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UK tax strategy publication

What you need to know about the new rules

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Introduction

Legislation in Finance Act 2016 Schedule 19, introduced the requirement for qualifying groups to publish their UK tax strategy. **The deadline for publication is before the end of the first period beginning after 15 September 2016.**

At the same time as considering Country by Country Reporting ('CbCR') and significant legislative change as a result of BEPS, organisations will have to make a public statement on how they approach the management of tax. **The new requirement will have a considerable impact on large companies, as they are forced to engage with the public on their tax affairs, explaining their previously private views on tax management.** All at a time when their approach to tax is under immense scrutiny internally and externally.

We know from our work with organisations to date that it is not advisable to consider the publication of a UK tax strategy to be a simple exercise. Groups must think broadly and consider:

1. **How senior stakeholders will be engaged** and whether a global tax strategy publication is more appropriate, given potential scrutiny by non-UK tax authorities;
2. **How the strategy will be embedded in practice;** and
3. **How tax risks and opportunities which require further investigation will be identified, to ensure alignment to the agreed strategic objectives on tax.**

If this approach is not taken, organisations leave themselves open to HMRC and wider stakeholder challenge with an increased risk of higher tax penalties should tax errors arise in the future. This is reinforced by HMRC directing its efforts on Senior Accounting Officer ('SAO') to require proactive monitoring of key tax controls, which is also a key feature behind the strategy legislation. **Requiring oversight by companies on tax to move from being passive to proactive will, in our view, make formal tax control frameworks a necessity and represent a step change in tax governance.**

The new legislation mirrors wider global developments on tax governance and cooperative compliance across the OECD, and should be considered in this context. See below for an overview of the new rules and our recommended response.

Overview of the new rules

Who:	UK SAO Groups (include permanent establishments in the threshold test, but consider partnerships separately), or; Multinational Groups with EUR 750m worldwide turnover ('MNE Group').
What:	Statements covering four areas required by legislation and HMRC guidance (below).
Where:	Any publicly available website.
When:	By the end of first period beginning on or after 15 September 2016 (for MNE Groups, use the foreign parent year-end).

PwC Tip

Whilst board approval is not required, it is recommended. Your tax strategy should align to published statements on business strategy and ethics. Consider if publishing a global tax strategy is more appropriate.

Your tax strategy must include the following per the legislation and guidance

How you manage tax risks

Include what tax risks are linked to your business's size, complexity and any changes to your business. Other information on governance arrangements to include:

- Details on how you manage your business's tax risk.
- A high level description of key roles and their responsibilities.
- Information on the systems and controls in place to manage tax risk.
- Details on the levels of oversight of your business's board and its involvement.

PwC Tip

It's really important to explain how you operate governance by reference to HMRC's 2016 guidance in relation to the Senior Accounting Officer regime.

Your tax risks

You should say if your business's internal governance has rigid levels of acceptable tax risk. If so, you should explain how it is influenced by stakeholders.

(For example, your organisation may have defined your approach to tax risk appetite in the context of the wider risk framework).

PwC Tip

Your organisation may have an enterprise wide approach to risk management, and as far as possible, existing risk processes should be referenced.

Your attitude to tax planning

If your business has a code of conduct you should include details of it. You should also include:

- Why you might seek external tax advice, if any.
- An outline of your tax planning motives.
- The importance of each to your tax strategy.

PwC Tip

Approach to forward planning is important but you must also consider historic planning to ensure consistency with your public statements.

Working with HMRC

While your business's approach to working with HMRC will be understood by your Customer Relationship Manager (CRM), you'll still need to put it in your tax strategy. You should include:

- How your business meets its requirement to work with HMRC.
- How you work with HMRC on:
  1. Current, future and past tax risks;
  2. Tax events; and
  3. Interpreting the law.

PwC Tip

Many groups will find it helpful to explain the approach to working with tax authorities beyond the UK. You should also consider whether you have strategic objectives on tax that go beyond the four areas mentioned by HMRC.

How do you respond?

Companies should engage early with the new legislation and key stakeholders to undertake two main activities;

Develop a published tax strategy

As well as setting out your Group's approach to tax planning and how you engage with HMRC, the strategy must also confirm publicly that the company has effective tax governance and what level of risk an organisation is willing to accept. Prior to publication we would strongly recommend active engagement with HMRC on all of these points.

If there is no tax strategy currently in place, companies will need to work through who to involve in the process and how to develop a strategy. Equally, there may be international aspects to be addressed such as considering how public statements on tax strategy might be interpreted by other tax authorities. In particulate, this will require multinational groups to engage at HQ level.

Ensure effective monitoring of tax governance

Whilst a lot of the wording in HMRC's tax strategy guidance is not new, CRMs will give greater attention to measuring taxpayer behaviour against statements made in the strategy, as part of business risk reviews.

HMRC has clarified what good tax governance looks like as part of a revamped approach to SAO. We now know that organisations organisations must have a clear understanding of key tax risks, and be able to evidence the assessment of the mitigating controls design and operating effectiveness. This goes beyond the activity on SAO that many groups undertook when SAO was first introduced, shifting the emphasis to proactive oversight. This approach also ensures your tax strategy statement aligns to, and does not contradict, your other tax filings.

How we can help

How you approach the new rules needs to be considered in the context of an environment of increased public scrutiny over taxes globally through BEPS, Country by Country Reporting, and ongoing developments in the EU and OECD on mandatory public tax transparency reporting. The PwC approach reflects this and is flexible depending on whether you have significant or minimal activity in the UK, are UK or foreign parented, and have a simple or complex operating model. Your facts and circumstances will determine whether you need to take a 'minimum requirement' approach or a broader perspective to satisfy the new rules as explained opposite;

Minimum requirement

Develop a tax strategy document in line with the new requirement and signed off by senior stakeholders. This can likely be undertaken towards the publication deadline for small and simple organisations. If you take this approach, you must at least consider your overarching tax governance. This will enable you to explain to HMRC how your tax strategy is implemented in practice, when questioned.

A broader perspective

Your UK tax strategy should be developed whilst having regard for the wider tax environment, and the need to have confidence in what you are disclosing externally. It must reflect the views of your key stakeholders and how you operate in practice. Recommended actions include:

- Consider examples of best practice tax disclosure in the UK and globally
- Identify key stakeholders and understand their needs
- Discuss the consistency between statements and approach on strategy, CbCR and SAO
- Develop a tax risk management framework to detail risk appetite and how the implementation of your tax strategy is monitored
- Possible risk and control review to confirm the identification of key tax risks and review the design and operating effectiveness of key tax controls
- Prepare disclosure to satisfy UK rules but appropriate to wider needs or context (perhaps global or covering multiple divisions)

We want to work with you to understand, design and implement a strategy to suit your needs. PwC's One Tax approach mirrors your need to draw on a number of different company stakeholders and views. We bring expertise from a range of specialist teams to help you address the specific requirements of the rules, whilst considering the broader tax environment.

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