Title: The Deterrent impact of Public Disclosure: An Australia/Norway comparison.

Abstract

An examination of the tax compliance literature reveals that tax authorities around the world have attempted to tackle tax evasion in a number of ways. A combination of both persuasive and enforcement measures have been applied with varying degrees of success. With increasing pressure upon governments to raise revenue in the current economic climate it is timely to assess which compliance measures are having the greatest deterrent effect. This preliminary paper will present and analyse the strategies adopted by both the Norwegian and Australian tax authorities with regards to the public disclosure of tax information and the likely deterrent impact upon taxpayers. In Norway there is evidence of improved revenue figures through increased disclosure on the internet, whereas in Australia they have banned the reporting of tax evaders in the Commissioners annual reports some years ago and deterrence is achieved via various media outlets amongst other avenues. It is suggested that this comparative analysis will provide useful insights of how limited public disclosure of tax information may increase deterrence and potentially supplement other revenue strategies and improve overall compliance.
1. Introduction

The debate over whether public disclosure of tax information or tax privacy promotes greater deterrence and consequently improves taxpayer compliance is as old as the income tax itself (Bittker, 1981). There has been a large volume of research and investigation done in determining what factors act as the greatest deterrent in tax compliance, with public disclosure also being employed as a key variable. Arguably, while there is evidence of public disclosure at the corporate level limited findings have appeared with regards to individual income tax reporting. A key reason for this is that very few countries practice public disclosure of tax information at the individual level (Slemrod et al., 2013).

The objective of this paper is to compare two countries which are relatively at the extremes with respect to individual income tax reporting and disclosure and make some tax policy recommendations as to which system or combination thereof would improve overall taxpayer compliance. The comparison encompasses the Norwegian system, where public disclosure of individual tax information is now accessible via the internet and the Australian situation, where privacy principles still protect this information from disclosure. It is envisaged that while the paper may show how public disclosure indirectly improves compliance in the setting of one country, it will also indicate that some derivation of disclosure may supplement other compliance strategies in another country.

The remainder of this paper is organised as follows. Following the introduction, a brief background and review of the tax compliance literature with respect to the deterrence mechanism generally and specifically regarding public disclosure, is provided in section II. Section III briefly outlines the impact of public disclosure of tax information globally, citing specific countries which have employed various measures. Section IV focuses on public disclosure of tax information in Australia, both at the corporate and individual level and the impact the privacy principles have had in limiting this practice. Particular strategies adopted in Australia are presented and analysed for their effectiveness. A similar analysis is employed for the Norwegian situation in section V, focusing on the use of the internet and the resulting improvement in government revenues. Based on current global practices and the Norwegian and Australian comparison, Section VI discusses how public disclosure improves deterrence and supplements other compliance strategies. In particular, tax policy recommendations will be proposed, suggesting what combination or mix of disclosure may be the most effective in improving compliance in Australia. Finally, Section VII concludes the paper.

2. Background and brief review of tax compliance-deterrence literature

2.1 The nature and extent of deterrence in the tax environment

Overall the economic deterrence model proposes that increasing punishment by expanding criminal sanctions decreases non-compliance and this principle supports sentencing theory

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and the courts’ right to consider the maximum penalty for an offence in order to achieve general deterrence (Jackson, & Milliron, 1986). However, the research is also mixed with regards to the influence of enforcement measures and detection upon compliance behaviour in general.

A review of the literature on tax evasion by Slemrod (2007) indicated that a number of deterrence mechanisms have had an impact on tax compliance. Slemrod noted that while there is no compelling empirical evidence addressing how non-compliance is affected by the penalty for detected evasion, it is the probability that non-compliance will be subject to punishment (including prosecution) which is a greater deterrent. The use of various enforcement measures including information reports, employer withholding and the naming and shaming of evaders, has also had an impact on improving compliance. While variations in taxpayers’ duty and honesty can explain some evasion, it is the difference in compliance rates across taxable items that line up closely with detection rates that strongly suggest that deterrence is a powerful factor in evasion decisions.

Another review of the tax compliance literature by Kirchler et al (2008), examined the issue of enforced versus voluntary tax compliance. In particular, the research offered an alternative framework called the “slippery slope” which considered both the power of, and trust in, the tax authority and the interaction of those elements. Kirchler et al suggested that a response regulation approach which considered the motivational postures of taxpayers (i.e., attitudes and beliefs) while keeping legal sanctions available was preferred to prevent the downward pull illustrated in the slippery slope framework.

A US study conducted by Alm et al, (2010), investigated deterrence from the “service” paradigm rather than the “enforcement” paradigm. This empirical study utilized laboratory experiments to test the effectiveness of taxpayer service programs in enhancing tax compliance. Although using an experiment, the study was able to effectively mimic the natural tax environment of taxpayers in terms of the self-assessment process. The results indicate that when the tax agency provided information at low cost to the taxpayer it reduced the level of uncertainty and tax compliance improved. The study acknowledged that while a compliance strategy should emphasise enforcement, it should also emphasise other administrative policies such as taxpayer services in order to provide balance and increase effectiveness.

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4Ibid 33.
5Ibid 41.
6Ibid 44.
11Ibid 581.
12Ibid 583.
A study by Dubin (2007) empirically tested whether measurable activities of the IRS Criminal Investigation Division impacted upon taxpayer compliance.\textsuperscript{13} Based on two econometric models developed by Dubin, Graetz and Wild (1987), both specific and general deterrent effects of criminal investigations and audit rates could be reliably measured.\textsuperscript{14} The actual analysis was based on a state-level cross-section for the years 1988 to 2001. The results indicated that criminal investigations had a measurable and statistically significant effect on voluntary compliance, while incarceration and probation had more influence on taxpayers than fines.\textsuperscript{15} However, it was also found that the mix of sentenced cases (tax and money laundering) was not significant.\textsuperscript{16} Overall, the findings emphasise that prison and probation time should be served in order to improve deterrence.

A different type of quasi-experiment research methodology was employed by E C Loo (2006) to gain further insights into the influence of tax knowledge and tax structure features on individual taxpayers’ compliance behaviour in Malaysia.\textsuperscript{17} The quasi-experiment design using two dimensions was conducted on two groups of participants (salary and wage earners and the self-employed). Findings revealed that specific tax knowledge did significantly influence the reporting behaviour of both groups of participants.\textsuperscript{18} In particular, tax structure features such as the tax rate, audit rate and penalty rate were factors that had significant interactions with tax knowledge for the self-employed, while, for the salary and wage earners, just the audit and tax rates were found to have significant interactions with tax knowledge.\textsuperscript{19} As these variables are derived from the economic deterrence model, the study provided evidence that they are still effective deterrents.

Other studies which have investigated penalties as a deterrent include that of Gupta (2007). This study examined taxpayers’ perception of tax evasion as a crime, amongst other white collar crimes, and the relevant penalties attached thereto in New Zealand.\textsuperscript{20} Results show that while tax evasion was ranked in the middle along with insurance fraud, the penalty attached to tax fraud carried a maximum of only five years’ imprisonment, while insurance fraud was double at ten years.\textsuperscript{21} The level of penalty for tax evasion was also questioned by Raskolnikov (2006), who recommended that a new penalty be introduced which equalled a percentage or fraction of the evasion (legitimate claim) ultimately reducing the ability to hide non-compliance and therefore improve overall deterrence.\textsuperscript{22}

A study conducted by Martinez-Vazquez and Rider (2005) examined the theoretical and empirical implications of accounting for multiple modes of tax evasion.\textsuperscript{23} Using data from the IRS’s Tax Compliance Management Program (TCMP) to estimate an empirical model with two modes of evasion, (increasing deductions and decreasing income) two interesting

\begin{footnotesize}
\begin{enumerate}
\item Ibid 242.
\item Ibid 243.
\item Ibid, 139.
\item Ibid 140.
\item Ibid 17-18.
\end{enumerate}
\end{footnotesize}
findings emerged. First, increasing the probability of detection in a given mode has an ambiguous effect on compliance in both the targeted and untargeted mode. Second, increased enforcement effort has a positive effect on compliance in the targeted mode, a negative effect in the untargeted mode, and a positive overall effect on tax compliance. However, as it is difficult to predict whether taxpayers perceive alternative modes of evasion as substitutes or complements, further research regarding the deterrent effect of enforcement is still warranted.

Further research into achieving deterrence via punitive measures was conducted by Williams (2001) in a study for the Centre for Tax System Integrity (CTSI). In investigating the prosecution of non-lodgers and the implications for future compliance behaviour, a sample of 528 records between the 1997-1999 years were obtained to see what medium-term effect on lodgement behaviour the prosecutions achieved. A mixed method approach was adopted, encompassing both logistic regression analysis in predicting lodgement and semi-structured interviews with selected prosecutions staff. The findings indicated that prosecution only moderately improved lodgement and the effects reduced over time. Likewise, it was not the severity of punishment but rather the perception of the threat of prosecution which acted as a deterrent, and once this threat had been realised it lost its effect.

Another study on deterrence mechanisms was undertaken by Feld and Fry (2003). Basically, a survey approach was used that involved 26 Swiss cantons (districts) in Switzerland. The taxpayers located in those cantons gave their opinions on the legal background to tax evasion and the general treatment of taxpayers by the tax authorities. The findings indicated that deterrence could be achieved by the tax authorities if they practised procedural fairness and justice, and displayed a general respect for taxpayers. Importantly, a systematic relationship between external intervention and intrinsic motivation was also established through the study.

Following this research, a study by Wenzel (2003) explored the concept of extrinsic motivation in terms of personal and social norms as moderators of deterrence. Employing data from the Community Hopes, Fears and Actions survey, the study investigated three types of tax evasion, under-reporting of income, non-payment of income, and exaggerated deductions, along with three aspects of deterrence incorporating legal sanctions, namely, perceived probability of detection, perceived probability of legal consequences, and the perceived severity of the consequences.

Ibid, 34.
Ibid 39.
Ibid 20.
Ibid 22.
Ibid 16.
Ibid 17.
The Community Hopes, Fears and Actions survey was mailed to a random sample of Australians between June and October 2000. The purpose of the survey was to obtain a snapshot of the beliefs, attitudes, values and motivations that Australian citizens held in relation to the ATO, the tax system, Australian democracy and fellow taxpayers during the first phase of tax reform. The survey was designed to canvass a broad range of issues relating to taxation in Australia, and produced data on some 500 variables. See Braithwaite, J, (2001).
The results showed that personal taxpaying ethics were negatively related to tax evasion, while social norms (beyond those internalised as personal ethics) had no direct effect.\(^\text{34}\) Personal ethics were powerful in moderating the deterrent effects of legal sanctions; deterrence was stronger when people’s ethics were only weakly opposed to tax evasion.\(^\text{35}\) Social norms moderated the effects of deterrence when personal norms were controlled and identification as Australians was weak: the deterring effects of the legal sanctions were greater when social norms were strongly opposed to tax cheating.\(^\text{36}\) Consequently, the study revealed that taxpaying norms and ethics are critical elements in achieving improved compliance.

In summary, the majority of studies reviewed indicate that there are various deterrence mechanisms that have an impact upon and relationship with taxpayer compliance behaviour. In particular, it appears that relying on legal sanctions and punitive mechanisms alone will not produce favourable outcomes. Indeed, taxpayer ethics, personal and social norms, rewards and incentives, education and tax knowledge of taxpayers, all play a large part in any overall deterrent impact. Studies also suggest that the combination of lighter enforcement and better service by the revenue authority is highly desirable for improving compliance.\(^\text{37}\)

### 2.2 Public Disclosure as a form of deterrent

Given the number of variables described above that can act as a deterrent to non-compliance, the implications of public disclosure as another form of deterrent is central to this paper. In particular Coricelli et al (2010) investigated the influence of emotions on tax evasion.\(^\text{38}\) Employing an experiment comprising two groups of students, where one group’s cheating behaviour was publicly revealed resulted in a reduced level of evasion for that group. It was found that a strong physiological impact of public display of evaders’ pictures created emotional arousal on tax evasion. An environment where deception was made public, favoured tax compliance, relative to an environment where fraud was only punishable by monetary sanctions.

Laury and Wallace (2005) also employed experimental methods to analyse the relationship between the perception of confidentiality and taxpayer compliance and found some evidence that suggested that when individuals perceive a breach in confidentiality (disclosure) they increase their level of compliance.\(^\text{39}\) Two treatments were employed including, full and partial confidentiality (i.e. no shaming mechanism was used). It should be noted that while

\(^{34}\) Wenzel, M, above n 32, 22.  
^{35}\) Ibid 24.  
^{36}\) Ibid 27.  
^{37}\) See Sheffrin, S M and Triest, R K, (1992), Can Brute Deterrence Backfire? Perceptions and Attitudes in Taxpayer compliance in Slemrod (ed), Why people pay taxes: Tax Compliance and enforcement, University of Michigan Press, Michigan, 193-218. The study indicated that broadly-based enforcement programs might reduce the chance of adversarial relationships between the IRS and taxpayers and lower taxpayers’ estimates of the probability of detection as a result of being affected by the enforcement program.  
the level of reported income was higher in the partial confidentiality sessions these
differences were quite small.\footnote{Ibid, 436.}

Lenter et al, (2003), provided a brief history of the US federal tax disclosure laws and then
disclosure included; aiding regulators to police corporate governance, improving the
functioning of financial markets, promoting tax compliance and applying political pressure
for good tax policy. The disadvantages put forward were that disclosure violates
confidentiality, may create confusion with regards to transparency, provides too much power
to the Federal government and may have unintended behavioural responses, such as,
increasing the cost of business. Overall, the authors did not support full disclosure but were
sympathetic to partial disclosure. In particular, disclosure of total tax liability alone, or along
with a small number of bottom line items or public reconciliation between tax and book
concepts of income.

Opposed to public disclosure have been the defenders of tax privacy. Blank (2011) argued
that tax privacy enables the US government to inflate taxpayers’ perceptions of the
probability of detection and the expected costs of non-compliance. On the other hand, public
disclosure could lead to tax —enforcement weaknesses and lower individuals’ perceptions of
would support two models of taxpayer behaviour. Firstly, a traditional deterrence model of
taxpayer behaviour where individuals weighted up the expected costs and benefits. Secondly,
a reciprocity model of behaviour where individuals were happy to contribute to the public
good if they believed others were doing the same. Overall, the author concluded that
individual tax return information should remain private other than when enforcement action
is instituted against an individual taxpayer. It was suggested that the government could
employ the strategic- publicity function’ of tax privacy to increase voluntary compliance.

On the other hand, many scholars have questioned the hypothesis that, in the absence of tax
privacy individuals would withhold important personal information from the revenue
and Bernasek, 2010).\footnote{References to literature as cited in Blank, J D, United States National Report on Tax Privacy, \textit{New York University Law and Economics Working Papers,} (2013) 1-28, 2.} Several of these scholars have suggested that tax privacy no longer
plays as critical a role in fostering tax compliance as it did in the past (Kornhouser, 2005,
101-103, Thorndike, 2009, 691 and Schwartz, 2008, 895-896.) By lifting the curtain of tax
privacy these scholars argue that public access to tax return information would cast “millions

In particular, Kornhouser (2005), reevaluated publicity as a tax compliance tool in light of
legal and social changes regarding privacy that had occurred over time.\footnote{Kornhauser, M. E, (2005). Doing the Full Monty: Will Publicizing Tax Information Increase Compliance? \textit{Canadian Journal of Law and Jurisprudence,} Vol. XVIII, No. 1, 1-23.} It was suggested
that a redefined concept of publicity would be a better tool to attack both intentional and unintentional non-compliance. A moderate approach that minimizes the invasion of privacy while still publicizing enough information to promote increased compliance was recommended. A modern day “pink slip” was suggested that incorporated the taxpayer’s name, a non-specific address, gross and taxable income within narrow income ranges, any capital gains, particular deductions and credits and finally the taxpayer’s marginal and effective tax rates. As much of the publicity was considered educational only, it encroached far less on privacy than traditional publicity. A sense of wider and more effective dissemination of information was the aim while advocating for limited disclosure.

Mazza (2003) was also an advocate for limited disclosure. A thorough review of the literature revealed that restricted disclosure of return information for narrow purposes can be part of an effective compliance strategy while at the same time preserving taxpayers’ reasonable expectations of privacy. Empirical evidence suggested that publicity could play a positive role in discouraging non-compliant behaviour and increasing the public’s commitment to the system. In particular, Mazza proposed disclosure exceptions authorising the IRS to publicize its enforcement efforts aimed at three specific types of non-compliance including; criminal tax evasion, failure to pay assessed taxes and investments in abusive tax shelters. Mazza, believed that the benefits to government in each case of disclosure would outweigh any threats to taxpayer privacy interests.

Taking a slightly different perspective to public disclosure by the tax authority was the situation of increased disclosure by taxpayers’ themselves, as advocated by Pearlman (2002). Pearlman indicated that mandatory tax disclosure of information relating to tax –relevant transactions may serve three enforcement and compliance functions. First, an audit function where information would assist the IRS to evaluate the effect of a transaction on a disclosing party’s tax liability. Second, a tax policy function where disclosure could provide important information regarding administrative and legislative responses to current law. Third, a deterrence function which discouraged taxpayer investment in particularly questionable transactions. Supporting the later was the apparent strong association between public information disclosure (i.e. non-tax information reporting by public companies) and high compliance.

3. The deterrent impact of public disclosure of tax information-globally

As there are various forms and levels of disclosure of tax information, it is apparent that this may result in varying degrees of deterrence that ultimately impact upon compliance. However, the experience of public disclosure on a global scale has been limited (Slemrod et al, 2013). At one extreme we have the Nordic countries where personal level public disclosure is displayed with Norway (analysed in detail in Section 5) leading the way. At the other extreme we have the majority of western countries with some exceptions in Europe and the US which has trialled limited spells of public disclosure. In between the extremes, other countries have adopted and then discarded various forms of disclosure or are about to adopt limited disclosure measures, such as, in Australia (analysed in detail in section 4). The

47 In 1934 a pink slip required six pieces of information to be disclosed including; name, address, gross income, total deductions, taxable income and tax liability see Act of May 10 1934, s 55(b), 48 Stat, 680, 698 (1934).
50 Ibid, 308.
following section provides a brief overview of disclosure measures adopted in selected countries and the deterrent impact if any these measures have had upon taxpayer compliance.

Investigating both Sweden and Finland as fellow Nordic countries it is apparent that both corporate and personal level disclosure exists. In Finland not only can one apply to the tax authority for information about individuals but the media also publishes the top 1000 income earners and provides personal details including how much tax has been paid as a portion of salary, Catanzariti, (2004). There are also boutique publications that publish guides on everyone who earns about 40,000 Euros, but otherwise it is just a long list of people the Fins would know of. Given there are only 5 million people in the country and very few foreigners, it is highly likely that many tax evaders would be known or identified.\textsuperscript{51} Consequently, the transparency in the Finnish system appears to be having a positive effect on compliance rates.\textsuperscript{47} (Slemrod et al, 2011) investigated the empirical evidence regarding the effect of public disclosure of tax reports of individuals and businesses in Japan up until its abolition in 2005. It was discovered that where there was a threshold of disclosure (i.e. taxable incomes above about 40,000 yen individuals, $AUS 400,000 equivalent and 75,022,000 yen for corporations) many taxpayers whose liability would otherwise be close to the threshold chose to underreport income so as to avoid disclosure. However, the strong result only applied to disclosure systems with a threshold and the financial statements of companies provided no evidence that taxable incomes declined after the end of the disclosure system. Overall, it was concluded that public disclosure had the power to change behaviour.

Other European countries such as Italy and France have experienced short spells of public disclosure. For example, in Italy in 2008 the tax authorities put all 38.5 million tax returns for 2005 up on the internet before being blacked out following wide spread protest (Slemrod et al, 2013).\textsuperscript{52} No doubt the taxpaying culture in Italy had an impact upon this compliance measure which potentially could have produced exaggerated revenue results. Providing details of tax evaders has been another popular form of disclosure. Under Greek law the presentation of a new budget is accompanied by the names of tax evaders in the previous year complied by the finance ministry (Slemrod et al, 2013). However, given the culture of taxpaying in Greece as evidenced by the recent European financial crisis and austerity measures put in place by the EU, there is limited evidence that the disclosure of these tax evaders has had a deterrent impact upon non-compliant behaviour.

The issue of disclosing tax evaders as a tax compliance tool has also been adopted with varying success in other Commonwealth countries. Up until the early 2000’s the Commissioner of Inland Revenue in New Zealand, regularly released a document entitled “Tax Evaders Gazette” which listed those taxpayers who had either been prosecuted or had penalty tax imposed for evading their tax obligations. Since 1997 the Commissioner was able to publish the names of those taxpayers involved with “abusive tax avoidance”(Slemrod et al, 2013). Surprisingly this measure has now been withdrawn despite fulfilling a deterrent role and assisting the generally high taxpaying culture evident in New Zealand. The motivations of the IRD in this regard were not clear or justified. Despite obvious privacy issues around releasing taxpayer details, the naming and shaming of offenders has been


\textsuperscript{52} The Economist May 8, 2008. Before being blacked out, vast amount of data were downloaded and transferred to other sites or burned on to discs and sold.
successful both as a deterrent and a revenue raiser in Portugal for example,\textsuperscript{53} and has received support in the literature.\textsuperscript{54}

In contrast, the Canadian Customs and Revenue Agency compliance strategy involved publicizing court convictions for tax fraud and releasing the names of offenders. In Ireland a list of tax defaulters was formally published on an annual basis in the Revenue Commissioners Annual Report, but recently the list is published on a quarterly basis in Iris Oifigiuil (the official newspaper of record in Ireland) in which several legal notices including insolvency notices, are required by law to be published and reported in the national and local newspapers. According to the tax agency this measure “aims to raise the profile of compliance and provide a continuous deterrent to other potential tax evaders. Frequently taxpayers make a full disclosure of irregularities to auditors at the commencement of an audit to avoid the possibility of being punished for tax offences.” Moreover, the well-publicised quarterly list is “more likely to be spotted by suppliers, customers, business associates and friends” and would need to be avoided at all costs. (Slemrod et al, 2013).

In Korea only a few non-compliance statistics audited for certain limited taxpayers are irregularly released to the public. Likewise individual tax return information for randomly selected anonymous taxpayers is released for public use in limited circumstances (e.g. academic research). This level of tax compliance information (TCI) disclosure has led to conflicts and heated debates between the tax authority and various parties. Hyun and Kim (2007), propose that it is the bad equilibrium that has trapped some countries such as Korea, into a ‘very low degree of TCI disclosure’ and a ‘pervasive level of tax evasion.’ Likewise in Mongolia national statistical information is published under the Prime Minister, not the tax authority and contains only a small amount of tax information which has nothing to do with TCI.\textsuperscript{55} Arguably, this does nothing to promote greater deterrence and improve compliance.

In the US the history of public disclosure of tax information has been gradual. Initially disclosure laws of one form or another were enacted in 1862, 1864, 1909, 1924 and 1934 demonstrating that confidentiality as a general rule is a relatively recent phenomenon. The shift came in 1976 following allegations that the Nixon Administration had improperly used tax return information against political opponents. Since 1976 as per § 6103 of the Internal Revenue Code, disclosure of return information is forbidden, except under limited circumstances. Public disclosure rules of tax information for corporations at the state and

\textsuperscript{53} Portuguese Tax Authorities publish a list of debtors, and their categorisation, in accordance with the amount of the debt, on their website <http://www.e-financas.gov.pt/de/pubdiv/de-devedores.html>. In April 2010, the Portuguese Government officially announced that it had recovered more than a thousand million Euros due to publication of the list of taxpayers (individuals and corporations) with tax debts.

\textsuperscript{54} The reintegration shaming literature, see for example, J, Braithwaite, “Crime, Shame and Reintegration; Braithwaite, J and Drahos, P, “Zero Tolerance, Naming and Shaming: Is There a Case for it in Crimes of the Powerful?” (2002), 35, 3 Australian and New Zealand Journal of Criminology, 269-288, 275, where it was concluded that naming and shaming was a bad policy for the powerless but could be a strategic policy with regards to corporate or organisational crime. See also Van Erp, J, “Naming without Shaming: The Publication of Sanctions in the Dutch Financial Market,” <http://onlinelibrary.wiley.com/doi/10.1111/j.1748-5991.2011.01115.x/full, 1-9, 7>, where it was found that exposing the offender raises the expectation of a moral message about the inappropriateness of certain behaviour. The Study showed that regulatory enforcement provides an opportunity to express what is morally right and to change perceptions as to what is meant by appropriate behaviour.

Local levels have nevertheless been permitted in Massachusetts, West Virginia and Kansas since the 1990s. The IRS has also occasionally in the past made public the names of tax offenders (Lenter et al, 2003). Whether the deterrent impact of this limited form of disclosure has been effective in influencing compliance over the years is uncertain and continues to be challenged.

4. Deterrence measures/public disclosure adopted in Australia

As it is evident that the level of disclosure of tax information varies from country to country, the following section focuses on the current state of play in Australia. In particular, both individual and corporate disclosure rules will be discussed in line with the current privacy principles which operate. Particular strategies that have been adopted by the government will be outlined and analysed for their potential effectiveness and future as a deterrent measure and compliance tool.

4.1 Disclosure of individual taxpayers

The disclosure of individual taxpayer information has generally been non-existent in Australia. Other than the public having access to tax information via court records and other documents in the public domain it is difficult to acquire knowledge of a taxpayer’s dealings. Access could be sought under the Freedom of Information Act 1982 but this is limited somewhat by the National Privacy Principles. In particular, National Privacy Principle Number 2– Use and disclosure indicates in 2.1 (a) that an organisation must not disclose personal information about an individual for a purpose (the secondary purpose) other than the primary purpose of collection unless (a) both of the following apply:

(i) the secondary purpose is related to the primary purpose of collection and if the personal information is sensitive information, directly related to the primary purpose of collection,
(ii) The individual would reasonably expect the organisation to use and disclose the information for the secondary purpose or

(b) the individual has consented to the use or disclosure...

This severely limits the tax authority in divulging any type of personal tax information unless as per 2.1(f) the organisation has reason to suspect that unlawful activity has been, is being or may be engaged in and uses or discloses the personal information as a necessary part of its investigation of the matter..... Also 2.1(h) where the organisation believes that the use or disclosure is reasonably necessary for... (i) prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of law imposing a penalty or sanction...... (iii) the protection of the public revenue....Consequently, we see the Australian Taxation Office (ATO) and other government agencies publish the details of tax evaders who have been caught, via media releases and press outlets in an effort to get the message out and create a general deterrent. How effective this has been is arguable, given its indirect and somewhat adhoc occurrence.


For example, see Australian Federal Police Media Release: Three charged in joint tax evasion and money laundering investigation, October 16, 2013.
Further invasion of individual taxpayer information is protected by the Tax Laws Amendment Bill (2013), which was introduced to increase the disclosure of company information. Specifically, Chapter 3: Improving the transparency of Australia’s corporate tax system Paragraph 3.10 indicated that the government is committed to maintaining the confidentiality of taxpayer information of natural persons. The amendments contain express protections for natural persons. This was in line with the Statement of Compatibility with Human Rights (Parliamentary Scrutiny) Act 2011, paragraph 3.74 which indicates that information is not capable of being used to identify an individual... recognises the importance of affording privacy to individuals personal affairs ... and promote the prohibition on interference with privacy under article 17 of International Covenant on Civil and Political Rights. As indicated in the Explanatory Memorandum to the Privacy Amendment (Privacy Alerts) Bill 2013 Second Reading Speech, the right of an individual to control what happens with his or her personal information is an important aspect of the right of privacy.58

4.2 Disclosure of corporate taxpayers

Similar to the situation with individuals, the disclosure of corporate tax information in Australia up to now has been limited59 but this has changed recently with the introduction of the Tax Laws Amendment Bill (2013) since 1 July 2013, discussed above. The main objectives of the new legislation were to discourage aggressive tax avoidance practices, promote greater tax policy debate, and enable better public disclosure of aggregate tax revenue collections despite taxpayers being potentially identified and to allow improved sharing of tax information between government agencies.60

Specifically, the new legislation aims to improve the transparency of Australia’s business tax system by publishing certain information from tax returns where the corporate has a total income of $ AUS100 million or more for an income year. Separately, the Commissioner will also have a duty to publish the final amount of the entity’s annual Minerals Resources Rents Tax (MRRT) or Petroleum Resources Rent Tax (PRRT) payable, regardless of total income. Importantly, the second measure amends the taxpayer confidentiality provisions to ensure publication of aggregate tax information to fulfil its financial reporting obligations, unless the entity is an individual. The third measure enhances information sharing between government agencies by allowing a tax officer to disclose confidential taxpayer information to the Treasury with regards to decisions concerning the Foreign Acquisitions and Takeovers Act (1975) or Australia’s Foreign Investment Policy.61

The implications of the new disclosure legislation will vary for Australian listed entities, privately held large businesses and Australian subsidiaries of foreign owned multi-national groups. It will also depend on the cash tax profiles of the large businesses. From a deterrent perspective, public perception issues may arise from the disclosures. For example, if businesses have low cash tax payable due to factors such as carry-forward losses or R&D deductions, increased queries may arise in the absence of full information, from analysts, the

58 Privacy Amendment (Privacy Alerts) Bill 2013, Second Reading Speech, House of Representatives, 29 May 2013, 4230.
59 Some large business and multi-nationals already publicly disclose the taxes they pay, see for example, Rio Tino.
60 Tax Laws Amendment Bill (2013 Measures No 2) Bill 2013, 76.
61 Tax Laws Amendment Bill (2013 Measures No 2) Bill 2013, 77-78.
public or social welfare groups (Ernst & Young, 2013).\textsuperscript{62} Another danger for business is that mandatory disclosure of tax information may adversely affect consumers’ buying behaviour (Similar to the recent protests directed at Starbucks in Britain).\textsuperscript{63} In addition, government themselves are large consumers of goods and services and may take information on tax contribution into account when making purchasing decisions. There have also been reports about “ethical investors” who ignore purchasing shares in companies that are not viewed as tax compliant (Grieve et al, 2013).\textsuperscript{64}

4.3 Effectiveness and future of disclosure strategies adopted

To gauge the benefit and effectiveness of the improved disclosure requirements by corporations involves considering factors other than just increased revenue. Importantly the new legislation will update Australia’s tax rules to be able to cope with the modern global economy. In the digital age the ability to conduct business over the internet anywhere in the world has highlighted the inadequacy of the residency and source rules. The new disclosure measures may be a first step to diagnosing deficiencies in the tax system and pave the way to aligning it to a digital and global economy (Grieve et al, 2013).

To some extent the new legislation also replaces the deterrent that was removed from individuals in the late 1990s. That is, the “naming and shaming” of large businesses and multi-national taxpayers that do not pay their fair share of tax in Australia. The bad publicity could have financial implications and may influence the investment decisions of companies currently operating in Australia and those considering establishing a business in Australia. In this regard, it is vital corporations review the appropriateness of their business and entity structures and transfer pricing policies so that they are not exposed to legitimate criticism. Potentially the legal costs of large business and multi-nationals will rise if they need to take advice on whether disclosure under the new legislation breaches any legal or commercial confidentiality obligations. Consequently, one danger the more onerous disclosure obligations could bring is a “race to the bottom,”\textsuperscript{65} as enterprises discover they are paying more tax than their competitors (Grieve et al, 2013). This could negate the overall benefits derived from increased disclosure.

Apart from improving corporate compliance the revenue projections of the new legislation are nevertheless important to government. In this regard it was impossible to obtain any information (statistical data) directly from the ATO with regards to the projections of future disclosure requirements.\textsuperscript{66} However, an inspection of the 2011-12 Commissioner’s Annual Report did reveal a trend in company profits and income tax payable since 2002\textsuperscript{67} giving some idea of past performance. A comparison of the profits and net income tax reported in corporate tax returns with a corporate profit estimate from the Australia Bureau of Statistics (ABS) indicated that overall company tax performance was generally in line with improving

\textsuperscript{62} Ernst & Young (2013) Australia’s tax disclosure by large Australian businesses: Disclosure items and business implications, Global Tax Alert, 3 April 2013.
\textsuperscript{63} Coffee chain Starbucks agreed to voluntarily pay an additional 20 million pounds in tax over the next two years after it was revealed that, despite having generated over 3 billion pounds in sales since 1998, it had only paid 8.6 million pounds in income tax.
\textsuperscript{65} Under performing and reporting less income so as to avoid disclosure requirements.
\textsuperscript{66} Enquiry made with the ATO statistics team on 8 October, 2013 revealed no such statistics were kept.
profits. Further to this, the ATO’s 2012-13 Compliance Program revealed that the companies income tax reporting was generally accurate.68 Based on these past figures it is suggested that the increased disclosure requirements may have an even greater impact upon future revenue projections as the majority of corporate taxpayers choose to comply.

However, because of the strict privacy principles69 in place with respect to the disclosure of individual tax information it is suggested that there will be little, if any deterrent impact and consequential improvement in compliance on this level. The only exceptions to limiting the public disclosure of tax information by the revenue authority, is in cases of unlawful activity or criminal offences. Consequently, this may affect future revenue collections and impact upon taxpayer behaviour negatively. In particular it may send mixed messages to taxpayers who attempt to comply with their tax obligations by giving them the freedom to exercise their own level of disclosure.

5. Deterrence measures/public disclosure adopted in Norway

The following section focuses on the current state of play in Norway. Again both individual and corporate disclosure rules will be discussed along with their potential effectiveness and future as a deterrent measure and compliance tool. Initially, it should be noted that there is no measure of tax gap or other measurements of tax compliance in Norway and neither are there reliable international comparisons, but the extensive use of third party reporting and pre filled tax returns, in combination with payroll withholding tax generally ensures a high degree of compliance.

The main tools available for the Norwegian Tax Administrations are numbers and types of audits, and information and guidance efforts. However, disclosure of tax data is determined by law and is therefore outside the direct control of the Norwegian Tax Administration and has thereby not been part of the Tax Administration's efforts to increase compliance. A long standing tradition in Norway, as well as in other Nordic countries, is openness in public affairs/administration (offentlighetsprinsippet).70 It basically means that all public documents should be available for the public, if the document is not deemed confidential.

Taxation in Norway is levied by the central government, the county municipality and the municipality. The tax level in Norway is high. In 2012, the total tax revenue was 42.0% of the gross domestic product (GDP). The most important taxes, in terms of revenue, are income tax and Value added tax (VAT). Most direct taxes are collected by the Norwegian Tax Administration and most indirect taxes are collected by the Norwegian Customs and Excise Authorities.

68 Large business in 2011–12 accounted for 36% of total ATO collections.
69 See above n 58, Privacy Amendment (Privacy Alerts) Bill 2013.
70 An equivalent in English speaking countries is "Freedom of Information Act".
5.1 Disclosure of individual taxpayers

Since the middle of the nineteenth century there has been public disclosure of tax information in Norway. It has historical roots and it cannot be solely contributed to tax compliance. Public disclosure of tax data should therefore be seen in the light of freedom of information. In the latest revision of the *Tax Assessment Act (1980)* it was argued that public disclosure of tax lists is contributing to transparency in the tax assessment, and to the fairness of the system. Increased compliance was actually not explicitly mentioned.

Information on Norwegian taxpayers’ taxable income, paid taxes and wealth has been available in the tax lodgers located at the local tax office since the early 20th century, so anyone interested could access the information. Arguably, most people actually did not visit the local tax office for a manual search of the tax lists. But in a number of municipalities tax information about local residents was widely distributed through sales of paper copies of the tax lists. The sale was usually a fundraising activity for local soccer teams or other local associations. Unfortunately, there is no measure as to how widespread these were, but since most of the municipalities with sales of paper copies were small, it can be assumed the penetration in most cases was fairly high (Slemrod et al. 2013).

In 2001, the tax lists were distributed electronically and newspapers started to present searchable lists on their websites. Basically anyone with internet access could obtain information on taxable income, paid taxes and taxable wealth for any individual Norwegian taxpayer. The organization of the tax data is search friendly since it was organized by individuals’ names, zip codes and city. The transition from paper to electronic distribution was not primarily driven by concern about compliance, but rather as a consequence of the Norwegian government’s digitalization strategy. However, it raised a debate on privacy, but no serious study on the effect has actually been done until Slemrod et al (2013). Slemrod’s study showed that compliance increased more in municipalities where tax information was not distributed widely through paper catalogues. On average Slemrod et al found that publication of tax lists increased compliance by around 3%.

Assuming a change in policy to disclose tax information has had the impact suggested by Slemrod et al upon compliance this would have resulted in an increase in tax revenue of 100 billion Norwegian Krona NOK (approx. 15 billion Euros) since the opening of the tax lists. In the last ten years Norway has also had an increase in the number of self-employed persons. Significantly, Slemrod et al study shows a slightly higher compliance effect on self-employed persons rather than regular employees. The effect on tax revenue and compliance might therefore be higher still. There are also reasons to believe there would be some dynamic effect over time. However, Slemrod et al., do not discuss the issue of psychological changes

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71 A discussion of historical explanation for openness in public affairs is outside the scope of this paper, but a good introduction to the matter can be found in Haugen (2005).
72 In 2007, the list became indexed for internet search, which meant that in a search of a person (on Google for instance) his/her tax information would appear high on the search result.
73 The Norwegian Government has for the 10 last years had a digitalization strategies (with different names) which in summary means that as much public services as possible should be available on digital format in order to improve service to the citizen and reduce costs. [www.regjeringen.no/nb/dep/fad/kampanjer/dan/regjeringen-stoltenbergs-digitaliserings.html?id=718529](http://www.regjeringen.no/nb/dep/fad/kampanjer/dan/regjeringen-stoltenbergs-digitaliserings.html?id=718529)
in taxpayer behaviour. While on one hand the probability of public detection increases the more years tax lists are published, but on the other hand disclosure of income, wealth and taxed paid may provide incentives to “hide” income and wealth to avoid public scrutiny and thereby decrease compliance.

### 5.2 Disclosure of corporate taxpayers

In line with the openness for individual taxpayers, annual reports for all registered companies are public. For a fee (approx. USD 10) any annual report is available for download from the national register. This register and most of the national registers are administrated by The Brønnøysund Register Centre. This has been in the Norwegian legislation since their independence from Sweden 1905. This practice was not considered controversial and has not been debated.

However, it has been argued that the access to annual reports makes it easier for foreign companies to analyze and eventually enter the Norwegian market. It is also argued that a possible compliance effect is primarily on small companies and this decreases with an increase in the size of the company, but there are no studies which confirm that perception.

In Norway, as in other countries there is a lot of focus on tax payments from multinationals. There have been very limited attempts to compile tax data for multinationals, although it is publicly available in Norway. The recent international debate on tax avoidance and multinational corporations has resulted in attempts to estimate tax payments from large Norwegian corporations. The issue is also being addressed in the on-going Norwegian Public Inquiry on Corporate Taxation. However, up to now it is considered to be outside the role of the Norwegian Tax Administration to compile lists of taxes paid by corporations.

### 5.3 Effectiveness and future of disclosure strategies adopted

Overall, the current disclosure requirements for Norwegian taxpayers may be subject to change in the near future. A recent change in government (in October 2013) has again raised the issue of limiting the internet access to individual tax data. In addition to privacy arguments, reports indicate that tax information has been used for criminal purposes. Furthermore, the expected effect on compliance has been uncertain. Other than Slemrod’s et al (2013) study there has been no strong evidence for a link between public disclosure of tax data and compliance. Several models for limiting internet access have been discussed. The

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74 The Brønnøysund Register Centre develops and operates many of the nation's most important registers and electronic solutions. The Brønnøysund Register Centre is a government body under the Norwegian Ministry of Trade and Industry, and consists of several different national computerised registers.

75 A master thesis has looked into the issue, see Selseth (2013).


77 [www.regjeringen.no/upload/FIN/Info/brev_politiet_skattelister.pdf](http://www.regjeringen.no/upload/FIN/Info/brev_politiet_skattelister.pdf)
most likely outcome being that the taxpayer will be alerted (for instance electronically to their personal e-tax account) as to who is looking into his or her tax information. An alternative is that media outlets will only be able to publish searchable lists, under certain conditions. Consequently, the expected compliance impact is uncertain.

Likewise, public disclosure of tax data is outside the scope of the traditional components of compliance strategies – audits, simplifications and guidance. Although public disclosure is assumed to generate a substantial number of tips, as the Tax Administration does not investigate the origin of the tips it is impossible to know what role public disclosure has played.

The system of public disclosure of tax data on the internet has been in place for twelve years in Norway and while there is evidence it actually increases compliance, further studies need to be undertaken on the subject to increase validity and reliability. On the other hand there is only anecdotal evidence of negative effects (i.e. criminal activity) of the disclosure with the main argument for "closing" the tax lists being privacy.

6. Findings/Recommendations based on global practices and the Australia/Norway comparison.

Consequently, based on a comparison of the current Norwegian and Australian disclosure practices and the level of disclosure that has been adopted by various governments around the world, some suggestions can be made for what might be the best combination, in terms of increasing deterrence and tax compliance. In advocating a case for limited disclosure, the following section briefly outlines firstly how disclosure can improve deterrence and hence compliance, secondly how disclosure supplements other compliance strategies and finally what specific tax policy recommendations can be made for the Australian tax system.

6.1 How public disclosure of tax information can improve deterrence and compliance

Advocates of publicity see disclosure as increasing taxpayer confidence in the tax system which in turn has the salutary effects of increasing compliance and revenues. The visibility of information improves transparency and the ability to be accountable. Likewise publicity can improve taxpayers’ knowledge of tax law which in turn can diminish both intentional and unintentional non-compliance (Kornhauser, 2005). As ignorance and laziness when it comes to carrying out legal obligations should not be tolerated, disclosure may be able to assist when it comes to facilitating a system of voluntary compliance as exists in most modern economies. The prefiling of tax returns certainly alleviates the taxpayer from potential incorrect returns. Also taxpayers may think twice before engaging in more tenuous legal tax avoidance because of the shaming which follows. That is, as everyday taxpayers have access to this information the detection if not enforcement function is increased as the public may discover schemes not caught by tax officials. Despite the resource capacity of the revenue agency being limited non-compliant activity could nevertheless be revealed.
6.2 How public disclosure of tax information supplements other compliance strategies

As indicated in Section 2.1 of the paper there are indeed a number of deterrent mechanisms available to the tax authority which are utilised to improve compliance. These include; legal sanctions, audits, media advertising, education, rewards and incentives and certainly a consideration of the morals and social norms of taxpayers. As most compliance strategies embrace a combination of both persuasive and punitive measures, it is suggested that disclosure should sit alongside these measures and act like a back-up or supplement. Particularly where resources are limited, disclosure offers the opportunity of public involvement to enhance detection, and increase public stigma of non-compliers and tax evaders. Targeted disclosure also has the capacity to improve education and tax knowledge as advocated by Kornhouser (2005) and Mazza (2003). The media exposure employed to enhance a general deterrent can be amplified through disclosure of tax evaders such as the issuing of a “dirty dozen: list of scams” and highlighting the tax fraud of high profile individuals in the community Blank, (2013). These and other benefits lead to some specific tax policy recommendations advocating a limited form of disclosure for individual taxpayers following the successful implementation of disclosure for corporate taxpayers in Australia in 2013.

6.3 Tax Policy Recommendations for the Australian Tax System

Despite legitimate concerns over taxpayer privacy and the standards that must be adhered to under the National Privacy Principles, there appears to be a valid case for increasing disclosure requirements in Australia for individuals. Apart from supplementing other compliance strategies as indicated above the bold move to full disclosure of corporate taxpayers should be accompanied by some increased exposure of individuals. In the interests of increasing transparency and accountability as was found in other countries, and particularly in advocating an openness of public affairs and administration as illustrated in the Norwegian experience Australia would do well to follow suit. In this regard a limited form of exposure as suggested by Kornhouser (2005) that minimized the evasion of privacy while still publishing enough information to promote increased compliance is recommended.

The recommendation for a modern day pink slip which included, the taxpayer’s name, a non-specific address, gross and taxable income within narrow income ranges, any capital gains, particular deductions and credits and finally the taxpayer’s marginal and effective tax rates is suggested. This could then be assessed at a later date to gauge its effectiveness not just in terms of increased tax dollars but also taxpayer education.

The naming and shaming of offenders, is a strong deterrent for non-compliant behaviour as evidenced in both the Irish and Portuguese experiences. To facilitate this measure, it may be worthwhile for Australia to reconsider the listing of tax evaders, by name and offence, in the Commissioner’s Annual Report. As indicated by Blank (2013) in the USA at the state level, the taxing authorities publish the identities of business and individuals that have failed to pay outstanding taxes on time. Employing web sites to conduct the shaming campaign, taxpayers receive a pending internet posting warning them of the proposed disclosure. State revenue
agencies indicate that taxpayers have responded positively to the shamming warnings resulting in millions of dollars of outstanding taxes in recent years.\textsuperscript{78}

Against the introduction of increased disclosure also comes the warning from the Norwegian experience that tax information may be used for criminal purposes (although only anecdotal evidence) and that there needs to be more evidence to improve reliability and validity that disclosure increases compliance. In this regard to will be important to combine disclosure with the more traditional and direct compliance strategies such as, cash economy benchmarks, raising default assessments and conducting more BAS\textsuperscript{79} refund checks. Likewise, the ATO should continue with and step-up their current practices which include: targeted education campaigns for specific industries and occupations, voluntary disclosure initiatives and amnesties, strengthening of the proof of identification requirements, and disruption activities (i.e., interception of tax refunds).\textsuperscript{80}

As mentioned previously, these deterrent and prevention strategies should also be balanced with more media advertising and visibility within the community, which has been found to be very effective in previous studies.\textsuperscript{81} According to an Australian National Audit Office (ANAO) report,\textsuperscript{82} while the ATO has been able to raise the awareness of tax fraud through the use of community perception surveys and media releases, in order to increase the deterrent effect, it was suggested that certain criteria and international benchmarking ought to be employed to measure the effectiveness of these strategies. These criteria or indicators include the number of investigations and prosecutions completed, the revenue protected, and feedback received from stakeholders. It is suggested that such measures would also better inform future planning and targeting of risks by the ATO.

However, other evidence suggests that the ATO is addressing its detection capabilities by building risk profiles and identifying risk characteristics among taxpayer groups, as well as employing rather sophisticated data-matching techniques.\textsuperscript{83} In this regard, it is suggested that strengthening these strategies would, also improve taxpayers’ awareness of audit and detection rates.

7. Conclusion

Public disclosure should be part of an integrated compliance strategy as ultimately it will be the fine balancing of a mix of compliance tools which will have the greatest deterrent effect and potential for increasing taxpayer compliance. Perhaps Australia should consider a form of limited disclosure for individuals post the introduction of new disclosure rules for corporations. Also considering the possible dilution of disclosure of individual taxpayer information in Norway primarily based on privacy concerns, there is a strong argument that full disclosure is also not appropriate or feasible. Perhaps the modern day “pink slip” as suggested by Kornhauser (2005) that incorporated the taxpayer’s name, and more general tax information could be used as an educational tool whilst having the potential to improve compliance.

\textsuperscript{78} Blank 2013, 25.
\textsuperscript{79} BAS (Business Activity Statements)
\textsuperscript{80} See the Australian National Audit Office Report No. 34, 2008-09, Australian Taxation Office, Management of Serious Non-Compliance, 58-59.
\textsuperscript{82} ANAO Report No. 34, 2008-09, above 1057, 62-66.
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