QUICK TAX RISK CHECKLIST FOR BOARDS AND TAX TEAMS

In a recent keynote speech for the Financial Review CFO Live Summit, the ATO's Second Commissioner Jeremy Hirschhorn affirmed the ATO's commitment to the 'justified trust' methodology it has applied since 2016.

Mr Hirschhorn also shared a 'quick tax risk checklist' to assist CFOs in understanding their respective organisation's level of tax risk, which can in turn inform the development and implementation, or amendments to, that organisation's tax governance framework.

The 'quick tax risk checklist', which follows, comprises general questions for the Board and Tax Team to consider, as well as a separate set of questions to specifically consider in assessing the tax risk of significant or non-routine transactions.

These questions align to the ATO's Tax Risk Management and Governance Review Guide, the application of which is a key focus area of the 'justified trust' approach applied by the ATO in its assurance programs for private and public groups.

Questions for the Board

- What is your tax governance framework?
- What is the risk stance and structural tax settings of the company?
- Do you understand the current (and historic) relationship with the ATO?
- If profits are not fully taxed, why not?

Questions for the Tax Team

- Are there KPIs that supports the organisation's goals and stated tax risk appetite?
- Is the tax corporate governance clear, and is it is 'lived'?
- Do you understand the relationship between financial reporting and tax, including GST and indirect taxes?
- Do you understand where you sit relative to your business peers?
- Do you have high levels of assurance over your tax 'infrastructure'? For example, have you considered the controls and processes relating to data and transaction testing?
- What is your conduct in resolution of tax disputes (including applying the LPP protocol)?
- Could you call yourself a transparency role-model?
- Have you received a high assurance rating previously? If not, why not?

Questions for significant transactions

- Is the position for significant transactions consistent with the risk appetite of the organisation?
- Is the ATO likely to dispute this position? Have you sought certainty from the ATO in the form of a ruling?
- What would happen to revenue collections if everyone did this?
- What is our level of confidence as compared with that required on our physical infrastructure (with like levels of economic exposure)?
- Has the adviser been given a full scope, or are there areas that have been scoped out that are relevant?
- Are the facts and assumptions underpinning the advice supportable and could be evidenced in Court proceedings? What happens if they are wrong / disproved

Any negative or doubtful answer should serve as a red flag to organisations to undertake more robust tax governance steps to better meet the ATO's expectations.

RSM Australia's Tax practitioners are experienced and skilled in all areas of tax governance, including assisting clients of all sizes in designing and implementing tax governance frameworks, and / or assessing the design and operating effectiveness of those frameworks.

FOR MORE INFORMATION

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