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Are you ready to publish your Tax Strategy?

Finance Act 2016 has introduced a new requirement for all large businesses to publish a UK Tax Strategy

The Government has introduced a new requirement for large businesses to publish a Board approved UK Tax Strategy. This is intended to be used by HMRC as part of their risk assessment process, but the public nature of this requirement will allow a much wider group of stakeholders to look at what businesses publish.

Although many large businesses will already have a tax strategy or policy document, few of these were written with a view to publication, and they may not reflect the latest expectation on businesses' approach to tax.

Who is affected?

The threshold is similar to, but slightly wider than that for the SAO regime:

- Large businesses (£200m turnover or £2bn gross assets). This includes non-UK businesses with a large UK sub-group
- Large partnerships (£200m turnover or £2bn gross assets)
- Multinational businesses subject to country-by-country reporting requirements (global annual turnover of more than £568m)

This equates to approximately 2,000 companies.

For companies without an in-house tax function, the obligation remains, and it is down to the company to publish a Tax Strategy, not the advisory firm. The expectations of HMRC will be the same.

Indeed, it is even more important for businesses with outsourced tax functions to understand their Tax Strategy in order to be comfortable that those managing the tax affairs understand the business's appetite for tax risk.

When does it apply?

Businesses must publish a Tax Strategy as it applies to each accounting period, starting with the first period commencing on or after Finance Bill 2016 gained Royal Assent on 15 September 2016.

What has to be included?

The published Tax Strategy must cover the full range of UK taxes, not just Corporation Tax. So VAT, IPT, Excise Duty and others are included. It must set out:

- The approach of the UK group to risk management and governance arrangements in relation to UK taxation
- The attitude of the group towards tax planning (so far as it affects UK taxation)
- The level of risk in relation to UK taxation that the group is prepared to accept
- The approach of the group towards its dealings with HMRC

The Tax Strategy should be approved by the Board.

What is the penalty?

Failure to publish on time, publishing an incomplete Tax Strategy, or early withdrawal of the Tax Strategy will bring a £7,500 penalty on the head entity of the UK group.

However, as with the SAO regime, non-compliance will also bring the real risk of reputational damage and adverse publicity.

When does it apply?

Businesses must publish a Tax Strategy as it applies to each accounting period, starting with the first period commencing on or after Finance Bill 2016 gained Royal Assent on 15 September 2016.

How must it be published?

It must be published on the internet before the end of that accounting period. It must be available to the public (not just HMRC), kept available for 12 months, and updated annually.

"Engaged Consulting provided valuable input to our published Tax Principles. Tim's experience and insights helped make them more meaningful and relevant."

RELX Group

Paul Morton
Head of Group Tax, RELX plc

What *should* businesses be doing?

Starting the process

The published Tax Strategy should be approved by the Board, which inevitably takes time.

Taking ownership of their Tax Strategy

It should be aligned with the business's wider commercial objectives and reflect the way the organisation behaves.

The Tax Strategy should frame the approach taken by the business's tax advisors and auditors rather than the other way around.

Ensuring that the Tax Strategy is enforced

Even a Tax Strategy that is aligned to the wider business principles of the organisation cannot sit in isolation.

It should sit at the top of a Tax Governance Framework that enables the business not only to make a clear statement about its approach to tax, but also to deliver on that commitment.

Considering wider tax transparency

Many businesses are seeing the publication of a Tax Strategy as the natural time to consider additional supporting explanation on their approach to tax.

What *shouldn't* businesses be doing?

Assuming nobody is going to read it

HMRC are already discussing how they will review Tax Strategies and use them to influence their risk assessment processes. Other stakeholders, such as NGOs, customers and other governments will also have access to the Tax Strategy.

Leaving it too late

Developing a Tax Strategy is an iterative process leading to approval by the Board. This is always going to take time. Boards are certain to want to understand the context behind the Tax Strategy, and what measures are in place to ensure that the business complies with the commitments it makes.

Assuming there is a generic solution

HMRC have made it very clear that they are not looking for standardised generic wording. The Tax Strategy needs to be bespoke to the business and reflect reality.

Seemingly "off the shelf" Tax Strategies can imply weaker tax governance, or a desire to be evasive.

How can Engaged Consulting help?

Engaged Consulting is working with a number of FTSE100 and FTSE250 companies to meet this new reporting obligation. We have experience helping businesses to develop Tax Strategies and supporting Tax Governance Frameworks, as well as wider tax transparency.

We can bring this expertise and commercial understanding in a way that is competitive for businesses of all sizes and in all sectors, independent from any tax planning, compliance or audit services you may already be receiving.

If you want to discuss this requirement, or any other aspect of tax governance and transparency, please contact us.

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Tim has been a tax professional for over 20 years, having trained with the "Big 4", and then spent nearly 20 years working in industry within the tax teams at "Blue Chip" FTSE100 companies.
Tim is an expert in issues of tax governance, strategy and policy, and has been at the centre of the tax transparency debate for over 10 years.

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