

Real Estate Trust Accounts Information Sheet

This information sheet provides agents with information about the operation of real estate trust accounts.

What is the relevant legislation?

- Real Estate Agents Act 2008 (the Act)
- Real Estate Agents (Audit) Regulation 2009 (Audit Regulations)

When am I required to operate a trust account?

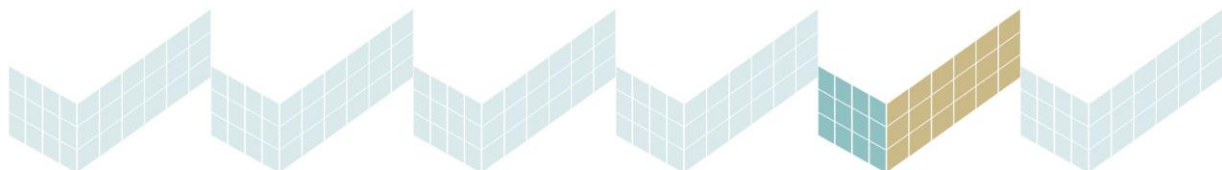
You must operate a trust account if you are an agent that receives money for real estate transactions.

If two or more individual agents work in partnership, the partnership can operate the trust account.

If the agent is a company, the company can operate the trust account, which any agent working for that company can pay money into.

What do I need to know about receipt of money?

- All money received by an agent for a real estate transaction must be paid to the person who is lawfully entitled to that money, or in accordance with that person's instructions.
- The money must be held in a trust account until it has been paid out (section 122 of the Act).
- An agent must account for trust monies received.



- An agent must not pay money held in a trust account to any person for a period of 10 working days (from the date received), unless early payment is authorised by all parties to the transaction or by court order (section 123 of the Act).

Does money have to be held in the trust account for 10 working days?

If you receive money for any transaction in your capacity as an agent, you must not pay that money to any person for a period of 10 working days (from the date received).

The money can be released before 10 working days if all the parties to the transaction sign an authorisation.

It is important that funds are retained for the correct length of time and are not released early without the proper authorisation.

A definition of working days can be found in the Sale and Purchase Agreement. Please be aware of the impact of public holidays and the period over Christmas and New Year.

Do trust accounts have to be audited?

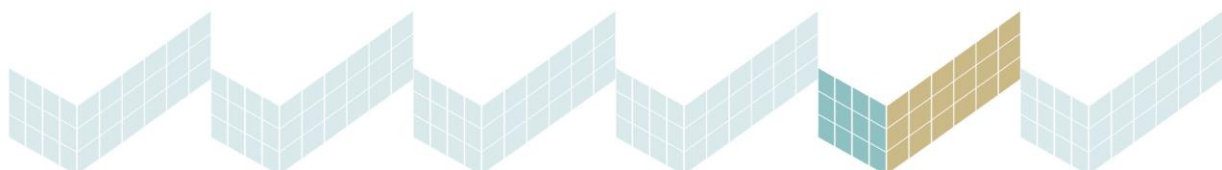
If you have a trust account that holds money received in your capacity as an agent, then this trust account must be audited in accordance with the Audit Regulations.

Who can be appointed as an auditor?

A person may be appointed as an auditor if that person:

- is a chartered accountant
- holds a certificate of public practice from the NZICA
- is not disqualified on the basis of specified conflicts of interest.

(Audit Regulation 10).



Do I have to let the Authority know who my auditor is?

If you have been granted an agent's licence for the first time you must let us know who you have appointed as your auditor **before** receiving any money into the trust account. This must include confirmation from the auditor that he or she is eligible to be an auditor. ([Audit Regulation 12](#)).

A [Notification of Auditor Form](#) is available on the Authority's website.

Do I have to let the Authority know if I change my auditor?

If you engage a new auditor you must notify us before the auditor ceases to be engaged, or within 20 working days of a change occurring.

A [Notification of Change of Auditor Form](#) is available on the Authority's website.

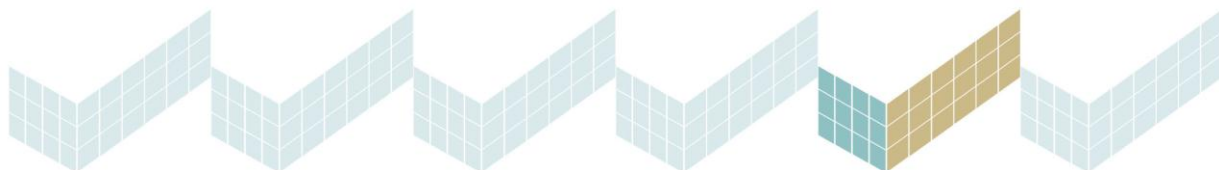
Can I use a third party trust account?

It is up to individual agencies to decide how they wish to structure their business and to ensure that they comply with the Act and the Audit Regulations.

Sections 122-125 of the Act set out agents' duties in relation to the receipt of money and the audit of trust accounts.

All money received by an agent for any transaction in their capacity as an agent must be paid into a designated trust account. The Act and the Audit Regulations do not specify that an agent must actually operate a trust account, only that money received must be paid into a trust account.

If an agent elects to use a third party trust account they must notify their auditor and the Authority that they are doing so and that their own trust account is inactive or closed.



When are reconciliation statements due?

Reconciliations must be done and given to your auditor every month, even if there were no transactions during the month concerned.

Reconciliations are due with the auditor on the 20th of each month except for January when the report is due by the 27th.

How many trust account examinations are there a year?

Auditors are required to examine the trust account three times a year as outlined in the following schedule:

Balance Date	Examination Periods
Two months to 31 May	1 July - 31 August
Five months to 31 October	1 December - last day of February
Five months to 31 March	1 April - 30 June

The auditor must give the Authority a signed copy of the audit report within 10 working days of completing the final audit for the year.

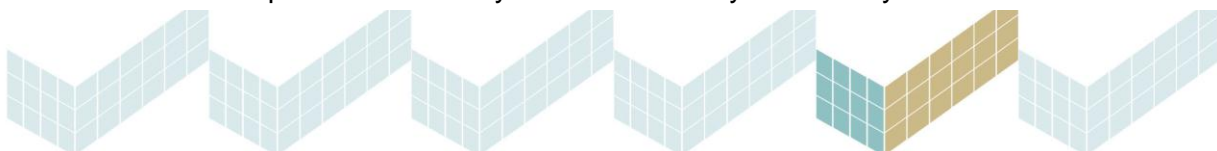
Do I need to provide a statutory declaration with each statement I give my auditor?

Yes you do need to provide an official statutory declaration with each statement you give to your auditor ([Audit Regulation 16](#)).

This declaration must be signed by either a Justice of the Peace, barrister and solicitor, a notary public or other official as listed in [section 9](#) of the Oaths and Declarations Act 1957.

This statement and declaration must be provided to the auditor three times a year at their request before the start of the audit. The Authority does not provide a template for this declaration but recommends you use the wording in [Audit Regulation 16\(2\)](#).

You do not need to provide a statutory declaration with your monthly bank reconciliations.



Do I need to provide my auditor with written confirmation from the bank which holds the trust account?

You are required to provide the auditor with written confirmation from your bank confirming that the account is a designated trust account.

Do trust accounts earn interest?

Banks normally do not pay interest on designated trust accounts. Any interest earned on trust account funds needs to be paid to the person entitled to it.

What about inactive trust accounts?

A trust account can be made inactive if the agent changes jobs, starts a company of their own or enters into a partnership with another agent etc. ([Audit Regulation 24](#)).

If the trust account is inactive the agent must give notice to the auditor in writing that the account is inactive and that all money in it has been paid to the appropriate people.

The agent must provide the auditor with all unaudited trust account records and receipts. The auditor must keep these records while the account remains inactive.

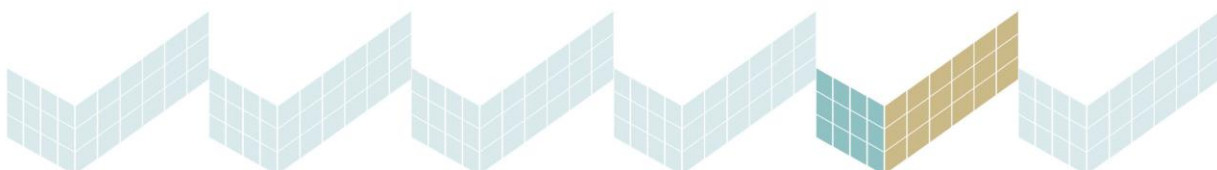
If the agent wishes to reactivate the trust account then they must notify the auditor who must in turn advise us ([Audit Regulation 26](#)).

A [Notification of Closed or Inactive Trust Account Form](#) is available on the Authority's website.

What about closed trust accounts?

An agent is expected to close a trust account when they stop conducting business as an agent.

When a trust account is closed the agent is obliged to ensure a final audit is carried out on the trust account within 20 working days.



A [Notification of Closed or Inactive Trust Account Form](#) is available on the Authority's website.

What about residential property management?

Property management transactions are not covered by the Act.

It is recommended that agencies have separate trust accounts for sales and property management transactions.

Property management transactions should be audited under the applicable professional audit and accounting standards. If any irregularities in property management accounts or transactions are found, the auditor still has an obligation to report these to the Authority ([Audit Regulation 23](#)).

Forms

The following forms can be downloaded from our website www.reaa.govt.nz:

- [Notification of Auditor](#)
- [Notification of Change of Auditor](#)
- [Notification of Inactive or Closed Trust Account](#)

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To the best of the Real Estate Agents Authority knowledge, the information in this guide is accurate at the date shown below. However, the requirements on which this information is based can change at any time and the most up-to-date information is available at www.reaa.govt.nz [Version 1.0, November 2011].

