

## February 2019

### International BEPS Tax update

Papua New Guinea (PNG) signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the Multilateral Instrument or MLI) on 23 January 2019 at the opening of the 6th meeting of the inclusive Framework on BEPS, becoming the 87th jurisdiction to join the Convention. Notwithstanding PNG signing the MLI, the MLI has as yet to be ratified under the process as formalised under PNG's constitution and therefore it is yet to take full effect.

However, in a nutshell, the Multilateral Instrument is intended to swiftly implement a series of tax treaty measures to update international tax rules and reduce the opportunity for tax avoidance by multinational enterprises. Essentially, the MLI sets out best practice or modern benchmark provisions for double tax agreements. Where both parties to current bilateral agreements are parties to the MLI then the double tax agreement will be effectively modified or updated to the best proactive provisions included in the MLI.

Under the MLI, PNG has elected to include all its DTA's currently in force as part of its covered tax agreements namely DTA concluded with Australia, Canada, China, Fiji, Indonesia, Korea, Malaysia, New Zealand, Singapore and the United Kingdom. Based on the current ratification status of these treaty partners, once PNG's ratification takes place, then the treaties with Australia, New Zealand, Singapore and the United Kingdom will be potentially subject to modification. Taxpayers that are operating in PNG and relying on these treaties should review the potential impact of modification on their operations.

### IRC boosts audit strength

In another move that indicates the continuing interest of the IRC in ensuring they capture the right tax take from international business, the IRC has confirmed that the arrangements made last year with the OECD's initiative "Tax Inspectors without borders" have moved from the planning to the implementation stage with the deployment of two international experts within the past weeks. The program is jointly organised with the support of the OECD and UNDP and matches international experts in taxation auditing with programmes being run in a number of developing countries. This program will be the first for PNG, and could well lead to further programs. The focus is on enhancing the abilities and capacity of the tax audit groups within the IRC with a particular focus on targeting trans-national businesses and identifying transfer pricing risks to PNG's revenue base. The focus on transfer pricing and cross border transactions also is in line with the PNG Government's medium term fiscal strategy and their goal of strengthening the capacity of the IRC.

## **Changes coming for foreign investment rules**

The most recent parliamentary sitting saw the introduction of a draft Foreign Investment Regulatory Authority Bill. The bill as drafted seeks to establish an authority that will be tasked with certification of foreign investment - a task that is currently performed within the IPA. The bill also significantly expands on the reserved activity list and would prevent the authority from certifying business to operate in reserved sectors. The draft bill picks up a number of these reserved sectors from the SME policy that was initially launched in 2016. Amongst other provisions, the draft bill also provides that where a foreign business is currently operating in a sector that will fall within the reserved activity list, the foreign business would continue only for a transitional period of three years before ceasing to carry on the restricted business. The bill was not passed in the current Parliamentary session and the Prime Minister has stated that there will be a period of consultation with respect to the bill and its contents. However, legislation is expected to be re-introduced at the next sitting of Parliament.

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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