# Sparking changes

International Tax Large Corporate



01 July 2018

*Melissa Geiger* looks at the upcoming developments which will spark change on the international tax landscape

## Key Points

## What is the issue?

It is only at a halfway stage, but 2018 can already be considered as  being an exciting and pivotal year for tax and tax professionals in practice and in-house.

## What does it mean to me?

In a very short space of time we've seen fundamental, and often unanticipated, disruption to the international landscape.

## What can I take away?

Key considerations include US tax reform, the digital economy and Brexit.

## Back to the future

I am fast approaching my first year anniversary as UK Head of International Tax at KPMG since re-joining to the firm after nearly four years as Global Head of Tax at GlaxoSmithKline.

I could not have hoped for a more fascinating time to return to practice! In a very short space of time we've seen fundamental, and often unanticipated, disruption to the international landscape. These changes frequently serve to remind me of why I decided to get back into client work – that is, for the opportunity to work with a broader range of sectors and bring my direct experience of industry to the table to help others doing Head of Tax or similar roles navigate these challenging times.

The mid-way point of 2018 feels like a good moment to pause and set out what I see as the key themes shaping the tax world this year given my experience of the business side.

## The macro themes

I believe that there are currently three forces shaping the international tax landscape, each equally important in its own way.

Firstly, we have US tax reform, the most significant and extensive reform programme in a generation. I have been struck by the different ways in which countries have responded. As the package was being finalised, the finance ministers of several European countries (including our own Chancellor Philip Hammond) took the unusual step of writing publicly to the US to express concern over some of the measures in the reform package.

I'm a natural optimist but a sceptic might view that as indicative of more fundamental worries about the potential impact of US reform on their economies and their relative position in the eyes of the world's largest businesses. We know from KPMG's most recent tax competitiveness survey, 'Navigating turbulent times' that how individual regimes rank and stack up against each other continues to matter to multinational business. In the light of this, I would expect to see other countries respond to US tax reform by introducing new tax policies to maintain their relative tax competitiveness. The UK, for example, may see this coupled with Brexit, as an opportunity.

In the six months since its introduction, many businesses are gradually coming to terms with and understanding the changes, drilling down into the impact for them and looking for the opportunities as well as the costs. Ultimately, however, decisions that fundamentally affect business operations and value chains can be disruptive and will not be entered into in a rush. Businesses and investors may want to see the political dust settle before committing to a major operational reorganisation.

My second theme for 2018 is arguably the most fundamental and universal challenge for the future of the international tax landscape: how to tax the digital economy? This is being considered at multiple levels, and the only consensus we seem to have is that there is no consensus. The OECD and EU have issued substantial but inconsistent papers on the subject. The OECD is focused on dealing with the complexities of digitalisation. In contrast, the EU seems to view it as a fair tax issue. Yet the pressure is on to find an international solution, as we are already seeing many jurisdictions looking at their own, unilateral measures as they become increasingly frustrated by a perceived lack of collective action.

I believe that discussions on how to tax the digital economy represent a seminal moment for tax and today's generation of tax professionals and policy makers. The outcome of these discussions will set the tax environment for decades and are likely to constitute our legacy. This is bigger than the BEPS project. That fixes historic issues. This will inform the future, and could become as broad as the BEPS project – bringing in transfer pricing, the taxation of intangibles and definitions of permanent establishment. So we need to get it right, even if this takes some time.

Discussions on taxing the digital economy, US tax reform and the OECD's BEPS (Base Erosion and Profit Shifting) project arguably share the same underlying theme: Where is value in the modern day operating model, and how can this be quantified? In part this requires an increasing focus on intangible assets. But it is also about understanding how digital activity is impacting businesses and influencing decisions surrounding commercial operating models, both now and looking to the future – and therefore what role digital developments play in driving value creation. Now, more than ever, it is critical that tax and tax practitioners are proactively involved in discussions on digital activity, future operating models and value creation.

Thirdly, it is difficult to overlook Brexit as a continuing theme for 2018. I anticipate that the real challenges for business will not happen until towards the end of the year, when we will finally (hopefully?) get clarity on the Brexit deal and specifically what this means for people (immigration, business travel) and trade (customs duties, supply chain, logistics). However I would agree with the growing consensus that the achievement of clarity could take substantially longer if history is our precedent. It took the UK well over a decade to negotiate our entry into the EU.

## On the home front

International tax matters are not the only drivers of disruption in the tax landscape. We are seeing plenty of changes arising from our domestic tax environment. I have had many conversations with UK Heads of Tax across a range of industry sectors and a number of themes are emerging, mostly in relation to relations with HMRC.

Firstly, there does seem to be an overall positive acknowledgement that HMRC's leaders appear to be committed to evolving the way they work with large business. Many feel that HMRC is keen to support wider initiatives to promote the UK as an attractive location to do business – for example, by offering a robust but pragmatic commercial tax administration system.

I am also picking up a general agreement with the direction of travel in relation to HMRC's 'resource to risk' ambition, and the proposed changes to the Business Risk Review model. However, I am hearing some concerns around how these principles are being implemented in practice: for example, whether the aims of senior HMRC management are being effectively cascaded to HMRC officers dealing with cases on the ground.

There are some Heads of Tax who feel that their recent day to day experiences of HMRC practices are adding unnecessary layers of complexity and causing frustration for businesses. This has been most acute in the discussions I have had regarding the application of the DPT legislation where some feel that they are subject to enquiries that are not always in line with the originally stated scope of the legislation.

Not all change and disruption is negative, and one area where I consider there are real opportunities for increased efficiencies and streamlining is the increased use of technology to aid tax compliance and tax reporting obligations. Both HMRC and business are embracing technology and digitalisation. I think technology will be a true game changer. Of course there may be bumps in the road ahead as we adjust to new ways of working, but I believe that overall this should be seen as a real opportunity for increased understanding and transparency.

## The view from business

My time as Global Head of Tax at GSK gave me invaluable insight into what actually matters for a tax lead in industry. Yes, developments in international tax policy are important and it is crucial that the team is on top of these and their potential impact in the short, medium and long term. It is also a great asset to be able to anticipate what may be coming up on the horizon – as we saw with US tax reform last year, radical change can happen quickly.

But leading a tax department and being a critical contributor to the business's strategy is about much more than just tax policy, which can be somewhat abstract for the other members of the finance or top executive team. It is key to be able to understand two things: First, what is important to the business – operationally and commercially? And second, how tax can best support and advance these objectives? Often it will not be direct corporate taxes that have the biggest impact on the real world activity of the business. On the ground it is about the practicalities: people – and employment taxes; trade – and indirect taxes; and compliance – and embracing

technology as an enabler. Indeed, the digitalisation of tax is having a profound influence on the shape of many tax departments. Tax accountants are being replaced with multidisciplinary teams, embedding technology and data specialists alongside traditional tax expertise.

## Heads of Tax takeaways

It is only at a halfway stage, but I have no doubt that we will look back at 2018 as being an exciting and pivotal year for tax. We have already seen a number of announcements and developments that strike at the heart of the tax framework, and I anticipate there is more to come.

For Heads of Tax, and indeed any of us with an interest in the evolution of the tax landscape, I think there are three key takeaways.

- Firstly, understanding what value is – and what drives it – is the linchpin.
- Secondly, expect an increase in tax tension and controversy, especially cross-border disputes.
- And finally, recognise and embrace digital – its role in driving tax compliance and operational activity, but also its growing importance to tax authorities.