Uncertain Tax Positions

A CFO Guide to Tax Risk, Governance, Transfer Pricing and Financial Reporting

Publication note
Prepared by Kirsty Jones, Research & Development Manager, The CFO HQ. This white paper is designed for Boards, CFOs, Finance Directors, audit committees and senior finance leaders seeking a practical framework for identifying, evaluating and managing uncertain tax positions.

Executive guidance: Prepared by The CFO HQ Research & Development team, this publication combines technical insight with practical recommendations to help finance leaders strengthen tax governance, enhance financial reporting and improve organisational resilience**.**

Executive Summary

Tax uncertainty has moved from a technical compliance matter to a board-level governance, financial reporting and reputation risk. Tax authorities are increasingly using data, targeted enquiries and cross-border information to challenge historic positions, while auditors and investors expect clearer evidence of management judgement, provisioning and disclosure.

An uncertain tax position exists where a business has adopted, or expects to adopt, a tax treatment that may not be accepted by the relevant tax authority. The area can include corporation tax, VAT, employment taxes, R&D incentives, transfer pricing, permanent establishment risk, withholding tax, capital allowances, customs duties and financing deductions.

For large UK businesses, HMRC requires notification of certain uncertain tax treatments where the tax advantage exceeds £5 million and defined triggers apply. More broadly, HMRC assessment windows can extend beyond the ordinary period depending on the nature of behaviour involved, including careless or deliberate conduct. International groups also need to consider local limitation periods and double tax relief mechanics.

Board question	Why it matters	Typical evidence required
Do we have any material uncertain tax positions?	Identifies hidden liabilities and audit exposure.	Tax risk register, technical memos, adviser opinions.
Could the position trigger notification or disclosure?	Avoids penalties and poor regulator engagement.	Threshold analysis, HMRC known-position assessment.
Have provisions or disclosures been considered?	Protects financial statement integrity.	Accounting paper under IFRS/UK GAAP/US GAAP.
Is transfer pricing documentation current?	Supports profit allocation and related-party pricing.	Local file, master file, benchmarking, DEMPE analysis.
Can we evidence reasonable care?	May reduce penalties and look-back risk.	Approval trail, review notes, governance sign-off.

1. What is an Uncertain Tax Position?

An uncertain tax position is a tax treatment where there is uncertainty over whether the tax authority will accept the treatment used in a return, computation, provision, transaction model or financial statement estimate. The uncertainty may arise from unclear legislation, conflicting guidance, aggressive structuring, weak documentation, evolving case law, or differences between commercial substance and legal form.

Tax area	Illustrative uncertain position	Typical risk indicator
Corporation tax	Deducting transaction, restructuring or financing costs.	Large one-off deduction with limited technical memo.
VAT	Treating a mixed supply as exempt, zero-rated or outside scope.	Manual VAT codes and inconsistent treatment across entities.
Employment taxes	Engaging contractors outside payroll.	IR35 status decisions not evidenced.
R&D tax relief	Claiming relief for software, process or product development.	Generic project descriptions and weak competent professional evidence.
Transfer pricing	Allocating residual profit to overseas entities.	High returns in limited-risk entities or outdated benchmarking.
International tax	No permanent establishment registration despite in-market staff.	Salespeople, decision-makers or warehouses overseas.
Withholding tax	Paying royalties, interest or management fees gross.	No treaty analysis, clearance or beneficial ownership review.

2. Why the Issue is Now Board Level

Three forces have changed the risk profile. First, tax authorities can analyse data at greater scale. Second, financial reporting standards increasingly require disciplined measurement and disclosure of uncertainty. Third, public, investor and lender expectations around tax governance have increased, particularly for international and private equity-backed groups.

CFO insight

The question is no longer simply whether a position is technically arguable. The board should ask whether the position is supportable, evidenced, disclosed where required, and consistent with the organisation's stated approach to tax governance.

3. Warning Signs and Red Flags

Warning sign	What to look for	Immediate action
“We have always done it this way”	Historic treatments not refreshed after law, guidance or business model changes.	Perform a targeted technical review.
Material tax benefit	A position creates a large reduction in taxable profits or cash tax.	Obtain independent review and document rationale.
Weak paper trail	No tax memo, no board approval, no adviser view.	Create a contemporaneous evidence pack.
Manual tax adjustments	Large spreadsheet-driven year-end entries.	Reconcile, automate and review controls.
International expansion	Employees, agents, inventory or decision-makers overseas.	Assess PE, payroll, VAT/GST and TP implications.
Related-party charges	Management fees, royalties, interest or service charges.	Update transfer pricing and legal agreements.
Audit challenge	External auditors request more evidence or challenge provisioning.	Prepare accounting paper and sensitivity analysis.

4. Companies Most at Risk

Company type	Why risk increases	Typical exposure
Large multinationals	Cross-border supply chains, IP, financing and service structures.	Transfer pricing, withholding tax, PE, indirect tax.
Private equity-backed groups	Acquisitions, debt, reorganisations and aggressive value creation plans.	Interest deductibility, transaction costs, tax due diligence gaps.
Fast-growth SMEs	Rapid scaling often outpaces finance and tax governance.	VAT errors, payroll issues, R&D claims, overseas registration.
Family-owned groups	Related-party transactions and informal arrangements.	Loans, benefits, property structures, succession-related tax.
Technology and life sciences	High IP value and frequent R&D claims.	R&D relief, IP migration, transfer pricing.
Property and construction	Complex VAT, CIS, capital allowances and development structures.	VAT option to tax, SDLT, CIS, capital/revenue boundary.

5. Tax Strategy Considerations

A robust tax strategy starts with an agreed risk appetite. Some organisations seek low volatility and early engagement with tax authorities; others accept more technical uncertainty but must be prepared to evidence that position. Either approach requires discipline. Boards should define materiality, escalation triggers, sign-off levels, adviser involvement and periodic review cadence.

Strategic component	Good practice	Poor practice
Risk appetite	Approved by the board and aligned to corporate values.	Informal or driven by individual judgement.
Governance	Clear ownership between CFO, tax lead, audit committee and advisers.	No named owner or escalation route.
Documentation	Technical papers, assumptions and decision logs.	Reliance on emails, memory or unsupported calculations.
Tax authority engagement	Open, timely and evidence-based.	Reactive, defensive or delayed.
Board reporting	Regular dashboard covering exposures, status and mitigation.	Only discussed when a dispute arises.

6. Transfer Pricing and International Tax

Transfer pricing is often the highest-value uncertain tax position because it determines where group profit is taxed. Authorities focus on whether related-party pricing reflects arm’s-length behaviour, where decision-making occurs, who controls risk, who owns and develops intangibles, and whether local entities earn returns consistent with their actual functions and assets.

Transfer pricing risk	Illustrative example	Mitigation
Residual profit allocation	A low-tax entity retains high profits while the UK parent owns strategic IP.	DEMPE analysis, benchmarking and updated intercompany agreements.
Management charges	Head office charges subsidiaries without benefit evidence.	Service benefit tests, allocation keys and invoices.
Intra-group financing	Related-party debt carries high interest or weak covenant support.	Debt capacity analysis, rate benchmarking and thin capitalisation review.
Permanent establishment	Senior staff negotiate contracts overseas.	Authority matrix, role review and local registration analysis.
Business restructuring	Functions move jurisdictions without compensation analysis.	Exit charge assessment and valuation support.

7. Financial Reporting Considerations

Tax uncertainty must be considered in the financial statements. Under IFRS, IFRIC 23 addresses uncertainty over income tax treatments. Under UK GAAP, FRS 102 Section 29 is the relevant income tax section, and amendments effective for periods beginning on or after 1 January 2026 introduce explicit uncertain tax treatment guidance aligned in substance with IFRIC 23 concepts. Under US GAAP, ASC 740 has a well-developed framework for recognition and measurement of uncertain tax benefits.

Reporting framework	Management consideration	Practical output
IFRS / IFRIC 23	Whether it is probable the tax authority will accept the treatment; measurement using most likely amount or expected value.	Accounting memo and disclosure assessment.
UK GAAP / FRS 102	Current tax measurement and new uncertain tax treatment requirements for 2026 periods onward.	Judgement paper and transition impact review.
US GAAP / ASC 740	Recognition threshold and measurement of tax benefits.	Uncertain tax benefit roll-forward and FIN 48-style analysis.
Audit committee	Whether assumptions are complete, balanced and evidenced.	Board paper, sensitivity and external adviser report.

8. HMRC Notification of Uncertain Tax Treatment

The UK notification regime applies to large businesses. At a high level, notification may be required where an uncertain tax treatment produces a tax advantage exceeding £5 million and statutory triggers are met. Key triggers include a provision being recognised in the accounts for the uncertainty, or the tax treatment being contrary to HMRC's known position. This regime is designed to accelerate dialogue with HMRC and reduce the tax gap linked to legal interpretation differences.

Board consideration
Even where the formal notification regime does not apply, the discipline behind it is valuable: identify uncertain treatments, quantify the possible tax advantage, compare with the authority's known position, and evidence management judgement.

9. Time Periods That May Come Into Scope

Scenario	Typical UK time period	Practical CFO implication
Ordinary assessment window	Often 4 years from the end of the relevant tax period.	Keep core evidence beyond filing completion.
Careless behaviour	Often 6 years.	Demonstrate reasonable care through documentation and review.
Offshore matters	May extend to 12 years in relevant cases.	Map cross-border exposures and records.
Deliberate behaviour	May extend to 20 years.	Escalate immediately and seek specialist advice.
Open enquiry or litigation	Can remain live beyond standard planning cycles.	Maintain provision, disclosure and board oversight.

10. Illustrative Examples

Example	Facts	Potential issue	CFO response
R&D claim	A software business claims £750k relief based on generic project notes.	Eligibility and evidence may be challenged.	Create project-by-project technical files and financial nexus.
VAT treatment	A subscription business treats bundled services as one VAT category.	Mixed supply or place-of-supply risk.	Review product taxonomy, contracts and VAT coding.
Transfer pricing	A group pays 8% interest on shareholder debt to an overseas affiliate.	Arm's-length rate, debt capacity and withholding tax risk.	Benchmark rate, review capacity and treaty position.
Permanent establishment	UK company has overseas sales lead concluding key terms locally.	Overseas corporation tax registration risk.	Review authority, contracts and local tax filing position.
Transaction costs	PE-backed group deducts acquisition advisory fees.	Capital/revenue boundary and deductibility.	Analyse fee categories and supporting invoices.

11. Risk Assessment Scorecard

Dimension	Low risk	Medium risk	High risk
Governance	Board-approved tax strategy and risk register.	Partial ownership and ad hoc reporting.	No clear ownership or escalation.
Documentation	Current technical memos and adviser support.	Some support but incomplete or outdated.	No contemporaneous evidence.
Transfer pricing	Updated files and benchmarking.	Files older than 3 years.	No local file, no benchmarking, no agreements.
International footprint	Limited overseas activities.	Some employees or sales overseas.	Multiple entities, IP, financing and remote staff.
Audit challenge history	No significant issues.	Prior queries resolved.	Recurring audit or tax authority challenge.

12. Do's and Don'ts

Do	Don't
Maintain a live tax risk register.	Assume no enquiry means the position is accepted.
Create contemporaneous technical papers.	Rely on undocumented verbal advice.
Review transfer pricing annually.	Treat transfer pricing as a year-end compliance formality.
Escalate material judgements to the audit committee.	Leave tax judgements solely within junior finance teams.
Quantify exposure using ranges and scenarios.	Book or omit provisions without documented rationale.
Engage early with advisers and, where appropriate, HMRC.	Delay until the audit or enquiry is already underway.

13. CFO HQ Mitigation Framework

Phase	Action	Output
1. Discover	Identify tax-sensitive positions across CT, VAT, payroll, TP and international tax.	Tax risk universe and initial heat map.
2. Diagnose	Assess technical strength, materiality, likelihood and evidence.	Risk-ranked UTP register.
3. Document	Prepare technical memos, calculations and governance approvals.	Defensible audit and enquiry file.
4. Decide	Determine provisioning, disclosure, notification and remediation actions.	Board-ready decision paper.
5. Defend	Prepare response strategy and communications plan.	Enquiry-ready pack and adviser roles.
6. Develop	Embed controls, training and periodic reviews.	Sustainable tax governance model.

14. Board and Audit Committee Reporting Template

Heading	Content to include
Position summary	Nature of the tax treatment, entities, periods and taxes involved.
Technical analysis	Law, guidance, adviser view and areas of uncertainty.
Financial exposure	Tax, interest, penalties, double tax relief and cash timing.
Accounting treatment	Recognition, measurement, disclosure and audit status.
Regulator engagement	HMRC or overseas authority correspondence and notification assessment.
Mitigation plan	Actions, owners, deadlines and escalation requirements.

15. Practical 30/60/90-Day Plan

Period	Priority actions
First 30 days	Compile risk universe; identify material tax treatments; gather historic filings, adviser memos and audit queries.
Days 31-60	Quantify exposures; refresh transfer pricing; assess financial reporting implications; prepare board heat map.
Days 61-90	Resolve immediate gaps; formalise governance; implement controls; agree annual review cadence and reporting pack.

Conclusion

Uncertain tax positions are not just technical tax matters. They are indicators of governance maturity, financial reporting discipline and risk culture. The best-managed organisations do not wait for a regulator, auditor or buyer to uncover uncertainty. They identify it, quantify it, document it and manage it proactively.

For CFOs and Boards, the objective is to move from tax uncertainty to tax confidence: a defensible position, clear evidence, appropriate reporting and a credible plan if challenged.

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Selected Sources and Reference Points

• HMRC Compliance Handbook CH51300: assessing time limits, including 4, 6, 12 and 20-year references.

• HMRC: Notification of uncertain tax treatment for large businesses, including £5 million threshold and notification triggers.

• Financial Reporting Council: FRS 102 Section 29 Income Tax and current UK GAAP framework.

• ACCA technical update on FRC periodic review amendments to FRS 102, including uncertain tax treatment paragraphs effective for 2026 periods.

• IFRIC 23 / IAS 12 concepts for uncertainty over income tax treatments under IFRS.

• IRS Section 482 transfer pricing principles and public commentary on recent Coca-Cola transfer pricing litigation.