

**Date:** 30 November 2022

**Item:** Annual Tax Compliance Update

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## **This paper will be considered in public**

### **1 Summary**

- 1.1 This paper presents to the Committee the key policies and documents that form TfL's Tax Governance Framework and to detail the steps being taken to ensure TfL is compliant with all relevant tax legislation.

### **2 Recommendation**

**The Committee is asked to note the paper.**

### **3 Background**

- 3.1 Over recent years there has been an increased focus from HM Revenue and Customs (HMRC) to ensure that tax compliance and governance issues are properly considered and understood at the highest levels within organisations. This has included making directors personally responsible for the tax affairs of the companies they manage.
- 3.2 Due to this increased focus, it is considered appropriate that the Audit and Assurance Committee is provided with an annual tax update focusing on tax governance. It is intended that this annual update will occur each December to coincide with the annual Senior Accounting Officer sign off (see section 6).
- 3.3 The Head of Financial Accounting and Tax and the Tax Department hold biannual update meetings with the statutory Chief Finance Officer to review significant activities and provide an opportunity to discuss all tax risks and concerns.
- 3.4 The Anti-Tax Evasion and Senior Accounting Officer policies, the Anti-Tax Evasion Statement and the TfL Annual Tax Strategy (the Policies) have all been formally reviewed by the Tax Department in October 2022, but no changes to the Policies as originally drafted have been considered necessary. The Policies are appended to this paper.
- 3.5 TfL has a low risk appetite in relation to tax matters and when evaluating tax planning the organisation's reputation and corporate and social responsibilities are always considered. TfL seeks to be transparent about its approach to tax which has led to HMRC awarding TfL a 'low risk' tax rating.

- 3.6 The TfL Financial Accounting and Tax Department manages a range of controls and procedures to ensure that tax risks are mitigated, that TfL is compliant with all relevant tax legislation and that TfL retains its low risk tax status.

## **4 TfL Tax Update 2022**

- 4.1 On 23 September 2022, the then Chancellor Kwasi Kwarteng delivered a Ministerial Statement called 'The Growth Plan', widely reported as the 'Mini-Budget', which set out a number of economic policies and tax cuts designed to boost UK economic growth.
- 4.2 On 17 October 2022 Chancellor Jeremy Hunt brought forward a number of measures from the planned Medium-Term Fiscal Plan, which had been scheduled for 31 October 2022. The 'Emergency Statement' reversed the majority of 'Mini-Budget' tax cuts announced by the previous Chancellor.
- 4.3 On 26 October 2022 the Government confirmed that the Medium-Term Fiscal Plan would be incorporated into a full Autumn Statement (i.e. Budget) on 17 November 2022.
- 4.4 The TfL Financial Accounting and Tax Department issued a short analysis of the key tax announcements together with an assessment of the likely impact on TfL on 23 September 2022 for the Mini-Budget, 18 October 2022 for the Emergency Statement and 18 November 2022 for the Autumn Statement. The analysis was sent to colleagues across Business Services, Finance and Procurement and Commercial, via Yammer, with follow-up of specific issues with different TfL business areas. A copy of the tax analysis which followed the latest Autumn Statement has been provided at Appendix 1.
- 4.5 In summary, we do not see any material change to TfL's tax position, either in terms of broad quantum of payment of different taxes, nor in TfL's ability to continue to meet ongoing tax compliance obligations with HMRC in an accurate and timely manner.
- 4.6 The TfL Financial Accounting and Tax Department will continue to keep abreast of all legislative, HMRC policy and case-law developments across the full range of taxes that may impact TfL and communicate these changes to different TfL business areas as appropriate.

## **5 Anti-Tax Evasion Policy and Statement**

- 5.1 The Criminal Finances Act 2017 created a new corporate criminal offence of failure to prevent either domestic or foreign tax evasion.
- 5.2 This legislation makes it a criminal offence for a body corporate or partnership to fail to prevent the facilitation of tax evasion by one of its associates (employee, contractor or any other person providing services on their behalf).

5.3 Prosecution under the legislation could lead to:

- (a) an unlimited fine;
- (b) public record of the conviction; and
- (c) significant reputational damage and adverse publicity.

5.4 A defence exists in the legislation for having 'reasonable prevention procedures' in place. The following steps have been taken to ensure TfL is able to demonstrate reasonable prevention procedures are in place:

- (a) a six-monthly risk assessment is undertaken by the Tax Department in conjunction with Risk and Assurance. This risk assessment considers key areas of risk where tax evasion could be facilitated and ensures that sufficient controls are in place to mitigate the risk. The risks captured on the latest assessment (October 2022) are currently held on TfL's Enterprise Risk Assessment Matrix and have been assessed as low or very low risk.
- (b) the Criminal Finances Act 2017 is included in the wider Fraud Awareness ezone training course.
- (c) the Anti-tax evasion policy at Appendix 2 is held on the TMS Management System and is linked to both Fraud team and Group Tax SharePoint sites. While not a strict requirement of the legislation it further demonstrates TfL's commitment to having a zero tolerance approach to all forms of tax evasion. Everyone working for, or on behalf of, TfL or any subsidiary company must comply with this policy; and
- (d) the Anti-tax Evasion Statement at Appendix 3 has been published on [TfL's website](#).

## **6 Tax Strategy**

6.1 The Finance Act 2016 requires large companies with UK operations (turnover of more than £200 million or a balance sheet exceeding £2 billion) to publish their tax strategy on their external website and update it annually.

6.2 The tax strategy must include the following details:

- (a) the organisation's approach to risk management and governance of its UK tax;
- (b) the organisation's attitude towards tax planning;
- (c) the level of risk the organisation is willing to accept in relation to UK tax; and
- (d) the organisation's approach to dealing with HMRC.

6.3 TfL's Tax Strategy is included at Appendix 4. This is reviewed annually by the Tax Department and the statutory Chief Finance Officer and is updated each March in accordance with the legislation and is published on [TfL's website](#).

## **7 Senior Accounting Officer**

7.1 The Finance Act 2009 introduced the Senior Accounting Officer (SAO) legislation for large companies. This legislation applies to UK incorporated companies, as defined by the Companies Act 2006, which means that Transport Trading Limited and all corporate subsidiaries must comply with the legislation; the Corporation is exempt.

7.2 The SAO should be the most senior person in an organisation with responsibility for financial accounting and with an overall view of accounting processes. The SAO for the group is the statutory Chief Finance Officer.

7.3 The SAO is required to ensure that appropriate accounting arrangements are in place to enable tax liabilities to be calculated accurately. These arrangements must be monitored on an ongoing basis. The SAO must also provide an annual certificate to HMRC which confirms that appropriate accounting arrangements were in place throughout the financial year or provide an explanation as to why such a declaration cannot be made.

7.4 The certificate for the Transport Trading Limited group must be submitted to HMRC by 31 December each year. Failure to do so will result in a £5,000 penalty which is levied on the SAO personally.

7.5 Details of the TfL SAO sign off procedure are included in the SAO Policy at Appendix 5. The SAO certificate for the accounting period ended 31 March 2022 will be submitted before 31 December 2022.

### **List of appendices to this report:**

Appendix 1: TfL Tax Analysis of the Chancellor's Autumn Statement

Appendix 2: Anti-Tax Evasion Policy

Appendix 3: Anti-Tax Evasion Statement

Appendix 4: TfL Tax Strategy

Appendix 5: Senior Accounting Officer Policy

### **List of Background Papers:**

None

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