

Enforcement Trends and Compliance Challenges



4th IMF-Japan High Level Tax Conference for Asian
Countries

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Views are those of the presenter alone

Overview



1. EY's Tax Risk and Controversy Survey
2. Tax Avoidance—Media Escalation
3. Tax Avoidance—Worse than Before?
4. Tax Avoidance—Inevitable?
5. The Future of Corporate Tax?
6. International Tax Planners—An Endangered Species?
7. Negotiated Tax Settlements—Good or Bad?
8. “Tax Planner-Proofing” Your Tax System
9. Improving Compliance—Some Thoughts



Broad Conclusions from 59 Countries Surveyed:

- Tax authorities significantly more assertive in examining cross-border activities
- TIEAs have increased by more than 1,000%
- Joint and simultaneous tax audits now a reality
- Tax administrators under pressure to generate revenue
- Demanding more disclosure from taxpayers
- Imposing criminal sanctions where they believe willful tax evasion has occurred



EY's Tax Risk and Controversy Survey (2)



Some Statistics:

- 75% of companies noticed a rise in volume of aggressiveness of tax audits.
- 97% of tax administrators reported they intend to increase their focus on tax risk relating to international structures and cross-border transactions in the next 3 years.
- 56% of tax administrators identified transfer pricing as the leading tax risk focus area over the next year.
- 94% of tax policymakers predict some or significant growth in GAARs in the next 3 years.
- 81% of tax administrators see increased disclosure and transparency requirements ahead.
- 57% of tax directors surveyed reported concern about the threat of a negative media article about their company.

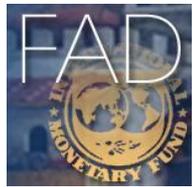




Top 10 Focus Areas for 2012

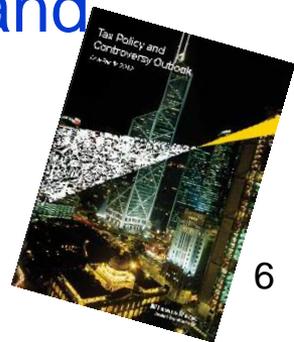
1. Transfer Pricing – 56% (33/59)
2. Related-Party Transactions – 27% (16/59)
VAT Refunds – 27% (16/59)
4. Withholding Taxes – 15% (9/59)
5. Financing and Loans – 14% (8/59)
Preferential Tax Regimes/Incentives – 14% (8/59)
Sectoral Focus – 14% (8/59)
8. GAAR/Aggressive Tax Planning – 12% (7/59)
9. Payroll, Fringe Ben., Cont. vs. Emp. – 10% (6/59)
10. CFC Rules – 8% (5/59)





Broad Conclusions from 13 AP Countries Surveyed:

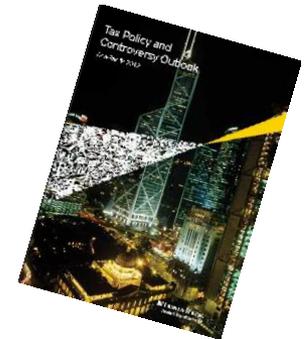
- Lowering statutory corporate tax rates to compete for investments
- Targeted tax incentives – much narrower than before
- Aggressive tax administration – stricter tax enforcement
- Greater use of the media to publicize enforcement campaigns
- Targeted taxpayer segments – professionals
- Increased requirements in respect of disclosure and transparency





Top 7 Focus Areas in Asia/Pacific for 2012

1. Transfer Pricing – 57% (8/14)
2. Related-Party Transactions – 43% (6/14)
3. Withholding Taxes – 21% (3/14)
4. GAAR/Aggressive Tax Planning – 14% (2/14)
- Preferential Tax Regimes/Incentives – 14% (2/14)
- CFC Rules – 14% (2/14)
- Property Transactions – 14% (2/14)

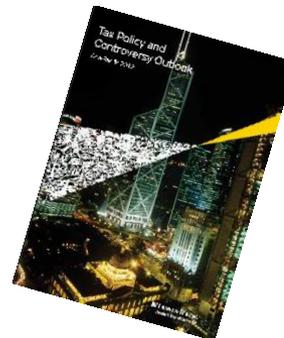


EY's Tax Risk and Controversy Survey (6)



Taxpayer Perceptions 2012 and Focus in 2011

Country	Taxpayer Perceptions	2011 Focus
China	-	Greater sectoral focus
Hong Kong SAR	Aggressive approach toward all audits	Greater focus on property transactions
Indonesia	Aggressive approach toward transfer pricing	Audits tend to focus on transfer pricing
Japan	Non-aggressive in dealing with large T/Ps	No noticeable trends - 3 to 5 yr cycle for corps.
Malaysia	Cordial stance to T/P audit	Greater sectoral focus
Philippines	Aggressive approach toward all audits	Increase in civil and criminal charges
Singapore	Risk-based approach and relationship programs	Clamp down on timely and accurate filing
Thailand	Aggressive approach toward large corporates	Greater scrutiny of cross-border transactions
Vietnam	Aggressive but varies across provinces	Intends to improve cooperation with other tax administrations





Recent Headlines:

- *“Google Revenues Sheltered in No-Tax Bermuda Soar to \$10 Billion”* — Bloomberg, December 10, 2012
- *“Starbucks First to Cave in Over Tax Row”* — Telegraph, December 3, 2012
- *“Revenue and Customs Offers Deal on Tax Avoidance Sheltering GBP3.5 Billion”* — Guardian, December 19, 2012
- *“Rage at Politicians not Companies Over Tax Avoidance, say Business Leaders”* — London Business, January 10, 2013
- *“Putting Off Tax Avoidance Rules will Boost Investment: Montek”* — The Hindu Business Line, January 15, 2013
- *“Public Prosecutors to Target ‘Dishonest’ Tax Avoidance”* — Telegraph, January 22, 2013
- *“ATO Approved Tech Companies’ Tax Avoidance Tactics”* — ZD Net, January 23, 2013
- *“ABF has Spirited Millions away from its Sugar Operations in Zambia, where Two-thirds live in Poverty”* — Guardian, February 11, 2013
- *“Deloitte Boss Blames Law for Tax Avoidance”* — Sky News, March 29, 2013



British PM on Tax Avoidance at the World Economic Forum – Davos 2013

"There are some forms of tax avoidance that have become so aggressive that it is time for international co-operation to make sure that global companies pay their fair share of tax."

"This is a problem for all countries, not just for Britain, ..."

"Acting alone has its limits. Clamp down in one country and the travelling caravan of lawyers, accountants and financial gurus just moves on elsewhere. So we need to act together at the G8."

Tax Avoidance – Inevitable? (3)



On the one hand...

Jurisdictions tend to compete with each other by offering reduced taxes as an incentive for investment.

While on the other...

The same jurisdictions are later shocked by the outcomes.

True or False?



Presentation made at the CTF World Tax Conference — 2000:

“We predict that the corporate income tax will likely disappear within a generation if governments continue to pursue non-cooperative tax policies.”

What do you think, as policymakers /administrators?

Is there greater pressure than before to cooperate?



Presentation made at the Irish Tax Institute's World Tax Conference – 2001:

“Pressures on tax deals are squeezing out the benefits as a result of:

- Falling tax rates*
- Less generous tax depreciation rates*
- Lower interest rates*
- Specific anti-avoidance legislation*
- General anti-avoidance legislation”*

Seems tax planners overcame these problems.
What do you think? Is their planning more aggressive?

Negotiated Tax Settlements – Good or Bad?



Arguments For:

Saves years of litigation and legal costs

Some tax is at least recovered

Arguments Against:

Principle(s) remain untested by the courts

Perceived to benefit only the large taxpayers

Places decision-making officials in an awkward position

What do you think?

How do you safeguard officials involved in decision making?

“Tax Planner-Proofing” Your Tax System?



Legislative (Policy):

Clear and well-written legislation

Specific anti-avoidance measures

General anti-avoidance rules (GAARs)

Other??

Administrative:

Identify risk areas — good risk models

Flexible enough to divert resources to urgent high-risk issues

Measure and monitor performance

Collaborate with other administrations

Use TIEAs and respond promptly to enquiries received

Effective use of media and good taxpayer communication

Other??

Improving Compliance — Some Thoughts



- Improve overall standard of record keeping (EFDs?)
- Improve taxpayer service — guides, assistance, website
- Segmenting taxpayer populations (large, medium, small)
- Improved use of technology — IT, mobile banking
- Greater use of third-party data
- Greater investment in developing risk models
- Voluntary disclosure programs
- Using existing provisions to properly prosecute tax evaders
- Increased disclosure and transparency requirements
- Special program to Manage Serious Defaulters (MSDs)?
- *Other??*

What do you think?



Thank You

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