

Hi there,

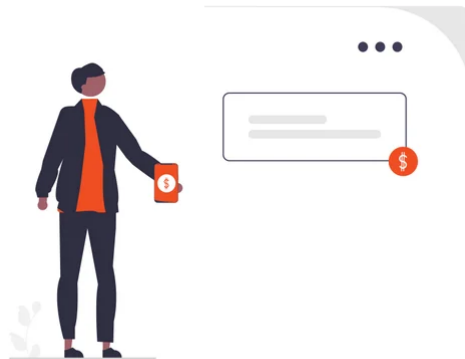
Important Update to AML Obligations for IRD Tax Transfers

We want to let you know about a recent amendment to the AML Legislation, changing the obligations when carrying out Tax Transfers at IRD.

The change does not affect 2Shakes software itself, but it will affect many of you who are Tax Agents. So along with Trish Madison at Audits AML we wanted to let you know what we do at this stage.

We need to stress the changes touch on some really complex areas, and we are looking to meet DIA as Accounting Sector Supervisor to clarify some areas. Suffice to say we have seen a few opinions so far that differ significantly.

If you don't carry out Tax Transfers at IRD you can ignore this email, thanks 😊.



What's changed?

In October 2018 CAANZ applied to the Ministry of Justice (MoJ) for a Ministerial Exemption from the AML/CFT Act for Tax Agents performing Tax Transfers at IRD.

An exemption has now been enacted covering many common tax transfers (but not all), for a period of 5 years from 15 July 2022.

Anyone carrying out Tax Transfers at IRD should see the following for full details:

- [CAANZ Website on the Exemption](#)
- [The Legislation Amendment Notice](#)
- [DIA Website with exemption links](#)
- [DIA Exemption Guidance](#)
- [DIA Exemption FAQ](#)

If you are a Reporting Entity who only carries out exempted Tax Transfers, you are still classed as a Reporting Entity, but your AML obligations are reduced.

Terminology: The exempted Tax Transfers are being called "relevant Tax Transfers". Only relevant Tax Transfers are exempted (the CAANZ link above has a list).

Dealing with Relevant Tax Transfers

For clients who you only do relevant Tax Transfers for, you will have reduced obligations, and normally you will not need to carry out Customer Due Diligence for them.

From what we can see (and this still needs to be confirmed with DIA):

- IF you have a client you are only doing a **relevant** Tax Transfer for AND
- IF you have not assessed them as High Risk AND
- IF there is no suspicious activity AND
- IF they are not seeking to conduct a complex, unusually large tax transfer or unusual pattern of tax transfers that have no apparent economic or lawful purpose

THEN you do not need to:

- Conduct CDD (either simplified or standard) on the client.
- Include the client in Annual Reporting to DIA.
- Carry out account monitoring or Ongoing Due Diligence

If the above conditions are NOT met, you will need to carry out Enhanced Due Diligence (EDD) on the client, and in the case of suspicious activity, also complete a Suspicious Activity Report (SAR) via GoAML.

NB: You can see you still need to do a client risk assessment and keep your GoAML access.

Reporting Entities with other in-scope services

If you are a reporting entity who carries out other AML in-scope services, your obligations reduce as above for those clients whose only AML in-scope service is relevant Tax Transfers.

For all other clients your obligations across the full AML regime remain the same.

Reporting Entities who ONLY do relevant Tax Transfers

If you are a reporting entity whose only AML in-scope service is Tax Transfers covered by the exemption, the situation is less clear, and we will bring an update as soon as we can.

Obviously, your AML Due Diligence obligations are reduced as described above for all your clients.

After the 30 June 2022 Annual Report, you will also no longer need to submit annual reports.

However, there are questions over what your AML system will need to have going forward.

On the one hand, the legislation is clear that the intent is to reduce the administrative burden in an area that is not seen as low risk. And the [DIA Exemption Guidance](#) says :

"Accounting practices that are captured under the AML/CFT Act for activities other than relevant tax transfers ... are required to comply with the AML/CFT Act in full for those activities. This includes conducting a risk assessment, having an AML/CFT programme and conducting standard and ongoing customer due diligence".

So the implication is that if all you do is relevant tax transfers you don't need to have a risk assessment or AML Programme, and all the requirements therein (training and vetting staff, audits, etc).

However, how do you meet the reduced obligations without having a risk assessment and programme? For example:

- Without training staff, how will they spot suspicious activity, or be on the lookout for large/complex transactions (and not tip-off clients).

- Without an AML Programme, how do you know how to conduct EDD?
- Without a Programme and some kind of regular audit/review, how do you keep up to date with changes in reporting SARs, doing EDD, etc?

We have seen emails coming out from the AML community at both ends of the spectrum, from no more obligations, to most of your obligations are still in place.

We can see and understand both points of view, and as soon as we have some clarity we will follow up with an update and hopefully clear up the ambiguity.

Reminder on IRD Authority to Act

Please remember that separate to these AML changes, IRD has published a new Authority to Act (A2A) Operational Statement, which you can read [here](#) as well as getting our full update info on our website [here](#).

In short, the IRD change means you need to do ID Verification to link in MyIR.

You can either carry out ID Verification in line with AML requirements, or follow the process in the A2A Operational Statement. 2Shakes already requires you to carry out IDV when Government Authority is captured, regardless of whether you do AML or not.

In this case, where AML is not needed, you don't need to verify the identity of all the Beneficial Owners - just the person or people giving you authority.

As soon as we have more info on exactly what this means for practices who only do relevant Tax Transfers (including new practices who haven't yet been through setting up for AML), we will let you know.

As always, if you have any questions, need any further information, or want to send us feedback, please email us at support@2shakes.co.nz, thanks.

And thanks very much again for using 2Shakes,
Ngā mihi nui,

Mike Kelly
CEO



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Client Onboarding Automation | AML Due Diligence.

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