



October 2018 - Explanatory note on tax transfers

A new explanatory note on tax transfers has been released by the DIA. Please refer to the link below for further details:

[https://www.dia.govt.nz/diawebsite.nsf/Files/AML-CFT-Explanatory-Note/\\$file/Tax-Transfers-Explanatory-Note.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/AML-CFT-Explanatory-Note/$file/Tax-Transfers-Explanatory-Note.pdf)

Key Points

- The Department's view is that preparing and filing a client's tax return as part of a tax accounting service is not ordinarily covered by the AML/CFT Act.
- However, in some circumstances, involvement by an accounting practice in any associated tax transfers, payments and/or refunds will be captured by the AML/CFT Act.

Managing Client Funds

For a tax transfer, payment and/or refund to be captured as managing client funds, the key determining factor is whether the accountant has control over the flow of the funds. This may include, but is not limited to, the following circumstances:

- Receiving or holding funds relating to a client's tax obligations in an accounting practice trust account.
- Having authority over a client's bank account and making payments from that account on behalf of a client for tax payments.
- Conducting tax transfers in the Inland Revenue system

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Engaging in/giving instructions

Engaging in/giving instructions includes situations where a reporting entity only provides instructions without necessarily having control over the flow of funds. This activity is only covered by the AML/CFT Act where the transaction relates to the creating, operating or managing a legal person (for example, a company) or other legal arrangement (and not a natural person).

For a tax transfer, payment and/or refund to be captured as engaging in/giving instructions, the following criteria must be met:

- engaging in the transaction or giving instruction on behalf of a customer to another person to engage in the transaction
- the transaction must be a deposit, withdrawal, exchange or transfer of funds in cash, by cheque (or similar) or by electronic or other non-physical means
- the transaction must be on behalf of a customer
- the transaction must relate to creating, operating or managing a legal person (e.g. company) or other legal arrangement (trust, partnership or charitable entity)

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