

MEMORANDUM OF UNDERSTANDING
("MOU")

BETWEEN

INTERNAL REVENUE COMMISSION
("IRC")

AND

PNG IMMIGRATION & CITIZENSHIP SERVICE AUTHORITY
("ICSA")

ON

INTER AGENCY SHARING OF INFORMATION TO PROMOTE
INTEGRITY AND BEST BUSINESS PRACTICE IN AREAS OF
ENFORCEMENT AND COMPLIANCE.

THIS MEMORANDUM OF UNDERSTANDING is made this 4th day of November 2020.

BETWEEN: INTERNAL REVENUE COMMISSION of P O Box 777 Port Moresby, National Capital District, hereinafter referred to as "the IRC".

AND: PNG IMMIGRATION & CITIZENSHIP SERVICE AUTHORITY of P O Box 1790 Boroko, National Capital District, hereinafter referred to as "the ICSA".

RECITALS:

- (A) The Internal Revenue Commission is a statutory authority of the Papua New Guinea (PNG) National Government with the statutory mandate, given to the Commissioner General under the *Internal Revenue Commission Act 2014*, to generate revenue through the collection of taxes under the various tax legislations administered and enforced by the IRC.
- (B) The PNG Immigration & Citizenship Service Authority is a statutory body established under the *Immigration and Citizenship Service Act 2010* (ICS Act 2010) and is mandated to implement the *Migration Act 1978*, the *Citizenship Act 1975*, the *Passport Act 1982* and the *ICS Act 2010*.
- (C) The Parties recognise the importance of and the relationship between the Parties and their statutory roles and responsibilities to the State in terms of taxation revenue collection and primacy and leadership role in border control and security through the effective management and entry of people across International Borders into PNG. In this regard the MOU is envisaged to establish these protocols for effective collaboration and timely exchange of information between the Parties.
- (D) The Parties will conduct joint programmes in line with their respective statutory roles for the purposes of tax awareness, compliance, facilitating and monitoring the business activities of citizens, foreign individuals and enterprises throughout PNG.
- (E) The IRC and ICSA will each host a web link to the respective websites of the other party for the purpose of promoting their roles, functions and activities.
- (F) The Parties will continue to work closely together to ensure Global Forum Standards on Transparency and Exchange of Information for Tax Purposes is observed at all times during the continuance in force of this MOU, and to ensure exchange of information shared is within the Global Forum Standards.
- (G) In the achievement of the terms and conditions of this MOU, the Parties recognize and acknowledge the respective legislative limits with respect to the exchange of

information, particularly the secrecy provisions in Section 9 of the *Income Tax Act 1959* and Section 56 of the *Internal Revenue Commission Act 2014*.

- (H) In the achievement of terms and conditions of this MOU, the Parties recognize and acknowledge the respective legislative limits with respect to the exchange of information, particularly the confidentiality provisions of Section 51 of the *ICS Act 2010*.
- (I) This MOU shall be deemed to have commenced on the above date and shall continue in force until terminated by either party in accordance with Clause 12 of this MOU.
- (J) The Parties undertake and agree that their representatives will use their best endeavours at all times during the continuance in force of this MOU, to observe and perform the terms and conditions set out within it.

AND THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

In this MOU, unless the contrary intention otherwise requires:-

- (a) "Border Management System" is the IT platform or system that provides real time data and information in relation to visa applications and movements of persons in and out of the country, and enhances alert management and reporting capability, and is administered by PNGICSA
- (b) "Joint Programmes" refers to the activities set out in Clause 2.1.
- (c) "MOU" means this Memorandum of Understanding hereto entered between the Parties inclusive of any annexure, schedule, amendment, inclusion and variations made to it.
- (d) "Parties" means the IRC and the ICSA who are privy to this MOU.
- (e) "Systems interface" refers to the interface between the IRC's tax accounting system and the ICSA's Border Management System.
- (f) The Migration Service Fee (MSF) refers to the collection of revenue raised through fees, penalties and other revenue authorised under the Migration Act 1978, Migration Regulation 1979, Passport Act 1982, Passport Regulation

1983, Citizenship Act 1975, and Citizenship Regulation 1975.

- (g) "Website" refers to www.irc.gov.pg for the IRC and www.ICA.gov.pg for the ICSA.

2. JOINT PROGRAMMES

2.1 The Parties will at all times endeavour to monitor and to such extent as required carry out the functions of the IRC and the ICSA in respective joint programmes and in particular where appropriate will:-

2.1.1 facilitate the setting up of a team of ICSA officers whom shall be designated to respond to IRC requests as agreed by both Parties;

- i. to conduct searches on the persons of interest as registered on in the BMS administered by ICSA;
- ii. to enforce joint-compliance operations through a database survey of all business houses, physical spot check and conducting inspections of the businesses as required by either Party;
- iii. To enforce and revoke travel restriction on interested persons as requested by IRC.

2.1.2 facilitate the setting up of a team of IRC Officers whom shall be designated to respond to ICSA requests as agreed by both Parties:

- i. to conduct searches on the legal persons and entities which are registered on the IRC registry;
- ii. to enforce joint-compliance through a database survey of all persons and physical spot inspection and tracking of businesses as required by either Party;
- iii. to conduct compliance exercise jointly with ICSA within the country.

2.1.3 Officers are required to provide reports on the progress of the arrangements as and when required by head of organisation of either Party to this MOU.

2.1.4 Undertake to review the vetting process of visa applications for both visa new entries, visa extension, permanent resident applications and citizenship applications to include the IRC requirements on the BMS to ensure that persons registered with ICSA are also registered for tax purposes with IRC.

- 2.1.5 Undertake to work in close consultation regarding legislative amendments relating to the duties of both organizations.

3. EXCHANGE OF INFORMATION

- 3.1 The Parties agree to assist each other by facilitating the achievement of their respective functions and responsibilities within the ambits of their respective legislations and administrative boundaries.
- 3.2 The Parties further agree to share information which may be relevant to any investigation or enforcement of both the taxation and ICSA laws as stipulated in the Income Tax Act, 1959 (as amended) and Income Tax Regulations, 1959 and other tax laws as well as the Migration Act 1978 and Migration Regulations (1979), Passport Act 1982 and Passport Regulation 1983, Citizenship Act 1975 and Citizenship Regulation 1975 to the extent that it is allowable under their respective legislations and administrative boundaries.
- 3.3 The Parties agree to liaise with other line agencies and or individuals on matters concerning dissemination of information as well as provide information as authorized for and on behalf of the IRC and the ICSA including;
 - 3.3.1 Conduct formal inquiries, meetings and joint investigations as required from time to time; and or
 - 3.3.2 Liaise with other government agencies on matters concerning project implementation as well as provide information sharing as authorized for and on behalf of the IRC and ICSA;
- 3.4 The Parties agree;
 - 3.4.1 not to make contracts on behalf of either party and will not make any promises, representations, warranties or guarantees with reference to the functions or operations of either Party except with the express approval of either party given beforehand in writing; and
 - 3.4.2 not to incur any liability on behalf of either Party or in any way pledge or purport to pledge the credit of either party or make any contract binding upon both Parties without the express authority of either party in relation to the carrying out of their respective functions; and
 - 3.4.3 to promptly bring to the notice of either party, any information

received which is likely to be of use or benefit to both Parties in relation to the carrying out of their respective functions; and

3.4.4 to use its best endeavours to meet all requests given by either party in relation to the implementation of its functions and in the absence of any such requests in relation to a particular matter will act in such a manner as it reasonably considers to be most beneficial to the interest of the Parties; and

3.4.5 to keep proper records showing clearly all inquiries relating to the functions of both Parties and will from time to time upon the written request of both Parties, supply to each other, reports and other information relating to the joint programs.

3.4.6 ICSA agrees to provide up-dates of Companies (Sponsors) who employ non-citizens who are registered in the BMS as entering the country. ICSA agrees to provide the alert form to be filled by IRC to either enforce or revoke travel restriction for record purposes.

4. MANNER OF SHARING OF INFORMATION

4.1 All formal requests for information should first be channelled to the Commissioner General of the IRC or the Chief Migration Officer of ICSA.

4.2 The information will be delegated to respective persons who become the point of contact. Within the IRC, this is the Assistant Commissioner, Case Selection & Intelligence Division (CSI) and Assistant Commissioner Debt & Lodgement Enforcement Division

4.3 The delegated authority and point of contact within ICSA is the Deputy Chief Migration Officer - Visa and Passport Division and Deputy Chief Migration Officer - Compliance, Borders and Enforcement Division.

4.4 The Parties acknowledge that they will exchange and disclose information under this MOU in accordance with Clause 9.

5. EXCHANGE OF INFORMATION ON REQUEST

5.1 The Parties agree to work closely with each other, under the terms of this MOU to ensure their respective laws are adhered to. They agree to observe

all global standards and obligations set by international bodies which they are affiliated to such as the Double Tax Agreements and Global Forum on Transparency and Exchange of Information for Tax purposes and the International Air Traffic Authority (IATA) and the International Civil Aviation Organisation (ICAO) standards and requirements for travel purposes.

5.2 The Parties agree and acknowledge that exchange and disclosure of information to third Parties will be made upon consultation and concurrence of both Parties.

5.3 The Parties acknowledge that its employees are restricted by the tax secrecy provisions under Section 9 of the *Income Tax Act 1959 as amended* and by the confidentiality provisions under *Section 51 of the ICSA Act 2010*.

6. QUERIES AND SEARCHES

6.1 All requests and queries relating to migration/emigration of persons would be channelled to;

- i. IRC: Assistant Commissioner - Case Selection & Intelligence Division.
- ii. IRC: Assistant Commissioner – Debt and Lodgement Enforcement Division (DLED).
- iii. ICSA: Deputy Chief Migration Officer - Visa and Passport Division.

6.2 The IRC agrees for ICSA to advise its clients to direct all Citizenship Application clearance queries to CSI-International Section of the IRC at the email address: CSI_International@irc.gov.pg

6.3 For queries related to Director Prohibition Orders (DPO) letters must be directed to DLED-FIRMER Section at email address dled_feupro@irc.gov.pg.

6.4 For Citizenship Applications, the IRC will respond to each applicant within twenty one (21) days of submitting their application in the correct form with all the required information.

6.5 For matters relating to DPO, the IRC will respond to each applicant within twenty one (21) days of submitting their application in the correct form with all the required information.

6.6 Both parties agree to respond to any other query or search within fourteen (14)

days, depending on the complexity of the matter. If any query is to take longer than this stipulated time, parties will advise through correspondence, either by letter or electronic mail, of the delay.

7 EXPENSES, ASSISTANCE AND REPRESENTATIVES

7.6 Both Parties agree that each party will, during the term of this MOU:-

7.6.1 at their own expense supply each party with such amount of information, pamphlets and advertising material as it considers reasonably sufficient with a view to promoting the functions of their respective organisations within the spirit of this Agreement. Such information can be provided free of charge or for a fee if fees are required under the legislations administered by either party.

7.6.2 provide other assistance as considered appropriate by both Parties.

7.6.3 whenever both Parties consider it necessary to send at their own or joint cost, a representative to conduct spot inspections or site visitations based on investigations and intelligence for the purpose of promoting and enforcing the functions of both Parties in the provinces.

7.6.4 No claims for or deduction in respect of expenses incurred by both Parties in the performance of their functions and duties under this MOU shall be made or allowed except where expressly agreed to beforehand in writing by both Parties.

8 INDEMNITY

8.6 Both Parties agree to indemnify each other during the period of the MOU from any liability whatsoever in the cause of performing their duties in accordance with this MOU.

9 DIVULGING OF INFORMATION

9.6 The IRC and the ICSA hereby undertake that their employees or representatives will not at any time after the making of this MOU divulge any information in relation to the affairs of the Parties other than as authorised, and upon the termination of this MOU from any cause or at any time previous to such termination at the request of both Parties, shall promptly return to both Parties or otherwise dispose as may instruct, all information, books, pamphlets and advertising materials which they may have in their possession or under their control.

9.7 Both Parties shall not be responsible for acts or omissions of its employees or representatives incurred outside the scope of this MOU.

9.8 The Parties will consult, concur and agree before disclosing any information relating to this MOU, particularly information to be released to the public through print or electronic media.

10 EFFECTIVE DATE

10.6 This MOU will come into effect upon the date of execution by both Parties and will continue to be in effect until terminated in accordance with Clause 12.

11 VARIATION

11.6 Any provision of this MOU may be amended or altered at any time by the mutual consent in writing of the Parties.

12 REVIEW AND TERMINATION

12.6 Where either of the following events occur and is not rectified within seven (7) working days;

12.6.1 a party commits a breach of any of the terms or conditions of this MOU; and

12.6.2 a party is guilty of any conduct, which in the opinion of the other party is prejudicial to its interests,

12.6.3 Both Parties shall have the right to terminate this MOU by giving one (1) month notice in writing to the other party.

12.7 Nothing in this MOU shall be construed to create partnership or a master and servant relationship.

12.8 This MOU embodies the entire understanding of the Parties and there are no promises, terms, conditions or obligations oral or written, express or implied other than those contained in this MOU.

12.9 This MOU may be reviewed from time to time with the mutual consent of both Parties.

13 PREVIOUS ARRANGEMENTS

13.6 All previous agreements and arrangements in regard to the ICSA Website Networking, if any, made between the IRC and the ICSA is hereby terminated but without prejudice to any rights which may have already been accrued under such agreements and arrangements to either party.

14 NON-COMPLIANCE

14.6 This MOU is not legally binding on the Parties and is not enforceable in a court of law. However the Parties are obliged to comply with, implement and facilitate their respective undertakings as envisaged in this MOU.

14.7 Non-compliance to the terms of this MOU would demonstrate an expression of lack of interest and unwillingness to cooperate on the part of any Party to this MOU.

15 DISPUTES SETTLEMENT

15.6 Where a dispute or misunderstanding arises between the Parties as to the interpretation, application or implementation of this MOU, a meeting shall be convened within ten (10) working days of a written request being made by either party, with a view to resolving the dispute or misunderstanding.

16 NOTICES

All formal notices regarding this MOU shall be addressed to:-

In the case of IRC:

Commissioner General
Internal Revenue Commission
Bogan Gapo Haus, Port Moresby
P. O. Box 777
PORT MORESBY
National Capital District

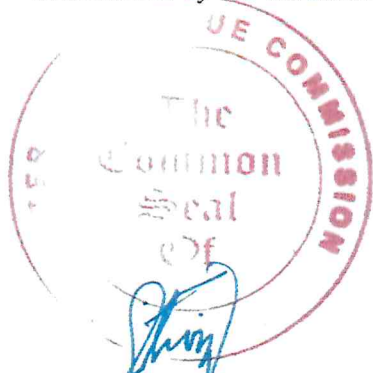
In the case of ICSA:

The Chief Migration Officer
PNG Immigration & Citizenship Services
Authority
P. O. Box 1790
BOROKO
National Capital District

IN WITNESS WHEREOF the Parties have signed this Memorandum of Understanding-
On the 4th day NOVEMBER of 2020

Signed for and on behalf of Internal Revenue
Commission by the Commissioner General

Signed for and on behalf of the PNG Immigration
& Citizenship Services Authority by the Acting
Chief Migration Officer



SAM KOIM OBE
Commissioner General

ROBERT BARA KENNEDY
Acting Chief Migration Officer

In the presence of:

WILSON PAKA

Name of Witness



} Signature of Witness

In the presence of:

BERNADETTE L. POTANE

Name of Witness



} Signature of Witness