

FATCA Customer Frequently Asked Questions (FAQs)

What?

1. What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) is a US tax law designed to identify US citizens and tax residents who use offshore financial accounts to evade their US tax responsibilities. FATCA was passed into US law in March 2010 and came into force internationally on 1 July 2014.

FATCA requires 'foreign financial institutions' (FFIs), which are those financial institutions that are foreign to the US, to identify and report annually on any accounts held by US Persons or foreign entities that have US Persons as beneficial owners. Many New Zealand banks and financial institutions, including BNZ and a number of our related entities, fall under the definition of an FFI under FATCA.

To ease the burden of compliance on New Zealand FFIs, the New Zealand Government has negotiated an Inter-Governmental Agreement (IGA) with the US Treasury and US Internal Revenue Service (IRS). The IGA and the FATCA requirements on New Zealand FFIs have been incorporated into New Zealand law by amendments to the Income Tax Act 2007 and the Tax Administration Act 1994. In accordance with this agreement, all FATCA reporting will be done via our New Zealand Inland Revenue.

Why?

2. Why has FATCA been brought about?

John Koskinen, the Commissioner of the IRS, says, 'This law is important because it requires foreign financial institutions to tell us about accounts owned by US citizens. With this information, we can do a much better job of combating offshore tax evasion. Our goal is to make it more and more difficult for Americans to hide their money in a tax haven to avoid paying taxes.'¹

3. Why is NZ doing this for the US?

The New Zealand Government has made a policy decision to implement FATCA and has come to an agreement with the US (IGA) to implement FATCA in New Zealand. The key reasons for this decision are: to ease the burden of each New Zealand financial institution having to negotiate an individual agreement with the IRS; to provide for specific New Zealand exemptions from reporting; and to align with the majority of New Zealand's major trading partners who are entering into similar agreements with the US.

Therefore, to implement FATCA in New Zealand in accordance with the IGA, the New Zealand Government has introduced legislation which requires New Zealand banks to comply with FATCA or face penalties.

Who?

4. Who does this affect?

Primarily BNZ customers who are US Persons², which includes individual and entity customers.

As part of this process, we are required to confirm the FATCA status of all potential US Persons (individuals or entities), which is primarily based on information stored in our records about you or your entity.

We also have to confirm the FATCA status of certain entities that are controlled by US Persons, and financial institutions that are 'non-participating' with FATCA.

Any such identified accounts may be reported to New Zealand Inland Revenue, subject to the relevant minimum thresholds.

5. I'm a New Zealander (and/or my entity is based in NZ), so why does this affect me?

FATCA requires that we contact certain customers to confirm their non-US status, even if we have no reason to believe they are US Persons. This is especially the case for many entity customers – as we are not permitted to rely on our existing customer information and as such must confirm with you that the entity is not controlled by US Persons.

Please don't be offended if we contact you for this reason. We will only contact you if we absolutely must.

6. What if I haven't lived in the US since I was a child?

Even if you've been living in New Zealand for a while, you could still be a US citizen or US tax resident if you were born in the USA or you have lived or worked there during your lifetime. There are other reasons too, so if you're unsure, we recommend you check the IRS website or get independent professional advice to confirm your FATCA status.

7. Why don't I just switch to another bank?

All banks and financial institutions in New Zealand are required to comply with FATCA by law. All major banks are bound by the same obligations. In fact, New Zealand Bankers' Association member banks have worked together to ensure a broadly consistent customer experience in meeting FATCA obligations.

1. Prepared Remarks of Commissioner of Internal Revenue Service John Koskinen before the National Press Club, April 2 2014, www.irs.gov/uac/Newsroom.

2. Refer to the definition of 'US Person' in the Glossary.

When?

8. When did it come into effect?

FATCA came into effect on 1 July 2014.

Reporting of Accounts

9. Why are you reporting my accounts?

Under FATCA, we're required to report accounts held by US Persons (or entity accounts controlled by US Persons) to New Zealand Inland Revenue if the account balances exceed relevant thresholds³.

If your record contains indicators of you being a US Person, we will need to contact you to confirm your FATCA status, and if we don't hear from you, we may be required to report your accounts.

10. What information will be passed on?

For those accounts that we must report, the following customer and account information is sent to New Zealand Inland Revenue (who passes this on to the US IRS)⁴:

- › Name;
- › Address;
- › US Taxpayer Identification Number (or date of birth if no record of your US Taxpayer Identification Number);
- › Aggregate account balance as at 31 March each year; and
- › Total interest and other relevant income and proceeds generated by accounts for the relevant tax year ending 31 March.

For Entity customers, we also need to report:

- › Name, address, US Taxpayer Identification Number (or date of birth) of each US beneficial owner⁵;

For customers who are Financial Institutions:

- › Global Intermediary Identification Number (GIIN); and/or
- › Payments made to Non-Participating Financial Institution customers⁶.

11. What is an aggregate account balance?

An aggregate account balance is the sum total of the money held in all of your (or your entity's) accounts with BNZ that are in-scope for FATCA.

12. What are the thresholds for reporting?

For accounts held by individuals and where the account is of a depository nature, there is a minimum reporting threshold of USD \$50,000 (or equivalent) which applies to the aggregate of all depository accounts.

For all other types of financial account and for all accounts held by entity customers, there is generally no minimum threshold for reporting. Note that this only applies to those financial accounts that are in-scope for FATCA⁷.

13. We have high cash-flows with money transitioning through our account in large amounts (i.e. balance of \$100,000 on Monday, down to \$30,000 on Wednesday). Will this affect my eligibility for reporting?

A US Person's accounts will be reported if their aggregate account balance exceeds certain minimum thresholds on 31 March each year (although note that accounts held by entities have no minimum thresholds for reporting).

In Scope Products/Accounts

14. What products/accounts does FATCA impact?

According to FATCA, a financial account includes:

- › Any account of a depository nature (this includes savings, transactional, term deposits, foreign currency, or any other account that has a credit balance⁸). Where these accounts are held by an Individual Account Holder, they are subject to the minimum reporting threshold of US\$50,000 (or equivalent).
- › An investment account managed by us or a custodian (not including KiwiSaver).
- › Portfolio Investment Entity (PIE) investments.

3. Refer to question 12.

4. This only applies for those accounts that are in-scope for FATCA are reported. See question 14.

5. Where relevant depending on the type of entity customer.

6. For the 1 April 2015 - 31 March 2016 and 1 April 2016 - 31 March 2017 tax years only.

7. Refer to question 14.

8. This includes lending accounts (e.g. credit card accounts, revolving credit or overdraft facilities) that have credit balances.

15. I have my credit card with BNZ but not my transactional account. Does it affect me?

A depository account under FATCA includes any account that holds a positive balance. This would include a credit card, overdraft or revolving credit account if total credits exceed the amount owed. Note that for Individuals, the USD\$50,000 minimum reporting threshold will apply to depository accounts such as this.

What happens after Reporting?

16. What happens to my information once it's reported to New Zealand Inland Revenue?

Inland Revenue will forward all reported accounts to the US IRS by 30 September of the relevant year.

17. What will the IRS do with my information?

FATCA legislation has been designed to specifically address the avoidance of tax by US Persons through foreign financial institutions. We expect that the IRS will act on reported information in accordance with US tax law.

Tax returns and tax advice

18. Do I have to file a tax return in the US when I'm living in New Zealand?

Unfortunately we can't give customers US tax advice. You will need to get independent professional advice from a lawyer or accountant to determine your US tax obligations or visit the IRS website. The US Embassy website contains a list of US tax specialists based in NZ.

Privacy Impact

19. Will information about New Zealanders with no US connection be sent to the US?

We do our best to ensure that New Zealanders who are not US Persons (or not controlled by US Persons) don't have their account details sent to Inland Revenue (who subsequently send these details to the IRS), and we attempt to contact all customers who may be affected to confirm their status.

However, if we have been unable to confirm a customer's FATCA status, then after 90 days we may be required to report the customer's account details. Furthermore, those New Zealand customers who share a joint account with US Persons may have details of the joint account reported. No other details of the New Zealand customer will be shared.

20. Does that mean BNZ will pass my information onto New Zealand Inland Revenue or the New Zealand Police when they ask?

Yes. The Privacy Act allows us to share information with an external agency for a lawful purpose. This might include collecting and sharing information to uphold or enforce the law, or to assist court or tribunal proceedings.

21. What control do customers have over who sees their personal information?

BNZ must comply with all relevant laws and regulations. This sometimes means we have to disclose customer information to external agencies. However, we will only share customer information when we're legally obliged to disclose it and in accordance with our Standard Terms and Conditions.

Under the Privacy Act, you are entitled to see and request correction of any personal information about you held by BNZ.

22. Will you tell me if my account details are, or become reportable to New Zealand Inland Revenue?

Yes. We believe in being honest and upfront with our customers at all times, and therefore will attempt to contact all customers to confirm whether their accounts (or their entity's accounts) will receive a reportable status. Note that while we will tell you if your accounts are reportable, each year your accounts will only be reported if they exceed the relevant minimum thresholds for reporting.

Beneficial Owners

23. What does FATCA mean for beneficial owners?

Beneficial owners are generally considered "controlling persons" under FATCA. For new entities, all beneficial owners will have to complete the standard process to join up as an individual with BNZ. This process captures the relevant FATCA information as they will need to confirm whether they are a US Person or not.

24. Why is my company reportable? We have 5 directors and only one of them is a US citizen. The investments we make benefit New Zealand.

Your US director is considered a beneficial owner of your company and therefore may be regarded as a controlling person of the company under FATCA. So he/she will need to confirm whether they are a US Person or not and subsequently the company's accounts may be reportable to Inland Revenue.

25. While I am a US citizen I am only a trustee of this trust - I do not own the assets. Why is the trust being reported?

Trustees are considered beneficial owners of a Trust and therefore are controlling persons under FATCA. Any beneficial owner will need to confirm whether they are a US Person or not and subsequently the Trust's accounts may be reportable to Inland Revenue.

Joint Accounts

26. I have a joint account with my husband who holds a US passport. Will my joint account details be reported?

Possibly. If your husband certifies that he's a US Person, the joint account balance will be included in his aggregate account balance. If that aggregate balance is over the specified threshold, then his details will be reportable, including the joint account balance.

Effect of personal accounts on business accounts

27. Will my individual FATCA status affect my entity FATCA status?

Your individual accounts are treated and reported separately from any entity accounts you are responsible for under FATCA. However, if you're a US Person and a beneficial owner of your business/entity, then your Individual FATCA status can have an impact on the FATCA status of your business⁹.

Relinquished Citizenship

28. What if I'm now a New Zealand citizen and have officially relinquished my US citizenship?

If you are no longer a US citizen or resident in the US for tax purposes, then you won't be reportable as an Individual Account Holder. You should let us know by completing a Certificate of Non-US Tax Status and providing the suitable documentary evidence (contact our FATCA Helpdesk to obtain this Certificate if you need).

Further information

29. What if I need further information?

Try searching 'FATCA' on the New Zealand Inland Revenue (ird.govt.nz) and US IRS (irs.gov) websites; check the US Embassy website for general advice for US citizens living in NZ or to find a US Tax Specialist, or contact the BNZ FATCA Helpdesk at:
Mail: BNZ FATCA Helpdesk, PO BOX 995, Shortland Street, Auckland 1140, New Zealand
Email: BNZ_FATCA_Helpdesk@bnz.co.nz
Phone: 0800 132 822, +64 4 9243946 (8:30am - 5:00pm, Mon-Fri, NZ time)
Facsimile: +64 9 976 1854.

9. However, just because a beneficial owner is a US Person does not necessarily mean the entity has a reportable status for FATCA. It also depends on other factors such as whether the entity's main source of income is from trade or business. Please complete the Certificate of FATCA Status for Entities to determine the correct status for your entity.