



Kundu

August 2022



Foreword



The Back to Business breakfast event on 30 August was well attended, and this newsletter includes insights gained from the Prime Minister's presentation. Earlier in August the IRC conducted the first tax agent liaison meeting held since early 2020 due to COVID-19 related reasons. We discuss the main matters discussed at this meeting. Also, on the taxation front, Treasury will be reprising the consultation process on the Income Tax Act Re-write in early September 2022.

We discuss the potential impact of the amendment to the Lawyers Act which requires any person performing the role of an in-house lawyer or a legal consultant to a body corporate in PNG to be admitted to practice as a lawyer in PNG.

It is further important to note that BPNG are currently conducting compliance audits in relation to foreign exchange controls.

Finally, and potentially welcome news: PNG is to re-open the visa on arrival process since pre Covid and also to allow quicker automatic pre-approved online visas.

KPMG in PNG has dedicated in-house specialists in all 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

PM James Marape says that when PNG wins – you win By Wayne Osterberg, Director, Advisory Services

The recently concluded national elections were marred by a degree of uncertainty, delay and unrest and the Marape Government has been returned with PM James Marape re-elected. The new cabinet has been formed with a mix of familiar and new faces. The return of the Marape government is encouraging for the continuity that it provides, particularly in respect of policy, and it provides business and donor partners with the ability to build upon relationships forged. We are cautiously optimistic that this will allow the progress of key projects upon which the future economic growth has been predicated.

PMJM assured the business community at a business breakfast this week that GoPNG's priority is to guarantee security and grow the economy. He considers the Porgera matter to have provided short term pain for longer term gain that will come from a new benefit sharing arrangement when the mine reopens. He cited the recent commencement of exploration activities by ExxonMobil as one of the positive signs that the investment climate is improving.

GoPNG's objective is for PNG to become more self-sufficient by increasing exports and relying less on imported products. In fact he stated that PNG is now exporting more to China than it is importing from China – this is a balance he would like to see replicated across other trading partners. Touching on relations with our neighbours in the ASPAC region, the PM was keen to stress the motto of the Pangu Pati, 'friend to all and enemy to none'.

As part of this drive, there is a strong focus on organic growth of the economy by aligning people with land and markets to enhance production. The newly created roles of Minister for Coffee and Minister for Palm Oil is cited as proof of the government's commitment to driving agriculture and exports.

GoPNG will reinvigorate the establishment of a Sovereign Wealth Fund to create wealth for future generations with 7% of dividends from many State Owned Enterprises earmarked for the fund. This follows a well established and successful model employed in other resource rich nations, led by Norway many years ago.

On foreign exchange PMJM considers the recent rise in foreign exchange reserves with the Bank of PNG as a positive sign and challenged the relevant authorities to ensure the forex was well deployed to spur productivity.

The address and subsequent panel conversation was generally positive and would be well received by the business community. One swallow does not a spring make, but the signs are encouraging. Policy continuity is generally always beneficial to investment and business. The focus on grassroots development through agriculture, fisheries and forestry is critical to building the economic base. The export focus is similarly critical to bringing in the forex needed to clear the pent up demand for capital remittances from large corporates and to fund the capex required for the prospective resource and energy projects. The reopening of Porgera would confirm that spring has arrived.

The eleventh Parliament of PNG has a number of challenges ahead of it but the future bodes well if those challenges can be tackled and translated into economic opportunities to build a broader based economy for Papua New Guinea.

IRC tax agent liaison meeting

by Karen McEntee, Partner, Tax, Transactions & Accounting Services

On 10 August 2022, the Commissioner General of the Internal Revenue Commission, Mr Sam Koim held a tax agent liaison meeting in Port Moresby between IRC and tax agents. This was the first tax agent liaison meeting to take place since early 2020.

As would be expected, administrative issues were at the forefront of the dialogue as has been the case in prior years. The following administrative matters were discussed during the meeting:

- Delays in the issue of tax clearance certificates continue to be a concern for tax agents. The IRC confirmed they take a minimum of ten days to process tax clearance certificates. Additionally, there continues to be delays in processing stamp duty submissions although IRC advised these backlogs are being cleared.
- The tax circular from October 2021 concerning the IRC's characterisation of management fees under several tax treaties as falling outside of the scope of the business profits article, and therefore subject to 17% management fee withholding tax in many cases, is still not currently being enforced but IRC stressed that it has not been retracted.

- The IRC tax audit of the logging industry continues with approximately twenty logging companies audited or still currently under audit.
- An ongoing dispute around the tax-exempt status of certain entities in the foreign aid and development sector remains unresolved as PNG DFAIT have not engaged with IRC (or applicants) on the matter.
- For SWT declarations for new employees IRC may ask to see the birth certificate of the child if the surnames are different. IRC intend issuing a public notice in the near future outlining their requirements.
- When companies amalgamate it can often be a long drawn out process to get the companies tax accounts amalgamated into the continuing entity. IRC intend to issue a public circular outlining their documentation requirements.
- Obtaining GST refunds and GST transfers continue to be an on-going saga for taxpayers with processing times taking many months. IRC have promised to issue a circular definitively outlining the documentation and information required to obtain a GST refund.
- On that note, the GST refund processing team has been replaced with a new team.

The IRC also laid out some plans for the future:

- Big changes may be on the way for SWT and GST compliance. SWT compliance may move to a monthly payment basis with annual returns (but not lodgments) required while GST returns may move to a quarterly lodgment basis. This may be a welcome change for many taxpayers.
- In their efforts to combat tax evasion, the IRC indicated that they will be coordinating their efforts with the Bank of PNG's Financial Analysis and Supervision Unit in order to curtail the level of tax evasion.
- There are between 130,000 and 140,000 registered taxpayers but less than 10% are active. IRC believe taxpayers may have obtained tax identification numbers (TINs) in order to open business bank accounts but have failed to lodge their tax returns. To combat this the IRC will initiate a project later this year which will involve providing a month's notice to inactive taxpayers requiring them to activate their tax accounts or alternatively the IRC will deregister inactive TINs and issue notices to the commercial banks to close the bank accounts held by taxpayers with inactive TINs.
- It appears IRC are considering a Section 65A arrangement for the oil palm industry for the collection of GST, similar to that applied on the coffee industry.
- To reduce administrative inefficiencies, new digital capabilities are being made available through the MyIRC website and a full overview of its capabilities is expected in the coming months. Taxpayers can expect to be able to make bank card, EFT and cheque payments. The capability to make online lodgments will be enhanced over the next six months.
- Finally, on the legislative front, the IRC indicated that the new Tax Administration Act may be introduced in early October with the final public consultation to be held sometime in September. The rewrite of the Income Tax Act is into the 9th draft. There is no fixed date for its introduction at this stage.

In-house lawyer qualifications

by Russ Marshall, Senior Associate, Allens

Recent amendments to the Lawyers Act 1986, the first in 24 years, took effect on 21 March 2022. New section 34A (Reference to a Lawyer) has the potential to impact foreign lawyers employed to perform in-house and legal consultancy roles in companies in PNG. The effect of this new section is to require any person performing the role of an in-house lawyer or a legal consultant to a body corporate in PNG to be admitted to practice as a lawyer in PNG.

For foreign lawyers, this involves (among other things) sitting examinations in PNG constitutional law, land law and customary law, satisfying prescribed academic qualifications, demonstrating that you practice (or

have practiced) as a lawyer in a country prescribed by the rules of the PNG law society and demonstrating you satisfy the requisite 'fit and proper person' standards. The full list of requirements is set out in the Lawyers Act 1986 (as amended). A person who practices as a lawyer in the employ of a body corporate that is not admitted to practice as a lawyer in PNG commits an offence punishable by a fine of up to PGK25,000.

Bank of PNG compliance on exchange control

Exchange control restrictions and compliance continue to be an area of concern for businesses operating in PNG. The regular question we are asked by our clients is how long it will take them to get funds out of PNG. Due to the shortage of foreign currency, there continues to be long delays in getting funds out of PNG with the length of the delay dependent on the nature of the payment, the currency and the nature of the client's relationship with their bank. Third party service payments appear to be taking a couple of months while dividends and management fees to head office are taking around eight months following application to the bank. Add to this the process for obtaining a tax clearance certificate which can take from two to four weeks or more (this must be done before applying to the bank) and getting funds out of PNG is clearly a matter of concern for many.

Businesses should take note that BPNG are currently conducting compliance audits. Compliance with exchange control regulations should be taken very seriously by businesses. We met with BPNG recently to get a view on their interpretation of the application of the exchange control rules to various matters and were pleased to learn that BPNG intend running an awareness session around exchange control compliance matters. We welcome any moves by BPNG to raise awareness of their expectations around exchange control compliance.

Income Tax Act Re-write

After almost a year of silence we have been notified this week that Treasury will be reprising the consultation process on the Income Tax Act Re-write. This is due to take place on Friday 2 September. We look forward to the consultative process and hope that some active progress can be made to close out any issues well in advance of the implementation date.

Visas on arrival

Welcome news on the immigration front as PNG is to re-open the visa on arrival process since pre Covid and also to allow quicker automatic pre-approved online visas. Immigration and forex are arguably the biggest impediments to smooth business operations in PNG so any moves towards expedited visas are most welcome.

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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