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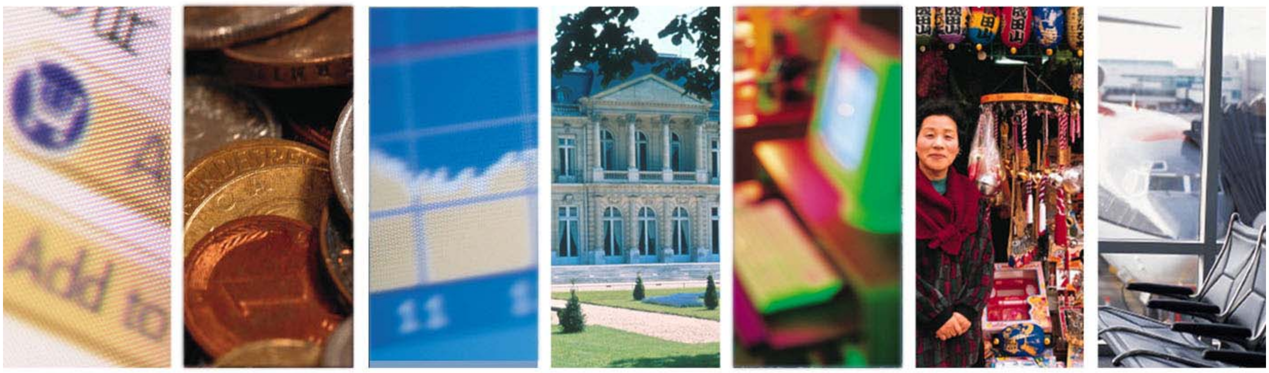

# FORUM ON TAX ADMINISTRATION: COMPLIANCE MANAGEMENT OF LARGE BUSINESS TASK GROUP

## Guidance note

## Experiences and Practices of Eight OECD Countries

## July 2009

CENTRE FOR TAX POLICY AND ADMINISTRATION

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# ABOUT THIS DOCUMENT

### *Purpose*

This guidance note presents an overview of approaches and methods used by tax administrations in managing large taxpayers' compliance. Recognizing that large business taxpayers (also referred to as large taxpayers) are different from other groups of taxpayers, many tax administrations have instituted specific organizational and management arrangements as well as special compliance programs and initiatives as part of a strategy to deal effectively with this segment of taxpayers. The aim of the guidance note is to offer a view of the various organizational structures and features of large business units. In addition, the guidance note highlights common compliance issues associated with large taxpayers and identifies practices and innovative programs or initiatives used by tax administrations to deal with these challenges.

### *Background to the Forum on Tax Administration*

Since its establishment in July 2002, the Forum on Tax Administration (FTA), a subsidiary body of the OECD's Committee on Fiscal Affairs (CFA), has operated with the broadly stated mandate "... *to develop effective responses to current administrative issues in a collaborative way, and engage in exploratory dialogue on the strategic issues that may emerge in the medium to long term* ...". To carry out this mandate, the FTA's work is directly supported by two specialist Sub-groups—Compliance and Taxpayer Services—that each carry out a program of work agreed by member countries. The Compliance Sub-group exists to provide a forum for members to:

- periodically monitor and report on trends in compliance approaches, strategies and activities;
- consider and compare member compliance objectives, the strategies to achieve those objectives and the underlying behavioural compliance models and assumptions being used;
- consider and compare member compliance structures, systems and management, and staff skills and training; and
- develop and maintain papers describing good country practices as well as develop discussion papers on emerging trends and innovative approaches.

### *Caveat*

National revenue bodies face a varied environment within which to administer their taxation system. Jurisdictions differ in respect of their policy and legislative environment and their administrative practices and culture. As such, a standard approach to tax administration may be neither practical nor desirable in a particular instance.

The documents forming the OECD tax guidance series need to be interpreted with this in mind. Care should always be taken when considering a country's practices to fully appreciate the complex factors that have shaped a particular approach.

### *Inquiries and further information*

Inquiries concerning any matters raised in this information note should be directed to Steve Johnson (CTPA Tax Administration and Consumption Taxes Division) at e-mail (Steve.Johnson@oecd.org).

# 1. INTRODUCTION

### *Background*

1. Large business taxpayers have different characteristics and tax compliance behaviour and, therefore, present different risks to the revenue. To manage risks effectively, the revenue body needs to develop and implement strategies (e.g. law clarification, taxpayer education, improved service, more targeted audits) that are appropriate to the unique characteristics and compliance issues presented by large business taxpayers (*2006 OECD report on Tax Administration in OECD and selected Non-OECD Countries: Comparative Information*)[1].

2. Recognizing that large business taxpayers (also referred to as large taxpayers) are different from other groups of taxpayers, many tax administrations have instituted specific organizational and management arrangements as well as special compliance programs and initiatives as part of a strategy to deal effectively with this segment of taxpayers.

### *Objective of the guidance note*

3. The purpose of this guidance note is to present an overview of approaches and methods used by tax administrations in managing large taxpayers' compliance. The aim of the guidance note is to offer a view of the various organizational structures and features of large business units. In addition, the guidance note highlights common compliance issues associated with large taxpayers and identifies practices and innovative programs or initiatives used by tax administrations to deal with these challenges.

4. The discussion of approaches and practices used by tax administrations to deal with compliance issues of large business taxpayers in the guidance note is consistent with the FTA objectives. They are:

- to increase understanding of international practices and developments in the area of tax administration;
- to promote discussion of issues among countries' officials; and
- to encourage improvement in tax administration.

### *Scope of the overview*

5. A task-group of eight countries was established to explore and share experiences and the latest thinking on approaches and practices used to effectively deal with the challenging and complex issues often encountered by tax administrations when reviewing the tax issues of large taxpayers.

6. The scope of this overview is limited to a high-level summary of the eight participating countries practices and experiences in managing compliance of their large business unit. Member countries of the task-group are Australia, Canada, France, Ireland, the Netherlands, Norway, United Kingdom, and United States.

### *Process used*

7. The OECD Secretariat developed a questionnaire/template (see Annex 1) to gather information about the participating countries approaches to compliance management of large taxpayers. The questionnaire

[1] http://www.oecd.org/dataoecd/37/56/38093382.pdf

contained four major parts, each designed to solicit certain types of information to contribute to this overview. The major parts are:

- description of large business unit;
- risk management practices;
- specific compliance issues and response strategies; and
- selected key issues to achieve large taxpayer compliance.

8. Additional sources of information, including existing literature and documents published by the tax administrations and various tax administrations' websites, were used to complete this overview paper.

***Other references***

9. The topics covered in this guidance note relate to issues broadly covered in the key OECD publications cited below. Information contained in thisguidance note, which focuses specifically on compliance management of large taxpayers, takes into account and expands on the outcome of the published documents noted below:

- 2008 OECD Study into the Role of Tax Intermediaries[2];
- 2006 OECD report on Tax Administration in OECD and selected Non-OECD Countries: Comparative Information Series[3]; and
- 2004 OECD Guidance Note Compliance Risk Management: Managing and Improving Tax Compliance[4].

***Outcome***

10. Based on the completed questionnaire/template received from the participating countries, a summary and an analysis are presented in this guidance note of the various methods used to manage compliance of large business. In addition to highlighting the similarities and differences found when describing the structure of the large business units of the participating countries, the guidance note covers the following subjects and issues:

- developments and experiences in risk management practices used by large business units;
- compliance issues common to large business taxpayers;
- programs and initiatives to address compliance issues; and
- resources and tools used to manage compliance of large businesses.

***Findings***

11. Tax administrations who have sought new ways of managing compliance of large business taxpayers and the large businesses who sought to achieve high levels of voluntary compliance have increasingly seen some combination of the following organizational structures, programs and initiatives as the route to achieve these objectives. The key findings of the review of the eight participating member countries are listed below:

[2] http://www.oecd.org/document/23/0,3343,en_2649_201185_40252183_1_1_1_1,00.html

[3] http://www.oecd.org/dataoecd/37/56/38093382.pdf

[4] http://www.oecd.org/dataoecd/44/19/33818656.pdf

- Criteria to identify large businesses vary from country to country as one or more measures are used such as turnover, assets, tax paid, specific industry, and other special factors (e.g., international dealings).
- The characteristics of large taxpayers are generally very similar in all participating countries, which describe them as being complex in their structure, having multiple operating entities with international business dealings, and are responsible for a high portion of tax revenue.
- All tax administrations structured the compliance operations of their large taxpayers division or unit on an industry segment, which for a number reflected the main business activities of their economy. In addition to being organized along certain industry lines, some tax administrations have special units to perform risk analysis and intelligence gathering, provide technical advice, and to monitor and evaluate performance.
- Tax administrations are using risk management extensively to manage and prioritise their casework. Although there are some general similarities in approaches, the level of risk analysis and response vary from one country to another due to the different experience with compliance issues and the degree of non-compliance by large taxpayers.
- Compliance issues may vary from one country to another. However, all participating countries cite tax compliance issues related to international transactions and international business structures as major areas of concern and focus.
- A focus on building a better relationship between the tax administration and the large taxpayers is a common approach across the countries and is contributing to more cooperation and openness.
- There is an increase in compliance activity through non-traditional approaches. The trend is to move from post-filing of tax return examination to "real-time" evaluation of risk and compliance issue resolution. A number of countries have instituted various programs to provide certainty to the large taxpayers and early identification and resolution of compliance issues.
- Corporate governance principles and practices are gaining more attention and focus by certain tax administrations as a number of them believe that the responsibility of a company's tax policy should be at Board level since tax is an important financial element. Corporate governance principles instituted in some countries are affecting large taxpayers' behaviour and there are indications that tax administrations are using the corporate governance principles to improve tax compliance.
- To enhance enforcement and to continue customer service, all of the participating countries have programs to develop, train and maintain a highly qualified workforce. All countries recognize that the complexity of the tax law, business structures and transactions in the large business segment have created a need for specialized knowledge and expertise in certain areas.
- Most participating countries made it clear that tax policy is the responsibility of the Ministry of Finance, but they have indicated that the tax administration plays an active role in providing input and feedback on tax policy to ensure that the tax administration's needs are taken into consideration.
- Technology is not only used to improve the quality of service to large taxpayers but also to manage compliance, including the capability to identify risk early, and to increase efficiency in operating the large business unit. A number of countries have developed programs and systems to collect additional data in a timely fashion to enhance compliance risk assessment, making resource decisions and ensuring consistent treatment of large taxpayers operating in certain business segments.

## 2. DESCRIPTION OF LARGE BUSINESS UNIT

### *What is the definition of large business?*

12. Identification criteria for large businesses vary from country to country as one or more measures are used. While the definition of large business or large taxpayer differs from one tax administration to another, all participating countries, with the exception of Norway, have clear and specific criteria for identifying large taxpayers. In Norway's case, it's the office of the Directorate of Taxes (national

headquarters) that determines, based on several criteria and a holistic view, whether an entity is to be referred to the Central Tax Office for Large Enterprises for assessment and control (see Box 1.5. below).

13. The common identification criteria used to define taxpayers as large business or to place them under the responsibility of the large business unit include:

- amount of turnover or gross sales;
- value of assets;
- amount of tax paid;
- operating in certain business sectors (e.g. banking, insurance, oil, etc.);
- engaged in international business activities; and
- number of employees.

14. Some countries, for example Ireland, have their large business unit also administer "high net-worth individuals" (HNWI).

15. A description of the identification criteria used by the eight participating countries to define a large business taxpayer is summarized in Boxes 1.1 to 1.8 below.

***Box 1.1. Large Taxpayer Classification Criteria - Australia***

The Australian Taxation Office (ATO) has recently undertaken a "recalibration" exercise and recast the turnover level from the previous $100 million. The ATO now defines large taxpayers as economic groups and single entities with an annual turnover greater than $250 million, these entities are allocated to the Large Market segment. This market also includes all:

- Petroleum Rent Resources Tax (PRRT) and National Tax Equivalents Regime (NTER) taxpayers;
- Banks (including both resident and foreign); and
- Insurance companies (both general and life).

***Box 1.2. Large Taxpayer Classification Criteria - Canada***

Canada Revenue Agency defines large taxpayers as businesses with gross revenues in excess of $250 million.

***Box 1.3. Large Taxpayer Classification Criteria - France***

France defines large taxpayers as businesses with either turnover or assets of greater than €400 million, also known as "key" large enterprises ("noyau dur"). In addition, the Large Taxpayer Unit, "Directions des Grandes Entreprises" (DGE), is also responsible for the following:

- Shareholder entities owning directly or indirectly more than 50% of the key large enterprises identified above;
- Subsidiaries controlled directly or indirectly by the key large enterprises having over 50% share ownership;
- Entities belonging to the same integrated group; and
- Entities part of a consolidated group.

***Box 1.4. Large Taxpayer Classification Criteria - Ireland***

The Irish Large Cases Division (LCD), which was established in 2003, identifies large business as corporate groups with a turnover greater than €162m or total tax payments greater than €16m. LCD is also responsible for other taxpayers:

- The financial services sector (banking, insurance, and pensions);
- Certain sectors, which had relatively few large-scale enterprises regardless of case size;
- High net worth individuals (HNWIs) with net assets over €50m / income over €1.3m and non-residents with substantial economic interests in Ireland; and
- LCD would not deal with public sector organisations other than the commercial semi-states.

***Box 1.5. Large Taxpayer Classification Criteria - Norway***

The Central Tax Office for Large Enterprises (the CTO) is responsible for the assessment and control of large taxpayers (large enterprises) based on the following criteria:

- Turnover ( no preset amount);
- International business activities;
- Whether the company is part of a group of companies and the complexity of tax matters concerning the company or the group; and
- Companies operating in certain industries, e.g., banks, insurance, oil, trading, technology and investment companies.

In addition to large enterprises, the CTO is also responsible for the tax assessment and control of CFC-companies, shipping companies (based special tax regime for shipping) and hydro-electrical power producing companies. These groups of taxpayers may include small, medium, or large size companies.

The determination that an entity qualifies as a large business, to be referred to the CTO for large enterprises, is made by the office of the Directorate of Taxes.

***1.6. Large Taxpayer Classification Criteria - The Netherlands***

A company qualifies as a very large business if one of the following criteria is met:

- Listed on the Amsterdam or foreign stock-exchange;
- A WOLB[1] amount of more than €25 million;
- A foreign parent and a WOLB-amount of more than  €12,5 million;
- At least five foreign subsidiaries and/or permanent establishment and a WOLB-amount of more than €12.5 million;
- All companies in the financial industry (banks, insurance), the oil and gas industry (upstream and downstream) and in the energy-supply industry are determined to be very large businesses;
- All non-profit organisations with a WOLB-amount of more than €37.5 million are qualified as very large organisations; or
- Other taxpayers not meeting the above factors, may be covered under the "the supervision-concept" for very large businesses if complex issues exist, or a taxpayer is viewed as potentially a high-profile case or with certain degree of financial risk.

[1]The WOLB-amount is a weighted average of profit tax (income tax or corporate tax), VAT and employment taxes.

***1.7. Large Taxpayer Classification Criteria - United Kingdom***

HMRC have adopted the EU definition as the departmental definition with some adaptations. HMRC looks at the tax affairs of large businesses in two parts of the organisation, the Large Business Service (LBS) and Local Compliance (LC) in the "Large and Complex" customer group. The criteria to qualify as a "Large" business are:

- UK enterprises with more than 250 employees;
- UK enterprises with fewer than 250 employees, and more than €50 million turnover and more than €43 million assets;
- UK companies owned by foreign multi-nationals and more than 100 UK employees;
- UK companies and enterprises with high risk scores for Corporation Tax or Value Added Tax, and VAT avoidance and partial exemption cases;
- Large and complex partnerships;
- Businesses liable to Income Tax with a turnover of more than £5 million; or
- Employers who fall within any of the preceding categories.

LBS deal with the very largest of the businesses determined by Turnover and Assets with LC taking responsibility for the balance.

***1.8. Large Taxpayer Classification Criteria - United States***

The Large and Mid-Size Business (LMSB) Division serves corporations, S Corporations and partnerships with assets greater than $10 million. These businesses employ a large number of employees, deal with complicated issues involving tax law and accounting principles, and conduct business in an expanding global environment.

**LMSB's customers fall into one of two categories:**

- Coordinated Industry Cases (CIC) which consist of about 1,200 of the largest corporations, the majority of which are multinational in operations; or
- Industry Cases (IC) are corporations and business entities with $10 million or more in assets, excluding CIC cases.

Factors used in determining a CIC cases include gross assets, gross receipts, operating entities, multiple industry status, total foreign assets, related party transactions, and foreign tax. CIC cases are complex and require a team examination.

LMSB unit also has compliance responsibility for the following international taxpayers:

- US citizens and lawful permanent residents (known as "green card holders") who reside in foreign countries or in US territories (Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands);
- Businesses that maintain books and records overseas;
- Non-resident aliens and corporations;
- Expatriates who have given up their citizenship; and
- Individuals with tax treaty issues or other international feature.

***What is the level of responsibility of a large business unit (number of taxpayers and scope of taxes administered)?***

16. The number and proportion of taxpayers administered by large business units vary significantly from country to country. Table 1 summarizes the number of taxpayers the large business unit is responsible for and the estimated amount of taxes paid by these large taxpayers. To give a reference to the relative amount of taxes collected, the third column provides the percentage of the tax collected for the tax or taxes specified below the country's percentage.

17. The number of entities or group of entities classified as large taxpayers varies from one country to another due to the size of the economy as well as the definition and the criteria used to classify these taxpayers in the large business category, discussed above. For instance, the US has the largest number of taxpayers in this segment because of the size of its economy and, also, due to its general criteria for classifying the taxpayers in this category, which is any entity with assets of $10 million or more (see Box 1.8 above). More information on the number of entities in the large business category is contained in the participating countries profiles in Annex 2.

18. With respect to the level of tax collected from this segment of taxpayers, the observation is that in most participating countries large business taxpayers account for a significant proportion of total tax collected. In the case of the US, estimated corporate tax collection is about $395.5 billion – which represents about 14.6% of total tax collected ($2.7 trillion). However, of the total corporate taxes collected, 90% or $356 billion of the tax collections are from the large business division (LMSB) taxpayers. In Australia, designated large taxpayers paid A$75.1 billion, including company tax, goods & services tax (GST) and excise tax, in 2005-2006, which is approximately 36% of total tax collected. Large companies accounted for less than 0.4% of the total number of companies in Australia, but were liable for A$30.8 billion, which is 64.5% of total company net ofA$47.8 billion.[5]. More information on estimated tax large business units are responsible for is included in countries profiles in Annex 2.

[5] http://www.ato.gov.au/content/downloads/00117625_2006CH3COM.pdf

*Table 1- Number of Large Taxpayers and Tax Revenue Collected by Large Business Unit (2006-2007 Data)*

| Country | # of Large Taxpayers | | Tax Collected | Percent of Tax Collected for the Tax(es) Specified |
|---|---|---|---|---|
| **Australia** | | 950[1] | €29.3 billion | 64.5% |
| | Affiliates | 28,753 | A$47.8 billion | Company Tax |
| **Canada** | | 900[1] | €12.9 billion | 53% |
| | Affiliates | 6,000 | C$20 billion | Corp. Income Tax (CIT) |
| **France** | | 2,000[1] | €118 billion | 33% |
| | Affiliates | 30,000 | | 50%CIT & Business Local Tax, 37% of, VAT |
| **Ireland** | | 370[1] | €18.8 billion | 41.3% |
| | Affiliates | 13,000 | | CIT, VAT, Empl. W/H, Excise and other |
| **The Netherlands** | | 2,000 | €80 billion (incl. contribution national insurance) | 60% |
| | | | | CIT, VAT & Empl. W/H |
| **Norway** | | 90[1] | €1.25 billion[2] | 16% |
| | Affiliates | 1,630 | NOK 10 billion | CIT |
| **UK** | | 900[1] | €160.8 billion | 70% |
| | | | | CIT, VAT, Empl. W/H |
| **US** | | 220,489[1] | €228.4 billion | 90% |
| | Affiliates | 254,000 | US$356 billion | CIT |

*[1]Based on Country's definition of large taxpayer*
*[2]Does not include tax collected from oil and gas companies, or large enterprises assessed outside the Central Office for Large Enterprises.*

19. Because of the significant concentration of tax revenue in this segment of taxpayers, as depicted on table 1, the importance of having separate and specific compliance methods tailored for this category of taxpayers is understandable. The various compliance programs, including risk management approaches, targeted at this category of taxpayers are discussed in sections 3 and 4.

20. The various types of taxes that are administered by large business units are income tax, personal tax withholding, social contributions, value added tax, and excise taxes. Table 2 summarizes the scope of taxes large business units are responsible for in the participating countries. With the exception of Australia and Norway, the large business units are responsible for other type of taxes in addition to income or company tax. In the case of Ireland, the large business unit is responsible for a variety of taxes that include VAT, employment tax, excise tax, customs and others (see Ireland's profile in Annex 2).

***Table 2 – Scope of Taxes Covered by Large Business Unit***

| Country | Corporate / Company Income Tax | Value Added Tax or GST | Employment / Social Security Tax | Excise Tax | Other/ |
|---|---|---|---|---|---|
| **Australia** | Yes | No (1) | No | No (1) | |
| **Canada** | Yes | Yes | No (2) | Yes | |
| **France** | Yes | Yes | No | No | Yes (3) |
| **Ireland** | Yes | Yes | Yes | Yes | Yes (4) |
| **The Netherlands** | Yes | Yes | Yes | No | |
| **Norway** | Yes | No | No | No | |
| **UK** | Yes | Yes | Yes | Yes | Yes (5) |
| **US** | Yes | N/A | Yes | Yes | |

*(1) Other units are responsible for goods and services tax (GST) and excise tax*
*(2) ILBD is not responsible employment taxes but has a coordination role*
*(3) Local tax (TP)*
*(4) Customs, betting tax, vehicle registration tax (VRT), stamp duties, PAYE/PRSI*
*(5) Petroleum revenue tax*

***What are the common characteristics of large taxpayers?***

21. As mentioned in the "background" section above, large taxpayers are very different from other categories of taxpayers and present certain significant risks to effective tax administration. Managing these

risks requires strategies tailored to the particular characteristics and compliance behaviour of these taxpayers.

22. Major characteristics of large business segment, based on the participants' description of their large taxpayers, include:

- Concentration of revenue – a small number of large taxpayers account for a disproportionately large amount of revenue and have a critical role in the administration of taxes. The amount of revenue results from the pure size of these taxpayers and the range of taxes for which they are responsible including their role as withholding agents.
- Complexity of the business and tax dealings – several participants described large taxpayers as complex for a variety of reasons:
  - multiple operating entities;
  - diverse business interest;
  - high volume of transactions in day-to-day business activities;
  - large number of employees;
  - international business dealings;
  - cross border transactions with related parties;
  - unique industry characteristics (such as banking);
  - widely spread in geographical terms;
  - complicated issues (involving complex tax law and accounting principles);
  - polices and strategies to minimize tax liabilities; and
  - complex financing and business structures.
- Withholding agent or intermediary role – the main taxes collected by the large taxpayers, as intermediaries, include:
  - personal or employee income tax withholdings and social contributions;
  - value added tax or good and services tax; and
  - withholding tax on certain cross border payments such as dividends, royalties and interest.
- Uses of professional tax advisors – a number of the large businesses retain professional advisors to handle their tax planning and compliance affairs.
- Possess in-house tax organization – large businesses have their own tax department to manage the tax affairs of the company. They have internal controls in place.
- Generally large businesses are publicly listed corporate companies; also they include multinational companies and some private groups.

23. All selected countries surveyed reported that many of their large taxpayers have international dealings and most have pointed out that a significant number of compliance issues arise from international transactions and structures. For example, Canada indicated that 50% of its large case audits involve international issues. Australia specified that about 68% of their large taxpayers have some level of international dealings.

24. Participating countries responses describing large taxpayers' characteristics are set out in Annex 2 (countries profiles).

***What is the "mission", "vision", "objective", or "operating model" statement of large business unit?***

25. The mission, vision or objective statements, or operating models of two of the countries surveyed are described in Boxes 2.1 and 2.3. The common principles and themes contained in the participating countries mission statements (to contribute to and to improve voluntary compliance) are as follows:

- improve customer service by providing high quality service to each taxpayer in every interaction;
- use of innovative methods to enhance customer service;
- help taxpayers understand and meet their tax obligations;
- enforcement of the tax law through fair and uniform application of the law;

- use of risk-based approaches to manage compliance;
- strengthen enforcement through compliance initiatives and innovative approaches;
- strengthen relationships and cooperation;
- balance service and enforcement;
- be responsive to the needs of large taxpayers in a global environment;
- improve internal capabilities, process and technology; and
- improve the skills and productivity of the workforce through a quality work environment.

26. All of the "statements" are intended to articulate the goals of the organization and the measures to achieve them. Some participating countries have a "mission" or "vision" statement specifically designed for their large business unit and these specific "statements" are linked to the overall objective or mission of the whole tax administration. Other participating countries do not have a "mission" or "vision" statement specifically tailored for the large business unit, but do have statements of objectives which are consistent with the overall mission statement of the tax administration. In boxes 2.1 to 2.3 are the mission or vision statements for selected countries.

***Box 2.1. Mission Statement and Operating Model of Large Business and International Division - Australia***

The ATO's mission and the operating model of the Large Business and International (LB&I) are for the Income Tax section of the large market – however, similar objectives exist for the goods & services tax , excise and fringe benefits tax areas.

***Our Intent* -** Our business intent is to encourage voluntary compliance among large business taxpayers by assisting them to meet their income tax, capital gains tax and petroleum resource rent tax obligations, so that the community can be assured of regular and appropriate revenue flows and have confidence that the system is working properly.

***Our Model* -** The ATO's compliance areas use the Compliance model and taxpayer charter as business models of our approach. The compliance model applies compliance products to the taxpayer depending on their behaviours and risks e.g. self regulating taxpayers are given a service based approach whilst higher risk groups tend to be audited. The taxpayer charter outlines the rights and expectations of taxpayers from the ATO.

***Our Aspiration* -** To work closely with large business taxpayers, their advisers and representative bodies in the fair administration of the income tax system, so that:

- they can be certain as to their obligations under the tax laws
- the systems we have in place make it as easy as possible to comply
- costs of compliance are kept as low as possible
- instances of non-compliance are dealt with speedily and firmly.

***Our Role* -** LB&I's primary role is to maintain the integrity and efficacy of the income tax system in relation to large business taxpayers. We do this by promoting voluntary compliance through the provision of advice and assistance as well as by undertaking active compliance activities.

***Box 2.2. Mission Statement NTCA regarding very large businesses – The Netherlands***

The overall objective of the Netherlands Tax and Customs Administration (NTCA) is to efficiently and effectively collect the amount of tax due by maintaining and improving voluntary compliance of taxpayers and by acting repressively to those who are not complying voluntarily. We trust our taxpayer unless we have information they cannot be trusted. Our intelligence function becomes increasingly important. The quality of the tax control framework, the level of transparency and the level of compliance determine the level of (additional) supervision by the tax administration. If we agree with the taxpayer on the level of quality of the tax control framework and the taxpayer is fully and actively transparent about the tax-risks emerging from this framework the efforts of the NTCA can be limited to discussing those risks real-time. We will not duplicate the auditing activities performed by other (internal audit department, external auditor) supervisors. Our audit efforts will predominantly be directed at testing the quality of their work and whether the control framework in the company functions as it should. In the case the taxpayer has a poor quality tax control framework and/or is not fully and actively transparent we will have to audit retrospectively and using different techniques.

***Box 2.3. Vision Statement of the Large & Mid-Size Business Division (LMSB) - United States***

The vision statement of the LMSB operating division of the Internal Revenue Service is:

> *"We are a world-class organization, responsive to the needs of our taxpayers in a global environment, while applying innovative approaches to customer service and compliance. We apply the tax laws with integrity and fairness through a highly skilled and satisfied workforce, in an environment of inclusion where each employee can make a contribution to the mission of the team."*

The Vision statement signifies how LMSB will drive toward achievement of agency mission and goals. This vision statement describes our role and the public's expectation about how we should perform that role. It is derived from the overall Mission and goals of the Internal Revenue Service, which is:

> *"Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all."*

It is important to continuously strive to be "best in class" in ways that are important to us as a tax administrator. It not only speaks to being efficient and effective, but doing our jobs with fairness and integrity. The ways in which we identify and deal with compliance risk, the professional treatment of our taxpayers, and the quality of work life for our employees are all factors that are considered in the health of an organization, and in being "world class".

It also requires a culture in LMSB that supports being a "world-class organization". This involves continuous employee engagement and open communications at all levels of the organization. It also involves a culture of accountability and innovation, as well as, a strong sense of pride and responsibility in what we are charged to do, administer the tax laws of the United States.

***How is a large business unit organized?***

27. Large business units of the participating countries are headed by a senior executive with leadership and management teams including special advisors, each responsible for a specific area (compliance, research, international, etc.). The heads of the large business units are designated as follows:

- Australia – Deputy Commissioner of Large Business and International Division;
- Canada – Director General of International and Large Business Directorate;
- France – Director of Large Entreprises (Directeur des Grandes Entreprises) files management and desk auditing, and Director of National and International Tax Audit (Directeur des vérifications nationales et internationales) on site auditing;
- Ireland – Assistant Secretary of Large Case Division;
- Norway – Director of Central Tax Office for Large Enterprises;
- The Netherlands – Collectively by a management team;
- United Kingdom – Director of Large Business Services and for Local compliance work the Director LC Large and Complex; and
- United States – Commissioner of Large & Mid-Size Business Division.

28. As cited above, tax administrations established large business units because large taxpayers have different characteristics, present different risks and require different approaches or strategies to maximize voluntary compliance. In reviewing the participating countries organizational structures and responses, one of the reasons the large business units were formed was to meet the particular needs of this specific segment of taxpayers and to address their concerns.

29. Tax administrations structured the compliance operations of their large taxpayers division or unit on an industry segment basis, which for a number of countries reflects the main business activities of their economy. Large business units carry out their compliance operations through these business sectors. For example, the French large business unit conducts its field operations through specialized business segments, such as heavy industry, chemicals, construction, financial services, and luxury goods; Norway's three assessment and control departments within the Central Office for Large Enterprises, have been organized along certain business sectors including financial services, technology, goods, construction,

energy and shipping.  Table 3 summarises major industry segments and special groups established in large business units of the participating countries.

***Table 3 – Major Industry Segments and Special Units in Large Business***

| Country | Finance/ Banking/ Insurance | Communication/ Technology/ Energy | Retail / Pharmaceutical/ Healthcare | Natural Resources/ Oil & Gas | Heavy Manufacturing/ Transportation | Other/ |
|---|---|---|---|---|---|---|
| **Australia** | ✓ | ✓ | | ✓ | | ✓ (1) |
| **Canada** | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (2) |
| **France** | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (3) |
| **Ireland** | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (4) |
| **The Netherlands** | ✓ | ✓ | | ✓ | | ✓ (5) |
| **Norway** | ✓ | ✓ | | ✓ | | ✓ (6) |
| **UK** | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (7) |
| **US** | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (8) |

*(1) National client group focus on key industry sectors (property & construction, manufacturing, pharmaceutical, and multi-media)*
*(2) TSOs operate geographically with each regional office responsible for certain industries*
*(3) Luxury goods*
*(4) Anti-avoidance Units, Computer Audit Unit, Research Unit and Customer Service / Processing Unit*
*(5) Co-ordination groups on technical issues (e.g. transfer pricing, tax havens)*
*(6) Construction and shipping*
*(7) There are 13 business sectors*
*(8) Field specialists*

30. Most participants have set up industry-focused units under the large business division to allow their tax examiners to specialize and learn more about the operation of the industry they cover (what is referred to in the OECD's "Study into the Role of Tax Intermediaries" as commercial awareness[6]).  The participating countries indicated that one of the key objectives of the business segmentation is to strengthen understanding of industry practices and issues and to deliver a better and more focused taxpayer service. These objectives are articulated in some of the participating countries' "mission" or "vision" statements, or "operating model".

31. In some tax administrations, industry unit segments design, develop, and implement compliance programs, including educational activities to help taxpayers understand industry specific tax responsibilities and how to comply with tax laws. Some industry units also conduct research to identify global industry trends and issues in order to develop initiatives to improve customer service and compliance.

32. In addition to being organized along certain industry lines, some tax administrations have special units to perform risk analysis and intelligence gathering, provide technical advice (by industry or issue specialists such as pharmaceutical, property and construction, transfer pricing, anti-tax avoidance, etc.) and to monitor and evaluate performance.  This is the case in Australia, Canada, Ireland, the Netherlands, and US (see Table 3 above).

33. Large business structure and functions of the participating countries are described in Annex 2 (countries profiles).

***What work-force resources, skills, and competencies are required in the large business unit?***

34. The degree and scope of the resources used in the large business unit vary from one country to another and is based on the number of large taxpayers; the scope of functions performed within the large business unit; the type of taxes administered; the level of audit and taxpayer service activity performed; and, the range of technology used.  The  number of full time employees working in the large business unit as a percentage of the total employees of the whole organization ranges from 0.75 percent to 6.6 percent (see table 4 below).

[6] Chapter 7 and Annex 7.1 – Revenue body attributes

*Table 4 – Number of Full-time Employees in Large Business Unit (2006-2007 Data)*

| Country | Number of Full-time Employees Large Business in Unit | Percentage of all Employees |
|---|---|---|
| **Australia** | 891 | 3.98 |
| **Canada** | 1,366 | 3.4 |
| **France *** | 800 | 1.0 |
| **Ireland** | 237 | 4.0 |
| **The Netherlands** | 750 | 2.5 |
| **Norway** | 55 | 0.75 |
| **United Kingdom**** | 1,694 | 4.5 |
| **United States** | 6,243 | 6.6 |

* DGE (300) + DVNI (500)
**This figure relates to Large Business Service only a further 2,000 now work in Large & Complex

35. The common knowledge and skills needed to administer large business segments require the following type of professionals and experts:

- accountants;
- attorneys;
- auditors;
- economists;
- international tax specialists;
- industry experts (pharmaceutical, oil, banking, insurance, etc);
- computer specialists; and
- engineers.

36. Due to the increase in the conduct of business worldwide in the global economy and the rapid increase in the use of information technology, a new and different set of skills are increasingly required in the tax administration of large business. The specialized skills include international taxation, international accounting standards and computer science.

37. Most participating countries provide training to their employees not only in the technical tax area but also in other personal, managerial and leadership skills, such as communication, negotiations, managing employees, conflict resolution and project management.

38. A summary of the participating countries responses on workforce resources and capacity in large business units is set out in Annex 2.

## 3. RISK MANAGEMENT

39. While the 2004 OECD Guidance Note[7] "Compliance Risk Management: Managing and Improving Tax Compliance" focused on the compliance risk process for small businesses, the general principles of risk management described in the guidance note are still applicable to large businesses.

40. However, the large taxpayers present different and significant tax compliance risks that can have major consequences on tax revenues if not addressed. Managing these risks requires strategies appropriate to the particular characteristics and compliance behaviour of these taxpayers. Effective risk assessment is therefore an essential component of any overall compliance strategy for large taxpayers. It is also important that any risk strategy is understood by businesses and their advisors.

41. The main objective of risk management is to identify, analyse and prioritise the risks presented by taxpayers to ensure the efficient use of the tax administration's resources.

[7] http://www.oecd.org/dataoecd/44/19/33818656.pdf

***How a tax administration approaches risk management for large taxpayers?***

42. All participating countries use a risk based approach to allocate resources to large businesses and most have introduced "real-time" methods to manage compliance of large taxpayers. The basic aspects of the risk management tools used are consistent with the recommendations of the 2008 OECD's "Study into the Role of Tax Intermediaries[8]". All of the participating countries have indicated that, as a general principle, they focus their compliance activity on high-risk areas identified through risk analysis processes. The participating countries apply risk management techniques to differentiate between high and low risk taxpayers in order to devote time and resources to addressing the higher risks.

43. Some of the risk analysis includes taxpayer risk profiling using a range of both financial and tax specific indicators, and the acquired knowledge about the large taxpayer's activities and their business. Some of the compliance risk indicators are listed below in "Compliance Risk Indicators" section. Australia's ATO compliance risk process involves two phases – risk identification that includes the profiling of large businesses, and treatment that includes methods tailored to the causes of non-compliance[9].

44. The UK's report, "Review of Links with Large Businesses", also known as the "Varney" report, which was published in November 2006, recommended an efficient risk based approach to deal with tax matters. As a response to the proposals made in the Varney report, HMRC spelled out its approach to compliance risk management for large business, in a report published in March 2007[10]. The report lays out an objective for a risk-based approach designed to focus efforts on the highest risk issues and taxpayers, thereby reducing the administrative burdens on compliant, low risk businesses.

45. The Netherlands tax administration manages risk in the large business area on an individual basis. The approach is to use corporate governance and financial reporting rules requiring that companies continuously monitor their own risk, including their tax risks. The degree to which a business is in control determines to a large extent the form and intensiveness of the additional monitoring. This means that the Netherlands Tax and Customs Administration (NTCA) must have a clear understanding of the existence, set-up and operation of internal controls concerning tax. If a Tax Control Framework is solid, the monitoring focuses on the effect of internal control measures and preliminary discussions on current tax issues. The tax returns will not contain any new information requiring immediate attention. The Netherlands Tax Administration has laid down their vision on this subject in the memorandum "Tax Control Framework" which can be found at the internet site of the Netherlandse tax administration. [11]

46. Selected countries practices and experiences using risk management are outlined in Boxes 4.1 to 4.3.

[8] Chapter 5 – Risk management

[9] http://www.ato.gov.au/content/downloads/77898_N8675-08-2006_w.pdf

[10] http://www.hmrc.gov.uk/budget2007/large-business-riskman.pdf

[11] http://download.belastingdienst.nl/belastingdienst/docs/tax_control_framework_dv4011z1pleng.pdf

### *Box 4.1. Risk Management Approach - Australia*

- Case or Risk selection – is done by using economist "risk engines" (including ratio analysis, intelligence and industry segment input). This approach prioritises the higher risk groups, projects and risks. ATO's LBI has "case selection guidelines" to assist them in this process.
- ATO publishes each year the areas they are planning to focus on (compliance plan or program). This is distributed widely in the large business community.
- Once a case is selected LBI conducts Risk Reviews to determine material tax risks – group or entity level
- Once a risk has been assessed this is treated by a mixture of approaches including audits, public rulings, litigation of cases etc.
- LBI is looking to introduce some new approaches including checking the tax risk governance process of companies, regular visits and annual discussions around the lodged tax return.

*See more detail in Annex 2 (Australia – Country Profile and Practices).*

### *Box 4.2. Risk Management Approach - France*

The DGE has developed specific tools and strategies in terms of risk management, which are summed up below:

**High or group level**

- The LTU has created a group-monitoring watchdog to centralize the information about the various entities of the groups, in order to develop controls integrating the group approach. Now, it includes the 40 companies of the CAC 40 (the Paris Stock Exchange) and 40 other important economic groups. They represent about 20,000 companies (62 % of the large taxpayers registered in the LTU). The objective is to include all the groups. In this area, the LTU and the DVNI work closely together in order to set their tools and knowledge in common.
- The setting up of a risk mapping (as regards reliability of the database, VAT credit repayment processing, etc).
- Internal control turns on two levels: a 1st level managed by the departmental heads, and a second one conducted by an internal audit function with a team of six tax chief inspectors carrying out surveys and studies.

**Individual taxpayer level**

- The use of risk analysis forms and technical forms.
- IT tools, with adapted data processing software to follow the LTU operations (MEDOC DGE dealing with Corporate and VAT collection and payments, ERICA dealing with the following of legal matters, PILOTE dealing with the following of the activities of the IFU teams).

### *Box 4.3. Risk Management Approach - Ireland*

Risk analysis is carried out in a structured way with involvement of all team members. We work on the basis that there is a potentially powerful learning dividend to be obtained from a team approach to risk analysis because of the exposure of the team (including its less experienced members) to the analysis of tax risk across all taxes.

Structured risk analysis meetings are held in each Business Unit using the LCD risk analysis methodology and drawing on material from the central research function (see below).

Basic behavioural risk assessment of cases is completed in Business Units and high-risk cases are identified for consideration as potential Divisional priorities. A Divisional priority list for high-risk cases is established.

Tax risks (tax-head and transaction-driven) are identified and prioritised with case choices for all taxes / customs partly driven by case behaviour assessment.

Corporate profiles are developed in consultation with the central research function using the commercially developed, FAME database and internal systems. Tax risks and events-based risks are profiled in a standard knowledge management format.

LCD is also refining the risk rules in its computerised risk scoring system. LCD has also established a central tax-risk research function in LCD to support structured risk analysis in Business Units in:

- research on tax, transactional and taxpayer risk issues;
- research on the evolution of large taxpayer programmes;
- sophisticated behavioural risk assessment tool;
- sector profiling; and
- facilitating the distillation from sector profiles of tax risk indicators.

*What factors tax administrations consider when risk assessing large taxpayers?*

47. Responding to risk requires an understanding of the factors that shape taxpayers' attitudes towards compliance. It is important to identify and understand the sources of risks in order to respond appropriately. The following is a list of common factors considered in risk assessing large taxpayers based on the responses received from the participating countries:

- Adjustment potential – will an adjustment result in a material correction?
- Impact on future years – if the issue is not addressed, will that influence taxpayer's behaviour?
- Industry issues – are there practices, trends, and issues that are specific to certain industries?
- Historical examination of data and history of non-compliance – are there issues identified in previous examinations that need to be addressed again?
- Taxpayer's systems and internal controls – are there poor internal controls that would require a close and thorough examination?
- External factors – are there any changes that may affect taxpayers business such as industry changes and trends?
- Sudden change in financial results – is there an unexpected decrease in revenue or income?
- Determination if transaction involves no economic substance – is there an arrangement for the sole purpose of obtaining a tax benefit?
- Frequent change of banks, attorneys, or auditors – is there a change with no apparent business reason?
- Existence of significant related party transactions – are the results from the transactions commensurate with the functions performed and risks assumed?
- Ownership, management, and business structures – do any of these factors affecting the taxpayer's business and tax return?
- Knowledge of a tax strategy – did the taxpayer use a known strategy that is being scrutinized by the tax authorities?

48. A summary of the participating countries responses on the type of factors considered when risk assessing large taxpayers is set out in Annex 2 (countries profiles).

*What are the high-risk indicators?*

49. Based on the responses received from the participating countries, the following is a summary of various high-risk characteristics or indicators associated with large taxpayers:

- financial or tax performance that varies substantially from industry patterns;
- significant variations in the amounts or patterns of tax payments compared to past performance and relevant economic indicators and industry trends;
- unexplained variations between economic performance productivity and tax performance;
- unexplained losses or continuous losses, low effective tax rates and cases where a business or entity consistently pays relatively little or no tax;
- historically aggressive tax planning by the corporation, group, board members, key executives or advisers;
- weakness in the compliance structure, processes and approaches;
- tax outcome that is inconsistent with the policy intent of the tax law;
- differences between factors declared in corporate tax and VAT;
- turnover growth combined with a decreasing tax collection;
- characteristics and competence of personnel associated with the application of tax or customs laws to routine everyday business operations, e.g. calculating payroll taxes, importing or exporting;
- characteristics and competence of personnel associated with the large taxpayer's corporate culture / governance / experience of in-house tax staff; and
- whether the company is publicly or privately owned.

49. The UK and US experience with compliance risk indicators are highlighted in Boxes 5.1 and 5.2.

***Box 5.1. Compliance Risk Indicators – United Kingdom***

HMRC rates behavioural and organisational compliance risk in seven areas in order to determine the risk a taxpayer presents. These areas are listed below together with a couple of examples of high-risk behaviour.

In terms of tax contribution, the trend of receipts will show a significant falling pattern in one or more tax regimes with no clear reason and there is likely to be significant divergence of taxable profits compared with commercial profit levels.

In terms of complexity, the business typically operates within a highly complex structure but has no clear strategy or procedures to ensure completeness or best practice arrangements. Highly complex tax issues are considered on an ad hoc basis and there are likely to be very high tax throughputs in a number of different tax regimes.

In terms of boundaries, examples of major risk include a foreign owned business with a lack of knowledge or clarity around the global business interest. Others include complex and diverse business structures with major connected party interests and activity, complex transfer pricing transactions, extensive involvement with tax havens and UK based businesses using offshore entities with tax avoidance as the driver.

In terms of change, the business is likely to have numerous acquisitions and disposals, but with no strategy for change management. The business is likely to react routinely to industry and commercial or other pressures with no consideration of tax consequences.

In terms of governance, the tax strategy is likely to be un-stated with unclear accountabilities and authorities and/or the Board will be unsighted on significant tax issues. There will be limited co-operation in identifying and resolving issues, sharing information or de-risking systems or processes and no evidence of commitment to build a trusting partnership with HMRC based on an open, transparent, and meaningful dialogue.

In terms of tax strategy, the business will be heavily involved in tax planning with no commercial context and there will be significant use of loopholes or anomalies in the law to minimise tax or duties.

In terms of delivery, the business will have a history of regular and significant mis-directions or late declaration or payments of tax in a number of tax regimes. Tax teams will be poorly supported or under resourced both in terms of numbers and in terms of adequate skills.

***Box 5.2 Compliance Risk Indicators - United States***

The principle risk factors that LMSB focuses on when screening or risk assessing corporations mostly relate to the ability of large companies to exploit complexity:

- complexity in tax law;
- business structure; and
- accounting and financing.

Compliance Risk indicators include, but are not limited to the following:

- extensive international business activities (opportunities for transfer pricing and cost sharing tax avoidance);
- transactions with corporate affiliates or third parties in tax haven countries (basis shifting, export of intangibles);
- transactions with other "tax advantaged entities" (tax-exempt entities, entities with unused credits, losses or preferential tax rates: asset/basis shifting, leasebacks, arbitrage schemes, etc);
- use of Special Purpose Entities (a.k.a. "Variable Interest Entities": entities set up to achieve a specific financial and/or tax planning purpose: to own specific assets, handle specific transactions, etc. These are often short-lived entities, often flow-through, often tiered);
- complex entity structures (consolidated financial reporting entity differs from the consolidated tax reporting entity: separate tax filings by some corporate affiliates, extensive use of flow-through entities to report some business activity, etc.);
- use of complex hybrid and derivative financial instruments (techniques for claiming tax advantages of debt [interest expense deductions, bad debt losses], and equity [dividend received deductions, capital gains treatment] on the same financing transactions);
- tax incentives for specific types of economic activity (tax rules and regulations that give preferences for favoured activities such as research & experimentation credit, domestic production, alternative energy production, etc. become tax planning opportunities for "substance vs. form" accounting and reporting);
- tax incentives offered by competing tax jurisdictions (opportunities for companies to engage in "tax arbitrage" planning, such as foreign tax credit generators, shifting of supposed business locus);
- computerized and web-based business and accounting systems (to enable greater complexity, fractionating of transactions, disassociation of economic activity from a specific location, etc.);
- management focus on management of profit reporting (aggressive financial management that requires tax departments to be managed as "profit centers", and competition between accounting and legal practitioners to promote tax planning techniques to reduce effective tax rates and increase cash flow);
- book-tax reporting differences (opportunities for tax and financial accounting manipulation created by complex and inconsistent accounting systems: US tax accounting vs. foreign tax accounting vs. US Generally Accepted Accounting Principles vs. International Financial Reporting Standards. "Rules" vs. "Principles" based accounting. Companies that report their activities using multiple different accounting systems have opportunities to shift transactions to benefit accordingly);
- competitive pressure to drive down ETR (Effective Tax Rate – so called "tax efficiency" measures used by investors and others to compare companies); and
- history of restatements of financial reports required by Securities and Exchange Commission.

This is only a partial list, and many of these factors work together or are inter-related. These are all conditions that enable large companies and their tax planning advisors to initiate or participate in non-compliant tax planning and reporting activities. Many of these factors have been extensively studied and measured.

### *What strategies are used to respond to risk?*

50. Participating countries have indicated that risk can be addressed by a variety of measures such as legislation, targeted education, taxpayer service, enforcement activities, compliance incentives, and sanctions.

51. Although traditional post filing audits are still being used to address some aspects of non-compliance, other effective approaches are being increasingly used to deal with non-compliance behaviour.

52. To summarize, most participating countries respond to identified risk at two levels:

- A broad level by
  - targeted taxpayer education and guidance;
  - improve taxpayer service by providing taxpayers with assistance and clear and accurate information before filing a tax return;

    - more and open communication with large taxpayers;
    - tailored large corporate and multinational website and online services (e-communication);
    - tax rulings and determinations;
    - legislation targeting a specific area of non-compliance and also simplifying the tax law to reduce unintentional errors caused by a lack of understanding;
    - targeted and proportionate compliance activities for a group of taxpayers;
    - improving the partnership (relationship) with tax practitioners;
    - encouraging tax professionals to adhere to professional standards;
    - increasing examiners commercial awareness;
    - concentrating on high-risk industries and developing audit expertise to address complex industry-specific non-compliance issues; and
    - leveraging "Exchange of Information" and increasing cooperation with treaty partners.
- A taxpayer level by
    - selection of cases warranting examination based on risk analysis;
    - specific issue affecting the taxpayer's business (increase issue specialization to address complex transactions); and
    - building taxpayers profiles on a case-by-case basis reflecting their compliance and audit history.

53. In 2006, HMRC introduced the High Risk Corporate Programme (HRCP), which identifies high-risk large taxpayers, employs effective measures to deal with non-compliance, and uses strategies to influence the taxpayers' behaviour to become compliant. Further detail on the HRCP process is included in Annex 3.

54. Other countries practices and experiences – strategies used to respond to risk are set out in countries profiles in Annex 2.

## 4. COMPLIANCE ISSUES

***What major compliance issues are commonly associated with large taxpayers?***

55. For some participating countries, "abusive" or "aggressive" tax planning practices of some large taxpayers represent a significant compliance challenge and remain a priority. All participants cite compliance issues related to international transactions and international business structures as major areas of concern and focus. Participating countries have indicated that growth of international trade and investments has led to international tax issues being increasingly important.

56. Key compliance issues faced by large business units identified by the participating countries are as follows:

- related party cross-border and tax haven dealings not in accordance with the arm's length principle (transfer pricing);
- complex structures and intra-group transactions associated with generating tax benefits unrelated to the economic substance of the commercial activity;
- tax avoidance issues (e.g. offshore entities, hybrid entities, foreign tax credit generator, captive insurance);
- customs including entitlement to exemptions, misclassification of goods, valuation and high value importers;
- prescribed working methods to tax issues ensuring internal and/or external control;
- degree of control businesses have over their tax processes;
- distortions and inconsistencies in market valuations;
- entity classification (hybrid or not);
- international arbitrage;
- valuation of derivatives;
- permanent establishment issues;

- structured financing;
- loss importation transactions;
- abusive trust arrangements utilizing cash value life insurance policies purportedly to provide welfare benefits;
- inter-company financing using guaranteed payments;
- foreign tax credit intermediary arrangements;
- tax avoidance using offsetting foreign currency option contracts;
- offshore deferral arrangements;
- income gain on sale of assets; and
- excise includes misclassification of oil product, unapproved use of duty rebated products, excise warehouses, and registered excise traders.

57. It should be noted that international non-compliance is a significant area of concern due to the ease of using complex international structures and the increase in cross border transactions. As mentioned above, with the growth of globalization, tax planning is increasingly focused on ways to minimize worldwide tax. Several participating countries have reported that they are challenged by the lack of information reporting on many cross border transactions to timely identify, address, and pursue these issues. Several countries have developed strategies and programs to foster more disclosure and transparency on these international dealings.

58. Countries responses on compliance issues common with large taxpayers are outlined in Annex 2.

***What approaches are used to address large taxpayer compliance issues?***

59. While the traditional audit process is still part of the participating countries compliance activities, several have developed and implemented approaches that would allow early identification and resolution of high-risk compliance issues. Innovative approaches described by some of the participating countries are as follows:

- Forward Compliance Arrangement (Australia);
- Annual Compliance Arrangement (Australia);
- Centres of Expertise (Canada);
- early determination on an uncertain tax position, “Rescrit” (France);
- foreign reporting requirement measurement system database (Canada);
- Cooperative Approach to Tax Compliance (Ireland);
- Compliance Agreements with “very large businesses” (The Netherlands);
- Simultaneous Assessment and Control (Norway);
- Project Management Approach to handling tax avoidance (UK);
- Industry Issue Resolution (US);
- Pre-Filing Agreements (US); and
- Limited Issue Focused Examination (US).

60. More details about the approaches to large taxpayer compliance issues used by the participating countries are highlighted in Boxes 7.1 to 7.8 below.

**Box 7.1. Approaches to large taxpayer compliance issues - Australia**

- Publicity – e.g. promoting the issues and risks in Compliance programs (published externally); discussing compliance in Industry forums, making speeches, etc.
- Having a strong intelligence gathering function to identify the tax issues.
- Conducting Income Tax Risk Reviews – client risk reviews, specific risk reviews – products designed to identify material tax risks.
- Income Tax Audits to treat the risks when found - including specific transfer pricing audits.
- Forward Compliance Agreements – where corporates openly discuss their tax risks in real time – Income Tax and GST.
- Tax Alerts – warning the public early of certain arrangements we do not agree with.
- Top 100 corporate group visits where open discussion occurs on tax risks with senior officers.

**Box 7.2. Approaches to large taxpayer compliance issues - Canada**

Analysis of audit results for the past five years indicated that 89% of adjustments result from 20% of the large businesses. Accordingly, ILBD will be concentrating resources on this 20% high-risk segment. In addition, the Large File program will initiate interviews with both high-risk and low risk taxpayers as part of the new audit approach.

In the future, high-risk taxpayers will be informed of their risk profile based on defined criteria such as effective tax rates for specific industries, history of compliance, and behaviour such as participation in tax avoidance schemes. In addition, high-risk taxpayers will be notified that resources previously dedicated to low-risk taxpayers, will be refocused to concentrate on high-risk businesses and the identification of aggressive tax planning schemes and emerging issues.

Correspondingly, low-risk taxpayers will be informed of their low-risk profile and the consequent effect of this status such as reduced audit interventions and greater certitude of their tax liability. Low-risk taxpayers will be subject to monitoring to ensure continued compliance (e.g. with new audit issues) and to validate the development of the risk assessment models thereby ensuring preservation of the tax base.

Other approaches used by CRA include: the foreign reporting requirement measurement system database to identify high risk transactions, legislative requirements to maintain specific documentation e.g. contemporaneous documentation, use of economists to assist in the determination of appropriate pricing methodologies, creation of senior level review committees (such as the Transfer Pricing Review and General Anti-Avoidance Rule Committees), improving auditors' knowledge base through identification of training needs regarding complex and/or emerging issues, and the use of in-house specialists (such as Industry specialists, Scientific Research and Experimental Development specialists, EDP experts, statisticians, and dedicated researchers).

Additionally, CRA participates in international forums designed to address multi-jurisdictional non-compliance issues. Examples include: Joint International Tax Shelter Information Center (JITSIC), Tax Administration for Large Corporations (TALC), Leads Castle Group (LCG) and Seven Country Working Group on Tax Havens. We are also increasing the number of Exchange of Information agreements with other tax jurisdictions.

The increased focus on emerging non-compliance issues has led to the development of "centers of expertise" which focus on the identification of aggressive tax planning schemes and develop strategies to address them.

**Box 7.3. Approaches to large taxpayer compliance issues - France**

Innovative procedures and new ways to deal with non-compliance:

- To fight against unlawful arrangements, the businesses are encouraged by the French tax administration to seek advice from the tax administration by the setting up of a specific procedure called "rescrit". By using this procedure, they submit their arrangements to the decision of the tax administration. The administration then informs the company whether the arrangement is in accordance with the law or not. This procedure prevents them from being possibly penalized.

- A legal text (LPF art. L 62) allows a sincere audited business to have penalties reduced, on condition that it has provided spontaneously, in the process of audit, an additional declaration (the previous declaration must have been done on time) and that it has committed itself to pay the additional tax with the tax return or when receiving a notice to pay.

Besides, new working principles and methods had to be phased in gradually in the LTU such as:

- a broaden competence regarding the tax base and tax collection;
- staff versatility;
- a widespread availability of the IFU teams;
- adapted materials and premises;
- teamwork methods to share out information and knowledge;
- an organization oriented to the IFU teams with a strong support from the Board;
- a high quality and intensive professional training; and
- adapted IT tools in order to manage and control the large taxpayers' files.

**Box 7.4. Approaches to large taxpayer compliance issues - Ireland**

In 2005, LCD piloted a new approach to managing tax compliance - The Cooperative Approach to Tax Compliance. In short, this new approach to managing tax compliance seeks to:

- promote a collaborative, mutually beneficial approach to compliance;
- facilitate more efficient use of Business and Revenue resources;
- reduce tax uncertainty; and
- recognise trust and openness.

The aim of the new process is to provide better support to large businesses that are prepared to work openly and co-operatively with LCD - helping them pay the right amount of tax at the right time and checking less of what they do. This is achieved by:

- the large business sharing knowledge of the business, business events and emerging tax risks in real time with the LCD case manager;
- the LCD case manager working with the large business to focus on the important issues and, where possible, resolving those issues; and
- selective Revenue checks to reassure the LCD case manager that the business is complying with its obligations.

**Box 7.5. Approaches to large taxpayer compliance issues – The Netherlands**

The overall objective of the NTCA is to efficiently and effectively collect the amount of tax due through maintaining and improving voluntary compliance of taxpayers and acting repressively to those who are not complying voluntarily. NTCA trusts the taxpayers, unless there is information to the contrary. The level of transparency, the quality of the tax control framework, and the level of compliance determine the level of (additional) supervision by the NTCA. If the NTCA agrees with the taxpayer on the level of quality of the tax control framework and the taxpayer is fully and actively transparent about the tax-risks emerging from this framework the efforts of the NTCA can be limited to discussing those risks real-time. The NTCA will not duplicate the auditing activities performed by other supervisors (internal audit department, external auditor). The NTCA's audit efforts will predominantly be directed at testing the quality of their work and whether the control framework of the company functions as it should. In the case where the taxpayer has a poor quality tax control framework and/or is not fully and actively transparent the NTCA will have to audit retrospectively using different techniques.

***Box 7.6. Approaches to large taxpayer compliance issues - Norway***

The CTO is participating in the tax administrations yearly review to revise work on tax-formulas (incl. the tax return) and written guidance for such formulas, with the purpose of improving the formulas and lighten the compliance.

Non-compliance due to interpretational differences of the tax law can be approached by issuing binding and non-binding rulings to a taxpayer. Another approach is the publication of decisions, opinions and positions on a specific tax law on a regular basis in major tax - and audit journal, and on web-sites.

Non-compliance may be due to ambiguity in the tax law. In such circumstances, openness towards the tax legislator regarding the practicability of new law proposals can reduce future attempts of clever adjustments to ambiguous tax laws. Our strategy of simultaneous assessment and control is an important factor in this context. It puts us in a position to take part in “real-time” tax debate and development of tax law, instead of having focus on tax questions that might be history.

Non-compliance due to lack of knowledge of the tax law and its consequences can be approached in many of the same ways.

Practicing simultaneous assessment and control gives us also an advantage compared to a practice based on tax audits several years after the income year. It`s a lot easier to deal with tax assessment close to “real-time” both for the tax administration and the taxpayer. It gives an opportunity to have a dialogue with those responsible for the tax and financial reports, and for those responsible for the relevant business transactions. Solving a tax question may have an impact on compliance for several income years, and it is a lot easier to get a taxpayers acceptance when you assess close to “real time”.

***Box 7.7. Approaches to large taxpayer compliance issues – United Kingdom***

HMRC uses a Resource to Risk strategy allocating resources according to the level of risk displayed by a business. This ensures that resources are deployed effectively and efficiently to counter the largest risks with the aim of encouraging high risk businesses towards becoming lower risk.

Within this strategy, a number of specialists are used to inform the way HMRC identify and tackle risk. These include Trade Sector Advisers (people with commercial experience of a particular sector), Leasing Specialists, Accountants and the Specialists from the Specialist Resource Unit (SRU).

The introduction of the disclosure regime has given HMRC better information on new avoidance schemes at a much earlier date. In addition, we have introduced a project management approach to handling avoidance issues, which introduces more consistency and makes best use of scarce specialist resource. We are also looking at improving our profiling to find users of known avoidance schemes.

In terms of improving our response to International risks, we are setting up specialist transfer pricing units to focus resources on the biggest cases and to work them to a better standard more quickly.

***Box 7.8. Approaches to large taxpayer compliance issues – United States***

To keep pace with the changing business environment and ensure compliance, LMSB has implemented the new Industry Issue Focus strategy to concentrate on high risk tax issues. This strategy gives LMSB the focus and flexibility to keep pace with and respond to changes in business practices which may create compliance risks. This strategy also provides the additional operational benefits such as:

- allowing the division to resolve issues across industry lines with consistency;
- continuing to improve currency by focusing on issues with the highest risk;
- providing for flexible deployment of resources to increase coverage of non-compliant taxpayers;
- enhancing oversight of and accountability for high risk issues; and
- combining technology and experience to identify and prioritize issues.

Once identified, issues are prioritized based on how prevalent they are across industry lines and the level of compliance risk they present. Management direction and resource deployment will be focused upon those areas with the greatest risk. Ultimately, LMSB intends to examine more taxpayers by focusing upon Industry Issues.

Other specific approaches to compliance**:**

**Limited Issue Focused Examination** (LIFE): LIFE is a limited scope audit process that uses materiality principles and other considerations identified through a thorough risk analysis to limit the scope. The process also encourages taxpayers to engage and to share responsibility for timely completion of the examination, and establishing materiality thresholds to govern any scope expansion.

**Pre-Filing Agreements** (PFA): PFA is a way for taxpayers and the IRS to reach agreement on issues through a cooperative effort before the return is filed. Eligible issues are generally factual in nature and governed by well-established law.

**Industry Issue Resolution** (IIR): IIR Program resolves frequently disputed or burdensome tax issues that affect a significant number of business taxpayers through published guidance.

**Fast Track Settlements** (FTS): FTS offers taxpayers a way to resolve audit issues during the examination process. Working with LMSB and Appeals, taxpayers can utilize the settlement authority and mediation skills of Appeals while shortening their overall audit experience. FTS reduces the combined LMSB-Appeals process time by at least two years.

## 5. KEY ISSUES AND ACTIVITIES TO IMPROVE LARGE TAXPAYER COMPLIANCE

### *Strategies and programs to build a better relationship*

61. The consensus is that building and improving the relationship between the tax administration and the large taxpayer is critical in promoting transparency and a cooperative approach to compliance. Most of the respondents have indicated that improving and building a relationship based on transparency, trust, and mutual understanding would have a positive impact on large business compliance. This trend is consistent with the recommendation made in the OECD "Study into the Role of Tax Intermediary" about the tax administration and the large business engaging in an "enhanced relationship" [12].

62. Building a new form of relationship with large business is one of the key strategies adopted by the participating countries to influence and promote large taxpayer compliance. In its 2006 "Large business and tax compliance" booklet, the ATO stressed that a strong and healthy relationship between the Tax Office and large businesses is essential to the efficient and effective operation of Australia's tax system[13].

63. In 2005 the Netherlands Tax and Customs Administration (NTCA) introduced the "horizontal monitoring" approach to conclude what is known as "Compliance Agreements" with very large businesses ("ZGO") to confirm certain basic principles of an enhanced relationship. Key elements of this enhanced relationship are mutual trust, transparency and understanding (transparency from the taxpayer and a speedy and irrevocable opinion or ruling by the NTCA). Under the "Compliance Agreement", the taxpayer has to

[12] Chapter 8 and Annex 8.1 – The enhanced relationship

[13] http://www.ato.gov.au/content/downloads/77898_N8675-08-2006_w.pdf

actively disclose issues that could have significant tax consequences and to establish an internal control framework (Tax Control Framework)[14].

64. An important aspect of building and improving a relationship is to understand and to deal with the expectations of both the tax administration and the large taxpayer. Based on the countries' responses, the tax administration's expectations of large taxpayers under a cooperative approach are:

- more openness;
- full disclosure and transparency;
- compliance with the laws;
- open dialogue; and
- timely response to inquiries and requests for information.

65. The participating countries' view of what large taxpayers expect from tax administrations is:

- increase openness and dialogue;
- greater certainty;
- consistency;
- clarity of roles and accountability;
- timely response and good guidance;
- sharing of audit plan and risk assessment; and
- earlier settlement and speedy resolution of issues.

66. Selected countries practices and experiences on relationship building are set out in Annex 4.1.

***Real-time management approaches by tax administrations***

67. As stated above ("approaches to address compliance issues" section), the trend is to move from post-filing of tax return examination to "real-time" evaluation of risk and compliance issue resolution. A number of countries have instituted various programs to provide certainty to large taxpayers and early identification and resolution of compliance issues. These initiatives are also implemented as part of the cooperative or "enhanced relationship" approach, discussed above. Some of the methods and programs, as described by the participating countries, to provide certainty to large taxpayers and address compliance on a "real-time" basis include:

- Forward Compliance Arrangements;
- Advance rulings (binding and non-binding);
- Advance pricing agreements;
- Pre-filing agreements or advance agreements;
- Contemporaneous documentation requirement (for cross-border transactions);
- The use of Client or Relationship Managers to provide clarity; and
- Compliance Assurance Programs to resolve tax issues prior to the filing of a tax return.

68. More information on selected countries practices and experiences on "real-time" compliance management are set out in Boxes 8.1 to 8.8 below.

[14] http://download.belastingdienst.nl/itd/beleid/overige/tax_control_framework.pdf

**Box 8.1. Real-time management and providing greater certainty – Australia**

The ATO has been working with large corporate groups for some years to design a product that would work in real time & provide greater certainty for taxpayers (and the ATO).

The first product was a forward compliance arrangement (FCA). The ATO has piloted these and now has them with several companies. They are a premium product offering early resolution of issues, a relationship with the ATO, access to key ATO people, concessions on penalties and interest, continuous disclosure of material events, an annual discussion and sign-off of the tax return. Taxpayers need to have very strong governance processes to be included. FCAs are time consuming and are costly to maintain.

The ATO is now moving to a product that is less onerous yet retains the goal of being current and having greater certainty. ATO is presently testing a product called the Annual Compliance Arrangement (ACA). This is more about continuous disclosure and an annual discussion to ensure the tax return is correct. The ATO would then provide a list of risks and a forward plan to deal with those risks. Early indications are that the corporate groups are very interested in this approach (depending on their appetite for risk). The features of this would be full & true disclosure of facts, reduced penalties, regular dialogue, openness in dealings, leveraging off existing players in the system (e.g. the statutory auditor) and two–way co-operation.

ATO's experiences so far with real time indicate:

- Jointly developing the products with the corporate associations is critical to getting buy-in.
- Corporate groups are interested in real time compliance especially where they have been subject to audit action and the board no longer want any "tax surprises".
- When committed to the processes the corporate group is prepared to be open in real time.
- To work in this environment tax people need a risk management mindset rather than a forensic audit one – this leads to a need for cultural change.
- Corporate groups are looking for a letter of sign-off in exchange for providing full and true information.
- Corporate groups would prefer fewer conditions, checks and balances and therefore costs to get sign off e.g. excessive testing and checking of their accounting system.

**Box 8.2. Real-time management and providing greater certainty – Canada**

- CRA offers "Advanced Rulings." An advance income tax ruling is a written statement given by CRA to a taxpayer stating how the CRA will interpret and apply specific provisions of existing Canadian income tax law to a definite transaction or transactions which the taxpayer is contemplating. Accordingly, an advance income tax ruling may be either favorable or unfavorable to the interpretation desired by the taxpayer.

- The International component of ILBD offers "Advanced Pricing Agreements" (APAs). APAs confirm appropriate transfer pricing methodologies, in advance, and their application to specific cross-border non-arm's length transactions or arrangements for specified periods, under specified terms and conditions, for purposes of the Act. When appropriate, the Canadian competent authority may enter into a Bi-Lateral (BAPA) or Multi-lateral (MAPA) with its foreign counterparts under the mutual agreement procedure article of the relevant income tax treaty.

- CRA has provided Real Time Audits (RTA) since 1997. This allows taxpayers to request a CRA review of possible contentious issues prior to a corporation filing its income tax return. There are few RTA requests in Canada.

- Contemporaneous Documentation was introduced to offer certainty on the non-application of a transfer- pricing penalty. The Department of Finance introduced legislation that specifies the nature of the documentation that taxpayers must prepare to support their "reasonable efforts to determine and use" their transfer-pricing methodology. If CRA has an issue with the methodology utilized and the specified documentation was prepared as required, CRA can waive the transfer-pricing penalty.

### *Box 8.3. Real-time management and providing greater certainty – France*

Some measures lie within the framework of a greater legal certainty to businesses, such as the examples below:

Advance transfer pricing agreements: large taxpayers may submit their transfer price policy for tax administration approval by filling out a questionnaire to provide all information needed by the administration.

Control on demand by the companies: businesses have the option of asking the tax administration to control specific topics to make sure their situation complies with the law. Therefore, they avoid penalties in case of misunderstanding about a legal and tax matter.

### *Box 8.4. Real-time management and providing greater certainty – Ireland*

Real-time compliance management is central to the cooperative compliance approach. In practice, the cooperative compliance approach involves the following:

One of the aims of cooperative compliance is to provide better support to large businesses that are prepared to work openly and co-operatively with Large Case Division (LCD) - helping them pay the right amount of tax at the right time and checking less of what they do. This is achieved by:

- The large business sharing knowledge of the business, business events and emerging tax risks in real time with the LCD case manager;
- The LCD case manager working with the large business to focus on the important issues and, where possible, resolving those issues; and
- Selective revenue checks, to reassure the LCD case manager that the business is complying with its obligations.

Further detail on the process of real-time compliance is outlined in Annex 4.2

### *Box 8.5. Real-time management and providing greater certainty – The Netherlands*

One of the main objectives of the NTCA is to deal with tax issues at the moments they occur, thus: in real time. The account manager determines the profile of the VLP and that the client team has a clear view on the core business of the company and where its tax interest is. In this regard he or she is aided by numerous sources, such as annual reports, annual accounts, corporate websites, press releases, publications, which provide information on current issues. The taxpayer's profile is to an important degree based on the assessment of its Tax Control Framework (TCF). Without an assessment of the TCF, a profile is not complete. A TCF enables a company to be in control of its tax processes as well as to report to the NTCA tax-related matters of any significance. The focus of the NTCA is on assessing the design, existence and operation of tax processes of the business and the extent to which they are in control.

A traditional and proven approach of the NTCA towards companies is the willingness to provide certainty in advance regarding the tax consequences of planned business transactions of companies. Certainty will not be provided if the planned transactions are purely tax driven and have no real business purpose. It is easier to assess whether this is the case when the NTCA have an understanding of the company's business and (tax) strategy.

There are several ways in which the NTCA can provide (advance) certainty on tax issues. The NTCA can state its view on legal consequences of the planned business transaction by means of contra signing minutes of meetings with the taxpayer or putting in writing specific agreements. The NTCA can also provide certainty by simply issuing the final assessment shortly after the tax return was filed. In that way certainty on tax positions can be provided shortly after closing the fiscal year.

Moreover the NTCA offers the company the opportunity to reach an advance pricing arrangement (APA) to ensure the fair application of the arm's length principle in their cross border dealings with affiliated companies. APAs can be unilateral, bilateral or multilateral. An APA establishes the transfer pricing methodology for determining arm's length prices or results for future transactions, agreements or arrangements covered by the APA. The APA generally covers a period of five years and may be adjusted if the business circumstances of the company materially change. An up-to-date taxpayer's profile facilitates the process of issuing an APA.

**Box 8.6. Real-time management and providing greater certainty – Norway**

The following are examples for providing certainty to the taxpayers:

Advanced rulings, both binding and non-binding is one method of real time approach used by the Norwegian tax administration/the CTO.

The purpose of a "real time" approach is to encourage the taxpayer to discuss on an informal basis a tax related matter or question prior to taking a position in handling in the tax return.

**Box 8.7. Real-time management and providing greater certainty – United Kingdom**

An Advance Agreements Unit has been set up to provide greater certainty to UK and international businesses about the tax consequences of significant investments and corporate reconstructions across all duties and taxes. The extension of the clearance process coupled with a 28-day turnaround time and a move towards "real time" dialogue will provide business with greater certainty on the tax outcome of significant commercial transactions.

A new consultation framework has been introduced to ensure that the business perspective is taken into account. A programme to revise and update guidance of relevance to large business has been introduced. This is being developed in conjunction with business to ensure that the resulting guidance is clear and can be understood.

A new approach to transfer pricing enquiries has been introduced so that subsequently, matters will be settled within 18 months as the norm.

The use of Customer Relationship Managers (CRMs) has been extended to a wider proportion of our largest businesses. The CRM will be able to give clarity on how their issues will be resolved in a more efficient, less confrontational way.

A Risk Framework has been implemented whereby a significant proportion (40% in 2007/08) of our largest businesses is expected to be in low risk relationships, reducing their compliance burden.

**Box 8.8. Real-time management and providing greater certainty – United States**

The Large and Mid-Size Business Division (LMSB) of the IRS instituted the Compliance Assurance Program (CAP) requiring a close cooperation between the IRS and the participating taxpayer. In the CAP program, issues are identified and resolved, by conducting real-time review during the year, prior to the filing of the tax return.

LMSB's experience with CAP to date shows that it complements the current emphasis on corporate governance and accountability. It also provides tax certainty to taxpayers sooner, results in quicker guidance on tax matters, helps the IRS identify emerging issues sooner in a real-time environment, reduces the need for protracted litigation, shortens cycle time, and provides an array of other benefits that advance the IRS's tax administration responsibilities.

More information on US experience on providing certainty is set out in Annex 4.3.

### *Impact of corporate governance on tax compliance*

69. Corporate governance instituted in some countries is affecting large taxpayers' behaviour and there are indications that tax administrations are increasingly using the corporate governance principles to improve tax compliance.

70. Some tax administrations believe that the responsibility for a company's tax policy should be at Board level since tax is an important financial element as well as a major potential risk to the large taxpayer both financially and in terms of its reputation (see Ireland's approach in Annex 4.4).

71. The view of a number of tax administrations, like Australia's ATO, is that a tax risk process should be included in a large taxpayer's corporate governance program. The ATO has published a governance guide for board members and directors. Directors can use the published performance standards to self-assess the type and degree of tax risks in relation to the overall performance (see Australia's suggestions for large businesses on corporate governance in Annex 4.4).

72. In addition, tax administrations, such as the Netherlands' NTCA and the United Kingdom's HMRC, believe that bringing tax policy to Board level will foster more compliance and lessen the likelihood of engagement in aggressive tax planning.

73. Corporate governance is increasingly receiving attention from tax administrations as was demonstrated when in 2006, at the third meeting of the Forum on Tax Administration in Seoul, corporate governance was identified as one of the areas that should be the subject of intense study. Specifically, the 2006 Seoul Declaration called for "Expanding the OECD 2004 Corporate Guidelines to give greater attention to the linkage between tax and good governance"[15].

74. Summaries of a number of participating countries' views and approaches with respect to corporate governance are outlined in Annex 4.4.

***Building capability and skills***

75. All participating countries have a commitment (either clearly stated in their vision or mission statement or in other published reports) to enhance the technical and professional skills necessary to deal confidently with the complexities of large businesses, as well as to improve focus on customer understanding and "commercial awareness" as mentioned in the "relationship building" section above.

76. Most countries that responded have developed strategic approaches for developing and improving the skills of their workforce to deal with the challenges facing the large business units. Enhancing enforcement and customer service requires training and the retention of a highly qualified workforce. All countries recognize that the complexity of the tax law, business structures and transactions have created a need for specialized knowledge and expertise in certain areas.

77. A number of countries have initiatives to address the issues concerning replenishment and retention of a qualified workforce in their large business units. Countries like Canada, the United Kingdom and the United States have implemented "succession planning" programs to maintain qualified and highly skilled workforce.

78. Practices and initiatives of selected countries to address issues of developing and maintaining skills of workforce in large business units are outlined below in Boxes 9.1 to 9.4.

[15] www.oecd.org/ctp/ta/seouldeclaration

***Box 9.1. Building capacity and skills for large business units - Canada***

CRA's International and Large Business Division (ILBD) is organized into areas of expertise to address complex non-compliance issues for Large Businesses. For example, some of the areas of expertise within ILBD include "Foreign Accrual Property Income", Transfer Pricing, Double Taxation, APA, Exchange of Information, Foreign Trusts, General Anti-Avoidance Rules, Aggressive Tax Planning Schemes, and centers of expertise responsible for identifying emerging issues.

Additionally, ILBD draws on other in-house specialists. For example, industry specialists, business valuations, pension specialist, EDP specialists, etc. ILBD also participates in several domestic and international forums to share information and best practices.

In keeping with the CRA's Learning Policy, ILBD is implementing coaching and mentoring programs to help meet its commitment to learning through shared knowledge, experience, and best practices. ILBD has also developed a coaching and mentoring web site designed for both managers and employees that offer many tools, job aids, and other reference materials.

To assist senior auditors in identifying the appropriate training needs, ILBD has developed learning paths. The development of learning paths included an analysis of the learning needs of these senior auditors and officers at different stages in their careers. Senior auditors can choose from a repertoire of over twenty comprehensive learning products. Additional specialized courses are under development that will meet the needs of large file auditors, rulings officers, and appeals officers in the Agency.

ILBD's action plan for learning includes:

- implementation of the learning paths for auditors in the Large File program;
- continue development of advanced courses on topics such as international tax, tax treaties, foreign investment entities, non-resident and income trusts, and new and emerging aggressive tax planning strategies;
- develop partnerships with other government departments, other governments and professional associations in order to share learning;
- continue to hold conferences with internal and external speakers on specialty topics; and
- continue to include Industry Specialist presentations at national and regional conferences.

<u>Succession Planning</u>: CRA's Human Resources Branch is developing a succession-planning framework to assist managers in developing succession plans for necessary positions, which will include training and knowledge transfer components, as required.

***Box 9.2. Building capacity and skills for large business units - Ireland***

LCD pursues a range of training options to build capability. These options include formal training, on-the-job training, and outsourcing niche training.

Considerable emphasis is placed on in-house team learning within Business Units and Projects. LCD management see the facilitation of team learning of this kind as an important Divisional objective and this is specifically reflected in staff training / learning plans in our Performance Management and Development System. Examples of team learning situations include:

- team approaches (e.g. brainstorming or workshops) to risk analysis, to the building of knowledge management models, to preparing for audit and end-of-audit debriefing etc. and
- team approaches to review of approach to delivery of external and internal customer services, research into technical problems etc.

The range of formal training available from Revenue's Training Branch includes:

- the University of Limerick academic programmes;
- courses on specific areas which can be sourced from experts within Revenue (or outsourced if necessary);
- seminars, courses, etc. available from external bodies; and
- Fiscalis Seminars and Exchanges (to keep in touch with advances and experience in Large Taxpayer programmes in other tax administrations).

In summary, managers and staff work out a personal learning plan, geared to improve the specific skills and knowledge needed for the staff member's role and indicating the higher levels of competencies to be achieved.

**_Box 9.3. Building capacity and skills for large business units – The Netherlands_**

NTCA's staff is expected to be able to build and maintain relationships, to have a problem-solving attitude and understand the different interests of the taxpayer and the tax administration, to have empathic and listening skills and to understand how communication processes work. NTCA expects that all staff will possess this behavioural skill. NTCA has set up a training programme to support this.

Typically the client coordinator is an experienced tax officer with an ability to assess information swiftly and to decide quickly. The client coordinator should be able to anticipate and deal with changes in the relationship with the company. Changes in the relationship could originate from a new CFO or tax director, new shareholders (private equity) or a change in objectives and (tax) strategy.

Tax specialists are expected to be experts in their field. In addition to that we expect that all of them will be able to discuss issues regarding tax control frameworks. NTCA provides its lawyers with training to enable them to do so at a high level. NTCA expects profound knowledge on such issues of our auditors and has developed training programmes to support them as well. The NTCA needs to have sufficient capacity and resources to fulfil the obligations to and the expectations of the taxpayer.

**_Box 9.4 Building capacity and skills for large business units – United States_**

The complexity of the tax law and transactions has created a need for specialized knowledge and expertise in certain areas. Today's taxpayers operate in a global environment. New business enterprises are rapidly developing and that gives rise to increasingly complex tax issues, often crossing international tax jurisdictions. Domestically and internationally, very sophisticated tax practitioners are devising complex transactions based upon permutations of the tax law. To deal with these challenges and advance its vision, LMSB developed goals and strategies:

- Identify workforce skills needed to address emerging issues and develop a training plan to address the needed skills.
- Provide continuous learning opportunities for employees to stay informed about rapidly changing taxpayer business strategies.
- Provide employees with the tools needed to respond accurately and timely to taxpayer inquiries.
- Develop innovative approaches to meet technical hiring goals.

**Enhanced Training Example** — LMSB trained all of its revenue agents in fiscal year 2007 on FIN 48 and the use of financial statements in completing risk analysis. In addition, LMSB has increased the number of issue-focused workshops held throughout the year. At these workshops, revenue agents, managers, technical advisors, and counsel attorneys discuss and share experience in assessing, analyzing, identifying, and resolving various complex tax issues. LMSB has also developed and is delivering training that emphasizes the international tax issues prevalent on a growing number of corporate tax returns.

### *Performance measures*

79. The participating countries' responses to this section of the questionnaire were very limited and the information provided was general. There were few examples of methods or programs used to measure the effectiveness of operations, compliance, and customer service. It was not possible to assess the common measures and differences in approaches to perform a comparative analysis. Therefore, a definitive conclusion could not be drawn. Brief summaries of some of the tax administrations practices are as follows:

- Canada's ILBD is in the process of planning a risk assessment strategy and developing various risk and client management initiatives that will include evaluation frameworks with the appropriate performance standards, indicators, and measurements.
- Ireland's LCD established a "Quality Assurance" team to review and provide assurance that risks are managed in accordance with the objectives of the LCD. Details on Ireland's quality assurance framework are included in Annex 4.6.
- The UK's LBS and LC have introduced key performance indicators to support staff in reducing the time taken to settle issues and the number of small issues taken up for enquiry.

- The US described one specific method, the American Customer Satisfaction Index (ACSI)[16], which is used by LMSB to measure the effectiveness of its compliance programs and services. See more detail about this method in Annex 4.6.

***Approaches used to influence tax policy***

80. Most participating countries made clear that tax policy is the responsibility of the Ministry of Finance, but they have indicated that the tax administration plays an active role in providing input and feedback on tax policy to ensure that the tax administration's needs are taken into consideration. As articulated by Ireland in its response, "given the LCD's level of knowledge, expertise, and practical experience, LCD is in a position to provide feedback to the tax policy and legislation area". Norway echoed a similar practice where the Norwegian tax administration encourages its employees to participate and to play an "active and balanced" role in the development of tax law.

81. In Canada, CRA is responsible for the development of policies related specifically to tax administration programs and may initiate consultation with the Department of Finance regarding clarification of legislation. The UK is looking at ways to use knowledge and skills within the large business unit and elsewhere in HMRC to identify new and emerging issues ("the horizon scanning project") to inform policy development.

82. A summary of the participating countries responses on approaches used to influence tax policy is set out in Annex 4.7.

***The use of technology***

83. Technology is used not only to improve the quality of service to large taxpayers but also to manage compliance. This includes improving the early identification of risk and increasing the efficacy of operating processes in the large business unit. Tax administrations have developed electronic tools to assist in performing risk assessment such as the UK's "RADAR" (Risk Assessment and Data Analysis Reports) and Canada's SARAT (Standard Audit Risk Assessment Template).

84. Several tax administrations have also implemented information technology systems to better control and manage compliance and to collect critical data:

- France's "PILOTE" is used to keep track of management data and compliance activity.
- Ireland's "Integrated Case Management" system is used to allow large business unit, LCD, to intervene before the taxpayers become non-compliant.
- The US "Issue Based Management Information System" (IBMIS) is used to better manage examinations and evaluate compliance trends.

85. Another innovative approach is by the UK HMRC's which has developed the Electronic Collaborative Working (ECW), also known as Shared Workspace or e-Room (SW) which is an initiative that aims to improve communication with large business. This system provides a means by which all large-business unit personnel, irrespective of location or background, can communicate, share information and work collaboratively.

86. A number of tax administrations indicated that electronic filing by large taxpayers, which provides electronic data, increases their ability to review and analyze data rapidly to identify high-risk compliance issues.

87. A summary of the participating countries responses on technology use is set out in Annex 4.8.

[16] More details about the ACSI are available at: http://www.theacsi.org/

## 6. CONCLUSIONS

88. As was stated in the introduction, thisguidance note has attempted to highlight the common characteristics and importance of focusing resources on large business as a separate taxpayer segment. This review is the first step to learning about the various approaches and practices of selected tax administrations in managing the compliance activity related to the large business segment. It is clear from the review that the participating tax administrations have established sophisticated compliance management methods for large taxpayers.

### *Recommendations*

89. The findings drawn from the high-level review of the eight tax administrations practices and experiences represent a starting point. OECD member countries would benefit from further review and in-depth study of some of the methods and models developed by a number of tax administrations. The following particular areas may be useful and therefore warrant further study:

- Risk management: Risk assessment has been institutionalized by all of the participating countries to maximize the effective use of their large business unit resources. A number of tax administrations have adopted methods to identify and address risk on large taxpayers. Australia has the Two-step approach; Canada, the Two-tier approach; France, Two-level approach; the Netherland, horizontal monitoring; Ireland, commercial system, FAME, for corporate profiling; and the US, Industry Issue Focus approach.
- Compliance issues: A number of countries have developed unique approaches to deal effectively with various compliance issues.
- Build a better relationship: Identify the approaches and initiatives used by tax administrations to both meet the expectations of the large taxpayers and to elicit more cooperation from the taxpayers to encourage voluntary compliance, as discussed broadly in the "building a better relationship" section of this paper.
- Real-time management approaches: Various tax administrations have adopted methods to engage in real-time dialogue with their large taxpayers. They have developed tools to provide early certainty to taxpayers and to increase early identification and resolution of issues.
- Corporate governance: Different approaches are applied by countries that believe tax should be part of or linked to corporate governance principles and that tax policy of large tax taxpayer's should be considered at Board level.
- Building capability and skills: The key to successfully administering and managing a large business unit is to recruit, develop, train, and maintain a capable workforce that can deal with challenges facing the tax administration, as observed in the "building capacity and skills" section of this paper. Member countries can learn from the various programs, models and strategic initiatives adopted by several tax administrations to develop and retain a highly skilled workforce.
- Performance measures: Some tax administrations have developed processes and systems to measure large taxpayers' levels of compliance and to measure the impact of the tax administration's programs and strategies associated with enforcement or service activity.
- Uses of technology: A variety of information technology tools and programs have been developed by tax administrations to improve taxpayer service and to enhance enforcement activities, for example better data analysis capabilities to improve quality and early identification of risk.
- Development of a mission statement: The importance of designing a mission statement specifically for the large taxpayer segment is to stress and publicize the goals and commitments of the large business unit and to encourage voluntary compliance.

### *Guidance*

90. As stated above, the findings and conclusions of this overview paper should be considered as a first step to advance discussion on various key issues related to the tax administration of large taxpayers. The task-group members are encouraged to conduct further studies and reviews of practices and experiences on

the various topics related to the compliance management of large business. The task-group members are also encouraged to share the results of these reviews with all FTA participating countries.

91. While the task-group may wish to consider some of the above-suggested topics for further detailed and comprehensive study, it would be advisable to expand the existing work group to include other members to increase understanding and sharing of international practices and developments in the area of managing the compliance of large business.

## ABBREVIATIONS AND ACRONYMS

| | |
|---|---|
| AC | Assessment and Control (Norway) |
| APA | Advance Pricing Agreement |
| ATO | Australian Tax Office |
| CRA | Canada Revenue Agency |
| CRM | Client Relationship Manager |
| CTO | Central Tax Office (Norway) |
| DGE | Direction des Grandes Entreprise (France) |
| DVNI | Direction de Vérification Nationale et Internationale (France) |
| ETR | Effective Tax Rate |
| FTA | Forum on Tax Administration |
| HMRC | HM Revenue and Customs |
| HNWI | High Net Worth Individuals |
| IFU | Interlocuteur Fiscal Unique (France) |
| IRS | Internal Revenue Service |
| LB&I | Large Business and International (Australia)) |
| LBS | Large Business Service (UK) |
| LC | Local Compliance (UK) |
| L & C | Large and Complex (UK) |
| LCD | Large Cases Division (Ireland) |
| LMSB | Large and Mid-Size Business (US) |
| LTU | Large Taxpayer Unit |
| ILBD | International and Large Business Division (Canada) |
| NTCA | The Netherlands Tax and Customs Administration |
| TCF | Tax Control Framework (The Netherlands) |
| VLB | Very Large Business (The Netherlands) |

## ANNEX 1

## Survey Questionnaire

## Compliance Management of Large Business

**Description of Large Business Unit**

***1.*** **Identification and definition of large business**

a. Describe the tax administration's criteria to classify large taxpayers?
b. What is the number of entities in the large business category (corporate groups and separate entities)?
c. What is the estimated tax amount large business is responsible for and as a percentage of total tax collected? Describe the scope of taxes covered.

**2. What are the common characteristics of large taxpayers?**

**3. Overall tax administration objectives of large taxpayers unit**

Describe briefly the "mission", "vision" or "functional" statement or an "operating model", if there is one, specifically designed for the large business unit or division.

**4. Organizational structure of large taxpayer unit**

a. Describe the organizational structure of the large taxpayer division or unit (describe key functions performed, operating industry sectors, or segments set up)
b. Describe the resources and capacity employed in the large business unit. What is the size of the staffing (compare to the rest of the organization) and the expertise required for the operation of the large business unit?

**Risk management**

**1. Risk Management Approach**

How the tax administration approaches risk management for large taxpayers? Describe tools and strategies used to identify and assess risk at two levels:

a. High or group level (segment of taxpayers, specific issue, etc.)
b. Individual taxpayer

**2. Risk assessment factors**

What factors are considered when risk-assessing large taxpayers?

**3. Compliance risk indicators**

What are the high-risk characteristics that some large taxpayers typically exhibit? Based on the country's experience, list and discuss briefly the compliance risk indicators.

**4. Response to risk strategies**

What strategies the tax administration uses to deal with non-compliance (prevention and possible early intervention)?

**Managing compliance of large taxpayers**

**1. Compliance issues**

What major compliance issues related to large taxpayers face the tax administration? List specific non-compliance issues and discuss briefly the risk they constitute.

**2. Innovative compliance approaches and programs**

Describe strategies or approaches specifically designed to address some of the compliance issues listed above in sub-section 1.

**<u>Other key issues and activities to achieve large taxpayer compliance</u>**

**1. Relationship building**

Describe strategies and programs developed to build a better relationship with the large taxpayers to help improve voluntary compliance.

a. List and briefly discuss the expectations of the tax administration from the large taxpayers (e.g. disclosure and transparency). Describe briefly innovative approaches and strategies to encourage more disclosure and transparency by large taxpayers.
b. List and discuss briefly the expectations of the large taxpayers from the tax administration (e.g. achieving greater certainly and speedy resolution). Describe briefly innovative approaches and strategies to provide certainty and speedy resolution.

**2. Real-time management approaches by the tax administration**

Describe methods and programs to provide certainty to large taxpayers as well as to assess risk on "real-time" basis.

**3. Impact of corporate governance on tax compliance**

Describe how corporate governance is affecting the large taxpayers' behaviour and expectation (from the tax administration) and how the corporate governance principles are (or can be) used by the tax administration to improve compliance.

**4. Building capability and skills**

Outline approaches used to build the capability and skills needed to operate large business programs in an environment of growing complexity and to address resourcing issues. Describe programs and initiatives implemented to develop and maintain a highly skilled workforce to address compliance issues related to large taxpayers.

**5. Evaluation or performance measures**

Describe the process or system used by the tax administration to measure the large taxpayers' levels of compliance and to measure the impact of the tax administration's strategies associated with enforcement or service activity (measures of overall effectiveness of compliance programs and impact on large business taxpayers).

**6. Approaches used to influence tax policy**

Describe approaches used internally to impact tax policy.

**7. The use of technology**

Describe technological tools used to improve business processes and systems – to increase efficiency in operating large taxpayer unit and to improve taxpayer service.

# ANNEX 2

## Countries' Profiles and Practices

## *AUSTRALIA - COUNTRY PROFILE AND PRACTICES*

### NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

ATO's primary Income Tax (IT) market comprises large businesses with a turnover of around $250m per annum or more. There are around 950 corporate groups in the Large Market with around 4,868 lodging entities and 28,573 total entities. This number includes corporate, partnerships, trusts and superfunds.

### ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

In 2005-06, designated large taxpayers paid $75.1 billion, which is approximately 36% of total tax collected, and which includes company tax, goods and services tax (GST), and excise.

Companies were liable for $47.8 billion in company net tax for the 2005–06 income year, an 18.1% increase from 2004–05. Large companies accounted for less than 0.4% of the total number of companies, but were liable for $30.8 billion, which is 64.5% of total company net tax.

### CHARACTERISTICS OF LARGE BUSINESS SEGMENT

Common large business characteristics are:

- Generally dealing with market leaders (or top ten in each sector) therefore the drivers of commercial activity;
- Complex tax affairs and financial transactions - almost 50% of the IT Large Market population reporting more than ten entities in their corporate group;
- Diversity and extent of tax products they cover i.e. income tax, goods and services tax, excise, superannuation, etc.;
- International dealings with the majority of large businesses having transactions with offshore affiliates;
- Highly concentrated total of income tax revenue for corporate and superfunds; and
- Generally publicly listed corporate companies but also includes multinational companies and some private groups.

Critical role in the revenue system as this sector makes significant payments, withholding taxes and contributions for superannuation.

### LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

As of 30 June 2007, the Large Business and International business line had 891 employees out of a total of 22,342 in the ATO representing about 3.98 percent of the total workforce. The ATO's Large Business and International capability requirements include:

- Legal expertise;
- Tax technical – provision of written advice etc.;
- Economists;
- Accounting;
- Field operatives as defined under clause 33.1 of the "Agency Agreement";
- HR expertise;
- Corporate support; and
- Communications expertise.

### STRUCTURE OF LARGE BUSINESS UNIT

The ATO is structured around revenue types – its market focus is in relation to income tax.

- Large Business and International business line is responsible for income tax in relation to large businesses.
- A special unit within the Goods and Services Tax (GST) business line manages compliance of large businesses in relation to GST.
- There are a limited number of large excise payers.

The Large Business and International business line sits under the Compliance Sub Plan and is organized as follows:

- Deputy Commissioners (DC)
    - DC (Operations) and two DCs (Case Leadership)
- General management team
    - Governance and assurance
- Special advisers
- Industry segments
    - Financial Services Industry Group:
        - major banks (including regional banks)
        - foreign and investment banks
        - insurance and superannuation
    - Energy and Resources:
        - coal
        - gold, nickel, petroleum and gas
        - utilities
        - diversified
    - National Client Group**
        - foreign
        - domestic

**This segment also keeps a focus on key industry sectors such as property and construction, manufacturing, pharmaceuticals, multi-media etc.

The industry segments do the products and casework for the business line e.g. advice, risk, audits, etc.

- Topic segments: International; Capital Gains Tax and Losses; and Innovation
- Practices: Compliance Assurance, Economist Practice, Risk and Intelligence, Business Systems Support, etc.

Practices ensure the functions and processes are performed at an acceptable standard and to identify best practices.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

In the (ATO) "2006 Large business and tax compliance" booklet (at chapter 5), Large Business & International has a two-step approach to risk identification and assessment:

- Step 1 is whole of the population profiling and analysis (involving risk engine and industry/topic segments)
- Step 2 is the risk review product that further tests the cases or issues identified in some depth.

Step 1 is aimed at detecting across-the-board patterns, trends and risks, and specific cases in which tax outcomes seem inconsistent with business performance which are then flagged as potential compliance risks for case selection purposes. It includes the use of risk engine analysis that examines taxpayer-reported information, data from Australian Securities and Investments Commission (ASIC), ATO's own intelligence and publicly available information including data on changes to consolidated groups and major capital gains tax (CGT) transactions.

The risk engine analysis, intelligence from industry segments and other sources are used to determine and assess risk. ATO also undertake special research programs where they seek to further enhance their understanding of issues impacting on compliance in the large business segment and better identify high risk cases.

***Risk reviews***

Risk reviews referred to in Step 2 above comprise Comprehensive Risk Reviews (CRRs), Transfer Pricing Record Reviews (TPRRs) and the more intensive Specific Reviews (SRs). They are designed to test and refine the initial risk hypothesis resulting from the risk identification and profiling stage and determine whether there are any compliance issues that require a more in depth investigation or response.

Typically a risk review will involve collecting and analysing information, identifying tax concerns, seeking an explanation from the taxpayer and assessing whether further compliance treatment (which may or may not involve field work) is necessary.

Risk reviews are usually undertaken at a large business taxpayer level, following the profiling and identification of a preliminary risk hypothesis. However, in relation to major areas of concern, or to ensure that new tax policy is playing out as intended, they may also be carried out at a project level examining a particular risk (or range of risks) across an industry sector or the large business market as a whole.

## STRATEGIES USED TO RESPOND TO RISK

Provide a range of services that help large business taxpayers understand and manage their tax rights and obligations. These include:

- Key client arrangements for the Top 150 groups;
- A premium telephone service;
- The ATO Tax Office Business Portal (on-line);
- A tailored Large corporate and multinational web page; and
- The Large business on line bulletin.

## COMPLIANCE ISSUES

The ATO *2006 Large business and tax compliance* booklet provides information on what may constitute a risk. These may include:

- Related party cross-border and tax haven dealings where tax profit returned in Australia does not reflect the economic contribution made here or the taxable nature of imports;
- Complex structures and intra-group transactions associated with generating tax benefits unrelated to the economic substance of the commercial activity;
- Tax benefits from financial and other arrangements that are disproportionately high compared to the limited financial exposure, or there is a divergence between the real and claimed economic substance of the activity;
- Arrangements or products that transfer or create tax benefits in circumstances not contemplated by the law;
- Characterisation of transactions for tax purposes that is at odds with their economic substance; and
- Distortions and inconsistencies in market valuations.

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# *CANADA - COUNTRY PROFILE AND PRACTICES*

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## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

In Canada, there are 900 primary entities (corporate groups) in the large business category with 6,000 controlled entities.

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

In Canada, the Large Business corporate income tax receipts are approximately $20 billion. This represents about 53% of total federal corporate income tax received. In addition, Large Business is responsible for a large percentage of the GST and excise tax.

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

Some common characteristics of large business include:

- Concentration of tax revenue: a relatively small number of very large taxpayers are responsible for a large part of the tax revenue collected.

- The large business population files about 0.4% of the total number of corporate returns.
- Multiple operating entities that are geographically dispersed.
- Fifty percent of large audits involve international issues.
- Diverse business activities.
- Involvement in transactions that frequently raise complex/novel interpretation of legislation.
- High volume of day-to day activities.
- Complex financing arrangements.
- Use of intermediaries in tax planning.
- Requires highly skilled resources.
- The Canadian large file population risk attitudes to compliance vary in a manner similar to that of the general population (there are portions that are risk takers and others that are risk averse).

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

The total number of employees in the International and Large Business Division (ILBD) is about 1,366 full-time-equivalent (FTE) employees, representing about 3.4 percent of the total workforce of CRA. The ILBD has auditors and field specialists in the area of industry, computer audit, international and aggressive tax planning. The breakdown of the FTE employees in the ILBD is as follows:

- 585 Large business auditors;
- 374 International auditors; and
- 407 Aggressive tax planning specialists.

## STRUCTURE OF LARGE BUSINESS UNIT

CRA is organized into three key components each with distinct roles, responsibilities and accountabilities. These include:

- Commissioner and Agency Management Committee (AMC);
- Headquarters Functional (Programs) and Corporate Branches; and
- Regions, including all operational program delivery.

The organization is derived from CRA's statutory legislation and accountability for results framed around national programs. The headquarters programs provide functional direction and support to the field offices. This includes developing and implementing compliance strategies, providing technical guidance and support, determining budgets and resource allocations, monitoring program delivery and quality assurance and liaising with external stakeholders.

ILBD is a headquarters function within Compliance Programs Branch, which is responsible for Large Business activities within CRA. These include the International Tax, the Competent Authority, the Aggressive Tax Planning, and the Large Business Income Tax and Consumption Tax (GST) Programs. A Director General heads ILBD, supported by four Directors responsible for four Divisions. These Divisions are situated in headquarters. The Director General reports to the Assistant Commissioner of Compliance Programs Branch who reports to the Commissioner of the Canada Revenue Agency. Although ILBD is not directly responsible for source deductions (i.e. employee withholdings) and collection functions, it nevertheless is responsible for the coordination of these functions through the account manager role.

Additionally, there are several headquarters Directorates that provide specialized services that support ILBD. These include:

- Audit Professional Services Directorate (APSD) that provides professional services for all programs delivered by the Compliance Programs Branch, including ILBD. Services include electronic commerce services, quality assurance, technical applications, real estate appraisals, business equity valuations, and professional practices such as national training and learning. In addition, Industry Specialist services within APSD continuously work closely with ILBD to provide industry expertise, which contributes to the enhancement of compliance within specific industry segments.

- Research, Risk and Business Management Directorate supports the Agency's development of effective compliance strategies through comprehensive research and analysis of the factors that contribute to compliant and non-compliant behaviour.

- Operational program delivery is conducted in field Tax Service Offices (TSOs) and Tax Centers (TCs) that report to 5 Regional Assistant Commissioners. Certain TSOs have a natural affinity to particular industries that are prominent in their geographic area. These industries include oil and gas, automobile, pharmaceutical, and financial services (including insurance). Although TCs are typically engaged in the processing of assessments and reassessments, they also support ILBD with various compliance projects.

- Large file audits conducted in TSOs use a team-oriented approach involving a large file case manager who coordinates the audit. The team typically includes large file, international and aggressive tax planning auditors. Large file audit teams are aligned nationally to the distribution of the large business population.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

**Risk Assessment Current:** In the past, large business audits were subject to 100% coverage with risk assessment conducted at the individual taxpayer level based on risk factors regarding the compliant behaviour of the taxpayer (using local knowledge and experience) and identification of risk indicators.

**New Risk Assessment:** ILBD is now moving to a new risk assessment process in which large file risk assessment will be conducted using a two-tier approach (the first tier will be conducted at a regional level and the second tier will be conducted at the field level).

The focus of Tier I will be industry based with a concentration on high-risk taxpayers and issues. Files selected from Tier I will be distributed to field offices where Tier II risk assessment will be conducted, and the risk selection and outcomes will be documented in a newly developed automated risk assessment template (SARAT- Standard Audit Risk Assessment Template) that is used to develop the audit plan.

The following is a partial list of factors considered in assessing the risk of large taxpayers:

- Determine whether the management appears willing to tolerate unusually high levels of risk.
- Determine whether the taxpayer has a history of non-compliance.
- Determine whether management frequently changes banks, attorneys or auditors.
- Determine whether the taxpayer or intermediary is engaged in or has been convicted (in a court of law) of any unethical behaviour.
- Determine whether management tends to interpret tax legislation aggressively.
- Determine whether the taxpayer has transactions without substantial economic justification.
- Determine whether the taxpayer has a significant number of related party transactions.
- Determine whether the taxpayer incorporates prior audit adjustments into its current tax return voluntarily or whether CRA is obliged to reassess subsequent years.
- Determine which key factors affect the taxpayer's business and tax returns (such as ownership, management and business structure, finance and personnel).
- Determine the taxpayer's global effective tax rate compared to the industry average.
- Determine which significant external factors affect the taxpayer's business and the tax returns (such as industry matters and general business environment).
- Determine the key elements of the management control process.

## STRATEGIES USED TO RESPOND TO RISK

- Increasing auditor commercial awareness particularly of high risk industries through formal training and on the job training;
- Active communication to increase awareness of Agency compliance activities among taxpayers, clients, intermediaries and parliamentarians;
- Development of more sophisticated risk profiles;
- Strengthening and modernizing core compliance programs by focusing on compliance strategies appropriate to taxpayer risk profiles. This includes dramatically reduced audit intervention for low risk taxpayers (about 60% of the population verified by risk analysis) and more resources and full use of compliance tools on high-risk taxpayers;
- Development of enhanced policy and legislative change proposals to target non-compliance facilitated by intermediaries;

- Use of legislative tools where appropriate including requirements for information, compliance orders, penalties;
- Leveraging exchanges of information- bilateral, and multilateral;
- Analyzing historical patterns of high-risk compliance issues;
- Moving to an integrated team approach for large businesses which draws on the skill sets of international and aggressive tax planning experts; and
- Concentrating on high-risk industries and developing audit expertise to address complex industry-specific non-compliance issues.

## COMPLIANCE ISSUES

- Transfer Pricing
- Transfer pricing with Paid-Up-Capital (PUC)
- Non-resident withholding on deemed dividend
- Income gain on sale of assets
- Takeover earnings
- Foreign exchange
- Expenses of subsidiaries
- Taxpayer requested adjustments denied
- Canadian Development Expenses- Pool adjustments
- Losses allowed
- Tax Avoidance issues (e.g. offshore entities, hybrid entities, foreign tax credit generator, captive insurance)

# *FRANCE - COUNTRY PROFILE AND PRACTICES*

## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

There are 2,000 key large taxpayers (based on large business definition), 1,000 corporate groups, 32,000 legal entities, and more than 300 000 permanent establishments.

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

The French large business unit, Direction des Grandes Enterprise (DGE), is responsible for 1/3 of the tax flow (tax collection as well as tax refund) for the 2007 tax year:

- VAT: 37% (32 billions €);
- Corporate tax: 50% (59 billions €);
- Local tax (TP): 50% (12 billions €); and
- Tax refunds (Corporate tax and VAT): 45% (24 billions €).

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

- Worldwide location: large taxpayers are spread all over France (including the French overseas such as LA REUNION Island in the Indian Ocean and the French West Indies).
- Complexity: many large taxpayers' tax affairs are complex because of specific tax rules applicable to large businesses and legal and tax arrangements used by them and due to their own complexity and specificity of their activities and the big amount of their accounting data.
- Concentration of tax revenue: a relatively small number of very large taxpayers are responsible for a large part of the tax revenue collected.
- High financial stakes: the amounts of the operations or transactions are very high, in terms of tax collection and tax refund.

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

The total number of staff in the DGE is about 800 (of whom 33 belong to the managerial staff), compared to 77 000 tax officers in the French tax administration.  About 154 of the staffing are composed of specialized tax officers who work in the IFU teams.

Twenty-five tax agents work in the Accounting department handling tax collection and debt enforcement. The rest of the staffing are deployed among the other departments, and belong to clerical and support staff, with technical skills adapted to their job.

A strong professional training policy is implemented in the DGE, due to the distinctive nature of the structure. Indeed, an intensive specific further training plan is drawn up each year to develop and update the agents' knowledge and to match their individual skills with the job requirements.

Many of the DGE staff members have a high educational background (Master and Bachelor's degrees).

## STRUCTURE OF LARGE BUSINESS UNIT

The French tax administration for large businesses has two structures for one mission. For about fifty years, the directorate of national and international audits (DVNI) has been in charge of the audit of large companies. However, management of the tax files of these companies has just been the responsibility of the Large Businesses Directorate (DGE) since 2002.

The new organization entails a close cooperation between the two directorates, complementing their effort for instance in the area of planning tax audits or collecting reassessed right.

Headed by a general manager, the DGE is responsible for the assessment, collection, and control of all taxes owed by the large taxpayers. The DGE and the various departments and units, described below, are situated in one central location in Pantin. The structure is briefly described below:

- A directorate consists of a Board and four divisions (Human Resources, Tax management, Tax audit and Collection Settlement, and Legal matters). These units ensure the assistance of the operational IFU ("Interlocuteur Fiscal Unique") teams described below.

- Fourteen IFU teams composed mainly of inspectors, dealing with a limited number of business sectors such as heavy industry, chemicals, construction, financial services, luxury goods, etc., to become experts on their key issues. They are operational units, interacting with the large taxpayers, monitoring the management, control, and collection of taxes.

- Horizontal units were established to support the operations and activities of the DGE (IT unit, documentation unit, management department, software development unit, etc.).

- There is an accounting department responsible for collecting and issuing tax refunds and dealing with the debt enforcement.

- A Quality Accounting Unit was created in September 2006 to monitor and assure the quality of the accounting rules.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

- Sudden behaviour change such as decreasing income revenue declared or a profit-making business
- Continuous loss-making business
- Transfer pricing
- Restructuring and business transfer arrangements
- Industry issues, taxpayers systems and internal controls
- Historical examination

## STRATEGIES USED TO RESPOND TO RISK

A prevention policy based on a better quality of service and better communication is implemented for better guidance to assist large taxpayers in meeting their obligations and to comply with the tax rules. These are two key issues in the tax administration strategy. Their aim is to simplify the administrative procedures and to offer users an easier access to a more active and open administration, in particular by developing IT tools and by organising the administrative structures so as the taxpayers have only one interlocutor.

## COMPLIANCE ISSUES

The French tax administration has to face tax avoidance through, in particular, legal and tax arrangements set up by the large businesses in France or abroad. International transactions present a high-risk level of dissimulating tax revenue by using a worldwide tax strategy to transfer profits to countries that have a low tax system.

National legal arrangements can also be used for tax avoidance by creating a network of profit-making and loss-making firms.

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# *IRELAND - COUNTRY PROFILE AND PRACTICES*

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## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

There are about 370 large corporate groups, approximately 13,000 subsidiaries, and 360 high net wealth individuals (HNWI).

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

Percentage of all taxes collected come from large business are:

- 2005 - 45.3% of total net tax; and
- 2006 - 41.3% of total net tax.

Large Cases Division (LCD) has responsibility for all taxes and duties as follows: Customs, Excise, VRT, Betting tax, Income tax, Capital gains tax, Corporation tax, Stamp duties, Capital acquisitions tax, PAYE/PRSI, VAT, Withholding taxes (RCT, PSWT, DWT, DIRT and other withholding taxes on investments)

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

LCD's case base includes the largest businesses and taxpayers in Ireland, a number of which are smaller parts of global operations. They are generally well represented by external and internal accountants and advisors and many have relationships with other State agencies in Ireland. They tend to be very influential in shaping policy and many use global tax planning extensively.

Ireland's experience to date has been that the majority of the large taxpayers they deal with make a serious attempt to comply with their tax obligations. Typically they attempt to calculate their tax liability in accordance with the law and pay that liability on time. Typically they tend to have very robust internal controls in place. Typically they also tend to have, either in-house or retained, experienced tax-technical resources and significant experience in tax planning in a global context.

In addition, Ireland's experience also has been that there are certain risks that are common to all large taxpayers and then there are risks that are case specific. The risk treatment options LCD pursues are very much influenced by the nature of the risk being addressed.

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

The total number of employees in the LCD is about 237 representing about 4 percent of the total workforce of the Irish Revenue.

**Functions requiring knowledge and skills**

- General audit in complex large cases
- Computer audit at data analysis level
- Influencing of business management and professional advisors
- Interpretation of the most complex tax law and practice
- Tax policy analysis
- Business knowledge – with specialist business knowledge of particular business sectors

- Training/mentoring in these areas

**Knowledge and Skills Requirements for these Functions**

- Broad knowledge of business and specialist knowledge of particular business sectors
- Broad knowledge of accountancy concepts
- Capacity to analyse and understand tax planning concepts and tax dilemmas and the fundamentals of accountancy and commercial law
- Broad knowledge of all the main taxes and ideally specialist knowledge in one tax area
- Advanced accountancy knowledge, e.g. corporate structures, mergers/acquisitions etc.
- Advanced auditing skills
- Understanding of the key tax policy issues relevant to their portfolio
- Management (incl. resource allocation), leadership and interpersonal skills
- In-depth knowledge of the workings of particular economic sectors (Industry experts)

## STRUCTURE OF LARGE BUSINESS UNIT

Large Case Division is headed by an officer at the Assistant Secretary level. The Division's case-base is dealt with by Business Units based on economic sectors, as follows:

- Construction, Property, Mining and Energy;
- Drink, Tobacco and Multiples;
- Financial Services (Banking);
- Financial Services (Insurance);
- Financial Services (Pension Schemes);
- Food Industry;
- Healthcare & General Manufacturing;
- Information & Communications Technology;
- High Wealth Individuals;
- Oil, Motor and Betting Industries; and
- Services, Media and Leisure.

The Division also has specialist Anti-Avoidance Units, a Computer Audit Unit, a Research Unit, a Customer Service/Processing Unit, and a Central Office.

LCD is responsible, with some exceptions, for all Revenue operational activities in respect of its case-base. This focus on large customers is designed to deliver benefits both to the large customers in terms of improved customer service and to Revenue in terms of consolidated risk assessment and management of their largest taxpayers.

One of LCD's objectives is to gain as full an understanding as possible of the tax related issues facing large cases; their approach to dealing with those issues; their performance in managing their tax affairs; their tax related strategies; and their capability in relation to the proper management of their tax affairs. In order to develop this understanding, LCD maintains regular dialogue with their case-base. LCD also takes an active approach to making its views clear to its cases and seeking improvements where it considers there are shortcomings in the taxpayer's management of its tax affairs. LCD also undertakes audit programmes and its focused engagement with large business are prioritised according to identified or perceived risks.

Each large case is assigned a Case Manager whose role is to:

- Monitor the case's compliance with its tax and duty obligations;
- Act as a single point of contact in Revenue for the large business and ensure the provision of a high quality customer service;
- Promote the cooperative compliance approach;
- Orchestrate any intervention and enforcement follow-through that is required where there is a breakdown in return or payment compliance across any of the taxes or duties;
- Establish and maintain risk profiles of large cases; and
- Inform and participate in any audit interventions for their cases.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

- Review of audit experience in sector
- Review of trends in tax payments by taxpayers and in key ratios in the sector
- Review of compliance record of taxpayers, of management culture and of relative risk in public/private companies etc.
- Review of taxpayer profile including risks arising from accounting systems, personnel, etc.
- Review of relevant avoidance experience relevant to sector
- Review of risk overview coming from interaction with taxpayers and advisors in course of cooperative compliance and visiting programme
- Review of significant recent risk issues of general relevance to all sectors
- Review of Regions experience of risks in particular sectors – via Networks etc.
- Review of appeals and current case law experience impacting the sector
- Review of sector or taxpayer-specific business intelligence and distilling this down to tax risk indicators
- Review of taxpayer profiles to identify any trends pointing towards potential risk
- Screening, with specific risks in mind, of returns/accounts to identify taxpayer-specific or sector-wide risks
- Review of relevant issues coming from ECJ or EU
- Review of relevant experience in other jurisdictions

## STRATEGIES USED TO RESPOND TO RISK

LCD's experience has been that the tax risks in large cases are different from those in SME's and that the treatments necessary to address them are equally different. LCD's overall approach is based on providing quality customer services, identifying and addressing risks, attempting to influence compliance behaviour through targeted interventions and the cooperative compliance strategy, and responding quickly to emerging issues.

LCD is continuing to build profiles on a case-by-case basis to include the compliance and audit history across all tax-heads, data published by external sources, and LCD's own analysis of the case. This involves extensive research on the cases, detailed analysis of each case, developing understanding of the cases and the business environment in which they operate, analysing available information, and developing risk profiles to drive operational activities / other approaches to address the risks.

In summary, LCD is about developing an industry aligned approach, new and improved business processes, new services, better trained staff, better technologically equipped staff, more managerial involvement and improved compliance strategies. It's about making informed choices about what compliance risks to treat and how, and consistent with that, where to best apply the resources available. It's also about applying expertise to the needs of sophisticated taxpayers with a view to ensuring lasting compliance.

## COMPLIANCE ISSUES

- Payroll including executive remuneration, Share options and BIK / Expense payments
- Value-Added Tax includes VAT on property, Intra-group payments, 4th Schedule Services, disallowable inputs, repayments and cases not registered for VAT
- Corporation Tax includes company reconstructions, R&D tax credit, interest payments / royalty payments, capital allowances, transfer pricing and Foreign tax credits
- Income Tax includes income shown as chargeable at the 20% residential rate, capital disposals, property valuations, share valuations, and Film Partnership & Relief Cases
- Customs includes entitlement to exemptions, misclassification of goods, valuation and high value importers
- Excise includes misclassification of oil product, unapproved use of duty rebated products, excise warehouses, and registered excise traders
- Others includes vehicle Registration Tax, stamp duty, capital gains tax, relevant contracts tax, capital acquisitions tax, e-levy and tax stamps

# *THE NETHERLANDS - COUNTRY PROFILE AND PRACTICES*

## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

The Netherlands Tax and Customs Administration (NTCA) is responsible for 2,000 corporate groups in the very large business segment.

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

Very large businesses are responsible for about 60% of the total tax collected. All taxes are covered, except local taxes. It is an estimate that large businesses contribute about €80 billion to the total amount of tax collected (including contribution national insurance).

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

Large business can be characterised as large complex organisations with complex problems. Tax issues predominantly have an international dimension. The majority of the companies have an in-house tax department. The financial interests at stake are high and enable them to use the services of high-end intermediaries. They are well organised through organizations of employers/entrepreneurs (e.g. in the Confederation of Netherlands Industries and Employers) and tax intermediaries/advisors organizations (the Netherlands Organization of Tax Advisors). Decisions made by the NTCA are communicated swiftly among the tax directors of the large businesses and tax advisors.

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

The NTCA has dedicated 750 full time equivalents of staff, mostly lawyers, economists and CPA's to the very large businesses.

## STRUCTURE OF LARGE BUSINESS UNIT

The NTCA distinguishes several categories of taxpayers: very large businesses,[17] medium-sized businesses, small businesses and individuals. Thirteen (highly autonomous) regional offices are responsible for levying and collecting all taxes, except for excise duties. Four customs-offices are responsible for excise duties.

The segment of very large businesses (VLB) consists of around 2,000 multinational companies and large non-profit organisations. Since 2003, NTCA has had special attention for these types of organisations because of their contribution to the national budget, publicity and political risks, and complexity of the problems.

Nine of the thirteen regional tax offices have special teams that are responsible for levying and collecting of all taxes, except excise duties, of VLBs. The nine offices with special VLB teams are managed by two members of the management teams of the tax offices in Amsterdam and Rotterdam together with the Coordination group for treatment of very large businesses.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

Risk management is an integral part of the supervision and enforcement strategy of the NTCA. In assessing the importance of tax risks both the financial importance and the impact on society play an important role. If possible, the NTCA cooperates with other law enforcement organisations.

The NTCA does not categorise general compliance risks in the large business area. The NTCA risk management is performed on an individual basis. The tax-risks or issues related to a company are registered in a special database named ATK. If the NTCA detects a common phenomenon, it will address it in the entire population.

## STRATEGIES USED TO RESPOND TO RISK

In the treatment of VLBs, the NTCA has chosen a customised approach. Each company has an account manager within the tax administration. Based on previous experiences, e. g. audits, monitoring of the company and other intelligence and knowledge on their internal control systems for tax purposes, NTCA establishes the specific compliance risks of that company. The account manager is responsible for

[17] Businesses include non-profit organizations. In the Netherlands all on-profit organizations with a WOLB- amount (weighted average amount of all taxes payable) of more than €37,5 million qualifies as a very large business.

developing a strategic plan for the companies he or she is responsible for. The strategic plan together with the compliance risks are registered in a special (ATK) database. After registration compliance risks have to be matched with available capacity. This matching process first takes place within the teams and if necessary on a nationwide basis.

## COMPLIANCE ISSUES

- Transfer pricing
- Financing arrangements (debt vs. capital)
- Entity classification (hybrid or not)
- International tax arbitrage
- Valuation of derivatives
- Permanent establishment issues
- Stock option schemes
- Process risks for VAT and wage tax

# *NORWAY - COUNTRY PROFILE AND PRACTICES*

## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

The Central Tax Office (CTO) is responsible for the assessment and control of about 90 groups of companies with 1,630 units. A large number of the 1,630 units are small or medium size companies due to the special criteria to include them in the large business unit.

The CTO is also responsible for about 296 CFC companies, 692 shipping-companies and 129 hydro-electrical power-producing companies. These categories of taxpayers include small, medium and large size companies.

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

The large enterprises administered by the CTO paid NOK 10 billion (approx. 1.25 billion Euros) in 2006 in company tax, approximately 16% of total tax collected from companies (oil and gas companies not included).

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

- Concentration of tax revenue: a relatively small number of large taxpayers are responsible for a large part of the tax revenue collected.
- Complexity: many large taxpayers' tax affairs are very complex, such as intra-group and cross-border transactions, heavy use of advanced financial instruments and extensive reorganization of business.
- International business activities
- Highly competent legal, accounting, and tax advisors generally serve large taxpayers, and some have their own in-house legal, tax, and accounting departments.

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

The CTO has approximately 55 employees with various backgrounds, which include attorneys, accountants, auditors, economists, and others.

## STRUCTURE OF LARGE BUSINESS UNIT

The Norwegian tax administration has implemented a new organization on January 1, 2008. There are five regional tax offices (Tax North, Tax Mid-Norway, Tax West, Tax South and Tax East) and five tax appeal boards. In the new organization, the CTO for Large Enterprises (established in 1992) is part of Tax East regional office and it has its own separate tax appeal board.

The CTO is headed by a "Director" with three "Assessment and Control Departments" (AC-Departments) Directors reporting to him or her. AC-departments are responsible for the management compliance of the large enterprises.

Two of the three AC-departments are also responsible for the assessment and control of shipping companies, CFC companies, and hydro-electrical power producing companies.

Each AC-department consists of a number of business sectors (4-8 persons), and a number of Assessment and control teams (2-4 persons). The business sectors are financial services (bank and insurance), technology, goods and construction, hydro electrical, CFC and shipping.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

- Impact on future years
- Industry issues (practices and trends),
- New tax legislation,
- Transaction and functional analysis
- Identified tax-issues
- Previous audit experience
- Large single transactions

## STRATEGIES USED TO RESPOND TO RISK

- Conducting simultaneous assessment and control
- An open dialogue
- Advanced rulings (binding and non-binding)
- Emphasize the needed competency within the tax administration
- Respect and integrity to build confidence and trust

# *UNITED KINGDOM - COUNTRY PROFILE AND PRACTICES*

## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

There are approximately 15,000 businesses falling into the EU definition of large of which Large Business Service (LBS) deal with the largest 900 businesses (corporate groups).

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

Using the current population, the latest data (February 2008) shows that LBS businesses paid a total of about £160.8 billion in the 2007 financial year:

- Corporation tax: £25.1 billion;
- VAT: £27.5 billion; and
- Employer Compliance (NI and IT): £108.2 billion.

Considering Corporate Tax (CT), VAT and Employer Compliance in 2006-7, these businesses contributed 48% of the corporate entities tax receipts.

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

- High turnovers
- Large balance sheet capital
- Significant tax and duty payments
- They are the largest UK employers
- Diverse, with complex tax and duty arrangements
- Complex international issues including transfer pricing, thin capitalisation and numerous Controlled Foreign Companies, significant issues related to relief from Double Taxation.

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

LBS employ 1,694 FTE tax, accountant, audit, and other specialists. About four percent of the 82,821 employees in HMRC work in the large business segment. Expertise required for the operation of Large Business Services includes:

- Inspector Training Stages 1 & 2;
- Inspector Development Programme;
- VAT Legal & Technical Training;
- Excise Legal & Technical Training;
- International Trade Legal & Technical Training;
- Association of Institute of Indirect Taxation;
- Chartered Tax Adviser;
- Institution of Internal Auditors; and
- Practitioner with the Institute of Internal Auditors.

## STRUCTURE OF LARGE BUSINESS UNIT

Large taxpayers are dealt with within both Large Business Service (LBS) and Local Compliance Large & Complex unit. The LBS is headed by a Director with leadership and management teams that are headed by a National Business Director (NBD) that has responsibility for a number of sectors. Also reporting to the Director are the Head of Risk and the Head of Change and Corporate Support. These roles are replicated in Large and Complex.

The compliance operations are then organised into 17 sectors: Agriculture & Food; Alcohol & Tobacco; Automotive; Banking; Business Services; Chemicals, Healthcare & Pharmaceuticals; Construction; General Retailing; Insurance; Leisure & Media; Manufacturing; Oil & Gas; Public Bodies; Real Estate; Telecommunications & Information Technology; and Transport and Utilities.

Sector Groups have a Sector Leader who is accountable for achieving the service and tax compliance objectives of the LBS. The sector focus strengthens the understanding of the dynamic commercial environment in which businesses operate. Customer Relationship Managers (CRMs) are allocated to each business within each of the sectors and are accountable to the Sector Leaders.

Within Local Compliance, operations are not split into sectors, however. Customer Managers (the equivalent of CRMs) have been allocated to the most complex businesses.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

The generic risk factors used to develop risk assessments at an individual business level are:

- the size, structure & complexity of the business;
- tax governance;
- treasury/financial;
- use of avoidance arrangements and schemes;
- strength of underlying systems;
- legal complexity and challenges to the law;
- co-operation;
- the compliance history of the business;
- amount of tax at risk in the context of the scale of the business;
- the probability of securing the additional tax thought to be at risk; and
- the level of impact of the issue on the business/sector.

## STRATEGIES USED TO RESPOND TO RISK

HMRC LBS' aim is to encourage and support customers to have low risk relationships based on openness and trust, providing earlier and greater tax certainty. LBS encourages and trusts them to bring significant tax risks to its attention at an early stage. Where there is a low risk relationship, it undertakes full risk assessments every two or three years, and interventions instigated by HMRC are the exception rather than the norm.

Where LBS believes that a customer is either not managing tax compliance risk adequately, or takes a position, which, because of its innovative nature and/or its intended tax effect presents a significant risk, LBS will deploy the full range of specialist resource across HMRC and work intensively with that customer to enable rapid reduction in their risk profile.

Customers HMRC see as higher risk can expect:

- more regular risk reviews;
- more interventions;
- more in depth reviews of systems and processes;
- more detailed and thorough investigation of tax issues by teams drawn from across HMRC;
- use of information powers and litigation; and
- intensive projects to improve compliance.

LBS will target its interventions on those areas of highest tax risk and concentrate more resource on customers it sees as higher risk. The levels of interaction will be more intensive and increase according to the scale and nature of the risks identified.

LBS will assemble project-based task forces of expertise across HMRC carrying out detailed and in depth investigations with greater intensity and to faster timescales, obtaining legal advice earlier, and using information powers as appropriate. Where there is a serious tax risk LBS will engage directly at Board level to try to persuade the customer to change the behaviours that are generating those risks.

LBS has developed and employed a Litigation and Settlement Strategy, which covers all taxes and duties. Decisions on whether to litigate are made on a consensus basis between the case owner, solicitors, and the specialists involved.

Issues are prepared for litigation from the outset, taking early legal advice and dropping weak arguments. A Litigation Review Panel ensures consistent standards are implemented and the best use of legal resources.

LBS' aim is to work with the customer to improve the weaknesses it sees in their tax compliance and encourage a low risk relationship.

## COMPLIANCE ISSUES

The largest areas of non-compliance are the use of financial instruments, international issues including transfer pricing, leasing, statutory allowances and reliefs, computations of trading profits, Capital Gains and avoidance. Tax avoidance is a big risk and cuts across all of the issues listed.

Within these, two of the biggest risk areas are CT avoidance (both marketed and more bespoke schemes) and International issues. The first type of risk would cover avoidance in a number of different parts of the tax code and would for instance cover schemes involving foreign exchange and inter-group financing arrangements designed to create a tax mismatch. International risks would include related party cross-border transactions and dealings with tax havens not in accordance with the arm's length principle.

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# *UNITED STATES - COUNTRY PROFILE AND PRACTICES*

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## NUMBER OF ENTITIES IN LARGE BUSINESS SEGMENT

The IRS large business unit, Large & Mid-Size Business (LMSB), serves approximately 220,500 corporate and partnership entities, with an additional 254,000 subsidiaries. Information based on the estimated 2007 filing.

## ESTIMATED TAX AMOUNT AND SCOPE OF TAXES COVERED BY LARGE BUSINESS

Total US collections exceeded $2.7 Trillion in Fiscal Year 2007. Corporate collections were 14.6% at $395.5 Billion. It is estimated that 90% or $356 billion of corporate tax collections are from LMSB taxpayers.

## CHARACTERISTICS OF LARGE BUSINESS SEGMENT

In the US, shareholder and corporate profitability, competitiveness, and the business environment drive the characteristics of the US LMSB taxpayer. Six percent of US LMSB corporate filings account for 84% of the total corporate taxes paid. Some of these corporation's characteristics include:

- The largest corporate returns;
- Substantial international operations, increasing dramatically;
- Complex issues, businesses and organizational structures;
- Aggressive/abusive tax positions and transactions; and
- Representation by the most sophisticated and highly paid professionals in the business.

## LEVEL OF STAFFING AND EXPERTISE TO OPERATE LARGE BUSINESS UNIT

As of FY 2006, LMSB had 6,243 employees; 10% of these employees are in Headquarters. The total number of employees in the IRS is approximately 94,000. The LMSB Revenue Agent is a professional accountant who examines and audits individual, business and corporate tax returns to determine correct federal tax liabilities and conduct examinations relating to compliance with technical requirements imposed by the Internal Revenue Code. To qualify as a Revenue Agent, a bachelor's degree or higher in accounting from an accredited college or university that includes at least 30 hours of accounting or have a Certificate as a Certified Public Accountant is required. The position also requires at least one year of specialized experience in a progressively responsible and diversified accounting or auditing work.

In addition, specialists such as engineers, computer audit specialists, economists, financial product and international specialists are employed. These specialists require additional specialized knowledge in their respective areas. This knowledge requires additional college credit and/or experience.

## STRUCTURE OF LARGE BUSINESS UNIT

The LMSB Division is set up with a Commissioner at the head and two Deputy Commissioners, Deputy Commissioner of Operations and Deputy Commissioner of International.

The Deputy Commissioner of Operations covers the following departments:

- Planning, Quality, Analysis and Support: Measures organizational performance, provides examination and support tools to the field, and coordinates development and monitoring of the annual examination program.

- Research and Workload Identification: Conducts research and data analysis and develops criteria for audit selection to identify the highest risk examination workload.

- Management and Finance: Finance and budget, Human Capital, Training and Leadership Development, Strategic Planning, Communications & Liaison.

- Business Systems Planning: Develops and Supports Technology infrastructure and systems for data.

- Pre-Filing and Technical Guidance: Ensures consistent treatment of technical issues nationwide through the Technical Advisor Program, Office of Tax Shelter Analysis, Pre-Filing agreements and Industry Issue Resolution agreements.

- LMSB is organized along five industries and one group of specialists. International examiners are aligned with the five industries.

    1. Financial Services consists of taxpayers involved in commercial banking, savings and loans, life insurance, property & casualty insurance, securities and private pools of capital including hedge funds and private equity.
    2. Heavy Manufacturing and Transportation consists of taxpayers involved in air transportation, railroads, aerospace, motor vehicles, trucking, shipping, and real estate.
    3. Communications, Technology and Media consists of taxpayers involved in computer production, media (including communication and software), sports franchises, and recreational firms.
    4. Natural Resources and Construction consists of taxpayers involved in oil and gas, mining, utilities, forestry, chemical, waste management, and construction industries.

5. Retailers, Food, Pharmaceuticals and Healthcare consist of taxpayers involved in food and beverage, retailing, pharmaceuticals, agricultural commodities, farms, and healthcare.

   Field Specialist Organization supports the examination function by conducting efficient, fair, and timely examinations in five specialty areas. Field Specialists include computer audit specialists, LMSB employment tax specialists, economists, engineers and financial products examiners.

Deputy Commissioner of International covers the following areas:

- Coordinates service-wide approach to international tax administration;
- Serves as Competent Authority;
- Administers tax treaties and relationships with foreign tax authorities;
- Maintains overseas posts-of-duty;
- Develops and conducts compliance programs involving US taxpayers abroad and foreign taxpayers in US, individuals and businesses;
- Joint International Tax Shelter Information Centre (US, Canada, U.K., Australia, Japan, with centres in Washington, DC and London); and
- Foreign Resident Compliance.

## FACTORS CONSIDERED IN RISK-ASSESSING LARGE TAXPAYERS

Factors considered in risk-assessing LMSB taxpayers:

- Use current published financial information and financial/investment risk assessment;
- Use current tax information: Modern electronic Filing and "Schedule M3" data;
- Use related entity information (Enterprise Risk);
- Research and Exam Expert collaboration to develop and evaluate filters and filter hits;
- Maintain planning files to enable trend analysis, comparative analysis, and to incorporate field feedback; and
- Case scoring, selection and field delivery integrated into existing & planned LMSB processes.

The risks identified by filters come from:

- Industry & Specialist Liaison teams;
- Pre-filing and Technical Guidance Emerging Issues;
- Research Services;
- Research Analyst & Subject Matter Expert Review;
- Research Consultants (Analytics);
- Feedback from the field; and
- Analytic Specific Filter (Schedule M3 - effective tax rate, large book to tax difference and tax cushion).

Feedback will be collected from agents and team managers in four areas to identify areas for improvement:

- Filter Feedback;
- New Issue Feedback;
- Issue Closure Feedback; and
- Case Building Feedback.

## STRATEGIES USED TO RESPOND TO RISK

Some of the strategies and methods to respond to risk include Compliance Assurance Process, Pre-Filing Agreement Program, Modernized E-file, International, and Tax Gap, among others.

The LMSB Division is working with large business taxpayers to identify and resolve issues prior to the filing of a tax return. The objective of the Compliance Assurance Process (CAP) is to reduce taxpayer burden and uncertainty while assuring the IRS of the accuracy of tax returns prior to filing, thereby reducing or eliminating the need for post-filing examinations. The CAP will reduce taxpayer burden through the contemporaneous exchange of information about completed events and transactions that affect tax liability, rather than through the traditional examination process. The CAP will also foster compliance by helping the IRS achieve its goal of shortening examination cycles and increasing currency for taxpayers while enhancing the accurate, efficient, and timely final resolution of increasingly complex corporate tax issues. In addition, the program will assist in increasing audit coverage by providing a more efficient use of audit resources. Finally, the program will allow taxpayers to better manage tax reserves and ensure more precise reporting of earnings on financial statements.

The Pre-Filing Agreement Program (PFA) was designed as a component of the Large and Mid-Size Business Division's issue management strategy. Briefly, the program encourages taxpayers to request consideration of an issue before the tax return is filed and thus, resolve potential disputes and controversy earlier in the examination process. The effect of the program is to reduce the cost and burden associated with the post-filing examination, to provide a desired level of certainty regarding a transaction and to make better use of taxpayer and IRS resources.

IRS e-file is the name for the electronic filing of tax returns. When a corporation e-files they send their income tax return data to IRS electronically instead of on paper forms. In 2004, IRS started a new e-file system for corporations, referred to as "Modernized e-file" (MeF) that is web-based, allowing electronic filing of corporate income tax returns through the Internet. MeF uses the widely accepted XML format, a standardized way of identifying, storing, and transmitting data. Modernized e-File provides electronic filing and payment options for businesses. Certain LMSB corporations are required to file electronically their Forms 1120 and 1120S. Other corporations may do so voluntarily.

## COMPLIANCE ISSUES

LMSB's major compliance issues include:

- Loss Importation transactions;
- Abusive Trust Arrangements Utilizing Cash Value Life Insurance Policies Purportedly to Provide Welfare Benefits;
- Inter-company Financing Using Guaranteed Payments;
- Foreign Tax Credit Intermediary;
- Tax Avoidance Using Offsetting Foreign Currency Option Contracts;
- Offshore Deferred Arrangements;
- Lease-in/Lease-out (LILO) Transactions; and
- International Hybrid Instrument Transactions.

## ANNEX 3

## High Risk Corporates Programme – United Kingdom

***HM Revenue and Customs – Approaches to Identify High-Risk Large Taxpayers and the Employment of Effective Means to Deal With Non-Compliance, Including Strategies to Influence their Behaviour to become Compliant***

**High Risk Corporates Programme**
The High Risk Corporates Programme (HRCP) started in early 2006.

The programme has three strategic aims:

- to influence some large corporate customers to take a less aggressive approach to tax mitigation and tax filing positions;
- to increase the openness with which they disclose transactions and their tax impact; and
- to collect as effectively as possible the correct amount of tax from their transactions and profits – if necessary determining this by litigation.

It focuses on the highest risk cases in the Large Business Service (LBS).

The programme is to carry out intensive enquiry projects into the customers' transactions and systems. It has the following key features:

- Clear criteria governing which cases are selected;
- Early and continued discussion at the customer's Board level to explain HMRC's reasons for including the customer in the programme and to encourage progress towards the strategic aims;
- Inclusion of cross-HMRC specialists and experts in the enquiry teams at all stages– including investigators, tax policy subject specialists, solicitors and accountants;
- Early reference of difficult issues to Counsel for advice on technical questions and enquiry handling;
- Effective planning for the enquiry process, where possible collaboratively with the customer, to ensure resources and skills are available when required to ensure enquiries have a fast pace of progress; and
- A high level of governance of the enquiry process to ensure that progress and issue resolution decisions are in line with the strategic aims.

**How do we identify High Risk Corporates?**

Cases are selected using the following criteria to identify the highest risk cases where a project has the greatest likelihood of fulfilling the programme strategic aims:

- The tax at risk from open potentially contentious filing positions or transactions;
- The reliance on artificial or contrived tax mitigation schemes exploiting perceived anomalies in the law;
- The attitude to an open relationship with HMRC and the quality and timeliness of disclosure of transactions;
- The quality of the customer's governance and systems for identifying and controlling tax risks and for filing tax positions; and
- The ability of HMRC to resource the likely areas of enquiry with appropriately skilled and knowledgeable people.

A Programme Board, consisting of directors or deputy directors of various HMRC directorates, chaired by a member of the HMRC Board, decides which cases are included in the programme. This Board meets monthly to review the programme's progress as a whole and that of each project within the programme.

**What Strategies does the Programme use to improve compliance and reduce tax at risk?**

Each project is started with a meeting with the Finance Director or other Board member of the customer, led by an HMRC Board member or Director. The aim of this is to set out the terms for the project, explain the reasons for selection and invite, and discuss collaboration.

Each project is run by a senior enquiry co-ordinator who works with the customer relationship manager. Cross-directorate teams of investigators, tax specialists, subject area specialists, avoidance consultants, accountants and lawyers are formed to progress enquiries intensively and effectively.

The enquiry process is worked on a project-managed basis, planned where possible collaboratively with the customer, so that all parties are clear what the intended timelines are and what work is likely to be needed from each.

Difficult legal areas are referred quickly to Counsel for an opinion.

With collaboration, this approach has enabled enquiries to reach a decision point on whether to litigate an issue in weeks or months rather than years.

HMRC continues engagement at Board level throughout the project.

It asks the customer to set out a clear statement of its tax strategy, including its attitude to tax mitigation arrangements and to compliance and disclosure. HMRC promotes the advantages of early disclosure and full co-operation in providing information to enable HMRC to reach decisions quickly. HMRC explains that it will continue to apply intensive action if there is no substantive change in the tax planning strategy, with commensurate increased risk that the corporate will be subject to significant litigation burden.

HMRC makes it clear to the customer throughout that the HMRC policy on settlement and litigation of issues will be followed. Under this, decisions on how to resolve each issue will be individual to that issue: there will be no "deals" in which one issue is traded for another, and any outcome on an issue must be clearly supportable within the legal framework.

**How is this different from how HMRC tackle normal risk?**

HRCP uses a project management approach to prioritise a large pool of specialist resource to issues of greatest risk and to work those issues more intensely and to faster timescales than is traditionally the case.

A key feature is the creation of a single HMRC team or task force that brings together a blend of skills and expertise from across the different directorates.

Technical dialogue is generally through meetings and discussion rather than by traditional exchange of letters, although supported by detailed presentations and supporting position papers. Whilst challenging, this more interactive way of discussing issues allows points of difference to be crystallised more effectively and more quickly, and ensures misunderstandings are corrected more easily.

However, in some cases where there are disputes about whether documents HMRC want to see are going to be provided, formal information powers and reference to tribunal has and will be necessary.

Another important feature is the engagement with the business at Board level by the corporate and HMRC. Direct communication with the Board of Directors expedites issues and ensures that the Board remain fully engaged.

There is a high level of supervision and monitoring by the programme board to ensure HMRC delivers its undertakings throughout the project, and to review and agree, or further escalate, proposals for resolving or litigating issues.

One aim of the project, of benefit to both HMRC and the customer, is to clear away issues of minor significance quickly so that the effort of both parties can be concentrated on the significant issues with large amounts of tax at risk.

The first projects completed within the programme have all resulted in significant additional tax yield and changes in the customers' tax strategies to move away from some kinds of tax mitigation arrangements and to provide earlier and better disclosure of transactions.

# ANNEX 4.1

## Relationship Building

### Canada

The CRA adopted an enhanced relationship approach to large business over 10 years ago.

A long established and open consultation process through national and regional organizations such as the Tax Executive Institute, the Canadian Tax Foundation and the Petroleum Association has been used to keep abreast of taxpayers' concerns with respect to compliance issues.

Regular meetings are held with clients to foster transparency, discuss current issues and CRA's focus on certain issues. Examples of strategic developments for large taxpayers include implementation of advanced rulings and advanced pricing arrangements designed to provide certainty to taxpayers and a speedy resolution to contentious issues. Other developments include the requirement to report non-arm's length transactions with entities in foreign jurisdictions to improve openness and transparency.

Consultations with large businesses led to the formation of a number of initiatives for large files including:

- A single-window focus is available on an informal basis to compliant large file taxpayers. Under this arrangement, Large File Case Managers operate as a focal point for compliant taxpayers by managing the compliance relationship and coordinating all activities with the corporation for all business lines.
- Audit Protocols which are signed agreements between large businesses and the CRA to establish an audit plan based on open and transparent discussions to address audit issues on a timely basis.
- Real time audits whereby the CRA conducts an audit of issues before the corporation files its income tax return.

These initiatives were based on a set of basic principles developed from the consultation process:

- increasing transparency and clarity;
- simplification;
- improving certainty and timeliness:
- fostering co-operation and partnerships; and
- reduced adversarial relationship.

Over time the enhanced relationship initiatives did not provide the results *we* expected. In a 2005 Internal Audit report and a 2006 OAG report, there were specific comments on the enhanced relationship approach and its shortcomings:

> *"Improving timeliness was one of the main objectives of the protocol initiative. Approximately 32% of the total primary files completed during the 1999 to 2003 fiscal periods had a signed protocol with the taxpayer, but only 7% of these files were considered to be current."*

CRA concluded that the enhanced relationship initiative has not alleviated their concern over the use of complex transactions and aggressive tax planning techniques as mechanisms for non-compliance.

Tax recoveries from reassessments continue to rise and additional resources continue to be allocated to the large business audit program, partially due to the buoyant economy, but also in part due to aggressive behavior.

### Ireland

**Ireland's co-operative approach to tax compliance**

Cooperative compliance envisages a new form of relationship between the Irish Revenue and large business, one where both parties work together to achieve the highest possible level of compliance across the taxes and duties for which particular businesses need to account.

The approach envisages that senior management at Board level in large businesses will position tax compliance as an important dimension of good corporate governance and commit to self-regulated revenue compliance. Self-regulated revenue compliance involves conducting rolling reviews, based on the tax risk profile, of compliance across all taxes and duties.

The approach also envisages that senior management at Board level will take overall responsibility for tax risk policy and its proper management at operational level. The approach does not envisage that Boards will get involved in day-to-day operational controls, but that these will be managed at lower levels while subject to Board agreement and oversight.

**Expectations of the tax administration**

- A relationship with business based on trust, mutual understanding, openness and transparency;
- An ability to predict with reasonable confidence what the position of a business will be in relation to tax issues;
- A better understanding of business;
- Greater certainty in relation to forecasting tax yield;
- Business insights to inform the debate on the tax code and on its administration;
- Greater impact on non-compliance through focusing greater audit and enforcement resources on the cases presenting the highest risk;
- Accurate and timely tax returns and payments; and
- The possibility of reduced administrative costs.

**Expectations of the large taxpayers**

- A relationship with Revenue based on trust, mutual understanding, openness and transparency;
- A Revenue approach based on a better understanding of the business and a recognition of the distinction between business-driven and tax-driven decisions;
- An ability to predict with reasonable confidence what Revenue's position will be in relation to tax issues;
- A better understanding of Revenue's approach and philosophy;
- The possibility of reduced compliance costs;
- Less audit intrusion from Revenue since the audit and enforcement focus will be biased towards those not committed to high compliance standards;
- Greater certainty in relation to tax exposure; and
- Provide an opportunity to highlight problems with the tax code or its administration.

**<u>The Netherlands</u>**

**Horizontal monitoring program**

Horizontal supervision is based on the principle that most people, businesses and institutions are able and willing to bear social responsibility and therefore want to comply with tax rules and regulations.

Under this approach, the tax administration seeks to strengthen the partnership with very large businesses (VLBs) by intensifying the consultations. The objective is to create an enhanced relationship between NTCA and the VLBs as two professional parties. Key elements are transparency, understanding and trust.

One manifestation of horizontal monitoring is the conclusion of enforcement covenants (compliance agreements) with VLBs. These covenants include agreements about the manner and intensiveness of monitoring and the way in which parties work together. The agreements are not merely on paper but are also - and perhaps even more so - about the attitudes taken by both parties. A covenant is based not only on trust but self-regulation as well. This is entirely in keeping with the premise of allowing businesses a greater degree of responsibility.

Under the Horizontal monitoring programme the board of the VLB commits itself to full transparency on current tax issues. VLB has to actively disclose issues which could have significant tax consequences and provide an overview of the relevant facts and circumstances regarding these tax issues. In return the NTCA commits itself by giving its irrevocable opinion on the respective tax issue expediently.

It is essential that the company has developed and implemented internal control procedures regarding tax risk and tests these procedures on a regular basis. This tax relevant part of the internal control framework is called the Tax Control Framework (TCF). The degree to which a business is in control determines to a large extent the form and intensiveness of the additional monitoring we carry out. Our focus in supervision is moving from monitoring the output (tax returns, appeals, etc.) to monitoring the tax relevant part of the internal control framework which is the basis of the output. The NTCA must have a clear understanding of the existence, set-up and operation of the TCF and whether it is able to provide reliable tax information. Monitoring becomes more intensive if the NTCA feels that the TCF is too limited. If a TCF is solid, our monitoring focuses on the effect of internal control measures and preliminary discussions. The tax returns will not contain any new information requiring immediate attention.

Characteristics of this programme are better performance and greater responsibility. Benefits include faster and more explicit certainty concerning possible tax risks, increased control of the tax position of the VLB, an enhanced relationship with the tax administration and a reduced administrative burden.

**Norway**

Expectations of the tax administration may include needed knowledge concerning the existing tax rules and not least a wish to discuss actual problems and the interpretation of these rules. The tax administration has to be available for the taxpayers and willing to inform about its practice and interpretation. Approaches and strategies in order to achieve this will be:

- An open dialog in meetings and by phone or e-mail;
- Building arenas for good relations as seminars for instance;
- Advanced rulings (binding and non-binding);
- Emphasis on the needed competency within the tax administration;
- Respect and integrity will lead to confidence and trust;
- Reasonable understanding and practice concerning the use of additional tax and other sanctions;
- Writing books and articles concerning important and principle decisions; and
- Immediate and ongoing publishing of actual and principle decisions on the internet.

**United Kingdom**

The 2006 report “Review of Links with Large Business” focused on outcomes designed to improve the competitiveness of the UK's business tax environment through delivery across four themes: certainty, risk management, speedy resolution and clarity through effective consultation. The programme is being successfully implemented, and the key to success is developing a relationship based on trust and transparency, so that complex and contentious issues can be shared openly in real time.

- Certainty: a new system of advance rulings and clearances for significant commercial issues has been launched, alongside a shift towards real time discussions.
- Risk: a holistic approach to the business is being adopted, to discuss and agree within the business the degree of risk they present to HMRC. This has allowed a greater focus of resource on high-risk businesses, and away from low risk businesses.
- Speedy resolution: all issues and interventions are now project managed to a timetable agreed with the business.
- Clarity: there is a marked increase in informal consultation on new operational issues, alongside 12 weeks formal consultation on policy issues, where possible.

**United States**

The IRS LMSB introduced an initiative, Joint Audit Planning Process, to build a better relationship with large taxpayers in the audit process. Underlying the success of the Joint Audit Planning Process is the need to build relationships that can sustain a true working partnership based upon mutual trust and openness. With this initiative, if the tools and guidelines are followed, the examination process will become more efficient and less contentious. The resultant gains in efficiency and reduction in factious interactions will translate into reduced time expenditures, improved currency and better working relationships. More details on this initiative are set out in Annex 4.5.

The Compliance Assurance Program (CAP) is another example of a model aimed at improving the relationship through increased cooperation (see section “Strategies used to respond to risk” under US profile in Annex 2).

## ANNEX 4.2

### Real-time Compliance Management Process – Ireland

The first stage involves the LCD case manager and management in the large business discussing and agreeing to a compliance plan within which they will operate the cooperative compliance approach. This compliance plan typically covers two elements – key activities and a timetable for those activities. The process is intended to be flexible, where the detail can be tailored to suit the particular circumstances of the large business and Revenue's requirements.

It is open to the LCD case manager as well as the business management to identify risks to be included in the compliance plan. The LCD case manager will not go beyond the agreed approach provided that new significant issues do not emerge and there is no reason to believe that the business management have not been open with the case manager.

A typical compliance plan requires business management to:

- Keep the LCD case manager informed of business activities, results and key developments;
- Disclose significant compliance issues and risks;
- Self-audit tax-related business systems and operations and report on areas of identified significant tax risk;
- Work with the LCD case manager to identify actions to be taken by the business to ensure high compliance in relation to all taxes for which the business is liable;
- Consult with the LCD case manager in relation to areas of doubt as regards the interpretation of tax law or practice and, in particular, where arrangements are either in place or are being considered that might be construed as potential misuse of tax law provisions; and
- Consult with the LCD case manager in making their assessment of tax risk.

A typical compliance plan requires the LCD case manager to:

- Co-ordinate all Revenue activity in relation to the business;
- Discuss and agree a compliance plan, including a timetable for Revenue interventions, for the year and not go beyond the agreed approach provided that new significant issues do not emerge and there is no reason to believe that the business management have not been open;
- Provide timely advice on disclosed significant tax risks and issues, including real time advice on major transactions;
- Work with the business to identify the actions to be taken by Revenue to support compliance; and
- Provide interpretation support.

For the cooperative compliance approach to work in practice, the following engagement and attributes are necessary:

- Both the LCD case manager and management in the large business have to provide appropriate resources, including appropriate access to people and documents;
- Be open, honest and communicate in a timely way;
- Ensure that issues are promptly addressed;
- Recognise that, within a cooperative relationship, disagreement or differences of opinion on the interpretation of tax law can still arise and have to be determined at appeal;
- Recognise that a cooperative relationship does not limit Revenue's right to test compliance through audit;
- Recognise the distinction between business-driven and tax-driven decisions; and
- Agree to evaluate the process and revise the compliance plan if appropriate.

## ANNEX 4.3

## Programs Providing Certainty to Taxpayers – United States

LMSB has communicated to taxpayers that openness, transparency and the right motivations, coupled with programs and processes in place today, can quickly generate certainty on tax issues. Those programs and processes include:

- Pre-filing –
  - Industry Issue Resolution;
  - Pre-filing Agreements;
  - Advance Pricing Agreements; and
  - Compliance Assurance Program*.

- Post-filing –
  - Joint Audit Planning;
  - LIFE (Limited Issue Focused Examination);
  - Advanced Issue Resolution;
  - Appeals Fast Track Program;
  - Accelerated Issue Resolution; and
  - Early Referral to Appeals.

***Compliance Assurance Process** — The rise of more stringent disclosure and transparency requirements presented an opportunity for the IRS to operate in real-time, and leverage a taxpayers' willingness to cooperate and be transparent – to realize tax certainty quickly. One initiative LMSB designed specifically to provide certainty in real time is the Compliance Assurance Process (CAP). CAP can result in corporate tax examinations being conducted more efficiently, with greater currency and decreased cycle time.

## ANNEX 4.4

## Corporate Governance

### Australia

The 2006 "Large Business and tax compliance" booklet outlines a governance guide for board members and directors on two types of governance issues[1]:

- The first issue is how to ensure that the organization has the accounting and control mechanisms needed to handle day to day tax and reporting requirements.

- The second is about how to ensure tax is properly considered as part of board and corporate decision-making processes for major financial transactions, overall corporate strategies and when seeking or considering tax advice.

More information on the ATO's key governance questions and suggestions to company's directors and senior management are included in the ATO's 2006 booklet referenced above.
[1]http://www.ato.gov.au/content/downloads/LBI82560.pdf

### Ireland

The LCD cooperative compliance approach involves positioning tax compliance as an important dimension of good corporate governance and getting large taxpayers to commit to "self-regulated" revenue compliance.

The approach envisages that senior management, at Board level, will take overall responsibility for tax risk policy and its proper management at operational level. The approach does not envisage that Boards will get involved in day-to-day operational controls, but that these will be managed at lower levels while subject to Board agreement and oversight.

LCD highlights that any failure to oversee tax compliance may put a business at risk and, in certain circumstances, exposes a company to potentially significant interest and penalties as well as publication in the list of tax defaulters or prosecution.

A key question LCD put to business management is what would be the impact for the company if all the areas of tax risk went wrong at the same time? LCD also suggests to their large taxpayers engaged in cooperative compliance that they need to consider the following:

- How is the company's tax compliance programme structured and who are the key employees / external agents responsible for its implementation and operation? How is the Board structured to oversee compliance issues?
- How does the company's tax compliance reporting system work? How frequently does the Board receive reports about tax compliance issues?
- What are the goals of the company's tax compliance programme?
- Does the tax compliance programme address the significant tax risks of the company? How were those tax risks determined and how are new tax compliance risks identified and incorporated into the programme?
- What is the level of resources assigned to implement the tax compliance programme as envisaged by the Board? How has management determined the adequacy of the resources dedicated to implementing and sustaining the tax compliance programme?

### The Netherlands

The NTCA recognises that corporate governance is a key factor when it comes to compliance by very large businesses. All companies listed on the Amsterdam (Euronext) stock exchange should comply with the principles of the Netherlands Good Governance Code (the Tabaksblat- code) or explain in their annual reports why they do not comply on specific principles in this code. A lot of non-listed very large businesses and non-profit organisations in the Netherlands voluntarily comply with this code. Many very large businesses with a listing on foreign stock exchanges are subject to governance codes in their countries. International groups operating in the United States comply with the Sarbanes-Oxley Act.

To enhance the relationship between the NTCA and the companies it has proven to be instrumental that managing officers of both parties commit themselves. Also it has proven to be instrumental to address issues like the overall corporate strategy, the corporate tax strategy and views on compliance. Both the executive boards of the very large businesses and the management of the regional tax offices should explicitly express that they recognize and value the relationship and will actively keep it up. A problem solving attitude and cooperative mindset need authoritative back-up on both sides. Trust can be a delicate issue, certainly when the enhanced relationship is relatively new. If one party has the impression that the other party operates without sufficient backing and may therefore ultimately not be able to fulfil his obligations, this could jeopardize the relationship. Staff on both sides needs a clear mandate to decide in individual cases.

**United Kingdom**

It is recognised that there is increased scrutiny of corporate governance (including tax governance) by external stakeholders such as regulators, investors, and tax authorities.

At its widest, corporate governance helps provide companies with a clear framework to communicate with internal and external audiences and create the right awareness and culture within an organisation. Tax governance provides a framework to develop and implement an overall tax strategy. Factors to consider include:

- identifying and categorising key risks;
- ensuring that tax departments have appropriately considered the people, process and technology aspects for their key responsibilities which can address the risks identified up-front; and
- putting in place a clear communication strategy to ensure stakeholders have understood and bought-into the strategy.

Tax authorities are beginning to explicitly encourage good governance and rely on a business' corporate governance structure to support tax compliance. This should include:

- understanding how the tax strategy is aligned with the overall business strategy and operational capabilities;
- discussing the tax department's key areas of focus and own assessment of risks identified. This, supplemented by tax authorities' own understanding of the key tax risks impacting the business, should together form the basis of any enquiry or tax audit; and
- understanding and, where necessary, evaluating and testing controls and other components put in place to address the above mentioned key areas and risks to ensure that the tax strategy is being properly implemented on the ground and embedded within the organisation.

**United States**

In the US, significant changes in corporate governance have occurred that have increased public disclosure and transparency. Some of the impact comes from the following:

- The requirements on corporate officers and directors under the Sarbanes-Oxley Act (SOX);
- Increased scrutiny of outside auditors by the Public Corporation Accounting Oversight Board (PCAOB);
- Increased requirements for disclosure under:
    - American Jobs Creation Act (AJCA);
    - Circular 230 (US Regulations governing "tax practitioners" appear in this circular)[1]; and
- New SEC/FASB (FIN48) rules that clearly link unresolved tax positions to financial accounting. See below a summary on the corporate governance implications of FIN48.

For some corporations, this has created a desire for certainty regarding their tax liability as soon as possible. Implications of taxpayers' need for certainty on IRS LMSB programs and practices are described in Annex 5.4.

**FIN 48**

The issuance of FIN 48, explained below, will have an impact on both the IRS LMSB business practices and the taxpayers regarding compliance. Some of the implications include:

- Increased transparency;
- More focus by company's management on their tax-related internal controls;

- The FIN 48 process and required disclosure may provide the IRS with information on uncertain tax positions;
- FIN 48 disclosures reported in periodically issued financial statements may be considered by examiners when conducting risk assessment; and
- Perhaps less aggressive tax positions will be taken by the taxpayers.

What is FIN 48?

- The Financial Accounting Standard Board (FASB) issued Interpretation 48 in June of 2006 (FIN 48). FIN 48 is an interpretation of Financial Accounting Standard (FAS) 109 that sets forth rules concerning how to report in financial statements the income tax benefits achieved from taking uncertain positions on any income tax return for any tax jurisdiction.
- FIN 48 applies only to financial statements applied in accordance with US GAAP.

[1]For C230 Regulations see: http://www.irs.gov/pub/irs-pdf/pcir230.pdf

## ANNEX 4.5

## Joint Audit Planning Process – United States

The Internal Revenue Service is focused on ways to improve the examination process. The Large and Mid-Size Business (LMSB) division recognizes that thoroughly involving the taxpayer in audit planning is an initiative that will have a positive impact on the way future examinations are conducted. Joint participation in this process benefits both taxpayers and the IRS by increasing the currency of examinations.

Key to the success of the audit process is communication, trust and openness. Both the taxpayers and the IRS should share a common goal, completing the examination in the most efficient manner possible. The examination plan is the road map relied upon to accomplish this and its effectiveness depends largely upon the assumptions made as the plan comes together. The ideal plan evolves in an atmosphere of mutual cooperation and trust, synergy that can only be obtained when the parties involved in the process are committed to open and honest communication. The taxpayer needs to be included in the development of the audit plan from its inception.

At the start of the examination and prior to the opening conference, preliminary meetings should be held between the taxpayer and the IRS to exchange information critical to the preparation of a quality risk analysis.

Specific actions that can be taken to minimize conflict and increase cooperation are as follows:

- The IRS and taxpayer should candidly discuss potential issues and required compliance checks early in the planning phase so that the taxpayer can make the necessary resources available when needed and present pertinent information to the examination team during the preliminary meetings. In addition, the taxpayer should inform the IRS about potential affirmative issues and/or claims that might be filed for the years under audit.

- The taxpayer can contribute to reducing examination time by providing a meaningful orientation to the audit team. Such orientations can include presentations at preliminary meetings on such topics as organizational structure, degree of centralization, industry operating philosophies and procedures, accounting records, and other information that will facilitate the examination. The orientations can also include brief meetings with key operating, accounting, or tax personnel and/or facility and plant tours.

- The use of IRS specialists is an integral part of the examination process; these specialists include computer audit specialists (CAS), international examiners (IE), financial products examiners, engineers, economists, employment tax examiners, excise tax examiners, tax exempt and government entity (TE/GE) examiners and others. Barring unforeseen circumstances, the IRS will inform the taxpayer which specialists will be utilized before the examination is started.

- The taxpayer should provide the audit team with a book to tax reconciliation ideally in the form of a "cross-referencing" disk or conversion code work-paper at the earliest possible stage of the examination. This will reduce the number of Information Document Requests (IDRs) issued; require less use of the taxpayer's computer system, and save time for both the IRS and the taxpayer.

- When Coordinated Issues are identified, and where practical and appropriate, discussions between the taxpayer and the technical advisors are encouraged.

- The IRS and the taxpayer should agree to make every effort to resolve issues at the examination level, taking advantage of the issue management initiatives when appropriate.

- New issues identified by the IRS during the audit process that are not in the audit plan should be discussed with the taxpayer prior to commencing extensive audit work.

The above specific actions are not all-inclusive. They represent the initial joint audit planning process steps the IRS and the taxpayer need to take to enhance the quality and timeliness of examinations.

After successfully completing the initial steps of the joint audit planning process, the IRS will furnish a draft audit plan to the taxpayer for review. Afterwards, taxpayer concerns or questions will be addressed and agreed upon changes or corrections will be made to the plan.

## ANNEX 4.6

## Performance Measures

### Canada

CRA is currently in the process of re-evaluating the relevance of current performance measures. Current performance measures include tax-earned by audit, aging of audits with a focus on budget variances.

CRA's former audit strategy for large businesses concentrated on achieving full audit coverage of the large file population. Consequently, measurement of large taxpayers' levels of compliance, the impact of compliance action, and the effectiveness of risk assessment initiatives were of secondary importance and therefore systems to address these issues had not been developed.

ILBD is in the process of planning a risk assessment strategy and developing various risk and client management initiatives that will include evaluation frameworks with the appropriate performance standards, indicators and measurements.

Development of these initiatives will be evolutionary processes that will require continual monitoring and improvements to keep abreast with the ever-changing environment in which large file taxpayers conduct their activities.

Some current initiatives are:

- Research area of CRA has developed a Compliance Measurement Framework, (CMF) which will be used to measure compliance within various segments and by taxpayer population. This is being developed in an iterative basis.

- Compliance reporting for the "corporations" segment has yet to be developed. It is expected this will provide a high-level performance indicator for the effective risk assessment as well the possibility as an analysis tool for various initiatives such as taxpayer interviews.

### Ireland

In LCD, quality assurance is affected by the Assistant Secretary, LCD management team, business unit management and staff, and is designed to provide reasonable assurance that risks are managed to ensure the achievement of the Division's objectives.

The purpose of the quality assurance framework is:

- To ensure that all LCD staff are doing the right things on a day-to-day basis (e.g. following procedures), that output is delivered as intended, and that any weaknesses are identified and addressed;
- To monitor and evaluate the effectiveness of LCD's operational programmes, consider resource allocation in the context of effectiveness, inform short-term planning and future planning for LCD's operations and staff deployment, identify opportunities to implement incremental improvements to operational programmes, and identify opportunities for fundamental programme redesign or re-focus;
- To enable the Assistant Secretary to know if the Division is achieving the objectives set out in the strategy statement and Divisional business plan; and
- To reassure all of our stakeholders (our customers, the public at large, Government, tax practitioners, the Board, MAC, LCD staff, etc) LCD is doing the right things.

### The Netherlands

The NTCA uses several performance indicators to measure the quality of the audit and examination process. This is done via Steering Contracts between the Director-General of the NTCA and the Chairs of the 17 Tax or Customs regions. Information is gathered on a monthly and/or four month basis. In those Steering Contracts annual targets are established. This is done bottom up and ultimately agreed by the Groepsraad: Management Team NTCA and the Chairs of the Tax and Customs Regions, Allowances and the General and Technical Support Services respectively.

The NTCA has general targets and targets specifically established for the Region in question (by the employees and management team of the region themselves). Examples of operational goals in the Steering Contracts are:

- hours of capacity deployment for supervision;
- number of hours preliminary consultation/horizontal monitoring;
- gain insight in "being in control" of the taxpayer;
- subjects dealt with are ≤ 1 year;
- number of company visits;
- number of tax returns processed;
- number of audits; and
- hours spend on innovation.

Apart from these the following performance indicators are used:

- The NTCA measures Customer satisfaction. The NTCA publishes every year the Fiscal Monitor, a report of 70 pages with findings of surveys of taxpayers' attitudes and perceptions. Many of the performance indicators used by the DTCA are based on those findings. The Fiscal Monitor is based on several questionnaires, for private taxpayers, businesses, customs, benefit recipients and intermediaries.
- The NTCA measures employee satisfaction. The NTCA publishes every two year the "Personeelsmonitor" (employee monitor). Participation is of one's own free will and anonymous. The employee monitor consists of more than 140 questions about work and working situation. The NTCA asks the staff's opinion about job content, management, cooperation, provision of information, career policy, terms of employment, working conditions and standards and values in the DTCA.
- Although this is not an instrument particularly focused on large taxpayers, the NTCA makes use of a Compliance monitor for small and medium enterprises (SMEs). Through a questionnaire the DTCA tries to establish the views, attitudes, intentions and self-reported behaviour of those taxpayers. In the future these results will be combined with the results obtained from audits (through random checks by SMEs).

**United Kingdom**

HMRC's current strategy involves working from the premise that most large businesses want to get their tax affairs right and that an important role for HMRC as the tax administration is to help them in that objective. By doing this, HRMC believes they will achieve greater overall compliance. In support of this objective, for instance HMRC is piloting a new clearances system whereby they will give clearance for transactions that have a significant commercial importance for the business but where there is significant uncertainty about the correct tax treatment. In conjunction with this ethos of constructive support, HMRC is encouraging businesses to become "low risk" by being open and transparent about what they have done and what they plan. In this context, "low risk" means that HMRC considers that the risk that the business will not pay the correct amount of tax is low. This classification of the level of risk that the business poses is the result of an evaluation of a number of factors such as the tax contribution the business makes in comparison to other similar businesses, the complexity of the business, the degree of cross border transactions and the extent and nature of changes affecting the business. This is then looked at in conjunction with the nature of the business's behaviour, for example the way that tax risk is managed within the business and the nature of its tax strategy as well as the capability within the business to comply with its obligations. All this is discussed with the business and a shared understanding of the level of risk is developed together with agreement as to what actions would reduce that risk. This has signalled a change of emphasis in the way that HMRC measures the impact of their compliance strategies.

HMRC is focusing now on the overall tax take, reducing the amount of tax at risk, and the ongoing experiences the customers have in their dealings with HMRC and the extent to which they see their relationship with HMRC as supportive and constructive, as well as the old measure of intervention yield. Thus one of the measures HMRC has introduced is the percentage of their large businesses that they are able to classify as "low risk" because they are satisfied that their behaviours will result in the correct tax being paid. This means that HMRC is able to focus more of their intervention resources on those businesses that are not "low risk" and work with them to enable them to be classified as low risk in due course. This involves also ensuring that HMRC focus only on significant issues and progress them more rapidly. Key performance indicators have been introduced in the LBS to support this by targeting a reduction in the numbers of old and smaller risks, and a reduction in the take up of new smaller risks. In this way, the intervention yields should also go up, and HMRC should be able to reduce the amount of tax at risk.

One area where a significant minority of large businesses get involved is “avoidance” and the overall objective of HMRC is to make “avoidance” uneconomic. First, their strategy has involved a disclosure regime which requires those devising “avoidance” schemes to inform HMRC as soon as they are made available. This very much reduces the time available for those marketing schemes to make any money, which has resulted in a marked reduction in the availability of such schemes. HMRC has countered a good number of these schemes by swift introduction of legislation and by focusing resources on investigating their implementation in a structured and intensively focused way. In due course, HMRC will measure their effectiveness in this area by a reduction in the number of businesses getting involved in “avoidance” and a reduction in the amount of tax at risk as a result of such activity.

HMRC has introduced project management methodology to the way that they manage resolution of all significant issues. This involves agreement of a project plan with the business with the objective of reaching agreement or failing that getting it ready for litigation. The objective is to achieve that position within 18 months of an issue being taken up (except in the case of the most complicated transfer pricing issues where the objective will be to reach that position within a maximum of 36 months).

## United States

One method LMSB uses to measure the effectiveness of its compliance programs and services is the American Customer Satisfaction Index (ACSI).

**Background:**

The ACSI is a customer satisfaction index produced by a partnership between the National Quality Research Center at the University of Michigan Business School, the American Society for Quality and the CFI Group. The index relates expectations and evaluations of quality to customer satisfaction and is an internationally accepted measure of customer satisfaction. LMSB has been participating in the annual survey since 2001. ACSI survey draws from broad population of LMSB taxpayers, including those who may not have been through a recent examination. The ACSI measures satisfaction with the filing process and also attempts to obtain feedback on other issues taxpayers may have such as account management issues (i.e. misapplied payment; inappropriate penalty assessment, etc.).

**Specific Survey Questions:**

The ACSI asks LMSB taxpayers several questions including the following that are targeted at attitudes regarding service and compliance:

- How confident are you that the IRS will do a good job in the future administering the tax process for large and mid-size business filers?
- How willing are you to rely on the IRS to provide guidance and administer the tax process for large and mid-size business filers?
- How confident are you that the tax law is being applied equally to all large and mid-size corporate taxpayers?
- How confident are you that those large and mid-size corporations that cheat on their tax returns are more likely to be selected for audit?
- How confident are you that enforcement through audit is the most effective method to ensure compliance with the tax law?
- How confident are you that easing administrative burdens on corporate filers, such as streamlined tax forms, record-keeping agreements, use of statistical sampling, etc. will make it easier to comply with tax laws and improve voluntary compliance?
- How confident are you that simplifying the tax law is the best way to enhance voluntary compliance?

## ANNEX 4.7

## Approaches Used by Tax Administrations to Influence Tax Policy

**Canada**

In Canada, development of legislation is autonomous from the administration of taxes. The Department of Finance is responsible for the development and amendment of legislation. In carrying out this responsibility, it takes into consideration CRA's administrative needs and non-compliance issues identified.

CRA is responsible for the development of policies that specifically relate to the administration of tax programs. CRA may initiate consultation with the Department of Finance regarding clarification of legislation to ensure policies and procedures in implementing legislation are appropriate. Alternatively, the Department of Finance may propose that CRA initiate or amend policy to ensure the legislation is applied as intended.

Development of CRA policy is based on jurisprudence, identified compliance issues and administrative needs, and when appropriate will only occur after stakeholder consultation. This ensures fair and consistent interpretation of legislation and guidelines.

**Ireland**

Given the level of expertise built up in LCD and the ongoing dealings with the case base, the Division is well placed to provide feedback to the policy and legislation areas in Revenue and such feedback is regularly provided. Large taxpayers engaged in cooperative compliance also provide feedback on and input to policy via LCD case managers. LCD also provides valuable input to tax forecasting for the annual budget.

**The Netherlands**

The NTCA does not have a specific approach to impact tax policy. Since the NTCA has concluded Compliance Agreements with very large enterprises, due to the enhanced relationship, more information of possible loopholes in the legislation has been gathered. In this way our efforts of enhancing the relationship can have indirect effect on influencing tax policy.

**Norway**

The Norwegian Tax Administration encourages its employees to take part in the tax debate and to play an active and balanced role in the development of tax law and practice.

Employees of the Norwegian Tax Administration participate and provide input by attending and contributing in different forums, writing articles and books, giving statements in formal or informal hearings regarding new tax legislation, participating/contributing in meetings with the Ministry of finance and the Directorate of taxes regarding new tax legislation and/or to clarify existing tax laws.

**United Kingdom**

In terms of combating avoidance, the disclosure regime has provided better information of new and innovative avoidance schemes enabling quicker legislative fixes to block loopholes. HMRC also use externally recruited avoidance consultants (from the big 4 accountants and from large multinationals) to help anti-avoidance proof new legislation and to inform policy design based on their experience in business/ externally.

The project management approach to avoidance and other areas of potentially significant tax risk helps builds up a comprehensive picture of the risk within a particular area.

HMRC is also looking at using the skills and knowledge that they have within the department to spot new and emerging risks sooner (horizon scanning project) and this could be used to inform policy development but it is still in the early stages.

## ANNEX 4.8

## Use of Technology

**Canada**

Available technology is segmented into various independent components. Auditors are provided with laptops, a series of automated templates that allow downloads from mainframe systems to Audit Laptops (WINALS), the recently developed risk assessment template (SARAT), audit information management system (AIMS), corporate administrative system (CAS), Computer Assisted Audit Selection (CAAS), and Compliance Measurement Profiling and Assessment System (COMPASS). In addition, auditors have the support of an electronic computer audit system (ECAS) that allows them to download and transform taxpayer information for the purposes of audit.

**France**

The development of technological tools is indeed a major factor to improve taxpayer service and to increase efficiency in operating LTU. Some examples set up in France may be mentioned:

- The setting up of a sole professional counter on the national website of the tax administration allows the tax administration and the taxpayers to have the same vision of the tax files in real-time, in terms of declaration and payment.
- IT tools dedicated to control (OASIS, SYNFONIE) have been developed to help tax officers in their mission of control in order to detect contradictions in the factors declared and to select files according directions of control defined beforehand.
- The LTU has developed a specific IT tool (PILOTE) on its own, which is at the same time:
    - a client relation management tool, as a software gathering management data springing from several other specialized software; and
    - a management tool to follow the IFU teams activities and their running, including control from the desk.

**Ireland**

Revenue has put in place an integrated computerized tax system, which is responsive not only to the growing numbers of taxpayers but also to the needs of the administrators of the tax system.

Revenue has been working steadily over the past number of years to introduce such a system which fulfills these objectives across the range of its operations. Now the system is in place offering up-to-the-minute information on the status of each and every taxpayer to LCD tax offices around the country.

Revenue has made this significant investment and evolved its systems so as to present an easily accessible and unified view of the taxpayer no matter what point of the organization they choose to access the services. Also, in order to avoid any negative impact on the revenue stream to the Exchequer, the integrated taxation system has been smoothly implemented on a phased basis over a period of time. Its introduction has allowed the staff to concentrate on more productive case working tasks rather than processing forms.

Revenue has focused on four core elements. These are a Common Registration System whereby all taxpayers are registered on a single database; an Integrated Case Management system which allows LCD to intervene before customers become non-compliant and caters for debt management and audit functionality; a Corporate Information Facility which allows LCD to conduct statistical forecasting and budgetary projections; and an Integrated Taxation Processing system which ensures a common framework for the issuing and processing of tax forms and payments as well as linking with the other three elements in the system.

**The Netherlands**

Working from the basis of trust requires a coordinated and integrated approach to all tax types and processes. Contacts with businesses will be less about technical problems relating to tax and much more about an open discussion with them about ways in which they can remain in control and how they detect, select and cover tax risks.

The account manager is responsible for developing a strategic plan for the companies he or she is responsible for. The strategic plan together with the compliance risks are registered in the software application ATK ("Applicatie Transparante Klantbehandeling"). In order to establish the right priorities and maintain a clear view of large taxpayer's monitoring and treatment, it is crucial that account managers and technical specialists record all work to do and all work in progress in the special ATK database. The database also contains information about (fiscal) importance and significance of the process, production control, planning, allocation and realisation. In this way insight in the quality of the working process is gained. After the registration compliance risks have to be matched with the available capacity of staff. This matching process first takes place within the teams and if necessary on a nation-wide basis. The uniform and transparent information-system ATK is fed directly through the primary processors and therefore provides for current and up to date information on every level in the organisation. The software application can additionally be used as a database on best practices.

**Norway**

The tax administration has recently undertaken considerable investments in new technology to ensure a correct and efficient assessment. A considerable number of new case systems dealing with the different tax areas have been developed.

The tax administration has in cooperation with other public bodies constructed the internet portal Altinn.no. The portal is a common gateway which makes it easier for the business to find, fill in and deliver schemes to different public institutions. Electronic reporting has reduced considerably the work load connected to manual registration and processing, hence resources have been liberated to increase audit efforts and to enter into closer dialogue with the large taxpayers. In addition, electronic reporting has made the information more accessible, thereby making IT based audits and analysis of information possible in completely new ways.

In order to group the large amounts of information possessed by the tax administration, a separate data warehouse has been established which, collects information from the different systems used by the tax administration. This data warehouse is accessible to queries and analysis through a common interface. Based on the data from the data warehouse, it is possible to produce detailed reports on larger groups of taxpayers (as for instance in business line analyses). A set of standard reports available to all case workers has been developed. In addition, the data warehouse is used to produce new well adapted reports on an ad-hoc basis.

**United Kingdom**

LBS and L&C have introduced new electronic tools to aid risk assessment, particularly for CT, during 2007/2008 and this continues through 2008/2009. One of these systems, known as RADAR (Risk Assessment and Data Analysis Reports) brings together data from internal systems and external corporate accounts data, and presents these in about twenty pre-format reports for each LBS business. There is inbuilt flexibility allowing users for example to create their own reports to reflect changes in the business or to develop cross-sector reports. This tool was developed to increase efficiency in the CT risk assessment process, which has traditionally been very paper-based, and supports the development of a new risk assessment strategy to support the identification and management of "low risk" customers in LBS.

LBS is in the process of extending its use of Shared Workspace, an e-room technology product that allows secure online collaboration and joint working in a range of formats, such as electronic sharing of documents, discussion threads, shared databases, etc. The intention is to have delivered a Shared Workspace for every business in LBS during 2008/2009, both for internal use within HMRC and bringing in any customers who wish to join. Within LBS, Shared Workspace has already been used extensively during 2007/2008 to manage information within sectors or other specialist operational units, such as Audit Service and Strategic Response Unit, as well as for supporting corporate and project management activities.

LBS has continued to improve its in-house Business Developed Applications, principally Core System and Time Recording System, to provide a single Management Information System across LBS to manage the resource the risk process and to provide Management Information on risk and the outcomes of interventions.

Local Compliance is "live" piloting a version of Shared Workspace as a management information tool with its Large Businesses with a wider role out in relation to its joint working facility planned for late 2008/2009.

**United States**

Remarkable gains have been made in the availability and application of data technology that have provided the IRS with new tools that were not available before. These applications will provide the ability to identify areas of high compliance risk earlier and across the population of LMSB filers, increasing capabilities to quickly gather and analyze vast quantities of data to target high risk and priority compliance issues. The introduction of the Schedule M-3 and Modernized e-File will provide critical data and information to support these applications.

**Schedule M-3** — LMSB's most recent major step in the area of transparency and disclosure has been the introduction of Schedule M-3, which requires certain corporations to provide more detailed reconciliation of book – tax income. In the past, this reconciliation required extensive direct interaction with taxpayers in a tax return examination setting. It is now provided at time of filing. The analytics resulting from Schedule M-3 will help identify issues on returns that require, or do not require, a compliance response. Having the data at time of filing will assist LMSB in achieving its currency and coverage goals. *See Annex 5.9 for more details about the M-3.*

**Modernized e-File (MeF)** is allowing the IRS to have electronic tax data at time of filing, which can be analyzed much more quickly. This increases LMSB's ability to more accurately and quickly assess compliance risk on returns and specific issues.

- Modernized e-File Benefits
  - Improves currency and cycle time in working large corporation tax cases:
    - Taxpayers can file more quickly, easily and reliably.
    - Taxpayers and IRS can interact more timely.
    - IRS access to more timely and accurate tax information provides for better data analysis capability and quicker focus on issues that need resolution.

- Modernized e-File Impact on LMSB
  - MeF will improve return selection:
    - Increased analytics provided by MeF returns will allow greater pre-exam analysis.
    - Identify emerging issues more quickly.
    - Greater consistency among business units in treatment.
  - Return delivery will be improved, helping to reduce overall cycle time.