



Podcast transcript

The new reality for tax, legal and mobility leaders

Podcast with Jane McCormick, Global Head of Tax and Legal Services, KPMG International, Brahma Sharma, Global Head of Markets, Tax and Legal, KPMG International, Sean Bloodwell, Global Head of Compliance Management Services, KPMG International, Lachlan Wolfers, Global Head of Indirect Tax Services, KPMG International, Marc Burrows, Head of Global Mobility Services, KPMG International, and Stuart Fuller, Global Head of Legal Services, KPMG International*.

Musical intro

Announcer:

Hello, and welcome to the KPMG podcast series for tax, legal and mobility leaders. In today's episode, we reflect on the changes we've seen since the emergence of COVID-19, as well as the expectations for the future, all through KPMG's four phased lens. To provide this insight, I'm delighted to welcome back to the podcast, KPMG's global leaders, including Jane McCormick, Global Head of Tax and Legal Services, KPMG International, Brahma Sharma, Global Head of Markets, Tax and Legal, KPMG International, Sean Bloodwell, Global Head of Compliance Management Services, KPMG International, along with Lachlan Wolfers, Global Head of Indirect Tax Services, KPMG International, Marc Burrows, Head of Global Mobility Services, KPMG International, and finally, Stuart Fuller, Global Head of Legal Services, also at KPMG International.

Thank you all for taking the time to join me on the phone today, for what I'm sure will be an insightful and dynamic conversation.

Brahma, I'd like to start with you. In my introduction I mentioned KPMG's four phased approach to helping businesses respond to the current environment. Could you talk us through each one of those phases?

Brahma Sharma:

Across the KPMG network, we have approached the situation through a four phased lens, in order to help keep a view on the future and we're encouraging businesses and other organizations to do the same. The **reaction phase** is really about ensuring the well-being of your people, and responding to immediate pressures of the environment. In this phase, the key question for most organizations we spoke to was, where are your people and what the impact will be? Further, organizations continue the need to think through the implications of working from home. For example, the relevant employment law issues relating to health and safety obligations, and employers need to ask what are the possible wage and entitlement compliance challenges in

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monitoring staff hours and calculating accrued benefits across a potentially long-term, remote workforce? And will employees be able to claim a personal tax deduction, extra expenses they have incurred from working at home?

After this small reactionary period, we have the **resilience phase**, which goes beyond the immediate reaction to proactively managing the situation, with an eye to the future. Keeping pace with government response is an important aspect of this phase. Organizations may struggle during this time to maintain strong, daily oversight of compliance processes and as a result deadlines may be missed. Also of critical importance to business leaders during this phase, is the consideration of cash-flow issues.

As companies prepare to move into the **recovery phase**, we see businesses starting to emerge from some of the challenges and perhaps are identifying new opportunities to help them succeed. Here, we see tax departments getting more in-depth with long-term planning. The final phase is the **new reality** that lies ahead, and one thing we expect in the new reality is a lot more call for transparency. In preparation for this, organizations need to continue to ask the question as to how actions today may be seen in the future, and how these challenges can be navigated with the focus on Responsible Tax.

Announcer:

Thanks Brahma, there's a lot to think about there. Lachlan, I'd like to come to you now, as we focus on the new reality, what business trends do you anticipate seeing as we move forward?

Lachlan Wolfers:

As we move to the new reality phase, supply chain planning will be a big focus. And it's interesting, a journalist asked me to comment for a story the other day where he described what he was seeing around the world as a shift to de-globalization. And I'm not sure that that's a term that I think really, accurately describes what you're seeing, or will see, in this area.

I tend towards the view that what you will perhaps see is a diversification around supply chain. I think the other aspect that we're seeing, and again, Europe seems to be leading the way in this area, is the growth around alternative tax discussions. So, whether they be turnover taxes, or environmental taxes, the EU Commissions proposed, for the first time, a form of a turnover tax levied for access to the single market in Europe. Now whether that proceeds or not remains to be seen, but there's also a lot of discussion taking place in the European Union around repositioning around environmental taxes. And I expect that to be very much a long-term trend coming out of this, and I would anticipate in the new reality phase that VAT and GST rates are likely to increase. And I think that's simply part of a longer-term trend, consumption taxes are generally considered to be more efficient to collect and obviously don't suffer from some of the problems that we see with corporate taxes at the moment, with respect to things like digitalized business models. I think the idea that there will be a clamp down on tax loss utilization is almost as certain as night following day, and barely needs to be spoken about. Technology enablement for tax functions and tax authorities, I think is an issue that, you know, we expect to see as we move into the new reality.

Announcer:

And just in terms of Indirect Tax, surely the amount of change as well as the pace of change is going to make keeping on top of things extremely difficult for companies over the next six to twelve months.

Lachlan Wolfers:

It's interesting, I was on a call the other day where, you know, someone was complaining about the system changes that they would have to make to try and implement the rate reduction in Germany within a very short period of time. While I'm certainly sympathetic to that issue, I think we've all got to recognize this is part of a much, much bigger picture where clearly what they want to do is get the economy moving along. And this is, you know, the good thing from an economic perspective and I think governments will continue to do it. So I think, you know, concern, from those of us who work in the indirect tax function I think is not really going to be listened to terribly much, because, you know, there's a much bigger point at play here and I think that's a valid comment.

Announcer:

Thanks Lachlan, it sounds like there could be some really interesting times ahead. So, keeping in mind all that you've just discussed, I know that you and Sean have put together a top ten predictions for the new reality, post COVID-19. So, if it's alright with everybody, I'd like to quickly go through that top ten. So, Sean, can I come to you first?

Sean Bloodwell:

Sure and hopefully I can handle this with the same flair, and Lachlan if there's any one that you want to comment on specifically, just feel free to jump in. Ten, you hit on this a little bit earlier, greater taxation of non-residents with sales in local jurisdictions. I think that's a natural reaction to what we're seeing

here, particularly under the VAT, GST world. Community expectations around tax transparency will be enhanced, leading to increased reporting. Again, I think some of these are trends that we saw prior and coming into the pandemic, and I think that's a common theme here — I think the pandemic is just accelerating, or increasing the importance of these. Number eight, greater intervention by taxing authorities to reduce risks of under reporting and non-payment for real time reporting, pre-filing, withholding measures, priority as a creditor.

Announcer:

Thanks Sean, at number seven you've listed increased reliance on indirect taxes, environmental taxes and / or specific turnover taxes.

Sean Bloodwell:

As a direct guy at heart, it's hard for me to read that, but I think that would be one of the natural outcomes. I think companies need to be prepared for that reality, as tax and jurisdictions are and I imagine you'll want to comment, at least on that past one, Lachlan?

Lachlan Wolfers:

Yeah, so, I think from an environmental tax perspective, one of the comments I'd make is whether countries are going to be moving from, what I'll call a carrot approach, which is incentives-based for adopting lower carbon emission activity. More to a, you know, a stick approach where we'll penalize high carbon emission activity. And I think budgets are probably a key aspect of what will sit behind that.

Announcer:

Next at number six, you've outlined that innovation coming out of this crisis will breed new ways of working, new solutions, new approaches, with better contingency planning. Can you talk us through this point?

Sean Bloodwell:

I clearly believe this. I think crisis like this just generally breed innovation. I think you're seeing a lot of companies rethinking from a process standpoint, the way they manage compliance, the way they integrate planning and compliance and certainly the calls that we're getting are from companies that are looking for advice and how to leverage technology more. How to leverage different resourcing models or shared services more to get, you know, results that were easier to achieve, kind of onto the old environment and I expect companies to take this innovation, kind of into the new world as we emerge. So, I think there's absolutely a silver lining to the cloud in terms of what we learn from what's happening here.

Announcer:

Thanks Sean, and at number five you've noted that transfer pricing will be the major audit battle ground.

Sean Bloodwell:

I think that's no surprise, I think that goes back a little to the transparency point earlier and Lachlan I think that ties into your point, when you talked about countries not necessarily competing on tax rates, but then that putting pressure on other areas in terms of how they audit and how they look at companies.

Announcer:

And at number four in the top ten predictions, you've listed no country will be able to successfully rely only on taxation as their way out to economic prosperity. Taxation must be complimentary to broader economic reforms. Can you add a bit more detail to this point for us?

Sean Bloodwell:

So, taxation is just part of the complete puzzle. I think that's something that may emerge more over time, as there's, you know, those other means start to catch up to tax. Tax may have been on the front end, in terms of having to quickly, you know, achieve certain outcomes in countries. But this more robust and more holistic look at how the different levers work together will clearly be part of the future strategy.

Announcer:

And so, at number three you've listed increased outsourcing of compliance. Moving from specific taxes to all taxes.

Sean Bloodwell:

I think there has been new enablement in terms of the ability to work remotely. That gives companies increased options in terms of how they build their sourcing model. It allows them to more easily work with accounting firms, or with outsourced VPO type service providers. And I think we talked about this, it's not just tax, this is much the finance department looking at interesting and unusual sourcing models. So, companies will clearly use this as an opportunity to investigate new ways of working together.

Announcer:

And number two on the list of top ten predictions is?

Sean Bloodwell:

Number two, there are only two certainties in life, death and taxes. As we move out of this crisis, we will hopefully have less of the former and, but it may come more of the latter, which I think was a very well way of putting this.

Announcer:

And finally Sean, at number one you've written the art of taxation consists of plucking the goose to procure the maximum amount of feathers, with the least amount of hissing. Could you talk us through exactly what you mean here?

Sean Bloodwell:

You know, governments are going to have to find ways to pay for what's going to have to happen. And they're going to have to do it in such a way and they're going to have to pull those feathers in such a way that it doesn't create the adverse effects and, it's going to be a very fragile system as we go forward. So, you know, I would imagine we're going to see lots of changes and the need for companies to adapt as they go along the way.

Announcer:

Great, thanks Sean and Lachlan, there's a lot to think about there. Next, I'd like to come to you Marc, to get a view on some of the mobility trends arising from COVID-19, what have you been seeing over the first half of 2020 and what are you hearing about the new reality going forward?

Marc Burrows:

For most companies in this first half of the year, it was dominated by locating our employees, making sure that they and their families were safe. And as the months went on, we really started to realize that at that point in time there were income tax risks, social security, payroll, what do we need to do there? Really importantly, permanent establishment risks for the corporation, residency, immigration and regulatory activities. Now, initially authorities have said, 'Well, just get your people safe and we'll give you some leniency around all of those sorts of things.' The OECD pitched in and others to say, 'We think it should all be right where you're stuck because the government has said you're not allowed to move.' The borders have started to reopen a little bit, but the quarantine rules are very uneven, and the predictability of how borders will reopen is also something that nobody has a crystal ball around. So, what we're going to see coming next is going to make this environment even more complex.

Announcer:

And Marc, do you have any thoughts on what some of these complexities and changes for the next half of the year might be?

Marc Burrows:

So, when we're looking at this next half of the year, some of the things that we need to keep in mind are, 'What do we actually use employee mobility and business travel for, and where do we need it?' And we're working with many companies now to use data and analytics to start to look at things such as, in the past, where were we using inter-regional travel, where in the new reality perhaps we can use inter-regional travel with better resource management? And what we're finding as we dig into the data, is that there is things like lack of transparency in terms of skills and availability, cronyism, bosses that just pick their favorite guys they've been working with for decades, and they send them wherever the job might be, rather than looking at local or regional resources. And all of these things, if you resolve them, have a much more inclusive approach to your resourcing and allow a lot more of your diverse talent to get these opportunities.

The other thing is around the new wall for talent and this is something where there has been a noticeable and definite shift of power towards the employee as flexibility has come flooding in. And this will start to have an impact, specifically on recruitment and their ability to retain talent. So, we need to start to think about the things that our employees are thinking about. Rightly or wrongly, thinking about whether they have a legal right to work from home. That's on the minds of many employees. The other thing is, what is the value of flexibility to your employees? And what kind of flexibility is valuable and what isn't? Related to that, how do we on-board people effectively, how do we manage belonging, how do we manage productivity? How do we instill culture and values, especially those that are focused on risk management and the role of the organization in the community? And lastly, what is our duty of care to our employees when they must travel for work?

So, employers will need to think differently and understand our employee's expectations as they emerge in this new world of ours.

Announcer:

And Marc, do you have any thoughts on what some of those complexities and changes for the next half of the year might be?

Marc Burrows:

Now, I would say that the new reality isn't necessarily a world without working in an office, it's just a world where we focus on the work, instead of the office. And one of the things that this is producing is this focus across industries on work from anywhere. And work from anywhere is a term that's being used to describe a range of possible things, but at its core, it's really looking to allow your employees the choice to decide where they want to do their work from, so long as they can get that work done. Now most companies, in my prediction, won't get all the way there, to the point where they allow full flexibility to some of their employees to go wherever they like in the world. But most will get some of the way there and will allow much more international flexibility than they previously allowed, and even much more flexibility than they're allowing right now.

And now if you're not thinking about this with a multi-stakeholder group within your organization currently, I would suggest that you're at least behind the front runners in your industry, if not behind a number of the pack. Over the last month or so, many clients have come to us looking for things like benchmarking policy support and policy roll-out. And some of this is focused on key talents citing their peers and other companies who have been allowed either work from anywhere, or much greater flexibility. And as a little tip, I would suggest that when you're thinking about this, think about your business in terms of activities, sift them into regulated activities versus non-regulated activities, and start to work back from there, rather than bending to the pressure of particularly powerful employee groups. Often the pressure is coming from those groups that are the most heavily regulated and hardest, or the most risky to allow to roam wherever they feel like it.

Announcer:

Thanks Marc, a whole range of things to keep in mind there. I'd now like to look at the new reality from a legal perspective, so Stuart, as Global Head of Legal Services, could you run us through your own top ten, post COVID predictions as businesses move into the recovery phase?

Stuart Fuller:

What COVID has definitely shown is the role of legal. Legal has gone from possibly the back office to the front office in many ways, and the fact that there's a mesh and a relevance of legal arrangements and business contracts that are grounded in legal relationships is more evident than before.

Secondly, the amount of government support, and in some cases regulators becoming slightly more lenient or pausing or delaying some of their actions, will continue in our view, and will lead to increased demands on business and also therefore increased demands on legal and the role of legal. I think the great expression is, COVID is an accelerator not new trend. What it has done in some of these cases is paused some of the trends as government and regulators have let businesses deal with the here and now, and go into survival mode. But we do expect those to come back, and come back with a vengeance.

Similarly, governance and compliance will return but will never be the same. What we've seen is an unprecedented change of both corporate governance and government allowing virtual governance, whether that's virtual AGMs, virtual scheme meetings, legislating in some cases to allow electronic witnessing of legal documents. All of those things will return, but that digitization and automation of those functions will always be the same. What it will do is put pressure on how governance and compliance is actually administered and then overseen in that sort of world.

Next, hindsight will be a powerful weapon, both shaping strategy and claims. This really goes back into the comment I made before around the number of the pragmatic actions being taken during COVID, and the fact that people will try, some people will try to take advantage of that. And whether that's people claiming that they're not bound by what they do, or claims against organizations for business changes and business continuity disruptions that have happened and the rise of mass claims – we'll see that is happening. And moving on, Lachlan and Sean have touched on this, resilience with triumph over efficiency. So whether it's a supply chain or a business channel, that the drive to efficiency will change to resilience.

Next, you will see, economic sovereignty which we're certainly seeing already, being followed by legal sovereignty. And when you look simply at foreign investments laws, we are seeing this already across a range of jurisdictions. The US, UK, Germany, Spain, the EU, Australia and Canada, all tightening foreign investment laws and their trade laws and their immigration laws.

Next, digitization. A decade of digitization in a week. Court systems, government systems, law schools, all happened in ten days. And, and I sit on the board of a university here in Australia,

and their exact comment was today, implementing ten years of disruption and change in ten days.

Next augmentation of legal through automation, simplify, modernize and digitize. This will be actually the legal function adding to business, which people would sometimes see as a surprise. Simplifying the process, improving the customer experience and importantly allowing businesses to start to generate revenue faster through simplification, but also digitization and automation.

Second to last, market dynamics and demand will be elastic and will change collaboration, which is a difficult word to say, but it's a combination of collaboration and competition. And what we mean here is the market changes mean that the client's interest always has to be first and you must put the best team on the field, and whether that's law firms collaborating, organizations like KPMG collaborating with law firms. Different organizations that actually put the client's interests first and solve the client's problem to putting the best team on the field, will rise up. And whilst I think this has been around for some time, it will come out with more a vengeance here.

And then last, but not least, from the legal perspective, solutions, services and client experience will triumph over advice, expertise and relationships. So, this is again, the focus on the customer experience and outcomes over inputs, but certainly what we expect to see is an incredible focus on solutions and the client experience of dealing with legal and regulatory rather than the beauty of the law itself, and the advice basis.

Announcer:

Thanks Stuart, so next I'd like to ask about the part the OECD will play in the new reality. Jane, do you have any thoughts on what the OECD's role might look like?

Jane McCormick:

That's a very interesting question. Stuart just mentioned growing nationalism, not just in tax rules but also in investment laws. So, there is a big debate going on here and I think there's a strong belief amongst a lot of business leaders that we will need a multilateral response to COVID, you know, in areas like tax policy. And if we're going to go with multilateralism, then obviously the OECD has a role to play. But, I think it goes beyond the OECD. I think a success in the last few years has actually been the platform for collaboration, which obviously involves groups from outside the OECD.

Announcer:

And Jane, as businesses move into the recovery phase, what do you see as the immediate challenges for tax and legal professionals?

Jane McCormick:

Well, we talked before COVID hit about being in a period of unprecedented change, and we tended to talk a little about unprecedented change in tax. But I think that's going to be a walk in the park compared with where we're going. So we are going to see fundamental changes in tax policy, but more importantly

for tax professionals, we're going to see fundamental changes in business. So changing work patterns, digitization, changes in the supply chain, financial and business restructuring and of course cost control, that's going to go on for a long time.

So, tax professionals are going to be having to deal with that change, which will be happening very quickly. It's interesting the discussions in boardrooms, obviously vary, in some cases unfortunately, it's a fight for survival and unfortunately that fight may be lost. In other cases, where, where businesses are critical to national infrastructures, you can see businesses moving into government ownership. And then even those that are surviving, there are some who are probably talking about making small changes around the edges, but a lot that are thinking about using this as the, well, catalyst for radical change in their business. So, the real issue is going to be keeping up with that change, which is going to have significant impacts on the tax profile of an organization.

Announcer:

So, it sounds like it's definitely the case that keeping a clear eye on the future is going to be crucial, and with that in mind, how can business leaders respond to immediate needs whilst at the same time preparing for the future?

Jane McCormick:

Actually, in a number of organizations, including our own, we've recognized that it's actually impossible to do both in the same discussion because one will inevitably get consumed by the immediate day-to-day issues. So, what we're seeing in a lot of organizations is a separate group be set up to do that thinking about the future, almost always of course, under the control of, the chief executive. But allowing the operations people to focus on the day-to-day. And I think there's an argument for doing that within a tax function as well, isn't there? Because clearly you can't take your mind off the need to get the returns in, the need to deal with tax authority enquiries, the need to undertake the internal and external reporting that you have to do. But at the same time, it is necessary to think about what the new reality is going to look like and get ready for that. So, maybe a separate team to think about that.

Announcer:

Thanks Jane, I'd like to wrap up this podcast if I can with one final question – well, I suppose it's actually more of a request. Is it possible for you to highlight a few key takeaways for business leaders as they navigate through the four phases of the response? Lachlan, would you like to start?

Lachlan Wolfers:

I think if I was to sum up three key points, firstly, I think governments have a unique opportunity to focus on long-term positioning of their tax policy, rather than the short-term approach. So, I think there's a real opportunity there. The second one is that, I see a unique opportunity for companies to be digitalizing their tax function. I think is finally the opportunity that companies have to jump in on this and I think finally, I think it

touches on a point Jane made around nationalism as well. As tax experts have performed very well in managing the tax and policy settings during COVID, as a general proposition, and I think what's going to come out of this is an expectation that the money gets paid back and the expectations on, on companies to be transparent, to do the right thing, will be sky high coming out of this. Sean, over to you.

Sean Bloodwell:

I just think the urgency of what we're going through is going to cause an acceleration of a lot of things that were in process before. And then, I think, I believe that we will come out of this and this urgency and this acceleration of ideas, will really put us in a great position going forward and there will be new ideas that come and new ways of working that come out of this crisis.

Announcer:

On behalf of our listeners, I'd like to thank you all for your time today and for providing such valuable insights into the professional implications from a tax, legal and mobility perspective.

For more information and resources on COVID-19, visit home.kpmg.com/covid19taxandlegal

Join us again next time and please email us with any questions you have about today's episode at tax@kpmg.com and we'd also love to hear from you with any suggestions you have for future episodes

Thanks for listening.

Musical exit