Tax Governance

Why is it more important now than ever?

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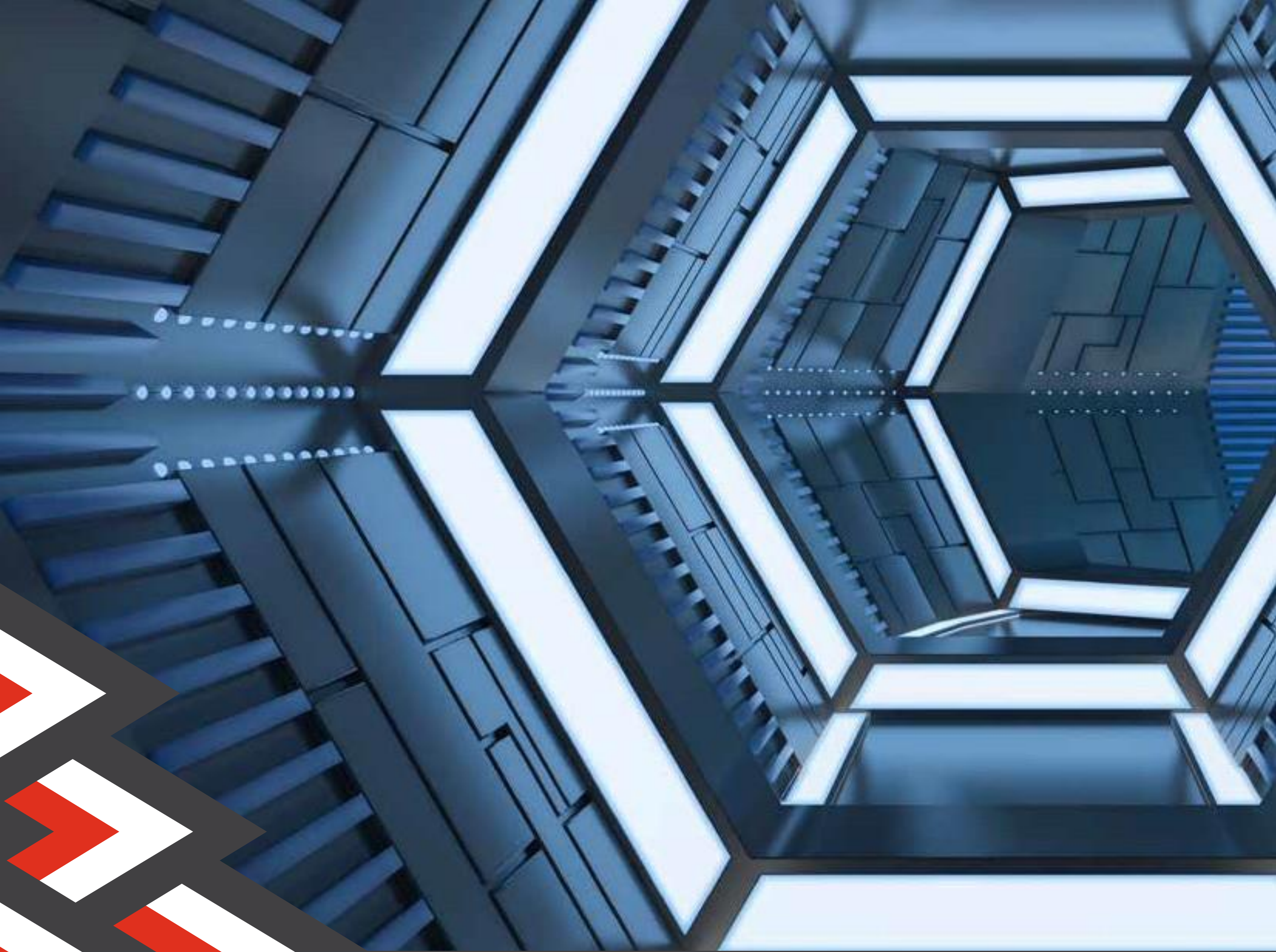


Tax governance will be even more important in the post COVID-19 world. Leading tax functions are re-evaluating their operating models and looking at how to enhance their tax control frameworks to be fit for the future.

In recent years the global tax environment has become more uncertain and complex. The OECD and tax authorities have introduced a number of tools to ensure organisations are paying "the right amount of tax" including BEPS, local tax reforms, transparency measures, real time reporting and the use of data analytics to target their audits and investigations. The impact of these measures was seen in the results of PwC's Global CEO survey, with the increasing tax burden and tax uncertainty being viewed by CEOs as top threats to organisational growth. We have also seen increasing pressure on tax functions to "do more with less" while managing this increased tax risk profile.

COVID-19 has only increased the pressure

We are seeing governments across the globe spending billions of dollars to combat the economic effects of COVID-19. This will result in large government deficits for many countries, which will need to be funded in the future, so they can remain viable and continue to offer public services. Governments collect the majority of revenue through taxes. As such, post the peak of COVID-19, we are likely to see a highly competitive global tax environment with increased audit activity and challenges from tax authorities, the introduction of new tax reform measures and incentives to encourage investment into local economies.

Organisations are also entering into significant and new transactions to minimise the impact of COVID-19 to their businesses including utilising government incentives. Many of these decisions are being made at speed. Tax functions need to understand all transactions entered into and the incentives that have been applied for across their global footprint, and be in a position to defend these decisions not just to the tax authorities/government departments but also the public.

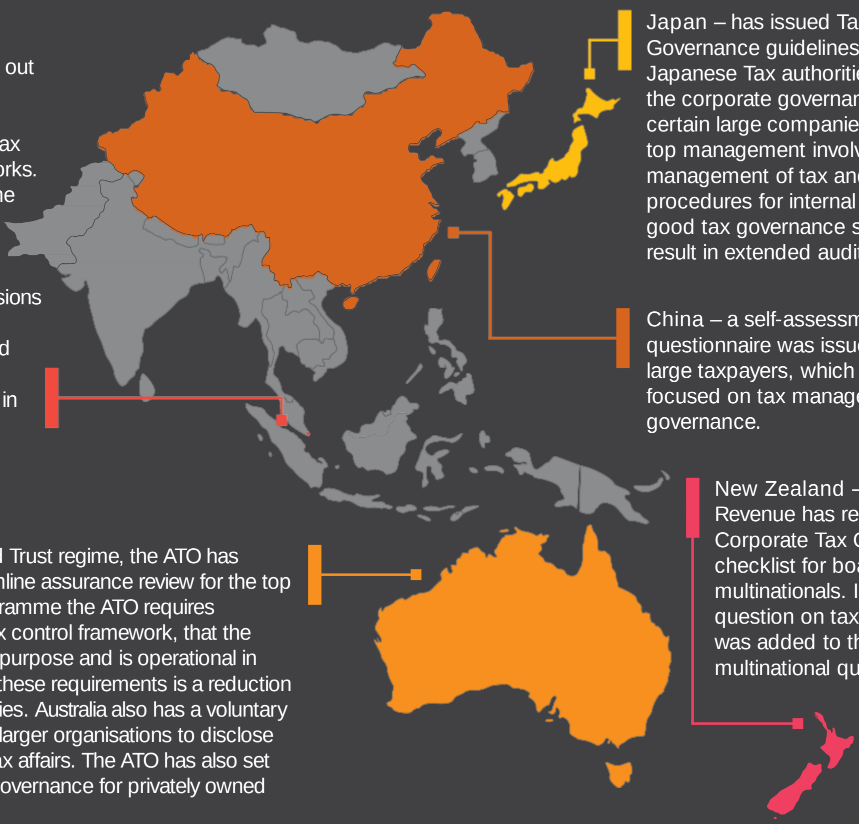
Given the global environment outlined above, tax remains a key financial and reputational risk for any organisation. In the depths of a pandemic, with staff working from home and tax authorities being more lenient on taxpayers in the immediate term, it is easy for organisations to inadvertently relax their tax control frameworks (TCF) causing an increased tax risk profile down the line. A visible and robust TCF is critical to ensuring tax risk is managed effectively now and in the future. This article explores further what a robust TCF looks like, the benefits, and what we are seeing leading organisations do.

Tax Governance regimes around the globe

There is increasing focus by revenue authorities on tax governance. Regulators across the OECD have confirmed close collaboration on tax governance measures. By looking at an organisation's tax governance, regulators are able to assess their level of confidence that the right amount of tax is being paid, with organisations proving a strong control framework receiving less tax authority attention. Examples of territories that have taken action in this area include:

AsiaPac

Singapore – IRAS intends to roll out a new tax governance program, encouraging large entities to establish robust and structured tax governance and control frameworks. IRAS is offering a pilot programme for development of a governance framework for Income Tax. This program offers benefits and tax penalty concessions for early adoption.
In addition, IRAS has the Assisted Compliance Assurance Program (ACAP) for GST, which has been in operation for a number of years.



Japan – has issued Tax Corporate Governance guidelines. The Japanese Tax authorities assess the corporate governance level of certain large companies, including top management involvement, management of tax and accounting procedures for internal control. A good tax governance status may result in extended audit intervals.

China – a self-assessment questionnaire was issued to some large taxpayers, which is primarily focused on tax management and governance.

New Zealand – the Inland Revenue has released a Corporate Tax Governance checklist for boards of multinationals. In addition a question on tax governance was added to the 2019 multinational questionnaire.

Australia – as part of its Justified Trust regime, the ATO has implemented a structured streamline assurance review for the top 1000 taxpayers. Under this programme the ATO requires evidence of the existence of a tax control framework, that the design of the framework is fit for purpose and is operational in practice. The upside of meeting these requirements is a reduction in the intensity of ongoing enquiries. Australia also has a voluntary tax transparency code aimed at larger organisations to disclose key information regarding their tax affairs. The ATO has also set out expectations regarding tax governance for privately owned groups.

Examples from other regions

United Kingdom – HMRC introduced a requirement for large businesses to publish their tax strategy in relation to UK taxation, with penalties imposed if this is not complied with. In addition the Senior Accounting Officer (SAO) regime requires the CFO (or equivalent) to sign off whether there are appropriate tax accounting arrangements in place, with personal penalties imposed on the SAO for failure to meet the requirements. From 2019 the UK Business Risk Review process, which assesses the tax compliance risk profile of large companies, includes explicit consideration of other requirements, e.g. tax strategy, SAO, CCO and CbCR.

United States of America – from 2020 Compliance Assurance Process (CAP) applicants must adhere to a tax control framework requirement. The tax control questionnaire is intended to provide the IRS with an understanding of the company's tax governance processes and the system of internal controls that ensure the accuracy and completeness of your federal income tax returns, information reporting, tax reporting data and other tax-related disclosures.

Data analytics and the impact on tax control frameworks

Revenue authorities are now requesting transaction level data, and using analytical tools to identify exceptions and target taxpayers. With the significant levels of data and information sharing between revenue authorities globally and the substantial investments into technology and analytical tools, it has never been easier for a company's business and tax affairs to be visible to revenue authorities.

For many organisations an enhancement to their TCF is required to ensure that data used for tax is accurate at source and any errors are identified prior to submissions to the tax authority.

Checklist for leading tax control frameworks

Do you have a well-documented **tax strategy** that has been approved by the Board?	✓
Does the company have a documented **tax risk and governance policy** that is effective at managing both technical and operational tax risk?	✓
Are the tax strategy and tax risk and governance policy **operating in practice** within the tax function and throughout the business?	✓
Is there a formalised methodology to **identify, assess, manage and escalate risk** throughout the organisation?	✓
Is senior management confident in the **capacity and capability of the systems, procedures and personnel** in place to achieve overall company tax compliance?	✓
Does management have a formal mechanism in place to **report regularly to the board** on material tax issues and risks?	✓
Has **technology been deployed** for key tax processes, to reduce, detect and monitor key areas of tax risk?	✓
Has the operation of the tax control framework been **tested independently** in the last three years?	✓
Is there a **clear public statement** made by the company as to its tax strategy or tax governance?	✓
Is the tax control framework fit to meet the **current and future needs** of the organisation?	✓

Leading organisations are re-evaluating their tax operating models

Process and Technology

With the use of technology and data analytics by revenue authorities, it is imperative that organisations look at where to use technology in their tax functions to stay ahead. Leading tax functions have a tax technology strategy and roadmap in place and are using tools to move towards "real time" management of tax risk. This is particularly true in the indirect tax space, with tax authorities using e-invoicing and requesting transaction level data, then using data analytics tools to identify exceptions at source and report to tax teams in near real time. The other area leading tax functions are investing in is "tax management tools" that track global compliance filings, tax risk registers, audit activity and create a central document depository for all important documentation.

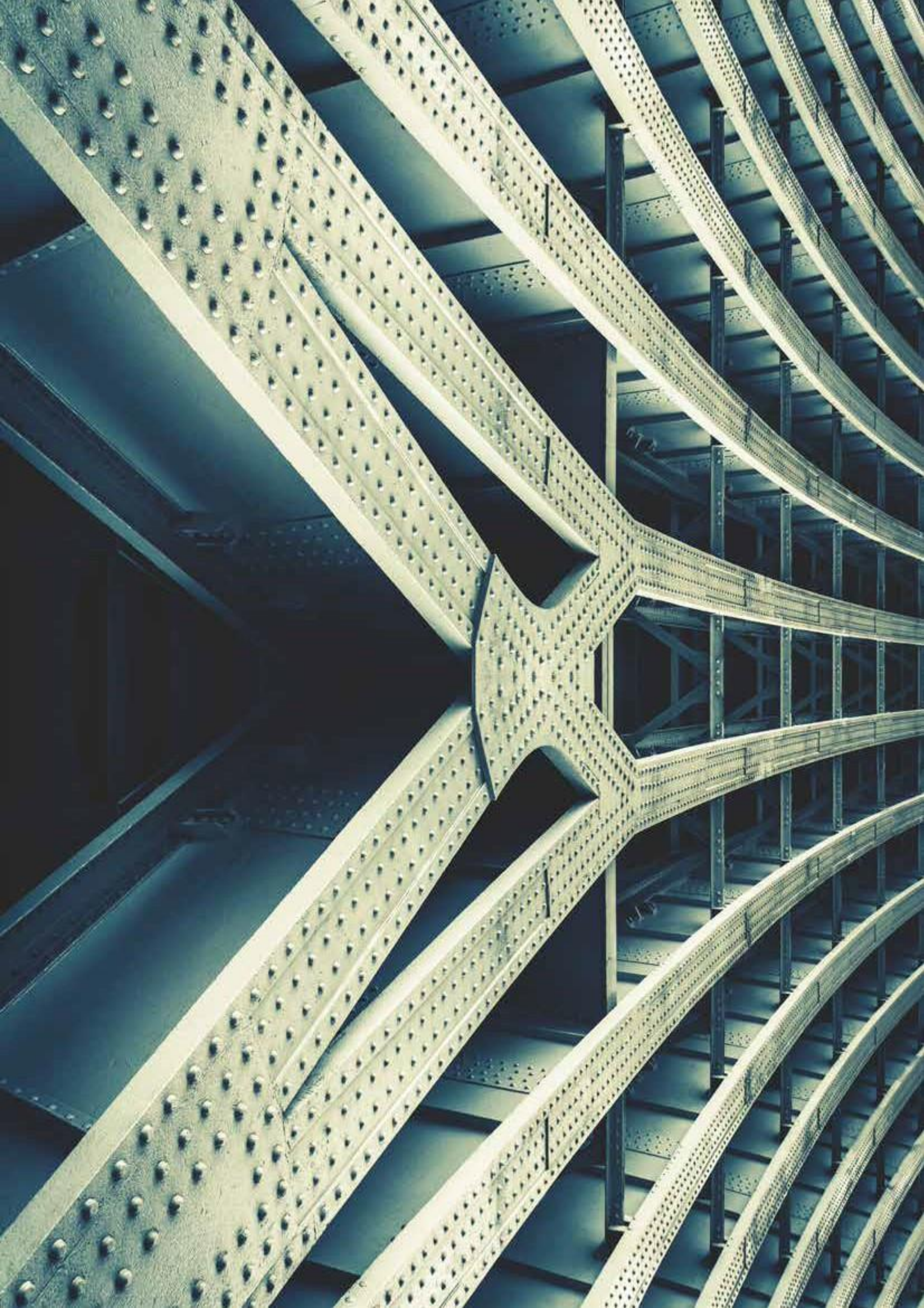
Leading tax functions are also re-looking at key processes – where does key operational risk lie? Can processes be standardised across territories? What are the key controls being relied upon by tax, are they effective and who is testing them? Often a huge amount of value can be added through simple process changes that don't require large technology investments.

Sourcing

We have seen a significant trend across the AsiaPac region of leading tax functions evaluating their sourcing models. With resources stretched and compliance activity increasing, Tax Directors are looking at ways to reduce time spent on compliance and redirect teams onto value-added tasks such as tax planning and proactive risk management. One way of achieving this is to re-look at what tax teams are doing and move tasks out of tax to shared services or outsource to third party providers. Being able to leverage third party investment in technology, standardise processes and have central visibility/management of tax compliance has resulted in sustainable benefits for many organisations.

People

The role of the tax function has evolved with more expected of tax by its stakeholders. Leading organisations are investing in upskilling their people in technology, risk management and communication skills to ensure the future tax function is "fit" to meet the new needs of the organisation.



Where is your organisation on the tax governance curve… ?

Leading organisations are moving up the curve and utilising technology to move towards real time monitoring of tax risk.

Policy	A Tax Risk and Governance Policy (TRGP) exists and the tax team apply the policy in tax decision-making.
Documentation	Tax processes are documented, with identification of key controls. There is wider communication of the TRGP.
Design effectiveness	Tax, finance and other processes are tested for design effectiveness – ensuring processes align with the TRGP. There is wider communication of the TRGP.
Operational effectiveness	Tax, finance and other processes are tested for operational effectiveness – through interviews and process walkthroughs, tax gains an understanding of whether processes are working in practice. Analytics performed ad hoc/periodically using tech at transaction level. Processes are re-designed where they no not have sufficient tax controls.
Ongoing monitoring and testing	Processes, risks and controls affecting tax are monitored and tested on an ongoing basis. There is sufficient senior oversight of tax risk and all stakeholders have an understanding of the tax risk appetite. Continuous auditing using technology to monitor and track risks and control effectiveness. Dashboards to monitor exceptions. Key input into internal audit plan.
Real time monitoring and oversight	Processes, risks and controls are monitored real-time, at transaction level. Risks and control weaknesses are identified and mitigated proactively. Tax data is interrogated and analysed to predict and manage risks. Risks and controls are monitored and tracked digitally. Dashboards and alerts produced.

Where to start?

Tax functions are often resource and budget constrained. With more tax compliance obligations, an increased tax risk profile and more attention from revenue authorities in the future, it is hard to find the time and budget to start to make the necessary changes. Leading tax functions have applied the following principles to enhance their TCF and make change happen:

Be strategic

Perform a high level assessment of the effectiveness of your TCF. Identify gaps in your existing framework and the remedial options available. Remedial actions could include a fresh look at current processes and leverage of technology to automate processes that are inefficient. Prioritise, create a roadmap and focus on areas that create value and mitigate risks.
Look for quick wins.

What is the cost benefit?

Treat any enhancement to your tax control framework as a cost benefit exercise. What is the upside? Reduced compliance activity from regulators, mitigation of risks, greater process efficiencies, more time for tax teams to spend on activities that add value to the business. What is the cost of not doing anything? How far along the governance maturity curve does my organisation need to be now and in the future?

Accessing budget

Create a business case. In our experience it is critical for Tax Directors to recognise the tax risk and governance linkages with other corporate-wide initiatives such as finance function transformation, ERP to the Cloud, merger and acquisition strategies. These all provide opportunities to access budget and align tax with wider business initiatives.

Get ahead of the curve

Having a robust TCF is going to be increasingly important to manage your internal tax risk profile and revenue authority expectations. There are a number of ways enhancement to your TCF can be approached. Below is a simple three step methodology we have found successful working with organisations in this area:

1

Assess your current tax control framework.

- Tax function mandate and key obligations
- Roles and responsibilities
- Level of opinion
- Communication and relationships
- Board Committee reporting
- Tax risk assessment and escalation

2

Conduct an operational risk assessment across key taxes.

- Direct tax
- Indirect tax
- Employment tax
- Other taxes

3

Implement changes that will mitigate risk and add value.

- Policies
- Processes and controls
- People
- Data
- Technology
- Sourcing

Starting your organisation's tax governance journey now is the best way to prepare your tax function for the future.

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