Tax risk management and governance review guide

This information will help you develop and test your tax governance and tax control frameworks.

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Tax risk is the risk that companies may be paying or accounting for an incorrect amount of tax (including both income and indirect taxes), or that the tax positions a company adopts are out of step with the tax risk appetite that the directors have authorised or believe is prudent.

We have embraced the increasingly global view that tax risk management should be a part of good corporate governance. The presence and testing of a tax internal control framework are an integral part of the risk-assessment protocols used by tax authorities.

This guide sets out principles for board-level and managerial-level responsibilities, with examples of evidence that entities can provide to demonstrate the design and operational effectiveness of their control framework for tax risk.

It was developed primarily for large and complex corporations, tax consolidated groups and foreign multinational corporations conducting business in Australia. The principles outlined can be applied to a corporation of any size if tailored appropriately. When appropriate we assess the tax governance processes of large business entities that we have under review. However, the aim of this guide is to help you understand what we believe better tax corporate governance practices look like, so you can:

- develop or improve your own tax governance and internal control framework
- test the robustness of the design of your framework against our best practice benchmarks
- understand how to demonstrate the operational effectiveness of your key internal controls to your stakeholders, including the ATO.

In order to provide a 'whole of tax' best practice framework, this guide has been updated in January 2018 to include excise and indirect taxes including GST, luxury car tax (LCT), wine equalisation tax (WET), as well as to 'fuel tax' entitlements (FTCs) and obligations arising under the *Fuel Tax Act 2006* in addition to the original income tax guidance.

For directors

Director's summary is an overview of your responsibilities for tax risk management and governance

Director's summary

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Director's summary

Overview of your responsibilities for your company's tax risk management and governance as a director.

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Corporate governance and risk management

If you have good corporate governance processes in place, many of the key controls we identify will already exist within your organisation. A good corporate governance model will include a robust risk management framework and procedures to identify, implement and report on the design and operational effectiveness of internal controls in place to mitigate the identified risks.

Tax risk management will normally be one of these risks and some entities may wish to leverage their existing corporate governance practices as much as possible, such as the company's existing financial reporting internal control framework. For this reason, and to ensure consistency and synergy in our approach, we have considered information released by the Australian Securities Exchange (ASX) and global tax regulators, and provisions in the *Corporations Act 2001*.

If we need to assess your tax governance processes, having a strong tax control framework within the company gives us confidence that tax risks are well managed. This means it may take less time to assess whether your controls align with the principles outlined in this guide. Alternatively, the absence of a strong tax control framework may signal to us that more resources are necessary to fully assess tax risks.

Justified trust and key controls

The existence, application and testing of a risk management and governance framework (with tax as an element) is one of the key focus areas for the ATO achieving justified trust and having objective evidence that a particular taxpayer is complying with their tax obligations.

Although we tailor our approach to suit each client, our areas of focus in relation to tax risk management and governance will be aligned with the following 'justified trust' objectives:

- understanding an entity's tax governance framework
  - Board-level control 1: Formalised tax control framework
  - Board-level control 4: Periodic internal control testing
  - Managerial control 1: Roles and responsibilities are clearly understood
  - Managerial control 6: Documented control frameworks
- identifying risks flagged to the market
  - Board-level control 3: The board is appropriately informed
- understanding significant and new transactions
  - Managerial control 3: Significant transactions are identified
- understanding why the accounting and tax results vary
  - Managerial control 7: Procedures to explain significant differences

In addition to the above areas of focus, in line with the updates made to this guide in January 2018, ATO will also consider the following focus area in order to achieve 'justified trust' with respect to excise and indirect taxes:

- Understanding an entity's tax governance framework
  - Managerial control 4: Controls in place for data

See also

- Justified trust
- GST Governance, Data Testing and Transaction Testing Guide

Three lines of defence

Many businesses adopt a 'three lines of defence' approach to risk management:

- risk owners or management
- risk management or compliance function, which reviews and challenges activities and decisions
- board committees and independent assurance functions.

This guide is designed to assist each line of defence by describing what the ATO considers to be better practices for tax risk management and governance.

Board-level controls

The board's role is oversight and monitoring, including ensuring effective governance processes and appropriate risk management frameworks are in place to ensure compliance with applicable laws and regulators' policies.

Managing day-to-day controls and processes to ensure compliance with tax obligations is not a matter for the board, but a responsibility of management.

The board of directors (or authorised board level sub-committee) should oversee an internal control framework that provides guidance on how all risks, including tax risks, are identified and managed within the business.

In addition to having in place effective controls to manage your entity's identified tax risks (which could be evidenced by formalised policies and procedures), you should be able to demonstrate that those controls have been operating effectively over the relevant period. This could be part of the same procedure that is used to demonstrate the effectiveness of all key controls.

See also:

- Board-level responsibilities

Internal controls testing

The ATO intends to apply an evidence-based approach to assessing tax governance, covering income tax, excise and indirect taxes. At the board level, we anticipate directors will possess a general understanding of internal controls, the board's oversight functions and the various points of communication where controls testing results are reported to the board.

Where the ATO compliance product requires the consideration of tax risk management and governance the company should, in the usual course of its dealings with the ATO, provide access to the right individual or internal audit team that can evidence the results of controls testing (eg internal audit reports or management self-assessments).

Managerial-level controls

Underpinning the operational effectiveness of the key controls that form your entity's overall internal control framework with regard to tax, the managerial-level responsibilities would also be assessed. As part of your oversight role, you should get comfort from your management team that managerial-level responsibilities have been met and demonstrated based on evidence. This may be done in the form of assurance reporting from management to the board.

See also

- Managerial-level responsibilities

Directorship responsibilities and liability

Responsibilities

The role of company director is to govern a company on behalf of the shareholders or members of the company. The *Corporations Act 2001* specifies the main duties of directors, including their responsibility for ensuring that their company complies with the Act's financial records and financial reporting requirements.

There are a number of legislative and regulatory requirements or guidance for the directors of a company, including:

- ASX Corporate Governance Principles and Recommendations 4th edition – Principle 1 and Recommendation 4.2
- APRA – Probability and Impact Rating System
- ASIC information sheet 183 – Directors and financial reporting
- Corporations Act section 189
- Case law: ASIC v Healey & Ors [2011] FCA 717

Liability

There are federal, state and territory laws that make directors liable for the actions of their companies. Where a corporation commits a taxation offence, a person who takes part in the management of the corporation (such as a director) may be considered to have committed the taxation offence and may be punishable accordingly.

Under the director penalty regime, directors can become personally liable for:

- unpaid PAYG withholding amounts
- unpaid super guarantee charge (SGC) obligations applicable from and including 30 June 2012 (that is, the June 2012 or later quarters).

The director penalty regime will not affect directors if they ensure their company complies with its PAYG withholding and super guarantee obligations.

Public officers

A public officer is the company's representative to the ATO and has specific responsibilities under tax law. In some cases the public officer might also be a director.

See also

- Public officer

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Board-level responsibilities

The board's responsibilities to establish a risk framework and regularly assess policies and controls.

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Establish a framework to identify and manage tax risk

The board of directors (or authorised board level sub-committee) oversees an internal control framework that provides guidance on how all risks, including tax risks, are identified and managed within the business.

For a business headquartered overseas, we would expect the Australian-based board to perform the oversight role in respect of Australian tax risks including excise, GST and other applicable indirect taxes.

A public statement prepared in accordance with Voluntary Tax Transparency Code (PDF 997KB) developed by the Board of Tax will cover many of these areas. It can be used to demonstrate the design effectiveness of an entity's tax risk management framework, as will reviewing the results of periodic internal control testing performed by management to demonstrate the operational effectiveness of your tax risk management controls. Note that whilst the Voluntary Tax Transparency Code specifically applies to income tax, the broad principles on tax risk management can extend to other taxes such as GST and excise.

The Board of Tax in its final report to the Treasurer regarding the Voluntary Tax Transparency Code in February 2016 stated:
The involvement of the board/senior management will foster a culture within companies to meaningfully and accurately address the public desire for increased corporate tax transparency. As with companies who are currently voluntarily disclosing, the Board of Tax expects disclosures will evolve over time as corporate governance cultures develop and as global transparency initiatives evolve.

Board-level control 1: Formalised tax control framework

The board endorses a formalised tax control framework prepared by management that is understood across the organisation.

Better practice can be demonstrated by a tax strategy document prepared by management, such as a board tax policy that provides details of how the organisation identifies and manages tax risk across all taxes.

This would include policies prepared by management and endorsed by your board of directors that:

- outline the organisation's tax risk appetite
- detail an acceptable level of tax risk for day-to-day operations and what requires escalation
- are published internally and in your annual report.

See also

- Self-assessment procedures – BLC 1

Board-level control 2: Roles and responsibilities are clearly understood

The board understands and formalises company director roles and responsibilities for tax risk management.

Better practice can be demonstrated by:

- documented role and responsibility descriptions for company directors
- programs for inducting new directors include briefings on key accounting and tax issues so they can perform their oversight of tax risk management strategies
- ongoing support and briefings by management for directors regarding tax risk management strategies
- allocating tax risk to an appropriate and independent board sub-committee – for example, an audit committee
- clear communication of expectations for managing tax risks from the board or sub-committee to management.

A board of directors 'skills matrix' as suggested in the ASX corporate governance principles to help identify gaps in the collective skills of the board. Consideration should be given to whether it would be beneficial to include tax in the skills matrix. The ATO notes the board ‘skills matrix’ is generally tailored to each organisation's unique circumstances.

See also

- Self-assessment procedures – BLC2

Board-level control 3: The board is appropriately informed

The board (or sub-committee) has been briefed by management on tax risk matters and the effectiveness of their tax control framework. Consideration should also be given to the tax risk matters and effectiveness of the control framework relating to excise, GST and other indirect taxes applicable to the organisation.

Better practice can be demonstrated by:

- board or sub-committee charters include oversight of tax risks

- regular summarised progress updates to the board or sub-committee by management on how tax issues and risks are trending (i.e. high, medium or low risk) at board meetings
- board (or sub-committee) minutes or documentation that demonstrate members have been briefed by management on the effective tax rate of the business, including whether the amount of tax paid aligns with business results and, where relevant, reasons for significant misalignment
- board (or sub-committee) endorsement for positions taken by management that fall outside published ATO safe harbours or arrangements subject to tax-payer alerts issued by the ATO
- tax-risk registers tabled by management and escalation of issues by management where appropriate – note if you have sought external advice on the relevant risk or issue
- an annual report that includes a statement from the board attesting that they have effective policies and processes in place to manage tax risk – for example, a statement prepared in accordance with the principals in the **Tax Transparency Code.**

See also

- Self-assessment procedures – BLC3

Policies and controls are regularly assessed

The board provides oversight to ensure that management have adequate tax risk management policies in place and adhered to, as well as overseeing management's systematic assessment of internal controls and procedures on a periodic basis.

Board-level control 4: Periodic internal control testing

Periodic internal control testing is conducted to assure the board that the internal control framework is robust enough to effectively manage income, excise and indirect tax compliance risk.

Better practice example: Periodic internal control testing

Better practice can be demonstrated by:

- a testing plan prepared by management to determine the effectiveness of the control framework. (this may include a gap analysis to identify which key controls are not tested via existing assurance processes – for example internal or external audits)
- reports from independent assurance providers (internal or external) that present findings on the effectiveness of the tax control framework, whether conducted primarily for tax controls or other interdependent controls
- evidence that the board (or sub-committee) has reviewed the results presented by management of control framework testing and any proposed remediation plans to be implemented by management for tax control failures
- documented assurance (such as an attestation) from senior management concerning the capability and capacity of the tax control framework.

See also

- Self-assessment procedures – BLC4

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Managerial-level responsibilities

Management's responsibility for capacity and capability, IT controls, accounting, law and administrative updates.

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Management should have the capacity to enforce policies and implement strategies approved by the board. They should develop and implement systems that identify, assess, manage and monitor tax risks. Management also play a vital role in monitoring the appropriateness, adequacy and effectiveness of risk management systems.

The ATO recognises that the better practice examples provided below may not exactly align with the actual controls in place for all entities, particularly those with simple tax affairs. As with all internal controls, tax risk controls should be fit for purpose. We encourage you to adopt the elements of the ATO's recommended better practices that are applicable to your circumstances.

Find out about

- Ensuring sufficient capacity and capability
- Ensuring information technology controls are in place
- Assuring the flow of information from accounting records
- Dealing with law and administrative updates

Ensuring sufficient capacity and capability

Management should ensure there is sufficient capacity and capability to enable effective management of tax risk.

Managerial control 1: Roles and responsibilities are clearly understood

Staff, management and board roles and responsibilities are clearly defined and documented within the control framework to ensure tax obligations are well managed and satisfied.

Better practice example: roles and responsibilities

Better practice can be demonstrated by formal documents, policies or procedures for all roles and responsibilities relating to tax compliance and risk management.

These generally detail:

- role descriptions for tax compliance, administration and risk management
- roles and responsibilities for reporting of tax matters, formalised and understood by management and appropriately trained personnel formal delegations (or authorisation levels)
- segregation of duties – for example, dual sign-off, Business Activity Statement (BAS)/ excise return preparation is segregated from review and authorisation prior to lodgment
- policies or committee charters that specify methods and frequencies for reviewing and escalating risks in the tax risk register, including follow-up of identified tax risks.

See also

- Self-assessment procedures – MLC1

Managerial control 2: Senior management confident of capacity and capability

Senior management, such as the CFO/CEO or head of tax, are confident in the capacity and capability of tax governance processes and personnel for income tax, excise and GST and other indirect taxes.

Better practice can be demonstrated by:

- a control framework approved by senior management that includes both preventative and detective controls
- clearly identified key controls, including how often they are tested by staff with appropriate experience designated as control owners
- senior management approval of the design and operating effectiveness of the internal controls governing tax compliance
- internal or external assurance reviews of tax corporate governance or control framework procedures
- staff training on tax-related topics including excise, GST and other relevant indirect taxes
- staff reviews, KPIs and performance agreements that incorporate tax corporate governance and risk management elements
- key personnel with professional qualifications and standards to ensure capability
- impacts of tax compliance risks considered by an appropriate management or board sub-committee; for example, a mergers and acquisitions sub-committee considers the tax risks of acquiring an entity
- existing channels for personnel outside of the tax function to identify and escalate tax risks
- tax-related reports generated and presented to senior management.

See also

- Self-assessment procedures – MLC2

Managerial control 3: Significant transactions are identified

Transactions or arrangements with a significant tax impact are systemically identified, categorised and reported on – for example, into strategic, operational, reputational, compliance and financial matters.

Better practice examples: identifying significant transactions

Better practice can be demonstrated by a policy for significant tax transactions that:

- specifies the value of what would constitute a significant transaction requiring authorisation from the tax area
- details the types of transactions, issues or risks that are significant enough to be escalated to senior management or the board (and, by default, tax matters not requiring escalation)
- outline the threshold where independent external tax advice should be sought and levels of management sign-off required for the transaction.

A risk-identification process that accounts for qualitative and quantitative risk factors. Examples of typical risk factors include:

- volume of transactions affecting disclosures in the tax return, excise return or BAS
- financial accounting and tax reporting complexities and inconsistencies
- volume of manual adjustments made by management
- related-party transactions
- dealings involving low-tax jurisdictions
- year-end arrangements resulting in tax benefits
- revaluations resulting in tax benefits
- transactions or arrangements where there
  - is a legal versus substance disconnect
  - are steps added to a transaction making it more complex than necessary, resulting in a tax preferential outcome.
- the use of new and complex financial instruments or arrangement.
- manual coding and classification of transactions for GST and excise where systems were overridden Intra group transactions with GST groups
- reversals or corrections to lodged BAS
- tax risks have been rated, for example high/medium/low, with the appropriateness of the rating evaluated on a yearly or half

yearly basis.

- reporting templates that are adhered to.

Note:

Consider our **tax risk information** when carrying out your risk-identification processes.

See also

- Self-assessment procedures – MLC3

Ensuring information technology controls are in place

The internal control framework includes the implementation of appropriate Information Technology General Controls (ITGCs) to ensure information systems that process and store financial data accurately calculate, allocate, record and report tax data correctly.

Managerial control 4: Controls in place for data

Data integrity as a result of data transfer between various accounting/subsidiary systems should be subject to internal control processes.

It is generally understood that the information technology (IT) function will provide assurance that appropriate ITGCs are in place to support the various operations of the business including tax.

General IT controls

ITGCs are policies and procedures that relate to applications that support the effective functioning of those controls. ITGCs that maintain the integrity of information and security of data commonly include controls over:

- data centre and network operations
- system software acquisition (change and maintenance)
- program change
- access security
- application and system acquisition (development and maintenance).

Where IT poses risk to the entity's general control environment, these controls are generally implemented to address:

- reliance on systems or programs that are inaccurately processing data or processing inaccurate data

- unauthorised access to data – particular risks may arise where multiple users access a common database or IT personnel gain access inappropriately
- unauthorised changes to systems, programs or data in master files
- failure to make necessary changes to systems or programs
- inappropriate manual intervention
- potential loss of data or inability to access data as required.

Better practice examples: Controls in place for data

Evidence of data integrity controls can include effective IT system and application controls that maintain the integrity and security of data.

For entities with organisational-level ITGCs, a tax function should identify the relevant IT controls that are key to the tax function in their tax internal control framework. These relevant IT controls should be designed and operating effectively to allow instances of IT control breakdowns to be remedied. Breakdown instances should be communicated to the tax function to assess and remediate any impact on the tax return/excise return/BAS.

This includes effective processes that allow the tax function to provide input on IT controls and functions, where the preparation of the tax return/BAS/excise return is dependent – for example, extracts of data from sub-ledgers, interfaces between systems, ensuring the system is calculating tax as intended.

Consideration of the relevant automated controls key to the tax function may include:

- the extent to which automated calculations, coding of transactions or data-processing routines programmed into the applications are used
- application of master tax codes and setting up of master files to classify GST transactions application of master product and customer codes to calculate the excise liability. Key master tables relate to excise include products, plants, permissions, customers, tax rates, vendors , tariff items and storage tanks
- the settings, rules and conditions within the master files affecting the payment of excise
- IT systems used at the terminal/site level for receipting products, product delivery and stock controls and their impact on calculating the excise liability

- the volume of transactions processed by a control is an indication of whether management should consider the application of ITGCs
- the extent to which your organisation makes use of complex spreadsheets, where the risk of formula error, unauthorised changes or access, and complex calculation, could increase the risk of error
- whether identified information system-control risks have been investigated via an internal or external review by assurance provider (per audit plan)
- reporting mechanisms exist between the tax unit and owners of ITGCs (and the rest of the organisation) regarding IT and system-related control weaknesses.

When developing your internal controls for tax, you may leverage existing control frameworks by documenting all tax-related key controls. You should also document how these controls are tested, by who, including communication protocols and testing frequencies (for example via internal audit on a rotational basis). This is to ensure tax function involvement in the event of any control breakdowns or changes.

See also

- Self-assessment procedures – MLC4

Managerial control 5: Record-keeping policies

The organisation employs procedures to support record keeping for tax requirements as prescribed by law and our guidelines.

Better practice examples: record keeping policies

Better practice can be demonstrated by:

- a formally documented record-keeping policy for tax, including appropriate timeframes for the retention of records
- staff access to guidance notes via an intranet, or a set of procedures that are readily accessible explaining record-keeping requirements
- internal or external audits that verify compliance
- evidence that staff have been trained on record-keeping requirements for tax purposes (covering all taxes).

See also

- Self-assessment procedures – MLC5

Assuring the flow of information from accounting records

Ensure there is a complete and accurate flow of information from accounting records to the tax return, or relevant excise return or the BAS.

Managerial control 6: Documented control frameworks

There is a documented internal control framework that specifically ensures the group's compliance with tax law. This includes the complete and accurate flow of information from accounting records to the tax return, excise return and BAS

Better practice examples: documented control frameworks

Better practice can be demonstrated by:

- documented procedures for reviewing the tax return, including reconciliation back to the audited financial statements with retention of working papers detailing the calculation of the tax, excise and BAS return
- working papers reviewed and approved by management, indicating that they have checked the correct application of tax law to accounting transactions and accurate calculation of the tax, excise and BAS return.

Documented procedures and process manual/s for preparing the excise return and the BAS including the supporting reconciliations.

- Retention of working papers and reports supporting the excise return and the BAS
- documented processes and procedures for terminal/site level inventory controls and stock reconciliations affecting the calculation of the excise liability
- Working papers and reports reviewed and approved by management, indicating they have checked the correct application of tax law to transactions and accurate reporting for excise returns and the BAS.

- documented 'system map' showing the general process flow of how transactions are captured and flowed through to the GST/excise returns.

See also

- Self-assessment procedures – MLC6

Managerial control 7: Procedures to explain significant differences

There are procedures in place requiring explanations for significant differences between accounting disclosures, financial statements, the tax, excise and the BAS return.

Better practice examples: explaining significant differences

Better practice can be demonstrated by documented procedures detailing:

- methods for reconciling the tax calculation prepared for the financial statements and the completed tax return
- methods for preparing deferred tax assets and deferred tax liabilities calculations for the financial statements
- methods for preparing tax calculations based on accounting transactions
- management have a mechanism in place to appropriately explain the tax performance of the entity when compared to the accounting result
- narratives to explain variances between tax expense for the financial statements and the tax paid/payable as per the completed tax return
- methods for reconciling the BAS and the excise return to the source systems data and the general ledger
- procedures in place requiring explanations for significant movements or deviations in the amounts reported in the BAS and the excise return compared to prior comparable periods or to the business operations of the entity.

See also

- Self-assessment procedures – MLC7

Managerial control 8: Complete and accurate tax disclosures

Management are confident that tax disclosures have been accounted for properly and disclosed correctly in the relevant tax return with other relevant disclosures such as the excise return and the BAS. (However, some of these matters may be outside of the responsibility of the tax area).

Better practice examples: complete and accurate tax disclosures'

Better practice can be demonstrated by assurance that a tax, excise or BAS return review has occurred prior to lodgment. This reduces the likelihood of incorrect allocation and classification of line items, and that the relevant law, administrative guidelines and record-retention requirements have been taken into account in relation to issues such as:

- income tax
- capital gains tax
- transfer pricing
- GST
- excise
- research and development
- reportable tax positions
- Appropriate controls to review compliance risk for other types of taxes managed elsewhere, such as
- fringe benefits tax
- the super guarantee charge
- pay as you go (PAYG) (instalments and withholding)
- employee mobility (who bears and claims the labour costs)
- customs and excise duty
- fuel tax credits (FTC)
- luxury car tax (LCT)
- state-based payroll taxes
- stamp duty.

See also

Self-assessment procedures – MLC8

Dealing with law and administrative updates

Processes are in place to deal with law and administrative updates, such as including legislative amendments, ATO guidance updates and budget announcements ensuring these are operating effectively.

Managerial control 9: Legal and administrative changes

Tax corporate governance policies and procedures are required to be regularly reviewed and updated for law and administration changes.

Better practice examples: dealing with law and administrative changes

Better practice can be demonstrated by:

- walkthroughs of process changes to assess whether changes to the law require updates to the internal control framework and development of new controls
- change requests submitted to senior management and changes to systems or control mechanisms implemented
- documented procedures to deal with difficulties implementing change due to law updates
- correspondence sent to us advising of difficulties (if applicable).

See also

- Self-assessment procedures – MLC9
- How to test controls

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Tax control frameworks for medium and small corporations

Principles that indicate our view of better practices in relation to corporate tax governance.

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We recognise that different entities may legitimately adopt different governance practices based on a range of factors, including their size, complexity, history and corporate culture. For that reason, the principles outlined in this document are not mandatory but are an indication of our view of better practices in relation to corporate tax governance.

We recommend that medium and small businesses consider adopting our better practice examples appropriate to their circumstances and the relevant requirements of the Corporations Act when assessing the robustness of their tax control and governance framework.

If you're a privately owned group, Tax governance for privately owned groups provides practical, principles-based tax governance advice tailored to your circumstances.

- The concepts underlying control activities in medium and small entities are likely to be similar to those in larger entities but the formality with which they operate may vary. They may find that certain types of control activities are not relevant because of controls already applied by management, such as:
- management's sole authority for granting credit to customers and approving significant purchases can provide strong control over important account balances and transactions, lessening or removing the need for more detailed control activities
- control activities relevant to the audit of a medium or small entity are likely to relate to the main transaction cycles such as revenues, purchases and employment expenses.

The control environment within medium or small entities is likely to differ from larger entities, in that:

- those charged with governance in medium or small entities may not include an independent or outside member
- the role of governance may be undertaken directly by the owner-manager where there are no other owners.
- The nature of the control environment may also influence the significance of other controls, or their absence, such as:
- While the active involvement of an owner-manager may mitigate certain risks arising from a lack of segregation of duties in a medium or small business, it may increase other risks, such as the risk of override of controls.
- Audit evidence for elements of the control environment in medium or small entities may not be available in documentary form, in particular where communication between management and other personnel may be informal, yet effective; - for example, medium or

small entities might not have a written code of conduct, but instead develop a culture that emphasises the importance of integrity and ethical behaviour through oral communication and by management example.

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How to test controls

Explains the 2 components to testing controls: design effectiveness and operational effectiveness.

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We have included the following guidance to help you understand the type and frequency of control testing that can be applied to assess a tax governance framework. When we conduct a review of tax governance processes we generally adopt the walkthrough approach to determine if your existing controls and assurance processes are adequate.

Given the unique and specialised nature of the tax reporting function, tax-related controls may not always be independently tested under existing internal or external audit schedules. Consideration should be given to an independent review of key tax controls to evaluate their effectiveness, even if they are only tested on a rotational basis.

You may rely on existing processes to test your overall control framework and tax function (preparing tax/excise/BAS return and other tax matters). However, you should be able to demonstrate that your assurance processes are sufficient to evaluate the effectiveness of tax-related key controls. For example, there may be testing of tax-related controls for entities that have an existing financial reporting control framework tested as part of the annual external audit of the financial reports.

Ultimately we consider a large complex organisation should be able to demonstrate that:

- all key controls related to the tax function have been clearly identified, including but not limited to tax sign-off of major transactions, system changes and the management of the tax issues register
- testing frequencies of these controls are known by the tax function
- testing results are reported to the tax function
- any control breakdowns and remediation actions are communicated to the tax function.

Methods used to test controls

There are two components to testing controls: design effectiveness and operational effectiveness.

- Testing control design effectiveness
- Testing the operational effectiveness of a control

The requirements and methods we outline below can be used to test and evaluate your tax control framework. This information, although consistent with the external audit approach to evaluate internal control frameworks, should be considered general guidance only, serving a range of people conducting controls testing, including internal auditors, in-house operational staff and management staff.

Your tax control framework is made up of individual control activities designed to prevent or detect the tax risks that your organisation has identified.

Testing control design effectiveness

The most common method is to perform a walkthrough of the control processes, which include the following actions:

- conducting an inquiry into appropriate personnel
- observing the company's operations
- inspecting relevant documentation and addressing the following objectives
  - firstly understanding the flow of transactions related to the relevant tax/excise/BAS return and WET product classification line item, including how these transactions are initiated, authorised, processed, recorded and treated for tax purposes
  - secondly identifying the points within the process at which a potential error is likely to occur
  - thirdly identifying the controls that you have implemented to address these potential errors.

Upon completing a walkthrough, the end-to-end flow of transactions or sub-processes should be mapped out or narrated from beginning to end, with clear markers indicating the points of potential errors (second objective) and controls (third objective).

In some cases, particularly in lower risk or less complex manual or automated controls, a walkthrough would provide sufficient evidence of operating effectiveness. The specific procedures performed as part of the walkthrough and the results of those procedures should be clearly documented and justified.

Example of a walkthrough scenario for a tax process

In the table below we outline an example of how you may document a tax function process to provide a clear view of your key control points. The walkthrough example below documents typical processes and controls for preparing a corporate tax return.

For entities with consolidated tax groups, we acknowledge that your tax return preparation processes and controls may be slightly different.
Walkthrough example-preparing a corporate income tax return

Walkthrough example-preparing a corporate income tax return

Tax return process narration	Key Control(s)?	Manual or automated controls?	Frequency of control?	How is t operatic of the control evidenc
Review closing balance and carry forward items from previous year's tax return	Control A	Manual	Annual	Sign-off year end checklist tax team member review by tax team manager
Review various factors that would impact the current year tax return (including new tax laws, changes in accounting standards, internal accounting system upgrades, etc.)	Control B	Manual	Annual	Sign-off year end checklist tax team member review by tax team manager

Extract general ledgers from finance system for the relevant period (12 months ending 30 June 2014) by team member	Not a key control	N/A	N/A	N/A
Check that the extractions of general ledgers include all relevant legal entities under Parent Co at month end (reconcile to Parent Co group structure)	Control C	Manual	Monthly	Sign-off month en checklist team member review b team manager
Upload general ledgers to tax calculation software	Not a key control	N/A	N/A	N/A
Tax calculation software is proprietary software that has been programmed to map general ledger to pre-defined tax classification categories	Not a key control	N/A	N/A	N/A
Working papers are	Not a key control	N/A	N/A	N/A

prepared for all manual adjustments				
Manual adjustments are inputted into the tax calculation software by tax staff	Not a key control	N/A	N/A	N/A
Individual entity tax returns are reviewed by a second tax staff member via tax calculation software	Control D	Manual	Yearly (Income tax)	Sign-off year end checklist tax team member review b tax team manager
Third-level review (such as a senior manager) on the tax return and completes a tax calculation checklist	Control E	Manual	Yearly (income tax return)	Sign-off year end checklist tax team member review b tax team senior manager
Finalised individual entity tax returns are aggregated within tax calculation software	Not a key control	N/A	N/A	N/A
Reconciliation of accounting profit/loss to taxable income/loss to ensure completeness, accuracy and incorporate	Control F	Manual	Annual	Sign-off year end checklist tax team member review b tax team manager

explanatory notes for all differences				
Review of consolidation and elimination entries to ensure completeness and accuracy	Control G	Manual	Annual	Sign-off year end checklist team member review b team manager
Working papers are prepared for supporting schedules	Not a key control	N/A	N/A	N/A
Group tax return and schedules are reviewed and signed off by tax review team	Control H	Manual	Annual	Sign-off year end checklist tax team member review b tax team senior manager
Executive memorandum is prepared and tabled to a governing committee summarising the analysis on Parent Co's tax position as per tax return	Control I	Manual	Annual	Tax manager submissi to releva board committe
Final review and lodgment of tax return by company's head of tax	Control J	Manual	Annual	Head of sign off tax retur
Copy of the tax return, schedules and associated	Control K	Manual	Annual	Copies o tax retur schedule and

paperwork is stored and filed centrally				associat paperwo is retriev

The Tax return process described above has been represented diagrammatically below. The green circles indicate key controls as per column two in the table above:

The tax return process (described above) presented as a flowchart.

Example of a walkthrough scenario of the BAS preparation process

In the table below we outline an example of how you may document a BAS preparation process to provide a clear view of your key control points. The walkthrough example below documents typical processes and controls for preparing a BAS.

For entities with GST groups, we acknowledge that your BAS preparation processes and controls may be slightly different.

Walkthrough example-the BAS preparation process

BAS preparation process narration	Key Control(s)?	Manual or automatec controls?
Perform month end closure and run relevant Batch reports from accounting systems	Control A	Automated
Export to Excel or other systems as relevant	Not a key control	N/A
Review the extracted data/batch report to ensure that the accuracy and reasonableness of data	Control B	Manual
Process necessary manual adjustments/revisions to ensure correct GST classification/coding/treatment	Not a key control	N/A
Manual adjustments/working papers are reviewed and	Control C	Manual

authorised		
Lock period to ensure no changes are made to data for BAS preparation	Control D	Automatic/ Manual
Run GST reports relevant for BAS preparation	Not a key Control	N/A
Ensure GST reports reconcile with the key GST accounts in the general ledger	Control E	Manual
Prepare BAS for each entity in the GST group and prepare consolidation as required	Not a key control	N/A
Review BAS preparation working papers and calculations and check label	Control F	Manual
Perform variance/movement analysis and review reasonableness of the prepared BAS	Control G	Manual
BAS is reviewed and signed off by a senior indirect tax staff or Senior Manager such as Finance Director	Control H	Manual
Finalised BAS is lodged electronically by due date	Control I	Manual
Copy of the BAS, associated work papers and reports are stored and filed centrally	Control J	Manual

GST related general ledger account reconciliations are performed and reviewed on a monthly basis (post return submission)	Control K	Manual/ Automatic

The BAS preparation process described above has been represented diagrammatically below. The green circles indicate control keys as per column two in the table above:

The BAS preparation process (described above) presented as a flowchart.

Example of a walkthrough scenario of the excise return preparation

For excise, the return preparation process can vary depending on the systems used and the process to determine the correct excise based on the products. Typical walkthrough should consider the following to identify the processes and related controls utilised as part of the preparation of excise return and the Out of Period Adjustment (OOPA)

- What reports/extracts of data are utilised to generate the excise return?
- What checks and reviews are undertaken to ensure the accuracy of the data?
- What is the nature and type of manual adjustments made? Are they reviewed and approved?
- Are material transactions reviewed? What thresholds are applied to determine the materiality of a transaction affecting the excise liability?
- Are the working papers, documentation are required to be kept for supporting the excise return/OPPA?
- Is the return/OPPA reviewed prior to lodgment?
- What approval are required as part of lodgment of return and payment of the liability
- What general ledger accounts relating to the excise liability are reconciled and reviewed?
- How often is the account reconciliations performed?
- How are reconciling items rectified/investigated and what the is approval process of write-offs

Having narrated and mapped out the relevant processes related to your tax functions, an assessment of the control design effectiveness can be undertaken.

The assessment of control design effectiveness should include:

- whether the control, as designed, achieves the control objective (a control objective should clearly describe the specific risks or potential errors that the control aims to reduce or eliminate)
- the timeliness of the control procedures
- the rigour and precision at which the control is designed to operate
- the appropriateness of assigned roles and responsibilities.

Conclusions on both effective and ineffective control designs should be clearly documented. Effective designs should be further tested to assess the operational effectiveness of controls through the period under review. Ineffective designs should be reported and replaced with better practice recommendations as part of a remediation plan.

If the design effectiveness of a control is determined to be inadequate, a new control should be designed. In this the case, consideration should be given to conducting a review to assess the impact on current and previously lodged returns.

Testing the operational effectiveness of a control

If the design effectiveness of a control is adequate and is expected to reduce the identified tax risk, the control should then be tested for operational effectiveness. This determines whether controls have operated effectively throughout the period under review. To determine control operational effectiveness, a combination of methods can be used, including:

- re-performance provides the most evidence in determining operational effectiveness of a control.
- examination/inspection tests provide the second-most amount of evidence.
- observation provides the third-most amount of evidence.
- inquiry provides the least amount of evidence (inquiry alone does not provide sufficient evidence to support a conclusion about the effectiveness of a control).

Testing plan

Auditors and other assurance providers are guided by auditing standards to exercise their professional judgment in assessing the operational effectiveness of key controls. We advocate a similar approach be taken. The objective of a control testing plan is to identify the key controls that have a significant impact on tax risk and assess your existing level of assurance is operating effectively.

Many key tax controls will be subject to existing internal or external audit review schedules or a second level review within the tax or finance function. If a key tax control is reviewed independently and the review is considered robust enough to provide a reasonable level of assurance, the control may in effect be considered tested for operational effectiveness. Additionally, you may have evidence from previous control testing that may support a notion that your tax controls are effective and would continue to be so.

If no testing has taken place in relation to a key tax control you should map out the frequency and assumed population of control occurrences. To obtain a reasonable level of assurance, independent testing should then take place. Auditing standards do not specify set sample sizes to test within a population of control occurrences. The level and frequency of any control testing necessary for a reasonable level of assurance is determined by an appropriately skilled person, for example an internal auditor.

Example: Sample sizes for controls testing

An example of minimum sample sizes for controls testing is provided below

Example of minimum sample sizes for control testing

Frequency of control	Assumed population of control occurrences	Number of items to test for a reasonable level of assurance
Annual	1	1
Quarterly	4	3+
Monthly	12	5+
Ad hoc	Ad hoc	As appropriate

Example: Testing of control operational effectiveness

Key control: Reconciliation of document A to document B is completed and independently reviewed

Frequency: Monthly

Method of testing: Inquiry and inspection

Sample size: 5

Test: Randomly select a sample of 5 reconciliations performed between 1 July and 30 June and verify that they have been completed and reviewed independently. Note the control in the example below would not have been considered to be operating effectively (since sample 2 and 3 failed) – all 5 instances should have passed for it to be deemed to operate effectively.
Example: Testing of control operational effectiveness'

Example: Testing of control operational effectiveness'

Sample	Month	Test (Pass/Fail)	Comments	Reference
Sample #1	July	Pass	Sample was completed by Staff A and reviewed by Staff B.	Doc10001
Sample #2	September	Fail	Reconciliation was not completed for this week.	N/A
Sample #3	January	Fail	Sample was not independently reviewed. Preparer sign off only.	Doc10002
Sample #4	April	Pass	Sample was completed by Staff A and reviewed by Staff B.	Doc10003
Sample #5	June	Pass	Sample was completed by Staff A and reviewed by Staff B.	Doc10004

Assessing the effectiveness of the control framework

The extent to which an assessment of effectiveness can rely on the work of others will vary, depending on the level of competency of those performing the work.

The following list – in order of reliance from high at 1, to low at 4 – shows the typical relationship between the role of the person performing the procedures and the amount of evidence we may obtain from that work:

1. external auditor testing
2. internal audit/third party on behalf of management
3. management testing
4. management self-assessment.

When relying on the work of others, the competency of those undertaking controls testing should be assessed by obtaining and evaluating the following items:

- educational level and professional experience
- professional certification and continuing education
- supervision and review of work performed
- quality of working-paper documentation, reports, and recommendations.

When evaluating if a control is effective, you should consider the definitions in Auditing Standard ASA 265; Communicating Deficiencies in Internal Control to Those Charged with Governance and Management (we have replaced 'financial report' with 'tax return/excise return/BAS').

A deficiency in internal control means either a control:

- is designed, implemented or operated in such a way that it is unable to prevent, or detect, and correct misstatements in the tax return on a timely basis
- necessary to prevent, or detect, and correct misstatements in the tax return/excise return/BAS on a timely basis is missing.

A significant deficiency in internal control means: a deficiency or combination of deficiencies in internal control that in the judgment of the external/internal* auditors or management (see note) is of sufficient importance to merit the attention of those charged with governance.

Note: Modified from original standard to reflect that controls attestation might be done by internal or external auditors or management (self-attestation).

Upon completing these tests, evidence collected should be retained and results clearly documented.

- Exceptions and findings regarding both control design and operational effectiveness should be reported and tabled to a governing committee, such as a board or risk committee. Following up on recommendations or remediation should be carried out annually and evidence of board of directors/committee oversight should be recorded in the respective minutes.

Outsourced tax functions

Management of entities with outsourced tax functions should demonstrate in their controls framework the methods that enable directors to rely on information, or professional expert advice in accordance with Section 189 of the Corporations Act – specifically, directors should understand the information or advice before making an independent assessment. The testing of controls for an entity should include the following that are linked to the preparation and submission of the tax, excise and the BAS return:

- internal controls
- checklists
- source documentation
- communication protocols.

Management should consider the content of this document when meeting with service providers. This will ensure new transactions are disclosed to service providers and new developments or tax risks are communicated to management and escalated appropriately.

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Self-assessment procedures for reviewers

These self-assessment procedures have been written to comply with ASRS 4400 Agreed Upon Procedures.

Last updated 25 August 2022

These procedures are for use by:

- ATO Client Engagement teams when they undertake tax governance reviews
- large corporates (management or internal audit) when self-assessing their tax risk management and governance compared

against the 'better practices' in the guide

- professional firms engaged by entities to perform an agreed-upon procedures review of a tax risk management and governance framework.

The self-assessment procedures have been written to comply with ASRS 4400 Agreed Upon Procedures.

Find out about

- Using these procedures
- Board-level controls
- Managerial-level controls

See also

- How to test controls

Using these procedures

Board-level controls

Managerial-level controls

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Using these procedures

Last updated 25 August 2022

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Best practice framework

This document is not intended to become form over substance, nor should users attempt to comply with every element.

Tax risk controls should be fit for purpose and we encourage you to adopt the better practices that are applicable to your circumstances.

This document provides the opportunity to contrast your tax risk management and governance framework against the ATO better practices. During a governance review, entities are encouraged to describe their compensating controls, to demonstrate how the entity manages their tax risks if the framework does not align exactly with our better practices and to document why they might not be applicable to their circumstances. An 'if not, why not' approach is suggested.

Not replicating the exact better practice element outlined in the guide should not imply a failure but rather prompt discussion about how that risk is managed in the organisation.

We suggest an initial gap analysis be performed and then entities should look to leverage existing processes or identify compensating controls where best practice elements are either not present or only partially present.

For example, an entity might legitimately elect not to adopt a better practice element where the risk is deemed to be low or that the cost of compliance might exceed the benefit.

If the board-level controls defined in this document have been delegated to management, we suggest that this is simply noted and not considered an observation to allow flexibility when performing a review.

Dealing with observations

The matrix below may help management to self-assess potential instances where their risk management frameworks do not align with better practices. It includes the option to state that an element is not applicable for all observations identified as a result of this work plan.

Dealing with observations – self assessment procedures

Rating scale	Initial risk rating	Details of compensating control/reasons	Final risk rating
In the absence of the ATO's			

best practice element or suggested controls, we are exposed to high risk			
In the absence of the ATO's best practice element or suggested controls, we are exposed to medium risk	*Example 1 & 2:* Medium	*Example 1:* • Tax manager does not review tax return prior to head of tax. • Compensating control: review by head of tax *Example 2:* • Indirect tax supervisor does not review the BAS/excise return prior to indirect tax/finance manager • Compensating control: review by indirect tax /finance manager	*Example:* Low
In the absence of the ATO's best practice element or suggested controls, we are exposed to low risk			
Not applicable or reasons why best practice element might not be adopted		Cost of compliance, materiality, low risk rating Details or discussion of how	

		the organisation manages the risk	

Interacting with PS LA 2004/14

ATO officers should be mindful of **PS LA 2004/14** and work with the entity to ensure that the procedures are followed.

When our officers ask the entity for board (or sub-committee) information and documentation, they should note the potential interaction with PS LA 2004/14. If any of the requested papers fall within the protection of **PS LA 2004/14** (or legal professional privilege and accountants concession), entities should advise our officers about their claims.

When so advised, our officers work with the entity to find alternative ways to evidence the effective operation of controls without the need to view protected source documents. For example, a meeting invitation from the company secretariat to the head of tax might provide sufficient evidence that the head of tax had briefed the board (or sub-committee) at an appropriate interval.

For non-ATO personnel performing these procedures, we recommend you inspect these documents in order to fully address the procedure with a continuous improvement focus. Internal or external auditors or management will not be subject to PS LA 2004/14.

The assertion of legal professional privilege or the administrative concessions provided by the ATO (i.e. the 'accountants' concession' and the 'corporate board advice concession' in PS LA 2004/14) by a taxpayer should not be considered an exception.

General information for benchmarking (to be captured by ATO officers)

Document the following:

- number of staff in tax function including indirect tax staff
- number of identified tax controls (manual and automated) (Refer to BLC-4a) and MLC-2b) for details of entity's identified tax controls).

Next steps

- Board-level controls
- Managerial-level controls

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Board-level controls

Last updated 25 August 2022

A formal document should have evidence of board or sub-committee endorsement (for example, board or sub-committee minutes or statements in the actual policy or procedural document under examination).

Management may have draft documents or completed documents that are pending board approval. These should be reported as observations and copies should be obtained to note the entity's intent of strengthening their tax control framework.

The entity may point to a different section of a document that has already been collected in another procedure within this guide. In these circumstances, reference those documents and the page numbers or sections that correspond to these procedures.

For all documents obtained, references should be clear and unambiguous, and copies should be attached to the report.

The board-level controls are:

- Establish a framework to identify and manage tax risk
- Policies and controls are regularly assessed

Establish a framework to identify and manage tax risk

Policies and controls are regularly assessed

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Establish a framework to identify and manage tax risk

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Board-level control (BLC)1: Formalised tax control framework

BLC1a: A formal tax strategy document prepared by management, such as a board (or sub-committee) tax policy, that provides details of how the organisation identifies and manages tax risk including excise, GST and other relevant indirect taxes.

Procedure

When performing this step we suggest that you leverage information potentially disclosed in Part B of the Tax Transparency Code which includes guidance on disclosures relating to tax policy, strategy and governance.

Obtain the entity's formalised tax strategy document and note the following:

- name of document
- date of document version
- date of board (or sub-committee) endorsement.

If a formalised tax strategy document does not exist, is in draft or has not been endorsed by the board (or sub-committee), enquire of the entity and report their response raising an observation there is no document.

If tax has been included in the overarching risk management framework and endorsed by the board, the tax strategy document may be delegated to or owned by management. In this scenario the inclusion of tax in the risk management framework should be checked and a copy of the tax strategy document obtained.

Better practice report inclusions

- Formalised tax strategy or similar documents that addresses how the organisation identifies and manages tax risks

- Extracts from the overarching risk management framework that relate to tax
- Extracts from the organisation's Tax Transparency Report (Part B) Approach to tax strategy and governance

BLC 1b: Policies presented by management and endorsed by your board of directors that outline the organisation's tax risk appetite; detailing an acceptable level of tax risk for day-to-day operations and what requires escalation. These should be published internally and in your annual report. Excise, GST and other applicable indirect taxes should also be included in the assessment of the organisation's tax risk appetite and acceptable level of tax risks.

Procedure

When performing this step we suggest that you leverage information potentially disclosed in Part B of the Tax Transparency Code, which includes guidance on disclosures relating to attitude towards tax planning and acceptable level of risk in relation to tax.

Obtain the entity's board (or sub-committee) endorsed policies that describe:

- the organisation's approach to risk management
- reference to BLC-3e for procedures in relation to obtaining advice
- the delegated authority for tax matters (for example, audit committee)
- endorsed risk management policies published internally where tax is included as an element
- the approach risk management (or summary version) included in their annual report, corporate governance statement or tax transparency report, if applicable.

Extract and note the page reference of the above items in the report.

To check the existence and accessibility of above policies published internally, inspect the entity's intranet/central repository or other forms of staff communication. Obtain and attach screen print and note the access date

Also check if the above content is included in the entity's most recent annual report, tax transparency report or corporate governance statement and reference the relevant pages.

If the above items have not been described in a board endorsed document, or not accessible in the locations outlined above, enquire of the entity the reasons for its absence, report their responses and raise an observation.

Better practice report inclusions

- Formalised tax risk management policy or similar documents such as extracts from the overarching risk management framework that addresses the organisation's risk appetite and governance statements
- Extracts from the organisation's corporate governance statement

Board-level control (BLC) 2: Roles and responsibilities are clearly understood

BLC2a: Documented role and responsibility descriptions for company directors. This document, commonly known as the board charter, should describe the roles and responsibilities at the board level. The title of this document could vary depending on the organisation.

Procedure

Obtain the entity's board charter, annual report, corporate governance statement (or similar document) and note the name and date of document.

Extract and page reference the relevant sections of the document that describes the board's role and composition

Extract the sections that relate to the annual review of the risk management framework (of which income tax, excise and indirect tax will be an element) - note that tax might be included as part of compliance risk or regulatory risk components

Extract the sections that indicate the responsibility of management to attest to the controls in the risk management framework and the required frequency (BLC-3a); if absent, raise an observation - note this oversight responsibility can be delegated to the board audit committee as an example.

If the board charter (or similar document) does not exist or is in draft, enquire of the entity's reasons, report their response and raise an observation.

Better practice report inclusions

- Documented board (or sub-committee) level roles and responsibilities

BLC2b: Programs for inducting new directors include briefings on key accounting and tax issues including excise, GST and other applicable indirect tax issues so they can perform their oversight of tax risk management strategies.

Procedure

Obtain the entity's induction program for new directors and enquire if the induction program for new directors includes briefings relating to key accounting and tax issues. Potential inclusions might be:

- public statements prepared in accordance with the **Voluntary Tax Transparency Code**
- the presence of arrangements for which the ATO has issued Risk Alerts.

If ongoing training programs are offered in addition to the initial induction programme, obtain details of the training program by:

- in-house, outsourced or attendance at periodic tax update briefings provided by professional services firms, Tax Institute and so on
- list of topics covered by training program and identify if there are any tax-related topics covered.

If new director induction pack does not exist, enquire the reasons for its absence, report their response and raise an observation.

Better practice report inclusions

- New board director's induction pack

BLC2c: Ongoing support and briefings by management for directors regarding income tax, excise and indirect tax risk management strategies.

Procedure

Obtain extracts of policies, minutes, agendas or board papers from management that evidence how the board provides oversight over the entity's tax risk management and noting:

- the frequency at which the board (or its delegated board committee) considers tax risk management strategy updates/briefings provided by management and report management’s response

- if the board (or sub-committee) require assistance with details of the tax risk management strategy with details of relevant party to provide assistance.

If documents do not exist for the above items, enquire of the entity reasons for its absence and report their response. If the board has delegated the overseeing function to an independent board sub-committee, proceed with BLC-2d.

ATO officers: refer to Interacting with PS LA 2004/14.

Better practice report inclusions

Better practice can include management updates or briefings to board directors on tax risk management strategies.

BLC2d: Allocating tax risk including excise and indirect tax risk to an appropriate and independent board sub-committee – for example, an audit committee.

Procedure

If the board have not delegated this to an independent board sub-committee, note this and skip the remaining parts of BLC-2d.

Obtain sub-committee charter noting the name of the document and composition of the sub-committee

Extract the section(s) that indicate the responsibility of reviewing tax risks and the required frequency (BLC-3a). If absent, raise an observation. Note the review of tax risk might be done in conjunction with other risks or as part of an annual review of the overarching risk management framework.

If the sub-committee charter does not exist, or is in draft, or the composition of the members does not include board or independent members, enquire of the entity's reasons, report their response and raise an observation.

The local board for some multinational companies might consist of executive management with independent directors existing at parent level. If this is applicable, note this when responding to the procedures above.

Enquire of the entity when, within the last 12 months, tax-related matters were discussed by the sub-committee. Report their response and inspect relevant extracts of the agenda or minutes to check tax-related matters discussed, or presented by tax manager or head of tax.

Better practice report inclusions

- Independent board sub-committee charter.

BLC2e: Clear communication of expectations for managing income tax, excise and indirect tax risks from the board or sub-committee to management.

Procedure

Enquire of the entity if the board or sub-committee communicates expectations to management regarding the management of tax risks. Document their response.

BLC2f: A board of director's 'skills matrix' as suggested in the ASX corporate governance principles to help identify gaps in the collective skills of the board. Consideration should be given to whether it would be beneficial to include income tax, excise and indirect taxes in the skills matrix. The ATO note the board ‘skills matrix’ is generally tailored to each organisation's unique circumstance.

Procedure

There are multiple skills that might be considered when developing a board skills matrix dependent on the strategy and business circumstances of the organisation.

Industry taxation is an element of subject matter expertise that an organisation might consider when developing its criteria for a board skills matrix However the skills matrix is unique to each organisation according to its needs.

The absence of tax from the board skills matrix should not be considered an exception.

Enquire of the tax manager/public officer/company secretary if any circumstances have arisen where it would have been beneficial to have tax expertise at the board level and report their response.

Better practice report inclusions

- Board of director's ‘skills matrix’

Board-level control (BLC) 3: The board is appropriately informed

BLC3a: Board or sub-committee charters include oversight of tax risks. Consideration should also be given to excise and indirect taxes applicable to the entity.

Procedure

Refer to BLC-2a for board or BLC-2d for sub-committee charter.

If annual reviews of the risk management framework (which includes tax risk) are absent from the charter, enquire of the entity when was the last time that the risk management framework was reviewed by the board or the delegated sub-committee. Report their response and obtain extracts of an agenda and/or minutes to evidence the review.

Better practice report inclusions

- Independent board sub-committee charter
- Agenda or minutes of board or sub-committee meeting

BLC3b: Regular summarised progress updates to the board or sub-committee by management on how income tax, excise and indirect tax issues and risks are trending (for example high, medium or low risk) at board meetings.

Procedure

Obtain from the entity the most recent board (or sub-committee) agenda, minutes or papers which summarises:

- progress updates provided by management on tax issues
- risk trends assessed by management (i.e. high, medium or low risk)
- managements proposed changes to the risk register, including new tax risks, removal of tax risks and risks that have changed in ratings compared to the previous period
- for each tax risk listed, report if tax advice was sought by management.

If documents for the above items do not exist, enquire of the entity's reasons, raise an observation and report their response.

Better practice report inclusions

- Agenda or minutes of board or sub-committee meeting

ATO officers: refer to [Interacting with PS LA 2004/14]

BLC3c: Board (or sub-committee) minutes or documentation that demonstrate members have been briefed by management on the effective tax rate of the business, including whether the amount of tax paid aligns with business results and, where relevant, reasons for any significant misalignment.

Procedure

When performing this step we suggest that you leverage information potentially disclosed in Part A of the Tax Transparency Code which includes guidance on the disclosure of effective tax rates.

Obtain from the entity documented evidence that the board or sub-committee has been informed of:

- the effective tax rate
- the timing and permanent differences
- the alignment of tax paid with business results and justification for any significant misalignment.

If there is no documented evidence that the effective tax rate has been tabled by management to the board/sub-committee, enquire of the entity's reasons, raise an observation and report their response.

Documentation could include board minutes, board pack, annual financial statements or Tax Transparency Report or any other document where information on tax effective rate is briefed to the board should be obtained. Clearly reference the name of the document in the report.

Better practice report inclusions

- Board (or sub-committee) minutes or documentation that demonstrates members have been briefed on effective tax rate
- Documented processes to examine the alignment of tax paid with business results and justification for any significant misalignment

ATO officers: refer to [Interacting with PS LA 2004/14].

Excise and indirect taxes

BLC3c: Board (or sub-committee) minutes or documentation that demonstrate members have been briefed by management on the significant excise, GST and other indirect tax issues, including whether the amount of tax paid is consistent with the business model and where relevant, reasons for any significant misalignments.

Procedure

Obtain from the entity documented evidence that the board or sub-committee has been informed of:

- significant, new and unusual transactions
- changes in the business model affecting excise and the indirect tax outcome of transactions
- excise and indirect tax position taken
- changes to excise and indirect tax methodologies, for example apportionment of input tax credits on acquisitions for GST
- alignment of tax paid with business results and justification for any significant misalignment or variations.

If there is no documented evidence that excise and significant indirect tax issues has been tabled by management to the board/sub-committee, enquire of the entity's reasons, raise an observation and report their response.

Documentation could include board minutes, board pack, internal or external review findings or any other document where information on significant excise and indirect tax issues is briefed to the board should be obtained. Clearly reference the name of the document in the report.

Better practice report inclusions

- Board (or sub-committee) minutes or documentation that demonstrates members have been briefed on significant excise and indirect tax matters
- Documented processes to examine the alignment of excise and indirect tax paid with the business model of the organisation and justification for any significant (as defined by the entity) misalignment or deviations

BLC3d: Board (or sub-committee) endorsement for positions taken by management that fall outside published ATO safe harbours or arrangements subject to taxpayer alerts/guidelines issued by the ATO.

Procedure

Enquire of the entity the following and document their response:

- What is management's process for determining if safe harbour has been breached?
- If safe harbour is breached or the organisation is party to an arrangement for which the ATO has issued a taxpayer alert, is there a process to communicate this to the board (or delegated board committee)?

If the above processes are documented, obtain a copy, note the document name and page reference the relevant section(s) of the document that corresponds to the above items.

Safe harbour

ATO or legislative 'safe harbours' apply to rules such as thin capitalisation, CFC attribution, transfer pricing and fuel tax credits. ATO releases early warnings to the community of concerns about new or emerging transactions, structures or arrangements we consider may represent a compliance risk through taxpayer alerts (TA).

We acknowledge that administrative safe harbours are designed to be compliance saving measures (for example, Public Rulings and PSLA's) and that taxpayers may elect not to apply them. We recommend that you document your process for making such elections including appropriate escalation points.

Better practice report inclusions

- Documented board (or sub-committee) endorsement for positions taken outside the ATO published safe harbour

BLC3e: Tax-risk registers tabled by management and escalation of issues by management where appropriate and if management have sought external advice on the relevant risk or issue. Tax-risk registers should also include excise, GST and other indirect tax issues.

Procedure

Refer to MLC-3c for procedures relating to the tax-risk register.

Enquire of the entity if they have the following and document their response:

- Are tax-risk registers (or registers including tax risks) tabled by management to the board (or sub-committee) at appropriate intervals? If so, how often?
- Documented process (1) for escalation of issues by management where appropriate - for example, a material change in tax risk or uncertain tax treatment.

- Documented process (2) when management seek external advice on the relevant risks, issues and/or rulings from the ATO.

If documented processes 1 and 2 exist, obtain a copy, note the document name and page reference the relevant section(s) of the document that corresponds to the above items.

Better practice report inclusions

- Risk registers that may include tax risks or a separate tax risk register if that exists
- Documented process for escalating tax issues
- Documented process for seeking external advice on tax issues

ATO officers: refer to Interacting with PS LA 2004/14.

BLC3f: An annual report that includes a statement from the board attesting that they have effective policies and processes in place to manage tax risk including excise and indirect taxes for example a statement prepared in accordance with the principals in the Tax Transparency Code.

Procedure

When performing this step, we suggest that you leverage information potentially disclosed in Part B of the Tax Transparency Code which includes a description of the approach to risk management and governance.

Obtain the entity's annual report/corporate governance statement and check if a statement from the board has been included to attest that they have effective policies and processes in place to manage risk (tax might be included as a compliance or regulatory risk).

Enquire if tax is included as an element of the overarching risk management framework.

Enquire of the entity if they have a Tax Transparency Report. If so, obtain a copy and attach to report.

If attestation document/corporate governance statement or Tax Transparency Report is absent, enquire of the entity's reasons, report their response and raise an observation.

Better practice report inclusions

- Statement from the board attesting effective policies and processes for managing risks (page extract from annual report)

- Tax being classified as a compliance or regulatory risk
- Voluntary Tax Transparency Report

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Policies and controls are regularly assessed

Last updated 25 August 2022

Board-level control (BLC) 4: Periodic internal control testing

BLC4a: A testing plan prepared by management to determine the effectiveness of the control framework. This may include a gap analysis to identify which key controls are not tested via existing assurance processes – for example, internal or external audits.

Procedure

Obtain management's testing plan to determine the effectiveness of their internal control/risk management framework.

Entities often have three-year or five-year strategic audit plans that describe rotational audits of key processes and controls and tax-related controls might be tested in conjunction with other processes such as testing of controls in the financial reporting framework.

Inspect the testing plan, page reference and note:

- the methodology to test the design effectiveness of controls
- the methodology to test the operational effectiveness of controls

Identify and list of tax key controls covering both income tax, excise and indirect taxes, including:

- tax key controls that are tested under existing assurance processes
- tax key controls that are not tested under existing assurance process and alternate plan on how these controls would be tested

Enquire if tax key controls are in scope for SOX (only if the US Sarbanes Oxley legislation applies).

If the listed items above are absent or have not been documented, enquire the reasons for their absence, report their response and raise an observation.

Obtain evidence that the testing plan or results thereof have been tabled to the board (or sub-committee) (BLC-4c) by management. If absent, enquire of the entity's reasons, report their response and raise an observation.

If a testing plan does not exist, enquire of the entity's reasons for its absence, report their response and raise an observation.

Better practice report inclusions

- Extracts from internal / external audit plan relating to tax elements covered as part of engagement.
- Listing of tax-related key controls as part of the organisation's internal control framework.
- Gap analysis that identifies which tax key controls are not tested via existing assurance processes
- Documented testing plans for tax key controls that are not tested via existing assurance processes

BLC4b: Reports from independent assurance providers (internal or external) that present findings on the effectiveness of the tax control framework, whether conducted primarily for tax controls or other interdependent controls.

Procedure

When performing this step, we suggest that you leverage information potentially disclosed in Part B of the Tax Transparency Code which includes a description of assurance regimes the organisation is subject to, for example internal audit, external audit and ATO compliance products.

If some or all the entity's tax key controls are tested under their existing or planned internal audit cycle or are considered as part of the external audit program, obtain audit reports and note:

- the name of audit report or audit plan
- the date of report
- the provider

- the scope of audit/review including the testing of design effectiveness and operational effectiveness?
- the sample sizes.

If the audit is complete, list the findings/qualifications regarding tax controls and proposed remediation plans then page reference the sections that state the findings on effectiveness of tax controls.

Audits might not be conducted primarily to review tax controls but tax controls may be included with other interdependent controls.

For all the audit reports obtained, obtain board (or sub-committee) agenda and/or minutes to evidence that these reports (or a summary) have been tabled to the board (or sub-committee) by management.

If absent, enquire of the entity's reasons, report their response and raise an observation (BLC-4c).

Better practice report inclusions

- Extracts from internal or external audit report where tax-related controls might be included in the scope of review
- Internal and external auditor report – IT controls review (with a sub-section related to the tax function if applicable)
- Report on compliance by independent assurance provider
- Information disclosed in the organisation's Tax Transparency Report.

BLC4c: Evidence that the board (or sub-committee) has reviewed the results presented by management of control framework testing and any proposed remediation plans to be implemented by management for tax control failures.

Procedure

Refer to BLC-4a (testing plan tabled to the board or sub-committee) and BLC-4b (audit reports tabled to the board or sub-committee)

Enquire of the entity how the board (or sub-committee) provides oversight on management’s progress to implement proposed remediation plans. For example, entities may have periodic follow up reviews to report the progress of audit recommendations.

Report the entity's response and obtain copies of follow up reports (if any) and page reference the section(s) that are related to tax controls recommendations.

Better practice report inclusions

- Board (or sub-committee) agenda/minutes
- Follow up report presented by management to relevant board or board sub-committee

BLC4d: Documented assurance (such as an attestation) from senior management concerning the capability and capacity of the tax control framework covering income tax, excise and indirect taxes.

Procedure

Obtain management's documented assurance (such as an attestation) from senior management concerning the design and operational effectiveness of the tax control framework and note:

- the findings and deficiencies
- the remediation plans
- the implementation dates
- the follow up testing.

If senior management's attestation or assurance document regarding the design and operational effectiveness of the internal control framework (of which tax should be an element) does not exist, enquire of the entity's reasons, report their response and raise an observation.

Better practice report inclusions

- Senior management attestation on the capability and capacity of the control framework (of which tax is an element)

Next step

- Managerial-level controls

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Managerial-level controls

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For managerial-level controls, where a formalised document is endorsed by senior management or above; evidence of formalisation should be obtained (for example, physical/electronic sign off by Head of Tax, CFO, CEO, or minutes from board (or sub-Committee) meetings). Management may have draft documents or completed documents that are pending approval. These should be reported as observations and copies of the previously approved version and the current draft version should be obtained to note the entity's intent of strengthening their tax control framework. The tax control framework should encompass all tax types including excise, GST and other relevant indirect taxes.

The entity may point to a different section of a document that has already been collected in other procedures within this guide; in these circumstances, reference those documents and note the page numbers or sections which correspond to these procedures.

Next steps

- Ensure sufficient capacity and capability
- Ensure information technology controls are in place
- Assure the flow of information from accounting records
- Dealing with law and administrative updates

Ensure sufficient capacity and capability >

Ensure information technology controls are in place >

Assure the flow of information from accounting records >

Dealing with law and administrative updates >

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Ensure sufficient capacity and capability

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On this page

Managerial-level control (MLC) 1: Roles and responsibilities are clearly understood

MLC1: Formal documents, policies or procedures for all roles and responsibilities relating to tax compliance and risk management including excise and applicable indirect taxes. These generally detail:

- role descriptions for tax compliance, administration and risk management
- roles and responsibilities for reporting of tax matters, formalised and understood by management and appropriately trained personnel (formal delegations or authorisation levels)
- segregation of duties (for example, dual sign-off), BAS/excise return preparation is segregated from review and authorisation prior to lodgment
- policies or committee charters that specify methods and frequencies for reviewing and escalating risks in the tax risk register, including follow-up of identified tax risks.

Procedure

Enquire if the entity has documented roles and responsibilities relating to tax compliance and risk management for their tax function and noting:

- name of document
- date of document
- document approver (name and title)
- if the document is formally endorsed by senior management and, if not, report an observation

Inspect the document, extract and page reference the sections of the document that describe the following:

- role descriptions for tax compliance, administration and risk management
- roles and responsibilities for reporting of tax matters, formalised and understood by management and appropriately trained personnel (or authorisation levels)
- formal responsibility or process for excise and indirect tax staff members to partner with accounting/finance/operations and systems staff to consider the appropriate excise and indirect tax consequences of transactions
- formal responsibility for liaising with the ATO excise and GST relationship managers
- segregation of duties (for example, dual sign-off).

If documented roles and responsibilities do not exist, enquire of the entity's reasons for its absence, report their response and raise an observation.

Enquire about the entity's processes for reviewing, escalating and following up risks in the tax risk register and noting:

- name of document (if documented)
- date of document
- document approver (name and title)

If the document is not formally endorsed by senior management report as an observation.

Where available page reference the sections where methods and frequencies for reviewing, escalating and following up tax risks are described.

When escalation is required, identify any dollar threshold set for matters like errors and law changes.

If documented methods do not exist, enquire of the entity's reasons, report their responses and raise an observation.

Better practice report inclusions

- Documented roles and responsibilities relating to tax compliance and risk management
- Documented methods and frequencies for reviewing, escalating and following up tax risks

Managerial-level control (MLC) 2: Senior management confident of capacity and capability

MLC2a: A control framework approved by senior management that includes both preventative and detective controls. Note that an organisation might have a separate income tax, excise and indirect tax control framework or tax will be an element of an overarching risk management/internal control framework.

Procedure

Obtain the entity's tax control framework (or overarching risk management/internal control framework of which tax is an element) and note the following:

- name of the document
- date of document
- document approver (name and title)
- list of preventative and detective controls related to tax and page reference
- frequencies at which controls operate and sample size guide
- whether the tax control framework includes policies/procedures to ensure sufficient capacity of tax function - for example, management might consider the capacity of the tax function is not compromised by cost saving measures by
  - the benchmarking of team headcount numbers versus industry peers
  - the comparison of tax obligation deliverables versus staff resources.

If documented control framework is absent, or is in draft, or is not approved, enquire of the entity's reason, report their response and raise an observation.

Better practice report inclusions

- Approved tax control framework (including both preventative and detective controls)
- Approved overarching risk management/internal control framework of which tax is included as an element

MLC2b: Clearly identified key controls, including how often they are tested. Staff with appropriate experience are designated as control owners. Note that an organisation might have a separate tax control framework covering income tax as well as excise and applicable indirect taxes or tax will be an element of an overarching risk management/internal control framework.

Procedure

Obtain the entity's documented key controls related to tax, testing frequencies and assigned control owners and note:

- name of document
- date of document
- identified key controls related to tax
- how often controls are tested and sample sizes
- transaction cycles for which walkthroughs have been completed
- details of owners for each tax key control (name and title).

If the above items are not documented, enquire of the entity's reason for its absence, report their response and raise an observation.

Some of the information required for this procedure will be obtained in MLC-2a.

Better practice report inclusions

- Documented key controls related to tax, testing frequencies and assigned control owners

MLC2c: Senior management approval of the design and operating effectiveness of the internal controls governing tax compliance covering all tax types

Procedure

Enquire of the entity if management have undertaken an assessment of their design and operating effectiveness of the internal controls governing tax compliance. Report their response.

Enquire if assessment results have been documented and approved by senior management. If so, obtain a copy and note findings raised from the assessment.

If documented assessment is not approved or in draft, raise an observation. Note that an organisation might review design and operating effectiveness of tax controls in conjunction with other controls in the risk management framework.

Better practice report inclusions

- Documented assessment of their design and operating effectiveness of the internal controls governing tax compliance, approved by Senior Management.

MLC2d: Internal or external assurance reviews of tax corporate governance or control framework procedures covering income tax, excise and indirect taxes

Procedure

Refer to BLC-4b for reviews of the tax control framework carried out by independent assurance providers.

Refer to MLC-6b where the review of tax provisions or tax positions as part of the year end external audit fieldwork can be leveraged.

Enquire of the entity if they have internal audits or management self-assessment reviews to examine their tax corporate governance or control framework as it relates to tax.

For example, organisations may adopt their own three lines of defence risk management framework for testing the design and operational effectiveness of their tax function.

Report their response.

If the testing of tax corporate governance or control framework has been undertaken by management, obtain a copy of their report, extract and page reference:

- the name of report
- the details of staff who performed the review (name, title, division)
- the synopsis of review scope
- the list of tax key controls
- the transaction cycles for which walkthroughs have been completed
- the sample size
- the findings or testing results

- the recommendations.

Better practice report inclusions

- Documented internal or external assurance audit plan (includes the examination of tax corporate governance or control framework procedures)
- Elements of the risk management framework relating to tax that might be tested as part of external or internal audits (reflected in the audit plan), for example, annual GST apportionment reviews

MLC2e: Staff training on tax-related topics. The training should also include excise, GST and other indirect tax topics as applicable to the entity

Procedure

Obtain the entity's training materials and training attendance registers for staff training on tax-related topics and note:

- training to date
- training type (in-house, external workshop, course, briefing or presentation by external advisors or professional bodies (for example, Tax Institute).
- training topics
- staff who attended.

Also note any personnel who have not attended training in the last twelve months and who work in the tax function. Enquire of the entity's the reasons for their absence, report their response and raise an observation.

If the tax training materials and attendance registers are absent, enquire of the entity's reasons, report their response and raise an observation.

Better practice report inclusions

- Tax-related training packs
- Tax-related training attendance register

MLC2f: Staff reviews, KPIs and performance agreements that incorporate tax corporate governance and risk management elements.

Procedure

Enquire of the entity if tax corporate governance and tax risk management metrics have been incorporated into tax personnel staff reviews, KPIs and performance agreements. Report their response. An example would be the requirement to attend tax technical update training periodically.

Better practice report inclusions

- Documented KPIs or performance agreements (includes tax corporate governance and tax risk management)

MLC2g: Key personnel with professional qualifications and standards to ensure capability.

Procedure

Enquire of the entity how they ensure adequate capabilities of key personnel within their tax team. Report their response.

If the entity's response relates to on-going training, obtain documented training documents or training attendance registers to tax-related training sessions held in the last 12 months.

The work performed in MLC-2e can be leveraged here.

Better practice report inclusions

- Role description for key personnel used in the hiring process
- Documented training documents or training attendance registers to tax-related training sessions

MLC2h: Impacts of tax compliance risks are considered by an appropriate management or board sub-committee; for example, a mergers and acquisitions sub-committee considers the tax risks of acquiring an entity.

Procedure

Refer to MLC-3a and MLC-3d for consideration of how tax compliance risks are managed in significant transactions.

Refer to BLC-3b for consideration of how management ensure the board (or sub-committee) is appropriately informed.

Better practice report inclusions

- Documented policy or procedure describe the responsibility of considering tax compliance risks

MLC2i: Existing channels for personnel outside of the tax function to identify and escalate tax risks.

Procedure

Refer to MLC-3a for documented processes for business areas to identify and communicate significant transactions to the tax team.

Better practice report inclusions

- Documented procedure describing how personnel from areas outside the tax function identify and escalate tax risks

MLC2j: Tax-related reports generated and presented to senior management.

While the guide contemplates all taxes ATO officers considering tax risk management and governance as part of PCR, ACA or similar products should focus on income tax elements. ATO officers should consider work of other business lines such as an annual compliance arrangement for GST to ensure credit is given where the requirement has been tested in a related process or product.

Procedure

Enquire of the entity what tax-related reports are produced for senior management and who have these reports been circulated to. Include reports for all tax types and entity's response.

Of the reports that are presented to senior management, enquire of the entity to identify reports that include tax information or calculations, obtain a copy and note:

- name of report
- date of report
- distribution list
- type of tax (for example, Capital gains tax, GST, FBT, stamp duty).

Better practice report inclusions

- Tax-related reports presented to senior management

ATO officers: refer to Interacting with PS LA 2004/14.

Managerial-level control (MLC) 3: Significant transactions are identified

MLC3a: A policy for significant income tax, excise and indirect tax transactions that:

- specifies the value of what would constitute a significant transaction requiring authorisation from the tax area
- details the types of transactions, issues or risks that are significant enough to be escalated to senior management or the board (and, by default, tax matters not requiring escalation)
- outline the threshold where independent external tax advice should be sought and levels of management sign-off required for the transaction.

Procedure

Obtain the entity's documented definition of significant transactions for tax purposes and note:

- where value would constitute a significant transaction requiring authorisation from the tax function types of transactions, issues or risks that are significant enough to be escalated to senior management or the board (or sub-committee)
- whether the escalation process is automatic or manual (automatic escalation process is a system enabled approval process via workflows that are programmed in accordance with the entity's delegation of authority)
- the process other business areas use to identify and communicate significant transactions to the tax team (also refer to MLC-3d in relation to reporting templates)
- the threshold where independent external tax advice should be sought and levels of management sign-off required for the transaction
- the requirement to perform a Financial Acquisitions Threshold (FAT) test to ensure costs associated such significant transactions incorporate appropriately denied GST credits.

If documented definition of significant transactions for tax purposes does not exist, enquire of the entity's reasons for its absence, report their response and raise an observation.

Better practice report inclusions

- Documented processes for identifying, managing and escalating significant tax transactions

- New product or transaction approval documents
- Documented processes that capture information relating to:
  - the identification of potential supplies made under significant transactions (e.g. share sale/purchase is input taxed or asset sale/purchase is taxable/GST-free)
  - timing of proposed transactions, including any changes regarding the structure or type of transactions to be undertaken

MLC3b: A risk-identification process that accounts for qualitative and quantitative risk factors. Examples of typical risk factors include:

- volume of transactions affecting disclosures in the tax return, excise return or BAS financial accounting and tax reporting complexities and inconsistencies
- volume of manual adjustments made by management
  - related-party transactions, including offshore related parties (like branches) dealings involving low-tax jurisdictions
  - year-end arrangements resulting in tax benefits
  - revaluations resulting in tax benefits
  - transactions or arrangements where
    - there is a legal versus substantial disconnect
    - there are steps added to a transaction making it more complex than necessary, resulting in a tax preferential outcome
- the use of new and complex financial instruments or arrangements
- ongoing monitoring and assessment procedures relating to determination of whether GST recovery apportionment models are fair and reasonable
- transactions within GST groups
- GST treatment of international cross border transactions including dealings via a digital medium
- classification or treatment of uncommon, new or unusual GST transactions (for example, a sale of property involving margin scheme, and sales or acquisition of shares)

- excise classification and treatment for new product releases.

Procedure

Enquire of the entity the following and report responses:

- How does management identify risks (such as a change in business, change in law) that would potentially warrant a change in the internal controls relating to tax?
- What are the triggers that would lead management to assess its risk and controls pertaining to the tax function?
- Does management have a process in place to automate controls for large volume transaction processes to improve efficiency?

Enquire of the entity whether the following examples of risk factors are part of their risk identification or risk assessment process:

- volume of transactions affecting disclosures in the tax return or excise return or BAS financial accounting and tax reporting complexities and inconsistencies
- volume of manual adjustments made by management
- related-party transactions
- transactions within GST groups dealings involving low-tax jurisdictions
- year-end arrangements resulting in tax benefits
- revaluations resulting in tax benefits
- GST recovery apportionment methodology assessment and monitoring (if applicable)
- transactions or arrangements where there is a legal versus substance disconnect
  - there are steps added to a transaction making it more complex than necessary, resulting in a tax preferential outcome
  - the use of new and complex financial instruments or arrangements.

- Classification or treatment of uncommon, new or unusual GST transactions. (for example a sale of property involving margin scheme, sale or acquisition of shares)

- GST treatment and classification of transactions involving overseas suppliers and customers, including transactions with offshore related parties
- excise treatment of new 'developed' products.

In reporting their response:

- Enquire of the entity if there are any other tax risk factors considered by the management. If risk factors are documented by the entity, obtain and attach a copy to the report.
- Enquire of the entity if there have been any changes to the control framework in the past 12 months, as a result of errors or exceptions found in its tax control framework. If so, list them and the corresponding new controls or remediation plans in the report. Report entity's response.

Better practice report inclusions

- Tax risk identification document
- Internal control framework change request or IT control change request form

MLC3c: Tax risks for all tax types have been rated, for example high/medium/low, with the appropriateness of the rating evaluated on a yearly or half yearly basis.

Procedure

Enquire of the entity what risk rating scales are being used and how often tax risks are assessed to ensure its ratings are appropriate. Report their response. If documented, obtain a copy and note the sections that correspond to risk rating scales and review frequencies.

Inspect the entity’s risk register and note:

- the number of risks in the risk register
- if each risk been assigned a risk rating
- the date when the risk register was last reviewed.

In addition, non-ATO personnel should note the nature of risks considered, who reviews these risks, who approves revised risk ratings, when was the risk register last presented to the senior management or the board or (sub-committee).

Better practice report inclusions

- Documented processed for ranking risks and review frequencies
- Risk registers that may include tax risks, or a separate tax risk register if that exists
- Risk registers that incorporate review of matters when ATO advises industry that certain industry issues/risks are under review

MLC3d: Reporting templates that are adhered to.

Procedure

Enquire of the entity if they have processes for reporting tax risks for all relevant taxes and significant transactions staff are required to use when identifying and reporting tax risks. Report their response.

Obtain evidence of how the process was adhered to when reporting tax risks and significant transactions. Note the reporting format, date, issue and tax law references in the report. For example, some industries make use of a New Product Approval template that would include a section for the tax team to complete.

If the reporting templates require the consideration of:

- what taxes apply to a significant transaction
- formal advice or consultation sought to assess the impact of all relevant taxes including excise, GST and other indirect taxes
- strategies or controls to manage any identified tax risk
- post implementation review to consider if the transaction was implemented as originally planned and if not reasons for changes are documented.

If the processes do not exist, enquire of the entity the format used for reporting tax risks and significant transactions (for example, emails). Document their response, obtain an example of the format used and attach to the report.

Better practice report inclusions

- Reporting template for reporting identified risks and/or significant transactions

ATO officers: refer to Interacting with PS LA 2004/14.

Next steps

- Ensure information technology controls are in place
- Assure the flow of information from accounting records
- Dealing with law and administrative updates

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Ensure information technology controls are in place

Last updated 25 August 2022

Managerial-level control (MLC) 4: Controls in place for data

Refer to MLC-6a for the procedures relating to the entity's overall tax, excise and BAS return preparation process. Refer to MLC-6a for the list of systems and application where data is sourced and processed. MLC-4 specifically addresses system and application controls.

MLC4a: Effective IT system and application controls that maintain the integrity and security of data.

For MLC-4, the ATO notes that the level of sophistication of IT controls in relation to tax data might vary. Some entities might use off the shelf software while others might have in-house software or rely on detailed data extracts from sub-systems to complete elements of the tax return, income tax, excise, GST calculation and the excise return and the BAS

The focus of this procedure should be on systems or sub-systems that are used in the tax, excise and BAS return preparation process with their related IT controls.

We note that application controls relating to tax might be covered by enterprise wide controls and suggest these are leveraged for this procedure provided tax systems are included in their scope.

Procedure

Enquire of the entity if they have identified the IT system and application controls that are related to the tax function or preparation of the tax, excise and BAS return. If so:

- List the IT system and application controls that relate to the tax function or preparation of the tax, excise return and BAS preparation process (including data extracts or feeds from sub-systems). Where tax-related IT controls are documented, obtain a copy and attach to the report.
- List the maintenance of IT system and application controls that ensure adequate tax data integrity and security. For example, data integrity is the accuracy and consistency of data stored in a database. Data security is protecting data from unauthorised access and other destructive forces. Note that application controls relating to tax can also be maintained or tested as part of a wider IT General control environment.

If the entity indicates that there are reviews of system and application controls related to the tax function or preparation of the tax, excise and BAS return, enquire:

- Is the review undertaken in-house or outsourced?
- When was the last review performed?
- When is the next scheduled review?

A review of system and application controls relating to tax might also be performed as part of a wider IT General control review.

Obtain the report for the most recent review/audit and enquire of the entity which part of the review scope relates to tax applications or data. Report their response and page reference the report.

Inspect the review/audit report and note any findings raised and remediation plans that are related to systems and data used by the tax function.

If the entity has not identified systems and application controls that are related to the tax function or preparation of the tax, excise or BAS return then:

- enquire of the entity’s reasons
- enquire how the management ensure the completeness and accuracy of the tax function and preparation of the tax, excise or BAS return
- report their response.

If the entity has identified tax-related systems and application controls but has no mechanisms in place to maintain the control design and operating effectiveness of those systems and applications, enquire of the entity's reasons, report their response and raise an observation.

Better practice report inclusions

- Review/audit of IT system and application controls report

MLC4b: For entities with organisational-level IT General Controls (ITGCs), a tax function should identify the relevant IT controls that are key to the tax function in their tax internal control framework. These relevant IT controls should be designed and operating effectively and instances of IT control breakdowns should be remedied. Breakdown instances should be communicated to the tax function to assess and remediate any impact on the tax, excise and BAS return.

Procedure

Enquire if they have organisational-level (or enterprise wide) ITGCs in place where the tax function can be identified and is documented. Document their response. If so, obtain the document and highlight tax key controls, noting how often these controls are tested.

In the most recent ITGC review, enquire if any IT control breakdowns were noted that related to the tax function. If so, obtain a copy of the ITGC report and note the remedial plans, due dates and action owners.

Enquire if the breakdown of tax-related controls was communicated to the tax function? If so, how was it communicated? Obtain copies of any written evidence (for example, emails). Report their response.

If the tax function is informed of IT control breakdowns that are associated with the tax function, enquire of the entity how does the tax function assess and remediate any impact on the tax, excise or BAS return? Report their response.

Note that IT general controls relating to tax might be reviewed as part of wider IT general control review for all systems.

MLC4c: An effective process that allows the tax function to provide input on IT controls/functions, where the preparation of the tax, excise and BAS return is dependent on IT (For example, extracts of data from sub-ledgers, interfaces between systems, set-up/maintenance of master files for customers, vendors, products, tax codes/rates, plants, permissions and similar).

Procedure for the income tax return preparation

Enquire of the entity in relation to preparing the tax return what software applications (for example, tax integrator) are used to perform tax return calculations (refer to MLC-4d) and note:

- the name of the application
- whether in-house or purchased (if purchased, details of provider/vendor and whether it is bespoke or off-the-shelf software)
- the frequency of the software update
- how the entity ensures that the programming of the application is updated to reflect law changes as they arise
- the relevant automated key controls built into the software with a brief description of the control
- when these controls were last tested for design and operating effectiveness and what results have been included in MLC-4a (if not, repeat MLC-4a).

If the entity uses spreadsheets for calculating their tax return (refer to MLC-4d) enquire:

- What controls are in place to ensure that formulas are correct?
- What controls are in place to ensure that the spreadsheets are only accessed and used by authorised personnel?
- When were spreadsheet controls last tested for design and operating effectiveness and have the results been included in MLC-4a (if not, repeat MLC-4a)?
- What datasets (for example, general ledger, and tax asset register) are required to perform the tax calculation?
- Which systems are data extracted from?
- How does data from sub-systems integrate with the software used to perform the tax calculation?
- How does the tax team ensure that the required data extracted from sub-systems is accurate and complete?

Where the tax team has previously identified issues (including changes required because of change of tax laws) with the IT controls or functions then identify:

- the nature of the issue

- how reported
- who it was reported to
- how it was rectified.

If issues are documented, obtain the document and page reference. Report their response.

Procedure for the BAS/excise return preparation

Enquire of the entity what accounting systems are used to capture transactional data to prepare the BAS/excise return (refer to MLC-4d) and document:

- the name of the application/system
- whether in-house or purchased - if purchased, details of provider/vendor and whether it is bespoke or off-the-shelf software
- the frequency and nature of the system updates/change
- whether all members of the GST group use a common accounting system or how their systems are integrated
- whether all excise transactions are captured within one system or multiple systems? How does the inventory management systems interact with systems recording and calculating the excise liability on transactions?
- how the entity ensures that the systems are updated to reflect law changes as they arise
- what controls and authorisation processes are there to ensure the accuracy of master file data including creation, amendments and changes
- what the settings, rules and conditions within the master files that affect the payment of excise liability and related categories including delivery location, unbonded/bonded status, excisable/duty paid goods, customer status (Lifter pays) and sales type
- what the procedures are for changing the classification of products in the accounting system including the authorisation process
- the relevant automated key controls built into the system with a brief description of it

- the controls in place to ensure the accuracy of data input and processing
- the ability to track changes to the adjustments made including changes to GST/excise classification of transactions
- any process to ensure staff responsible for entering data into the accounting systems understand the correct GST/excise treatment of a transaction
- how the accounting payable and accounts receivable process is recorded
- whether any or all the accounting functions and billing activities are outsourced
- as to when were these controls last tested for design and operating effectiveness and if the results were included in MLC-4a. (if not, repeat MLC-4a).

Enquire of the entity the following in relation to the BAS/excise return preparation process and note:

- the source system reports are used to extract data for the BAS/ excise return preparation
- whether all systems are integrated or are there any legacy/unintegrated systems requiring manual intervention to collect the BAS/excise return preparation data
- whether there are manual adjustments/journals required to correct/update system extracted data
- the process for ascertaining and correcting errors via the Out of Period Adjustment (OOPA) in excise reporting
- the controls are in place to ensure the extracted data is accurate, complete, classified, reconciled and reported correctly
- the controls in place to ensure the manual/automated journals are reviewed and validated for accuracy.

If the entity uses spreadsheets for preparing the BAS/excise return (refer to MLC-4d) enquire:

- the controls in place to ensure that formulas are correct
- the controls in place to ensure spreadsheets are only accessed and used by authorised personnel?
- when the spreadsheet controls were last tested for design and operating effectiveness and results included in MLC-4a (if not, repeat MLC-4a).

Where the indirect tax team previously identified issues (including changes required as a result of change of tax laws) with the IT controls or functions then note:

- the nature of the issue
- how it was reported
- who it was reported to
- how it was rectified.

If issues are documented, obtain the document and page reference, reporting their response.

Better practice report inclusions:

- Accounting system architecture overview or a diagram(s) that outlines how sales, acquisitions transactions and inventory movements flow through the system(s) to the BAS and sales reported for excise and/or WET
- BAS/excise return preparation instructions
- GST and excise manuals

MLC4d: Consideration of the automated controls key to the tax function may include:

- the extent to which automated calculations/coding or data-processing routines programmed into the applications are used
- the extent to which manual interventions are allowed in systems ,for example transaction tax code overrides, changes to tax rates and product classifications
- the volume of transactions processed by a control as an indication of whether management should consider the application of ITGCs
- the extent to which your organisation makes use of complex spreadsheets, where the risk of formula error with unauthorised changes or access to complex calculation, could increase
- whether identified information system-control risks have been investigated via an internal or external review by assurance provider (per audit plan)
- whether reporting mechanisms exist between the tax unit and owners of ITGCs (and the rest of the organisation) regarding IT and system-related control weaknesses.

Procedure

We note that application controls relating to tax might be covered by enterprise-wide controls and suggest these are leveraged for this procedure provided tax systems are included in the scope of these controls:

- MLC-4d-1. Refer to MLC-4c for details of software applications used to automate tax return calculations/BAS/excise return preparation or data-processing.
- MLC-4d-2. Refer to MLC-3b for details on the consideration of automating manual controls used for large volume transaction processes.
- MLC-4d-3. Refer to MLC-4c relating to spreadsheets used to automate tax return calculations/BAS/excise return preparation or data-processing.
- MLC-4d-4. Enquire of the entity if the tax team have considered the all information system control risks If so, enquire of the following and report entity's response:
  - What risks were identified and which IT systems are the risks related to? List risk and IT systems.
  - Has internal/external audit identified these risks? If so, obtain documented risks by internal/external audit? Ensure these risks are related to the tax function and information systems.
  - Is internal / external audit planning to review these risks and the associated controls? If so, obtain internal/external audit plan and note the following:
    - scheduled reviews to assess information system risks that are related to the tax function
    - synopsis of review scope
    - timing of scheduled review.
- MLC-4d-5: Refer to MLC-4c for details of reporting mechanisms from the tax team to the IT function.
  - Enquire of the entity if there is a reporting mechanism in place from other areas of the business to the tax team regarding IT and system-related control weaknesses? Report their response.

Better practice report inclusions

- ITGCs scoping document or engagement letter

- Spreadsheet templates for calculating tax return and preparing excise return, BAS/WET calculations
- Internal (or external) audit plan
- Documented processes for reporting and remediating IT control breakdowns

Managerial-level control (MLC) 5: Record-keeping policies

MLC5a: A formally documented record-keeping policy for tax, including appropriate timeframes for the retention of records.

Procedure

Obtain the entity’s record-keeping policy for tax and note:

- the name of the document
- the date of approval
- the document approver (name and title)

Identify if this policy is specific to tax and covering all tax types (if not, page reference the sections of the policy pertaining to tax).

Identify if the document specifies appropriate timeframes for the retention of records and requirements for retaining work papers that details tax calculations, including where work paper should be stored (password protected share drive).

If a tax specific record-keeping policy does not exist or is not formalised, enquire of the entity's reasons, report their response and raise an observation.

Better practice report inclusions

- Formally documented record-keeping policy for tax

MLC5b: Staff access to guidance notes via an intranet, or a set of procedures that are readily accessible explaining record-keeping requirements.

Procedure

Enquire of the entity how staff get access to policies and procedures regarding record-keeping requirements for tax. Report their response.

If access is provided via intranet, obtain a screen print and check that intranet link’s accessibility that it leads to the correct policy document.

MLC5c: Internal or external audits that verify compliance.

Procedure

Enquire of the entity if record-keeping policy compliance reviews have been undertaken as part of its internal or external audit program. Report their response.

If so, obtain a copy of the audit report and note:

- the name of the report
- the date of report
- the internal or external auditor
- the findings related to tax (if so, page reference and list findings raised and remediation plans).

Better practice report inclusions

- Report on the review of record keeping

MLC5d: Evidence of staff training on record-keeping requirements for tax purposes.

Procedure

Obtain the entity’s training materials and note if the material provides guidance on record-keeping requirements for tax purposes and note:

- the date of last training session
- the training content
- the name of provider
- the list of staff attendance

If no training materials or attendance registers on record keeping for tax does not exist, enquire of the entity's reason and report their response.

Better practice report inclusions

- Training materials on record-keeping requirements

Next steps

- Assure the flow of information from accounting records
- Dealing with law and administrative updates

QC 46292

Assure the flow of information from accounting records

Last updated 25 August 2022

On this page

Managerial-level control (MLC) 6: Documented control frameworks

MLC6a: Documented procedures for reviewing the tax return, including reconciliation back to the financial statements.

The focus of this procedure should be to establish if the organisation has controls in place that cover the preparation and review of the tax return and related schedules and that those controls are appropriately designed.

This procedure should not result in a technical review of each book to tax adjustment but rather the process and design of controls to ensure the accurate flow of information from the accounting records.

Procedure

Obtain the entity's documented procedures for preparing the tax return (that is, book-to-tax process) and note:

- the staff members responsible for preparing and completing the tax return

- the systems and applications where data is sourced and processed automatically (Refer to MLC-4 for procedures relating to system and application controls)
- whether the process for preparing the tax return begins with the account profit or loss as per the entity’s financial statements (if not, document the entity’s approach for determining the taxable income)

If the entity’s book-to-tax process begins with the accounting profit or loss, document:

- the types of transactions (for example, depreciation) and circumstances (for example, depreciation rate for accounting differs from tax) that are added back to determine taxable income
- the types of transactions (for example, long service leave provisions) and circumstances that are deducted to determine taxable income
- any other tax specific items (for example, R&D offsets) that are generally considered and included in the tax return.

Obtain the entity’s documented procedures for reviewing the tax return and note:

- the staff member responsible for reviewing the tax return
- the procedures describing the reconciliation of the tax return figures back to the financial statements
- the requirement for providing a narrative to explain major variances from previous year
- the entity’s definition of major variance threshold that would require documented explanations.

If procedures performed by the reviewer as mentioned above for reviewing the tax return are absent or not documented, enquire of the entity's reasons, report their response (see note) and raise an observation.

Obtain the entity’s most recent review or reconciliation of tax return to the financial statements (also known as the book-to-tax reconciliation) and note:

- the starting point of the entity’s tax return calculation to process the accounting profit/loss
- whether the accounting profit/loss matches with the financial statements (if not, request the entity explain differences supported with detailed calculations)

- What are the items that were adjusted and the reasons for the adjustment (for example, elimination entries, permanent and timing differences, R&D offsets)? For adjustments are processed by software application, refer to MLC-4 for procedures relating to automatic adjustments processed by software applications.

Sample five manual adjustment line items (three items with the largest amounts adjusted and two other random line items) and perform a walkthrough of the calculation with the entity. Document their response; obtain screenshots of calculations and any supporting evidence. If the entity has less than five adjustments, sample all adjustment line items.

Enquire of the entity their processes and controls for completing other schedules relating to the tax return and report their response (for example, the Reportable Tax Position schedule).

Enquire of the entity if they have reviewed the frequencies of re-submission of their tax returns or BAS statement in the most recent financial year If so note:

- the number of tax returns re-submitted (all tax types, income tax, indirect tax, and so on)
- the common root causes for re-submissions
- any systemic impact to the entity's control framework
- any remediation of identified control breakdowns.

Note: Only relevant for entities that are required to have financial statements. If the entity does not have financial statements, document the entity's approach for determining taxable income. The assumption is that most organisations will prepare financial statements for internal reporting purposes or for lodgment with ASIC if the organisation is a 'reporting entity'.

Better practice report inclusions

- Documented control framework

MLC6a.1: Documented procedures for reviewing the BAS/excise return including reconciliation back to the general ledger and source systems.

The focus of this procedure should be to establish if the entity has controls in place to cover the preparation and review of the BAS /excise return and related schedules and those controls are appropriately designed.

This procedure should not result in a technical review of classification or GST or excise treatment of each transaction but rather the process and design of controls to ensure the accurate flow of information from the source system to the BAS/excise reporting.

Procedure

Obtain the entity’s documented procedures for preparing the BAS/excise return and note:

- the staff member/s responsible for preparing and completing the BAS/excise return
- the systems and applications where data is sourced and processed automatically (refer to MLC-4 for procedures relating to system and application controls)
- whether the process for preparing the BAS begins with the transaction data extracted from source systems (if yes, document the entity’s process for compiling the data for the BAS/or excise return)
- any system map (general process flow) showing how excise tax events are triggered
- the process in place to identify transactions that trigger an excise liability to be created or a movement of products without an excise liability or refund of an excise duty.

Ascertain how these following events flow through to an excise liability being generated and reported:

- purchase orders
- sales orders
- delivery advice
- goods receipts
- inventory adjustments and write offs
- order cancellations.

Enquire about the entity's data extraction process for the preparation of the BAS/excise return and document:

- the entity's process for ensuring that the extracted data is complete and reconciled to the general ledger/source systems
- whether the data extraction automated or the manual processes involved
- the reports that are run from systems
- the nature and types of manual adjustments/journals and the review process for ensuring these adjustments are valid and authorised

- the checks/reviews performed to ensure the accuracy of GST classification of transactions and excise classification of products?
- the reconciliation and review of GST general ledger accounts and relevant excise liability accounts and the approval process for journals/postings
- any periodic system/transaction testing undertaken to ensure calculations/classification of taxes are performed as required.

Obtain the entity’s documented procedures for reviewing the BAS/excise return and note:

- the staff member responsible for reviewing the BAS/excise return
- the procedures describing the reconciliation of BAS/excise data to the general ledger/source system
- any requirement for providing a narrative to explain major variances/deviations from previous periods or BASs/excise returns
- the entity’s definition of major variance threshold that would require documented explanations
- any requirement for ensuring that reported BAS/excise figures are consistent with the entity's business model and its operations (for example, increase in sales in a particular quarter or month is in trend with seasonality or a significant increase in acquisitions reported in BAS corresponds to a large capital purchase or for excise, the release of a new product line).

If procedures performed by the reviewer as mentioned above for reviewing the BAS/excise return are absent or not documented, enquire of the entity's reasons, report their response and raise an observation.

Obtain the entity’s most recent BAS/excise return preparation work papers and note the following:

- as the starting point of the BAS/excise return preparation is the extracted data reconciled and verified to ensure data is complete and accurate
- manual adjustments/entries are processed, note the nature and reasons for adjustments. Were they reviewed and authorised? (refer to MLC-4 for procedures relating to automatic adjustments processed by software applications).

Sample five manual adjustment/journal line items (three with the largest amounts adjusted and two other random) and perform a walkthrough of how they are processed with the entity. Document their response, Obtain screenshots of adjustments/calculations and any supporting evidence. If the entity has less than five adjustments, sample all adjustment line items.

Perform a walkthrough of BAS /excise return preparation process starting from the relevant system batch reports run, related spreadsheets, and checklists completed, final review before submission to post submission general ledger reconciliation of GST accounts (payable and receivable accounts).

Enquire of the entity their processes and controls for ensuring reviewing the reasonableness of the reported figures in the BAS.

Enquire of the entity if they have reviewed the frequencies of re-submission/revisions or late lodgments of their BASs/excise returns in the most recent financial year If so, enquire the following:

- How many returns have been re-submitted/revised or lodged late
- What are the common root causes for re-submissions/revisions/late lodgments?
- Is there a systemic impact to the entity's control framework
- Is there any remediation of identified control breakdowns

Report their response.

Better practice report inclusions

- Documented control framework including the BAS/excise return preparation process
- GST/excise manual

MLC6b: Retention of working papers detailing the calculation of the tax return and the preparation of the BAS/excise return.

Procedure

Refer to MLC-5a for requirements for retaining work papers detailing tax return calculations and the BAS/excise return

Better practice report inclusions

- Documented process for retaining tax return and the BAS/excise return work papers

MLC6c: Working papers reviewed and approved by management, indicating that they have checked the correct application of tax law to accounting/GST/excise transactions and accurate calculation of the tax return, the BAS and excise return.

Procedure

The ATO notes that external auditors will review tax balances and verify the reasonableness of calculations and reporting of the GST liability in the BAS and overall excise liability as part of their field work during the annual external audit. Organisations should take credit for external reviews such as this, noting that these reviews will be performed using the accounting materiality concept. Materiality for tax might be significantly lower than the materiality applied in a financial statement audit.

Enquire of the entity if there is review and approval processes in place to check the correct application of tax law to accounting transactions and accurate calculation of the tax return and BAS/excise return. Report their response.

If a review process is in place, list the specific items that a reviewer would look for when reviewing the working papers. For example, how the reviewer understands major movements or variances in the working papers have been made correctly for tax. If review or approval processes are in place, obtain copies of physical or electronic sign off (that is, via email) of the calculation prepared for the most recently submitted tax return and note:

- the tax return/BAS /excise reporting period
- the preparer (name and title)
- the reviewer (name and title)
- the approver (name and title).

If there was no review undertaken or the review was undertaken, enquire of the entity's other management controls to ensure the complete and accuracy of the work and document their response.

Enquire of the entity if the external auditor has reviewed the tax positions, calculations, balances and reported amounts in the BAS during the year-end audit process. Report their response. Where applicable, enquire if they have also reviewed the excise liability calculations.

Better practice report inclusions

- Work papers with signoff by reviewer/approver

- External audit plan which includes review of tax balances and GST/excise in the scope of work

Managerial-level control (MLC) 7: Procedures to explain significant differences

MLC7a: Methods for reconciling the tax calculation prepared for the financial statements and the completed tax return.

Procedure

We suggest leveraging BLC-3c relating to briefings on the effective tax rate of the business for this procedure as well as information in Part A of the Tax Transparency Report or notes to the annual financial statements if applicable.

Enquire of the entity what methods they have in place to reconcile tax return calculations to the financial statements. This includes:

- reconciliation of income tax expense to profit (commonly called “book to tax”)
- reconciliation from income tax expense to income tax paid or payable. The reconciliation should include material temporary and non-temporary differences. This reconciliation relates to current tax reported as component of the income tax expense in the financial statements on a ‘like for like’ year basis to income tax payable for the same year.

Report their response.

If methods exist confirm if they are documented. If so, obtain a copy of the document and extract the procedures for reconciling tax calculations to the financial statements.

Enquire of the entity if they have a summary of the major book-to-tax differences. If so, obtain a copy, sample the top five largest line items and enquire how the differences arise. Report their response.

Obtain a copy of the following two calculations for the most recent financial year:

- the tax calculation (in spreadsheet format with embedded formulas) for determining income tax expense in the most recent financial statements

- the taxable income calculation (in spreadsheet format with embedded formulas) supporting the most recent income tax return for submission to the ATO and noting
  - the financial statement period
  - the tax return period
    - Does the tax consolidated group match with accounting consolidated group? If not, obtain listing of entities within the tax consolidated group, listing of entities within the accounting consolidated group; and identify and document the entities that are not included in both lists.
    - What is the tax calculation result for “income tax expense”? Does this match with the financial statements? What is the current tax amount? What is the deferred tax amount?
    - What is the tax calculation result for “taxable income” for the tax return? Does this match with the tax return?

Better practice report inclusions

- Documented procedures for reconciling tax return calculations to the financial statements

MLC7a: Methods for reconciling the reported BAS/excise reported figures with the source systems and accounting records.

Procedure

Enquire of the entity what processes they have in place to reconcile BAS/excise reported numbers to the source system, general ledger and financial statements if applicable

This includes:

- the entity's definition of what is considered a material or significant variance/write-offs
- the reports generated from source systems for the BAS/excise return preparation process? Obtain a list of reports and copies of these reports for one BAS/excise period
- reconciliation of BAS/excise data to the source system and the general ledger each month/BAS period/excise period
- reconciliation of annual BAS data to the financial statements that should include explanations for material variance between

the reported BAS figures and the financial statements (for example, revenue reported in the financial statements may include items that are out of scope for GST).

If processes exist, are they documented? If so, obtain a copy and extract the procedures for reconciling BAS figures to general ledger and to the financial statements.

Obtain copies of the GST/excise general ledger account reconciliations for two months and enquire of the entity if there were major reconciling items or non-cleared items. If so, obtain a copy of the reconciliations and review top three reconciling items and trace how they were reconciled. Sight associated supporting documentation and explanations recorded. Report the findings.

Obtain copies of the BAS/excise working papers for a sample BAS/excise period and review the five largest manual adjustments posted to amend/modify extracted source systems data. Document the nature of the adjustments/journals and sight supporting documents.

Does the GST group match with accounting consolidated group? If not, obtain listing of entities within the GST group, listing of entities within the accounting consolidated group. Identify and document the entities if any, which are not included in both lists.

Stock control and reconciliation is critical in an excise environment. Enquire of the entity the following with respect to stock control and reconciliation and report their responses

- What are the procedures for receipting products into terminals/sites and delivery livery if products?
- What IT systems are used by sites/terminals?
- How often are the relevant systems calibrated and how are transactions entered into the systems as part of this process
- How do the site/terminal systems integrate /interact with entity's enterprise resources planning (ERP) and accounting systems
- What inventory checks are performed by inventory staff and what is the process in place to monitor losses?
- Is the tank or site reconciliation process of book to physical inventory documented? If yes, obtain a copy of the documented procedures
- What reports are used for the stock reconciliation process
- How is the tank balances closed off and how often does this occur?

- How are the losses or gains treated from the stock reconciliation process? How is the impact of the losses and gains assessed for excise?
- Who is authorised to make corrections or adjustments to book inventory and under which circumstances can they be made? Are these reviewed
- Are there any variations between product types?
- Are there differences in controls and processes between company owned sites and third party sites?

Better practice report inclusions

- Documented procedures for reconciling BAS reported numbers to accounting records and financial statements
- Documented procedures for reconciling reported figures in the excise return to the accounting records and source systems

MLC7b: Methods for preparing deferred tax assets and deferred tax liabilities calculations for the financial statements (for income tax).

Procedure

Enquire of the entity if they prepare deferred tax assets and liabilities calculations for the financial statements in accordance with AASB 112. Report their response. If process is documented, obtain a copy and extract the procedures.

Obtain a breakdown of the deferred tax assets and liabilities calculations, sampling five-line items (three items with the largest amount and two random) and reconcile the entity's methods. In the event there are less than five items, sample all line items.

MLC7c: Methods for preparing tax calculations based on accounting transactions and determining treatment and classification of transactions for GST and excise

Procedure

Refer to MLC-3a for procedures relating to the entity's process for business areas to identify and communicate significant transactions to the income tax and indirect tax teams.

Refer to MLC-3a for procedures relating to the entity's process and threshold for seeking external advice

Refer to MLC-6a for the procedures relating to the entity's overall tax return and the BAS/excise return preparation process. MLC-7 specifically addresses significant differences between accounting and tax.

When preparing the tax return calculations and the BAS/excise return, identify the entity's process for:

- ensuring the correct application of income tax, excise and indirect tax laws to significant accounting transactions that were identified during the year (for example, if a major transaction requires clearance on tax and accounting treatment by internal specialists or advisers) (MLC-3a)
- retention of documents to evidence the reasons for difference in treatment for tax and accounting (for example, legal documents to evidence exempt income)

Where external tax advice has been sought during the year (MLC-3a), identify the entity's process for correctly applying the advice in their tax return/BAS calculations

Report the entity's response.

Better practice report inclusions

- Documented procedures for preparing tax calculations based on accounting transactions
- Documented procedures for determining classification and treatment of transactions for GST/excise

MLC7d: Management have a mechanism in place to appropriately explain the tax performance of the entity when compared to the accounting result.

Procedure

We suggest leveraging BLC-3c relating to briefings on the effective tax rate of the business for this procedure as well as information in Part A of the Tax Transparency Report or notes to the annual financial statements if applicable.

Enquire of the entity if there is a practice in place to compare and report tax performance of the entity and accounting results by noting:

- any documentation of the practice
- any explanation provided for identified differences
- whether comparison analysis and explanations are reported to the board or governance body

- whether this a required item as part of annual reporting pack to the board or sub-committee.

If not, raise an observation.

Better practice report inclusions

- Documented procedures for comparing tax performance of the entity and accounting results
- Documented requirement for management reporting to compare and explain tax performance of the entity and accounting results
- Disclosures in a Tax Transparency Report

MLC7d.1: Management have a mechanism in place to appropriately explain the reported GST position in the BAS or excise returns when compared to the business model and operations of the entity.

Procedure

Enquire of the entity if there is a practice in place to analyse the figures reported in the BAS/excise returns consistent with the business operations noting. Report entity's response.

If so, enquire of the following:

- is the practice documented?
- Are documented explanation/commercial reasons provided for identified differences and inconsistencies of trends?
- Is the comparison analysis and explanations reported to the board or governance body?
- Is this a required item as part of annual reporting pack to the board or sub-committee? (for example, trend analysis and aggregate monthly comparisons of GST payable/receivable in the BAS compared to the position reported in financial statements).

If not, raise an observation.

Better practice report inclusions

- Documented procedures for analysing the reasonableness of the reported figures in the BAS(s)/excise returns compared to the financial results and operations of the business
- Documented requirement for management reporting of significant variances and trends in BAS reported figures or

excise liability reported and paid compared to the financial results

MLC7e: Narratives to explain variances between tax expense for the financial statements and the tax paid/payable as per the completed tax return.

Procedure

We suggest leveraging BLC-3c relating to briefings on the effective tax rate of the business for this procedure as well as information in Part A of the Tax Transparency Report or notes to the annual financial statements if applicable.

Enquire of the entity if there is a practice in place to compare and report tax performance of the entity and accounting results including variances between tax expense for the financial statements and the tax paid/payable as per the completed tax return noting:

- any documentation of the practice
- any documented explanation for identified differences
- the type of variances considered material
- whether the comparison analysis and explanations are reported to the board or governance body
- whether this a required item as part of annual reporting pack to the board or sub-committee.

If not, raise an observation.

Better practice report inclusions

- Documented procedures for comparing tax performance of the entity and accounting results
- Documented requirement for management reporting to compare and explain tax performance of the entity and accounting results
- Disclosures in a Tax Transparency Report.

MLC7e.1: Narratives to explain significant variances/deviations in the BASs/excise returns when compared to the accounting records and the business operations of the entity.

Procedure

Enquire of the entity if there is a process in place to analyse and explain variances between the BAS/excise reported figures and the accounting records. If so, enquire the following:

- Is the practice documented?
- Are variances explained and documented
- What variances are considered material.

Does the entity performs trend/variance analysis to understand significant deviations in BAS/excise reported figures to previous comparable periods?

Are BAS/excise figures reviewed for reasonableness to ensure if they are consistent with commercial operations and the business model of the entity?

If not, raise an observation.

Better practice report inclusions

- Documented requirement to retain narratives to explain variances between reported BAS/excise figures and the accounting records and prior comparable BAS/excise periods

Managerial-level control (MLC) 8: Complete and accurate tax disclosures

MLC8a: Assurance that a tax or BAS/excise return review has occurred prior to lodgment. This reduces the likelihood of incorrect allocation and classification of line items with the relevant law, administrative guidelines and record-retention requirements taken into account in relation to issues such as:

- income tax
- capital gains tax
- transfer pricing
- excise
- GST and other indirect taxes
- research and development
- reportable tax positions.

Procedure

Note that while the guide contemplates all taxes, ATO officers considering tax risk management and governance as part of

PCR, ACA or similar products, should focus on income tax elements. ATO officers should consider work of other business lines such as an annual compliance arrangement and key taxpayer reviews for GST to ensure credit is given where the requirement has been tested in a related process/product.

Enquire of the entity their process for reviewing and signing off on the tax, BAS and excise return to ensure that tax return or statement review has occurred prior to lodgment. If there is no process to review and signoff the return prior to lodgment, note an observation and report entity's response.

Regarding tax amendments/corrections/revisions, enquire of the entity as to:

- the process for determining when a tax amendment/correction/revision is required
- the process for calculating the tax amendment/correction/revision
- the process to identify the errors / control breakdown that results in amendments/corrections and revisions
- the process to rectify identified errors / control breakdowns for future tax returns excise returns and the BAS.

If there is no process to review and signoff amendments/corrections to the return, note an observation and report the entity's response.

Better practice report inclusions

- Assurance report of tax return or statement review

MLC8b: Appropriate additional and specific controls to review compliance risk for other types of taxes managed elsewhere, such as:

- fringe benefits tax (FBT)
- the super guarantee charge (SCG)
- pay as you go (PAYG) - instalments and withholding
- customs and excise duty
- fuel tax credits (FTC)
- luxury car tax (LCT)
- state-based payroll taxes
- stamp duty.

Procedure

Note that while the guide contemplates all taxes ATO officers considering tax risk management and governance as part of PCR, ACA or similar products should focus on income tax elements. ATO officers should consider work of other business lines such as an annual compliance arrangement for GST to ensure credit is given where the requirement has been tested in a related process/product.

Enquire of the entity if there are controls to review compliance risk for other types of taxes and report the response. If controls to review compliance risk are absent, raise as an observation.

Note if compliance risks and key controls have been identified by the entity for:

- fringe benefits tax (FBT)
- the super guarantee charge (SCG)
- pay as you go (PAYG) - instalments and withholding
- employee mobility (who bears and claims the labour costs)
- customs and excise duty
- fuel tax credits (FTC)
- wine equalisation tax (WET)
- luxury car tax (LCT)
- state-based payroll taxes
- stamp duty.

For items in the above list where no compliance risks or key controls have been identified, enquire of the entity's reasons for its absence and report their response.

Note that for most organisations FBT, PAYG, super guarantee and other payroll taxes and related controls will be administered by the payroll function, stamp duty legal departments, and customs and excise taxes by customs agents.

Better practice report inclusions

- Documented compliance risks and key controls for employee taxes (including FBT, etc.)
- Documented compliance risks and key controls for state taxes (stamp duty, payroll tax)

Next step

- Dealing with law and administrative updates

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Dealing with law and administrative updates

Last updated 25 August 2022

Managerial-level control (MLC) 9: Legal and administrative changes

MLC9a: Walkthroughs of process changes to assess whether changes to the law require updates to the internal control framework and development of new controls.

Procedure

Enquire of the entity what are their processes for:

- awareness of tax law changes to income tax, excise and indirect taxes or taxpayer alerts in a timely manner
- assessing if the law change requires any changes in processes or internal controls
- making changes to processes or updating internal controls to address the changes in tax law.

Report their response.

If the above processes exist and are documented, enquire whether:

- law changes have affected the entity in the current financial year
- processes have been updated
- controls have been updated, added or removed.

Report their response.

Better practice report inclusions

- Documented policy for processing legal and administrative changes

MLC9b: Change requests have been submitted to senior management and changes to systems or control mechanisms have been implemented.

Procedure

Refer to MLC-4c for details of reporting mechanisms from the tax team to the IT function.

Following from MLC-9a, enquire of the entity if changes to systems or controls are required to meet with new law requirements, and the review and approval processes required for those changes.

Identify how the entity ensures the implementation of approved changes to systems or control.

Document their response?

Better practice report inclusions

- Documented procedures for changing systems and controls

MLC9c: Policy to deal with law update or implementation difficulties.

Procedure

Enquire if the entity has a policy that states how it will deal with or inform the ATO of any law update implementation difficulties. Page reference the relevant sections of the policy/document.

If no policy exists, enquire of the entity if they have had any implementation difficulties previously and how they addressed those challenges without consulting the ATO. Report their response.

Better practice report inclusions

- Documented policy for processing legal and administrative changes

MLC9d: Correspondence sent to us advising of difficulties.

Procedure

If the entity has previously communicated to the ATO in relation to difficulties associated with complying, administrating or addressing law changes, obtain a copy of their most current correspondence and attach to the report.

Better practice report inclusions

- Correspondence sent to ATO advising of implementation difficulties

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Third-party data governance – investment industry entities

Responsibility of large super funds, managed funds and insurance companies to develop systems and processes.

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On this page

Large superannuation funds, managed funds and insurance companies have a responsibility to develop systems and processes according to their tax risk management framework.

This:

- ensures accurate reporting of third-party data
- mitigates the risks of errors in income tax reporting and distribution statements.

To understand your third-party data governance obligations, read the supplementary guide **Governance over third-party data guide** together with the **Tax risk management and governance review guide**.

Who this guide applies to

The **Governance over third party data guide** applies to:

- trustees of large superannuation funds including
  - registrable superannuation entities
  - pooled superannuation trusts

  - exempt public sector superannuation schemes

- trustees of managed investment trusts (MITs)
- trustees of attribution managed investment trusts (AMITs)
- trustees of unit trusts involved in the managed funds and/or investment industry
- boards of insurance companies.

It doesn't apply to self-managed superannuation funds or small APRA-regulated superannuation funds (with less than seven members).

Obligations this guide applies to

The expectations for tax controls over third-party data in this guide apply to third-party data received by the investment industry entity for the following reporting obligations:

- the entity's income tax return and associated schedules
- the Attribution Managed Investment Trust Member Annual (AMMA) Statement for AMITs, standard distribution statement (SDS) for MITs and distribution statements for unit trusts.

Third-party data tax controls for indirect taxes (such as GST) are not in scope for the guide which is limited to income tax.

In addition, the following are not in scope for this guide:

- superannuation fund obligations to report member account information to the ATO
- PAYG withholding obligations on member superannuation benefits.

Better practice tax control frameworks

A third-party data tax control framework is part of an overall tax risk management approach. This approach manages and mitigates the risk of inaccuracies over third-party data that feed into an entity’s income tax reporting obligations and distribution statements.

A 'better practice' tax control framework should:

- be fit for purpose
- adopt a risk-based assessment
- manage the specific tax risks that apply to an entity depending on its investment profile.

How to use the guide

The **Governance over third party data guide** will help you understand what better practice third party data tax controls look like so you can:

- develop or improve your own third-party data tax controls using the principles-based examples in the guide
- test the robustness of the design of your third-party data tax controls.

What to do if the examples don't apply

If the better practice examples in the guide don't exactly line up with your entity's circumstances, you should document:

- why the better practice examples in the guide aren't applicable to your entity's circumstances
- how you're adopting compensating controls to demonstrate that the principles of the examples provided are being applied to manage tax risks.

Our approach to reviews

Our approach to reviewing third-party data tax controls is to:

- Encourage entities to adopt the better practice examples throughout the **Governance over third party data guide** that are applicable to their circumstances, or appropriate compensating controls.
- Assess and rate an entity's third-party data tax controls based on whether the entity has demonstrated it has taken steps in establishing processes to manage and mitigate the risk of inaccuracies in third party data.
- Continue to update this guide to help you prepare for your review, understand how to improve your ratings and obtain higher assurance outcomes.
- Include a review of tax controls relating to third-party data, including how entities are adopting this guide and applying the existing ratings guide to these controls, in future income tax assurance reviews for large superannuation funds, managed funds and insurance companies.

To prepare for your review you can also refer to the **Tax risk management and governance – a practical guide to prepare for a combined assurance review**.

When we assess third-party data tax controls

Until 1 July 2024, a transition or implementation phase is in place to allow entities time to develop processes and procedures and implement tax controls for governance over third-party data. We expect entities to have implemented controls to address the BLCs and MLCs outlined in this guide and they are designed effectively by **1 July 2024**.

During the transition phase, for assurance reviews starting before 1 July 2024, we will not be rating your third-party data tax controls in your report. However, we encourage you to provide documented evidence of third-party data controls you may have in place or implementation plans for how you intend to adopt this guide.

We will consider this evidence and provide guidance on your third-party data tax controls or implementation plans in your report to support you during the transition phase of the guide.

How we assess third-party data tax controls

We acknowledge that tax governance over third-party data is a journey and entities will be at various stages of this journey.

We look for evidence that a third-party data tax control framework exists using the following staged rating system:

- Stage 1: demonstrating a tax control framework exists
- Stage 2: demonstrating design effectiveness
- Stage 3: demonstrating the framework is operating in practice
- Red flag: not evidenced or significant concerns

The level of complexity of investments or investment vehicles will determine what an entity must do in relation to tax risk management over third-party data.

We will work with entities during our assurance engagement programs to determine what are appropriate controls in the context of the entity's circumstances. For example, their investment and tax risk profile.

Justified Trust assurance engagement programs

In undertaking our Justified Trust assurance engagement programs for income tax, we will rate third-party data tax controls separately from the seven controls in the Tax risk management and governance review guide that we focus on for income tax governance ratings. However, the ratings for third-party data tax controls will contribute towards the overall income tax governance rating.

We have tied the third-party data tax governance principles in the *Governance over third-party data guide* to the following Board and Managerial Level Controls in the *Tax risk management and governance review guide*:

- The Board is appropriately informed (BLC3)
- Periodic Controls Testing (BLC4)
- Roles & Responsibilities are clearly understood (MLC1)
- Significant transactions are identified (MLC3)
- Documented Control Frameworks (MLC6)

Where we observe the better practice examples or appropriate compensating controls, we will provide a Stage 2 rating (designed effectively).

Once we’ve established that a third-party data tax control framework exists, we then look for objective evidence that the framework is designed and operating effectively (a Stage 3 rating).

The *Governance over third-party data guide* doesn't provide detailed information on what is required for Stage 3 as this is covered in the *Tax risk management and governance review guide*.

The requirements (for example, independently tested and subject to auditing standards) and methods for testing for operational effectiveness (Stage 3) as outlined in the *Tax risk management and governance review guide* will also apply to testing third-party data tax controls.

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Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.