

Investigative Techniques for the Cash Economy, October 2021

Non Declaration of Cash as turnover and Bulk Cash
Smuggling

PAPUA NEW GUINEA – COUNTRY
PRESENTATION

Presenter: Katie Picture

Internal Revenue Commission

BACKGROUND INFORMATION ON THE CASE

Company A was incorporated on 2 December 2016. According to the Company Registration, the company is owned by the four (4) Directors who are also shareholders and who are also foreign nationals. The company's main business activity is manufacturing. It produces fruit juice. The company did not trade until 2019.

The Case Dissemination Report (CDR) by the Financial Analysis and Supervision Unit in relation to Company A states that the company became a subject of interest based on 14 Suspicious Matter Reports (SMR), a criminal investigation for suspicious movement of physical cash and its association with a convicted criminal.

The case was referred to the attention of the Internal Revenue Commission on 13 July 2020 initially when police intercepted and seized the cash. The instruction was to do a compliance check on the two companies involved in the physical movement of undeclared cash and to find out what charges were laid. The cash was confiscated and given to the Central Bank for safe keeping and to see if there was any breach in the banking laws. Before any charges were laid the police returned the money to the Company A (consigning company) and closed the case for further investigations.

Brief Background on the Criminal Investigation as reported by the Financial Analysis Supervision Unit

April 2020 – Police Criminal Investigation Division (CID) was tipped off that Company A was shipping cash in storage containers in the guise of store goods to their clients.

- Company was put under surveillance a search warrant was obtained.
- Early July 2020, a container loaded with retail goods ordered by Company B was shipped to the company by Company A. Company B is located at a town near the border of PNG and Indonesia.

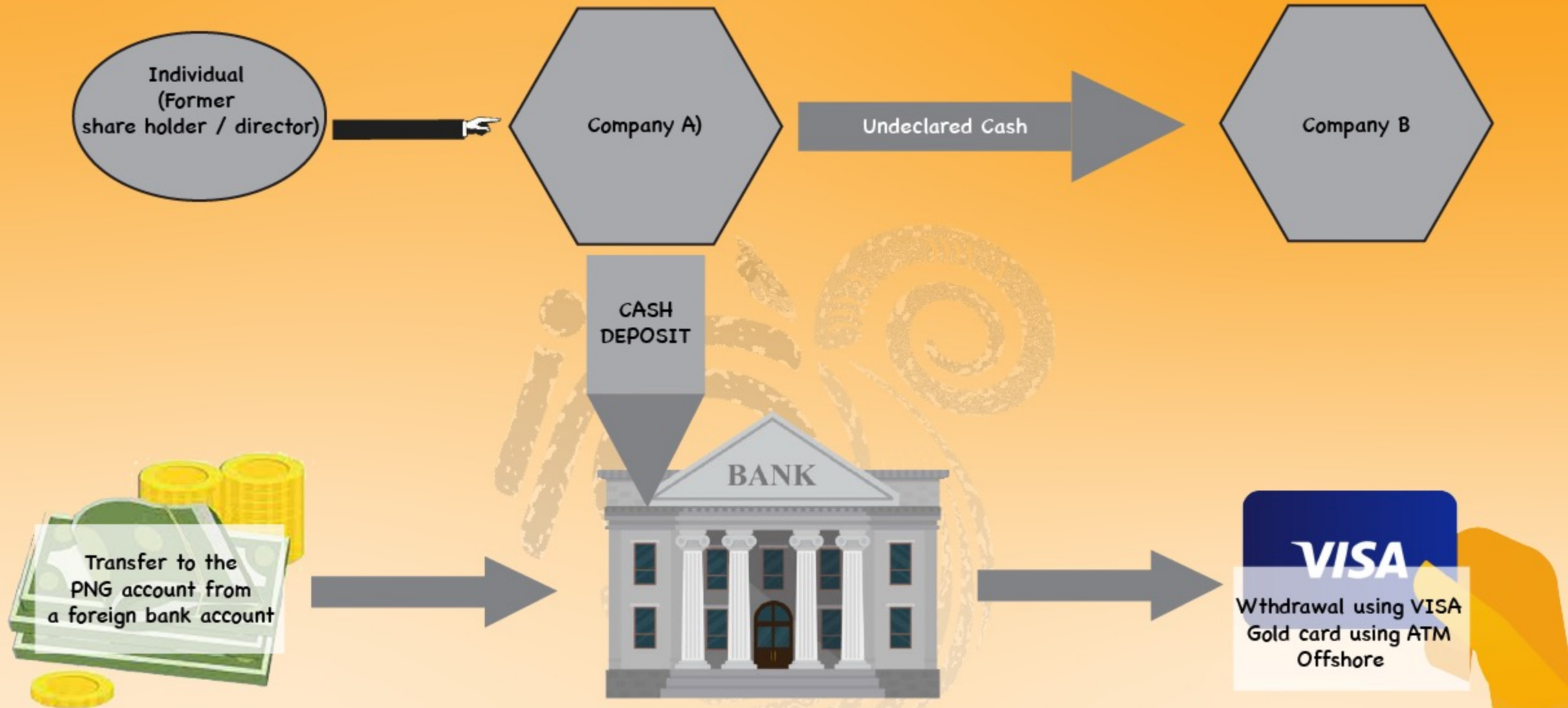
BACKGROUND INFORMATION ON THE CASE

- 9 July 2020 the Financial Analysis and Supervision Unit (FASU) received information from the CID in Port Moresby that CID in Lae, had intercepted the container, conducted a search discovered undeclared cash of PGK198,000 was concealed in the boxes and loaded in the container consignment.
- 10 July 2020 - Another search warrant was raised. On July 11, a joint search was conducted on the premises of Company A police officers from CID, Transnational Crime Unit (TCU), Special Services Division (SSD) Immigration and Citizenship Authority. FASU was invited to assess if the cash confiscated may be a proceed of crime.
- According to intelligence report from FASU, the entity's activities include, illicit trade, money laundering, tax evasion, human trafficking, forced labor and sexual exploitation.
- The case was regarding the physical movement of cash was referred to the attention of the Internal Revenue Commission on 13 July 2020.
- Cash was confiscated and given to the Central Bank for safe keeping and to see if there was any breach in the banking laws.
- Before any charges were laid the police returned the cash to the consigning company and closed the case for further investigations.
- Financial Analysis and Supervision Unit (FASU) have reopened the case with information from the Company As banker.

TAX CRIME COMMITTED

- Company A (Consignor) has not been charged under the relevant AML CTF laws
- Case was disseminated to the Internal Revenue Commission to investigate possible tax evasion
- Twenty (20) SMRs were reported against company A between June 2019 and May 2021 and its related entities. According to the SMRs reported 19 individuals were involved in suspicious transaction using the Company A's account to deposit cash either to their own accounts or another individual. PGK 477,729 approx. USD136,157 was transferred out of the country to individuals offshore.
- The funds were immediately withdrawn in various overseas locations using Visa Debit Gold Card.
- International transfers were seen as though the entities were structuring funds through the bank accounts of several foreign nationals.
- Bank deposits not declared as turnover (sales)

Flow of Money



Unusual Flow of Money

- Company bank account used as a cash flow-through account
- Non-transparent or non-verifiable origin of the money
- Bank deposits not registered as turnover (sales)
- Unusual use of credit cards or debt instruments
- Concealed transportation of cash
- Cash deposited in to the account from an unrelated party from a country with a well developed financial system by a third party
- Ownership is not transparent

INVESTIGATIVE TECHNIQUES

- The IRC investigate financial transactions declared by taxpayers on their tax returns in cases in which the tax administration has a reasonable cause to suspect that the taxpayer has committed tax fraud. Tax-fraud investigations also involve cases of tax evasion, when taxpayers subject to tax do not register, file, and pay their taxes.
- Data received from FASU is used to match the income that is disclosed in the tax returns of the entity that is being examined and to carry out enquiries and check the general tax compliance and tax position of the taxpayer.
- Create a risk profile of the company and its related entities and associates, directors and shareholders
- Review annual returns filed at the Company Registry
- Review and compare information declared in the tax returns with any third party information held including Bank, Customs and Immigration
- Profile and recommendations is sent to the audit division to carry on audit and further investigation

Key Findings

- Cash deposited in the account of the company is not declared in the income tax returns of Company A
- Cash deposits are not declared as turnover so the source of income cannot be identified
- Cash that was seized and returned to the company is not shown in the income tax returns and the source of income cannot be identified

Recommendations

Audit Action

- Do further investigations
- Add back all cash deposits and the amount of undeclared cash that the company tried to smuggle out and impose tax at the corporate tax rate.
- Put a 24 hour garnishee on the taxpayer's account and deliver the Amended Notice of Assessment to the representative of the taxpayer or a Director at the physical location of the taxpayer's business premises.
- If taxpayer objects, then bring them in for an interview to explain source of income

Case Results

- Section 232 (1) of the Income Tax Act 1959 states that “ The Commissioner General may, subject to this section, at any time amend an assessment by making such alterations in, or additions to, the assessment as he thinks necessary, notwithstanding that tax may have been paid in respect of the assessment.

(2) Where a taxpayer has not made to the Commissioner General a full and true disclosure of all the material facts necessary for his assessment, and there has been an avoidance of tax, the Commissioner General may—

(a) where he is of opinion that the avoidance of tax is due to fraud or evasion—at any time; and

- We have sufficient information to amend the assessment under the provisions of the income Tax Act and impose omitted income penalties. However, we are waiting for Bank Statements to refer the profile of the taxpayer and the risks identified to the audit division for further investigations.
- Since Company As operations in 2019 and 2020, they claimed a total gross profit of PGK 2,000,000 (USD 285,000) for both years. The company returned losses for both years.
- Total cash/cheque deposits = PGK 29,827,005.54 approx. USD 8,500,696
- Total International credits received = PGK 9,053,307.37 approx. USD 2,580,193
- Potential tax and penalties - CIT PGK 12,141,049 approximately USD 3,460,199

Inter-Agency Co-operation

The Internal Revenue Commission has signed MoUs with the following agencies.

1. Financial Analysis and Supervision Unit (FIU)
2. Investment Promotion Authority (Company Registration)
3. PNG Customs Service
4. PNG Immigration & Citizenship Authority
5. Royal PNG Constabulary (Financial Intelligence Unit)

International Co-operation

The IRC is receiving technical assistance (TA) from the following international organizations:

1. Organisation for Economic Cooperation and Development (OECD)
 - Tax Inspectors without Borders (TIWB) program is an initiative of the OECD in conjunction with the UNDP
 - Global Forum on Transparency and Exchange of information for Tax Purposes (Global Forum); and
2. Asian Development Bank (ADB).
3. Intergovernmental Forum on Mining, Minerals, Metals, and Sustainable Development (IGF)
 - Technical assistance from the Intergovernmental Forum on Mining, Minerals, Metals, and Sustainable Development (IGF), regarding various aspects of the taxation of the extractives sector
4. International Monetary Fund (IMF)
5. The World Bank



Questions

Thank you so much to OECD and organizers of this training and the trainers for including PNG to participate in this training. We also want to extend our warm appreciation to all our fellow participants.