

Report

Views from large businesses on tax strategy

Speed read

A recent survey assessed views of large businesses on tax strategies. Nearly two-thirds of respondents said tax was discussed more often at Board meetings than five years ago. 72% now have a Board approved strategy in place. In terms of tax priorities for the business, reputational issues were of most concern, with managing the tax charge or effective tax rate a close second. There were mixed views on HMRC's proposed new code of practice, and businesses seem somewhat lukewarm in their response to increased scrutiny on their tax affairs.



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Tax Journal partnered with Engaged Consulting to assess views of large businesses on tax strategies. Senior respondents from 47 large businesses – all of whom were in-house tax directors or heads of tax – took part. The findings are set out overleaf. My comments on the highlights are below.

Tax strategy

It is reassuring to see that over 70% of the businesses responding have a Board approved tax strategy (see Q1), although only about half of those publish even selected content from that strategy (Q7). My suspicion is that many of these businesses will have developed their tax strategy five to ten years ago, at a time when it was an internal governance document. Publication would require a revision of the document, possibly to split it into some external facing principles and an internal governance element.

60% of all those responding say they don't currently publish anything on their tax strategy (Q7). Looking forward just 12 months, the percentage of those who will still not be publishing falls to 13%, with most having moved into the 'undecided' category. Perhaps this reflects an acceptance that the then ongoing HMRC consultation on large businesses compliance is likely to make some disclosure mandatory. What is clear is that about 50% of those responding are going to be considering tax strategy disclosures in the next 12 months (Q8).

Since the survey, draft provisions for Finance Bill 2016 have been published. These introduce a new requirement for large UK businesses (with a group turnover of more than £200m and/or group balance sheet total of more than £2bn) to publish tax strategies as they relate to or affect UK taxation.

Stakeholders and the Board

Businesses were asked to rank what tax issues matter most to the Board. Reputational issues were of greatest concern, with

managing the tax charge or effective tax rate a close second (Q4). In terms of the impact on tax planning, over a third of respondents say that scrutiny on business taxes has decreased their appetite for tax risk (Q10). Tax campaigners will take heart from this. Campaigners will be disappointed that almost all respondents put NGOs at the very bottom of their list of tax stakeholders (Q11). The top tax stakeholders of HMRC/HMT, shareholders and the Board is as you might expect. In the current environment I wonder whether the low placing for the OECD and EU is more about the appetite to engage on policy, than about who actually has an influence on tax.

Of those respondents who do have a Board approved tax strategy, all but two respondents share this information with HMRC (Q12), despite nearly half of those who share it saying this has no impact on their risk rating (Q13). In general, HMRC has made it clear that it takes a positive view of businesses that share their tax strategy, so perhaps these businesses already enjoy a low risk rating. Virtually every respondent felt that tax questions at AGMs will continue, and if anything increase going forward (Q17). I think this is right. With increasing transparency and the growth of well-resourced NGOs ready to use this new information to challenge businesses, Boards will need to be ready to respond to questions on tax. Examples of questions asked at AGM included 'where do you see the tax rate going in light of new acquisitions?'; and 'explain the movement in the effective tax rate.' Anticipated inquiries include whether the group pays a 'fair' amount of tax in each location it operates. Some extractives companies have already seen questions resulting from the country-by-country numbers.

The new code of practice

Views were mixed on HMRC's voluntary 'code of practice' proposals. 43% of respondents 'broadly welcomed' this, although increased management workload was a concern (Q14). 'We welcome the concept that [corporate] groups should have a code which applies to tax and follows the broad principles outlined', responded one, '[but] do not support the concept of either a unilateral code/commitment to HMRC or, more broadly, the idea that a company should have multiple codes (i.e. one for each country) rather than one global code.'

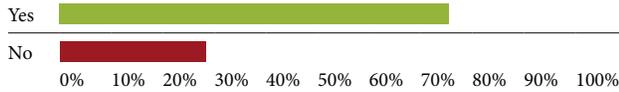
However, just over half of all respondents were either 'slightly or very concerned' by the proposed code of practice. 'The fact that HMRC is not consulting on the core point of whether a tax strategy should be published, and has instead publicly stated it will be legislated for, is a matter of personal concern', answered one. Another called it a one-way street for HMRC: 'Openness and proactivity is not something that is "rewarded" ... This is not sustainable and things [will] start going back to courts being jammed with litigation they can't handle.' Others expressed concerns about subjective elements and wording.

Looking ahead

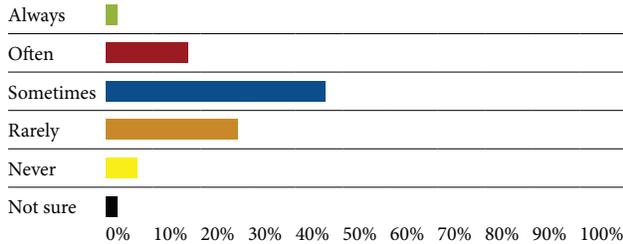
Most respondents felt that OECD style CBCR and publication of a tax strategy were the most likely transparency innovations applying to their business in the next five years (Q19), which comes as little surprise. It is also unsurprising to me that nearly three-quarters of respondents (74%) felt that CBCR data will end up being public (Q20). Public scandals may mean businesses remain reticent about this increased scrutiny on their tax affairs: just over half of all respondents (53%) said they 'somewhat welcomed' this, and 30% were 'somewhat concerned' (Q21). However, it seems clear that businesses are responding to this by looking to refresh their tax governance and transparency, and preparing at the very least for new mandatory disclosures. I suspect they also need to prepare for questions ahead. ■

Tax strategy and the Board

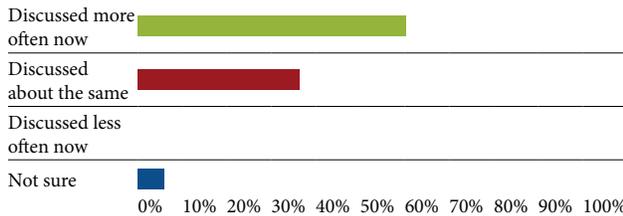
Q1 Do you have a Board approved tax strategy?



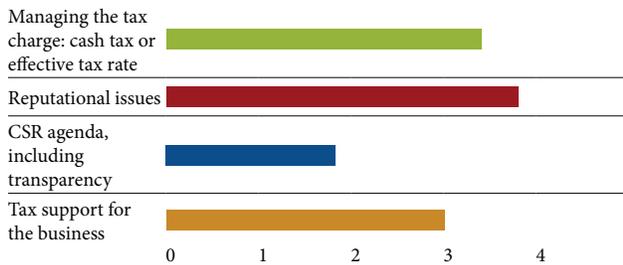
Q2 How often is tax specifically an item on the agenda at Board meetings?



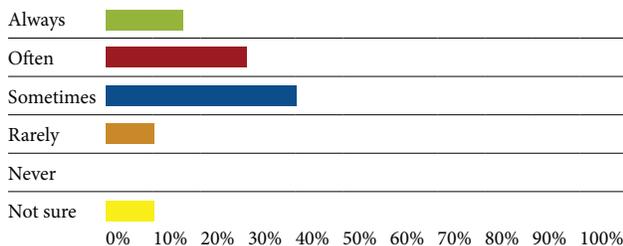
Q3 Is tax discussed more often at Board meetings now than was the case five years ago?



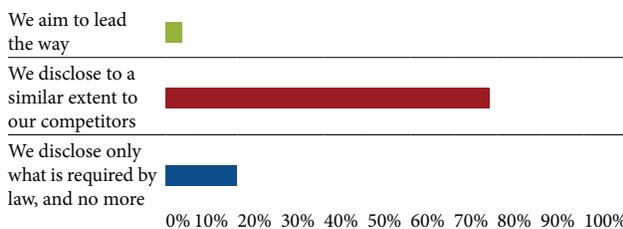
Q4 On tax, what matters most to the Board? (The following are ranked in order of importance)



Q5 How often is tax specifically an item on the agenda at Audit Committee meetings?

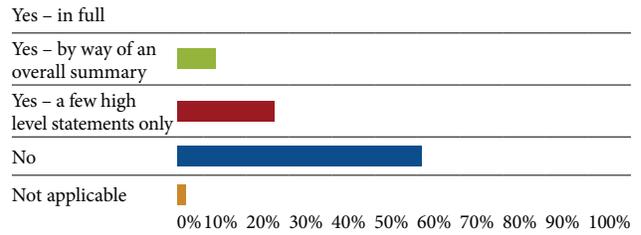


Q6 What is your overall approach to tax transparency?

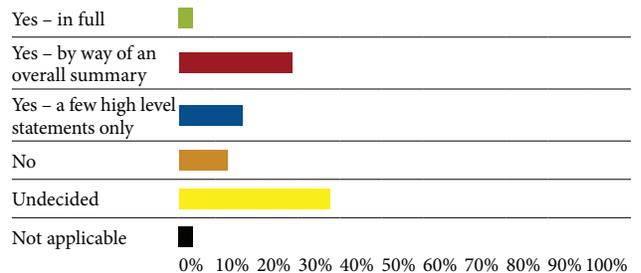


Publication strategy

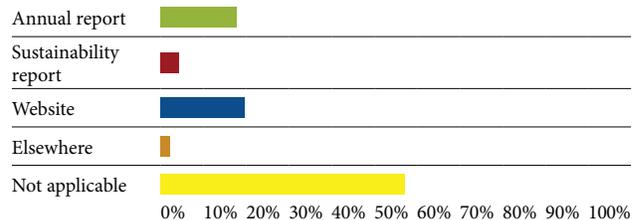
Q7 Do you currently publish your tax strategy?



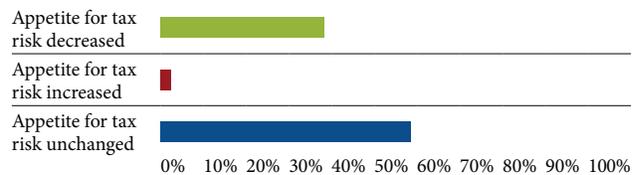
Q8 Do you intend to publish your tax strategy in the next 12 months?



Q9 Where do you give details of your tax strategy?

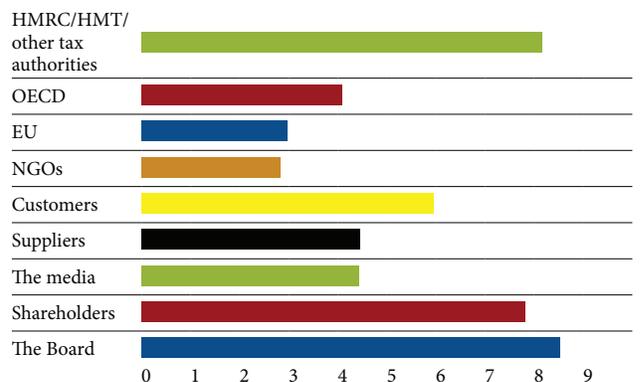


Q10 Has the increased scrutiny on tax affairs of businesses affected your approach to tax risk?

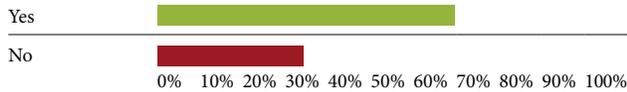


Stakeholders

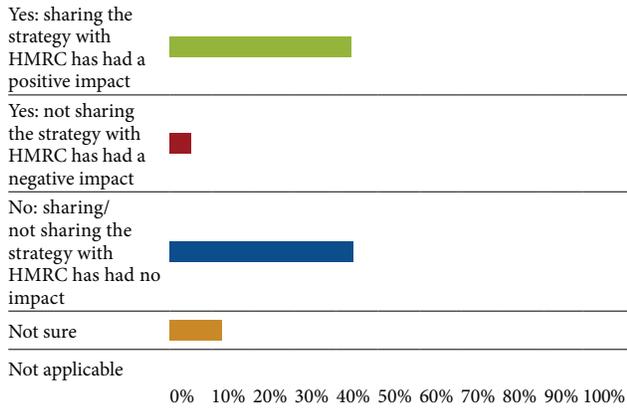
Q11 Rate each of the following stakeholders on tax matters in terms of importance to your business? (The following are ranked in order of importance)



Q12 Do you share your tax strategy with HMRC?

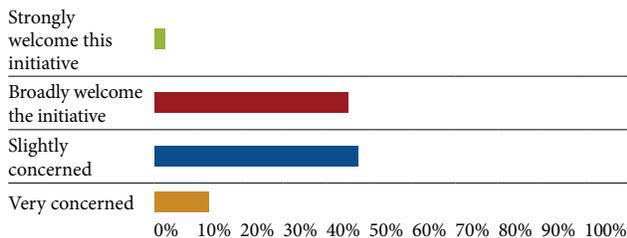


Q13 Do you believe that your decision on whether or not to share your tax strategy with HMRC has had an impact on your risk rating?

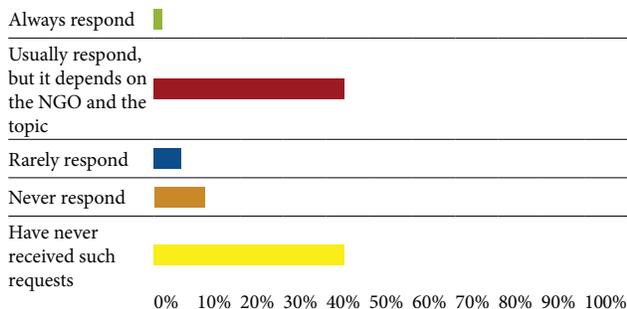


Q14 Views on the voluntary code of practice

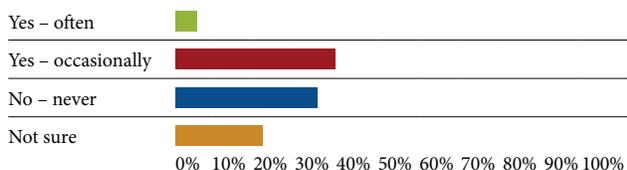
At the time of the survey, HMRC was consulting on a voluntary code of practice. The proposal involved a commitment made to HMRC covering three broad areas: openness and relationship with HMRC; internal governance; and the approach to tax planning. The code would be voluntary for businesses, and HMRC says it has no plans to make public those businesses that do (or do not) adopt it. However, it will challenge any businesses that publicly claim to have signed up when they have not done so. Which of the following best describes your view on these proposals?



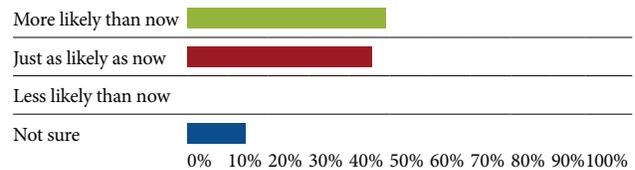
Q15 How do you respond to NGO requests on tax issues?



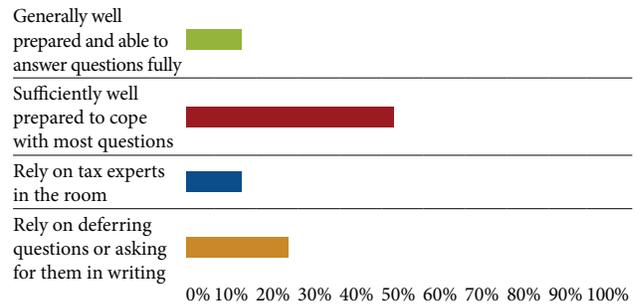
Q16 Have you received tax related questions at AGMs?



Q17 Do you think that tax related questions at AGMs (generally, not just your AGM) over the next five years will be...

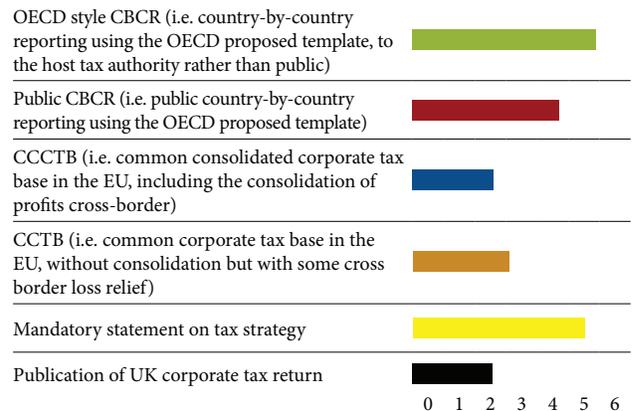


Q18 Do you think that Boards attending AGMs (generally, not just your AGM) are well equipped to face tax questions?

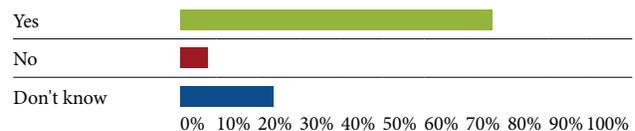


International and CBCR

Q19 Rank the following on how likely you believe they are to apply to your business over the next five years? (The following are ranked in order of importance)



Q20 When OECD style CBCR applies in the UK, do you think the information will end up in the tax domain?



Q21 Overall, do you welcome all the various tax transparency initiatives?

