



# A new regime for Papua New Guinea

Observations on the Income Tax Act 2025

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## Introduction

The introduction of the new Income Tax Act 2025 (the New Act) sees what is arguably the most significant tax legislative change in PNG in more than 60 years. The New Act traces its origins to the Bogan Review of taxation in PNG that reported its findings in 2015. The findings of the report were extensive and sought to chart the new course for tax policy in PNG. However, despite the acknowledgement of the need for reform of the tax system in the 2017 Medium Term Revenue Strategy (MTRS), the path through to the New Act of 2025 has been long and has arguably not lived up to the initial expectations of sweeping policy reforms.

The first indication that change was on the way was in 2017 with the passing of the Tax Administration Act (TAA). The plan appears to have been to incorporate the administrative provisions of the “old” Act into a new piece of legislation, while at the same time introduce a New Act containing the taxing provisions in a simplified and modernised way. Nevertheless, no new Act was presented and the date of effect of the TAA was deferred.

It was not until April 2019 that broad consultation on the rewrite commenced, with consideration of introducing a Capital Gains Tax (CGT) and a new regime for Small Business Taxation (SBT). SBT was then introduced in 2020 within the framework of the old Act.

However, despite consultation with relevant stakeholders in the ensuing years, the various consultation drafts of the New Act were not presented to Parliament for the National Budget sessions in 2021 through to 2024. Throughout the extensive period of consultation, the aim of the initial reform has arguably been modified. The original intent behind the rewrite was to achieve:

- Simplification and consolidation of old provisions in a more consistent and structured manner
- Placing further emphasis on self-assessment, rather than the current full assessment regime
- Assuming the application of the legislated Tax Administration Act which would allow for the shrinking of the new Act

It remains unclear whether the process has been genuinely aimed at true policy reform, or if the focus has been on modernizing and simplifying an Act that has evolved and been amended over more than half a century. Ultimately, the New Act now represents the tax system in place, and a straight comparison with the provisions and principles from the old Act is not fully possible. Taxpayers can therefore expect there to be some challenges in the transitional period as the New Act takes effect, despite the inclusion of some transitional rules.

This publication seeks to highlight a number of considerations relating to these, as well as other notable changes that arise with the introduction of the New Act. The information in this publication is general in nature and based on the legislation as passed in the March 2025 parliamentary sitting. However, the New Act is scheduled to take effect for tax years commencing after 1 January 2026 and there may be further amendments to the legislation before the effective date. As always, we recommend that taxpayers should consult their tax adviser on their individual circumstances.



## The introduction of a CGT

Prior to the introduction of the New Act, there was no CGT regime under PNG tax legislation. The New Act sees the adoption of a CGT regime, commencing 1 January 2026, albeit with a narrow application.

CGT is contemplated as a transaction based tax, with CGT being imposed at a rate of 15% on gains made on the disposal of the following (“taxable”) assets:

- a resource right
- information relating to a resource right
- a membership interest in an entity where more than 50% of the value of the interest is derived, directly or indirectly, from “taxable assets”
- an option or right to acquire any of these assets

The New Act has chosen to offer an inherited cost base to those who hold taxable assets (rather than choosing to exclude or grandfather existing assets at the time of the introduction of the New Act). The cost base of taxable assets acquired prior to 1 January 2026 will be either the market value of the asset at 1 January 2026 or the historic cost of the asset. This choice is available at the taxpayer’s election. There are no indexation or inflationary allowance mechanisms to adjust the cost base in later years. Hence, taxpayers may face taxation on nominal gains that include inflation, potentially resulting in a higher effective tax burden, particularly during periods of high inflation.

The CGT will be based on transactional returns, not an annual lodgement, and is not anticipated to form part of the regular income tax return process. It is the obligation of the seller of the taxable asset to submit a CGT return, generally aligned with the requirements for Stamp Duty. The CGT is payable on filing.

A capital loss incurred through the disposal of a taxable asset may be carried forward indefinitely and offset against a future gain realised on the disposal of another taxable asset.

The new law also provides a mechanism to capture the indirect transfer of a resource right (a taxable asset). A change in the beneficial ownership of 10% or more of the interest in the licensee of a resource right will trigger an obligation on the licensee to notify of the change and to comply with the relevant CGT provisions. The licensee is treated as an agent for any applicable CGT.

This introduction represents a substantial shift in the profile of resource investments in PNG going forward, and taxpayers should give careful consideration to what the CGT means for existing and future investments.



## Non-residents

An important and significant change under the New Act concerns the taxation of non-residents undertaking business activity in PNG and will impact businesses with or without a PNG permanent establishment (PE).

### Foreign Contractors Withholding Tax reimagined

Currently, non-residents deriving income through the execution of what are known as prescribed contracts are subject to a 15% FCWT tax on a gross income basis. This FCWT broadly applies to the provision of services by the non-resident in PNG and is administered by the entity in receipt of the services provided.

Under the New Act, income derived by non-residents acting through a permanent establishment will be subject to income tax at the rate of 30% based on the net taxable income arising from the permanent establishment.

### Taxation of non-residents

Non-residents deriving PNG source income without a PNG permanent establishment will continue to be subject to a withholding tax, broadly referred to as Non-Resident Tax (NRT). The New Act seeks to have a more uniform set of rules associated with the process for taxing non-residents on the receipt of PNG source income.

NRT is imposed on dividends, interest, royalty, annuity, insurance premiums, natural resource amounts, and technical fees. The rates of NRT are set out in the New Act and broadly mirror the rates under the current act, except for technical services.

The New Act defines the term “technical services” very broadly (similarly to the concept of management fee under the old act), although the withholding rate applicable is 15%.

### The evolution of the permanent establishment

The application of NRT or the adoption of the taxation of non-residents through the filing of income tax returns will be identified through the existence of a permanent establishment of the non-resident. The New Act contains a number of presence limits as follows:

Type of PE	Description of activities
Fixed place of business PE	Office, factory, warehouse, mine site, etc
Consulting services PE	Activities continue for a period/s of more than 183 days in a 12 month period
Substantial equipment PE	Use of substantial equipment for period/s of more than 90 days in a 12 month period
Construction PE	Construction, assembly, installation project (including supervisory activities of such projects), including connected activities performed by an associate, that continue for more than 90 days in a 12 month period
Agent PE	An agent who regularly negotiates or signs contracts on behalf of the principal, or maintains a stock of goods from which the agent regularly delivers goods on behalf of the principal.
PE under a tax treaty	Any presence or activity determined to be a PE under the treaty will be a PE for the purposes of the New Act.



## Intra-group transactions

### **Amalgamations, liquidations and other reorganisations**

The provisions in the current Act on amalgamations have not been replicated in full for the New Act. However, there are rules in the New Act relating to the transfer of assets as part of a corporate reorganisation which effectively seek to provide for rollover relief. This also comes with prior approval needed from the Commissioner General.

The provisions in the current Act on liquidations have also not been replicated in full in the New Act. In relation to distributions by a liquidator it should be noted that, under the New Act, any distribution of profits by the liquidator of a company in the course of liquidation is a dividend. As “profits” are not defined, it may now mean that both revenue and capital profits will now be a dividend subject to dividend withholding tax. This is a change from the current Act, which excluded the distribution of capital profits by the liquidator from being a dividend.

The New Act does however anticipate rollover relief for the transfer of assets within a group of companies where there is at least a 95% direct or indirect ownership. The provisions would allow the deferral of the implications of CGT or the tax consequences on depreciable assets. The application of the corporate reorganisation provisions is available at the election of both companies.

### **Corporate loss transfers**

The New Act also introduces the concept of group loss transfers. While it appears to be broadly available members of a corporate group, it was perhaps introduced as a complement to the rollover relief provisions and to come closer to the historical tax implications of amalgamations.

### **Changes to the treatment of dividends**

Dividends paid by a resident company to another resident company shareholder continue to not be subject to dividend withholding tax. However, for income tax purposes the New Act reclassifies the dividend income from being assessable, but rebatable, to being exempt income.

Dividends received from non-resident sources will also be exempt in the hands of an approved superannuation fund, or a resident company as long as the resident company owns a 10% or greater interest in the company paying the dividend.

Dividends that are paid wholly and exclusively from the profits generated by the sale or revaluation of assets and are distributed in the form of shares (other than redeemable shares) issued by the company declaring the dividend, remain exempt income under the New Act.



## Employment taxes

The New Act follows the same broad path as the old Act when it comes to the taxation of individuals. Individuals in receipt of income for their services will generally be considered as employees. The New Act also seeks to counter arrangements to treat an employee as an independent contractor (similar to the provisions included in the current Act).

### **The taxation of employment income**

Employment income is subject to withholding by the employer. Individuals whose only source of income is employment income subject to a withholding tax by their employer do not need to file an income tax return. However, unlike the current Act, the New Act does provide the capacity for an assessment to be raised on the individual if there is a shortfall in the withholding tax applied to employment income by the employer.

Employment income includes both cash and non-cash remuneration, with the New Act broadly replicating the idea that a number of non-cash employer provided benefits will have a deemed taxable value that is less than the cash value of the benefit. These benefits have been categorised into six specific classes, with an additional residual class for any benefits that do not fit into the initial six categories. The current concessional benefits such as employer provided support for housing, motor vehicle, school fees and an annual leave fare remain as concessionally taxed or exempt. However, the valuation mechanism for motor vehicle benefits has shifted to one that is based on the cost of acquisition of the vehicle - rather than the current prescribed value. Further guidance has also been specifically provided with respect to the benefits associated with employee share schemes addressing key issues such as the timing of income recognition and the valuation of benefits that are obtained by employees.

The treatment of termination payments (e.g. long service leave and superannuation payouts) retain their concessional nature, and the New Act also continues the idea of concessional tax on an approved redundancy payment.

The tax rates and thresholds for employment taxation remain unchanged from the old Act, however, the dependent credit is renamed the personal tax credit but remains available to those with dependents.

### **A focus on employer provided benefits and salary packaging**

With the concept of concessionally taxed employer-provided benefits remaining intact for the New Act, there is a renewed focus on formalising and regulating the use of benefits in the form of salary packaging arrangements.

The idea behind the 60/40 guideline has been included in the New Act, rather than being a safe harbour provision in an historical tax circular. The value of prescribed benefits exceeding the 40% level will be taxed in full. The initial drafts of new regulations (which are yet to be finalised and are potentially subject to additional consultation) seek to further regulate employer arrangements by requiring the approval of salary packaging arrangements on a case by case basis.





## Other key changes

The New Act brings with it a variety of changes outside of the areas we have already covered, and the matters covered in this section address some of the notable updates.

### **Changes to the treatment of the extractive sector**

Historically, the mining, oil and gas sectors have been subject to the provisions of Division 10 of the old Act. This Division established the specific sector-based tax rules around the life cycle of resource projects, covering the transition from exploration to development, operations, and finally rehabilitation. The old Act was based on the concept of project-based taxation and broadly kept income and costs within each project as a “ring fence”, although with some notable exceptions (for example, the ability to pool exploration costs). Recognising the characteristics of the sector, the New Act has introduced a range of specialised provisions.

The concepts and structure covering mining, oil and gas project operations in the current Act are generally replicated within the New Act, although there are some policy changes. For example, the ability to pool exploration expenditure and some other more specialised provisions are not present in the New Act.

Nevertheless, the New Act does recognise the historically implemented fiscal stabilisation agreements. Further, in a recognition of the difficulty of managing the transition for resource projects from the old to the New Act, any resource project that has commenced will continue to apply the provisions of Division 10 from the old Act. The application of the New Act in this sector will continue to be complex.

### **Codifying the extent of exempt income**

As part of the effort at simplification, the New Act seeks to bring together the full suite of items that are exempt from income tax in a single schedule. This has not only brought in items that were previously in existence in the old Act as exempt items, but also references to other pieces of legislation that sought to provide for tax exemptions. The New Act seeks to clarify that any other legislation not reflected in the New Act, that purports to specify an exemption or a reduction in the rate of tax, is ineffective.

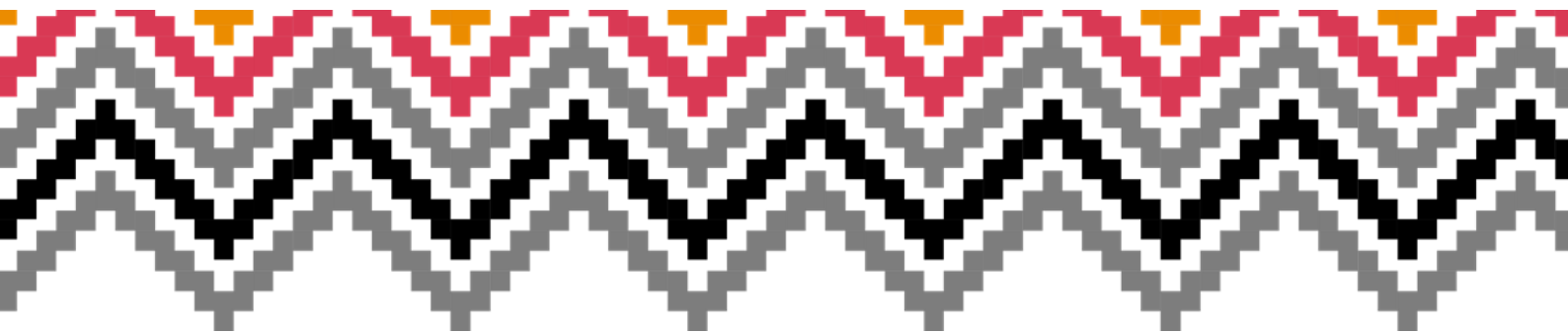
This has led to references in the New Act and the appendix to a wide range of other pieces of legislation creating special economic zones, and certain treaties, however, the position with respect to the application of the taxation regime to the aid based sector may continue to be unclear.

### **Updates and changes to the depreciation of fixed assets**

The New Act seeks to clarify that any other legislation not reflected in the New Act, that purports to specify an exemption or a reduction in the rate of tax, is ineffective. The New Act does somewhat achieve its objective to simplify taxation when considering the new rules relating to fixed assets utilised in the course of deriving business income. However, the new regime will bring about significant changes to the way that depreciation is calculated for inclusion as an allowable deduction in determining taxable income.

Structurally, the New Act sweeps aside the more prescriptive tax depreciation rates schedule of the old Act and the introduction of new asset classes and depreciation tax rates. The New Act also introduces the option of pooling for certain asset classes, as well as changes to some accelerated tax depreciation concessions. A brief comparison of the characteristics of tax depreciation under the old and new Acts is provided in Appendix 1.





The New Act aims to simplify the depreciation rules by separating depreciable assets into five classes, each with a prescribed depreciation rate. Taxpayers can also claim an immediate deduction for depreciable assets below K1,000. The New Act prescribes the straight-line method as the default for individual assets in an asset class unless pooling is used for assets in Class 1, 2 and 3 where the diminishing value method and rates would apply.

A significant innovation in the New Act is to allow taxpayers to claim tax depreciation on certain business intangibles. The term “business intangibles” includes copyrights, patents and marketing intangibles.

Over many years, the old Act has accumulated a range of concessions or incentives for fixed depreciation based on the nature of the items of plant being acquired or the industry in which the taxpayer operated. The New Act has sought to simplify the current arrangements and eliminate expired incentives and arrangements. The result is that certain accelerated depreciation provisions have been eliminated, although incentives remain for certain assets utilised in manufacturing and primary production.



## Next steps and the way forward

The passing of the New Act is a significant milestone for tax reform for PNG. As noted earlier, this Act has been subject to a long period of consultation. However, as is the case with almost all legislative reform there are changes that will favour some stakeholders over others. The new Income Tax Act will therefore also have potential winners and losers once it is brought into force.

The effective date for the New Act is proposed as 1 January 2026, although taxpayers' annual returns will not be due until into 2027, the impact of the new provisions will be relevant from January 2026, in particular items such as withholding taxes, reorganisations and transactions. Therefore, the period before the New Act is effective is an opportunity for taxpayers to examine their operations and consider the implications.

Taxpayers should take the opportunity to review and consider areas of business including:

- Fixed assets
- Employment arrangements
- Cross border contracts
- Choice of operating model for non-resident entities

While the New Act has become law there will be a period of additional uncertainty until the effective date for the act as there are a number of important complementary pieces of legislation that would be expected to be released. This includes a revamped Tax Administration Act and Income Tax Regulations. It is also possible that further clarifying amendments of this act or additional transitional provisions may be introduced.

The Internal Revenue Commission, as the agency responsible for the administration of taxes will also be called upon to revisit their processes, structures and operating plans in light of the New Act's provisions. A structured program of communication with taxpayers and additional guidance and instruction on implementation of the changes required to give effect to the New Act will be welcomed by all taxpayers.

## Appendix 1 – Tax depreciation – A brief comparison

Current law	New law
<ul style="list-style-type: none"> <li>Depreciation is calculated on an individual asset basis using the prescribed depreciation rates</li> <li>No pooling.</li> </ul>	<ul style="list-style-type: none"> <li>Assets are put into five classes, and each class has a prescribed depreciation rate.</li> <li>Pooling is allowed for assets in classes 1, 2 and 3.</li> <li>Pooling can be elected for all assets, or none.</li> </ul>
<ul style="list-style-type: none"> <li>Default method: Diminishing value method</li> <li>Election available for straight-line method</li> </ul>	<ul style="list-style-type: none"> <li>Straight line depreciation must be used, unless an election is made to use pooling.</li> <li>A pooling election cannot be used for asset classes 4 (structural improvements) and 5 (business intangibles). These must be depreciated on a straight line basis</li> </ul>
<ul style="list-style-type: none"> <li>Depreciation is available on “plant” only.</li> </ul>	<ul style="list-style-type: none"> <li>“Business intangibles” can be depreciated. Generally over ten years.</li> <li>A business intangible is defined, and includes patent, copyright, technical information, brand name, customer lists.</li> </ul>
<ul style="list-style-type: none"> <li>Additional / accelerated depreciation allowances: <ul style="list-style-type: none"> <li>New industrial plant or new plant for agricultural production, commercial fishing or new boats or ships by accredited snorkelling or scuba diving tour operators - 100%</li> <li>New plant for tourism - additional 55%</li> <li>Non-oil fired plant - additional 30%</li> <li>Other qualifying assets, being eligible plant and equipment - additional 20%</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Plant and machinery used solely for manufacturing purposes (excluding assembly operations) - additional 20%</li> <li>Plant and machinery used solely for heating by solar power - 100%</li> <li>Environmental protection expenditure - 100%</li> <li>Primary production business capital expenditure (as specified) - 100%</li> </ul>

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