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COMPLIANCE DEMANDS ON THE RISE FOR TAX DIRECTORS

Globalisation and technology have moved many finance functions into the world of shared service centres (SSCs) and the various enterprise resource planning (ERP) systems. However, compliance is a constant challenge and more than ever, tax directors must maintain control and oversight.

International tax planning has changed significantly over the last 20 years, as has the approach: from creative solutions to risk management.

We've seen the demise of renowned accounting firm Andersen, experienced the global financial crisis and today, tax directors must operate in the risky world of Base Erosion and Profit Shifting (BEPS), digital service taxes, the Foreign Account Tax Compliance Act (FATCA), The EU Directive on cross-border tax arrangements (DAC6), economic substance and the concept of a global minimum tax rate.

TMF Group's latest Global Business Complexity Index indicates that we will see the impetus towards a global business environment continue after Covid-19, with international bodies stepping up measures to coordinate and regulate trade and compliance.

Even pre-Covid, most tax directors could have done with more resources. Many would prefer to be working more seamlessly with their commercial colleagues, providing guidance in advance of activities instead of fighting fires in their wake.

In recent years the tax director's position has risen in importance within multinational organisations, but this status upgrade has rarely translated to additional resources, and tax directors must often rely upon existing company infrastructure.

Taxing issues for multinationals

Tax directors have tried to distance themselves from issues such as those arising from global mobility and employee expenses, leaving them to HR and finance. This is despite the increasing risk of travelling employees creating a Permanent Establishment.

There are also the ongoing issues and documentation relating to FATCA, statutory reporting, economic substance, BEPS and DAC6. These are increasingly finding their way into the hands of the company secretary, the in-house legal or compliance department. Yet many of these elements stem or relate directly to tax evasion legislation and must align with the company's overall tax planning and transfer pricing – which is often relatively fluid.

When it comes to developing and emerging markets such as the MEA region, there have been significant tax changes over the last decade such as the introduction of transfer pricing legislation and the implementation of VAT, aggressive building of double tax treaty networks, including the emergence of some new tax authorities. Whilst tax directors might be more concerned with the established economies and developed legislation in places such as

Europe, they should not overlook the comparably simplistic issues that are rising in these other jurisdictions.

Unfortunately, a global tax director of a large multinational cannot be everywhere at once. Risk was probably the main driver to take all tax planning strategy to the head office in recent decades, but in today's climate it is an impossible task to micromanage all aspects that require the tax director's attention.

The risks

Even if we assume a tax director can ensure all the company's taxes are correctly calculated, filed and paid, that they can maintain a pro-active and ongoing dialogue with all tax authorities in the countries in which they operate and that all of their reporting obligations are fulfilled and aligned locally and internationally – all of which seems a Herculean task – even that may not be enough to guarantee safety.

Over the past decade we have seen multiple examples where multinational companies may well be playing by the rules in terms of tax planning but have still become victims of the press and public opinion.

With so many economies in lockdown, and so many governments offering tax breaks and incentive schemes, we are soon to enter an aggressive period of tax collection. Saudi Arabia was perhaps the first off the starting line with an increase of VAT from 5 to 15% in May and an increase on customs duties. While other countries may veer away from consumption taxes and follow Germany's early example (cutting their standard VAT rate from 19% to 16% from 1 July to the end of 2020, and reduced rate from 7% to 5%), it is inevitable that increased tax rates will play their part in the recovery of the global economy.

Post pandemic preparation

Tax directors would be well served to ensure that all their local offices – or service providers – in each country are properly coordinated and sharing real-time data with head office. Perhaps now is also the time to start giving more power back to regional tax directors to help share the workload, and the risk.

Here are some elements to review:

- If you are using a SSC, have a local function in each country that can forewarn you of upcoming changes and local reporting obligations. SSCs will need to adapt and become more knowledge-centered, rather than being simply process-orientated.
- If your company has outstanding issues with tax authorities, clear them quickly. Don't let them drag on for years to come, as has often been the easiest path previously.
- If your company is using external service providers for tax compliance and reporting obligations, ensure these are properly aligned and consistent across all of your businesses.
- If your customers or suppliers are being assisted in some countries by government schemes or tax breaks, consider the impact on cashflow across your business and supply chains.

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- If your tax compliance and reporting functions are in-house, ensure the right data is accessible in the right format at the right time. Quick and strong decision-making will be required in the coming months.
- Companies may need to assess their contractual obligations, financial penalties, tax treatment and what contingencies or provisions may need to be reflected in their accounts.
- Loan agreements will need to be reviewed and consideration taken into financial ratios - local regulations, if net assets become negative, could force liquidations.
- Review your current accounting policies. Certain events can trigger the need for adjustments such as changes in your supply chain, or significant supplier or customer disruptions, also FX volatility, evolution of investments, and declines in pension plan assets are all elements worth consideration.
- Stay on top of all the government schemes and tax breaks in the countries you do business, and all the tax deadline extensions and waivers.

Resource planning will be key, with staff and external providers home-working or in abnormal situations, you need to ensure all co-ordination with other company functions will still be fit for purpose in the coming months.

As coronavirus lockdowns ease and markets look to recover, tax directors will need to make some hard decisions quickly to ensure they have control and can remain agile enough to overcome any challenges ahead.

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