

Publication of Tax Strategies

Finance Bill 2016



Background

The Government is introducing an obligation for large businesses to publish their Tax Strategy as it relates to UK taxation. This document summarises the key requirements and areas to consider based on the draft legislation that was issued on 9 December 2015 and HMRC draft guidance issued on 31 March 2016. To the extent there are changes before the Finance Bill receives Royal Assent this document will be updated.

In our view you should be communicating this requirement to your board and should be considering areas such as:

- The level of detail you propose to include in your published Tax Strategy and whether this covers only the UK or is a global Tax Strategy.
- Who will be responsible for drafting, publishing, implementing and monitoring the Tax Strategy.
- How you will gain assurance that the Tax Strategy is being operated as intended



Introduction

The Finance Bill 2016 introduced a requirement for qualifying large businesses to publish a Tax Strategy for financial periods beginning after Royal Assent.

The stated purpose is to ensure that boards of directors give consideration to their approach to UK tax

Broadly, the requirement will apply to companies within the Senior Accounting Officer ('SAO') regime though it is extended to also include UK branches or Permanent Establishments ('PEs') of non-UK companies, partnerships and subsidiaries of multinational enterprises ('MNEs') that are required to comply with the Country by Country Reporting ('CbCR') requirements under BEPS Action 13.



Who is within scope?

The same basic threshold is used as for SAO – aggregate turnover of UK companies exceeds £200 million or aggregate UK balance sheet assets exceed £2 billion for the preceding financial year.

The SAO rule is modified so that a UK branch or PE of a non-UK company is treated as though it were a UK company and also partnerships are in scope.

Subsidiaries of MNEs within CbCR under BEPS Action 13 are also in scope.

There are complexities for non-standard group structures, for example, overseas headquartered groups with several UK companies but no common UK holding company.



Content of the Tax Strategy

There is no prescribed wording however the HMRC Guidance states as a minimum the following should be included –

- a) the approach to risk management and governance arrangements in relation to UK taxation.
- b) attitude towards tax planning (so far as affecting UK taxation).
- c) level of risk in relation to UK taxation that the company is prepared to accept.
- d) approach towards dealings with HMRC.

There is no requirement to publish amounts of tax paid. The requirement to publish a tax strategy is distinct from the OECD's country by country reporting.



When should the strategy be published?

The tax strategy should be published for the first time for accounting periods starting after Royal Assent of Finance Bill 2016. It must then be published every year, or confirmation provided that the published Tax Strategy continues to apply and has not changed.

It may be published anytime during the year but must be available by the end of the accounting year.

For example, assuming Royal Assent is received during October 2016 and a company has a 31 December year end, the Tax Strategy for the year to 31 December 2017 will have to be published by 31 December 2017.

It must be accessible to the public for free until the next periods Tax Strategy is published and it must be on the internet, as a separate document or self-contained part of a wider document



What happens if you don't comply?

If a company doesn't publish its Tax Strategy, publishes a materially incomplete strategy or its Tax Strategy is withdrawn from free public access before the prescribed period, HMRC can issue penalties. The standard penalty is £7,500.

Appeals against penalties can be made if there are reasonable grounds for the failure to comply.

How KPMG can help

KPMG has experience of working with companies to design, document and implement tax strategies across their business.

If you would like to discuss this requirement or any other issue relating to tax management, please contact one of the KPMG contacts named below.

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