



Managing through a crisis: tax and legal impacts

Keeping Connected Global Tax & Legal & Mobility Virtual Meeting Series

—

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Today's presenters



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Administration

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- As mentioned, in order to receive the certificate of attendance, we require participants to take part in at least five of the six polling questions.
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Topics for discussion

Agenda



- 1 **Business issues in the current environment**
- 2 **Government tax policy measures and the implications for direct and indirect tax**
- 3 **Contracts and legal considerations**
- 4 **Employee tax and mobility issues**
- 5 **Q&A**



Business issues in the current environment



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Government tax policy measures



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Key direct tax policy issues & government responses

Policy issues and government responses			
Examples of government responses limited to a few jurisdictions only	Examples of government responses with some application across different jurisdictions	Frequently occurring government responses	Concerns raised by businesses, not yet specifically acted upon by governments
<ul style="list-style-type: none"> — Broad based reduction in direct tax rates - limited so far (no examples in Europe, some initiatives in ASPAC, e.g. Thailand) — Targeted delays in application dates (potentially Italy) — Loss carry back provisions (Norway) — Increased loss carry forward periods (China) 	<ul style="list-style-type: none"> — Some targeted direct tax reliefs — Accelerated depreciation/ amortization (e.g. Australia, New Zealand) — Exempting aid received by individuals and companies (e.g. Austria, Croatia), allowing deductions for e.g. losses incurred by tour operators (Poland) — Adjusting advance payments — Tax administration: confirmed suspension of tax audits (Austria, France, Italy) 	<ul style="list-style-type: none"> — Adjusting/ deferring advance payments (several European jurisdictions) — Tax administration responses prevalent — Tax filing and tax payment deferrals (majority of European jurisdictions, some examples in ASPAC) — Waiver of penalties (widespread across the globe) 	<ul style="list-style-type: none"> — Permanent establishment issues — Central management and control issues (substance requirements) — Broader carry back of 2020 losses

Key direct tax policy issues & government responses: EU spotlight



- European Commission Adopted a Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (19 March)*
- Measures can include (subject to conditions):
 - Direct grants, **selective tax advantages** and advance payments, up to EUR 800,000 to a company to address urgent liquidity needs
 - State guarantees for loans
 - Subsidized public loans to help businesses cover immediate working capital and investment needs
 - Safeguards for banks that channel State aid to the real economy
 - Short-term export credit insurance.
- First aid scheme notified by Germany and approved by the European Commission (23 March)
- EU working with Member States on quick and effective response

* https://ec.europa.eu/commission/presscorner/detail/en/IP_20_496

Key indirect tax policy issues & government responses

Policy issues and government responses			
Examples of government responses limited to a few jurisdictions only	Examples of government responses with some application across different jurisdictions	Frequently occurring government responses	Concerns raised by businesses, not yet specifically acted upon by governments
<ul style="list-style-type: none"> — Broad based reduction in indirect tax rates — Occurred during global financial crisis — Limited so far - Jamaica and Cyprus — May not occur until immediate health crisis is controlled 	<ul style="list-style-type: none"> — Targeted reductions in indirect tax rates - applied to reduced rates e.g. hotels, hospitality, airlines, events — Examples: Norway, Malaysia, Vietnam, Indonesia, Moldova — Likely to be acted upon once the operation of these sectors is consistent with status of health situation — Accelerating refunds of excess indirect tax credits (Indonesia, Australia, Latvia, Poland, Romania, Thailand) 	<ul style="list-style-type: none"> — Tax filing and tax payment deferrals — Removal or reduction of advance tax payments; Waiver of penalties — Suspension of tax audits — Specific relief measures to alleviate Customs & indirect tax costs for essential medical supplies — Indirect tax relief for donated goods / services 	<ul style="list-style-type: none"> — Bad debt relief — Clarifications around indirect tax treatment of cancellation fees, no-shows, penalties and damages payments — Deferring or waiving business turnover based indirect taxes (i.e. which do not vary based on immediate cycle (OECD))
Need more specific information & updates?			
<p>KPMG updates on specific jurisdiction responses: https://home.kpmg/us/en/home/insights/2020/04/taxnewsflash-coronavirus-covid-19-developments.html</p> <p>OECD Tax Policy and Tax Administration measures - https://bit.ly/2WEPP8S and https://bit.ly/33B9Sqf</p>			



Cashflow tax issues: indirect taxes



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Cash flow management tips – indirect taxes

Most indirect tax systems require accruals basis taxpayers to pay output tax at the earlier of: (a) invoicing; (b) payment receipt and (c) receipt of goods/services. The use of these methods will vary by jurisdiction:



Not accounting for output tax prematurely

Consider:

- **Timing of invoice issuance where price and payment is still being (re)negotiated**
- **Availability of bad debt relief before issuing new invoices to existing long-standing creditors**
- **Whether it is really necessary to invoice at the end of the tax period, or can defer to start of next period**
- **If required to account for output tax where an invoice is generated in your system, but not sent until next tax period**
- **If an up-front payment should be structured as a deposit, not part of the actual payment**



Seek to claim credits for expenses on a timely basis

- **Can input tax credits be claimed in advance of making a payment?**
- **Do you need to seek a tax invoice in advance of making payment?**
- **Can input tax credits be claimed for expenses where the invoice is dated before the end of tax period, but received after? Seek to expedite this process with suppliers**
- **What is the backlog of your Accounts Payable? Can invoices be processed earlier to claim input tax credits in the right period?**
- **If in a refund position, can you change the VAT filing frequency? e.g. from quarterly to monthly**

Managing indirect taxes efficiently

Are reliefs for exported goods and services being utilized – typically zero rating in most countries?



Will reduced turnover cause your business in a specific jurisdiction to cease needing to be registered?



Are there examples of incurring foreign indirect taxes which are not recoverable?



Alternatively, can you shift to less frequent filing periods in tax payable situations?



For intercompany transactions, is there leakage of indirect taxes (i.e. non-creditable/non-refundable) – can that be alleviated?



Should your partial exemption methods (typically applicable in the financial services sector) be revisited now, due to changes in business activities?



Do you have (historical) foreign travel expenses (e.g. hotels, domestic flights, transport). Is it worth seeking to claim input tax credits where possible?



How has your supply chain been impacted? Do you have indirect tax registrations in place? Do you have import reliefs in place?



What can be done to accelerate a refund from a tax authority? Can you increase tax filing periods to secure refunds more quickly?



Can you leverage data & analytics tools, such as KPMG's Tax Intelligence Solution, to identify and quantify these transactions?



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Contracts and legal* considerations



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Legal implications of COVID-19

In legal terms, COVID-19 is 'Sector agnostic'

✓ **Health & safety of employees and communities**

✓ **Business stability and resilience**

✓ **Path to 'normal' operating conditions in an abnormal environment**

Legal foundation for all business activities and response strategies

Immediate response

Responding to the '*now*'

Bridge building

Positioning for '*tomorrow*'

Dealing with the now - a legal lens

We all are dealing with a similar situation:

- trying to develop strategies, plans and tactics that build and maintain resilience in the system...
- at speed...
- in imperfect conditions for decision making.

3 'Pillars' of business resilience



Building the bridge – a legal lens

We have seen crises before, but not like this:

- **We don't know how deep, broad and long this crisis will be**
- **We are at the intersection of a social and economic crisis, with a broader geopolitical/trade situation playing out in the background**
- **Communities will recover, markets will recover, consumer confidence will return – but the landscape won't simply 're-set' to where we were**

Key strategic decisions on the horizon

1

Special situations / opportunities

Changing supply and demand dynamics

Changing market composition

Distressed assets

Heightened risk – existing and new factors

3

Functional transformation

'Systemic' issues with legacy operating models laid bare

Opportunity to redesign the legal services operating model

Opportunity to simplify, modernize and digitize

Broad benefits – cost-out, revenue-on, risk-down



Employee and mobility issues



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What are we seeing?



Tax and immigration challenges

Immigration

- Right to work?
- Work permit?

Personal and employer taxes

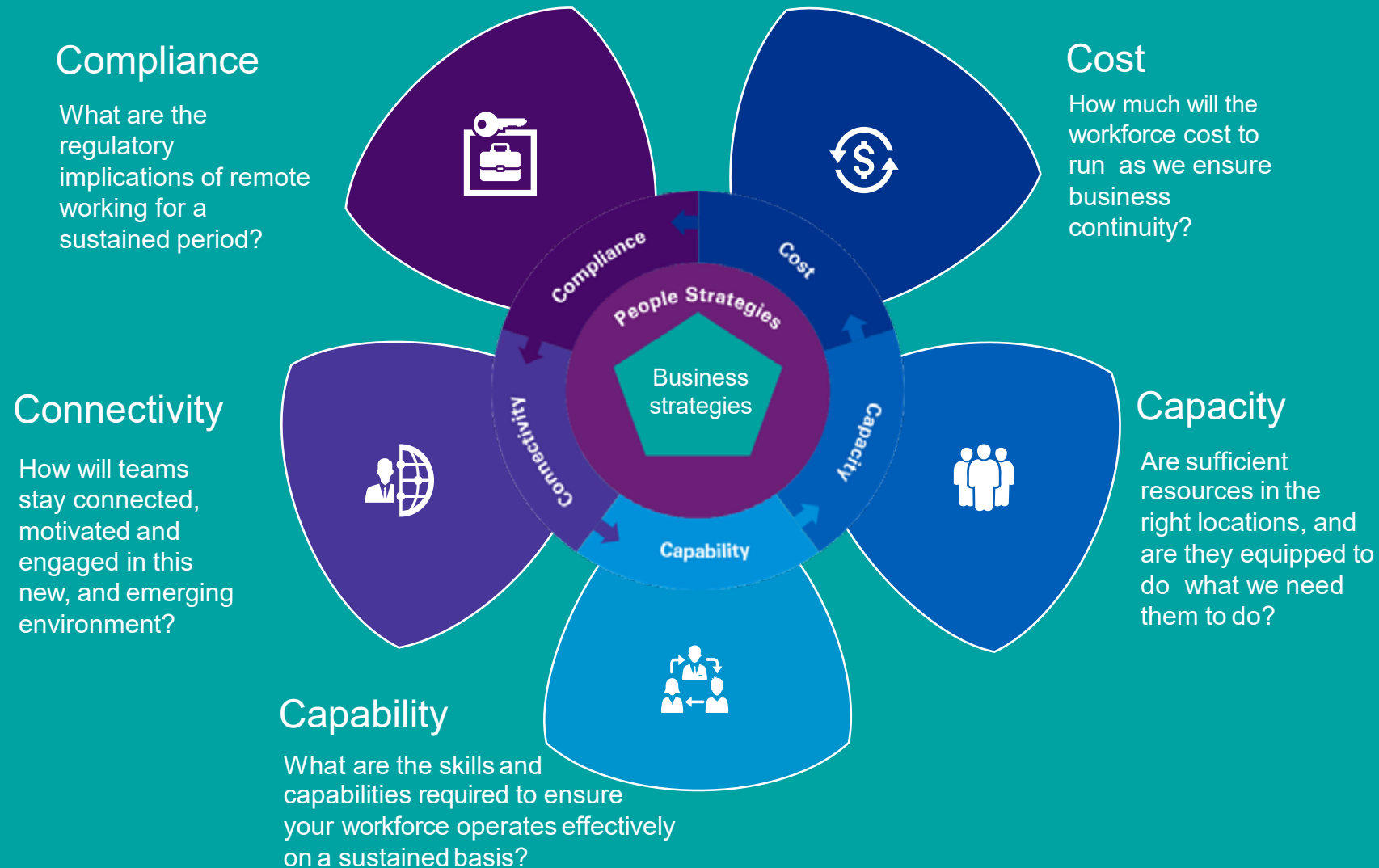
- Liability to personal tax?
- Employer registration, reporting, withholding?
- Social security, pension?

Corporate tax

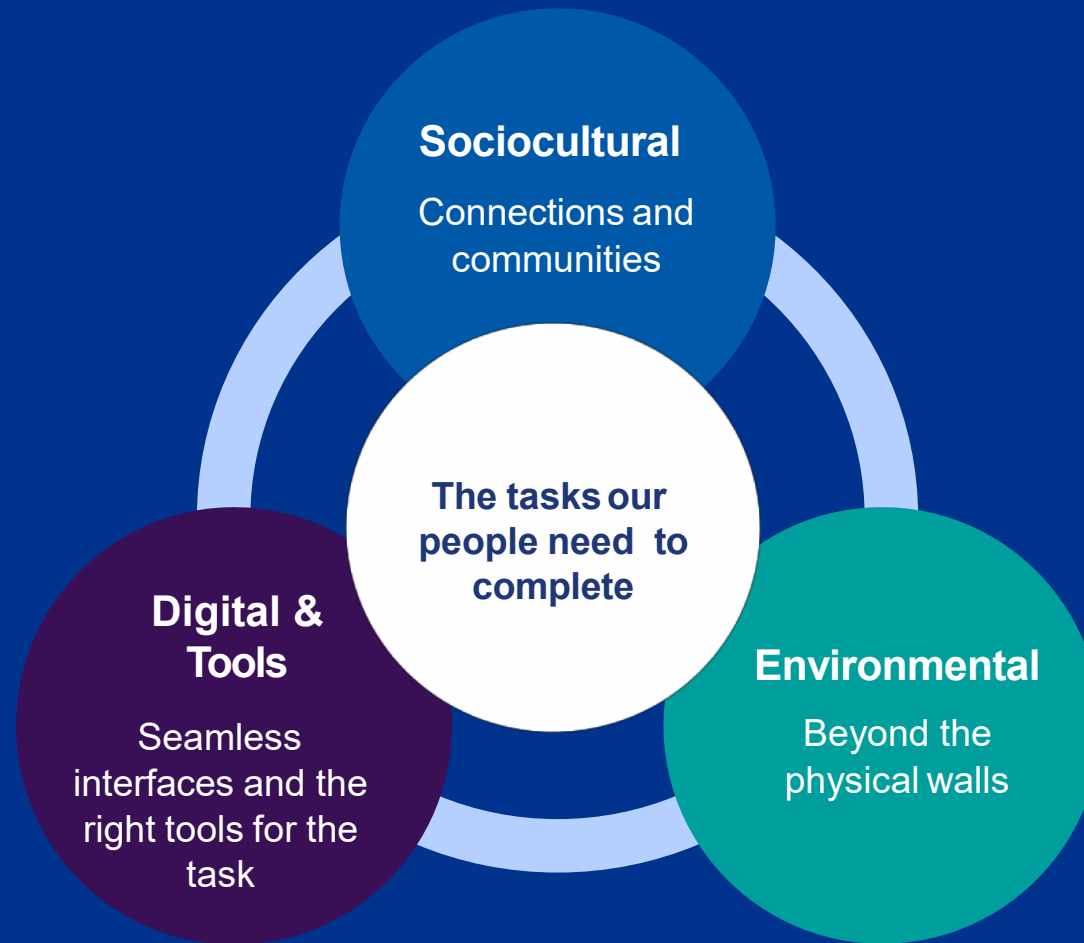
- Permanent establishment
- Business registration
- VAT / GST



Workforce considerations



Employee experience



Employment law considerations

Remote work arrangements



Unpaid or part paid leave



Current assignees



Workplace safety



Overtime



Equality



Managing adjustments to employment

01

Always consider whether the measure is legal and palatable to the staff population

02

Work out a contingency plan well ahead in case of roadblock

03

Engage in negotiations to ensure best outcomes from as many angles as possible

04

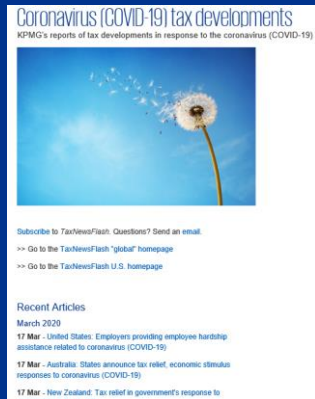
Document all agreements made and communications





Questions?

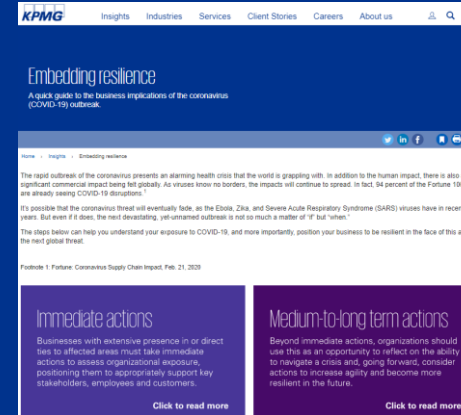
Resources



Tax News Flash - COVID-19

KPMG's ongoing roundup of COVID-19 measures taken around the world in response to the situation

<https://home.kpmg/us/en/home/insights/2020/04/taxnewsflash-coronavirus-covid-19-developments.html>



The Business Implications of COVID-19

KPMG site dedicated to business implications of COVID-19 across all areas of a business

<https://home.kpmg/xx/en/home/insights/2020/03/the-business-implications-of-coronavirus.html>



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