



FATCA Customer

Frequently asked questions

September 2022

What?

1. What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) is a US tax law designed to identify US citizens and US 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 the New Zealand Inland Revenue.

Why?

2. Why has FATCA been brought about?

As part of global measures to counter tax evasion, all New Zealand banks and financial institutions are required to collect information about US citizens and US tax residents tax residency. Personal and account information is then passed onto New Zealand Inland Revenue, which may then be exchanged with the IRS.

3. Why is NZ doing this for the US?

The New Zealand Government made a policy decision to implement FATCA and came to an agreement with the US (IGA) to implement FATCA in New Zealand. The key reasons for this decision were: 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 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 Persons¹, 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.

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 New Zealand), 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 whether the entity is controlled by US Persons.

Please don't be offended if we contact you for this reason.

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 Person if you were born in the US 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.

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 thresholds².

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)³:

- Name;
- Address;
- 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 of each US beneficial owner⁴;

For customers who are Financial Institutions:

- Global Intermediary Identification Number (GIIN).

¹ Refer to the definition of 'US Person' in the Glossary.

² Refer to question 12.

³ This only applies for those accounts that are in-scope for FATCA are reported. See question 13.

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 FATCA⁵.

In scope products/accounts

13. 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 balance⁶). Where these accounts are held by an Individual Account Holder, they are subject to the minimum reporting threshold of USD\$50,000 (or equivalent).
- An investment account managed by us or a custodian (not including KiwiSaver).
- Portfolio Investment Entity (PIE) investments.

14. 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 credit 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?

15. 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.

Tax returns and tax advice

16. 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.

Privacy impact

17. 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 New Zealand 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 and/or deactivate 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.

18. Does that mean BNZ will pass my information onto New Zealand Inland Revenue or when it asks?

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. 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.

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

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

20. How will I know my details are being shared and what is provided to New Zealand Inland Revenue?

If you declare in your self-certification that you are confirming a US tax status, then your personal and account details will be provided to New Zealand Inland Revenue.

If you declare through a self-certification that the entity is not an Exempt US Entity and/or (if required) controlling persons have confirmed a US tax status, then personal and account details will be provided to New Zealand Inland Revenue.

Beneficial owners

21. Why is my company reportable? We have 5 directors and only one of them is a US citizen.

Your US director may be regarded as a controlling person of the company under FATCA. So they will need to confirm whether they are a US Person or not and subsequently the company's accounts may be reportable to New Zealand Inland Revenue.

22. 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 controlling persons under FATCA.

⁴ Where relevant depending on the type of entity customer.

⁵ Refer to question 13.

⁶ This includes lending accounts (e.g. credit card accounts, revolving credit or overdraft facilities) that have credit balances.

Joint accounts

23. I have a joint account with my spouse who holds a US passport. Will my joint account details be reported?
Possibly. If your spouse certifies that they're 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 their details will be reportable, including the joint account balance.

Effect of personal accounts on business account

24. 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 business⁷.

Relinquished citizenship

25. 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 an Individual tax residency self-certification and providing the suitable documentary evidence (contact our BNZ Global Tax Compliance team to obtain this Certificate if you need).

Further information

26. 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.

⁷ 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 Entity tax residency self-certification to determine the correct status for your entity.