

# Boardroom Questions

## The tax transparency and responsibility debate

### Factors driving the debate



-  Internationalization of business
-  Rise of corporate social responsibility
-  Intensity of media focus
-  Increasing use of the internet and social media
-  Post global financial crisis revenue and expenditure

These factors led to the Organization for Economic Co-operation and Development's (OECD) release of the 15 Point Action Plan on Base Erosion and Profit Shifting (BEPS) in July 2013. The Action Plan seeks to address three impacts that occur as a result of multinationals structuring operations to shift profits to low tax jurisdictions

### The impacts



Businesses are impacted through reputational risk, and competitive disadvantage to those that do not or cannot undertake such structuring.



Governments are impacted through less revenue and higher costs.



Individuals are impacted through sharing a higher burden of tax.

### The OECD's 15 Point Action Plan on BEPS can be classified into four categories



#### Structural rule changes

- Address the tax challenges of the digital economy
- Neutralize the effects of hybrid mismatch arrangements
- Strengthen Controlled Foreign Corporation rules
- The treatment of interest and financing
- Rules surrounding permanent establishments



#### Transfer pricing

- Alignment of value creation with transfer pricing
- Outcomes in the areas of intellectual property, risk and capital, management fees and head office expenses
- Measures to deal with documentation that multinationals will need to provide



#### Aggressive planning and abuse of the tax system

- Deal with preferential tax regimes
- Prevent treaty abuse
- Rules to disclose aggressive tax schemes



#### Methodology

- Collection and analysis on BEPS
- Make dispute resolution mechanisms more effective
- Introduce a way to shortcut the need to renegotiate large numbers of tax treaties

## Why is it an issue for Boards



- **Brand** and potential **reputational damage**, if tax affairs are overly aggressive
- Potential impact on **share price**
- Potential impact on **profitability**
- Board and senior management **time and resource** to plan and manage stakeholders including investors, customers, suppliers, employees
- **Tighter controls** possibly required necessitating new systems and **analytics expertise**

## Boardroom Questions



- Do you have a **documented policy/strategy** on tax matters? Is it **public**?
- Is your tax strategy sustainable and commensurate with your **corporate goals and ethics**?
- Do you have the **right control mechanisms** in place to ensure that your tax policy is properly embedded in your organization and that you are paying **the right amount of tax on time and in the right jurisdiction**?
- Have you considered the **reputational implications** of your company being perceived as not paying its **'fair share'**?
- Are you **confident** that you can explain your tax position when **challenged**?
- Do you have **uncertain tax positions**? Are you prepared to have them **scrutinized by the tax authorities** and other **stakeholders**?
- Are you concerned the **planning** you have done in the past could cause **embarrassment or reputational damage** if it became publicly known?
- To what extent do you already disclose tax payments on a **country-by-country** basis?
- Do you **support calls** for greater **public disclosure** of tax payments, turnover, profits and number of employees on a country-by-country basis?
- Are you prepared for changes in **international tax** rules?
- What assurance do you have over the **validity and accuracy** of the statements you make?

## What actions could the Board consider?



- Ensure that you are kept **fully informed** both **locally** and **internationally**
- Consider how these developments could affect your **tax positions** and **planning**
- Plan for public discussion and develop a **tax narrative** – ensure that you are aware of potential questions and **challenges** from the different stakeholders
- Think **'reputational risk'** to ensure that tax decisions consider this aspect and are not simply whether your company has complied with tax laws in various jurisdictions
- Assess your company's **relationship with tax authorities** in the jurisdictions where you operate
- Ensure that **tighter controls** are in place together with increased **analytical skills**

Calls for greater tax transparency will no doubt continue, and increasingly, business will need to explain their tax positions. Simply complying with the law in various jurisdictions, without due regard to potential reputational risks, is not adequate in today's evolving tax landscape. Above all, business have a responsibility to engage in the discussion and debate surrounding the tax system of the future

If you want to know more, contact



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Produced by Create Graphics | Document number: CRT39226 | June 2015