

REVIEW OF RECENT LITERATURE

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A selection of recently published papers is reviewed below. The aim is to bring together tax administration-related papers from the diverse range of outlets in which they are published. The review is necessarily selective, and the Journal welcomes suggestions for inclusion of papers in subsequent reviews.

TAX EVASION

Alasfour, F., Samy, M. & Bampton, R. (2017). The Determinants of Tax Morale and Tax Compliance: Evidence from Jordan.

This paper explores **tax morale** in Jordan through a national survey of financially literate participants. There are very few studies that consider Middle Eastern countries, so this is a welcome addition to the literature, particularly in light of the growing awareness that, as the authors point out, ‘the lessons learned from one environment cannot be generalised to countries with different cultural backgrounds and legal provisions’ (p. 127). The study adopts an innovative approach to investigate the use of a multi-item measurement tool to capture dimensions of tax morale. The paper carefully describes the background literature that informs the construction of the variables.

The results suggest that tax evasion is considered to be morally acceptable in Jordan under some circumstances and, importantly, that tax morale and tax compliance are highly affected by the level of corruption in the government. The findings provide evidence of the possibility of increasing tax compliance by reducing corruption in government, reducing tax rates and addressing perceptions of unfairness.

Brink, W. D. & Porcano, T. M. (2016). The Impact of Culture and Economic Structure on Tax Morale and Tax Evasion: A country level analysis using SEM.

The study reported in this paper is concerned with developing a better understanding of how **cultural and economic variables** impact on tax evasion. It uses structural equation modelling (SEM) and regression analysis to examine the relationships between tax evasion, tax morale cultural dimensions (drawing on the work of Geert Hofstede), and country level metrics. An understanding of cultural features is important for policymakers; as the authors note, for example, ‘some cultures will exhibit lower levels of tax evasion in response to increased regulation while others will exhibit higher levels. SEM is reasonably novel in compliance studies and allows the researcher to identify causal paths and, in this respect, can be considered to be more powerful than multiple regression analysis.

The authors confirm that both national culture and economic conditions impact on the level of tax evasion in a country. The unique finding is that ‘many of these variables only impact tax evasion indirectly by changing individuals’ tax morale attitudes.’ The authors claim to lay the groundwork for further work in comparisons, for example, between developed and developing countries.

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Dharmapala, D. (2016). Cross-border tax evasion under a unilateral FATCA regime.

In this paper, the author develops a **simple theoretical model** to analyse the consequences of a unilateral FATCA regime, emphasising heterogeneous intrinsic motivations to comply with the tax laws of the country of residence. Assuming two countries, the US and a foreign country, each of which has a competitive financial sector, and finds that as information reporting makes compliance more costly for foreign residents there is increased incentive to evade. The paper provides an illustration of the ‘complex and sometimes unintended interactions among information reporting, intrinsic motivation and tax evasion’.

Kuchumova, Y. (2017). The Optimal Deterrence of Tax Evasion: The Trade-off Between Information Reporting and Audits.

Here the author introduces information reporting as an addition to audit for enforcement, and attempts to model an optimal strategy to balance the two with constrained tax authority enforcement resources. The paper therefore responds to a gap in the game theoretic tax enforcement literature within public economics, which tends to assume tax audits are the only enforcement tool.

TAX COMPLIANCE**Onu, D. (2016). Measuring Tax Compliance Attitudes: What Surveys can tell us about Tax Compliance Behaviour.**

In this paper, Diana Onu provides an **overview of survey methodologies** in the context of attempts to measure individuals’ attitudes towards paying taxes. It is often assumed that attitudes are indicative of behaviour, although the relationship between the two is not straightforward. It is important to understand the circumstances in which attitudes can be more or less relevant in predicting behaviour; for example, attitude measures in surveys are most relevant when individuals feel strongly about the behaviour in question.

Rosid, A., Evans, C., & Tran-Nam, B. (2016). Do perceptions of corruption influence personal income taxpayer reporting behaviour? Evidence from Indonesia.

The empirical basis for this paper comprises a series of semi-structured interviews together with a field survey of self-employed and employed personal income taxpayers. The authors aim to develop a deeper understanding of the relationship between **perceptions of corruption** and compliance behaviour in a developing country context, drawing on the theory of planned behaviour. Structural equation modelling is used to test the hypothesised relationships and it is found that high levels of perceived corruption influence intentional underreporting.

Christian, C. (2016). A typology of sales tax noncompliance: Targeting enforcement to diverse intentions.

While considerable attention is given in the academic literature to income tax compliance by individual taxpayers, much less work has been done in relation to sales taxes. In this paper, the author studies rationales for tax evasion and theft in a sales tax environment. The setting is the US and the empirical data is drawn from criminal investigation case files and a series of interviews, collected while the author was working at the Florida Department of Revenue.

Content analysis was deployed as a mechanism for developing a **typology of non-compliance**. The author then identifies a need for appropriate enforcement strategies for the different categories of non-compliance, which is, of course, a central tenet of the well-documented responsive regulation approach.

Drumbl, M. L. (2016). Beyond Polemics: Poverty, taxes and noncompliance.

The earned income tax credit (EITC) is an earnings based refundable credit in the US which serves as an anti-poverty programme. In this paper, the political rhetoric that surrounds the EITC programme in relation to 'improper payments' is explored alongside the nature of **non-compliance in the EITC setting**. The article suggests that there is some commonality between intentional non-compliance by sole proprietor businesses and EITC claimants. Drumbl proposes modifications to procedures to improve compliance rates, including due diligence revisions that extend to taxpayers as well as preparers and a fast track process for those who are claiming for the first time and include supporting documentation.

Dulleck, U., et al. (2016). Tax compliance and Psychic costs: Behavioral experimental evidence using a physiological marker.

In this paper, the authors provide physiological evidence of an intrinsic explanation for tax compliance. Recognising the limitations of the economics of crime approach to understanding tax compliance decisions, they study the role of psychic stress by measuring heart rate variability to capture the psychic strain arising from contemplating actions, thus seeking to contribute to the development of a 'better microfoundation for compliance behaviour'. The authors find: women to be more compliant than men; a positive correlation between age and compliance; and associations between higher compliance and higher cognitive skills, higher levels of religiosity and greater risk aversion. They also find that higher psychic stress increases tax compliance and suggest that the **physiological measurement could be an indicator of moral sentiments** or psychic costs. Additional analysis leads to classification of taxpayers into three types: those with high tax morale and compliance but no psychic stress; those with high tax morale and compliance but high psychic stress; and those with lower tax morale and compliance and psychic stress somewhere between that of the two other groups. The authors suggest that this may mean that psychic stress is triggered by moral emotions, which motivate compliance decisions.

TAX ADMINISTRATIONS

US: Internal Revenue Service

The Columbia Journal of Tax Law published an issue in 2016 (available at <https://taxlawjournal.columbia.edu/issues/vol-7-no-1/>) containing papers reflecting on various aspects of US tax administration including, in particular, difficulties faced by the Internal Revenue Service (IRS). The papers were presented at a Tax Policy symposium on 'Reforming the IRS', organised by Kristin Hickman at the University of Minnesota Law School in March 2015.

Steve Johnson's paper, '*The Future of American Tax Administration: Conceptual Alternatives and Political Realities*', suggests that the IRS faces a crisis that threatens its ability to perform its core mission of revenue collection, resulting from intersecting trends, specifically increased workload in terms of both volume and scope, and reduced resources. He observes that the

policy environment is transient, and that scholars and policymakers should explore good ideas irrespective of their political feasibility at a given point in time, while at the same time being alert to the threats posed by the emergence of obviously bad ideas.

Leandra Ledermann, in *'IRS Reform: Politics as Usual?'*, reflects on the corrosive effect of the politicisation of tax administration, manifested in accusations starting in 2013, that the IRS 'targeted' particular non-profit organisations. These led to highly publicised government hearings which led to legislative reforms in 2015, akin to, but not as sweeping as, the 1998 IRS reform. She warns against **excessive oversight**, which is not only costly but can also influence *how* IRS employees do their job (for example, making them more risk-averse). Ledermann presents a careful analysis of developments during the period in which the IRS was under public scrutiny and traces IRS activity and resources over the 20 year period to 2014. She observes (at p.77) that 'the IRS is an easy target for politicians. Opprobrium for tax collectors has a long history...Politicians therefore have an opportunity both to criticise the IRS for simple political gain and to try to undermine the IRS as a way to undermine the effectiveness of a federal tax system they oppose.' As in other countries (such as the UK), the fundamental problem is 'Congress's lack of support for enforcement of the tax laws it has legislated'.

Lloyd Hitoshi Mayer's paper, *"The Better Part of Valour is Discretion": Should the IRS Change or Surrender its Oversight of Tax Exempt Organisations?*, proposes that to overcome the IRS's 'growing inability to oversee this area', oversight of charitable organisations should be removed from its remit. He traces the history of IRS oversight of exempt organisations before canvassing options for reform. Generic methods to improve compliance, such as third-party reporting, do not align well with the exempt organisation sector, which are additionally inclined to be pro-compliance and therefore not receptive to various cooperative compliance initiatives. Some streamlining of processes does appear to have been successful, but Mayer notes there is no obvious solution and suggests the time is right for the more radical option of **'rethinking the locus of oversight'** (p113).

Amy Monahan considers the role of the IRS in health care regulation in her paper entitled *'A Partial Defence of the IRS as Health Care Agency'*, drawing on the example of the **Affordable Care Act (ACA)** which considerably added to the IRS's responsibilities. She charts the history of the involvement of the IRS in employer-provided benefits and health plans in particular. The mechanism through which the IRS enforces health plan provisions is an excise tax, either self-reported or agency imposed. Excise taxes are considered to encourage compliance *ex ante* by discouraging the behaviour considered to be undesirable in a highly visible way. The ACA builds on the excise tax model, but with some additional rule-making and enforcement obligations. Monahan concludes that, while it is well recognised that the IRS is overburdened, in this case much of its involvement in ACA administration is both defensible and efficient.

Ajay Mehrotra's paper, *'From Contested Concept to Cornerstone of Administrative Practice: Social Learning and the Early History of US Withholding'*, provides a cogent reminder of the importance of paying due regard to historical developments, and setting tax administrative reforms against a backdrop of wider administrative reforms as well as economic, political and social context. As the author notes, history can 'provide a better understanding of current administrative practices and the promise of future reforms'.

Kristin Hickman considers the increasingly broad remit of the IRS in her paper, *'Pursuing a Single Mission (or Something Closer to it) for the IRS'*. She points out that the broadening of the scope of the IRS's activities to embrace social welfare and regulatory programmes

contributes in no small way to the current crisis of underfunding and poor service delivery. By considering reorganisations in other regulatory agencies, she is able to produce a vision of a slimmed-down scope through separating out non-revenue-raising functions, leaving the IRS better able to manage its **core function**.

TAX AGENCY EFFICIENCY

Höglund. M. (2016). *The importance of staff to the efficiency of the tax agency.*

In this paper, the author discusses organisational and psychological provisions and support for tax officials, using the Swedish Tax Agency as a case study. He observes that **tax agencies are Janus-faced**, with both public service and supervisory roles. In Sweden, a citizens' perspective has become increasingly important, which has implications for how tax agency staff interact with taxpayers and fulfil their roles. Höglund recommends paying more attention to the health of agency employees, particularly in respect of stress, and a transparent organisation with bottom-up incentives and without top-down governance.

TAXPAYER RIGHTS

The inaugural International Conference on Taxpayer Rights was held in Washington D.C., in November 2015, hosted by the National Taxpayer Advocate, Nina Olson. Four papers that were presented at that conference were subsequently published in a special issue of the *Tax Lawyer*, and are summarised below (in no particular order).

In *'How can Tax Collection be Structured to Observe and Preserve Taxpayer Rights: A Discussion of Practices and Possibilities'*, Fogg and Jozipovic deal with the question of **debt collection**, which is problematic for all tax authorities. The authors conclude that the US system for both debt collection and debt forgiveness is flawed, particularly in relation to low income taxpayers. They propose that practical implementation of taxpayer rights can be seen in civil law models of taxpayer protection, considering the examples of Germany, Switzerland and Croatia and concluding that all are deficient in some respect. A solution for the US should rather consider reform of procedures that occur prior to enforcement action.

Leslie Book's paper is titled *'Bureaucratic Oppression and the Tax System'* and deals with the earned income tax credit (EITC), which is plagued by persistently high error rates and in which service to claimants is poor. The author rightly points out that lessons can be learned from the **experiences of other administrative agencies** in their interactions with low income individuals. The title of the paper is drawn from a 2012 article by Edward Rubin, in which the term bureaucratic oppression includes actions of agency employees that follow the rules but impose excessive burdens. Book concludes that an agency that prioritises expedience over experience has potential to 'jeopardise taxpayer rights and potentially undermine confidence in the tax system'.

Amanda Bartmann's paper, *'Making Taxpayer Rights Real: Overcoming Challenges to Integrate Taxpayer Rights into a Tax Agency's Operations'*, is concerned with ensuring that taxpayers are properly educated as to their rights and how these may best be exercised. It is also important that agency employees are appropriately trained to apply taxpayer rights when making decisions. Measuring how easily taxpayers exercise their rights is difficult, however, and **measuring employees' actions** may shed light on this question. Bartmann concludes that by 'incorporating taxpayer rights into its own measures and reporting on its progress, the IRS

can ensure efforts to operationalize taxpayer rights are effective, lending true meaning to the Taxpayer Bill of Rights.'

Abreu & Greenstein suggest that a failure to consider the views of those who mediate between taxpayers and tax agencies can undermine the legitimacy of the tax system and the tax agency. Their essay, '*Tax as Everylaw: Interpretation, Enforcement and the Legitimacy of the IRS*', examines how tax exceptionalism, i.e. the belief that tax law is somehow different from other law, is prevalent among tax scholars. The authors note that 'when tax is thought to be fundamentally different in kind from other fields of law – it is deprived of the analytical tools and vocabulary commonplace in other fields of law.... creating a shroud of mystery and murkiness...' By **abandoning tax exceptionalism**, the IRS would be able to be more open and transparent about the positions taken in interpreting the law and exercising enforcement discretion, resulting in legitimacy gains.

In '*Taxpayer Rights in Australia twenty years after the introduction of the Taxpayers' Charter*', published separately from the *Tax Lawyer* special issue, Duncan Bentley sets out a proposal for a **legal rights pyramid** as an adaptation of the compliance pyramid, detailing classification of legal rights and mapping them against the dispute resolution processes by level of significance of the issue involved. Integrating a legal and compliance framework has the potential to bolster the stability of the taxpayer/tax authority relationship.

DISPUTE RESOLUTION

Tran-Nam, B., & Walpole, M. (2016). Tax disputes, litigation costs and access to tax justice.

This paper reviews **dispute resolutions mechanisms in Australia** and, in particular, effective access to such mechanisms. The authors examine key concepts such as tax complexity, tax disputes, litigation costs and tax justice. They also explain recent developments at the Australian Tax Office, and describe a research agenda including stakeholder identification and the development of a theoretical model as part of a research council funded project which aims to investigate whether or not: (i) access to independent dispute resolution is effective; (ii) taxpayers with greater resources may obtain more favourable outcomes; and (iii) alternative dispute resolution is an effective mechanism for resolving disputes.

TAX COMPLEXITY

Burton, H., & Karlinsky, S. (2016). Tax professionals' perception of large and mid-sized business US tax law complexity.

This paper reports the findings of a survey of tax directors of large US corporations, as well as professionals from international accounting and law firms, on the **perception of complexity** across 40 different tax issues. Perhaps unsurprisingly, international tax issues were found to be the most complex, indeed, the top ten issues rated as such. There was no significant difference in the perception of complexity based on experience, nor was there a difference between those participants in public practice and those in corporate tax departments.

TAX TRANSPARENCY

Kaye, T.A. (2016). *Tax Transparency: A Tale of Two Countries*.

Two important questions are asked in this paper: how much tax transparency is appropriate, and with whom should the information be exchanged? The author discusses the significance of the stark contrast between the EU and Luxembourg, which has a tradition of secrecy yet, in recent years, has become party to several information exchange and transparency measures promulgated by the European Commission, and the US which, while pushing for transparency and information from others, has resisted global disclosure standards of the common reporting system, stating that it will only exchange reciprocally with jurisdictions maintaining stringent privacy and technical standards, as well as resisting demands for public release of advance pricing agreements. In responding to the Panama Papers, the EU has reacted faster than the US and the latter, having led the charge with the enactment of FATCA, now appears to be falling behind in the global movement towards greater transparency.

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