

Perspective

This is one of a series of articles where experts in assurance, reporting and regulatory matters discuss recent technical and policy developments in these areas.



Expanded ATO Tax Governance Guidance: Technology-Enabled Tax Control Drives Certainty

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The tax system is undergoing unprecedented change. A big part of this is a greater focus on tax governance and transparency broadening tax's traditional stakeholder group. Advances in technology are also presenting many new opportunities to transform the way organisations manage tax.

Expanded ATO guidance on tax governance

In an increasingly uncertain tax world, a focus on tax control frameworks by taxpayers and regulators alike is being seen as an opportunity to work towards mutual goals and drive better certainty by managing risks up front. To this end, in late January, the ATO released a significantly expanded [Tax risk management and governance review guide](#) setting out their view on director's duties and acceptable practices by management on tax at large organisations.

The guide marks a paradigm shift in the way the ATO administers tax by holding Boards accountable for tax overall. It also shifts the burden of proof from the ATO identifying tax risks in reviews, onto taxpayers demonstrating with evidence that risks are identified and managed as part of a formal tax control framework. It sets out a clear view of better practices:

- it splits practices specifically into board and management considerations
- the board is explicitly responsible for setting a tax risk appetite (that is, the amount and type of tax risk they are willing to accept) and a testing framework. The board should also have some degree of independent tax knowledge
- the tax risk appetite is to be articulated from both a strategic and operational perspective
- the framework covers all taxes, including those dealt with by state revenue authorities
- there is a focus on data, IT controls and information flows between entities, systems and



reports from a tax perspective – shedding a light on how systems and technology address tax concerns

Boards across Australia are now reviewing their oversight framework to ensure tax is consistently and appropriately managed. Existing outsourcing arrangements are also being revisited to ensure responsibilities for key tax controls are considered and captured in end-to-end processes and data flows.

Testing of application this year

The ATO is committed to ensuring that policies or statements of intent are operationalised through effective controls, testing and monitoring for which they are now taking more of an internal audit type approach. This underpins what the ATO refers to as 'justified trust' – an effort to reinstate public trust in the corporate tax system through demonstrable tax control frameworks and transparency by corporate taxpayers. It is comprised of two key areas:

1. Tax governance: Any inability to demonstrate the implementation of tax governance in practice will be an indicator of a higher risk taxpayer regardless of risk appetite statements in policies.
2. Testing governance by reference to risks: The ATO will use the governance framework to understand how the taxpayer has identified and managed tax risk areas in particular significant transactions and differences between economic and tax outcomes.

The ATO are now undertaking 'justified trust' reviews of the top 1,000 taxpayers starting with the top 100 (and some others) this year. For these reviews, they will examine how taxpayers have assessed their tax governance maturity, and whether they have in place a demonstrable framework of controls and testing. Any control gaps they identify will be assessed, looking forward and back, to understand the potential tax risk and what additional work may be warranted.

The ATO will revisit the taxpayers' risk rating and the ongoing relationship by reference to the outcomes of this review. Adoption of the Voluntary Tax Transparency Code, recommending more public disclosures of tax information including a qualitative explanation of the tax strategy as well as numbers in terms of taxes paid, is now also seen by the ATO as indicative of good governance, and may be tested.

The burden of proof is shifting away from the ATO to taxpayers being able to evidence, both to the ATO and to the public, through a demonstrable control framework, that the tax risks are identified and managed holistically across all service providers. The vision is to outsource compliance risk management to taxpayers and drive down costs through improved and demonstrable taxpayer governance and use of technology.

Many organisations are already taking steps to ensure they are ready for their ATO review. Tax risk resides in all areas of an organisation, therefore a multi-disciplinary approach engaging finance, risk, IT, internal audit, the board as well as representatives from service providers, is critical to success.

A technology-enabled approach coordinated globally

These developments are by no means unique to the ATO and corporate Australia. As technology and data management continue to improve at exponential rates, taxpayers,



regulators and cooperative oversight bodies such as the OECD are contemplating a world of tax compliance moved entirely upstream where tax calculations are automatically undertaken in real time and are data driven. Tax returns, in favour of direct data access, are already being consigned to history in jurisdictions around the world. We expect this trend to accelerate and reach Australia in time.

We therefore see a partnership and a key opportunity in combining tax governance with technology. More real time compliance and data integrity from a tax perspective will demand ever more rigorously monitored and tested tax control frameworks to deliver the right information at the right time without any rework or recategorisation. The requirement to demonstrate improved tax governance, both to regulators and broader stakeholders, is being globally driven, as tax authorities work towards improving certainty through automated data capture and proactive management of emerging tax risks. This approach is much more efficient for regulators and can drive benefits for taxpayers too.

Just as advances in technology are enabling the upstreaming of tax compliance, demanding a much higher degree of tax control, so too can tax control frameworks themselves be more demonstrably deployed with better use of technology. A holistic review of an organisation's entire operating model is therefore the best way forward to address these changes and make the most of transformation opportunities.

Undertaking a maturity assessment and gap analysis against regulatory tax control framework standards as well as emerging best practices in tax technology will provide an informed and considered approach to the aspects that may need to be adopted. Understanding and benchmarking your practices versus peer organisations and the journey they are taking to mature their arrangements is also important. Remaining in line with the broader market will ensure you are not taking overly onerous steps too soon or missing key opportunities for change that may be driving competitive advantage at your peers.

KPMG has been benchmarking the tax operating models of our clients for a number of years. We have built a completely automated solution-based approach and tool to undertake these assessments which allows clients to see how they stack up, and where best to take next steps in developing a technology-enabled tax control framework that manages risk, and both delivers and demonstrates value to stakeholders. It also undertakes a comprehensive gap analysis against the ATO's **expanded** tax governance guide.

The data we have gathered from over a hundred respondents across industries shows that most are early in the journey in Australia, but now very much taking steps to mature their tax control frameworks to be ready for regulator interactions and Board conversations on tax. Prior to commencing this journey, many organisations had gaps to consider:

- Less than 26% of organisations reported to Board on tax matters under a framework which had been set by the Board
- Nearly 81% of organisations replied that they were not fully confident that their internal controls were appropriate for the size and complexity of their company's operations
- Only 20% had understood and documented their controls across entire end-to-end tax processes
- Less than 36% undertook monitoring or testing more frequently than once a year
- Of these only 23% documented this monitoring/testing activity



Perspective

In today's changing world of tax governance and transparency, Boards and Audit Committees are key stakeholders in any approach. Reporting lines and tax content in Board meetings are being revisited as directors seek adequate but not excessive information on tax in order to discharge their duties appropriately. An understanding of the gaps against best practices and a suitably peer-benchmarked plan to improve is the right first step in reassuring Boards that the organisation is on track.

The ATO respects that you may have gaps in arrangements by reference to these new better practice principles, and do not expect you to be fully ready this year. However, the lack of immediate preparedness in terms of a gap analysis and action plan will be viewed as a higher risk indicator. Technology is already being deployed to transform the tax system at large, which will ramp up globally under a coordinated regulatory effort in the years ahead. Undertaking a holistic review of your tax operating model with full consideration of this and other trends is the most appropriate way to ensure your tax transformation journey is a smooth and fruitful one.

