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49 ASAMBLEA GENERAL



RISK MANAGEMENT AS A TOOL FOR IMPROVING COMPLIANCE

Lima, Peru, May 4 - 7, 2015



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CIAT 2015 General Assembly
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“Risk management as a tool for improving tax compliance”

Risk management for compliance is a process used to identify, analyze, determine, prioritize, deal with and evaluate the risks of taxpayer compliance with his tax obligations. Through this process, operational and strategic decisions are made for ensuring the highest level of voluntary compliance.

During the risk management for compliance process, the tax administrations generally follow these steps:

First, identification and classification of risks associated to acts and events of tax relevance;

Second, analysis of risks for the purpose of understanding their nature and impact and thus determine who causes it and why;

Third, determination and assignment of priorities; that is, establishing whether a specific risk should be dealt with or not, and if so, decide the extent to which its scope and importance should be evaluated;

Fourth, once the risks are determined, prioritized and classified in ranks, the treatment strategies for reducing or preventing them are designed;

Fifth and last, results are evaluated to determine the achievements of risk management.

Risk management for compliance is relevant for the large taxpayer (large size businesses) segment which includes a series of particular compliance characteristics and behaviors. To this end, the tax administration must consider specific aspects of the industry involved, the quality of the organization and management of the businesses, sudden changes in the financial results, the economic substance of their own transactions and those carried out with third parties, economic yield versus tax performance, actual payment of the tax and the corporate culture and quality and attitude of the members of the board of directors, staff and advisers.

Such elements as a high revenue potential, the complexity of the business and tax matters, as well as the use of sophisticated policies and strategies to minimize the tax liability by means of high level tax professional counseling, is what makes this type of taxpayer a significant compliance risk and if not dealt with adequately, may bring about greater consequences in tax collection.

<u>From</u>	<u>Hour To</u>	<u>Time</u>	<u>Topic</u>
9:10	9:55	0:45	Inaugural Ceremony Statement by the CIAT Executive Secretary, Mr. Márcio F. Verdi Statement by the Executive Council President, Paulo Ricardo Cardoso, Deputy Secretary, Secretariat of Federal Revenue of Brazil Welcome Statement, Tania Quispe, National Superintendent, National Superintendency of Customs and Tax Administration, Peru
9:55	10:25	0:30	Official photograph, coffee and integration
10:25	11:10	0:45	Inaugural Conference: Vitor Gaspar, Director, Public Finance Department, IMF

TOPIC 1

11:10	12:35	1:25	Topic 1: Strategic Planning in management of noncompliance risks
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During the past decade, significant reforms have taken place in the public sector for which reason the administrations as well as the governments endeavor to improve the efficiency and effectiveness of their operations. These reforms have been focused on the establishment of best entrepreneurial government practices, including the application of modern risk management methods. As a result, the national tax authorities of several countries have paid significant attention to the development of appropriate compliance risk management. To a great extent, the progress achieved has been due to improvements in the strategic planning process for identifying and treating tax compliance risks, as well as related follow-up and evaluation activities required to measure the effectiveness of the strategies applied. In addition, consideration is given to human resources allocation as well as the training and support.

From	Hour To	Time	Topic
11:10	11:20	0:10	Moderator: Paulo Ricardo Cardoso, Deputy Secretary, Secretariat of Federal Revenues of Brazil.
11:20	11:40	0:20	Speaker: The U.S. Experience in the development of the operational plan and its relationship to risk management Douglas W. O'Donnell, LB&I Deputy Commissioner, International, Internal Revenue Service, United States of America.
11:40	12:00	0:20	Speaker: Risk management as mechanism for increasing voluntary compliance by promoting the fair and equitable treatment of taxpayers Martín Ramos Chávez, Deputy National Superintendent of Strategic Development, National Superintendency of Customs and Tax Administration, Peru.
12:00	12:15	0:15	Commentator: Ximena Amoroso Iñiquez, General Director, Internal Revenue Service, Ecuador.
12:15	12:35	0:20	Debate
12:35	13:55	1:20	Lunch
13:55	15:15	1:20	Subtopic 1.1: Normative and Methodological Framework: Development of risk management tools

The cornerstone for appropriate risk management is found within the legal provisions of the tax code. Specifically, the taxpayer needs to be informed about the requisites for filing the return and related documents, as well as the procedures for adequately complying with the tax law. From a management and planning perspective, the tax administration must use measurement tools that may contribute to determine success as well as detect possible cases of noncompliance.

From	Hour To	Time	Topic
13:55	14:05	0:10	Moderator: Angeline Geerman-Giel, Acting Director, Department of Taxes, Directorate of Taxes, Suriname.
14:05	14:25	0:20	Speaker: Noncompliance risk management thanks to the development of taxpayer service Sylvie Perroudou-ragot, Head of the Taxation Section for the Cooperation Mission, General Directorate of Public Finance, France.
14:25	14:45	0:20	Speaker: Compliance risk management and large business enterprises Miguel Pecho, Tax Studies and Research Director, CIAT.
14:45	15:15	0:30	Debate:
15:15	15:35	0:20	Coffee and integration

15:35 17:05 1:30 Subtopic 1.2: Identification of risks

The purpose behind identifying compliance risks is to determine specific compliance issues which a tax authority must face as broadly as possible, by minimizing the possibility of control and facilitating a subsequent in-depth analysis. The “source” and “impact” of risks are two dimensions in the risk identification phase. It is important to determine the origin of the risk in order to understand its causes.

15:35	15:45	0:10	Moderator: Carlos Vargas Duran, General Director of Taxation, General Directorate of Taxation, Costa Rica.
15:45	16:05	0:20	Speaker: “Understanding the determinants of taxpayer behavior (ZUJAR application)” Santiago Menéndez Menéndez, General Director, State Agency of Tax Administration, Spain.
16:05	16:25	0:20	Speaker: Risk identification and management: Customs perspective Sergio Mujica, Deputy Secretary, World Customs Organization.

From	Hour To	Time	Topic	
16:25	16:45	0:20	Speaker	“Prioritization of risks: concentrating on strategic importance and high risk issues”
				Michael Snaauw, Assistant Commissioner, Canada Revenue Agency.
16:45	17:05	0:20	Debate	

Tuesday, May 5

TOPIC 2

Hour			Topic
From	To	Time	
9:00	10:25	1:25	Topic 2: Tools for an adequate management of noncompliance risks

Most authorities use a variety of data sources and data manipulation techniques together with indicators and analytical instruments to identify emerging risks and evaluate their importance. The use and manipulation of data is an important activity for identifying and evaluating risks and their dimension. Analytical and technical tools are used for evaluating compliance effectiveness strategies. Some examples of tools are the analysis of trends, the level macro-indicators and the behavior surveys.

9:00	9:05	0:05	Moderator:	Elizabeth Mc Intyre–Matthew, Assistant Commissioner, Board of Inland Revenue, Trinidad & Tobago.
9:05	9:25	0:20	Speaker:	Tools based on the type of taxpayer: multinationals, local enterprises, high income individuals and small taxpayers. Silvana Quinteros, General Director, Social Security Resources, Federal Administration of Public Revenues, Argentina.
9:25	9:45	0:20	Speaker:	Collaborative approaches to compliance risk management Belinda Darling, Acting Assistance Commissioner, Australian Taxation Office, Australia.
9:45	10:05	0:20	Commentator:	Michael Hewetson, Advisor, Organization for Economic Cooperation and Development.
10:05	10:25	0:20	Debate	
10:25	10:45	0:20	Coffee and integration	

From	Hour To	Time	Topic
10:45	12:10	1:25	Subtopic 2.1: Tools based on the types of taxes and economic sectors
10:45	10:50	0:05	Moderator: Santiago Rojas Arroyo, General Director, Directorate of National Taxes and Customs, Colombia.
10:50	11:10	0:20	Speaker: Uruguay's Experience Gustavo González, Coordinator of the Economic Counseling Office, General Directorate of Taxation, Uruguay.
11:10	11:30	0:20	Speaker: Mexico's Experience Ricardo Ibarra, Central Planning Administrator, Tax Administration Service, Mexico.
11:30	11:50	0:20	Speaker: Paraguay's Experience Marta Beatriz González Ayala, Minister of Taxation, State Undersecretariat of Taxation, Paraguay.
11:50	12:10	0:20	Debate
12:10	13:45	1:35	Subtopic 2.2: Use of information technologies for the analysis and management of risks
12:10	12:15	0:05	Moderator: Yamilé Pérez Díaz, First Deputy Chief, National Tax Administration Office, Cuba.
12:15	12:35	0:20	Speaker: Portugal's Experience Miguel Silva Pinto, Deputy General Director, Tax Customs Authority, Portugal.
12:35	12:55	0:20	Speaker: Jamaica's Experience Vincent Irving, Manager, Forensic Data Mining Unit, Tax Administration, Jamaica.

From	Hour To	Time	Topic
12:55	13:15	0:20	Debate
13:45	14:45	1:30	Lunch
14:45	17:45	3:00	Administrative Session of the CIAT General Assembly (Only for member country Representatives and delegates)

Wednesday, May 6

TOPIC 2: (continuation)

From	Hour To	Time	Topic	
9:00	10:30	1:30	Subtopic 2.3: Other control and risk management tools	
9:00	9:05	0:05	Moderator:	José López, Chief of Supervision and Control Unit, General Directorate of Internal Taxes, El Salvador.
9:05	9:25	0:20	Speaker:	Paulo Ricardo Cardoso, Deputy Secretary, Secretariat of Federal Revenues of Brazil.
9:25	9:45	0:20	Speaker:	Ju Gu, Chief Auditor, State Administration of Taxation, People's Republic of China.
9:45	10:05	0:20	Speaker:	Planning and Risk Management James Buyela, Chief Manager, Planning and Risk Management, Kenya Revenue Authority.
10:05	10:30	0:25	Debate	
10:30	11:00	0:30	Coffee and integration	

TOPIC 3

11:00	12:40	1:40	Topic 3: Innovation in noncompliance risk management: the path traced by the developed countries	
11:00	11:05	0:05	Moderator:	Enrique Vejarano, Deputy National Superintendent Operating, National Superintendency of Customs and Tax Administration, Peru.
11:05	11:30	0:25	Speaker:	Shyam Murari Nigam, Member Central Board of Direct Taxes, Ministry of Finance, India.
11:30	11:55	0.25	Speaker:	Martin Solvinger, Area Manager Compliance Programs, Swedish Tax Agency.

From	Hour		Time	Topic
	To			
11:55	12:15	0:20	Commentator:	Erik Ariñez, Acting Executive Chairman, National Tax Service, Bolivia
12:15	12:40	0:25	Debate	
12:40	14:10	1:30	Lunch	

TOPIC 3: (continuation)

14:10	15:40	1:30	Subtopic 3.1: Less intrusive policies for reducing noncompliance risks	
14:10	14:15	0:05	Moderator:	Esther Hernández, Deputy General Director, General Directorate of Internal Taxes, Dominican Republic
14:15	14:35	0:20	Speaker:	Stefano Gesuelli, Head of the Permanent Italian Mission at CIAT, Guardia Di Finanza, Italy
14:35	14:55	0:20	Speaker:	Rodrigo Montúfar, Director, Superintendency of Tax Administration, Guatemala
14:55	15:15	0:20	Speaker:	Els Moret, Deputy Director International Affairs, Tax and Customs Administration, The Netherlands
15:15	15:40	0:25	Debate	
15:40	16:50	1:10	Subtopic 3.2: Corporate government and noncompliance risk management policies	

In recent years, corporate governance has become a key indicator of appropriate entrepreneurial management. Many good governance Codes have been published for strengthening the companies' management, control and administration systems, thereby rendering them more transparent, efficient, democratic and accordingly, better compliant with the tax obligations. As a result of this trend, the national tax authorities in a number of countries have paid significant attention to the development of compliance risk management practices. The speakers in this session will share their experiences and provide orientation regarding compliance risk management practices, mainly focused on medium and large enterprises.

From	Hour To	Time	Topic	
15:40	15:45	0:05	Moderator:	Joerg Wisner, Head of the GIZ German Mission at CIAT
15:45	16:05	0:20	Speaker:	Egil Martinsen, International Director, Directorate of Taxes, Norway
16:05	16:25	0:20	Speaker:	Victor Villalón, Deputy Director of Examination, Internal Revenue Service, Chile
16:25	16:50	0:25	Debate	
16:50	17:10	0:20	Presentation	“Knowledge Sharing Platform” Bruce Snider, Manager, International Relations, Canada Revenue Agency

Thursday, May 7

TOPIC 4: Round Table

From	Hour To	Time	Topic
Topic 4: Current trends in tax planning and need for better risk management systems			
9:00	11:00	2:00	Moderator: Márcio F. Verdi, CIAT, Executive Secretary
			Participants: Canada, Dominican Republic, Norway, Peru, United States of America
11:00	11:30	0:30	Presentation of the CIAT Tax Code Model
			Speaker: Miguel Pecho, Tax Studies and Research Director, CIAT
11:30	12:00	0:30	Coffee and integration
12:00	13:15	1:15	Closing
12:00	12:30	0:30	General Rapporteur: Stefano Gesuelli, Head of the Permanent Italian Mission at CIAT, Guardia Di Finanza, Italy
12:30	12:45	0:15	Invitation to 2015 Italy Technical Conference
12:45	13:00	0:15	Invitation to 2016 Mexico General Assembly
13:00	13:15	0:15	Closing Ceremony Executive Council President
13:15	18:30	5:15	Lunch, Integration activities

**THE U.S. EXPERIENCE IN THE DEVELOPMENT OF THE OPERATIONAL
PLAN AND ITS RELATIONSHIP TO RISK MANAGEMENT**

Douglas W. O'Donnell
Deputy Commissioner, International
Internal Revenue Service
(United States of America)

Contents: Summary. 1 Introduction. 2. International matrix. 3. Pre-filing certainty. 4. Self-identification during filing. 5. Transparency during filing: Compliance assurance process. 6. Technology after filing. 7. Conclusion.

SUMMARY

Few tax administrations have the luxury of sufficient time and resources to audit every transaction and taxpayer to ensure that the proper amount of tax has been paid. The most efficient tax system is one where every taxpayer files a complete and accurate tax return on time and pays all associated taxes at that time.

The U.S tax system relies on voluntary compliance. Every taxpayer is expected to file a complete and accurate income tax return on time and pay the taxes due on time. Unfortunately, not every taxpayer who should file a tax return does file, and not every return that is filed is complete and accurate. The IRS has numerous techniques to locate the non-compliant taxpayer. The historical technique is the post-filing audit; however, this is a time-consuming process, and not every taxpayer needs to be audited. The goal of effective compliance risk management is to use the limited personnel and financial resources available to select and audit those taxpayers with the highest risk of noncompliance.

To the extent that the IRS can encourage voluntary tax compliance by a majority of U.S. taxpayers, the IRS can focus its limited resources on those taxpayers who, through inadvertence or deliberative action, have not timely filed a complete and accurate tax return and paid the associated taxes.

The IRS has developed a number of techniques to help it maximize the benefit of managing compliance risk. This paper focuses on the taxpayer population of the Large Business & International Division (LB&I). These taxpayers are business entities with assets of \$10 million or more, as well as all international taxpayers.

The IRS has moved toward issue-driven audits by developing categories of issues and by increasing knowledge management as well as training to improve its audit efforts. The IRS also encourages transparency, disclosure, and cooperation in the filing process, which can benefit both the IRS and the compliant taxpayer. The IRS sees

emerging issues more quickly, which helps it identify those issues on other tax returns and publish guidance dealing with the issue in a more timely way.

This paper will discuss areas of improved compliance risk management that the IRS has developed. The IRS addresses the problem at a pre-filing level, a filing level, and a post-filing level, using better data and issue identification as well as improved transparency.

1. INTRODUCTION

The IRS mission is:

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

This is a two-prong mission of service and enforcement. "Service" helps a single taxpayer voluntarily comply (helping taxpayers meet their tax responsibilities). "Enforcement" ensures that all taxpayers who should file and pay taxes do so (applying the tax law with fairness to all).

The IRS budget for Fiscal Year 2015 is \$10.9 billion, the lowest level of funding since 2008.¹ In Fiscal Year 2014 the IRS had fewer than 85,000 employees, the lowest number since 1983.² As a result, the IRS must deploy its resources to address strategically-identified risks in the taxpayer base. IRS-LB&I has begun to focus its business audits on those issues with the highest compliance risks. Risk-based audit selection leads to a more efficient use of limited resources and a higher return on investment. The IRS continues to improve its exam selections to focus on the most-pressing issues.³

Pre-filing activities such as Advance Pricing Agreements and Pre-Filing Agreements help the compliant taxpayer. Agreeing on the tax treatment of a transaction before the taxpayer files a return helps ensure that the transaction will be reported correctly on the tax return and minimizes the need to audit these transactions. In these agreements, the IRS and taxpayer have already agreed on the appropriate tax treatment of the transaction and the IRS only confirms that the taxpayer complied with the agreed treatment.

¹ U.S. Department of the Treasury, *The Budget in Brief FY 2016* ("2016 Budget"), p. 61, available at http://www.treasury.gov/about/budget-performance/budget-in-brief/Documents/FY_2016_BiB_complete.pdf; Internal Revenue Service, *Data Book 2014* ("IRS Data Book 2014"), Table 29, available at <http://www.irs.gov/pub/irs-soi/14databk.pdf>

² 2016 Budget, fn. 1, p. 61; IRS Data Book 2014, fn. 1, Table 29

³ <http://www.irs.gov/uac/IRS-Releases-2006-Tax-Gap-Estimates> (Tax Gap)

The IRS has issued four 5-year strategic plans since 2000. In these plans, the IRS has acknowledged the need to improve the management of compliance risk. Although the specific focus has changed from plan to plan, similar goals in the various plans confirm that properly managing compliance risk should further the IRS mission.

In the IRS Strategic Plan, Fiscal Year FY 2000 – 2005, the IRS identified as a theme in improving its business practices the shift to addressing taxpayer problems as early in the return process as possible and to preventing problems where possible.⁴ If a taxpayer files a correct return, the taxpayer and the IRS incur no further costs. Therefore, one aspect of compliance risk management is to identify and address issues before a return is filed. For the large and mid-size business in 2001 (the year this strategic plan was issued), this meant the development of a comprehensive issue management strategy, including a pre-filing agreement program, fast track emerging issue process, an industry issues resolution process, enhanced alternative dispute resolution tools, the promotion of electronic filing of business returns, and the development of research databases.⁵ In addition, the IRS acknowledged the need to use information and computer assisted tools, including risk-based compliance intervention techniques, more effectively to manage compliance activities.⁶ It identified areas for further consideration in support of these goals.

The IRS again considered risk management in the IRS Strategic Plan 2005 – 2009.⁷ In the goal of Improving Taxpayer Service, the IRS indicated that it would continue its efforts to minimize the burden for compliant taxpayers “by focusing our compliance efforts on high-risk areas.”⁸ To help simplify the return preparation and examination process, the IRS indicated that it would “use an issue-focused examination approach that incorporates the use of risk analysis and materiality thresholds to limit the scope of the examination to critical issues.”⁹ With the goal of enhancing enforcement, the IRS indicated that it would “continue to shift enforcement resources to areas of highest compliance risk first while maintaining a measured program of examination coverage for all taxpayer segments to improve voluntary compliance across the board” and also would “improve the management of available information by aggregating and analyzing enterprise data to assess the risks inherent in transaction and ownership relationships that are the basis of many identified abusive schemes.”¹⁰

The IRS expanded on these themes in the IRS Strategic Plan 2009 – 2013.¹¹ In the area of Enforcement, the IRS acknowledged that, with the growth in the number of

⁴ Publication 3744 (3-2001), *IRS Strategic Plan, 2001 – 2005*, p. 41, available at <http://www.irs.gov/pub/irs-prior/p3744--2001.pdf>

⁵ *Id.*, p. 42

⁶ *Id.*, p. 47

⁷ Publication 3744 (Rev. 6-2004), available at <http://www.irs.gov/pub/irs-prior/p3744--2004.pdf>

⁸ *Id.*, p. 12

⁹ *Id.*, p.16

¹⁰ *Id.*, p. 20

¹¹ Publication 3744 (Rev. 4-2009), available at <http://www.irs.gov/pub/irs-prior/p3744--2009.pdf>

taxpayers with international activities, it needed to train employees to identify and understand these international issues, to convene “issue management teams,” and to conduct “strong, issue-based risk assessments to target the areas of most significant risk.”¹² In addition, the IRS included a separate goal to “Allocate compliance resources using a data-driven approach to target existing and emerging high-risk areas,” which would give the IRS the ability to “focus its enforcement tools on activities that pose the highest risk of noncompliance.”¹³

In the current Internal Revenue Service Strategic Plan FY 2014 – 2017,¹⁴ the IRS included compliance risk issues in both the Service and the Enforcement (both terms are defined earlier) halves of its mission. For Service, for example, one strategy to achieve the goal of helping taxpayers understand their tax responsibilities and be aware of emerging tax laws was to “[i]dentify top compliance risks and develop proactive communications and education campaigns that help taxpayers understand and comply with tax responsibilities and reduce errors.”¹⁵ This addresses the issue before the return is filed. In the area of enforcement, the IRS indicated that it would “capture expertise in high-risk areas of noncompliance by analyzing the effectiveness of enforcement activities and sharing lessons learned to inform future outreach, education, service and enforcement approaches.”¹⁶ It would continue to move from return-based to issue-based enforcement.¹⁷ One of its four objectives for Enforcement was to “[i]dentify trends, detect high-risk areas of non-compliance, and prioritize enforcement approaches by applying research and advanced analytics.”¹⁸ The IRS identified successful initiatives that it has already planned and are underway to help achieve its strategic goals, including “[i]ncreasing compliance using data-driven, risk-based models and focused enforcement efforts to effectively allocate resources to productive cases.”¹⁹

These Strategic Plans show that the IRS has identified issues regarding the management of compliance risks since the first Strategic Plan issued after its 1998 restructuring.²⁰ The goal of its efforts is to better identify issues of greatest compliance risk so that it can focus its limited resources – time, personnel, financial – on those issues.

¹² Id., p. 21

¹³ Id., p. 22

¹⁴ Publication 3744 (Rev. 6-2014), available at <http://www.irs.gov/pub/irs-pdf/p3744.pdf>

¹⁵ Id., p. 23

¹⁶ Id., p. 30

¹⁷ Id., p. 31

¹⁸ Id., p. 33

¹⁹ Id., p. 38

²⁰ Internal Revenue Service Restructuring and Reform Act of 1998 (RRA), Pub. L. No 105-206, available at <http://www.gpo.gov/fdsys/pkg/PLAW-105publ206/pdf/PLAW-105publ206.pdf>

2. INTERNATIONAL MATRIX

Corporations have become more global, and international tax issues are considered in more and more tax audits.²¹ The IRS recognized this problem and began addressing it.

a. Reorganization

The Large and Mid-Size Business Division of the IRS selected a new Deputy Commissioner (International) in January 2010.²² In August of the same year, the IRS announced that it was realigning and renaming this division Large Business and International (LB&I) to create a more centralized organization dedicated to improving international tax compliance.²³ International examiners were moved under the Deputy Commissioner (International) from other parts of LB&I or other IRS divisions to centralize the international examination function and expertise. Benefits of the realignment relating to compliance risk management were expected to include the following:

- Identifying emerging international compliance issues more quickly.
- Increasing international specialization among IRS staff by creating economies of scale and improving IRS international coordination.
- Ensuring the right compliance resources are allocated to the right cases.²⁴

At the time of the realignment, the IRS Commissioner stated that “[t]he realigned organization will let us focus on high-risk international compliance issues and handle these cases with greater consistency and efficiency as we continue to increase our work in this area.”²⁵

As part of the effort to achieve these goals of increasing audit consistency and efficiency, the new Deputy Commissioner (International) developed a foundational framework, called the International Matrix, to better coordinate compliance strategies, collaborative networks, training programs, and data management efforts.²⁶ The goal of the International Matrix was to marshal IRS expertise to be more effective in determining which cases needed the most attention.²⁷ Restructuring within LB&I also helped integrate specific areas. In 2010, the IRS established the Transfer Pricing Practice (TPP) within LB&I (not yet renamed) to strategically and systematically administer transfer pricing issues.²⁸ A goal of the TPP was to create a group of experts

²¹ Tax Gap, fn. 3

²² www.irs.gov/uac/IRS-Names-Danilack-Deputy-Commissioner

²³ <http://www.irs.gov/uac/IRS-Realigns-and-Renames-Large-Business-Division,-Enhances-Focus-on-International-Tax-Administration>

²⁴ Id.

²⁵ Id.

²⁶ *Recent International Activities and Future Focus of IRS LB&I*, presented at ABA Section of Taxation, May 2014, p.18

²⁷ Elliott, *Danilack Reflects on Time at LB&I* (“Elliott”), Tax Notes, January 12, 2015, p. 175

²⁸ Shulman, *Prepared Remarks of IRS Commissioner Doug Shulman to New York State Bar Association Taxation Section Annual Meeting in New York City, Jan. 26, 2010*, available at

to coordinate the most important transfer pricing issues, identify emerging issues and trends, and provide consistency in transfer pricing outcomes.²⁹ In 2011 the IRS further consolidated for efficiency, by combining the Advance Pricing Agreement Program in the Office of the Chief Counsel and the Mutual Agreement Program concerned primarily with the bilateral resolution of transfer pricing disputes under the Transfer Pricing Director in LB&I.³⁰ The new Transfer Pricing Operations oversees both the Advance Pricing and Mutual Agreement Program and the TPP. The development of the Foreign Payments Practice group is another example of this integration that helped develop a single-minded approach to withholding.³¹

The philosophy of the International Matrix is that audit selection and the examination process should be based on issue identification. As a result, the International Matrix is developed around four core technical areas – business inbound, business outbound, individual outbound and individual inbound. The Matrix is also an integrated whole with common underlying themes (like jurisdiction to tax and income shifting) that pertain to more than one technical area. In addition, there are four cross-over areas that support all four core areas – Treaties, Information Gathering, Foreign Currency, and Organization/ Restructuring.

b. Knowledge Management

A strong knowledge management program helps ensure that every agent approaches a taxpayer with knowledge of the government's position on strategically important issues rather than what he or she thinks is the right answer.³² The focus of this new structure for knowledge management is issues. The International Matrix provides a new construct for tracking and measuring compliance risks, outcomes, and resource requirements.

Knowledge Management is supported by several new initiatives. LB&I has developed International Practice Networks – the collection of individuals and knowledge for a specific Matrix category. The knowledge for an issue is captured through the use of International Practice Units. The International Practice Units for a Matrix category are captured within the International Practice Service.

The International Matrix groups large areas of international tax knowledge by taking into account the tax planning imperatives of the LB&I taxpayer base. The key components of the program (strategy, networking, training, and data management) are aligned with the tax knowledge areas represented on the International Matrix. This has allowed LB&I International to formulate a knowledge-based, strategic operating model. The International Matrix focuses on the areas where the tax stakes for a taxpayer are the highest, allowing an examiner to zero in quickly on the areas where audit time is most

<http://www.irs.gov/uac/Prepared-Remarks-of-IRS-Commissioner-Doug-Shulman-to-New-York-State-Bar-Association-Taxation-Section-Annual-Meeting-in-New-York-City,-Jan.-26,-2010>.

²⁹ Id.

³⁰ *IRS Tax Next Steps in International Realignment; Bolsters Transfer Pricing compliance Programs and International Coordination*, available at <http://www.irs.gov/pub/irs-soi/14databk.pdf>

³¹ Id.

³² Id. at 176

warranted. The use of the Matrix supports the approach that international work should be considered an integrated whole because international issues are closely related to one another and should not be worked without an understanding of how the issue fits into the broader context.

c. International Practice Networks

Two ways to address limited personnel resources are to train agents to break out of their traditional specialties and to share the existing knowledge of experienced examiners.³³ Training will help domestic agents identify international issues and will provide international examiners with common training on a specific issue. A key component of this training is the development of International Practice Networks (IPNs). IPNs are composed of IRS employees who gather together resources on strategic issues in international compliance. Each of the 18 segments of the agency's International Matrix (the individual groupings for each core topic (such as Business Outbound) plus the 4 overall areas) has a separate IPN, which is "the engine" for international strategy, training, and data management for that segment. This allows for better communication within the IRS, including agents in the field. IPNs facilitate sharing similar information to provide a common understanding of compliance issues.

d. International Practice Units

To help distribute the collective knowledge of an IPN, LB&I has developed "International Practice Units" (IPUs) that provide common knowledge and training. The IPNs are developing IPU through internal collaboration; IPU serve as both job aids and training materials on international tax issues. IPU are not official pronouncements of law; they provide IRS staff with explanations of general international tax concepts as well as information about a specific type of transaction.

The use of the International Matrix IPU is designed to provide a general explanation of tax concepts and information about a specific type of transaction and how agents should think about that transaction.³⁴ Each IPU focuses on a specific transactional scenario and topic commonly encountered by International practitioners and provides practical, step by step information on developing facts, working issues and preparing arguments over the course of an audit. IPU will evolve as the compliance environment changes. All International Practice Units are non-taxpayer specific; they focus on transaction scenarios and topics commonly encountered by practitioners.

LB&I continues to develop IPU modules to summarize existing knowledge and identify emerging issues that examiners see. Some IPU have been posted on IRS.gov.³⁵

³³ Tax Management Transfer Pricing Report, March 20, 2014, p. 1, available at http://www.capdale.com/files/10660_Budget%20Woes,%20Mounting%20Demands%20Force%20IRS%20to%20Think%20Strategically,%20Focus%20on%20Training.pdf

³⁴ Id.

³⁵ See <http://www.irs.gov/Businesses/Corporations/International-Practice-Units>

IPUs provide different levels of detail on issues. For example, the IPU “Subpart F Overview”³⁶ has “Business Outbound” as its main category and “Deferral Planning” as a subcategory. As an overview, it does not have lower levels. However, the IPU “Computing Foreign Base Company Income”³⁷ has the same main category and subcategory, but goes further and identifies “General Subpart F Computational Issues” as a part and “Computing Subpart F Income” as a subpart. The IPU “Creation of a Permanent Establishment (PE) through the Activities of Seconded Employees in the United States”³⁸ is a cross-over unit with the category “Treaties” and the subcategory “Determination of Permanent Establishment Status.”

e. International Practice Service

A new International Practice Service (IPS) was developed to organize and provide access to IPUs and other content to be used in training and as job aids. An IPS is an interactive website tool that serves as a central repository for the collective knowledge and expertise of an IPN. The IRS uses Microsoft Sharepoint, an off-the-shelf product, to support the IPS. The IPS provides a dynamic library of knowledge content mirroring the strategic priorities on the International Matrix. It departs from the traditional rule-based, Internal Revenue Code section-oriented training and establishes a more transactional-based training program that focuses on the types of situations an agent may see on audit. If the agent understands the strategic picture of a transaction, he or she is more likely to ask the right questions on audit.

The IPS also includes general information for those who are new to particular issues, as well as guidance to help in the identification of issues at the start of an examination. The IPS has a searchable library that will direct the user to the most relevant resources including audits tools, guidance documents and training.

As one of many resources that can be leveraged for collaboration and knowledge sharing, the IPS provides a centralized and easy-to-use library to document and access information about international tax. However, unlike these other resources, the focus of this tool is on specific, relevant transaction-based guidance to meet the day-to-day information needs of international staff. The IPS is intended to serve as both a job aid and a platform for a new "contextual" international training program.

3. PRE-FILING CERTAINTY

One way to minimize compliance risk is to agree on the tax treatment of a transaction before the transaction happens. Two programs that the IRS-LB&I has developed for pre-filing certainty are the Advance Pricing Agreement Program and the Pre-Filing Agreement Program. Both programs provide for an agreement on one or more specific issues; however, the programs cannot resolve all potential issues that may arise on a tax return.

³⁶ http://www.irs.gov/pub/int_practice_units/DPLCUV_2_01.PDF

³⁷ http://www.irs.gov/pub/int_practice_units/DPL9412_05_05.PDF

³⁸ http://www.irs.gov/pub/int_practice_units/TRE9450_06_02.pdf

a. Advance Pricing Agreements

The IRS introduced the Advance Pricing Agreement (APA) program in 1991.³⁹ In the APA program, the taxpayer and the IRS work together to agree on an appropriate transfer pricing method for a determined number of years in the future. If the taxpayer files its tax return consistent with the transfer pricing method agreed on, the IRS agrees not to make any transfer pricing adjustments for the transactions covered in the APA.⁴⁰ The APA process increases the efficiency of tax administration by encouraging taxpayers to come forward and present all the facts necessary for a proper evaluation of their covered transactions and to work towards a resolution of these issues in a spirit of openness and cooperation. The APA process lessens the burden of compliance by giving taxpayers greater certainty regarding their covered issues and promotes the principled resolution of these issues by allowing for their discussion and resolution in advance before the consequences of such resolution are fully known to either taxpayers or the IRS.⁴¹ Taxpayers participating in the program must pay a user fee of up to \$50,000.⁴²

There are three types of APA: a unilateral APA is an agreement between the IRS and the taxpayer only; a bilateral agreement is between the IRS and a foreign jurisdiction; a multilateral agreement includes an agreement between the IRS and more than one foreign jurisdiction. In a unilateral APA, the transfer pricing method that the taxpayer must use in preparing its federal income tax return is agreed on. However, this does not settle the transfer pricing method in a foreign country where the taxpayer operates. As a result, the taxpayer often wants a bilateral APA.⁴³ If the United States has a tax treaty with a foreign country that contains a mutual agreement procedure (MAP) provision similar to Article 25 in the OECD Model Convention, the IRS and the foreign jurisdiction can work together to sign a bilateral APA that provides agreement on the taxpayer's transfer pricing method for both countries. By the end of 2014, taxpayers had executed a total of 1,401 new, renewed, or revised APAs. Over 60 percent of these agreements (878) were bilateral,⁴⁴ and the percentage of bilateral agreements has risen in recent years.⁴⁵

³⁹ Rev. Proc. 91-22, 1991-11 I.R.B. 1

⁴⁰ Rev. Proc. 2006-9, 2006-2 I.R.B. 278, available at http://www.irs.gov/irb/2013-50_IRB/ar12.html. The scope of the APA program has expanded over the years and now includes the resolution of transfer pricing issues as well as other issues arising in income tax treaties or the Code or Regulations where transfer pricing may be relevant, including the determination of income effectively connected with a trade or business within the United States. Rev. Proc. 2008-31, 2008-23 I.R.B. 1133, Sec. 3, available at http://www.irs.gov/irb/2008-23_irb/ar07.html

⁴¹ Notice 2013-79, 2013-50 I.R.B. 653, available at http://www.irs.gov/irb/2013-50_IRB/ar12.html

⁴² Rev. Proc. 2006-9, fn. 40, Sec. 4.12

⁴³ *Id.*, Sec. 2.08

⁴⁴ *APMA Statutory Report 2014*, Table 2, available at <http://www.irs.gov/pub/irs-drop/a-15-11.pdf>

⁴⁵ 80% in 2014, 72% in 2013, 74% in 2012, 81% in 2011, and 71% in 2011, for example. All Reports are available at <http://www.irs.gov/Businesses/Corporations/Annual-APA-Statutory-Reports>

b. Pre-Filing Agreements

In early 2000, the IRS implemented a pilot Pre-Filing Agreement program.⁴⁶ The purpose of the program was to enable both taxpayers and the IRS to resolve before the due date of a tax return the treatment of issues otherwise likely to be disputed in post-filing audits. This cooperative effort was intended to reduce the costs, burden, and delays encountered in post-filing examinations. The program allows the taxpayer and the IRS to reach agreement on factual issues and apply settled legal principles to those facts. It does not determine the current interpretation of rules if the interpretation was not well settled, although a Pre-Filing Agreement may include the application of well-established legal principles to known facts.⁴⁷ An example of an issue suitable for a Pre-Filing Agreement is the valuation of assets and the allocation of the purchase or sale price of a business. An example of an issue not suitable for a Pre-Filing Agreement is an issue regarding transactions that lacked a bona fide business purpose. Certain circumstances, such as issues that were the subject of a pending private letter ruling, were excluded from the program as well.

The pilot program was successful and made permanent in early 2001.⁴⁸ The IRS concluded that these Pre-Filing Agreements allowed taxpayers to file more compliant returns within prescribed time frames, were cost efficient, decreased taxpayer compliance burdens, and conserved IRS resources.

The Pre-Filing Agreement program has been expanded and is now available for past, current, and future years, although agreements for future years are limited to 4 tax years past the current tax year.⁴⁹ The program is available to any taxpayer under the jurisdiction of LB&I that wants a pre-filing resolution of applicable issues that otherwise would be resolved in a post-filing examination. The application for a Pre-Filing Agreement can be made at any time before the due date (with extension) for filing a return, but if the request is submitted too close to the due date, and the IRS does not have enough time to consider the issue, the taxpayer will not be accepted into the program. Thus, this program is elective, not mandatory. Taxpayers participating in the program must pay a user fee, currently \$50,000.⁵⁰

The pre-filing program results in a closing agreement relating to the tax treatment of the transaction in question that is binding on both the taxpayer and the IRS. A Pre-Filing Agreement is available for factual issues, issues that require the application of well-established legal principles, or issues that involve a methodology. There is no list of specific eligible domestic and international issues, as long as the issue is not identified as an excluded issue. The IRS must coordinate and consult with the Associate Chief Counsel having subject matter jurisdiction over the issue proposed to be determined in the Pre-Filing Agreement. Certain international issues require the concurrence of the

⁴⁶ Notice 2000-12, 2000-9 I.R.B. 727

⁴⁷ Rev. Proc. 2009-14, 2009-3 I.R.B. 324, Sec. 3.03, available at http://www.irs.gov/irb/2009-03_IRB/ar14.html

⁴⁸ Revenue Procedure 2001-22, 2001-9 I.R.B. 745

⁴⁹ Rev. Proc. 2009-14, fn. 47, Sec. 3.02

⁵⁰ Id., Sec. 10.02

Associate Chief Counsel (International). Taxpayers have a very high overall level of satisfaction with this program.⁵¹

4. SELF-IDENTIFICATION DURING FILING

The IRS does not have (and will never have) enough resources to audit every taxpayer that files an income tax return. When a type of income (such as wages) is subject to third-party reporting, there is a very high probability that the income is reported correctly.⁵² As a result, the IRS can manage its compliance risks by concentrating its resources on the types of taxpayers and types of income that do not lend themselves to third-party reporting.

Congress has recognized the need for disclosure as a tool to deal with compliance issues. In 1999, the Joint Committee on Taxation (JCT) issued a Report⁵³ that included a discussion of the problem with corporate tax shelters.⁵⁴ The JCT indicated that “a mechanism should be developed through which the Treasury can obtain better information with respect to tax shelter activity (1) to enable quick responses to any clarification in law that may be warranted and (2) to enable the IRS to more successfully propose adjustments with respect to such transactions on audit.”⁵⁵ “Effective, meaningful disclosure” would “provide IRS examiners with more adequate information to enable them to identify appropriate audit issues and evaluate the taxpayer’s analysis that supports its return position.”⁵⁶

A recent method of managing compliance risks is through the use of taxpayer self-identification (the “effective meaningful disclosure” identified in the JCT report). The requirement for self-identification is guided by the fundamental principal that transparency is essential to achieving an effective and efficient self-assessment tax system.⁵⁷ The taxpayer reports certain tax positions, and the IRS can concentrate its time and resources on reviewing these tax positions (rather than searching for them on audit). This helps achieve the following improvements:

- Certainty sooner
- Consistent treatment across taxpayers
- More effectively using resources to focus on issues and taxpayers that pose the greatest risk of noncompliance.⁵⁸

⁵¹ <http://www.irs.gov/Businesses/Fact-Sheet-Pre-Filing-Agreement-PFA-Program>

⁵² <http://www.irs.gov/uac/IRS-Releases-New-Tax-Gap-Estimates;-Compliance-Rates-Remain-Statistically-Unchanged-From-Previous-Study>

⁵³ Joint Committee on Taxation, *Study of Present-Law Penalty and Interest Provisions as Required by Section 3801 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Including Provisions Relating to Corporate Tax Shelters)*, JCS-3-99 (1999)

⁵⁴ *Id.*, p. 231

⁵⁵ *Id.*

⁵⁶ *Id.*, p. 234.

⁵⁷ Remarks by Doug Shulman, IRS Commissioner, on September 24, 2010, available at www.irs.gov/uac/Prepared-Remarks-of-IRS-Commissioner-Doug-Shulman-to-the-American-Bar-Association

⁵⁸ *Id.*

a. Form 8886, Reportable Transaction

In 2003, the IRS issued Form 8886, Reportable Transaction Disclosure Statement. Form 8886 applies to any taxpayer, including an individual, trust, estate, partnership, S corporation, or other corporation, that participates in a reportable transaction and is required to file a federal income tax return or information return. Form 8886 provides information needed to evaluate potentially abusive transactions, such as identified tax shelter transactions.⁵⁹ On the 2003 form, the IRS identified 6 broad categories of transactions that the taxpayer had to report. The taxpayer had to report the facts of the transaction, the expected tax benefits of the transaction (deductions or tax credits, for example), and the estimated amount of tax benefits for each effected year.⁶⁰

In the first year the taxpayer files Form 8886, she also must send an exact copy of the form to the Office of Tax Shelter Analysis (OTSA).⁶¹ The OTSA collects and analyzes information about tax shelters and transactions and coordinates LB&I's tax shelter planning and analysis.⁶²

The information required on Form 8886 has not substantially changed since 2003, although the IRS now requires the identity of all individuals and entities involved in the transaction that are tax-exempt, foreign, or related.⁶³ The form also reflects items that now are reported on Form 1120 (Schedule M-3).⁶⁴

Form 8918, Material Advisor Disclosure Statement

Anyone who is a "material advisor" to a reportable transaction must file Form 8918, Material Advisor Disclosure Statement, with the OTSA. A material advisor can be an individual, trust, estate, partnership, or corporation.

The IRS sends the material advisor a "reportable transaction number" that the material advisor must provide to all taxpayers and material advisors for whom the first material advisor acts as material advisor.⁶⁵ The material advisor must provide this number to the taxpayer when the taxpayer enters into the transaction or, if the transaction is entered into before the material advisor received the number, no later than 60 calendar days from the date the reportable transaction number is mailed to the material advisor.⁶⁶

⁵⁹ T.D. 9017, Tax Shelter Disclosure Statements, 67 Fed. Reg. 64799 (Oct. 22, 2002), at 64800, available at <http://www.gpo.gov/fdsys/pkg/FR-2002-10-22/pdf/02-26724.pdf>

⁶⁰ Form 8886 (March 2003), lines 2, 7, 8, and 9, available at <http://www.irs.gov/pub/irs-prior/f8886--2003.pdf>

⁶¹ Instructions for Form 8886 (Rev. 2011), p. 4

⁶² *Abusive Tax Shelters and Transactions*, available at <http://www.irs.gov/Businesses/Corporations/Abusive-Tax-Shelters-and-Transactions>

⁶³ Form 8886 (Rev. March 2011), line 8, available at <http://www.irs.gov/pub/irs-pdf/f8886.pdf>

⁶⁴ Rev. Proc. 2004-45, 2004-31 I.R.B. 140, available at http://www.irs.gov/irb/2004-31_IRB/ar19.html

⁶⁵ Instructions for Form 8918, p. 1, available at <http://www.irs.gov/pub/irs-pdf/i8918.pdf>

⁶⁶ *Id.*, p. 3

Having both the taxpayer and the material advisor report to the OTSA enables the OTSA to compare reporting and identify gaps and potentially abusive transactions.

b. Schedule M-3, Net Income (Loss) Reconciliation for Corporations With Total Assets of \$10 Million or More

In 2004, the IRS issued Schedule M-3 (Form 1120), Net Income (Loss) Reconciliation for Corporations With Total Assets of \$10 Million or More. Versions of Schedule M-3 also must be filed by partnerships, foreign corporations, U.S. life insurance companies, U.S. property and casualty insurance companies, and S corporation if their total assets are \$10 million or more. The goal of the Schedule M-3 reconciliation is to increase taxpayer transparency about adjustments made to financial statements when the taxpayer prepares its tax return. This helps the IRS determine whether tax compliance risk is present and assists with the selection of returns and issues for audit.⁶⁷

Taxpayers use Schedule M-3 to reconcile their net income or loss per the income statement of any includible corporation with the taxable income per the return.⁶⁸ If a taxpayer filed Form 8886, the amounts attributable to that reportable transaction must be included in Part II of Schedule M-3.⁶⁹

c. Schedule UTP, Uncertain Tax Position Statement

In 2010, the IRS issued Schedule UTP (Form 1120), Uncertain Tax Position Statement. The information from Schedule UTP will help the IRS identify those returns that pose the most significant risks of noncompliance and select issues for examination.⁷⁰

Any corporation that issues or is included in audited financial statements and has assets that equal or exceed \$10 million is subject to the requirement to include Schedule UTP when it files its tax return.⁷¹ The corporation must report any tax positions that it has taken on its U.S. federal income tax return for the current tax year or for a prior tax year if the corporation or a related party:

- Has recorded a reserve with respect to that tax position for U.S. federal income tax in audited financial statements, or
- Did not record a reserve for that tax position because the corporation expects to litigate the position.⁷²

⁶⁷ Boynton, DeFilippes, Legel, and Rupert; *2010-2011 Schedule M-3 Profiles and Schedule UTP Filing Status* (Boynton), Tax Notes, November 3, 2014, 535, at 536, available at <http://www.irs.gov/pub/irs-utl/2010-2011M3ProfilesUTPFilingStatus.pdf>

⁶⁸ 2014 Schedule M-3 (Form 1120), Parts II and III, available at <http://www.irs.gov/pub/irs-pdf/f1120sm3.pdf>

⁶⁹ Id., Part II, line 12

⁷⁰ Preamble to Proposed Regulation sec. 1.6012-2(a)(4), REG-119046-10, 75 Fed. Reg 54802 (September 9, 2010), available at <http://www.gpo.gov/fdsys/pkg/FR-2010-09-09/pdf/2010-22624.pdf>

⁷¹ Regulations sec. 1.6012-2(a)(4).

⁷² 2014 Instructions for Schedule UTP (Form 1120), p. 1, available at <http://www.irs.gov/pub/irs-pdf/i1120utp.pdf>

If the corporation or related party determines that, under applicable accounting standards, no reserve was required either because the amount was immaterial for audited financial statement purposes or because a tax position was sufficiently certain, then the corporation does not need to report the tax position on Schedule UTP. The corporation must include a concise description of the tax position on Schedule UTP and reference the appropriate section of the Internal Revenue Code. Although the corporation is not required to report the amount of tax at issue, the corporation must rank by size each tax position.⁷³

Schedule UTP filing statistics for the tax year 2013 indicate that 4 reported Uncertain Tax Positions accounted for 54% of the reported tax positions.⁷⁴ These positions were the research credit (29%), transfer pricing (17%), capitalization (4%), and domestic production activities (4%). Almost 18 percent fewer Schedules UTP were filed for tax year 2013 (1,774) than were filed in the first filing year 2010 (2,167).

Schedule UTP and Schedule M-3

As discussed above, taxpayers who file Schedule UTP (Form 1120) and Schedule M-3 (Form 1120) both have assets equal to or more than \$10 million. All large corporations file Schedule M-3, while only a minority of large corporations files Schedule UTP. A recent analysis of data from 2010 and 2011 indicates that Schedule UTP reporting does not identify the same tax compliance risks as Schedule M-3 reporting. Schedule UTP and Schedule M-3 appear to be complementary and not duplicative.⁷⁵

d. Penalties

Self-identification and transparency can be an effective means of managing compliance risk if taxpayers comply with their filing requirements. To help ensure filing, the IRS imposes penalties for not filing complete and correct forms and schedules, including Form 8886, Form 8918, Schedule M-3, and Schedule UTP, on time.

The general penalties for failure to file Schedule UTP or Schedule M-3 can reach 25% of the tax due under the return.⁷⁶ Additional penalties apply for the failure to pay the correct amount of tax.⁷⁷ Generally, the penalty for failure to include information with respect to a reportable transaction is 75% of the reduction in the tax reported on the income tax return as a result of participation in the transaction or that would result if the transaction were respected for federal tax purposes, with minimum and maximum penalties provided. The minimum penalty for failing to file Form 8918 is \$50,000.⁷⁸

An accuracy-related penalty may be imposed for a reportable transaction understatement.⁷⁹ The penalty increases for transactions that are not disclosed on Form

⁷³ Id.

⁷⁴ <http://www.irs.gov/Businesses/Corporations/UTPFilingStatistics>

⁷⁵ Boynton, fn. 67, at 536.

⁷⁶ IRC section 6651(a)(1)

⁷⁷ IRC section 6651(a)(2) and (3)

⁷⁸ Instructions for Form 8918, fn. 63, p. 4

⁷⁹ IRC section 6662A

8886 in accordance with the instructions.⁸⁰ Penalties also may be imposed for the failure to disclose a listed transaction within the time and manner prescribed.⁸¹

5. TRANSPARENCY DURING FILING: COMPLIANCE ASSURANCE PROCESS

Historically, post-filing audits have been lengthy; in 2003, for example, the audit resolution for the largest taxpayers took an average of 60 months from the filing date.⁸² Taking the issues through the Appeals process took an average of 26 additional months.⁸³ For the IRS, this inhibited the early identification of emerging issues, including the significant volume of abusive tax shelter transactions. Taxpayers complained about the length of time that it took to complete an examination, the cost and administrative burden of supporting a lengthy examination, and the need for certainty of the tax liability for financial reporting.

In 2005 the IRS announced a pilot program for large business taxpayers called the Compliance Assurance Process (CAP).⁸⁴ CAP involves the early identification of issues, followed in later years with a reduced level of IRS review for compliant taxpayers. CAP supports compliance risk management by helping the IRS identify those taxpayers with issues that require more review and benefiting the more compliant taxpayer with a reduced level of annual audit. It also helps the IRS identify emerging issues at an earlier phase in the examination process, which may help the IRS direct resources to address these issues at an earlier stage of an audit. The long-term goal of CAP is to increase audit coverage by providing a more efficient use of audit resources. Honest and open communication is critical to the success of the CAP Program.

The CAP program relies on transparency by the taxpayer. The IRS conducts real-time compliance reviews to establish the correct tax treatment of tax return positions before a taxpayer files its federal income tax return.

The CAP program was made permanent in 2011.⁸⁵ The IRS sets out the rules for the program in Internal Revenue Manual (IRM) 4.51.8.

Only large taxpayers are eligible to participate in CAP: a taxpayer must have assets of \$10 million or more; it must be a publicly-held entity required to prepare and submit certain quarterly and annual reports to the Securities and Exchange Commission (or equivalent body) or, if privately-held, must agree to provide certified, audited financial

⁸⁰ IRC section 6664(d)

⁸¹ IRC section 6501(c)(10)

⁸² Testimony of Mark Everson, Commissioner, Internal Revenue Service, before Joint Committee on Taxation, in JCS-4-05, *Joint Review of the Strategic Plans and Budget of the Internal Revenue Service*, 2003 8, available at <http://www.jct.gov/s-4-05.pdf>

⁸³ Government Accountability Office (GAO), *CORPORATE TAX COMPLIANCE: IRS Should Determine Whether Its Streamlined Corporate Audit Process Is Meeting Its Goals*, August 2013, GAO-13-662, p. 3 (GAO CAP), available at <http://www.gao.gov/assets/660/657092.pdf>

⁸⁴ Announcement 2005-87, 2005-50 IRB 1144, available at http://www.irs.gov/irb/2005-50_IRB/ar14.html

⁸⁵ IR-2011-32, March 31, 2011, available at [http://www.irs.gov/uac/IRS-Expands-and-Makes-Permanent-Its-Compliance-Assurance-Process-\(CAP\)-for-Large-Corporate-Taxpayers](http://www.irs.gov/uac/IRS-Expands-and-Makes-Permanent-Its-Compliance-Assurance-Process-(CAP)-for-Large-Corporate-Taxpayers)

statements quarterly; and it must not be under investigation by, or in litigation with, the IRS or other federal or state agency that would limit the IRS' access to current corporate tax records.⁸⁶ Foreign corporations that file Form 1120-F are eligible to participate in CAP if they can provide documentation equivalent to the information that must be filed by US companies quarterly with the Securities and Exchange Commission (SEC).⁸⁷ Taxpayers apply for participation in CAP annually.⁸⁸ One area considered by the IRS is the cooperation and transparency of the taxpayer in previous years.⁸⁹

Although the CAP program is designed to minimize the use of IRS resources in auditing the largest taxpayers, thus freeing up the IRS' limited resources to expand audits of smaller taxpayers, independent reviews of the CAP program indicate that the IRS has not yet been able to quantify resources saved.⁹⁰ A Treasury Inspector General for Tax Administration (TIGTA) report noted that the IRS has used additional resources to implement the CAP Program over the resources that would have been required in a more "typical" audit, although the level of the addition has been decreasing, possibly as a result of experience (of both the IRS and the taxpayer) with the program. The average staff hours required for a CAP return in 2011 was 2,449.8 hours per return.⁹¹ In contrast, the average staff hours for traditional audits in 2011 were 727.6 hours per return. The average tax increase per return for the CAP program was \$6,776,404 in 2011, compared to the average tax increase per return of \$6,678,483 for traditional audits.⁹² CAP has three phases: Pre-CAP, CAP, and Compliance Maintenance.⁹³ The Pre-CAP phase is designed to work with taxpayers to resolve ongoing examinations so they are eligible to request participation in CAP. The CAP phase requires that the taxpayer have no more than one filed return that has not been closed in examination and one unfiled return. The Compliance Maintenance phase reduces the IRS involvement in the tax return process in recognition of prior satisfactory compliance by the taxpayer.

Pre-CAP: Taxpayers may not be ready for the CAP program because they have more than one tax year under examination or have more than one tax return that is due. In this case, the taxpayer can apply to participate in the Pre-CAP program, which is designed to prepare the taxpayer to participate in the CAP program. In the Pre-Cap phase, taxpayers and the IRS work in a traditional post-file examination process to complete examinations so the taxpayer qualifies to meet the CAP selection criteria. If

⁸⁶ IRM 4.51.8.5

⁸⁷ Q. 2, Compliance Assurance Process (CAP) - Frequently Asked Questions (FAQs), available at <http://www.irs.gov/Businesses/Corporations/Compliance-Assurance-Process-CAP-Frequently-Asked-Questions-FAQs>

⁸⁸ IRM 4.51.8.5(3)

⁸⁹ IRM 4.51.8.5(4)

⁹⁰ Treasury Inspector General for Tax Administration, Reference Number 2013-30-021, *The Compliance Assurance Process Has Received Favorable Feedback, but Additional Analysis of Its Costs and Benefits Is Needed* (February 27, 2013) (TIGTA CAP), available at <http://www.treasury.gov/tigta/auditreports/2013reports/201330021fr.pdf>; GAO CAP, fn. 83

⁹¹ This number has decreased annually. In FY 2007, for example, the average staff hours for CAP were 4,348. TIGTA CAP, fn. 90, p. 14

⁹² Id.

⁹³ IRM 4.51.8.3

the taxpayer does not have any open tax years, it can apply directly to the CAP program.⁹⁴

Taxpayers can apply for the Pre-CAP program at any time. The IRS may, but does not have to, approve a taxpayer's application for the Pre-CAP program. The taxpayer must execute a Pre-CAP Memorandum of Understanding. The MOU for the Pre-CAP program is effective for the first Pre-CAP year and will continue in effect until the transition years are closed and the taxpayer qualifies for CAP or the taxpayer is terminated or voluntarily withdraws from the Pre-CAP program.⁹⁵ The MOU defines specific objectives, sets parameters for the disclosure of information, describes the methods of communication, and serves as a statement of the parties' commitment to good-faith participation in the Pre-CAP program.⁹⁶

CAP: The CAP program employs real-time issue resolution to improve federal tax compliance. The IRS and the taxpayer work contemporaneously to resolve all or most positions before the tax return is filed.⁹⁷ CAP relies on cooperation and transparency.

Taxpayers must apply for acceptance into the CAP program annually.⁹⁸ Factors that the IRS considers in determining whether to accept a taxpayer into the CAP program include the level of cooperation and transparency shown in prior CAP years or pre-CAP years, the IRS and taxpayer resources, whether the taxpayer had a majority ownership change, and if the taxpayer had material financial restatements.⁹⁹ If the IRS feels that the taxpayer historically has been less than transparent and cooperative, the IRS might not approve the taxpayer for acceptance into the program.

The IRS and the taxpayer sign an MOU that defines specific objectives, sets parameters for the disclosure of information, describes the methods of communication, and states the mutual commitment to good-faith participation in the program.¹⁰⁰ The IRS and taxpayer identify and agree on the scope of the CAP review, including a determination of the materiality threshold.¹⁰¹ Materiality thresholds are used as a guide to determine the transactions to review. Exceptions to the threshold may be agreed on and may be reconsidered during the CAP year. Ultimately, however, the IRS makes the final decision identifying transactions, items, and issues for the compliance review.

In the MOU, the taxpayer agrees that it will make open, comprehensive, and contemporaneous disclosures of its completed business transactions including its proposed return reporting position, and a description of the steps that have a material effect on its federal income tax liability. The taxpayer also agrees to disclose any other item that could have a material effect on its federal income tax liability and its proposed return reporting position for items that meet a materiality threshold. For CAP, a matter

⁹⁴ IRM 4.51.8.4(1)

⁹⁵ IRM 4.51.8.4((5))

⁹⁶ Id.

⁹⁷ IRM 4.51.8.5(1)

⁹⁸ IRM 4.51.8.5(3)

⁹⁹ IRM 4.51.8.5(4)

¹⁰⁰ IRM 4.51.8.5(5)

¹⁰¹ IRM 4.51.8.5(11)

that has a material effect includes those items that the taxpayer will or would be required to reserve for purposes of any financial statement for the CAP year and those items that the taxpayer anticipates that it will or would be required to reserve for purposes of any financial statement for any period after the CAP year. The taxpayer and the IRS jointly determine these materiality thresholds. The materiality threshold can change from CAP year to CAP year and can be reconsidered during the current year. , These materiality thresholds are important, because the taxpayer does not have to disclose transactions below the threshold.

The ultimate decision of identifying transactions, items, and issues for compliance review remains with the IRS. Certain items, such as tax shelter items, listed transactions, transactions of interest, potentially fraudulent items, LB&I compliance initiatives, and emerging issues, can be considered for a compliance review regardless of the materiality thresholds. The taxpayer is still expected to prepare and file all appropriate tax forms and schedules, such as Schedule UTP. In addition, the taxpayer must provide information on any significant events that will affect the return for the tax year as well as tax schedules and computations for all rollover and recurring adjustments from previous years that impact the CAP year.

Any items that cannot be resolved before the return is filed will be resolved through the traditional exam process. After the taxpayer files its tax return, the IRS and the taxpayer jointly review the return to verify that all resolved items and issues were reported as agreed and that all material disclosures were made in accordance with the CAP MOU. If the post-filing review indicates that all material items and issues were disclosed and resolved, the IRS issues a No Change Letter that concludes the examination of the taxpayer's books of account. If there are inconsistent unresolved issues, or material issues that were not adequately disclosed, the IRS examines these issues through the traditional exam process. The taxpayer can appeal any item with respect to which a traditional examination was conducted.

Within 30 days of the date the return was filed, the taxpayer must provide a Post-Filing Representation signed by an officer of the taxpayer who has authority to sign the U.S. income tax return. This Representation indicates that the taxpayer has disclosed all completed transactions and other items that have a material effect on the taxpayer's federal income tax liability for the CAP year and, as of the date of the Representation, there are no remaining undisclosed transactions or tax positions for the CAP year that would require the taxpayer to report reserves on any financial statement for the CAP year or any period after the CAP year.

One of the most important aspects of a successful CAP program is communication. This includes communication between the IRS and the taxpayer as well as communication among personnel in the various departments of the taxpayer and among personnel within the IRS. Immediate and complete communication is best.

Obviously the CAP program only works well with complete transparency between the taxpayer and the IRS. The taxpayer cannot hide a transaction and hope the IRS does not find it in the audit process. For CAP to work, the taxpayer must disclose all transactions for the IRS to review during the year. The CAP program does not provide guidance on or resolve prospective or incomplete transactions outside of existing procedures. The taxpayer still must rely on traditional methods such as letter rulings for resolution of those issues.

Compliance Maintenance: After a taxpayer has completed at least one CAP cycle through the post-file review, it can apply for the Compliance Maintenance program.¹⁰² The Compliance Maintenance program is not for every CAP taxpayer in every year. A typical taxpayer in the Compliance Maintenance program will have strong, functioning internal controls, low-risk transactions, and a CAP history of limited controversies, with full compliance with both the letter and the spirit of CAP in previous years. In addition, there should be little to no turnover in personnel within the taxpayer's Tax Department to ensure a current understanding of the process. In the Compliance Maintenance phase, the IRS reduces the level of review, but the taxpayer must continue making open, comprehensive, and contemporaneous disclosures of its completed business transactions and its proposed tax positions.

Taxpayers execute the CAP Memorandum of Understanding and provide the required information. The IRS may move taxpayers between the CAP phase and the Compliance Maintenance phase depending on the complexity and/or volume of transactions and other factors.¹⁰³

For filing year 2015, 194 taxpayers participate in CAP, 182 of which are returning taxpayers. In addition, 72 taxpayers are in Compliance Maintenance and 20 taxpayers are in the Pre-CAP phase. For filing year 2014, 184 taxpayers participated in CAP, of which 161 were returning taxpayers. Sixty-four taxpayers were in the Compliance Maintenance program, and 21 taxpayers were in the Pre-CAP program.

6. TECHNOLOGY AFTER FILING

As part of its post-filing-season activities, the IRS randomly selects tax returns for audit. This random selection process helps encourage taxpayers to file returns completely and correctly.

The IRS also uses other technology-driven methods to confirm that returns are correct or to determine which returns to audit. Some of these methods – such as document matching – are directed primarily at the individual taxpayer. Other methods – such as the Compliance Management Operations program – are directed at business taxpayers.

¹⁰² IRM 4.51.8.6

¹⁰³ IRM 4.51.8.6(3)

a. Matching

The IRS uses document matching programs to ensure that taxpayers report the correct amount of income received and taxes withheld. This matching process is primarily performed for individual taxpayers and involves matching amounts reported on income tax returns by taxpayers with amounts reported as paid to, or taxes withheld by, employers and other businesses.¹⁰⁴ Matching results in very high compliance rates. For example, the misrepresentation rate for salary and wage income is only 1%.¹⁰⁵ By contrast, when third party reporting was not involved, the misrepresentation rate was 56%.¹⁰⁶

The IRS has begun to match other types of income as well. For example, in 2011, the IRS began merchant card reporting (credit and debit cards as well as certain electronic transactions).¹⁰⁷ With the recent implementation of the Foreign Account Tax Compliance Act, enacted in March 2010,¹⁰⁸ it is anticipated that the IRS will match data received from accountholders on Form 8938, Statement of Specified Foreign Financial Assets, with data received from the institutions where the accounts are held and will identify and pursue non-filers.¹⁰⁹

b. Filters

The IRS identifies many cases of identity theft and other types of refund with a series of filters that are applied to tax returns after they are filed. Using these filters has prevented the payment of millions of dollars in fraudulent tax refunds.¹¹⁰

The IRS is also developing other types of filter systems that may be used to improve issue identification for additional examinations.

c. Data-Driven Analysis for Issue-Focused Examinations – Compliance Management Operations

As previously discussed, audit selection based or focused on issues rather than specific taxpayers improves the compliance rate while minimizing the use of limited resources. The IRS selects returns for audit that it has determined have a higher likelihood of including issues that need to be audited.

¹⁰⁴ A brief description of this program is provided in Internal Revenue Manual 1.4.17.5, available at http://www.irs.gov/irm/part1/irm_01-004-017.html#d0e1003

¹⁰⁵ <http://www.irs.gov/uac/IRS-Releases-New-Tax-Gap-Estimates;-Compliance-Rates-Remain-Statistically-Unchanged-From-Previous-Study>

¹⁰⁶ Id.

¹⁰⁷ <http://www.irs.gov/Tax-Professionals/Third-Party-Reporting-Information-Center>

¹⁰⁸ Pub. L. No. 111-147, Title V, available at <http://www.gpo.gov/fdsys/pkg/PLAW-111publ147/pdf/PLAW-111publ147.pdf>

¹⁰⁹ National Taxpayer Advocate, *2013 Annual Report to Congress*, MSP #23 REPORTING REQUIREMENTS: The Foreign Account Tax Compliance Act Has the Potential to be Burdensome, Overly Broad, and Detrimental to Taxpayer Rights, p. 244, available at <http://www.taxpayeradvocate.irs.gov/2013-Annual-Report/downloads/Volume-1.pdf>

¹¹⁰ <http://www.irs.gov/uac/Newsroom/IRS-Combats-Identity-Theft-and-Refund-Fraud-on-Many-Fronts-2015>

The Compliance Management Operations (CMO) project helps the IRS manage issue-focused examinations. CMO began as a pilot in 2010 and has expanded since that time. The CMO approach provides a new way to identify and select returns of smaller taxpayers for examination.¹¹¹ It identifies high-risk compliance issues and then searches for tax returns that contain those issues. Benefits of CMO include an increased ability to recognize emerging areas of noncompliance, greater capacity to respond in a timely manner to areas of compliance risk, and delivery of higher risk cases to the field.¹¹²

CMO is a collaborative process involving a Compliance Management Team (CMT) of research analysts, revenue agents, field specialists, technical advisors and dedicated exam groups. The CMT uses data to develop risk models and files that are applied to taxpayer return information to identify high-risk compliance risks. These returns are then examined using the usual procedures. Feedback from the examination process helps the CMT refine and adjust the CMO process.

Identified benefits of the CMO pilot have included improvement in examination results per staff hour, reduction in months in process, reduction in total examination time, and reduction in pre-opening conference examination time.¹¹³

7. CONCLUSION

The audit and examination process must develop to use technology and focused examinations to increase compliance. The process to improve compliance begins before a return is filed, with pre-filing activities such as the Pre-Filing Agreement and the Advance Pricing Agreement, and continues through the filing process with self-identification of higher-risk areas, such as through the use of Schedule UTP and Form 8886. It relies on greater transparency and cooperation by both the taxpayer and the IRS, including through the Compliance Assurance Process. It encourages correct and complete reporting by relying on technology to provide data matching and return filtering. Finally, it uses data identification to find the returns that have issues more likely to be risky. Compliance risk management has moved from the post-filing audit where transactions were examined to see if there might be an issue to a much more sophisticated method of identifying issues that may need more scrutiny before returns are even selected for audit. This more sophisticated and technology-driven type of risk assessment has helped the IRS continue to identify risky transactions and eliminate them.

¹¹¹ The CMO program deals with returns of taxpayers classified as “Industry Cases” rather than the larger “Coordinated Industry Cases.”

¹¹² Internal Revenue Service Advisory Council 2014 Public Report (IRSAC 2014), available at <http://www.irs.gov/PUP/taxpros/2014-IRSAC-Full-Report.pdf>, pp. 46 - 47

¹¹³ Id., p. 47

RISK IDENTIFICATION AND MANAGEMENT: CUSTOMS PERSPECTIVE

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Contents: Introduction. 1. WCO Customs Risk Management Compendium. 2. Risk Management Architecture. 3. Risk Management Framework. 4. Risk Management Process. 5. Risk Register.

INTRODUCTION

We live in an extremely fast moving world where global trade is fundamental to economic growth and social development. A stable trading environment enables economies to reap many benefits which can impact positively on society and the way people live.

Customs plays a significant role in ensuring that global trade meets regulatory requirements and conforms to national laws. Changes in the strategic landscape of Customs' operating environment and long-term growth in trade and travel volumes have affected the way Customs administrations are managed and approach their tasks.

New government priorities, along with emerging challenges at the border, have led many administrations to seek a more structured and systematic way to manage risk. Today, Customs is required to address risk wherever it is found and increasingly as early in the supply chain as possible.

Together with other key building blocks outlined in the WCO's Customs in the 21st Century strategic vision, and standards and guidelines contained in the revised Kyoto Convention and the SAFE Framework of Standards, the application of risk management is a critical element that underpins all modern Customs administration.

1. WCO CUSTOMS RISK MANAGEMENT COMPENDIUM

Risk Management is used widely by finance and investment, insurance, health care, and public institutions. Any organization benefits from the application of a risk management strategy since this benefits organizational performance as a whole.

Risk management is on the agenda of the WCO for a long time.

- There are several references to risk management in the Revised Kyoto Convention.
- In 2003, the WCO developed Risk Management Guide.

- In 2005 the WCO Council adopted the SAFE Framework of Standards to Secure and Facilitate Global Trade. One of the core elements of SAFE is “Risk Management”.
- In 2008, Customs in the 21st Century strategy paper was developed and one of the building blocks was dedicated to “Intelligence-driven Risk Management.
- And finally, the WCO developed Customs Risk Management Compendium in 2011.

In view of an increasing need to define a common approach that enables Customs administrations across the globe to both identify and treat potential risks, the WCO developed the Customs Risk Management Compendium. The methodology outlined in the Compendium establishes a common framework, but at the same time it stays sufficiently flexible in order to meet the unique conditions of individual WCO Members. The WCO Customs Risk Management Compendium is comprised of two separate but interlinked volumes.

Volume 1 sets out the organizational framework for risk management and outlines the risk management process.

Volume 2 deals with risk assessment, profiling and targeting tools that inform selection criteria for identifying high-risk consignments, passengers and conveyances for Customs intervention.

Risk Management Compendium is available on the WCO Website for downloading. Common part and Volume 1 is open to general public. Volume 2, on the other hand, is restricted to Customs use only since it contains enforcement sensitive information.

2. RISK MANAGEMENT ARCHITECTURE

Risk Management is defined as “Coordinated activities by administrations to direct and control risk”. These coordinated activities are explained under the Risk Management Architecture.

Risk Management Architecture includes: Principles of Risk Management; different components of an organizational risk management framework; and a common methodology and process for managing risk.

Risk management principles guide framework, framework guides process.

2.1. Risk management principles

When adopting risk management, there are some general guiding principles to which the approach at all levels of the administration should adhere. These include, but are not limited to, the followings:

- risk management must contribute to better achievement of organizational objectives;

- risk management practices are tailored and aligned with the administration's external and internal context and role;
- risk management should be embedded as an integral part of all organizational processes;
- risk management practices will assist decision makers to make informed choices, prioritize actions and distinguish among alternative courses of action to ensure risk treatments will be adequate and effective;
- risk management should be systematic, structured and timely;
- risk management shall always be based on best available information derived from intelligence and information sources;
- risk management shall be transparent and inclusive;
- risk management needs to be dynamic, iterative and responsive to change;
- risk management facilitates continual improvement of the administration; and
- risk management should take human and cultural factors into account, recognizing the capabilities, perceptions and intentions of external and internal people that can facilitate or hinder achievement of an administration's goals.

3. RISK MANAGEMENT FRAMEWORK

Risk Management Framework is: Set of components that provide foundation and organizational arrangements for designing, implementing, monitoring, reviewing and continually improving risk management throughout the organization.

- **Mandate and commitment**
High-level mandate and commitment are crucial for effective risk management. Risk management will rarely be effective if it is not supported by the highest level of the organization.
- **Designing the framework for managing risk**
A clear understanding of the operating environment is an important step in developing the organizational risk management framework.
- **Implementing risk management**
When implementing the framework, it is important to have a thorough plan and implementation strategy in place. This plan should describe the implementation of the organizational arrangements and define the timing and strategy for this. Implementation of the framework includes applying the risk management policy to organizational activities.
- **Monitoring and review of the framework**
The development of evaluation and reporting mechanisms provides feedback to management and other interested parties in the administration and government-wide. Making sure that risk management activities are monitored and reviewed and that results are fed back to the policy level assists in ensuring that risk management remains effective in the long term.
- **Continual improvement of the framework**
Continual learning is fundamental to more informed and proactive decision making. It contributes to better risk management, strengthens an administration's capacity to

manage risks and facilitates the integration of risk management into organizational structures and culture.

4. RISK MANAGEMENT PROCESS

Risk Management Process is systematic application of management policies, procedures and practices to the activities of documenting, communicating, consulting, establishing the context, and identifying, analyzing, evaluating, treating, monitoring and reviewing risk.

- **Establishing the context**
Any effort to manage risk must begin by first establishing what needs to be managed. This stage defines the context in which risk management will take place, and aims at clearly articulating and clarifying the objectives and what risks are being examined. Determining what needs to be managed helps set the parameters for the rest of the risk management process.
- **Risk identification**
Risks cannot be analyzed or managed until they are identified and described in an understandable way. The risk identification phase identifies and records all potential risks by using a systematic process to identify what risks could arise, why, and how, thus forming the basis for further analysis.

Some of the questions asked in this phase could include:

- What are the sources of risk?
- What risks could occur, why, and how?
- What controls may detect or prevent risks?
- What accountability mechanisms and controls—internal and external—are in place?
- What, and how much, research is needed about specific risks?
- How reliable is the information?
- **Risk analysis:**
Risk analysis is principally about quantifying risk, and requires consideration of the sources of identified risks, an assessment of their potential consequences in terms of achieving objectives, and judgment as to the likelihood that the consequences will occur (in the absence of any specific treatment with the existing controls in place). It relies upon the use of data and information to substantiate the consequences that are likely to be incurred if the risk occurs and/or remains unaddressed. Even though risk analysis should be evidence-based to the extent possible, it needs to be remembered that it is not an exact science. Knowledge about the business environment, expert judgment and common sense should never be overlooked when analyzing risks.
- **Risk evaluation and prioritization**

This step entails comparing the assessed risks against a pre-determined significance criterion. By considering the risk level of each of the risks as described by the relevant management team in the matrix, it is possible to evaluate and prioritize the key risks that need to be analyzed in more detail. This will then lead to the deployment of proportionate resources in order to prepare for, prevent or respond to the risk.

- Risk treatment
Risk treatment refers to the decisions or actions taken in response to identified risk. There are four generic types of responses that can be applied. These are the so-called “four t’s”: tolerate, treat, transfer, or terminate.
- Monitoring and review
Monitoring and review should include all aspects of the risk management process, including the performance of the risk management system, the changes that might affect it and whether the original risks remain static.
- Documentation, communication and consultation
Communication and consultation with internal and external stakeholders should be conducted as appropriate at each stage of the risk management process, and for the process as a whole. Communication and consultation should be planned and ongoing activities addressing not just the process, but any issues that may arise.

5. RISK REGISTER

Risk Register is an organizational planning document identifying the administration’s risks and allocating risks to risk owners. It is one of the core elements of Risk Management Framework.

Steps to create a Risk Register:

- Strategic objectives (major risk areas)
Strategic objectives listed in the Strategic Plan of the administration will serve as the major risk areas.
- Risk identification
Risks related to each risk area will be identified at this step. The risk identification phase identifies and records all potential risks by using a systematic process. They should be described in an understandable way. Possible causes of each risk should also be recorded. It will be useful while identifying possible treatments. When we know how it can happen, it will be somewhat easier for the administration to identify relevant treatments.
- Risk analysis (likelihood and consequence)
The analysis considers: (1) how likely is an event to happen; and (2) what are the potential consequences and their magnitude.

Combining these two elements produces an estimated level of risk (significance). It will result in prioritization of risks as high, medium and low.

- **Treatment**
When risks are identified and analyzed, next step is treatment. Risk treatment refers to the decisions or actions taken in response to identified risk. Considering each risk possible treatments will be identified.
- **Risk owners**
Risk owner is the person or entity with the accountability and authority to manage a risk. Considering each identified risk together with possible treatments, risk owner will be identified.
- **Review mechanism**
Final step is to establish a mechanism to review the risk register. It could be 3 months, 6 months or 1 year depending on the level of risk. After each period, risk will be re-examined in order to see if there is any improvement. Then, modify the possible treatments if needed.

Example: Risk Register

In a hypothetical example, the Director General of Country X Customs service calls the heads of his administration's four organizational divisions (Head of Revenue Collection and International Trade, Head of Community Protection and Security, Head of Operations, and Head of Administration) and their deputies to a risk management workshop.

The aim of the workshop is to conduct a strategic review and identify risks that may prevent the service from achieving its goals. The main objectives of the organization relate to revenue collection ensuring community protection and security and ensuring compliance with the laws and regulations administered by Customs in a way that guarantees facilitation of trade.

Prior to the meeting the Heads of the three operational divisions were required to circulate relevant reports from their divisions. Thus the Head of Operations was tasked with circulating a summary report of seizures investigations and court cases.

The Head of Revenue Collection and International Trade provided an update on AEO applications and compliance as well as trade statistics. The Head of Community Protection & Security provided a report on examinations and on statistics reported by other border control agencies and the police.

The Intelligence Unit assisted with the preparation of all summary reports by the Head of Administration.

After setting the parameters and context for the process, the group uses historical data and awareness of the various programmes to identify the major organizational risks utilizing brainstorming techniques.

The major risks are divided into "Risk Areas" and the key risks under each area are identified.

Workshop participants analyze (using a suitable technique, see Annex 1 of Volume 1 of the WCO Customs Risk Management Compendium) each of the individual risks under the risk categories in terms of their likelihood and consequence, using a high (H), medium (M), and low (L) scale.

Then the Workshop participants evaluate and prioritize the identified and analyzed risks for response. The process is recorded in a prioritized risk register which links the risks to the respective risk owners. The register would form part of the organizational risk management plan and serve as a guide for an

administration's risk management activities. The prioritized risk register would allow senior managers to convene meetings with their relevant managers and supervisors to consider control strategies.

Based on evaluation and prioritization, the risks would be further analyzed and seconded for response decisions. Once different response options have been considered, the identified risk owners are responsible for creating more detailed treatment plans to mitigate the risks.

	Objective	Risks	Likelihood	Consequence	Significance	Risk Owner	Treatment
1	Effective and efficient collection of revenue	1.1 Fraud	H	H	High	Head of Operations	Treat: A thorough mitigation strategy and plan needed
		1.2 Lack of staff competence	M	M	Medium	Head of Revenue Collection and International Trade	Tolerate once additional training to the staff is provided. Monitor continuously.
		1.3 Integrity	L	L	Low	Head of Administration	Tolerate: Monitor through SOPs
2	Community protection and security	2.1 Narcotics	H	M	High	Head of Community Protection and Security	Treat: A thorough mitigation strategy and plan needed
		2.2 Illegal importation of weapons and ammunition	L	M	Low	Head of Community Protection and Security	Tolerate: Monitor continuously through SOPs.
		2.3 IPR	M	L	Low	Head of Community Protection and Security	Tolerate after raising awareness among public. Monitor through SOPs
3	Trade facilitation	3.1 Ineffective procedures	L	H	Medium	Head of Revenue Collection and International Trade	Tolerate after a thorough review and alignment against international best practices.
		3.2 Lack of coordination with other agencies	H	H	High	Head of Operations	Treat: A thorough coordination and stakeholder engagement strategy and plan needed
		3.3 IT failure	L	H	Medium	Head of Administration	Transfer to a third party service provider. Create a contingency plan.

For more information:

<http://www.wcoomd.org>

<http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/compendiums/rmc.aspx>

PRIORITIZATION OF RISKS: CONCENTRATING ON STRATEGIC IMPORTANCE AND HIGH RISK ISSUES

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Contents: Introduction. 1. Current environment at the Canada Revenue Agency. 2. Approach to large business Compliance 3. The risk assessment process. 4. Practical application. 5. Future plans. 7. Conclusion.

INTRODUCTION

In order to maintain a balance of being both effective and efficient to achieve our tax compliance mandate, the Canada Revenue Agency (CRA) is continuously refining and enhancing its compliance strategies through better risk assessment and tailored approaches that provide more support for taxpayers, to achieve better outcomes and improve the cost-effectiveness of program delivery.

In 2010, the CRA launched its new “Approach to Large Business Compliance (ALBC)” framework. ALBC represents a significant change in the way the CRA manages income tax compliance in the large business sector that has fundamentally changed the Agency’s risk assessment process, its interaction with large business taxpayers and their tax intermediaries, and the use of audit resources. All large business taxpayers are automatically included in the ALBC program, which will be discussed later in Section 3.0.

This shift in approach is in response to, among other things, the challenges of increased aggressive tax planning, globalization and its impact on international tax competition and the need to ensure limited CRA resources are devoted to the highest priorities.

The purpose of this paper is to share CRA’s experiences with its risk-based compliance approach, using associated audit software tools and other related initiatives to increase compliance.

1. CURRENT ENVIRONMENT AT THE CRA

The CRA’s mission is to administer tax, benefits, and related programs, and to ensure compliance on behalf of governments across Canada, thereby contributing to the ongoing economic and social well-being of Canadians.

Under Canada's federalism model, the country is divided into ten provinces and three territories with each having its own provincial/territorial government. As Canada's national revenue collection agency, the CRA collects tax revenues and administers social benefits on behalf of provinces and territories under formal arrangements with the federal government.¹

Canada collects taxes through a self-assessment system, in other words, voluntary compliance. Individuals, corporations, and trusts that are required to pay tax in Canada are expected to meet their responsibilities under the law.

The CRA has a responsibility to maintain public confidence in the fairness and integrity of the tax system. This means providing support to those who wish to comply with the law, while taking appropriate measures to identify and deal with cases of non-compliance.

For administrative purposes, the CRA has established five regions across Canada to ensure an effective basis for program planning and delivery.

The vast majority of reporting compliance activities undertaken by the CRA is the responsibility of the Compliance Programs Branch (CPB).

The International and Large Business Directorate (ILBD) within the CPB was specifically created to address income tax non-compliance issues by large businesses, analyze large business audit results, develop and publish strategic policies and provide guidance and support to staff engaged in the audit of large businesses.

ILBD continues to implement new ways of supporting voluntary compliance by increasing transparency and strengthening mutual trust and cooperation with Canada's largest business entities as detailed below.

2. THE APPROACH TO LARGE BUSINESS COMPLIANCE (ALBC)

The CRA has defined Large Business taxpayers as those with over C\$250 million in annual gross revenues. This represents over 1,100 economic entities, and related parties totaling over 26,000 legal entities, as well as any structure (including trusts and partnerships) for which the Large Business compliance approach would be most useful.

The ALBC was initiated due to unsustainability of the traditional regime of trying to audit 100% of large corporate taxpayers on an annual basis, and also due to increased complexity of transactions, expansion of international tax planning practices and global trends. Given the increased demands of this "full coverage system" on CRA's limited resource, this audit approach was not sustainable.

¹ The province of Quebec administers its personal and corporate returns. The province of Alberta administers its corporate returns.

As a consequence, the CRA strengthened its risk assessment capacity and enhanced its ability to identify and assess complex tax issues, both domestic and international, through the ALBC. This new method has an increased focus on intelligence-based risk assessment tools and techniques and allowed the CRA to develop a three-tiered compliance approach tailored to each taxpayer's risk profile; more on this in Section 4.0.

ALBC also required a certain change in the auditor's point of view, as they had to learn to view cooperative taxpayers differently than un-cooperative ones.

To achieve this change in perspective, the CRA's ALBC introduced face-to-face meetings between senior management of the CRA and with the President/CEO and CFO levels of Large Business entities. During these meetings, the CRA informs the taxpayer of their risk rating and discusses the reasoning behind it. To date, meetings have been held with over 30% of the Large Business population and the feedback has been very positive.

It is anticipated that over the next several years, the CRA will have held these face-to-face meetings with all taxpayers in the Large Business population. After that point, CRA will be in a position to evaluate the effectiveness of the ALBC, including the risk assessment process, and make any required changes to reflect the current environment.

Several benefits are anticipated as the ALBC matures, such as the timely identification of emerging schemes and early knowledge of uncertain tax positions; enhanced risk assessment models; productive resource utilization – reallocation of resources to highest-risk files; reduction in appeals and collection efforts; and timely identification of legislative amendment requirements.

Additionally, the more cooperative taxpayer would experience benefits such as early tax certainty; fewer and shorter audits with reduced compliance burden; and a more level playing field as CRA shifts its focus to non-compliant taxpayers.

3. THE RISK ASSESSMENT PROCESS

The general meaning of risk is the probability or threat of damage, injury, liability, loss, or any other negative occurrence that is caused by external or internal vulnerabilities, and that may be avoided through preemptive action. Globally, the risk of lost tax revenues is increasing, as taxpayers create sophisticated domestic and international transactions to avoid paying their fair share of tax.

To combat this, we focused on technology to evaluate risk. The Agency has overhauled its existing methods of addressing non-compliance by implementing new automated tools to link information from various CRA databases and external sources to create a tiered risk assessment process as described below.

Tier I – Integrated Risk Assessment System (IRAS)

IRAS is an automated graphical user interface tool that ranks relative risk for key tax obligations. It applies approximately 100 risk algorithms based on domestic, aggressive tax planning, and international audit issues. It assigns scores to risk issues for each large file by legal entity, and then another score on a consolidated basis by an economic parent entity.

IRAS provides an initial global risk profile of the large business population. It strengthens and improves the risk management process by providing auditors with the ability to monitor and refine risk assessment data.

The first step in the risk assessment process involves a high-level review of every large business, which takes into account taxpayers' and tax intermediaries' compliance risks using the IRAS system.

Under this process, the Large Business entities are subject to ongoing evaluation in terms of their risk of non-compliance and are segmented into High, Medium or Low-risk categories using the National Risk Assessment Model (NRAM) to document the results, as described below.

There is a tailored compliance approach for each risk segment:

- High-risk taxpayers – subject to a full-scope audit
- Medium-risk taxpayers – subject to an issue-based audit
- Low-risk taxpayers – subject to letter compliance review

Highest-risk taxpayers will continue to be subject to full compliance audits. As expected, there is increased burden and associated costs, delayed tax certainty on uncertain tax positions for those that engage in aggressive tax avoidance and non-cooperative practices.

Alternatively, those taxpayers that have a good tax control framework within their structure, are willing to work cooperatively with the CRA to resolve uncertain tax positions, and adhere to principles of mutual trust and transparency with the Agency, would benefit from reduced compliance burden and early tax certainty and the necessary support to make compliance easier.

Segmenting the Large Business population allows for increased productivity in the audit cycle by ensuring that taxpayers are selected for an audit based on risk, thereby allowing the CRA to allocate resources to files that represent the greatest risk of tax non-compliance.

Tier II – National Risk Assessment Model (NRAM) Calibration

NRAM evaluates both inherent and behavioral risks. Once the high-level review is completed with the IRAS automated tool, we focus on the human intelligence process. Large File Case Managers (LFCM) and their team of specialists review all the data and together with their past practical professional experience, incorporate their knowledge with the NRAM model to complete a Tier II risk assessment.

As taxpayers are segmented into High, Medium, or Low-risk, categories, the CRA has established a validation process known as the NRAM Calibration Committee. The main purpose of this committee is to provide advice and recommendations with respect to quality and national consistency of NRAM risk assessment ratings. The committee plays a significant role in CRA's risk assessment and workload development initiatives. It supports segregation of duties and was designed to ensure integrity and impartiality in carrying out compliance activities.

The NRAM involves a thorough analysis and documentation of the significant risk issues that form part of the audit plan. The final stage of the risk assessment process is captured using the Standard Audit Risk Assessment Template (SARAT), which produces the audit work plan.

Tier III – Standard Audit Risk Assessment Template (SARAT)

The SARAT audit work plan is a complex and comprehensive application program developed by the CRA using Microsoft Excel. SARAT's graphical, navigational and macro tools simplify interaction with risk issues in each stage. The auditor can process one principal file and up to four secondary files in the same document at one time. It is completed only after a Large Business has been selected for audit, based on Tier I and Tier II results.

SARAT contains many hands-on quick links, which facilitate access to various internet resources to help assess the specific risks, while its built-in macro applications allow for the collection and storage of data for analysis to build the audit work plan.

Overall, the SARAT can be viewed as providing two key functions in the risk assessment process:

1. It provides the LFCM with a detailed (but non-exhaustive) list of factors that should be considered when planning the audit of the business.
2. It helps document the findings and considerations identified by the LFCM and his/her team of specialty auditors. This helps in the preparation of an audit plan that focuses on the identified risk areas of non-compliance.

Once the data has been evaluated, the SARAT tool provides a quick and easy way for the LFCM and auditors to assess and document the risks in the audit file. It also

provides a means to help develop a comprehensive audit plan by streamlining the information through the following three stages:

- Stage I – Information Gathering and Analysis
- Stage II – Issue Selection and Prioritization
- Stage III – Detailed Audit Plan and Audit Execution

Stage I

Information gathering analysis produces a list of potential risk factors compiled from other CRA systems gathered automatically using built-in mainframe macro applications.

Stage II

The issue selection and prioritization stage allows auditors to assess each risk in terms of audit risk level and priority in order to determine whether a risk will be “selected” or “rejected” and summarize the reasons. Information from Stage I flows through to Stage II. New issues identified in Stage II can be added or deleted.

Stage III

The detailed audit plan and audit execution stage is where the auditors perform the audit steps. The “live” document is updated on an ongoing basis. The audit work plan is executed at this stage.

The use of SARAT to manage the audit workload is an integral and mandatory process. While populating the SARAT with the required information can be labor-intensive, SARAT plays an essential role in focusing our compliance efforts, making our audits more effective, and documenting the risk assessment and review procedures.

When the material risk has been addressed, an auditor closes the file and pursues the next high-risk file. This approach enables CRA auditors to continually assess whether the benefit of initiating and/or continuing the audit is justified.

4. PRACTICAL APPLICATION

The table below depicts the risk treatment of two businesses that are similar in size but have different risk indicators. Company A has very little inherent risk and, as such, would be a good candidate for a less intensive audit approach. However, Company B has more inherent risks and its return would likely require several tax adjustments. As such, it would be selected for a full-scope audit.

	Large Business Revenue	Risk Indicators	Risk Assessment	Audit Approach
<i>Company A</i>	\$250 million in yearly revenues	-good compliance history -lower-risk industry -no aggressive tax planning issues	Low-risk	Assurance review (reminder letters)
<i>Company B</i>	\$250 million in yearly revenues	-poor compliance history -higher-risk industry sector -several aggressive tax planning schemes -complex international transactions	High-risk	Full scope audit

In the example above, only Company B would require a detailed SARAT audit work plan, as Company A would not be selected for audit.

5. EXPERIENCES TO DATE

The CRA has embraced the journey to this new compliance approach. After a full taxation cycle, we are encouraged with the level of engagement from taxpayers and auditors towards this new approach. In order to evaluate the success of this new model, however, we would need to complete at least three audit cycles.

Anecdotally, many taxpayers have reacted positively to the face-to-face meeting concept, as it provides them with an opportunity to demonstrate to CRA's most senior Compliance executives that they are compliant taxpayers, and also to showcase positive aspects of their business practices. Such feedback and interaction can provide the CRA with justification to revisit a company's risk rating in subsequent rounds of NRAM calibration.

Another positive aspect has been the increased level of transparency of the model. Our auditors can confidently share the rationale with taxpayers as to why they have been selected for an audit. The auditor can explain the risk indicators applicable to each taxpayer in an open and logical fashion. Moreover, for compliant taxpayers there is greater and earlier certainty of tax positions and reduced compliance burden.

The ripple effect is the increased commitment to our core values of co-operation, integrity, professionalism and respect between the auditor and taxpayer. With transparency and our core values front and centre during an audit, the renewed process leads to smoothing the challenges faced during audits.

6. FUTURE PLANS

Building on the progress in calibrating NRAM and enhancing the risk assessment algorithms, the CRA has created a national workload development framework.

This framework has enabled the CRA to prioritize the Large Business audit workload on a national basis and optimize the allocation of resources based on risk, work plans and technical capacity.

The Agency's objective is to focus national and regional resources on the highest-risk files. In this regard, large business income tax audits are now assigned to regions in accordance with capacity to maintain efficiency in the system.

Another important enhancement is the creation of Integrated Large Business Audit Teams – to be implemented by fiscal year 2016-2017. These teams will be led by an International and Large Business Case Manager and will include domestic auditors along with specialty auditors who have knowledge in aggressive tax planning and international tax.

The benefits of the Integrated Audit Teams include less burden to, and better service for, the taxpayer under the concept of “One Team, One Voice and One Audit”. This means each taxpayer will be assigned one specific team. There will be more informed and streamlined risk assessments, more comprehensive audit planning, speedier decision making on high-risk compliance issues and enhanced audit quality due to a consolidation of technical expertise within the team. The implementation of the integrated teams is intended to further strengthen our Approach to Large Business Compliance.

7. CONCLUSION

With the increasing challenges facing tax compliance and the limited resources available for each compliance activity, it is important for the CRA to focus its efforts on the highest-priority issues.

The ALBC initiatives and tools described in this paper help CRA to better focus tax compliance efforts on the highest -risk cases, while cooperatively working with taxpayers and their representatives to resolve issues at the audit stage.

The CRA has established a model to help reduce the time we spend on lower-risk files and to utilize the time and resources saved towards higher-risk files. With our change in focus to a tiered risk assessment strategy, using the tools of IRAS, NRAM and SARAT, the CRA is efficiently and effectively meeting its mandate.

**TOOLS BASED ON THE TYPE OF TAXPAYER:
MULTINATIONALS, LOCAL ENTREPRENEURS, HIGH INCOME INDIVIDUALS
AND SMALL TAXPAYERS**

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Contents: Introduction. 1. Elements that influence the analysis previous to Compliance risk management. 2. Tools based on the type of taxpayer. 3. Argentina's experience in electronic control. . 4. Conclusion. 5. Reference

INTRODUCTION

Multinational taxpayers, local businesses, high income individuals, and small taxpayers have one thing in common: the consideration of the tax aspects of their operations and the impact that taxes will have on the result expected by the exercise of their economic activity.

The practical and technical implementation of the above is called "tax planning", and must be conducted at local and international level when the activity develops beyond the domestic field.

Small Taxpayers don't have much options for their tax planning due to the limited scale of their operations and the low level of capital invested in their businesses, not to mention that they have little room for discretion in defining their trade policy and investment. Despite this, they also "plan" through the choice of the legal form of the business entity, and its geographical location, among other aspects.

Conversely, multinational corporations, local companies and high income individuals with assets are in more favorable conditions to develop proper tax planning that optimizes the outcome of their business. This is because they have the opportunity to exploit, for the benefit of the overall result of the business, the advantages related to the use of various legal privileges at local and international levels. At the local level we can mention the promotional benefits, agreements with subnational jurisdictions, cost reduction based on the geographical location of the business location, inter alia. At the international level we can mention different levels of taxation in different jurisdictions, the use of benefits referred to in international conventions and the manipulation of transfer pricing.

The complexity of the tax planning developed will be directly linked to the type and extent of the related business, since a higher volume of activity causes that the tax

burden acquires greater relevance and therefore produces the need for proper planning to avoid unnecessary levies, all for the sake of the maximization of the results.

At the time of implementing tax planning, the taxpayers consider different aspects of the business, among which we can mention:

1. Organizational structure and size of the taxpayers.
2. Activities to develop.
3. Markets where they intend to operate.

To efficiently meet the non-compliance risk management, it is essential for the tax administrations, to sufficiently know the peculiarities that taxpayers had in mind when developing their tax planning, both locally and internationally.

We refer to the statement written by the general, strategist and Chinese philosopher Sun Tzu in his book "The art of war": "... If you know the enemy and you know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained, you will suffer also a defeat." Even if the book goes back to the 6th century BC, the content of his teaching applies perfectly to the globalized world of the 21st century.

It is in this context that a country that plans to exercise meticulously its tax authority in tax collection must have a tax administration that intends to fulfill its role in an efficient, professional and outstanding way, and need, among other things, to "know" in detail their taxpayers and the way that they face the tax structure of the country in which they operate. This is the most efficient way of managing the risks of non-compliance.

1. ELEMENTS THAT INFLUENCE THE ANALYSIS PREVIOUS TO COMPLIANCE RISK MANAGEMENT

Strategies and the creation of tools for risk management require an adequate knowledge of the tax subjects. The taxpayer must "perceive" the risk implied in his evasive behavior, having the certainty that there is a high probability of suffering consequences in case of tax non-compliance.

To optimize the management of the compliance risk, we must know the structure of the organizations, the markets in which they operate, and their activities, among other aspects.

- Organizational structure and size of the taxpayer

The organizational structure determines how the company will be managed. It can be divided into two parts: the formal organizational structure and the informal, the first one integrates the organization and relationships that link them, including functions, activities, relations of authority and dependence, responsibilities, objectives, manuals

and procedures, descriptions of jobs, resource allocation, and everything that is previously defined in some way.

The informal organizational structure is the result of the relationships which are established between the people working in the organization.

The companies must have perfectly identified governing bodies, economic groups operate from a common direction that defines all the scopes of business and leaves in the hands of every company of the group the daily decisions that do not change the strategy of the group itself. Global decisions include the use of the tax advantages offered by each jurisdiction, the not always genuine use of agreements to avoid double taxation and, in many cases, the avoidance of countries that enter into agreements for the exchange of information with other jurisdictions in which they operate.

There are no borders for multinational companies and their market is the world, this is what is commonly defined as globalization. For this reason, efficient compliance risk management requires knowing the integral way of operating of the group so to identify, as precisely as possible, their procedures to delocalize the taxable income to jurisdictions with lower taxation.

- Markets in which they operate

For large taxpayers and MNEs, an important aspect of risk management is the knowledge of the geographic markets in which they operate, companies as well as the economic sector to which they belong. Tax administrations must have a flow of relevant and timely information that allows to identify the countries of residence of "traders" and major customers.

Harmful tax practices (harmful international tax planning) are held, in many cases, when operating in jurisdictions with fiscal opacity. This situation creates a veil or curtain that prevents from "*seeing what is behind*", hiding the effective operation beneficiaries, those that are the true owners of the assets or who ultimately receive the results of the operation. The lack of international agreements or effective exchange of information is a key factor that facilitates these harmful practices.

In this context, international information sharing agreements that allow to know the operation in all their facets, from the origin or destination of the goods and services, as well as the financial instruments play an important role. The main advantage of these agreements is widely expressed in the work of Beatriz Martín Morata, entitled "Exchange of information agreements" presented at the Institute of fiscal studies of Spain in the year 2009, which pointed out that "... The need for knowledge in societies where the internationalization of economic operations has become the usual practice is the need to prevent and combat fraud and tax evasion. In an economic context such as the present, it is important for States to obtain the necessary information to verify the compliance with tax obligations from taxpayers who are subject to world income taxation and have investments or operations performed abroad. With regard to control,

it must be noted that this process of liberalization without precedent of national economies and the increasing number of countries have eliminated or limited controls on foreign investment and have relaxed exchange controls, forcing the tax administrations, which only have competencies in the interior of their respective national jurisdictions, to seek information from taxpayers who operate globally". (1).

A wide and adequate network of international information sharing agreements that allow transparent commercial and tax aspects of international operations, will help germinate the perception of risk in the members of the groups economic act in the domestic jurisdiction, since they will understand that it is plausible that maneuvers which run in order to relocate the income benefit of jurisdictions less burdensome tantamount can be identified and challenged by the tax authority making them ineffective efforts to reduce the tax burden by wrongful acts.

Therefore, it is essential to know the markets that operate commercially main local taxpayers and tax administrations should aspire to, to ensure and promote the signing of agreements for the exchange of information with these jurisdictions.

- Activities developed

To achieve optimum performance of the management of compliance risk and improve control and supervision, it is relevant to identify the commercial activities of production or services that generate the main wealth for the country. Taxpayers who make the greatest contributions to tax revenues should be located in these segments.

Large taxpayers and especially the companies. Multinationals, they target significant resources to meet tax obligations hiring specialists in each topic and permanently training own staff.

For this reason, compliance risk management requires that efforts increased to improve the tools of control over such sectors, which can be developing technical personnel specially trained for each area, devoting sufficient resources to the areas of control and training to groups of agents that control such activities in the specificity of each economic activity.

- Identification and timing of the taxable transactions completion

Without wishing to start a debate on the subject, it should be noted that the tax liability rises from the legal completion of the taxable transaction, from which arise the rights and obligations of the parties of the tax legal relationship, which are the taxpayer and the administration.

Compliance risk management must be present in the moments before completing the taxable transactions, during their gestation and in subsequent periods. At all times the taxpayer should feel "the sword of Damocles" over his head, i.e., must live with the certainty that their actions can be discovered at any time.

The development of compliance risk control tools must empower them for the management of risk perception by taxpayers, allowing the presence of the Agency's Controller before, during and after the taxable event, applying the most effective tools for every moment.

2. TOOLS BASED ON THE TYPE OF TAXPAYER

2.1. Multinational taxpayers

Multinational companies are taxpayers that are characterized by performing at local and international level, operating in their country of origin and any other on the planet.

The definition of "multinational" refers to the markets in which companies operate and not to the residence of their owners, in general they have their headquarters and addresses in their countries of origin, from which global business strategies are designed without any influence or conditioning of the subsidiaries that they have in the rest of the world.

In the vast majority of cases they have their headquarters in central countries and are distributed worldwide through subsidiaries or branches, depending on the tax planning that they have developed.

Therefore, the most appropriate qualification would be "transnational" corporations, because while still being taxpayers of a specific country, they transcend far beyond the borders of their country of origin.

Their global strategy and developed tax planning are aimed at maximizing the benefits of the group, locating their income in the jurisdictions that are more suitable to their own objectives. In this way, they acquire the raw materials in countries that are cheaper, install their factories or hire labor in jurisdictions with the best cost-quality ratio and, finally, perform their sales anywhere in the world.

For this type of taxpayer, it is essential to apply all the compliance risk management tools of verification and the controllers that tax administrations have.

Risk management must operate at two levels: local and international.

The distinguishing factor in relation to other taxpayers is the international level, since the risk management tools are related to issues of international taxation, the exploitation of exchange of information agreements and the implementation of agreements to avoid double international taxation.

To identify the most relevant facts, we must consider the operations performed and their markets, and we can develop a matrix of risks that indicates the combination of situations which may present a higher level of tax risk.

In this matrix we consider, on the one hand, the type of operations carried out by multinational taxpayers, distinguishing between international trade, production and services.

In terms of commercial and productive activities, Latin American countries are characterized by being predominantly exporters of raw materials and their main sources of income are usually agricultural and farm- related, fruit-growing, extraction of oil and minerals, and fish production.

In addition, they tend to be net importers of services and intangibles, which are provided from developed countries.

The other component of the matrix are the markets in which multinationals operate, including the countries of residence of their customers or intermediaries involved in the operation. These include the countries of residence of their parent company, jurisdictions of residence of the traders involved in the operation and non-cooperating countries in matters of tax transparency.

The countries that signed agreements to avoid double taxation play an important role when deciding in which jurisdictions to identify the traders, service providers, suppliers of intangible and Holdings corporations.

Once situations with risks of tax non-compliance are identified, we should develop tools for the management of risk of defaults, which include a:

- Transfer pricing analysis, which measured prices, profits and conditions agreed with parties from abroad in order to determine if they were agreed as between independent parties.
- Control of the correct use of the benefits granted under the conventions to avoid double taxation for the purpose of detecting their possible misuse through operations of Treaty Shopping.
- The exchange of information with other tax administrations for the purpose of transparent international operations, especially those made with other members of the economic group.
- Historical monitoring of accounting and tax results to detect changes in trends.
- Definition of guidelines to determine the existence or not of the economic substance of subjects from abroad to operate.
- Development of internal information systems allowing to make data crossings for the early detection of situations with a high degree of risk of non-compliance.
- Control of the use of complex financial instruments, and active and passive financial transactions with companies of the economic group, which can be used

in a harmful tax planning to relocate the income of the economic group in favor of jurisdictions that provide tax advantages.

The effectiveness of these tools of risk control requires, undoubtedly, a deep understanding of the taxpayer and its operations, as well as a constant training of staff and an adequate investment resources and data management. It is absolutely necessary that the compliance risk management tools are flexible and adaptable to the dynamics imposed by corporations for their international tax planning.

2.2. Local entrepreneurs. High income individuals with assets. Small Taxpayers.

The next segment of taxpayers to consider including local businessmen, individuals with high income and wealth, and Small Taxpayers. A particular situation arises in the Republic Argentina with a specific type of Small Taxpayers, which are categorized as subject to the "simplified regime for Small Taxpayers", commonly known as "single taxpayers". Over these last we will refer later.

Local businesses, Small Taxpayers and individuals with high income and wealth are represent the majority of taxpayers to control, but with a substantially lower representation in the total collection of the countries.

The management of non-compliance risks should be carried out before, during and after taxable fact of or generator of the tax liability.

For this segment of taxpayers the following tools for the noncompliance risks management are applied:

- Induction of voluntary compliance by crossing of data allowing to infer future obligations to taxpayers. Among others, we can mention the detection of acquisitions of registered goods originated in partnership agreements between the tax administrations and different registries of real estate property, vehicles, boats and aircraft.
- Crossings of data from information schemes that identify inconsistencies in statements by taxpayers, such as banking and financial movements not justified with genuine income, omissions in their tax returns, detection of incorrect valuations, among others.
- Campaigns of public dissemination of the tax obligations in moments before the main tax returns due dates.
- Control of operations with currencies based on the information received from the relevant control authority, which in the case of the Republic of Argentina is the Central Bank of the Republic of Argentina.

To deploy such tools and data crosses on a massive scale, the AFIP from the Republic of Argentina has developed the "Electronic control".

The electronic control enabled the realization of Central systemic crosses on a massive scale, optimizing the exploitation of the information available in fast and agile way. This was achieved through the use of the operational advantages offered by the Internet and modern information security systems, allowing to validate the identity and personality of the subject through secured passwords.

This way, a virtual interaction between taxpayer and the TA is developed, that has nothing to envy to the traditional mechanisms using printed paper.

About the electronic control, we provide more detail in the following points.

2.3. simplified regime for Small Taxpayers

The simplified regime for Small Taxpayers, usually known as "Monotributo" (single tax), is concentrated in a single tax of a fixed amount, which is formed by a social security component (Social Security) and other tax.

The Small Taxpayers registered in the single tax operations are exempt from the tax income and VAT. In that regime, they are also exempt from the tax on minimum presumed income.

Having a system that allows to comply with the tax and social security obligations through unique and monthly payment, has the additional advantage that both the registration, modification of data, reclassifications, submission of additional information and exit of the regime are made via the institutional page of the organization, through the system of tax key, system that approves the authentication of the taxpayer to perform these procedures with the same security as those carried out face to face at the offices of the Agency and meeting its agents.

The following taxpayers can access the single tax regime:

- Individuals who carry out sale of movable goods, works, locations or services (including the primary activity) and members of cooperatives.
- Executives and members of the control bodies of mutual associations, for the functions that they have as self-employed workers.
- The undivided successions of individuals, until the end of the month when issuing the Declaration of heirs or the Testament which has the same purpose, unless any cause of exclusion has been previously found.
- De facto companies and irregular commercial companies, up to a maximum of 3 partners.

To access the single tax regime the following conditions must be met:

- In the 12 months prior to the date of registry, to have obtained gross revenues from the activities to be included in this scheme, less than or equal to maximum amounts allowed for the category.
- Not exceed during the period the maximum parameters of physical magnitudes and accrued rents that are established.
- Not exceed the maximum selling price per unit, for sale of movable goods.
- No Importation of movable goods or services, during the last 12 months of the calendar year, i.e. importers are excluded.
- Not developing more than 3 simultaneous activities or not possess more than 3 units of exploitation.
- In the case of companies covered by this regime, in addition to complying with the requirements of individuals, all the members - individually considered- should meet the conditions to enter the simplified regime for Small Taxpayers (RS).

Since their inclusion to the regime, the “single tax taxpayers” must pay monthly the integrated tax, which will be a monthly lump sum according to the category in which they belong, according to the type of activity, gross income, physical magnitudes and accrued rents.

Employers who join the single tax must determine and enter the input and contributions of their employees through the General regime of Employers.

At the end of each quarter, the small taxpayer must calculate his accumulated income and the electric power consumed in the previous twelve months as well as the area affected to the activity at that time. When these parameters exceed or are less than the limits of their current category, they must be must re-classified in the proper category, which may be higher or lower than the present one.

In addition the regime establishes that the “single taxpayers”, who are in the higher categories or are employers, must submit a quarterly statement by way of tax return reporting data related to operations, main customers and suppliers, data on consumption of electric power and local/establishment where they develop their activity, among others.

When the Federal Administration finds, from the information in records and controls carried out by computer systems, the existence of any ground of exclusion, it informs the taxpayer of his or her possible exclusion from the simplified regime for Small Taxpayers.

In cases in which there the exclusion is fully justified and that the taxpayer is partner in a de facto society or irregular commercial society, the exclusion will be extended to the referred society.

The list of excluded taxpayers will be published on the website of the Federal Administration the first working day of each month. Once the communication is made, such exclusion shall be published in the Official Gazette,

The taxpayer who is excluded from the regime may consult the reasons and evidence of the case, which will be subject of appeal, and must occur within 15 days of the publication of the exclusion in the Official Gazette.

Excluded taxpayers will be also excluded from general tax regime and the social security resources, if they are found responsible according to their activity.

It is also important to note that through the process of electronic control and based on information in the databases of the organization, cases of Small Taxpayers registered in the simplified regime that had passed the parameters have been identified, which led to their exclusion from the mentioned regime.

3. ARGENTINA'S EXPERIENCE IN ELECTRONIC CONTROL

3.1. Description of the regime

In December 2012 the AFIP from the Republic Argentina implemented the tool called "Electronic control", which consists of a new modality of control allowing to optimize the operative capacity of monitoring and control of the Organization, thus contributing to greater efficiency in the fulfilment of its mission.

This control mode involved an important upgrade in the provision of services to the taxpayer and is characterized by maximizing the exploitation of computer resources of the organization, allowing intelligent systemic crosses of data collected through the different existing information regimes.

This tool extends the possibility to interact with the AFIP through electronic services that guarantee reliability and inalterability of communications, allowing even the presentation to the organization of digital documents (read: text files, spreadsheets, scanned documentation, etc.).

Structurally the electronic control is composed of an electronic tax requirement and an array of selection of cases.

Through the electronic tax request, the taxpayer is asked to provide specific information related to his/her activity, tax liabilities, financial transactions, relations with other subjects in the country or abroad, or any other data that may be relevant to the inspection; that is, similarly to the requirements on paper completed by the supervising agents in an on-site inspection.

The answers provided by taxpayers are analyzed systemically by the matrix of selection, which contains certain conditions that must be met so that the case is filed, or may be sent to the next stage of control.

The electronic control complements the remaining actions of research and control that AFIP executes, strengthening the communication and the relationship with the taxpayer.

3.2. Objectives

The main objective of the electronic control is to improve the monitoring of the taxpayer's tax behavior and increase the level of compliance, both in the exteriorizing the tax capacity and producing the correct return and payment.

This procedure includes the systemic and strategic use of data in the Agency bases that allow to strengthen the primary management of control, develop the monitoring and leads to voluntary compliance with the obligations by increasing the perception of risk by taxpayers.

The goal is achieved by increasing the number of taxpayers to be audited using immediately and efficiently the information that the Agency has.

3.3. Stages of the procedure

Systemic stage.

The systemic phase of the process consists of the issuance of the electronic tax requirement, receipt of responses provided by taxpayer and analysis through the matrix of selection. As a result of the systemic phase, the electronic control may have two (2) destinations: Archiving the document for not being of tax interest or sending it to the next stage of the control, which is in charge of the e-controllers.

Electronic control begins with the notification to taxpayers according to the procedures established in the legislation, which may be by registered letter, personally by an official of the AFIP, note or facsimile signature of the official identity card completed by employees appointed for this purpose, by telegram or similar communication to the electronic tax domicile, or by edicts published during five (5) days in the official bulletin of the Republic of Argentina.

In the case of individuals who are employees in a dependent relationship and that could not be notified in any of the homes registered with the AFIP, notification will be practiced at their home as reported their last employer, which shall be declared alternative tax domicile and which will be valid for all notifications related to the electronic control.

Once the notification has taken place, the procedure of electronic control will start, which is identified with an electronic control number. From that date, they begin to run all the periods stipulated for compliance.

In cases where it is not possible to notify the beginning of the electronic control, either due to problems with the domiciled declared to the AFIP or if not finding the taxpayer or the person legally authorized to represent it, the tax identification key (tax ID number) is suspended until the taxpayer or responsible regularize their situation regarding the tax domicile.

This suspension will be notified to the banks and financial institutions. In addition, a listing of tax domiciles which could not be notified will be published on the institutional web site of the Agency.

Notwithstanding the above, the taxpayers included in the mentioned situation can use their tax key solely for the purposes of regularizing their situation. To do this, they must log into the web site of AFIP with their tax code and make a communication on their willingness to regularize the tax domicile declared, as well as leave also a domicile that will acquire the character of "Self-declared domicile", in which all notifications related to the electronic audits will be carried out.

Once notification of the start of the electronic control in the self-declared home is made, the use of the tax identification key (tax ID number) will be rehabilitated, so they can manage the updating of their tax domicile.

In case of the beginning of the electronic control by any of the procedures mentioned above could not take place, a face-to-face control procedure would start

Once the taxpayer is notified, he has a term of ten (10) business days, extendable to another ten (10) days, to enter on the institutional web site of the Agency and answer the electronic tax requirement.

To do so, the taxpayer must have his tax key and access the service "AFIP – electronic control", and answer online the Electronic Tax Requirement. If considered relevant, or specifically required, the taxpayer may attach digital files with documentation deemed appropriate to submit as evidence.

Once the electronic transmission of responses and the accompanying documentation is made, the system will issue the confirmation of compliance with the electronic tax requirement.

The answer provided by taxpayers is available to their inquiry on a permanent basis by the owner, accessing it with the tax key.

The failure to answer the electronic tax requirement makes the person liable to the following sanctions:

- Application of the penalties for failure to comply with formal duties.
- Insertion in a higher category in the "system profile of risk", which reflects the degree of risk of being controlled.

- Exclusion or suspension of the taxpayer in tax special records in charge of the AFIP.
- Consideration of the non-compliance as an inconsistency associated with his or her tax behavior.

Once the term to answer the electronic tax requirement expire, the campaign of electronic control is closed and there is a matrix of selection on responses provided by taxpayers.

The selection matrix contains one or more logical statements that systemically analyze responses, assigning to control one of the following destinations: file or go to E-control. This task completes the systemic phase of the electronic control.

Electronic tax requirements notified and not answered automatically pass to the stage of e-monitoring.

As you will have appreciated, in the systemic phase dispenses from the personal participation of Agency Officers and all the work is specified via the Internet and computer systems analysis.

E-control stage

Taxpayers who are selected in the systemic phase in accordance with the parameters established in the matrix of selection shall be sent to the E-control stage.

At this stage the cases are assigned to "e-monitors" agents, so that they proceed with the analysis of the digital file consisting of the "electronic tax requirement" answered or not answered and the additional data that those responsible can have brought in digital files attached to the response of the electronic tax request.

The "e-monitors" will not take contact with the taxpayer, they limit their action to solve cases with the information received or which may be obtained from queries to the databases of the organization.

As a result of the analysis, the case will be filed or sent to the next stage of face-to-face supervision.

The control process is filed when the response provided by the taxpayer is satisfactory or verifies that after receiving the notification of the beginning of the electronic control process, the submission of the relevant returns satisfied the tax claim.

When the response provided by the taxpayer is not satisfactory, the cases will be sent to the competent research areas, along with a detailed report of the case.

It is noteworthy that at this stage, Agency officers are involved but do not maintain contact with the taxpayer. The task is carried out on the basis of the provided answers, of the documentation provided and the active information in the databases of the AFIP.

Face to face stage.

This stage involves the areas of research and control of the General Tax Directorate

The controlling agent will carry out an analysis in accordance with the priority designated and focus in search of evidence that refute the grounds put forward by the taxpayer to reject the tax claim.

Additional elements collected, together with the research report, will be added to the case and, if applicable, shall be sent to the investigation unit to generate an on-site inspection.

In these cases, the control area will start an on-site inspection, which shall be limited to checking the inconsistencies that originated the case selection in electronic control and other aspects that, determined by the investigation unit, reinforce the hypothesis of risk default.

The cases worked at this stage will have any ordinary control targets, i.e.: archiving due to lack of tax interest, archiving if the tax claim has been satisfactorily answered sending the case to ex officio determination in cases that the taxpayer had satisfied the claim.

3.4. Operational advantages of the regime

One of the most important advantages of the electronic control system is the ability to conduct inspections in bulk form from crosses of data by systemic means, allowing to perform thousands of audits in real time and with the allocation of few officials to carry them out.

Formalizing this process over the Internet through access with a tax credential allows significant savings in costs of stationery and archiving, since the traditional printed paper format is replaced by scanned files and information sent through the web. This feature has as an additional benefit the ease and security of preserving of the information, since it is easier and more cost-effective than the traditional paper files.

The electronic control implies a change and modernization in the provision of services to the taxpayer, facilitating compliance with its tax obligations to them.

The fact that electronic tax requirements are answered electronically allows the taxpayer do so from any terminal with connection and Internet access from anywhere in the world until 24 of the expiration date of the obligation, without having to attend any facility of the organization.

The mass audits that allows the procedure to generates taxpayers a perception of risk that induces them to declare properly or correct the detected deviations, knowing that there is a very high probability that they are included in some of the campaigns of electronic control that are carried out.

The realization of systemic crossings allow the use of all the information available in the database of the Agency, which comes from tax returns of taxpayers, regimes of information about operations of the obligor and of third parties with which it operates, information received from the Central Bank of the Republic of Argentina, the National Securities Commission, the records of the real estate and automotive, among others.

3.5. Non-compliance risk management tool

The electronic control is an important tool for risk management of non-compliance because:

- It includes particular aspects of each universe of taxpayers in each economic sector and specific activities over which is considered necessary to manage the risk of non-compliance.
- It allows working on period very close to the taxable moments, even perfectly adjusting to them.
- Maximize the use of computing resources, allowing to access thousands of taxpayers at the same time.
- It allows to develop hypotheses for investigation and resolution of cases by applying an intelligence based on knowledge of taxpayers and their operations.
- Increase the perception of risk on taxpayers since it warn them that it is highly likely that they are met by an electronic control originated in multiple crossings of data that could include them.
- Exponentially increase the universe of taxpayers reached by inspections and control measures.
- It allows a significant reduction of operational costs, both structural and human, as it can be operated with a reduced number of agents.
- Less involvement of human resources allows them be assigned to other tasks of control and verification, raising the efficiency of the Agency.

3.6. Results

A total of 582 electronic control campaigns involving 2,402,248 cases to control have resulted during the first 24 months of operation of the tool.

The massive application of the procedure has allowed to cover the main economic sectors of the country and comprised the most diverse activities and operations; their results were reflected in tax adjustments from taxpayers in each of the three (3) stages of the process: systemic, e-control and face-to-face.

4. CONCLUSION

Compliance risk management plays an important role in the mission of tax administrations regarding the control, inspection and collection of taxes, so they must

act efficiently to preserve the tax credit and assure the proper collection of taxes for their country.

Compliance risk management provides two (2) essential benefits: it helps to early detect risks of noncompliance by taxpayers and generate the perception of risk, leading to voluntary compliance with tax obligations.

To optimize those benefits, tax administrations must develop the proper tools, assign the necessary human and material resources, which should not be seen as an "operating cost", but on the contrary, as a smart investment which helps the success of the Agency's management.

5. REFERENCE

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COLLABORATIVE APPROACHES TO COMPLIANCE RISK MANAGEMENT

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Contents: Introduction. 1. G20 and international collaboration. 2. Forum on Tax Administration (FTA) and JITSIC Network. 3. Overview of examples of collaboration. 4. Regional collaboration. 5. Conclusion.

INTRODUCTION

‘Collaboration in the design of tax policy will put us in the strongest position to define the best outcome for the Australian community,’ Commissioner Chris Jordan, 2013¹.

In 2013, Australian Taxation Office (ATO) Commissioner Chris Jordan joined the organisation. Commissioner Jordan had a vision for the ATO to embrace a broader global tax perspective. He challenged the ATO to work multilaterally with international organisations to modernise international tax rules and to take a leading role in international collaborative approaches to compliance risk management.

Strategic approach – 7 key strategies

The ATO has a multifaceted approach, focusing on seven key strategies, for international work:

1. Understanding the global environment – data, analysis, intelligence and risk assessment.
2. Stakeholder engagement with taxpayers, advisers, Treasury, Australian Government, and international bodies (e.g. Organisation for Economic Co-operation and Development (OECD)).
3. Building capability in the ATO and across tax administrations – e.g. Study Group on Asian Tax Administration and Research (SGATAR) and Joint International Tax Shelter Information and Collaboration (JITSIC) Network.
4. Supporting willing participation with advice and guidance, including advance pricing arrangements.

¹ ‘Tax, the way ahead,’ Commissioner speech, Tax Institute 28th Annual Convention, Perth, 14 March 2013.

5. Improving active compliance via a new strategy – the International Structuring and Profit Shifting (ISAPS) program, which includes new joint compliance approaches.
6. Supporting policy and law reform by working across the ATO and international governments to develop coordinated approaches.
7. Leadership and governance to ensure our strategies are effective and efficient.

Structure of this paper – overview

This paper focuses on the ATO's collaborative approaches to compliance risk management. The structure of this paper is:

1. G20 and international collaboration
2. Forum on Tax Administration and JITSIC
3. Overview of examples of collaboration
 - a. E-commerce
 - b. International Consortium of Investigative Journalists (ICIJ) review of a large number of Luxembourg tax clearances
 - c. Sharing intelligence from offshore voluntary disclosure initiatives and
4. Regional cooperation

Where possible, we have included examples of international collaboration, and the ATO's role in this regard both internationally and regionally.

1. G20 AND INTERNATIONAL COLLABORATION

Introduction

In July 2013, G20 Finance Ministers, including Australia, endorsed the OECD Base Erosion and Profit Shifting (BEPS) Action Plan. The Plan sets a clear framework for dealing with BEPS issues to develop a stronger international tax system that supports all jurisdictions in getting the right amount of tax.

A key of part of the ATO's strategy to tackle BEPS is by harnessing and leveraging multilateral cooperation. BEPS is a global problem and requires global solutions. By working cooperatively together, we will increase our capacity and find joint solutions. This is imperative for every administration as we deal with scarce resources and capability limitations.

2014 G20 Summit

During the G20 leaders' summit held in Australia last year, the G20 leaders welcomed the significant progress of the G20/OECD BEPS Action Plan to modernise international tax rules. To prevent cross-border tax evasion, the G20 committed to the implementation of the global Common Reporting Standard (CRS) for the automatic exchange of information (AEOI) on a reciprocal basis.

The G20 leaders also called upon the OECD, International Monetary Fund (IMF), UN and World Bank Group, where appropriate and in a position to do so, to work together and with regional tax administration forums to assess how practical toolkits can be produced in 2015 and 2016 to assist developing countries in implementing BEPS action items.

In another initiative to improve transparency and develop capability of tax administrations, the G20 endorsed the AEOI Pilot Program where two countries are partnered together to assist in the implementation of AEOI. For the Asia-Pacific region pilot Australia has partnered with the Philippines.

The G20 leaders also endorsed practical steps to support regional (including inter-regional) tax administration forums.

Also, and most importantly, the G20 leaders welcomed further collaboration by our tax authorities on cross-border compliance activities.

2. FORUM ON TAX ADMINISTRATION (FTA) AND JITSIC NETWORK

Introduction

The FTA was created in July 2002 with the aim of promoting dialogue between tax administrations and identifying good tax administration practices.

At the October 2014 FTA meeting, members discussed a new strategy for systemic and enhanced cooperation between tax administrations. The objective being to quickly understand and deal with global tax risks whenever and wherever they arise.

Following the G20 leaders commitment, the FTA considered how best to bring this collaborative model to life. In the 2014 meeting, the FTA decided to bring the existing JITSIC under its control and renew its charter and membership.

New JITSIC Network

JITSIC started in 2004 with four members, Canada, UK, USA and Australia with representatives based in Washington and London. It later expanded to nine members. The revitalised network is now open to all FTA members on a voluntary basis.

The new network is designed to allow for improved bilateral and multilateral cooperation and collaboration. It is a platform for participating jurisdictions to more effectively understand and address global risks and issues, including tackling cross-border tax avoidance and BEPS.

The new network provides us with an opportunity to improve the exchange of information processes, increase cooperative cross-border collaboration and conduct coordinated casework, projects and initiatives.

In early March of this year, the first revitalised JITSIC Network meeting was held in Paris. Sponsoring Commissioner Chris Jordan welcomed over 38 member jurisdictions to the meeting. Thirty countries made a commitment to the Network, with each nominating a Single Point of Contact, who will act as the liaison and gateway for cross-jurisdiction cooperation and collaboration activity in their participating country.

During the meeting, members shared their experiences working on joint compliance projects and outcomes they achieved. The sharing of ideas sparked enthusiasm to collaborate and to learn from each other. This resulted in members agreeing on three new multilateral projects and an additional six projects were prioritised for scoping.

3. OVERVIEW OF EXAMPLES OF COLLABORATION

3.1. E-commerce project

Introduction

Due to the growing focus on the tax (or lack of) paid by global e-commerce enterprises, the ATO brought together a group of six similarly concerned jurisdictions for a workshop in October 2013.

International collaboration

The workshop aimed to develop a shared understanding of the tax structures used by e-commerce multinational enterprises so that informed compliance decisions could be made.

The workshop and subsequent engagements spanned:

- intelligence from each country which was used to develop an aggregated risk report to identify generic global e-commerce business structures and risks, as well as patterns and trends
- taxpayer compliance with existing local laws
- how revenue authorities could cooperate more effectively on a global scale.

Key learnings

The key learnings from the project were:

- the use of tax structure diagrams, which we refer to as typologies. These typologies allow us to understand the current application of the law, both domestic and international, to the structure adopted or transaction undertaken by the multinational. This allows for a better understanding of all tax risks posed by the structure or transaction.
- it is important that all jurisdictions have an understanding of the global tax structure and any tax mischief, which is inherent in this. In the past, jurisdictions including Australia mainly focused on the group's structure as it related to their jurisdiction. Multilateral projects can then help jurisdictions fill in missing gaps, and design a targeted collaborative compliance approach to address those risks.

Broader benefits

The work enabled each revenue authority to understand the specific global tax planning arrangements of a handful of e-commerce companies. This unprecedented collaboration has allowed us to better understand and determine what is being presented in our own country compared to what is reported in other countries.

The aggregate e-commerce report was also provided to the OECD's Taskforce on the Digital Economy (working on Action Item 1 of the OECD's BEPS Action Plan) with practical examples of current global business structures. To the best of our knowledge, this type of multi-country collaboration has never occurred before.

3.2. International collaboration for Lux Leaks

Introduction

In November 2014, the ICIJ published over 580 Luxembourg tax clearances (known as Lux Leaks) and related information associated with 327² multinational enterprises.

International collaboration

Commissioner Chris Jordan extended an invitation to other tax authorities, including all FTA countries, to join the ATO in analysing the published data. Eight jurisdictions accepted the invitation and have collectively analysed the clearances to formulate appropriate multilateral responses.

The ATO has also collaborated with the OECD's Aggressive Tax Planning Unit (ATPU) to share intelligence. The OECD has encountered similar schemes involving the use of intermediary jurisdictions and the issues raised by the Luxembourg structures are not confined to Luxembourg³.

Key learnings

The key learnings were:

- information gained from the clearances is invaluable from a policy perspective and will help to support the case for tax reform
- the clearances re-enforce the prevalence of tax planning and tax minimisation techniques commonly deployed in Luxembourg
- the arrangements (transactions and structures) in these clearances highlight a number of BEPS issues currently being considered as part of the OECD BEPS Action Plan.

Broader benefits

- Obtaining an in-depth understanding of these structures in relation to the supply chains and business models of multinational enterprises
- Building capability in data analysis, intelligence and risk assessment allows jurisdictions to target higher risk activity

² It is expected the ICIJ will publish further clearances on as many as 364 MNEs in total.

³ John Peterson, in his capacity as head of the OECD ATPU, has compared the arrangements identified in this report to schemes on the OECD aggressive tax planning directory and provided the ATO with a summary of similar arrangements involving Luxembourg and other intermediary jurisdictions.

- Allowing jurisdictions to better understand the indirect impact of these tax clearances by identifying cases where the multinational enterprises named in the clearance have or could adopt the same structure to shift profits out of their jurisdictions
- Providing us with sound empirical evidence to support law and policy reform domestically and internationally
- Ensuring a collective understanding in the development and implementation of a multilateral treatment strategy.

3.3 Project DO IT

Introduction

Project DO IT is the ATO's offshore voluntary disclosure initiative, which allowed eligible taxpayers with previously unreported offshore financial activities to voluntarily disclose any income and assets.

Taxpayers were encouraged to get their tax affairs in order and re-engage with the Australian tax system with reduced penalties and without the threat of criminal prosecution. The initiative commenced on 27 March 2014 and ended on 19 December 2014.

International collaboration

Our work on Project DO IT has led the way for a key JITSIC Network project called Offshore Disclosure, where we will work collaboratively with other jurisdictions from the Network using the intelligence we have gathered. This allows us to share best practice in running disclosure initiatives and sharing intelligence arising from disclosure initiatives.

Key learnings

The benefits of international collaboration for both Project DO IT and the new offshore disclosure project include:

- new shared database on best practice for running disclosure initiatives
- new data on common and emerging tax evasion risks
- richer intelligence on specific multilateral entities, intermediaries and promoters
- new post-offshore voluntary disclosure initiatives strategies designed to effectively utilise third party data.

Broader benefits

Through this initiative, we have received a significant amount of intelligence from taxpayers wanting to come forward and disclose their offshore income and assets. We plan to use this intelligence to assist in identifying taxpayers who chose not to come forward.

4. REGIONAL COLLABORATION

Introduction

Our regional associations are opportunities to harness powerful and unprecedented global collaboration on tax issues.

International collaboration

CIAT is a key example of how collaboration works at a regional level. It demonstrates this unprecedented and powerful collaboration, where jurisdictions are working cooperatively together to achieve tangible outcomes.

Broader benefits

Collaborative approaches are needed for us to achieve action, and we can no longer work in isolation. We want to build our own regional association as a platform for ongoing collaboration where we can work together through joint audits, sharing of information and building capability. We also want to encourage an increase in interaction not only within regions, but across regions.

4.1 Study Group on Asian Tax Administration and Research (SGATAR)

Like CIAT, SGATAR is a cooperative regional association, which seeks to foster tax technical capability and develop tax administration capability in the Asia-Pacific through the sharing of best practice and research. Presently, its membership consists of tax administration bodies of 17 jurisdictions in the Asia-Pacific.

SGATAR program

Various events have been progressively added to the SGATAR program, including Head Forum meetings, Working Level Meetings, Joint Training Programs and biennial Meetings of Heads of Training Institutions (MHTI). These additional events have greatly increased the scope for collaboration and many of the topics discussed are related directly or indirectly to the management of compliance risk.

More recently, SGATAR has been moving towards greater member collaboration on practical initiatives. Australia is currently serving as Chair of SGATAR, until November 2015.

Asia-Pacific region – future focus

The Asia-Pacific region has been experiencing rapid economic growth and development in recent decades. Moreover, the greater mobility of capital and labour has created tax administration issues in respect of double taxation and cross-jurisdictional issues (e.g. transfer pricing, BEPS, etc). Collaborative approaches to tackling these issues is

required to ensure administrators in the Asia-Pacific region are working together and building a platform for addressing key regional tax issues.

SGATAR is poised to keep building on its traditional strengths in terms of fostering closer linkages between tax administrations and addressing training needs. As the only tax association spanning the Asia-Pacific region, it will also seek to form an entry point for consultation for its member jurisdictions and to deliver more systematic solutions to global tax issues. The next annual conference will be held in Singapore in November 2015.

5. CONCLUSION

Global view

We understand that multinational enterprises operative across borders seamlessly, where they take a global, top down view to structure their operations across countries. As tax administrations, we are inverting our thinking – and moving from taking a single, isolated country view and replacing it with a global, bigger picture view.

Collaborative approaches

This paper demonstrates some of our collaborative approaches to compliance risk management, where our work on joint projects, sharing of information, and involvement in international forums is supporting other administrations.

We will continue to take significant steps towards greater cooperation – regionally and multilaterally. The ATO is focused on where we can deliver action through the sharing of information, joint compliance work, building capability and working together with tax administrators, and regional and global associations.

TOOLS BASED ON THE TYPES OF TAXES AND ECONOMIC SECTORS

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Contents: 1. Characteristics of VAT. 2. Economic importance of the tax. 3. Tax obligations related to VAT. 4. Compliance control through data crossing. 5. Limitations and some conclusions

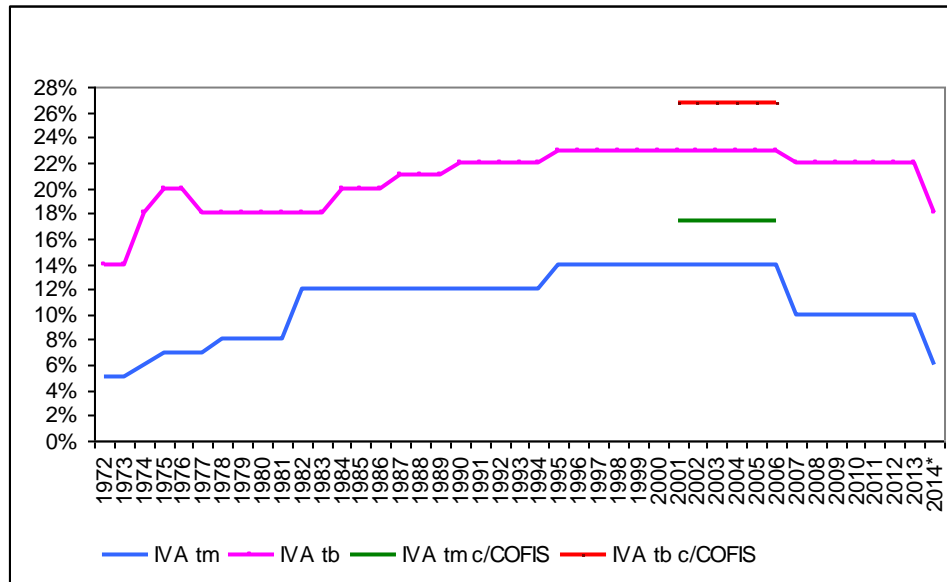
1. CHARACTERISTICS OF VAT

The value added tax in Uruguay is a general and indirect tax on consumption. It is a multifaceted tax, calculated at all stages of the process of production-commercialization on the added benefit generated in each one of them. The tax is applied in all the national customs territory under the principle of destination.

The general aliquot of the tax is 22%, with a limited list of goods and services taxed at a reduced rate (minimum rate) of 10%. Until 2007, these aliquots reached 23% and 14% respectively. There are also a number of goods and services, which, even verifying the hypothesis of inclusion in the tax, are exempt.

Figure 1 shows the evolution of VAT rates in the chronological path of this tax.

Graph 1
VAT: evolution of the general rate (tb) and the reduced rate (tm)



* 2014: The basic and minimum rates remain at 22% and 10% respectively. The rates displayed in the graph correspond to net payments in debit cards transactions (18% and 6% respectively), which granted, in August 2014, a 4 point VAT return.

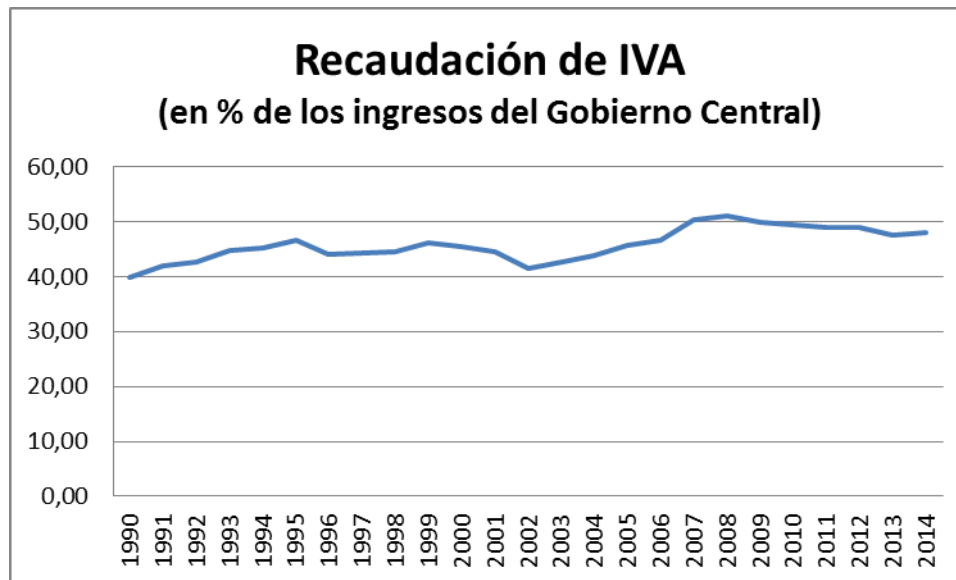
The tax payable is settled monthly from the total tax charged in the period to which the tax included in purchases of local goods and services and the tax for imports are deduced. Only the purchase tax associated with taxed transactions or export can be deduced. The VAT associated, directly or indirectly, to the exempted sales cannot be deduced in the liquidation. The tax included in the acquisition of capital goods is fully deductible in the period of the purchase, for the part associated with taxable sales and/or export tax.

The tax regulation establishes specific liquidation regimes, and there is a wide range of withholding agents and perception agents that ensure a strong collection base.

2. ECONOMIC IMPORTANCE OF THE TAX

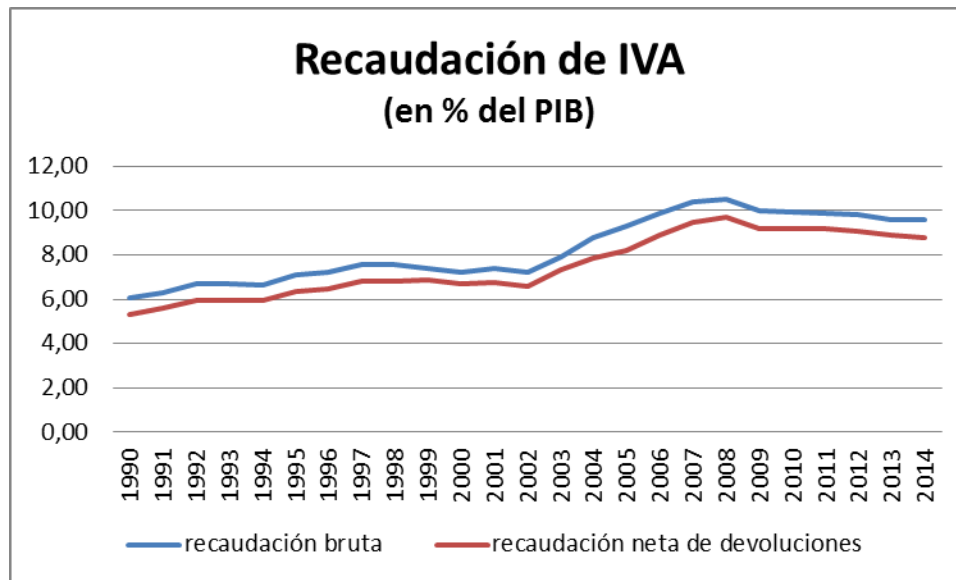
The VAT is the main tax in Uruguay and represents nearly half of revenues of the Central Government (graph 2).

Graph 2
Economic Importance of VAT



Currently, the VAT collects the equivalent of 9 points of the Gross Domestic Product (graph 3). In the early years of the 2000 decade, and in line with a period of economic recovery and growth, the VAT collection grew considerably. The tax reform of 2007 affected VAT by eliminating exemptions and reduced the rates. The combined effect of these changes resulted, in the early years, in a continuation of the path of growth, but from 2009 - and in the context of economic slowdown - the VAT collection as a percentage of GDP shows a slightly decreasing tendency.

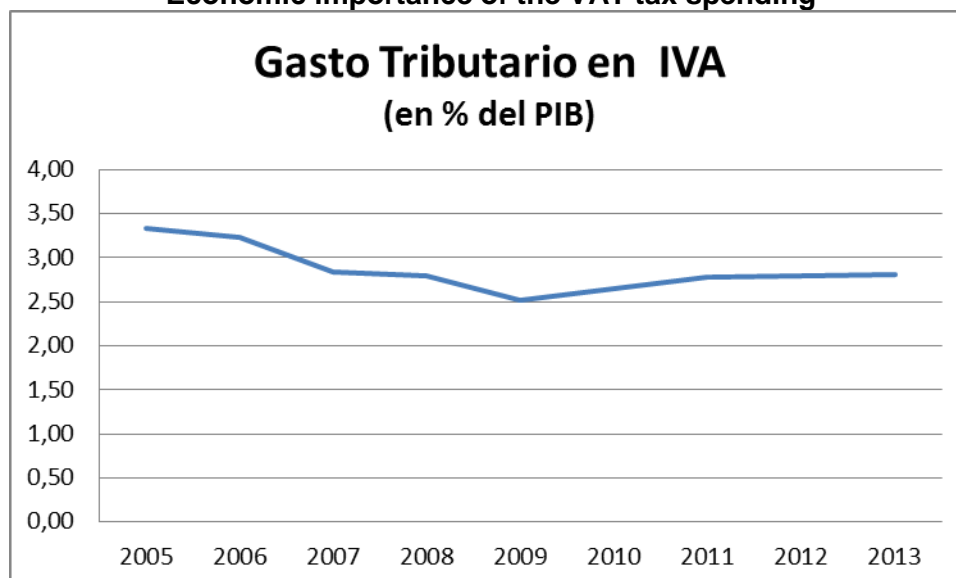
Graph 3
Economic importance of VAT as a percentage of GDP



VAT collection continued to grow from 2009, but did so at a lower rate than the economic growth rate. In a context in which the VAT evasion rate continues to decline, the explanation of this slowdown in the collection of the tax must have other explanatory factors.

In effect, the tax expenditure in VAT, which after the tax reform of 2007 decreased considerably in response to the elimination of exemptions, has again followed a path of growth in recent years (graph 5), as a result of various policy instruments which have established new preferential treatment in this taxation.

Graph 4
Economic importance of the VAT tax spending

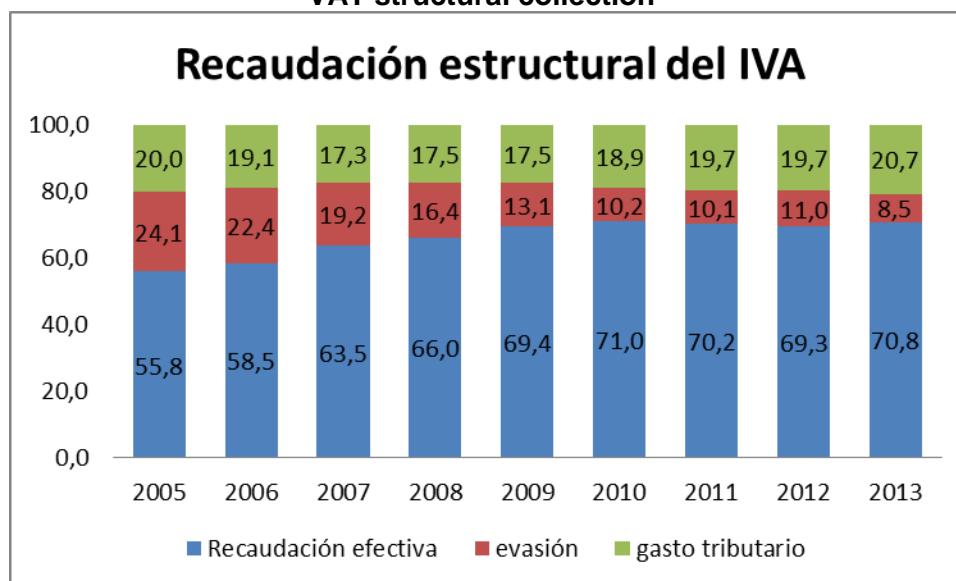


In addition, in recent years there has been a change in relative prices, with rising prices of non-tradable goods compared to the tradable. In part, this change responds to an appreciation of the local currency, but also to factors that emerge from the goods and services markets themselves.

This trend of change in relative prices has affected the results of the VAT collection, since this particular tax base has a greater focus on the circulation of goods, and particularly in the tradable. The result is that the value of the VAT included in the prices of goods and services taxed with VAT has grown less than the general price level, which constitutes another explanatory factor in the slowdown of the VAT collection.

In sum, VAT is the most important tax in Uruguay in terms of revenue impact; it has shown a collection performance consistent with the economic growth, although in recent years it shows signs of slowing down. These changes occur in a context where the tax expenditure, measured in Uruguay since 2005, has initially declined, but now has returned to a slightly growing path. At the same time, VAT evasion shows a systematic decrease with decreasing participation in the structural tax collection (graph 5).

Graphic 5
VAT structural collection *



* The sum of the effective collection, evasion (these two constitute the potential collection) and the tax expenditure are called structural collection

3. TAX OBLIGATIONS RELATED TO VAT

VAT is a tax with monthly payment frequency, however, the content of the information to be submitted by taxpayers and their frequency is different, depending on the segment to which they belong.

The segment with greater obligations (known as CEDE, Special control of companies), which brings together some 10,000 taxpayers, comprises medium-sized and large companies; they must submit monthly a complete VAT statement. The others segments of taxpayers with VAT obligations presents an annual statement.

In addition, this group of larger companies is required to file a monthly disclosure statement, which contains several chapters, but among others, one that constitutes a tool of great potential for the control of VAT credits. This chapter covers the details of the origin of the purchases made by the taxpayer and the detail of destination of its sales.

Table 1
Number of taxpayers presenting disclosure statement

año	Cantidad de declarantes	Participación en la recaudación
2010	805	50,6
2011	841	49,1
2012	1.053	50,4
2013	11.331	78,0
2014	11.716	77,8

Table 1 shows the amount of taxpayers presenting this disclosure statement and their share in the total of revenue administered by the General Tax Directorate.

As you can see, the year 2013 constituted a turning point in the availability of this information, because of the extension of this obligation to the whole group. Before that year, this obligation was only to a smaller group of companies, the largest in the country.

As noted above, this information is presented in a disclosure statement accompanying the presentation of the VAT return. The content of the information that taxpayers should file is as follows:

1. At least 90% of the total VAT purchases of the period originating in imports and onsite acquisitions discriminated by rate and by taxpayer. Mandatory record of all providers with whom one or more transactions were carried out in the period, and that accumulate a tax exceeding 4,000 Uruguayan pesos (US \$150).
2. At least 90% of the VAT exempt purchases in the period and all those amounting to more than 15,000 Uruguayan pesos (something less than 700 U.S. dollars) in one or more transactions with the same provider.

This item includes, in addition, purchases made to taxpayers who are in simplified regimes and therefore don't invoice with VAT.

3. At least 90% of the VAT sales to taxpayers in the period discriminated by rate and by taxpayer, including necessarily those taxpayers who have invoiced VAT exceeding 4,000 Uruguayan pesos, in one or various transactions.

4. COMPLIANCE CONTROL THROUGH DATA CROSSING

It seems obvious that processing the newly reviewed information and analysis through the crossing of data, in particular of tax declarations, allows, among other things, to validate the declared VAT credits and identify situations of understatement of sales.

The following illustrations summarize types of contrasts that the availability of this information allows.

Figure 1
Control of the credit of VAT declared by the taxpayer 'A'

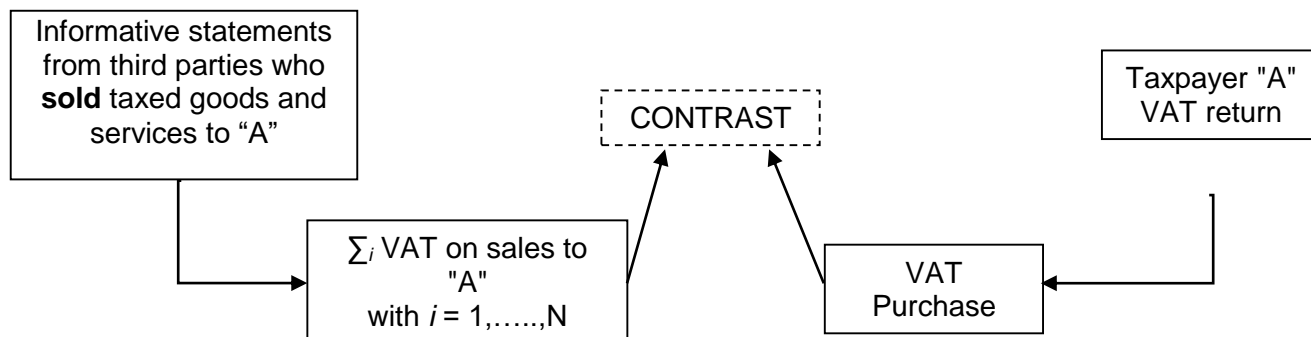
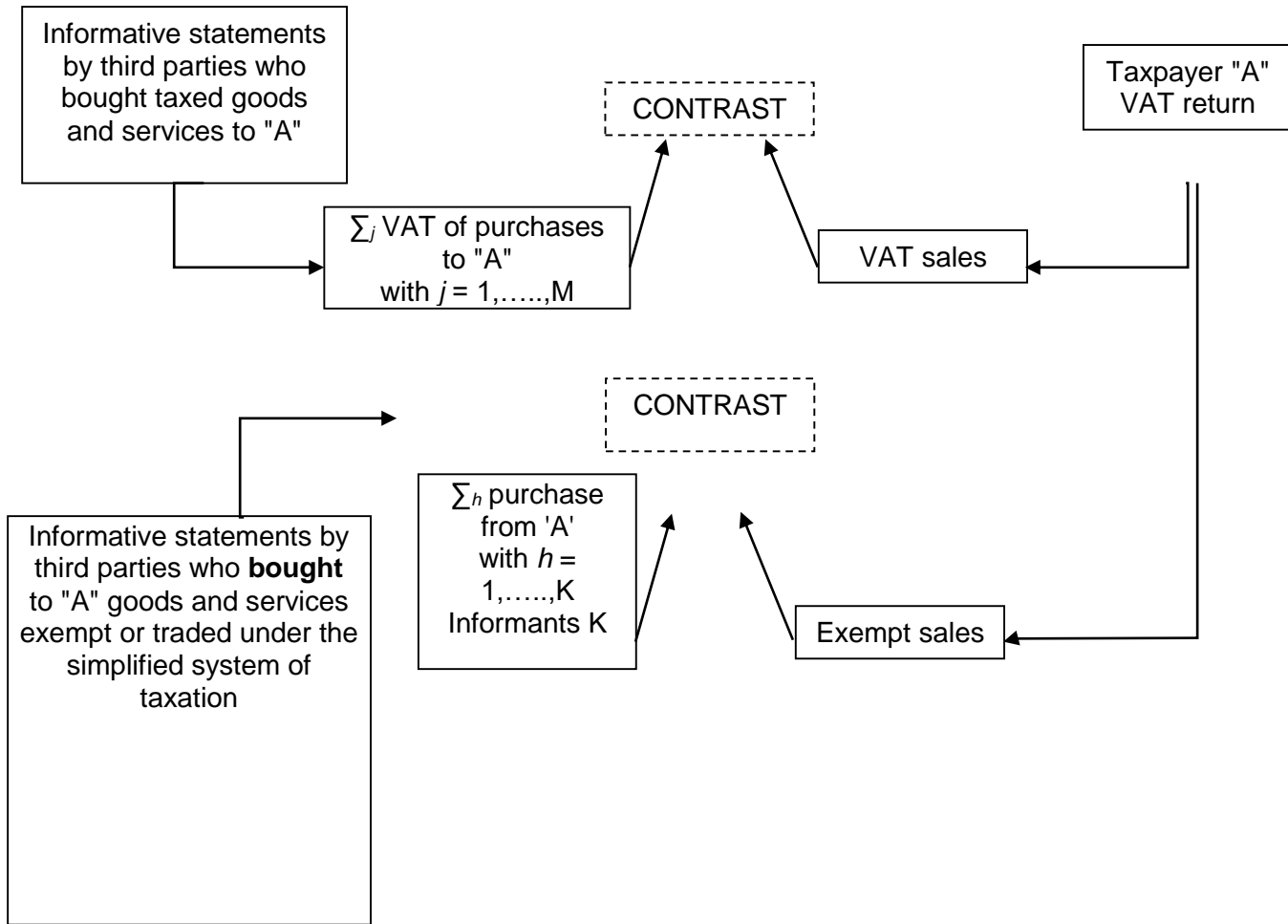


Figure 2
Identification of potential sub-statement of sales by taxpayer "A"



Because the information used for these contrasts is not complete, it is possible however to build certain business rules, which rely on the different types of controls.

These rules establish one or more thresholds of reference, whose configuration depends on the object and motivation of the control that their use is going to support, namely:

1. Control of a tax credit due a tax refund request.
2. Control at the request of the good standing certificate
3. Selection for control.

In the first case, a simple rule of tolerance to certain threshold can be combined with the establishment of rules built from the comparison between similar taxpayers. In fact, it analyzes and compares the composition of purchases and sales of taxpayers who occupy a similar position inside a value chain.

In the second case, the rules of tolerance constitute a control complementary to a series of controls that are carried out on the occasion that a taxpayer applies for the renewal of his annual good standing certificate (Certificado de Vigencia Annual, CVA in Spanish), and therefore is limited to controlling basic inconsistencies. This certificate, which is electronic, certifies that the taxpayer is up-to-date with their tax obligations and its possession is mandatory in order to celebrate a variety of contracts. There is a query online, which allows any citizen to know if a taxpayer has or not the CVA. In fact, it works as a massive social control mechanism (it receives thousands of inquiries per month).

In the third case, the rules are used to generate risk ratings, which are inputs used in the process of taxpayers selection. In addition to the already described, rules of association are used, such as the one shown in the following example:

If taxpayer "A" buy from taxpayer "B", and according to previous contrasts, we know that "B" is sub-declaring sales, then, in addition to establishing appropriate qualifications on "B", a risk on 'A' rating is established. This is done with the understanding that there is some probability that purchases made by "A" to "B" are not properly documented, and therefore would not be deductible. In addition, this rating is provided because it is a signal about the risk context in which the company manages its business. Of course, these rules of association are not used to limit the tax credit eventually requested by "A": If sales to "A" declared by third parties are a significant proportion of its declared VAT purchases, there is no reason to set a limitation of this type.

5. LIMITATIONS AND SOME CONCLUSIONS

As we have shown, the information declared by the obliged taxpayers does not include to the whole population of taxpayers, although the last extension in 2013 lead us to situation of coverage that change this tool into an important work input for risk management.

The extension of the e-invoice (that currently consists of approximately a few thousands taxpayers and 30% of the emission of the issuance of tax documents) could have two effects. (1) On the one hand, to further raise the level of coverage (indeed, the plan of expansion of the electronic invoice that the DGI has designed attempts, among other goals, to reach all taxpayers who have obligations to declare VAT in 2019. (2) On the other hand, it eliminates this obligation to submit the disclosure statement, which will probably result in a reduction of compliance costs.

It is a tool with considerable potential for the control of VAT tax credits, presents limitations for the identification of sub-statements of sales, in particular in the following segments:

- Taxpayers whose main destination of sales is final consumption.
- Exporters.

In both cases, the limitation lies in the insufficient amount of informants.

On the other hand, a partial control is allowed over taxpayers included in simplified regimes of taxation (to determine if their sales exceed or not the threshold that allows them to benefit from the preferential regime) and taxpayers whose main purpose of sales include goods and services exempt from VAT.

In the first case (simplified regimes), the partial control affects both the VAT taxation and the IRAE (corporate income tax). In the second case, however, only the IRAE is affected.

USE OF INFORMATION TECHNOLOGIES FOR THE ANALYSIS AND MANAGEMENT OF RISKS: JAMAICA'S EXPERIENCE

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Contents: Summary. 1. Introduction. 2. Compliance risk 3. Compliance model. 4. Risk Differentiation Compliance Framework 5. Management of risk. 6. Analysis of risk. 7. Conclusion.

SUMMARY

Tax Administration Jamaica (TAJ) uses information technology to manage and analyse risk through different approaches. Various models and information systems have been employed to ensure that these risks are minimal.

TAJ's Enterprise Risk Management System allows the organization to effectively deal with the uncertainties associated with risk and as such enhances its capacity to mitigate against these risk.

Enterprise Risk Management helps to ensure effective reporting and filing in accordance with our laws and regulations. This helps to avoid the high levels of non-compliance and helps the organization in attaining its strategic goal.

The key risk category for TAJ is compliance risk. We manage the identification, assessment and mitigation of this risk through reporting, filing, payment and registration patterns. These four components are essential in developing strategies used to manage and analyse risks. The approach to assessing these risks is aimed at ensuring that we mitigate the impact associated with non-compliance.

Risks are analysed by using a Risk Rating System along with effective Data Mining tools. These tools help to determine the risk score of particular taxpayers as it relates to their compliance level.

Information Systems are important to the management of risk in TAJ and as such continuous efforts are being made to ensure that they become more effective over time.

1. INTRODUCTION

TAJ Enterprise Risk Management Framework

In a bid to strengthen its compliance level and effect sound business decisions within the taxation infrastructure, Tax Administration Jamaica (TAJ) saw the need to develop and implement a risk management module within its strategic management process.

Through the assistance of the Supporting Economic Management in the Caribbean (SEMCAR) Risk Management Policy Framework, Tax Administration Jamaica was able to develop its own Enterprise Risk Management Framework utilizing the COSO (Committee of Sponsoring Organization) Integrated Enterprise Risk Management Framework, ISO 31000 and other best practices (e.g. OECD).

With the understanding that knowing all the possible risk associated with an organization is helpful to provide various options on how to deal with risk, TAJ established an Enterprise Risk Management Committee and subsequently appointed Risk Champions with oversight responsibility for the Department's risk management activities. Following on from this, TAJ established an Enterprise Risk Management and Research Unit within its Strategic Services Division with the primary function of overseeing the collection and analysis of risk information and the development of strategies to mitigate and manage the respective risk.

The Enterprise Risk Management Committee created as part of the framework, a five point objective from which it operates;

- Manage all risk under a common policy
- Drive initiatives directed towards Jamaica Customs Agency and TAJ compliance by improving the sharing of information amongst both agencies.
- Embed risk management practices throughout TAJ
- Create value by reducing cost and increasing efficiency through better risk-based decision making
- Focus on managing risks in an integrated manner that explicitly considers the interrelationships between risks.

The Committee also sought to explore all the risks associated with the Enterprise Risk Profile (See chart below) which was adopted in the framework.



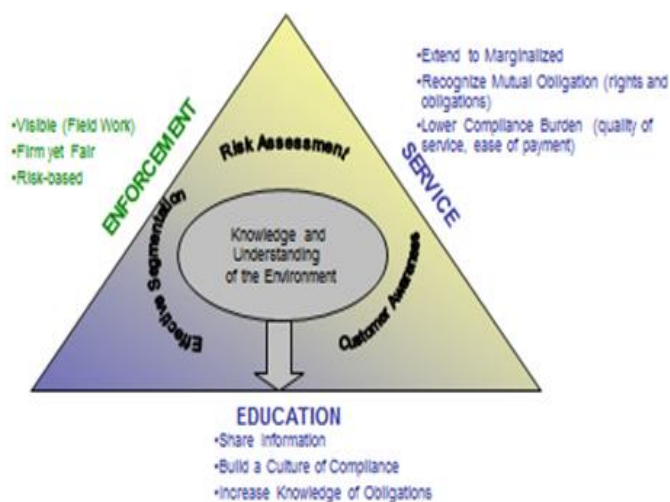
2. COMPLIANCE RISK

Though TAJ has recognized that there are other risks that will impact our operations, as per the ERM Profile above, we have established that Compliance Risk represents our core risk area. As a result of this, TAJ has developed a Compliance Module with an aim to provide strategies for mitigating against all risk associated with compliance.

3. COMPLIANCE MODEL

Tax Administration Jamaica, has over the past seven (7) years been progressively improving on the compliance model it first introduced in 2008¹. This model helps in understanding the factors that influence compliance behaviour and the attitudes of different groups of taxpayers and their advisors to compliance.

Based on that understanding, we apply differentiated strategies to address risks to the fair operation of Jamaica's tax system.



TAJs Tax Compliance Model is built on three pillars: Service, Education and Enforcement

Service: to make compliance activities simple, easily accessible and of high quality, thus improving compliance and reducing the administrative cost of compliance

Education: to assist stakeholders in understanding their tax obligations and rights to ensure compliance with tax laws,

Enforcement: to detect and deter potential non-compliance and ensuring that sanctions are proportional to the offence.

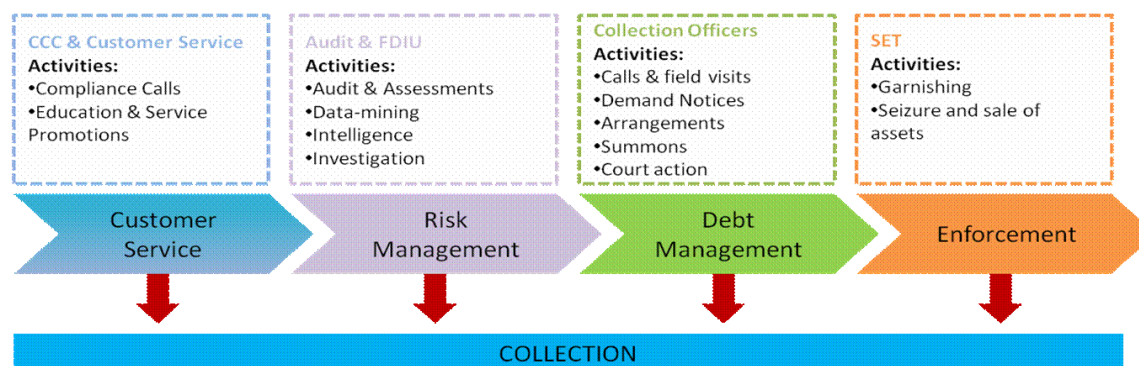
Whereas the three components are distinct, they are inter- connected and complement each other.

To determine the appropriate strategy based on taxpayer behaviour, TAJ first analyses the environment in which it operates and its taxpayers (business, industry, sociological, economic, psychological) to ensure effective segmentation. This analysis is done within a risk framework.

The compliance model is carried out within a compliance continuum where there is an escalation of compliance cases between various units starting with the Customer Care Centre through to regular Compliance Officers, and ending with the Special Enforcement Team.

¹ In 2008 TAJ adopted the Australian Taxation Office (ATO) Compliance Model in use at that time. See Appendix 1 for an overview of the TAJ Compliance Model

Compliance Continuum



Risk Management

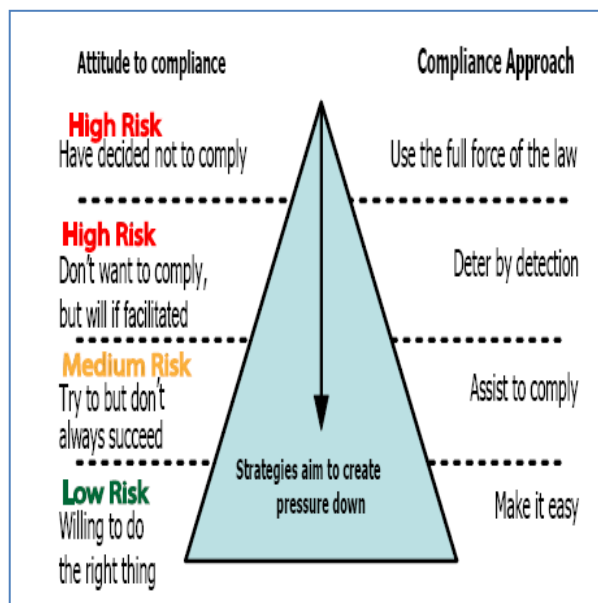
We take a risk management approach to compliance and continue to increase our efforts to differentiate our engagement with large, medium, small and micro taxpayers based on our view of their relative likelihood of non-compliance and the consequences of any potential non-compliance. Through risk differentiation compliance, we categorize each taxpayer's tax risks as being high, medium or low relative to other similar taxpayers. We do this so we can determine the intensity of our compliance responses in a coherent, consistent and considered way. Through using an integrated compliance risk management approach coupled with taxpayer segmentation, TAJ is able to allocate our compliance resources in the most efficient and effective way – in areas of higher risk and consequence – and reduces the community's overall compliance costs.

For example, if you are in a lower risk category, our help and support services assist you to comply and the lower intensity of our compliance activities reduces compliance costs.

TAJ recognizes that voluntary compliance is being strengthened through this new concept, and to ensure ongoing improvement in voluntary compliance TAJ has now put in motion a modified strategic direction which promises to build on these recent successes.

4. RISK DIFFERENTIATION COMPLIANCE FRAMEWORK

TAJ's risk differentiation compliance framework helps in understanding the factors influencing taxpayer behaviour and how this will differ across taxpayer groups and tax types. Based on this understanding we have designed strategies encompassing our risk approach to the varying taxpayer behaviour.



The approach taken is to address the underlying drivers of compliant behaviour by applying appropriate remedies for the enforcement of taxes with the aim of graduating those who “don’t want to comply” to a state of “willing to do the right thing”, while making it easier for those who comply.

For those taxpayers who decide not to comply we aim to take more intensive action using the full force of the law, including investigations and audits, issuing final notices, imposing penalties and taking legal action such as summons, liens and garnishment, as well as arrest where Court Orders are not followed.

Our main means of detecting non-compliance is analysing and matching information reported to us by taxpayers and third parties such as financial institutions and regulatory agencies. We are currently expanding our information matching capabilities and recent legislative changes are enabling us to access information from additional sources to compare against taxation records thereby helping to ensure the correct amount of taxable income is disclosed in tax returns, as well as to widen the tax net.

Our compliance approach is embedded in our risk assessment methodology and the treatment strategies applied to that risk. While there are many threats to ensuring the correct amount of tax is collected under the revenue laws, TAJ has identified four key risks which form the basis of our mandate to collect tax revenue for the Government and people of Jamaica.

These four key risks are:

- Registration in the system
- Timely filing or lodgement of requisite taxation information
- Reporting of complete and accurate information
- Payment of taxation obligation on time

These four areas of risk impact compliance and our risk treatment strategies are designed to address each area.

5. MANAGEMENT OF RISK

TAJ's computerised system is design to manage and analyse risk associated with registration, filing, reporting and payment.

The system generates monthly compliance runs to determine if taxpayers have honoured their obligations and from these runs, taxpayers are managed based on the risk that is associated with them.

Filing Obligations

Where taxpayers fail to honour their filing obligation, the following steps are taken:

1. At the compliance run, after the obligation is due, the system generates a 'Failure to File' notice which is sent to the taxpayer.
2. If the taxpayer does not respond to this notice, before the next compliance run;
 - i. An Estimated Assessment is generated for this taxpayer and dispatched. This Estimated Assessment is based on the average of the last three returns filed or information submitted by the taxpayer at the point of registration.
 - ii. A list of all small, medium and large taxpayers who failed to respond to the notice is assigned to the compliance unit for further action.
3. If there is still no response from the taxpayer to either the 'Failure to File' notice or the Estimated Assessment, the system generates a Notice listing all Outstanding Liabilities (Demand Notice).
4. Where an Estimated Assessment is generated for three consecutive periods, the ledger is suspended and an audit is triggered for this taxpayer.

Mandatory e-filing

TAJ has introduced an e-filing option, making it easier for taxpayers to file their tax returns. This process has also improved our ability to risk rate our taxpayer population.

The following groups of taxpayers are mandated to file their returns online:

- Large Taxpayer (All returns)
- All Taxpayers filing Employer's Annual Returns

- All Taxpayers claiming General Consumption Tax (GCT) refunds

TAJ's intention is to further mandate certain classes of 'at risk taxpayers' and tax type to file their return/s online. These taxpayers consistently file their returns late or not at all.

Payments

E-Payment Option

One theory holds that taxpayers are motivated to pay their taxes when they clearly understand what their tax obligations are and when the payments of those obligations are made convenient. As a result of this, taxpayers are now able to pay their taxes via;

- Credit card payments through TAJ's tax portal
- Direct banking
- Automated Clearing House

These available options allow TAJ to better manage risk associated with payments.

Payment Obligations

Where taxpayers fail to honour their payment obligations, the following steps are taken:

1. At the compliance run, after the obligation is due, the system generates a Notice of all Outstanding Liabilities (Demand Notice). This Demand Notice is sent to the taxpayer.

System Generated notices are categorised as follows;

- a. "New Debt" – This occurs when a taxpayers liability is outstanding for less than the due date plus 30 days
These taxpayers are referred to the Customer Care Centre, where contact is made to remind them of their outstanding obligations.
- b. "Old Debt" – This is where a liability is outstanding for more than 30 days after the due date or Audit Assessments
These taxpayers are referred directly to the compliance unit for action to be taken.

Where the liability remains outstanding due to default on payment arrangements, these taxpayers are selected for court action.

Monitoring of Taxpayers within each Revenue Service Centre

TAJ's operational division deals directly with all its taxpayers. The servicing of these taxpayers is done through any of our thirty Tax Offices of which, seven (7) are classified as Revenue Service Centres (RSC), plus one (1) Large Taxpayer Office (LTO).

All taxpayers are assigned to one of the seven (7) Revenue Service Centres (RSCs) or the LTO within TAJ. These taxpayers are further segmented into categories of large, medium and small, based on income and taxes paid. Through Information Technology, we analyse and monitor the trends of taxes paid by the top one hundred and fifty (150) taxpayers within each RSC, over a similar period within each year. Where analysis shows significant increase or decrease in taxes paid, we seek to determine the reason/s for the change.

6. ANALYSIS OF RISK

6.1. Risk Rating

a. SEMCAR Risk Model

The SEMCAR (Supporting Economic Management in the Caribbean) Risk Management Policy Framework provides concepts for risk rating taxpayers. This concept consists of nine components (**see table below**) which together form the basis to understanding a taxpayer's riskiness.

	Concept	Purpose
1	Master List	To consolidate joint administration of risk
2	The Taxpayer Lookup	To establish positive identification
3	Automated Data	Exchange To facilitate compliance activities
4	Core Inconsistency	Checks To identify potential fraud
5	Taxpayer Risk Measurement	To target interventions
6	Customs Transactions Control	To target interventions
7	Internal Process Controls	To govern key, high-impact processes
8	360° Reporting	To facilitate compliance activities
9	Risk Maturity Scorecards	To facilitate continual process improvement (this concept is focused towards the entire department)

TAJ has fully implemented the Taxpayer Risk Measurement component where taxpayers are risk rated through a risk assessment system. This risk rating is logically structured along two dimensions – *likelihood* and *consequence*.

- The consequence of taxpayer risk is measured in terms of a taxpayer's potential financial importance to us.

- The likelihood of a risk occurring is measured as a relative risk assessment within a taxpayer population.

When a risk assessment is done, the score obtained helps to determine the action taken in relation to that particular taxpayer. Taxpayers with high risk scores are assigned to the Data-Mining Unit for further analysis. These analyses inform us of the treatment strategy to be employed, whether an audit needs to be done or if the taxpayer needs to be educated.

The table below shows some of the criteria used to generate risk scores for our taxpayer population.

Financial Importance	Measurements
	Income
	Supplies
	Credit
	Loss Carried Forward
	Arrears (Debt)
	Loss Carried Forward

	Measurements
<u>RISK ASSESSMENT</u>	Ratio: Purchases to Sales
	Ratio: (Total Input Tax/Std. Rate): Total Supplies
	Other Income
	Ratio: Local Purchases to Expense
	Total Payments/Total Debts
	Ratio: Exempt Supplies
	Ratio: Refunds Claims to Credit Balance
	Total Supplies: Turnover
	Net Profit/Sales Declared
	Net Profit/Sales Declared (YoY)
	Continuing Losses (3 years)
	Audit Adjustments
	# of Branches
	Customs Breaches
	List Check: Sector/Industry/Business Nature
	Ratio of Prior Year Audit to Taxes Reported
	# of Late Returns
	# of Missing Returns
	# of Revised Returns - <i>by Taxpayers</i>
	# of Late Payments
	# of Refund Periods
	CIF + Duties + User Fees/Cost of Sales
	GCT on Capital Allowance
	Exports
	List Check: Fraud
	List Check: Customs Codes

b. Debt Management Risk Model

There is also a risk assessment system that risk rate taxpayers with arrears. The score received by a taxpayer will help to determine the classification of the debt. Taxpayer debt is classified as high, medium or low priority.

Some criteria use to generate risk scores for Taxpayers with arrears include:

1. Age of Debt
2. Tax Type
 - a. Trust Fund
 - b. Income Tax
3. Principal Amount Due
4. Total Amount Due
5. Number of Tax type in Arrears

Upon generation of the scores, lists are assigned to the relevant RSC/LTO where the Debt Management officers will work from high priority to low priority.

1. Data Mining

TAJ utilizes data mining software for two main purposes; information matching and examination of areas of risk within its business process.

a. Business Process Risk

A comprehensive analysis of TAJ's business process was conducted to identify areas of risk within our information system. From this analysis, data mining tools were designed to generate exceptions (i.e. taxpayers identified in the risk areas) within the systems. The exceptions are then assigned to designated officers by way of a work flow process based on the risk identified.

An example of a system generated exception

When a taxpayer receives an Estimated Assessment, if they file a return within 30 days of such an assessment, the Estimated Assessment will be reversed and the return that is filed is accepted. This can present a major risk to us, as a taxpayer receiving an Estimated Assessment can file a NIL return within this thirty day window, thus nullifying the Estimated Assessment and by extension his payment obligation.

b. Information Matching

The main tool used by tax administrations worldwide for detecting non-compliance is analysing and matching information reported by taxpayers on tax returns with information provided by third parties such as financial institutions, regulatory agencies and trading businesses taxpayers deal with.

TAJ already has a well developed information matching capability and recent legislative changes are now enabling us to access even more information from additional sources to enhance our ability to compare external data with taxation records. The ultimate aim is to gather adequate taxpayer information to make an almost complete picture of each taxpayer's financial dealings, allowing us to detect non-registration and non-filing, undeclared income and gains, fraudulent tax deductions, and fraudulent credit and refund claims. We are working collaboratively with the Jamaica Customs Agency in matching import data with tax records which is helping us ensure compliance with income tax and consumption tax laws.

i. Registration

Due to the recent strengthening of our Large Taxpayer Office, registration of large taxpayers is now considered low risk. However, TAJ estimates that a large portion of our potential taxpayer base at the lower income level is not actively registered for taxation purposes. Through analysis of Third Party data, we determine individuals/entities in industries/sectors that are regulated and/or can be defined. Relevant programmes are created to have these individuals and/or entities registered.

ii. Filing

Where individuals/entities are registered, we check to see if they are filing a tax return. Where taxpayers are not filing, we request of them to file their returns. Where these returns are not filed, taxpayers are assigned to officers in the relevant RSCs for either Estimated Assessment to be generated or court action to be taken.

iii. Reporting

If taxpayers are registered and filing, we compare information reported by the taxpayer with information in our database. Where information reported by these taxpayers is not complete and accurate, they are selected for an audit.

iv. Payment

We also utilise third party data to determine taxpayer's ability to pay. Where a taxpayer has the ability to pay and continues to remain delinquent despite our initial compliance effort, we pursue these taxpayers by way of Lien and Garnishment provisions within our Tax Collection Act.

We seek to mine data to determine:

- a. Taxpayers Trading relations (Government/Private)
- b. Banks and Financial institutions affiliation
- c. Landlord and tenant relationship
- d. Employee/Employer relation

7. CONCLUSION

A key challenge for TAJ is to develop automated processes to help us risk assess matched data and to implement new treatment strategies in our compliance checking areas such as automated query letters, desk audits, information visits, record keeping reviews and assistance through outreach initiatives all supported by an effective enforcement, investigations and prosecution capability.

International experience in countries with advanced taxation systems shows that voluntary compliance is improved significantly when taxpayers realize that there is sophisticated cross-matching process against tax records and there is a strong chance that non-compliant behaviour will be detected. Our approach is consistent with our desire to reduce the costs of compliance as we only intend querying taxpayers if there is good reason to suspect non-compliance.

The new Revenue Administration Information System (RAiS) being rolled out over the next two years will assist TAJ in putting in place processes to help staff follow up on cases identified through our enhanced information matching and forensic data mining capability. We are also looking to make use of commercially available data matching software to assist our compliance efforts.

**OTHER CONTROL AND RISK MANAGEMENT TOOLS
AN OVERVIEW OF CHINA'S TAX RISK MANAGEMENT OF LARGE BUSINESSES**

Ju Gu

Chief Auditor

State Administration of Taxation
(People's Republic of China)

Contents: 1. China's tax risk management targets large business groups. 1.1. China's tax risk management applies a risk-based approach. 1.2. China's tax risk management relies on the interaction between SAT headquarters and its provincial level offices. 1.3. China's tax risk management is organized into professional teams. 1.4. China's tax risk management is supported by information technology.

Good morning, ladies and gentlemen. It's an honor for me to share with you the work we do at the State Administration of Taxation (SAT), in reference to large business risk management. Firstly, I would like to express my gratitude to Mr. Verdi, CIAT's Executive Secretary, and the entire organizing committee for making this event possible and provide all of us with this great opportunity to learn from each other.

The SAT has, in the past years, learned from its counterparts on large business tax administration. At the same time, we have developed a unique risk management model on the basis of the practicalities in China. Starting from 2012, we have applied this model to the tax risk management of 12 large business groups, and have received positive outcomes.

Generally speaking, tax risk management of large businesses in China aims to enhance risk management abilities of tax authorities as well as voluntary compliance by large businesses. It demonstrates the following characteristics:

- a. It targets large business groups and is risk-oriented.
- b. It functions under the horizontal and vertical interaction between SAT Headquarters and its offices at provincial level, with specialist task forces as the basic working unit.
- c. It is supported by information technology, which enables us to identify, analyze and categorize tax risks for business groups through massive data mining and interactive communication.
- d. Last but not the least, the risk management model helps formulate risk identification schemes for business groups and risk management guidance for tax authorities, with convenient supervision on the implementation of those risk management measures.

1. CHINA'S TAX RISK MANAGEMENT TARGETS LARGE BUSINESS GROUPS

The SAT has a list of 45 large business groups as its target of large business tax administration. Those business groups demonstrate such characteristics as: a) having very large economic scales; b) having lots of subsidiaries and affiliates; c) having cross-regional and cross-border operations; and d) having very complicated organizational structures and business models.

Those 45 business groups have a total of 57,100 business subsidiaries and affiliates in 31 provinces across China, with their main business turnover reaching 19.2 trillion yuan (approx. 3.2 trillion dollars) in 2014. Altogether, they have contributed 2.7 trillion yuan (approx. 0.45 trillion dollars) in tax revenue in 2014, accounting for 21% of the total amount.

1.1. China's tax risk management applies a risk-based approach

To identify potential risks and formulate risk lists for large businesses, we conduct investigation and testing on businesses' internal control, collect and analyze important information such as financial data of business groups, and determine the major risk items and risk areas. The risk items and risk areas are then categorized to optimize the use of tax collection and administration resources.

1.2. China's tax risk management relies on the interaction between SAT headquarters and its provincial level offices

The SAT has established working groups both at state level and provincial level to regulate law enforcement and enhance administrative capabilities. These working groups help to strengthen cooperation within tax authorities on both horizontal level and vertical level.

1.3. China's tax risk management is organized into professional teams

For many years, tax authorities in China are at a disadvantage in professional resources in comparison with large businesses. But we have realized the importance of having professionals specializing in areas of policy management, tax administration, tax analysis, financial accounting, economic analysis and information technology etc. and have formed specialist task forces at all levels to change the landscape.

1.4. China's tax risk management is supported by information technology

A tax risk management system has been developed and constantly improved to realize online audit of multiple businesses at the same time from a unified platform by the SAT. The system not only enables tax authorities to collect business financial information and pool tax collection and administration data together, but also provides function modules of internal testing (on tax risk control), self-examination of tax risks (by business themselves), risk analysis and assessment (by tax authorities), as well as office and

field audit (by tax authorities) ----all functions accessible from a single platform.

To sum up, China's tax risk management has 5 distinctive features:

- a. We try to look at the risk profile of an entire industry by looking into the risk areas of typical large businesses within that particular industry;
- b. We attach significant importance to information collection and analysis at the preliminary stage of risk management;
- c. We make great efforts in building up specialist task forces at both the state level and the provincial level to pool our intellectual and technological resources together;
- d. We are able to gather and compare information from a unified platform, which is very helpful in risk identification and grading; and
- e. We focus on looking into the causes of the risks, and providing differentiated internal control solutions to risks of different grades.

Here, I'd like to share with you a case study on the tax risk management we do for a large business group, to give you a basic idea of the working process of the risk management model.

X Company is a leading business group in Y industry. Between 2013 and 2014, the SAT conducted tax risk management on X Group and its 561 business operations across China. The tax risk management process includes the following 5 stages:

1. Information collection;
2. Risk Identification;
3. Self-examination of risks;
4. Tax audit; and
5. Conclusion and communication.

1. Information Collection

- a. Collection of internal and external information. This includes data from income tax returns, VAT payment returns, tax investigation and assessment, information from regulations in Y industry, financial reports and other third party information.
- b. Data mining and risk analysis. After collecting internal and external information about X Group and Y industry, we made overall and trend analysis by comparing data from X Group's income tax returns and VAT payment returns. The purpose of this comparative study is to outline the features of the tax risks within X Group and hopefully in the entire Y industry.
- c. Financial data sampling. Data from X Group's electronic financial data systems are sampled and applied to audit software.

2. Risk Identification

- a. To examine and determine potential risks for X Group, we conducted testing on the group's internal tax risk control and analyzed the information gathered.
- b. After that, the SAT formed professional teams to analyze the initial conclusions, and formulate a preliminary list of tax risks for X Group, by conducting risk-oriented analysis and application analysis of the group's financial data.

3. Self-examination of Risks

- a. At the same time, X Group was also instructed to conduct self-examination of tax risks with a self-examination software, so that the group itself could have a comprehensive understanding of its tax-related risks and problems, thus enhancing voluntary compliance. During this process, the SAT performed guidance to and supervision over the self-examination, and conducted relevant data collection and analysis.
- b. By availing the homogeneity of certain risk features within the Y industry and conducting risk analysis throughout X Group's business cycle, we were able to formulate audit guidance on major tax risks in X Group's businesses as an audit reference for tax authorities at all levels.

4. Tax Audit

Generally speaking, there are two forms of tax audit----office audit and field audit. Office audit involves the analysis of the risk list and major risk items, and the formulation of office audit reports of particular businesses. Field audit involves substantive test of potential tax risks, compatibility test of businesses' internal control system, determination of the harmfulness of tax risks, and formulation of field audit reports of particular businesses. Field audit also serves to deal with the uncovered tax-related problems in the process, and provide an opportunity for tax authorities to work with businesses in formulating risk solutions and supervise the implementation of such solutions.

5. Conclusion and Communication

The final stage of tax risk management involves:

- a. concluding on the tax risk management work on X Group and formulating reports;
- b. proposing recommendation of risk management measures for X Group;
- c. performing policy support and supervision in risk management and d) further research on tax risk management issues within Y industry, and formulating risk management guidance for future tax risk management throughout Y industry.

INNOVATION IN NONCOMPLIANCE RISK MANAGEMENT: THE PATH TRACED FOR THE DEVELOPING COUNTRIES- EXPERIENCE OF INDIA

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Contents: Contents: 1. Introduction. 2. Risks broadly faced by Tax Administration in India: 2.1. Non compliance risk. 2.2. Risk of compliant tax-payer turning into non-compliant. 2.3. Policy level risks. 3. Initiatives taken by Indian Tax Administration for managing Risks. 4. Extensive computerization of processes. 5. Collection of Third party Information. 6. Compliance module for cross border remittances. 7. Future Roadmap. 8. Alert management system 9. Conclusion.

1. INTRODUCTION

Risk management is an integral part of any organization's strategic management. It is the process whereby organizations identify various risks attaching to their activities and take suitable actions so that the stated objectives are achieved with greater efficiency. Basic purpose of 'Risk Management' is to put in place a system for risk-identification, risk-assessment and risk-mitigation. Like any other organization, tax administration also faces different risks requiring timely detection and corrective actions. Risk management system for a tax administration seeks to achieve optimum utilisation of resources by focussing on audit of non-compliant taxpayers, develop strategies to deal with non-compliant taxpayers, increase in voluntary compliance, etc.

The tax administration of a developing country faces huge risk of non-compliance. Main drivers for non-compliance by taxpayers include monetary benefits, complex tax laws coupled with high cost of compliance, lack of effective enforcement, low success rate in prosecution of tax offenders, etc. The noncompliance risk management systems thus require developing means to collect relevant information with respect to taxpayers activity, matching of information so collected, developing strategies to prioritization of risk, identifying systemic issues leading to non-compliance, take corrective measures at policy as well as at executive level, etc.

Indian tax administration faces huge risk of non-compliance mainly because of large geographical area of India, large population, relatively less use of technology, prevalence of cash transactions, etc. This paper presents the experience of Indian Income Tax Department (ITD) in the area of non-compliance risk management.

2. RISKS BROADLY FACED BY TAX ADMINISTRATION IN INDIA

2.1. Non Compliance Risk: Non compliance generally means not following the prescribed set of rules and procedures. These risks include:

- non-filing of tax return,
- non-payment of due taxes including tax amount withheld by tax deductors,
- non-declaration of all financial transactions,
- claiming undue exemptions/deductions,
- claiming incorrect tax credits,

Main factors behind such risks are direct monetary benefit for such non-compliance, lack of coordination among different governmental agencies, lack of effective enforcement and deterrence, availability of professionals for providing a cover up for non-compliance, habitual offenders, etc.

2.2 Risk of compliant tax-payer turning into non-compliant: In any tax administration there is always a risk of turning a compliant tax-payer into non-compliant. Main reasons for this include procedural complexities, high cost and inconveniences in compliance, lack of direct demonstrative correlation between the tax paid by citizens and growth in public utilities and lack of effective communication/publicity in this regard.

2.3 Policy level risks: Being a developing and capital importing country, it is very important for India to have a predictable, stable and non-adversarial tax system. Thus Indian tax administration faces huge risk on this front as well. These risks relate to uniformity, stability, certainty and predictability of taxation system.

3. INITIATIVES TAKEN BY INDIAN TAX ADMINISTRATION FOR MANAGING RISKS

Indian tax administration has taken various measures in recent years to manage these risks. Strategies to manage the risks include assessing the causes of non-compliance at various levels; analyzing, capturing data on non-compliance, data mining and data retrieval for policy formulations; assessing and determining the impact of various types of non-compliance, addressing causes through legislative and administrative interventions, etc. Some of major initiatives taken by Indian tax administration in past few years are detailed in subsequent paragraphs.

4. EXTENSIVE COMPUTERIZATION OF PROCESSES

In India, the Central Board of Direct Taxes (CBDT) has pioneered the adoption of Information Technology in government departments. Exclusive Directorate of Systems to deal with computerization initiatives has been set up. As a result, there have been significant benefits in terms of better compliance, efficient processing and improved taxpayer satisfaction. Some of the major projects/ ICT systems being operated by the Directorate of Systems are:

- Issue of **Permanent Account Number (PAN)** to all taxpayers. PAN acts as an identifier for the “person”, not just for the income tax department but also for various other entities such as banks. Quoting of PAN has been made mandatory for various types of transactions. This has been very useful in collection of third party information about taxpayers which is subsequently utilised for risk assessment.
- **E-filing of Income Tax Returns** has been very successful. This has not only simplified the procedure for filing the return but has reduced the cost of compliance for taxpayers. It has also helped the tax administration in capturing taxpayer data in electronic form. The number of returns e-filed has risen from around 400 thousand in the year 2006-07 to nearly 29.6 millions in the year 2013-14.
- **e-Payment of taxes** has enabled online payment of all direct taxes. Taxpayers can pay taxes from ATM as well. There is no need now for taxpayer to visit a bank for paying his taxes.
- **OLTAS** (Online Tax Accounting System) integrates tax payments made by tax payers with the running ledger accounts of tax payers maintained by the Income Tax Department for tax credit. The objective of OLTAS project was to do away with the paper trail for tax credit and the paper validation system. This is used for tax accounting and reconciling the tax payments with the returns filed by tax payers and it provides the administration with real time information about tax collections.
- **Centralized Processing Centre (CPC)** was established in 2009 for processing the tax returns. This process includes computation of tax liability of a taxpayer on the basis of declaration in his tax return and matching it with the tax paid by the taxpayer. The CPC has been a success story as seen from the scale of its operations. It has a peak processing capacity of 280 thousand tax returns per day. The average processing time for tax returns has been reduced to 66 days from the approximately 14 months it took when the returns were manually processed. CPC has helped the tax administration in providing better taxpayer services and thus increase in confidence among taxpayers. It has also reduced the risk of interest payment on refunds due to taxpayers.
- **CPC (TDS)** project marks a major step in ensuring TDS (withholding tax) compliance through the processing of TDS statements and comprehensive data cleansing of TDS statements using technology driven end-to-end processes. It has helped reduce TDS mismatch cases. CPC (TDS) has also provided taxpayers the facility to view their tax credit statement (Form 26AS) online on an “anytime, anywhere” basis. It has also helped improve TDS administration by providing information support through MIS and analytical reports.

5. COLLECTION OF THIRD PARTY INFORMATION

Indian tax administration has streamlined procedures for data collection through following methods:

- i. Electronic filing of IT returns and forms (e-filing)
- ii. Submission of TDS/TCS statements by deductors in electronic form (eTDS)
- iii. Making it mandatory for various agencies to furnish Annual Information Return (AIR) for specified transactions
- iv. Collection of information from third parties under Centralized Information Branch (CIB) scheme
- v. Compulsory quoting of PAN for certain specified transactions

A separate arm has also been established for collecting information from different sources and maintaining an effective database.

ITD has been able to use this information for the following:

- a. Discovering non-filers with potential tax liabilities
- b. Identification of potential under-reporting taxpayers
- c. Improving compliance of tax deductors
- d. Identification of implicit linkages for effective investigation

Discovering non-filers with potential tax liabilities - Non-filers Monitoring System (NMS)

The Non-filers Monitoring System (NMS) was implemented to prioritise action on non-filers with potential tax liabilities. Salient features of this initiative are:

- i. Data analysis is conducted to identify PAN holders who have not filed Income tax returns despite conducting high value transactions as reported in AIR, CIB data and TDS/TCS Returns.
- ii. Bulk Data matching exercise is carried out with the Financial Intelligence Unit (FIU) to include non-filers who have conducted high value cash transactions.
- iii. The first NMS Processing Cycle (January 2013) identified 1.22 million non-filers with potential tax liabilities.
- iv. Rule based algorithms were applied to prioritise the cases for graded monitoring.
- v. Compliance Management Cell (CMC) is set up for sending letters and capturing response from the non-filers.
- vi. Bulk letters are sent to PAN holders communicating the information summary and seeking to know the submission details of Income tax returns.

- vii. An online monitoring system is implemented to ensure that information related to non-filers is effectively used by the field formations.
- viii. Standard Operating Procedures (SOP) is issued to ensure that the field formations maintain consistency in their approach.

The second NMS Processing Cycle (January 2014) identified additional 2.20 million non-filers with potential tax liabilities. 'Compliance' module was developed on the e-filing portal and information related to non-filers was made available to the specific PAN holders. SMS and emails were sent to the target segment asking them to access e-filing portal. The PAN holders are able to provide details electronically and keep a printout of the submitted response for record purposes.

As a result of this initiative, a large number of taxpayers have submitted their Income tax returns and significant amount of self-assessment tax and advance tax has been collected. Statistics of returns filed and payment of taxes by the persons identified under the two NMS cycles are as under:

	Feb 2013 to March 2013	April 2013 to March 2014	April 2014 onwards	Total
Returns Filed				
NMS Cycle 1	109,332	601,317	18,145	728,794
NMS Cycle 2	--	165,251	33,981	199,232
Total	109,332	766,568	52,126	928,026
Self Assessment Tax Paid (In millions of INR)				
NMS Cycle 1	2357.80	13670.20	1170.90	17198.09
NMS Cycle 2	--	4226.70	1172.60	5399.30
Total	2357.80	17896.90	2343.50	22598.20
Advance Tax Paid (in millions on INR)				
NMS Cycle 1	3173.60	9930.30	1009.70	14113.60
NMS Cycle 2	--	2261.00	447.30	2708.30
Total	3173.60	12191.30	1457.00	16821.90

Identification of potential under-reporting taxpayers - Risk Based Audit approach:

Income Tax Department in India has implemented the Computer Assisted Scrutiny Selection (CASS) system to select cases for scrutiny using a centralised rules-based system. The key steps in CASS selection cycle includes suggestions of field formation on selection criteria, examination of these suggestions and finalization of criteria at the level of CBDT, execution of CASS cycle by Systems Directorate for flagging cases and

forwarding of selected cases to the assessing officers (tax auditors) along with the underlying reasons.

Data analysis is conducted to flag 10% of the cases selected under CASS as high priority cases for enhanced follow-up and monitoring. Assessing officers provide feedback (quantum of undeclared income and remarks) on the CASS selection reasons. Quantum of addition on any issue not flagged by CASS is also captured by the assessing officer.

Salient features of the fine-tuning of CASS parameters include:

- Hit rate (percentage of cases where substantial additions are made) and average additions in existing criteria on the basis of feedback data provided by the assessing officer is analysed to fine-tune existing criteria.
- Changes in law and availability of new forms/information sources are examined to identify new criteria. Third party information is increasingly being used to select cases for scrutiny.
- Mismatches of information in I T return with information available.
- Business specific financial ratios and values are considered to identify business specific criteria.

The continuous enhancement of CASS has brought greater efficiency and transparency in the process of selection of case for scrutiny.

Improving compliance of tax deductors:

The details of mismatches between tax credit claimed by the taxpayer and tax deduction reported by the tax deductor are analysed to identify high risk deductors for follow up and monitoring. This initiative has resulted in increase of the number of TDS statements filed and the quantum of tax deducted (withheld) at source.

Identification of implicit linkages for effective investigation:

ITD has implemented the Income Tax Data Management System (ITDMS) which is a two tier distributed system to enable linking of non-PAN data through use of alternate common identifiers. This system is used by the Investigation wing at 20 centres. These linkages have been found to be very useful in identifying family members and other persons related to the individual or entity under investigation.

6. COMPLIANCE MODULE FOR CROSS BORDER REMITTANCES

All persons making cross border outward remittances are required to electronically file the prescribed form (Form 15CA/Form 15CB) with the tax department. These forms capture information regarding identity of person to whom amount being remitted, nature and amount of payment, nature of business carried on by the non-resident in India,

amount of tax withheld on such payments, etc. The Directorate having jurisdiction of non-resident taxpayers and Systems Directorate have developed a new module to identify cases for the purposes of verification regarding the correctness of taxes withheld by the person making the remittance. The cases are identified following a risk based approach. After identification, the cases are pushed to the Tax officers for necessary verification through functionality namely 'Verification of Remittances'. The salient features of the functionality provided to Tax officers are as under:

- i. Display the list of remitters to be verified by the Tax officer
- ii. Display the list of flagged and other remittances of the flagged remitters
- iii. Enable the Tax officer to issue questionnaire/letter for verification
- iv. Enable the Tax officer to update status of verification and provide feedback
- v. Provide online MIS to the Tax officer and supervisory hierarchy for monitoring of verification activity.

Other initiatives include dissemination of information to taxpayers on the Departmental website. This website provides tax law related information like Acts, rules, circulars, notifications, return and challan forms, tutorials on filing tax returns, taxpayer information booklets/pamphlets, FAQs, etc. The website also provides links to various services like e-filing of returns, PAN, TAN, TDS, online tax payment, view of tax credit, refund status, etc.

Direct demonstrative correlation between the revenue collections and growth in public utilities and effective communication/publicity in this regard is an important factor for improving voluntary compliance by taxpayers. The Indian tax administration is running media campaign in both print and electronic media to showcase the revenue collections as one of the major driver for positive interventions by the Government for economic development and social welfare.

7. FUTURE ROADMAP

Data Warehouse and Business Intelligence (DW&BI) Project

9.1 Data Warehouse and Business Intelligence (DW&BI) Project commenced in 2013 to strengthen the non-intrusive information-driven approach for improving compliance and effective utilization of information in all areas of tax administration. Some of the identified objectives are :

- i. Widen and deepen tax base
- ii. Improve compliance with tax law
- iii. Detect fraud and leakage of revenue
- iv. Support Investigation
- v. Increase effectiveness of tax collection
- vi. Generate enterprise-wise reports

- vii. Monitor high risk scenarios
- viii. Provide inputs for policy making

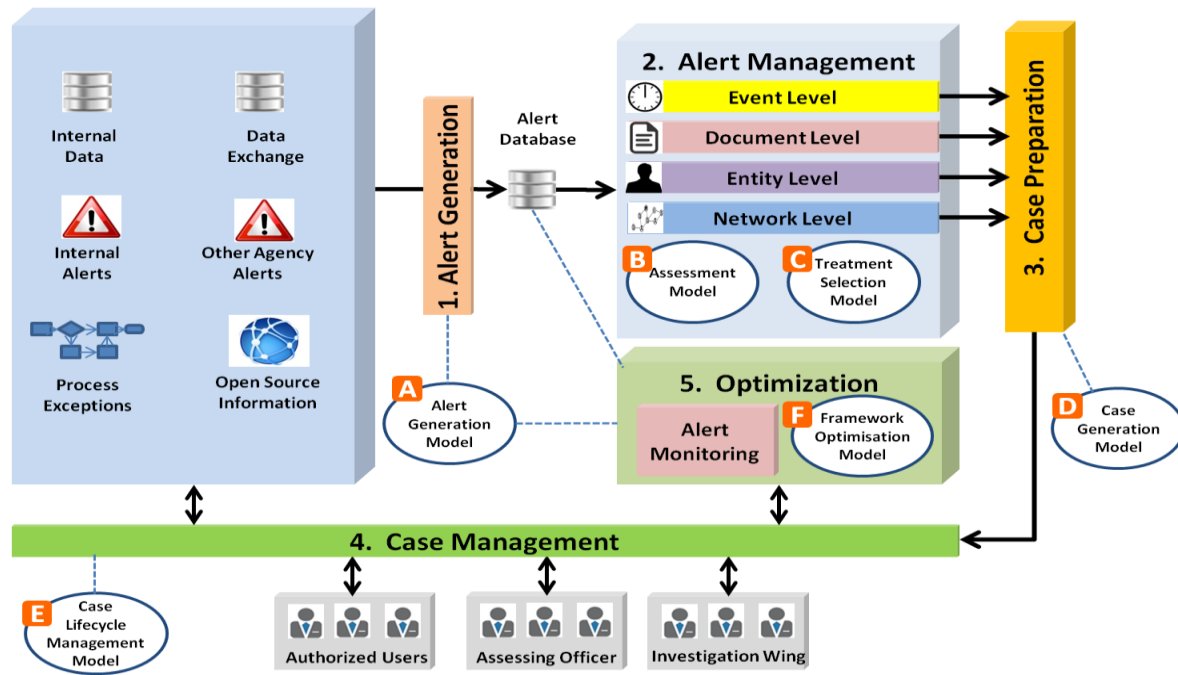
The DW&BI platform will integrate enterprise data warehouse, data mining, web mining, predictive modelling, data exchange, master data management, centralized processing, compliance risk management and case analysis capabilities.

This Project also envisages setting up a Centralised Processing Centre (CPC – Compliance Management) for handling resource intensive repetitive tasks related compliance management such as PAN population, generation bulk letters / notice and preliminary verification for greater efficiency and effectiveness. This would enable effective utilization of information and free resources in the field for high skill work such as investigation, scrutiny and recovery of taxes etc.

8. ALERT MANAGEMENT SYSTEM

The Indian Income Tax Department is implementing the Alert Management Framework under the Project Insight (Data Warehouse and Business Intelligence (DW&BI). The Alert Management Framework will significantly enhance the effectiveness of the scrutiny selection system by facilitating effective utilisation of information and optimal utilisation of Departmental resources. Alert Management Framework seeks to institutionalize the process of generation and management of alerts in all areas related to tax administration. The schematic diagram of the Alert Management Framework is given below:

Figure1
Schematic Diagram of Alert Management Framework



The key components of the alert management framework are summarised below:

- **Alert Generation:** Alerts on a wide range of issues would be generated by applying alert generation scenarios on the information available internally, received from third parties and open source.
- **Alert Management:** Alerts will be assessed at the level of event (tax payment, return filing etc.), document (IT Return, form etc.), Entity (Taxpayer, Address etc.), Network (household, group etc.) and treatment method will be suggested after comprehensive assessment of information and analysis results (tax gap, risk score, taxpayer segment, taxpayer compliance behaviour, resources available with the Department etc.).
- **Case Preparation:** All information and analysis which may be useful to the authorised users in investigation and assessment will be provided along with the case.
- **Case Management:** The lifecycle of the case will be managed to ensure closure of issue and capture of feedback.

- **Optimization:** The monitoring of alerts and assessment of events, feedback and results will be used to fine-tune the models (alert generation, alert assessment, treatment selection, case generation, case lifecycle management etc.).

Alert Management Framework is expected to cover broad range of risk as given below:

Table1
Types of Risk

S. No.	Category	Types of Risk (Sample)
1	Basic Taxpayer obligation	<ul style="list-style-type: none"> • Taxpayer has not taken PAN • Taxpayer has not filed return • Taxpayer has not disclosed complete and accurate information in tax returns • Taxpayer has not paid all due taxes (advance tax, self-assessment tax, regular demand)
2	TDS/TCS related obligation	<ul style="list-style-type: none"> • Deductor has not deducted/collected taxes at prescribed rates • Deductor has not paid all deducted/collected taxes • Deductor has not filed TDS/TCS statement/returns • Deductor has not disclosed complete and accurate information in TDS/TCS statement/returns • Deductor has not mentioned valid PAN of the deductee in TDS/TCS statement/returns
3	Third Party Information Reporting obligation	<ul style="list-style-type: none"> • Taxpayer has not quoted PAN while conducting transactions specified under AIR/CIB/TDS scheme • Reporting entity has not reported specified transactions under AIR/CIB scheme • Reporting entity has not disclosed complete and accurate information under AIR/CIB scheme • Reporting entity has not mentioned valid PAN in specified transactions
4	Wealth tax related obligation	<ul style="list-style-type: none"> • Taxpayer has not filed wealth tax return • Taxpayer has not disclosed complete and accurate information in wealth tax return
5	Miscellaneous	<ul style="list-style-type: none"> • Fraud • Leakage of revenue • Information Security breach

The Alert Management Framework is expected to be implemented in 2016.

Creation of Directorate of Risk assessment:

Recently an exclusive Directorate of Risk assessment headed by a Director General of Income Tax has also been created. Functions of this Directorate include identification

of risks, risk- assessment and evaluation, suggesting strategies for handling such risks, etc. This Directorate has been made functional recently.

9. CONCLUSION

The growth in the direct tax collection in India has been commendable over the past few years, which can be partly attributed to the initiatives undertaken by Indian tax administration in last few years. These initiatives have resulted in improved voluntary compliance. The system is being constantly improvised through periodic assessment. Factors like growth in international trade supported by e-commerce developments, innovations in business structures and financial products, etc are posing new challenges before the tax administration. Indian tax administration is hopeful of dealing these challenges through new initiatives such as DWIB, Alert Management System, international cooperation in tax matters, etc.

INNOVATION IN NONCOMPLIANCE RISK MANAGEMENT: THE PATH TRACED FOR THE DEVELOPING COUNTRIES

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Contents: Summary. 1. The use of CRM in STA. 2. Lessons learned. 3. Using CRM in practice at STA – 2 case studies 4. How to start or improve CRM – some recommendations. 5. Conclusion.

SUMMARY

The Swedish Tax Agency (STA) has worked with Compliance Risk Management (CRM) since 2000 and it is fully integrated into our steering structure. Working with CRM is a process and we have continuously adapted and improved our working procedures in this field.

STA has in recent years supported other tax administrations in introducing and improving the CRM concept, mainly in Eastern Europe, sub-Saharan Africa and Southeast Asia.

This paper summarizes our experiences and the recommendations we give while supporting other tax administrations in improving their CRM work.

1. THE USE OF CRM IN STA

STA has, like many other countries, adopted a CRM approach as the primary decision-making tool for choosing the right treatment options for non-compliance (e.g. audits, information campaigns etc). It is fully integrated into our planning process. The working procedures adopted at the STA follows international standards drawn mainly from guidelines set up within the OECD¹ and the European Union².

¹ OECD FTA guidance note "Compliance Risk Management: Managing and Improving Tax Compliance" (2004), available at www.oecd.org.

² "Compliance Risk Management for tax administrations" EU 2010, available at ec.europa.eu/taxation_customs

Identification and analysis of compliance risks are primarily done on three levels:

General (strategic) level – to identify general risks that pose threats to the long term objectives of the STA (e.g. minimize the tax gap). The focus is treatments in the longer run (3-5 years). Examples of strategic risks are undeclared income the cash sector, offshore noncompliance and aggressive tax planning.

Risk area (tactical) level – the general risks are broken down in specific risk areas which should be treated in the short run (1-2 years).. Risk areas are typical sub-segments of strategic risks, for example undeclared income in the restaurant sector (part of strategic risk cash sector) and misuse of Transfer Pricing (part of strategic risk aggressive tax planning).

Tax payer (operational) level – the selection of tax payers within a specific risk area (at tactical level) which should be targeted by a specific treatment.

The risks are assessed against the long term objectives of the STA (e.g. minimized tax gap, trust in the STA) and prioritized taking into account the capacity and short term objectives of the administration. The results forms the base for the annual business plan and leads into specific audit projects, media campaigns etc.

Primarily STA uses a top-down approach to planning which means that it is possible to trace the general risks to different risk areas and down to tax payer level. This means that all compliance interventions (e.g. audits) falls within a certain risk which are linked to a strategic risk at general level.

The knowledge at tactical and tax payer level could also, in the longer run, influence the strategic risks (bottom-up approach).

Evaluation of how our compliance activities affect the risks are carried out at both strategic and tactical level. On strategic level, 1-2 in-depth evaluations are made each year targeting large compliance programmes. These evaluations involve statistical methods, surveys and targeted random audit programmes. Examples of evaluations carried out recently within the STA are how certified cash register affects undeclared income and the outcome of our offshore compliance programme.

2. LESSONS LEARNED

“Make it as simple as possible, but not any simpler”

Albert Einstein

Some of our experiences using the CRM concept for around 15 years are listed below:

CRM is not “stand-alone” – it is part of the normal work process; Compliance Risk Management should not be seen as a separate part of the administration or to have a

separate compliance plan targeting risks – it is part of the ordinary business plan. It is a supporting tool for making knowledge based decisions influencing what treatments to be carried out, and should therefore be a part of the steering structure of the administration.

Introduction step-by step: Even if CRM is a part of the overall steering structure, we did not introduce it as a “big bang” solution for all compliance activities from start. We started small-scale with a few compliance programmes going through all steps (identify-analyse- prioritize-treat-evaluate) to fine tune the concept and learn along the way. We have since then gradually expanded CRM to cover all compliance activities, a process that took us several years.

CRM is a driver for using “the whole toolbox”: At the time (early 2000s) the concept of Compliance Risk Management was introduced in the STA, risk management was mostly about risk profiling for audits and selection of tax payers. It is still a part of CRM, but it is just one part of the overall concept. The treatment options (tools) available are much broader and include education, campaigns, press activities, trade sector cooperation, legislative/technical provisions (e.g. introduction of certified cash registers) and so on. By working in a more holistic way with strategic risks we could see more clearly that the treatment of risks should be done in several ways and also combined. By using CRM the organisation itself had to work more close together whereas one risk needed to be treated in several ways at the same time.

CRM is a driver for moving from outputs to outcomes: The implementation of Compliance Risk Management puts focus on how our treatments affect the identified risks. As a consequence, we need to monitor not just that we “do things right” (outputs) but also to “to do the right things” (outcomes). It is not enough just to monitor output indicators such as number of audits, revenue collected etc – we need also to evaluate how our compliance programmes affects the risks and tax payer behaviour in the longer run. Focusing more on outcomes meant that we had to consider behavioural aspects of taxpayer groups, research and analytical methods to a much higher degree than before.³

CRM was not the sole reason that STA has moved to more outcome-based measurements but was one important contributing factor.

We now know what we don’t know: By creating a risk picture for strategic and tactical risks it became clearer where our gaps in knowledge were and we could use our analytical resources in a more systematic way to address this. We also acknowledged that when gathering knowledge we risk to “dig deeper where we stand” and miss to identify new risks that emerge. To avoid this we have designed a specific compliance programme with the sole purpose of identifying new risks.

³ Evaluation in Compliance Risk Management is further addressed in the OECD FTA guidance note “Evaluating the effectiveness of compliance risk treatment strategies” (2010), available at www.oecd.org.

Involve stakeholders early in the process: Introducing CRM in the STA meant that the planning and coordination of compliance programmes and activities became more centralised. Audits and interventions carried out in regional and local offices became part of larger compliance programmes aimed to treat a certain risk. Early on it was also important to gather knowledge “from the field” to build a risk picture. One mistake we made in the early days was that we did not involve regional and local decision makers enough into the process. Getting these stakeholders on-board to contribute to and understand the concept is important so we created cross-departmental reference groups to support the implementation.

Make it simple: Compliance Risk Management is a decision making tool based on knowledge, i.e. identification and analysis of risks. From the beginning we had an ambitious approach to build a theoretically solid risk picture describing all compliance risks (operational, tactical and strategic) and how they related to each other. We ended up with a database with hundreds of compliance risks which we tried to map together in a logical structure. We also made analysis reports of the risks in order to prioritize the annual compliance activities, ending up one year with more than a 1000 pages as input to the planning process. By doing everything “by the book” we risked to get lost in the process. We therefore made a simpler structure and focused more on changes in the risks over time.

3. USING CRM IN PRACTICE AT STA – 2 CASE STUDIES

Strategic level – Tax Gap Map

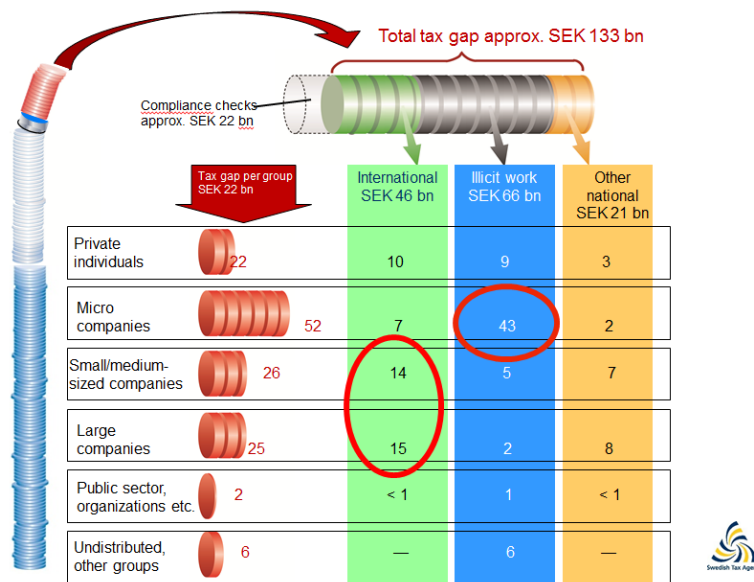
In 2008 the STA made a study on assessing the tax gap in Sweden, i.e. the gap between what taxes that theoretically should have been paid and taxes actually paid. The study was based on several sources such as macro-economic studies, audit (including random) programmes and surveys.

The study concluded that the tax gap was 9 % (approx. SEK 133 billion or € 13.3 billion) consisting of three parts;

- International transactions (off-shore and tax planning schemes) , SEK 46 billion
- Illicit work (undeclared income and work), SEK 66 billion
- Other national errors (e.g. deductions and misinterpretations of the tax legislation), SEK 21 billion

The study also disseminated the tax gap distributed among different tax payer segments (see figure below).

Tax gap map



The Tax Gap Map was included in our general risk picture at strategic level. Even if the amounts of tax gap were very rough estimates, it became clear that the highest risks for tax losses were international transactions regarding SME and large taxpayers as well as illicit work in micro-companies. At the same time, we put a lot of resources and compliance activities into other national risks like deductions etc.

The Tax Gap Map therefore made us change our overall compliance strategy focusing more on the areas of high risk. Instead of going for the “easy” money in other national risks, we increased our efforts and built better capacity dealing with the more complex areas of international transactions and illicit work – the high risk areas.

Tactical level – Undeclared income at private clinics

As undeclared income in micro-companies is considered a high strategic risk, several compliance programmes have been designed at tactical level addressing these risks. One example is undeclared income by self-employed. One of these segments is private doctors running their own clinics.

This group had not been addressed by a targeted compliance programme before as most of our initiatives regarding undeclared income had focused on the cash sector (restaurants, hairdressers etc.).

By using a CRM approach at tactical level, we therefore started a pilot activity in one of our tax regions trying to assess the risk for non-compliance in this segment. Pilot audits and working methods (including gathering third party information) were established. The

pilot activity concluded that there was a high risk for undeclared income at private clinics.

We therefore started a nationwide compliance programme in this segment, using the experience and best practice from the pilot. The outcome of the programme was to focus on changed behaviour in the group as a whole using the “whole toolbox” rather than collect as much yield as possible from individual audits. The compliance programme, which ran for two years, included the following components:

Media activities - giving the message that STA will look at the group. This was given *before* we started any audit activities and three months before the annual tax returns were to be submitted, making it possible for the taxpayers to voluntarily adjust their tax returns.

Cooperation with others - with the private doctors association to discuss what the industry itself could to enhance compliance. We also collaborated with municipalities who pay out healthcare fees to private clinics to make them improve their payment procedures and tendering processes.

Audit activities – using working methods developed in the pilot. We also communicated the total results from the audits at the end of the programme and that we planned to do follow-up audits afterwards. The important thing was not the number of follow-up audits but rather sending the message.

Evaluation –statistical studies were carried out of declared income in the segment before and after the programme. We also made comparisons in other indicators such as health fees paid out by municipalities. The evaluation showed that there was a clear indication of raised compliance in the group. We also updated our general risk picture and used the programme as a model for other programmes in similar segments such as dentists.

4. HOW TO START OR IMPROVE CRM – SOME RECOMMENDATIONS

Introducing or improving Compliance Risk Management in tax administrations must be adapted to the context in which the administration operates, there is no “one-size fits all” solution. Having said that, when STA supports other tax administrations we give the following general recommendations together with our experiences outlined in section 2 above:

Start with what you have: To build a strategic risk picture it is not necessary to have all information to create a “complete” picture. In our experience, there is a lot of tacit knowledge and experience within an organisation which can be used to build a picture. By starting this way, the gaps in knowledge could be identified and be subject for more information-gathering.

Don't get too stuck in theories: Understanding the concept of CRM and the theories behind is one thing, but it is essential to start working in practice in order to learn along the way. One way to do this is to start working with pilot areas in a few tactical risk areas, learn from them, adapt and then expand to more areas. It is better to the right things wrong than the wrong things right.

It-tools are important but not crucial: It-tools are useful for selection and risk profiling, but it is not a mandatory prerequisite for creating a strategic risk picture as such. Statistical information and data will improve the risk picture but the real added value comes from analysts and experience in the organisation.

CRM could drive and support other changes in the administration: CRM is a systematic way of working with compliance which could help identify areas for change and new ways of thinking. Some examples of this have been given above; to move to an outcome oriented approach, to use the whole toolbox for compliance, the necessity to work cross-departmental to address a strategic risk and so on.

5. CONCLUSION

For STA, Compliance Risk Management has been an important tool helping us to increase voluntary compliance. It has enabled us to work with compliance in a more structured way. Compliance Risk Management has also moved our administration and our way of thinking forward. Examples of this are going from an output to outcome oriented approach, expanding the toolbox to use several treatments and also made different parts of the administration work more closely together.

LESS INTRUSIVE POLICIES TO REDUCE THE RISKS OF NON-COMPLIANCE

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Contents: 1. Tax risk management objective. 1.1 Benefits of implementing tax risk management processes. 1.2. Importance of voluntary compliance, the Guatemala experience. 2. The Management of Risk as a less intrusive Compliance Tool. 2.1 Risk Management in Internal Taxation. 2.2 Customs Risk Management. 3. Implementation of policies derived from the results of the tax compliance risk management: 3.1 integrated risk management. 3.2. Generating an analytic culture and continuity. References.

1. TAX RISK MANAGEMENT OBJECTIVE

During the last years, trends indicate that modern tax administrations have been gradually taking a greater interest in increasing their efficiency levels through the implementation of systems allowing to define models of risk analysis, areas, indicators, rating variables and fields of application to identify taxpayers who carry out practices opposed to tax legislation, in order to qualify in the best possible way the risk profile of each taxpayer.

This qualification allows directing the control efforts towards taxpayers with higher tax noncompliance risk, improving the degree of effectiveness and assertiveness in the selection of cases.

Moreover, in recent years the Superintendence of Tax Administration - SAT - began preparations to establish a risk management system based on strengthening voluntary compliance. Recently the Guatemalan tax administration implemented these efforts within the framework of strengthening the supervision and control of taxpayers, marking an evolution in the control strategy, passing from the completion of appointments to audit taxpayers without carrying out any preliminary assessment, performing a total review of the documentation related to the operations of the taxpayer, to now carry out a preliminary assessment known as cabinet audit, which evaluates tax behavior of taxable persons within certain standards relating to their economic activity.

1.1 Benefits of implementing tax risk management processes

All the tax authorities have a certain amount of resources, invariably too short with respect to what would be needed to ensure full compliance by each of the taxpayers in regard to their tax duties.

(Forum on Tax Administration - Compliance Sub-Group, 2004)

According to the former premise, the development of risk management systems becomes a fundamental part of the analysis, conclusions and further actions that tax administrations should take, based on the optimization of resources in the control operations, which in turn will result in a more efficient collection.

In the case of Guatemala, as it was already mentioned, until recently the efforts for the implementation of a risk management system were formalized, with the bases of control infrastructure managed through the FISAT system.

In relation to the Risk Management actions implemented, this system operated in conjunction with the information contained in the unified tax registry and the banking system, considered inputs data; so that after a statistical treatment through support applications, the risk models are delimited. In these, the qualifying variables, indicators and risk rating are obtained to determine the lists of taxpayers with their respective risk index.

The interaction and momentum of these efforts allowed to carry out the transition from audits without preliminary analysis, to the cabinet audits, in which subsequently the tax behavior of taxpayers can be determined if the statistical reference suggests trends of tax elusion or tax evasion and thus be able to estimate the real or unreal origin of the resources used in a control field in which specific accounting elements of the taxable person are reviewed.

1.2. Importance of voluntary compliance, the Guatemala experience

Among the most important responsibilities of a tax authority figure the focus on efforts to allow taxpayers to comply with their tax obligations in favorable conditions. In the case of the Superintendence of tax administration, actions in this area have been focused on two main axes: the definition and continuous improvement of a control system that creates a risk perception of being detected if the taxpayer does not comply with his or her tax obligations, and that sanctions are consequently applied; and additionally through the development of principles developing a culture of tax payments.

In this sense, actions relating to the implementation of a risk management system were implemented; this was developed in parallel with the creation of the sub-directorate of tax culture, which continues the process of strengthening the principles and national values that include the formation of tax culture through a series of events and publications aimed at taxpayers and the population in general.¹

Afterwards, other actions have been implemented according to the facilitation and promotion of voluntary compliance with tax obligations, which, according to the 2013 Work Memory of the institution, include the following:

¹ Memory of work 2007 (Superintendence of Tax Administration - SAT-)

1. Electronic return system.
2. Simplification of other procedures
3. Guidance and assistance to taxpayers.
4. Training programs for taxpayers and tax assessors
5. Promotion of tax culture

2. THE MANAGEMENT OF RISK AS A LESS INTRUSIVE COMPLIANCE TOOL

2.1 Risk Management in Internal Taxation

In the field of internal taxation, the Guatemalan tax administration has implemented a system that defines, creates and associates indicators, rules of inconsistencies and risk variables with consolidated information from various sources of data (internal and external) on the behavior and compliance with the universe of taxpayers, determining indicators of elusion or evasion to quantify the risk, according to the legislation in force.

It is essential to indicate that SAT efforts in this area have focused on the continuous improvement of the necessary components for developing risk profiles, through various actions, such as the constant feedback obtained from the Programming Department and Control Divisions involved in the process.

On the other hand, as already mentioned above, the risk systems management focus on efficiency and economy when using tax authorities' resources. In this sense, trends indicate that less intrusive policies have reflected greater efficiency in the use of resources and are more effective to improve collection. However, when faced with choices between field audits and cabinet audits, to use specific elements of judgment to take decisions are fundamental tools for this decision-making process.

In this field, the Department of Selective Control develops all the processes for timely scheduled field audits. The historical evidence has shown that fiscal presences manifest a representative importance derived from the fact that they have increased to some extent the level of compliance regarding invoicing in certain sectors.

By contrast, it is currently the Department of Foreign Trade that mostly works in the form of cabinet audits, for those cases which have their taxes determined by the customs administration. In this line, the control actions of mass information and citations crossings seek to clarify inconsistencies detected in the fulfilment of the taxpayers' obligations.

In general, the role of risk management in the field of internal taxes is focused on behavior analysis of universes or segments of taxpayers with internal and/or external information for detecting taxpayers at risk, inconsistencies and a low level of tax compliance, in order to schedule actions focused on reducing evasion and elusion.

Finally, the efforts in the short, medium and long term are directed to institutionalize the current risk profiling system, so that it can offer a comprehensive tool in terms of foreign

trade and of internal taxes and be used in all the tax administration, under the premise that information managed by both areas is complementary and considering the information from external sources as fundamental in the process of continuous improvement of the system. In this line, classification hearings and opinions on origin of goods by the Economy Ministry, which are not found in the database, could offer a better orientation to the control actions of the tax authority.

2.1.1. Importance of risk management in the identification and selection of tax audits

During recent times, globalization and the interaction of several factors have prompted a greater dynamism to the complexity of the growing economic activity, thus generating an increase in risk of tax non-compliance, the cost of which is assumed by tax administrations in terms of collection results.

For this reason and for the limitation regarding the SAT action resources, previously mentioned, and the control scope being of most interest for this analysis, the importance of formalizing the efforts in implementing a comprehensive risk management system represented a considerable improvement in control effectiveness², representing an evolution of 50.1%, with regard to the 44.9% of the previous year, according to data recorded in the Work Report drafted by the institution.

"These improvements included the addition of new computational models of management, and the implementation of 18 new manuals and audit guides for an equal number of economic sectors, which describe the production processes of taxpayers and identify the specific control procedure for each one." ³

This represented for the SAT a general increase of fiscal presences and their respective effectiveness, as it was already mentioned; but more important still, a coverage better focused on taxpayers subject to the Value Added Tax - VAT, whose relative average importance within the Guatemalan tax structure has been 50%.

Subsequently, the importance of the risk management in the identification and selection was evident through the joint efforts of the control, collection and management that has resulted in the receipt of notices by 1.812 taxpayers, which generated 652 audits under the process of administrative collection and 645 audits in the form of fast-track procedure⁴.

Moreover, during the year 2012, the results and advances in work management module of the Work Report 2012 made reference to the incorporation and integration into the system of a registry of importers and their respective customs incidents linked to the

² Interest tax/audits completed audits

³(Superintendency of Tax Administration - SAT-, 2007)

⁴(Superintendency of Tax Administration - SAT-, 2012)

undervaluation of goods or incorrect tariff classification. This year, as a result of these actions and application of more refined risk factors in terms of economic, tax and financial behavior, an increase in the effectiveness of audits was noted, recording numbers of 81.94%, in respect to the 81.09% shown in previous years.

Finally, with the implementation of the risk module within the FISAT system in the year 2013 and the parallel effort to use detailed information from internal and external sources through important exchange of information agreements, we could develop a process of continuous improvement in making tax audits as effective as possible in terms of collection results and helping raise the coercive power of the tax administration to encourage voluntary compliance by taxpayers.

2.1.2. Addressing risk management in the establishment of massive tax compliance verification processes

As an effort to reduce the tax noncompliance, the Superintendence of tax administration has launched massive and selective control programs; the tax presence focused on the control and recovery of tax debts; as well as also, in more recent years, the control of exempt entities and taxable persons recorded omissions and inconsistencies.

In this line, the risk management contributes to effectively addressing interest groups that should be covered within the massive processes for verification of tax compliance; whether these tax presences of all types, massive information crossing, summonses and notices to taxpayers who have engaged in some sort of infraction or a poor definition of their substantive obligations.

It is vital to acknowledge at this point that from the success of these tasks carried out based on a massive strategic planning the massive or, by default, on the selection process, will depend not only the exploitation of the resources, but also the potential coercive power of the tax administration in terms of selection and the subsequent results in terms of control processes.

2.2 Customs Risk Management

Currently, within its customs scope, the tax administration manages a risk system composed of three components that allow to parameterize the controls applied in the clearance of goods, both for import and export, through a selection, either the red or the green channel. However, recently we are working on the implementation of an intermediate measure called "Yellow channel", in which only a documentary review would be carried out.

1. **Data mining model:** In this model the main assumptions are based on statistical methods that establish patterns of behavior and defines the level of risk based on the historical behavior of the importer or exporter and assigns the selective channel.

2. **Fixed rules model:** This component defines some rules fixed only when there is a direct target to which apply, by weight of the risk it represents. In this sense, a very particular case are some taxable persons which are detected with a presumption or entry of drugs into the country, by which derived from this background impose these processes with a permanent character. Additionally, this tool is used according to some specifications in the relevant legislation, such is the case of the entry of the application by legislation of a control for permissions that are needed for weapons entering the country.
3. **Random model:** This model is set to be applied to all operations that are not classified in any of the previous models and sorted within the records and which therefore involve an unknown risk.

In terms of the variables collected, treated and analyzed as tools in the development of the respective risk profiles are those consigned within the single customs declaration - DUA-, the Declaration of value, load manifesto, among other data the system has parameterized from internal sources, such as records of omissions and some perceptible characteristics of taxpayers linked with its update on the unified taxation register.

2.2.1 Non-intrusive inspection methods

Under the premise that intrusive revisions represent a relatively high economic and operating cost and in contrast less intrusive inspections have shown that they regularly offer best results in collection and with a lower disbursement of resources; It is important to highlight that in respect of customs, tax administrations should consider intrusive methodologies to fulfill a purpose different would be some non-intrusive processes.

In this regard, some developed countries choose the physical review when the objective of the intervention is the verification of the correct valuation of the goods, the refusal of certain permits related to the legal system of each country or to grant some permissions required for entry of goods. This type of purpose cannot be pursued through the use of non-intrusive equipment.

On the other hand, the non-intrusive methods are put in place when the purpose of the revisions is to detect undeclared goods that probably attempt to enter country hidden in different possibilities linked to the characteristics of the means of transport used. In this case, the most common cases are the traffic of drugs, arms and explosives. In general, these situations are originated with the intent of any practice of "Customs smuggling", defining it as that is passed through customs but hidden or in some background accompanying the goods declared or not.

In terms of the equipment used for this type of process, it is important to consider that they are not limited to scanners or x-ray; satellite control devices are also very useful when the referred load movement is only a transit by country, they can be mentioned within this group since they map the entire route; some density gauges to detect any

anomaly between the effective cargo and the declared goods; either the electronic label. Finally, the choice between one and the other will depend on the needs that the transit of goods demands, as well as the objectives they pursue.

The choice between one and other system will depend on the characteristics of each Customs cargo movement, and factors such as the nature of the goods, the geographical location and of course the type of goods that are boarding through each of the points.

2.2.2. The management of non-intrusive inspection equipment

The experience of the Guatemalan tax administration in this field is very discreet, even considering today is making the implementation of some scanners in the central of aviation; but these efforts have not materialized due to some problems with the supplier.

Moreover, the Directorate General of Civil aviation authorities have a non-intrusive inspection equipment for the monitoring of passengers, however the review criteria applied in this case is not related to the guidelines focused on customs controls, not to mention that the SAT does not own the equipment.

The plans for the future of the Guatemalan tax administration, include projects related to the implementation of the electronic label, for which feasibility studies are being conducted. On the other hand, we are practicing the evolutions for the implementation of non-intrusive equipment for Maritime Customs; however, the economic and financial constraints have become an important obstacle.

Concluding this point, it should be emphasized that the appropriate model for managing scanners and other equipment that can be used in non-intrusive inspection will depend on resources of the tax authorities; the characteristics of border points, as previously mentioned; the legal context and, in some cases, to situations related to the commercial policy of countries. Also, comparisons at the international level which are performed with respect to the successful experiences of other countries should take into consideration their specificities, as the economic situation and social context under which these were achieved may differ largely from the national reality, leading the transposition of these practices to poor results.

2.2.3. Current trends in customs risk management: The SAT vision

Recently, the Guatemalan tax administration has focused its limited resources in the development of some strategies that will allow in the customs area to reduce gaps generated by practices linked to tax evasion. It is important to mention that these efforts should be made with the Control intendancy in coordination with the area of internal taxes.

In general, SAT efforts on this topic focus on the following points:

- i. **Formalization of the yellow channel:** This is a review only documentary at the time of the entry of any merchandise. It currently only has two options; physical-documental review; and the approval without review. This process will provide an option more agile to be able to monitor cases which have some presumption of risk, without having to use the resources that a physical review. require
- ii. **Integrated risk management:** With the help of international technical assistance, we will pursue efforts to integrate the different processes implemented both by the Administration and control of the customs administration.
- iii. **Evaluation of the authorized economic operator:** the information parameterized inside the customs area defines the profiles of risk of the importer and the exporter, can become as a tool for the evaluation of the authorized economic operator⁵ - OAS - in customs scope.
 - a. The idea is that with the integration of institutional risk from the customs area, the integrated profile can be strengthened, and in this way the information generated can be qualifying, considering the legal, customs and tax, items without the need of search inputs separately.
- iv. **Less dispersion in records:** Derived from the dispersion of the data, debugging based on the reliability of such information is necessary. This process is driven in parallel to the actions of modernization and integration of SAT computer systems.

3. IMPLEMENTATION OF POLICIES DERIVED FROM THE RESULTS OF THE TAX COMPLIANCE RISK MANAGEMENT

3.1 Integrated risk management

With the need to structurally reform the Guatemalan tax administration and increase the tax burden of the country according to the commitments made by the Government of the Republic in December 1996 in the peace agreements, the decree number 1-98 of the Congress of the Republic of Guatemala allowed the creation of the Superintendence of tax administration, a decentralized State entity whose main purpose is to exercise exclusive functions of tax administration contained in the legislation.

With this event, the integration of the functions entrusted to the Directorate General of internal revenue and the General Directorate of customs, same as derivative of obsolescence was held in its applied systems, lack of autonomy in their functions and poor inter-agency communication were waning of tax duties and control compliance with delegated.

⁵In Guatemala the figure of an authorized economic operator is defined as the individual or legal entity which in compliance with the international standards of safety and standards, requirements and obligations set out in the customs law and the customs service, shall be regarded as safe and reliable economic operators and enjoy the facilities granted by the customs, their relationship is as partners.

In the context of the "Management of risk as a tool for the improvement of compliance", the implementation of a unified tax administration has allowed access to the information of taxpayers who operate under a unified taxation registry, which translates into a factor that facilitates the management of control and supervision *a posteriori*.

In addition, the unification of administrative units that previously had to operate separately: the financial administration and Human Resources or the Legal Department, comprising customs and tax according to their competence, among others have been important elements in the revenue management continuous process of improvement.

However, the integration of risk management has met some obstacles which include differences in procedures between the internal component and the customs. In this case, it is clear that internal taxes management functions operate with schedules different from the customs control of goods.

Apart from this, regarding process and specializations in each component, the issue of computer systems is essential. In the case of SAT, both units have developed their own platforms, in accordance with their own requirements and when came the need for integration it has been very difficult to combine both systems, making complex the integration of information that is managed separately; Complementing these factors is the fact that there is a very marked specialization among technicians from each areas.

The Guatemalan tax administration has faced the problem of having a limited number of officials who know how to effectively interpret the two types of information from taxpayers, and those that once specialized in customs cannot apply a treatment and interpretation of the information related to internal taxes and vice versa.

So considering that "policies less intrusive to reduce the risks of non-compliance" turn out to be more efficient in terms of costs and more effective in terms of results, and they demand a proper integrated information flow; recently the SAT has started a process of modernization of information technologies and integrated procedures, so that the interpretation of the information available can be carried out in the best way, in a context of free use of information by both areas.

3.2. Generating an analytic culture and continuity

To generate an analytic culture and continuity in the implementation of a risk management system it is necessary to consider, as already mentioned, that the handling of this issue involves a high degree of subjectivity, taking into account the economic, financial, social, and especially cultural differences that turn a process of selection of methodologies and analysis tools into a complex evaluation.

However, in practice the tax administration needs to manage effectively the subjectivity so that in order to obtain results from the efforts made through these tools in the pursuit

of tax compliance, we can generate an analytic culture of information, promoting decision-making based on reality and not on empirical inference.

Complemented with continuity strategies, avoiding the dispersion of attempts without focus, with continuity of time and adjusted for each country, the above mentioned may determine a change of conduct in how taxpayers comply with their tax obligations.

For the Guatemalan tax administration it is clear that results in this area are not expected in the short term, however the technical teams focus their efforts to determine if the actions undertaken to increase compliance generate change in the preferences of the taxable persons. On this road we have detected that the request of some qualitative and quantitative inputs has failed to meet this purpose and actions have been taken in order to correct certain components that could be affected.

The above has been achieved, thanks to the support and technical assistance from various international bodies linked to the issue, which today continue to support to the SAT in the formulation of models, that far from becoming too complex structures, may be simple tools that will allow in the near future be able to handle a control less intrusive, highlighting that the recent experience show it to be less onerous and generating better results.

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LESS INTRUSIVE POLICIES FOR REDUCING NONCOMPLIANCE RISKS NETHERLANDS TAX AND CUSTOMS ADMINISTRATION

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Contents: Summary. What *is* Compliance Risk Management?. 2. The nine steps for Compliance Risk Management: practical experience. 3. Final remarks

SUMMARY

In this paper the subject of less intrusive forms of reducing noncompliance risks will be treated and a method to do so presented. But before this specific subject, the model of Compliance Risk Management in the Netherlands will be dealt with, which has been for a decade or so a leading policy in the Tax and Custom Administration's enforcement of tax regulations. We have thus acquired in the intervening period the Tax and Custom Administration practical experience with the chosen approach and we have evaluated the concept. Insights still continue to develop. This paper has a relatively high level of abstraction and is based on the Guide on Compliance Risk Management in practice (available in English from the Netherlands Tax and Customs Administration) and new insights.

In the Netherlands the Tax and Customs Administration influences behaviour to achieve its strategic objective, which is compliance. Compliance is built on trust on both sides. Compliance risk management is focused on securing this compliance by making carefully considered choices of the types of instruments, combinations of instruments and the intensity of their use that will be deployed in specific situations to achieve improvements in compliance behaviour or to support good behavior, also in more traditional instruments like enforcement. The objective is to achieve compliance with the tax regulations. We needn't look at compliance risk management as having a closed system of instruments which can be used, like checking tax returns, audits and debt management, but also tax payer services and even new interventions which are often more effective, cost less and are give less administrative burden to taxpayers,

The Tax and Customs Administration works in real time as this offers the best opportunities for influencing behavior and not having to interfere with the taxpayer later. It is a visible service provider and enforcer, as visibility influences behavior and achieves its compliance objective in increased cooperation with citizens, businesses and sectoral organizations. The Tax and Customs Administration is part of the government: it wishes to present a uniform service provider visage and to adopt an integral approach to enforcement. The Tax and Customs Administration cooperates with

citizens and companies. Compliance Risk Management is feasible only with adequate knowledge of taxpayers and groups of taxpayers. This is obtained by means of intelligence organised at both a national and local level. We can use data to identify relevant segments and target groups, to monitor, to detect and stop fraud and be predictable and transparent but this is not in all cases possible. At least we want to make it as easy as possible for tax payers to fulfill their obligations.

Behavioural science is pivotal in risk management. It informs us that influencing (compliance) behaviour is anything but easy and that a one-dimensional approach – vertical and individual – will not be sufficient. This is because the behaviour exhibited by a specific citizen or a business can be caused by numerous factors. It is essential that the reasons for taxpayer noncompliance are determined in the specific situation. It is necessary to realise that the taxpayer's noncompliance may be due to the Tax and Customs Administration's actions.

This paper contains a step by- step plan that is intended to provide assistance: it should not be regarded as a straitjacket. These nine steps are:

- Step 1 Analysis of the problem: What is the problem and which target group is involved?
- Step 2 Analysis: What is the severity of the problem?
- Step 3 Defining the effect: What is the required effect?
- Step 4 Causality: What are the causes of the tax gap?
- Step 5 Client segmentation: Which sub-classification of the taxpayers can be made?
- Step 6 Enforcement instruments: Which instruments can be deployed for which segments?
- Step 7 Schedule: Draw up a plan of approach.
- Step 8 Implementation: Implement the plan.
- Step 9 Evaluation: Has the required effect been achieved?

The step-by-step plan is not a revolutionary idea: it is based on a lot of common sense – “Look before you leap”. “Think before you act”. The following sequence will be familiar to many: define the problem – make the diagnosis – implement the measure – check the solution. However:

- the problem is not always clear or definable;
- the diagnosis is frequently skipped and the further approach is based on intuition;
- the measures are frequently based on personal perceptions rather than on the group of taxpayers, and options other than vertical supervision or the traditional collection process are not always taken into consideration;
- the check of the solution is frequently muddled by incorrectly regarding adjustment/revenue (the result) as the same as compliance (the effect). The step-by-step plan can help to achieve the objective of ‘Supervision that counts’.

1. WHAT IS COMPLIANCE RISK MANAGEMENT?

The Tax and Customs Administration influences behaviour to achieve its strategic objective: compliance.

To encourage taxpayers to comply we want to foster a climate in which taxpayers feel responsible to do the right thing. We want to create an environment that supports compliant behavior. It is important that taxpayers can trust the tax administration. Our core values credibility, responsibility and care are at the basis of this trust. Enforcement protects society from harm and sets the norm.

Taxpayer behaviour is influenced by the use of a range of supervisory instruments. The Tax and Customs Administration's traditional instruments include the mass selection of tax returns submitted by private individuals and businesses, audits and investigations. The provision of services (the provision of information) is another instrument that has been used for many years. Instruments of more recent date include horizontal monitoring (in the form of covenants or other agreements with third parties), enforcement communications and visible supervision (in the form of tax surveillance and campaigns). The latest instruments include the improvement of service by, for example, also approaching citizens outside normal office hours to make call-backs and settle objections. The Tax and Customs Administration begins every project and campaign with an identification and analysis of the issues involved. This information is then used to select the combination of instruments that is most compatible with the intended influence on the behaviour of groups of taxpayers, as determined by the effect the Tax and Customs Administration aims to achieve and the capacity that is available. The Tax and Customs Administration invests both in monitoring taxpayers and their relevant backgrounds and in risk and behavioural analyses to obtain the information required for the identification and analysis of the relevant risks. The subsequent selection of instruments needs to be carried out with care: these instruments need to target the identified issues and be based on responsive enforcement. This is extremely important, as the use of inappropriate instruments can actually be counterproductive. Only with knowledge of taxpayer behaviour and the capabilities and limits of a specific instrument (the 'know' element), the appropriate instruments can be selected. This knowledge is important, as it determines what the Tax and Customs Administration needs to do and what is of less relevance. When possible, supervisory activities are carried out in the form of themes and projects as this approach increases the impact on society. Pursuant to this approach the intended effect and the intended target groups are determined in advance (effect-oriented management).

Compliance Risk Management refers to making carefully considered choices of the types of instruments, combinations of instruments and the intensity of their use that will be deployed in specific situations to achieve improvements in compliance behaviour or to support good behaviour.

The selected approach must achieve the greatest possible effect with the least possible resources. The issues are not restricted solely to tax risks and financial interests, but also extend to issues with political and societal impact. Moreover, adopting a range of approaches enables the Tax and Customs Administration to maintain the compliance of a growing and increasingly dynamic client portfolio at an acceptable level (with proportional and differentiated enforcement). In employing this concept the Tax and Customs Administration accommodates demographic, economic and international developments that have consequences for the size and diversity of the total taxpayer portfolio.

1.1. What is the *objective* of Compliance Risk Management?

The objective is to achieve compliance with the tax regulations. Citizens and enterprises fulfill their obligations when:

1. they justifiably register to pay tax;
2. they file their returns in time;
3. they file correct and complete returns;
4. they pay their tax in time.

1.2. General Compliance Risk Management aspects

Compliance Risk Management pivots on making carefully considered choices with the intention of achieving an effect on taxpayer compliance behaviour. Shortcomings in compliance behaviour can relate to:

- A subject (client) or groups of subjects (clients), for example a segment or a sector;
- An object or group of objects, such as sections of the tax returns, goods, services or cash;
- Tax moments or specific tax behaviour;
- Demarcated locations (such as a specific region or district) or times (such as an event). We can for instance build integrated services around events.

However, all these instances relate to a taxpayer or taxpayers who do not exhibit (adequate) compliance behaviour. For this reason, the Tax and Customs Administration's enforcement must always focus on taxpayer behaviour in an endeavour to improve compliance: this forms the basis of the definition of 'subject-based supervision'.

Our role changes: from inspection of tax returns to steward of the system-as-a-whole. Our image should be: be predictable, trustworthy and responsive, our operations are committed to making it easy and provide flawless services.

Now we come to the subject of less intrusive policies for reducing noncompliance risks. When viewing improvements to compliance behaviour from this perspective it will

always be worthwhile to review the extent to which planned campaigns meet the following criteria.

- **Real time**

The Tax and Customs Administration works in real time as this offers the best opportunities for influencing behavior and not having to interfere with the taxpayer later. The Tax and Customs administration's real-time supervision is focused on ensuring the quality of future returns. 'Real time' is characterised by the key terms 'up front' and 'support'. Real time also means that the taxpayer has all the necessary information which is necessary for the tax administration available. Later on this is much less so and will cause a much larger administrative burden. Extra payment may not be so much a problem, because expectations may be less and payment probably more easy, because income is not spent yet. Pay as you earn is an important principle for good tax debt management.

- **Visible**

The Tax and Customs Administration is a visible service provider and enforcer. Visibility influences behaviour. As such, visibility – or presence – achieves a preventive effect without the need to take active corrective or punitive action. Taxpayers experience the Tax and Customs Administration as an enforcement agency. This visibility can be given literal shape by, for example, being active on the streets or – indirectly – communicating enforcement issues. 'Visibility' is characterised by the key terms 'prevention' and 'perception of being caught'. There are several examples for good visibility. A road check with a monitoring of number plates of passing cars, which can be linked to persons with non-paid tax debts, is one of them.

- **Horizontal**

The Tax and Customs Administration intends to achieve its compliance objective in increased cooperation with citizens, businesses and sectoral organisations. An increasing number of organizations perceive that they have a responsibility to society. The Tax and Customs Administration responds to this awareness of social responsibility by being open to parties that wish to cooperate. Only when they can actually fulfill this responsibility these parties can reach an agreement with the Tax and Customs Administration. These agreements relate to the quality of the returns or to the quality of software products. The next development will be secure online, where organizations work with trusted software, f.i. systems within our scope, online bookkeeping (cloud computing) and trusted cash registers, on-board computer of taxis and trip recording devices for (company) cars.

- **Cooperation**

The Tax and Customs Administration is part of the government: it wishes to present a uniform service provider visage and to adopt an integral approach to enforcement. The Tax and Customs Administration cooperates with citizens and companies, for example via their interest associations, and with other private and public organizations. This cooperation not only encompasses joint repressive actions in, for

example, intervention teams and Regional Information and Expertise Centers, but also extends to the joint provision of services and cooperation in communications. External cooperation contributes to the achievement of a number of objectives, namely the improvement of the Tax and Customs Administration's supervisory activities (effectiveness), the reduction of the administrative burden imposed on citizens and business and the development of a compact government (efficiency), for example by avoiding overlaps and making use of each other's qualities, activities and information.

- **Compliance by design**

The Tax and Customs Administration is designing our IT systems as easy as possible for taxpayers to comply with their obligations. For example, we use now pre-populated tax returns for private taxpayers in which data acquired from employers, banks, other government agencies are used. This leads to compliance by design, it is made much easier to fill in the tax return and comply with fiscal legislation. We also are improving the quality of withholding taxes data through a project with the social security agency and business partners for the wages tax. Legislation can be aligned to improve compliance by design.

- **Intelligence**

Compliance Risk Management is feasible only with adequate knowledge of taxpayers and groups of taxpayers. This is obtained by means of intelligence organized at both a national and local level. The knowledge possessed by the Tax and Customs Administration is becoming increasingly important, not only in terms of information about taxpayers but also in terms of the ability to make choices and to measure results and effects (the learning cycle). A closed learning cycle is in turn important as this yields knowledge of the choices, approach and implementation at both a tactical and strategic level. We can use data to identify relevant segments and target groups, to monitor, to detect and stop fraud and be predictable and transparent. The next development in this regard is the use of big data, advanced analytics and predictive modelling. The use of these is still being developed. This information can help the Tax and Customs Administration with in depth selecting and categorizing tax payers, so it may be possible to determine the most cost effective and less burdensome intervention.

Four components

Compliance Risk Management can be divided into four components, namely tax payers (private individuals and businesses), effects, forms of enforcement and the available capacity.

- businesses and private individuals, i.e. the taxpayers: the clients. The clients have both personal characteristics and characteristics associated with the group to which they belong, for example their sector, size, compliance level, domicile, starting year of operations and self-employed persons without personnel or entrepreneurs with personnel, etc. The value of a classification into groups and a specific classification into groups is greatly dependent on the issue in question and the elements of compliance behavior that are to be improved.

- the available forms of enforcement. The Tax and Customs Administration had traditionally focused on desk audits, tax audits and the collection process. However, nowadays a range of forms of enforcement is available. Each of these forms achieves a different effect (which may also differ by client type), is associated by a specific cost and, in some instances, requires specific competences. These differences give cause to the need for the sophisticated deployment of competences and capacity. Developments go fast and offer us a much broader choice in methods, techniques and possible interventions.
- the available capacity to give shape to Compliance Risk Management: the staff and their competences. Consequently, the 'available capacity' not only relates to the availability of staff time but also, and in particular, to the availability of the necessary knowledge and skills.
- the objective of Compliance Risk Management is to achieve an optimum effect on compliance by tailoring the available capacity and forms of attention to the client portfolio in a manner that improves the compliance behaviour of the relevant taxpayers. The Tax and Customs Administration was for many years primarily engaged in the measurement of results in the form of numbers, lead times, backlogs and portfolio management. The challenge confronting the Tax and Customs Administration in the coming years will continue to be the implementation of the shift from result measurement to effect measurement and the utilization of the opportunities offered by effect measurement. However, the measurement of effect is not simple: was a change in behavior actually due to the intervention? Experience has revealed that for the time being the Tax and Customs Administration shall in many cases need to be satisfied with compliance measurements, i.e. assessments to determine whether taxpayer behavior has shifted in the required direction after a specific intervention. The Tax and Customs Administration still continues to acquire knowledge in every area of Compliance Risk Management, such as knowledge about the size and causes of tax gaps, about enforcement instruments and their effectiveness, and about compliance measurements. We now have a Guide (available also for other tax administrations) on compliance risk management that is revised at intervals but this guide cannot keep this knowledge up to date. The up-to-date knowledge to the Dutch tax inspectors is available from different sources like national enforcement managers, technical supervision and the *Toezichtplaza* ('Supervisory Plaza', BelastingNet). These sources also possess the expertise required to answer specific questions about campaigns and projects and to provide general advice.

Compliance Risk Management and influencing behavior

Compliance Risk Management focuses on effectiveness and efficiency, where effectiveness relates to the achievement of the best possible result from the intervention

(the supervision) and efficiency to the achievement of the result at the lowest possible cost. Behavioural science informs us that influencing (compliance) behaviour is anything but easy and that a one-dimensional approach – vertical and individual – will not be sufficient. This is because the behaviour exhibited by a specific citizen or a business can be caused by numerous factors. It is essential that the reasons for taxpayer noncompliance are determined in the specific situation. It is necessary to realise that the taxpayer's noncompliance may be due to the Tax and Customs Administration's actions and be influenced, for example, by the transparency of procedures, the speed at which questions are answered and the clarity of answers or the manner in which the Tax and Customs Administration acts, etc. For this reason every taxpayer must be approached in an open-minded manner. The Tax and Customs Administration's contacts with taxpayers are based on cooperation and trust. When interventions fail to achieve adequate results then Tax and Customs Administration will usually decide to continue on to harsher instruments, such as the imposition of estimated assessments, the performance of inspections or the imposition of penalties, etc. By choosing this course of action The Tax and Customs Administration has adopted a responsive approach, an approach based on the taxpayer's actual behaviour. Punishment is not always the appropriate instrument, in particular when the reasons are outside the person's control: moreover, punishment can often actually be counterproductive. These situations include, for example, compliance with regulations that the Tax and Customs Administration also regards as extremely complex. It is also necessary to bear in mind that, in contrast to the Tax and Customs Administration, citizens and businesses are not continually focused on tax issues: they are engaged in running their business and tax issues are much more of a secondary consideration. A variety of studies has demonstrated that communication is one of the most important instruments for influencing behaviour and that communication is often most effective when combined with another form of enforcement. Treating taxpayers in a decent and respectful manner also makes a not unimportant contribution to improved tax behaviour. Nevertheless – and self-evidently – someone who is not of good will is not going to respond to a mild approach such as communication. Harsher measures will then be required. However, in most cases providing assistance, seeking contact and 'enticing good behaviour' will result in a more permanent favourable effect.

Special attention can be given to special groups or events, where compliance is less: for instance young people with gaps in their knowledge, people who have been recently divorced, have difficult tax obligations, people who have lost a relative may have less attention to their obligations, avoiders with psychological problems or lacking knowledge who don't understand the system. Events often only occur once. Mild approaches often work better than harsh punishment.

It is now necessary to make a brief detour to behavioural science in an endeavour to arrive at a practicable and convenient model for the implementation of Compliance Risk Management.¹

¹ Source: Professor Dr Theo Poiesz, *Gedragmanagement, waarom mensen zich (niet) gedragen* ('Behavioural management, why people (don't) behave'). The step-by-step plan explained in this Guide was also inspired by the philosophy presented in

- A distinction can be made between three conditions/factors governing (compliance) behaviour:
 1. motivation: the person must be willing to exhibit the behaviour;
 2. capacity: the person must be able to exhibit the behaviour;
 3. opportunity: the circumstances (outside the person's control) must make compliance feasible.

Each of these factors can be assigned a value between a minimum of 0 and a maximum of 1. The values assigned to each factor are multiplied to obtain the probability that the specific behaviour will actually be exhibited. Self-evidently, the values assigned to each factor differ between individuals. For the purposes of simplicity, two qualitative values are assigned to each factor: high and low.

- These values assigned to the factors are of importance to the analysis of the behaviour of a group. More details are enclosed in Step 4.²
- This more refined classification offers an opportunity to implement more specific measures to achieve a change in (compliance) behaviour.

2. THE NINE STEPS FOR COMPLIANCE RISK MANAGEMENT: PRACTICAL EXPERIENCE

The 'know, choose, act' principles of Compliance Risk Management are applicable to enforcement at both national and local level. Compliance Risk Management lays the foundations for strategic plans and for specific campaigns. This paper contains a step by- step plan that is intended to provide assistance: it should not be regarded as a straitjacket. Although the steps are arranged in a logical sequence, a different sequence can be adopted when so required. In practice, it will often be necessary to return briefly to a previous step during the process. Nevertheless, it will always be necessary to work through all steps and to begin each step by giving careful consideration to the results that will need to be achieved in the step and the work that will need to be carried out to obtain those results. Experience has shown that in their wish to take action Tax and Customs Administration staff often skips the first four steps. However, these are precisely the steps that provide Compliance Risk Management's greatest added value. Compliance Risk Management – and, consequently, the step-by-step plan – is *not* a solo activity. It will be wise to involve a range of experts in the plans. It is important to

this book.

² For example, a specific group could pose a specific tax problem: the persons in this group could be prepared to commit fraud ('motivation' is high), the circumstances for them to do so could be favourable ('opportunity' is high) but they are not able to do so ('capacity' is low).

realise that the competences required for the earlier phases – and certainly the first four phases – can differ from those required in the later (implementation) phases. Involving more experts will avoid a one-sided approach. It is also wise to give consideration to the involvement of external experts (such as other law enforcement agencies, sectoral representatives, intermediaries and clients). The approach should be based on objective knowledge whenever possible: are the premises on which the project is based actually correct? However, this should not be taken to excess: figures are certainly of value – but so is a professional assessment. Experience has also shown that it is necessary to review the background of a specific situation. The plans should not focus solely on the target group that is to exhibit improved compliance behaviour: it is possible that the required effect can also be achieved via other players in the relevant playing field (indirectly influencing behaviour). For example, could horizontal monitoring for these players be of value? Could mistakes be avoided by reaching agreements with software suppliers? Are there any interest associations or sectoral organisations and, if so, is cooperation with them feasible? Are there any other government agencies involved with these same groups and would cooperation with these agencies be of value? Any such cooperation is not necessarily limited to repression, but could also relate to the provision of service and communication. Compliance Risk Management is linked to prevention, for example: How can regulations and policy or return programs and forms minimise the probability of non-compliance? Amendments to regulations and modifications of systems and applications will often lie outside the authorisation of those involved in a project or campaign. However, everyone involved does play a role in identifying issues. This is also applicable to the opportunities for making use of third-party information (including information available from abroad!). The use of this information in the provision of service (pre-completed tax returns) or inspections can contribute to the prevention of non-compliance, identifying non-compliance and the perception of the probability of being caught.

The step-by-step plan: the nine steps

- Step 1 Analysis of the problem: What is the problem and which target group is involved?
- Step 2 Analysis: What is the severity of the problem?
- Step 3 Defining the effect: What is the required effect?
- Step 4 Causality: What are the causes of the tax gap?
- Step 5 Client segmentation: Which sub-classification of the taxpayers can be made?
- Step 6 Enforcement instruments: Which instruments can be deployed for which segments?
- Step 7 Schedule: Draw up a plan of approach.
- Step 8 Implementation: Implement the plan.
- Step 9 Evaluation: Has the required effect been achieved?

Step 1 Exploring the problem

What is the problem and which target group is involved?

Input Indications, knowledge and intelligence

<i>Throughput</i>	Refinement of information, classification of the information, determination of the (sections of the) legislation and regulations involved (in particular) in the tax gap and the (groups of) taxpayers that could be involved
<i>Output</i>	Specification of the tax group and the (group of) taxpayers that may be involved

Description

Within this context the 'problem' is a tax gap in which insufficient compliance with the (tax) legislation and regulations is an issue, an improvement in compliance behaviour is required and a (form of) supervision is feasible. This can then relate to:

- a subject (entrepreneur) or group of subjects, for example a segment, sector or target group;
- an object or group of objects, such as sections of the return, goods, services or cash flows;
- tax moments or specific tax behaviour;
- demarcated locations (such as a specific region or district) or times (such as an event or the introduction of new legislation). The issue may also relate to an international problem and/or regulations.

The problem/situation is characterised by at least one and often a combination of these facets.

Approach

- Who (inside or outside the Tax and Customs Administration) drew attention to the problem/situation and what was the reason? What has the person or party that drew attention to the issue done to analyse the problem?
- Determine which problem is an issue and whether national or international regulations are an issue. Does the problem relate solely to (non) compliance with tax regulations or also extend to other regulations?
- Determine the risks involved in (the greatest part of) the tax gap.
- Is there an insight into the degree of compliance? Is it known why taxpayers comply with the regulations or contravene the regulations? What is the primary motive? Is there a relationship between the contraventions?
- Determine which groups of taxpayers play a role in the situation. What are their mutual relationships? How do they contact/impact each other? How do they influence each other's (commercial, legal or tax) behaviour?

- Try to draw up a specification of the problem and target group in as specific and manageable terms as possible. The issue may also relate to administrative obligations: in some instances the underlying risk or reprehensible behaviour may relate to another group (for example, the invoicing obligation). On some occasions the problem (also) arises after the determination of the tax due: for example, it transpires that amounts due pursuant to assessments are difficult to collect and/or no recovery options are available.

Tips

- Draw up a mind map focused on the problem and adopt an associative approach to a review of all the parties that may be involved.
- Carry out an analysis of the background to the problem: who – including any external parties of relevance – is involved in resolving the problem or in the persistence of the problem?
- If objective information is unavailable, then make use of the intuition and experience knowledge of the staff and make use of various expertises.

Pitfalls

- Exaggerating the problem ('They ignore the tax legislation').
- The enlargement of the group ('The SME sector').
- Lack of attention to collection of taxes.

Step 2 Analysis

What is the severity of the problem?

<i>Input</i>	specification of the tax group and the (group of) taxpayers that may be involved
<i>Throughput</i>	Estimation of the scope, intensity and severity of the tax gap, the capacity required to address the issue and weighing the capacity against other tax gaps.
<i>Output</i>	Go/no-go decision on addressing the tax gap

Description

This Step focuses on three issues: knowledge of the scope and intensity of the tax gap, assessing the severity of the tax gap and consideration of its severity as compared to other tax gaps, where relevant.

Approach

a. Knowledge of the scope and intensity

- What information is available about the degree of compliance? Which segment of the target group *does* comply? What is the amount of the tax revenue that *is* received?
- What information is available about the degree of non-compliance? What does this issue score in the random sample? What is the estimated total amount that is not entered in the returns? What is the estimated loss of tax? What is the amount written off as non-recoverable?
- If this information is not available, then which methods are available for the relatively rapid and simple collection of more information? What information is available in the basic income register? What information is available elsewhere (for example, Netherlands Statistics, OECD)?

b. Weighing the severity

- Determine which underlying (policy) objectives should be achieved with the relevant regulations/legislation. Which objectives are put in jeopardy by non-compliance?.
- Assess the hindrance caused by the problem³. Who suffers hindrance from or is disadvantaged by these contraventions? Is loss of revenue the sole issue, or are other issues also involved?
- How severe is the problem, for example in terms of the amount of (tax) funds? And if the problem *is* severe, then why hasn't it been addressed earlier?.

c. Weighing the severity as compared to the severity of other tax gaps

- What is the valuation assigned to the severity of the problem as viewed from the perspective of b): slight, medium or severe?
- What is the initial estimate of the efforts – the necessary capacity – that will be required to address the problem? Is this low, average or high?
- How does the problem in question compare to other (potential) tax gaps and what does this imply for the further steps?

³ 'Hindrance' has been selected as the collective term used to refer to disadvantage, nuisance, hindrance or impediment, i.e. the (detrimental) effect of the tax gap.

Tips

- Use an estimate made by experts when hard information is unavailable. However, make sure that the experts arrive at an individual estimate in independence of each other. Use the differences in the estimates to discuss the underlying assumptions and arrive at a collective estimate.
- Make use of intelligence at a regional, national and, where relevant, international level.

Pitfalls

- Waiting until a complete insight is available (and not doing anything until then)
- Finding umbrella terms such as 'fraud' sufficient, without a further specification of what they mean in the context
- Being unwilling to make estimates and avoiding all risks, resulting in an overestimate of the hindrance
- Dismissing the problem out of hand, 'because the capacity isn't available anyway'.
- Waiting for an insight into the risks associated with the Tax District's entire work programme
- Devoting a great deal of effort to the collection of information whilst the problem would not appear to be serious throughout the entire Tax District.

Step 3 Specification of the required effect

What is the required effect?

<i>Input</i>	Weighted and analysed tax gap
<i>Throughput</i>	Determination of which group of clients is to exhibit which effect and, as a result, the required effect
<i>Output</i>	Determination of the required effect

Description

Compliance Risk Management assumes that the effect to be achieved is known. Compliance with regulations is achieved when taxpayers carry out specific acts (mandatory requirement) or, conversely, refrain from specific acts (prohibition). Carrying out or refraining from specific acts are both forms of behaviour. Compliance Risk Management employs supervision to exert a favourable influence on compliance behaviour. Consequently, the required effect is formulated in terms of the required

behavior or required improvement. Formulating the objective as 'Improvement of compliance behaviour' not precise enough for the selection of specific instruments. *Which* compliance behaviour is an issue? Who, or which group, is to exhibit this behaviour? What are the specific circumstances? To what extent is the compliance behaviour to be improved, i.e. to which level? It is necessary to demarcate the area in which the effect is to be achieved. A distinction can then be made between four areas, namely the risks associated with the:

1. registration of taxpayers;
2. filing of returns (in time);
3. payment of tax;
4. compliance with administrative obligations and the correct and complete processing of transactions in the return.⁴ The measurement of the effects and the feasibility of those measurements vary by area. Results are not the same as effects. For example, the number and lead times of inspections and the corrections following those inspections are known: these are *results*. The *effect* of those inspections is the resultant improvement in the degree of compliance behaviour exhibited by the taxpayers (and others) who were inspected. Another example is the number of attachments: the result is the income and the effect is the degree of improvement in compliance behaviour. Results have a primarily internal focus whilst effects have a primarily external focus. The relationship between the deployment of enforcement instruments and the resultant improvement in compliance behaviour is the essence of Compliance Risk Management.

Approach

- Which specific change in compliance with the regulations is to be achieved?
- Specify the effect that is to be achieved. Which group shall need to exhibit which behaviour from now on? Why is this required? How important is this? How permanent will the effect need to be?
- How will the improvement in behaviour be assessed? Give consideration to Step 9 when reviewing this issue!

Tips

⁴ It is impossible to overemphasise the importance of compliance with administrative obligations to (the ability to) filing correct and complete returns by the taxpayer or a third party (in the case of the invoicing obligation, for example, the taxpayer's customer).

- Carry out a role-playing exercise with a discussion between a supervisor and taxpayer in which the taxpayer continually asks: “What do you expect from me?” “I want to do it properly, but what do I need to *do* to do it properly?”
- Give consideration to times, events and circumstances that are of importance to taxation. (For example, when a new employee joins the taxpayer's organisation or the organisation is confronted with liquidity problems). What will the taxpayer need to do in these situations?
- Re-examine the underlying risk(s). Specify the effect in terms of the improvement in compliance behaviour in the specific area that results in the reduction of the scope and importance of the underlying risk.
- In addition, give consideration to potential undesirable side effects and how these can be avoided.

Pitfalls

- Immediately referring to the issue as 'compliance'. This is certainly true, but what does it mean? Formulate a practical and manageable specification of the term for the case in question.
- Devoting a great deal of energy to the precise measurement of parameters that cannot be measured readily.
- Endeavouring to identify a relationship between *one* form of enforcement and an observed effect.

Step 4 Causality

What are the causes of the tax gap?

<i>Input</i>	Weighted and analysed tax gap, together with a specification of the required effect
<i>Throughput</i>	Assessment of the causes of non-compliance with the legislation and regulations that results in the tax gap (the risks)
<i>Output</i>	Summary of the causes of non-compliance by (group of) risk(s).

Description

This Step focuses on working out the problem in more detail and demarcating the extent of the problem.

This step needs to concentrate on the link between the current behaviour (non-compliance) and the causes. What is the risk and what is the problem area? When do

taxpayers exhibit non-compliance behaviour (in which situations)? Which stimuli or players then play a role?

Approach

- Assess the causes of the compliance problem. What is known about the offenders' motives? What are the reasons why another segment of the target group *does* observe the regulations?
- What is known about the reasons? Pursuant to Poiesz' theory, a specific form of behaviour is exhibited solely when a certain degree of motivation, capacity and/or opportunity are present at the same time. Which condition or conditions is/are lacking to an adequate extent? The table enclosed in Annex 3 can be of use when carrying out this review.
- Is non-compliance due to 'inability' or 'unwillingness'?
- Do the information systems offer opportunities for the achievement of compliance with the standard without needing to make extra efforts? For example, on introducing taxi on-board computers in 2009, the Ministry of Transport, Public Works and Water Management not only reduced the administrative burden but also increased the feasibility of conducting inspections.
- Use the compliance analysis enclosed in Annex 4 to obtain a more precise insight into the causes of non-compliance behaviour.
- Do the tax regulations give cause to the non-compliance? To what extent is the non-compliance due to unclear regulations?
- Are there circumstances outside the tax field that exert a great influence on non-compliance? Reason, discuss and collect information to identify these circumstances. Intelligence can also certainly be of assistance in making this identification.

Pitfalls

- Overhastily concluding that the problem is simply unwillingness.
- Overhastily concluding that a taxpayer or group of taxpayers is compliant or is non-compliant, whilst this is often highly relative and the degree of compliance can vary between acts and articles of acts.

Step 5 Client segmentation

Which sub-classification of the taxpayers can be made?

<i>Input</i>	Summary of the causes of non-compliance by (group of) risk(s).
<i>Throughput</i>	Distinction between (groups of) taxpayers by causes of non-compliance
<i>Output</i>	Summary of (groups of) risks and taxpayers by causes of non-compliance

Description

This Step focuses on the subject, the taxpayers. Which taxpayers comply with the regulations and which do not? What is known about this group of taxpayers and the individual taxpayers? Are the taxpayers members of one homogeneous group or are there a variety of subgroups? What is the relationship between the taxpayers?

Approach

- What is known about the group and the circumstances (once again, in terms of motivation, capacity and opportunity)? What is the level of organisation? Can partners to discussions be identified? What relevant information is available about the group and what additional information is required?
- Which motives, interests and other factors will provide incentives for the required improvement in the target group's compliance behaviour? Which motives, interests and other factors will frustrate the required improvement in compliance behaviour?
- Assess whether the most important target groups can be divided into sub-target groups on the basis of the driving forces behind their tax behaviour (motivation, capacity and opportunity).
- Can the target group be assessed as homogeneous, or as heterogeneous and consisting of a number of subgroups as viewed from the perspective of:
 - exhibited behaviour;
 - motives, interests and other factors;
 - required behaviour;
 - the instruments to be deployed.
- Can the group of taxpayers distinguish itself in a favourable manner? (for example: the same cash register system can be supplied with or without a sales suppression module)
- How can the Tax and Customs Administration make effective use of the motives, interests and other factors that play a role within the specific target group?

Tips

- Carry out a force field analysis from economic, financial, social and technical perspectives to identify the forces that promote the target group's compliance or non-compliance.
- Endeavour to classify the group into four categories, namely taxpayers exhibiting optimum compliance, inveterate offenders, the ignorant, and taxpayers who deliberately explore the boundaries of the regulations. It is important to bear in mind that this classification is based on estimates that still need to be tested in contacts with the taxpayers. The questionnaire enclosed in Annex 5 can then be of assistance.

Pitfalls

- Spending too much time searching for more (unknown) information.

Step 6 Enforcement instruments

Which enforcement instruments can be deployed for which segments?

<i>Input</i>	Summary of (groups of) risks and taxpayers by causes of non-compliance
<i>Throughput</i>	Selection of the forms of enforcement to be deployed for the various groups of taxpayers
<i>Output</i>	Summary of the forms of enforcement to be deployed.

Description

This Step focuses on the creative deployment of the range of available instruments. Is preference given to preventive, real-time or repressive instruments? Which individual instruments come into consideration and which combination is expected to achieve the best result for which groups or segments? The instruments must be *effective* (result in the required behaviour), *efficient* (incur the lowest possible compliance and enforcement cost) and *legitimate* (lawful, maintaining equality of rights and resulting in legal certainty). Each instrument is accompanied by a specific cost – or cost price – and a specific effect in terms of the cause of the non-compliance behaviour.⁵

Approach

- Determine which target group offers the most points of departure for a change in behaviour. Select at least three instruments to be deployed in the achievement of

⁵ This assumption is based on behavioural science studies. Experience with effects has now been acquired. The conclusions on the effectiveness of instruments are greatly dependent on the specific situation. It is not possible to state general recipes for the effect of the various instruments.

this change in behaviour. Which indirect effects on other target groups are conceivable and how could these effects be supported?

- Focus, as much as possible, on the causes of non-compliance: can these be remedied?
- Review the opportunities available for a joint approach in cooperation with other government agencies or other players in the field (such as software developers). Which elements of the problem or causes of the problem can be assigned to these other players? Is it possible to adopt an innovative approach to this cooperation?
- Assess which forms of enforcement could be most effective and then review which of these forms is the most economical. Begin the assessment with the risk reduction instruments (such as amendments of the regulations and the reduction of the administrative burden), horizontal monitoring and enforcement communication. Next, assess the real-time forms of processing and cooperation with external supervisory authorities. Finally, assess the repressive enforcement instruments on the basis of the responsive enforcement pyramid.⁶
- Give advance consideration to the four compliance factors (timely registration, timely filing of correct and complete returns and timely payment). Review how behaviour later in the chain can be influenced as early in the chain as possible.

Tips

- The Tax and Customs Administration intends to work in real time whenever possible. Are there forms of enforcement that can be deployed before the return is filed?
- The Tax and Customs Administration's supervision must be visible. When conducting this supervision, how can as many people as possible be reached with just one form of enforcement?
- Give consideration to the results that could be achieved with enforcement communication in this situation. Which message would need to be conveyed? Would the message vary for each target group or subgroup? Which means of communication would be employed (including the social media)? What action would be taken with the response?

⁶ Begin with the provision of services, making things simple (right from the start), cooperation and on-site inspections, etc.: where relevant, select other instruments on the basis of the response.

- Make being compliant simpler whenever possible (and, if possible, more agreeable): offer taxpayers opportunities for corrections on their own initiative.
- The (enforcement) communication instrument can be used in almost all situations.
- Promote the quality of the administrative chain: the quality of the return is determined by the very first record and the quality of the return also influences the probability of timely payment.
- Involve the regional communication expert(s) in the approach.
- Businesses and the Tax and Customs Administration have different perceptions of inspection: businesses also experience a telephone call as a form of inspection.

Pitfalls

- Stubbornly hanging onto the old, familiar instruments (*not invented here*).
- Increasing the perceived probability of being caught without justifiable grounds.
- Failure to take into account the transfer of non-compliance ('escapism').

4.7. Step 7 Schedule

Draw up a plan of approach

<i>Input</i>	Summary of the risks to be addressed, the groups of taxpayers that have been distinguished and the forms of enforcement to be deployed.
<i>Throughput</i>	Development of a plan of approach: who does what, when and how
<i>Output</i>	Plan of approach

Description

This Step focuses on the transformation of ideas and options into a realistic plan. Once the go/no-go decision has been taken the next steps are to make arrangements for the staff, reach agreement on the schedule and lay down the procedure to be followed. In addition, it is necessary to assign responsibilities, powers and duties to the various officers involved.

Approach

- The steps have been completed, but has the decision-making also been completed? Has the management agreed to the plan and undertaken to supply the necessary capacity? Has an officer responsible for the plan been assigned?
- It is time to prepare the plan of approach. This must at least contain a brief summary of steps 1 to 6 and a schedule. Make sure that the technical groups and officers have been consulted on the plan of approach.
- Which staff will be involved? Make sure that they are involved in the preparation of the plan of approach.
- Formulate one or more objectives in *SMART* terms for as far as is possible. State when the work/project or action needs to be completed and specify a number of interim targets if possible.
- Will the work be carried out by staff in the existing structure (for example, a team) or will a separate project be set up for the work?
- Which competences are required for the success of the project? Will these competences be available within the team working on the project or will experts/consultants outside the team be called in to help? If experts/consultants are to be called in, then organise the necessary relationships between the project and the permanent organisation.
- Make advance arrangements for consultations with other enforcement agencies, sectoral organisations or other third parties. (Who will be involved and how will the consultations be organised?). In addition, make arrangements for the region to consult with the National Supervisory Authority to ensure that the Tax and Customs Administration does not contact third parties more than once. This will make clear which (framework) agreements have already been reached, where relevant, with each agency and organisation.

Tips

- Work in accordance with the principles of project management (but do not adopt an excessively rigid approach). Make sure that a client and project manager have been appointed and that their duties and responsibilities are clear. If necessary, arrange a short project management course for the officers with the greatest involvement in the project.
- Make sure that notification of the problem/approach is given in good time for the preparation of the national/regional/local supervisory plan. This ensures that the project is included in the plans, is taken into consideration in the broader assessment and the necessary capacity is made available. In addition, make sure that the project is included in the Supervisory Projects Database (BATO).

- Self-evidently, the private and public parties that cooperate in the project will have plans of their own. Bear this in mind and take this into account in the plan of approach. Agreements on international cooperation need to be reached well in advance.

Pitfalls

- Trying to do too much at the same time.
- Starting work without sufficient, explicitly formulated administrative support (laid down in writing, where relevant).

Step 8 Implementation

Implement the plan

<i>Input</i>	Plan of approach
<i>Throughput</i>	Implementation of the forms of enforcement for the various taxpayers or groups of taxpayers
<i>Output</i>	Results and effects

Description

When carrying out the work it is also necessary to give attention to the quality of the work and to provide the maximum possible assurances for the quality. This can be achieved both by thorough preparations (and training, where necessary) and by the development of guidelines that draw on the experience of others. The involvement of technical specialists (such as experts in the types of tax, inspections, procedural law, collection and specific forms of enforcement) will also be beneficial to the quality. It is necessary to bear in mind that substandard work carried out during the implementation of the plan can negate all the efforts made in the previous steps.

Approach

- Reach agreements on the implementation of the plan of approach. Agree on specific milestones on when the staff completes the work or elements of their work..
- Make arrangements for appropriate briefings/debriefings prior to and after each element of the work.
- Hold brief interim discussions on the current progress and experiences (successes and problems) with the staff that's implementing the plan of action..
- Make arrangements to ensure that the results from the work are readily accessible to other colleagues.

- Bear in mind that the Tax and Customs Administration needs to exhibit exemplary behaviour towards taxpayers: setting a good example acts as an incentive to others to behave in the same manner. The manner in which the Tax and Customs acts and communicates with clients also influences their willingness to fulfil their tax obligations.

Tips

- Make arrangements for adequate (automated) support for the work. Make sure that it is known which taxpayers or groups of taxpayers will receive attention and who will devote that attention. Lay these arrangements down in writing and hold periodic reviews of the progress.
- Warn the client in good time if the agreed capacity is not made available.
- Try to make interim measurements or estimates of the compliance effects achieved by the forms of enforcement deployed for the project. Is it necessary to make adjustments to the objectives or use of instruments?

Pitfalls

- Failure to monitor progress (the whole point of the plan of approach is to ensure that all the work is completed)
- The inadequate availability of the right competences at the required time, i.e. the officers with those competences have other obligations or are working on other issues at the time they were to be called in
- Continuing with the work whilst there is a range of indications that the plan is not working
- Bear in mind that the initial assumptions on the causes for non-compliance could be incorrect. For this reason it is necessary to be alert to potentially incorrect assumptions while the plan is being implemented. The assumptions need to be reviewed periodically.

Step 9 Evaluation

Has the required effect been achieved?

<i>Input</i>	Results and effects
<i>Throughput</i>	Analysis of the results and effects
<i>Output</i>	Determination of the extent to which the required effect has been achieved or the need to adjust the plan of approach and the identification of lessons learnt for future projects

Description

This Step focuses on one of the most difficult elements of Compliance Risk Management – the measurement of effects. This is difficult because sufficient data for measurements of compliance behaviour will not always be available. Moreover, taxpayer behaviour is dependent on more variables than solely enforcement. However, this does *not* imply that no efforts should be made to measure the effect, as these measurements close the learning cycle. One important condition attached to effect measurement is an appropriate specification of the required effect. This is also the reason why attention was devoted to effect measurement as early as Step 3. Step 9 is not only the last step in the activities but also forms the beginning of a new learning cycle.. In view of the trying nature of effect measurements it will be wise to supplement the quantitative records of the results – such as the numbers of the various forms of processing, the capacity devoted to the plan of approach, voluntary improvements to returns (numbers, subject and financial importance), corrected returns (numbers, subject and financial importance), the reduction, where relevant of, the arrears in payments and payments received in connection with returns/assessments, etc. – with qualitative results. These qualitative results consist of the experiences of the staff and that issues that have been observed, etc.

Compliance Risk Management is based on the principle shifting from exclusively measuring results to gaining an insight into compliance effects.

Approach

- When will the effects of the enforcement supervision become visible? This determines the moment at which monitoring will need to begin.
- Give renewed consideration to the indicators that will demonstrate that the right approach has been adopted and that the right things are being done. How can the objectives and the required effects be monitored?
- Can adjustments be made to the project if the required effects are not achieved?
- Also devote attention to the 'soft' signals the staff pick in during the implementation of the plan and record them in a logbook or similar document (briefing and debriefing).

- Try to gain an insight into the compliance behaviour before and after the intervention. Where relevant, try to assess the effects against a comparable control target group that was not addressed by the instrument or combination of instruments.

Tips

- Failure of the project or campaign should also be reported: this may well be of greater importance than reporting success.
- The *Effect meten: hoe doe je dat?* ('Effect measurement: how do you do that?') Brochure (available in digital form on the *Toezicht Plaza* ('Supervisory Plaza')) may be of assistance.
- Make a note of your personal learning experiences and exchange these with colleagues in periodic peer review sessions. Be open to each other: this is essential if the Tax and Customs Administration organisation is to be able to learn and make the necessary improvements. Also do this with the colleagues who were involved in the implementation of the plan of approach. Hold a debriefing and collect the experiences of the officers involved in the work.
- Make more use of 'approximately': it's not about hard proof, but rather about plausibility.
- Bear in mind that any effects observed during the implementation of the plan of approach may have been caused by other factors, such as economic developments or the activities of other enforcement agencies.

Pitfalls

- Initiating a comprehensive information system circus and conducting large-scale surveys.
- Devoting a great deal of energy to the measuring parameters that are nearly impossible to measure.
- With the greatest possible precision.
- Only now giving consideration to the wished for effects instead of in earlier steps.

3. FINAL REMARKS

Now all the steps have been explained it is possible to link the specification of Compliance Risk Management given in the introduction to the nine steps involved in the

process. In fact, the process follows the four elements that were referred to in the introduction: the taxpayers, the effects, the available instruments and the capacity.

The step-by-step plan is not a revolutionary idea: it is based on a lot of common sense – “Look before you leap”. “Think before you act”. The following sequence will be familiar to many: define the problem – make the diagnosis – implement the measure – check the solution. However,

- the problem is not always clear or definable;
- the diagnosis is frequently skipped and the further approach is based on intuition;
- the measures are frequently based on personal perceptions rather than on the group of taxpayers, and options other than vertical supervision or the traditional collection process are not always taken into consideration;
- the check of the solution is frequently muddled by incorrectly regarding adjustment/revenue (the result) as the same as compliance (the effect). The step-by-step plan can help to achieve the objective of ‘Supervision that counts’.

TOOLS FOR CONTROL AND RISK MANAGEMENT

Paulo Ricardo Cardoso
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(Brazil)

Contents: 1. Collection. 1.1 DIRPF Nonfilers Program. 1.2 DCTF Network (Federal Tax Debit and Credit Return). 1.3 OPJUD – Judicial Proceedings Control System. 1.4 Risk Management on the Analysis of Credit and Tax Compensation. 2. Comercio Exterior. 2.1. Sistema de Selección por Aprendizaje Automático (SISAM). 3. Supervisión. 3.1 Proceso de Selección - Impuestos Internos. 3.2 Indicador: inspecciones finalizadas con un resultado. 3.3 Crédito fiscal establecido. 2. Foreign Trade: 2.1. Machine Learning Selection System (SISAM). 3. Oversight: 3.1 Selection Process - Domestic Taxes. 3.2 Indicator: audits completed with a result. 3.3 Tax credit established.

1. COLLECTION

1.1 DIRPF Nonfilers Program

The DIRPF Nonfilers Program makes an analysis of the nonfiling of Income Tax Returns by Individuals in FY 2008 (calendar year 2007). The CPF system uses the nonfiling information, since the Normative Instruction governing it provides for the cadastral update based on the possible nonfiling of the DIRPF (nonfilers must appear under the status of "pending regularization").

The nonfiling verification criteria implemented are:

- Linking CPF to CNPJ as participant of the Partners and Administrators Table (QSA) or responsible (responsibility information is only considered if there is no QSA for CNPJ). This criterion is only used for verification of the nonfiling for the Calendar Years 2007 and 2008.
- Taxable Income subject to annual adjustment, above the limits.
- Income taxed exclusively at the source, above the limit.
- Taxable income based on the performance of operations in stock exchanges, commodities, futures, or similar, regardless of value.
- Information obtained from the DIRF on taxable income subject to annual adjustment to taxpayers residing abroad. The CPF system created the IRE (Overseas Residents Indicator) which provides the ability to record information of residents living overseas in online functionality or fed by processing the DSD (Final Outgoing Return) or CSD (Final Outgoing Information). The indication that the taxpayer is a resident overseas for the calendar year will allow that not only

taxable income at the source be considered as a condition of the obligation to deliver the DIRPF and identify those who, despite having such status in the CPF, were taxed as residents.

1.2 DCTF Network (Federal Tax Debit and Credit Return)

DCTF Network was implemented to improve control of the tax credit and reduce the chances of a drop in collection, avoiding the automatic application or providing alerts to the returns of taxpayers facing completed or ongoing tax proceedings, with the declaration of drop periods, with reduction of debts for use in times of restitution or compensation returns, for obtaining CND or for the undue reduction of credits payable, with the credit stated in the DCTF linked to the declaration of origin of taxes and legal prohibition.

The DCTF delivered after the start of the tax proceedings will not produce automatic effects. In the case of ongoing tax proceedings, the DCTF debits may be applied manually by tax authorities, if the taxpayer has been ordered to file a corrected tax return. In the case of completed tax proceedings, the DCTF tax return reducing debits shall not apply to the calculation periods and taxes audited.

The corrected DCTF reducing the debits shall receive different treatment according to the limits set by the offices. If the total debt is reduced above a threshold below the DCTF, a warning shall be issued for offices with jurisdiction. If the total debit is reduced above the upper DCTF limit, there will not be automatic effects. Debits may be manually applied by the office after an analysis.

1.3 OPJUD – Judicial Proceedings Control System

The OPJUD is a Judicial Proceedings Control System, which aims to improve the work process by promoting increased productivity, bring collections to their actual potential, increase the perception of risk and taxation presence, and promote management risks of litigation.

The system was developed by the team of the Office of Tax Administration of Sao Paulo (DERAT / SP) to meet the need to track and manage works related to debits in suspense by a court order declared in the Tax Debits and Credits Return (DCTF).

The OPJUD can then record and monitor any type of judicial measure, monitor their progress, control – when there is any – tax credits, judicial bonds and proceedings related to the same, receive and store automatically (through the PUSH system) messages from various organs of the Judiciary, store all documents relevant to the monitoring of legal proceedings, monitoring of outstanding debts of analysis, providing consolidated data on judicial actions and issuing reports based on the data available in the database.

From the perspective of results and proceedings, the system allowed to accelerate the collection of the tax credit by reducing the time between the expiration of the tax and its collection, bringing actual collections closer to potential collections, raising the risk perception of taxation authorities presence, strengthening the image of the institution in the eyes of society and increasing voluntary compliance with tax obligations, particularly for taxpayers who declare debits related to legal actions for which no final judicial ruling has been issued, or for cases that are not part of the active part of the proceeding and that after a regular summons, collect the tax.

The risk of prescription was significantly reduced by increasing the operational security and expediting the enforcement of collection.

From the perspective of people and resources, it made an increase in productivity in the teams in which it was implemented possible, adapting a small team of public servants to the growing institutional demands, with the streamlining of human resources.

Finally, taking into consideration that the interface with the Judiciary also permeates the registration, collection, examination and litigation processes, the system can optimize the results of these projections, similar to what happened with the collection process, and it can also be used as a tool of tax intelligence, as a source of improvement of fiscal policy and an instrument of change in the legislation.

1.4 Risk Management on the Analysis of Credit and Tax Compensation

The taxable person who claims a credit can use it to compensate his/her own debits, due or accrued, in relation to taxes administered by the RFB, subject to social security contributions.

The compensation is made by a taxable person by submitting to the RFB his/her Compensation Declaration (DCOMP) generated by the PER / DCOMP program or, in light of the inability to use it, through the Compensation Declaration form.

The compensation extinguishes the tax credit subject to the subsequent standardization of the procedure.

Thus, given the need to prevent the extinction of the tax credit by the tacit standardization of undue compensations and given the impossibility of reviewing in the five-year expiration term the more than 600,000 DCOMP filed, it is necessary to adopt criteria of risk analysis in selecting the returns to be audited.

These criteria examine the history of non-standardized compensations, the amount of compensations, the value of credit claimed not automatically validated by the Credit Control System (CMS) and indications of irregularities identified by the electronic exchange of data, as a way to identify the impact, the probability and severity of noncompliance risks of compensation and irregularity in the calculation of credit claimed for the compensation.

For the purpose of risk analysis of compensation, the following is considered:

Probability	% of certainty
1-Very Low	0 to 20%
2-Low	20 to 40%
3-Medium	40 to 60%
4-High	60 to 80%
5-Very High	> 80%

Probability (P): degree of certainty of occurrence of noncompliance of compensation or irregularity in calculating the credit.

Impact (I): the impact on revenues resulting from noncompliance of the compensation or irregularity in calculating the credit.

Very Low (1)	Low (2)	Medium (3)	High (4)	Very High(5)
Insignificant	From x to x'% of the collection	From y to y'% of the collection	From xy to xyz% of the collection	Above xyz% of the collection

The degree of gravity ($G = I \times P$) is defined in the probability x impact matrix appearing below:

Probability x Impact Matrix

		Probabilidade				
		1	2	3	4	5
Impacto	1	1	2	3	4	5
	2	2	4	6	8	10
	3	3	6	9	12	15
	4	4	8	12	16	20
	5	5	10	15	20	25

Baixo
 Médio
 Alto

Planning of Responses to risks:

Prevention: Prevention of risks involves evolutionary changes in the SCC and the PERDCOMP program to eliminate the threat posed by the risk of noncompliance of compensation.

Accept: It is seldom possible to eliminate all risks. Thus, accept indicates the decision not to respond to risk in view of the low level of gravity or because the treatment would be unfavorable according to the costs versus benefits analysis.

Mitigate: Risk mitigation requires reducing the probability and / or impact of noncompliance or irregularity to an acceptable limit through summary proceedings or electronic audits.

Systems used in risk management

- Credit Control System (CCS)
- Digital Accounting Public System (Sped)
- ContAgil System
- Sief PERDCOMP System;
- Tax Intelligence System (SIF)

2. FOREIGN TRADE

2.1. Machine Learning Selection System (SISAM)

One of the activities of customs risk management carried out by the Federal Revenue Secretariat in foreign trade is the analysis of import declarations that have been directed to the Green Channel, from which the goods are released for delivery to the importer without the need for customs inspection.

This analysis is necessary to detect declarations that have not been selected for verification channels (document review and / or physical verification of the goods) by normal selection parameters used by the Siscomex or resulting from analyzes carried out nationwide by the National Center for Customs Risk Management, but which may contain irregularities associated with the tax classification of goods, origin, customs value or fraud in administrative processing. This activity requires intensive work involving cross-checking of information.

In this sense, the Machine Learning Selection System (SISAM) was developed, designed to be a tool to support the customs selection and developed based on a technique of artificial intelligence (AI), known as Bayesian network and which can process and analyze a large body of data. Thus, by analyzing and cross-checking all

kinds of information in declarations recorded in the Siscomex, the tool helps authorities control the decision-making process.

The SISAM aims to improve the selection of import declarations for inspection at the customs office, using machine learning and pointing to the universe of declarations recorded in the Siscomex, a balance of probabilities of crimes related to probability concerning:

- the presence of errors in the tax classification;
- differences in the amounts and origin of the merchandise;
- correct use of the II, IPI, Pis/Cofins rates; and
- failure to pay the appropriate antidumping fee.

The use of Artificial Intelligence allows the Sisam to "learn" to recognize, by examining Import Declarations typical and atypical records, any patterns associated with detected violations. Compared with a random selection, the use of the system multiplies the effectiveness of selection by 20 without human help, and by more than 50 times, with this help, detecting inconspicuous mistakes that would go unnoticed amid great volumes of information.

In addition, the system calculates the probability for the correct tax classification and origin for each element listed in of a declaration, taking into account the information given in other import declarations for the same product and the records of violations detected by the audit.

Below is an example text produced by the system for a tax classification error:

"The probability of error of tax classification in this item was estimated at 44.85%. In the specific track record of this merchandise importer the subheading 85437099 of NCM is more common and there are doubts about this specific subheading in the NCM declared that generate a suspicion of high relevance. It should be pointed out that in the records of Sisam, this importer has had goods under subheading 85437099 NCM of the NCM verified by inspectors 3 times and in all cases the NCM was mistakenly declared as part of the subheading 90275090. The influence of this manufacturer (XXXX) raised a slight suspicion of misclassification, but subtly confirmed the idea that the true NCM would, in fact, be 85437099. In addition, statistically speaking, the description of the goods favors the idea that the true NCM is still 85437099, thereby increasing the classification error suspicion."

Through the system, 2 million possible errors are analyzed daily, with 3 billion patterns monitored statistically. The system also displays the expected return value calculated in Reais (R\$), based on the likelihood of errors and in accordance with the fiscal and administrative impact associated with the goods.

The project is still being implemented in customs units of the Federal Revenue Secretariat, but where it is already in operation it resulted in:

- 35% accuracy pointing out errors in a selection of 2% of the total number of returns;
- 29% accuracy in Tax Classification errors (correct classification shows 53% in the 1st place);
- 36% accuracy in merchandise origin errors (correct origin shows 76% in the 1st place); and
- 65% accuracy in the calculation of monetary return (R\$) of the selection.

The system also points to a strong contribution to increased competitiveness in foreign trade. In these units, their combined use with changes in the parameters allowed for a:

- 20 to 30% increase in the effectiveness of the selection, with an accuracy percentage in excess of 90%;
- Reduction between 30 and 40% in the amount of tax returns selected for inspection;
- reduction of up to 25% in the average overall time for imports; and;
- reduction in the number of public workers assigned to the customs office.

3. OVERSIGHT

3.1 Selection Process - Domestic Taxes

3.1.1 Principles of Selection

In the Federal Revenue Secretariat of Brazil (RFB), the selection of taxpayers to be subject to tax examination procedures is conducted objectively, based on technical parameters without personalizing and in order to properly manage tax risk, bearing tax relevance and interest as the utmost consideration.

The guidelines are established by the Undersecretary of Oversight's Office for their different areas of activity, by modifying the normative provision concerning the annual plan of oversight.

3.1.2 Focus of Selection

Tax collection in Brazil is heavily concentrated, with less than ten thousand corporations, or 0.1% of total businesses, contributing approximately 2/3 of the revenue at the federal level.

This led to the establishment of a specific structure to deal with these taxpayers, who are labeled as "different taxpayers."

In addition to corporations, a limited number of individuals is also set aside in the differentiated actions of the RFB.

In terms of structure, to deal with these differentiated taxpayers, the RFB has two specialized offices for corporations (one in Sao Paulo, another in Rio de Janeiro), and an office specializing on individuals.

In addition to these units, the RFB created specialized regional teams to provide follow-up, selection and oversight of these differentiated set of taxpayers.

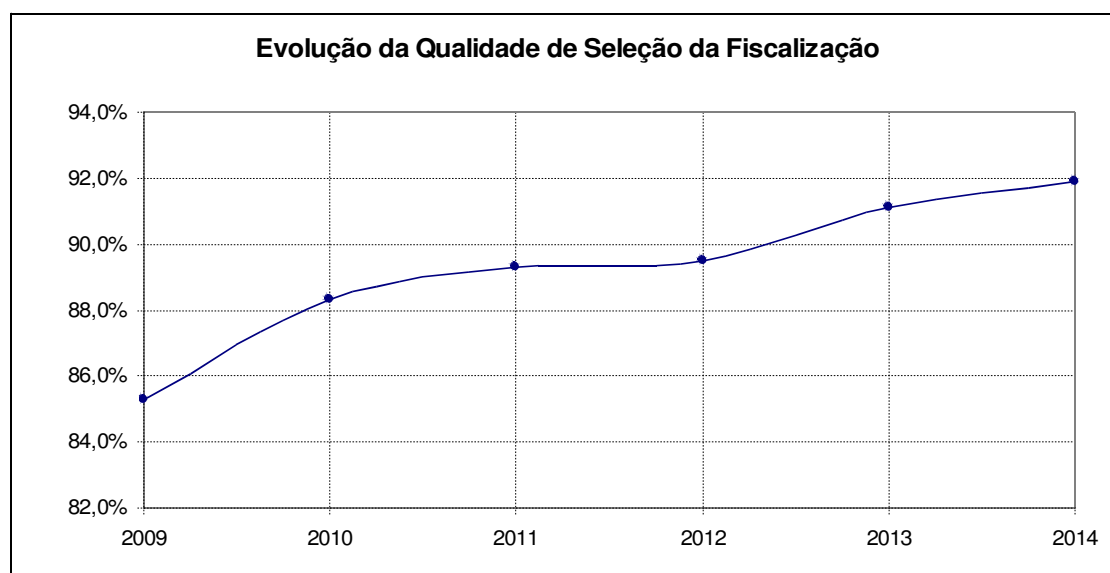
3.1.3 Selection Criteria

With regard to the selection, the area responsible for the scheduling of tax procedures works from the analysis of internal data and information received from external sources. In this context, external information may be relevant to initiate an analysis of fiscal interest. For example, a report from a law enforcement agency or the Federal Police, a report containing actual evidence or facts publicly known even, are all elements on which the RFB works, evaluating the tax consequences, always weighing the above principles interest and tax relevance.

The work of the selection area is to promote risk management also for other taxpayers. The selection rules are devised to meet promptly cover taxpayers in different segments and lines of business, always keeping in mind that one must meet an adequate strategy for the segments or business lines, in line with the annual plan.

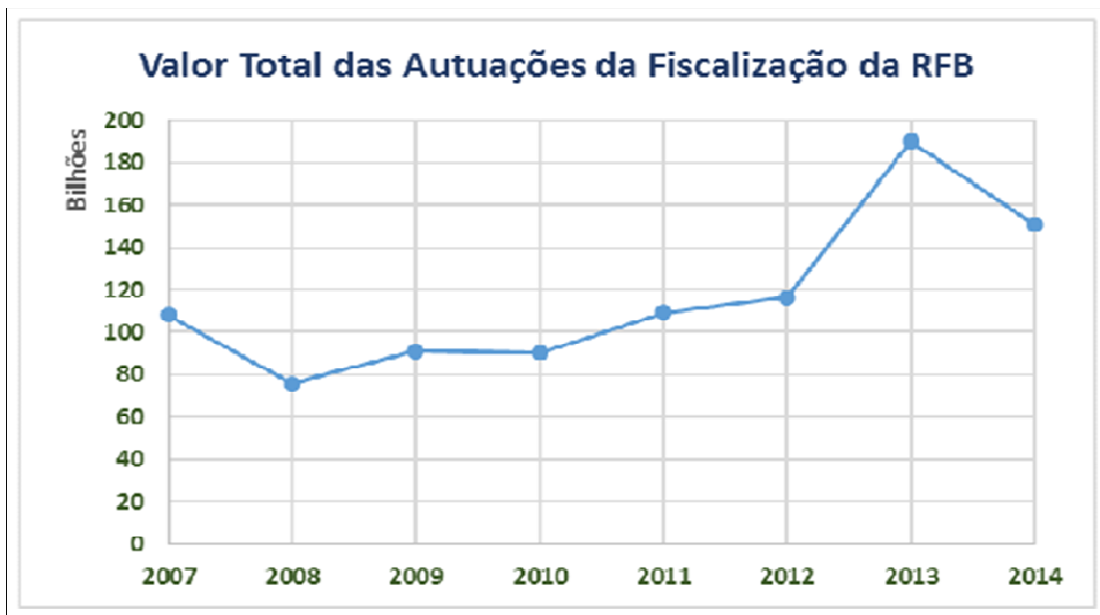
3.2 Indicator: audits completed with a result

The selection area specifically targets evidence to be inspected, defining events, timeframes and taxes. To check the suitability of this work, the RFB makes use of indicators. One of those indicators used is related to audits carried out with a result. The minimum to be achieved is 85%, and this indicator has shown significant progress since 2009, reaching almost 92% in 2014.



3.3 Tax credit established

The selection process also results in significant tax assessment results. In 2014, approximately R\$ 160 billion were assessed by the oversight office of the RFB, largely due to the internal selection process. Again, the representativeness of different taxpayers, responsible for over 70% of the actions carried out in 2014, is verified.



**CORPORATE GOVERNANCE AND NON-COMPLIANCE RISK MANAGEMENT
POLICIES – NORWAY**

Egil Martinsen
International Director
Directorate of Taxes
(Norway)

Slide 1:

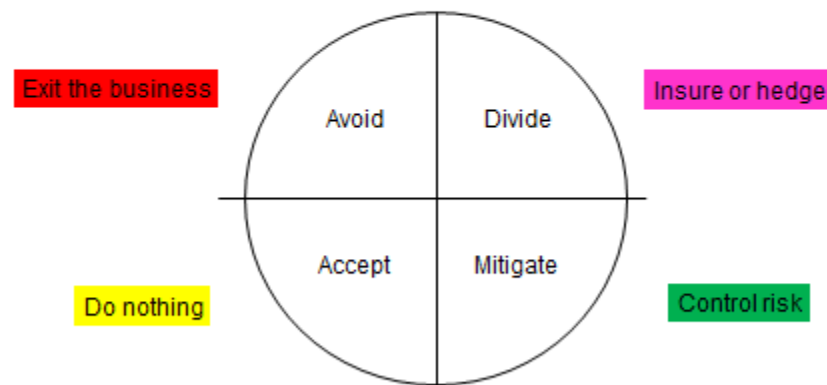


- First of all – many thanks for the invitation and the possibility to share our experiences within the topic of Corporate Governance and non-compliance risk management policies. It's a pleasure for me to be present here at this assembly and take part in all the interesting presentations and discussions on this very relevant and important main topic – "Risk management as a tool for improving compliance".
- I will of course give you some practical examples from our approach in dealing with large enterprises. Before doing that I will however give you some background information on Norway and some important features of the Norwegian and the Nordic culture which are relevant to the topic of corporate

governance, especially governance performed by public entities and different responsible organizations with a sound interest of the community. I consider this as foundation wall for our risk management work and approaches. My strong assumption is that this features are important also for how large Norwegian enterprises will interact with the tax administration and comply with current tax laws and in other word reduce the level of risks

Slide 2:

Responding to different types of risks?




- Running a tax administration is a risky business and a quite demanding job. In Norway we are, as in many other countries, responsible for collecting approximately 90% of the state income. Given the number of taxpayers, the complexity, the time limits and the demand for quality and correctness, there are a thousand different types of non-compliance risk factors that might influence on the tax administration's performance. Such risks can be different from country to country depending on many factors.
- One thing is for sure. The goals for the tax administration are defined and decided at the political level and hence we cannot choose to leave out any business to avoid the risks that come with it. Neither can we divide or distribute the risk by signing up for an insurance program or in other ways hedge the risk with other parties – even though it would be fair to say that other public entities in many ways could participate in mitigating the risks for the tax administration. This is in fact an important part of corporate governance. What we can do is of course to accept the risks and live with the consequences if the Minister accepts it. Joke

aside – in some way we will always have to accept a certain level of risks because the means of mitigation are too costly or complicated or not efficient enough. The most common part is to try to control the risk by systematically introducing risk reducing activities.

- These are all basic knowledge for everyone dealing with risk assessment and risk management. What could be more interesting though is to relate the different types of risks to the environment in which they operate. What could be an important risk in one country or in one area does not need to be an important risk in another country or in another area. This is why I think it is interesting to reflect on how e.g. different cultures and societies can have quite different challenges in dealing with risks.

Slide 3:



The Economist

Immigration: Obama gets it right
The rift between China and North Korea
Can Egypt's revolution be rescued?
How to reform America's lawyers
The mystery of the Bermuda Triangle

The next supermodel

Why the world should look at the Nordic countries
A 14-PAGE SPECIAL REPORT

The Nordic model

Tax Norway

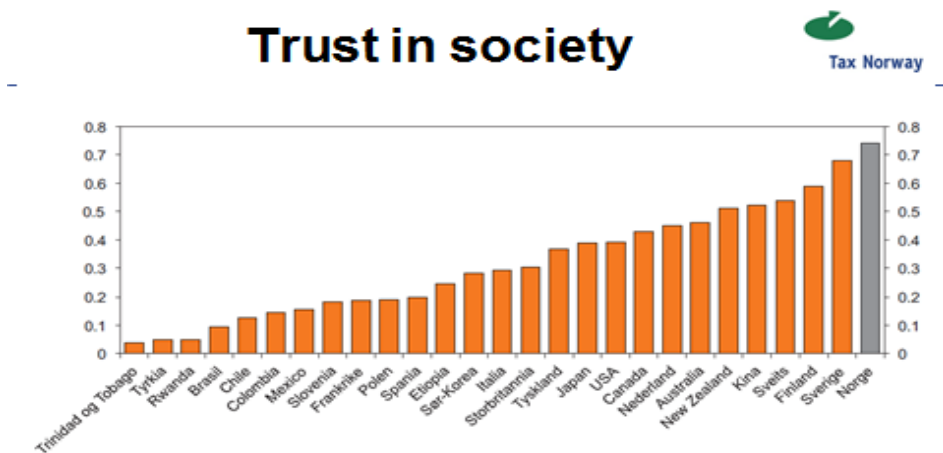
- 26 million people
- Open economies
- Well developed welfare systems
- Efficient public sectors
- Tax to GDP between 40 – 50 %
- Informal culture
- Small organisations, flat structure
- High level of automation

- Taking a closer look on Norway and the other Nordic countries we see some common features in the society and in the culture that have a strong impact on our risk assessment and risk profile whether it be on ordinary wage earners, small and medium sized enterprises (SME's) or large enterprises. This are e.g increasing number of multinational companies, transboundary transactions and digital and global influence.
- The 5 Nordic countries have a collective population of only 26 million people (Norway has 5, 1 million inhabitants) and an open economy. The five countries have a well-developed welfare system, an efficient and large public sector, a tax

to GDP ratio between 40 - 45 %, a large number of small organizations with flat structures, high level of automation, informal and less bureaucratic culture plus a droplet of stamina that stems from surviving the cold climate up north :-)

- These are all factors that influence our risk assessment.

Slide 4:



- If we look into a survey from World Values Survey we find that people in the Nordic countries are more likely to trust other people and public entities than in other countries. Most of our social and administrative systems are built on trust and reciprocity. We also expect that the businesses take their part of social corporate responsibility.
- We believe that high trust in other people and authorities is an important ingredient in a society's social capital and hence important for the efficiency of public institutions like tax administrations.
- Combined with efficient use of electronic services, third party information and accessibility to one's own personal information, we can maintain the level of trust and give people the possibility to follow up how sensitive information is exploited and secured.

Slide 5:

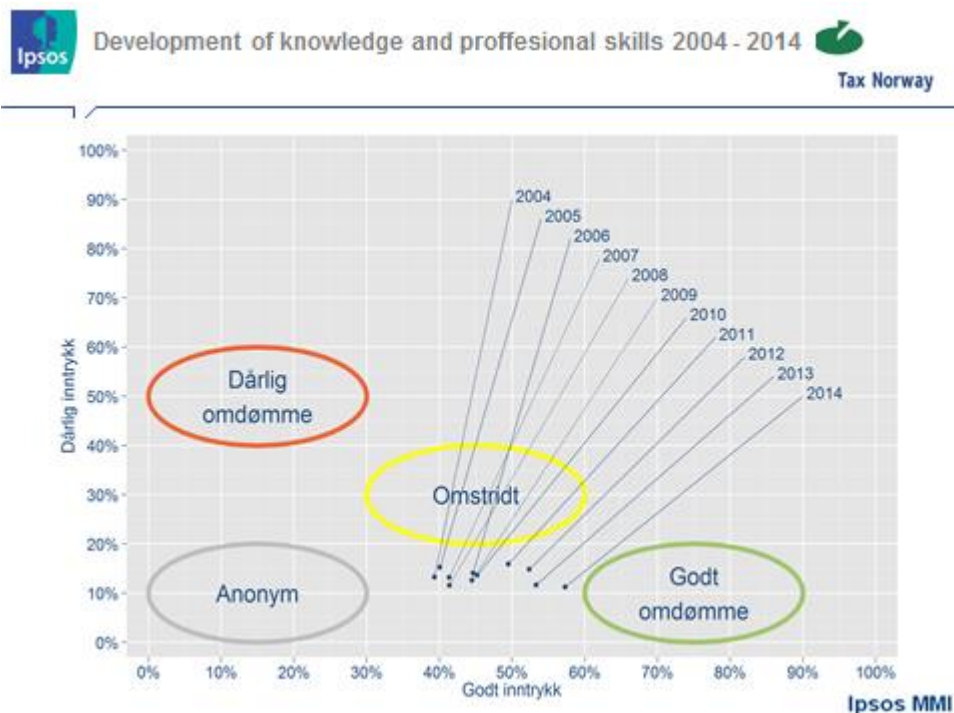
Transparency International Corruption Perception Index 2013



RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE
1	Denmark	91	22	France	71	47	Hungary	54
1	New Zealand	91	22	Saint Lucia	71	47	Seychelles	54
3	Finland	89	26	Austria	69	47	Costa Rica	53
3	Sweden	89	26	United Arab Emirates	69	49	Latvia	53
5	Norway	86	26	Estonia	68	49	Rwanda	53
5	Singapore	86	28	Qatar	68	52	Mauritius	52
7	Switzerland	85	30	Botswana	64	53	Malaysia	50
8	Netherlands	83	31	Bhutan	63	53	Turkey	50
9	Australia	81	31	Cyprus	63	55	Georgia	49
9	Canada	81	33	Portugal	62	55	Lesotho	49
11	Luxembourg	80	33	Puerto Rico	62	57	Bahrain	48
12	Germany	78	33	Saint Vincent and the Grenadines	62	57	Croatia	48
12	Iceland	78	36	Israel	61	57	Czech Republic	48
14	United Kingdom	76	36	Taiwan	61	57	Namibia	48
15	Barbados	75	38	Brunel	60	61	Oman	47
15	Belgium	75	38	Poland	60	61	Slovakia	47
15	Hong Kong	75	40	Spain	59	63	Cuba	46
18	Japan	74	41	Cape Verde	58	63	Ghana	46
19	United States	73	41	Dominica	58	63	Saudi Arabia	46
19	Uruguay	73	43	Lithuania	57	66	Jordan	45
21	Ireland	72	43	Slovenia	57	67	Macedonia (FYR)	44
22	Bahamas	71	45	Malta	56	67	Montenegro	44
22	Chile	71	46	Korea (South)	55	69	Italy	43
						69	Kuwait	43
						69	Romania	43
						72	Bosnia and Herzegovina	42
						72	Brazil	42
						72	Sao Tome and Principe	42
						72	Serbia	42
						72	South Africa	42
						77	Bulgaria	41
						77	Senegal	41
						77	Tunisia	41
						80	China	40
						80	Greece	40
						82	Swaziland	39
						83	Burkina Faso	38
						83	El Salvador	38
						83	Jamaica	38
						83	Liberia	38
						83	Mongolia	38
						83	Peru	38
						83	Trinidad and Tobago	38
						83	Zambia	38
						91	Malawi	37

- The corruption perception index surveyed by Transparency International is another area of interest for the risk assessment process and profile. We can assume, but not assure, that a low level of corruption is an important factor for a higher willingness to comply with tax laws and other public rules and regulations. This will also have an impact on the risk assessment approach. We have of course seen several examples of corruption cases in Norway that have been publicly exposed. The media plays an important role in following up cases and ensure people's attention to companies that do not play by the rules.

Slide 6:



- Finally before delving into some practical examples from risk management of our Large Enterprises I will like also to mention another factor that we think have an impact on our risk assessment profile and approach. The public perception of the tax administrations knowledge and professional skills are an important part of the tax administration's reputation. This might stem from our attitude towards the business environment and taxpayers in general. We enjoy a high level of legitimacy among the inhabitants and surveys show that we are enjoying a good reputation and the scores are higher than ever before. One might say that it is impossible for a tax administration to be deemed as popular amongst citizens. Nevertheless this survey shows that this is the fact for Norway. You can imagine the great different between a tax administration with a good reputation based on knowledge and professionals skills and the opposite when it comes to risk assessment. Combined with use of third party information and advanced electronic services a large part of our taxpayers consider the tax administration more as an provider of information and a guide to self assessment than the enemy. Based on this situation our risk analysis would mainly be to learn the reasons and causes behind non-compliance and put in place the necessary measures to educate our taxpayers and mitigate the risks.
- I hope this background information has given you a glimpse of what we think corporate governance from the public sector side can achieve. As mentioned in the beginning – running a tax administration is a risky business. The Norwegian Tax Administration (NTA) is an important but small player in the struggle to

ensure compliance and collect all relevant taxes. The most important risk management achievement must be to motivate individuals and companies to be responsible citizens and to make them understand the link between paying taxes and enjoying the benefits of education, health services, clean water, safety etc.

Slide 7:

Norway at a glance



- 5,1 million inhabitants
- Unemployment: 3,9%
- Income inequality: 0,25
- 3,7 million individual taxpayers
- 270' companies
 - 260' SME's
 - 10' Large and very Enterprises
- Tax to GDP 42,3 %
- Cost of collection: 0,1 USD/20 USD
- Number of taxpayers per FTE: 926
- 6200 employees



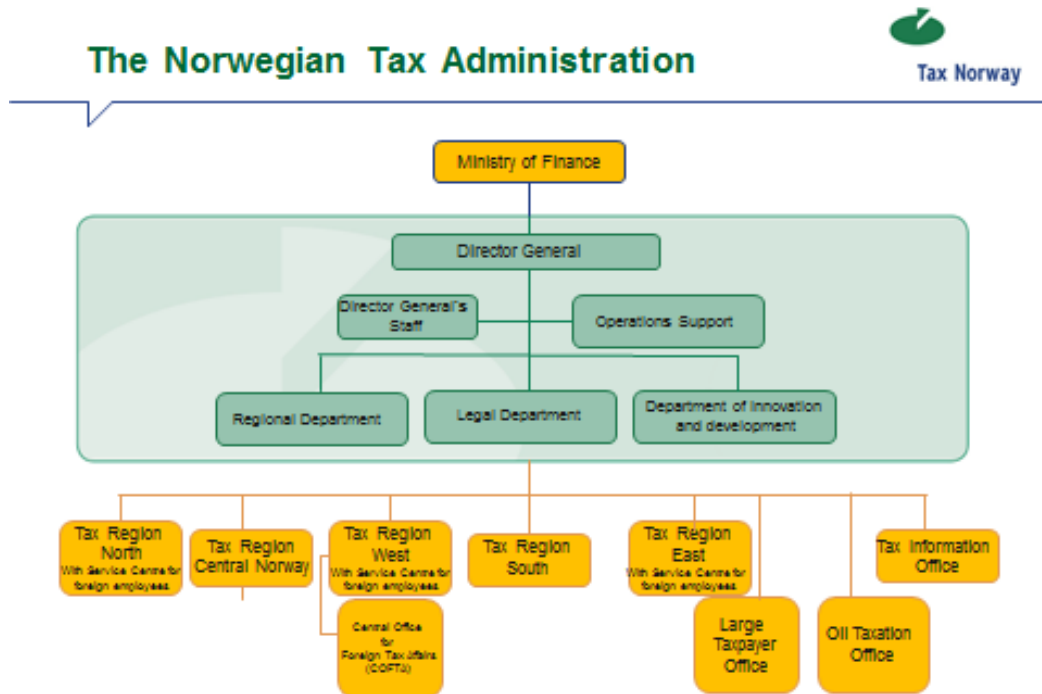
Tax Administration – Internal presentation

4/18/2015 7

- No matter how much we can lean on cultural aspects and other corporate initiatives we still need to have a compliance program based on risk assessment. The compliance program covers the different taxpayer segments in different ways based on the risk assessment.
- Assessment of wage-earners is heavily based on third party information that reduces the risk significantly and with a highly automated process. We monitor the quality of third party reporting
- Assessment of SME's is to some extent based on the quality of accountants and external auditors in addition to more traditional guidance and control. Cooperation with accountancies and audit firms reduces risk and simplifies the control span. We have regular dialog with tax intermediaries and business organisations
- A third important segment is the work on Tax Crime and other crimes. In this area we have initiated a closer cooperation with other public bodies, industry organisations and unions

- While the risks in these three segments are reduced by relying on third party information and cooperation with external parties in addition to traditional guidance, assessment and control, the risks linked to the large enterprises are more based on dialog with the taxpayer in addition to real time interventions

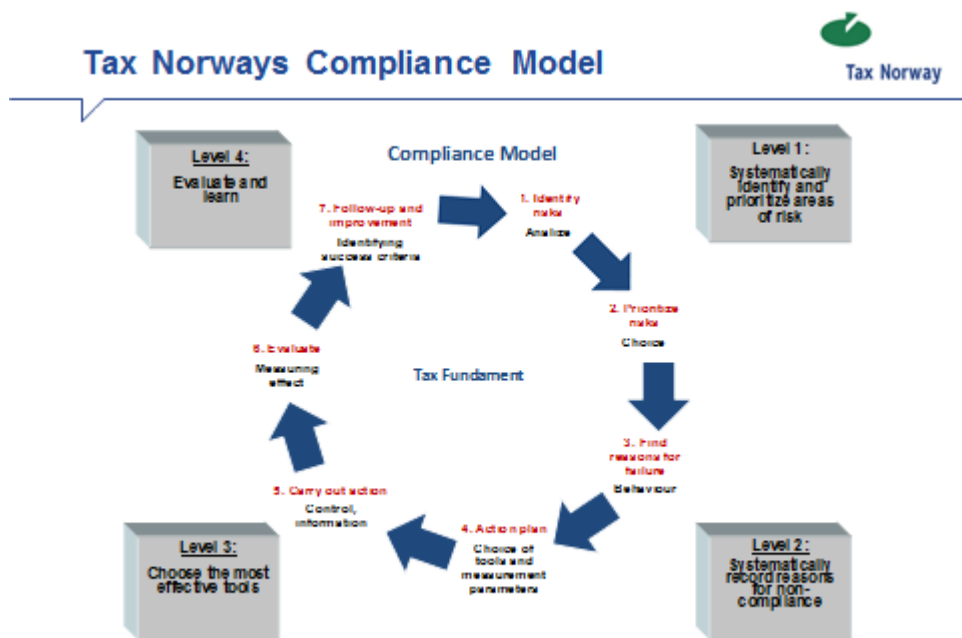
Slide 8:



- We established the Large Taxpayer Office in 1992. Together with the Oil Taxation office and the Central Office for Foreign Tax Affairs the three offices cover 80% of collected taxes from limited companies in Norway. They only represent 2, 8 % of the total number of companies and we are using approximately 6% of our operational FTE's (regions and special branches) to follow up the taxpayers administered by these offices. Even though the Norwegian company tax does not represent more than 7% of the total tax revenue the companies in this segment employs some 80% of all individuals (wage-earners) in Norway which count for nearly 40% of the total tax revenue.
- In 2014 we extended the number of companies to be assessed by the Large Taxpayer Office and transferred responsibilities for VAT for the same companies from the regions. The Large Taxpayer Office comprises of 140 employees and covers 5000 large enterprises with turnover higher than 3 billion NOK. Large taxpayers with turnover between 1 – 3 billion NOK are handled by the regions and supervised by the Directorate of taxes.

- These initiatives were all part of an risk management process to ensure high quality assessment and follow up at the most complex and valuable taxpayers of course in addition the taxpayer get better and coordinated service and lesser burden etc.

Slide 9:

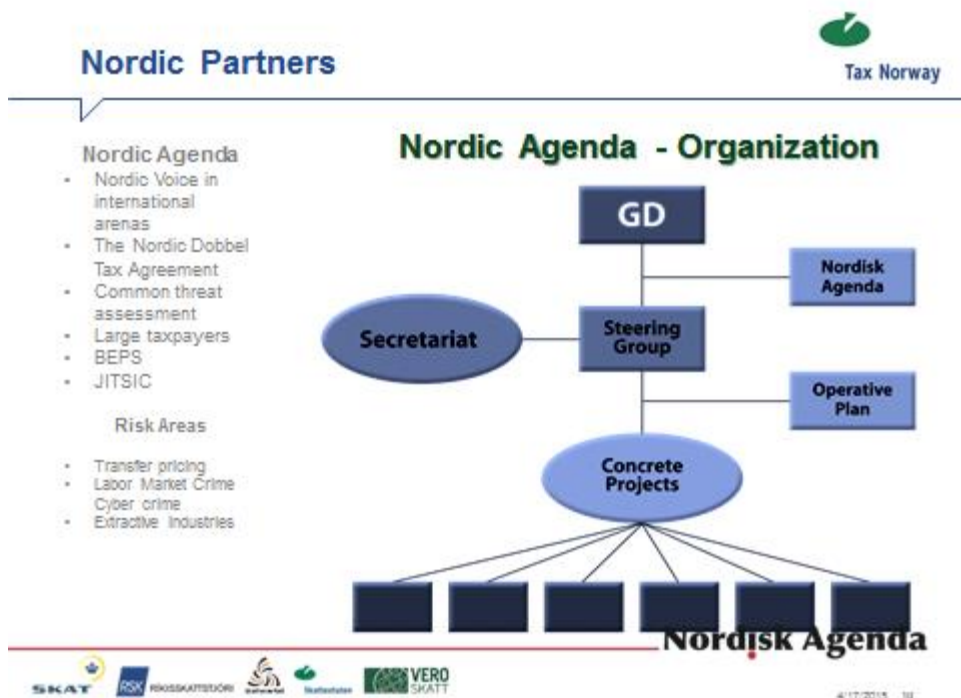


- Already from the start in 1992 the LTO introduced a dialog-based cooperation with the large enterprises. The process was based on contact with the large taxpayers during the assessment period to clarify interpretations of the law in specific areas with high taxable impact and to follow up in areas that the LTO had noted as industry related challenges
- The work was based on our compliance model as you can see on this slide.
- The reason for this was due to the fact that it would be impossible for several reasons just to rely on traditional audits – first of all the enterprises were too complex for traditional audits, it would have been too costly and taken too long time and for many of the companies the audit would have involved foreign partners and a network of national branches. Besides it was important to point out that the large companies themselves had the responsibility to comply with the laws and act as responsible members of the society.
- The LTO followed the same methodology as other control units within the tax administration indeed with a lesser amount of traditional audits. The work during the assessment period was project-based and teams were established with

interdisciplinary knowledge and experience based on economy, tax and industry. The team identified, analysed and prioritized risks within their companies based on a strategic approach – information on trends and systemizing relevant data and using their own knowledge and experience. In this way the risk related to the large enterprises were thoroughly reviewed and in some way more confirmed than other segments due to the closer on-going contact with the companies. Sometimes the risk assessment could be more of a theoretical exercise if it's not held against the practical life other than through audits.

- In many ways this method had much in common with enhanced relationship.
- Using this novel method created some challenges the first period and still does to some extent. Moving from a classical audit concept to an assessment-oriented dialog-based approach can be hard for tax people that sometimes like to see the concrete results from audits as a high amount of additional tax in the audit report. In an assessment oriented approach the amended amounts of taxes as a result of interventions from the teams will be reported from the companies without any signs of interventions from the tax administration. The result from a quite extensive work could be invisible if we don't measure the important stages in the process.
- The LTO are using the whole range of means – also traditional audits if that is considered effective.


Slide 10



- Before finishing off with some information on our experiences with co-operative compliance I will also make a short promotion for the Nordic cooperation in this area of work.
- As many of you probably know we have a quite extensive and well organised cooperation among the Nordic countries.
- As a result of a common Nordic labor market and a common market place for different industries we are in the process of developing a common Nordic threat assessment amongst other project that is part of the Nordic cooperation – or the "Nordic Agenda" which it is called.
- The four Nordic Large Taxpayer offices have also established a working group to developing the use of Tax Control Framework, risk management within the large taxpayer segment and measuring the outcome of co-operative compliance.
- This will obviously add value and quality to the work of the LTO's

Slide 11

Co-operative Compliance – The Pilot



Tax Norway

- **Purpose**
 - Build knowledge regarding a new working method based on an open dialog between the tax administration and large taxpayers/companies **to reduce risk** and increase compliance
- **What's different from current practice?**
 - on-going/"real-time"/continuous clarifications,
 - the companies internal control is actively involved
 - increased formalization and documentation of rulings and interpretations.

Tax Administration – littel på presentasjonen
4/11/2015 11

☐ Purpose

- In 2011 the LTO embarked on a pilot project together with tax region East which in Norwegian was called "A strengthen dialog" – better known as Co-operative Compliance or Horizontal monitoring or Enhanced relationship. Pet child gets many names – or should we say – a pet name gets many children?
- The main goal was to build knowledge on a new working method based on trust not on legal framework, openness to each other, reciprocity and equality. In addition an open dialog between the tax administration and the business group would reduce risk and increase compliance
- The project developed in cooperation with the companies a template for evaluation of the pilot and carried out the evaluation accordingly.
- The main difference between this project and the dialog based approach that the LTO had been used for several years was that this strengthened dialog was more focused on ongoing clarifications and real time feedback interpretations of laws, evaluation of the companies' internal control and an increased formalization and documentation of rulings and interpretations.

Slide 12

Co-operative Compliance - The Pilot (cont'd)



• Conclusions

- The pilot project has achieved its goal to building experience with regard to a new approach to large enterprises
- The twin cornerstones of greater transparency and greater trust were achieved in the pilot cases
- A more systematic risk-base approach, on-going clarifications, greater predictability for large taxpayers has been achieved
- In particular the experience gained through the formalised, mutually binding cooperation and the companies' own efforts regarding internal control and risk assessment ~~lie~~ are essential experiences

CONCLUSIONS

- The pilot project has achieved its goal of building experience of a new approach to large enterprises
- The twin cornerstones of greater transparency and greater trust are achieved
- A more systematic work on risk assessment, ongoing clarifications, greater predictability for companies has been achieved
- In particular the experience gained through the formalized mutually binding cooperation and the companies own effort regarding internal control and risk assessment lie are essential experiences
- The project group has highlighted the fact that a number of key characteristics of the Co-operative Compliance pilot also characterize approaches which represent the current practice in ensuring compliance in the large enterprise segment.
- It's important to note that we have not taken the role of tax intermediaries but we provide guidance in line with our Assessment law

Other experiences

- Cooperation should be established by invitation from the tax administration to the relevant group of companies – if appropriate combined with provision for group to apply/initiate contact concerning possible collaboration
- Relevant participants are corporate groups which have an experience of internal control within the field of tax and value added tax and which have realized the value of establishing a dialogue with the tax administration to increase the quality of their tax related processes
- A regular/permanent contact within the tax administration should be assigned to the participating groups with a defined timeframe
- The Administration and the taxpayer should both have the option of withdraw from the cooperation. If the tax administration terminates the cooperation the taxpayer must be given a formal explanation
- Guidelines for the cooperation should be drawn up and published on relevant websites
- The names of the corporate groups participating in the cooperation should constitute public information

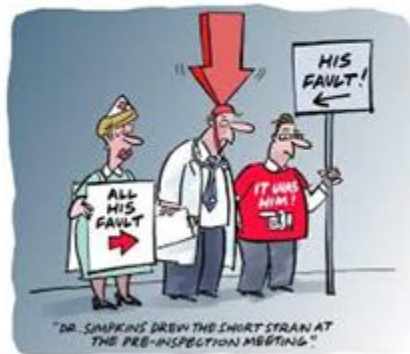
- Consideration should be given to whether or not ongoing clarification should be made binding for the administration
- Information meetings should be held before any agreement is signed.
- The administration should establish a training programme for its own employees and emphasis on dialogue skills and internal control.

Slide 15

Always remember !



"It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so"



Mark Twain

Thankyou
for listening.....



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CORPORATE GOVERNMENT AND NONCOMPLIANCE RISK MANAGEMENT POLICIES

Victor Villalón

Deputy Director of Examination
Internal Revenue Service
(Chile)

Contents: Summary. 1. Introduction. 1.1. General aspects 1.2. Corporate government standards. 1.3. Approximation to the tax strategy on Corporate Governments. 1.4. Corporate government and tax obligations. 2. Tax risk management. 2.1. Tax compliance models. 2.2. Tax compliance model of the SII of Chile. 2.3 Risk and treatment curve. 3. The role expected from the corporate governments. 3.1. Substantive principles on tax issues. 4. The current strategy of the SII of Chile. 4.1. The strategy under way. 4.2. Some marketing aspects to be considered. 5. Recommendations. Abbreviations.

SUMMARY

Currently the Community exercises permanent citizen control and expresses itself through various means and procedures, requesting the immediate solution of problems that account for negative situations for the Community, thereby posing significant challenges at the entrepreneurial and tax sphere to the so-called Corporate Governments and Tax Administrations.

It is expected that the solutions to mitigate those negative situations may generate benefits not only for the Company where they originate, but for the other relevant players and that they may as well be efficient from the economic and social standpoints.

In the development of these solutions the Tax Administration must have a proactive participation, not only because it is part of the Community and has the personal duty of contributing, but because it is an opportunity for creating an efficient impact on the levels of tax compliance of the taxpayer segments that may be of interest, thus maximizing its role within the social and economic Community, and mitigating the behaviors having the potential of affecting the tax system.

These situations imply that the managerial bodies of the companies comprising their Corporate Government are capable of identifying the adverse elements and situations that place at risk the achievement of the social entrepreneurial interest and which are capable of rendering relevant the tax dimension which represents an important aspect of the company's activity.

Although such social duty should be actively fulfilled by the entrepreneurial team, undoubtedly the Tax Administration should promote strategies that may maximize tax

compliance by influencing the practices and risk management which should be implemented by those Corporate Governments.

In this context, there is a strong need to manage different Company risks and the need for the Tax Administration to do the same, in such a way as to achieve the institutional objectives. And it is here where risk management based on the influence of corporate governments is key to the Company, the Tax Administration and, accordingly, the Community. In fact, the solutions of a fiscal nature that may be established should generate benefits for all those players.

Under said context, this document explores methodologies and specific actions whereby a Tax Administration may resolutely move forward in the use of a strategy for improving the levels of tax compliance, based on the influence it may exercise on the Corporate Governments of the companies through the promotion and dissemination of working standards and economic and socially acceptable tax behavior.

1. INTRODUCTION

1.1. General aspects

For several years one has been observing working dynamics among different players interested in the social and economic development. They are characterized by the structuring, follow-up, evaluation and feedback of a standard that evolves constantly and represents the look and promotion of an economic and socially acceptable behavior. The Standard obtained thus represents a series of regulations and practices which those parties have deemed relevant and pertinent for achieving some objective of a social or economic interest.

Without exhausting the examples, we have here the OECD reports of the 90's aimed at establishing which territories or jurisdictions, for tax purposes, complied at that time with a specific standard, in such a way that under strict evaluation, it was determined, at the beginning of this century, which territories complied with a specific standard, while those who did not comply therewith remained as harmful, noncooperative, cooperative or on lists¹.

Subsequently and now within the global forum on transparency and information exchange² there has been a modification if not the creation of a new standard that allows for having a reference framework for distinguishing those tax jurisdictions that are capable of making available relevant information for tax purposes. Thus, through the

¹ See among others: <http://www.oecd.org/tax/transparency/44430243.pdf> y <http://www.oecd.org/ctp/harmful/2090192.pdf>

² See information and general by country at <http://www.oecd.org/tax/transparency/>

so-called Phase 1 and Phase 2, one is determining which territories comply with the standard, comply with it but there are elements that need to be strengthened, or else, do not have the necessary elements for complying with the standard.

It would also be worth stating that with the implementation of the measures arising from the BEPS action plan which the OECD and G20 have been developing with the assistance and agreement of the member countries and guests, it is highly possible that within short term, one may arrive at a renewed standard generally accepted tax framework, which will particularly affect Multinationals, a segment that historically has stood out for the use of complex tax schemes with the potential of affecting the taxing authority of different jurisdictions.

It is clear that the examples mentioned are related to the characteristics of tax regimes or systems integrally and generally considered and that the standards that are being applied are extremely useful for establishing operational gaps in the tax administrations, even those located in territories or jurisdictions enjoying high levels of professionalism and reputation.

Certainly the foregoing standards that are related to tax systems are not the only ones. In the fiscal area there are behavior standards for economic groups and their enterprises, for financial and tax intermediaries, among others. A noteworthy example is found in the case of Australia where the ATO has been using from some years taxation standards based on benchmarking for small taxpayer segments³. Another short-term example is the aforementioned BEPS action plan which in due time will give way to an expected tax behavior for Multinationals.

Likewise, in the corporate government area something similar has been happening.

1.2. Corporate government standards

Without going into details, one may mention the case of England which in 1992 began to use its Cadbury Code⁴, which came to integrate the needs for information and behavior of several relevant players in the United Kingdom. In purely tax matters, it is worthwhile to mention FIN 48, from the United States, which among other aspects provides for the obligation to disseminate information relative to the accounting reserve accounts for tax contingencies, which accounts would have a strong correlation with the use of tax havens and schemes⁵. In the case of Chile one cannot omit mentioning

³ See items currently having a benchmark at: <https://www.ato.gov.au/business/small-business-benchmarks/in-detail/about/small-business-benchmarks/>

⁴ See http://en.wikipedia.org/wiki/UK_Corporate_Governance_Code

⁵ See <http://areas.kenan-flagler.unc.edu/Accounting/TaxCenter/taxsym2010/Documents/Lisowsky-LRS%20JAN2010%20-%20UNC%20Tax%20Symposium.pdf>

Standard 341 which obliges open corporations to account for, in a transparent manner, the performance of corporate governments⁶.

Undoubtedly one must also bear in mind the OECD reports on the subject which highlights the so-called “Corporate governance and tax risk management” (2009)⁷, which is developed as of the Seoul Declaration, and whereby the OECD describes the experience of Australia, Canada and Chile in the strategies for promoting good corporate government and reasonably managing tax risks. The report notes that in spite of differences in the tax systems of the three countries, it is possible to find important benefits, challenges and best common practices to consider in the dialogue with the large enterprises in relation to their Corporate Governments and task risk management. It is evident in this report that in the cases of “poor” corporate government, the access to capital and the promotion of investments may be affected, thereby leading to financial deficiencies and even fraud, which in turn affects the potential which a legitimate economic activity could have had, all of which evidences the need to count on a strategy that may mitigate the risks of negative external situations.

In a second report entitled: “Board Practices: INCENTIVES AND GOVERNING RISKS”, the OECD highlights the results of a survey undertaken with 29 countries and, in particular, describes the findings, following an in-depth examination of the cases of Brazil, Japan, Sweden, United Kingdom and Portugal. Thus, some of the aspects noted were the relationship existing between the levels of remunerations of the companies’ managerial teams with their long term interests which may be summarized as reputation and fiscal risks.⁸

On the other hand, some of the IMF’s⁹ working papers deal with the positive effect of Multinationals that arrive at a territory or jurisdiction where the local economic groups adopt some of those MNE’s best practices. Likewise, others analyze and show a compound quality index of the corporate government¹⁰.

Considering all these standards and the recommendations which they, as well as a significant number of other studies include, it is evident that a Tax Administration must count on clear and efficient strategies to promote positive situations, which in its role is materialized through sustained increases of appropriate tax compliance in those

⁶ See https://www.svs.cl/normativa/ncg_341_2012.pdf

⁷ <http://www.oecd.org/tax/administration/43239887.pdf>

⁸ There are numerous reports dealing with Corporate Governments and from different perspectives. For example: http://repositorio.cepal.org/bitstream/handle/11362/37387/S1420409_es.pdf?sequence=1

⁹ For example, see <http://www.imf.org/external/pubs/ft/wp/2013/wp13234.pdf>.

¹⁰ See <https://www.imf.org/external/pubs/ft/wp/2006/wp06293.pdf>

taxpayer segments that are of interest. Thus, as described in this document, the use of tax behavior standards is a key aspect in the design of said strategies.

1.3. Approximation to the tax strategy on Corporate Governments

What has been described in the previous paragraphs evidences the need to answer several questions. For example:

For tax administration purposes which companies have or should have formal corporate government? The most common response would be the Large Business segment or Economic Groups or Multinationals. It is immediately obvious that the Tax Administration must have the information from any of these segments and if it does not have it, it runs the risk that its current treatment strategies might not be the appropriate ones and also that the strategy being analyzed will not bring about the expected results.

What reasons could be given as to why the companies of the elected segment would not have a clear corporate government? A company which lacks or does not want to have a board of directors with clear roles and responsibilities runs a higher fiscal risk than other companies that do have such teams. This could lead to the conclusion that the segment of corporations closed to the public could pose greater risks than that of open corporations.

In the case of companies that do have corporate government what importance do they attribute to tax issues? Are they aware of the risks involved in approving transactions or reorganizations with a high impact on the tax system? Are they familiar with the controls and sanctions which one or more jurisdictions could apply to those transactions? If the companies' corporate team only deals with policy and growth strategy issues, without considering or referring to the tax variable, it accepts that inherent risks may flow freely through its organization. There are too many cases¹¹ that evidence the need to consider the tax issue.

Does the Tax Administration have the necessary equipment and procedures to manage risks that result from the interaction with companies whose Corporate Governments are weak or lack the necessary competencies? Given that one may count on a list of companies from a segment of interest, it is evident that the application of said strategy calls for the use of resources, the development of competencies.

Does the Tax Administration have indicators that may allow it to follow up the impact of the fiscal strategy? Although this strategy will not generate direct collection, it is clear that it will result in benefits for the Community. For example, from a quantitative standpoint it would be feasible to determine the actual rate of taxation of the companies,

¹¹ To mention a few: BreX 1998, Enron 2001, Worldcom 2002, Tyco 2002, Parmalat 2003. Chile has not been unaware of this type of situations.

or the rate of compliance with third party information returns, distinguishing between those that add up to an expected standard of behavior and those that do not.

Is it necessary for the Tax Administration to promote an expected standard of tax behavior? Should it design it on its own or with the collaboration of those being administered? Should there be a company to company interaction or with the federations that group them? The best practices observed indicate that it is necessary to develop the instrument through a collaborative and transparent approach.

Indeed the very characteristics of the environment wherein the Tax Administration acts, considering such aspects as culture, market concentration, general regulations, geographical distribution, etc., may generate numerous questions related to the design of the strategy, for which reason the managerial teams of the tax administration are the ones to tackle them.

1.4. Corporate government and tax obligations

A careful reading of the reports listed in the previous section allows for establishing that given a tax behavior standard, the company itself should indicate why, with respect to specific aspects of this functional and economic activity, it is not capable of complying with the standard, or else, has decided to follow another course that basically does not allow it to comply with the standard, or rather, to go beyond the required behavior thus exceeding the social expectations. It is undoubtedly an approach which, based on advertising and entrepreneurial transparency, promotes self-regulation and citizen examination.

It is an approach whereby the companies are the ones that must reallocate their resources to arrive at a working model that may show that they are carrying out their activities in good faith, efficiently and with high levels of entrepreneurial responsibility, thereby giving confidence to the other players of the system and leaving to the Tax Administration the mission of permanent and collaborative monitoring to ensure that such levels of greater compliance may occur and be maintained in practice.

It is thus an approach that tends toward the saving of resources for the system, since the other players, such as the Tax Administrations may devote their resources to cases where there is an evident tax gap or evasion, thereby allowing the companies that comply with the standard, to decide with greater flexibility their strategic and operational activities.

In view of so many potential benefits that could arise for the tax system on counting with a working standard to influence the corporate government, it is evident that the Tax Administration has a great opportunity for improving the levels of tax compliance by assigning greater responsibilities and affording flexibility to the companies' managerial teams.

2. TAX RISK MANAGEMENT

2.1. Tax compliance models

Considering the excellent opportunity given to a Tax Administration for improving the levels of tax compliance by means of strategies that influence the companies' Corporate Governments, it is deemed necessary that it should undertake a diagnosis of the control model it uses in order to determine whether the Corporate Government based strategy will count on the adequate organizational support¹².

In this regard, there are currently two tax compliance promotion models that show advantages and disadvantages, which are used intensely and at times in combination, by different Tax Administrations. Without entering into details, the main characteristics of each are:

- Traditional control model based on transactions. In this approach the Tax Administration mainly focuses its strategies and resources on the detection of transactions showing traces of tax noncompliance. Usually these models favor the intensive use of transaction by transaction information and by separate entities, particularly to obtain immediate direct collection. As a general rule, the purpose of these models is not to increase the aggregate levels of tax compliance, but rather, indicators and goals are used to measure the tasks carried out and monetary results achieved. These models favor the control of evasion with relative scope over tax avoidance which uses complex corporate, contractual and financial structures. In sum, use of corrective actions is allowed, following the detection of tax noncompliance by a large number of taxpayers.
- Risk-based tax compliance model. In this case, the Tax Administration focuses its strategies and resources in the analysis and characterization of the external and internal factors that promote tax compliance and those that give way to the tax compliance gaps in the form of evasion, avoidance or deficiencies in the provision of information. Usually in the models with these characteristics intensive use of information is allowed to obtain an integral view of risks, determine causes of those factors, as well as to establish the proportional treatment actions to be applied to those factors, to thus achieve greater levels of aggregate tax compliance. The use of structural mitigation actions is promoted, followed by preventive, dissuasive and finally corrective actions. Indicators and goals are used to measure the mitigation projects underway and the qualitative and quantitative benefits obtained. These models favor the control of evasion with an extensive reach toward aggressive tax avoidance. Key to this model is the fact that the analysis and characterization be applied to taxpayer segments that are of interest to the particular tax system and that the levels of perception of

¹² This exercise could count on the assistance of experts from other tax administrations and with the coordination of multilateral entities, if available, which collaboration has been evidenced in different documents of interest displayed by various players interested in the appropriate functioning of the tax systems and their administrations.

control be continue to be elevated. It is important that taxpayers perceive that noncompliance with tax obligations is less profitable than complying with them.

In the light of these models, it would appear that the use of a strategy based on Corporate Governments will receive little attention in the transactional control models, which would be partly due to the fact that a structural strategy such as this one does not generate profits or direct collection. In the risk-based models it is absolutely necessary to count on strategies based on collaboration, which is appropriate for the use of strategies based on the influence of Corporate Governments. In this case, although there are no direct yields, there would be greater levels of tax compliance thanks to the collaborative approach, while the tax revenue would be impacted at the aggregate account levels¹³.

2.2. Tax compliance model of the SII of Chile

It is worth mentioning that the Internal Revenue Service is implementing an ambitious strategic plan for complementing the traditional model with the strengths and benefits that originate from the risk-based model.

Thus, since 2014, an important series of projects is being executed in order to bring about said change. In addition, this change is reflected in the Tax Reform Act 20.780 which was published on September 29, 2014. This Act lay the bases for the implementation of a treatment model based on risks according to taxpayer segments. In particular, the aforementioned Act established powers for the SII that allow it to:

- Request information on transactions without it constituting or making it obligatory to undertake an audit. This provision, known as prompt Contact, will then allow the so-called risk reviews which, among other benefits, allow for determining and treating the noncompliance factors, strengthening the factors that promote compliance and, especially, certifying the risks in order to initiate massive or selective actions, including audits on probable or proven risks. In sum, the use of “bottom-up” methodologies for risk analysis is strengthened.
- Request information by economic sectors or industries, without it being considered an audit. In a manner similar to the previous provision, the use of “top-down” methodologies for risk analysis is strengthened.
- Generate a network of internal information exchange, based on electronic mechanisms, with any public or auxiliary division that may have relevant information for tax purposes. The information to be used in the analysis and risk studies is strengthened, based on the periodic receipt and the qualitative information system.
- Apply substance over form rules, within the framework of the so-called general anti-avoidance regulations, which constitutes an internal innovation for treating aggressive avoidance behavior,

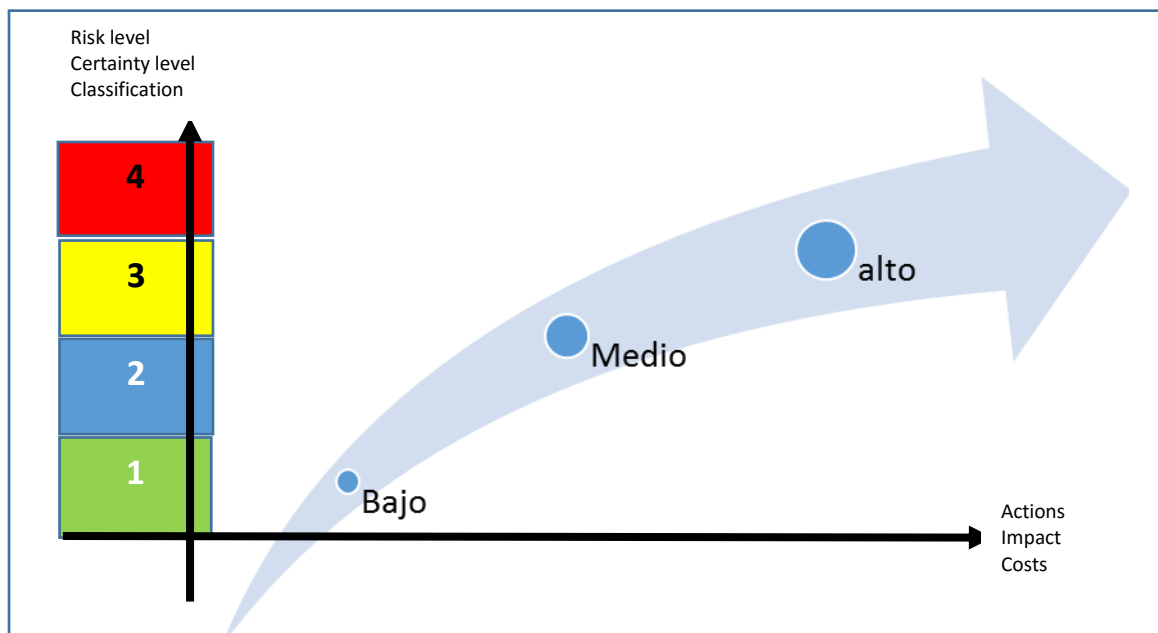
¹³ For example, the administration may decide to undertake a certain number of audits per year and await direct yields of a certain magnitude, or else, may set the aggregate goal of reducing a certain percentage of VAT evasion.

- Receive information on tax schemes voluntarily provided by the companies and give an opinion thereon,
- Oblige companies to detect relevant tax information prior to implementing tax plans, report the main contingencies with the Tax Administration and point out in the notes to the financial statements, the contingencies that may significantly affect the financial or economic position,
- Apply sanctions to tax promoters that may have collaborated in the design and implementation of the aggressive tax schemes.

It may be noted that the combination of the previous powers results in a new working framework that highlights the significance of tax avoidance, and with it, the importance of counting on strategies based on collaboration and, accordingly, considering Corporate Government strategies.

2.3. Risk and treatment curve

In the light of the various reports¹⁴ and initiatives observed at the international level and bearing in mind the different analysis methodologies used in a risk-based model, it is clear that the mitigation actions should be proportional to the risks observed. Such proportionality between risks and different actions may be seen in the following graph:



¹⁴ See <http://www.oecd.org/tax/administration/33818656.pdf> and <http://www.oecd.org/tax/administration/42490764.pdf>

In the above figure one may observe how the treatment strategies of a Tax Administration should move through the curve in proportion to the risks of a taxpayer or group thereof.

- In the lower part of the curve, following the vertical axis, there is a low level of certainty of the risks, or else, low risk situations are evidenced. On the horizontal axis, the mitigation actions are simple and the mitigation costs continue to be low. Such levels increase as one advances over the curve.
- Toward the upper part, there are the taxpayers that pose the highest risks of the tax system or else there is greater certainty of said risks. The mitigation costs and the impact of not treating the risks are higher.
- Thus, the greater the taxpayer risks, the greater should be the efforts of the Tax Administration for mitigating them.

There should be the conviction that taxpayers in the upper part of the curve have the potential for permanently damaging the tax systems, while the taxpayers in the lower area must receive assistance, support and orientation from tax compliance facilitators.

The foregoing allows for three different mitigation actions:

- Structural actions. These are investment actions that generate long term structural mitigation, by creating an impact on current control costs, in such a way that the greater the structural solutions, the lower the operational costs. This type of actions should always be favored, prior to any preventive, dissuasive or corrective action. Within these structural measures we may mention the legal changes, the issuance of new administrative regulations or the renewal of information technologies. It is also possible to point out that the establishment of a strategy based on collaboration mechanisms that considers influencing corporate governments responds to this type of structural actions, inasmuch as they will influence taxpayers to maintain a normal or expected long term tax behavior. Although these actions also have a preventive effect, they are separated in order to highlight their importance, measure them and assign resources and responsibilities at the central level.
- Preventive actions. Are those operational actions prior to the time when a taxpayer must comply with some tax obligation. Usually preventive actions strengthen the services to taxpayers and increase the perception of control over those taxpayers that are liable to incur in noncompliance behaviors¹⁵. Even though dissuasive actions are of a preventive nature, they are aimed at taxpayers that tend to incur in noncompliance gaps.¹⁶

¹⁵ For example, the SII of Chile is using online electronic message service to inform taxpayers about their usual errors or that they have a pending obligation.

¹⁶ For example, using the online electronic message service, taxpayer segments are notified that the SII will examine the use of purchases of non-admitted goods for tax purposes.

- Corrective actions. These are actions that take place after tax noncompliance and which of course involve high execution and compliance costs.

The figure also allows for establishing roles and responsibilities within the Tax Administration.

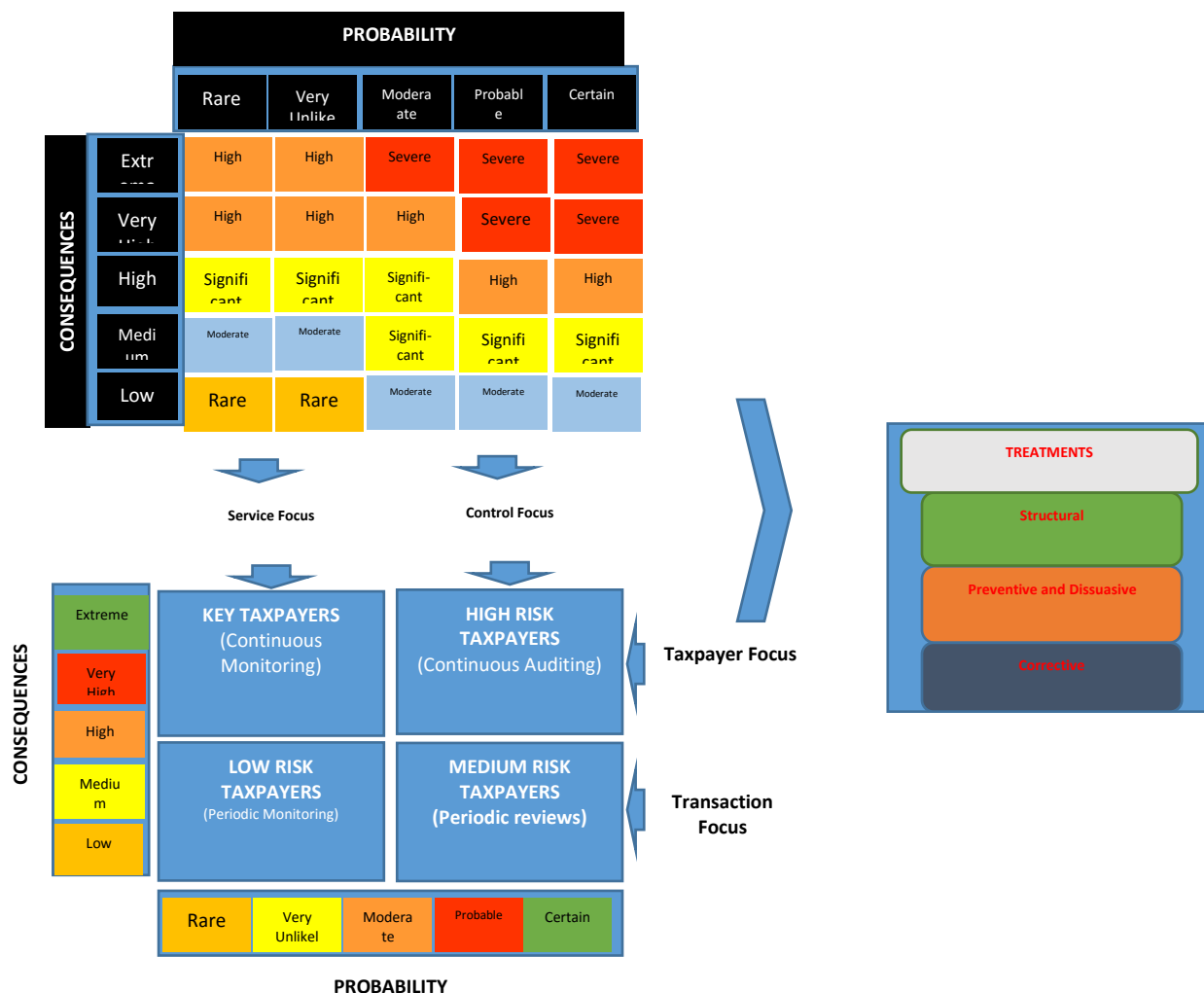
- In fact, the lower part of the curve which shows the larger number of low risk taxpayers¹⁷ should be under the protection of a division charged with providing them services and support, which in Chile's case corresponds to the Deputy Directorate of Taxpayer Assistance.
- The middle part of the curve which shows medium and high risk taxpayers, together with the previous group, should be under constant monitoring and review by the examination or control Division. The most aggressive cases of the tax system are also under this Division, or else assigned to areas in charge of the tax offenses, as the case may be.
- Lastly in the case of Chile there is also a Division in charge of monitoring the entire Curve of risks and treatments, so that within short term one may determine the levels of tax compliance by segments of interest (taxpayer size, territorial headquarters, taxes, by certain types of behaviors¹⁸) and generate a balance with the resources available including the operational allowances distributed throughout the country.

The previously described methodology is allowing the SII to classify taxpayers according to the 4 traditional types of behavior and risk¹⁹:

¹⁷ In the case of Chile, approximately 97% of tax revenues are voluntarily paid by taxpayers. Although the indirect impact caused by control actions has been measured, it is estimated that, in general, the country's taxpayers comply or wish to comply with their tax obligations.

¹⁸ In late 2014, the SII concluded a study of the segment of "Corporations without employees or workers" which allows for analyzing and determining risk aspects that had not been previously disclosed.

¹⁹ The figures are based on reports from the OECD and ATO from Australia, regarding risk management.



Thus, for example, and following the methodology indicated, the SII has been able to determine the number of Multinationals that actually operate in the country²⁰, how many entities are related to those multinationals, their actual tax burden, which are then added to the criteria that were being used under the large business and economic group approaches. In quantitative terms, there has been progress in calculating the portion of income subject to the Chilean taxation power which has been transferred to the

²⁰ Preliminary figures show approximately 800 Multinationals with some 14,000 individual entities, of which, because of their business volume or net worth, some 1600 are considered Large businesses.

perimeter of the Multinational in the form of financial expenses, royalties and technical assistance²¹.

Under the foregoing methodological approach it is clear that the work of the SII with the Corporate Governments of the enterprises is the result of a combination of structural and preventive actions, which allow for establishing a managerial and operational framework that may be distinguished by the high levels of tax compliance based on the enterprises' own decisions.

In this collaboration scenario preference is given to monitoring actions over audits.

In principle, on observing the foregoing figure it could be concluded that the strategy based on corporate government influence could be aimed at the so-called "key taxpayers", although there could be nothing to prevent high risk taxpayers from being invited to join this initiative²².

It is clear that in order to distinguish risks among taxpayers there is need for a significant organizational effort on the part of the Tax Administration, so that those serious risk taxpayers will not benefit from flexible treatment²³.

3. THE ROLE EXPECTED FROM THE CORPORATE GOVERNMENTS

3.1. Substantive principles on tax issues

Considering the previously described methodological approach and taking into account the different reports which state that the large business and multinationals segment are of great interest, since they would pose the most relevant risks of the tax system²⁴, the Tax Administration of Chile has resolved to anticipate strategies, processes, organizational structures, information systems and the necessary competencies to mitigate this segment's risks. One of the initiatives undertaken is precisely the strategy based on collaboration which considers risk management by the corporate governments.

²¹ For example, use of the financial expenses/EBIDTA indicator at the local level and at the level of the Multinational allows for determining at the macro level, how the performance of the Chilean tax base is affected.

²² Resistance to join the collaborative approach could ratify that the taxpayer's risk is high or serious. To date, a project has been implemented, which considers a part of the businesses that have been considered as the "key" ones.

²³ Which in the Chilean case has turned out to be particularly true for businesses that have made use of aggressive tax schemes where the traditional examination model based on transactions shows significant gaps.

²⁴ Which in Chile's case turns out to be an appropriate statement. 60% of tax revenues originate from the large business segment, which value goes up to 80% if the Multinationals segment is added (without repeating businesses that may belong to both segments).

In fact, the SII is currently interacting with different business associations for structuring a working standard which may be added to the current corporate government standards that are applied in the country.

Following different standards that are used for other purposes or in other countries, such as those mentioned in section 1, it is expected that the standard for tax purposes will take into consideration the following principles:

- Directors should be qualified for their positions, clearly understand their functions in the corporate government and be capable of applying their good judgment in the design of tax policies and affairs. They should be aware of the risks of not managing the tax variable and have an opinion in this respect.
- The board of directors should know and approve the fiscal impact, when approving and supervising the company's strategic objectives, the actions for carrying them out, within the framework of the approved tax policies. This calls for explicitly expressing themselves in tax planning cases which involve the reorganization of assets or functions, especially when other jurisdictions are involved.
- The board of directors should establish and ensure compliance with clear lines of responsibility throughout the organization, which in tax matters implies knowing beforehand who are responsible for operations and on which tax matters. This calls for providing the model with information whereby the SII may establish a traceability plan for decision-making and assign responsibilities, when appropriate, in the cases of severe noncompliance with essential tax obligations²⁵.
- The board of directors should ensure that management undertake an adequate follow-up of the tax policies approved by it.
- The board of directors and management should count on explicit and public strategies to make use of the work carried out by the Internal and External Auditing functions, with the independent opinion of this type of institutions being a key factor. This would imply the dissemination of such results to the Tax Administration so that they would be voluntarily corrected without any intervening audit.
- The board of directors should guarantee that the compensation policies and practices (all types of incentives) be consistent with the company's corporate culture and tax policy, its objectives, long term strategy and control environment, in such a way as to promote vertical and horizontal levels of compliance.
- The business should be directed in a transparent manner. That is, the dissemination of relevant information should be a characteristic of the business.
- The board of directors and management should understand the business' operational structure, including the subsidiaries and branches that operate in other jurisdictions, in such a way that the aforementioned principles and values may also be reflected in those units.

²⁵ The traceability concept in decision-making is useful for highlighting the importance of knowing who proposed, knew about and approved aggressive tax schemes, which information is generally not available if the Tax Administration does not count on strategies for such purpose.

- The board of directors commits itself to duly explain the reasons that prevent it from accounting for some of the foregoing principles, or else, inform about other formulas it will use to comply therewith.

It was stated that the development of strategies for improving the tax compliance levels moves along the curve described in the previous section. Thus, the strategies based on the systematization of corporate government rules become broad scope structural, preventive and dissuasive actions, permanent in time, which generate reciprocal benefits for the players of the tax system and the resources available in the economy. The businesses, in turn, achieve high levels of juridical, commercial and operational certainty.

Likewise, these strategies promote the descent in the curve of high or medium risk taxpayers, which also allows for reducing the artificial advantages originating from tax noncompliance, a phenomenon that affects the referential taxpayers who show appropriate behavior and compete with them.

4. THE CURRENT STRATEGY OF THE SII OF CHILE

4.1. The strategy under way

Considering the importance that is being attributed to the role of Corporate Governments for maintaining or increasing the levels of tax compliance, already in 2009 the SII launched the first stage of the Project called RSET²⁶ whose main characteristics were described by the OECD in its report: “Corporate governance and tax risk management”. In this first stage the strategy was aimed at improving the levels of tax compliance of the suppliers of large businesses and with that, at generating positive impacts in tax compliance of the VAT chain²⁷.

A second stage took place between 2010 and 2014, which concluded with the promulgation of the obligatory electronic invoicing²⁸ which considered a free platform that had been used since 2003. In this case, the strategy was also focused on the suppliers of the large businesses which adhered to the program. It is clear that this phase as well as the previous one were based on the previously described transactional control model.

²⁶ See RSET information at http://www.sii.cl/portales/mipyme/proyecto_rset.html

²⁷ However, such positive impacts were exceeded by other aggressive behaviors of other taxpayer segments, which in the long run has resulted in increases of the aggregated evasion rate in VAT.

²⁸ <http://www.sii.cl/pagina/actualizada/noticias/2014/310114noti01jv.htm>

Currently and within the framework of the risk-based model, the third phase of the project is underway. The starting point are the regulations introduced by the Tax Reform as described in the foregoing section 2.2. It thus allows for explicitly advancing in improving the very tax behavior of large businesses. This third phase is immersed in the SII's (MECT) tax compliance strategic map, which is structured on the basis of the SII's 2014-2018 Strategic Plan and within it, the Annual Tax Compliance Plan (ATCP).

In other words, the strategy is now focused on the company itself in order that through its corporate government it may be capable of knowing its tax risks and gaps and determining functions and activities that may allow it to maintain an appropriate standard for tax purposes and thus continue in the lower area of the risks and treatments curve. Of what has been said so far, the following concepts are immersed in the strategy:

4.1.1. Tax gap

This is the difference between the expected tax behavior (ETB) compared to the observed tax behavior (OTB). Without considering in depth the methodologies for calculating said difference, it would be feasible for the Tax Administration to submit managerial reports to the company's corporate government in order to inform it about its levels of tax compliance with such obligations as provision of information, filing and payment, as well as other of its own indicators and ratios versus a reference segment.

4.1.2. Tax behavior standard

Undoubtedly the expected behavior is determined by the very tax law and the administrative instructions in force originating from the Tax Administration. The standard should include the key principles and aspects mentioned in the previous section.

In concrete terms, a reference framework should be established for the company as well as its suppliers and thus maintain the appropriate tax behavior levels. For the Company itself, one should consider indicators for the basic tax obligations and contribution indicators based on actual tax burdens.²⁹

4.1.3. Horizontal adherence agreements

The strategy considers interaction and consensus with business groups of interest that may be part of a horizontal spectrum of relevant players for the tax system.

²⁹ For example, that the actual tax burden of the companies in the country be maintained or increased depending on the level of actual activities carried out. That the interest/EBIDTA ratio be similar to that of the Multinational that gets into debt with independent companies.

Thus, in Chile's case strategies are being developed for reaching collaboration agreements with segments of interest represented by business associations³⁰. For example, make known the actual (aggregate) VAT and income tax burden ratios, as well as the operational tax gaps.

This exercise may give way to initiatives for improving the levels of tax compliance that may be proposed and implemented by the associations. The foregoing could give way to a tax code of conduct that would come to complement the standard of practices expected from corporate government.

4.1.4. Vertical adherence agreements

The corporate government responsibilities should go beyond the formal entity wherein they are carried out and bring together all the members of the economic group, in such a way that even the companies and entities located abroad may be part of the best practices. This implies that the strategy should consider elements for the vertical structure maintained by a group of businesses.

4.2. Some marketing aspects to be considered

The level and intensity of the risks will also be influenced by the general characteristics shown by the markets. In developed countries one observes broad markets of low concentration, where corporate government faces conflicts mainly between the companies' board of directors and their shareholders. In these markets, the system favors liberalization and the dissemination of the economic and financial performance. Conflicts, if any, occur between those participants.

In emerging countries, as in Chile's case, markets are quite concentrated, with a high predominance of businesses closed to the public, with a corporate government that usually follows the guidelines of a great comptroller. Here the greater conflicts take place between the comptrollers and minority shareholders. In this scenario of closed business predominance, it is deemed that the role of corporate government becomes critical for the tax strategy.

It should be noted that the market characteristics, the levels of entrepreneurial concentration must be considered in the design of the strategy.

This will eliminate the need that all businesses that are relevant to the tax system count on a behavior standard that is promoted, supported and reviewed by governance which is the result of collaborative work between the SII and the businesses. This agreement must necessarily consider the case of businesses with closed information, sphere which is extremely complex for the culture prevailing in the country with respect to this segment.

³⁰ In April 2015 a new regulation was issued for the operation of an SII Committee which includes the participation of different players from the private sector.

5. RECOMMENDATIONS

Usually the Tax Administration has legal powers that would allow it to develop a strategy as the one described. Otherwise, it will be necessary to move forward by means of technical reports for introducing legal changes that may allow it to count on the essential tools to give way to strategies based on the collaboration with those administered.

It is absolutely necessary to know, analyze and characterize the large business segment (or economic groups, or multinationals), the functions and responsibilities assumed in practice by a board of directors, which would imply carrying out a study in the respective jurisdiction³¹. To begin this key aspect of the strategy's design it is recommended that a pilot plan with explicit resources be used.

It is also necessary to determine the criteria that will indicate the presence of a key or high risk business for the tax system and with respect to which one should establish closer personal relations, thereby promoting a collaborative working approach. It is important that this recognition respond to technical studies and not simple perceptions. A risk model such as the one described in section II) of this report may contribute to such characterization. One should also consider the introduction of legal changes when the tax gaps correspond to series deficiencies in the tax law.

It is also essential for the Tax Administration to generate communication channels with the business associations and tax intermediaries so as to make known the tax compliance gaps that are typical of the players of a sector or segment. This may give way to a work on suppliers, to improve the VAT chain or on the company itself. Undoubtedly the benefits of the strategy may be extended to various tax obligations.

Behaviors expected from corporate governments:

- The board of directors of the businesses ensure their shareholders the use of appropriate and safe government practices,
- Good corporate government together with high levels of transparency acquires the greatest relevance, especially in times of crisis,
- Businesses consider the tax risk as part of its corporate government assuming that the tax risk could affect its financial performance and reputational risk,
- The board of directors may expect less audits and compliance costs if they show best practices in the tax sphere,
- The board of directors must explicitly propose decision and information criteria vis-a-vis the "distribution of the unanticipated benefit".

The Tax Administration' Influence:

³¹ Study that could be carried out by the Tax Administration itself, although it would be preferable that it be done with the collaboration of some recognized University.

- The Tax Administration must ensure that the board of directors understand that they are ultimately responsible for the tax strategies and their impacts,
- The Tax Administration must strengthen its relations with the large businesses in order to ensure that the board of directors understand their fiscal obligations,
- It must assign the necessary resources and ensure the institutional alignment in order to allow for the strategy,
- It must distinguish the treatment given to businesses subject to regulation and advertising of its acts, as is the case of corporations that trade in the stock exchange, from those that are closed to the public,
- Ensure that closed corporations and groups provide information to the community, although it may be of a voluntary nature,
- Review of the processes and channels used for communicating with the businesses,
- Establishment of specific functions including the creation of a central area devoted to planning and supporting collaboration and monitoring.

In order to begin the previous activities and arrive at a final format, it is suggested that a previous pilot program be initiated with a small number of businesses that may include commitments and indicators with respect to results as well as benefits.

The voluntary procedure could consider the following activities:

- Describe the usual matters analyzed and sanctions by the Board of Directors,
- Describe the decision-making process in relation to tax matters of relevance,
- Manner in which the Board of Directors relates and receives information from its Management regarding tax issues,
- Presentation of a reasoned explanation of the business' tax position based on a group of taxpayers used as reference,
- Discussion of the relevant tax indicators and gaps, considering usual errors in the delivery of information, actual VAT and income tax rates,
- Relevance and periodicity of tax internal audits and actions taken as a result of the respective reports,
- Periodic meetings with tax administration officials to analyze the gaps and establish voluntary mitigation measures.

The results of the pilot plan should become elements of the compliance management model that may support the decision-making process of the Tax Administration as well as of the business. Said results should be discussed with the respective businesses or associations.

It is important that the different agents of the tax system participate in the structuring of the standard (after the pilot) in an environment of collaboration and mutual respect.

It is important that the strategy based on the influence of the Corporate Government be aligned with the general tax compliance strategy of the Tax Administration, in order that it may be sustainable through time, that it may harmonize with the other treatment

actions, that its impact may be measured (for example, through the actual tax rates) and that it may essentially be adaptable to the new behaviors of the businesses, with respect to which it is deemed that the Compliance Model based on risks promotes the strategy and its impact in a much better way than the control Model based on transactions.

In sum, the expected tax behavior standard, in order to be economic and socially efficient should not disaggregate the value to the Community, but rather it should also allow for high standards of equity, proportionality and generality of the tax system, thus permitting the Tax Administration to fulfill its essential role of protecting and managing the economic and social system of the country or territory.

ABBREVIATIONS

ATO	Australian Tax Office
BEPS	Base erosion & profit shifting
ETB	Expected Tax Behavior
OTB	Observed tax behavior
IMF	International Monetary Fund
TCSM	Tax compliance strategic map (of the SII)
MNE's	Multinationals
OECD	Organization for Economic Cooperation and Development
TCAP	Tax Compliance Annual Plan (part of the SII's TCSM)
ETSR	Entrepreneurial tax social responsibility
SII	Internal Revenue Service of Chile
SIS	Securities and Insurance Superintendency of Chile



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