Tax in the Boardroom – The Implications

ODGERS BERNDTSON
Search Intelligence

Executive Summary

The world of tax is seeing fundamental change. The last two years have seen an unprecedented focus and critique of the global tax framework. Tax cannot be viewed or considered in its own silo anymore.

The elevation of tax considerations politically to the G8, G20 and various other supranational bodies such as the Organisation for Economic Co-operation and Development (OECD) and United Nations (UN) have borne this out.

It is now front and centre for every single business. No board of directors, CFO or CEO can chose to view tax as a mere compliance activity as it now has significant impact on all businesses moving forward.

We have seen a lot of commentary on the anticipated changes in the world of tax and the impact of these. Our article talks about what these changes mean not only for the global tax leader and tax team but also for the board of directors and in particular the CFO and CEO community.

Background

After the scrutiny in the tax affairs of large multinationals; intense criticism and public debate at their tax planning policies, most agreed some change is inevitable and it is likely to have global ramifications. The findings of the UK Public Accounts Committee (PAC) made it apparent that following the letter of the law and working within the parameters and guidelines set by Her Majesty's Revenue and Customs (HMRC) were no longer enough for the government and politicians, when it comes to Tax Planning.

Globalization and advances in modern technology has meant the long standing International Tax concepts are now out dated and irrelevant. Change is required on a global perspective to safeguard against tax evasion. This has resulted in an international agreement by G20 Finance Ministers to work together and share information to eradicate tax evasion.

Reputational risk and public perception have become major considerations. This is extraordinary in the world of tax. The actions of Starbucks in 2012, volunteering to pay more tax as a result of perceived consumer pressure is indicative of how much of a reputational issue tax has become. Organisations are prepared to change their approach in order to avoid bad publicity and criticism from the general public.

Global Initiatives

Recently we have seen a number of initiatives established, on a global scale, to deal with the increasingly complex issues surrounding the world of tax. From a European perspective the EU has been looking at implementing a Financial Transactions Tax (FTT) and consultation has begun on a European tax payer code. On a global basis the Organisation for Economic Co-operation and Development (OECD) has been looking at a number of areas, mainly Base Erosion and Profit Shifting (BEPS).

On a practical level what do these changes mean to businesses and their advisors?

EU Financial Transactions Tax

The EU FTT has been proposed by the European Commission to tax transactions between financial institutions against the exchange of shares, bonds and derivatives contracts. Whilst the implementation of this has been delayed by at least six months it is likely to be enforced in some guise in 2014. The anticipated broad scope of the FTT means UK Financial Services groups and entities will be impacted despite the UK being a non-participating member. How the FTT will be formulated and implemented remains to be seen. However it is widely accepted it will become part of tax legislation in some form.

What does this mean to businesses?

The full impact of the EU FTT remains to be seen however we are already seeing an increase in demand for Operational Tax specialists. Most Financial Services businesses have reluctantly accepted the EU FTT will impact their businesses and as a result an expert in the operational taxes area is required to minimise costly professional fees. Notwithstanding this, a certain degree of reliance on professional advisors to help deal with the complexities and challenges of the implications of the FTT will continue to remain.

Globalization and advances in modern technology has meant the long standing International Tax concepts are now out dated and irrelevant

Fundamentally it is expected on a global scale and wholly inevitable that businesses will be contributing more to tax receipts

The FTT is likely to impose a greater burden on reporting for businesses affected by the tax.

This will have implications on resourcing and the correct allocation of resource to deal with the new demands created by the FTT.

European tax payers code

In 2013 the EU Commission initiated a consultation on the possible introduction of a European tax payer's code to enhance compliance and transparency. Whilst it is acknowledged that most member states have established taxing principles in place, these vary considerably. This may make it difficult for individuals and organisations to understand their rights and tax obligations, particularly in cross border situations. It is feared by the EU that this can lead to double non taxation as well as fraud and evasion. Whilst the EU is still conducting its consultation on this matter it is expected to report its response towards the end of 2013.

What does this mean to businesses?

The implications of the European taxpayers' code remain to be seen. As we are still in the consultation period it is difficult to anticipate the impact on tax specialists. However in light of all the other changes we have seen there is likely to be a change in reporting and how figures are submitted to the taxing authorities.

OECD action plan on BEPS

July 2013 saw the much anticipated BEPS Action Plan published by the OECD. The Action Plan was presented to the G20 Finance Ministers' meeting in Moscow. The plan lists a series of points which the OECD feels need to be carried out in order to address the issue of BEPS.

Many policy advisors have commented in detail on the action plan. The unanimous agreement appears to be that the plan poses the most significant potential change to international taxation for decades.

Fundamentally it is expected on a global scale and wholly inevitable that businesses, will be contributing more to tax receipts. Whilst this is the most basic of outcomes it has serious ramifications on businesses and how they are structured financially. The report calls for global collaboration to modernize the international tax system.

What does this mean to businesses?

The Action Plan rules out fundamental change such as the adoption of a global unitary tax system. However, the ambitions for change signal a seismic shift in the international tax landscape. Some feel it is seemingly impossible to implement such a comprehensible plan on a global scale making the impact minimal. However in reality the greatest impact will be behavioural shift from the taxing authorities. They will now focus on these issues from a local taxing perspective and will potentially seek to do this on a unilateral basis. Of course the negative impact of this is likely to be less global consensus, more controversy and hence increased double taxation.

A key point worth noting is behavioural change has already occurred within a number of leading MNC's. We have seen banks minimising and closing down their tax structuring units and FTSE listed businesses making the unprecedented move of publishing their global tax policy on their websites and furthermore declaring it in their financial statements.

The BEPS action plan talks about the sharing of information between taxing authorities and MNC's making declarations concerning which jurisdiction they have made tax payments in. Tax Authorities will be carrying out efficient risk analysis to get the global picture of a corporation's financial position. This analysis is the roadmap to understanding whether profits are earned in the jurisdictions where the substance of the business resides.

All these changes mean organisations now need to know exactly how their companies are structured. With businesses as complex as they are today organisations will need to start reporting where profits are located, why and how much tax has been paid in these jurisdictions'. A seemingly straight forward requirement however not one which businesses are accustomed to. This greater transparency means the way in which tax teams operate will need to change.

The New Role of the Head of Tax

The new tax world will be significantly different.

The demands on the head of tax have changed and there is much greater expectation of their capabilities.

Tax leaders are now expected;

- to have a thorough understanding of the business from a commercial perspective

- to be able to communicate effectively at board level, with investors, shareholders and external stakeholders.

- to shift from being not only a global technical leader but also a policy leader.

- to be pro-active in identifying and anticipating changes in policy and engaging with policy makers in order to contribute their perspective to the legislative process at a national and a global level.

Organisations with a global footprint are increasingly moving to a global tax policy and integrating teams where relevant to ensure compliance from a global perspective.

They are developing knowledge experts within the teams and ensuring that the global team is kept apprised with the changes expected in all operating jurisdictions, not just their local jurisdiction.

The biggest shift in the role of the tax leader is the expectation that they should be able to explain and justify the company tax policy to the board, investors, shareholders and the media whilst remaining very comfortable and confident in doing so.

The shift in attitude has also meant the way in which tax teams are structured is inevitably changing.

There is a greater emphasis on tax reporting and compliance and an increased demand in the degree of technical expertise required. Like the head of tax, the tax team are expected to be more commercially astute with the ability to communicate tax policy to senior executives within the organisation in a non-technical and succinct manner.

This greater transparency means the way in which tax teams operate will need to change

Our perspective on what tax policy changes mean to the CFO and CEO community

Tax Strategy has moved from being an issue for just the tax director to being a business issue for the whole board

CEO's and CFO's recognise that their tax strategy needs to be the right one not only from a commercial and strategic perspective but also from a reputational one. As we have seen through the actions of some MNC's the wrong strategy or approach can lead to widespread condemnation with the biggest impact being reputational.

Tax strategy has moved from being an issue for just the tax director to being a business issue for the whole board. There is a growing expectation that not only the CFO but also the CEO and wider board should have a strong understanding of the organisations tax strategy. The tax policy needs to be discussed and agreed up on by all members of the board with the awareness that it can be questioned in a very public forum at any point. All board members should be able to explain, justify and answer any questions relating to tax strategy by shareholders, the media or any interested party in private and more significantly in public.

As the pressure for **tax transparency and documentation** intensifies the CFO and CEO will be expected to know where their profits are based, why and how much tax has been paid. This has an impact on reporting for the finance function as a whole. Decisions will need to be made on how the company reports its figures and how it will respond to the requirement for transparency and documentation. With many organisations operating in different jurisdictions they will already have complex tax affairs and strategies in place. A major and primary task will involve unravelling the complexities and having a clear and succinct overview of the financial situation with clear commentary on how and why.

Country by Country reporting is expected to become a requirement as a result of the BEPS report. This greater transparency is expected to have a major impact on the way in which organisations produce annual reports and again a clear agreement will need to be reached by all decision makers in how transparent a company's financial situation and tax reporting should be. A key question will be how the tax team is structured and the increasing requirement to work much closer with the wider finance function.

The CFO and CEO will be increasingly reliant on the **tax leader** to advise on what the company's tax policy should be. As a result the expectations of a global tax leader and local, regional leaders are much higher. The board will need to have a strong relationship and connection with the tax leader, with complete confidence in them from a tax technical and policy development perspective. With the many changes expected in the global tax arena all tax leaders will be expected to keep abreast of changes in policy expected and anticipated so the organisation can move swiftly to comply with not only global expectation but also regional and local expectations from taxing authorities.

The various changes anticipated are likely to impact organisations in a number of different ways and we encourage organisations to be pro-active in dealing with the challenges they will no doubt face in the coming months and years.
To discuss any of the points above in more detail please do contact us.

Odgers Berndtson

Odgers Berndtson is the largest search firm in the UK. The CFO practice is one of the leading recruiters of Finance Specialists and their teams into businesses across all sectors, size and ownership structure. From FTSE 100 to small cap, from private equity to not-for-profit, the CFO practice at Odgers Berndtson is dedicated to providing a world class service to client and candidate alike.

The team is the only major search firm to have finance specialists in niche areas such as tax. We have decades of experience in helping people build and develop their careers across the UK and this positions us at the forefront of the debate around the role of finance and how it is evolving.

Tax in the CFO Practice

We specialise in placing senior level, qualified tax professionals across all industry segments; professional services, commercial and financial services. We offer a range of sourcing strategies including advanced tax executive search and targeted specialist advertising solutions.

Our ability to understand a company's drivers and knowledge of sourcing tax stars of the future means our reach is unrivalled. We appreciate the challenges of recruiting into niche areas and know how to sell opportunities whilst providing honest careers advice to candidates.

Our People

Tahira Raja

Tahira is a Principal in the firm who specialises in global tax recruitment. Based in London but with experience of recruiting tax roles globally, she specialises in placing senior level tax professionals in roles within professional services, commerce and industry and financial services.

T: +44 (0) 20 7529 1036
M: +44 7799 344 004
E: tahira.raja@odgers.com

Mark Freebairn

Mark is a Partner and Head of the Financial Management Practice, responsible for appointing Finance Directors, CFOs and audit committee non-executive directors across all sectors in a range of businesses.

T: +44 (0) 20 7529 1041
M: + 44 7971 281 850
E: mark.freebairn@odgers.com

Tom Cunningham

Tom is a Principal within the Financial Services practice and a member of the CFO practice. Based in London he focuses on C-Suite, Managing Director and Director level appointments in Financial Management across the sector.

T: +44 (0) 20 7367 9773
M: + 44 7515 991 622
E: tom.cunningham@odgers.com

Contact Details

20 Cannon Street, London, EC4M 6XD
Tel: +44 20 7259 1111

Global Offices

International Executive Search and Assessment in 30 countries across the world

Americas

Brazil	Sao Paulo
Canada	Calgary
	Halifax
	Montreal
	Ottawa
	Toronto
	Vancouver
Peru	Lima
United States	Boston
	Chicago
	Dallas
	New York
	Philadelphia
	San Francisco

Europe

Austria	Vienna
Belgium	Brussels
Denmark	Copenhagen
Finland	Helsinki
France	Paris
	Lyon
Germany	Frankfurt
	Hamburg
	Munich
Italy	Milan
	Rome
Netherlands	Amsterdam
Norway	Oslo
Poland	Warsaw
Portugal	Lisbon
Russia	Moscow
Slovenia	Ljubljana
Spain	Madrid
	Barcelona
Sweden	Stockholm
Switzerland	Zurich
Turkey	Istanbul
United Kingdom	London
	Aberdeen
	Birmingham
	Cardiff
	Edinburgh
	Glasgow
	Leeds
	Manchester

Africa, ME & Asia Pac

Australia	Sydney
China	Hong Kong
	Shanghai
	Beijing
Japan	Tokyo
South Africa	Cape Town
	Johannesburg
India	New Delhi
Singapore	Singapore
United Arab Emirates	Dubai
Vietnam	Ho Chi Minh City

ODGERS BERNDTSON
Search Intelligence