

# ***PNG Pulse***

## ***Keeping you informed***



***November 2016***

### ***2017 Budget handed down***

This year's budget was launched with the theme of Responsible Fiscal Consolidation, and saw a number of potentially significant changes to the tax landscape for the country. In this series of PNG Pulse Special Editions, we will present some additional explanation and commentary on a number of areas – focussing on some of the groups of taxpayers that may particularly benefit from reviewing their current operations in light of fiscal changes.

### ***Foreign Contractor Withholding Tax***

One of the headline changes in this year's budget was in the rate and application of Foreign Contractor Withholding Tax (FCWT).

#### ***Background***

The FCWT has been an important part of the tax landscape for many years. The tax is aimed at facilitating and simplifying the collection of tax from non-resident entities performing work on prescribed contracts in PNG. The FCWT's design was relatively convenient and flexible. In principle, the withholding of 12% was arrived at through applying the non-resident tax rate to a contract value assuming

a profit margin of 25% for the contractor on the contract (i.e. 48% x 25%). Contractors also had the option of satisfying the PNG tax authorities that in certain circumstances they could be taxed on an actual profit basis through the filing of an annual corporate income tax return. Therefore, the FCWT structure was able to be matched against a wide variety of contracts (services only or supply of a combination of goods and services).

The budget proposes the following changes:

- The rate of FCWT is to be de-linked from the non-resident company tax rate of 48% and rather will be fixed at 15%
- The option for contractors to file an annual corporate income tax return rather than suffering the withholding tax has been removed

#### ***Implications for foreign contractors***

As a result of these changes, the FCWT will likely become simpler to administer, although it will be less flexible – particularly for foreign contractors.

With the elimination of the option for the foreign contractor to lodge an annual tax return, those foreign entities operating in PNG

through a foreign company will need to consider the relevance and effectiveness of their existing structure. For many contractors, incorporating a local subsidiary and operating through that vehicle may now be more tax effective.

Foreign Contractors from countries with which PNG has signed a double tax agreement will also need to review the terms of the DTA. For some of the agreements, there may be an opportunity to rely on the provisions to keep options open.

The date of effect will be for payments made after 1 January 2017. Entities that are operating through a foreign company should urgently consider their options to understand their position for 2017.

Foreign contractors with substituted accounting periods (i.e. with a tax year ending on a date other than 31 December), will also need to consider the implications for their current tax year which will straddle the two systems.

#### ***Implications for PNG contract parties***

The cost of engaging foreign contractors should be reviewed, with a special reference to the pricing structures included in the

contract (whether net, gross, a tax gross up clause etc.).

The new provisions contain similar requirements as the current legislation with respect to the requirement to lodge contracts within 14 days, and a requirement to withhold from payments under a prescribed contract.

The penalties for failure to register the contract and failure to withhold and remit are similar to the current rules – although their emphasis is extended through the addition of a late payment penalty for a delay in filing and payment or FCWT withholdings.

In summary, taxpayers should:

- Review their current contracts to identify whether any of these are with foreign entities. These should then be reviewed to identify whether they are contracts for prescribed purposes;
- Ensure that processes are in place to identify future potential FCWT contracts and that the process for withholding and FCWT compliance is in place;
- Ensure that all existing (and future) FCWT contracts are lodged with the IRC within 14 days of signing the contract.

## ***Contacts***

If you would like further advice or information in relation to the issues outlined in this bulletin, please call your usual PwC contact or any of the individuals listed below:

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