**New Zealand Rejects Money Laundering Exemption for Tax Agents**

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New Zealand’s government has rejected a request for an exemption from anti-money-laundering rules for tax transfers performed by registered tax agents on behalf of clients.

On April 20 the Chartered Accountants Australia and New Zealand (CA ANZ) said the Ministry of Justice cited five reasons for denying its exemption request. The first was that it would run counter to the intent and purpose of the 2009 Anti-Money-Laundering and Countering Financing of Terrorism Act (AML/CFT).

Associate Minister of Justice Aupito William Sio also said there is a “medium risk” of money laundering and terrorism financing associated with tax transfers. Sio explained that granting an exemption that could extend to transactions involving entities not proven to be low risk, “and whose customers can be structured in complex ways,” could be detrimental to New Zealand’s international reputation, the CA ANZ said in a posting on its website.

The absence of customer due diligence leads to a heightened risk of money laundering and terrorism financing, which hinders the prevention, detection, and prosecution of those offenses, Sio said. The level of regulatory burden on accounting and professional services practices for tax transfers is proportionate to the level of risk identified, he added.

The CA ANZ said it would urgently request additional clarity from the Ministry of Justice on the ruling. “The decision to decline our exemption application, coupled with the inconclusive nature of the [Department of Internal Affairs' (DIA’s)] initial guidance, creates significant uncertainty about the application of the rules to tax transfers conducted by tax agents,” the group said.

One of the responsibilities of the DIA is to carry out reviews of risk assessment and AML/CFT programs. In 2018 the DIA said in an explanatory note that simply preparing and filing a client’s tax return as part of a tax accounting service is not normally 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 [fall under] the AML/CFT Act,” the DIA said. Activities that are most likely to be covered by the act are the management of client funds, accounts, securities, or other assets, and being involved in or giving instructions for a transaction on behalf of a customer to set up, operate, or manage “a legal person or other legal arrangement.”

The key factor in determining whether a tax transfer, payment, or refund constitutes the management of client funds is whether the accountant has control over the flow of funds, the DIA said. That control includes, but is not limited to, receiving or holding funds related to a client’s tax obligations in an accounting practice’s trust account; having authority over a client’s bank account and making payments from that account on behalf of a client for tax payments; and conducting tax transfers in Inland Revenue’s system.