Grant Thornton
An instinct for growth™

Tax

Intelligence

Technology

# Total tax transparency

## Steering through the new world

Tax affairs used to be a largely private matter between company and tax authority, with very little public disclosure beyond what was available in the report and accounts. Today, the veil of confidentiality is being stripped away.

Mandatory public disclosures over tax strategy are increasing and tax authorities are exchanging more and more data. In certain juristrictions, tax authorities are also looking to assess tax liabilities straight from the ledger rather than waiting for returns.

# Game-changing tax risks

The future of tax transparency opens your business to game-changing risks. These include the glare of public scrutiny and sensitivities over tax planning that go with this. You also need to make sure that strategies are consistently applied throughout your organisation, and that your systems are up to speed with the demands of real-time tax assessment. But with these risks comes opportunity. It gives opportunity to highlight your commitment to doing the 'right thing' and the contribution you make to society through the tax you pay.

So how will your business steer through the risks of total tax transparency? And how can you take advantage of the opportunities?

If one word defines today's new and unfamiliar tax landscape it would most likely be 'transparency'. Another possible candidate would be the closely related, largely subjective and often highly emotive notion of 'fair'. Your business doesn't just need to do the right thing, it needs to be seen to be doing the right thing, though there are no firm guard rails on what is 'right'.

## Drivers of a transparent tax landscape

If we look at the drivers for this more transparent and sensitive tax landscape, the need to rethink not only tax planning, but also tax systems and governance becomes clear.

### 1 Disclosures are increasing

Tax authorities are facing increasing public and political pressure to root out what is, or at least what is perceived to be, tax avoidance and aggressive tax planning. As a result, the relationship with companies and the confidentiality that underpinned this are giving way to a more publicly transparent and potentially adversarial approach. This can go as far as seeking to publically 'name and shame' particular companies.

Internationally, the EU has opened up the possibility of making Country-by-Country (CbC) reporting publically available.[1] This would give stakeholders information about how much tax is paid in different tax jurisdictions, and whether this matches up with turnover and staff numbers. Businesses that declare a high proportion of their taxable income in countries where they have limited operations could face awkward questions. Other countries, including South Africa, and regional groupings could follow the EU's lead. There is also the risk that CbC information could be leaked.

[1] www.europarl.europa.eu – Public country-by-country reporting by multinational enterprises – 12 January 2017.

> “ Tax should be managed as a reputational risk, and the communications and underlying strategies should be steered and cleared by the board.”

Within individual territories, India, Australia and the UK provide telling examples of the direction of travel.

In India, the rapid removal of high value notes formed part of the continuing crackdown on the black economy. The Indian tax authorities have been monitoring bank deposits and checking them against tax records to look out for signs of possible tax evasion.[2] “This data mining will help us immensely in expanding the tax net as well as increasing the revenues, which was one of the objectives of demonetisation” said Arun Jaitley, India’s Finance Minister.[3]

Australia requires companies (public companies with turnover of over AUS$100 million and private firms with turnover of over AUS $200 million) to publicly disclose their turnover, taxable income and tax paid. The potential for ‘naming and shaming’ is heightened by the Australian Taxation Office’s (ATO) annual tax transparency report,[4] which has become a source of front page headlines. Examples include a feature that gave readers the opportunity to find out which companies pay less tax than they do.[5]

The UK has gone further by requiring large businesses to publish their tax strategies and governance around this on the Internet.[6] The spotlight isn’t just coming from the UK tax authority, but also dedicated non-governmental organisations (NGOs). These are building databases of how much tax is paid where, and checking this against what they calculate the business should be paying in the UK.

South Africa has subscribed for many of the OECD initiatives (e.g. Transfer Pricing, CbCr, etc.) and although not as far advanced as India, Australia and the UK, the South African Revenue Service (SARS) is requiring increased disclosure on tax returns in respect of cross border transactions, foreign investments and foreign earned income.

In addition to tax return disclosure, new regulations requiring the statutory preparation and submission of transfer pricing documentation, along with the retention of additional related information, supports SARS stated objective of combating base erosion profit shifting and other perceived harmful tax practices.

## Implications

The tax authorities’ moves are designed as a deterrent against aggressive tax planning. Beyond what is legal and legitimate, your business now has to judge whether tax strategies and tax paid stand up to public scrutiny.

### Actions

It’s important to think about how your business’ tax affairs might come across and whether this reflects the true nature of your approach to tax. One of the big risks is being unfairly labelled as a tax avoider. Some aspects of your strategy may need to be adjusted as a result of greater scrutiny. It’s therefore important to get the changes in progress now, rather than waiting to be named and shamed in the future.

You can get on the front foot by setting out your full tax contribution (including payroll and sales taxes), explaining the rationale behind your strategy and how this fits into wider corporate social responsibility. To get your message across, it’s important to engage with stakeholders – not just tax authorities, but the media and pressure groups as well.

Tax disclosures aren’t just a matter for investor or public relations teams. Tax should be managed as a reputational risk, and the communications and underlying strategies should be steered and cleared by the board. The first step is gauging your tax risk appetite – weighing opportunities for tax limitation against the potential public reaction. To manage the risks, it’s important to ensure that tax strategy is clearly understood and consistently applied through the organisation. This in turn requires a more centralised and proactive approach to tax management. It also has implications for systems (discussed further in point 3).

[2] The Times of India India – Deposits above Rs 2.5 lakh to face tax, 200% penalty on income mismatch – 9 November 2016.

[3] www.livemint.com – Demonetisation effect: 9.1 million new taxpayers – 12 May 2017.

[4] www.ato.gov.au – Australian Taxation Office’s (ATO) annual tax transparency report.

[5] www.theguardian.com – Do you pay more tax than Australia’s biggest private companies?

[6] www.gov.uk – Large businesses: publish your tax strategy – 24 June 2016.

> “ Looking at the future, we expect greater public appetite for tax transparency, more information required to be disclosed and tougher questions.”

## 2 Tax authorities are sharing information ever more freely

The OECD's Base Erosion Profit Sharing (BEPS) Action Plan expands the exchange of information through CbC reporting. It also develops the mandatory exchange of information between tax authorities on rulings that could give rise to BEPS concerns.[7]

Individual tax authorities, including SARS, are also building stronger mechanisms for information exchange into new and updated bi-lateral treaties. The updated treaties between India and Singapore and India and Mauritius provide clear examples of this.

**Implications**
Tax authorities can take the information from the CbC reports, along with other sources such as Common Reporting Standard (OECD CRS) and Foreign Account Tax Compliance Act (FATCA), to check how much tax is being paid and where. This would then be checked to see if it tallies with their own expectations, and if not, they would seek to put it right.

**Actions**
The spotlight on how much tax is paid and where it is paid requires a review and possible rethink of international tax strategy and management. At the very least, you would need to do your own tally of turnover, staff numbers and tax paid by country to identify any anomalies that tax authorities might question. You'll then need to determine how this can be explained and justified.

If the allocation of tax is difficult to justify, it will be necessary to review and possibly rethink transfer pricing, intra-company debt, location of intellectual property rights and other areas that influence how much tax is paid where.

## 3 Tax authorities are assessing in real-time

Tax authorities want more information, sooner. This puts intense pressure on tax function output and verification. Tax authorities are also using electronic information for faster and more effective tagging, risk analysis and targeting of companies for investigation and audit.

You used to be able to prepare a return after the other financials were finalised. Tax authorities are now beginning to drill into the numbers at source. In the UK, for example, there is a clear ambition for tax to be assessed straight from the ledger. And, as of 1 July 2017, Spain will become the first European country to implement real-time reporting of tax data.[8]

**Implications**
This is an environment with a low tolerance for delays and mistakes. A tax function that still primarily relies on manual and low-tech capabilities will struggle to keep up.

**Actions**
The pressure on data makes it important to build verification and operational capabilities into the wider rethink of tax risk management. To assure integrity of information, you would need to ensure that processes are sufficiently robust, appropriate and properly maintained. This is likely to require both a bottom-up evaluation of the numbers and top-down assessment of the systems and governance.

Underlying governance would include:

- Defined ownership of the 'tax universe' and accountability gaps eliminated
- Documentation of tax risks and controls
- Robust controls: tested, operated, documented and shared with tax authorities

Many of you are likely to require a significant systems upgrade to keep pace with these demands. Widespread automation and deployment of artificial intelligence may eventually be the only feasible way to respond with the speed and accuracy that are required. Our recent article entitled 'Seizing opportunities – tax automation and artificial intelligence' looks in more detail at how automation is changing the tax function.[9]

[7] www.oecd.org – OECD releases standardised IT-format for the exchange on tax rulings under BEPS Action 5.
[8] www.meridianglobalservices.com – Spain to introduce real-time reporting of tax data – 4 May 2017
[9] www.grantthornton.global – Seizing opportunities with tax automation

# A new reality

## As a business, you already face the pincer of more tax data in the public domain and more public focus on it. Looking at the future, we expect greater public appetite for tax transparency, more information required to be disclosed and tougher questions. These challenges are heightened by the speed with which you have to extract and disclose the data on the one side, and the growing need to justify your strategy on the other.

It's therefore vital to determine whether you're reporting the correct information and portraying your organisation in the right light across the globe. What are the resulting risks? What are the potential opportunities? Total tax transparency may require a different strategy, governance and systems, so it's important to assess and address the new reality now.

If you would like to discuss any of the areas raised in this article, please contact your own Grant Thornton adviser or one of the contacts listed.

**Cape Town**
+27 21 417 8800

Chris Smith
E chris.smith@za.gt.com

Steve Curr
E steve.curr@za.gt.com

**Johannesburg**
+27 10 590 7200

Eugene du Plessis
E eugene.duplessis@za.gt.com

Hylton Cameron
E hylton.cameron@za.gt.com

AJ Jansen van Nieuwenhuizen
E aj@za.gt.com

Marcus Stelloh
E marcus.stelloh@za.gt.com

Grant Thornton
An instinct for growth™

**grantthornton.co.za**