The impact of UK rules on Tax Governance and Strategy for Nigerian corporates

What you need to know

www.pwc.com/ng

pwc

Introduction

Schedule 19 of the UK Finance Act 2016, introduced the requirement for qualifying groups to publish a Tax Strategy on their websites. Qualifying groups include Multi-National Enterprise (MNE) that meets the Organisation for Economic Co-operation and Development's (OECD's) 'Country-by-Country Reporting (CbCR) threshold of global turnover over 750 million euros. According to the 2016 UK Finance Act, the deadline for publication of the group's Tax Strategy was before the end of the first accounting period beginning after 15 September 2016.

Nigerian groups that have UK operations (branch or subsidiaries) and annual group consolidated turnover of above N300 billion in any financial year after 15 September 2016 are likely to be exposed to this requirement. As the rule is a UK legislation, many Nigerian groups may be unaware of its existence. Furthermore, the relatively poor tax culture in Nigeria could mean that such Nigerian groups may have no Tax Strategy or an informal approach to managing tax risk.

The new requirement will have a considerable impact on large companies, as they are forced to engage with the public on their tax affairs and, explaining their previously private views on tax management. All at a time when their approach to tax is under immense scrutiny internally and externally. In Nigeria, the Federal Inland Revenue Service does not have a requirement for corporates to publish a Tax Strategy, but with the increased focus on the low tax to GDP ratio, it is only a matter of time before regulators begin to initiate similar regulations. Similarly, investors from the UK may begin to consider tax governance and strategy in relation to the investments they make in other countries, including Nigeria or whether targets in Nigeria would align with their group wide Tax Strategy.

Nigerian Groups and large companies must now think broadly and consider:

TAX

How senior stakeholders in the companies will be engaged and whether a global Tax Strategy publication is more appropriate, given potential scrutiny by non-UK tax authorities like the FIRS

How the strategy will be embedded in practice

How tax risks and opportunity which require further investigations will be identified to ensure alignment with the agreed strategic objectives on tax

If this approach is not taken, organisations leave themselves open to tax authority investigations and wider stakeholder challenge with an increased risk of higher tax penalties should tax errors or non-compliance arise in the future.

The UK requirement constitutes a global best practice or starting point for Nigerian companies that would like to develop a Tax Strategy. The company should consider having a business strategy and corporate strategy before developing a Tax Strategy. Your Tax Strategy should align with published statement on business strategy and ethics. Whilst board approval is not required, it is recommended. To this end, your Tax Strategy should include the following

How you manage tax risks

Include what tax risks are linked to your business' size, complexity and any changes to your business. Other information on governance arrangements to include:

- Details on how you manage your business' tax risk.
- A high level description of key roles and their responsibilities
- Information on the systems and controls in place to manage tax risks.
- Details on the levels of oversight of your business' board and its involvement.

PwC Tip

It's very important to explain how you operate tax governance

Your tax risks

It should say if your business' internal governance has rigid levels of acceptable tax risk. If so, you should explain how it is influenced by stakeholders.

(For example, your organisation may have defined your approach to tax risk appetite in the context of the wider risk framework).

PwC Tip

Your organisation should have an enterprise wide approach to risk management, and as far as possible, existing risk processes should be referenced.

Your attitude to tax planning

If your business has a code of conduct you should include details of it. You should also include:

- Why you might seek external tax advice, if any.
- An outline of your tax planning motives.
- The importance of each to your Tax Strategy.

PwC Tip

Approach to forward planning is important, but you must also consider historic planning to ensure consistency with your public statements.

Working with the Tax Authority

You need to incorporate your business approach to working with the tax authority in the Tax Strategy. You should include:

- How your business meets its requirement to work with the tax authority.
- How you work with the tax authority on:

1. Current, future and past tax
2. risks; Tax events; and
3. Interpreting the law.

PwC Tip

Many groups will find it helpful to explain the approach to working with tax authorities beyond their present residence. You should also consider whether you have strategic objectives on tax that go beyond the four areas mentioned above.

How do you respond?

Develop a Tax Strategy

As well as setting out your Group's approach to tax planning and how you engage with the tax authority, your Tax Strategy should also confirm effective tax governance and what level of risk your organisation is willing to accept.

If there is no Tax Strategy currently in place, companies will need to work through who to involve in the process and how to develop a strategy. Equally, there may be international aspects to be addressed such as considering whether you have UK operations that would trigger a need to publish your strategy.

Ensure effective monitoring of tax governance

Organisations must have a clear understanding of key tax risks, and be able to evidence the assessment of the mitigating controls design and operating effectiveness. This approach also ensures your tax strategy statement aligns to, and does not contradict, your other tax filings.

How can we help?

The trends that most countries are moving to an environment of increased public scrutiny over taxes globally through Base Erosion and Profit Shifting (BEPS), CbCR, Bank Verification Number (in Nigeria) African Tax Administration Forum (ATAF) and ongoing developments in the European Union (EU) and OECD on mandatory public tax transparency reporting. The PwC approach reflects this and is flexible depending on whether you have significant or minimal activity in the UK and have a simple or complex operating model. Your facts and circumstances will determine whether you need to take a 'minimum requirement' approach or a broader perspective.

Minimum requirement

Develop a Tax Strategy document if you meet the UK requirements and sign off by senior stakeholders. If you take this approach, you must at least consider your overarching tax governance. This will enable you to explain to the tax authority how your Tax Strategy is implemented in practice, when questioned.

A broader perspective

Your Tax Strategy should be developed whilst having regard for the wider tax environment, and the need to have confidence in what you are disclosing externally. It must reflect the views of your key stakeholders and how you operate in practice. Recommended actions include:

- Consider examples of best practice tax disclosure globally
- Identify key stakeholders and understand their needs
- Discuss the consistency between statements and approach on strategy and CbCR
- Develop a tax risk management framework to detail risk appetite and how the implementation of your Tax Strategy is monitored
- Possible risk and control review to confirm the identification of key tax risks and review the design and operating effectiveness of key tax controls
- Prepare disclosure to satisfy UK rules but appropriate to wider needs or context (perhaps global or covering multiple divisions)

We want to work with you to understand, design and implement a strategy to suit your needs. PwC's One Tax approach mirrors your need to draw on a number of different company stakeholders and views. We bring expertise from a range of specialist teams to help you address the specific requirements of the rules, whilst considering the broader tax environment.

Contacts

Kenneth Erikume
West African Leader, Tax Reporting & Strategy
Kenneth.y.erikume@pwc.com
+234 271 1700 ext. 50004

Mary Iwelumo
Head - West Africa Strategy Team
Mary.Iwelumo@pwc.com
+234 271 1700 ext. 42002

About PwC At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 250,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more by visiting us at www.pwc.com/ng