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REACTION

Chemicals Magazine

Thirty-fourth edition

Articles include:

The chemical supply chain takes center stage

Remote workforce: Tax considerations for chemical companies

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Introduction

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Welcome to the 34th edition of REACTION Magazine. I'm pleased that we're returning to our traditional format, although I hope you found the shorter, more frequent content helpful during a quickly developing pandemic for delivering timely advice on the emerging issues.

That's not to intimate that things are back to normal. As I write this, many parts of the world are still under lockdown and the COVID-19 delta variant is surging, so there is still hard work ahead. With that being said, I think we've all been amazed at how quickly growth has returned to the global economy and within the chemicals and materials industry; overall sentiment coming out of Q2 is incredibly positive.

As I reflect on the conversations I've been having with senior executives around the industry over the last few months, there are a number of consistent themes: M&A and return to growth, in what is one of the hottest deal markets of the last 20 years; the ever-increasing importance of environmental, social and governance (ESG) issues; and supply chain headwinds brought on by a combination of COVID 19-related shipping dislocation, the Texas winter storm, the Suez Canal jam and semiconductor supply issues.

We'll return to M&A and ESG in the next edition, but we wanted to bring you some insights on supply chain given how hard many of your teams are working right now to resolve the challenges. We'll look at strategies to help build more robust supply chains and improve planning and how to leverage the latest digital tools. We also have an update on emerging tax issues as governments around the world work to set a global minimum standard tax rate, which could have a massive impact on global principal structures that have been prevalent in the industry for a long time.

As ever, I'm keen to hear your feedback, and if there are any topics you'd like us to cover in a future edition of REACTION, please don't hesitate to get in touch.

Most importantly, I hope you and your families are thriving. I know you join me in thinking about all those who experienced loss over the last 18 months.

Be well and stay healthy.

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The chemical supply chain takes center stage

By Yatish Desai and Craig Russell

Optimized for cost and tax efficiency 15 to 20 years ago, supply chain strategy hasn't really been a focus area for executives in the chemicals and performance materials industry for a generation. Then COVID-19 spread around the world, and the industry's view of an effective supply chain strategy turned upside-down. Now companies are trying to balance the need for the immediate correction of supply chain issues with limited resources to implement changes.

However, there's good news in the midst of an historically challenging environment. Significant improvement for a reasonable investment is possible when chemicals and materials companies reset their supply chain operating model to build better resilience, and they embed analytical capability in their planning to provide early warning of future disruption.

Riding out the perfect storm

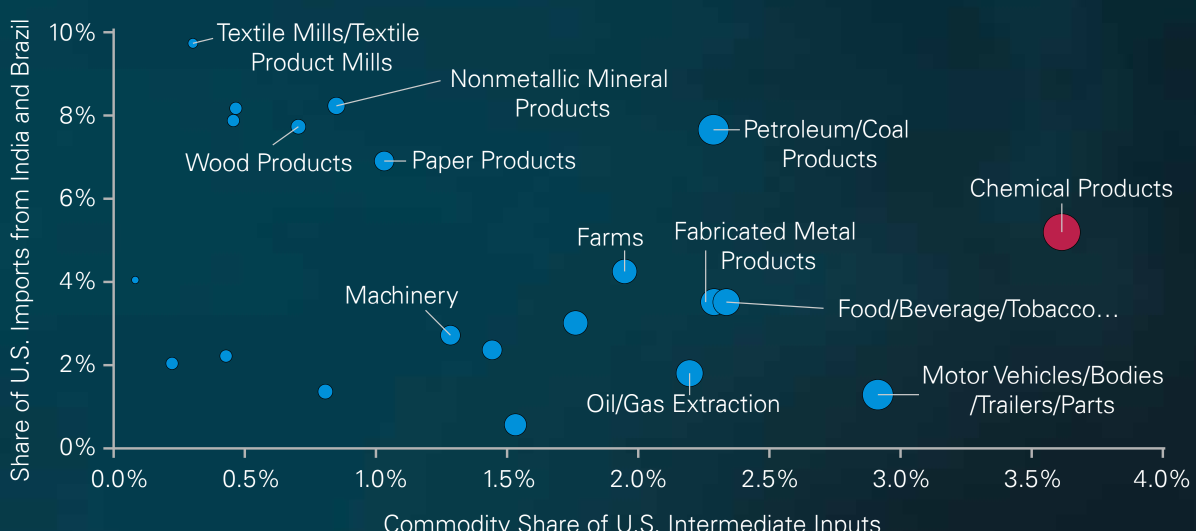
A confluence of events continues to batter the chemicals and materials industry supply chain around the world. And it's unlikely these disruptions will stop.

Chemical company leaders have not been able to catch their collective breath. Pandemic-related production shutdowns in China forced companies in the United States and abroad to try to fill their pipelines while they still could to keep things moving, watching as other countries started to see COVID-19 cases climb.

That's when port closures (as evident with vessels stranded off the U.S. west coast) and labor shortages reduced loading capacity and created a backlog that extended to rail as well. Ships were not where they were expected to be, having delivered medical supplies around the world. Companies began hording containers at shipping and destination sites, often just to store product that couldn't move. Then as China began to recover first and pushed its product out as fast as possible, its freighters delivered goods on the West Coast and departed empty to rush back for more.

Other events outside of the industry's control only served to exacerbate the challenges into 2021. The February winter storm in Texas hit petrochemical complexes hard and coming back online safely has been a lengthy process. The following month, a ship that blocked the Suez Canal interrupted supply routes for weeks. Is this a trend? No, these are global challenges frequently faced by the supply chain world but more evident in 2020 and 2021 because several happened at the same time as positive signs of recovery from the pandemic started to emerge.

Supply Chain Exposure to India and Brazil



Note: excludes forestry, Bubble size = total U.S. imports by industry (USD)

Source: KPMG Economics, Bureau of Economic Analysis, U.S. Census Bureau, Haver Analytics

The cost

The shift back toward pre-pandemic normalcy is making many challenges worse.

Once production resumed, a shipping shortage meant there was nowhere to put the material, now held in containers. Chemical companies began to incur increased demurrage charges. Backlogs are projected to clear and costs are anticipated to return to pre-COVID-19 levels in 2022, assuming no additional disruptors.

Until then, chemical companies are being pushed on both ends with rising costs of raw materials and the inability to move finished product. This is further exacerbated with companies pivoting to balance "just-in-time" supply chain to "just-in-case" supply chains, whereby they are now focusing on building inventories back to be responsive to the customer lead times and mitigating supply chain disruptions. Additionally, transportation prices, while down from their peak, have started to rise again as COVID-19 flare-ups continue, containers remain in short supply, and they are up to three times the cost.[1]

Chemical supply chains that have become increasingly global to optimize for costs, tax, and just-in-time delivery to maintain low inventory proved detrimental in a global pandemic, and there's no telling if or when such disruption will happen again.

Now what?

Companies continue to ride the waves as blockages and influxes work their way through the supply chain. Institutional investors want action, pressuring executives to reimagine their supply chain strategies for greater security going forward.

Meanwhile, these chemical supply chain issues are impacting nearly all other downstream industries from consumer products to automotive, which is also facing a semiconductor shortage that is further affecting those chemicals and materials companies that provide automotive products. This isn't just a chemical industry problem, it's a global problem across multiple industries, and resolution can't come fast enough.

However, large-scale and systemic changes to global supply chains can take companies a significant amount of time, resources, and investment. What they need—as soon as possible—are a bevy of short-term and cost-efficient solutions that can help solve today's issues while forming the foundation for a more effective and customer-centric supply chain.

[1] Independent Commodity Intelligence Services, "INSIGHT: Chemicals shipping nightmare continues with no end in sight" (June 15, 2021)

Getting back on track

Chemical organizations have multiple supply chain management tools and strategies at their disposal; it can be a matter of matching the right approaches to the company's needs and operational maturity.

KPMG professionals have walked numerous chemicals and materials companies through a series of steps, outlined below, that support the evolution of supply chains to help meet today's challenges without necessarily requiring the cost, time commitments or disruption of a complete and immediate overhaul.

Examine leading supply chain practices

While every company is different, it helps to start with high-level standards for a strong supply chain target operating model. A fully mature supply chain function is proactive and strategic, integrated across the whole organization, and performing almost flawlessly according to predefined metrics.

Of course, it takes time to reach these goals. It helps to think of the target operating model (TOM) in six pieces, each with its own ideal characteristics.

Target operating model

Service delivery model

- Definition of how the business can be structured to enable optimized delivery of work
- Definition of what work gets done where and by what groups
- Development of required capability centers and/ or external service provider relationships

Functional process

- Target state end-to-end business process definition
- Defined linkages connecting activities across the enterprise

People

- Organizational design
- Roles definitions and responsibilities mapped to the target process and operating model
- Skills and competencies aligned to roles

Technology

- Technology enablement for the end-to-end process activities
- Core model that can be localized to support truly unique critical country/ business requests
- Integration with other enterprise tools/solutions

Performance insights & data

- Definition of the insights required to support the business
- Analytical capabilities to produce required insights
- Data models aligned to the analytics capabilities
- Integrated master data

Governance

- Established structures, policies, and controls to balance risk
- Mechanisms to enable effective and timely decision-making

Assess the company's capabilities and deficits against the model

No one set of solutions fits all. Organizations can ask the following questions to help design their own custom supply chain strategy:

- What is driving increased supply chain costs today?
- What is the supply chain organization's maturity—what capabilities and gaps exist across the function?
- What are the company's initiatives and strategic priorities and costs associated in enablement?
- What is the organization's appetite for change, and what is the budget?
- What are the key improvement levers and synergies to help improve supply chain performance and efficiency?
- What are the people, process, technology, and governance issues that should be addressed to reach the company's goals?
- What should my future supply chain model look like? A supply chain that balances cost of complexity and value of variety?

Use data and analytics to define opportunities for meeting current challenges

Not all companies have access to advanced data analytics, but KPMG can help uncover a lot by feeding the data they have on hand into an analytics platform we developed to uncover new means of improving their supply chain performance—often quickly and efficiently.

Process data such as activity log details can be incorporated to measure variability, find bottlenecks, and reveal opportunities to help improve cycle time. With machine learning, systems can send alerts based on data models when performance conditions change against preset thresholds, as well as uncover root causes of profitability or erosion that companies can use to take action.

When it comes to customer service and profitability, data analysis supports advanced segmentation down to specific ordering preferences and cost to serve. Finally, real-time simulations can allow companies to pose "what-if" scenarios based on specific operational and commercial decisions, while bottom-up economic modeling looks at outside indicators to help allocate end-to-end costs with pinpoint accuracy.

We are even seeing some companies build digital twins of their end-to-end supply chains, enabling them to perform active scenario planning and see the real-life impact of potential mitigating actions.

Consider alternative strategies for sourcing and business continuity

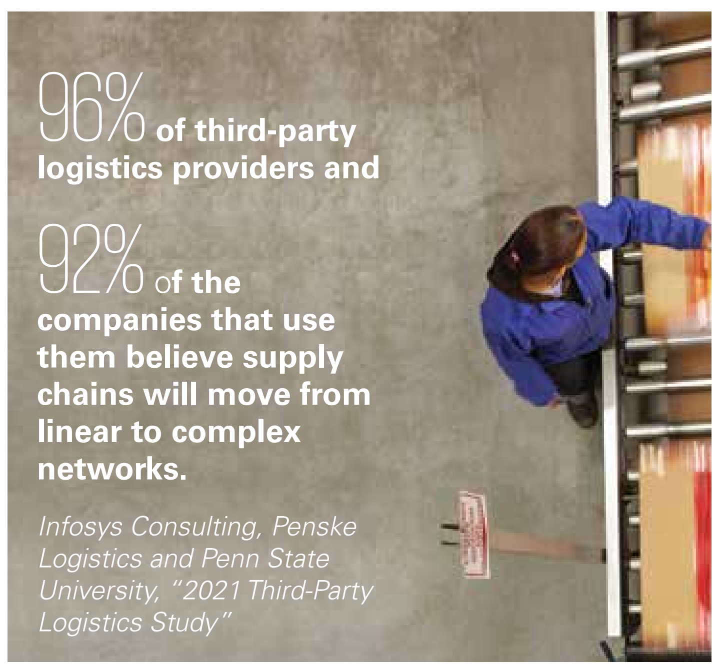
The pandemic is leading to potentially permanent changes in transportation and logistics practices. A number of U.S. companies are pursuing the following:

- Dual- or multi-sourcing to reduce dependency on limited providers.
- Extended risk coverage to upstream and downstream suppliers.
- Localized supply chains and nearshoring, taking advantage of improving trade relationships with Mexico and ramping up production capacities in Latin America to replace or supplement supplies from China.
- Strategic shipping and provider relationships, moving away from operating on a transactional basis to more of a collaborative approach.
- Reduced dependency on spot freight markets through contract brokerage—trading sometimes lower costs for greater consistency—and using spot market carriers when needed for flexibility.

Create a roadmap for implementation tailored for the company

Among the activities included in the roadmap should be:

- The identification of stakeholders and process owners for each area.
- Interviews to understand existing processes.
- Documentation of pain points and challenge areas.
- Data collection and analysis.
- A timeline with resources requirements and capabilities.



96% **of third-party logistics providers and**

92% **of the companies that use them believe supply chains will move from linear to complex networks.**

Infosys Consulting, Penske Logistics and Penn State University, "2021 Third-Party Logistics Study"

Summary

As with other global challenges throughout history, COVID-19 has pushed companies to find new and better ways of meeting needs and serving customers. The acceleration of technology development and the introduction of new and creative strategies can ultimately help improve chemicals and materials company supply chain operations as these innovations are refined and implemented across the industry.

Ultimately, we believe chemical companies will be expected to meet the specific demands of individual customers through demand-driven and automated systems, with supply chains that are resilient against uncertainty and market fluctuations through strategic processes and relationships. Until then, chemical industry leaders can take the incremental steps to build upon what's already in place, choosing options that will best help their organizations solve urgent problems today and improve their supply chains for tomorrow.

How KPMG can help

KPMG has a global team of professionals with expertise in the chemicals and materials industry, supply chain, data analytics, and technology who help organizations adjust their supply chains to enhance performance and introduce greater efficiencies. We start with an assessment of capabilities and determine gaps against a target operating model KPMG has developed from years of experience working in the industry and advising chemical company executives and employees.

We then leverage a predictive supply chain management approach and our own analytics platform, to develop a data-driven perspective on each company's unique supply chain conditions and characteristics to inform targeted strategies and tools for improvement. We also deploy the KPMG Supply Chain Predictor to create a digital-twin view of each client's supply chain and operations, allowing them to simulate business scenarios, risks and disruptions with internal and external data, and then use the findings to design an optimum course of action for their unique organization.

Finally, KPMG helps companies implement the changes that are expected to have the greatest near-term impact while continuing to work with company leaders on refining and realizing their long-term goals for a modern supply chain that can best serve their customers and the company.

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Remote workforce: Tax considerations for chemical companies

By Anjit Bajwa, Paul Glunt, Doug Maziur, Gerard Narendran, and Nita Patel

The COVID-19 pandemic drove seismic-scale disruption. Even the chemical industry, which has experience working through one disruption after another for the last 10 years, is being challenged to quickly manage through significant change—and grasp fleeting opportunities. In fact, as the economy comes out of the pandemic, the chemical industry is accelerating its transformation toward a new and more efficient operating model centered around the remote work environment.

The off-site work that became a necessity during the pandemic may end up being the norm, with benefits to both workers and their employers as well, including lower operating costs and greater access to talent. However, many employees may find themselves performing their duties in jurisdictions outside of their original plant or office location, posing tax issues at both the individual and corporate level. To address these issues and capture the advantages of remote work, chemical companies should think through the implications of dislocation and develop a comprehensive strategy to help ensure their success.

Emerging from COVID-19 to a new world

The chemical industry remains at the heart of everyday living and enhancing human capital will be a key to navigating the latest trends and developments

Prior to COVID-19, the chemical industry was already adjusting to and taking advantage of several technology and market disruptions. Innovation is a core competency of the industry, from constant process improvement to large-scale product R&D. And many companies are now pursuing development of new ecofriendly products and services in response to customer interest that's been growing as part of a larger global movement focused on environmental, social, and governance (ESG) matters. Meanwhile, chemical companies began to digitize parts of their supply chain and production in order to help maximize profits and shareholder value.

When COVID-19 brought global economies to a standstill, lower demand for chemicals acutely impacted operating margins. Amid quarantine shutdowns, the industry's globally integrated supply chains came under tremendous pressure, forcing chemical companies to develop more agile and regional ecosystem–oriented value chains to help reduce costs and mitigate risks. At the same time, the imposition of stay-at home orders put pressure on companies to create a remote working environment for most of their employees.

As the fallout from the COVID-19 pandemic persists, many chemical industry employees who live in one jurisdiction and ordinarily commute to another now perform their work from the jurisdiction of their residence. In some other cases, employees who were traveling during the pandemic are unable to return home or advised not to do so, and they continue to work from another location.

In reaction to the events of the past two years, organizations are pivoting to some level of remote work as they continue to transform for future success. It has become apparent that for an increasing number of companies, both remote and distributed workforces are here to stay. Many employers plan to give workers the choice.

On top of that, as stakeholders including investors and employees view ESG matters as increasingly important, chemical organizations should adopt and communicate their ESG priorities in order to reap benefits such as improved talent recruitment and retention, and stronger community relationships, in addition to financial benefits.

The anticipated outlook for the global chemicals industry is looking bright given the ever-increasing urbanization of the world's population as well as rapid growth in emerging markets. Many of its wide-ranging products are the fundamental building blocks of other industries in high demand, such as automotive, energy, healthcare, food manufacturing, and consumer goods.

Meeting this demand requires skilled labor to oversee automated production lines and perform a variety of administrative functions. Additional staff are necessary for research and development used to develop new and improve existing products. Increased investments in innovation directed at the sustainable solutions customers are clamoring for has resulted in key skilled labor to work on higher value opportunities.

This comes right back around to the rise of ESG and competitive advantage for employers who respect their workers' desire to do good and live well. Flexible work arrangements meet both employee demands and employer ability to hire the best from an expanded pool of candidates.

However, hiring globally can result in an in-office workforce that does not closely follow the historical tax planning of concentrating functions in one or a few central (often tax-advantaged) locations. The evolving business models are creating interesting tax and operational challenges.

Taking all of these factors together, chemical companies should look at employee hiring, retention, and satisfaction in a much more holistic way as they prepare for the future.

Remote work through a tax lens

Anticipating the corporate tax implications of working across multiple jurisdictions

As companies' workforces become more remote or distributed, the functions they perform at new and often unplanned locations could create a nexus for state tax purposes or a permanent establishment (PE) in a jurisdiction leading to a taxable presence. As a result, companies could find themselves paying tax in additional jurisdictions, resulting in a different effective rate of global tax—most likely at a higher effective tax rate, given how much work companies have done over decades to set themselves up in the tax-advantaged positions.

The distributed worker could result in the company reporting tax in a jurisdiction that is a customer location, but oftentimes the nexus or PE could be in a third location in which neither the company nor the customer operates. In this potentially complicated situation, three (rather than one or two) countries might assert the right to tax all or a portion of the income from a sale, which can increase the complexity and cost of analysis as well as increasing the risk of a higher overall global tax burden.

The challenge and cost of tracking employees

For many companies, one of the biggest complexities coming out of COVID-19 is not the tax law, but rather tracking employees who have become much more mobile than in the past.

For example, a company with an office in Ireland may have remote workers who are based in France. Maybe that means the company needs to deal with French taxation. But what if that French employee spends time during the year both in France and several other countries? More and more mobile employees are taking "workcations" where they live in other cities for weeks or months at a time but continue to work. This is especially common among U.S. employees who travel domestically and work in whichever state they happen to be in.

For short-term remote workers, there has been some relaxation of the rules around taxation. Early on during COVID-19, the Organisation for Economic Co-operation and Development (OECD) and many national and state tax authorities provided guidance that workers engaging in activities that normally would create a PE or nexus may qualify as *not* creating a taxable presence so long as they are located there on a nonpermanent basis due to the pandemic.

It is unclear, however, at what point such a location ceases to be "temporary" and protected by these PE/nexus mitigation rules. Is it when the company announces workers must return to the workplace? When each individual jurisdiction lifts travel and work visa restrictions? It is also unclear what happens for employees who started working remotely as a result of COVID-19 on a temporary basis, but whose remote status subsequently becomes permanent.

Meanwhile, certain activity, such as selling or concluding contracts within a state or jurisdiction, can create nexus or a PE triggering taxation. Sales or other activities that create a PE can lead to local taxation. Not surprisingly, traditional tax planning has placed a significant focus on centralizing functions in one or a few locations to limit or manage where tax is paid. This is especially true for the solicitation, negotiation, and conclusion of customer contracts, the provision of strategic or high-value activities, and certain other activities.

For example, many companies have organized in such a way that key sales people or decision-makers around the contracting process are located in a specific jurisdiction or state in order to help minimize the risks of increased tax (or often to avoid the complexities of incremental filings and complex calculations associated with multiple filings, avoiding double taxation, etc.) created by engaging in sales or contracting activity in multiple countries in which customers are located.

Last but not least, regardless of whether the tax due is the same, more, or less than before, one of the likely results of the remote or distributed workforce is an increase in complexity, risk and cost (internal and external) associated with tracking the people and their activities, including analysis regarding when, where and how their location impacts the tax profile, and compliance with the increased reporting, filing and compliance obligations in each new jurisdiction.

Substance-based tax positions

Workers moving into or locating their activity in a new jurisdiction can lead to increased taxation as a result of a PE or nexus. The very same moves that increase tax in the receiving jurisdiction might also increase a company's tax in the jurisdiction from which people leave, paradoxically tied to the reduction of substance in the jurisdiction.

As noted, traditional tax planning often involves centralizing key functions or assets. This is because many tax benefits are conferred based on the presence of such functions within the jurisdiction conferring such benefits. Therefore, a reduction in people substance in a jurisdiction that confers such benefits on a company could trigger increased taxes. For many corporate taxpayers, these benefits (for example patent boxes or other R&D incentives) can be significant, often representing one of the largest individual items impacting their effective tax rate. Some common examples include:

- *Foreign tax incentives and rulings:* Globally, there are multitudes of credits and incentives countries provide for in-jurisdiction activity. Patent or innovation boxes provide reduced tax rates for companies that locate development physically in-jurisdiction, but under the modified nexus (or similar rules), those benefits are limited to or scaled to the amount of in-jurisdiction investment. Some incentives are provided for functions such as trading, headquarters, back office or other activities, but they're always tied in varying degrees to being physically within the jurisdiction's borders.
- *Treaty qualification:* Certain treaty benefits are tied to the activities of residents. For example, one common method of satisfying the limitation on a treaty's benefits requirement is to have a payor and payee engaged in an integrated business activity. An increasingly contentious and widespread treaty issue is the substance that is needed by a shareholder to qualify for reduced dividend withholding under a treaty. Cases around the globe have increasingly required that specific functions be performed by specific entities. There is a great unknown as to whether functions located within the legal entity but physically located in a third jurisdiction branch location would continue to count in that calculus.
- *Subpart F manufacturing exceptions:* For a controlled foreign corporation (CFC) of a U.S. group that buys or sells (or both) with related counterparties, sales income is often subject to U.S. tax under Subpart F rules, unless they are treated as being part of manufacturing. Remote or distributed workers that are moved to payrolls of a global employment company or local operating entity can dilute the functions included in the CFC's test of whether the entity manufactures. Where the remote or distributed workers remain employees of the CFC, they may still count, but this could create risk and complexity arising from so-called "branch rules."

These and other "substance-based" tax positions often are central to a company's tax strategy and effective tax rate. Not only are they reliant on physical presence of certain people, assets and functions within a jurisdiction, but for most of them there is a cliff effect based on the amount of local substance. In such cases, the impact of having a company's substance reduced beyond a certain level is not simply a scaled reduction but a cliff impact where the entire benefit is lost.

For example, suppose a taxpayer's Singapore affiliate employs 60 employees, 12 of whom are PhD engineers. The entity has a Singapore ruling that provides for a 5 percent tax rate so long as, among other things, the company maintains at least 50 employees, 10 or more of whom are PhDs. If the employees are then reduced to 45, and the number of PhDs are reduced to nine, the company does not lose a portion of this benefit. Rather, the cliff effect causes all the company's Singapore income to be taxed at the full 17 percent tax rate.

Profit allocation and DEMPE

A typical tax model intentionally concentrates DEMPE—development, enhancement, maintenance, protection, and exploitation— activities related to intangible property, and also likely covers high-value services related to control of risk in one or a few locations to support simple (*i.e.,* single-entrepreneur) transfer pricing structures and the resulting profit allocation. But as DEMPE personnel become increasingly geographically distributed within an organization, complexity around transfer pricing increases and hence increases the risk of tax controversy.

The current rules require that DEMPE functions be considered when allocating the returns derived from an intangible, as well as costs connected with it, among related parties. DEMPE is a substance requirement: entitlement to returns from an intangible cannot be shifted with the mere transference of contractual rights, but rather depends on both contractual rights and the functions, assets and risks connected with the intangible. The rules are complex. There is some minimum amount of DEMPE required in order for an IP owner to earn any amount of non-routine profit (and what specific amount is required in each case is bespoke to all the facts). And even once an IP owner is over that initial "cliff," there is complexity on how much profit such IP owner earns and how much is earned (and how that allocation is determined) by other actors performing DEMPE with respect to the same IP."

Most taxpayers are trying to thoughtfully address these issues within the confines of their existing structures and business needs. That is, they are increasing their substance and aligning it with their transfer pricing to the extent possible, improving their governance practices and policies to make substance clearer, and documenting the activities being conducted in the various jurisdictions. Any changes to a company's tax and transfer pricing structure must now take substance concepts into account.

In order to help minimize disruptions to their business, some taxpayers may do the minimum they consider necessary to comply with DEMPE and risk requirements. Of course, the minimum necessary remains unclear and will vary by jurisdiction, as these issues have not yet worked their way through dispute resolution systems. Time will tell whether companies have done enough, and how high the bar will be set in terms of interpreting these rules.

New normal: A role for global mobility?

Helping to navigate the changing tax environment for employees

COVID-19 and the immediate transition to remote work demonstrated that employees can indeed work anywhere and maintain productivity. However, businesses still have much to consider when it comes to a long-term, flexible work strategy. An employee working remotely 100 percent of the time in a single location are likely to have drastically different compliance and support needs than an employee who is empowered to work anywhere.

The challenge that arises is defining how to manage differing roles and responsibilities across the organization and determining an approach that empowers employees while maintaining compliance. Wherever the balance is struck, organizations should build the right support infrastructure to continue to maintain a high level of productivity and collaboration while considering multi-jurisdiction compliance requirements and the short- and long-term effects on employees and the business.

Global mobility program managers are already well-versed in addressing immigration, tax, and payroll compliance for cross-jurisdictional moves. As many organizations already have formal assignment policies in place, the expectation may fall on global mobility program managers to weigh the risks versus the needs of the employee and the organization—a natural extension of the global mobility program.

Remote workers and key areas of compliance

One of the downstream effects of a remote work arrangement is that the employee may be subject to the laws of two or possibly more jurisdictions. As a result, it is crucial to assess the jurisdictions in which the employee is liable to tax and related requirements and define how the organization wishes to treat these taxes as either employee- or employer-borne costs.

- *U.S. remote work arrangements:* If the organization has employees working in a state for the long term, tax authorities may deem the company to have a taxable presence and must apportion some of the business's income to that state. This could turn into a major compliance endeavor, especially if the number of employees is few but the jurisdictions in which they are present are high.
- Generally, states require businesses to apportion income based on several factors, such as payroll, sales, property and more. In a remote work arrangement with no property and mobile employees, attributing an employee's income becomes challenging.
- A key factor is that state-to-state taxation is not governed by a treaty framework, like many international jurisdictions. This means that most long-term (greater than six months) remote work arrangements may result in taxes being levied in multiple states. A careful review of state-specific residency rules is needed to ensure correct treatment.
- *Payroll and employee tax:* Withholding and definition of "convenience of the employer": Companies will need to implement a process to withhold taxes from the employees' paycheck in the jurisdiction(s) in which they are living and working.
- While some neighboring states have reciprocity agreements that eliminate the need to file in multiple jurisdictions, many do not, resulting in increased administration and cost. Moreover, under the "convenience of the employer" doctrine, telecommuting workers may have had taxes withheld in the employer's location only. Going forward, this principle may not stretch to include work anywhere.
- Cross-jurisdictional: If the employee is straddling two different countries under their remote work arrangement, the employer will most likely be liable for "host" jurisdiction payroll reporting and withholding. This may require the employer to create or set up a "shadow" payroll or a "split" payroll in order to fulfill their obligations. In order to help reduce the administrative burden related to "shadow" or "split" payrolls, organizations should consider building a reporting cadence into the payroll calendar (e.g., quarterly, semiannually, annually).
- *Monitoring tax thresholds:* In order to remain compliant, organizations will need to better monitor employees' movements. Pursuant to regulations in each location, employees may have multi-jurisdictional withholding and tax filing requirements.

Having to respond to what could be the fastest social change in modern times, companies worldwide enabled remote workforces nearly overnight. What started as an extraordinary "work anywhere" pilot is now considered permanent in many organizations' operating model framework. As a result, the new reality is a world where we focus on the work, instead of where it happens. We describe this transformation as, "Work anywhere, together." It's the new reality of work. In this interactive framework you will find the following:

1. **What are we hearing from the market?**
2. **What are the business drivers in this context?**
3. **What are the key considerations as you consider your operating parameters and future options?**
4. **How do you take the first step?**

Establishing a long-term remote workforce strategy

A module-based approach can help organizations consider and roll out changes one step at a time

As HR managers have wrapped up their short-term action plans, they are now turning their focus to the future. Many are starting the internal discussions with various stakeholders, such as tax and payroll, to lay out the organization's long-term vision.

There is no silver bullet and generally speaking an "all-in" approach tends to lead to a disordered rollout, whereas a module-based approach can offer a blueprint that an organization can utilize as they approach their discussions around a long-term remote work strategy.

Technologies are available that can assist in monitoring and standardizing processes related to remote work. This can help institute compliance-centric technology early while adapting it to the broader strategy, policy, and business framework in a step-by-step process:

— *Risk and data analysis:* Automate the tracking of employee travel to provide a quantifiable risk assessment. This can help identify the location or travel lanes that present the highest potential risk of exposure.

— *Compliance and process:* Implement an automated process to assist with managing complex global tax and regulatory requirements, using the risk assessment to help determine an approach that automates compliance with minimum employee touchpoints.

— *Strategy and policy:* Build and establish a clear policy regarding remote work arrangements. The lines between home and work remain blurred, and a lack of policy can create a disconnect between the employees and the organization, and also give rise to avoidable compliance exposure. Start with an in-depth analysis of what can be done remotely by focusing on tasks, rather than whole jobs. Also consider how remote work can create opportunities to diversify the workforce by tapping employees who, for a host of reasons, were unable to relocate near to or work in the company's plant and office locations.

— *Organization structure:* Many organizations have a global footprint that encompasses a wide swath of locations. Now, with remote work arrangements, the structure may need review or revision. Companies can start by asking the following questions: Where are individuals employed? What are the transfer pricing concerns, if any? And how does this impact the overall corporate substance and tax planning already in place?

— *Change management:* Lastly, manage the cultural transformation that allows for remote work. This can include communicating the new policy, educating employees and managers, and preparing leaders to effectively deal with changes and issues that may arise. This is an important element of a successful business transformation for chemical companies.

Looking ahead: Key considerations for the future

As companies pivot to a flexible work environment, some impacts of the remote working arrangement are here to stay

It appears increasingly likely that adjustments to the supply chains of chemical companies made during the height of COVID-19 shutdowns will remain, especially digitalization and rationalization. At the same time, government regulatory and tax changes are moving forward and are expected to continue to be a significant area of consideration. As a result, chemical company leaders should keep an eye on the following tax and operational considerations:

— *Increased coordination between the tax and global mobility functions:* Many companies have tax and global mobility teams that often operate independently. However, the new execution models, including remote and work-from-anywhere positions, create a host of state, federal, and international tax issues, as well as personal income tax impacts, all of which can have a material effect on an enterprise. By closely aligning and promoting information sharing between tax and global mobility, companies can help alleviate potential risks and improve outcomes.

— *Remote work as a competitive advantage:* The new reality will feature more remote work as employees demand it and organizations see its benefits. This will require organizations to create more formalized policies that confront the complex issues that arise with a far-flung workforce. An optimal way to make order out of that complexity and provide transparency and a great employee experience is to be intentional in determining who qualifies for the program and in designing the program and its associated processes. Companies that go beyond simple program execution and take the extra step of investing to compete can win in the war for talent.

— *The acute impact on remote or distributed workers:* While many companies have been able to staff the functions of their key business entities in a way that satisfies all of the substance required to achieve their tax objectives with room to spare, some companies may have a position already on the edge. For such companies, the movement of one or a few personnel could instantly trigger a bad result.

— *DEMPE substance considerations:* Traditional metrics of value creation and business activity in a jurisdiction, such as hard assets and headcount, will likely become less and less relevant. The DEMPE rules, as noted above, contemplate that all returns to an intangible should be allocated (although not necessarily ratably) among the entities performing functions, using assets, and assuming risks associated with DEMPE. Substance concepts will become increasingly important and at the same time, the notion of substance itself will likely continue to evolve.

— *Transfer pricing and tax controversy:* Compliance with DEMPE and control of risk continue to be critical, as tax authorities begin to focus on these concepts in high-stakes audits centered on restructurings and large acquisitions. While remaining mindful of existing concepts, particularly as new developments may tease out what different countries consider an acceptable level of substance, taxpayers should follow the digital economy developments closely in the coming years and consider them when contemplating structural changes.

— *Data innovation:* Last, but not least, for many companies, one of the biggest new complexities for a tax department is tracking remote employees. Technologies are available within the global mobility space that can assist in monitoring and standardizing processes related to remote work and companies should consider leveraging these internally for mitigating overall corporate-level tax risks.

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All the authors are primarily focused on the chemicals and materials industries and would be pleased to continue the discussion about the new reality for tax and the remote workforce.

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