

Automatic Exchange of Information

Your obligations if you hold or control financial accounts

What is Automatic Exchange of Information?

New Zealand is one of many countries that has committed to new global standards on the automatic exchange of financial account information (AEOI). This information is required by law to be collected by financial institutions around the world for reporting to tax authorities. Tax authorities will exchange this information to ensure everyone pays the right amount of tax.

Four broad categories of financial institution are covered by AEOI – custodial institutions, depository institutions, investment entities and specified insurance companies. Apart from more obvious entities such as banks, this can also include non-bank deposit takers, collective investment entities, mutual funds, private equity funds, hedge funds, discretionary investment managers, certain brokers and trusts (including some managed family trusts).

The New Zealand Government has enacted specific laws to implement AEOI with:

- the United States (US) under a system known as the Foreign Account Tax Compliance Act (FATCA). This is for US citizens and tax residents only (including certain US entities), and has applied from 1 July 2014, and
- other countries under the Common Reporting Standard (CRS). The CRS has applied from 1 July 2017.

What does this mean for me?

In order to hold a financial account in New Zealand, you are required by law to comply with all AEOI obligations.

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

If you have a pre-existing account

If you have a pre-existing account with a financial institution **as at 30 June 2017**, your financial institution may contact you to confirm your country or countries of tax residence (or the country of tax residence of the person(s) you hold funds for). This is to establish whether you have accounts that need to be reported under the AEOI laws.

They may also contact you if their records indicate that you (or a person that you hold funds for) could be a foreign tax resident. This might be because you have provided an address or other information for a country outside New Zealand.

If you open a new account

From 1 July 2017, if you open a new account your financial institution must generally ask you to self-certify your tax residence. They may ask you to complete forms and documentation, and provide other information to identify where you are a tax resident. Your financial institution may also contact you for this information for your pre-existing accounts. A self-certification may sometimes not be required if you **already** have a pre-existing account with the financial institution.

Accounts held by entities (eg companies, trusts, partnerships)

From 1 July 2017, if you are opening a new account on behalf of a legal entity (such as a company) or arrangement (such as a trust or partnership), your financial institution must generally obtain a self-certification from you to determine whether the account is reportable.

The institution may ask you for information about:

- the entity's tax residence
- the nature of the entity's business
- how the entity derives its income
- how the entity is managed
- the nature of the entity's assets, and
- in some circumstances, the tax residence of individuals who control the entity.

Your financial institution may also contact you for this information for your pre-existing accounts. This will help the institution to comply with their obligations under the AEOI laws. Self-certification may sometimes not be required if you **already** have a pre-existing account with the financial institution.

Requests for information

It is important that you respond truthfully and to the best of your knowledge, within a reasonable timeframe, if you receive a request for details about:

- your tax residency and related information
- the nature of your entity
- the tax residency and related information of the person(s) you hold an account for.

If you, your entity or person(s) you hold an account for, are identified as a foreign tax resident:

- you will need to provide your or the relevant person(s) date of birth and foreign taxpayer identification number (TIN) or equivalent. This is the number used to identify

you or relevant person(s) to the tax authority in the foreign country. If you or the relevant person(s) don't have a TIN (or equivalent), you will be asked to provide a reason

- the entity will need to provide its foreign TIN (or equivalent).

You must take reasonable steps to obtain and provide this information. You must also provide an update if there is a material change to the information you have provided.

If you don't respond, your financial institution may have to treat you, your entity or the person(s) you hold an account for as being a foreign tax resident in a country outside New Zealand, even if you are not.

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.¹

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

Penalties under the AEOI laws may apply if you provide false or misleading information, fail to provide this information, or fail to provide an update if there is a material change to the information you have provided.

This includes civil penalties of \$1,000 per offence that we can impose. Substantial criminal penalties can be imposed by the courts for knowledge-based offences. These penalties apply for the purposes of both CRS and FATCA.

These requirements help ensure the AEOI laws worldwide are effective. They increase tax transparency by identifying people who have offshore accounts and investments. Other countries that are implementing the AEOI have similar provisions in place.

¹ For more information, refer to 22. **Timing of self-certification** under **Sections II-VII: Due diligence requirements** in the OECD's CRS frequently asked questions PDF at www.oecd.org/tax/automatic-exchange/common-reporting-standard/

What happens with my financial account information?

If you, your entity or the person(s) you hold an account for are identified or treated as being a foreign tax resident, under the AEOI laws, identity details, account balance, income and payment information, and other account information may be provided to us.

We will then send the information to the tax authority in the jurisdiction(s) of tax residence, if New Zealand has an AEOI with that jurisdiction. We may also use this information to assist in making sure that everyone pays the right amount of tax as per our responsibilities under the Tax Administration Act 1994.

If you are a New Zealand tax resident and you have accounts with financial institutions overseas, we may receive such information from the tax authority of that jurisdiction(s). This will mean that we receive better information about New Zealand tax residents' offshore investments, which will assist us with making sure everyone pays the right amount of tax.

All information reported under these laws is handled in the strictest confidence by us and foreign tax authorities. National laws, administrative practices, and binding international treaties protect the privacy and confidentiality of your information. This is in the same way that all taxpayer information is generally handled.

Disclaimer

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

If you have further questions, you should contact us or the tax authority of your country of residence, as applicable, or seek advice from a tax agent or advisor.

For more information about tax residence and automatic exchange of information, go to:

NZ www.ird.govt.nz/international/exchange/crs
OECD www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/



www.ird.govt.nz

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New Zealand Government