

CONTENTS CONTINUED

- 741** Delineating the fiscal borders of Australia's non-profit tax concessions
Natalie Silver, Myles McGregor-Lowndes and Julie-Anne Tarr
- 766** Does selecting a taxpayer for audit violate civil rights—a critical analysis of the Pakistani High Court's decision?
Najeeb Memon and Christian Lorenz

Business process management as a tax risk identification and management method

Evadne Bronkhorst¹ and Elze Leask²

Abstract

In the current economic climate, corporate governance is a priority for enterprises globally. Corporate governance aims to create value for affected stakeholders. One way in which this can be achieved is through risk identification and management. Where risks are properly identified and managed, the threats posed to the achievement of enterprises' strategic goals are mitigated. Tax is one of the aspects that create a need for the implementation of appropriate risk identification and management methods. Although prior research has been conducted regarding possible tax risk identification and management methods, very little is known about Business Process Management (BPM) as a risk identification and management method. This article contributes by using an exploratory case study to highlight that BPM can be a valuable risk identification and management method within the tax risk area. BPM allows for risk identification and management of processes that cut across functional lines. Because BPM is a cross-functional process, it can identify and manage risks that are not captured by traditional risk management methods.

Keywords:

1. INTRODUCTION

During the 1980s and 1990s, tax functions mainly focused on cost management and shareholder value creation. While these objectives remain important, tax risk management is becoming a more significant part of modern day tax functions. This is attributable to an increase in tax risk due to an increase in the complexity of the current tax environment. Globalisation, technological innovation and the increased regulatory compliance initiatives of revenue authorities are just some of the factors that have created a more complex tax environment.³

Tax risk management has recently been classified as a separate element of corporate governance.⁴ Because this is a recent phenomenon, a dearth of empirical research exists on how enterprises rate various types of tax risks and how they have incorporated tax risk management into their processes. However, it has been estimated that

Company A is well known in the global oil and gas industry. Its headquarter company was founded more than one hundred years ago. Within the South African environment, Company A operates not only by importing and refining crude oil, but also by importing refined products that can be used directly into the market. For tax risk identification and management, Company A currently makes use of tax control frameworks and a global tax strategy. Due to risks associated with intellectual capital and other areas, it was agreed with the national tax manager of Company A that the identity of Company A would not be made known in this research.

Excise taxes were elected as the focus of the case study. Excise taxes present one of the biggest tax risks to enterprises in the oil and gas industry. This is attributable to a variety of causes, among others the fact that their main source of profit emanates from excisable products, such as diesel, and the consequential sheer monetary risks that can arise from non-compliance with tax legislation. Arguably, it would therefore be in the interest of enterprises within this industry to manage their excise tax risks effectively and efficiently.

The key stakeholders in the South African oil and gas industry are: BP Southern Africa, Chevron South Africa, Engen Petroleum, PetroSasol Oil, Shell South Africa and Total South Africa.¹ Until very recently there were very few non

Apart from PetroSA the capabilities of the key stakeholders are distributed relatively evenly (refer Table 1). Therefore, it is submitted that each of these stakeholders would be exposed to similar excise tax risks, and any of these stakeholders would therefore be a valid case study subject. Company A, as one of the key stakeholders in the oil and gas industry, can be regarded as representative of the industry and consequently viewed as a valid case study subject.

4.1.1 Compliance and operational risk in the South African excise tax environment

Within a South African excise tax context, the key legislative framework consists of the Customs and Excise Act No. 91 of 1964 (the Act), and the relevant Schedules and Rules to the Act.

Table 2: South African Excise Tax Risks of Enterprises in the Oil and Gas Industry

Type of risk	Description
Compliance risk	- South African excise taxes are governed by a complex legislative framework which increases the likelihood of noncompliance due to incorrect interpretation and application of legislative provisions.

Table 3 Steps in the Risk Management Process²⁹

Step	Objective
1. Risk identification	To produce a comprehensive list of risks
2. Develop assessment criteria	To develop common assessment criteria

expertise surrounding specific risk mitigation processes will be retained within the enterprise.

BPM can be implemented by mapping processes in an ~~artefact~~ ^{artefact} manner. These maps highlight possible gaps within processes which can be indicative ~~of~~ ^{of} risks. Mapping also provides enterprises with a succinct view of the current and desired state of processes, and facilitates focused risk management and resource allocation.⁴⁵

Another method of BPM implementation that facilitates knowledge management and knowledge sharing is the creation of standard operating procedures (SOPs) that support the visually mapped processes. SOPs are implemented to describe the processes, and to assist with role and responsibility assignment.⁴⁶ An effective SOP will not only describe how policies should be implemented but also describe the details relating to the who, the what, the where, the when and the ⁴⁷how.

The use of BPM is not a familiar topic within tax risk management circles. Likewise, knowledge management, as it relates to taxation, has received little attention. Different areas exist within tax functions that could be impacted by knowledge management, namely: legislative knowledge, administrative knowledge, awareness and correct interpretation of tax ~~leet Bin3.41Td [(e6 (4.2 (le)3. ()ivo)15.9 8 d.992(oud.9929~~

5.1 Research process

process flow diagram to identify the relevant function responsible for a specific part of a process. They can then refer the external parties to the function that is in the best position to assist them with their query. Because the responsible function has a

6. CONCLUSION

The research set out to highlight whether or not BPM can be a valuable tax risk identification and management method. The research results indicated that the implementation of BPM leads to the ability to share knowledge and create a broader view of tax processes. Industry specialist knowledge can be easily shared with external parties such as internal auditors, external auditors and the revenue authorities.

7. APPENDICES

Appendix A: Strengths and shortcomings of tax strategies and tax control frameworks⁵⁰

Tax strategy		Tax control framework	
Strengths	Shortcomings	Strengths	Shortcomings
Enables an enterprise to specifically identify those risks that may hamper the achievement of the enterprise's strategic goals	Does not focus on operational procedures and risks	Supports the objective of creating an effective, efficient and transparent environment	Understates internal controls, because it is not always possible to view the entire internal control framework at once
	Operational risks may be overlooked	Supports organisational strategy through tax planning and premitigation of risks	
Enables the identification of different groups of risks	Lacks detailed focus which may hamper the achievement of a function's goals within an enterprise	Facilitates resource allocation	

⁵⁰ Erasmus, above n 30; Hoyng et al. above n 3022 and 43; Johnston, above n 342; M Leitch, M. Why the COSO Framework Needs Improvement (2005) <<http://www.irmi.com/expert/articles/2005/leitch04.aspx>> TechTarget, above n 36

Appendix B: Advantages and disadvantages of BPM

Advantages
Increased accountability between functions and individuals Improved reliability of individuals (vertical)