

PUBLISHING YOUR TAX STRATEGY



INTRODUCTION

There are a number of compliance obligations around tax transparency and tax risk management that larger businesses will need to consider.

Public interest in business tax is at a very high level and larger businesses operating in the UK could have a legal obligation to make their tax strategy publicly available for free online. For many large groups with December year ends, this will be in addition to preparing for 2017 Country by Country Reporting of financial and tax figures for the 2016 year end, and the on-going Senior Accounting Officer obligation to certify to HMRC whether the business has appropriate tax accounting arrangements.

Here, we concentrate on the obligation to publish a tax strategy which for many December year end businesses will need to be published before 31 December 2017, for the first time.

What is Tax Strategy?

This year, certain businesses must publish their tax strategy, as required by the Finance Act 2016. A published tax strategy will document:

- How you manage tax risks
- Your attitude to tax planning
- The level of risk in relation to UK tax that you are prepared to accept
- Working with HMRC
- Publication of your tax strategy meets the relevant legislative requirement in the Finance Act 2016

Mazars can help your business identify and meet its obligations.

Who needs to publish?

The criteria are based on the size of the business in the previous financial year whether the business is in corporate or partnership form. If one of the following criteria is met, then a business will be within the rules and must publish its tax strategy:

- Aggregate UK Group turnover in excess of £200 million; or
- UK entity balance sheet aggregate gross assets above £2 billion; or
- Worldwide Group turnover of more than €750 million with a UK entity within scope.

A UK headquartered group will have to consider the aggregate turnover and balance sheet aggregate gross assets of all of its UK incorporated subsidiaries, regardless of where they are a tax resident. If the group meets one of the test criteria, the rules will apply. In the context of a foreign headquartered group, a UK permanent establishment of a foreign incorporated company is treated as a UK company for the purpose of the threshold tests.

What information must be published?

The document should explain the business's UK tax arrangements, without the inclusion of anything commercially sensitive or even the need to publish the amounts of taxes paid. For multi-national groups with a worldwide tax strategy, only parts relevant to UK tax need be published. The document should be available, free of charge, on the internet as either a separate document or a self-contained part of a wider document. It will need to be refreshed each year and is an important public facing document that should be approved by the Executive Board and published on the business website.

What is the deadline?

If the criteria are met for the previous financial year, then publication should be by the end of the financial year beginning on or after 15 September 2016. For example, with a 31 December financial year the publication deadline would be 31 December 2017.

Penalties can be applied if a company does not publish its tax strategy, or if HMRC judges that it is not complete. Penalties can also be charged if the document does not remain publicly accessible for the full 12 month period. There is an initial penalty of up to £7,500, with further penalties if the failure continues.



HOW YOU MANAGE UK TAX RISKS

What to include

It is necessary to consider what tax risks your business has from:

- The size of the business
- The complexity of the business
- How any changes to the business could impact its tax risks

HMRC's guidance says that the following should also be included:

- Details on how your business's tax risk is managed
- High level description of the key management 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 as well as its involvement



Comment

Although this requirement is separate and potentially additional to the Senior Accounting Officer (SAO) rules, there is some overlap here particularly around looking at the systems and controls in place. As for SAO, it will not be sufficient to rely on a fully outsourced tax function as a policy. It will be necessary to demonstrate that sufficient consideration is given to managing any risk from outsourcing.



How can Mazars help?

We can assess your business from every aspect with respect to tax and conduct a review on your systems and control procedures for managing tax risk. We can then advise and recommend any potential improvements and how to successfully implement them.



YOUR ATTITUDE TO TAX PLANNING

What to include

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

The published tax strategy would be likely to include details of any code of conduct on UK tax planning which the business applies, and an explanation of why any external tax advice may be sought.



Comment

For some groups that take a significant amount of tax advice, this will be an area of interest. Previously the only publicly available information on this would have been if the tax advice was from the same firm as the auditor and the advisory fees had been disclosed in the accounts. Attitude to tax planning is certainly an area that outside stakeholders could focus on, particularly if there is a disconnect between the business's attitude to tax planning and its published attitude to corporate social responsibility. Most businesses will take tax advice to a greater or lesser extent, though, and the fact that advice is taken should not be seen as a bad thing – so the importance will be in properly communicating the reasoning.



How can Mazars help?

We can help you assess how your attitude to tax planning aligns with your tax and business strategies and risk and governance arrangements. These attitudes should be consistent across the Group and consistent with the information that HMRC receives from other sources, e.g. Country by Country Reporting.

YOUR TAX RISKS

What to include

HMRC have said in their guidance that this section should include information about the business's internal governance in relation to tax risk. If the business has rigid levels of acceptable tax risk, it should say so here, and explain how that is influenced by stakeholders.

Comment

For businesses that already have a very open dialogue with HMRC through their CRM, there may be little new information here for HMRC. However, most businesses are unlikely to publish this already in a document freely available to the public. Where outside perception of the risk appetite of a business gained from other publicly available documents is significantly different from its stated tax risk appetite, then careful consideration will need to be given to this section.

How can Mazars help?

Each business will have different attitudes and levels of acceptable risk. We can look at communication of your tax risk within the business and the group, and from external sources to ensure consistency.



WORKING WITH HMRC

What to include

HMRC has been promoting its 'cooperative compliance framework' amongst larger businesses and this may provide a benchmark by which to assess this aspect of a business's tax strategy compared with other businesses. Where businesses already have a CRM, this is probably an area which will already have been discussed, but it needs to be included in this document. The document should state:

- How the business meets its requirements to work with HMRC
- Specifically how the business works with HMRC on;
 - Current, future and past tax risks
 - Tax events
 - Interpreting the law

It is possible to add more topics in this area.



Comment

For those that do not have a CRM or any regular contact with HMRC, this could be a fairly short factual section. Things to consider would be the historical contacts with HMRC for clearances, voluntary disclosures etc. If there has previously been minimal contact, but there have been significant transactions for the business where external advice has been taken, then HMRC may identify this. Also it is likely this will be an area of interest for other stakeholders in the business.



How can Mazars help?

We can consolidate all the historical communications with HMRC and look ahead for potential future tax risks. We can make recommendations on what information HMRC requires and what information stakeholders may want to see. We can also advise how the group's attitude here compares to that of other businesses and possible implications on public perception and interaction with HMRC.



HELPING YOU PUBLISH YOUR TAX STRATEGY

An important document

If your business is required to publish its tax strategy, this will be a publicly available document, the content of which will be accessible to tax authorities, customers, stakeholders and the wider public. It will be important to address the required content in a manner that

- Communicates a complex subject matter in accessible way
- Satisfies the expectations of a wide readership
- Matches the group's values and communication strategy
- Does not constrain the group unnecessarily
- Protects the group's reputation

Mazars' tax specialists

Our tax specialists are experienced in identifying and communicating tax risk as well as in understanding HMRC's attitude to tax risk management. Our team includes individuals with extensive experience of conducting Business Risk Reviews of large businesses at CRM level on behalf HMRC. We will apply our knowledge of your business and similar businesses and of HMRC's procedures so as to guide you through the publication of your tax strategy in a way that best suits your business.

Please get in touch...

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