PNG Pulse
Keeping you informed

Provisional tax reminder

The end of July is the time for the payment of the second instalment of provisional tax for 2018 and given that many companies have lodged their 2017 income tax return just a few weeks ago, it is a useful opportunity to review and update your provisional tax position.

As in previous periods, the basic proposition continues to be that provisional tax is based on the prior year level of taxable income as a proxy for the current year income. The tax administration system uses the last year of tax assessed as the basis for the current provisional tax instalments. Therefore, unless the 2017 return has been assessed, the second instalment of provisional tax for 2018 will continue to be based on 2016 or earlier years. Companies that were non-taxable in 2017 or in a refund position will need to make sure the return is assessed before the provisional tax notices are issued in order to benefit from a lower provisional tax instalment notice in 2018. Those taxpayers with an increase in taxable income in 2017 will likely receive a provisional tax notice showing an increase in instalments – and likely with retrospective effect. Unfortunately, the system continues to generate penalties for these retrospective upward re-assessments.

In the current set of notices we have identified a number that have been adjusted based on the assessment of 2017 tax returns, although the 2017 notice has not been served. Taxpayers should urgently consult their statements of account to determine whether the 2017 returns are assessed. The IRC should be contacted to obtain a copy of the assessment.

Although the due date for the payment of an assessment should be 30 days from the date of service of the notice of assessment – we are aware that the IRC has started to commence collection procedures on the basis of the internal IRC date of processing, rather than the date of service of an assessment.

A focus on tax residency

Tax residency is a vital concept for determining the taxing rights to income of taxpayers. Generally, residents of PNG will be taxed on worldwide income and non-residents will be taxed in PNG on PNG source income only.

In a modern business environment it is sometimes becoming more difficult to determine tax residency and this particularly applies to individuals who are frequently travelling between

Australia and PNG for work. In June 2018, the Federal Court in Australia released a decision in a case involving the determination of residency of an Australian citizen working outside Australia.

The analysis by the Court around the maintenance of permanent home and the use of fully furnished accommodation in the second country could be concerning for many expatriates. The Board of Taxation in Australia has also recently announced their recommendations for a shake up of residency rules in the context of the rise of a more global workforce.

Given the complexity in determining tax residency for Australian expatriates, and the focus by the Australian Taxation Office on this area and the potential financial impact, this is an area that should be considered carefully from both a PNG and Australian perspective.

And it is not only in the case of individuals that the recent actions of the Australian Tax Office on residency may be relevant. The ATO has also finalised their draft ruling in relation to the guidelines for determining the tax residency of companies not incorporated in Australia. This ruling considers aspects of the "central management and control" test that is used to determine company tax residency. The ruling and an associated practical compliance guideline provides some considerations on how to balance aspects such as where the directors exercise their duties, how and where a company's accounts are kept etc. in order to determine whether an entity is Australian tax resident. As PNG's tax residence definition is similar to that of Australia, therefore not only is this ruling potentially relevant for a direct application to PNG companies with connections to Australia, but it may influence the views of the IRC in these matters.

Credit transfer forms

As highlighted in last month's Pulse, the IRC has changed their status on the use of CR1 forms to transfer tax credits between taxpayers with different TINs to settle other liabilities. These transfers are no longer being processed. We also note that although there was an expectation of some guidance being issued in relation to limited circumstances in which such transfers would be permitted, this has not been forthcoming.

Furthermore, even in circumstances in which entities are within an approved GST group, the IRC are currently not processing GST transfers to other members of the GST group.

Therefore, we strongly recommend that taxpayers review their processes and if CR1 transfers were previously being used between TINs, or even within GST groups, they consider cash settlement of all outstanding taxes in order to reduce the risk of penalties and stronger collection actions being undertaken. While cash settlement of other tax liabilities will eliminate the risk of penalties on those balances, the current significant delay in approving and processing GST refunds may lead to cash flow challenges for taxpayers.

For taxpayers operating a number of entities within PNG it may also be time to consider whether a restructure is required in order to streamline PNG tax compliance and reduce the risk of "stranded" tax credits with associated or grouped entities.

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.

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