

Tax Liaison Group

31 October 2012

INTERNAL REVENUE COMMISSION



Housekeeping

1. Facilities
2. Introductions
3. Agenda
4. Questions/comments



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Agenda

Time	Item	Owner
1300-1305	Welcome & Introductions	Tim Fraser (SGP Advisor)
1305-1325	Economists presentation on tax collections in PNG	Alex Julian (Economist)
1325-1340	SIGTAS Report	Oke Millet (Project Leader)
1340-1355	Status report on Tax Operations	Dr Daton (Commissioner of Taxation)
1355-1405	Transfer Pricing Update	Sam Loi (Director LB Audit) & Paul Meeker (ATO Twin)
1405-1410	Debt Collection Update	Dave Holohan (Director Debt Reduction)
1410-1420	Assessing update	Ueri Pahina (AC Assess & Prioritise)
1420-1430	Questions	Tax Agents
1430-1450	Afternoon Tea	
1450-1510	Taxation Circulars Program Overview	Tim Fraser
1510-1540	Consultation on the draft Tax Circular <i>"Distinguishing Employees and Independent Contractors and their Tax Implications"</i>	Roselyn Tei & Tax Agents
1540-1600	Role and Focus of the Tax Liaison Group	Dr Daton Tim Fraser Tax Agents
1600	Closing and opportunities for informal discussions	

PNG Economy and Tax Revenue

Tax Liaison Group
Alex Julian – Economist

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Outline

1. PNG Economic Performance Overview
2. Tax Revenue
3. Government Expenditure
4. Summary



Economic Growth

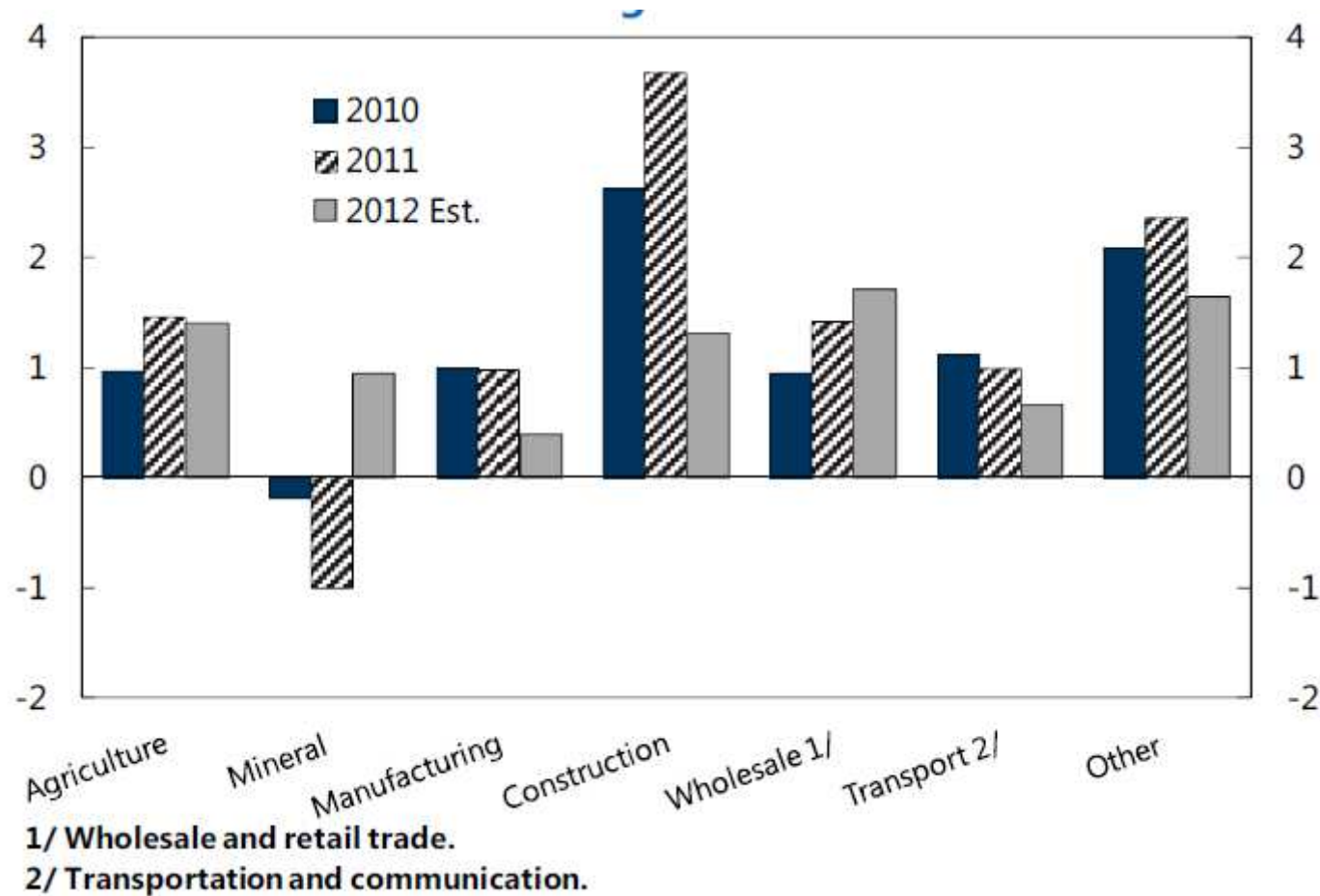
- ▶ PNG has enjoyed 10 years strong growth
- ▶ GDP Growth has been increasing year on year, but expected to slow in 2013:

Year	Real GDP Growth Rate
2009	6.1%
2010	7.6%
2011	8.9%
2012 (est)	7.7%
2013 (projected)	4.5%
2014 (projected)	5%

Economic Growth

What are the fastest growing economic sectors?

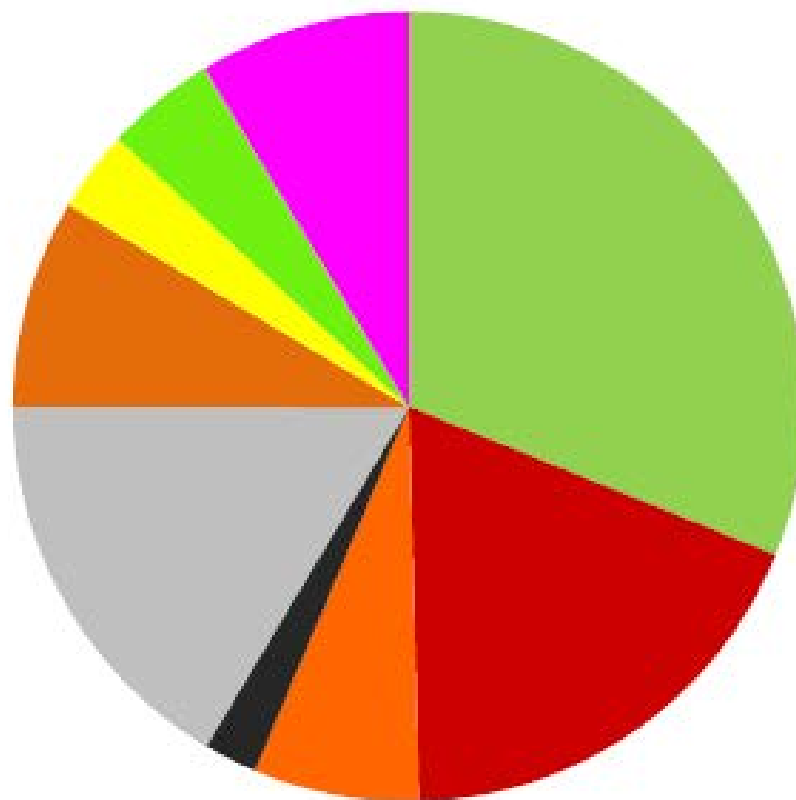
Figure: Sector Contribution to GDP growth



GDP Composition

GDP in 2012 = K32.1 billion

Composition (2012, Nominal GDP)



- Agriculture (30%)
- Mining (18%)
- Manufacturing (6.6%)
- Utilities (2.1%)
- Construction (16%)
- Trade (8.3%)
- Transport, Store, Comms (3.2%)
- Finance & Bus. Services (4.4%)
- Community & Social Serv. (8.4%)

Economic Growth

2011/2012 growth driven by:

- ▶ Increased activity in the construction sector relating to the LNG project (peaks in 2012)
- ▶ Increase in government spending (elections, SP games, etc)
- ▶ Increase in formal employment 2011 to 2012 (+6.4% non mining and +7.9% mining) → greater domestic consumption
- ▶ 9,000 new companies registered with IPA in 2011 (a 75% yoy increase)

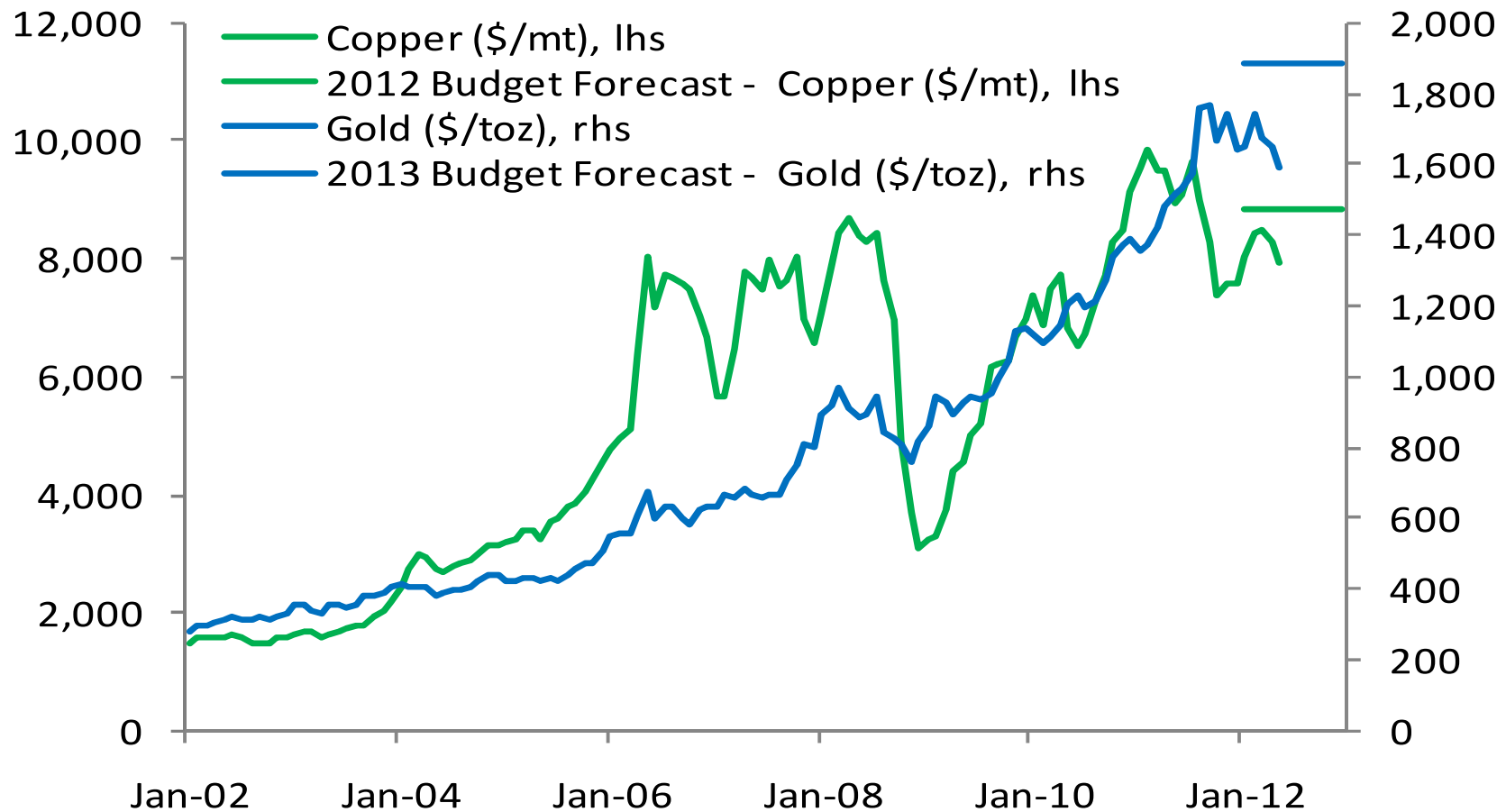


Commodity Prices

2011/2012 growth driven by:

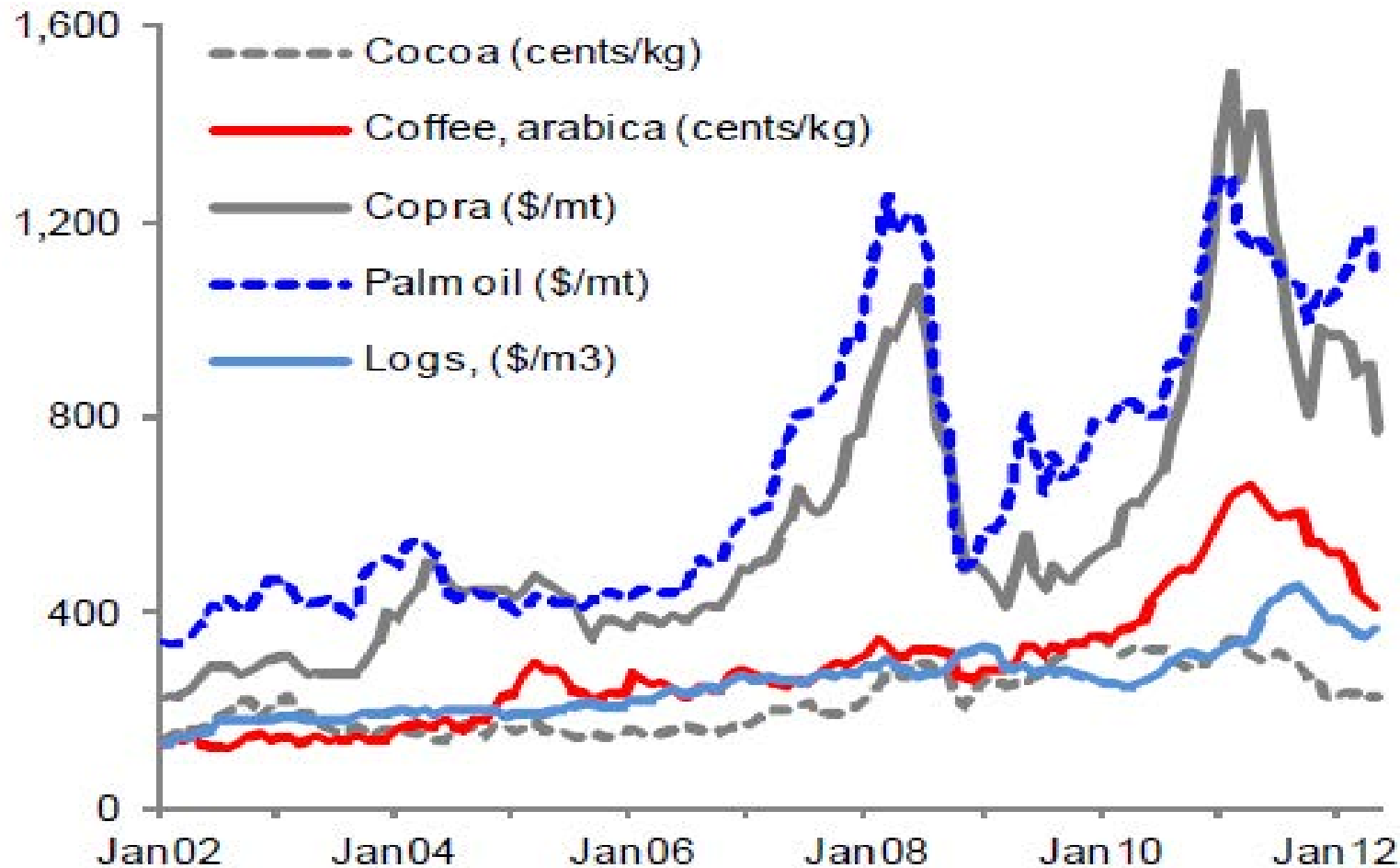
- ▶ Historically high commodity prices in 2011 (metals, oil) → PNG exports

Source: World Bank



Commodity Prices

- World agricultural prices (20% of Exports)



Economic Growth

Why is PNG LNG Project having a large impact on growth now?

- ▶ US\$15.7bn investment (largest of its kind in PNG)
- ▶ Large scale construction (drilling rigs, pipelines, LNG plant, jetty, airport)
- ▶ 14,300 workers currently (60% national)
- ▶ LNG related imports = US\$2bn in 2011
- ▶ Encourage investment in transport, wholesale, retail



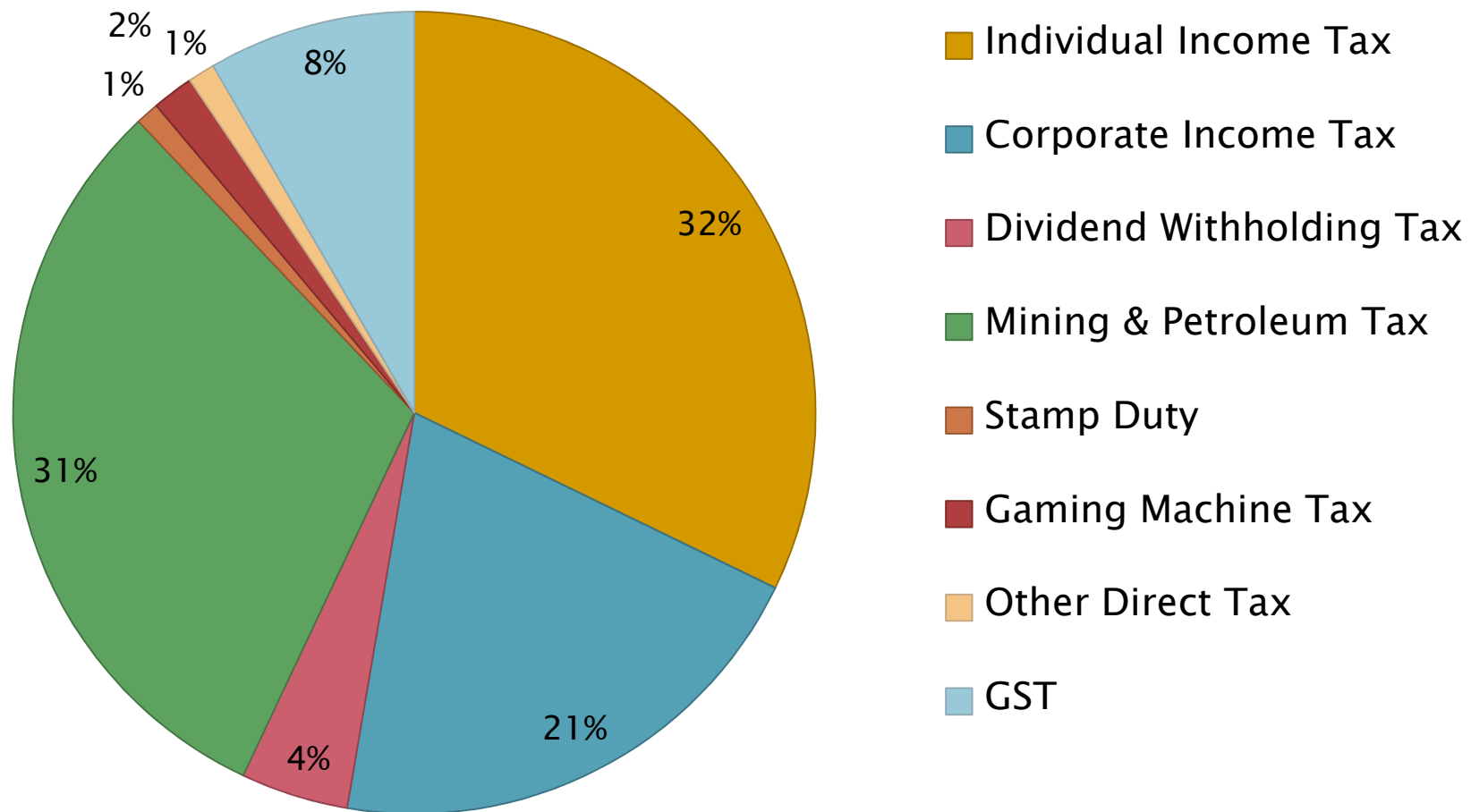
Tax Revenue

- ▶ Brief review of revenue by tax type, revenue by sector, and revenue growth in 2012
- ▶ Total Tax paid in 2011 = K6.67 bn
- ▶ Equivalent to 21% of GDP



Tax Revenue

Source of Tax Revenue by Tax Type (2011)



CIT Contribution by Sector

- ▶ Compared to GDP – indication of compliance or profitability?

Sector	Percentage contribution to Corporate Income Tax (2011)	Percentage contribution to GDP (2011)
Mining and Petroleum	61%	23%
Finance and Business Services	15%	4%
Trade and Retail	11%	7%
Agriculture	7%	33%
Transport and Communications	3%	3%
Manufacturing	1%	6%
Construction	1%	14%
Utilities	1%	2%
Community and Social Services	1%	8%

Tax Revenue – growth

- ▶ YTD (Q3) revenue growth 2011 to 2012

	percentage change
Direct Tax	
Individual Income Tax	15%
Corporate Income Tax	35%
Dividend Withholding Tax	-25%
Mining & Petroleum Tax	-50%
Other Direct Tax	10%
Total Direct Tax	-5%
Net GST	50%
Total Tax Revenue	1%

Tax Revenue –projections

- ▶ Mid year revenue projection adjustment
(‘000 Kina)

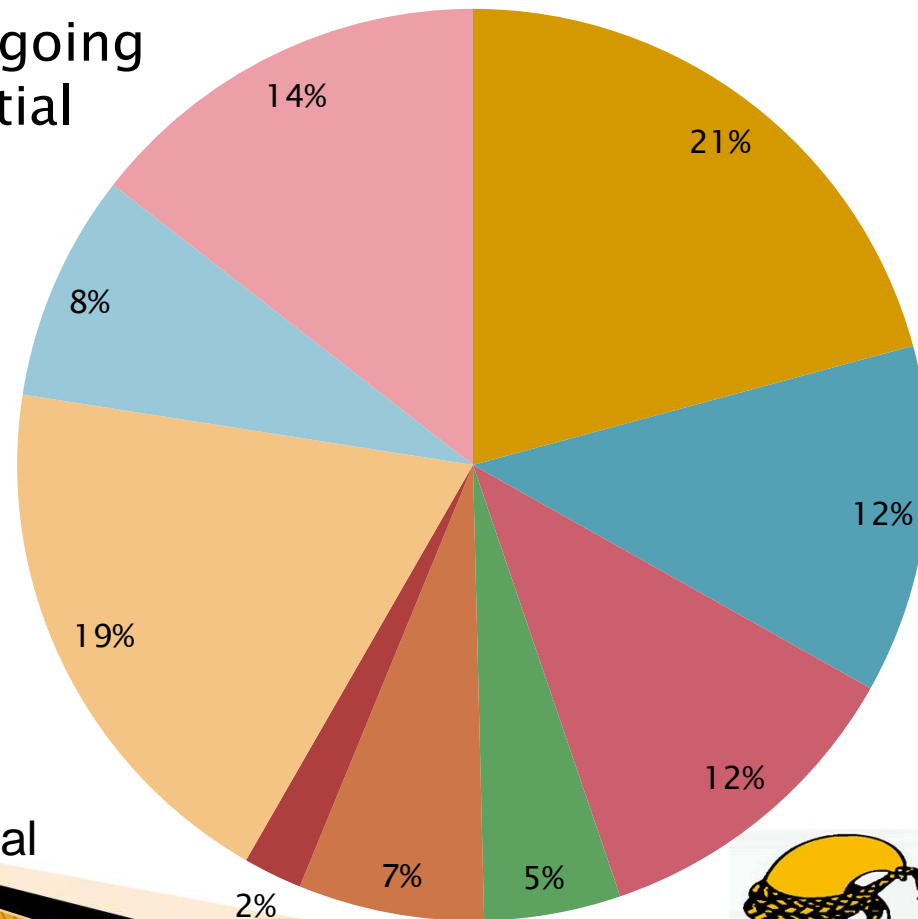
	Total 2012 Budget	Total 2012 MYEFO	percentage change
Direct Tax			
Individual Income Tax	2,417,397	2,471,378	2%
Corporate Income Tax	1,692,094	1,762,091	4%
Dividend Withholding Tax	282,114	198,739	-30%
Mining & Petroleum Tax	1,872,104	1,326,270	-29%
Other Direct Tax	280,947	295,591	5%
Total Direct Tax	6,544,656	6,054,069	-7%
Net GST	545,302.18	762,900	40%
Total Tax Revenue	7,089,958	6,816,969	-4%

Government Expenditure

► Where is the tax revenue going?

Towards funding the government's ongoing delivery of essential services

2012 budget =
K10.56 bn



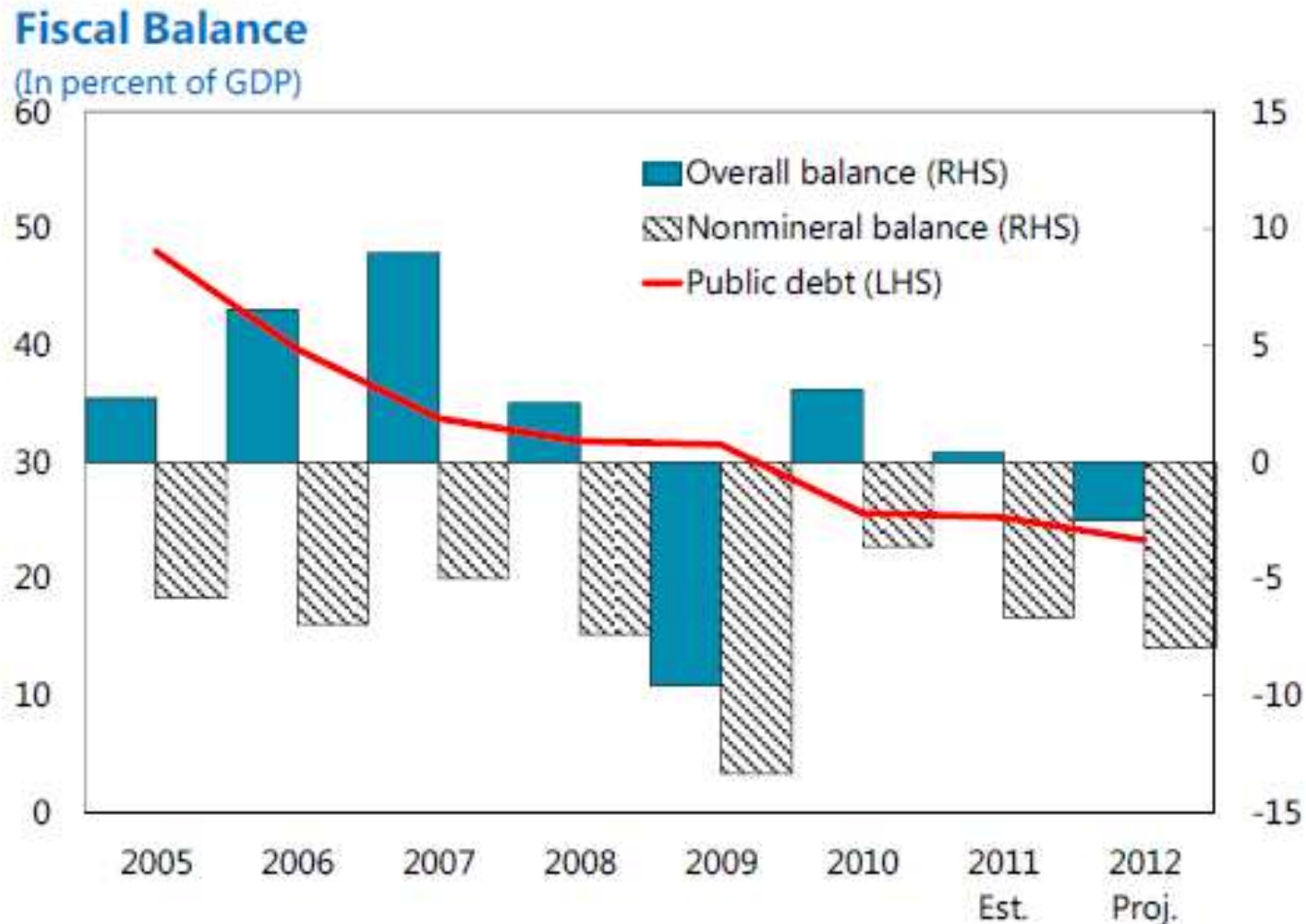
- Education
- Health
- Law and Order
- Transport
- Provinces
- Agriculture and small business
- Contingency
- Debt service
- Others

Source: 2012 National
Budget



Fiscal Balance and Public Debt

- ▶ Impact on budget deficit → negative (−2.5% of GDP)
- ▶ Public debt under control (25% of GDP)



Source:
IMF

Summary

- ▶ PNG has continued strong growth in 2012 (link to LNG boom and positive spillovers to other industries)
- ▶ Has translated into revenue growth for CIT, IIT and GST (greater employment, consumption, more active companies in non mining sector)
- ▶ MPT has suffered in 2012 (falling production, increasing costs)

Thank You



Questions



IRC Implementation of SIGTAS

Standard Integrated Government Tax Accounting System

Tax Liaison Group
Oke Millet – SIGTAS Project Manager

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SIGTAS Overview

- ▶ SIGTAS is being implemented by the IRC, with a view to modernizing and streamlining how we process taxpayer information
- ▶ SIGTAS is a software tool that is in use in 22 countries around the world
- ▶ SIGTAS will automate much of our existing work
- ▶ SIGTAS represents a major investment by the IRC in developing its ability to effectively administer the revenue system in PNG



Major Benefits

- ▶ Uses information and communication technologies to generate strategic, managerial and operational benefits
 - Reduce taxpayer cost of compliance
 - Improve taxpayer compliance rates
 - Enables the IRC to use risk management to improve effectiveness of our verification & enforcement activities



Major Benefits – cont

- ▶ **Cost effective.** Lower transaction costs for routine interactions (file a declaration, update taxpayer address, etc)
- ▶ **Scalable.** Conceivably can manage all taxpayer initiated processes (e.g. transfer credits, objection)
- ▶ **Accurate.** Eliminates data–entry errors resulting in quicker processing cycle–times



Major Benefits – cont

- ▶ **Comprehensive.** Performs built-in accuracy checks (e.g. taxpayers cannot submit their declaration unless mandatory information has been provided)
- ▶ **Efficient.** Reduces the strain on IRC's resources. Staff can focus more attention to core rather than support processes
- ▶ **Intelligent.** Gathers and processes information and intelligence for risk management, e.g. risk based case selection for audit



Major Changes

- ▶ Taxpayers will be identified by a single number, called a TIN (Taxpayer Identification Number)
- ▶ Most of our tax forms will have changes brought to them. Changes are designed to:
 - Consolidate,
 - Modernise, &
 - Simplify



Major Changes

- ▶ Processing times will be reduced for all types of transactions
- ▶ Assessments will be produced much more rapidly, ensuring greater consistency and accuracy
- ▶ Taxpayer correspondence into the IRC and outgoing from the IRC will be more accurately tracked & retained – we intend to eliminate lost files & letters



Penalties

- ▶ Late lodgement and late payment penalties will be imposed automatically
- ▶ This will ensure accuracy in calculations and consistency among all taxpayers
- ▶ All taxpayers are encouraged to get your lodgements & payments up to date before SIGTAS goes live and avoid costly penalties!



Timeframes

- ▶ Much progress has been made to date:
 - Business processes throughout IRC reviewed and revised to streamline our processes and accommodate the new system
 - We are currently engaged in user acceptance testing & user training
- ▶ We have a detailed implementation plan & strategy.
- ▶ We anticipate implementation in 2013 with a phased approach
- ▶ Gradually roll out SIGTAS across our various tax types & client groups to ensure a controlled yet prompt rollout.



IRC Preparations

- ▶ Extensive reductions in backlogs across the organisation
- ▶ Implementation is coupled with broader modernisation initiatives providing benefits for staff and taxpayers
- ▶ Ongoing employment and promotional opportunities for staff
- ▶ You will see ongoing changes and improvements throughout 2013 and beyond



Future Developments

- ▶ Work in progress to develop interface to lodge tax payments at commercial banks throughout PNG
- ▶ Groundwork being laid for ability to lodge files & receive account information in IRC provincial offices
- ▶ It is envisioned that taxpayers will eventually be able to file documents online through a web interface with SIGTAS.



Thank You

Q&A?



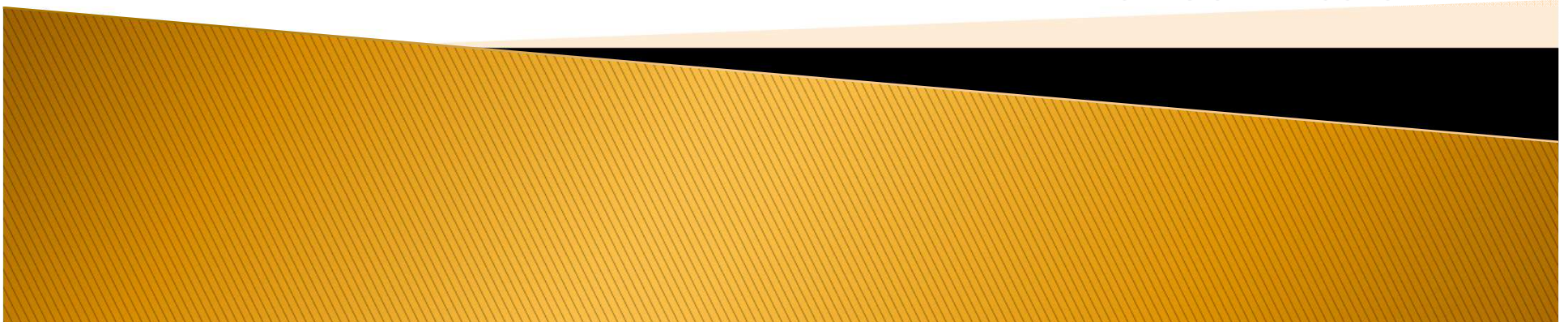
Questions



Status Report on Tax Operations

Tax Liaison Group
Dr Alois Daton – Commissioner of Taxation

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Status Report on Tax Operations

- ▶ 2011 Backlog work
 - Revenue Accounting System II (RAS II)
 - Assessments
 - Objections
 - Refunds
 - Taxpayer awareness & education



Status Report on Tax Operations

- ▶ RAS II
- ▶ RAS's capability to collect taxes and administer PNG's tax legislation was limited
- ▶ RAS II will automate work processes, increase revenue and enhance efficiency in tax administration



Status Report on Tax Operations

► Assessments

- Move to “assess on figures” mode in July 2011
- 12,000 un-assessed returns
- Expected un-assessed returns at December 2011 – 3,000



Status Report on Tax Operations

► Objections

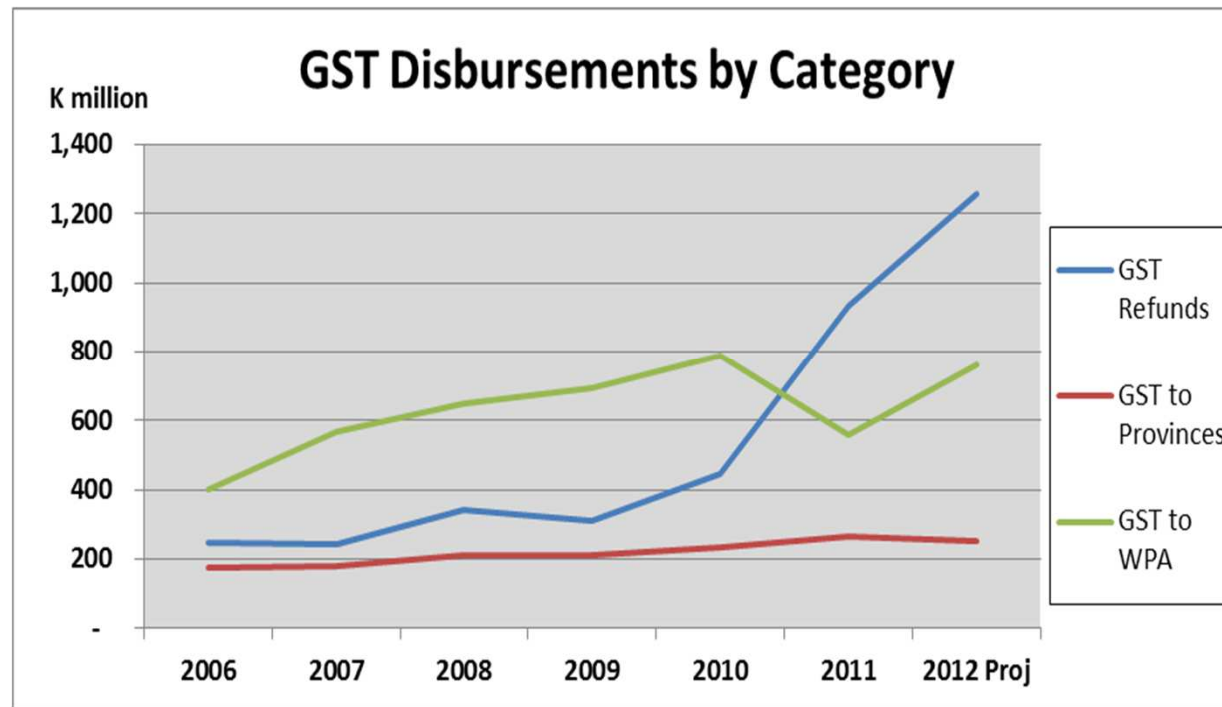
- July 2011 backlog of 177 objections, 110 RFA = 287
- Developed a strategy of workshops
- December 2011 – completed 150
- 2012 increase from “assess on figures” consequence



Status Report on Tax Operations

► Refunds

- GST refunds a challenge
- Establishment of Key Client Unit



Status Report on Tax Operations

- ▶ Taxpayer Awareness & Education
 - Conducted 15 sessions
 - Focus on all taxes, taxpayer obligations, economy and RAS II
 - Enforcement activities
 - Seeking champions



Status Report on Tax Operations

- ▶ Re-arranging Work Units
- ▶ ATO assistance
- ▶ Other assistance
- ▶ Recruitment



Transfer Pricing Update

Tax Liaison Group

Sam Loi – Director Large Business Tax Audit

Paul Meaker – ATO Twin and Transfer Pricing Specialist

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Transfer Pricing Update

OUTLINE

- ▶ TP Timeline
- ▶ International Dealing Schedule (IDS) progress
- ▶ IRC Practice Statement No. PS 01 /2005



Transfer Pricing Update

- ▶ Major events on TP Timeline for 2012
 - Collate data from Top 200 mail out
 - Data analysis of IDS and scoping for risk criteria
 - Intermediate staff skilling (ATO twinning)
 - TP Documentation and TP risk review
 - Continue development of TPRR project
 - Preliminary work on Intra-group circular (internal consultation)
 - Cleared Management fee backlogs by 60% this year from 148 to 62



Transfer Pricing Update

- ▶ International Dealings Schedule (IDS)
- ▶ Revision based on consultation/feedback include:
 - Ultimate holding entity (JV etc)
 - Define terms used in both the IDS and the instructions
 - Insert additional tables for income/expenses with related parties as a percentage of (K) value
 - Insert several fields to identify borrowings or lending from multiple jurisdictions.
 - Opening/closing balances of borrowing/loans as opposed to average balance.

▶ Revised IDS – Internal consultation stage



Transfer Pricing Update

- ▶ Tax Circular 2011/02 issued 21 December 2011
 - Administers all related party international dealings
 - Para 248 TC 2011/02 on Intra-Group services provides the guidance of administering the management fee applications as at 1 January 2012
 - PS01/2005 withdrawn
 - Documentation in support of management fees must be enclosed with the Income Tax Return at time of lodgement



Thank You

► Q&A?



Debt Collection Update

Tax Liaison Group
Dave Holohan – Director Debt Reduction

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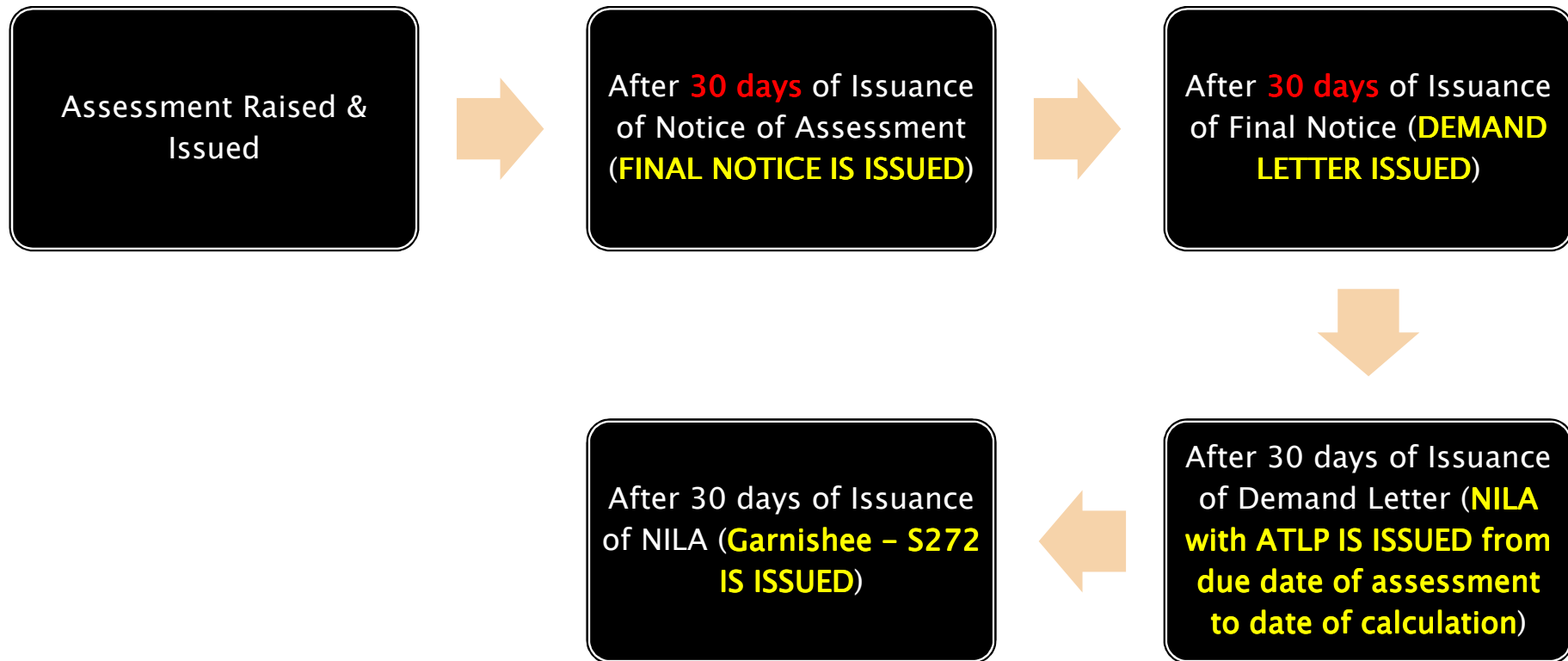


Overview of tax recovery

- ▶ Early Collection Unit
- ✓ This presentation will cover the early part of the recovery process.
- ✓ Limited to discussion of the Company Income Tax & Individual Income Tax
- ▶ Changes to the administration of penalties



Overview of tax recovery



Assessing Update

Tax Liaison Group
Ueri Pahina – Assistant Commissioner Assess & Prioritise

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Assessing Update

Income tax rates applicable to individuals.

- ▶ In the course of attending to objections it was established we have been overtaxing individuals both residents and non residents who receive other income and in addition to salary and wages since 2008 year of income.
- ▶ There are 1,585 assessments affected with estimated tax value of K684,550.
- ▶ The income tax rates have been corrected and these assessments will be amended to correct the error.



General Questions

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Afternoon Tea

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Taxation Circular's Program Overview

Tax Liaison Group
Tim Fraser – SGP Advisor (Policy & Advice)

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Tax Circulars – Purpose

- ▶ Taxation Circulars provide advice on:
 - Interpretation of law
 - Exercise of discretions; and
 - Practical administration of those laws.
- ▶ Do not have the force of law
- ▶ Administrative policy to stand by Tax Circular.



Tax Circulars – Purpose

- ▶ Depart only where there are good and substantial reasons:
 - The taxpayer's circumstances are not the same as those set out in the Taxation Circular;
 - The taxpayer has not acted honestly and reasonably in reliance on the Taxation Circular; or
 - There has been an arrangement entered into to artificially exploit the Taxation Circular.
- ▶ Effect of change in law

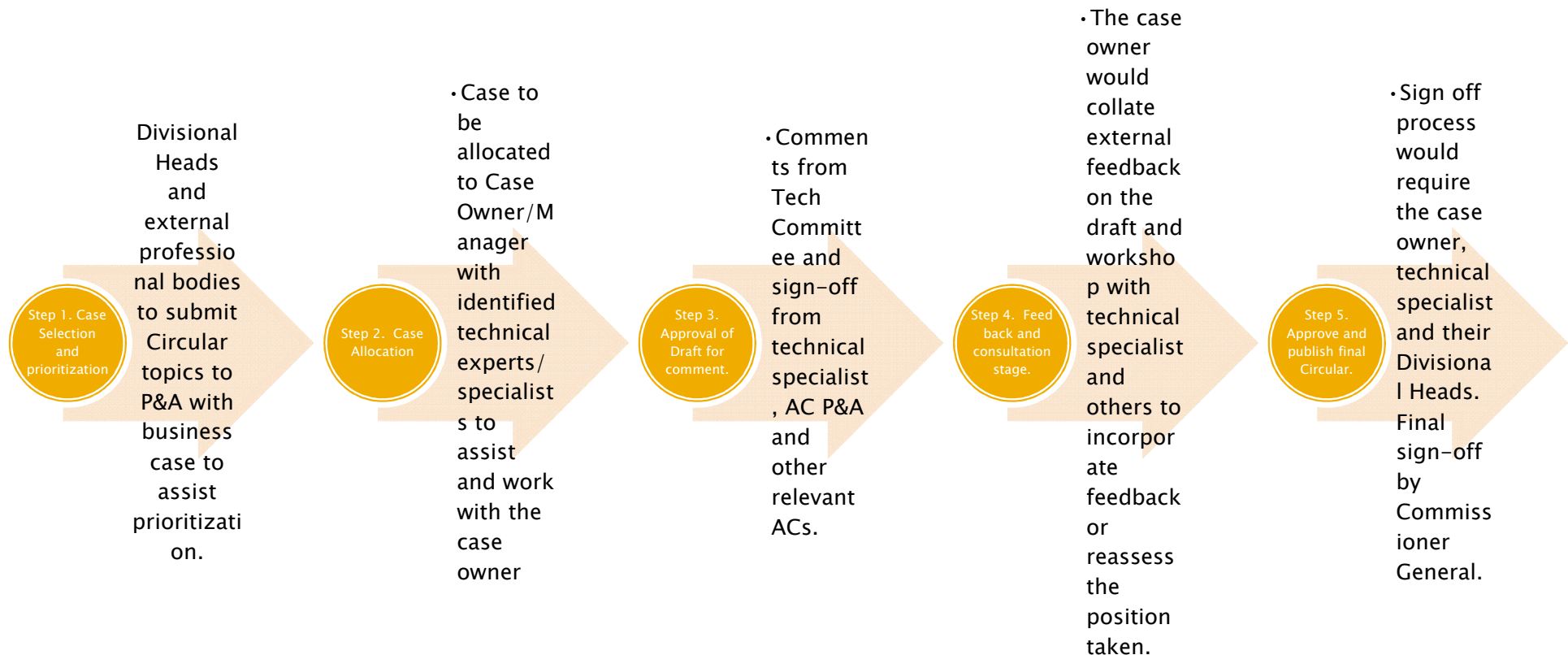


Tax Circulars – Process

- ▶ Topic identification: internal or external suggestions
- ▶ Initial topic consideration and prioritisation
- ▶ Drafting the Circular
- ▶ Internal consultation through Technical Committee and stakeholders
- ▶ Revisions
- ▶ Approval of draft for public consultation
- ▶ Feedback and consultation
- ▶ Further revisions
- ▶ Approve and publish final circular



Tax Circulars Process Map



Tax Circulars – Consultation

- ▶ Critical to the effectiveness of the Tax Circulars Program:
 - Tax Circular only useful if it helps taxpayers/agents to understand and comply with the law
 - Consultation process will assist in developing a shared understanding of how the law should apply
 - Consultation process will also highlight importance of specific issues
- ▶ Two stages are most critical:
 - Topic identification – relevance, scope and content
 - Draft stage – quality, accuracy, content, usefulness
- ▶ Submission template



Tax Circulars – Progress

- ▶ Framework established within IRC supported by ATO twinning
- ▶ Team established (although not dedicated full time) and initial training provided
- ▶ Linked in to other initiatives – transfer pricing
- ▶ Two Tax Circulars finalised:
 - Administrative Framework
 - Transfer pricing – concepts and record keeping
- ▶ Employer/employee circular in draft
- ▶ Three tax circulars in progress:
 - Tourism accommodation incentive scheme (Div 9B)
 - Redundancy tax concession (s46CA)
 - Late lodgment penalties and remission



Tax Circulars – Potential Topics

Transfer Pricing and service fees/financial arrangements	Salary packaging issues
Application of the Foreign Contractor WHT provisions	Computation of SWT and expenses rebate
Director Penalties	Residence
Eligible Termination Payments - what it is & how to calculate the tax	Validity of objections – period for service and R&D cases
Application of omitted income penalties	Capital reduction arrangements
Application and remission of late lodgment, late payment and incomplete return penalties	Losses
Shareholder loans	Record keeping requirements
Dividends from Capital Profits	GST & zero rating for charities and religious organizations
Dividend WHT & recovery where paid to exempt shareholders	GST and medical insurance
Assessability of Government grants	GST & shipping brokerage services
Assessability of "commercial" income derived by Provincial Governments	GST & aid workers



Consultation on the Draft Tax Circular

Tax Liaison Group
Roselyn Tei – Lawyer (Legal Services)

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Draft Tax Circular Consultation

- ▶ *Distinguishing Employees and Independent Contractors and their Tax Implications*
- ▶ Introduction
- ▶ Content
- ▶ Summery
- ▶ Comments



INTRODUCTION

- ▶ The Circular
 - Sets out the key characteristics of a contract of service & distinguishes these characteristics from a contract for services.
- ▶ The determination of whether a contract is a contract of service or contract for services determines which tax provisions are applicable – SWT, FCWT, BPT etc....



Employment Relationship

- ▶ The employment Relationship has three components
 1. Employer
 2. Employee
 3. Salary or Wages
- ▶ All three are defined terms in the ITA. The most critical definition is that of “Salary or Wages.”
- ▶ Key common law terms
 - ▶ in relation to the employment of that person as an employee,
 - ▶ wholly or substantially for personal services &
 - ▶ a contract wholly or substantially for labour.



Background

- There is currently no case law on point in PNG, however PNG courts have said to accept and adopt these principles in the absence of PNG cases. *Internal Revenue Commission v Hamidian Rad [2002] SC 692*
- Common law case have considered the contractual relationship in a variety of legislative contexts.



Formation of Contract

- ▶ It is vital to consider all the terms and conditions of the contract between the contracting parties whether express or implied when determining the nature of the contractual relationship.
- ▶ A clause that purports to characterise the relationship between the parties as that of principal and independent contractor and not of employer and employee can not receive effect if it contradicts the agreement as a whole.

Key Indicia of Employment

- ▶ Provision of benefits
- ▶ Control – Master/Servant Relationship
- ▶ Does the worker operate in their own account or in the business of the payer?
- ▶ Results Contracts
- ▶ Whether the work can be delegated or subcontracted?
- ▶ Risk
- ▶ Provision of tools and equipment and payment expense.
- ▶ Other Indicia



Role of Common Law

- ▶ Role of Common law criteria in the Act
 - It is the Commissioner General's view that the principles discussed above are a starting point.
 - In PNG “salary and wages” also includes *any remuneration by way of fees or otherwise for professional service as an adviser, consultant manager where remuneration is paid wholly or substantially for personal services rendered by that person in PNG.*

Payment to other parties

- ▶ S13 provides for transactions that are subject to salary or wages tax which involve a payment of funds by one entity to another entity & attributes receipt of a payment to beneficial owner of the payment regardless of the beneficial owners lack of physical receipt of the payment



Tax Implication for those who engage employers & Contractors

▶ Salary or Wages Tax

- S299D of the ITA sets out the manner in which salary or wages tax is to be collected.
- The employer makes deduction as per the declared rates.
- The employer has several other obligations including registering with IRC.

▶ Contract for Services

- A payer may still have withholding obligation even where a contract for the provision of service does not fall within the definition of salary or wages

Foreign Contractors Withholding Tax

- ▶ Collection of Income Tax from foreign contractors in relation to certain types of income derived by them.
- ▶ Foreign Contractor is any person who is a party to a prescribed contract and not a resident company in PNG or a person other than a company who is ordinarily resident in PNG.



Business Payment Tax

- ▶ Part VI Div 2 of the ITA applies to a payment that is a “Business Payment Tax” under the regulation.
- ▶ A paying authority or the payer is required to register with the IRC



Arrangement to avoid tax

- ▶ S361 of the Act deals with arrangements to avoid tax
- ▶ Where an arrangement purports to structure an employee's pay package and the purpose or one of the purposes or effects of such arrangement is to avoid the payment of salary or wages tax, the employer who is a party is liable to a fine



Examples

- ▶ 1: Employer/Employee Relationship
- ▶ 2. Sub-Contractor
- ▶ 3. Foreign Contractor



Thank You

- ▶ Question OR Comments?



Questions



Role & Focus of Tax Liaison Group

Tax Liaison Group
Dr Daton – Commissioner of Taxation
Timothy Fraser – SGP Advisor
Tax Agents
INTERNAL REVENUE COMMISSION



Role & Focus of Tax Liaison Group

- ▶ Do tax agents see value in continuing with this initiative?
- ▶ Regularity – quarterly/half yearly?
- ▶ Content – administrative, technical, policy, combination?
- ▶ IRC driven or tax agent driven?
- ▶ Membership – formal/informal?
- ▶ Minutes – publish?
- ▶ Other comments/suggestions



Thank You



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