

## August 2019

### System driven penalties for provisional tax

With notices of corporate income tax assessment being raised for 2018 and the second 2019 provisional tax instalment for taxpayers having been dealt with at the end of July, many taxpayers would have identified penalties arising on their corporate tax accounts despite all payments being made on time. Therefore, we thought it was timely to reiterate our prior comments we have made regarding the IRC's calculation and administration of provisional tax and the situations in which penalties can arise.

Generally provisional tax is calculated based on the most recent assessment of income tax recorded in the IRC's SIGTAS system. This results in situations where provisional tax is adjusted, upwards or downwards, part way through the year once an assessment of income tax is recorded in SIGTAS. When re-calculating provisional tax, SIGTAS allocates the re-calculated amount due the entire year equally across all three provisional tax instalments for the year regardless of whether the due dates for some instalments have passed, or lower instalments amounts paid.

In effect, this can often lead to the retrospective assessment of provisional tax. For example, the amount of an instalment notice issued and paid in May, could be revised in July. Where the assessment increases, this will create an apparent underpayment for the earlier notice and generally result in penalties being imposed on any prior provisional tax assessments.

We have raised with the IRC for several years that the current administration of provisional tax, with our view that the retrospective assessments and the imposition of penalties is unduly harsh on taxpayers and arguably against the principles of natural justice. The IRC's position continues to be that the administration of provisional tax is legitimate and there are no changes to the administration planned for the foreseeable future.

Unfortunately, penalties are not posted or applied to a taxpayer's income tax account until the relevant income tax return for the provisional tax period has been assessed. For example, a penalty generated in July 2019 will not be present on the income tax account until the return for 2019 is assessed (which would be expected to be in July 2020). Remission of the penalties can only be applied for once the income tax return assessment is complete. Further, remission is applied for on a case by case basis, and can no longer be assumed to be automatically applied. The IRC may consider other factors such as whether a taxpayer has other outstanding tax obligations. We suggest that where you have received a provisional tax assessment with penalties imposed that you talk to your PwC contact to review your options.

## **MYEFO 2019**

The Mid Year Economic and Fiscal Outlook for PNG was published by Treasury at the end of July. As anticipated, the overall economic outlook for PNG is challenging with revenue collections being behind budget and government expenditures running ahead of budget (mainly due to unbudgeted liabilities from 2018 being met in 2019). However, revenue collections for 2019 are still anticipated to rise above prior year levels while remaining under the levels anticipated in the budget.

Treasury reports that strong second half of the year collections will be supported through a program of targeted tax audits of large taxpayers commencing in August as well as increased debt collection efforts.

The MYEFO also provides an update on the impact of recent revenue measures from budgets brought down in line with the Medium Term Revenue Strategy. Overall, the impact is noted as muted, or yet to materialise. As a result, Treasury notes that the progress on reforms to IRC has not progressed as planned and progress will need to be accelerated, quoting a recent IMF report. Therefore, we can expect further action and activity from the IRC in the coming months both from the commencement of further audit programs and debt collection activity.

## **Employee declarations**

When an employee commences work for a new employer they are required to complete a salary or wages declaration form and provide this to the employer. The employer is then required to lodge the declaration with the IRC. The declaration includes basic details such as an employee's name together with a list of any dependents of the employee. An employee may have only one declaration submitted at a time, i.e. if an employee has multiple employers he or she can only submit a declaration for one employer.

Under the Income Tax Regulations an employee declaration must be countersigned by the employer (together with a duplicate). The original declaration must then be forwarded to the IRC with the duplicate retained on the employer's records. Where the declaration is not properly executed and lodged with the IRC, salary or wages tax (SWT) should be withheld from an employee at a flat 42% (rather than the usual progressive tax rates).

In recent weeks the IRC have been returning employee declarations, which appear to be the original declarations lodged, to employers. This action is not prescribed by the Income Tax Regulations as the employer is only required to retain a duplicate of the declaration. In the past the IRC have looked to assess SWT at the flat 42% rate where an employer has not lodged employee declarations and therefore we will be seeking clarification from the IRC to confirm that the return of employee declarations does not result in situations where the IRC claim a declaration has not been lodged (given they will no longer have the original declaration on their files).

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

## **For more information, contact:**

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