Tax commandments for business

Large Corporate

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Peter Mason explains how those beginning or already in a tax role in business can address the key elements of tax leadership and management

So, you've made it! It's the best job, the role you've always wanted – and now it's yours. Then it dawns upon you; it's your show now, and you need to work out what to do next!

There is conspicuously limited guidance out there to help you in a corporate tax role. For this reason, I will review the Tax Commandments for Business to steer you towards success. These underlying principles of good tax management apply to everyone within a company's tax team, including advisers, tax authorities engaging with a tax team, and even other finance professionals. In any tax role, you will need to understand the techniques of leadership.

The discipline of tax is uniquely positioned to give those at any stage of their working life broad exposure to business, as well as an exciting and rewarding career. It embraces all walks of business, from strategy to operations to transactions, combining accounting, fiscal and legal analysis. Tax teaches values, purpose, trade and contribution. Coping with a tax role in business effectively and efficiently is a huge responsibility.

My ten tax commandments highlight areas that any tax leader must master to manage a tax function successfully; they are also a set of skills for anyone working in tax. They comprise thinking strategically; empathising with people whilst retaining commercial and risk awareness; being a strong project manager with technical proficiency, high integrity and a solid accounting capability, along with effective negotiation skills; and the ability to deliver results. These are the core disciplines of leading any effective tax function.

1. Tax strategy: dare to dream

You may already have a strategy for your life and your career. However, you certainly need a clearly defined strategic vision in a position of tax management. This should have constituted part of your pitch in securing the role that you now have and now you must deliver your comprehensive and exciting strategic plan.

Strategy is the plan of action to achieve long-term tax goals for your organisation over, perhaps, three to five years. I argue for as broad a scope as possible for tax management: in all areas, there will be interaction with business management and finance teams, but ultimately the tax buck stops in the tax department. Your strategy should embrace all types of taxes, or at the minimum provide clarity on the lines of demarcation.

Start developing your tax strategy during that 'honeymoon' period after you begin your role. This might be your first '100 days' when there is a general acceptance that you are learning the ropes, and no doubt putting out some fires! Even if no one is asking for it, set yourself the goal of developing a comprehensive tax strategy. You will need to know all your stakeholders, including the main board, shareholders, employees, the tax team, customers, other departments, advisers, tax authorities and the public.

Your strategy should be to challenge and contribute to business performance. This might be improving tax compliance, restructuring the group, being a valuable business partner, enhancing governance or driving specific tax financial goals. Understand your current tax profile, discuss it with key stakeholders, benchmark it, test it and decide how you will measure your success.

2. People: fit for purpose

In order to achieve your tax strategy, you will need to equip the organisation with the right tax people. This requires fully appreciating the purpose of tax to the organisation and how you can best partner with business to add value. Analyse what types of tax advice are needed, and whether you address these by means of recruitment, temporary staff, delegation within the organisation, outsourcing or automation. It is important to settle on a shared team purpose or tax mission to drive your agenda. A strong leader owes it to the tax team to develop them, challenge them and care for them to enhance overall team performance.

This tax team includes your external tax advisers (who are arguably insiders anyway). They may know the company well and have interesting insights. My core advisers have always been capable of providing great insights. They should be broad tax experts willing to act as your sounding board and to offer the best of their firm where you need it. They should be commercial, trustworthy, reliable and share your sense of tax risk and fair practice.

Don’t forget that the ‘taxbot’ is now part of the team, too. Automation is critical to our effective operation in tax, including exciting office tools, robotic process automation and artificial intelligence. Start small and understand the opportunities before expanding. Deploy error-proofing techniques and install understandable dashboards for status and control. With tax submissions becoming increasingly digitalised, automation can ensure quality, manage costs, enhance delivery times and reduce risks.

3. Trade: know your business

You need to understand your business to confirm that the right questions are being asked and to ensure that the tax team is properly engaged. Don’t simply wait for people to come to you: be a commercial professional who appreciates the core trading propositions and unique selling points of your organisation. Make sure that the legal framework and supply chain supports that business model. Ensure the right indirect tax advice and align your transfer pricing policy to the goals of the business relationships.

To understand your business, you need a view of how your total profits should be apportioned around the world. Test this with management, the business and external advisers. Transfer pricing laws are now changing rapidly all around the world in line with OECD guidance. You should be sure that a commercial assessment of your business profile accords with where taxes finally fall due.

Governments are trying to attract business via all manner of incentives, and you should claim your fair share. Such incentives can be direct grants or tax reliefs, holidays or targeted preferential tax rates, where permissible. Matching available tax benefits to the commercial opportunities can significantly help the business case and win new contracts on a global stage.

4. Risk: take extra care

Businesses embrace calculated risks for heightened rewards, and tax is no different. Tax law has not kept pace with the complexity of current day commercial transactions, and could never have anticipated every type of taxable event in a digital world. If you deduct a business expense, there is a risk it will be challenged. If you don’t deduct it, then there is an opportunity cost of lost value.

You should understand your risk limitations and align these with your organisation’s tax risk appetite at the board level. Some risks may be worth taking, others not. I recommend identifying them – either specifically or as potential areas of concern – and appreciating them fully. Assess their impact and likelihood, work out if they can be mitigated and be ready with a plan to deal with their consequences should they transpire. There should be a comprehensive defence file for every specific issue. Errors in this analysis will either impede your successes or require you to spend all your time fixing problems.

Establish a board-approved tax policy that defines your tax principles and beliefs, set a tax risk threshold and decide how to engage with tax authorities. A published tax statement, as anticipated by HMRC, allows risk to be better understood by all. A robust governance framework should ensure that the organisation lives and breathes its stated tax culture.

Despite your best intentions, failures in tax governance will inevitably occur; the elimination of all risks is impossible. However, you can limit such risks by identifying your core risk areas, and deploying systems to prevent or mitigate their impact and likelihood. Heat maps, risk assessments and defence files are essential. Red flag reports, self-assessment certifications, internal audit and external tax health-checks can assist further. Tax insurance or indemnification can minimise risks, while standardising global tax practices can help to mitigate them. Tax ‘surprises’ are expensive. Learn from them and improve the governance framework to avoid their chance of reoccurring.

Commandments 5 to 10

The first four commandments dealt with preparation for your business tax life. The next commandments concern execution and resolution, though I can only whet your appetite.

- 5. Execute (work your magic): You need to execute tax advice optimally on commercial programmes. An M&A transaction is probably the largest, riskiest and hardest project for a tax person to digest. This comes down to expert project management.
- 6. Optimise (don’t waste your time): As you establish procedures and processes, efficiency is critical. The drive for greater efficiencies is causing business leaders to focus on various techniques to help them manage the inevitable reduction in costs. Our major process in the tax world is the production and filing of tax returns, and the application of ‘lean’ techniques can add tremendous value.
- 7. Morality (follow the spirit): There should be a demarcation of what level of tax planning and value is appropriate, fair and acceptable to the organisation. You will not be judged by today’s rules but by those of the future; follow the tax laws as they were intended. Have a set of responsible tests for the morality of any tax planning. Intercompany financing within a multinational group is an area of great interest.

- 8. Account (tell the tax truth): Your tax approach should be accurately reported – tell the whole tax truth and nothing but the tax truth. How you report, both inside and externally to the organisation, is critical in conveying the tax profile and must be carefully explained.
- 9. Negotiate (stay the distance): When you are audited by a tax authority, you should robustly defend your position. There are many complexities to a tax audit strategy which need to be very attentively considered and openly conveyed to tax authorities, thereby optimising tax conclusions.
- 10. Evaluate (honour your promises): You must be able to look over your last three to five years and believe that you have achieved what you set out to do. At the beginning you should have put in place the key performance indicators, structures, skills, training, disciplines and other factors to achieve that.

‘Tax Commandments for Business’ can be found at www.taxcommandments.co.uk.