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Certificate of Compliance changes

Through a public notice in December 2020 the IRC has announced some further details of the revamp of the process for obtaining a Certificate of Compliance (CoC). This announcement is no doubt intended to complement the announcements by the Chief Secretary to Government and the IRC in relation to qualifying requirements for participating in government procurement.

Applications for a CoC are now required to be lodged through email to a dedicated email address and will no longer be accepted over the counter. These will be addressed by a special team that will issue the CoC if the taxpayer has no outstanding issues in their accounts, or refer the outstanding matters to debt enforcement. The goal is to ultimately utilise the SIGTAS system to directly generate the CoCs from the status of existing records - although we understand this element of the process is yet to become operational. Details of valid CoCs are planned to be made available to the public such that those relying on the CoC can be confident in the operation of the system.

The public notice also appears to broaden the categories of business activities the IRC consider to be within the scope of Business Income Payments Tax (BIPT). In addition to the categories of building and contraction, road transport, motor vehicle repair, construction and joinery, and the provision of security services; a sixth category of "hire and lease of plant and equipment" has been added.

However, this in itself may also lead to uncertainty as the CoC is an administrative process required under the BIPT provisions of the Income Tax Act. A CoC simply means that those making an eligible business income payment need not withhold from the payment. The range of payments that constitute eligible business income payments are to be provided for in the Income Tax Regulations. The current regulations do not include the hire of equipment. Unless or until the regulation is amended, there is no basis for withholding.

Date of effect for 2021 budget legislative changes

With the passing of the budget legislation in December 2020, a relatively small number of tax changes have become law. However, their dates of effect are not uniform. In fact, of all the income tax changes passed in the budget in December 2020, none became effective on 1 January 2021. Rather, some were applied retrospectively and some are yet to be applied until specifically gazetted.

The retrospective adjustments included:

- The clarification of the legislation around carried forward losses is effective from 1 January 2019.
- Changes to the withholding mechanism for prescribed royalty payments are stated as coming into effect on 1 January 2020.
- Changes to the due dates for provisional tax payments for companies with substituted accounting periods are also in effect from 1 January 2020.
- The changes to the customs act to increase penalties for certain infringements are also described as being in effect from 1 January 2020.

The changes yet to be assigned an implementation date include:

- The changes associated with the SME tax regime, including the anti avoidance provision in relation to counter employees being treated as independent contractors.

However, changes in tariffs to introduce a category for electric vehicles did come into effect on 1 January 2021.

Those potentially impacted by the legislative amendments should examine the changes in the date of effect individually to understand the implication of potential retrospective application.

Annual reconciliations

The beginning of a new calendar year is the time to consider the deadlines for taxpayers to complete annual reconciliations for their various withholding tax obligations.

While these are filings that do not create a payment obligation, they are still required and failure to lodge will be recorded on the statement of accounts which in turn may lead to delays in obtaining tax clearance certificates or certificates of compliance.

The due dates for filing range from 31 January through to 28 February (although it should be noted that some IRC publications are at odds with the due dates specified in the legislation). Nevertheless, the key items that taxpayers should be addressing include:

- SWT - annual statement of earnings for individuals on request
- SWT - annual group employer reconciliations
- BIPT - annual reconciliation
- FCWT - annual reconciliation
- MFWT - annual reconciliation
- Royalty WT - annual reconciliation
- Dividend WT - annual reconciliation
- IWT - annual reconciliation
- Non resident Insurers WT - annual reconciliation.

If a taxpayer is registered for one of these taxes, then a filing should be completed, irrespective of whether there was activity for that tax account during 2020.

If you would like to know more about any of these developments or have any other questions, please get in touch with your usual PwC contact.

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