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Restoring trust in the tax system

Fair. Focused. Future.

Tax

Restoring trust in the tax system

The tax terrain is ever changing.

We are in the midst of a global implementation of an ambitious and necessary modernisation of the international tax framework. Australia is leading the charge and raising the benchmark, with significant tax law changes enacted and proposed.

Notwithstanding the unprecedented international and Australian responses, a sceptical public and many political and special interest groups are still calling for business to 'pay its fair share', demanding tougher laws and stronger action from Government and tax authorities.

Business has also been vocal in arguing for change in the tax mix and a lower corporate tax rate for all companies, but the political environment both within Canberra and more generally is making this difficult.

The current reality is that Australia is faced with sluggish global economic growth, ongoing deficits and increasing national debt, together with a domestic economy under increasing pressure from globalisation, demographic pressures, rapid technological shifts and a post mining boom transition.

Perceptions of unfairness, as well as income and wealth inequality are leading to an increasing disenfranchisement that is reflected at the ballot box around the world.

Australia can't stay mired in this state. The negativity, distrust and uncertainty affects confidence, capital investment and consequently economic growth.

We at Deloitte have been thinking about the future. We all need to do more – to drive change and put into focus the tax issues and policy choices that Australia needs to consider, right now. By taking action, we can all be part of a powerful future of what's possible.

This report examines some practical suggestions to build trust and confidence in our tax system. We see this as the first and necessary step in building a positive tax environment for both business and the wider community.

We're excited to start considering Australia's next steps, to build a better tax environment and in turn a more prosperous Australia.

Fair. Focused. Future.

For Australia to build a more positive business and tax environment, business, industry bodies, community and government need to work together to create real change in a sustainable manner.

By advocating for a fair, focused, and future looking tax system, Australia will stay relevant and competitive, whilst creating an inclusive growth environment where everyone can prosper.

But first things first, we can't make real change unless we restore trust and confidence in our taxation system. We need new ways to elevate tax conduct, tax governance and tax transparency. To restore confidence in the tax system, we need to build on the existing work of the Government and the ATO.

Australia cannot afford to stay still. We must drive change and focus on the tax issues and policy choices that will build on our strong laws, good compliance culture and world class tax administration.

We are putting a spotlight on the most important tax issues of today to create a more prosperous future for all Australians.

Fair.

For Australia to prosper in a fair and inclusive way, our tax systems must be sound – with strong laws, willing and widespread compliance and effective administration.

Yet the Senate Inquiry into corporate tax avoidance put a spotlight on community and political concerns about how our tax system is operating. Are multinationals paying their 'fair share' of tax? Is there sufficient transparency 'around' tax arrangements? Can we trust the system?

While globally and domestically we are well advanced in implementing the OECD Base Erosion and Profit Shifting (BEPS) Action Plan, it will take time before much of this work is in the public eye.

The Senate Inquiry will continue, the political battleground is unlikely to quieten, the media and public focus will remain. Federal Budgets will come and go, BEPS legislative changes and other 'smaller' reforms will roll on. That is the new normal.

But how do we move forward from the reputational losses and damaging perceptions of the multinational tax debate?

Well, we can't just yet. To date, all the hard work by the G20 and the OECD, Government, tax authorities, and corporates has not cut through to the core audience – ordinary taxpayers. So we need to continue taking positive actions to rebuild trust in the system.

Focused.

The community and tax authorities have an increased expectation that businesses and boards will step up their approach to tax risk management. This means taking greater responsibility at a board level for putting in place a robust and rigorous risk based approach to the management of taxes through both:

- Setting and implementing tax governance standards, which are consistent with broader corporate, risk management and social responsibility goals
- Working towards meaningful tax transparency practices and positive tax behaviours.

There are also some opportunities for Government and the ATO to build on their existing work to restore trust and confidence. We put forward these diverse measures, each with the purpose of continuing to build trust, confidence and certainty:

- To emphasise the high expectations of officeholders in respect of tax conduct, new laws should be introduced to strengthen the public officer role
- To provide certainty for international investors and businesses, an international tax strategy would clarify the Government's approach to foreign investment
- To move the multinational tax debate forward, new and transparent ways to communicate to the community should be considered – we need to build confidence and explain how our tax systems works
- To ensure trust and confidence is maintained, the other two looming systemic risks to the tax system need continued focus – the cash economy and tax debt collection.

We also reflect on the changing community expectations of tax advisors, and the important role that Deloitte can play to build confidence in the tax system.

Future.

Having a framework in which to approach these issues is vital.

As business delivers on better transparency and positive tax behaviours, and as trust in the tax system is restored, some of the barriers that restrict government openly supporting and promoting business can be removed.

A better educated community, greater clarity around government support for foreign investment and a continued focus on managing risks will also build trust and confidence.

This means that business and government can increasingly collaborate towards creating a more certain and positive business environment. A partnership of mutual obligation will build, drive and encourage economic growth.

Are you ready to make the first move?

The path ahead for business

Positive actions for business to elevate responsible tax behaviours

Does your organisation properly manage tax risk?

If your answer is yes, you should be confident that your organisation is:

- Paying and accounting for the appropriate amount of tax (income and indirect taxes)
- Adopting tax positions that are in line with the tax risk appetite that the directors have endorsed for the organisation
- Communicating its tax profile to a wide stakeholder group
- Developing effective and open relationships with tax authorities.

If you are achieving this despite the rapid pace at which the global tax environment is shifting, the increasing uncertainty as to which way the tax rules may be heading, and the elevated expectations of tax authorities and the community – congratulations are in order. We respectfully believe that not all corporates are where they should be.

Tax is an underrated risk issue for many businesses and this can have consequences for the long term performance of companies, their brand and reputation.

We highlight five fundamental issues and opportunities for boards and senior management to consider:

Role	Fundamental issues for boards:
Tax governance	1. Is tax risk management being effectively managed at board level? 2. Are tax governance plans consistent with tax and corporate social responsibility objectives? 3. Can tax risk management performance be improved by introducing tools to track and measure conduct?
Positive behaviours	4. Can tax transparency disclosures be enhanced? 5. Is the relationship with tax authorities positive for the organisation and its goals?

1 Is tax risk management being effectively managed at board level?

Context

The ATO's 'justified trust' program is about to be rolled out to the largest multinationals and public companies. If your company has revenues of $250m or more, broadly speaking you will be in the tax authority's sights, and assessed against a new set of criteria and expectations.

A business will earn the ATO's 'justified trust' when it can provide or display objective evidence that would lead a reasonable person to conclude that it paid the right amount of tax. The ATO's approach is tailored to each taxpayer, and is based around a review of four broad areas:

- Understanding a taxpayer's tax governance framework
- Identifying the presence of any emerging known tax risks
- Understanding the tax impact of any significant or new transactions
- Understanding why the accounting and tax results vary.

A strong and robust risk management and governance framework is the first and key focus area for achieving justified trust.

In reviewing for justified trust, the ATO is of the view that the board of directors have front and centre responsibility for ensuring that tax risks are properly identified and managed through the existence, application and testing of a tax risk management and governance framework. For groups headquartered overseas, the Australian-based board is expected to perform the oversight role in respect of Australian tax risks. With this in mind, the ATO has provided a tax risk management and governance review guide[1] on its website to illustrate exactly what is expected in terms of best practice from both company directors and senior management in managing tax risk.

Corporations with weak tax control frameworks, or well documented but poorly-lived frameworks signal to the ATO that more resources are necessary to fully assess tax risks – typically meaning a wider ATO review.

Positive actions

Some of the more important matters that board attention should be focused on are:

1. Endorsing a properly formulated tax governance and risk management framework

The framework should broadly cover how tax risks will be identified and managed including:

- The roles, reporting lines, performance objectives, qualifications and responsibilities for each level of management, including delegation of authority
- The business tax risk appetite and the acceptable level of tax risk for day to day operations
- Identification, communication and documentation requirements for those tax matters that are to be escalated
- Importantly, the tax function must be sufficiently connected with senior leadership, such as the CFO and the Board, so when matters are escalated they are given proper attention
- A communication strategy around tax both internally and externally to ensure consistency and compliance.

2. Understanding their personal responsibilities in relation to tax risk

Directors should ensure that they are adequately briefed on all tax matters.
This could encompass:

- New director induction briefings incorporating a summary of key tax issues
- Tax risk management strategies and options for key transactions or restructures. Tax positions that fall outside published tax authority views and guidance should require board endorsement, and support for the positions adopted (e.g., external advice)
- Briefings on trending tax issues and risks relevant to the organisation or industry
- Reconciliations of the effective tax rate to business results and the reasons for variations
- A tax risk register that includes matters escalated by management and how these are resolved or managed (for example via rulings or external advice).

3. Ensuring both board and subcommittees dealing with tax risk are appropriately qualified

A skills mix assessment should be undertaken of both the board and relevant sub-committees with a view to tax risk (given this qualification is typically under-represented). In particular, where tax risk has been allocated to an independent board sub-committee (such as an audit committee), consideration should be given to whether specialised tax qualifications should be sought. For instance where there are substantial cross border related party transactions, careful thought should be given to whether transfer pricing knowledge or international tax knowledge would be advantageous.

4. Testing tax control frameworks on a regular basis

Testing is a supervisory responsibility at board level and involves reviewing management's testing plan for weaknesses and gaps. These can be supplemented with external assurance provider reports (where they consider tax controls), together with management attestation concerning the design and operational effectiveness of the tax control framework. Importantly remediation plans should be put in place to address any issues and regularly followed up at board level. Given constantly emerging risks, tax control frameworks are not 'set and forget'.

2 Are tax governance plans consistent with tax and corporate social responsibility objectives?

Context

Most large organisations, cognisant of their long term social impact, set corporate objectives around areas such as environment, workforce safety, and community engagement that go beyond short term goals for profitability.

Tax fits within this wider lens of corporate responsibility, given it reflects strongly on brand and reputation together with community contribution.

Positive actions

Accordingly, boards should consider whether tax governance plans, tax objectives and the organisation's broader social responsibility goals are aligned. For instance, when assessing risk appetite, boards should ask:

- Are the tax positions focused on short or long term results?
- What social, cultural or community impact are the business's tax behaviours having in developing countries or lower socio economic communities that the business is operating in?
- Will its corporate reputation or conduct impact on securing government contracts or customer sales?
- How does its tax positions and behaviours impact on its people and the countries in which they live and work?

Where boards elevate and align tax objectives and responsibilities to sit alongside other corporate social requirements, a strong foundation is laid for better long term outcomes in both a financial and reputational sense.

3 Can tax risk management performance be improved by introducing tools to track and measure conduct?

Context

Do you have a bird's eye view of tax risk management across your organisation? It can be challenging for boards to step back and measure responsible tax behaviours objectively. However, there are tools and strategies such as scorecards that can build optimal corporate tax conduct and measure tax responsibility over time.

The results of these scorecards can be used as an internal tool to measure the business tax risk and the extent to which tax conduct objectives are being achieved. Some companies may also incorporate some of these scorecard results in their public tax disclosures. They can also be harnessed to measure the extent to which tax concessions allowable under the law (such as research and development or fuel tax credits) are claimed when compared to public data of competitors.

Positive actions

Using a scorecard, corporates can measure their performance against an agreed criteria to assess their progress towards achieving strategic tax objectives – keeping them on time, on track, and on point.

For corporates wishing to make fuller public tax disclosures, the Fair Tax Mark criteria developed in the UK could be utilised, based on a 45 point checklist around the four areas of Transparency; Country-By-Country Reporting; Tax Policy, Implementation and Compliance; and Tax Rate and Disclosure.[2]

Alternatively, organisations can develop their own scorecards, using measures such as:

- Level of risk rating received from the tax authority
- Effective tax rate or effective tax borne
- Tax incentives utilised against industry norms
- Number of subsidiaries located in tax havens measured against their economic substance
- Use of hybrid instruments or structures
- Level of scrutiny by tax authorities in the prior year
- Tax positions not reasonably arguable or subject to a Taxpayer Alert, mandatory disclosure or a compliance action
- Tax positions supported by rulings or agreed positions with authorities
- Extent of litigation or arbitration, and measure of success
- Tax penalties and fines
- Advisor fees for controversy work
- Compliance with tax transparency regimes
- Press coverage on tax performance
- Feedback from stakeholders on tax performance.

4 Can tax transparency disclosures be enhanced?

Context

Boards need to consider whether their existing tax contribution or tax transparency statements deliver the level of clarity around tax that is now expected. The traditional responses to tax contribution is becoming dated. We can no longer say “we contribute to society, look at how much tax we paid”. Customers and interest groups are now wanting clarification on how much tax wasn’t paid and the reasons why.

Recently, many corporates have set new standards in corporate tax transparency. They are the ones that have signed up to the Australian Tax Transparency Code[3] and have delivered on some or all of the standards recommended for reporting on tax affairs. This strategy is part of an active effort to deflect the negative sentiment in the market and to reassure stakeholders of the governance practices and tax performance of the business. More and more investors are recognising that significant governance risks have the potential to impact an organisation’s fundamental viability (recent wage investigations in franchise operations have emphasised this risk).

Positive actions

It’s clear that tax transparency is here to stay. The Code should be seen as a singular opportunity to proactively present the facts associated with the tax contribution of the business. The Board of Taxation, the Business Council of Australia and the Corporate Tax Association are all strongly encouraging taxpayers to sign up and adopt the Code.

Corporates should also consider whether they go above and beyond the Code, demonstrating greater transparency through sharing (where appropriate):

- Consultation, advocacy and lobbying submissions
- Payments and donations made to political parties, unions, industry associations and other lobbyists
- Significant audit activity, tax settlements or arbitration
- Special tax incentives, reliefs and rulings provided in any jurisdiction that are not available to broad classes of taxpayers
- A statement of tax principles
- Approach to accounting and ASX disclosures in respect of tax matters.

5 Is the relationship with tax authorities positive for the organisation and its goals?

Context

Do you want to be a director of a company that was the subject of the Commissioner's ire?

We have all heard the frustration of the Commissioner in his opening address to the Senate Estimates[4] hearing:

> *These companies have pushed the envelope on reasonableness. They play games. They string us along. They believe we can be stooged. However, enough is enough and no more of this. We will be reasonable with those that genuinely cooperate, but we will now take a much harder stance on those who do not.*

It is prudent that corporates consider all aspects of their engagement with tax authorities to ascertain whether these behaviours are in the long term best interests of the company.

Positive actions

In the current climate, delaying tactics may negatively impact an organisation. With delay, memories fade, personnel move on and detailed knowledge of transactions can be lost (particularly where supporting documentation is inadequate) – creating uncertainty, ambiguity and legal headaches. The Diverted Profits Tax could be the ATO's response to delaying tactics for larger groups.

At the margins, these delays cause frustration and can harden the resolve of tax authorities. This can result in higher tax assessments, increased legal costs, interest and penalties.

As well as responsible tax management, it's smart business practice to establish a good working relationship with the company's key tax stakeholder. Today's tax authorities have strong capabilities in terms of specialised resources, global information sharing, legal powers, industry insights and data analytics. These increased resources and increased expectations require companies to properly test if their relationships are best serving the company.

Options for Government and the ATO

Pivotal opportunities for the taking

There are challenges and opportunities for Government and the ATO in this current environment. They are under the spotlight and their actions and responses to threats to the tax base are being heavily scrutinised.

They have to walk a precarious path, one that ensures our tax laws are strong, robust and properly administered, whilst at the same time balancing the need to create an environment that is business friendly, to drive jobs and growth and the ongoing prosperity of Australia. It is not an easy balance.

We have thought about trust and confidence from the government perspective; and the further steps they could take. These diverse measures, each with the purpose of continuing to build trust, confidence and certainty, are all worth considering:

Action	**Challenges and opportunities for Government and the ATO:**
Targeted laws	1. To emphasise the high expectations of office-holders, new laws should be introduced to strengthen the public officer role.
Focused communications to progress the debate	2. To provide certainty for international investors and businesses, an international tax strategy would clarify the Government's approach to foreign investment. 3. To move the multinational tax debate forward, new ways to communicate to the community need to be considered, to build confidence and explain how our tax system works.
Addressing future risks	4. To ensure trust and confidence is maintained we also need to keep focus on the other two looming systemic risks to the tax system – the cash economy, and tax debt collection.

1 To emphasise the high expectations of office-holders, new laws should be introduced to strengthen the public officer role.

Context

In Australia, every company conducting business must have an appointed public officer answerable for all such things required of the company under the Taxation Act or Regulations. The most common responsibility is to lodge the income tax return and certify that its contents are true and correct.

The UK has gone further. In 2009, it introduced the Senior Accounting Officer (SAO) regime specifically directed to large companies (broadly, those with a relevant balance sheet total exceeding £2bn and/or a turnover exceeding £200m) to require they take reasonable steps to ensure that 'appropriate tax accounting arrangements' are in place. Under the regime, the SAO is required to personally certify that the company systems are fit for the purpose of reporting taxes.

The legislation requires the SAO to fulfill two duties:[5]

- To take reasonable steps to ensure that the business establishes and maintains appropriate tax accounting arrangements
- To submit an annual certificate stating whether the business had appropriate tax accounting arrangements throughout the financial year and if not, why not. This could include disclosing internal control weaknesses and errors.

Positive actions

An elevation of the public officer role in Australia, often held by the CFO, would highlight the importance, seriousness and responsibility of the position. In the UK this responsibility extends to all taxes, effectively ensuring that the public officer takes an interest in all tax positions and lodgements including direct and indirect taxes.

2 To provide certainty for international investors and businesses, an international tax strategy would clarify the Government's approach to foreign investment.

Context

Does Australia want to encourage foreign investment and multinationals?

The political process continues to send mixed messages to foreign companies operating in Australia. So too, some of our tax rules provide confusing messaging. For instance, we have tax regimes such as our Managed Investment Trust and Investment Manager Regime rules to attract foreign capital. On the other hand, some foreign investment approvals require more tax engagement by international investors than we expect of local corporations.[6]

An international tax strategy would help deal with the contradictory messages foreign businesses are receiving from Australia – and would drive a more unified message and complete picture of the policy decisions incorporated in our tax system.

Positive actions

The Government should articulate a broad international tax strategy[7] that includes:

- Our approach to attracting investment while ensuring business pays its tax in accordance with the law and in line with its economic activity in Australia
- The Government's response to identified tax base threats together with its progress towards implementing the BEPS recommendations through an annual or semi-annual report (around the Budget and Mid-Year Economic and Fiscal Outlook)
- How measures in our tax system that attract foreign investors are working compared with the policy objectives they are designed to achieve.

The result? An international tax strategy that provides a means of giving international business the certainty and stability it needs to operate in Australia. This is important to retain business and to attract foreign investment.

3 To move the multinational tax debate forward, new ways to communicate to the community need to be considered, to build confidence and explain how our tax system works.

Context

Misinformation and distrust affects wider taxpayer behaviour. And as such, any means by which the Government can highlight its successes in fighting tax avoidance and evasion will reap magnified rewards. Who and what is subject to tax, the success of the ATO's compliance programs, Australia's strong voluntary compliance culture, and the progress the Government has made on making laws in line with the OECD BEPS recommendations are all key messages that need further amplification.

We are in an era where the ATO has, more so than ever before, put its views in the public domain: via media, Government inquiries, the ATO website and other communications. Yet much of the reporting done by the ATO has failed to register with middle Australia. Tax avoidance and evasion made tax a front page issue, and households are still labouring under a misapprehension that nothing has changed. Traditional channels of communicating tax affairs have moved; the public are more likely to listen to journalists on Talkback radio, The Project or Buzzfeed for their tax news and developments than the Treasurer or the Commissioner at Senate Committee hearings or press conferences.

Compounding the communication problem is Australian taxpayer's high levels of reliance on tax practitioners.[8] This reliance and delegation role is both good and bad news for the tax system – more tax agent involvement results in better compliance but can have the result of decreased taxpayer understanding of and engagement with the tax system.

Would the public benefit from more tax education?[9] Is it time to stop protecting the public from some fundamental truths about how the tax system works (or does not)? A directness of approach can pay dividends.

Positive actions

Tax literacy is key in building trust and confidence. As well as an education program, the public should be informed about some key facts about our tax system:

- Gross sales do not equate to net profits nor taxable income, and tax is not paid on gross sales.
- Most of the large pool of untaxed or low taxed profits around the world belong to US domiciled corporations – principally because their tax system allows them to delay tax on overseas profits until they are repatriated back to the US. Australia by contrast operates a world leading controlled foreign company attribution regime.
- Even if Singapore, Ireland or Luxembourg only taxes a multinational at low rates, that is their sovereign right to do so. There is nothing in the OECD BEPS objectives that denies a country the right to set its own tax rate.
- There are many small and large taxpayers who do not pay tax because of losses. Carried forward tax losses in the tax system are in the billions of dollars. This is an economic reality post the GFC – not a tax dodge.
- Foreign investment is critical for a country like Australia where consumer consumption outstrips production and national savings are below our investment needs. Our tax system needs to encourage this much needed foreign investment.
- Large corporates and high net-worth individuals are subject to intense ATO scrutiny on a continual basis and have been for years.
- We have world leading tax laws and a high quality tax administrator in the ATO.

And business can't leave the ATO to do all the heavy lifting on explaining the tax system: business also needs to help explain the tax system, and intended policy objectives, to a sceptical public.

So too can better information be provided in respect to the published corporate Tax Transparency Report. The report includes limited tax details (revenue, taxable income and tax paid) for over 1,900 corporates. Every year the report sparks a flurry of media releases, from a variety of political and social justice interest groups. The main thrust of the negative press releases focused on the proportion of corporates in this group that paid no tax (36%). Without context this figure is damning. We therefore encourage the Government to legislate to allow the Commissioner to also disclose:

- Accounting profit based on the income tax returns lodged
- Comparative statistics across the whole tax system on the percentage of taxpayers who also paid no tax to provide some context to the results.

Critical too is to get some of the ATO success stories out in the public arena. It would also be beneficial to provide evidence and illustrations of ATO compliance successes in a separate annual publication that includes the results of the Tax Avoidance Taskforce and market this publication in the mass/popular media together with social media. In this respect, we note the widespread media coverage of the recent Government announcement of the $2.9 billion in additional assessments as a result of Tax Avoidance Task force activities.

Both Government and the ATO need to be more active in correcting the record when public statements are made about the tax system (both in Parliament and out).

4 To ensure trust and confidence is maintained we also need to keep focus on the other two looming systemic risks to the tax system – the cash economy and tax debt collection.

Context

The OECD has estimated the worldwide scope of BEPS to be in the region of a quarter of a trillion dollars annually and many commentators have tried to estimate the Australian portion of this. The ATO has already hinted that the large company income tax gap could be in the vicinity of about $2 billion to $3 billion, "but it's not the $30 billion discussed last year and it is not even the…figure of $6 billion."[10]

In addition, it has been speculated that the problems associated with the cash economy could well dwarf the risks to the tax base of multinational tax avoidance. The management of tax debt is also a significant systemic issue.

To illustrate, in 2015-16:

- The GST tax gap was estimated at $3.8 billion
- The size of the cash economy has been estimated at up to $24 billion
- Tax debt not pursued amounted to $1.7 billion.

The cash economy is now receiving additional attention with a number of inquiries and taskforces set up. The ATO continues to work on developing more reliable tax gap methodologies for this form of tax evasion.

The ATO also continues to make great advances in managing tax debt (tax debt not pursued peaked at $4.6 billion in 2012-13 compared to $1.7 billion last year), and implemented a new program in December 2016 called 'Purposeful first action' which uses data analytics to predict the best collection method for specific taxpayer behaviours. The Government is now taking action to relax confidentiality around tax debt.

We also note recent comments from the Commissioner about the threat posed to the tax system from individuals over claiming deductions. "The biggest gap we've got in the system is us, not them" Mr Jordan stated.[11] Individual work related expenses totalled $21.8 billion[12] in 2014-15 and continue to be an ATO (and government) focus, with the recent House of Representatives inquiry,[13] the launch of the myDeductions app and the real time checks on work related deductions in Tax Time last year.

Positive actions

These two risks also have capacity to erode trust and confidence in the tax system once more information is in the public arena about their size and impact.

Debt collection and debt transparency matters, not just because of its size, but because of its flow-on effect through the economy.

Addressing the cash economy is also important both due to its breadth and impact on revenue collections, and because it is endemic in certain industries. The recent Interim Report[14] of the Black Economy Taskforce noted that this was a whole-of-government, whole-of-society problem and that new vulnerabilities and threats were still emerging that could make this issue grow further. If the cash economy tax gap is as big as anticipated, compliance will be a significant cultural and social adjustment for the community to make.

These challenges are huge for government but vital to address as they are the new 'confidence' risks. Strong messaging around the ATO's actions to date and compliance successes should be continued.

Changing expectations of tax advisors

Conscious of the evolving tax environment, we understand that the expectations of tax advisors are also changing. We acknowledge the concerns in the community about the level of tax paid by multinational companies in Australia. We actively support the modernisation of the international tax rules, and we note that there has been significant progress made to date both globally and locally.

Deloitte, along with other tax advisors, is a key intermediary in the tax system. We have a critical role in the efficient and effective functioning of the tax system. In recognition of this role and as registered tax agents, we operate in a legislatively regulated environment under the Tax Agent Services Act.

Under the legislative regulatory framework, we must act with honesty and integrity, we must act lawfully in the best interests of our client, we must apply the taxation laws correctly to the circumstances and we must not knowingly obstruct the proper administration of the taxation laws.

Over and above, we are subject to codes of professional conduct developed by the professional accounting bodies, supported by extensive internal regulation. For instance, Deloitte's standards of ethical conduct are set out in our Australian Principles of Business Conduct.

As tax advisors, we understand that clients require tax advice that complies with all relevant laws, is aligned to client tax governance plans; and that is cognisant of their commercial objectives, place in the community and brand.

We do not see tax as some sort of intellectual game, to see how to defeat the next round of legislation, or to ‘stooge’ the ATO. We understand that the modern approach to statutory interpretation requires that legislation be interpreted to reflect context and Parliamentary intent. However, by its nature, tax law will often be uncertain in its application and can be the basis of alternative views on which reasonable minds will differ. The tax system recognises this: in the self-assessment regime, in the dispute resolution regime and in the penalty regime.

We will, on occasion, test the scope and meaning of legislation on behalf of our clients, but in the appropriate environment, through the ATO’s ruling process or via the running of test case litigation, up front and in consultation with the ATO.

At Deloitte, ethics and integrity are fundamental and not negotiable.

Endnotes

1. https://www.ato.gov.au/business/large-business/in-detail/key-products-and-resources/tax-risk-management-and-governance-review-guide/
2. http://fairtaxmark.net/wp-content/uploads/2016/09/MNC-Criteria-Notes-2014-15.pdf
3. http://taxboard.gov.au/consultation/voluntary-tax-transparency-code/
4. Senate Economics Legislation Committee Estimates Hearing Transcript p.66, 10 February 2016
5. For more information, please refer to the following link to the HRMC website https://www.gov.uk/hmrc-internal-manuals/senior-accounting-officers-guidance
6. https://firb.gov.au/2016/05/taxation-conditions/
7. The Irish Government releases an Update on Ireland's International Tax Strategy on budget night. On a lessor communication scale, the New Zealand Government recently released a cabinet paper on its progress around BEPS, whilst Australia releases a budget initiatives fact sheet on Budget night when measures are announced.
8. Inspector General of Taxation submission to the House of Representatives Standing Committee on Tax and Revenue's Inquiry into Taxpayer Engagement with the Tax System, 24 February 2017 noted that in 2015-16 the ATO reported that 74.2 per cent of all individuals and over 95 per cent of business taxpayers used the services of a tax practitioner
9. On 2 March, 2017 the ATO announced it has developed resources on taxation and superannuation that could be used in the Australian Curriculum for students in years seven to ten to develop financial literacy
10. Jeremy Hirschhorn, Deputy Commissioner Public Groups, Australian Financial Review, 21 July 2016 http://www.afr.com/business/banking-and-finance/financial-services/company-tax-gap-might-be-2-billion-but-its-much-lower-than-everyone-thought-20160721-gqax16
11. http://www.afr.com/news/the-ato-just-accused-you-of-being-a-bigger-tax-problem-than-apple-20170315-guz6ima
12. ATO submission to the House of Representatives Standing Committee on Economics Inquiry into Tax Deductibility http://www.aph.gov.au/Parliamentary_Business/Committees/House/Economics/Taxdeductibility/Submissions
13. http://www.aph.gov.au/Parliamentary_Business/Committees/House/Tax_and_Revenue/Taxpayerengagement/Public_Hearings
14. Black Economy Taskforce Interim Report, March 2017 http://www.treasury.gov.au/blackeconomy

Where to next?

A future state of trust

Trust can take time. It is often the amalgamation of elements, processes and a shared understanding that builds into a cohesive framework. It's important that from business to tax professionals, Government to the ATO, there is a collective and cumulative push across the sector to improve, educate and drive change – continuously.

This report is one in a series that looks at the steps to build a better Australia – a more inclusive and business growth oriented tax environment.

We look forward to what we are sure will be a rigorous debate.

Deloitte.

For further information, please visit
www.deloitte.com/au/tax-agenda
www.deloitte.com.au

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