# Guide on
# TAX GOVERNANCE


December 2022

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# OBJECTIVE

## Aim of the guide

This guide on Tax Governance (TG) has been issued for:

a. **Large Companies;**

b. **Their Board of Directors; and**

c. **Their Top Management.**

The aim is to understand better the need to have a tax compliance policy and provide guidance on establishing Tax Governance (TG) regarding taxes administered under the Revenue laws.

It will also help large companies to better:

a. Manage their tax compliance (TC) risks;

b. Understand the need for a tax compliance policy;

c. Understand the role and responsibilities of the Board of Directors in large companies with respect to tax governance and compliance; and

d. Enhance and foster a relationship of trust, transparency, certainty and collaboration with the revenue authorities.

For this guide, a large company is defined as any company with an annual turnover exceeding **Rs. 150 million**. Turnover for this guide includes all income derived by the company, such as disposal proceeds, interest income, dividend income and any other income.

## Targeted Audience

This guide should be read by the following persons:

a. Board Director;

b. Chief Executive Officer;

c. Chief Financial Officer;

d. Member of the Audit Committee;

e. Member of the Risk Committee;

f. A person involved in managing your entity's tax compliance;

g. Tax consultant/ Tax Accountant/ Tax Manager; and/or

h. Any person appointed by a large company to review its tax risk management processes and internal controls.

## Tax Cost and Tax Risk

Primarily, the company, its Board of Directors and stakeholders will focus on the amount of tax paid/payable and the acceptable level of risk. Basically, all companies are expected to be fully compliant with the laws. However, the following issues need to be considered:

a. The right balance in managing tax costs and risks.

b. The degree of reliance it places on practitioner opinions.

c. Its policy in relation to litigating disputes.

d. How does it view and tolerate negative publicity?

e. Its appetite concerning choices in the law or how it behaves in relation to grey areas or other ambiguities?

## OECD and other publications

The OECD has published guides on Enhanced Relationship and Cooperative Compliance in 2013 and 2016 in order to provide guidance for businesses to design and operate their Tax Control Framework and for revenue bodies to adjust the risk management strategy for a large business in the context of a co-operative compliance relationship.

The **Inland Revenue Board of Malaysia (IRBM)**, the **Inland Revenue Authority of Singapore (IRAS)**, the **Inland Revenue of New Zealand** and the **Australian Taxation Office (ATO)**, amongst others have also adopted tax governance. This has brought about cooperation and understanding between the revenue authorities and the companies, which has eventually led to a win-win situation.

# TAX GOVERNANCE

### What is Tax Governance (TG)?

Tax governance means having clear processes and procedures in place in a corporate governance framework to support tax decision making and manage taxes and risks. By implementing tax governance, risks are identified earlier to mitigate tax litigations.

**"Tax risk"** refers to the risk of financial loss and reputational risks or prosecution, such as increased tax liabilities, penalties and risks of missed opportunities to structure commercial arrangements tax-efficiently amongst others.

Below is a list of examples of tax risks affecting an organisation:

a. Misinterpretation of taxation laws; e.g. claiming an exemption where the entity is not entitled to;

b. Non-disclosure of information, e.g. persistent non-compliance;

c. Unaware of various deductions and incentives to which the company is entitled.

d. Non-deduction of Tax Deducted at Source (TDS) from service providers and non-withholding of Pay As You Earn (PAYE) from the employees' salaries;

e. The company may be unaware that any particular tax may affect it, following changes in tax laws;

f. Wrong computation of yearly tax in returns;

g. Penalty for late payment of tax;

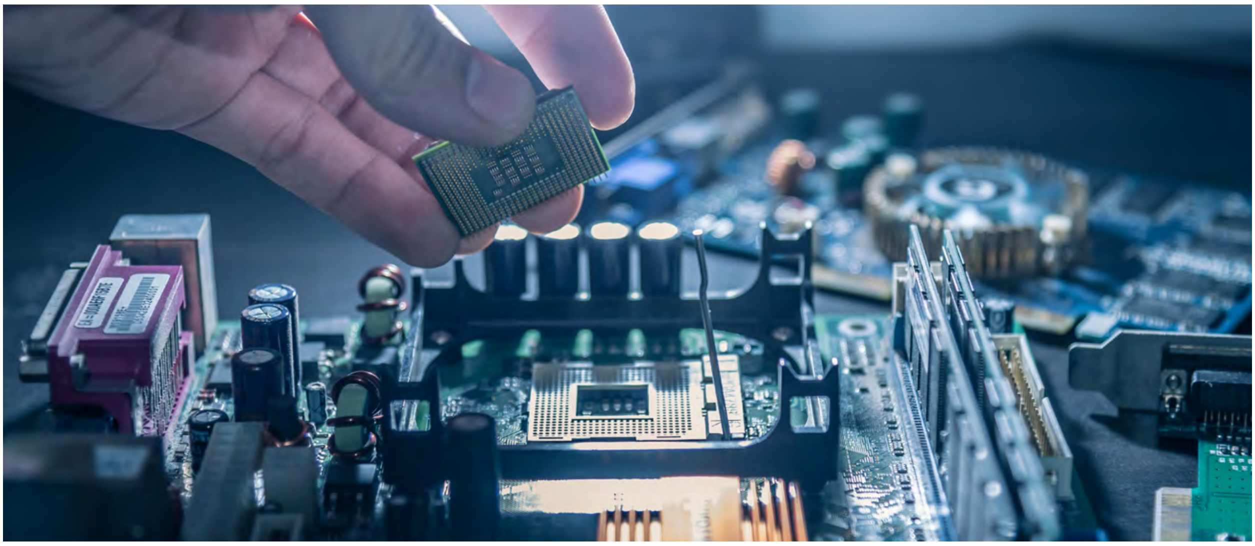
h. Legal proceedings for late payment of tax; and

i. Loss of reputation due to legal action taken by the tax authorities against the organisation.

Therefore, when tax risks are promptly identified and managed systematically, the Board of Directors is in a better position to report in the company's annual report that all risks faced by the company have been dealt with properly, and there are mechanisms to manage risk effectively with a reasonable degree of assurance. A tax governance policy provides a framework to mitigate such risks.

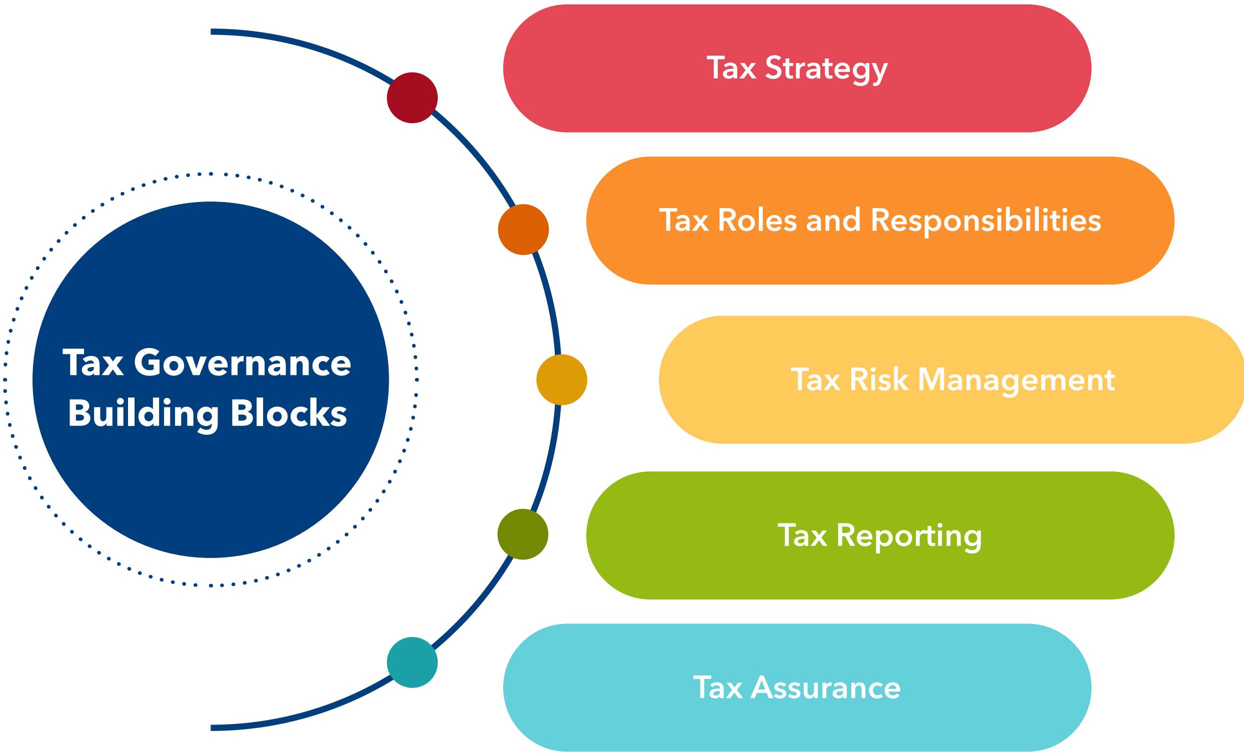

The role of the MRA is to ensure that all taxpayers are fully tax-compliant. Despite that taxes often represent a significant portion of a company's profits with potential temptation for aggressive tax planning resulting in risk of reputation and governance, yet in practice there is limited involvement of the board in the management of the corporation tax strategy. Same is often left only in the hands of the Head of Tax/Head of Finance. It is often noted that board members are not fully aware of the tax risks encompassed in transactions carried out by companies until an issue relating to the tax affairs of the entity is raised by the MRA. Hence, the cost of compliance, including any penalties and interest charged fall heavily on the companies in terms of time, money, and reputation. Until very recently, the idea of tax as an item on the boardroom agenda would have been remote. However, with the rising trend in aggressive tax planning, taking tax to the boardroom has become a very topical issue.

To ensure tax compliance and maintain a good relationship with large businesses, tax advisors and stakeholders, the MRA is coming forward with this guide on Tax Governance. The MRA invites large companies to adopt tax governance. Companies with gross income below the threshold of Rs. 150 M may also adopt it. The MRA will then have the assurance that all matters affecting the company's tax liability have been adequately dealt with and has also been brought to the Board of Directors' attention.



## Building blocks of Tax Governance

The essential building blocks of good tax governance are as follows:



a. **Tax Strategy**

Tax strategy is at the heart of tax governance and the first building block of tax governance. The methodology companies adopt shapes the remaining four building blocks, including the design and implementation. In developing its tax strategy, the company might consider the following elements: purpose, values, business strategy, tax model, sustainability commitments, stakeholders, and applicable laws and regulations. To that end, the company will have to engage both internal and external stakeholders and employees, investors, regulators, and other operators interested in the company's business activities. Through such stakeholder engagement, the company is cognizant of the needs and expectations of investors and stakeholders. The organisation can then integrate these appropriately into the tax strategy.

The tax strategy must be formally documented and approved "at the top of the company", and it must also be communicated to all relevant stakeholders to ensure that "bottom-up" activities are effectively aligned. A clear, agreed-upon strategy is vital for any organisation in the current environment. It brings organisational clarity, a touchstone for decision-making, and a clear destination for leading the Tax team.

b. **Tax Roles and Responsibilities**

Having clear, well-defined understandable roles and responsibilities of the Board of Directors in terms of accountability for tax administration and decision making is the second building block of tax governance. This means that the company will need to understand:

i. Its tax and associated obligations, including compliance with the law, submission of returns and information reporting, payment and record-keeping obligations.

ii. Who within the organisation is responsible for developing and delivering the tax strategy? Is it entirely the responsibility of the Tax team, or are responsibilities shared with other teams or functions? What "key performance indicators" will measure and drive the accomplishment of the tax's goals?

In the circumstances where responsibility for tax matters and tax governance is shared with the tax advisors, ultimately, the Board of Directors is confident that it understands its tax advisor's role in meeting its tax and associated obligations which may include but are not limited to:

i. Roles and responsibilities should be clearly defined through organisational charts, role descriptions, compliance standards/calendars or procedure documents that cover all key tax obligations for the company;

ii. A clear description of the role of the external advisors through engagement letters agreed on the scope of work and compliance agendas to ensure that the tax issues that arise from the company's ongoing transactions are properly captured in the scope of work;

iii. Clear established procedures to ensure the company's tax obligations are encapsulated and, at the same time, ensure that the company can meet its obligations as they fall due; and

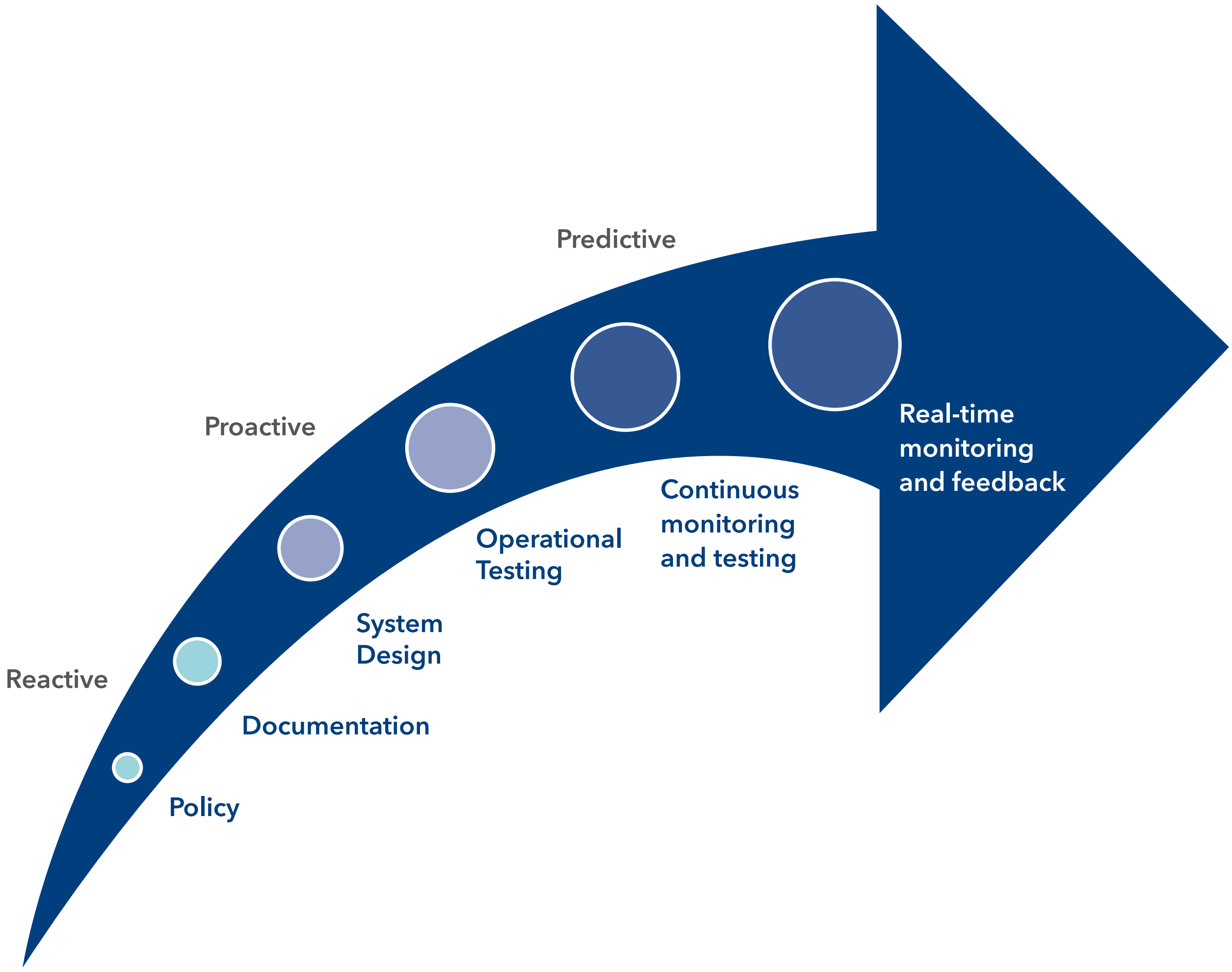
iv. It also involves appointing a tax governance officer cum tax compliance officer as well as defining its role and responsibilities. The tax governance officer will also act as a liason officer for the tax authority.

c. **Tax Risk Management**

The Board of Directors must be cognizant of the tax matters and ensure that controls in respect of all processes and transactions, including tax processes and transactions, are appropriately in place. Prompt identification of tax risk is important for implementing controls. And in building its tax strategy under the first building block, it is important for the company to describe and design the controls for tax matters. In other words, the tax control framework should safeguard what the organisation has 'promised' to its stakeholders, is executed and delivered accordingly and reported in its annual report.

Assessing the company's whereabouts (locus/position) on the tax governance curve triggers the importance of tax risk management.

Some companies move up the following curve by using technology to move towards real-time monitoring of tax risk:



Each position is described in the table below:

| | |
|---|---|
| **Policy** | There is a Tax Risk Management Policy in the company which has been communicated to the tax team and the policy is adhered to by the team in tax decision-making processes. |
| **Documentation** | There are well-documented tax processes and obligations with the identification of key controls to ensure wider communication of the Tax Risk Management Policy. |
| **System Design** | All processes, including tax, finance, and other processes, have been tested for design effectiveness as well as ensuring the processes are aligned with the Tax Risk Management Policy. |
| **Operational testing** | To ensure that all processes (tax, finance and other processes) are effectively working in practice, they have been tested at operational level through interviews, questionnaires and similar methods.<br><br>Feedback and implementation review will trigger the need for any review.<br><br>Where insufficient tax controls have been noted, the processes are re-designed accordingly. |
| **Continuous monitoring and testing** | Ongoing monitoring and testing of the processes, risks and controls affecting tax. The CFO and the Board of Directors take cognisance of the tax risk appetite.<br><br>Where necessary, technology can be used to continuously review, monitor and track risks and control effectiveness. |
| **Real-time monitoring and feedback** | A real time monitoring of processes, risks and controls at the transaction level will help to identify and mitigate risks and control weaknesses promptly.<br><br>To predict and manage risks, tax data is interrogated and analysed regularly.<br><br>This will eventually generate an exception report, dashboards and alerts. |

d. **Tax Reporting (Tax Transparency)**

Tax reporting is also an important aspect of tax governance because it involves disclosing financial and non-financial information about tax matters. Investors tend to focus more on non-financial information before making any investment. The disclosure can be both mandatory and voluntary. In the latter case, the Board of Directors should determine the appropriate tax information to be disclosed to the public.

The disclosure would also be in line with Section 221(1)(a) of the Companies Act wherein a company's annual report shall communicate information about the company's performance and position that the Board of Directors deems to be material to facilitate the shareholder's understanding of the affairs of the business. Details of disclosure are set out in paragraph 2.4.

e. **Tax Assurance**

The last building block of tax governance is tax assurance. An independent professional view confirming the reliability of the information provided in the annual report on the company's tax governance commitments to comply with the relevant tax laws, regulations and obligations will enhance and add credibility to the report.

## Key practices of Tax Governance

In order to implement the above blocks, below is an indicative list of the key practices which a company should adopt:

a. Aligning the company's policies, procedures and activities with relevant tax laws and regulations;

b. Devising a framework, identifying the tax risks, implementing controls, monitoring tax risks and reporting on the outcome of the controls in place. As a result, all matters affecting the tax liability of the company would be brought to the board of dicretors' attention, and the latter would ensure that all tax processes are appropriately in place;

c. Undertaking activities driven by bonafide commercial reasons and not tax-driven;

d. Including tax-related issues in its agenda at Board meetings;

e. Appointing a tax governance officer who will liaise with the MRA regarding tax issues;

f. Communicating their expectations regarding the management of tax risks with their employees;

g. Providing accurate and full disclosure of relevant facts when responding to tax queries from the MRA.

h. Engaging proactively with the MRA to resolve issues that pose tax uncertainty; and

i. Voluntarily disclosing and rectifying tax errors promptly.

### Disclosures

When reporting how tax risks are identified, managed and monitored in its annual report or tax governance statement, the organisation can make disclosures on broadly the following three bases:

a. **Approach to tax**

The company's approach to tax defines how the company balances tax compliance with business activities and ethical, societal, and sustainable development-related expectations. It can include the company's tax principles, its attitude to tax planning, the degree of risk the company is willing to accept, and its approach to engaging with tax authorities.

Though described in a tax strategy, the company's approach to tax could also be described in other similar documents, such as annual reports, policies, standards, principles, or codes of conduct.

**The following are examples of the approach to tax in a tax strategy:**

i. Through the experience gained from its tax practices, such as by providing a summary of its various tax incentives or its approach to transfer pricing, the company can explain its approach to tax. These examples will demonstrate the company's attitude towards risk, risk appetite, and whether its Board of Directors considers the tax practices acceptable or unacceptable.

ii. An illustration of how the company's tax planning harmonises with its commercial activities will strengthen the link between its approach to tax with its business strategy. The illustration can include relevant statements from its tax strategy or equivalent documents.

iii. When describing how its approach to tax is linked to its sustainable development strategy, the organisation can explain the following:

- Whether it considered the economic and social impact of its approach to tax when developing its tax strategy.
- Its commitment to sustainable development and the extent to which its approach to tax is aligned with these commitments.

b. **Tax governance, control and risk management**

A statement confirming that the company has robust governance, control, and risk management systems for tax embraced that the reported approach to tax and tax strategy is well embedded in the company and assures that it effectively monitors its compliance obligations. Such a statement comforts stakeholders that the company's practices concur with its commitments to its tax approach in its tax strategy or equivalent documents.

Here, a brief explanation of the effective implementation of its tax governance, control, and risk management systems will support its description of the tax governance and control framework.

When reporting how the approach to tax is embedded within the organisation, the organisation can describe processes, projects, programs, and initiatives that support adherence to tax and tax strategy.

Examples of such initiatives can include:

i. Provision of training and guidance to the tax team and senior managers to better appreciate the link between tax strategy, business strategy and sustainable development;

ii. Remuneration or incentive schemes for the person(s) responsible for implementing the tax strategy;

iii. Succession-planning for positions within the organisation that are responsible for tax; and

iv. Participation in tax transparency workshops/ initiatives or trade associations/ professional bodies that seek to develop best practices on tax disclosures, the benefits of a good tax reporting system or educate stakeholders on tax-related issues.

c. **Stakeholder engagement and management of concerns related to tax**

An organisation's tax practices are of interest to various stakeholders. An organisation's approach to engaging with stakeholders can influence its reputation and position of trust. It includes how the organisation engages with tax authorities in developing tax systems, legislation, and administration.

The approach to engagement with tax authorities can include participating in cooperative compliance agreements, seeking active real-time audits, seeking clearance for all significant transactions and engaging in tax risks.

When reporting the approach to public policy advocacy on tax, the reporting organisation can describe:

i. Its stance on significant issues related to tax that it addresses in its public policy advocacy and any differences between its advocacy positions and its stated policies, goals, or other public positions;

ii. Whether it is a member of, or contributes to, any trade associations/ professional bodies or committees that participate in public policy advocacy on tax, including:

iii. The nature of this contribution;

iv. Any differences between the organisation's stated policies, goals, or other public positions on significant issues related to tax and the positions of the trade associations/professional bodies or committees.

### MRA's Expectations for Tax Governance

Cooperative compliance programmes tend to set the strengthening of governance and internal control as a prerequisite or an objective. In this regard, what does MRA expect of companies?

The TG programme to enhance tax corporate governance evaluates the effectiveness of tax corporate governance at the time of an audit, and the five evaluation items are:


It may be worth noting that the programme considers that top management's active engagement and guidance are indispensable for enhancing tax compliance.

## Informing MRA of the adoption of the Tax Governance

Through this guide on Tax Governance, MRA is encouraging and inviting companies to embark and adopt tax governance. Where a company has implemented the Tax Governance in its organization and consequently appointed a tax governance/ liaison officer, it is suggested to inform MRA accordingly.


## MRA's commitment

Tax Governance aims to establish a communication channel between taxpayers and the Tax Authority.

In this context, MRA is committed to:

a. Address promptly and expeditiously any query a large company may encounter when submitting its return;

b. Encourage voluntary disclosure and ensure that disclosures may be discussed and agreed upon;

c. Liaise with the company before raising any assessment; and

d. Enhance communication and be of assistance in any other tax matters.

# BENEFITS OF IMPLEMENTING TAX GOVERNANCE

**Benefits for taxpayers**

- TG helps to consolidate and enhance the company's relationship with the MRA
- TG will help to enhance the reputation of the company
- With proper controls in place, risks will be dealt with and manage effectively
- Reduction of administrative burdens in terms of time and money

**Benefits of Tax Governance to MRA**

- TG helps to consolidate and enhance the company's relationship with the MRA
- TG will encourage transparency and will therefore, result in a better understanding of the business
- There will be certainty and clarity in relation to the company's tax positions
- Engagement with large companies will be facilitated

## Tax Governance (TG)

### Company (Annual turnover> Rs 150m)

| | | | | |
|---|---|---|---|---|
| **Building Blocks of TG** | | | | |
| **Tax strategy**<br>-First building block<br>- In developing the company's tax strategy, consideration might be emphasised on purpose, values, business strategy, tax model, sustainability commitments, stakeholders, and applicable laws and regulations" | **Tax Roles and Responsibilities**<br>-Having clear, well-defined understandable roles and responsibilities of the board in terms of accountability for tax administration and decision making | **Tax Risk Management**<br>-The board of directors must be cognizant of the tax matters and ensure that controls in respect of all processes and transactions are appropriately in place | **Tax Reporting (Tax Transparency)**<br>It involves disclosing financial and non-financial information about tax matters | **Tax Assurance**<br>-An independent professional view confirming the reliability of the information provided in the annual report on the company's tax governance commitments will enhance and add credibility to the report |
| **Key Practices of TG** | | | | |
| -Aligning the company's policies, procedures and activities with relevant tax laws and regulations<br>-Undertaking activities driven by bonafide commercial reasons and not tax-driven | - Including tax-related issues in its agenda at Board meetings | -Devising a tax governance framework, identifying the tax risks, implementing controls, monitoring tax risks and reporting on the outcome of the controls in place. As a result, all matters affecting the tax liability of the company would be brought to the board's attention, and the latter would ensure that all tax processes are appropriately in place | - Appointing a tax governance officer who will liaise with the MRA regarding tax issues<br>- Communicating their expectations regarding the management of tax risks with their employees<br>- Providing accurate and full disclosure of relevant facts when responding to tax queries from the MRA<br>- Engaging proactively with the MRA to resolve issues that pose tax uncertainty<br>- Voluntarily disclosing and rectifying tax errors promptly | - Providing accurate and full disclosure of relevant facts when responding to tax queries from the MRA |
| **Disclosures in the Annual Report/ Tax Governance Statement** | | | | |
| -The company's tax principles, its attitude to tax planning, the degree of risk the company is willing to accept, and its approach to engaging with tax authorities | -The roles and responbilities of the Board of Directors with regards to tax governance<br>- Disclosure in annual report in respect of its tax affairs and whether all returns have been submitted and tax has been duly paid | -A statement confirming that the company has robust governance, control, and risk management systems for tax embraced that the reported approach to tax and tax strategy is well embedded in the company and assures that it effectively monitors its compliance obligations.<br>-Brief explanation of the effective implementation of its tax governance, control, and risk management systems | -The reporting organisation can describe:<br>(i) Its instance on significant issues related to tax that it addresses in its public policy advocacy and any differences between its advocacy positions and its stated policies, goals, or other public positions;<br>(ii) Whether it is a member of, or contributes to, any trade associations/ professional bodies or committees that participate in public policy advocacy on tax. | -The approach to engagement with tax authorities can include participating in cooperative compliance agreements, seeking active real-time audits, seeking clearance for all significant transactions and engaging in tax risks |

**Definition**
Tax governance includes having clear processes and procedures in place in a corporate governance framework to support tax decision making and manage taxes and risks

**Objective**
To better understand the need to have a tax compliance policy and to provide guidance on establishing TG in respect of taxes

**MRA**

**MRA's Expectations for Tax Governance**
a) Engagement, guidance and commitment of top management,
b) Organisation and functions of accounting and audit divisions,
c) Tax and accounting procedures are subject to internal checks and balances,
d) Dissemination of information and recurrence recovery and prevention measures, and
e) Policies and measures to control inappropriate acts.

**MRA's Commitment**
a) Address promptly and expeditiously any query a large company may encounter when submitting its return;
b) Encourage voluntary disclosure and ensure that disclosures may be discussed and agreed upon;
c) Liaise with the company before raising any assessment; and
d) Enhance communication and be of assistance in any other tax matters.

**Informing MRA of the adoption of the Tax Governance**
-Where a company has implemented the Tax Governance in its organization and consequently appointed a tax governance/ liaison officer, it is suggested to inform MRA accordingly.

MAURITIUS
REVENUE
AUTHORITY

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