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TAX STRATEGY PUBLICATION

RESPONSIBLE TAX MANAGEMENT



A FORMAL REQUIREMENT IN THE UK

The 2016 Finance Act became law in September 2016. It included a requirement for certain businesses to publish online their tax strategy as it relates to UK taxation.

For many organisations who are newly caught by the legislation, this may seem a daunting task. It doesn't need to be.

If approached pragmatically, this is an opportunity to demonstrate responsible tax behaviours and articulate the value that tax operations provide to the business.



WHAT IS THE REQUIREMENT?

A legal requirement to publish your tax strategy online as it relates to UK taxation. For most organisations, this is typically a set of tax principles or short statements which needs to cover at least four main elements (see below).

It must be published 'on the internet'. In most cases, this is either a separate document or as part of existing CSR statements. Some may choose to publish it within their annual financial statements.

WHO IS AFFECTED?

Over 2000 organisations with operations in the UK are impacted. These are:

- All UK companies with UK turnover of more than £200m and/or balance sheet total of more than £2bn in the last financial year.
- UK partnerships and LLPs that meet this same test.
- All UK companies that are members of a group (including groups with a non-UK topco) with aggregate UK turnover and/or balance sheet total that meet the same qualifying test above.
- All multinational groups that meet the OECD definition of a MNE, namely annual global consolidated turnover of more than €750m and are subject to country-by-country reporting requirements in the UK (or would be if their head of group were tax resident in the UK).

Therefore, many overseas head-quartered groups with limited operations in the UK must apply these rules.

WHEN DOES THIS HAVE TO BE DONE?

The Tax Strategy must be published by the end of its financial period.

Once published, there is also an annual requirement to re-publish your tax strategy within 15 months from the date of previous publication (or the end of the subsequent financial period – whichever is the soonest).

SANCTIONS

There is an initial penalty for non-compliance of £7,500, and further penalties for continued non-compliance.

There is clear overlap with the existing Senior Accounting Officer regime and HMRC's Business Risk Review, especially in relation to demonstrating tax governance and risk management.

THE FINANCE ACT 2016 REQUIRES THE PUBLISHED TAX STRATEGY TO COVER THE FOUR MAIN ELEMENTS LISTED BELOW. EXAMPLES OF GOOD PRACTICE IN ALREADY PUBLISHED TAX STRATEGIES INCLUDES THE OTHER ELEMENTS.

01	The approach of the group to risk management and governance arrangements in relation to UK taxation	REQUIRED	✓
02	The attitude of the group towards tax planning (so far as affecting UK taxation)	REQUIRED	✓
03	The level of risk in relation to UK taxation that the group is prepared to accept	REQUIRED	✓
04	The approach of the group towards its dealings with HMRC	REQUIRED	✓
05	Introductory comments such as the wider business context, alignment to wider CSR initiatives, Board involvement in tax etc	GOOD PRACTICE	✓
06	Other elements, such as approach to tax compliance and reporting, adherence to other tax transparency initiatives, comments in relation to specific tax matters like transfer pricing.	GOOD PRACTICE	✓

WHAT ARE OTHERS DOING?

In our experience, most organisations are publishing a short standalone document consisting of a set of tax principles covering the key elements. Typically, this is supported by introductory statements about their approach to tax more generally (eg, adherence with tax laws, commitment to 100% tax compliance, approach to CCO etc).

The development of the tax strategy tends to be the responsibility of Tax or Finance teams with input from stakeholders such as Investor Relations, Risk and CSR as appropriate. Once completed, the document is approved by the Board or senior management in readiness for publication.

Having a standalone tax strategy is not enough. You will need to demonstrate that the strategy is integral to the way your business operates and embedded in your daily operations. Organisations we are working with are making sure their tax strategy is supported by documented tax policies and procedures that define how tax operates in their organisation. For many, this provides a valuable opportunity to redefine the mandate of the tax team in their business.

An organisation that is not able to substantiate the claims relating to risk management and governance made in its tax strategy will risk damage to its relationship with HMRC as well as potentially harming its external tax profile.

10 QUESTIONS TO BEGIN THINKING ABOUT

- 01** Is there any existing external tax commentary and/or internal tax policies or procedures that will support the development of your tax strategy?
- 02** Can you 'borrow' from other CSR statements within your organisation?
- 03** Where on your internet site will you publish the tax strategy?
- 04** Who will take ownership of its development and sign-off?
- 05** What is your existing tax profile – eg, what do HMRC and other tax authorities already know about you, and will your published tax strategy reflect this? What about your media tax profile? Are you concerned about issues such as Panama Papers?
- 06** Will you need to review your approach to tax planning as a result of statements you make in the tax strategy (eg, in relation to risk appetite)?
- 07** It is important that the tax strategy reflects actual tax behaviours and can be readily evidenced. Do you have the evidence and underlying documented processes to support this?
- 08** If brand and reputation are important to you, is this an opportunity to raise your profile further by demonstrating tax responsibility?
- 09** Do you have a global tax policy that would also be relevant for the UK? If not, is there value in developing this?
- 10** What are your peers doing?

HELP WHEN YOU NEED IT – WORKING IN PRACTICE



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