/overseas-currency** and go to Overseas currency rates 20XX - rolling 12-month average and mid-month (use the table mid-month rates).

Losses under the FIF rules

If you use the...	then ...
FDR method	no loss can be claimed under the FDR calculation method. With the formula being (opening market value × 5%) + quick sale adjustment, a loss will not arise. You cannot claim a loss on the disposal of your investment.
Cost method	no loss can be claimed under the cost calculation method. With the basic formula being (opening value × 5%) a loss will not arise. You cannot claim a loss on disposal of your investment.
CV method	if you have a choice between using the FDR or CV method then no loss can be claimed under this method. You cannot claim a loss on the disposal of your investment. If your investment is a non-portfolio share (see page 20), then you cannot use the FDR method. Where the CV method results in a loss, you can claim the loss against your other income. Any loss on disposal of the investment is included as part of the CV calculation. No further deduction is allowed.
Deemed rate of return method	an adjustment for any unrealised gains previously included as income can be claimed in certain circumstances. For further information call 0800 443 773.
Accounting profits method	a loss calculated under this method can now be claimed in the tax return and offset against other assessable income, but is limited to the actual economic or financial loss you incur. Any loss brought forward that was previously ring-fenced, can also be claimed. This method only applies for income years ending on or before 30 June 2011.
Branch equivalent method	a loss calculated under this method continues to be ring-fenced and can only be used to offset against income calculated under the branch equivalent method. It is limited to the actual economic or financial loss you incur. This method only applies for income years ending on or before 30 June 2011.

Prior year FIF losses that were ring-fenced

FIF losses carried forward from the 2007 income year can be claimed against other assessable income except for losses calculated under the branch equivalent method.

Foreign tax credits

Foreign tax, of the same nature as New Zealand income tax, can be used to reduce the tax liability in relation to foreign-sourced income that results in assessable income. Australian franking credits and the tax recorded for dividends received from the United Kingdom are similar to our imputation credits. This means they are not income tax paid by the investor so can't be claimed.

Claiming foreign tax paid on foreign dividends

You can claim the foreign tax credits up to the amount of New Zealand income tax payable on the FIF income associated with the attributing interest that has paid the dividend. If you have used the FDR method the tax credits can be used to offset the tax payable on the FDR income associated with that attributing interest.

Where no FIF income or an FIF loss

Such foreign tax credits can only be used to reduce the income tax payable on your FIF income. If there is no New Zealand income tax payable on your FIF investment, no claim can be made for the foreign tax paid on any dividends received from the FIF. You can't use foreign tax credits to get a refund or reduce tax payable on other income. This includes other foreign income with a different nature or source, eg, dividends from companies with the Australian exemption and credits attached to United Kingdom dividends.

Unused foreign tax credits

Generally these are forfeited (lost) if they are not used.

Carrying forward any excess or unused foreign tax credits

You can't carry forward unused foreign tax credits where you have used the FDR, CV, deemed rate of return or cost methods to calculate FIF income or loss.

New Zealand tax credits (imputation or RWT) on Australian dividends

Because they are New Zealand tax credits they can be claimed if they are:

- RWT (ie, 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. You should put a note explaining this in your return.
- imputation credits (they are used to reduce tax payable):
  - **For tax years on or after 1 April 2014**

    If your dividend exceeds your FIF income, the amount of imputation credit you can claim is calculated on the basis of your FIF income. If your FIF income exceeds your dividend, you can claim the entire imputation credit attached to the dividend.

    Any excess imputation credit can't be carried forward to the next year or converted to a loss.

- **For tax years before 1 April 2014**

  Any excess imputation credit received by individuals and unincorporated clubs and societies are required to be carried forward to the next year. For other investors (i.e, companies, estates, trusts) the excess is converted to a loss to carry forward to the next year.

  The full amount of these New Zealand tax credits can be entered in the return even where the FIF income is reduced to zero or there is a FIF loss. You should put a note explaining this in your return.

These credits will only be attached to Australian company or unit trust dividends.

Foreign tax credit process

1. Is there New Zealand income tax payable on the total net income (New Zealand and foreign sourced)? If the answer is no, then no foreign tax credits can be claimed.
2. Otherwise, identify each segment
   - for FIF interests - each attributing interest that has FIF income is a segment
   - for dividends - generally the segment will be Australia unless using AP or BE methods*
   - for interest - generally the segment will be by country
   - for other income - the segment will be by country and by source or nature.
3. Identify the information for each segment and determine if there is net income for the segment. This is the segment's net income less deductions for the tax year attributable to that segment.
4. Identify the foreign tax credit(s) associated with the segment.
5. Total all the segment's income (do not offset segments with losses) and compare to the total net income. If the total income of segments (excluding those in loss) is greater than total net income then an apportionment of foreign tax paid is required.
6. Calculate the notional income tax liability on net income by multiplying it by your basic tax rate. Note this net income is after claiming losses brought forward and before allowing any tax credits.
7. If apportionment of foreign tax paid is required (see step 5), determine the apportionment ratio by first treating the New Zealand income as a segment, calculate an additional amount of notional tax and add this to the amount(s) of notional tax calculated for foreign sourced income under step 6.

   The total is called the New Zealand tax.

   Calculate the ratio by dividing the notional income tax liability (gross tax to pay) by the New Zealand tax. Apply this ratio to reduce each foreign sourced segment's amount calculated under step 6.
8. For each segment, calculate the maximum foreign tax credit. This will be either the notional income tax liability by segment, or if apportionment is required, the notional income tax liability by segment multiplied by the apportionment ratio, as calculated at step 7.
9. For each segment, you can claim the lesser of the foreign tax actually paid for the segment and the maximum foreign tax credit for the segment, as calculated under step 8.

* The accounting profits and branch equivalent methods are not available for tax years beginning on or after 1 July 2011.

Example

2010 income year

Assume for the purposes of this example that the taxpayer's basic tax rate is 12.5% and the opening market value of FIF interests is $800,000. No quick sales occurred. The income under the FDR method in the example below would be $40,000 (opening market value * 5%) and so the taxpayer (a natural person) has chosen to use the CV method as it produces less income. The person is not entitled to any other tax credits.

Income source	Income/ Loss	Tax paid	Step 6 Notional income tax liability on net income	Step 3 Segments with income only	Notional tax per segment	Maximum foreign tax credit (FTC)	Claim lesser of tax paid and maximum FTC
NZ super	$15,000	$1,960		D for "NZ tax" calculation purposes	(step 7) $15,000 ÷ $11,000 × $1,375 = $1,875		
AUS exempt shares - dividends	$10,000	$1,500		A	(step 6) $10,000 ÷ $11,000 × $1,375 = $1,250	(step 7) $1,250 × 31.43% = $392.86	$392.86
AUS FDR/CV	$1,000	$ 30		B	(step 6) $1,000 ÷ $11,000 × $1,375 = $125	(step 7) $125 × 31.43% = $39.29	$ 30.00
AUS FDR/CV	($5,000)	$ 500					
US FDR/CV	($5,000)	$ 750					
UK FDR prohibited	($14,000)	Nil					
CAN FDR/CV	$9,000	$1,500		C	(step 6) $9,000 ÷ $11,000 × $1,375 = $1,125	(step 7) $1,125 × 31.43% = $353.57	$353.57
Totals	**$11,000**	**$6,240**	**$1,375** (step 6) $11,000 × .125		**$4,375** (step 7) A + B + C + D	**$785.72**	

Income source	Income/ Loss	Tax paid	Step 6 Notional income tax liability on net income	Step 3 Segments with income only	Notional tax per segment	Maximum foreign tax credit (FTC)	Claim lesser of tax paid and maximum FTC
Apportionment ratio for maximum FTC purposes				(step 5) A + B + C = $20,000 which is greater than net income $11,000			
Step 7 Total FTC able to be claimed					(step 7) $4,375 ÷ $1,375 = 31.43%		**$776.43**

Tax assessment

NZ income				$15,000	PAYE tax credit		$1,960.00
Foreign sourced income							
	FIF	**FDR/CV income**					
		AUS	$1,000			FTC	$ 30.00
		CAN	$9,000			FTC	$353.57
		Sub total	**$10,000**				
		Losses					
		AUS	($5,000)				
		US	($5,000)				
		Sub total	**($10,000)**				
	FIF	**CV**					
		UK	($14,000)				
		Total FIF loss	($14,000)	($14,000)			
Australian dividends				$10,000		FTC	$392.86
Net taxable income				**$11,000**	**Tax liability**		**$1,375.00**
					First deduct FTCs		$776.43
					(note if the FTCs were greater than the tax liability the answer would be zero)		$598.57
					Then NZ tax credits (note as the NZ tax credits are refundable tax credits, the excess credits are refundable.)		1,960.00
					Tax credit to refund		**($1,361.43)**

Note: Under the "AUS exempt shares-dividends" panel this would include all dividends paid by companies covered by the Australian share exemption to the FIF rules as they represent one segment of foreign sourced income.

You should include proof of payment of the foreign tax, details of losses and your net foreign income/loss calculations in your return or in the panel provided in the online version of the return.

Basic tax rate is calculated by dividing your tax liability by your taxable income (in the example above this would be $1,375 ÷ $11,000 = 12.5%).

Glossary

Amount (for purposes of NZ$50,000 threshold)

Amount can be the cost of acquiring your FIFs, including brokerage fees if these formed part of the cost of acquiring your investment. Cost is not the market value. This means you do not have to track changing market values over time.

Amount of investments in certain circumstances

If ...	then ...
you acquired some investments before 1 January 2000 and some investments on or after that date	for all the investments acquired before 1 January 2000 you may use either the investments' • actual cost, or • half of the market values on 1 April 2007. **Note:** You can only choose one of the above cost bases for all pre 1 January 2000 investments. Add this amount to the cost of investments acquired on or after 1 January 2000 to determine whether the threshold is exceeded.
you inherited outright the investment in an FIF from a close relative within the second degree of relationship to the deceased person	you would treat the investment as if you were the original purchaser, ie, the amount you would use is the original cost to the deceased person. If you inherited an FIF interest before 1 April 2007 which was a grey list company and the cost of the interest to you was zero, you're treated as having disposed of that interest immediately before 7 May 2012 and re-acquired it on 7 May 2012. Any payment of the tax liability that arises from the disposal can be satisfied over three years.
the investment was transferred to you as part of a matrimonial agreement	the amount is deemed to be the original cost to the transferor, as if the transferee had originally acquired the shares themselves.
the investment was gifted to you, ie, there was no cost to you	the amount is the market value on the day the shares were transferred into your name.
you took the investment in lieu of dividends	the amount is the net value of the dividends you would have received. You would be treated as having received the dividends and then purchasing shares with the proceeds of the dividends.

Joint ownership

If …	then …
you and your spouse (or partner) jointly hold offshore investments which cost $100,000 or less	both of you would not be subject to the FIF rules, because your interests did not exceed the $50,000 threshold.
one spouse (or partner) holds offshore investments individually in addition to the jointly held investments which cost $100,000	the spouse (or partner) only holding the jointly held investment would not be subject to the FIF rules, because their investments do not exceed the $50,000 threshold. The other spouse or partner (with individual and joint holdings) would be subject to the FIF rules.

Attributing interest

An attributing interest includes:

- a direct income interest in a foreign company or unit trust, eg:
  - shares in a foreign company, except shares in certain Australian companies
  - units in a foreign unit trust, except units in certain Australian unit trusts
- a right to benefit from a foreign superannuation scheme, either as a beneficiary or a member prior to 1 April 2014
- a right to benefit from a FIF superannuation interest, either as a beneficiary or a member from 1 April 2014
- a right to benefit from a life insurance policy where an FIF is the insurer and the policy was not offered or entered into in New Zealand.

Capital account

When you hold investments to receive income, such as to derive dividends from shares, and you:

- do not purchase the shares for the purpose of disposing of them, and
- are not a share trader
- the holding of the shares is considered to be on capital account.

You would account for income tax only on any dividend received, and not for any appreciation in the overall value of your investment.

Company

A body corporate or entity with a legal existence separate from its members. It includes a unit trust.

Controlled foreign company (CFC) rules

An interest of 10% or more in a foreign company controlled by New Zealand residents.

To determine what your obligations are under the CFC rules go to **taxpolicy.ird.govt.nz** (search keywords: CFCs foreign dividends).

Direct income interest

A direct income interest means you hold any of the following:

- 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
- a right to receive or apply any of the assets of the foreign company.

Daily unit valuer

An entity that values its investments each day is known as daily unit valuer. Where the valuation period is more than a day (eg, a month or a quarter) the entity may need to apply the quick sale rules to shares bought and sold during the respective valuation period. For example, a unit trust that values its investments quarterly would apply the quick sale rules to any shares bought after the start of the quarter and sold before the end of the quarter.

Eligible trust

The following trusts are not subject to the FIF rules if the amount of their attributing interests in FIFs is below the NZ$50,000 threshold:

- 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 of the trust is the estate of a deceased person and a court order requires them proceeds of damages or compensation to be settled on the trust for the beneficiaries of the trust.
- a compensatory trust, where the settlor of the trust 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.
- the settlor of the trust is the Accident Compensation Corporation.

FIF superannuation interest

A FIF superannuation interest is defined in the Income Tax Act 2007 and generally means:

- an interest in a foreign superannuation scheme acquired while you were resident in New Zealand, or treated as a New Zealand tax resident under a double tax agreement with another country, or
- an interest in a foreign superannuation scheme where you complied with the FIF rules for an income year ending before 1 April 2014, returned that income in your income tax returns filed before 20 May 2013 and continue to return the income on that interest in succeeding years.

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 paying 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 you can participate in the income and gains (capital and income) from the unit trust's money, investments, and other property*. As an investor you would be classed as a beneficiary of the unit trust. In New Zealand, a company includes a unit trust. A foreign unit trust, is a unit trust not resident in New Zealand or one that is treated under a double tax agreement as not being resident in New Zealand. For New Zealand FIF purposes, a foreign unit trust is treated as a foreign company.

Low-value FIF superannuation interest

A low-value FIF superannuation interest is defined in the Income Tax Act 2007 and generally means an interest in a FIF superannuation interest from which the person does not have FIF income or loss because the total value of the person's interest in all FIFs is below the de minimis threshold of $50,000.

Market value

Market value is generally, but not restricted to, 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. However, exit values that incorporate a penalty for early withdrawal or redemption would not be acceptable.

To get a historical market value you can search websites such as **finance.yahoo.com**

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Natural person

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

* Excludes a trust for the benefit of debenture holders, a superannuation fund, an employee share purchase scheme, funeral trusts or any other trust declared by order in council not to be a unit trust.

Opening value

Opening value for the cost method is:

- (ZO) zero, if acquired in the year, or
- (AA) audited set of accounts - the amount shown as the net asset value of the interest in audited financial statements of the person for the relevant income year made available to the general public in the relevant income year if (ZO) does not apply and the investor chooses this method, or
- (CA) cost, if acquired in the 2005-06 or 2006-07 income years and (ZO) and (AA) do not apply (applied for 2008 income year only), or
- (IV) independent valuation of the market value of the interest at the start of the relevant income year, if you held the interest at the start of the income year and you had no FIF income or loss from this interest in the prior year or you used the CV method for four or more income years for this interest and (ZO), (AA) and (CA) do not apply, or
- (LP) last year plus FIF income. For the second to fourth income years of using the cost method where you have not reset the value by using (IV) or (AA) during those years, you can arrive at the opening value by using:
  - the previous year's opening value, and
  - add the previous year's cost method FIF income for that investment.

Other trusts (for the purposes of the NZ$50,000 threshold)

The NZ$50,000 threshold does not apply to family trusts (that are not an eligible trust) such as discretionary trusts, because of the risk of multiple trusts being used for the benefit of the same individuals.

Peak holding method amount

The peak holding method amount for the FDR method is the total for each foreign company using the formula 5% x quick sales x average cost. See example on page 19.

Revenue account

When you actively buy and sell your investments on a regular basis or buy with the intention of making pecuniary profits from the investments, your investments will be 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.

Common errors to avoid

1. If you're a transitional resident you're not taxed on your foreign investment income for your transitional period. This temporary tax exemption on foreign investment income expires after 48 months and there's no entitlement to Working for Families Tax Credits.

   All other residents are required to return dividends as received from foreign investments that are exempt from the foreign investment fund regime, such as Australian shares shown in the exemption check tool.

   Dividends received from investments that are subject to the foreign investment fund regime must not be returned when received as the income is calculated under the FIF rules.
2. From 1 April 2014, lump sum withdrawals or transfers from foreign superannuation funds are generally excluded from the FIF rules and will be taxed at time of withdrawal or transfer. For more information please see our **Overseas private pensions - IR257** guide.
3. Generally pension payments are taxable in New Zealand. However, some offshore social security pensions are not required to be returned in New Zealand. For more information please see our **Overseas social security pensions - IR258** guide.
4. Some investors are able to calculate their FIF income under the FDR or CV method and they can return annually the lesser of the two. Any losses must be reduced to nil. **Please ensure these losses are not included in your overseas income.**
5. For some investments you're not allowed to use the FDR method. These investments are usually called FDR prohibited or CV enforced investments in your taxation summary. In such cases income is calculated under the comparative value method for as long as you own the investments. Losses from these investments are not reduced to nil.

New Zealand tax credits

6. New Zealand RWT and imputation credits attached to your dividends received from offshore are fully claimable. Please don't include these credits as foreign tax credits.

Foreign tax credits

7. A foreign tax credit may be available but only if the corresponding income is required to be returned on the New Zealand tax return and:
   - if the tax involved is not subsequently refunded
   - if the tax is substantially similar to income tax
   - if New Zealand also has a right to tax that income under any double taxation agreement (DTA)
   - only to the extent of tax allowed in the Double Taxation Treaty
   - can't exceed the tax otherwise payable on the underlying income in New Zealand.

For more information, go to **ird.govt.nz/international**

Example

Peter has some investments in Switzerland and received dividends with a Swiss withholding tax deducted of 30%. The DTA between New Zealand and Switzerland limits the Swiss tax to 15% so the foreign tax credit is limited to 15%. Such excess foreign tax credits should be claimed from the foreign tax administration and not New Zealand.

Australian franking credits and non-resident withholding taxes deducted from dividends received from the United Kingdom can't be claimed as a foreign tax credit.

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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.

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- some government agencies
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