

Foreign Account Tax Compliance Act: provision of US TINs

Your obligations if you hold or control New Zealand financial accounts

What is the Foreign Account Tax Compliance Act?

Persons and tax residents of the United States of America (US) are required to report their worldwide income to the Internal Revenue Service (IRS), whether they live in the US or not.

The Foreign Account Tax Compliance Act (FATCA) is US legislation that aims to reduce tax evasion by US citizens, tax residents, and certain entities controlled by such US persons.

FATCA has applied since **1 July 2014** and was incorporated into New Zealand law¹. It requires New Zealand financial institutions to:

- identify accounts held (and in certain circumstances controlled) by US persons;
- collect prescribed information about such persons and accounts, including:
 - the person's US taxpayer identification number (TIN)
 - account balance
 - account income, and
 - certain payments
- report this information to us, for exchanging with the US.

What do I need to do?

In order to hold a financial account in New Zealand, you are required by law to comply with all FATCA and other automatic exchange of information (AEOI) obligations such as requests by your financial institution about whether you are a US person.

Note: If you do not comply with all of your AEOI obligations then the financial institution may not open an account for you, or may freeze and/or close your account.

If your financial institution has identified that you may be a US person (based on indicators such as a US mailing address or self-certification) they will ask you for certain identity information. This includes your US taxpayer identification number (TIN) - the US equivalent of an IRD number.

1. Part 11B of the Tax Administration Act 1994.

Possible examples of US TINs, include the:

- Individual Tax Identification Number (ITIN),
- Social Security Number (SSN), and
- Employer Identification Number (EIN).

If you receive a request for your US TIN you must promptly:

- provide your US TIN to the financial institution, or
- confirm with the financial institution that you are not a US person - this is known as a self-certification, which may need to be accompanied by supporting documentation.

Note: If you intend to open a new account and do not provide the relevant information, the financial institution must not open the account.

Account freezing and closure

If the financial institution does open your account then it is legally required to also check whether the account information you provided is correct. As part of this process you may be asked to provide additional information and documentation.²

Note: If you do not respond correctly and completely to their requests for information then the financial institution might freeze and/or close your account.

Penalties

If you do not respond to requests for such information (or provide incorrect information), you may be subject to a New Zealand:

- civil penalty of \$1,000, and/or
- criminal penalty if you knowingly do not respond to such requests.

Please refer to **Section 9.2** of our Guidance on the *Common Reporting Standard for Automatic Exchange of Information (IR1048)* guide, for more detail about the nature of your New Zealand obligations, and penalties that could apply if you do not respond to requests for such information.

2. For more information, refer to 22. Timing of selfcertification under Sections II-VII: Due diligence requirements in the OECD's CRS frequently asked questions PDF at <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

Download the IR1048 at www.ird.govt.nz (search keyword: IR1048).

You may also have obligations and liabilities under US domestic law.

Disclaimer

This information is a high level summary, with some exceptions, to help you understand your obligations under the FATCA laws in New Zealand. It does not constitute a ruling or binding advice.

If you have further questions, you should contact us or the IRS, or seek advice from a tax agent or advisor.

For more information about FATCA, go to:

NZ www.ird.govt.nz/fatca

US www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca



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