KPMG

Kundu

May 2021

Foreword

KPMG in PNG has dedicated in-house specialists in all of the following areas: internal audit/risk, visa migration, corporate finance, management consulting, IT advisory, fraud investigation as well as tax and assurance. As such we are well placed to provide a truly multi-disciplined approach to business advisory.

Please enjoy this month's Kundu and reach out to us at kmcentee@kpmg.com.au if you would like to see KPMG cover specific topics in future editions.

Zanie

Australian expats beware!

By Karen McEntee, Partner, Tax, Transactions & Accounting

The 2021 Australian federal budget contains a number of measures that would affect individual taxpayers including substantial changes to the individual tax residency rules.

The individual tax residency rules would be revised, with the introduction of a new primary test that deems individuals as Australian tax residents if they are physically present in Australia for at least 183 days during the Australian tax year (i.e. between 1 July and 30 June). When the primary test is not met, secondary tests would apply, based on a combination of physical presence and measurable, objective criteria.

The new framework would be based on recommendations made by the Board of Taxation in its 2019 report "Reforming individual tax residency rules - a model for modernization" and would be effective from the first income year after the legislation is enacted. If the legislation is pushed through quickly it could be effective from as soon as 1 July 2021 but it is more likely to be effective from 1 July 2022.

The Board of Taxation recommended a day count test (i.e. if the taxpayer spends more than 45 days in Australia) together with a new four factor test. The four factors referenced in the Report include:

1. The right to reside in Australia (e.g. having Australian citizenship or PR)
2. Australian accommodation (e.g. unrented housing)
3. Australian family
4. Australian economic connections

It is still unknown how the secondary test will operate, however it was the Board's recommendation that where two of the above four factors were satisfied the individual would be a resident under the four factor test.

Of particular note is the proposed adhesive residency rule which would see an Australian tax residency cling to the taxpayer for up to three years after leaving Australia. There does not appear to be much precedent for this treatment across other jurisdictions.

While the new tests will provide more clarity for taxpayers they may also have some harsh consequences for others, particularly given the current quarantine and travel restrictions due to Covid which could result in Australian expats unwillingly spending more than 45 days in Australia or being forbidden to leave Australia.

It is timely for Australian expats to examine their personal situations and consider whether they need to restructure their personal affairs to avoid a negative tax outcome. The PNG/Australian Double Tax Treaty should also be taken into account for those that may be considered to be tax resident under domestic law in PNG.

Tax concessions by State representatives granted outside legal process

IRC issued a notice this month in relation to the practice by some State agencies to commit to concessional tax treatments in agreements with developers, investors or other private entities, which are inconsistent with PNG tax legislation. They stated that in most cases there is no consultation with IRC or the Department of Treasury. IRC reminds taxpayers that the only means of granting new tax incentives or tax concessions is through amendment of the tax laws by National Parliament – there is no other mechanism for granting new tax exemptions or concessions not already available through existing legislation.

IRC further warns taxpayers than any concessions obtained by taxpayers outside of the lawful process are at the taxpayer's own risk as no contractual arrangement, project agreement, MOU, MOA, or promise entered into by a representative of the State has legal force nor overrides tax laws.

This is a timely reminder to all taxpayers, but particularly new entrants, to ensure any tax concessions or incentives they believe are available to them under specific project or contractual agreements are in fact in compliance with PNG tax legislation as they may well not be.

Move to electronic tax refunds

IRC are moving away from physical cheque refunds to refunds by electronic funds transfer. This aligns with their previous strategy to pay taxes electronically rather than by cheque. Unfortunately, the GST refund process is still time consuming and slow with IRC insisting on sales and purchase listings for all GST returns including copies of invoices where the GST exceeds K5,000. We have been told there have been some reforms within the GST refund division which may see refunds being expedited, but this remains to be seen.

Income tax deadlines

Currently there is no sign of a general income tax extension being granted due to the Covid pandemic so taxpayers should be prepared to lodge their 2020 tax returns by the deadline date. This is generally 30 June for those with 31 December taxable returns and 31 July for those with 31 December non-taxable returns.

Our social media presence

As usual, you may access our regular multi-disciplined thought leadership pieces, newsletters and updates on our KPMG PNG LinkedIn page. Also connect via our webpage www.kpmg.com.pg and Facebook https://www.facebook.com/pngkpmg/

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