

PRESENTERS



Zoe Barnes, Minter Ellison Rudd Watts, Auckland

Zoe is a solicitor in the tax team at Minter Ellison Rudd Watts. She advises a range of clients including large corporates, insurers, investment funds and private individuals. Zoe's experience includes providing advice in relation to GST, tax structuring, withholding taxes and FATCA.



Andrew Ryan, Minter Ellison Rudd Watts, Auckland

Andrew is a chartered accountant and lawyer, and leads Minter Ellison Rudd Watts' tax team. Named as a leading New Zealand tax practitioner by several international directories, Andrew has particular expertise in corporate taxation, tax disputes, corporate and trust structuring and mergers and acquisitions. Andrew advises a number of clients in relation to the FATCA regime and has presented on the subject at conferences for STEP (Society of Trust and Estate Practitioners) and NZICA's Trusts Special Interest Group.

The statements and conclusions contained in this paper are those of the author(s) only and not those of the New Zealand Law Society. This booklet has been prepared for the purpose of a Continuing Legal Education course. It is not intended to be a comprehensive statement of the law or practice, and should not be relied upon as such. If advice on the law is required, it should be sought on a formal, professional basis.

CONTENTS

PRACTIAL IMPLICATIONS OF FATCA FOR TRUSTS.....	1
INTRODUCTION	1
WHAT IS FATCA?	1
<i>The United States' objective</i>	1
<i>International reaction and intergovernmental agreements</i>	2
FATCA IN NEW ZEALAND	3
<i>The New Zealand IGA</i>	3
<i>Implementation of the NZ IGA</i>	4
<i>Inland Revenue's role and enforcement of the NZ IGA</i>	4
WHAT DOES FATCA MEAN FOR NEW ZEALAND TRUSTS?	5
<i>Who will be caught?</i>	5
<i>FATCA taxononmy</i>	6
<i>Trusts as financial institutions</i>	7
<i>NZ IGA Investment Entities</i>	7
<i>US Regulations' Investment Entities</i>	8
<i>Custodial Institutions</i>	10
<i>Trusts as a Non-Reporting NZFIs</i>	12
<i>Trusts as NFFEs</i>	14
<i>Registration</i>	15
<i>Due diligence for Reporting NZFI trusts</i>	15
<i>Reporting</i>	18
<i>What does FATCA mean for the New Zealand legal profession?</i>	19
OECD AUTOMATIC EXCHANGE OF INFORMATION – GATCA	21