

FATCA

Frequently Ask Questions

New Zealand



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1. What is FATCA?

FATCA stands for the Foreign Account Tax Compliance Act. It is a new piece of legislation to help counter tax evasion in the USA.

Introduced by the United States Department of Treasury (Treasury) and the US Internal Revenue Service (IRS), the purpose of FATCA is to encourage better tax compliance by preventing US persons (see glossary) from using banks and other financial organisations to avoid US taxation on their income and assets.

A significant number of countries worldwide, including New Zealand, are expected to sign inter-governmental agreements (IGAs) relating to FATCA compliance with the United States government. These IGAs will result in the FATCA legislation becoming part of these countries' local laws (Please refer to glossary for IGA definition.)

2. What is the impact of FATCA?

On an annual basis, banks and other financial organisations will be required to report information on financial accounts (e.g. current accounts, savings accounts, deposit accounts, custodial account, certain insurance policies and interests in investment funds) held directly or indirectly by US persons.

HSBC has made a commitment to being fully FATCA compliant in all countries where we operate. We will therefore be reviewing our existing customer base to confirm our customers' FATCA status, and where necessary we may have to contact our customers for further information and documentation.

3. How do I know if I am affected?

FATCA legislation will affect both personal and business customers who are treated as a 'US person' for US tax purposes. The FATCA legislation will also affect certain types of businesses with US owners.

The term US person includes the following (but is not limited to):

- A citizen of the USA, including an individual born in the US but resident in another country (who has not given up their US citizenship)
- A person residing in the USA, including US Green Card holders
- Certain persons who spend a significant number of days in the USA each year
- US corporations, US partnerships, US estates and US trusts

Over the next few months we will be reviewing the impact of the legislation for our customers, and will provide further information to affected customers in due course.

For more information regarding FATCA, please visit the IRS website or contact your tax professional.

4. When will the FATCA legislation become effective?

The FACTA legislation is currently due to become effective from 30 June 2014.

HSBC is committed to becoming fully FATCA-compliant in all countries where we operate in accordance with the legislative timeline.

5. Is HSBC the only bank to be affected by FATCA?

No. All banks and other financial organisations will be affected by FATCA; however their approach to adopting FATCA may differ. HSBC is committed to becoming fully FATCA-compliant in all countries where we operate.

6. What does HSBC have to do to comply with FATCA?

To comply with FATCA, HSBC will:

- Conduct a review of new and existing customers to identify those that are reportable under FATCA. Business customers will be classified according to the FATCA legislation (For example, as US persons, foreign financial institutions or non-financial foreign entities.)
- Report information to the IRS or local tax authority on all accounts held directly or indirectly by US persons. In addition, HSBC may also need to report information about customers who do not provide the required documentation to us

In certain circumstances and where customers fail to provide the appropriate documentation or when doing business with non-compliant entities, HSBC may be required to apply 30% US withholding tax on certain types of US income paid to such customers.

(Please refer to the glossary for the definitions of US persons, foreign financial institutions, non-financial foreign entities and withholding tax.)

Am I affected?

7. Is FATCA applicable to Personal or Business customers?

FATCA legislation will impact both Personal and Business customers who have a relationship with HSBC (eg current accounts, savings accounts, deposit accounts, custodial account, certain insurance policies and interests in investment funds).

8. Am I only affected if I am a US Company?

No. The impacts of FATCA are wider than just US companies. HSBC will be reaching out to many business customers globally to determine their status under FATCA. The aim of this exercise is to identify customers which are reportable under FATCA. We will be communicating with customers who need to take further action.

9. What do I need to do as a Business customer?

In order to establish your tax status under FATCA, we may need you to provide additional information/documentation. This documentation could be an HSBC declaration or a US tax form from the IRS. We will be communicating with affected customers that need to complete these forms, detailing when they will need to be completed by.

10. Does FATCA replace existing tax rules I already follow?

FATCA does not replace the existing US tax regimes; it may however add additional requirements and complexity to the existing tax rules you may already follow. Should you need further advice on your tax status or FATCA classification, you should contact a professional tax adviser.

11. Why has my other bank asked for different documentation than HSBC?

The way in which banks and financial organisations collect information from their customers in order to confirm their tax status under FATCA may vary. This may mean that in some instances you are asked for different documentation from HSBC than another bank.

HSBC cannot offer advice on your FATCA tax status or classification. If you need further support you should visit the IRS website or contact a professional tax adviser.

12. How frequently will I have to provide information for FATCA purposes?

FATCA is an ongoing process. If your account information changes, we may be required to contact you to obtain additional information/documentation so that we are able to update your account classification under FATCA.

13. Under what circumstances would HSBC need to report information about my account to my local tax authority or to the IRS?

The purpose of FATCA is to prevent US persons (see glossary) from using banks and other financial organisations to avoid US taxation on their global income and assets. HSBC will therefore report information to the IRS or local tax authority on all accounts held directly or indirectly by US persons. In addition, HSBC may also need to report information about customers who do not provide the required documentation to us.

14. What information will HSBC report to the local tax authority or the IRS?

The information reported to the IRS or the local tax authority will depend on the FATCA classification of the customer. This information will typically be of a personal nature in relation to the substantial or controlling US owners of a business (eg name, address, US taxpayer identification number). We will be communicating with the affected customers in detail on these requirements.

What do I need to do?

15. What types of information and/or documents can I expect to supply to HSBC?

We will be communicating with the affected customers and provide full details of the information/documentation HSBC needs for FATCA purposes. Documents may include US tax forms (also referred to as withholding certificates or W forms) or self-declarations of FATCA status.

16. Will HSBC supply me with all the forms I need to complete?

Yes. If HSBC requires further information from you we will either send you the relevant forms or direct you to a website where you can download them.

17. When do I have to provide the requested information and/or documentation for FATCA?

In general, customers should supply the requested documentation and information by the date contained within the communication.

18. What will HSBC do if I do not provide the information required under FATCA?

HSBC is committed to be fully compliant with FATCA.

HSBC Group may not open new accounts or offer additional products and services to customers who choose not to comply with HSBC's requests for documentation to establish a customer's status under FATCA.

HSBC may exit the relationship with customers who decide not to provide the necessary information and documentation within the regulatory timeframe.

HSBC may also need to report information about customers who do not provide the required documentation to us.

In addition, we may also be required to withhold tax on certain US-source payments coming into your account. (Please see the glossary for further information on withholding tax.)

19. What do I need to do if I am affected by FATCA?

Over the next few months we will continue to review the impact of the legislation for our customers and will correspond with affected customers in due course. For more information regarding FATCA, please visit the IRS website (see useful links), or contact your professional tax adviser for advice.

Please note that you may receive more than one request for documentation if you have multiple relationships with different members of the HSBC Group. It is important that you respond to all requests, even if you believe you have already supplied the requested information.

Please note that HSBC is unable to offer tax advice. For tax-related questions please contact your professional tax adviser or refer to the IRS website.