

## Review of Recent Literature

One of the difficulties faced by researchers, practitioners and policy makers with an interest in tax administration is that relevant scholarship is dispersed across a wide range of outlets. In this section, a brief overview of selected recent (2014) peer reviewed publications is presented (in no particular order) in an attempt to bring together a diverse range of work from a variety of disciplinary backgrounds. We don't purport to present a comprehensive list; rather try to give a flavour of the rich diversity of work being undertaken under the broad umbrella of tax administration.

### Tax authorities

#### *Osofsky (2014) - Concentrated Enforcement*

Tax authorities face a constant battle to allocate resources efficiently to the various activities they are required to undertake. Drawing on scholarship from a variety of disciplines, Osofsky develops a new theory for the allocation of scarce resources to tax enforcement activities. Worst first methods commonly employed seek to target the most noncompliant in the first instance, but this may not be the most efficient approach. Osofsky sets out a case for "microdeterrence", which can enhance deterrence, by categorising low or non-compliers into subsectors to which targeted enforcement projects can be applied on a rolling basis. Importantly, Osofsky suggests that direct and public announcements of such projects should be followed by quiet or even unannounced withdrawals.

#### *Bowler (2014) - HMRC's Discretion: The Application of the Ultra Vires Rule and the Legitimate Expectation Doctrine*

This discussion paper, written for the UK Tax Law Review Committee of the Institute for Fiscal Studies, considers the way in which the courts limit the exercise of discretion by Her Majesty's Revenue and Customs (HMRC) and how this affects the interaction between taxpayers and the taxing authority. The question of administrative discretion in the tax area is contentious, and not well understood by the wider public. In particular, Bowler examines the issue of legitimate expectation, for example in relation to the use of HMRC guidance and statements of practice. Bowler calls for a review of the application of the ultra vires rule, and a more general recognition that HMRC pronouncements represent current views of the law, which may change over time. She also suggests a need for a more user-friendly complaints process, given the lengthy delays in appeals to the Tribunal or Adjudicator.

#### *Yin (2014) - Reforming (and Saving) the IRS by Respecting the Public's Right to Know*

The current controversy in the US involving the Internal Revenue Service (IRS)'s administration of the tax laws relating to exempt organisations has run on for an extraordinarily long period. In this paper, Yin suggests that too little attention is

given to the public's right to know and that greater transparency about the actions of the IRS in relation to exempt organisations would go some way to restoring public confidence.

*Hayes and Barker (2014) - A participant observation study of the resolution of audit engagement challenges in government tax compliance audits*

Hayes and Baker report on a participant observation qualitative study of tax compliance audits. The empirical evidence on which the paper is based was gathered by one of the authors whilst working as an auditor for the Alcohol and Tobacco Tax and Trade Bureau of the US Department of Treasury. The paper provides fascinating insights into the resolution of audit engagement challenges and the auditor/auditee communication and negotiation process. Differences between the work of government auditors in the tax compliance environment and that of independent external auditors are observed, in particular the pattern of communication between auditor and auditee.

### **Tax Adjudication**

*Alarie and Green (2014) - Policy Preferences and Expertise in Canadian Tax Adjudication*

Canada has a specialized tax court dedicated to hearing appeals from decisions of the tax administration. This article examines appeals from tax assessments to understand the relative influence of judicial tax expertise and the policy preferences of judges on decisions at the Tax Court of Canada and the Federal Court of Appeal. The authors analyse the impact of judicial expertise and policy preferences on outcomes of tax appeals, drawing on approximately 3,400 decisions of the Tax Court of Canada in the period 2000-2006. The authors arrive at and discuss three main results of the study: “(1) policy preferences of judges matter, but not that much; (2) resources matter—a lot; and (3) there are dynamics relating to affirmation of appeals by the Federal Court of Appeal that are difficult to explain, although a desire to avoid the apprehension of bias is possible”.

### **Tax Complexity**

*Bowler (2014) - The Office of Tax Simplification: Looking Back and Looking Forward*

In this paper published by the UK Tax Law Review Committee of the Institute for Fiscal Studies, Bowler discusses the benefits achieved through The Office of Tax Simplification (OTS) that was established in July, 2010. She concludes that the OTS has the potential to be an important driver of change but that its considerable expertise is currently underutilised. The work of the OTS is hampered by limitations on its remit, for example being able to only consider existing law, and not being able to reconsider issues where its proposals have been rejected by government. Bowler concludes that a significant increase in resources would be required in order to achieve any significant simplification.

*Tran-Nam and Evans (2014) - Towards the Development of a Tax System Complexity Index*

This paper explores a summary measure of overall tax system complexity, which the authors consider to be an important first step towards tax simplification. Following a review tax complexity and of index number theory, they propose a composite index that reflects the multidimensional nature of the tax complexity phenomena, with two separate indices for business and personal taxpayers respectively.

## **Tax Compliance**

*Madison (2014) - Futility of Tax Protestor Arguments*

In this paper Madison discusses the arguments mounted by tax protesters: those who refuse to pay income tax based on a nonsensical argument that no tax is due, none of which has succeeded. Despite the futility of the protester arguments, however, their existence poses problems for tax administrations, in this case the IRS, including a waste of resources. After reviewing US history and various protester arguments, Madison concludes that there is a need for would be protesters to be made aware of the likely consequences of their refusal to pay, beyond the publication of the IRS annual report.

*Manhire (2014) - There is No Spoon: Reconsidering the Tax Compliance Puzzle.*

In this paper, Manhire considers that tax compliance puzzle, that is, the difficulty in explaining relatively high compliance levels under self-assessment and audit administrative strategies. He describes an agent based computational model that suggests that there may, in fact, be no compliance puzzle to solve. Manhire finds a non-linear correlation between the perceived strength of the tax authority and voluntary compliance rates. He concedes, however, that other factors may be at play such as social norms, and that the model does is not yet complete enough to support changes to administrative policies.

*Blank (2014) - Collateral Compliance*

Prior analyses of the role of sanctions in securing taxpayer compliance have focused primarily on monetary penalties. In this paper, Blank suggests collateral sanctions, that is, non-monetary penalties such as licence revocation, may be a more productive pathway to improved enforcement, especially with appropriate publicity. In reaching this conclusion, Blank discusses a range of behavioural and experimental research not only in tax but also in other areas.

*Hashimzade et al (2014) - Social Networks and Occupational Choice*

The authors use agent based simulations to analyse the emergence of group-specific attitudes and beliefs about tax compliance (evasion) within social network interactions. They find different compliance behaviour across occupational groups and contend that taxpayers self-select into occupations concluding that the weight attached to social customs differs across occupations.

*Krever (2014) - Combating VAT fraud: Lessons from Korea?*

In this paper, Krever analyses the Korean VAT system, which was largely modelled on European systems with some interesting divergences, most notably the collection of comprehensive data collection and matching undertaken by the tax authority and the creation of a ‘cash receipts’ system that rewards consumers for insisting on a cash receipt.

*Kirchler et al (2014) - Cooperative compliance: From deterrence to deference*

The authors reprise the slippery slope framework which integrates empirical findings on tax compliance behaviour from both economics and psychology. The framework shows that both tax authority power and taxpayer trust in the authority are important determinants of compliance, leading to the conclusion that tax authorities should promote cooperation rather than relying heavily on deterrence strategies. Examples from several countries are presented to demonstrate the adoption of more deferential approaches to securing compliance.

*Hoffman et al (2014) - Enhancing Tax Compliance through Coercive and Legitimate Power of Tax Authorities by Concurrently Diminishing or Facilitating Trust in Tax Authorities*

In this paper the authors observe the lack of empirical studies of the effects of using both coercive strategies and legitimate strategies, such as providing assistance, in tandem in order to improve compliance. They draw on two experimental studies which provide support for the view that coercive power does not reduce implicit trust in tax authorities. They conclude that if coercion or supportive procedures are applied in isolation, some tax revenues could be secured, but applied together, increasing and voluntary contributions could be expected.

**Corporate Compliance***Blank (2014) - Reconsidering Corporate Tax Privacy*

The question of whether corporate tax returns should be made publicly available has become more pressing in recent years due to calls for more transparency, primarily from civil society. In this paper, Blank examines the question from an ‘intercorporate perspective’, which considers the potential compliance implications of allowing corporate stakeholders and agents to observe *other* corporations’ tax returns. He offers a set of guidelines to policymakers to enable them to better evaluate specific proposals for publication of corporate tax returns.

*Blouin (2014) - Defining and Measuring Tax Planning*

In this paper, Blouin questions the assumption that low effective tax rates are necessarily associated with risky or uncertain tax planning and calls for researchers to develop better empirical proxies for capturing aggressive tax planning. She observes the difficulties in determining what constitutes aggressiveness in this context and explores the relationship between tax

aggressiveness and tax risk, providing also an overview of the various attempts to measure both.

*Knuutinen (2014) - Corporate social responsibility, taxation and aggressive tax planning*

This paper presents an overview of corporate social responsibility (CSR) in the context of tax law and asks whether CSR sets limits on the tax planning activities of companies. The author canvasses a range of issues from finance and corporate reporting to BEPS, concluding that not only CSR but also responsibility and fairness in tax competition is needed if we are to achieve inter nation equity.

*Dowling (2014) - The curious case of corporate tax avoidance: is it socially irresponsible?*

Dowling approaches this issue from the perspective of CSR, asking why corporate taxpaying has previously been neglected by CSR scholarship. He explores, mainly by reference to US developments, the issue of corporate tax avoidance and its implications for defining and measuring CSR. His stated aim is to “start a debate in mainstream business ethics literature about the fundamental assumptions and boundary conditions of CSR.”

### **Cross Border Compliance**

*Kaye (2014) - Innovations in the War on Tax Evasion*

The US unilateral Foreign Account Tax Compliance Act (FATCA) has attracted considerable attention and concern worldwide that has led to the negotiation of bilateral International Governmental Agreements (IGAs) requiring reciprocity from the US. In her analysis of the implications of IGAs, Kaye urges the US to take a leadership role to foster global transparency and demonstrate commitment to the principles of global information exchange.

*Zucman (2014) - Taxing Across Borders: Tracking Personal Wealth and Corporate Profits*

Here, Zucman argues the case for the creation of a world financial registry, which would significantly constrain personal tax evasion as well as corporate use of loopholes. He analyses US corporate profits longitudinally as well as global wealth of households held in tax havens, and concludes that such a registry would provide a transparent way to achieve a fair distribution of corporate tax revenue, although its implementation would not be without difficulties, in particular cost and political obstacles such as privacy concerns.

*Sawyer (2014) - Comparing the Swiss and United Kingdom cooperation agreements with their respective agreements under the Foreign Account Tax Compliance Act*

Here Sawyer compares the UK Switzerland agreement that came into force in 2013 with the enactment of FATCA and speculates as to likely future developments. He suggests that these developments will lend themselves to future research as part of the analysis of broader changes in the landscape of intergovernmental information sharing agreements, for example behavioural changes that are expected to flow from these developments.

### **The Tax Gap**

*Gemmel and Hasseldine (2014) - Taxpayers' Behavioural Responses and Measures of Tax Compliance 'Gaps': A Critique and a New Measure*

In this paper the authors suggest that conventional tax gap formulations are flawed in that they fail to take into account behavioural responses of taxpayers, which has the effect of exaggerating non-compliance. Behavioural responses need to be taken into account for both direct and indirect tax gap measurement in order to more accurately estimate the revenue raising potential of measures introduced to combat non-compliance. While the tax gap measure that the authors propose requires information about which there is some doubt, it will nonetheless improve tax gap measurement accuracy when compared to conventional measures.

### **Administrative Burden**

*Braunerhjelm and Eklund (2014) - Taxes, Tax Administrative Burdens and New Firm Formation*

Using data from the World Bank, the authors of this paper measure the administrative burden that tax policy complexity places on new firms, finding that new firm formation, measured by entry density, is reduced by tax administrative burden. The administrative burden therefore constitutes a barrier to entry that has previously been neglected in the literature.

### **Tax Professionals**

*Christians (2014) - Regulating Tax Preparers: A Global Problem for the IRS*

In this brief paper, Christians observes that attempts to regulate tax preparers in the US are fraught, because of the global reach of the US income tax system, catching as it does citizens living abroad and potentially using non US return preparers.

*Afield (2014) - A Market for Tax Compliance*

In this paper, Afield reviews actions in the US to better regulate paid tax return preparers, and the challenge to their efficacy, which was not upheld. The role of paid preparers in tax compliance is under increasing attention from scholars and

their regulation is generally acknowledged to be important to the integrity of tax administration. Affield canvasses the idea of a voluntary compliance certification regime which would incentivise preparers to seek certification for competitive advantage. He argues that by rewarding certified preparers with lighter touch scrutiny, better alignment of taxpayer and preparer compliance incentives would result, with additional potential for a more general shift in norms towards compliance. In this regard, a voluntary registration scheme would appear to have advantages over a mandated scheme.

*Fogarty and Jones (2014) - Between a Rock and a Hard Place: How Tax Practitioners Straddle Client Advocacy and Professional Responsibilities.*

This paper presents findings from a qualitative study involving semi-structured interviews with US tax practitioners. The authors provide a review of behavioural research relating to tax practitioners and suggest that as a matter of research design, it generally fails to adequately capture the ‘dilemmas of practice’, whereas qualitative methods are able to provide insight into the lived experiences of practitioners. They conclude that tax practice is a contested terrain, where tax practitioners must work between clients who are determined not to overpay taxes and the potential for government imposed penalties and reputation loss which constrain their client relationships.

*Walpole and Salter (2014) - Regulation of tax agents in Australia*

In this paper the authors provide an overview of the history of, and a critique recent developments in, the regulation of Australian tax agents, observing a shift in the relationship between agents and their clients through the increasing alignment of agents interests with those of the Australian Tax Office in securing taxpayer compliance.

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