[redacted]

Sent from an iPhone, so please excuse auto-spell errors!

On 17 Sep 2015, at 22:36, Peter Collins <peter.collins@au.pwc.com> wrote:

No WHT on loan because BVI does not have a PE.

No 44 1 b because BVIs income is BVI sourced (very little happening there).

Little real chance of anti hybrid rule anytime soon. I spent 3 payneful hours today. BoT has zero idea. The only thing they get (now) is that it is complicated and perhaps we should not rush. No need to share this because all supposed to be secret.

I had not been certain that some of the rules (eg hybrid entity) applies beyond financial arrangements to anything disregarded wheras rule 1 is only FAs and rule 2 only shares.

The imported mismatch formulas will blow our mind but be easy to sidestep.

Regards

Peter
Peter Collins
Partner
International Tax Services
PwC Australia
Office: [redacted]
Cell: [redacted]
peter.collins@au.pwc.com
http://www.pwc.com.au
http://www.linkedin.com/in/petercollinspwc

For the latest on BEPS: http://www.pwc.com/beps

<Page 0 2015-09-17 - 22-10.pdf>

[redacted]
[redacted]
[redacted]
Email: [redacted]uk.pwc.com
PricewaterhouseCoopers LLP
1 Embankment Place, London WC2N 6RH
http://www.pwc.com/

[redacted] [redacted] 09/10/2014 04:33:26---Hi all I am emailing you as we are the global team on this one according to a table I recently saw.

From: [redacted] AU/TLS/PwC@ASIAPAC
To: [redacted] US/TLS/PwC@Americas-US, [redacted] UK/TLS/PwC@EMEA-UK, [redacted] UK/TLS/PwC@EMEA-UK
Date: 09/10/2014 04:33
Subject: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

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Hi all

I am emailing you as we are the global team on this one according to a table I recently saw.

Today the Australian Treasury Department shared a copy of the above paper for comment by 17 October. It has been redacted and is confidential so I havent included a copy but you may have a version from other sources.

I am pulling together some views and wanted to check in with you about how we go about developing a position for the globe and respond to requests like that I have just received.

[redacted] Are any of you attending ([redacted] I recall you are not attending).

regards

[redacted]
Coopers 201 Sussex Street | GPO Box 2650 SYDNEY NSW 2000
[redacted]
E: [redacted]au.pwc.com

Response to OECD Discussion Draft on Mandatory Reporting

Overall Comments

The need for Australia to adopt a MDR as proposed is not obvious. Australia generally has high levels of compliance with tax laws as a result of a comprehensive GAAR, a progressive ATO, and strong legal systems. Chris Jordan has acknowledged this numerous times in the last 18 months through public speeches and appearances at House of Representatives Standing Committee on Tax and Senate Estimates hearings. As recently as 15 October 2015, he stated in a speech to the 2014 CPA Congress: *"Levels of willing participation in Australia are high. We know this from analysis of our revenue collection which shows that more than 95 per cent of revenue received comes in voluntarily – with relatively little assistance or intervention from us. Less than 5 per cent comes in from compliance enforcement measures".*

Furthermore, Australia already has mandatory reporting for large corporates, through the Reportable Tax Position regime. Based on our experience with the RTP regime, there are very few tax schemes being reported (assumedly due to already having a very strong GAAR, comprehensive transfer pricing rules and targeted enforcement by the ATO). We also have the Promoter Penalty regime which the ATO is actively enforcing, so we do not expect the proposed MDR regime would result in behavioural change with large corporates, but would bring additional costs of compliance. Smaller corporates and privately owned entities may be impacted to a larger degree.

The responsibility for complying with a MDR would fall to the Public Officer. Depending on the design of the regime, it is likely to require a considerable investment in data technology and governance systems that do not currently exist.

There is no relative benefit in a MDR that requires the reporting of structures and issues that comply with tax laws in Australia. It would also be unreasonable for the Public Officers of Australian taxpayers to be required to report on tax issues in other jurisdictions, given that they would not be in a position to control, judge or properly analyse what occurs in jurisdictions for which they are not accountable or responsible.

Starting in 2015 the ATO will commence publishing tax information annually for all taxpayers with income above $100 million. It is likely that this new regime will result in extensive media and community comment, and the impact this has on large corporates in terms of the manner in which they communicate responses and explanation is difficult to predict. Until this new reporting regime is implemented and bedded down, the environment is not suitable to introduce a new MDR.

There is a need for considerable further consultation to occur on the relative benefits and costs of a MDR and the extent to which current reporting regimes and laws already provide information that could be used for requisite analysis. It is doubtful that such a regime would detect any material tax avoidance that is not already capable of being detected through reporting and proactivity from the ATO.

It is also doubtful that tax structures that are currently in the spotlight as being used by certain multinational groups (such as the double-Irish Dutch sandwich) would be reported under the

From: peter.collins@au.pwc.com
To: [redacted]au.pwc.com
Sent: Friday, 18/09/2015 09:47 AM
Subject: Re: Attached. Seen this?

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only deemed PE to preclude biz profits protection. N/A for WHT.

famous last words. OK in practice until the ATO gets grumpy and figures out the joke. Better to 44 1 b proof perhaps.

Peter Collins
Partner, International Tax Services
PwC Australia

Direct: +61 [redacted]
Cell: +61 [redacted]
Email: peter.collins@au.pwc.com
PricewaterhouseCoopers
Freshwater Place 2 Southbank Boulevard Southbank VIC 3006
{View Peter Collins's profile on LinkedIn}

[redacted] 17/09/2015 11:14:52 PM---From: [redacted] AU/TLS/PwC To: Peter Collins/AU/TLS/PwC@asiapac

From: [redacted] AU/TLS/PwC
To: Peter Collins/AU/TLS/PwC@asiapac
Date: 17/09/2015 11:14 PM
Subject: Re: Attached. Seen this?

Isn't there a rule in the Ag Act that seems bens to have a pe through a trust?

Agree 44 1 b significant risk but probably ok in practice.

[redacted]

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