It wasn’t that long ago that a corporation’s tax department operated away from the prying eyes of its board of directors.

But a lot has changed in the past few years. These days, large corporations that don’t have clear direction on tax compliance and expectations from its board of directors risk intense scrutiny from the Australian Tax Office (ATO).

Tax implications for large corporations began to change in 2003 after the then Australian Commissioner of Taxation, Michael Carmody raised tax compliance as a corporate governance issue.

The Commissioner stated that material tax issues require the attention of company chief executives and its board of directors, saying there is a clear link between tax compliance and good corporate governance. The Commissioner identified a checklist of questions the ATO believed a CEO or company director should be asking to ensure that their corporate governance responsibilities are met.

The Deputy Commissioner of Taxation, Jim Killaly addressed the importance of good governance practices with respect to taxation in large companies and recommended that directors make sure they’re informed about the company’s tax position. His advice came after reviews discovered that some boards don’t rely on specialist tax advice and don’t have any independent scrutiny on their part.

In 2001, when US company Enron collapsed, this resulted in tough new legislation, the Sarbanes-Oxley Act of 2002. The key objective of SOX is shareholder protection through increased regulation, however many US companies have reported significant compliance costs.

The impact of SOX has rippled through Australia, with local subsidiaries of US-registered reporting entities required to deal with their SOX compliance obligations. This course explains the issues, and is run by corporate governance experts. "Post GFC, directors and managers are required to understand and act decisively on corporate governance issues. This course explains the issues, and is run by corporate governance experts.”

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Both of these have contributed to a global trend toward increased risk management, greater transparency in financial reporting and accountability of corporate decision makers. It is also believed that these trends have had an impact on the tax function within a corporation.

So much so that Australian corporations largely understand that legislative and common law duties have been far too inadequate and that it is up to the corporation to ensure that company directors make appropriate decisions with respect to tax compliance. The ATO expects that focusing on tax risk management practices will improve tax compliance by large corporations. A higher risk profile will be applied by the ATO to a large corporation unable to demonstrate a documented tax risk management system or if the acceptable risk profile is considered too high. In fact, a large corporation in those circumstances may be targeted for further review.

A greater understanding of the factors that have an impact on corporate tax compliance behaviour is needed to ensure that the focus on identification and management of tax risks by revenue authorities will motivate large businesses to adopt a less aggressive tax risk profile.

After all, it makes sense that this will motivate large businesses to adopt a less aggressive tax risk profile in expectation of ATO investigation.

“Let this be a stern warning to corporation directors that they should consider whether there is a sound framework in place to manage tax risks and comply with tax obligations”