

# AEOI update – draft legislation released

## Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill – 10 August 2016

Automatic Exchange of Information (“AEOI”)

A [Tax Bill](#) introduced this week implements New Zealand’s commitment to AEOI through a specific set of rules that give the OECD’s Common Reporting Standard (CRS) and its commentary the force of New Zealand law.

Key AEOI implementation features include:

- Requiring NZ financial institutions to undertake due diligence on all account holders (“the wider approach”). This will mean residents of a country that has not signed up to AEOI will need to be reviewed. NZ financial institutions will have the option to report these accounts to Inland Revenue.
- Allowing Government regulations and IRD determinations to be made [to determine](#) which entities and financial accounts are excluded. These will also be used to prescribe the countries that New Zealand will exchange information with.
- Specific civil penalties for NZ financial institutions, and account holders, who fail to take specific actions or provide information required under AEOI. The account holder penalties will also apply to FATCA non-compliance.
- Confirming the 1 July 2017 start date and a 31 March mandatory reporting period for AEOI.

The Tax Bill is consistent with the [factsheet](#) Inland Revenue published in July. You can see our previous commentary on that [here](#).

### Our initial thoughts

The Bill and related commentary demonstrates New Zealand’s commitment to fulfilling NZ’s tax transparency commitments as a global citizen.

However, there is a potential for duplication of tax reporting. Inland Revenue’s [Making Tax Simpler: Investment income information](#) proposals will require monthly reporting of account holders’ income and details. Anti-money laundering and other Know Your Customer (KYC) regulations will (as currently proposed) also sit alongside

### QUICK LINKS

KPMG New Zealand’s FATCA and AEOI [alerts](#)

KPMG New Zealand’s FATCA and AEOI [site](#)

KPMG’s global FATCA [site](#)

KPMG’s global AEOI [site](#)

AEOI.

Officials' concern is that AEOI imposes a higher standard than existing information requirements. Adopting the standards imposed by other requirements could impact New Zealand's international standing. However, we believe there is an opportunity to develop a single set of tax KYC rules for residents and non-residents, which meet both local and AEOI requirements.

Making the OECD's CRS and its commentary part of New Zealand law is designed to help with global consistency. However, this will import any future changes automatically. NZ financial institutions will therefore need a system to keep up-to-date with the OECD's position and notify customers accordingly. Alternatively, Inland Revenue updates will be required.

The AEOI proposals will affect a wide range of NZ entities. The FATCA rules apply to a range of entities who may not consider themselves financial institutions but are caught. (These include family trusts depending on their investments and how they are managed.) As AEOI has slightly different definitions to FATCA, entities will also need to consider whether they have different obligations under each. The penalties regime will mean that ignorance of the rules is no defence.

The Tax Bill is subject to submissions. The submission process should allow uncertainties in the drafting to be addressed. It is also possible that submissions will alter the proposals.

Finally, while enactment by the end of 2016 is desirable, the more likely date of the Tax Bill becoming law is February or March 2017. This leaves little time for confirming AEOI compliance programs. Decisions by NZ financial institutions on the design of their systems and processes will need to be made ahead of the final legislation.

**To discuss AEOI implementation issues further please contact:**

**John Cantin**  
Partner, KPMG  
T: 04 816 4518  
[jfcantin@kpmg.co.nz](mailto:jfcantin@kpmg.co.nz)

**Darshana Elwela**  
National Tax Director,  
KPMG  
T: 09 367 5940  
[delwela@kpmg.co.nz](mailto:delwela@kpmg.co.nz)

---

[Privacy | Legal](#)

© 2016 KPMG, a New Zealand partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International Cooperative ("KPMG International").