



In this issue:

Incorporating global trade compliance into your global supply chain to maintain resilience, agility, and adaptability	1
Tax function’s role in COVID-19 recovery: Cash preservation, supply chain recovery, and transaction planning	3
Taxation of Foreign Investment in US Real Estate	4
COVID-19 tax policy updates	4
Calendars to watch	4

Incorporating global trade compliance into your global supply chain to maintain resilience, agility, and adaptability

In today’s global trade regulatory environment, governments around the globe have increasingly turned to trade-related actions (e.g., sanctions, increased tariffs, free trade agreements) to enact domestic and international policy agendas. For instance, in just the previous few months, companies that move goods in and out of the US, EU and other countries have faced:

- Increased sanction-based restrictions on shipping to Hong Kong, China, Russia, and Venezuela;¹

¹ On 6 July, the UK introduced its first autonomous sanctions regime under the Sanctions and Anti-Money Laundering Act 2018 (the Sanctions Act). Actions taken may be found at <https://ofsi.blog.gov.uk/2020/07/13/global-human-rights-sanctions/>. The US Office of Foreign Assets Control has taken several actions against entities and countries in 2020. Activity can be found at <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC->

- Limits on cross-border movement of personal protective equipment;²
- Increased trade disputes resulting in unilateral actions and filing of formal World Trade Organization disputes resulting in increased tariffs.³ (Examples include heightened duty rates on certain Chinese- and European-origin goods in the US; increased duties on US goods sent to the EU)
- Uncertainty about managing shipments to the UK post-BREXIT⁴, and
- New requirements for claiming preferential tariff treatment under the US-Mexico-Canada Agreement.⁵

These events, among others, have created volatility and uncertainty in international supply chains, and have tested the readiness of many organizations with respect to effectively managing numerous and constant changes to trade requirements. Often, a slowdown or delay in the supply chain can translate into lost time and money for importers and exporters. To manage the possibility of such a slowdown or delay, organizations need to constantly assess and reassess how existing and new trade compliance considerations will impact their overall supply chains, as compliance gaps or deficiencies can cause supply chain disruption.

Two steps that an organization may take towards effectively navigating such ever-changing global trade requirements include understanding the regulatory landscape and interconnections involved in the regulation of global trade and developing a robust global trade management program.

Navigating the global trade regulatory landscape

The regulatory underpinning of global trade compliance is typically comprised of a variety of governing bodies that issue the rules and requirements for cross-border trade in goods, services, and technology. Global trade compliance rules and requirements are generally organized under two overarching and diverse regulatory structures: customs regimes and export control regimes.

Regulators – including customs, tax, and revenue authorities – are often housed in the same department or agency. In some countries, the export controls authorities are also housed in the same agency or department. While not universally the case, these authorities may share information on a specific organization. As a result, a tax audit, for example, could potentially lead to a customs audit or export controls investigation, and vice-versa.

Customs regimes: A nation’s customs regime is generally the agency most often involved in the import process, as well as the collection of export declarations. Generally, the customs authorities are responsible for determining whether goods are admissible, collecting duties, taxes, and fees on imported goods, examining goods for contraband, and enforcing a myriad of diverse laws and requirements that fall under the purview of other regulatory bodies.

The import process in most countries requires that accurate information be transmitted to the customs authorities by the importer or the importer’s agent. Sending accurate and complete information to the relevant customs authorities may result in fewer physical examinations and general inquiries.

Having a strong import compliance program prepares an organization to manage supply chain disruption and effectively respond to customs inquiries and issues when, arriving goods must be physically inspected or additional information must be submitted to the responsible regulator in order for goods to be released.

Export control regimes: In several countries, including the United States, there are mature export control regimes in place to monitor, control, and prevent the delivery of military items and “dual-use” items (*i.e.*, items with potentially

Recent-Actions.aspx. Actions taken by the EU can be found at https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/sanctions_en.

² See for example actions taken by the US at <https://www.fema.gov/fact-sheet/fema-implementation-allocation-order-exports-scarce-ppe-and-notice-exemptions>. See actions taken by the EU at <https://ec.europa.eu/trade/import-and-export-rules/>.

³ See WTO disputes at https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm. Several unilateral actions have been taken by the US and can be found at <https://ustr.gov/issue-areas/enforcement/section-301-investigations>.

⁴ See for example the guide published by the European Commission at

https://ec.europa.eu/taxation_customs/uk_withdrawal_en and

https://ec.europa.eu/taxation_customs/sites/taxation/files/leaflet-brexite-customs-guide-for-businesses_en.pdf.

⁵ See <https://ustr.gov/usmca>.

both a military and civilian use) to certain individuals, companies, or countries. Many countries also have stringent controls in place for outbound transfers of technology and technical data that can be used to create the specific items sought to be controlled. That information itself often is controlled for export.

Before sharing controlled physical or intangible goods, exporters will often be required to submit license applications to the various regulating agencies for pre-approval. Incorrect or inaccurate information often can lead to export license delays or outright denials.

Without a rigorous export compliance program in place, an organization may not only experience disruption in its supply chain, but also may find itself subject to penalties and fines, public censure, loss of export privileges, criminal penalties, and/or jail time.

The role of a global trade management program

A robust global trade management program (GTMP) may not only help keep an organization's supply chain running smoothly when importing and exporting is involved, but also may return money to the organization via participation in programs that allow for duty and efficiency savings. Duty savings may be achieved through an organization's effective participation in and management of programs such as free trade agreements, free trade zones, and duty refund programs, while efficiency savings may be achieved through participation in other special programs that, for instance, may allow for reduced cargo inspections, expedited clearance, or fewer compliance inquiries from regulatory authorities. However, if participation in such programs is not properly managed by an effective GTMP, such potential savings can be substantially diluted by compliance costs and significant penalties, and by delays in the supply chain, when mistakes are made. For this reason, it is important for an organization to equip itself to meet the compliance rigors of such programs before participating in them.

Ideally, an effective GTMP will not only manage trade compliance risks and navigate constantly evolving global trade regulations but may also pay for itself in duty and efficiency savings. Specifically, an effective GTMP can:

1. Facilitate the organization's awareness of trade compliance policies and procedures via a network of internal compliance stakeholders,
2. Continually assess how compliance considerations impact the overall supply chain to avoid pitfalls,
3. Establish internal controls that yield savings, and
4. Conduct periodic assessments of trade compliance practices to mitigate risks.

Sourcing strategies and operational processes and procedures that are buttressed by a strong GTMP can help mitigate the risk that a supply chain may become kinked (and possibly crippled) by the global trade compliance-related risks that are ever-present in today's environment. Indeed, adopting and following the risk management principles of an effective GTMP is a step towards infusing resilience, adaptability, and agility into an organization's global supply chain.

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Tax function's role in COVID-19 recovery: Cash preservation, supply chain recovery, and transaction planning

Since the onset of COVID-19, tax executives have played a significant role in supporting their businesses as a result of new legislation and reacting to critical business imperatives. It's not just that resources have been stretched and processes disrupted as offices and tax professionals navigate through the evolving landscape. It's also that the business is evaluating material changes in many cases that will have immediate and long-term tax implications. This

article will focus on three key tax function COVID-19 recovery areas where tax leaders can deliver strategic value at a pivotal time: cash preservation, supply chain planning, M&A transaction planning.

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/covid-19-recovery-tax-function.html?id=us:2em:3na:usic:awa:tax:101920&sfid=701100000038ICiQAI>

Scenario modeling is key to tax planning, as tax outcomes can be influenced by both timing of any transactions and the interplay of increasingly complex tax rules across multiple jurisdictions. Fortunately, advances in data collection, data wrangling and analytic tools are making this easier to do. Deloitte's professionals can help companies develop processes for efficient data gathering and provide scenario-planning advice using the latest scenario-planning tools.

Taxation of Foreign Investment in US Real Estate

There has been a continued interest in investment in US real estate. Historically, obstacles to investing in US real estate have included relatively high US tax corporate tax rates on capital gains, the taxation on the disposition of real estate investments, and complicated US withholding tax and income tax reporting. The Tax Cuts and Jobs Act of 2017 introduced some real estate friendly provisions such as lowering of the US corporate rate from 35% to 21% and excluding certain real estate operations from limits on the deductibility of financing expenditures. This guide is an introduction to some of the more significant tax issues that should be considered by non-US investors.

URL: https://newsletters.usdbriefs.com/2020/Tax/USIC/201019_3_suppA.pdf

COVID-19 tax policy updates

Congress has approved, and President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a massive tax-and-spending package intended to provide additional economic relief to address the impact of the COVID-19 pandemic. COVID-19 stimulus: A taxpayer guide, a Deloitte Tax LLP publication, looks at the tax provisions in the new legislation and their potential implications for business and individual taxpayers.

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/covid-19-tax-policy-updates.html?id=us:2em:3na:usic:awa:tax:101920&sfid=701100000038ICiQAI>

Additional Resources

- **Combating COVID-19 with resilience:** A collection of Global Deloitte Insights to help businesses manage and mitigate the risk associated with COVID-19
URL: <https://www2.deloitte.com/global/en/pages/about-deloitte/topics/combating-covid-19-with-resilience.html?id=us:2em:3na:usic:awa:tax:101920&sfid=701100000038ICiQAI>
- **Deloitte COVID-19 Tax & Fiscal Measures:** Deloitte is offering two free digital resources which can help you keep track of tax and financial measures introduced around the world and review the measures by country.
URL: <https://www2.deloitte.com/global/en/pages/tax/solutions/tax-atlas-signal.html?id=us:2em:3na:usic:awa:tax:101920&sfid=701100000038ICiQAI>

Calendars to watch

Each edition, be sure to mark your calendars for some of the more important events (recent and upcoming) as well as tax developments making in impact on businesses investing into the United States.

Deloitte Tax Accounting Conference – 2020 Virtual

Join us at the Deloitte Tax Accounting Conference – 2020 Virtual November 30 – December 11, 2020. Our 2020 program, in its 15th year, will deliver content by live presenters with advanced technology and enhanced online engagement through a virtual platform for tax, accounting and finance professionals.

URL: <https://deloittetaxaccountingconferenc-8f13.splashthat.com/>

- Offering 6 different courses over a two-week period
- 4-hour segments per day
- Earn up to 40 hours of CPE from the safety of your office or home

Register

<https://deloittetaxaccountingconferenc-8f13.splashthat.com/>

Upcoming activities

- September 16** **Dbriefs archive:** IRS conversation: Research Tax Credit
Watch
URL: <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2020/research-tax-credit.html?id=us:2em:3na:usic:awa:tax:101920&sfid=7011O0000038ICiQAI>
- September 17** **Dbriefs archive:** The digital economy: Transfer Pricing of data
Watch
URL: <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2020/digital-economy-transfer-pricing-data.html?id=us:2em:3na:usic:awa:tax:101920&sfid=7011O0000038ICiQAI>
- September 25**
1:00 p.m. ET **Dbriefs:** Tax accounting update: Year-end preparations amid economic uncertainty
Register
URL: <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2020/tax-accounting-update-year-end-preparations.html?id=us:2em:3na:usic:awa:tax:101920&sfid=7011O0000038ICiQAI>
- October 7**
2:00 p.m. ET **Dbriefs:** Remote work: Talent and compliance challenges of the global workplace reboot
Register
URL: <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2020/remote-work-talent.html?id=us:2em:3na:usic:awa:tax:101920&sfid=7011O0000038ICiQAI>
- October 8**
1:00 p.m. ET **Dbriefs:** Driving value in cross-border M&A
Register
URL: <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2020/driving-value-m-and-a.html?id=us:2em:3na:usic:awa:tax:101920&sfid=7011O0000038ICiQAI>
- October 20**
1:00 p.m. ET **Dbriefs:** Tax Technology architecture: Integrating technology solutions for tax
Register
URL: <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2020/tax-technology-architecture.html?id=us:2em:3na:usic:awa:tax:101920&sfid=7011O0000038ICiQAI>

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