

Nicholls Law Ltd

Legal Services & Solutions

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FROM 1 JULY 2018 WE WILL BE ASKING OUR CLIENTS FOR MORE INFORMATION: From 1 July 2018 all law firms must obtain more information about clients to comply with the *Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT)*, the *Foreign Account Tax Compliance Act (FATCA)* and the *Common Reporting Standards (CRS)*.

We are required by this legislation to collect certain information about our clients. We will not be able to start work for you until we have all the required information. We will require this information even if you have been a client of NLL previously, or are one currently. We will require the following information, your:

1. Full name; and,
2. Residential address; and,
3. Date of birth

We will need to verify this information. To do this we will need to see your ID - your passport is a very good option. We will also need a document showing your residential address (a utility bill or bank statement – addressed to you). *This must be less than 12 months old.* If you can't provide proof of your address, we may be able to verify it using our access to NZ databases.

The best way to verify this information is for you to meet us face to face for you to bring your original passport and proof of address so we can identify you, we will retain copies of those documents -including digitally.

if that is not possible there is another option: You can get your IDs certified by a 'Trusted Referee' (see under: Trusted Referee, below) and email us the copies. This will cause a delay in us starting work for you.

COMPANIES & TRUSTS (AND OTHER ENTITIES)

If you are instructing us on behalf of a company or a trust or any other type of entity like a body corporate or incorporated society, we will need this information from more individuals associated with the entity including, but not necessarily limited to; directors, shareholders, trustees, beneficiaries or committee members. Information confirming the source of wealth and or the source of funds for a transaction may also be necessary to meet the legal requirements.

HOW TO GET YOUR ID CERTIFIED IF WE CANNOT MEET FACE TO FACE

You must go to a 'trusted' referee and have them certify the ID. They must sight the original ID, make a statement to the effect that they are a true copy and represent the identity of the named individual. This Certification must include the name, signature and date of certification. The trusted referee must specify their capacity to act as a trusted referee. Certification must have been carried out in the *3 months* preceding the presentation of the copied documents. Copies' of international ID must be certified by a person authorised by law in that country to take statutory declarations or equivalent in that country.

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TRUSTED REFEREE: In NZ a trusted referee must be: At least 16 years old, a Commonwealth representative, or, Member of the police, or, Justice of the Peace, Registered medical doctor, Registered teacher. A Lawyer (but not the lawyer you are instructing), or, a Notary public, a Member of Parliament, a Chartered accountant, or, a Kaumatua (as verified through a reputable source), and, a person who has the legal authority to take statutory declarations or the equivalent in NZ.

IF YOU DO NOT HAVE A PASSPORT:

Option 1: You can use a NZ firearms licence or NZ refugee travel document.

Option 2: You can use your NZ drivers licence **and** one of the, following:

- a) A credit card, debit card or bank statement less than 12 months old (must be issued from a registered bank)
- b) A document issued by a government agency that contains your name and signature (ie Gold Card)
- c) A statement issued by a government agency which is less than 12 months old (ie an IRD statement)

Option 3: You can use either your birth certificate or certificate of NZ citizenship **AND** one of the, following:

- a) NZ drivers licence
- b) Valid and current international driving permit
- c) 18+ card

If you cannot provide the required information we will not be able to act for you. We need to ask for the information even if you have been a client of NLL previously or are currently a client.

INFORMATION REQUIRED WHEN WE PLACE FUNDS ON INTEREST BEARING DEPOSIT

If we will be holding your funds in our trust account you may want these funds placed on interest bearing deposit, on call. If so, we will need to ask whether you are a tax resident of NZ or another country and you must complete a form provided by our bank.

If we place funds on interest bearing deposit (IBD) on your behalf we are required to report to our bank whether you are a US tax resident or a tax resident of another country. We are not allowed to place funds on IBD without holding a form signed by you, confirming if you are a tax resident of another country. Our engagement letter includes a statement about this and confirms your consent to us reporting this information. This requirement arises because of "FATCA": The United States Foreign Account Tax Compliance Act and the inter-governmental agreement between the United States and New Zealand. The FATCA agreement between NZ and the US is directed at reducing tax evasion by US taxpayers.

FATCA requires financial institutions to report on financial accounts held by US taxpayers or foreign entities in which US taxpayers hold a substantial ownership interest. Whilst NLL is not a "financial institution", our trust account is subject to the FATCA provisions. You can read about privacy issues relating to FATCA here (<https://privacy.org.nz/news-and-publications/guidance-resources/fatca-fags/>). A US citizen includes persons born in the US, having a US citizen parent or persons who are US-naturalised.

A US tax resident includes a green card holder and someone who satisfies the *substantial presence* test. The test is satisfied when a person is present in the US for 31 days in the current calendar year and for at least 183 days in the period of the current year and two years prior. The 183 days includes all days' present in the US in the current year, 1/3 of the days present in the US in the year prior and 1/6 of the days present in the US in the year two years prior to the current year. You can read more on the IRS website (<https://www.irs.gov/individuals/international-taxpayers/immigration-terms-and-definitions-involving-aliens>)