



INTERNAL REVENUE COMMISSION

TAX AGENTS BULLETIN NO. 01 OF 2018



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1. INCOME TAX RETURN LODGEMENT REQUIREMENTS.

1.1. Introduction.

The purpose of this bulletin is to advise registered tax agents on the requirements for the lodgment of income tax returns for the current year and to keep tax agents up to date with recent changes in relation to the Tax Administration and the Tax laws including the Income Tax Forms for the year ended 31 December, 2017.

In keeping with section 223 of the Income Tax Act 1959 (hereinafter "the Act"), a notice was issued in the **Government Gazettal No: G 976 of 2018** dated 22 December, 2017 advising who is required to lodge returns and when they must be lodged by. That notice has stated that all income tax returns for the year ended 31 December 2017 (hereinafter "2017 returns") are required to be lodged by 28 February 2018, or such extended date as the Commissioner General allows. A copy of the notice can be found on the IRC website for ease of reference.

It has been the normal practice of this office to grant tax agents an automatic extension of time, until 30 April next following the end of the financial year, to lodge returns on behalf of their clients. This practice will continue and tax agents can lodge 2017 returns by 30 April 2018 without requesting an extension of time.

However, most tax agents will be unable to achieve full lodgment of client returns by that date and will need to request an extension of time for lodgment of an element of their clients' returns. This Circular sets out the Commissioner General's guidelines for those tax agents requiring an extension of time to complete their lodgment programs.

1.2 The Required Rate of Return Lodgments.

In the past, extensions of time for the lodgment of taxable returns have been granted to **31 August**. This practice will continue, but the concessions will only be granted to those who meet our performance requirements. To monitor this, tax agents will be required to advise what returns they have lodged, from time to time, and those whose lodgments are within 5% of the required percentage of lodgments by the required dates will be granted an extension of time, without fear of late lodgment penalty, to lodge the remainder of their clients returns by a specified date. Those who fail to lodge the required percentage or have totally failed lodgment extension lists will not be granted an extension of time and their clients will face the prospect of being penalized for late lodgment.

The required lodgment percentages are as follows:

	<u>Taxables</u>	<u>Non Taxables</u>
By 30 April 2018	30%	20%
By 31 May 2018	50%	30%
By 30 June 2018	75%	50%
By 31 July 2018	90%	75%
By 31 August 2018	100%	90%
By 31 October 2018		100%

These are the same requirements as applied in every lodgment season.

1.3 Conditions.

Again there are certain conditions that must be met before IRC will grant extensions for the lodgment of 2017 returns. This year these conditions are:

- i) Strict observance of the lodgment priorities set out in the next section.
- ii) That returns completed and signed be forwarded to the Internal Revenue Commission (hereinafter "the IRC") regularly, and at intervals of not more than a week.
- iii) That all returns lodged must contain a balance sheet and profit and loss account (where appropriate) as well as the notes to the accounts and all supporting schedules. In this regard, your attention is drawn to Regulation 23, which states that all attachments to returns must be signed. Returns will not be regarded as lodged until such attachments are signed and lodged.
- iv) That the 2017 personal income tax returns of the tax agents & /or all nominees thereof are lodged by 30 April 2018. Any companies or partnerships registered as tax agents, and any service or administration companies or partnerships associated with their practice, are also required to lodge their relevant 2017 returns by 30 April 2018.
- v) That extensions including further extensions of time for the lodgment of taxable returns for companies will not be granted beyond 30 June 2018 unless the provisional tax installment due by that date has been paid.
- vi) That extensions including further extensions of time for lodgment of tax returns will not be allowed if any tax arrears or any tax matters outstanding have not been settled or any prior arrangement for settlement of the outstanding tax matters have not been made.
- vii) That for companies which have an approved **substituted accounting period (SAP)** under section **12A** of the Act, extension arrangements will be proportional to taxpayers with a normal December year end. Thus SAP returns prepared by tax agents will be required to be lodged within 4 months of the end of the relevant income year. If requested, extensions will then be considered for a further period of 2 months. When lodging client listings and/or extension requests, agents should specifically highlight any SAP taxpayers in this regard.
- viii) That requisition of extensions of time for the lodgment of taxable returns for companies will not be granted beyond 30 April 2018 where the return for the year ended 31 December 2016 was not lodged prior to 31 December 2017.
- ix) In the past, we have been generous in granting extensions and further extensions for taxable until 31 August and 31 October for non-taxables respectively. We will not be allowing further extension after 31 December as they would all be treated as **late lodgers** until when you give us genuine reasons as to why, and when to lodge by.
- x) That the relevant extension list is received by the I.R.C. by the date specified later in this circular. In this regard, it should be noted that the due date for lists is ten days after the end of

the relevant month.

1.4 Priorities for Lodgment.

It is not enough to simply lodge the required percentage of returns. To ensure we have the time to issue certain assessments so that they become payable by 30 September, it is necessary to place the following limits on the time for lodgment of some types of returns:

- i) All 2017 partnership or trust returns are to be lodged by 30 June 2018. Wherever possible these should be lodged as a set with the returns for the partners or beneficiaries.
- ii) All taxable 2017 company returns with a taxable income in excess of K100,000 are to be lodged by 30 June 2018.

In addition, 2017 returns for individuals with either a taxable income of K30, 000 or a provisional tax credit in excess of K10, 000 are expected to be given priority so that their lodgment percentage equals or better than that of our required lodgment rate.

1.5 Foreign Exchange Rates.

The authorized exchange rates for the 1st & 2nd half and the full year for **2017** are as follows;

2017	USD	AUD	NZD	GBP	JPY	EURO	CAD	SGD	CNY	IDR	MYR
Jan-Jun	0.3147	0.4175	0.4450	0.2502	35.3955	0.2904	0.4201	0.4421	2.1642	4194.5298	1.3820
Jul-Dec	0.3126	0.4014	0.4383	0.2372	34.9863	0.2658	0.3947	0.4244	2.0765	4199.0575	1.3168
Full year	0.3137	0.4094	0.4416	0.2437	35.1909	0.2781	0.4074	0.4332	2.1203	4196.7937	1.3494

If the currencies that you require are not included in the above list, you should consult the Bank of PNG.

1.6 Lodgment Extension List.

As in the past, tax agents will be required to submit extension lists advising us of the clients in respect of whom they require extensions of time for lodgment. A separate schedule is required for each of the following types of return:

1. Taxable company returns.
2. Non-taxable company returns.
3. Individual returns with taxable incomes in excess of K30,000 or provisional tax credits in excess of K10,000.
4. Returns for other individuals.
5. Returns for all parties associated with your tax agent registration, i.e., the partnership, partners, administration company (if any) etc.
6. Partnership returns.
7. Trust returns.
8. Training Levy returns (NB: Last year of lodgment. Refer to 4.3 below).

9. Returns for salary or wages earners claiming a Section 214(1) rebate, (in view of Section 214(2), this particular extension list should ideally be lodged by February 15).
10. Late lodgers/late payers (see below)

These lists should show each client's name:

- a) In full, and
- b) In alphabetical order, with the surname first if for an individual.

In addition, adjacent to the name of each client should be their tax TIN number, if known, and in the case of taxable companies, confirmation or otherwise that any provisional tax installment due has been paid. Where the provisional tax installment has not been paid an explanation should be provided so that we can decide whether an extension should nevertheless be granted to the taxpayer.

Late lodgers/late payers are those taxpayers who either did not lodge their 2016 returns by 31 December 2017 or did not pay their 2016 assessments by 31 December 2017. We require a separate extension list in respect of all such taxpayers, as well as an individual full explanation for each client whose return cannot be lodged by 31 December, 2017, as to why we should permit them to lodge their 2016 returns after 31 December, 2017 and advise of the date the return will be lodged.

Those tax agents requiring extensions of time beyond 30 April 2018 will be required to lodge up to five extension lists and these should be lodged as follows:

- Extension List No.1 - no later than 10 April 2018
- Extension List No.2 - no later than 10 May 2018
- Extension List No.3 - no later than 10 June 2018
- Extension List No.4 - no later than 10 July 2018
- Extension List No.5 - no later than 10 August 2018

In addition to the details referred to above, each extension list should have a front page in the following format:

<u>Extension List No.1</u>	<u>Taxable</u>	<u>Non Taxable</u>
1. Number of 2017 returns actually lodged to date	_____	_____
2. Total number of 2017 returns to be lodged	_____	_____
3. Percentage lodged to date	_____	_____

Extension List No.2

Taxable

Non Taxable

1. Number of 2017 returns
actually lodged by 30 April

2. Total number of 2017
returns to be lodged

3. Percentage of total
lodged by 30 April

Extension List No.3

Taxable

Non Taxable

1. Number of 2017 returns
actually lodged by 31 May

2. Total number of 2017
returns to be lodged

3. Percentage of total
lodged by 31 May

Extension List No.4

Taxable

Non Taxable

1. Number of 2017 returns
actually lodged by 30 June

2. Total number of 2017
returns to be lodged

3. Percentage of total
lodged by 30 June

Extension List No.5

Taxable

Non Taxable

1. Total number of 2017
returns actually lodged by 31 July

2. Total number of 2017
returns to be lodged

3. Percentage of total
lodged by 31 July

The following problems were noted with the extension lists provided by tax agents in 2017.

- a. Many did not actually show the percentage (%) of returns lodged to the end of each month for each category.
- b. In some cases, returns completed and without signatures were included in the total of returns lodged. This is not acceptable.
- c. Returns lodged after the end of the month were included. The grace period for lodging the lists was not intended to allow this.
- d. Late lodgers/late payers were included with other returns. The instructions clearly state that a separate list is required for returns lodged late in the previous years.
- e. There are still some Tax Agents lodging Extension Lists after number 5. We only have five Extension Lists every year covering the time frame from April – August.

Tax agents are urged to take the preparation and submission of their extension lists seriously. There is nothing to be gained from either understating the number of returns to be lodged or overstating the number of returns actually lodged. It becomes obvious to IRC, particularly towards the end of the lodgment cycle, if this has been done. In this regard, you are advised that we will now **accept additions** to **Extension List No.4** for new clients but will not accept additions to the extension list number 5.

Please bear in mind that if a new client has not bothered to make arrangements for the lodgment of returns prior to **June 30**, then they are not entitled to extensions nor are they for **further extensions**. They should be listed under the late lodgers list.

1.7 Other Matters Pertaining to the Extension Lists

These include:

1. If extension lists are not lodged, clients will not have an extension of time beyond April 30.
2. It is not necessary when lodging a batch of returns to prepare a covering advice listing the returns lodged or to prepare a lodgment advice.
3. Each 2017 return lodged after 30 April 2018 should bear the following endorsement:

"Extension to granted"

All returns, where an extension has been granted should bear the above endorsement. Failure to do so would result in imposition of late lodgment penalty with an assumption that no extension has been requested and granted.

4. Only 2017 returns should be included in the extension lists. If for some reason an extension of time is requested for an earlier year return, a specific request should be made and directed to the attention of our **Manager, Tax Agent Co-ordination Section**.

5. Where a request for an extension in respect of a taxpayer with tax outstanding (which is not subject to a dispute) is made, payment for the liability should accompany the request for extension. Even so, such extensions will only be granted to 30 June.
6. If a final notice is issued in respect of a particular taxpayer that taxpayer ceases to qualify for any extension, and the return must be lodged by the date specified in the final notice.
7. If the non-lodgment case is registered and is before the Tax Court, the taxpayer also ceases to qualify for any extension requisitions. You will only be asked by the hearing Magistrate to have the outstanding returns lodged at the Court.

All Final Notice enquiries should be directed to our **Acting Director -Early Collection Section (Lodgement/ Payment/ Enforcement)** in attention to **Ms Geua Taumaku on Telephone Number: 322 6672 or Email: taumakug2@irc.gov.pg** .

1.8 Salary & Wages Tax Returns.

Salary or wage earners who fall into any of the following categories are obliged to lodge returns;

1. Did not have the correct tax deduct each pay period.
2. Are claiming deductions from salary or wages in excess of K200 (and this would include anyone in receipt of a non-taxable allowance - their allowances are not exempt income and they would be claiming a deduction for up to the amount of the allowance received).
3. Received a termination payment.
4. Had non salary or wage income in excess of K100.
5. Wish to claim a school fee rebate or education expenses.
6. Received a Housing Allowance variation for 2018.

It is important to note that a rebate of tax under Section 214 (1) will generally only be allowed if the return was lodged by February 28 of the following financial year, or within such extended date as the Commissioner General may otherwise permit.

1.9 Tax Agent Registration Renewals and Reviews.

Please note that the **Tax Agent Co-ordination Officer is Ms Dorothy Sonny**, who can be contacted directly on **Telephone Number: 307 7306 or by Email: sonnyd@irc.gov.pg** . She is responsible for all aspects of tax agent registrations and reviews. We wish to reiterate that a number of tax agents have been deleted from our list as they have miserably failed to complete registration requirements including registration renewals, have not lodged client extension lists nor have they lodged their own tax returns.

Annual renewals are now due and payable before the 1 of April together with your annual tax returns including your first Lodgment Extension Program due on the **10 April**. Note that the pre-

requisite of having your registration renewed is to meet all the requirements as being a Tax Agent in PNG. It is your responsibility to renew your registration every year. Renewal forms can be obtained from the IRC Office or from the IRC website (www.irc.gov.pg).

Also please note that all the current registrations are now under review and those who have failed to meet the “**fit and proper**” tests as required by the Tax Act and those who are found to be non-compliant as mentioned above would be cancelled immediately. In addition, those who have paid 2018 registration renewals and who have existing TIN registrations would be given the first preference for SIGTAS conversion for new registration numbers and issuance of new certificates. The old certificates would become obsolete items and are null & void. If you think that you have not paid the 2018 renewals fees and do not have TIN numbers, you should consult Ms Dorothy Sonny as quickly as possible.

It should be remembered that unregistered tax agents are not permitted to charge fees for preparation of tax returns, objections, or in relation to the transaction of any business on behalf of a taxpayer in the income tax matters. This is illegal under the provisions of section 349 of the PNG Income Tax Act and it may result in a heavy court fine or imprisonment.

If an Agent has been de-registered, they will need to make a section 346 fresh application demonstrating that they are fit and proper person in order to be admitted or re-admitted if the case may be.

1.10 Lodgment Requirement of Entities with Tax Exempt Income

The IRC is concerned that some entities in receipt of exempt income are failing to lodge tax returns or are lodging returns which simply declare nil income and deductions. Tax agents representing such entities are reminded that Section 45 clearly requires that such entities are to lodge an annual tax return in the form and manner prescribed. This should include all income and deductions as detailed by the relevant labels. The exemption of such income would be then accounted for in the reconciliation section of the form and the deductions would be non-deductible.

Where returns are not duly lodged, or do not fully account for the income and deductions of the entity, then the Commissioner General will have no other option than to revoke the exempt status of the income where applicable and take such lodgement and follow up compliance action as deemed necessary.

2. SIGTAS REGISTRATION OF TIN NUMBERS

Our implementation of SIGTAS since 2014 is still continuing as it is an ongoing concern. Most of the work in relation to the conversion from the RAS to SIGTAS has been completed, however, there is still work to be done. If an existing taxpayer is found to have no TIN, please advise SIGTAS section as soon as possible for immediate conversion.

Once again, all variations in relation to Provisional Tax (PT) and Advanced Payment Tax (APT) will have to be lodged at IRC – Port Moresby or by email to Sigtas@irc.gov.pg as all processing of these documents requires system input. You can either submit these

electronically or by hand delivery/mail/courier to IRC – Port Moresby.

All TIN registration applications, correspondence and enquiries and the issuance of the TIN certificates can be forwarded to the centralized email address; Registrations@irc.gov.pg .

The service includes;

- Application for a Taxpayer Identification Number. A scanned image of the completed, signed application form together with the required supporting documents is accepted.
- Any amendment to an existing registration such as change of address, nature and additions of business activities, contact details or change of Directors or shareholders, and
- Any other TIN related enquiries.

We expect all TIN and other IRC related matters to be occurring in other centres to deliver Office services to our valued taxpayers.

3. TAX AGENT LIAISON GROUP (TALG)

Tax Agent briefing session for 2018 is scheduled for April this year. You will be invited to come and discuss and share your ideas in relation to any tax matters in support of assisting you and your clients. It would also be an avenue/forum to share your views, comments and suggestions on the policies and legislative changes in order to improve the Administration of the PNG Tax Laws.

If you think fit that you have not given your name nor have you received any invitation notices, please take an initiative in consulting us of your interest as quickly as possible.

4. TAX LEGISLATIVE AMENDMENTS - 2018 BUDGET

4.1 Taxation on Long Service Leave.

In the 2018 Budget changes were made to Section 46B of the *Income Tax Act* and the *Rates Act* in order to rationalise the treatment of certain payments made to employees on termination of employment. Starting from 1 January 2018 certain payments of Long Service Leave, made upon termination of employment, attract concessional rates of Salary or Wages Tax.

For payments of Long Service Leave, made on bona fide termination of employment, a new Section 46B(2) has been inserted to include Long Service Leave accrued at a rate not exceeding 6 months per 15 years of service with an employer or associated person of that employer where the employee had completed a minimum of 15 years continuous service. These payments are to be taxed under Section 1(2) of the *Income Tax (Salary or Wages Tax) (Rates) Act 1979*. The effect of these changes is that qualifying payments of Long Service Leave are taxed at 2%.

In addition, a new Section 46(2B) has been inserted that states that Long Service Leave accrued at a rate not exceeding 6 months per 15 years of service with an employer or associated person of that employer and is paid as part of a bona fide termination payment shall be deemed to be

salary or wages income taxable at the rate declared by Section 1(3A) of the *Income Tax (Salary or Wages Tax) (Rates) Act 1979*.

A new Section 1(3A) of the *Income Tax (Salary or Wages Tax) (Rates) Act 1979* has been inserted into the Rates Act that shows a table that specifies the rate of tax to be applied to Long Service Leave paid as part of a bona fide termination payment and accrued at the specified rate.

The changes to Section 1(3A) of the Rates Act specify that for Long Service Leave (LSL) accrued for a period less than 5 years the marginal rate of Salary or Wages Tax must be applied. For LSL accrued over a period exceeding 5 years but not exceeding 9 years a rate of 15% must be applied. For LSL accrued over a period exceeding 9 years but not exceeding 15 years a rate of 8% must be applied.

There is an error in the Rates Act with regards to these changes. The Rates Act states that the changes come into effect from 1 January 2019. The Income Tax Act, under Section 46B states that the changes come into effect from 1 January 2018.

This error is being rectified by Treasury but in the meantime, the Internal Revenue Commission will administer the Rates Act according to the policy intent which is for the change to be effective from 1 January 2018.

Please note that these concessional rates of Salary or Wages Tax only apply to payments made as part of a bona fide termination payment. If the Long Service Leave is “cashed in” marginal tax will apply. If the Long Service Leave is taken as leave and the employee continues to be employed then they are taxed at the normal fortnightly rates of Salary or Wages Tax.

If you have any further questions regarding this issue please contact **Mr Steve Burke** of the Policy and Advice Division on **Telephone Number: 322 6546** or Email: burkes@irc.gov.pg.

4.2 Repeal of Double Deduction for Staff Training (Amendment of Section 72A of ITA).

It is consistent with the Tax Review Recommendations to repeal incentives that have out-lived their purpose. Staff training is now ‘business-as-usual’ in the modern workplace environment.

4.3 Repeal of Training Levy (Amendment of Division III.14D of ITA).

This effectively repeals the 2% training levy. It is consistent with the Tax Review Recommendations to repeal incentives that have out-lived their purpose.

4.4 Change in Treatment of Royalty & Development Levy Payments (Amendment of Section 161A of ITA)

Petroleum and other designated gas projects that pay royalty and development levy pursuant to the *Oil and Gas Act*, currently get a tax credit for such payments.

This amendment is intended to treat such royalty and development levy payments as allowable deductions in respect of that year of income in which the payments are made.

A corresponding amendment is also made to Section 159 of the *Oil and Gas Act*.

4.5 Tax Credit Scheme Extension – APEC Haus (Amendment of Section 219C of ITA).

This specifically caters for the construction of the APEC Haus as approved by the National Executive Council on 7 September 2016 in NEC Decision No. 219 of 2016.

The expenditure eligible to be claimed under the ITCS is limited to 1.25% of the assessable income with a cap of K170m.

4.6 Pay Before Appealing (Amendment of Section 247 of ITA).

This amendment introduces the ‘pay-under-protest’ concept into the appeals provisions. It requires taxpayers aggrieved by objection decisions of the Commissioner General, to pay the full amount of the disputed tax prior to filing an appeal before either the Income Tax Review Tribunal or the Courts. Failure to pay renders their appeal invalid.

This is consistent with existing case-law expressed by the courts in PNG that tax appellants against the Commissioner General must pay the disputed tax upfront before pursuing their appeal against the tax assessment (‘pay-now litigate-later’ principle).

4.7 Extension of Tax Liability to Shareholders & Related Entities (New Division VI.2AC of ITA)

This amendment is an extension of the ‘director penalty’ concept to related corporations. The intent is to allow for the collection and recovery of any unpaid tax against shareholders of the taxpayer and their related entities.

4.8 Clarification on Definition of ‘Resource Company’ (Amendment of Section 2 of GST Act)

This amends the definition of ‘*resource company*’ in relation to petroleum and gas companies to clarify that it includes operators of the respective projects and not just a Petroleum Development License (“PDL”) holder.

The change is necessary to ensure that PDL license holders who are not non-operators and are not involved with procuring supplies for the resource operations do not benefit from the zero-rating available to supplies for resource operations.

4.9 Repeal of Ability to Claim GST Credits for Exempt Supplies (Amendment of Section 31 of GST Act)

The supply of educational services by schools and other educational institutions is already exempt from GST.

In addition, educational institutions are entitled to deduct input taxes paid in respect of these supplies. Effectively, schools are allowed to claim a credit for these exempt supplies. This

generous tax treatment for school, whilst well intended, has been prone to a lot of abuse and fraud over the years.

In light of the tuition fee-free policy, it is considered that this generous tax treatment is no longer necessary. This amendment seeks to repeal this entitlement for schools. All claims for taxable periods prior to January 2018 will still be eligible to be processed.

4.10 Increased Tax Clearance Threshold (Amendment of Regulation 90A).

This amendment effectively increases the tax clearance threshold from K200,000 to K500,000 effective 1 Jan 2018. The IRC is aware of the requisite gazettal notice that is required under the *Central Banking Act* to be issued by the Bank of PNG reflecting the increase. This is a mandated function of BPNG. The IRC legal position is that the threshold amount is set under the *Income Tax Regulation* and not the Central Banking Act, its Regulations or any gazettal notice issued thereunder. The gazettal is simply a formality to reflect the increase.

The IRC is legally bound under the *Income Tax Regulation* to give effect to the new K500,000 threshold from 1 January 2018 as approved by the National Executive Council. It is expected that the gazettal notice from BPNG will be consistent with the NEC Decision to avoid unnecessary confusion.

In other changes, all applicants for a Tax Clearance Certificate will now be required to register for a Tax Identification Number (TIN) prior to their application being processed.

There are also plans in progress to enable Tax Clearance Certificates, once approved, to be issued directly to the commercial banks rather than to the applicant. The IRC will advise taxpayers and the banks when the new processes are to be rolled out.

5. OTHER CHANGES

5.1 Definition of ‘Primary Production’ (Amendment of Section 4).

This change is consistent with the policy intent that “*primary production*” does not include forestry, logging or other timber operations. Primary production is only meant to cover the cultivation of land for farming of crops and animals.

5.2 General Administration (Amendment of Part II).

A suite of housekeeping amendments were introduced to clarify and incorporate certain administrative practices including:-

- (ii) Setting out the legal basis for the electronic lodgement of returns and other tax forms, as well as the use of electronic means to serve tax notices on taxpayers;
- (iii) Linking the use of domestic tax administration powers, with the exchange of information obligation (EOI) under existing Double Tax Agreements and other tax mutual assistance treaties.

5.3 Legislating for the TIN (“TIN”).

New provisions were introduced setting out the requirements, conditions and penalties on the use of a TIN. However the IRC has not changed its TIN requirements as of 1 January 2018.

NB: Individuals and SWT earners are not required to obtain a TIN at this stage.

The administration of the TIN requirements is left to the Commissioner General. As and when changes are deemed necessary, they will be formally communicated to all taxpayers in advance of its implementation.

5.4 Introduction of a Preservation Notice Power

This power effectively allows the Commissioner General to issue a ‘preservation notice’ to all financial institutions requiring that they freeze a taxpayer’s bank account where the Commissioner General has reasonable cause to believe that:-

- the taxpayer will not pay the full amount of tax owing when due; and
- the taxpayer has taken, or will take, steps to frustrate the recovery of the tax, including the dissipation of the taxpayer’s assets.

The notice is only valid for 14 days. It differs from the garnishee powers in that the notice does not require the financial institutions to remit any monies to the IRC.

The power will be utilised based on risk to revenue and IRC will conduct awareness with financial institutions and inform taxpayers in advance of implementing this power.

5.3 Secrecy (Amendment of Section 9).

The secrecy provision is amended to include the Extractive Industry Transparency Initiative (EITI) Secretariat as well as the Financial Analysis and Supervision Unit (FASU), amongst the list of authorized recipients of protected tax information.

5.4 Declaration of Landowner Resources Trust (Amendment of Section 137).

The power to make declaration of a trust as a ‘*Landowner Resources Trust*’ is now vested with the Commissioner General for administrative efficiency. Prior to 1 January 2018, this power was vested in the Minister responsible for treasury matters.

5.5 Bribery of Tax Officers

This new provision creates the offence of bribery. The provision is broad and covers proponents of bribery as well as officers who solicit bribery from taxpayers. The Commissioner General can prosecute offenders under this provision. The penalty for this offence is

imprisonment for a period not exceeding 5 years. There is no monetary fine for offenders found guilty of this charge.

6. CORRECTIONS TO 2017 BUDGET AMENDMENTS

6.1 Restoring Application of the Dividend Rebate

The application of the dividend rebate was inadvertently restricted to dividend income derived prior to 1 January 2017. The amendment repeals the sunset clause to allow the dividend rebate to continue to apply.

6.2 Restoring of DWT exemption to authorised superannuation funds

In the 2017 Budget, the DWT exemption for ASF's was inadvertently repealed. This amendment reinstates that exemption.

6.3 Additional Profits Tax (APT)

Consistent with the APT changes done in the 2017 Budget, the amendments:-

- i) clarify the extension of APT to existing mining and petroleum as of 1 January 2017.
- ii) introduce transitional provisions that allow for the recognition of exploration and development expenditures incurred by the existing mining and petroleum companies prior to 1 January 2017 for purposes of the APT calculation.

6.4 Fiscal Stability Provision

The wording of the provision has been improved to clarify and provide certainty to participants in the PNG LNG Project (as well as other taxpayers subject to a fiscal stability arrangement with the State) that their tax treatment is preserved in accordance with what was agreed in the respective project agreements they have in existence with the State, despite any changes in the tax laws.

This provision was taken out of Division 10 (resource projects) and placed as a general provision to ensure its application to the other taxes apart from withholding taxes such as FCWT, DWT and IWT.

6.5 Prescribed Contract Income – FCWT (Amendment of Division III.14A).

This change allows the distinction between income from prescribed contract and other income of the foreign contractor to ensure that income from a prescribed contract is treated separately and tax at the prescribed rate as final tax and is not taken into account when computing the overall assessable income of the foreign contractor. This is consistent with the treatment of most other withholding taxes.

The other income of the foreign contractor is tax at the tax rate for non-resident companies which are 48% of the net profit.

7. UPDATES

7.1 Country By Country (CBC) Reporting

The first CBC Report are to be filed in 2018 by all PNG resident enterprises that are part of a multinational enterprise (MNE) group or are the ultimate parent entity of an MNE group that has a monetary revenue threshold for the group at K2.3 billion or above.

- How the rules will apply to substitute accounting periods. New Division 16 comes into operation from 1 January 2017. So it is simple for December reports, but does this mean the first year of CbCR for a (say) June reporting company is 30 June 2017, since the balance date (30 June 2017) falls after the operative date, or 30 June 2018, being the first year commencing (1 July 2017) after the operative date? Or should this be worked out by reference to the year of income/year of tax?

Ans: The IRC intends to link the filing obligations with the annual income tax returns filing dates of 28 February or 30 June for those on the tax agent lodgement program for 31 December reporters.

For SAP reporters for example 30 June 2017, their notification date would be 30 June 2017 and the filing due date would be 30 June 2018 using the year of income or fiscal year.

- Notifications under section 200

Ans: For 31 December reporters it will fall due on the 31 December 2017 while for 30 June reporters this is already due and can be accepted on 31 December as part of the transition.

- Time for Filing under section 201A

Ans: For 31 December reporters the filing due dates is 31 December 2018 being 12 months after the end of the *Reporting Fiscal Year*.

7.2 Tax Administration Act (“TAA”)

The Tax Administration Act was passed by Parliament in the November 2017 Sittings, but it has not yet been brought into force.

The aim of the TAA was to streamline and standardise the end to end tax administration rules to enable better use of time and resources within the IRC as well as to aid voluntary compliance from taxpayers.

The IRC anticipates some consequential amendments to existing law, administrative measures put in place and also public consultation before the TAA is to be brought into force.

8. CHANGE IN ADMINISTRATION OF INLAND GST REFUND CLAIMS BY AID WORKERS DIPLOMATS AND CONSULAR OFFICIALS.

Consistent with legal advice obtained from the Government regarding the privileges and immunities of aid workers, diplomats and consular officials under the relevant international treaties and conventions as adopted under PNG's domestic law, there has been a change in the administration of Inland GST Refund Claims lodged by this group of taxpayers, effective as of **1 November 2017**.

8.1. Individual Aid Workers

Individuals employed/engaged by aid or donor agencies in PNG ("aid workers") are not exempt or zero rated for GST unless they have been granted 'Designated Aid Status' pursuant to the *Aid Status (Privileges & Immunities) Act 1977*.

Once they have been granted 'Designated Aid Status', this status legally entitles them to an exemption from GST but only under two circumstances:-

- a) When they are importing their personal effects within 6 months upon taking up their post in the country; or
- b) If they are importing a car or purchasing a car domestically, within 6 months of them taking up their post in the country.

There is no provision in the *Goods and Services Tax Act* or any other law that exempts or zero-rates local supplies made to an aid worker in PNG.

Aid workers are employed/engaged by the aid or donor agency and therefore do not conduct any "taxable activity" in order to be eligible to claim GST credits for expenses incurred.

8.2 Diplomatic and Consular Personnel

Immunity from taxes afforded to diplomats and consular officials under international law (*Vienna Convention*), as adopted under the *Diplomatic & Consular (Privileges & Immunities) Act 1975*, specifically does not apply to;

"indirect taxes of a kind which are normally incorporated in the price of goods or services"

This means that they are not exempt from Inland GST. The law only exempts this group of taxpayers from import GST on goods they bring into the country for personal consumption.

8.3. TIN Registration for Aid Workers, Diplomats and Consular Officials

An aid worker may be registered for a TIN but only for the sole purpose of claiming import GST refunds on imports and purchases as described in 8.1 (a) and (b) above. The registration is to be cancelled when the exemption period of 6 months expires.

Similarly, a diplomat or consular official may be registered for a TIN but only for the sole

purpose of claiming GST refunds on items they have imported for personal consumption as described in 8.2.

Applications for TIN's by aid workers, diplomats and consular officials for purposes unrelated to the import GST exemption they are legally entitled, will not be accepted and processed.

8.4. Processing of GST Refund Claims by Aid Workers, Diplomats and Consular Officials

All claims for GST refunds on locally acquired supplies have ceased as of 1 November 2017.

Refund claims for periods prior to 1 November 2017 will continue to be processed.

Going forward, the IRC will only process GST refunds for import GST claims only.

9. IRC CONTACT MAILBOXES

SIGTAS@irc.gov.pg – use for any reported error in keying of a transaction into the system such as applying a payment to the wrong tax period or wrong tax type, incorrectly dating the receipt date of an electronic payment, or any other suspected “data entry” problem. You may also use this address to file a variation request, or other routine query such as requesting an account balance for a client.

Registrations@irc.gov.pg – use for any query related to the lodgment of a TIN application, or request a reprint of a TIN certificate.

SOELodgement@irc.gov.pg – use for electronic submission of annual Statement Of Earnings documentation.

remissions@irc.gov.pg – use for electronic request for remission of penalties, or follow up on same.

Anonymous Information can be submitted to Intelligence@irc.gov.pg – If you have any information about someone you think may be deliberately evading or avoiding tax, you can report it to us via this email address. Report someone to IRC if you think they are evading tax.

For example they might be;

- Not telling the IRC about tax they owe (e.g. on business profits)
- Keeping business “off the books” by dealing in cash and not giving receipts,
- Hiding money, shares or other assets in an offshore bank accounts (‘offshore tax evasion).

Your identity will be protected to ensure your safety.

IRC Objections – objections@irc.gov.pg – All objections against assessments are to be forwarded to this email address. By emailing your request to this email box, we will be better able to evidence that the request has met the 60 days’ timeframe as required under section 245 of the PNG Income Tax Act 1959 as amended to-date.

To warrant a valid objection, it must be in writing and must contain the followings:

- Your full details or, if you are not the taxpayer objecting to the assessment, the full name and contact details, and tax identification number (TIN) of the taxpayer you represent,
- Full details of the assessment you are objecting to, including the tax types and the relevant year or tax period,
- Include full details of your reasoning as to why you think the assessment is wrong,
- Any supporting documents and information that relates to the assessment being disputed (we may still need to request more information to help us decide your objection),
- All the relevant facts, arguments, information and documents that support the reasons you disagree with the decision – this should include references to legislation, Tax Circulars and case laws or similar precedent cases where this is helpful to your case, and
- Be signed and dated.

10. CONTACT S

Names:	Areas of Responsibility:	Telephone:	Email:
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We look forward to another year of harmonious working relationships with you.

**MS BETTY PALASO, OBE,
COMMISSIONER GENERAL**