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Volume III: Literature Reviews

INTRODUCTION

Section 7803(c)(2)(B)(ii) of the Internal Revenue Code requires the National Taxpayer Advocate to submit an annual report identifying at least 20 of the most serious problems encountered by taxpayers and to make administrative and legislative recommendations to mitigate those problems.[1] The National Taxpayer Advocate is releasing this Volume III of literature reviews as a supplement to her 2016 Annual Report to Congress.

These literature reviews contain additional commentary and an extensive listing of articles, reports, and discussions providing a broader context for seven of the Most Serious Problems presented in Volume I. To better understand the problems and burdens currently faced by taxpayers and develop effective remedies, it is helpful to look beyond the customer experience within the IRS.

The National Taxpayer Advocate hopes this resource inspires further informed conversation and research about strengthening taxpayer rights and developing innovative customer-centric tax administration.

1 *See* National Taxpayer Advocate 2016 Annual Report to Congress vol. 1, www.TaxpayerAdvocate.irs.gov/2016AnnualReport.

Taxpayer Service in Other Countries

INTRODUCTION

As the National Taxpayer Advocate has repeatedly demonstrated, tax administrations in different countries can learn from each other with respect to a wide range of issues, such as:

- Enhancing voluntary compliance;[1]
- Devising remedies for violations of taxpayer rights;[2]
- Adopting a Taxpayer Bill of Rights;[3]
- Selecting accounts to audit;[4] and
- Creating the appropriate geographical footprint.[5]

While increased reliance on online delivery of taxpayer services is common, the taxpayer-centric procedures adopted by some tax administrations emerge as standards of "best practice."

DISCUSSION

A survey of taxpayer services in other jurisdictions reveals the widespread belief that effective taxpayer service enhances voluntary compliance.[6] The Organisation for Economic Cooperation and Development (OECD) reports indicate, among other things, that an expanded role of tax administrations, accompanied by reductions in resources, has often resulted in a shift to online services, but with an inadequate understanding of taxpayer preferences.[7] Effective taxpayer service requires multiple service channels.[8] Customer service in non-tax areas of government and in private industry is becoming more digital, but personal contact remains a pillar of service delivery.[9]

1 National Taxpayer Advocate 2007 Annual Report to Congress, vol. 2, 138-80 (Marjorie E. Kornhauser, *Normative and Cognitive Aspects of Tax Compliance: Literature Review and Recommendations for the IRS Regarding Individual Taxpayers*).

2 National Taxpayer Advocate 2012 Annual Report to Congress, vol. 2, 131, 138-40 (Research Study: *Options for Expanding the Remedies to Address Taxpayer Rights Violations*).

3 National Taxpayer Advocate 2013 Annual Report to Congress 5, 9-10 (Most Serious Problem: *The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration*).

4 National Taxpayer Advocate 2014 Annual Report to Congress 112, 120-21 (Most Serious Problem: *The IRS Does Not Sufficiently Incorporate the Findings of Applied and Behavioral Research into Audit Selection Processes as Part of an Overall Compliance Strategy*).

5 National Taxpayer Advocate 2014 Annual Report to Congress 31, 37 (Most Serious Problem: *The Lack of a Cross-Functional Geographic Footprint Impedes the IRS's Ability to Improve Voluntary Compliance and Effectively Address Noncompliance*).

6 *See, e.g.*, Behavioural Insights Team, *EAST: Four Simple Ways to Apply Behavioural Insights*, 4 (2014); Yassie Hodges, *Taxpayer Services, in* Detailed Guidelines for Improved Tax Administration in Latin America and the Caribbean 105, 105 (U.S. Agency for Int'l Dev. (USAID), Aug. 2013); Swedish Tax Agency, *Right From The Start: Research and Strategies*, 92, 126 (2005).

7 Organisation for Economic Cooperation and Development (OECD), *Tax Administration 2015: Comparative Information on OECD and Other Advanced and Emerging Economies* (2015); OECD, *Increasing Taxpayers' Use of Self-Service Channels* 28-32, 65 (2014).

8 See, e.g., Aurélie Barnay *et al.*, McKinsey & Company, *Tax Myths: Dispelling Myths About Tax Transformation in Rapidly Growing Economies*, 5 (McKinsey Ctr. for Gov't, 2015).

9 *See, e.g.*, Daniela Engel, *et al.*, *Self-Services - Do Not Leave Your Customers Alone with the Technology* 317, 317 (Wirtschaftsinformatik Proceedings, Paper 22, 2015); Julia Klier, Regina Pfleger & Lea Thiel, *Just Digital or Multi-Channel? The Preferences of E-Government Service Adoption by Citizens and Business Users* 180, 186-87 (Wirtschaftsinformatik Proceedings, Paper 13, 2015); Stefan Biesdorf & Florian Niedermann, *Healthcare's Digital Future* (McKinsey & Co.), July 2014.

LITERATURE REVIEW

1. **Accenture**, *eGovernment Leadership: High Performance, Maximum Value*, 23–26 (2004).

   "[S]urvey of citizens' attitudes and use of eGovernment in 12 different countries: Australia, Belgium, Canada, France, Germany, Ireland, Italy, Singapore, Spain, Sweden, the United Kingdom and the United States … respondents included only regular Internet users. … Those citizens who use eGovernment overwhelmingly do so for informational purposes. Transactional use is higher in high-penetration countries but it is still quite low in comparison to informational use. … Among the transactional services listed in our survey, filing taxes was the service most likely to have been used by citizens. Those that have filed online generally have had a positive experience."

2. *Agile Delivery: Writing User Stories*, GOV.UK, https://www.gov.uk/service-manual/agile-delivery/writing-user-stories (last visited Nov. 1, 2016).

   The Digital Service Standard also requires that "[t]o pass point 1 (understand user needs) [of the Digital Service Standard] in your service assessments, you'll need to show how you're using user stories to understand user needs for your service. To pass point 4 (use agile methods) you'll need to show how you've adopted agile tools and techniques, including working with user stories. To pass point 5 (iterate and improve frequently) you'll need to show how you prioritise your user stories and move them quickly and smoothly from research to production."

3. **AIMTech Research Group**, Leeds Univ. Bus. Sch., *Benefits Express*, 22 (2005), http://publicsectornomads.com/wp-content/uploads/2012/06/HaltonBoroughCouncilBenefitsExpressCS.pdf.

   This project describes a "Benefits Bus" that visited local neighborhoods and assisted residents in signing up for government benefits. A walk-in visit to the bus was followed by an in-home visit, where employees from the Benefits Division assisted in completing the benefit application form, gathering supporting documentation (conserved using digital cameras), updating in real time the person's claim on the benefit system, and letting the "customer" know the amount of benefit they would receive. The service produced an 80 percent reduction in correspondence and the paper-based system was virtually removed. One manager described the experience as follows:

   "… someone comes and does the work for you and your benefits are turned around in days instead of, in some cases, in months. There is an irony in that this flies in the face of most of the government initiatives in terms of modifying services, which is based on the Internet and a self-help basis. Benefits are complicated and those who are most in need probably cannot complete the form themselves. We have introduced a service which is resource intensive but it satisfies the citizen."

4. **Aurélie Barnay *et al.***, McKinsey & Company, *Tax Myths: Dispelling Myths About Tax Transformation in Rapidly Growing Economies,* 5 (McKinsey Ctr. for Gov't, 2015).

   "Best-in-class tax administrations are taking a different approach to digitization. Going digital is no longer about making digital channel usage mandatory for 100 percent of citizens — it is about improving the taxpayer experience one segment or service at a time."

5. **The Australian Gov't the Treasury**, *Better Tax System, Better Australia*, at iii (March 2015).

   The Australian Taxation Office presented the public with a description of the existing tax system and invited submission and suggestions so that it could reconsider and work with the Australian people "*to create a better tax system that delivers taxes which are lower, simpler, fairer*."

6. **Australian Taxation Office (ATO)**, *Taxpayers' Charter, What You Need to Know*, 4 (2010).

   The charter is framed in terms of services taxpayers can expect: *e.g.*, "Offer you professional service and assistance" which means "we: help you understand your rights and entitlements in our dealings with you … provide advice and information in a way that meets your needs where possible."

7. **Behavioural Insights Team**, *EAST: Four Simple Ways to Apply Behavioural Insights*, 4 (2014), http://www.behaviouralinsights.co.uk/wp-content/uploads/2015/07/BIT-Publication-EAST_FA_WEB.pdf.

   "If you want to encourage a behaviour, make it Easy, Attractive, Social and Timely (EAST). These four simple principles for applying behavioural insights are based on the Behavioural Insights Team's own work and the wider academic literature."

8. **Ben McLannahan**, *'Robo-advisers' Try to Calm Investor Nerves*, Financial Times (Feb. 1, 2016).

   "Automated investment services have expanded rapidly in the US in recent years, attracting mostly younger customers with the promise of managing pots of their money at a fraction of the cost of a human being. Yet almost all of that growth has been achieved in a gently rising market — prompting some traditional rivals to predict that once prices drop and tensions rise, clients will no longer be happy to be guided by software. Charles Schwab, which has raced to about $5.3bn in assets under management since launching its robo service last March, says that it has asked staff to work longer hours to cope with a roughly one-third increase in calls from customers since December. Online chats have picked up too, as customers have sought advice on rebalancing portfolios and optimising tax bills amid the rougher environment of the past few weeks. 'There are times when people just want to talk — even if it's just to reinforce that they're doing the right thing,' said Tobin McDaniel, San Francisco-based president of Schwab Wealth Investment Advisory, which offers robo services to clients with at least $5,000 to invest. 'Without access to a professional when the market gets choppy, there's a risk that some investors might make emotional decisions that they'll regret later.'"

9. **Claimant Compliance Manual (CCM) 15710**, *Undisclosed Partners: Recovery of Overpayments from 18 January 2010 – Overview of different scenarios* (July 26, 2016), (UK equivalent of the Internal Revenue Manual (IRM)).

   Her Majesty's Revenue & Customs (HMRC) does not always seek to recover all of an erroneously claimed family credit, even though "the strict legal position" is that the claim was invalid from the outset. Moreover, according to the UK Department for Work and Pensions, *Guidance, Universal Credit and Your Claimant Commitment,* taxpayers seeking the Universal credit, which is administered by the Department for Work and Pension, agree to a Claimant Commitment, which in most cases

"will be drawn up during a conversation with your work coach at your local job centre" and is regularly reviewed and updated. If the taxpayers are a couple, the couple nominates the "carer."[10]

10. **Daniela Engel *et al.***, *Self-Services - Do Not Leave Your Customers Alone with the Technology* 317, 317 (Wirtschaftsinformatik Proceedings, Paper 22, 2015).

    Per Abstract, "self-service technologies (SSTs) allow integrating customers as active participants into companies' business processes and thereby are expected to generate not only more efficient processes but also positive effects on customer satisfaction. As some customers do not consider their integration as an improvement and others are not able to use the SSTs, companies have to provide personal support offering direct response, assurance and social interaction."

11. **Daniela Yu & John H. Fleming**, *How Customers Interact With Their Banks*, Gallup Bus. Journal (2013), http://www.gallup.com/businessjournal/162107/customers-interact-banks.aspx?version=print.

    "Customers have preferences for how they interact with a bank to meet various banking needs. To withdraw cash, one customer may prefer a face-to-face transaction with a live teller in a branch location while another customer may prefer to visit an ATM. To better understand these channel preferences and how they affect customers' engagement with their bank, Gallup conducted a nationwide retail banking study that explored which channels customers prefer to use for 14 of their most common banking needs …. When banks migrate customers from channels they prefer to use to channels they don't, they may lower those customers' engagement with the bank …. When customers can't use the channel they prefer for a banking transaction, they are less satisfied with their experience than customers who used their preferred channel to meet their banking needs; they are also less engaged with the bank overall than customers who used their preferred channel. We observed significant declines in channel satisfaction for 12 of the 14 banking activities and significant declines in overall customer engagement for six of the 14. Highly emotional, complex, and expensive transactions, such as when customers open or close an account, apply for a loan, and seek financial advice, saw more decline in both channel satisfaction and overall engagement compared with other types of transactions."

12. **Dep't of Econ. & Soc. Affairs**, U.N., *E-Government Survey 2012*, 5 (2012).

    "Citizens have diverse needs and demands for services; therefore it is no longer sustainable for governments to utilize one preferred way of service provision over the other. It is now ever more essential that governments exploit all possible delivery channels in order to reach out to as many people as possible, no matter how poor, illiterate or isolated."

13. **Digital by Default Service Standard**, gov.uk, https://www.gov.uk/service-manual/digital-by-default (last visited Nov. 1, 2016).

    This site requires all new digital services from the UK government to meet the following 18 requirements before they will appear on GOV.UK:

    - "Understand user needs: Understand user needs. Research to develop a deep knowledge of who the service users are and what that means for the design of the service.

10 *Guidance: Universal Credit and Your Claimant Commitment*, gov.uk, https://www.gov.uk/government/publications/universal-credit-and-your-claimant-commitment-quick-guide/universal-credit-and-your-claimant-commitment (last updated Apr. 11, 2016).

- Do ongoing user research: Put a plan in place for ongoing user research and usability testing to continuously seek feedback from users to improve the service.
- Have a multidisciplinary team: Put in place a sustainable multidisciplinary team that can design, build and operate the service, led by a suitably skilled and senior service manager with decision-making responsibility.
- Use agile methods: Build your service using the agile, iterative and user-centred methods set out in the manual.
- Iterate and improve frequently: Build a service that can be iterated and improved on a frequent basis and make sure that you have the capacity, resources and technical flexibility to do so.
- Evaluate tools and systems: Evaluate what tools and systems will be used to build, host, operate and measure the service, and how to procure them.
- Understand security and privacy issues: Evaluate what user data and information the digital service will be providing or storing and address the security level, legal responsibilities, privacy issues and risks associated with the service (consulting with experts where appropriate).
- Make all new source code open: Make all new source code open and reusable, and publish it under appropriate licences (or provide a convincing explanation as to why this can't be done for specific subsets of the source code).
- Use open standards and common platforms: Use open standards and common government platforms where available.
- Test the end-to-end service: Be able to test the end-to-end service in an environment identical to that of the live version, including on all common browsers and devices, and using dummy accounts and a representative sample of users.
- Make a plan for being offline: Make a plan for the event of the digital service being taken temporarily offline.
- Make sure users succeed first time: Create a service which is simple to use and intuitive enough that users succeed the first time.
- Make the user experience consistent with GOV.UK: Build a service consistent with the user experience of the rest of GOV.UK including using the design patterns and style guide.
- Encourage everyone to use the digital service: Encourage all users to use the digital service (with assisted digital support if required) alongside an appropriate plan to phase out non-digital channels and services.
- Collect performance data: Use tools for analysis that collect performance data. Use this data to analyse the success of the service and to translate this into features and tasks for the next phase of development.
- Identify performance indicators: Identify performance indicators for the service, including the 4 mandatory key performance indicators (KPIs) defined in the manual. Establish a benchmark for each metric and make a plan to enable improvements.
- Report performance data on the Performance Platform: Why you should report data and how you'll be assessed.
- Test with the minister: Test the service from beginning to end with the minister responsible for it."

14. **Francesc Pedró**, *Trusting the Unknown: The Effects of Technology Use in Education, in* The Global Information Technology Report 2012: Living in a hyperconnected world 135, 145 (Soumitra Dutta & Beñat Bilbao-Osorio eds. 2012).

    "[I]t is easy to conclude that technology policies in education are far from being based on evidence. … [P]olicymakers may be trusting an unknown. However, they may be doing it for a reason: by prioritizing access to technology they convey a very simple message — that they are using taxpayers' money to modernize schools in a way that can be actually seen and touched. What use schools and teachers make of this modernization opportunity it [sic] is a different issue that can be addressed only if more powerful accountability systems are in place."

15. **GMC Software**, *The End of the Banking Autocracy: Why Banks Must Understand and Value Their Customers to Bring Back Trust*, 4 (2015).

    Consumers in the UK, Germany, France and the U.S. were studied to see what their preferences are with respect to channels for receiving bank services. "The research reveals that there is no one-size-fits-all answer to communicating with customers, who demand more choice, and also want a service/relationship that is in their favor. Banks must start asking consumers what they want rather than demonstrating autocratic tendencies and deciding for them. The gap between what consumers want and what the banks deliver is evident and it must be closed. The plea from consumers is an emphatic: customer experience first, please."

16. **Hugh Son & Margaret Collins**, *The Rich Are Already Using Robo-Advisers, and That Scares Banks*, Bloomberg Business (Feb. 5, 2016), http://www.bloomberg.com/news/articles/2016-02-05/the-rich-are-already-using-robo-advisers-and-that-scares-banks.

    This article reports an increased use of "Robo-advisers, which use computer programs to provide investment advice online typically charge less than half the fees of traditional brokerages … [c]ustomers want both the slick technology and the ability to speak to a person, especially in volatile markets like now, Jay Welker, president of Wells Fargo's private bank, said in an interview."

17. **IBM**, *Tax Administration 2025: What is the Global Outlook for the Next Decade?,* 19 (2015).

    "Tax administrations will develop better understandings of the relationship between the services domain and the compliance domain and how each can best be used to maximize revenue. While agencies have always understood that taxpayer services contribute to compliance, they have not been very effective in measuring this or the relative value of various service channels. Agencies now understand themselves to be social engineering agencies, not in the manipulative sense of the term, but in the sense of better understanding individual taxpayers and groups of taxpayers and tailoring services and enforcement efforts to better facilitate compliance and maximize revenue. To do this and make effective use of their big data projects, agencies will not only have statisticians and economists on staff, but also social scientists. Perhaps as many as a dozen tax agencies already have taken this step and more will certainly follow."

18. **Joshua D. Rosenberg**, *A Helpful and Efficient IRS: Some Simple and Powerful Suggestions*, 88 Ky. L.J. 33, 35-36 (1999-2000).

    "Rather than simply stand by and wait for potential customers to make choices, successful retailers create an environment that affirmatively encourages some choices (*i.e.*, the choices that are most

profitable for the store) and discourages others. … In many ways, our tax collection system *has* resembled a poorly run retail operation: 'customers' typically feel like they have been left on their own to ferret out where to go and what to do. Their available choices often appear unclear and confusing; while attempting to figure out how to do the 'right' thing (pay what they owe), they are met with numerous temptations to do wrong (cheat or exaggerate, at least a little). They end up frustrated, and often engage in behaviors that are frustrating to the IRS, if not downright illegal." (emphasis in original, fn refs. omitted).

19. **Julia Klier, Regina Pfleger & Lea Thiel**, *Just Digital or Multi-Channel? The Preferences of E-Government Service Adoption by Citizens and Business Users* 180, 186-89 (Wirtschaftsinformatik Proceedings, Paper 13, 2015).

    This case study of 500 citizens and 500 business users of the German Federal Employment Agency shows that citizens prefer having multiple service channels, although the mix of channels they prefer may vary with the service they are using. "For instance, 43% of the surveyed citizens prefer the online channel for searching for jobs and participating in learning courses, 34% prefer it for managing job applications. For administrative (transaction) services like arranging appointments and contacting employers there is a lower digital adoption preference with 15% respectively [sic] 12% than for the other transaction services. For these services, telephone is the preferred channel: 66% of all citizens prefer to arrange appointments and 39% prefer to contact employers by phone. For service requests, online adoption preferences account for solely 10% (signing on for unemployment) respectively [sic] 14% (signing on for unemployment benefits), indicating just minor interest in digital services. In fact, for service requests and even more for counseling services citizens rather prefer to interact with the German Federal Employment Agency in person." Moreover, "The channel preferences are just slightly shifted towards online for those citizens using the internet daily. For instance, 74% (instead of 43% of all citizens) prefer to search for jobs online, and 64% (instead of 43%) indicate to prefer participating in learning courses online. Also dissatisfaction with the online services of the Federal Employment Agency cannot be seen as a conclusive explanation for low digital adoption preferences. In fact, almost two third of the surveyed citizens assess the online services of the Federal Employment Agency as very or entirely understandable (68%), visually appealing (67%), easy to find (67%), and easy to operate (64%)." Similar analysis of business users led to the conclusion "[t]hus, similar to our results on citizens, we see a strong preference of business users for a multi-channel offering rather than an online preference for any service. Both business users and citizens deliberately choose subjective suitable channels for different services." E-services should be used to supplement existing offline services.

20. **Karen Taylor**, Deloitte Centre for Health Solutions, *How Digital Technology is Transforming Health and Social Care*, 15 (2015).

    Technology-enabled care reduces cost and paperwork associated with healthcare and also increases patient face-time and the number of patients seen. The report cites a Patientview Survey, *What Do Patients and Carers Want From Health Apps? Results of a Global Survey of 1,130 People with a Long-Term Condition and Their Carers*, which showed that 91 percent of respondents' main interaction with healthcare technology was simply through an internet browser, but they would like to use different technologies in conjunction with their health care provider.

21. **Martina K. Schmidt, Micha Bergsiek & Marina Kolesnikova**, *Customer Preferences of Financial Services Across the US, Germany and Russia*, 2009 J. Int'l Bus. & Cultural Studies 5, 7.

    Per Abstract, "[t]his study investigates the differences in customer preferences across the US, Germany and Russia within the financial services industry … The study uses data obtained from a survey of a total of 600 respondents. We find that important differences and similarities in preferences across the respondents of the three countries exist. For example, trust in the institution, stability, financial conditions, and performance rank among the most important attributes in all three countries. However, technologically related attributes, such as online-banking are unimportant in Russia. Some interest exists in all three countries for innovative services that financial institutions may benefit from offering." The report notes "[t]he survey also investigates the type of contact a person prefers to have with the representative. The corresponding question is: 'How do you prefer to communicate with your representative?' The possible answers are 'face-to-face', 'by phone', or 'via e-mail'. As Chart 3 demonstrates, the answers were quite evenly distributed across the three different possibilities for the U.S. survey. The percentages are 38.3% for 'face-to-face' contact, 32.2% for 'phone' contact and 29.5% for 'email' contact. The results for the German and Russian surveys are creating a very different picture. Almost two thirds of the German subjects (65.5%) and even three quarters (74.6%) of the Russian subjects chose the 'face-to-face' contact as the preferred way to communicate with their representative."

22. **Matthew Mui, PwC, World Bank Grp.**, *China: Improving Communication Between Tax Authorities and Tax Payers*, 89, 93 (2014).

    "In the early stages of China's tax reform, taxpayer services in China were neglected due to insufficient manpower, poor use of technology and inadequate funding. In 1997, taxpayer services were recognized by the State Council as the foundation of an efficient tax collection and administration system. In 2001, TCAL [Tax Collection and Administration Law] and its detailed implementation rules provided the legal basis for the optimization of taxpayer services. As a result, the Chinese tax authorities now appreciate fully that taxpayers are not simply required to pay taxes, but that they deserve to receive assistance from the tax authorities in understanding and meeting their tax obligations."

23. **Michael D'Ascenzo AO**, *Modernising the Australian Taxation Office: Vision, People, Systems and Values*, 13 eJournal of Tax Research, 361 (2015).

    When confronted with a "major new tax and the difficulties associated with its implementation [which] reduced community confidence in the ATO," the ATO "initiated a 'Listening to the Community' program which coalesced around three key objectives:

    - Improved compliance;
    - Increased service and certainty; and
    - Making people's experience 'easier, cheaper and more personalized'."

24. **OECD**, *Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education* 170, 172 (2015).

    The South African Revenue Service (SARS) has ten mobile tax units (MTUs) that were instituted after SARS determined that there was a need for a greater geographic footprint in rural areas. When it launched its first MTU in September of 2011 and another three in December of 2012, SARS

found that "A total of 77,367 taxpayers have visited the MTUs at 601 centres with an average of 128 taxpayers per location. Those visiting the MTUs did so to register as taxpayers, to submit returns, to check tax statuses and to reconcile companies' PAYE accounts." The report also notes that "Whilst e-filing allows for greater independence, 'taking tax to the people' has helped raise tax compliance since taxpayers seem more comfortable with face-to-face interaction."

25. **OECD**, *Co-operative Compliance: A Framework: From Enhanced Relationship to Co-operative Compliance* 13 (2013).

    Increasing development of cooperative relationships with large businesses is "characterised by 'an engagement with taxpayers or other stakeholders to explore shared interests, including the resolution of material tax risks, early certainty, a level playing field, and reduction of costs.'"

26. **OECD,** *Increasing Taxpayers' Use of Self-Service Channels 28–32,* 65 (2014).

    "[S]urvey responses indicated that, overall, the participating revenue bodies appear to have a somewhat limited understanding of the reasons why taxpayers contact them using different service channels, *i.e.* types of services sought through different channels … approximately half of the revenue bodies, while able to identify the most common services sought through different channels, advised that their responses were based on perceptions rather than evidence … revenue bodies, while generally showing a great commitment to increasing the use of online channels, in most cases collect limited data to understand what services are sought via online channels and have limited understanding of the reasons why taxpayers actually choose to use online services. Opposite results were received for the interactions occurring via the phone channel, in relation to which nine out of the 14 responding revenue bodies based their answers on evidence, and five out of 14 on perceptions … In the context of an almost universal focus on digitisation of service delivery, an understanding of what encourages or prevents taxpayers from taking up online channels is critical in driving both a successful channel shift and increased use of self-service channels." According to a cited Deloitte study, "it is not uncommon that organizations that invest heavily in digital service solutions typically experience initial high first-registration volumes, however as the time passes, their customers stop using the digital channels and switch back to traditional channels or stop interacting with them altogether … Providing taxpayers with in-channel help is therefore essential [virtual assistants, click to call, click to chat, or live chat options] … relatively few revenue bodies reported to be making inroads into online support tools …"[11]

27. **OECD**, *Managing Service Demand: A Practical Guide to Help Revenue Bodies Better Meet Taxpayers' Service Expectations* 23–30 (2013).

    In light of the OECD's 2012 report, *Working Smarter in Revenue Administration - Using Demand Management Strategies to Meet Service Delivery Goals*, which identified shortcomings in the way in which tax administrations measured and managed demand for taxpayer services, this report provides practical advice on how those shortcomings may be addressed. The preferred approach begins with a preparation phase in which the revenue body must know the clients, understand the

11 In 2015, the OECD followed up on the 2014 report recommendations and found that from a menu of ten service categories, the five most frequently reported by revenue bodies as priority areas of development were: enhanced online filing services, new online applications (*e.g.*, to access accounts), increased functionality and information on websites, enhanced online payment services, and enhanced data capture from third parties. OECD, *Tax Administration 2015: Comparative Information On OECD And Other Advanced And Emerging Economics* 246 (2015). The 2015 report doesn't explain whether these plans were implemented after considering what drives taxpayer demand for various service channels.

costs and understand the policy environment, followed by an analysis phase in which the revenue body must identify demand, including the root cause of the interaction, a planning phase, and an implementation and evaluation phase.

28. **OECD**, *Tax Administration 2015: Comparative Information On OECD And Other Advanced And Emerging Economics* (2015).

This report covers a broad view of tax system administration in 56 countries. Among its findings:

a. Tax administration used in non-tax roles: "[T]he vast majority of revenue bodies reported one or more such roles, and this practice appears to have grown over the last decade. The most common roles reported are (1) Customs administration (21 revenue bodies); (2) Collection of non-tax debts (*e.g.*, student loans (eight revenue bodies); (3) Payments of benefits under various social/welfare programmes, some of which are integrated with elements of the tax system (12 revenue bodies); (4) Administration of collection of child support (i.e., overdue payments from non-custodial parents) (five revenue bodies); and (5) Administration of a property valuation function that, for some countries, is linked to the administration of real property taxes (18 revenue bodies)." (at 38, 41).

b. Staff reduction: Many countries have experienced or are in the process of implementing mandatory downsizing or staff reduction programs. For example, HMRC staffing levels have gone from 91,167 full-time employees (FTEs) in 2005 to 61,370 in 2015, and are projected to be 52,000 in 2016 (at 173 fig. 5.1); Australia expected to reduce staff by 900 FTEs by June 2014 and by another 2,100 by October 2014 (at 172 tbl. 5.1).

c. Resource allocation: Although the data needs to be handled with caution because "management-related factors" may create variations, almost all countries analyzed in the report dedicate a larger proportion of staff resources to "verification" (*i.e.*, "audit, investigation and other verification-related/compliance-improvement functions") and "[t]ax debt and related functions" than they do to "[o]ther tax operations" which includes "disputes and complaints, taxpayer services (*e.g.*, call centres)," (at 189 box 5.3, *see* Appendix). However, the U.S. dedicates a very low portion of staff hours to "[o]ther tax operations" (1.6 percent) compared to other countries (at 191 tbl. 5.7, *see* Appendix).

d. Service Delivery Channels: (at 211).

   i. "Many revenue bodies (over 40%) were unable to quantify the level of demand for this service channel [in-person inquiries] in 2012 and 2013, suggesting possible weaknesses in their knowledge of this service channel and ability to improve its efficiency."

   ii. "For revenue bodies where data are available, there are significant variations in the relative levels of in-person inquiries received, ranging from less than one inquiry per 100 citizens (Canada) to over 160 inquiries per 100 citizens (Portugal)." For the U.S., there were 2.06 inquiries per 100 citizens in 2013.

   iii. "A large number of revenue bodies reported 'telephony inquiries' volume information; … variations in rates may in part be explicable by differences in roles and the range of taxes administered by the revenue bodies concerned, for example: (1) some revenue bodies (*e.g.*, Canada, New Zealand, and Netherlands) have significant non-tax functions (*e.g.*, the administration of welfare-related responsibilities); and (2) some revenue bodies administer a broader array of taxes (*e.g.*, taxes on real property and motor vehicles)." Examples of volumes are 47.04 phone inquiries answered per 100 citizens in 2013 in

Canada, compared to 73.83 in New Zealand, 86.41 for the Netherlands, and 9.53 for the U.S. (at 212 tbl. 6.4, *see* Appendix).

iv. Australia, Colombia, Poland, Portugal, the UK and U.S. are among countries whose use of Interactive Voice Recognition (IVR) technology significantly increased, but 60% of revenue bodies' data suggests that this technology is not used for taxpayer service delivery purposes.

e. Performance Standards: (at 214 tbl. 6.5 & 216 tbl. 6.7).

i. Processing personal income tax returns with refunds: Estonia's standard for e-filed returns is 100% in five work days (unless inquiry is needed) and performance in 2013 was 100%. Canada's standard is 100% in an average of two weeks, and performance in 2013 was 1.6 weeks. The U.S. "goal" for e-filed returns is 5-21 days "which the IRS achieves for most returns filed electronically."

ii. Resolving taxpayers' complaints: Australia's standard is 85% resolved in 21 days, with a 95% performance rate. The U.S. standard for the Taxpayer Advocate Service, an independent organization within the Internal Revenue Service, is reported as "initial action and initial contact for economic burden cases in three days, five days for each."[12]

iii. Answering telephone inquiries: The UK standard is handling 90% of calls, and performance is 79.4%. The Australia standard is 80% in five minutes (general public), and performance is 81%. The U.S. is 70% level of service and performance is 60.5%.

f. Service to Preparers: (at 262).

i. Over 60 percent do not regularly survey tax intermediaries on important aspects of tax administration;

ii. Over 40 percent have no laws or regulations governing the tax-related work of tax intermediaries;

iii. Almost 40 percent do not have formal consultative arrangements for engaging with representatives of tax intermediaries;

iv. 25 percent offer a comprehensive range of five specialist support services to intermediaries, with 60 percent offering two or less such services.

g. Planned Developments: (at 242).

i. "The most commonly reported priority areas for development were online filing (major taxes), other new online applications (*e.g.*, to access taxpayer accounts), website enhancements, online payments, and enhanced third-party data capture. Priorities for the planned use of digital mail products and integrated taxpayer accounts were also reported by the majority of revenue bodies."

ii. "Pre-filling has become a significant (and for some, transformational) element of revenue bodies' e-services strategy, particularly for the PIT, (personal income tax) with around 40% of revenue bodies reporting some use of such a service. In its most advanced form, (*e.g.*, as seen in Denmark and Sweden) pre-filling services have just about fully automated return preparation and assessment; some eight revenue bodies reported using

12 The referenced standard for the U.S. is actually that of the Taxpayer Advocate Service, an independent organization within the Internal Revenue Service. The IRS has no other standard for resolving taxpayer complaints.

a prefilling capability that generates fully completed tax returns for the majority of their PIT clients."

29. **OECD**, *Update on Voluntary Disclosure Programmes: A Pathway to Tax Compliance* 120 (2015).

    Practical experience gained by 47 countries in relation to voluntary disclosure programs available to taxpayers who have been noncompliant in the past or have concealed foreign assets. For example, "HMRC has undertaken to provide a bespoke service to individuals within the LDF programme and will deal with enquires on a no-name basis to facilitate the making of a voluntary disclosure under that programme."

30. **Raju Budhia**, *Mechanism Implemented for Assisting Taxpayers in Remote Geographical Areas,* in Improving the Performance of the Tax Administration: Evasion Control and Taxpayer Assistance 175, 186-89 (46th Inter-American Ctr. of Tax Administrations (CIAT) Gen. Assembly, 2012).

    The Chatham Islands, over 800 kilometers away from New Zealand, are home to 609 residents. "An Inland Revenue representative visits the island to assist with tax matters. The visits were three times a year due to high debt levels, but have become annual since these levels have dropped. The officer involved with the visits has noted that it has taken a long time to earn the trust and respect of the taxpayers. With this in mind, it is important that these regular visits are continued and the trust of the local people retained. The Chatham's are a close and private community so the regular presence of Inland Revenue has had a huge impact, not only for reducing debt but also in terms of their acceptance of Inland Revenue. The Inland Revenue representative keeps in regular contact with the Heartlands office and the local Chatham's Council sends their meeting details and the local community newsletter monthly, so Inland Revenue is aware of what is taking place on the island." The report also notes "In the modern world where connectivity is key, customers can be 'remote' in an urban environment due to their own personal circumstances or a catastrophic failure in urban infrastructure resulting from a disaster."

31. **Stefan Biesdorf & Florian Niedermann**, McKinsey & Co., *Healthcare's Digital Future*, 6 (July 2014).

    "Health systems, payors, and providers often think they need to be innovative when designing their digital-service offerings. But the core features patients expect from their health system are surprisingly mundane: efficiency, better access to information, integration with other channels, and the availability of a real person if the digital service doesn't give them what they need."

32. **State Library**, New South Wales, *Mobile and Outreach Services*, 5, 10 (2015).

    "Mobile libraries continue to play a vital role in communities throughout NSW [New South Wales], Australia and beyond. In rural and remote communities, where population density is low, maintaining a permanent building would be uneconomic, and where many government and commercial services have been discontinued, mobile libraries fulfil an important social need as a meeting place, and distribution point for local community information. In outer urban areas, mobiles often serve as an interim measure for residents of new suburbs that may eventually need a branch library." Related to mobile libraries are Pop-up libraries, aimed "to meet people where they are, not for them to have to come to the library. A Pop-up extends the reach of the library into the community, and can also function as a 'guerilla marketing' strategy. The Pop-up is becoming

a common sight throughout NSW as libraries continue to engage with their communities, foster a love of reading and promote their services and programs. They are appearing on the beach, in shopping malls and parks, at local festivals and fairs — in fact, wherever potential library users gather." (fn. ref. omitted).

33. **Swedish Tax Agency**, *Right From The Start: Research and Strategies*, 92, 126 (2005).

"Providing a good service to taxpayers increases trust in the Tax Agency, which demonstrably increases the commitment of taxpayers to doing the right thing" and "[m]aking things easier for taxpayers by providing good service and simple rules helps not only to keep taxpayers honest but can also help make the dishonest honest. Apart from the risk of detection, tax evasion results in costs of concealment of what is going on, of double accounting, and of the strain of looking over one's shoulder all the time in case the authority is standing there wondering what one is up to. If cheating means more complications, trouble and inconvenience than doing the right thing, taxpayers' behaviour can be influenced. It should be easy to do the right thing."

34. **Understanding Users Who Don't Use Digital Services**, GOV.UK, https://www.gov.uk/service-manual/user-research/understanding-users-who-dont-use-digital-services (last visited Nov. 1, 2016).

The Digital Service Standard is a set of 18 criteria to help government create and run good digital services. This site notes that "[t]o pass point 1 (understand user needs) [of the Digital Service Standard] in your service assessments you must show that you've researched the support needs of all your users, including those who don't use digital services. To pass point 2 (do ongoing research) you must show that you have an ongoing plan to: understand the support your users need to use the digital service; test the support you're providing to check that it's effective. As part of passing point 14 (encourage everyone to use the digital service), you must show you're only providing assisted digital support to users who need help to use your service, rather than users who just prefer non-digital channels." To help with understanding the support users need to use the digital service, the Government Digital Service (GDS) created 8 personas which represent users who are likely to need assisted digital support and encourages the use of these personas as a starting point for creating more specific personas. (*See* Appendix).

35. **Vilhelm Andersson**, *Mechanisms for Measuring the Quality of Service Provided to the Taxpayer and Results Achieved*, *in* IMPROVING THE PERFORMANCE OF THE TAX ADMINISTRATION: EVASION CONTROL AND TAXPAYER ASSISTANCE 167, 173 (46th CIAT Gen. Assembly, 2012).

Describes quantitative surveys in which the agency scans taxpayer experiences with various taxpayer service channels, usually four times during the year, followed by qualitative surveys to understand the underlying factors affecting taxpayer experiences. "What we think is efficient, may turn out not to be, and what we think is good service is not necessary so from the taxpayers perspective. We have understood the importance of not building our service based on our own internal view of reality."

36. **Yassie Hodges**, *Taxpayer Services, in* DETAILED GUIDELINES FOR IMPROVED TAX ADMINISTRATION IN LATIN AMERICA AND THE CARIBBEAN 105, 105 (U.S. Agency for Int'l Dev. (USAID), Aug. 2013).

"Taxpayer service plays a critical role in maximizing voluntary compliance by providing taxpayers with the information and assistance they need to enable them to meet their tax obligations. Taxpayer services curb compliance costs by providing programs that enable taxpayers to fulfill their

obligations more easily, thereby minimizing the need for the tax administration to expend more costly resources to enforce compliance. With effective public information, forms, and services, and by convincing non-compliant taxpayers that they can comply with relative ease, taxpayer services can also encourage and help accomplish greater voluntary compliance."

APPENDIX

OECD, *Tax Administration 2015: Comparative Information On OECD And Other Advanced And Emerging Economics* 189, 191, 212, Table 5.7, *Staff usage (2013) by major tax functional groupings (% of total usage);* Box 5.3, *Categorisation of revenue body operations*, and Table 6.4, *Taxpayer services: Service demand ratios* (2015).

Table 5.7. **Staff usage (2013) by major tax functional groupings (% of total usage)**

Country	Total FTEs for all tax functions and support	Total staff usage on major tax functions as a share of total usage/1					
		Account management	Verification (incl. audit)	Tax debt collection	Other tax operations	Support: Human resources	Support: Other functions
OECD countries							
Australia	17 477	17.5	35.0	9.8	16.5	6.0	15.2
Austria	7 484	11.4	63.7	10.4	8.7	0.0	5.9
Belgium	19 485	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Canada	38 172	25.3	28.9	20.0	7.7	3.5	14.6
Chile /2	4 195	19.9	40.4	0.0	1.4	3.5	34.8
Czech Republic	14 272	60.2	19.0	5.8	15.1	0.0	0.0
Denmark	5 861	26.7	40.7	8.2	2.3	2.3	19.8
Estonia	983	1.0	67.0	10.1	10.1	0.6	11.2
Finland	5 072	38.3	38.9	9.5	2.5	2.0	8.9
France	66 964	43.3	15.3	10.1	12.3	18.9	0.0
Germany	110 494	39.5	39.6	6.8	9.5	3.6	0.9
Greece	8 000	56.3	25.0	10.0	3.8	2.5	2.5
Hungary	17 870	24.0	36.3	15.3	1.1	1.6	21.8
Iceland /2	240	6.7	65.4	0.0	10.0	0.8	17.1
Ireland /2	5 745	26.9	30.7	14.3	8.6	0.9	18.6
Israel	5 104	12.9	40.3	16.6	3.6	4.2	22.4
Italy /2	31 706	35.8	38.4	2.8	8.9	4.6	6.0
Japan /2	56 194	0.0	63.3	21.2	2.3	0.7	12.4
Korea /2	18 841	58.0	24.0	1.0	9.3	0.6	7.1
Luxembourg /2	984	22.2	42.1	17.1	12.3	2.3	4.0
Mexico	25 457	15.9	35.2	23.4	7.9	5.1	12.5
Netherlands	20 873	26.4	41.8	7.4	2.0	6.6	15.7
New Zealand	3 433	37.4	22.4	9.4	6.4	2.0	22.5
Norway	6 733	6.2	41.6	12.4	10.9	2.0	27.0
Poland	47 593	18.6	24.8	12.1	17.8	0.8	25.8
Portugal	10 066	53.0	16.8	18.8	2.5	2.1	6.7
Slovak Republic	6 813	40.3	22.9	4.2	8.9	1.8	22.0
Slovenia	2 365	6.2	57.6	18.5	3.5	1.4	12.9
Spain	22 402	32.1 /2	22.6	19.7	0.0	7.8 /3	17.8 /3
Sweden /2	7 877	0.0	32.5	0.0	36.1	0.0	31.5
Switzerland	925	9.2	25.4	7.9	56.4	1.1	0.0
Turkey	51 046	60.1	19.9	8.1	0.3	3.4	8.4
United Kingdom	53 205	33.4	42.7	12.0	3.6	1.8	6.5
United States	86 977	33.2	34.0	14.4	1.6	1.5	15.2
OECD ave. (unw.)		27.2	36.2	10.8	9.2	2.9	13.6
Non-OECD countries							
Argentina	16 901	19.8	36.1	7.2	12.1	2.1	22.7
Brazil /2	24 625	20.2	19.7	20.8	25.3	2.2	11.8
Bulgaria	7 672	25.3	42.0	9.8	9.4	1.3	12.1
China	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Colombia	5 244	8.9	26.0	17.1	20.0	2.8	23.1
Costa Rica	961	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Croatia	4 187	56.0	19.8	8.6	8.5	4.7	2.4
Cyprus	774	23.3	36.7	11.8	12.7	1.0	14.6
Hong Kong, China	2 588	58.8	9.3	17.2	2.0	0.1	12.5
India	41 357	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Indonesia	32 273	20.8	14.0	2.0	2.1	9.2	51.9
Latvia	3 091	46.5	25.9	8.1	2.0	1.3	16.1
Lithuania	3 476	38.8	28.7	6.7	14.3	0.9	10.5
Malaysia	9 005	9.1	37.9	23.6	15.1	2.0	12.2
Malta	736	14.3	12.9	4.9	60.9	1.5	6.1
Morocco	4 735	59.3	10.7	12.7	0.0	2.3	15.0
Romania	22 043	17.8	22.5	34.1	11.3	0.9	13.5
Russia	128 977	7.4	47.1	8.7	16.9	2.0	17.9
Saudi Arabia	1 589	16.6	35.9	10.2	12.5	18.4	6.4
Singapore /2	1 898	8.7	52.2	11.1	9.7	1.6	16.8
South Africa	11 864	49.3	16.6	9.3	8.6	2.5	13.7
Thailand	23 129	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.

For notes indicated by "/ (number)", see Notes to Tables section at the end of the chapter, p. 197.
Source: Tax Administration 2015 survey responses.

Allocation of staff resources by functional groupings

Given the similarity in the taxes administered across surveyed countries, an obvious area of comparison concerns how revenue bodies allocate their total staff resources across the range of tax administration and support functions that must be undertaken to achieve organisational objectives. For this purpose, revenue bodies were requested to indicate the allocation of aggregate staff resources (in FTE terms) for tax administration purposes across six "functional groupings" that are described in Box 5.3. Table 5.6 provides an indication of the data gathered for just over 90% of surveyed revenue bodies on resource allocation (i.e. % of FTE by functional groups) in 2013. Given definitional issues, and the possibility of some inconsistencies in data compilation, the information presented needs to be interpreted with care.

Box 5.3. Categorisation of revenue body operations

For survey purposes, the following definitions were used:

A. ***Taxpayer account management***: Staff used (in FTEs) for all functions associated with maintaining taxpayers' records (e.g. registration, data processing, taxpayer accounting, filing, withholding tax administration, storage etc.)

B. ***Audit, investigation and other verification-related/compliance improvement functions:*** Staff used (in FTEs) for all functions associated with verifying (either through field visits, office interviews or in writing) the information contained in taxpayers' returns for all taxes administered, and specific "upfront" compliance improvement programmes (e.g. inspections and other record reviews)

C. ***Tax debt collection and related functions:*** Staff used (in FTEs) for all functions associated recovering unpaid taxes and outstanding tax returns etc.

D. ***Other tax operations:*** Staff used (in FTEs) for all other tax functions not covered by categories A, B, and C (e.g. disputes and complaints, taxpayer services (e.g. call centres).

E. ***Support: human resources:*** Staff used (in FTEs) for support functions associated with personnel, recruitment, and staff training and development-related services and work.

F. ***Support: other functions:*** Staff used (in FTEs) for all other support functions such as executive, corporate planning, public relations and communications, information technology services, accommodation, supply, security, internal assurance, public relations and finance functions.

Drawing on the information in Table 5.6, the key observations are as follows:

- Within most functional groupings there are some extreme "outlier" ratios reported that are perhaps best ignored for the purpose of detailed analysis as they are likely to result from limitations in available data, unusual organisational setups, and/or misinterpretation of the series requirements. Figure 5.4 displays the "average" allocations observed across functional groupings for OECD countries.
- ***Client account management functions:*** Significantly for this grouping, over one-third of revenue bodies (20) reported staff usage exceeding 30% of aggregate staff, including 11 where the ratio exceeded 40%. Of this latter group, seven reported IT expenditure less than 10% of total expenditure (or were unable to quantify the amount of IT expenditure incurred).

Table 6.4. Taxpayer services: Service demand ratios

(Table only includes revenue bodies that reported volumes of in-person inquiries received and/or phone inquiries answered.)

Country	In-person inquiries: No. dealt with per 100 citizens				Phone inquiries (excl. IVR/1): No. answered per 100 citizens				Factors that may be unduly influencing ratios*
	2010	2011	2012	2013	2010	2011	2012	2013	
OECD countries									
Australia	2.95	2.42	2.14	1.90	39.90	41.90	44.45	41.07	R
Austria	n.a.	n.a.	n.a. /2	n.a. /2	n.a.	42.20	54.57	57.85	N
Belgium	n.a. /2	n.a. /2	n.a. /2	n.a. /2	6.50	5.80	6.11	5.65	N
Canada	0.70	0.70	0.74	0.44	48.10	51.00	49.28	47.04	
Chile	13.72	14.17	15.71	15.30	4.90	4.87	4.97	4.45	N
Denmark	7.30	7.10	6.98	4.56 /2	n.a.	n.a.	48.48	49.46	
Estonia	23.80	22.30	15.33	12.37	18.50	19.20	16.92	16.54	
Finland	n.a.	n.a.	23.76	19.71	17.40	19.80	32.90	38.31	N
France /2	24.20	28.50	28.23	27.36	5.20	4.90	n.a.	n.a.	N
Greece	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	6.15	
Hungary	23.50	25.00	26.00	23.86	7.80	7.50	n.a.	n.a.	N
Iceland	13.30	23.30	n.a.	n.a.	43.00	43.00	n.a.	n.a.	
Ireland	19.30	18.00	16.78	14.64	38.10	38.60	32.70	53.16	N
Israel	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	7.59 /2	7.94 /2	
Italy	16.10	17.10	15.65	15.91	3.30	3.30	n.a.	n.a.	N
Japan	3.30	2.90	3.04	3.07	4.00	4.00	4.16	3.94	N
Korea	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	3.00	2.99	N
Mexico	8.30	9.50	8.75	7.08	4.40	4.10	3.58	3.04	
Netherlands	5.30	5.90	4.80	2.93 /2	83.20	85.00	84.73	86.41	R
New Zealand	4.50	4.50	4.51	4.47	90.90	84.10	79.01	73.83	R
Norway	n.a.	n.a.	n.a.	n.a.	44.50	40.60	35.06	35.43	N
Poland	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	4.18	4.39	N
Portugal	141.00 /2	122.60 /2	152.24 /2	163.25 /2	6.70	9.20	11.42	15.86	N, P
Slovak Republic	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	1.02	N
Spain	n.a.	n.a.	28.59	41.36	13.00	12.40	13.34	12.55	N, R
Sweden	14.90	16.00	20.01	23.01	47.80	46.80	17.02	14.23	N
Switzerland	n.a.	n.a.	n.a.	n.a.	25.60	25.60	n.a.	n.a.	
Turkey	n.a.	n.a.	n.a.	n.a.	0.40	0.70	n.a.	n.a.	N
United Kingdom	5.00	5.20	4.24 /2	3.20 /2	43.90	38.20	34.33	34.55	N
United States	2.10	2.10	2.18	2.06	11.90	11.10	9.81	9.53	
Non-OECD countries									
Argentina	n.a.	n.a.	n.a.	n.a.	< 1.00	< 1.00	0.78	0.99	N
Brazil	10.40	10.30	10.29	9.99	1.10	1.30	1.02	0.42	N
Bulgaria	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	3.14	3.71	
China	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	1.06	1.20	
Colombia	7.20	6.90	n.a.	n.a.	n.a.	n.a.	1.57	2.40	N
Costa Rica			1.25	1.34			1.87 /2	1.85 /2	N
Croatia			n.a.	n.a.			1.64	1.88	
Hong Kong, China	3.20	2.90	3.06	3.19	0.43	0.42	0.56	0.42	
India	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	0.09	0.17	
Indonesia			n.a.	n.a.			0.13	0.18	
Latvia	22.40	26.60	20.59	9.90 /2	5.70	10.50	19.61	19.80	
Lithuania	5.60	3.20 /2	n.a. /2	n.a. /2	22.60	20.60	21.67	22.56	
Malaysia	< 1.00	< 1.00	8.49	9.11	1.70	1.80	1.47	0.91	N, P
Malta	11.50	11.00	11.90	10.24	25.50	17.00	16.67	16.67	
Romania	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	5.72	4.90	N
Saudi Arabia	n.a.	n.a.	0.74	0.87	n.a.	n.a.	n.a.	n.a.	
Singapore	3.60	2.80	1.91	1.86	19.20	19.10	18.71	18.15	
South Africa	n.a.	n.a.	12.17	15.80	10.10	11.10	10.67	9.64	N
Thailand			n.a.	n.a.			0.93	0.98	N, P

* Legend: **P**: receives in-person payments; **R**: as significant non-tax roles; **N**: has relatively large office network given demographic factors.

Source: Tax Administration *2015 survey responses.*

APPENDIX

Understanding Users Who Don't Use Digital Services, https://www.gov.uk/service-manual/user-research/understanding-users-who-dont-use-digital-services, eight personas.

Gwen **Living with dementia**

"I don't want to leave my house, it's the only place I feel safe"

Age: 75
Job: retired
Digital inclusion scale: 1, never have, never will

About Gwen

Gwen was diagnosed with Alzheimer's disease 5 years ago and has cataracts in both eyes, which is currently manageable.

Gwen retired from her job as a dinner lady over 10 years ago, she has no children of her own and many of her friends have either died or moved away from the area. She has never needed to use a computer in any of her previous jobs.

Gwen realises that she is becoming more disoriented when she's out and about, and sometimes forgets where she is going. She's become frightened about leaving the house, but also frustrated and upset about becoming increasingly housebound and socially isolated. She also worries about being able to stay in her own home, as her health gets worse.

Barriers	
Digital literacy	No skills
Literacy	Reading is becoming a struggle
Content literacy	No longer understands complicated concepts
Finance	Can't afford the devices and the assistive technology that she requires
Accessibility	Losing the ability to learn / create connected thoughts
Connectivity	n/a

Mohammed Learned to read in Urdu

"I feel sorry for my young son, so much rests on him"

Age: 52
Job: taxi driver
Digital inclusion scale: 4, reluctantly online

About Mohammed

Mohammed and his family moved to the UK from Pakistan in the late 1980s. Mohammed started working as a taxi driver for a local cab firm, whilst Maryam, 42, stayed at home to bring up their 4 children. Two years ago Mohammed decided to become a self-employed taxi driver.

At home, they mostly speak Urdu and sometimes Arabic. Mohammed can speak English but finds reading and writing in English hard and Maryam's English is not very strong. They rely a lot on their two younger children Aziz, 14, and Yasmine, 9, who were born in Bradford and are both fluent English speakers. Their older children have both left home and work in London.

Mohammed has Type 2 diabetes, which has got progressively worse, and is recovering from a stroke. It's affected his speech and ability to walk, and he can no longer work as a taxi driver.

Both Mohammed and Maryam need Aziz to interpret and complete the forms for them and arrange appointments and telephone calls. As a minor in full-time education, this is not always easy or practical and Aziz sometimes struggles to understand 'official' government language.

They could seek wider support from their community, but for more personal matters they would rather not.

Barriers	
Digital literacy	Low skills
Literacy	Can't read and write in English
Content literacy	Doesn't understand government, how it works, what he's entitled to
Finance	n/a
Accessibility	n/a
Connectivity	n/a

Cathy No time to learn

"I don't have the time for hobbies. And if I did I would do something I enjoy, not messing around with computers"

Name: Cathy
Age: 45
Job: full time carer
Digital inclusion scale: 3, willing and unable

About Cathy

Cathy's son, Charlie, has cerebral palsy and she has been his carer for 18 years. Her marriage to Charlie's father ended 14 years ago - he has very little contact with Charlie and no longer gives financial support.

Cathy was a shop manager before Charlie was born. She used email and basic accountancy software, but no longer feels confident with her digital skills.

Until he was 18, Charlie went to a special-needs school, which allowed Cathy to have a part time job and time to drop into her local Carers Centre. Now Charlie has finished school he's at home all the time. Cathy has had to give up her job and can rarely leave the house. She has become more socially isolated and even more dependent on several government payments.

Cathy has made mistakes in the past with filling in forms for financial support and is terrified that this might happen again. She takes her DWP benefit-related forms to her local Carers Support centre to make sure that she's filled them in correctly.

Barriers	
Digital literacy	Low skills
Literacy	Competent reader
Content literacy	Had become very good at understanding the ins and outs of what's available for a disabled child; struggling with the new challenge of dealing with a disabled adult
Finance	Can't afford new devices. Has old desktop PC and a feature phone
Accessibility	n/a
Connectivity	Slow broadband and no wi-fi

David Relearning everything

"Life has thrown me a right curve ball but I don't want to let that stop me getting on with my plans"

Age: 32
Job: unemployed
Digital inclusion scale: 2, was online but no longer

About David

When David was 18, he was involved in a car accident that left him physically disabled with speech difficulties.

David needs constant care and lives at home with his siblings who are his primary carers. His parents used to take care of him and support him, but both his parents died within the last 8 years. David's family have a lot of support through his social care worker.

When the accident happened, David had just got a place at Manchester University to study history. 12 years on, David has decided he would like to see if he could go to university to fulfil his dream of doing a degree. His family are encouraging, but also worried about who will care for him if he decides to live away from home, and how they would afford it.

Barriers	
Digital literacy	Relearning old skills
Literacy	Reading is OK but tiring
Content literacy	n/a
Finance	Can't afford the assistive technology that he requires
Accessibility	Requires equipment: joystick control, big keys keyboard.
Connectivity	n/a

Greg No internet near me

"Why would I spend £500 on a computer when I could buy 10 sheep?"

Age: 48
Job: farmer
Digital inclusion scale: 1, never have, never will

About Greg

Greg has been a sheep farmer in a geographically isolated uplands area for 20 years and comes from a farming background. Greg has seen a lot of changes in agricultural policy over the last 10 years and has increasingly become more dependent on the extra payments he gets from various farming schemes, to keep his farm running.

Greg's wife, Rose, died of cancer 5 years ago and since then he's suffered from bouts of depression, finding it difficult to reach out to get help and support from others.

Rose used to take care of the paperwork, using the old desktop computer, while Greg took care of the farm. When she became too ill to use the computer, Greg got rid of it as it reminded him too much of her in happier, healthier times.

Greg prefers to have someone check his forms to ensure he has not made mistakes, but since the local Post Office shut down there's no one to help him unless he drives two hours into the nearest major town.

One of Greg's farm labourers told him that computers and software packages have become much easier to use. He suggested that even without the internet, doing his paperwork on the computer would be much faster, so Greg should get a laptop.

Greg doesn't want to spend money on a new computer that could be spent on livestock or farm supplies. He knows he would need more training and doesn't have time to 'mess around' with computers.

Barriers	
Digital literacy	No skills
Literacy	Competent reader
Content literacy	Familiar with the ins and outs of farming life
Finance	n/a
Accessibility	n/a
Connectivity	No devices, no broadband connectivity in area

Sam lacks confidence, no access

"I struggle with reading and writing, let alone using a computer"

Age: 23
Job: casual labourer
Digital inclusion scale: 3, willing and unable

About Sam

Sam spent his early years in foster care homes and now moves around to find employment. He has learning difficulties, was diagnosed with ADHD when he was young and left school without any formal qualifications.

Sam manages to get by doing short, cash in hand jobs, including gardening, though it's hard to find regular work. He often goes through periods of depression and has difficulties sticking to appointments. Sam wants his own place but currently sleeps on a friend's sofa in a shared house.

Sam 'signs on' every fortnight but finds it very difficult to look for jobs online. He completed the short internet skills course at the Jobcentre but found it overwhelming. Combined with his low self-esteem Sam feels less confident about using the computers in the local library.

Sam needs a lot of support and a safe environment to be able to speak to people face to face.
He can't afford to call expensive phone numbers from his mobile phone and his lack of fixed abode and access to the Internet currently limits his chance to improve his circumstances.

Barriers	
Digital literacy	Low skills
Literacy	Poor reading
Content literacy	Familiar with benefits system
Finance	Can't afford new devices. Has a PAYG feature phone
Accessibility	Learning difficulties
Connectivity	n/a

Sarah Overcoming a bad start in life

"I worry that my lack of computer skills will make my dreams impossible"

Age: 37
Job: landscape gardener
Digital inclusion scale: 3, willing and unable

About Sarah

Sarah had health problems in her teens and early twenties, which badly affected her education. At 30, she was determined to get back into work and turn her life around, mostly for her son, Jack. Growing up, she always enjoyed helping her dad out in the garden, so with the help of her local Jobcentre advisor she applied for a job at the local garden centre.

Sarah started off as a checkout assistant but struggled with the technology - she had never used computers before and found it overwhelming. Unfortunately the garden centre closed down and she was made redundant.

Again, through the help of the Jobcentre she got a basic landscape gardening qualification. She applied for jobs but wasn't successful, so her advisor suggested that she start her own gardening business. He told her that she could get funding, tax breaks for working parents and help with building her business plan.

Sarah's history of illness and low confidence makes it hard for her to be optimistic. She's worried that she won't be able to set up a business on her own: she knows nothing about tax and doubts she could afford an accountant.

Barriers	
Digital literacy	Low skills
Literacy	Poor reading
Content literacy	Doesn't understand government, how it works, what she's entitled to
Finance	Can't afford devices. Has simple mobile phone.
Accessibility	Learning difficulties
Connectivity	No access at home

Teresa worried about her clients

"Will digital by default mean we can't help people who rely on paper?"

Age: 39
Job: service provider manager
Digital inclusion scale: 3, willing and unable

About Teresa

Teresa has worked for third sector service providers for 14 years, initially as an advisor, before being promoted to team lead and area manager.

She's seen lots of organisational changes over the last few years, including local government funding cuts, staff job losses and a greater reliance on volunteers. This has affected Teresa's morale and ability to deliver a good service, especially in the face of rising local demand for support.

Generally, Teresa is in favour of services going online, but she is deeply worried about how her team will support more vulnerable clients lacking the access or skills to go online themselves.

The support they provide is varied, including completing forms on behalf of the terminally ill. These sessions either happen at the client's home or a convenient community centre.

She's worried that her team might be unable to complete digital forms in households without internet access or adequate 3G. She also knows, from experience, that her clients prefer to have a paper trail of evidence when applying for services, so she feels being able to print forms is vital.

Barriers	
Digital literacy	n/a
Literacy	n/a
Content literacy	Confident - in an advisory role
Finance	Funds are tight but they manage at the moment. Worries about sustainability with an increasing workload and reliance on volunteer staff
Accessibility	n/a
Connectivity	No internet access, no coverage in some client's homes

Incorporating Taxpayer Rights into Tax Administration

INTRODUCTION

In 2014, the IRS adopted the Taxpayer Bill of Rights (TBOR), heralding it as "a cornerstone document to provide the nation's taxpayers with a better understanding of their rights."[1] Prior to the adoption of the TBOR, a TAS survey revealed that taxpayers had little knowledge of their rights — fewer than half of taxpayers believed they have rights before the IRS and only 11 percent said they knew what those rights were.[2] The National Taxpayer Advocate had long called for the IRS to adopt a TBOR as a framework for effective tax administration and for Congress to add the list of fundamental taxpayer rights to the Internal Revenue Code (IRC),[3] which Congress did in late 2015.[4]

In order to develop a vision for how the IRS could better implement and apply the TBOR, this Literature Review will analyze other countries' experience with implementing and adhering to taxpayer rights. This discussion will include citizen charters focusing on rights as well as service, and will devote particular attention to taxpayer charters in the United Kingdom and Australia.

DISCUSSION

Reviewing the experiences of other countries in implementing citizen charters can inform the IRS's implementation of the TBOR. Although many countries and governments have statements of principles that use the title "charter" as opposed to "bill of rights," citizen charters are often akin to a bill of rights because they provide a list of fundamental rights, values, or standards to which a government either aspires or promises to uphold.[5] Even charters that focus exclusively on customer service can provide valuable points of comparison. One commentator raises the question of "how reasonable is it to assess performance in terms of citizen satisfaction with a branch of government that relates to the public primarily in terms of 'taking' rather than 'giving'" and concludes that taxpayer charters have received two interpretations — "a 'rights' interpretation with a view to the protection of taxpayers" and "a 'service' interpretation with a view to socially responsive performance."[6] Although the IRS's TBOR is focused

1 See IRS, IR-2014-72, *IRS Adopts "Taxpayer Bill of Rights;" 10 Provisions to be Highlighted on IRS.gov,* in Publication 1, (June 10, 2014), https://www.irs.gov/uac/newsroom/irs-adopts-taxpayer-bill-of-rights-10-provisions-to-be-highlighted-on-irsgov-in-publication-1?_ga=1.6840304.317014298.1449006592.

2 Forrester Research, IRS TAS proprietary questions in North American Technographics Omnibus Mail Survey, Q2/Q3 2012, at 20 (Sept. 2012) (unpublished survey).

3 See *e.g.*, National Taxpayer Advocate, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration; Recommendations to Raise Taxpayer and Employee Awareness of Taxpayer Rights* (2013), http://www.taxpayeradvocate.irs.gov/2013-annual-report/downloads/Toward-a-More-Perfect-Tax-System-A-Taxpayer-Bill-of-Rights-as-a-Framework-for-Effective-Tax-Administration.pdf (last visited Oct. 25, 2016).

4 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

5 One commentator has drawn a distinction between a taxpayer "bill of rights" and a "charter." Accordingly, a bill of rights enacts the provisions included in the statement of rights in legislation. Under this theory, the United States had three taxpayer bills of rights prior to its adoption of the Taxpayer Bill of Rights (TBOR). A charter is a declaration of taxpayers' rights (which can also include obligations) that is not included in legislation and has no specific force of law. However, a charter could be given the force of law through a legislative provision that directs a governmental agency to issue a charter. Philip Baker, *The Charter and the Law*, Taxation (Sept. 10, 2008), http://www.taxation.co.uk/taxation/articles/2008/09/10/6852/charter-and-law.

6 Valerie Braithwaite, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience* 1 (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081. *See also* Gavin Drewry, *Citizens as Customers – Charters and the Contractualisation of Quality in Public Services*, presented at the European Group of Public Administration Conference, 8 (Aug. 31-Sept. 2, 2005) (questioning the validity of portraying the user of a charter as a "customer" in the context of government services where there is no choice).

primarily on taxpayer rights, the service provided to taxpayers is certainly a key component of the *right to quality service* and affects how the IRS carries out other taxpayer rights.

Below is a comprehensive narrative discussing literature on citizen charters, with particular attention to taxpayer charters in the United Kingdom (U.K.) and Australia. The following are some key conclusions based on the literature, which provide insight into how the IRS can better implement the TBOR.

Charters that are too vague and are seen as purely aspirational may not be effective.[7] Conversely, establishing specific performance standards, especially simplistic ones, or overly focusing on service standards in place of fundamental principles, can be problematic or lead to the gradual disintegration of a charter.[8] Despite these two seemingly contradictory positions, there are ways the IRS can move beyond a statement of vague aspirations without experiencing the pitfalls of overly focusing on service standards. First, the TBOR's principles can be used as a lens through which to view performance standards and to inform the creation of new performance standards.[9] Under this approach, the TBOR is not made up of performance standards itself, but it is used to develop performance standards and identify which performance standards may indicate success in furthering the charter's principles.

Another way to make the TBOR more concrete is to hold the IRS accountable by requiring periodic reporting on actions the IRS is taking to further the principles of the TBOR.[10] In addition, the IRS could create a mechanism for taxpayers to raise complaints regarding the TBOR and more clearly communicate how the IRS will act on complaints, ensuring any remedies are accessible.[11] Although responses to customer survey questions regarding taxpayer rights can be misleading and are not a replacement for more objective measurements,[12] periodic surveys may provide a useful mechanism for hearing firsthand whether taxpayers feel the IRS is respecting their rights.[13]

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7 *See* Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 8-9 (UK).

8 *See* Gavin Drewry, *Citizens as Customers – Charters and the Contractualisation of Quality in Public Services*, presented at European Group of Public Administration Conference, 8 (Aug. 31-Sept. 2, 2005) (detailing an instance where specific standards caused patients to have unreasonable expectations and frustrations, leading to violent attacks on government employees). *See also* Simon James, Kristina Murphy & Monika Reinhart, *The Taxpayers' Charter: A Case Study in Tax Administration*, 7 J. Austl. Tax'n. 336, 342 (2004); Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 8-9 (UK).

9 *See* Australian Commission on Safety and Quality in Healthcare, *National Patient Charter of Rights Consultation Report*, 30 (June 2008), http://www.safetyandquality.gov.au/wp-content/uploads/2012/01/Consultation-report.pdf.

10 *See* Finance Act 2009, c 10, § 92 (Eng.) (requiring annual reporting on the Her Majesty's Revenue and Customs (HMRC) charter); *Your Charter Annual Report: April 2014 to March 2015*, gov.uk (2016), https://www.gov.uk/government/publications/your-charter-annual-report-2014-to-2015. The below literature review identifies perceived shortcomings with HMRC's Charter reporting that should be considered when crafting a reporting requirement.

11 *See* Duncan Bentley, *Revisiting Rights Theory and Principles to Prepare for Growing Globalisation and Uncertainty*, presented at Inaugural Conference on International Taxpayer Rights, (Nov. 18, 2015) (discussing the importance of enforceability and suggesting that practical enforceability without legal enforceability can be powerful); The Chartered Inst. of Tax'n, *A Taxpayers' Charter for the United Kingdom*, 13 (2008), suggesting that instead of a single provision for dealing with breaches of a charter, a more flexible approach would be for a "tribunal, court, revenue officer or the Adjudicator to take such account of the breach as is appropriate in the circumstances."

12 *See* Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 8-9 (UK); Valerie Braithwaite, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience* 1 (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081.

13 Both the U.K. and Australia have employed customer surveys to gauge success of the taxpayer charter. *See Your Charter Annual Report: April 2014 to March 2015*, gov.uk (Jan. 12, 2016), https://www.gov.uk/government/publications/your-charter-annual-report-2014-to-2015; Valerie Braithwaite, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience* 1 (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081.

A requirement for success appears to be making the TBOR part of the IRS's culture and a general way of doing things.[14] To accomplish this, the IRS needs to create a shared mindset among employees, which would better allow employees to exercise discretion when necessary to "act in accord with" taxpayer rights.[15] There should also be support from leadership, with the TBOR being positioned as a mechanism for improving the protection of taxpayer rights as opposed to merely upholding the status quo.[16] The IRS should also apply the TBOR as a framework in developing policy, vision, and strategies.[17]

These goals can be accomplished by incorporating the TBOR into:

- Performance awards and measures;[18]
- Employee education, training, and guidance;[19] and
- IRS policies, procedures, and strategies for dealing with novel issues.[20]

Written documents should go beyond including token references to the rights and include an analysis of what the rights mean in the specific instances and how the IRS's actions bolster the rights.[21] The following Literature Review provides the basis for the above conclusions regarding how the IRS can better implement the TBOR.

An Overview of Select Charters From Other Countries, States, and Government Agencies

Taxpayer charters from other countries provide the most direct point of comparison for the United States' TBOR, but it is also helpful to trace the broader citizen's charter movement in the U.K., which launched over 200 national charters, thousands of local charters, and arguably instigated the contemporary charter

14 *See* Simon James, Kristina Murphy & Monika Reinhart, *The Taxpayers' Charter: A Case Study in Tax Administration*, 7 J. Austl. Tax'n. t 336, 356 (2004); *see also* Jean-Pierre Thomassen, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters*, Pub. Mgmt. Rev. 1, 16 (2012).

15 *See* Kirsty Unger, *Ethics Codes and Taxpayer Charters: Increasing Tax Morale to Increase Tax Compliance*, 12 eJournal of Tax Res. 483, 491 (2014).

16 *See* Jean-Pierre Thomassen, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters*, Pub. Mgmt. Rev. 1, 11 (2012).

17 *See* Australian Commission on Safety and Quality in Healthcare, *National Patient Charter of Rights Consultation Report*, 30 (June 2008), http://www.safetyandquality.gov.au/wp-content/uploads/2012/01/Consultation-report.pdf (suggesting healthcare providers build the charter into their organization systems by using the charter as framework to review the organizational vision, plans, and policy statements to ensure they support rights; discussing the charter with executive and senior management as a regular meeting agenda item; and using the charter as a reference point in managing complaints). Alessandro Lamanna *et al.*, *The EU Charter of Patients' Rights: A Civic Assessment*, 1 (Active Citizenship Network), 2011, http://www.activecitizenship.net/files/patients_rights/civic_assessment/european_patients_rights_day_report_light.pdf.

18 *See* Jean-Pierre Thomassen, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters*, Pub. Mgmt. Rev. 1, 5 (2012).

19 *Id*. Australian Commission on Safety and Quality in Healthcare, *National Patient Charter of Rights Consultation Report*, 29 (June 2008), http://www.safetyandquality.gov.au/wp-content/uploads/2012/01/Consultation-report.pdf. See also Philip Baker, *The Charter and the Law*, Taxation (Sept. 10, 2008), http://www.taxation.co.uk/taxation/articles/2008/09/10/6852/charter-and-law, noting that individual employees should not be held responsible for breaches of the charter because such breaches could be caused by inadequate training or instructions and suggesting that leadership be responsible for ensuring employees are informed about the rights.

20 A review of survey results regarding the Australian taxpayer charter found a drop in ratings corresponded to a period where there was broad criticism of the agency's response to and treatment of taxpayers in a mass marketed tax evasion scheme. Valerie Braithwaite, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience* 11-12 (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081.

21 The most recent HMRC charter report provides an example of where taxpayer rights are referenced, but there is no explanation of the rights or how they apply to the circumstances, thus calling into question whether the achievements listed under the specific rights have any significant connection to the rights. *See Your Charter Annual Report: April 2014 to March 2015* gov.uk (Jan. 12, 2016), https://www.gov.uk/government/publications/your-charter-annual-report-2014-to-2015.

movement worldwide.[22] The U.K. experience reflects a tension between using a charter as a lofty list of aspirations and using a charter as a set of specific performance standards. Both of these approaches have drawbacks.[23] A report from the Public Administration Select Committee, appointed by the House of Commons, discusses flaws in the individual charters that were part of the charter movement in the 1990s: "promises contained in the charters were often vague and aspirational, confounding the aim of defining a tangible set of entitlements to public services that people could readily understand and use."[24] The same report proposes as a solution:

> a clear and precise statement of entitlements to minimum standards of public services, which we term 'Public Service Guarantees'. This would empower people by allowing them to understand the level of service provision they could expect to receive, and to claim that as of right.[25]

Unlike a statement of fundamental principles, the Public Service Guarantees would be "a progressively evolving document that is able to adapt to changing need and attitudes about entitlements to public services."[26] Even without specific legal remedies to violations of rights (for example, being able to take a case to court), there may be a benefit to citizens having "practical enforceability" of the rights.[27]

Still, the pendulum can swing too far in the other direction. Including promises within a charter (or a set of promises in place of a charter) that are too specific — for example, promising service within 30 minutes — also has drawbacks, as was observed with the original Patient's Charter in the U.K. In that case, specific standards caused patients to have unreasonable expectations and frustrations, leading to violent attacks on government employees.[28] Overly focusing on customer service standards can also lead to the gradual disappearance of a charter as it becomes merely part of an agency's overall customer service strategy, as opposed to a statement of fundamental principles.[29] Following a change of administration in the U.K. in 1997, the government reevaluated the charter program and introduced a new program, "Service First: The New Charter Programme," which appears to have since faded away entirely.[30]

A key element of the U.K.'s original charter program, the "Charter Mark," was an award to recognize excellence in customer service. Over time, this program shifted from being a competitive award to a

22 Simon James, Kristina Murphy & Monika Reinhart, *The Taxpayers' Charter: A Case Study in Tax Administration*, 7 J. Austl. Tax'n. 336, 339–40 (2004).

23 *See* The Chartered Inst. of Tax'n, *A Taxpayers' Charter for the United Kingdom*, 10 (2008) ("One point is clear: a woolly, aspirational document relating only to service delivery will do little to improve relations between HMRC, taxpayers and tax advisers.").

24 Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 2 (UK).

25 *Id.*

26 *Id.* at 21.

27 *See* Duncan Bentley, *Revisiting Rights Theory and Principles to Prepare for Growing Globalisation and Uncertainty*, paper presented at Inaugural Conference on International Taxpayer Rights, Washington, D.C. 12 (Nov. 19, 2015).

28 Gavin Drewry, *Citizens as Customers – Charters and the Contractualisation of Quality in Public Services*, presented at European Group of Public Administration Conference, 8 (Aug. 31-Sept. 2, 2005).

29 In 2004, the publication, *IR167 Charter for Inland Revenue Taxpayers, July 2003* was reportedly unavailable and telephone requesters were told the document had been replaced by a "service committement [sic] statement." Simon James, Kristina Murphy & Monika Reinhart, *The Taxpayers' Charter: A Case Study in Tax Administration*, 7 J. Austl. Tax'n. 336, 342 (2004).

30 Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 8-9 (UK). The archived Cabinet Office website reflects that the programs were completed, http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/servicefirst/ (last visited Apr. 29, 2016).

standard that all agencies should strive to achieve.[31] While recognized as having a positive effect, the Charter Mark scheme was criticized for having a low participation rate and there was concern that while it rewarded good service, it did not raise performance.[32] The current customer service standard, the Customer Service Excellence Accreditation, which is now available to the private sector as well, seems to have little connection with any kind of citizen's charter. It does not outline the fundamental values and standards, and instead seems to be a list of best practices for any business with customers to follow.[33]

Turning to the U.K.'s Taxpayer Charter, the original 1986 charter actually predated the modern U.K. charter movement.[34] However, the taxpayer charter followed the same trajectory as the broader charter program, moving away from a statement of principles and towards the customer service initiative "Service First." By the early 2000's, the U.K.'s taxpayer charter was considered obsolete and the replacement Service First standards outlined by Her Majesty's Revenue and Customs (HMRC) were seen as "a rather different kettle of fish from the charter," which "basically measure certain performance criteria against targets."[35]

In 2009, Parliament took matters into its own hands by requiring HMRC to prepare a taxpayer charter.[36] The resulting charter was criticized for merely including a set of behaviors and standards to which HMRC was to "aspire,"[37] but a key part of the law required the HMRC Commissioners to regularly review and revise the charter, as well as report annually on how HMRC has demonstrated the charter's standards and values.[38] The reporting requirement seems to be a solution to the problem of ensuring the tax agency is held accountable for "aspiring to" the standards in the charter, without facing the pitfalls of setting specific standards. However, a review of the most recent HMRC charter reports reflects that the report is not being effectively utilized in relation to the charter. The most recent report aligns HMRC achievements with the charter principles, but in some cases, the connection is tenuous at best. For example, in the discussion of achievements relating to the first four rights (respect you, help and support you to get things right, treat you as honest, treat you even-handedly) the first accomplishment for individual taxpayers is the introduction of online accounts. The report explains:

> Customers will be able to use their account to tell HMRC about changes to their circumstances — helping to ensure that they pay the right amount of tax in-year, and removing the need for many to complete tax returns. We will provide high-quality online guidance, with personal support when customers need it. We are putting the taxpayer in control and making it much easier for them to deal with us.[39]

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31 Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 12-13 (UK).

32 *Id*. at 13.

33 *See* Customer Service Excellence Standard, http://www.customerserviceexcellence.uk.com/CSE_Standard.pdf (last accessed May 3, 2016).

34 Simon James, Kristina Murphy & Monika Reinhart, *The Taxpayers' Charter: A Case Study in Tax Administration*, 7 J. Austl. Tax'n. 336, 341 (2004).

35 Richard Curtis, *A Taxpayer's New Charter?*, Taxation (Sept. 15, 2005), http://www.taxation.co.uk/taxation/articles/2005/09/15/3476/taxpayers-new-charter.

36 Finance Act 2009, c 10, § 92 (Eng.).

37 John Whiting, *Finance Act notes: Section 92 - HMRC Charter - Magna Carta the Second?* 5 British Tax Rev., 616 (2009).

38 Finance Act 2009, c 10, § 92 (Eng.).

39 *Your Charter Annual Report: April 2014 to March 2015*, gov.uk (Jan. 12, 2016), https://www.gov.uk/government/publications/your-charter-annual-report-2014-to-2015.

While online accounts will likely "help and support" some taxpayers to "get things right," it is unclear how this accomplishment is tied to the other three fundamental rights from the charter. The introduction of online accounts does not appear to further the aspirations of HMRC to respect taxpayers and treat them even-handedly, unless HMRC lends more credence to changes made online as opposed to on a traditionally filed return (a proposition that would make little sense). Later in the section regarding the same four rights, the report highlights how much money HMRC collected through legal action in courts, a statistic that has little connection to the charter rights.[40] The end of the charter report includes results from a customer survey where taxpayers were asked specific questions correlated with each right. Under "respect you," the survey asks "How well or poorly did staff treat you?"[41] Although HMRC's recent taxpayer charter progressed beyond the use of simplistic public service standards, it remains to be seen whether the charter will follow a similar path as earlier U.K. charters that were viewed as too vague and intangible.

In contrast to the U.K.'s broader charter movement, Australia has taken a different approach to its taxpayer charter, both in its formation and how employees approach it. Following a two-year consultation process to create the charter, the original taxpayer charter was launched in 1997, with a revised version in 2003 reflecting little change to the charter's basic principles.[42] The developments in the years directly following its launch were to ensure that the Charter's principles were reflected in practice. An example of a change was moving away from the strict requirement that all correspondence must reference the charter to a requirement that correspondence must instead conform to the charter.[43] Such a change reflects an understanding that merely mentioning a charter or a right might not be productive if the substance of the writing does not actually conform to the underlying principles. Australia also rejected simplistic service and performance standards, such as answering the phone within a certain amount of time because such standards might not be helpful if the taxpayer received a quick answer that was incorrect.[44] The taxpayer charter was viewed as less a set of specific service standards and more as a general framework for how to do things and a unifying factor for the tax agency.[45]

One way in which Australia implemented the charter was to develop brochures for each of the core rights. The brochure for the right to confidentiality and privacy covered topics such as obtaining information under the Freedom of Information Act, the responsibility of contractors used by the tax office, and information from third parties such as banks.[46] Like the U.K., Australia also conducted surveys in the years following the launch of the original charter. Taxpayers were asked to "use a five point rating scale ranging from almost never (1) to almost always (5) to answer the question, "Do you think that the Tax Office acts in accordance with the [Taxpayers' Charter] standards set out below?"[47] Between the two surveys, conducted in 2000 and 2002, the ratings dropped, particularly the ratings regarding the rights to be treated as honest, to be treated fairly and reasonably, to seek advice from a person of one's choice, to

40 *Your Charter Annual Report: April 2014 to March 2015*, GOV.UK (Jan. 12, 2016), https://www.gov.uk/government/publications/your-charter-annual-report-2014-to-2015.

41 *Id.*

42 Simon James, Kristina Murphy & Monika Reinhart, *The Taxpayers' Charter: A Case Study in Tax Administration*, 7 J. AUSTL. TAX'N. 336, 344-47 (2004).

43 *Id.* at 345-46.

44 *Id.* at 346.

45 *Id.*

46 The Chartered Inst. of Tax'n, *A Taxpayers' Charter for the United Kingdom*, 15 (2008).

47 Valerie Braithwaite, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience* 10 (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081.

an external review, and to access information about oneself.[48] A potential reason for the drop in ratings was the conflict between taxpayers and the tax agency following a mass marketed tax evasion scheme. As a result, taxpayers refused to enter into settlements to pay their tax debts, which may have been due in part to perceptions of procedural injustice, and the tax agency received criticism for failing to warn the public.[49] This controversy, coinciding with the drop in ratings of relevant charter principles, suggests a tax agency must incorporate the charter principles into its plans and strategies for dealing with novel or emerging issues.

While the taxpayer surveys provide helpful insights, they are not a complete replacement for more objective evaluations of how an agency is carrying out a charter.[50] The Public Administration Select Committee appointed by the House of Commons found customer service surveys were problematic because citizen's responses were subjective and may not be based on appropriate considerations. As an example, a tax related charity organization reported that due to the complexity of the tax system, taxpayers would not be in a position to judge whether or not they were given correct advice or information, and might instead base their responses on the pleasantness of their experience in dealing with HMRC.[51] Accordingly, although overly simplistic performance standards (such as the time to answer a phone call) may not be useful, performance standards that measure the accuracy of advice given or the technical correctness of determinations made may prove more useful than a customer satisfaction survey.

Ethics codes are slightly different types of documents from taxpayer charters,[52] but there may be characteristics that also translate to a charter. In Australia, the tax agency has both an ethics code and taxpayer charters, which are both principles-based and allow discretion in how employees follow them.[53] One commentator states: "The greatest benefit of an ethical code, however, is their [sic] ability to create a shared moral consciousness among tax officers." Further, she elaborates that ethics codes are not intended to provide comprehensive lists of rules, but instead

> they focus on the key values the government wants to promote and the behaviours it wants to prohibit. In day-to-day practice, there is a need for employees to have discretion but this discretion is better exercised when a shared moral consciousness has been developed throughout the organization.[54]

These conclusions are applicable to a taxpayer charter in that many tax charters more closely resemble a statement of values and principles as opposed to a set of performance guarantees.

In addition to looking at the ethics codes, there are also lessons to be learned from studies analyzing the implementation of purely service-related charters. A group of Dutch scholars recently developed a Public Service Charter Implementation (PSCI) Framework, which established 44 organizational "enablers" to

48 Valerie Braithwaite, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience* 11 (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081.

49 *Id.* at 11-12.

50 *Id.* at 8.

51 Public Administration Select Committee, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services*, 2007-08, HC 411 at 15-16 (UK).

52 "Whereas ethics codes represent an internal governance of the public sector (and more narrowly, the revenue administration), taxpayer charters are designed by the government to foster the relationship between taxpayers and the revenue administration." Kirsty Unger, *Ethics Codes and Taxpayer Charters: Increasing Tax Morale to Increase Tax Compliance*, 12 eJournal of Tax Res. 483, 485 (2014).

53 Kirsty Unger, *Ethics Codes and Taxpayer Charters: Increasing Tax Morale to Increase Tax Compliance*, 12 eJournal of Tax Res. 483, 491 (2014).

54 *Id.*

successfully implement a public service charter based on a literature review and concept mapping.[55] The literature review found a number of cases where a charter failed because of a lack of necessary enablers. These situations include:

- Insufficient involvement by employees and middle managers that results in inadequate use of the charter daily operations;
- Employee criticism of the charter or fear of being disciplined in connection with it; and
- Employee resistance to customer-focused change.[56]

Specific enablers included:

- Involving employees in the implementation;
- Employee training; and
- Incorporating the charter in employee performance measures.[57]

The PSCI Framework organized enablers under the categories of leadership, empowerment of employees, and continuous improvement.

The most important enablers under the leadership category were:

- Top management is committed to its service charter;
- The service charter is positioned within the organization as an instrument for improving the quality of service; and
- Top management (rather than a staff employee) is the promoter of the service charter and shows this by its commitment to the concept.[58]

Important enablers under the category "empowerment of employees" that are relevant to the IRS include:

- Employees are committed to the content and use of the service charter;
- Employees see the charter as a challenge rather than as a threat;
- Employees understand the objectives of the use of service charters;
- Employees are authorized to help customers immediately if they have problems because the contents of the service charter have not been properly met; and
- Employees are trained how to use the service charter in their interactions with customers.[59]

Finally, under the category of continuous improvement, the two most important enablers were:

- The organization learns from situations in which the contents of the service charter are not met so that it can improve its service quality; and

55 Jean-Pierre Thomassen, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters*, Pub. Mgmt. Rev., 1 (2012).

56 *Id.* at 3-4.

57 *Id.* at 5.

58 *Id.* at 11.

59 *Id.* at 12.

- The organization regularly measures the extent to which it has met the terms of the service charter.[60]

Beyond these enablers, the paper notes that it is important for employees to "live the charter," making it part of everyday practice, which requires a certain amount of flexibility for employees to act accordingly.[61]

Finally, there are lessons that can be learned from reviewing the implementation of patient's charters in the context of healthcare. Although the United States has a "Patient's Bill of Rights," it is a set of legislative protections included in the Affordable Care Act that is more akin to the proposed TBORs included in prior legislation, as opposed to the statement of fundamental principles adopted by the IRS.[62] More similar to the IRS's TBOR, the European Union created the EU Charter of Patients' Rights, which includes a list of 14 fundamental principles, such as the right to information, the right to privacy and confidentiality, and the right to safety.[63]

A civic assessment of the EU's patient charter evaluates how it has been implemented, relying on three types of information: (1) how governmental agencies or departments are promoting the charter in their policies and actions; (2) the conditions of citizens using the healthcare system; and (3) the perception of civic organizations regarding the healthcare system.[64] Examples of the second type of information concerning the conditions facing patients include items such as the time necessary to receive a diagnostic exam or a surgical intervention, the existence of certain services such as cultural mediation or interpreting services, and the availability of health care equipment.[65] To this end, a Patients' Rights Matrix was created with 174 indicators and each fundamental right was tied to a group of indicators.[66] Tools to collect data for the indicators included:

- A questionnaire to present to the Ministry of Health;
- A check-list to use during hospital monitoring, comprising a series of questions for the hospital authorities and a list of observations to be made; and
- A questionnaire to present to the partner organizations.[67]

Although the indicators were often specific to the healthcare industry and not relevant to tax administration, the structure of the assessment could be translated to a tax agency. The main ideas of requiring the agency to report what it has done to promote the rights included in the charter, seeking information about the actual conditions of citizens by tying the rights to performance measures, and seeking information from outside stakeholders such as civic organizations, are all applicable to the IRS.

60 Jean-Pierre Thomassen, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters*, Pub. Mgmt. Rev., 12 (2012).

61 Jean-Pierre Thomassen, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters*, Pub. Mgmt. Rev. 1, 16 (2012).

62 *See* U.S. Department of Health and Human Services, http://www.hhs.gov/healthcare/about-the-law/ (last visited May 7, 2016); Patient Protection and Affordable Care Act of 2009, Pub. L. No. 111-148, 124 Stat. 119 (Mar. 2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (Mar. 30, 2010).

63 Alessandro Lamanna et al., Active Citizenship Network, *The EU Charter of Patients' Rights: A Civic Assessment*, 2-3 (2011), http://www.activecitizenship.net/files/patients_rights/civic_assessment/european_patients_rights_day_report_light.pdf.

64 *Id.* at 11-12.

65 *Id.* at 11.

66 *Id.* at 7.

67 *Id.* at 15.

Australia has its own National Patient Charter of Rights, and a 2008 Consultation Report outlines comments received from consumers, health service providers, professional bodies, governments, and other stakeholders regarding the content of the charter and its potential use.[68] The report sought information about using the charter in standard setting, accreditation, education and training; to inform public and private hospital charters; and to support any requirements included in the next round of discussions about the Australian Health Care Agreements.[69] Respondents supported all of these options. Regarding education, comments suggested the charter be included in both undergraduate and graduate courses, as well as continuing professional development for healthcare service providers.[70] There was strong support for including the charter in accreditation, quality, and performance standards.[71] Additional options were to include the charter in health practitioners' codes of ethics or codes of practice, and to use it in patient and research studies.[72]

A brochure prepared for private Australian healthcare providers shows some examples of how a charter can be incorporated into operations.[73] Recommendations to "Build the Charter into organizational systems" include: using the charter as framework to review the organizational vision, plans, and policy statements to ensure they support rights; discussing the charter with executive and senior management as a regular meeting agenda item; and using the charter as a reference point in managing complaints.[74] The brochure also highlights the importance of measuring the charter's impact and recommends including relevant questions in patient satisfaction or experience surveys; conducting staff surveys regarding awareness and attitudes; and tracking requests for the charter and number of copies printed.[75] The literature discussed above provides a wealth of information for the IRS to apply in deciding how to implement the TBOR.

LITERATURE REVIEW

1. **Adrian J. Sawyer**, *A Comparison of New Zealand Taxpayers' Rights with Selected Civil Law and Common Law Countries – Have New Zealand Taxpayers been Short-changed?,* 32 Vand. J. Transnat'l L. 1345 (1999).

   This article describes the categories of rights provided by taxpayer charters in other countries. It identifies a drawback in the United States' TBOR 1 and 2 legislation because it represents a politically motivated act as opposed to a mutual IRS/government initiative. At the time of this article in 1999, New Zealand did not have a taxpayer charter, but merely a statement of principles and later a customer service charter. The absence of a constitution protecting fundamental human rights in New Zealand, with only minimal legal protection which can be repealed, and the poor attempt at providing a charter (the Statement of Principles and the more recent Customer Charter) are problematic.

68 Australian Commission on Safety and Quality in Healthcare, *National Patient Charter of Rights Consultation Report* (June 2008), http://www.safetyandquality.gov.au/wp-content/uploads/2012/01/Consultation-report.pdf.

69 *Id.* at 29.

70 *Id.*

71 *Id.* at 30.

72 *Id.*

73 Australian Commission on Safety and Quality in Healthcare, *Using the Australian Charter of Healthcare Rights in Your Health Service*, http://www.safetyandquality.gov.au/wp-content/uploads/2014/07/Using-the-Charter-of-Healthcare-Rights-in-Your-Health-Service-v3.pdf (last accessed May 9, 2016).

74 *Id.*

75 *Id.*

2. **Alessandro Lamanna *et al.***, Active Citizenship Network, *The EU Charter of Patients' Rights: A Civic Assessment*, 1 (2011), http://www.activecitizenship.net/files/patients_rights/civic_assessment/european_patients_rights_day_report_light.pdf.

   This report evaluates the state of implementation of the European Charter of Patients' Rights in the European Union member states, relying on three types of information. "The first type of information concerns the degree to which institutional bodies (government,public administration, Ministry of Health, etc.) are promoting norms, policies and actions relevant to the interests of the European Charter of rights, which testify to the level of attention paid to patients' rights at a national level." "The second type of information concerns the actual conditions of the citizens who use the health care system," which includes items such as the time necessary to receive a diagnostic exam or a surgical intervention in a hospital, the existence of certain services such as cultural mediation or interpreting services, and the availability of health care equipment. Each right of the European Charter was considered as a factor of evaluation and tied to a group of indicators. The third type of information regards the perception of civic organizations regarding the health care system. A Patients' Rights Matrix was established with 174 indicators, which was used to collect and analyze information, assign scores, identify critical elements and good practice, and determine an action plan.

3. **Australian Commission on Safety and Quality in Healthcare**, *National Patient Charter of Rights Consultation Report* (June 2008), http://www.safetyandquality.gov.au/wp-content/uploads/2012/01/Consultation-report.pdf.

   This report details the consultation process leading up to the adoption of the Australian National Patient Charter of Rights, which includes stakeholder comments and the commission's response to them. The commission sought feedback on the potential for the charter to be used in the following ways: in standard setting, accreditation, education and training; to inform, develop or review public hospital charters; to inform the review of private hospital charters; and to support any requirements included in the next round of discussions about the Australian Health Care Agreements Charter. All of the options mentioned in the consultation paper were supported by respondents. Using the charter in the accreditation process could be useful for monitoring the progress of the charter and measuring performance.

4. **Australian Commission on Safety and Quality in Healthcare**, *Using the Australian Charter of Healthcare Rights in your Health Service,* http://www.safetyandquality.gov.au/wp-content/uploads/2014/07/Using-the-Charter-of-Healthcare-Rights-in-Your-Health-Service-v3.pdf (last visited Apr. 28 2016).

   This is a two page brochure for healthcare providers to explain how they can inform patients, consumers, families and caregivers of their rights, how they can inform healthcare providers and other staff about the rights of patients, how they can build the Charter into organizational systems, and how they can measure the impact of the Charter. There are strategies listed for each category. For example, under building the charter into organizational systems, providers can use the Charter "as a framework when reviewing organizational policies to ensure the rights are reflected in organization vision, plans and policy statements."

5. **The Chartered Inst. of Tax'n**, *A Taxpayers' Charter for the United Kingdom*, 13 (2008).

   There is a role for a charter because there are certain "soft law" rights which are more easily expressed in a charter than in precise legal language, and there is no problem with expressing the same rights precisely in the law and in plain language in a charter. In terms of remedies, "a more flexible approach would be to say that a tax tribunal hearing an appeal, a court handling a revenue matter, a revenue officer reviewing a file, or the Adjudicator, may take such account of the breach of the Charter as is appropriate in the circumstances."

   Australia's charter extensively elaborates both rights and obligations of taxpayers, and provides separate detailed brochures for each core right identified in its charter. For example, the right to confidentiality and privacy is accompanied by a brochure clarifying: the impact of the local Privacy Act; how to obtain information under the Freedom of Information Act; protection of tax file numbers and disclosures; secrecy provisions; the responsibility of contractors and out-sourcing advisers engaged by the tax office; information from third parties such as banks; data-matching from other sources; and how to proceed and make complaints to the Commonwealth Ombudsman.

6. **Duncan Bentley**, *Revisiting Rights Theory and Principles to Prepare for Growing Globalisation and Uncertainty*, presented at Inaugural Conference on International Taxpayer Rights (Nov. 18, 2015).

   This article argues that taxpayer rights are most effective when they have the force of law, but soft law can also be effective in protecting taxpayer rights. "[W]here the principles and legal rules that form the basis for protecting taxpayer rights are reinforced by a strong rule of law, rights expand through engagement with taxpayers and their participation in the tax system." "[G]ood practice and non-legal frameworks, which often can bring greater clarity and meaning to the social frameworks that support taxpayer rights." "[B]ehavioural economics and psychology reinforces the view that practical enforceability most of the time, even without a right to take a matter to court, provides a powerful right."

7. **Federal Trade Commission**, *A Summary of Your Rights Under the Fair Credit Reporting Act,* https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf (last visited June 6, 2016).

   "The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies." Examples of rights, provided by legislation, include: the right to dispute inaccurate information, the right to be told what is in your file, the right to restrict information provided to employers without your consent, and the right to be told if information in your file has been used against you.

8. **Finance Act 2009**, c 10, § 92 (Eng.).

   This U.K. statute ordered HMRC to prepare a taxpayer's charter, regularly review the charter, and annually report on how the agency has demonstrated the charter's values and standards of behavior.

9. **Gavin Drewry**, *Citizens as Customers – Charters and the Contractualisation of Quality in Public Services*, presented at European Group of Public Administration Conference, (Aug. 31-Sept. 2, 2005).

   The paper explores the rationale of charters, with particular focus on the U.K. charter program, which at the time of this paper had become subsumed in the broader agenda of modernizing public services. It discusses a particular weakness with the Health Service Charter, which includes

performance standards that were so specific they led to unreasonable expectations and a backlash against government employees. The paper calls into question whether it is valid to depict the citizen as a customer when the citizen has no choice whether or not to use the services. It also points out the danger of emphasizing citizen's rights without also focusing on reciprocal obligations that are fundamental to citizenship and contractual relationships.

10. **Jean-Pierre Thomassen**, Kees Ahaus, Steven Van de Walle & Udo Nabitz, *An Implementation Framework for Public Service Charters,* Pub. Mgmt. Rev. 1 (2012).

    A group of Dutch scholars recently developed a Public Service Charter Implementation (PSCI) Framework, which established 44 organizational "enablers" to successfully implement a public service charter based on a literature review and concept mapping that included 45 Dutch experts in charter implementation. Situations where charters failed due to lack of enablers included: insufficient involvement by employees and middle managers, which results in inadequate use of the charter daily operations; employee criticism of the charter or fear of being disciplined in connection with it; and employee resistance to customer focused change. Specific enablers included involving employees in the implementation, employee training, and incorporating the charter in employee performance measures. The PSCI Framework organized enablers under the categories of leadership, empowerment of employees, and continuous improvement.

11. **John Whiting**, *Finance Act Notes: Section 92 - HMRC Charter - Magna Carta the Second?,* 5 British Tax Rev. 616 (2009).

    A charter is necessary to help taxpayers (especially unrepresented ones) know their rights and defend against an overbearing tax authority. The charter will also assist HMRC and its employees. Through focusing on HMRC's own standards of performance, it will support the needs for employee training and development. A major shortcoming of the HMRC charter is the requirement that HMRC is only to "aspire" to the standards and behaviors.

12. **Kirsty Unger**, *Ethics Codes and Taxpayer Charters: Increasing Tax Morale to Increase Tax Compliance,* 12 eJournal of Tax Res. 483, 491 (2014).

    This article discusses ethics codes and taxpayer charters, focusing on their different objectives, and looks specifically at those in the United Kingdom and Australia. In terms of enforcement, it notes that both documents in Australia are principles-based, and thus their application in particular circumstances is up to the discretion of the person applying them, although there are sanctions for not following them. The greatest benefit of an ethical code is the ability "to create a shared moral consciousness" among employees, and its effectiveness depends on whether the code is fostered by senior management.

13. **Philip Baker**, *The Charter and the Law,* Taxation (Sept. 10, 2008), http://www.taxation.co.uk/taxation/articles/2008/09/10/6852/charter-and-law.

    A taxpayer bill of rights differs from a taxpayer charter because a bill of rights enacts the provisions included in the statement of rights in legislation. Under this theory, the United States had three taxpayer bills of rights prior to its adoption of the TBOR. A charter is a declaration of taxpayers' rights (which can also include obligations) that is not included in legislation and has no specific force of law. As a particularly British hybrid of these two, the commentator suggests a charter that has been given the force of law through a legislative provision that directs the governmental

agency to issue a charter. Legislation should clarify the legal effect of the charter and create a duty on HMRC to ensure the charter is taken into account. Individual employees should not be penalized for breaching the charter because such a breach might be caused by inadequate training or instructions.

14. **Public Administration Select Committee**, *From Citizen's Charter to Public Service Guarantees: Entitlements to Public Services,* 2007-08, HC 411 (UK).

    This report tracks the formation of the citizen's charter movement in the U.K. and presents commentators' arguments that the original charter was so vague in its promises that they were meaningless. The original charter did further the ideas that performance should be measured, results should be made public, and information about services should be accessible. The report describes the Charter Mark, which originally started as a competitive award and has since shifted into almost a standard of service provision for customer service. There is criticism of the customer service measures used to meet the standard because the measures are highly subjective and were more based on user satisfaction than user experience.

    Another weakness was the individual charters adopted by governmental agencies and departments did not specify which promises were to be considered binding guarantees requiring redress, compensation, or some kind of enforcement. The Committee recommends there should be Public Service Guarantees, which specify a minimum standard of service provision that users can expect, and sets out procedures for redress. However, the enforcement mechanisms recommended apply more to a government agency with oversight over autonomous private entities or smaller, local governments, as opposed to an agency with interdependent offices and functions that cannot be closed down. For example, the Department of Health could bring in new management for a hospital that was failing to meet minimum standards or merge schools or deploy new teachers where local schools were not meeting standards. Another suggestion was to make the Parliamentary Ombudsman responsible for enforcing public service entitlements.

15. **Responsible Business Lending Coalition**, *Small Business Borrowers' Bill of Rights*, http://www.responsiblebusinesslending.org/ (last visited June 6, 2016).

    The Small Business Borrowers' Bill of Rights was developed by a coalition of lenders, credit marketplaces, brokers, and small business advocates and represents an industry standard for small business lending. Although many state and federal laws apply to consumer loans such as home loans or student loans, there are not many laws governing small business lending. Organizations who sign the Borrowers' Bill of Rights are not subject to any direct repercussions for not complying, but the coalition believes that CEOs who sign on would not do so if they did not actually intend to comply. The Bill of Rights includes six rights with descriptions of each. For example: "The Right to Transparent Pricing and Terms: You have a right to see the cost and terms of any financing you are offered in writing and in a form that is clear, complete, and easy to compare with other options, so that you can make the best decision for your business."

16. **Richard Curtis**, *A Taxpayer's New Charter?,* Taxation (Sept. 15, 2005), http://www.taxation.co.uk/taxation/articles/2005/09/15/3476/taxpayers-new-charter.

    This article tries to uncover what happened to the earlier versions of U.K. taxpayer charters that disappeared in the early 2000's, concluding that the replacement for them was merely a set of service guarantees. It also discusses the developments regarding a new taxpayer charter at the time (2005).

17. **Simon James**, **Kristina Murphy & Monika Reinhart**, *The Taxpayers' Charter: A Case Study in Tax Administration,* 7 J. Austl. Tax'n. 336 (2004).

This article traces the history of the taxpayer charter in Australia. It outlines some tweaks made in how the charter was implemented. For example, initially the charter was to be mentioned in all correspondence with taxpayers, but this was revised so that letters simply have to conform to the charter as opposed to mentioning it specifically. In terms of implementing the charter, the Australian Tax Office (ATO) rejected simplistic standards such as answering the phone in a set time because this was not helpful if the taxpayer received the wrong answer. Unlike the U.K. charters, the Australian Taxpayer charter was perceived less as a set of rules and more as an approach to standards of service. The article reports the results of two surveys, conducted after three and five years regarding how well the ATO was doing in meeting its obligations under the charter. The overall result is positive, but the ratings fell almost across the board between the two surveys. The article repeatedly links the success of the charter to embedding it in the culture of ATO and its employees, but does not provide many details about how this was accomplished.

18. **St. of Cal. Dep't of Just., Off. of the Att'y Gen.**, *California Homeowner Bill of Rights,* http://oag.ca.gov/hbor (last visited June 6, 2016).

This was a legislative Bill of Rights that became law in California in 2013. The objective was to guarantee basic fairness and transparency during foreclosures. Some of the protections include: a halt on the foreclosure process while a homeowner is completing a loan modification application, a guaranteed single point of contact at the bank, penalties for lenders who record and file multiple unverified documents, and a right of redress for borrowers.

19. **Sue Yong & Alvin Chenga**, *The Inland Revenue's Taxpayer Charter and the Small Business Community,* 17 N.Z. J. Tax'n Law and Pol'y 245 (Sept. 2011).

This article studies complaints made by small business taxpayers in the years after a taxpayer charter was adopted, in relation to three commitments for Inland Revenue in the charter: to be prompt, courteous and professional in its conduct, to provide taxpayers with reliable and correct advice and information, and to be consistent in applying the tax laws to taxpayers. The main concerns expressed by small businesses tend to be about audit selection, inaccurate information provided by employees, and inconsistent treatment depending on which auditor conducts the exam. The main suggestions of this study are that Inland Revenue ensures that competent and experienced staff are employed in the audit function; that staff are competent with and knowledgeable about tax regulations; and that staff are courteous and professional in their dealings with taxpayers. There are no specific recommendations that come from this study, but it suggests the need for better education and training among audit staff. Consistency in the auditor quality and skill levels is critical in ensuring an ongoing public perception of Inland Revenue as an organization committed to procedural fairness.

20. **U.N. Conference on Trade and Development**, *Implementation Report on the United Nations Guidelines on Consumer Protection (1985–2013)* 2, 7 (Apr. 29, 2013), http://unctad.org/meetings/en/SessionalDocuments/ciclpd23_en.pdf.

In 1985, the United Nations drafted guidelines on consumer protection (UNGCP), which were expanded in 1999. These guidelines have many objectives, such as maintaining adequate consumer protection, encouraging responsive production and distribution patterns, curbing abusive business

practices at the national and international level, and promoting sustainable consumption. "[A]ll countries have a legal framework aimed at adequate consumer protection but may focus on different objectives and have varying levels of institutional development. Promotional marketing and sales practices should be guided by the principle of fair treatment of consumers and should meet legal requirements. This requires the provision of the information necessary to enable consumers to take informed and independent decisions, as well as measures to ensure that the information provided is accurate."

21. **Valerie Braithwaite**, *Are Taxpayers' Charters 'Seducers' or 'Protectors' of Public Interest? Australia's Experience,* (Ctr. for Tax Sys. Integrity, Austl. Nat'l U., Working Paper No. 70, 2005), https://digitalcollections.anu.edu.au/handle/1885/43081.

    This paper reviews the results of two taxpayer surveys conducted at different times regarding how well the tax agency was adhering to the principles in the taxpayer charter. Survey results went down between the two surveys and it appears this was in part due to the influence of many taxpayers getting caught up in a mass marketed tax evasion scheme, and the controversies between taxpayers and the tax agency after. Possible determinants of the ratings that were analyzed include: "(a) justice in making and delivering decisions (perceptions of distributive justice — obtaining outcomes that are favourable to the taxpayer — are pitted against perceptions of procedural justice — dealing with taxpayers in a respectful fashion and giving them representation); (b) experiences of trust or adversarialism in relation to the Tax Office; (c) endorsement of tax reform through the GST (both the reform, and its implementation); (d) deference to the tax authority; and (e) dissatisfaction with government." "Average Charter ratings have been shown to vary with a number of factors, but the most important were (a) trust in the authority to act impartially and on behalf of all citizens and (b) procedural justice whereby taxpayers believed they were being treated as trustworthy, with respect, and included in deliberations about the future of the tax system."

22. **The World Bank, Social Development Dep't**, *How-to-Notes, Citizen Charters: Enhancing Service Delivery through Accountability*, http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1193949504055/4348035-1298566783395/7755386-1301510956007/CC-Final.pdf (last visited June 6, 2016).

    "Effective CCs [citizen charters] typically share a number of key characteristics, including clear and simple language; realistic and measurable performance standards; a dedicated grievance redress mechanism; and an effective public relations strategy to increase users' awareness about the CC."

    The following are conditions in which a citizen's charter is likely to be successful:

    - "There is strong management support for the CC initiative, especially during the start-up phase.
    - The CC is developed with input from both internal and external stakeholders through participatory processes.
    - Staff have an incentive to adhere to the conditions outlined in the CC, because their performance appraisal reviews and/or additional compensation are tied to the organization's success in achieving the service delivery targets outlined in the charter.
    - Employees and citizens are aware of the CC initiative, and civil society is involved in holding service providers accountable.

- Progress is tracked through a project-level monitoring and evaluation system and linked to other social accountability interventions to verify that service delivery improvements have been achieved."

23. *Your Charter Annual Report: April 2014 to March 2015*, GOV.UK (Jan. 12, 2016), https://www.gov.uk/government/publications/your-charter-annual-report-2014-to-2015.

    This annual report required by the 2009 Finance Act details activities of the charter committee, describes progress HMRC made during the year on activities connected to the commitments of the charter, priorities for the coming year, and the results of a customer satisfaction survey regarding the rights in the charter. The section regarding Charter rights 1, 2, 3 and 4: respect you, help and support you, treat you as honest, and treat you even-handedly, highlighted online tax accounts and online payment systems. Some of the actions highlighted seemed only tangentially related to the charter rights identified.

Behavioral Science Lessons for Taxpayer Compliance

INTRODUCTION

The National Taxpayer Advocate has long recommended the IRS conduct behavioral research on ways to improve voluntary tax compliance.[1] The President also recently issued an Executive Order encouraging agencies to apply behavioral science insights to advance policy goals.[2] For example, the IRS could use these insights (*i.e.*, insights from psychology, anthropology, sociology, market research, and behavioral economics) to improve tax compliance by making it easier, or by making the agency's messages clearer, more relevant, and more likely to resonate with taxpayers. These insights could improve the effectiveness of alternatives to "enforcement" (called "alternative treatments").

DISCUSSION

Taxpayers comply (or fail to do so) for a wide variety of reasons.[3] In addition to economic deterrence, trust, social norms, fairness, reciprocity, tax morale, and similar non-economic factors also appear to drive tax compliance.[4] Some tax administrators report that norms — what taxpayers believe their peers normally do — are the most important non-economic factor, though other factors can affect norms.[5] For example, deterrence can either crowd out compliance norms or support them.[6]

When the IRS adopts fair procedures designed to help taxpayers comply, it sends the message that most people are trying to comply, supporting compliance norms. Fair procedures also support the view that

1 *See, e.g.*, National Taxpayer Advocate 2007 Annual Report to Congress 156-61 (Most Serious Problem: *Taxpayer Service and Behavioral Research*); National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 138-50 (Marjorie E. Kornhauser, *Normative and Cognitive Aspects of Tax Compliance*); National Taxpayer Advocate 2014 Annual Report to Congress 112-22 (Most Serious Problem: *The IRS Does Not Sufficiently Incorporate the Findings of Applied and Behavioral Research into Audit Selection Processes as Part of an Overall Compliance Strategy*).

2 Exec. Order 13707, *Using Behavioral Science Insights to Better Serve the American People*, 80 Fed. Reg. 56365 (Sept. 15, 2015), https://www.gpo.gov/fdsys/granule/FR-2015-09-18/2015-23630.

3 Social scientists have identified at least eight types of noncompliance, including: Procedural – Failed to follow complicated rules, Lazy – Failed to follow burdensome rules, Unknowing – Misunderstood the legal rules, Asocial – Motivated by economic gain, Brokered – Acted on the advice of a professional, Symbolic – Perceived the law or the IRS as unfair, Social – Acted in accordance with social norms, and Habitual – Knowingly repeated previous noncompliance. *See* Robert Kidder & Craig McEwen, *Taxpaying Behavior in Social Context: A Tentative Typology of Tax Compliance and Noncompliance, in* Taxpayer Compliance, Vol. 2: Social Science Perspectives 47-72 (Jeffrey Roth and John Scholz, eds., 1989). Compliance norms may also vary by locale. *See* National Taxpayer Advocate 2012 Annual Report to Congress vol. 2, 1-70 (Research Study: *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*).

4 *See, e.g.*, National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 138-50 (Marjorie E. Kornhauser, *Normative and Cognitive Aspects of Tax Compliance*); National Taxpayer Advocate 2012 Annual Report to Congress vol. 2, 1 (Research Study: *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*); Organization for Economic Co-operation and Development, (OECD), *Understanding and Influencing Taxpayers' Compliance Behaviour* (Nov. 2010); OECD, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012); Tom Tyler, Why People Obey the Law (2006); Tom Tyler, *Legitimacy and Criminal Justice: The Benefits of Self-Regulation*, 7 Ohio St. J. Crim. L. 307-359 (2009); Erich Kirchler, *The Economic Psychology of Tax Behaviour* (Cambridge Univ. Press, 2007).

5 OECD, *Understanding and Influencing Taxpayers' Compliance Behaviour* 21 (2010). This is consistent with studies finding that norms, trust for the government, and trust for the IRS are correlated with reporting compliance by small business. *See* National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 33-56 (Research Study: *Small Business Compliance: Further Analysis of Influential Factors*); National Taxpayer Advocate 2012 Annual Report to Congress vol. 2, 1-70 (Research Study: *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*).

6 *See, e.g.*, Steven Sheffrin & Robert Triest, *Can Brute Deterrence Backfire? Perceptions and Attitudes in Taxpayer Compliance*, *in* Why People Pay Taxes (Joel Slemrod, ed., 1992); Dan M. Kahan, *The Logic of Reciprocity: Trust, Collective Action, and Law*, 102 Mich. L. Rev. 71 (2003). *See also* National Taxpayer Advocate 2012 Annual Report to Congress vol. 2, 1-70 (Research Study: *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*) (finding a correlation between trust for the IRS and estimated reporting compliance by small businesses).

the agency is legitimate and trustworthy, potentially making it more difficult for people to justify non-compliance.[7] Perhaps because unnecessarily coercive "enforcement" erodes these perceptions, research suggests that it can reduce voluntary compliance.[8] Tax agencies are increasingly using behavioral science insights to enhance the effectiveness of alternative treatments.

LITERATURE REVIEW

1. **Abigail B. Sussman & Christopher Y. Olivola**, *Axe the Tax: Taxes Are Disliked More than Equivalent Costs,* 48 J. Mkt'g Res. S91, S100 (Nov. 2011), http://www.russellsage.org/sites/all/files/u137/jmr-I-s091-s101-online.pdf.

   "Across five experiments, the authors provide evidence that people have a stronger preference to avoid tax related costs than to avoid equal-sized (or larger) monetary costs unrelated to taxes. Tax aversion affects consumer preferences in a variety of domains, including standard store purchases, financial investments, and job selection. Furthermore, this tendency is most prevalent among people who identify with political parties that generally favor less taxation. Finally, encouraging participants who identify with "antitax" parties to consider positive uses of their tax payments mitigates tax aversion. This article concludes with a discussion of the implications of these results for consumer behavior research and tax policies.… Dedicating resources to educating citizens about the positive roles the government plays and how it works could reduce tax aversion."

2. **Agnar Sandmo**, *The Theory of Tax Evasion: A Retrospective View*, 58 Nat'l Tax J. 643, 643 (2005).

   "The paper gives an overview of some main themes in the theory of tax evasion, starting from Allingham and Sandmo (1972). It reviews the comparative statics of the original model of individual behavior where the tax evasion decision is analogous to portfolio choice, and its extensions to incorporate socially conscious behavior, participation in the black labor market and tax evasion by firms. It also discusses the analysis of tax incidence and the problems involved in moving from individual to aggregate analysis. Finally, it reviews the issues that arise in formulating models of optimal taxation in the presence of tax evasion."

3. **Alan H. Plumley**, *A Framework for Optimal Tax Administration,* IRS Research Conference 20 (2007), https://www.irs.gov/pub/irs-soi/07resconfplumley.pdf.

   "IRS can undoubtedly make better use of existing and new resources to achieve greater benefit and impose less cost on taxpayers. To do that, we need to be explicit about our ultimate objective and allocate resources at the margin accordingly. Developing that capability will likely take a concerted, long-term (10-year), cross-functional effort to gather the right data every year and to introduce extra variation in our activities, making it easier to estimate their direct and indirect impacts at

7 *See generally* Tom R. Tyler, *The Psychology of Self-Regulation: Normative Motivations for Compliance*, *in* Explaining Compliance: Business Responses to Regulation 78 (Christine Parker & Vibeke Lehmann Nielsen eds., 2011); Kristina Murphy, *Procedural Justice and the Regulation of Tax Compliance Behavior*, *in* Developing Alternative Frameworks for Explaining Tax Compliance 191, 208 (James Alm *et al*. eds., 2010).

8 *See, e.g.*, National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 1-14 (*Do Accuracy-Related Penalties Improve Future Reporting Compliance by Schedule C Filers?*) (finding small businesses subject to an accuracy-related penalty had lower subsequent compliance if the penalty was assessed by default, was abated, or was appealed, potentially suggesting that penalties perceived as unfair reduce future compliance); Norman Gemmell & Marisa Ratto, *Behavioral Responses to Taxpayer Audits: Evidence from Random Taxpayer Inquiries*, 65 Nat. Tax J. 33–58 (Mar. 2012) (suggesting that audits of compliant taxpayers may reduce voluntary compliance); National Taxpayer Advocate 2015 Annual Report to Congress vol. 2, 1-100 (*Audit Impact Study*) (finding taxpayers who were audited but did not receive an additional assessment reduced their reported income following an audit).

the margin. We can take other steps in the short term to make some improvements. However, allocating resources according to the distribution of the tax gap is not the right approach."

4. **Alan H. Plumley & C. Eugene Steuerle**, *Ultimate Objectives for the IRS: Balancing Revenue and Service, in* The Crisis in Tax Administration 311, 338 (Henry J. Aaron & Joel Slemrod eds., 2004).

   "IRS programs have not always sought the right outcomes, and resource allocation decisions have not always been based on the marginal effectiveness of those resources to collect the right amount of tax from each taxpayer at the least cost … to the people. … Although collecting tax revenue is an important purpose of a tax agency, more broadly it should be collecting the right amount of revenue from the right taxpayers, helping to get program benefits to the right taxpayers …, and minimizing productive losses to the economy as a whole from filing, enforcement, and compliance efforts. Fortunately there are several practical ways that the IRS can progress toward fulfilling that mission."

5. **Alex Raskolnikov**, *Revealing Choices: Using Taxpayer Choice to Target Tax Enforcement,* 109 Colum. L. Rev. 689, 689 (2009).

   "Our tax enforcement system has ignored this variety of taxpaying motivations for decades. It continues to rely primarily on audits and penalties, at least where information reporting and withholding are impossible. Fines and audits deter those rationally playing the tax compliance game, but are wasteful or even counterproductive when applied to others. The shortcomings of the current one-size-fits-all approach to tax enforcement are well understood. They also appear to be insurmountable. This Article argues that it is possible to design a more tailored regime. The idea is to separate taxpayers based on their taxpaying motivations by creating two different enforcement regimes and inducing taxpayers to choose one when they file their annual returns. With this separation accomplished, the government can target enforcement by matching enforcement policies to taxpayer types. Those who choose to game the system will be deterred by higher penalties in one regime. Everyone else will be induced to comply by cooperative enforcement measures in the other. If successful, separation and targeted enforcement will improve tax compliance without raising its social cost, or keep the level of compliance unchanged while making tax administration more efficient."

6. **Anders Stridh**, *The Strategic Plans and Tax Morale*, presented at 45th Inter-American Center of Tax Administrations General Assembly 79, 83 (Apr. 4-7, 2011).

   "Taxpayers who have trust in the Swedish Tax Agency are more willing to comply than those who distrust us. Twelve percent of the Swedish taxpayers who trust the Swedish Tax Administration state that they would evade tax if they had the possibility compared to 28 percent concerning those who distrust the agency."

7. **Andrew K. Woods**, A Behavioral Approach to Human Rights, 51 Harv. Int'l L. J. 51, 51 (2010).

   "For the last sixty years, scholars and practitioners of international human rights have paid insufficient attention to the ground level social contexts in which human rights norms are imbued with or deprived of social meaning. During the same time period, social science insights have shown that social conditions can have a significant impact on human behavior. This Article … investigate[s] the far-ranging implications of behaviorism — especially behavioral insights about social influence — for the international human rights regime. It explores design implications for

three broad components of the regime: the content, adjudication, and implementation of human rights. In addition, the Article addresses some of the advantages and limitations of the behavioral approach and outlines the rich but unexplored nexus of behaviorism, norms, and international law."

8. **Ann Seidman & Robert B. Seidman**, *ILTAM: Drafting Evidence-Based Legislation for Democratic Social Change,* 89 B.U. L. Rev. 435, 484-85 (2009).

   "The fatal race, and the failure of drafters complicit in its too frequent loss by populists seeking to use state power and the law in the public interest, testify to the urgent need for a methodology likely to produce change-oriented legislation that achieves the desired social impact — in other words, that works.… ILTAM offers a guide to drafters who recognize the importance of accompanying a proposed bill with a research report that justifies a bill's detailed provisions by presenting relevant, logically-organized evidence."

9. **Annette Alstadster, Wojciech Kopczuk & Kjetil Telle**, *Social Networks and Tax Avoidance: Evidence from a Well-Defined Norwegian Tax Shelter* (Univ. Oslo Working Paper, 2014). http://www.bus.umich.edu/ConferenceFiles/Tax-Systems/files/Kopczuk.pdf.

   "Using detailed administrative data we identify family networks and describe how take up of tax avoidance progresses within a network. A feature of the reform was that the ability to set up a tax shelter changed discontinuously with individual shareholding of firm and we use this fact to estimate the causal effect of availability of tax avoidance for a taxpayer on tax avoidance by others in the network. We find that take up in a social network increases the likelihood that others will take up. This suggests that taxpayers affect each other's decisions about tax avoidance, highlighting the importance of accounting for social interactions in understanding enforcement and tax avoidance behavior, and providing a concrete example of 'optimization frictions' in the context of behavioral responses to taxation."

10. **Arturo Jacobs *et al.***, Deloitte Consulting LLP, *Detailed Guidelines for Improved Tax Administration in Latin America and the Caribbean* 28-29 (U.S. Agency for Int'l Dev. (USAID), 2013), https://www.usaid.gov/sites/default/files/LAC_TaxBook_Entire%20Book%20-%20ENGLISH.pdf.

    a. "For voluntary compliance to flourish, the tax administration must offer a wide variety of high-quality taxpayer services and taxpayer education programs with a dedicated staff to demonstrate that those taxpayers who comply voluntarily are respected and treated as valued customers by their government … even compliance/enforcement staff engaged in their duties must encourage voluntary compliance. To do so, they must perform their duties in a manner that demonstrates all due respect and courtesy to taxpayers and third parties.

    b. Another taxpayer incentive for voluntary compliance is a strong but fair penalty system … taxpayers who generally comply fully with their tax obligations are not selected for needless, time-consuming, and expensive audits and other verifications — an indirect but powerful message that taxpayers, who comply voluntarily, are treated as valued customers.

    c. A final incentive for taxpayers to comply voluntarily with the tax laws is to know that the tax administration has a reputation for administering fair and impartial administrative objections and appeals programs for taxpayers to dispute proposed tax assessments and other actions of the tax administration."

11. **Arun Advani, William Elming & Jonathan Shaw**, *How Long-Lasting Are the Effects of Audits?* (Tax Admin. Res. Ctr., Discussion Paper 015-15, 2015), https://tarc.exeter.ac.uk/media/universityofexeter/businessschool/documents/centres/tarc/publications/discussionpapers/How_long_lasting_are_the_effects_of_audits_v3.pdf.

    "In this paper we study the indirect benefits of conducting audits, focusing on how the reported tax liability of audited individuals changes over time after an audit. We exploit data from a random audit program covering income tax self-assessment returns in the UK. We find that audits have a large and persistent impact on reported tax liability that reaches around 26 percent on average by the fourth year following the tax year to which the audit relates."

12. **Aurélie Barnay *et al.*, McKinsey & Company**, *Tax Myths: Dispelling Myths About Tax Transformation in Rapidly Growing Economies* 5-10 (McKinsey Ctr. for Gov't, 2015), http://www.mckinsey.com/~/media/mckinsey/dotcom/client_service/public%20sector/pdfs/tax%20myths.ashx.

    "One of the tax myths that the administration has is that going digital is challenging. But, in reality, digitizing taxpayer services and back-office processes in a phased and segmented approach can be a cost-effective way to change the taxpayer experience from a time-consuming paper obligation, to a user-friendly electronic experience. A modular approach can help tax administrations overcome high infrastructure costs and help mitigate any lack of access to electronic channels the population may have. Another myth is that risk-based compliance tools are always complex. In reality, however, high-risk taxpayers can be identified and targeted using readily available data, with a simple but effective approach. It is also widely believed that the informal economy is a problem to be addressed in the future. However, gathering perfect information to tackle the US$5 trillion dollars informal economy in the developing world can be time consuming and costly, but a few targeted and cost-effective actions can go a long way to reach part of it. Other common tax myths include that boosting the agency's capabilities takes at least 10 years. But, targeted training for critical positions, combined with field-and-forum training for the rest of the organization, can significantly upgrade skills within 1 to 2 years. Lastly, it is thought that educating taxpayers to address the culture of non-compliance comes as a second priority. Actually, however, Communication is *sine qua non* to successful tax transformation, and must be done in parallel with other transformation initiatives."

13. **Austan Goolsbee**, *The Turbo Tax Revolution: Can Technology Solve Tax Complexity?*, *in* The Crisis in Tax Administration 124, 125 (Henry J. Aaron & Joel Slemrod eds., 2004).

    This chapter considers "the economic issues associated with the rise of tax planning software by using data on more than 60,000 households, which includes information on whether they use such software. Specifically the chapter deals with three issues: whether the use of these programs is widespread or is restricted to a narrow class of people, whether consumers are actually using these programs to reduce complexity, and whether the gain from expanding the use of tax software, such as the recent Bush administration free-filing initiative, would be as large as pursuing other technology-based solutions, such as return-free filing of 1040EZ forms. The data essentially answer all three in the negative."

14. **Behavioural Insights Team**, *Applying Behavioral Insights to Reduce Fraud, Error and Debt* 34 (2012), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60539/BIT_FraudErrorDebt_accessible.pdf.

"This document is intended to offer a practical guide to those who design and administer taxes and fines, and whose job it is to make such systems simple and easy to use for businesses and citizens. This is the first time that the Government has explicitly sought to draw upon behavioral insights to tackle fraud, error and debt in a systematic way. The insights outlined in this document, applied in a range of different contexts and settings, show that not only is it possible to apply behavioral insights to reduce fraud, error and debt, but also that it can be done in a highly cost-effective way."

15. **Behavioural Insights Team**, *EAST: Four Simple Ways to Apply Behavioural Insights* 4 (2014), http://www.behaviouralinsights.co.uk/wp-content/uploads/2015/07/BIT-Publication-EAST_FA_WEB.pdf.

"If you want to encourage a behaviour, make it Easy, Attractive, Social and Timely (EAST). These four simple principles for applying behavioural insights are based on the Behavioural Insights Team's own work and the wider academic literature."

16. **Behavioural Insights Team**, *The Behavioural Insights Team: Update Report 2013-2015*, 16, 35-36, 44 (2015), http://38r8om2xjhhl25mw24492dir.wpengine.netdna-cdn.com/wp-content/uploads/2015/08/BIT_Update-Report-Final-2013-2015.pdf.

The report finds that the messages of reciprocity such as "If you needed an organ transplant, would one be available? If so, consider donating yours" sometimes generated more donors than those appealing to social norms. It also finds that people who owed the most tax were most responsive to messages about how taxes fund public services, and speculating that these people understood the significant amount of tax they owed could actually make a difference in funding those services; after observing that past delinquencies are a good predictor of future delinquencies, established a program to remind them when their payments are due; finding that sending letters with a deterrence message, emphasizing that underreporting is a deliberate choice and a social norms message generated a 36:1 return on investment (ROI) and the increased compliance persisted for the following 12 months.

17. **Benjamin Ayers**, *Taxpayer Behavior Under Audit Certainty*, IRS Research Conference (2015), https://www.irs.gov/pub/irs-soi/15rescontaxpayerbehavior.pptx.

The presentation suggests that for large corporations under continuous audit, although audit certainty alters managers' expectations regarding future tax payments, it does not have a significant deterrence effect on tax planning.

18. **Benno Torgler**, *Tax Morale, Eastern Europe and European Enlargement* 1 (Worldbank Policy Research Working Paper 5911, 2011), http://documents.worldbank.org/curated/en/534681468034748125/pdf/WPS5911.pdf.

"This study tries to remedy the current lack of tax compliance research analyzing tax morale in 10 Eastern European countries that joined the European Union in 2004 or 2007. By exploring tax morale differences between 1999 and 2008, it shows that tax morale has decreased in 7 out of 10 Eastern European countries. This lack of sustainability may support the incentive based

conditionality hypothesis that the European Union only has a limited ability to influence tax morale over time. The author observes that events and processes at the country level are crucial to understanding tax morale. Factors such as perceived government quality and trust in the justice system and the government are positively correlated with tax morale in 2008."

19. **Benno Torgler**, *A Field Experiment in Moral Suasion and Tax Compliance Focusing on Under-declaration and Over-deduction,* 69 FinanzArchiv: Pub. Fin. Analysis 393-411 (2013).

"One of very few field experiments in tax compliance, this study generates a unique data set on Swiss taxpayers' under-declaration of income and wealth and over-deductions of tax credits by obtaining exclusive access to tax return corrections made by the tax administration. Using this commune level data from Switzerland, it explores the influence on tax compliance of moral suasion, introduced through a treatment in which taxpayers receive a letter containing normative appeals signed by the commune's fiscal commissioner. This letter also serves to operationalize elements of social identity and (mutual) trust. Interestingly, the results not only echo the earlier finding that moral suasion has barely any effect on taxpayer compliance but show clear differences between under-declaration and over-deduction … .

Obviously, the study has limitations; in particular, the inability to differentiate between *intentional* and *non-intentional* errors or deviations from compliance as I only had access to the completed individual tax declaration forms and the final figures reported by the tax administration after the auditing process. The tax administration did not inform me which non-compliant taxpayers were actually fined, nor did they advise what sort of information they relied on when making the corrections. The relatively large share of corrections made by the tax administration may well indicate that the observed deviations are more likely to be errors than intentional misreporting. For income and wealth under-declaration, especially, as opposed to deductions, the magnitude of these corrections is quite small, yet individuals can evade taxes on wealth and income in ways other than wrong declarations. Not only it is impossible to observe such activities using this type of data, but the study may suffer from a ceiling effect. That is, in Switzerland, tax compliance and procedural fairness are already very high, so trying to increase them with a moral suasion letter may simply have no additional effect. It is thus important to understand how such letters shape tax compliance in other countries with lower tax compliance. Moreover, there is no guarantee that the individuals in the treatment group actually read the letter although the experimental design tried to minimize such a problem. In addition, as both Blumenthal et al. (2001) and Torgler (2004) point out, more research is needed on the short-term versus the long-term effects of repeated moral suasion messages and communication with taxpayers, particularly with respect to different types of messages and different communication methods."

20. **Bevan Murphy, Kristina Murhpy & Malcolm Mearns**, *The Australian Tax System Survey of Tax Scheme Investors': Methodology and Preliminary Findings for the Third Follow-Up Survey* 7-9 (Alfred Deakin Res. Inst., Working Paper No. 13, 2010), http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.679.4134&rep=rep1&type=pdf.

"The Australian Taxation Office (ATO) detected a striking increase in mass-marketed tax effective scheme investments in the mid to latter part of the 1990s … . [responding first with punitive assessments and then a settlement offer]. The *Investors' Survey* was posted to a random sample of 6,000 scheme investors in January 2002. … An important finding from the survey was that investors' resistance to the ATO was related to their perception that they had not received procedural justice from the ATO. That is, resistance expressed was less about the money investors

stood to lose, and more about how investors felt they had been treated by the ATO during the enforcement process. Investors also expressed that the ATO's actions had negatively impacted on their emotional well-being and on their family life. As a result of these findings, a follow-up investors' survey entitled *The Australian Tax System – Fair or Not? You be the Judge* (*i.e.*, Follow-up Survey; see Murphy and Murphy, 2010) was constructed in 2004 to see how taxpayers' attitudes and views towards the ATO and the tax system may have changed across time … the majority of investors were committed to the tax system. However, investors continued to have high levels of resistance towards the ATO, which reflects doubts about the intentions of the ATO to behave cooperatively and benignly to taxpayers. Not surprising then, investors reported low levels of trust in the ATO, and felt that they had been treated poorly. Following on from these findings was that the majority of investors' believed an enforcement strategy should have an 'innocent until proven guilty' philosophy which would treat individuals with respect and dignity. It was also found that two years on from the ATO's scheme settlement offer, 80% of the respondents still reported a lot of built up emotion when contemplating the schemes matter. They expressed moderate levels of anger, anxiety and depression (anger being the dominant emotion) when thinking about the matter … . A third and final survey (hereafter titled *Final Survey*) was constructed in 2008 to extend the findings of the first two surveys and to assess respondents' current feelings when considering the ATO, the tax system and the schemes matter."

21. **Bridget M. Hutter**, *Negotiating Social, Economic and Political Environments: Compliance with Regulation Within and Beyond the State, in* Explaining Compliance: Business Responses to Regulation 305 (Christine Parker & Vibeke Lehmann Nielsen eds., 2011).

    "This chapter focuses on a key finding of sociolegal research into compliance, namely that it is a complex concept involving the negotiation of legal, economic, political and social environments by the various parties involved in regulatory dialogues. Compliance is the practical resolution of the tensions between risk and mainstream economic activities, which results in an approach to compliance that is complex, flexible and dynamic … . Regulation typically involves long term organizational compliance rather than transitory temporary encounters with individuals. The situated views and definitions of compliance generated in everyday encounters between regulators and business are in stark contrast to the perspectives of efficiency-driven politicians and policy makers who demand 'compliance rates,' presupposing that determining compliance with the law is a clear cut matter. Decades of sociolegal research have taught us that the very nature of regulation does not easily permit such clear cut decisions. This chapter draws on three empirical studies to illustrate the importance of understanding the situated and negotiated character of regulatory compliance."

22. **Bruno S. Frey & Lars P. Feld**, *Deterrence and Morale In Taxation: An Empirical Analysis* 7, 11 (CESifo Working Paper Series No. 760, 2002), http://ssrn.com/abstract=341380.

    "We attempt to analyze the interaction between the tax authority and the taxpayers affecting tax morale by using a partial model of the behavior of the tax authority based on *Crowding Theory*. This approach establishes a systematic relationship between external intervention (in this case, how the tax officials deal with taxpayers) and intrinsic motivation (in this case, individuals' tax morale). The emphasis lies on the empirical analysis of the theoretical propositions derived. With a sample of Swiss cantons in the years 1970, 1978, 1985, 1990 and 1995, we show that the tax authorities in Switzerland do indeed behave as if they were aware of the reaction of taxpayers to being treated with respect or not. This result offers a perspective seldom taken into consideration with regard to

the issue of tax compliance: Deterrence is only one of the motivational forces in getting people to pay their taxes. Quite another is the set of policies available to the tax authority to bolster taxpayers' tax morale. A 'respectful' relationship of the tax authorities to the taxpayers bolsters or *crowds in* tax morale while an 'authoritarian' relationship using instruments of deterrence has two countervailing effects: on the one hand the change in relative prices (the higher probability of being punished) reduces the incentives to evade taxes but on the other hand tax morale is undermined or *crowded out*. Which effect dominates depends on specific circumstances. The paper presents empirical evidence that (a) an authoritarian approach *crowds out* tax morale more strongly when citizens have high participation rights; and (b) a respectful approach *crowds in* tax morale more strongly when the citizens have high participation rights."

"Respectful treatment can be split into two different components. First, the procedures used by auditors in their contact with taxpayers must be transparent and clear. In the case of arbitrary procedures, taxpayers feel helpless and get the impression that they are not taken seriously. Such behavior reduces the intrinsic motivation to pay taxes. Second, respectful treatment has a direct personal component in the sense of how the personality of taxpayers is respected by tax officials. If they treat taxpayers as partners in a psychological tax contract, instead of inferiors in a hierarchical relationship, taxpayers have incentives to pay taxes honestly."

23. **Bruno S. Frey & Benno Torgler**, *Tax Morale and Conditional Cooperation* 35 J. of Comp. Econ. 136, 154, 156 (2007).

"In this paper … [the authors] consider taxation to be a social act so that conditional cooperation is an important determinant of the extent of tax morale and of tax evasion. An individual taxpayer is influenced strongly by his perception of the behavior of other taxpayers. If taxpayers believe tax evasion to be common, their tax morale decreases. Alternatively, if they believe others to be honest, tax morale increases. Using recent data for Western and Eastern European countries … [the authors] find strong empirical support for the hypothesis. … [The] results also show that the quality of political institutions has a strong observable effect on tax morale. All six variables measuring this effect, namely, voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law and control of corruption, have a strong impact on tax morale. … [The] analysis extends the standard economic theory of tax evasion, which is based on a narrow concept of *homo economicus* acting in isolation. The concept of tax morale bridges the perception individual taxpayers have about the behavior of other taxpayers and their own personal decision on whether, and to what extent, to evade their own taxes by stressing the importance of institutions."

24. **Calvin Blackwell**, *A Meta-Analysis of Incentive Effects in Tax Compliance Experiments*, *in* Developing Alternative Frameworks for Explaining Tax Compliance 97, 98 (James Alm *et al*. eds., 2010).

The author "examine[s] the impacts of the tax rate, the fine rate, the probability of audit, and the marginal-per-capita return to the public good upon tax compliance. The data set used for this analysis consists of all the research papers written in the economics and accounting literature that address this issue with an experiment. … [The author] show[s] that the theoretical predictions made regarding the impact of the fine rate, the probability of audit and the marginal-per-capita return to the public good are confirmed. … [The author] also show[s] that although most experimental papers examining the effect of the tax rate upon compliance find a negative relationship, this

relationship is not statistically significant. This indeterminate relationship is consistent with the theoretical prediction."

25. **Caroline von Bose *et al.***, *The Effect of Social Norms on Taxpayer Payment Compliance*, presented at the IRS-TPC Joint Research Conference on Tax Administration (2016) (abstract), http://www.taxpolicycenter.org/sites/default/files/paper_abstracts.pdf.

    "We use laboratory experiments to examine the impact of appeals to social norms on individuals' compliance decisions. We test the effects of two types of social norms: **descriptive norms** (*i.e.*, the type of behavior that is typical or most frequently enacted) and **injunctive norms** (*i.e.*, the type of behavior that "constitutes morally approved and disapproved conduct"). For injunctive norms, we introduce approval-framed and disapproval-framed injunctive norm messages. Our results indicate that appeals have a modest but statistically significant impact on tax compliance. The magnitude of both approval- and disapproval-framed injunctive norm messages is an increase of around 2 percent in taxes paid. If a similar response occurred for the US tax system with roughly a trillion dollars in taxes collected, the result would be a tax revenue increase of around $20 billion."

26. **Cass R. Sunstein,** *Social Norms and Social Roles,* 96 Colum. L. Rev. 903, 968 (1996).

    "While social life would be impossible without norms, meanings, and roles, individual people have little control over these things. The result can be severe limits on human well-being. Certainly there is a problem with existing norms when all or almost all people would seek a change and when existing norms deny people the preconditions for autonomy. In fact lives are shortened and unjustified inequalities are perpetuated by the existence of many current norms. People need collective help if they want to change norms, meaning, or roles. Collective help may be futile or counterproductive; it may be illegitimately motivated. But these matters require an inquiry into context. The issue should not be foreclosed by resort to confusing claims about the need to respect private choice."

27. **Chen-Bo Zhong, Vanessa K. Bohns, & Francesca Gino**, *A Good Lamp is the Best Police: Darkness Increases Dishonesty and Self-Interested Behavior,* 21 Psych. Sci. 311, 311 (2010).

    "Darkness can conceal identity and encourage moral transgressions; it may also induce a psychological feeling of *illusory anonymity* that disinhibits dishonest and self-interested behavior regardless of actual anonymity. Three experiments provided empirical evidence supporting this prediction. In Experiment 1, participants in a room with slightly dimmed lighting cheated more and thus earned more undeserved money than those in a well-lit room. In Experiment 2, participants wearing sunglasses behaved more selfishly than those wearing clear glasses. Finally, in Experiment 3, an illusory sense of anonymity mediated the relationship between darkness and self-interested behaviors. Across all three experiments, darkness had no bearing on actual anonymity, yet it still increased morally questionable behaviors. We suggest that the experience of darkness, even when subtle, may induce a sense of anonymity that is not proportionate to actual anonymity in a given situation."

28. **Christina M. Fong *et al.***, *Reciprocity and the Welfare State, in* Moral Sentiments and Material Interests: The Foundations of Cooperation in Economic Life 277, 297 (Herbert Gintis *et al.*, eds., 2005).

    "To mobilize rather than offend reciprocal values, public policies should recognize that there is substantial support for generosity towards the less well off as long as they have tried to make an effort to improve their situation and are in good moral standing. The task of politically viable egalitarian policy design might thus begin by identifying those behaviors that entitle an individual to reciprocation."

29. **Christine Jolls, Cass R. Sunstein & Richard Thaler**, *A Behavioral Approach to Law and Economics,* 50 Stan. L. Rev. 1471, 1548-50 (1998).

    "This appendix summarizes our framework for behavioral law and economics….

    A. Bounded rationality

    Judgment errors

    1. *self-serving bias*
       reference: Linda Babcock & George Loewenstein, *Explaining Bargaining Impasse: The Role of Self-Serving Biases….*
    2. *availability heuristic*
       reference: Amos Tversky & Daniel Kahneman, *Judgment Under Uncertainty: Heuristics and Biases….*
    3. *hindsight bias*
       reference: Baruch Fischhoff, *Hindsight Foresight: The Effect of Outcome Knowledge on Judgment Under Uncertainty….*
    4. *omission bias*
       reference: Ilana Ritov & Jonathan Baron, *Reluctance to Vaccinate: Omission Bias and Ambiguity….*
    5. *overoptimism*
       reference: Neil D. Weinstein, *Unrealistic Optimism About Future Life Events….*
    6. *inability to predict experience utility*
       reference: Daniel Kahneman, *New Challenges to the Rationality Assumption….*

    Decisionmaking behavior

    1. *loss aversion*
       reference: Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decision Under Risk….*
    2. *endowment effect (a corollary of loss aversion)*
       reference: Daniel Kahneman, Jack L. Knetsch & Richard H. Thaler, *Experimental Tests of the Endowment Effect and the Coase Theorem….*

    B. Bounded willpower

    1. *"hyperbolic" discounting*
       reference: David Laibson, *Golden Eggs and Hyperbolic Discounting….*

C. Bounded self-interest

1. fairness behavior and spitefulness
reference: Colin Camerer & Richard H. Thaler, *Anomalies: Ultimatums, Dictators, and Manners….*"

30. **Christoph Kogler, Stephan Muehlbacher & Erich Kirchler**, *Trust, Power, and Tax Compliance: Testing the 'Slippery Slope Framework' Among Self-Employed Taxpayers* 2 (WU Int'l Taxation Research Paper Series No. 2013-05, 2013), http://ssrn.com/abstract=2294886.

"The 'slippery slope framework' suggests two main determinants of tax compliance: trust in authorities and power of authorities. When both, trust and power, are low taxpayers aim at maximizing individual payoffs by evading taxes. Increasing power of authorities leads to enforced compliance, whereas boosting trust results in enhanced voluntary compliance. Hence, high compliance can be accomplished either by pronounced trust in authorities or under conditions of strong power of authorities, but the quality of cooperation differs. Testing these assumptions using questionnaire data based on a representative sample of 476 self-employed taxpayers clearly supports the main assumptions of the 'slippery slope framework.' In addition, the relation between perceptions of both, procedural justice and voluntary compliance as well as distributive justice and voluntary compliance were found to be mediated by trust. Furthermore, similar effects of both, trust and power were observed with regard to retributive justice and deterrence."

31. **Colin Camerer & Richard H. Thaler**, *Anomalies: Ultimatums, Dictators and Manners,* 9 J. Econ. Persp. 209, 216-18 (Spring 1995), https://www.aeaweb.org/articles?id=10.1257/jep.9.2.209.

"Why does game theory fail as a predictive model in ultimatum and dictator games? ... We conclude that the outcomes of ultimatum, dictatorship and many other bargaining games have more to do with manners than altruism.

Consider first the simple dictator game. Subjects are handed $10 in manna from experimental heaven and asked whether they would like to share some of it with a stranger who is in the same room. Many do. However, if the first player is made to feel as if he earned the right to the $10, or the relationship with the other player is made less personal, then sharing shrinks. Etiquette may require you to share a windfall with a friend, but it certainly does not require you to give up some of your hard-earned year-end bonus to a stranger.

In the ultimatum game, the Responder is primarily reacting to the manners of the first player. The Responders are willing to turn down rude offers, even at a cost to themselves. Rabin's (1993) model, which captures this notion neatly, incorporates etiquette into economics. Though most economists have ignored manners and etiquette in their research — and, some would say, in their behavior — such factors can be very important. The perceived norms of fairness, investigated by Kahneman *et al*. (1986a), can be thought of as rules of polite business practice. It is rude to raise the price of snow shovels after a blizzard, and firms who are in business for the long term have the good sense to eschew short-run profits to protect the relationship they have built up with their customers. Similarly, firms that treat their workers fairly (politely) will be rewarded by greater effort as some gift-exchange and efficiency wage models predict (for example, Akerlof and Yellen, 1990). In a laboratory experiment, Fehr *et al*. (1993) find that "firms" who pay more than they have to are rewarded with voluntary effort contributions by their "workers."…

Our goal in stressing manners is to distinguish this explanation from one based on altruism or other interdependent utility functions. Our view is similar to that of Hoffman *et al*. (1994a, b), who prefer to describe the behavior as a manifestation of rules of reciprocity that people learn in everyday life. In repeated encounters, it is rational to treat others fairly and punish those who behave unfairly, because long-run concerns outweigh the short-run costs. Of course, there are no long-run concerns in a one-shot ultimatum game, but Hoffman *et al*. (1994a, b, forthcoming) argue that subjects in such experimental settings cannot curb their repeated-game impulses. We find this view troubling for experimentalists. It says that subjects cannot accept a situation as being one shot, even when there is $100 at stake. We prefer to think that people have simply adopted rules of behavior they think apply to themselves and others, regardless of the situation. They leave tips in restaurants that they never expect to visit again not because they believe this is really a repeated game, but because it would be rude to do otherwise.

We are excited by Rabin's attempt to incorporate fairness (or manners) into game theory. His model takes the experimental evidence seriously and tries to come to grips with it, rather than making excuses for it. We hope other game theorists will follow Rabin's lead and continue to develop models of how real people interact. And if a theorist is wondering how someone will play a certain game and no experiment has been run, we suggest asking Miss Manners."

32. *Conversations: Jeffrey Owens, Nina Olson, and Philip Baker*, 81 Tax Notes Int'l 595, 599 (2016).

"Good tax administration and taxpayers' rights are compatible for at least two reasons. You can justify it on the grounds that it improves taxpayer administration. We are, as taxpayers, subject to supplying a huge amount of information, spending time filling in tax returns; if taxpayers disagree with the revenue, there's an independent tribunal. We aim for very high levels of voluntary compliance, and some of the best countries' voluntary compliance is well into the 90 percentile and, in a sense, that's part of the covenant with the taxpayer, that their rights will be observed if they're voluntarily compliant. On the other hand, you can come at it from a totally different view, which is simply to say compliant or noncompliant, taxpayers have rights. They are human beings or they are entities owned by, staffed by, human beings. There is a good in protecting human rights come what may, regardless of the advantages for tax administrations."

33. **Craig A. Max IV**, *Hand-Holding, Brow-Beating, and Shaming into Compliance: A Comparative Survey of Enforcement Mechanisms for Tax Compliance,* 40 Vand. J. Transnat'l L. 541, 541 (2007).

"Tax authorities and policy planners have a variety of tools at their disposal to create mechanisms to encourage and enforce compliance with revenue collection systems. Traditionally, these mechanisms include the possibility of criminal prosecution as well as civil pecuniary sanctions. Despite the dominate [sic] role that prosecution and pecuniary sanctions hold internationally, there exists a range of alternative enforcement mechanisms utilized. The United States has recently started to implement nonpecuniary enforcement devices to achieve policy goals, namely the encouragement of participating with the federal taxing system. This Note attempts to take an initial step into exploring the range of international enforcement mechanisms available to policy planners. Then, it contrasts these histories with the more recent development of taxation in the United States. It concludes that given international harmonization, the United States is more likely on the forefront rather than behind the learning curve of enforcement devices. While nonpecuniary devices may hold promise to encourage participation, further research is needed to develop refined devices which live up to that promise."

34. **Damon Jones**, *Inertia and Overwithholding: Explaining the Prevalence of Income Tax Refunds* (Nat'l Bureau Econ. Res. (NBER) Working Paper No. 15963, May 2010), http://home.uchicago.edu/~j1s/Jones_Overwithholding_NBER.pdf.

    "Over three-quarters of US taxpayers receive income tax refunds, which are effectively zero-interest loans to the government. Previous explanations include precautionary and/or forced savings motives. I present evidence on a third explanation: inertia. I find that following a change in tax liability, prepayments are only adjusted by 29 percent of the tax change after one year and 61 percent after three years. Adjustment increases with income and experience, and for EITC recipients, I rule out adjustment greater than 2 percent. Thus, policies affecting default withholding rules are no longer neutral decisions, but rather, may affect consumption smoothing, particularly for low-income taxpayers."

35. **Dan Ariely**, Predictably Irrational: The Hidden Forces that Shape Our Decisions (2008) (from the book jacket).

    "In a series of illuminating, often surprising experiments, MIT behavioral economist Dan Ariely refutes the common assumption that we behave in fundamentally rational ways. Blending everyday experience with groundbreaking research, Ariely explains how expectations, emotions, social norms, and other invisible, seemingly illogical forces skew our reasoning abilities. Not only do we make astonishingly simple mistakes every day, but we make the same types of mistakes, Ariely discovers. We consistently overpay, underestimate, and procrastinate. We fail to understand the profound effects of our emotions on what we want, and we overvalue what we already own. Yet these misguided behaviors are neither random nor senseless. They're systematic and predictable — making us predictably irrational."

36. **Dan Ariely**, *The End of Rational Economics,* Harv. Bus. Rev. (July 2009), https://hbr.org/2009/07/the-end-of-rational-economics.

    "most individuals, operating on their own and given the opportunity, will cheat — but just a little bit, all the while indulging in rationalization that allows them to live with themselves. … [but] the simple act of asking people to think of their ethical foundations — say, the Ten Commandments — or their own moral code before they had the opportunity to cheat eliminated the dishonesty…

    if one person is clearly seen to be cheating, team members — particularly those who feel connected to the cheater — are likely to depart from their own moral compasses and increase their cheating. It seems that cheating is infectious… .

    Participants were promised $5 each for completing the task. On doing so, each signed a receipt and received a stack of $1 bills. Daniel "mistakenly" overpaid some of them by two, three, or four dollars [He had annoyed some of them by rudely talking on the phone while they were completing the task] … it was striking that a 15-second phone call vastly decreased the likelihood that the participants would return the cash… .

    Would it make a difference whether Daniel claimed that he was working for someone else? Would participants punish the principal (the researchers behind the study) for the agent's misbehavior? Our results suggested that if people feel the need to take revenge, they don't differentiate between the two… . We were surprised to find that the show of regret was a perfect remedy. The percentage of people who returned the extra cash was the same in the "apology condition" as in the "no annoyance" condition…

one automobile insurer discovered that most people, when filling out forms that ask how many miles they've driven in a year, claimed that they drove less than they actually had. Building on the discovery that people are less inclined to cheat after being reminded of their own ethical standards, the company moved the signature line to the top of the form. Applicants who signed the form at the top reported driving an average of 2,700 more miles a year than those who signed at the end."

37. **Dan Ariely**, The Honest Truth about Dishonesty (2012).

After conducting a wide range of experiments, the author concludes the amount of reward to be gained and the probability of getting caught are not as important in explaining dishonest behavior as people think. Rather, dishonesty increases with a person's ability to rationalize it while maintaining a positive self-image, a prior dishonest act, observing others behave dishonestly, observing others benefit from our dishonesty, and being fatigued or stressed. On the other hand dishonesty declined after people pledged honesty, received moral reminders, or were supervised at key moments.

38. **Dan M. Kahan**, *Gentle Nudges vs. Hard Shoves: Solving the Sticky Norms Problem* 67 U. Chi. L. Rev. 607, 607 (2000).

"According to this article, the resistance of law enforcers sometimes confounds the efforts of lawmakers to change social norms. For example, as legislators expand liability for date rape, domestic violence, and drunk driving, police become less likely to arrest, prosecutors to charge, jurors to convict, and judges to sentence severely. The conspicuous resistance of these decisionmakers, in turn, reinforces the norms that lawmakers intended to change. This article argues that when the law embodies a relatively mild degree of condemnation (*e.g.*, small penalties), the desire of most decisionmakers to discharge their civic duties will override their reluctance to enforce a law that attacks a widespread social norm. The willingness of most decisionmakers to enforce can initiate a self-reinforcing wave of condemnation, thereby allowing lawmakers to later increase the severity of the law in the future without prompting resistance from most decisionmakers."

39. **Dan M. Kahan**, *Signaling or Reciprocating? A Response to Eric Posner's Law and Social Norms*, 36 U. Rich. L. Rev. 367 (2002).

Reciprocity theory implies the most effective means to promote cooperative behavior is to promote trust — the shared beliefs that others can, in fact, be counted on to contribute their fair share to public goods, whether or not doing so is in their material self-interest. Under this theory, incentives can often backfire by implying that most individuals are not inclined to contribute to collective goods voluntarily. The author cites a study which found that taxpayers who were exposed to information emphasizing the severity of tax-evasion penalties claimed more deductions than similarly situated taxpayers exposed either to a moral appeal or to no information at all. He cites another study which found that individuals who were shown actual press accounts of an IRS plan to attack the "tax gap" with stepped-up auditing displayed a weaker commitment to paying their own taxes.

40. **Dan M. Kahan**, *The Logic of Reciprocity: Trust, Collective Action, and Law,* 102 Mich. L. Rev. 71, 72 (2003), http://static1.1.sqspcdn.com/static/f/386437/3498490/1246594832157/logic_article.pdf?token=PpQWjMQKlSDfX2baW53Hf1Xxt1k%3D.

    "… incentive schemes tend to mask the extent to which individuals are inclined to contribute to public goods voluntarily, thereby weakening the tendency of observable cooperation to generate reciprocal cooperation by others. In short, manipulating material incentives may not only be an inefficient regulatory strategy for solving collective-action problems; it may often be a self-defeating one. This Essay will … [show] how these dynamics can be used to analyze and improve policymaking in various regulatory fields, with a particular emphasis on tax compliance, the siting of noxious facilities, the production of ideas and technology, and the policing of street crime."

41. **Daniel Kahneman**, *Maps of Bounded Rationality: Psychology for Behavioral Economics,* 93 Am. Econ. Rev. 1449, 1469-70 (2003), https://www.princeton.edu/~kahneman/docs/Publications/Maps_bounded_rationality_DK_2003.pdf.

    "What is natural and intuitive in a given situation is not the same for everyone: different cultural experiences favor different intuitions about the meaning of situations, and new behaviors become intuitive as skills are acquired. The present treatment has developed several themes: that intuition and reasoning are alternative ways to solve problems, that intuition resembles perception, that people sometimes answer a difficult question by answering an easier one instead, that the processing of information is often superficial, that categories are represented by prototypes… . Findings about the role of optimism in risk taking, the effects of emotion on decision weights, the role of fear in predictions of harm, and the role of liking and disliking in factual predictions — all indicate that the traditional separation between belief and preference in analyses of decision making is psychologically unrealistic. Incorporating a common sense psychology of the intuitive agent into economic models will present difficult challenges, especially for formal theorists."

42. **Daniel Kahneman**, Thinking, Fast and Slow 10-13 (2011).

    "The book is divided into five parts. Part 1 presents the two-systems approach to judgment and choice. It elaborates the distinction between the automatic operations of System 1 and the controlled operations of System 2, and shows how associative memory, the core of System 1, continually constructs a coherent interpretation of what is going on in our world at any instant. I attempt to give a sense of the complexity and richness of the automatic and often unconscious processes that underlie intuitive thinking, and of how these automatic processes explain the heuristics of judgment. A goal is to introduce a language for thinking and talking about the mind. Part 2 updates the study of judgment heuristics and explores a major puzzle: Why is it so difficult for us to think statistically? We easily think associatively, we think metaphorically, we think causally, but statistics requires thinking about many things at once, which is something that System 1 is not designed to do.

    The difficulties of statistical thinking contribute to the main theme of Part 3, which describes a puzzling limitation of our mind: our excessive confidence in what we believe we know, and our apparent inability to acknowledge the full extent of our ignorance and the uncertainty of the world we live in. We are prone to overestimate how much we understand about the world and to underestimate the role of chance in events. Overconfidence is fed by the illusory certainty of hindsight. My views on this topic have been influenced by Nassim Taleb, the author of The Black Swan. I hope for watercooler conversations that intelligently explore the lessons that can be learned from the past while resisting the lure of hindsight and the illusion of certainty.

The focus of part 4 is a conversation with the discipline of economics on the nature of decision making and on the assumption that economic agents are rational. This section of the book provides a current view, informed by the two-system model, of the key concepts of prospect theory, the model of choice that Amos and I published in 1979. Subsequent chapters address several ways human choices deviate from the rules of rationality. I deal with the unfortunate tendency to treat problems in isolation, and with framing effects, where decisions are shaped by inconsequential features of choice problems. These observations, which are readily explained by the features of System 1, present a deep challenge to the rationality assumption favored in standard economics.

Part 5 describes recent research that has introduced a distinction between two selves, the experiencing self and the remembering self, which do not have the same interests. For example, we can expose people to two painful experiences. One of these experiences is strictly worse than the other, because it is longer. But the automatic formation of memories — a feature of System 1 — has its rules which we can exploit so that the worse episode leaves a better memory. When people later choose which episode to repeat, they are, naturally, guided by their remembering self and expose themselves (their experiencing self) to unnecessary pain."

43. **Daniel Ortega & Carlos Scartascini**, *Don't Blame the Messenger: A Field Experiment on Delivery Methods for Increasing Tax Compliance* 3-4, 27 and 31 (CAF, Development Bank of Latin America, Working Paper No. 2015/09, 2015), http://scioteca.caf.com/bitstream/handle/123456789/821/Ortega%20%26%20Scartascini,%202015.pdf?sequence=1&isAllowed=y.

"For testing the effect of delivery mechanisms, we conducted a field experiment in Colombia in which taxpayers received a message about their due tax payments (declared but unpaid taxes). Around 21,000 taxpayers who had not paid their taxes on time (commonly referred as tax delinquencies) were randomly assigned to one of three different treatments (physical letter, e-mail, inspector visit), and to a control group … [for delivering deterrence messages] sending a letter almost doubles the probability that the taxpayer would cancel part of the debt. Sending an email and scheduling a personal visit has an even larger impact (about 14 percentage points higher than doing nothing, three times higher impact.) Among those who were actually treated (TOT results) payment of outstanding debt was much higher: about 8 percent higher than the baseline scenario for those receiving a letter, 17 percentage points for those receiving an email, and about 88 points for those receiving a personal visit. That is, almost every person who received a visit by a tax inspector made some kind of payment. Overall, the economic relevance of the exercise was highly significant. The Agency recovered about 3 times more previously unpaid liabilities from the people they attempted to contact than from the people in the control group. These differences are almost ten times larger for those in the group of personal visits (attempted visits). Moreover, we find large spillover effects, with those treated making payments of other arrears too.

Of course, while reaching a taxpayer with an inspector has an impact about 10 times higher than sending a letter, the relative difference in marginal costs is higher (about 16 times). Still, in the case of Colombia, because the absolute cost is relatively low the net benefit favors the personal visit over the impersonal methods, conditional on actual delivery of treatment."

Email may have been superior to letters because "[T]he agency had been moving many of its transactions online, so the email may have had a relatively higher salience, which may not export easily to other places. Additionally, given the fact that payments can be made online, the act of paying may have been more spontaneous than after receiving a letter (the person was already sitting at the computer)." (at 27 n31).

44. **David Halpern**, Inside the Nudge Unit: How Small Changes Can Make a Big Difference 349 (2015).

"Government, organizations and individuals across the world are starting to use behavioral insights to reshape what they do and how they do it. This varies from the simple rewording of letters so that people can understand them more easily, to the fundamental redesign of policies to promote healthier living, energy conservation or getting people back to work. This book … introduce[s] a simple framework that can be used not only by policymakers, but by anyone: EAST. If … [anyone] want[s] to encourage a behavior … make it easy, attractive, harness social influence, and choose a time when most receptive."

45. **David T. Welsh *et al.***, *The Slippery Slope: How Small Ethical Transgressions Pave the Way for Larger Future Transgressions*, 100 J. Applied Psych. 114 (2014).

"Many recent corporate scandals have been described as resulting from a slippery slope in which a series of small infractions gradually increased over time (e.g., McLean & Elkind, 2003). However, behavioral ethics research has rarely considered how unethical behavior unfolds over time. In this study, we draw on theories of self-regulation to examine whether individuals engage in a slippery slope of increasingly unethical behavior. First, we extend Bandura's (1991, 1999) social-cognitive theory by demonstrating how the mechanism of moral disengagement can reduce ethicality over a series of gradually increasing indiscretions. Second, we draw from recent research connecting regulatory focus theory and behavioral ethics (Gino & Margolis, 2011) to demonstrate that inducing a prevention focus moderates this mediated relationship by reducing one's propensity to slide down the slippery slope. We find support for the developed model across 4 multiround studies."

46. **David Weisburd *et. al.***, *Is Problem-Oriented Policing Effective in Reducing Crime and Disorder? Findings From a Campbell Systematic Review*, 9 Criminology & Pub. Pol. 139, 140-41 (2010), http://www.smartpolicinginitiative.com/sites/all/files/POP%20Weisburd_et_al.pdf.

"We conducted a Campbell systematic review to examine the effectiveness of problem-oriented policing (POP) in reducing crime and disorder. After an exhaustive search strategy that identified more than 5,500 articles and reports, we found only ten methodologically rigorous evaluations that met our inclusion criteria. Using meta-analytic techniques, we found an overall modest but statistically significant impact of POP on crime and disorder. We also report on our analysis of pre/post comparison studies. Although these studies are less methodologically rigorous, they are more numerous. The results of these studies indicate an overwhelmingly positive impact from POP…

Goldstein (1979) called for a paradigm shift in policing that would replace the primarily reactive, incident-driven "standard model of policing" (National Research Council [NRC], 2004; Weisburd and Eck, 2004) with a model that required the police to be proactive in identifying underlying problems that could be targeted to alleviate crime and disorder at their roots. He termed this new approach "problem-oriented policing" (POP) to accentuate its call for police to focus on problems and not on the everyday management of police agencies. Goldstein also expanded the traditional mandate of policing beyond crime and law enforcement. He argued that the police had to deal with an array of problems in the community, which not only includes crime but also social and physical disorders. He also called for police to expand the tactics of policing beyond the law enforcement powers that were perceived as the predominant tools of the standard model of policing. In Goldstein's view, the police needed to draw on not only the criminal law but also on civil statutes and rely on other municipal and community resources if they were to ameliorate crime and disorder

problems successfully. … the 2003 Law Enforcement Management and Administrative Statistics (LEMAS) survey reported that 66% of local police agencies (more than 100 officers) claimed to be using POP tactics (Bureau of Justice Statistics, 2006)."

47. **Diana Onu & Lynne Oats**, *Social Norms and Tax Compliance* 29 (Tax Administration Research Centre, Discussion Paper: 006-14, 2014), https://tarc.exeter.ac.uk/media/universityofexeter/businessschool/documents/centres/tarc/publications/discussionpapers/Social_norms_and_tax_compliance_May_14.pdf.

    "Given that social norms campaigns have been employed in a range of fields over the last two decades (such as health prevention or environmental behaviour), we included a general discussion of the mechanisms underlying social norms campaigns, their success in other fields, but also their unintended consequences. Finally, we integrated the lessons on social norms campaigns from other fields and the theoretical insights on social norms from the tax literature, to propose potential avenues for future tax compliance campaigns."

48. **Donald Morris**, *Tax Cheating: Illegal — But Is It Immoral?* at x (2012).

    This book argues that "it is not complexity itself that results in the Code's lack of moral grounding but unharnessed complexity beholden to no guiding principle or moral intuition."

49. **Doreen McBarnet**, *When Compliance is Not the Solution but the Problem: From Changes in Law to Changes in Attitude, in* Taxing Democracy: An Understanding of Tax Avoidance and Evasion 229, 241 (Valerie Braithwaite ed., 2003).

    "Creative compliance is not just a tax problem but a law problem. The ATO [Australian Taxation Office] is working to change the general attitude towards tax. But if a change of attitude is required, it is not just in the attitude to tax, but in the attitude taken to law, policy, and compliance. What needs to be fostered is a change of attitude to the law, in which it is seen not as a game of words, a material to be worked on to one's own or one's client's advantage, but as an instrument of legitimate policy to be respected, with the policy not just the words, looked to as the measure of compliance. That … is itself problematic in many ways. But without some shift in that direction, the concern must be that compliance will remain not a solution but a problem for tax policy and tax enforcement, and, indeed, for legal policy and legal control in general."

50. **Elaine Doyle & Jane Frecknall-Hughes**, *Cognitive Ethical Reasoning of Tax Practitioners: A Preliminary Investigation Using a Tax-Specific Version of the Defining Issues Test (DIT)* 35–52 (2007) (working paper).

    This study examined the ethical reasoning of 649 individuals (343 tax practitioners, and 306 ordinary individuals called "non-specialists") in Ireland in 2009 using a tax-context specific adaptation of the Defining Issues Test (DIT). The complete version of the DIT comprises six dilemmas: (i) whether a person should steal a drug that might save the life of his wife who is dying from cancer; (ii) university students' freedom of speech and their right to protest; (iii) whether a man should pay for a past crime after living eight years of a virtuous existence that contributed to the well-being of the local community; (iv) the issue of euthanasia; (v) discrimination against minorities; and (vi) freedom of speech as it relates to the press. After controlling for gender, age, level of education, type of firm, the analysis found that tax practitioners had a significantly lower level of moral reasoning in the tax context than in the general social context.

51. **Elinor Ostrom**, *Policies That Crowd out Reciprocity and Collective Action, in* Moral Sentiments and Material Interests: The Foundations of Cooperation in Economic Life 253, 270 (Herbert Gintis *et al*. eds., 2005).

    "Much of contemporary policy analysis and the policies adopted in many modern democracies crowd out citizenship and voluntary levels of cooperation. They do this by crowding out norms of trust and reciprocity, by crowding out the knowledge of local circumstances, by crowding out the discussion of ethical issues with others who are affected, and by crowding out the experimentation needed to design effective institutions. Crowding out reciprocity, cooperation, and citizenship is a waste of human and material resources and presents a serious challenge to the sustainability of democratic institutions over time."

52. **Eliza Ahmed & Valerie Braithwaite**, *Understanding Small Business Taxpayers: Issues of Deterrence, Tax Morale, Fairness and Work Practice,* 23 Int'l Small Bus. J. 539 (2005).

    After surveying studies showing the self-employed have lower compliance rates, greater opportunity to cheat and higher compliance costs, and competitors who cheat (*i.e.*, social norm of cheating), but potentially higher tax morale, this study set out to discover if the self-employed have different views about taxes than the general population. The authors sent out 7,754 surveys to a random sample of Australians (the *Community Hopes, Fears and Actions Survey* (Braithwaite, 2000)) and received 2,040 responses (a 29% response rate). They concluded that the self-employed are distinguished by not receiving an annual tax refund, perceiving themselves as paying less than their fair share of tax, having less tax competence and independence, perceiving greater power in the tax office to elicit compliance, favoring small government and minimum government interference, and opposing tax expenditure for redistributive programs such as health, welfare and education.

53. **Emily Ann Satterthwaite**, *Can Audits Encourage Tax Evasion? An Experimental Assessment,* Fl. Tax L. Rev. (2016) (forthcoming), http://ssrn.com/abstract=2724021 or http://dx.doi.org/10.2139/ssrn.2724021.

    "Where audits were framed as being 'random,' participants increased their levels of evasion in the tax periods immediately following the audit. This effect, however, did not plague audits that were framed for participants as being non-random. When a separate group of participants faced audits in which detected evasion could "flag" a participant for one or more future audits, participants cheated less in the periods immediately following the audit. … By revealing strong behavioral responses to the way tax audits are presented, this paper (1) opens important new avenues for experimental and controlled field trial research on audit dynamics, and (2) underscores the potential benefits to tax administrators of being more transparent with taxpayers about the nature of audit selection."

54. **Eric A. Posner**, *Law and Social Norms: The Case of Tax Compliance,* 86 Va. L. Rev. 1781, 1807 (2000).

    According to the author, who uses game theory to explain compliance behavior, obeying norms is a way of signaling to others that you are a person with a low discount rate. That is, someone who can be trusted to cooperate in a multi-player game. In this way, tax compliance is similar to shaking hands, wearing ties or high heels, eating with forks, giving money to charities, exchanging gifts with family members, or similar ritualized activities, which distinguish "good" types from "bad." Under this theory, increasing penalties makes tax compliance cost less, thereby undermining its value in distinguishing "good" types from "bad." In doing so, increasing penalties could undermine its value

as a signal — and in increasing noncompliance. The article does not explain how tax compliance can be a form of signaling if noncompliance often goes undetected and is generally confidential even when detected.

55. **Eric A. Posner**, *The Signaling Model of Social Norms: Further Thoughts,* 36 U. Mich. L. Rev. 465 (2002).

    This article surveys and critiques a wide range of articles and books that seek to explain social norms using game theory and behavioral economics. Some of these authors treat social norms as descriptions of behavioral regularities that exist in an "economic equilibrium" in which people pursue their rational self-interest. Others treat social norms as though they were preferences held by individuals. This article adopts the former view, suggesting that norms may be a form of signaling.

56. **Eric Fleisig-Greene**, *Law's War with Conscience: The Psychological Limits of Enforcement,* 2007 B.Y.U. L. Rev. 1203 (2007).

    This article builds on deterrence and social norms literature by drawing on cognitive evaluation theory (CET). CET suggests an individual, subject to potential legal sanctions, may attribute *his own behavior* to such sanctions. When an individual perceives himself to be acting for an external reason (the law's threat of punishment), that attribution will come at the expense of an internal, norm-based explanation. The external motivation will replace the internal motivation that previously prompted compliance. As a result, legal enforcement may produce a weaker effect than traditional cost-benefit analysis would suggest, and in extreme cases may even increase society-wide deviance.

57. **Eric M. Uslaner**, *Tax Evasion, Corruption, and the Social Contract in Transition*, *in* Developing Alternative Frameworks for Explaining Tax Compliance 174, 187 (James Alm *et al*. eds., 2010).

    "Transition countries are marked by high levels of corruption and weak government services. People pay taxes and expect that the money they give to the state will go for public purposes — not into the pockets of public officials. When corruption is widespread and public services, especially those critical for business, are poor, people will be more likely to evade taxes. While there are sporadic effects of enforcement in the models … [the author] estimated, the problem with tax enforcement in transition countries is that the bureaucrats who enforce the laws may well be corrupt themselves. The arm of the law seems to be bent rather than strong — as reflected in the powerful negative effect of time spent with bureaucrats on expected tax compliance in the aggregate results."

58. **Eric M. Uslaner**, *Tax Evasion, Trust, and the Strong Arm of the Law*, *in* Tax Evasion, Trust and State Capacities 17, 45 (Nicolas Hayoz & Simon Hug eds. 2007).

    "There are clearly elements of morality in the decision not to cheat on taxes … But there is at least as large a contingency in the willingness of citizens to pay taxes, based upon government performance … Citizens seem to respond rather rationally to their political, economic, and legal environment in making their decisions on tax compliance: Behave most fairly when the system treats you fairly, when elites don't steal your money and when they spend it wisely, and when you have legal recourse. Having a strong legal system matters. People are less likely to evade taxes when they have property rights and when they believe that all people are equal before the law. But confidence in the legal system only seems to matter *when there is an effective judiciary.* Where the

legal system is weaker, as in Romania, perceptions that the courts and police are fair don't matter. Almost everywhere, people seem to base their commitment to pay taxes on how well the entire government works, not just the judiciary. And there is little indication of a spillover from trust in the law (or government more generally) to faith in fellow citizens."

59. **Eric P. Bettinger *et al.***, *The Role of Simplification and Information in College Decisions: Results from the H&R Block FAFSA Experiment* (Nat'l Bureau of Econ. Research, Working Paper No. 15361, 2009), http://www.nber.org/papers/w15361.pdf.

"Growing concerns about low awareness and take-up rates for government support programs like college financial aid have spurred calls to simplify the application process and enhance visibility. This project examines the effects of two experimental treatments designed to test of the importance of simplification and information using a random assignment research design. H&R Block tax professionals helped low- to moderate-income families complete the FAFSA, the federal application for financial aid. Families were then given an estimate of their eligibility for government aid as well as information about local postsecondary options. A second randomly-chosen group of individuals received only personalized aid eligibility information but did not receive help completing the FAFSA. Comparing the outcomes of participants in the treatment groups to a control group using multiple sources of administrative data, the analysis suggests that individuals who received assistance with the FAFSA and information about aid were substantially more likely to submit the aid application, enroll in college the following fall, and receive more financial aid. These results suggest that simplification and providing information could be effective ways to improve college access. However, only providing aid eligibility information without also giving assistance with the form had no significant effect on FAFSA submission rates."

60. **Erich Kirchler**, The Economic Psychology of Tax Behaviour 203-05 (2007).

After comprehensively surveying tax compliance research, this book concludes that when tax authorities enforce compliance they foster a 'cops and robbers' mentality which deters noncompliance but also undermines trust, prompting taxpayers to comply only when they have no choice, a strategy requiring significant enforcement resources; but when authorities adopt a 'service and client' approach they stimulate trust, cooperation, and true voluntary compliance; a downward spiral of compliance or 'slippery slope' can occur when the authority's enforcement power or taxpayer's trust in the agency drop below threshold levels.

61. **Erich Kirchler, Erik Hoelzl & Ingrid Wahl**, *Enforced Versus Voluntary Tax Compliance: The "Slippery Slope" Framework,* 29 J. Econ. Psych. 210-25 (2008).

"A framework for tax compliance is suggested in which both the power of tax authorities and trust in the tax authorities are relevant dimensions for understanding enforced and voluntary compliance. Dynamic interactions between power and trust are considered. Using the framework as a conceptual tool, factors studied in previous research, such as fines, audit probabilities, tax rate, knowledge, attitudes, norms and fairness are reviewed and discussed with reference to the power and trust dimensions. Using the framework as an operational tool, approaches of responsive regulation to increase tax compliance are discussed."

62. **Erich Kirchler**, *The Art of Dodging*, FinancialWorld, June/July 2015, at 40, 43.

This article summarizes the implications of the author's "slippery-slope" theory of tax compliance, which posits that taxpayers may be motivated to comply by both deterrence and trust for the government, concluding: "Reviews of empirical studies in economics and psychology provide evidence about strong determinants of tax compliance that have practical implications: (a) Audits and fines are necessary to protect cooperative taxpayers from free-riders and to make well-targeted resistant citizens contribute their share. (b) The power of tax authorities needs to be perceived as legitimate and professional. In particular, tax auditors need to be well trained and to cooperate intensively with legislators, judges and international authorities to combat evasion and aggressive avoidance. (c) Tax law must be simplified to be comprehensible for taxpayers. (d) Taxpayers need to be segmented according to their needs and appropriate services must be offered. (e) Trust in authorities needs to be high. Distributive justice and procedural justice, as well as retributive justice, are very important in establishing and maintaining trust. Revenue collection and investment need to be transparent, and the balance of contributions and participation in public goods by different income earners needs to be perceived as fair. All in all, measures need to be taken to strengthen people's identification with the community and cooperation must be established as the dominant social norm."

63. **Erich Kirchler & Ingrid Wahl**, *Tax Compliance Inventory: TAX-I Voluntary Tax Compliance, Enforced Tax Compliance, Tax Avoidance, and Tax Evasion*, 31 J. Econ. Psychol. 331, 331 (2010).

"Surveys on tax compliance and non-compliance often rely on ad hoc formulated items which lack standardization and empirical validation. … [The authors] present an inventory to assess tax compliance and distinguish between different forms of compliance and non-compliance: voluntary versus enforced compliance, tax avoidance, and tax evasion. First, items to measure voluntary and enforced compliance, avoidance, and evasion were drawn up (collected from past research and newly developed), and tested empirically with the aim of producing four validated scales with a clear factorial structure. Second, findings from the first analyses were replicated and extended to validation on the basis of motivational postures. A standardized inventory is provided which can be used in surveys in order to collect data which are comparable across research focusing on self-reports. The inventory can be used in either of two ways: either in its entirety, or by applying the single scales independently, allowing an economical and fast assessment of different facets of tax compliance."

64. **Erich Kirchler *et al.***, *Why Pay Taxes?: A Review of Tax Compliance Decisions*, *in* Developing Alternative Frameworks for Explaining Tax Compliance 15, 24 (James Alm *et al*. eds., 2010), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2874665/.

"The standard economic model frames the tax compliance problem as a decision under uncertainty. Taxpayers are assumed to maximize income by weighing the pros and cons of evading taxes. Though the model provides useful tools for tax policy, and its publication stimulated a variety of tax research, empirical evidence for its validity is rather weak. Most of its parameters have unstable and unclear effects, and it is hard to draw definite conclusions from the studies we have reviewed. Whether high- or low-income earners are more prone to evading their taxes remains unclear."

65. **Eva Hofmann *et. al.***, *Enhancing Tax Compliance Through Coercive and Legitimate Power of Tax Authorities by Concurrently Diminishing or Facilitating Trust in Tax Authorities*, 36 Law & Pol'y 290 (2014), http://www.ncbi.nlm.nih.gov/pubmed/26074656.

    "Both coercion, such as strict auditing and the use of fines, and legitimate procedures, such as assistance by tax authorities, are often discussed as means of enhancing tax compliance. However, the psychological mechanisms that determine the effectiveness of each strategy are not clear. Although highly relevant, there is rare empirical literature examining the effects of both strategies applied in combination. It is assumed that coercion decreases implicit trust in tax authorities, leading to the perception of a hostile antagonistic tax climate and enforced tax compliance. Conversely, it is suggested that legitimate power increases reason-based trust in the tax authorities, leading to the perception of a service climate and eventually to voluntary cooperation. The combination of both strategies is assumed to cause greater levels of intended compliance than each strategy alone. We conducted two experimental studies with convenience samples of 261 taxpayers overall. The studies describe tax authorities as having low or high coercive power (*e.g.*, imposing lenient or severe sanctions) and/or low or high legitimate power (*e.g.*, having nontransparent or transparent procedures). Data analyses provide supportive evidence for the assumptions regarding the impact on intended tax compliance. Coercive power did not reduce implicit trust in tax authorities; however, it had an effect on reason-based trust, interaction climate, and intended tax compliance if applied solely. When wielded in combination with legitimate power, it had no effect."

66. **Exec. Order 13707**, *Using Behavioral Science Insights to Better Serve the American People*, 80 Fed. Reg. 56365, 56465 (2015), https://federalregister.gov/a/2015-23630.

    "To more fully realize the benefits of behavioral insights and deliver better results at a lower cost for the American people, the Federal Government should design its policies and programs to reflect our best understanding of how people engage with, participate in, use, and respond to those policies and programs. By improving the effectiveness and efficiency of Government, behavioral science insights can support a range of national priorities, including helping workers to find better jobs; enabling Americans to lead longer, healthier lives; improving access to educational opportunities and support for success in school; and accelerating the transition to a low-carbon economy."

67. **Frank Cowell**, *Carrots and Sticks in Enforcement, in* The Crisis in Tax Administration 230, 230 (Henry J. Aaron & Joel Slemrod eds., 2004).

    "This chapter is about the role of economic analysis in understanding the tax-compliance problem. The carrots and sticks in the title suggest a recalcitrant beast that needs to be seduced into cooperation by an elusive, dangling incentive or beaten into unwilling compliance. The story is, however, somewhat richer than that. The discussion shows that economic theory can play an important part in explaining the underlying mechanisms relating to the economic engagement of the citizen in the funding of public programs and why such engagement — or lack of it — may be an endemic problem for tax administration. It also shows what the natural limitations of the carrot-and-stick analogy may be and what alternative paradigms of compliance could usefully be employed."

68. **Gabriel Badescu**, *Trust, Corruption, and Tax Evasion in Romania, in* Tax Evasion, Trust and State Capacities 307 (Nicolas Hayoz & Simon Hug eds., 2007).

"This chapter … investigates what are the attitudinal determinants of tax compliance, as well as of preferences for tax size and distribution in Romania, using data of four representative surveys, conducted between 1998 and 2004. More specifically … [the author] analyze[s] several causal mechanisms through which low levels of trust and perception that state institutions are ineffective in fighting corruption could stimulate tax evasion. In addition … [the author] discuss[es] how civil society development and attitudes towards social inequality mediate the effects of trust in tax evasion."

69. **General Accounting Office**, GAO-02-509, *Tax Deductions: Further Estimates of Taxpayers Who May Have Overpaid Federal Taxes by Not Itemizing* 1-2 (Apr. 2002), http://www.gao.gov/products/GAO-02-509.

"When computing their federal taxes, taxpayers either claim a standard or itemized deduction. In recent years, about 70 percent of taxpayers have claimed the standard deduction. GAO found that on 948,000 tax returns for tax year 1998, taxpayers did not itemize their deductions yet had payments for mortgage interest and points and for state and local income tax that exceeded the standard deductions for their filing status. GAO estimated that these taxpayers are likely to have overpaid their taxes by about $473 million. When charitable contributions, real estate and personal property tax payments are included, the total overpayment could reach $945 million."

70. **George O'Hanlon**, *The Role of the Internal Revenue Agent Then and Now,* 1993 Fed. B. Ass'n. Sec. of Tax'n Rep't 1, 1-5 (1993).

"In 1988 … experts said that all aspects of the administration should support compliance, not just enforcement. This would enable the Service to save expensive enforcement resources to deal with intentional noncompliance. One effective way to do this is to identify the root causes of noncompliance in various broad tax-market segments and find solutions to reduce or eliminate the specific problems. This could mean simply changing a tax form; clarifying instructions; providing more education, information, and assistance; or even advocating changes to tax legislation that is just too difficult to administer … The trend here is to use the examination process not only as a way to monitor and improve compliance, but also as a way to prevent noncompliance by identifying taxpayers' needs and improving IRS' products and services to fill those needs. … Now a part of the agent's job, with the help of Collection, is to consider present and future collectibility long before the examination actually begins. They are prompted to recognize prior payment problems of a taxpayer before proceeding with the examination. Throughout the examination process, agents encourage taxpayers and afford them opportunities to get and keep tax liabilities current. When problems are identified, agents are soliciting installment agreements and considering offers in compromise to improve compliance and reduce the incidents of future noncompliance. Agents are also taking part in the education, information, and assistance efforts to help taxpayers learn more about the tax system and their obligations in it."

71. **H. Laurence Ross**, *Social Control Through Deterrence: Drinking-and-Driving Laws,* 10 Ann. Rev. of Soc. 21, 21 (1984).

"Efforts directed mainly at increasing potential drunk drivers' perceived certainty of punishment frequently have a deterrent effect in the short run. In the long run, however, *i.e.* over several

months or a few years, indexes of drunk driving return to prior levels … Most promising, in terms of feasibility and effectiveness, are technological measures that prevent driver errors from resulting in crashes or that reduce the forces experienced in those crashes that do occur."

72. **Hadar Aviram & Daniel L. Portman**, *Inequitable Enforcement: Introducing the Concept of Equity into Constitutional Review of Law Enforcement,* 61 Hastings L.J. 413 (2009).

    This article focuses on the exercise of police discretion, which passes current constitutional thresholds, but seems unfair. It explains why constitutional protections are inadequate for addressing the problem of inequitable enforcement. It suggests a set of considerations for assessing inequity and presents some ways in which those considerations can be integrated into constitutional doctrine. Considerations include: type and severity of offense, public familiarity with prohibition/enforcement, proportionality, and the danger of profiling, among others.

73. **Heather M. Field**, *Choosing Tax: Explicit Elections as an Element of Design in the Federal Income Tax System,* 47 Harv. J. on Legis. 21 (2010).

    Policymakers often focus on implicit taxpayer choice to engage in aggressive tax planning and seek to hinder it. This article raises questions about the extent to which elections and tax incentives, which encourage tax planning, reduce or eliminate any shame or moral qualms about aggressive tax planning.

74. **Henrik Jacobsen Kleven, *et al.***, *Unwilling or Unable to Cheat? Evidence from a Tax Audit Experiment in Denmark*, 79 Econometrica 651 (2011), reproduced at, https://eml.berkeley.edu/~saez/kleven-knudsen-kreiner-pedersen-saezEMA11taxaudit.pdf.

    "This paper analyzes a tax enforcement field experiment in Denmark. In the base year, a stratified and representative sample of over 40,000 individual income tax filers was selected for the experiment. Half of the tax filers were randomly selected to be thoroughly audited, while the rest were deliberately not audited. The following year, threat-of-audit letters were randomly assigned and sent to tax filers in both groups. We present three main empirical findings. First, using baseline audit data, we find that the tax evasion rate is close to zero for income subject to third-party reporting, but substantial for self-reported income. Since most income is subject to third-party reporting, the overall evasion rate is modest. Second, using quasi-experimental variation created by large kinks in the income tax schedule, we find that marginal tax rates have a positive impact on tax evasion for self-reported income, but that this effect is small in comparison to legal avoidance and behavioral responses. Third, using the randomization of enforcement, we find that prior audits and threat-of-audit letters have significant effects on self-reported income, but no effect on third-party reported income. All these empirical results can be explained by extending the standard model of (rational) tax evasion to allow for the key distinction between self-reported and third-party reported income."

75. **Henrik Kleven**, *How Can Scandinavians Tax so Much?,* 28 J. Econ. Persp. 77, 95-96 (Fall 2014), https://www.aeaweb.org/articles?id=10.1257/jep.28.4.77.

    "How are Scandinavian countries able to combine exceptionally large tax takes with some of the strongest economic outcomes in the world? … The descriptive cross-country evidence is consistent with social and cultural factors playing a role, although we are far from being able to interpret this evidence fully. But the discussion has also identified a set of concrete policies that can go some way

towards explaining the Scandinavian puzzle, namely the use of far-reaching information trails that facilitate tax compliance, broad tax bases that limit the scope of legal tax avoidance, and large public spending focused on complements to work. Indeed, these factors may intertwine: that is, the social and cultural factors may make it easier to enact these kinds of policies, and in turn the social and cultural norms may themselves be driven by the design of policies and institutions."

76. **James Alm**, *Tax Compliance and Administration, Discussion Papers in Economics* 49 (Ctr. for Econ. Analysis, U. Colorado at Boulder, Working Paper No. 98-12, 1998), http://www.colorado.edu/economics/papers/papers98/wp98-12.pdf.

    This paper summarizes existing tax compliance research and then concludes that "[p]eople exhibit a remarkable diversity in their behavior. There are individuals who always cheat and those who always comply, some who behave as if they maximize the expected utility of the tax evasion gamble, others who seem to overweight low probabilities, individuals who respond in different ways to changes in their tax burden, some who are at times cooperative and at other times free-riders, and many who seem to be guided by such things as social norms, moral sentiments, and tax equity. These findings suggest that it is unlikely that a single unifying theory of tax compliance can ever be devised, one that incorporates the incredible variation in individual behavior exhibited by the many analyses of taxpayer compliance, one that explains the behavior of all individuals at all times, or even one that explains the actions of the same person at all times. … Any tax administration must also recognize that it must address this 'full house' of behaviors in devising policies to ensure compliance. Consequently, a government compliance strategy based only on detection and punishment may well be a reasonable starting point for tax administration but not a good ending point. Instead, what is needed is a multi-faceted approach that emphasizes enforcement, but that also emphasizes the much broader range of actual motivations that explain why people pay taxes."

77. **James Alm *et al.***, *Taxpayer Information Assistance Services and Tax Reporting Behavior* 1 (Tulane Univ., Working Paper 1101, 2011), http://econ.tulane.edu/RePEc/pdf/tul1101.pdf.

    "Our basic experimental setting mimics the naturally occurring environment: subjects earn income, they must choose whether to file a tax return, and they then must choose how much of their net income to report to a tax authority that may audit the subject. To investigate the effects of taxpayer services, we 'complicate' these compliance decisions of subjects, and then provide 'services' from the 'tax administration' that allow subjects to compute more easily their tax liabilities. Our results indicate that uncertainty reduces both the filing and the reporting compliance of an individual. However, we also find that agency-provided information has a positive and significant impact on the tendency of an individual to file a tax return, and also on reporting for individuals who choose to file a return."

78. **James Alm, Kim M. Bloomquist & Michael McKee**, *When You Know Your Neighbor Pays Taxes: Information, Peer Effects, and Tax Compliance* 1 (2013), http://www.tax.mpg.de/fileadmin/user_upload/Paper_James_Alm-_Kim_Bloomquist_and_Michael_McKee1.pdf.

    "In one treatment setting, we inform individuals about the frequency that their neighbors submit a tax return. In a second treatment setting, we inform them about the number of their neighbors who are audited, together with the penalties that they pay. In both cases, we examine the impact of information on filing behavior and also on subsequent reporting behavior. We find that providing information on whether one's neighbors are filing returns and/or reporting income has a statistically significant and economically large impact on individual filing and reporting decisions. However,

this 'neighbor' information does not always improve compliance, depending on the exact content of the information."

79. **James Alm, Kim M. Bloomquist & Michael McKee**, *On the External Validity of Laboratory Tax Compliance Experiments,* 53 Econ. Inquiry 1170 (2015), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2561691.

"An essential issue for laboratory experiments to inform policy debates is the 'external validity' of the experimental results; that is, does behavior in the laboratory apply to behavior that occurs in the naturally occurring world? We examine this issue of external validity in the specific context of laboratory experiments on tax compliance, using two different types of evidence. We find that the behavioral patterns of subjects in the laboratory conform to those of individuals making a similar decision in naturally occurring settings. We also find that the behavioral responses of students are largely the same as those of nonstudents in identical experiments."

80. **James Andreoni, Brian Erard & Jonathan Feinstein**, *Tax Compliance*, 36 J. of Econ. Lit. 818, 855 (1998), http://econweb.ucsd.edu/~jandreon/Publications/jel1998.pdf.

After reviewing theoretical and empirical advances in tax compliance research, the author concludes: "First … a greater synthesis of theory with empirical research might generate important insights. … Second, more work needs to be done exploring the diverse psychological, moral, and social influences on compliance behavior, and integrating these factors into economic models of compliance. …"

81. **James Guszcza**, *The Last-Mile Problem: How Data Science and Behavioral Science Can Work Together*, Deloitte Rev., Jan. 26, 2015, at 63, 66-67, http://dupress.com/articles/behavioral-economics-predictive-analytics/.

"… since people tend to dislike making changes, set the default option to be the one that people would choose if they had more time, information, and mental energy. (For example, save paper by setting the office printer to the default of double-sided printing. Similarly, retirement savings and organ donation programs are more effective when the default is set to "opt in" rather than "opt out.") Since people are influenced by what others are doing, make use of peer comparisons and "social proof" (for example, asking, "Did you know that you use more energy than 90 percent of your neighbors?"). Because people tend to ignore letters written in bureaucratese and fail to complete buggy computer forms, simplify the language and user interface. And since people tend to engage in "mental accounting," allow people to maintain separate bank accounts for food money, holiday money, and so on. Richard Thaler and Cass Sunstein call this type of design thinking "choice architecture." The idea is to design forms, programs, and policies that go with, rather than against, the grain of human psychology. Doing so does not restrict choices; rather, options are arranged and presented in ways that help people make day-to-day choices that are consistent with their long-term goals. In contrast with the hard incentives of classical economics, behavioral nudges are "soft" techniques for prompting desired behavior change. … Proponents of this approach, such as the Behavioural Insights Team and ideas42, argue that behavioral nudges should be part of policymakers' toolkits. This article goes further and argues that the science of behavioral nudges should be part of the toolkit of mainstream predictive analytics as well."

82. **James Heyman & Dan Ariely**, *Effort for Payment: A Tale of Two Markets,* 15 Psychol. Sci. 787, 792-93 (2004), http://people.duke.edu/~dandan/webfiles/PapersPI/Effort%20for%20Payment.pdf.

"When payments were given in the form of gifts (candy) or when payments were not mentioned, effort seemed to stem from altruistic motives and was largely insensitive to the magnitude of the payment. In contrast, when payments were given in the form of cash, effort seemed to stem from reciprocation motives and was sensitive to the magnitude of the payment. Finally, in mixed markets (payment was in the form of gifts but cost was also mentioned), the mere mention of monetary payment was sufficient to switch the perceived relationship from a social-market relationship to a money-market relationship. That is, money itself can be a cue to the type of exchange that individuals consider themselves to be in, which in turn influences their propensity to exert effort.

A long history of research has demonstrated that rewards can decrease motivation and attitudes (Festinger & Carlsmith, 1959), alter self-perception (Bem, 1965), increase overjustification (Lepper *et al.*, 1973), and turn feelings of competence into feelings of being controlled (Deci & Ryan, 1985). The debate over these findings (Eisenberger & Cameron, 1996; Ryan & Deci, 2000) has generally shifted to the question of what specific circumstances give rise to these counterintuitive effects. The current work sheds some light on this debate by pointing out an additional factor that can influence the relationship between reward and motivation — the type of market in which the exchange takes place."

83. **Jan Schnellenbach**, *Vertical and Horizontal Reciprocity in a Theory of Taxpayer Compliance, in* Developing Alternative Frameworks for Explaining Tax Compliance 56, 71-72 (James Alm *et al.* eds., 2010).

The authors "sketched the interaction of two types of reciprocity in decision-making, regarding tax evasion. … [the authors] argued that the feeling of guilt by taxpayers is crucial as a precondition for vertical reciprocity."

84. **Jason Matthew DeBacker *et al.***, *Legal Enforcement and Corporate Behavior: An Analysis of Tax Aggressiveness After an Audit*, 58 J. Law and Econ., 291 (2013), https://ssrn.com/abstract=2262586.

"Contrary to common expectations, this paper shows that legal enforcement may increase subsequent corporate misbehavior. Using IRS data, we find that corporations gradually increase their tax aggressiveness after an audit for a few years and then reduce it sharply. We show that this U-shaped impact is consistent with strategic responses on the part of firms and Bayesian updating of audit risk. This adverse effect on corporate behavior calls for reexamining both theory and policy of legal enforcement."

85. **Jay A. Soled**, *Homage to Information Returns*, 27 Va. Tax Rev. 371, 384 (2007).

"Given the greater psychological discomfort that people typically experience when lying (which constitutes an act of commission) as compared to not filing a return (which constitutes an act of omission), a question of this sort ["*During the course of the prior calendar year, did you make gifts to or receive gifts from another taxpayer that exceeded X dollars* …"] may induce taxpayers to fulfill their gift tax return filing obligations."

86. **Jenny Job & David Honaker**, *Short-term Experience with Responsive Regulation in the Australian Taxation Office*, *in* Taxing Democracy: An Understanding of Tax Avoidance and Evasion 111, 126 (Valerie Braithwaite ed., 2003).

    The authors conclude that the barriers to acceptance and use of a new compliance model "by staff of the ATO [Australian Taxation Office] were cultural, organizational and personal. Taken together, they amount to a need for revamping the way the organization 'thinks.' … Change was required in formerly routine practices, in the way tasks were accomplished and in the way tax officers interact with taxpayers, colleagues and managers. More open communication and negotiation at all levels of ATO staff were needed. The promised layoffs would include continuous learning, smarter regulatory practice, and improved performance in managing compliance."

87. **Joana Sousa Lourenço *et al.***, *Behavioural Insights Applied to Policy, European Report 2016,* EUR 27726 EN (2016), http://publications.jrc.ec.europa.eu/repository/bitstream/JRC100146/kjna27726enn_new.pdf.

    "The report covers a wealth of policy applications either implicitly or explicitly informed by behavioural insights (BIs). It reviews institutional developments and puts forward a comparative framework (PRECIS) describing behavioural insight teams with six key features. The report reaches four main conclusions: 1. in terms of capacity-building, there is significant dynamism and growing appetite to apply BIs to policy-making; 2. links between policy-making and academy communities can be strengthened and analyzing large datasets offers great potential; 3. systematic application of BIs throughout the policy cycle can advance evidence-based policy-making; 4. need of more research on the long-term impacts of policy interventions." This report includes a synopsis of various behavioral insights being used by governments in Europe, including tax authorities.

88. **Joel Slemrod, Marsha Blumenthal & Charles Christian**, *Taxpayer Response to an Increased Probability of Audit: Evidence from a Controlled Field Experiment in Minnesota,* 79 J. Pub. Econ. 455, 455 (2000).

    "In 1995 a group of 1724 randomly selected Minnesota taxpayers was informed by letter that the returns they were about to file would be 'closely examined'. Compared to a control group that did not receive this letter, low and middle-income taxpayers in the treatment group on average increased tax payments compared to the previous year, which we interpret as indicating the presence of noncompliance. The effect was much stronger for those with more opportunity to evade; in fact, the difference in differences is not statistically significant for those who do not have self-employment or farm income, and do not pay estimated tax. Surprisingly, however, the reported tax liability of the high income treatment group *fell* sharply relative to the control group."

89. **Joel Slemrod**, *Cheating Ourselves: The Economics of Tax Evasion*, 21 J. Econ. Persp. 25, 45 (Winter 2007), http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.21.1.25.

    "Variations in dutifulness and honesty can explain some of the across-individual and, perhaps, across-country heterogeneity of evasion. But the stark differences in compliance rates across taxable items that line up closely with detection rates suggest strongly that deterrence is a powerful factor in evasion decisions. The overall net noncompliance rate for all U.S. federal taxes and the individual income tax seems to stand at about 14 percent. But given the current state of theory and evidence on tax evasion, it isn't clear in what way or how much enforcement might most efficiently be increased. Although the normative theory of taxation has been extended to tax system instruments

such as the intensity of enforcement, the empirical knowledge to put these rules into operation is sparse. Furthermore, theory is only beginning to address core issues such as the role of third-party reporting of information that facilitates enforcement of the taxation of wages and salaries, but helps little for self-employment income. Modeling these information flows — and the critical role played by firms — is an important item in the future research agenda."

90. **John Braithwaite**, *Large Business and the Compliance Model*, *in* Taxing Democracy: An Understanding of Tax Avoidance and Evasion 177, 199 (Valerie Braithwaite ed., 2003).

"The four elements of the ATO [Australian Taxation Office] Compliance Model: (a) understanding taxpayer behavior; (b) building community partnership; (c) increased flexibility; and (d) more and escalating regulatory options have been found to have relevant meanings for large business tax policy. … An egg-shaped form of compliance behavior where most enforcement effort is directed at grey areas of avoidance rather than evasion makes the challenge especially difficult. It also makes it a challenge where law enforcement and law reform must be integrated instead of separated functions. … [The author's] argument is that a combination of escalated responsive enforcement integrated with responsive law reform has some hope of shifting much of the grey bulge of tax avoidance into tax compliance."

91. **John Cullis, Philip Jones & Alan Lewis**, *Tax Compliance: Social Norms, Culture, and Endogeneity*, *in* Developing Alternative Frameworks for Explaining Tax Compliance 35, 52 (James Alm *et al*. eds., 2010).

This chapter highlights "a number of important questions that are relevant when attempting to explain levels of tax compliance. A fundamental observation is that once analysis goes beyond the relative safety of "*homo or femina economicus,*" the tax evasion waters get muddier and (perhaps misplaced) clarity is lost. … There is now a raft of competing labels for 'amending/intervening' behavior. The question raised in this chapter is the extent to which different labels are helpful. Analysts now refer to 'altruism,' 'intrinsic action,' 'civic duty' and 'social norm.' The objective is to provide a consistent analysis of behavioral response that will explain tax morality/tax mentality."

92. **John Guyton *et al.***, *Reminders & Recidivism: Evidence from Tax Filing & EITC Participation Among Low-Income Nonfilers* (Nat'l Bureau of Econ. Research, Working Paper No. 21904, 2016), http://www.nber.org/papers/w21904.

"This project examines how reminders affect tax filing among lower-income nonfilers (individuals who did not appear on a filed tax return but had income reported by third parties to the Internal Revenue Service). We present novel data on this population and results from two randomized controlled trials. The results demonstrate that one-time reminders increase tax filing, both to claim tax refunds based in part on withholdings and Earned Income Tax Credit benefits, as well as to voluntarily pay balances owed to the IRS. However, these effects do not persist. Consistent with recency effects, individuals who owe a balance due appear more likely to recidivate into nonfiling than those who receive refunds. Follow-up reminders continue to increase tax filing, particularly among individuals who previously had to pay balances to the IRS instead of receive refunds."

93. **John Hasseldine *et al.***, *Persuasive Communications: Tax Compliance Enforcement Strategies for Sole Proprietors,* 24 Contemp. Accounting Res. 171, 172 (2007), http://onlinelibrary.wiley.com/doi/10.1506/P207-004L-4205-7NX0/pdf.

"This paper makes its contribution through an innovative, controlled field experiment that analyzes how actual tax-reporting behavior is affected by exposure to one of five treatments: simple offer of assistance, citizenship appeal, threat of audit, threat of audit with possible penalties, and virtual guarantee of forthcoming audit once the return is filed. Sales and net profit data are analyzed for a nationwide sample of over 7,300 UK sole proprietors who, for two consecutive tax years, reported a turnover (sales) level just below a fixed threshold of £15,000. Taxpayers with turnover below the threshold qualify for a simplified format for tax reporting, allowing them to reduce their costs of compliance. Thus, temptation to reduce tax liability, as well as costs of compliance, makes the sole proprietors an intriguing and appropriate population to target for this research. Consequently, we focus on two dependent variables: (a) whether turnover exceeded the reporting threshold and (b) the monetary increase in net profit reported on the tax returns filed after the treatment letters were received.

Our results show evidence of a significant overall treatment effect for both normative and sanction groups. Specifically, when we measure whether taxpayers reported increases in turnover (over the £15,000 threshold for simplified reporting) after receipt of the letter, there are significant differences for each treatment group on one or both of the dependent variables …. [w]e find that the communications are particularly effective for self-preparers when reporting turnover. We also find that the sanction letters are generally more effective than the normative citizenship letter for reported turnover. In addition, the sanction letters are more effective than the normative letter for change in net profit but only for the self-prepared returns, not for the paid-preparer returns."

94. **John T. Scholz**, *Contractual Compliance: Tax Institutions and Tax Morale in the U.S., in* Tax Evasion, Trust and State Capacities 51, 51-52 (Nicolas Hayoz & Simon Hug eds., 2007).

The paper considers "how tax morale (or 'duty' as the concept is commonly referred to in the compliance literature) influences compliance with tax laws and, more importantly, how the institutional capacities of the State shape and are shaped by tax morale. … [The] primary concern is to provide an integrated theoretical perspective that explains the role of tax morale in maintaining tax compliance system as well as in terms of the psychology of the citizen. Historical accounts of the American tax system and summaries of empirical research on tax compliance in the United States are used to support and illustrate the theoretical argument."

95. **John T. Scholz & Neil Pinney**, *Duty, Fear and Tax Compliance: The Heuristic Basis of Citizenship Behavior,* 39 Am. J. of Pol. Sci. 490, 490 (1995).

"The costs imposed by income tax and other citizenship duties provide powerful incentives to free ride, yet the likelihood of getting caught — the primary self-interested deterrent to free-riding — is unlikely to be known with much accuracy by most citizens. Thus the duty heuristic provides not only a direct motivation to comply, but also influences behavior through cognitive processes that bias self-interested beliefs about the advantages of free-riding. Citizens' beliefs about their duty to obey laws of the state bias their information processing and judgments about the fear of getting caught and punished for disobedience, so citizens reporting greater commitment to obey tax laws systematically overestimate the expected penalty for noncompliance. Regression analysis of survey and tax-return data for 445 taxpayers [*sic*]. Subjective risk of getting caught is more closely related

to duty than to objective risk factors. Objective audit probabilities affect only taxpayers with greater temptation to cheat, but duty influences tempted taxpayers as much as ordinary taxpayers."

96. **Jonah Berger**, Invisible Influence: The Hidden Forces that Shape Behavior 1-2 (2016).

"Think about a choice you made recently. Any choice. Which breakfast cereal to buy, movie to see, or place to have lunch. Or even a more important decision: which person to date, political candidate to support, or career to pursue.

Why did you make that choice? Why did you pick the particular option you ended up choosing?

Seems like an easy question. While various idiosyncratic reasons may come to mind, in general, they all point in the same direction: you. Your personal tastes and preferences. Your likes and dislikes. Which potential mate you found funny or attractive. Whether the candidate's policy stance matches your own. The notion that our choices are driven by our own personal thoughts and opinions seems so obvious that it is not even worth mentioning.

Except that it's wrong.

Without our realizing it, others have a huge influence on almost every aspect of life. People vote because others are voting, eat more when others are eating, and buy a new car because their neighbors have recently done the same. Social influence affects the products people buy, health plans they choose, grades they get in school, and careers they follow. It shapes whether people save for retirement, invest in the stock market, donate money, join a fraternity, save energy, or adopt new innovations. Social influence even affects whether people engage in criminal activity or are satisfied with their job. Ninety-nine-point-nine percent of all decisions are shaped by others. It's hard to find a decision or behavior that isn't affected by other people.

In fact, looking across all domains of our lives, there is only one place we don't seem to see social influence.

Ourselves."

97. **Joseph Bankman, Clifford Nass & Joel B. Slemrod**, *Using the "Smart Return" to Reduce Tax Evasion* 1-2 (Stan. Pub. L. Working Paper No. 2578432, Mar. 14, 2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2578432.

"… This explosion of research in social psychology over the past few decades, along with industry experience with data-driven interactive systems, suggests a different approach to the [tax compliance] problem: redesign the tax forms and on-line filing process to elicit more truthful responses from taxpayers. To illustrate the potential of this approach, in this paper we propose three categories of changes that merit testing through pilot studies. The first involves changing the wording on existing returns to increase the psychological cost of evasion and increase the perceived expectation of detection. The second builds appeals to morality in the return itself through the use of a short phrase containing a "self-relevant" noun. The third uses on-line "conversational agents" to ask adaptive questions. Adaptive questions incorporate information known about the taxpayer, including information from previous questions. Adaptive questioning is commonly used in e-commerce because it is more efficient. In the tax context, it would allow the IRS to ask more focused questions, which should reduce evasion and audit costs. It could also benefit taxpayers by reducing filing time and eliminating the risk of subsequent audit. Adaptive questioning that is part of a data-driven system allows for continuous experimentation and real-time modification of algorithms to incorporate the results of that experimentation. A data-driven adaptive questioning

system can incorporate and optimize a mix of taxpayer filing experience and revenue need. It can co-exist with the existing tax preparation industry, including commercial e-filing systems such as TurboTax. In the future, as now, the industry can help clients plan for taxes, take advantage of deductions and complete returns."

98. **Josh Bowers & Paul Robinson**, *Perceptions of Fairness and Justice: The Shared Aims and Occasional Conflicts of Legitimacy and Moral Credibility,* 47 Wake Forest L. Rev. 211, 212-13 (2012), http://heinonline.org/HOL/Page?handle=hein.journals/wflr47&g_sent=1&collection=journals&id=215.

    "This article examines the shared aims and overlaps in operation and effect of these two criminal justice dynamics-the 'legitimacy' that derives from fair adjudication and professional enforcement and the 'moral credibility' that derives from just results — as well as the occasional potential for conflict. … Particularly, we anticipate significant crime-control advantages for a system that enjoys perceptions of both moral credibility and legitimacy, but we conclude that — for empirical and theoretical reasons — moral credibility ought to be the principal objective in uncommon circumstances in which a system may effectively pursue only one."

99. **Joshua Blank**, *Collateral Compliance,* 162 U. Pa L. Rev. 719, 720 (2014), http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=7688&context=penn_law_review.

    "After considering the effects of collateral tax sanctions under the predominant theories of voluntary compliance, I propose principles that governments should consider when designing collateral tax sanctions. These principles suggest, for example, that initiatives to revoke driver's licenses or professional licenses from individuals who fail to file tax returns or pay outstanding taxes would likely promote tax compliance. However, whether the sanction of deportation for tax offenses involving fraud or deceit will have positive compliance effects is far less certain. Finally, I suggest how taxing authorities should publicize these sanctions to foster voluntary compliance."

100. **Joy Forehand & Michael Greene**, *Nudging New Mexico, Kindling Compliance Among Unemployment Claimants,* Deloitte Rev., No 18, 2016, at 143-63.

    The authors worked with the New Mexico Department of Workforce Solutions (DWS) to use behavioral science insights to reduce improper unemployment insurance claims. This discussion suggests they leveraged timing (providing nudges at critical moments), norms (telling applicants that 9 out of 10 applicants are honest), pre-commitment (asking people to identify the steps they will take next week to find a job), and clarity (describing the requirements and penalties in simple language), among other behavioral insights.

101. **Karen Masken**, *IRS Preparer-Level Treatment Tests,* IRS Research Conference 18 (2015), https://www.irs.gov/pub/irs-soi/15resconreturnpreparer.pptx.

    The author finds that "an educational visit to a preparer was a highly effective method for improving compliance by his clients concerning advanced child tax credit claims, but that a letter was almost as effective and presented a higher return on investment."

102. **Katharina Gangl, Eva Hofmann & Erich Kirchler**, *Tax Authorities' Interaction With Taxpayers: A Conception of Compliance in Social Dilemmas by Power and Trust,* 37 New Ideas in Psychol. 13, 13 (2015).

"Tax compliance represents a social dilemma in which the short-term self-interest to minimize tax payments is at odds with the collective long-term interest to provide sufficient tax funds for public goods. According to the Slippery Slope Framework, the social dilemma can be solved and tax compliance can be guaranteed by power of tax authorities and trust in tax authorities. The framework, however, remains silent on the dynamics between power and trust. The aim of the present theoretical paper is to conceptualize the dynamics between power and trust by differentiating coercive and legitimate power and reason-based and implicit trust. Insights into this dynamic are derived from an integration of a wide range of literature such as on organizational behavior and social influence. Conclusions on the effect of the dynamics between power and trust on the interaction climate between authorities and individuals and subsequent individual motivation of cooperation in social dilemmas such as tax contributions are drawn. Practically, the assumptions on the dynamics can be utilized by authorities to increase cooperation and to change the interaction climate from an antagonistic climate to a service and confidence climate."

103. **Kathleen D. Vohs, Nicole L. Mead & Miranda R. Goode**, *The Psychological Consequences of Money*, 314 Sci. 1154 (2006).

"Money has been said to change people's motivation (mainly for the better) and their behavior toward others (mainly for the worse). The results of nine experiments suggest that money brings about a self-sufficient orientation in which people prefer to be free of dependency and dependents. Reminders of money, relative to nonmoney reminders, led to reduced requests for help and reduced helpfulness toward others. Relative to participants primed with neutral concepts, participants primed with money preferred to play alone, work alone, and put more physical distance between themselves and a new acquaintance."

104. **Kathleen DeLaney Thomas**, *Presumptive Collection: A Prospect Theory Approach to Increasing Small Business Tax Compliance*, 67 Tax L. Rev. 111, 168 (2013), http://ssrn.com/abstract=2316233.

"Although a number of economists and psychologists have argued that prospect theory is a relevant predictor of taxpayer behavior, this Article offers the first concrete proposal for using prospect theory to increase tax compliance where information reporting and withholding are not viable. Presumptive collection achieves this by reframing the tax compliance decision for small business owners so that, like wage earners, they will be in a gains frame when they decide how much tax to report. By relying on external factors to *collect* tax throughout the year, rather than to calculate year-end tax liability, presumptive collection would increase compliance among small business owners in a manner that is fairer and more efficient than true presumptive tax regimes. While presumptive collection is not a universal solution, it can be another important tool aimed at reducing the tax gap, which would complement current compliance initiatives. If presumptive collection could be applied to groups of identifiable cash businesses that are currently able to avoid information reporting, then policymakers could make significant gains in reducing small business tax noncompliance."

105. **Kathleen DeLaney Thomas**, *The Psychic Cost of Tax Evasion*, 56 B.C. L. Rev. 617, 617 (2015), http://ssrn.com/abstract=2494489.

"This article proposes employing subtle behavioral interventions that encourage more honest tax reporting by raising the level of psychological discomfort experienced from underreporting. … [The author] refer[s] to this approach as increasing the 'psychic cost' of tax evasion. Adopting measures designed to increase the psychic cost of tax evasion, such as making small adjustments to the way that taxpayers fill out their tax forms, could generate much needed tax revenue. Moreover, these measures would impose very little administrative expense to the government as compared to traditional deterrence mechanisms like audits and penalties. While further empirical research is needed to test how to increase the psychic cost of tax evasion in the most cost-effective manner, this article proposes a roadmap for beginning that process."

106. **Kathleen DeLaney Thomas**, *User-Friendly Taxpaying* 1 (UNC Legal Studies Research Paper No. 2660218, 2015) (forthcoming in Ind. L. J.), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2660218.

"[T]he Article draws upon behavioral science research showing that complexity impacts individuals' decision making and encourages dishonesty. The Article then offers a number of proposals for how policymakers could simplify individuals' interactions with the tax system. For example, the IRS could allow taxpayers to easily record their income and deductions online during the year using smart phones or tablets. Those items could be stored in an online personal taxpayer account and, at the end of the year, automatically uploaded to an electronic return. Easing the burden of taxpaying should encourage more taxpayers to report honestly, in addition to reducing their compliance costs. In the same way that designing products or websites to be user-friendly encourages their use, making the tax system more user-friendly should attract more voluntary participation."

107. **Kristina Murphy**, *Procedural Justice and Tax Compliance* iv, 22 (Ctr. For Tax Sys. Integrity, Working Paper No. 56, 2004), https://digitalcollections.anu.edu.au/bitstream/1885/42014/2/WP56.pdf.

"Data were taken from in-depth interviews conducted with 29 scheme investors. Consistent with the procedural justice literature, the findings revealed that many of the scheme investors interviewed defied the Tax Office's demands because the procedures the Tax Office used to handle the situation were perceived to be unfair. Given these findings, it will be argued that to effectively shape desired behaviour, regulators will need to move beyond enforcement strategies linked purely to deterrence …

While this has not been the first study to show that the use of threat and legal coercion can produce the opposite behaviour from that sought, it has been one of the first studies to highlight the importance of procedural justice when dealing with non-compliant individuals in the taxation context. In particular, the findings from the present study have shown that if taxpayers feel poorly treated by a tax authority as a result of their infractions, this can lead to them questioning the legitimacy of the tax authority. This can then go on to affect their willingness to comply, and can in fact lead to active resistance. It has been proposed here that by using a regulatory strategy based on mutual respect and cooperation in the first instance, regulators will be more likely to prevent widespread resistance towards their decisions, while at the same time nurturing the good will of those with a commitment to compliance."

108. **Kristina Murphy**, *The Role of Trust in Nurturing Compliance: A Study of Accused Tax Avoiders,* 28 Law & Hum. Behav. 187, 187 (2004), http://link.springer.com/article/10.1023/B:LAHU.0000022322.94776.ca.

"Why an institution's rules and regulations are obeyed or disobeyed is an important question for regulatory agencies. This paper discusses the findings of an empirical study that shows that the use of threat and legal coercion as a regulatory tool — in addition to being more expensive to implement — can sometimes be ineffective in gaining compliance. Using survey data collected from 2,292 taxpayers accused of tax avoidance, it will be demonstrated that variables such as trust need to be considered when managing noncompliance. If regulators are seen to be acting fairly, people will trust the motives of that authority, and will defer to their decisions voluntarily. This paper therefore argues that to shape desired behavior, regulators will need to move beyond motivation linked purely to deterrence. Strategies directed at reducing levels of distrust between the two sides may prove particularly effective in gaining voluntary compliance with an organization's rules and regulations."

109. **Kristina Murphy**, *Procedural Justice and the Regulation of Tax Compliance Behavior: The Moderating Role of Personal Norms, in* Developing Alternative Frameworks for Explaining Tax Compliance 191, 208 (James Alm *et al*. eds., 2010).

"[T]he aim of regulatory enforcement is to gain future compliance from offenders. The findings of … [this chapter show] that a regulatory enforcement strategy that places persuasion and fair treatment of the taxpayer in the foreground shows much promise in doing just that. In fact, the findings also suggest that a process-based enforcement approach may be particularly effective for those who have weaker respect for the law than for those who have a strong commitment to do the right thing. A social distancing framework was presented to offer a possible theoretical explanation for these results."

110. **Kristina Murphy & Karen Byng**, *Preliminary Findings from 'The Australian Tax System Survey of Tax Scheme Investors'* vii (Ctr. For Tax Sys. Integrity, Working Paper No. 40, 2002), https://digitalcollections.anu.edu.au/bitstream/1885/42665/2/40.pdf.

"Between January and July 2002, researchers at the Centre for Tax System Integrity conducted a national survey of 6000 Australian taxpayers involved in tax planning schemes. … The survey was also designed to identify the possible reasons why taxpayers invested in tax minimization schemes, why there was such widespread taxpayer resistance against the Tax Office's debt recovery procedures, and perhaps more importantly, whether the aggressive tax planning market in Australia is supply or demand driven. This report provides a descriptive analysis of some of the more important findings from the survey, followed by a discussion of the key findings and their implications."

111. **Lars P. Feld & Bruno S. Frey**, *Tax Evasion in Switzerland: The Roles of Deterrence and Tax Morale, in* Tax Evasion, Trust and State Capacities 123 (Nicolas Hayoz & Simon Hug eds. 2007).

"The traditional economic approach to tax evasion does not appear to be particularly successful in explaining the extent of tax compliance. … [The authors] argue instead that a psychological tax contract which establishes a fiscal exchange between the state and the citizens shapes tax compliance to a large extent. In that respect, a case study of Switzerland is useful because the small size of the cantons and their direct democratic political systems procedurally establish a close exchange relationship between taxpayers and tax authorities. In this paper, evidence is discussed on how tax

evasion and tax morale in Switzerland evolved over time. In addition, the impact of economic, legal, socio-demographic, psychological and institutional factors on Swiss tax evasion is discussed."

112. **Lars P. Feld & Bruno S. Frey**, *Tax Compliance as the Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation*, 29 Law & Pol'y 102 (2007).

"A psychological tax contract goes beyond the traditional deterrence model and explains tax morale as a complicated interaction between taxpayers and the government. As a contractual relationship implies duties and rights for each contract party, tax compliance is increased by sticking to the fiscal exchange paradigm between citizens and the state. Citizens are willing to honestly declare income even if they do not receive a full public good equivalent to tax payments as long as the political process is perceived to be fair and legitimate. Moreover, friendly treatment of taxpayers by the tax office in auditing processes increases tax compliance."

113. **Lars P. Feld & Bruno S. Frey**, *Tax Evasion and the Psychological Tax Contract, in* Developing Alternative Frameworks for Explaining Tax Compliance 74, 88 (James Alm *et al*. eds., 2010).

"Tax compliance is the result of a complicated interaction of deterrence measures and responsive regulation. Citizens and the state develop their fiscal relationships according to a psychological tax contract that establishes fiscal exchange between taxpayers and tax authorities. It reaches beyond pure exchanges, and involves loyalties and ties between the contract partners. Tax morale is therefore a function of (i) the fiscal exchange where taxpayers get public services of the tax prices they pay, (ii) the political procedures that lead to this exchange, and (iii) the personal relationship between the taxpayers and the tax administrators."

114. **Laura Haynes *et al.***, *Test, Learn, Adapt: Developing Public Policy with Randomized Controlled Trials* 5 (2012), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62529/TLA-1906126.pdf.

"With the right academic and policy support, RCTs [Randomized Controlled Trials] can be much cheaper and simpler to put in place than is often supposed. By enabling us to demonstrate just how well a policy is working, RCTs can save money in the long term — they are a powerful tool to help policymakers and practitioners decide which of several policies is the most cost effective, and also which interventions are not as effective as might have been supposed. It is especially important in times of shrinking public sector budgets to be confident that public money is spent on policies shown to deliver value for money. … [The authors] have identified nine separate steps that are required to set up any RCT. Many of these steps will be familiar to anyone putting in place a well-designed policy evaluation — for example, the need to be clear, from the outset, about what the policy is seeking to achieve. Some — in particular the need to randomly allocate individuals or institutions to different groups which receive different treatment — are what lend RCTs their power."

115. **Lauren B. Edelman & Shauhin A. Talesh**, *To Comply or Not to Comply — That Isn't the Question: How Organizations Construct the Meaning of Compliance, in* Explaining Compliance: Business Responses to Regulation 103 (Christine Parker & Vibeke Lehmann Nielsen eds., 2011).

The authors "argue that the nature of organizational compliance is best illustrated not by a compliance versus noncompliance dichotomy, but rather by a processual model in which organizations construct the meaning of both compliance and law. Further … [the authors] argue

that organizations must be understood as social actors that are influenced by widely institutionalized beliefs about legality, morality, and rationality. … [The authors] show how institutionalized conceptions of law and compliance first become widely accepted within the business community and eventually — as these conceptions become widely institutionalized — come to be seen as rational and legitimate by public legal actors and institutions and thus influence the very meaning of law."

116. **Leslie Book**, *The Poor and Tax Compliance: One Size Does not Fit All,* 51 U. Kan. L. Rev. 1145, 1194 (2003).

"While research indicates that the traditional deterrence model of taxpayer compliance does not completely explain all facets of taxpayer compliance, among groups of taxpayers who may not identify with society at large, it appears that the deterrence model is a better tool for reducing noncompliance. My sense is that among taxpayers who are considered asocially noncompliant or socially noncompliant, there is little sense of identity with society at large. Yet, detecting and punishing those noncompliant taxpayers, on an individual basis, is expensive, but will likely have indirect benefits beyond the taxpayers detected. IRS efforts to rely on internal and external databases to identify likely suspect EITC claimants can help reduce the government's costs and the burdens on eligible taxpayers. Yet, that approach is dependent on the quality of the IRS's information. Inaccurate information, combined with fewer procedural rights for taxpayers identified as being suspect, can lead to a dangerous situation."

117. **Leslie Book**, *Refund Anticipation Loans and the Tax Gap*, 20 Stan. L. & Pol'y Rev. 85, 115-16 (2009), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1349908.

"Encouraging good behavior must start with the IRS knowing and acting on information about how certain preparers are interacting with taxpayers. Changing preparer conduct through audits, or even heightened penalties or due diligence rules, should come only after the IRS encourages more positive steps, and only after the IRS directs disapproval with what it perceives to be improper preparer conduct. For example, rather than default to audit when faced with information about likely errors associated with a geographic region of a national chain, one approach would involve the IRS visiting preparers to discuss best practices and reveal that there is information suggesting impermissible error rates associated with those preparers' returns. The IRS could ask that the preparer report back on its internal quality control measures, review corporate culture and education, and encourage self-regulation before the IRS diverts to resource-intensive exercise of audits, and potential use of civil penalties and injunctions. The compliance stick would come at the tail end of government interaction."

118. **Lisa L. Shu *et al.***, *Signing at the Beginning Makes Ethics Salient and Decreases Dishonest Self-Reports in Comparison to Signing at the End,* 109 Proc. of the Nat'l Acad. of Sci. 15197 (2012), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3458378/.

"Many written forms required by businesses and governments rely on honest reporting. Proof of honest intent is typically provided through signature at the end of, *e.g.*, tax returns or insurance policy forms. Still, people sometimes cheat to advance their financial self-interests — at great costs to society. … [The authors] test an easy-to-implement method to discourage dishonesty: signing at the beginning rather than at the end of a self-report, thereby reversing the order of the current practice. Using laboratory and field experiments … [the authors] find that signing before — rather

than after — the opportunity to cheat makes ethics salient when they are needed most and significantly reduces dishonesty."

119. **Luigi A. Franzoni**, *Tax Compliance*, *in* Encyclopedia of L. & Econ. 25 (Boudewign Bouckaert & Gerrit De Geest eds., 2008).

"Many features of the enforcement process remain unexamined, despite their great impact on the incentives for compliance. Among these, the most important are the structure of withholding and information reporting, the procedure for proof of violation (*e.g.*, the burden of proof and the standard of proof), the determinants of the taxpayer's culpability, the structure of the audit process and the litigation procedure, the actual powers of the tax administration to investigate and decide cases. There is a particularly great need for empirical inquiry into the impact of procedural specifications."

120. **Malcolm Sparrow**, Handcuffed, What Holds Policing Back, and the Keys to Reform 21-22 (2016).

"… even though the NYPD and the Ferguson Police Department had settled on quite different central imperatives, the fact that they each had a single central imperative [minimizing reported crime rates or maximizing revenue from tickets, respectively], strongly emphasized and highly quantitative in nature, leads both departments into similarly dangerous waters. A dominant focus on one dimension of performance suppresses other legitimate concerns. A focus on ends, in not matched by effective controls on means, can lead to behaviors that are unwise, risky or illegal. Officers who perform well in achieving numerical goals may be rewarded or promoted even when the legitimacy or legality of the means they use to get those results is questionable. The organizational culture might even end up making heroes and heroines of those 'prepared to do whatever it takes' to hit ambitious targets and make their bosses and organizations look good. This phenomenon is by no means limited to policing. It has long been recognized within both private sector and public management literature as a potentially corrupting influence, producing organizational deviance of various kinds. Diane Vaughan, who has studied many forms of organizational misconduct, says that trouble arises when the social context puts greater emphasis on achieving the ends than on restricting the means … we will never affect or transform the behavior of the offending organization until we understand what is really happening inside it, what motivates the improper behaviors, and what mechanisms are being used to shield the improper conduct from outside scrutiny or intervention."

121. **Margaret M. Richardson**, *Reinventing the Internal Revenue Service*, Fed. B. Ass'n. Sec. of Tax'n Rep't 1, 6 (1994).

This paper argues that the IRS should shift resources from post-filing enforcement to pre-filing assistance, explaining: "We can enhance voluntary compliance by making our tax system one that encourages people to comply. Such a system provides taxpayers with the information and assistance they need to meet their obligations and reserves enforcement resources for use when all else fails. We want to utilize more 'up-front' approaches to compliance. Up-front approaches include designing less burdensome procedures and providing guidance that is both timely and understandable. Enforcement programs — including Exam, Collection, and Criminal Investigation — are the most expensive resources at our disposal, and we must only use them when necessary and apply them wisely."

122. **Margaret McKerchar**, *Why Do Taxpayers Comply? Past Lessons and Future Directions in Developing a Model of Compliance Behaviour, in* Tax Administration in the 21st Century 225, 242 (Michael Walpole & Chris Evans eds., 2001).

"This article discusses two widely accepted findings in regards to compliance. The first is that it is difficult to gauge how large the problem is of non-compliance. The second is why do some people comply and others do not." The author "emphasiz[ed] the importance of identifying the various typologies of noncompliance and urging that additional studies be made relating to actual taxpayer and preparer behavior."

123. **Marina Bornman**, *The Determinants and Measurement of Trust in Tax Authorities as a Factor Influencing Tax Compliance Behaviour*, 8 J. of Econ. & Fin. Sci. 773, 773 (2015).

"To trust is to believe that another person will cooperate for your benefit and will not take advantage of you if an opportunity to do so arises. Trust is valued as a relational variable providing the base for voluntary cooperation. This article aims to determine, by reviewing studies on the effect of trust in tax authorities on tax compliance, the determinants, effect and measurement of trust in this context. Findings from a number of studies indicated that trust in tax authorities is positively related to tax compliance, and it was found that perceptions of fairness, treatment by authorities, norms and attitudes, and subjective tax knowledge are the main factors determining trust in tax authorities. However, many studies use very limited descriptors when measuring perceptions of trust in authorities, and it is suggested that a standardized survey instrument could be developed to measure such perceptions."

124. **Marina Bornman & Lilla Stack**, *Rewarding Tax Compliance: Taxpayers' Attitudes and Beliefs*, 8 J. of Econ. & Fin. Sci. 791, 791 (2015).

"In a society the tax climate is determined by the interaction between taxpayers and tax authorities. In a 'service and client' climate, taxpayers do not expect authorities to automatically suspect them of being tax evaders. Evidence suggests that recognizing good tax behaviour with strategies of rewards has a positive effect on voluntary tax compliance. Principles derived from the cognitive evaluation theory predict that when feelings of competence are affirmed and this is accompanied by a sense of autonomy it can enhance the intrinsic motivation for an action. The present research surveyed the attitudes and beliefs of taxpayers involved in small business on being rewarded for tax compliance. Results were corroborated with the principles of the cognitive evaluation theory and it was found that that the principles of the theory are applicable to rewarding tax compliance behavior."

125. **Mark Muraven, Dianne M. Tice & Roy F. Baumeister**, *Self-Control as Limited Resource: Regulatory Depletion Patterns*, 74 J. Personality & Soc. Psychol. 774 (1998), http://persweb.wabash.edu/facstaff/hortonr/articles%20for%20class/Muraven%20self-regulatoin.pdf.

"If self-regulation conforms to an energy or strength model, then self-control should be impaired by prior exertion. In Study 1, trying to regulate one's emotional response to an upsetting movie was followed by a decrease in physical stamina. In Study 2, suppressing forbidden thoughts led to a subsequent tendency to give up quickly on unsolvable anagrams. In Study 3, suppressing thoughts impaired subsequent efforts to control the expression of amusement and enjoyment. In Study 4, autobiographical accounts of successful versus failed emotional control linked prior regulatory demands and fatigue to self-regulatory failure. A strength model of self-regulation fits the data better than activation, priming, skill, or constant capacity models of self-regulation."

126. **Marsha Blumenthal & Charles Christian**, *Tax Preparers, in* The Crisis in Tax Administration, 201, 217 (Henry J. Aaron & Joel Slemrod eds., 2004).

"Before implementing any new tax policy intended to affect voluntary compliance … [the authors] recommend that tax administrators consider how the new policy might affect both practitioner use and practitioner fees. This is important for two reasons. First, and most obviously, practitioner fees are an important element of taxpayers' compliance burden. Any policy change that results in higher fees … also increases compliance costs. Second, policy changes may affect the propensity of taxpayers to use practitioners. The evidence reviewed here suggests that, in some cases, greater practitioner use is associated with reduced compliance."

127. **Marsha Blumenthal**, Charles Christian & Joel Slemrod*, Do Normative Appeals Affect Tax Compliance? Evidence from a Controlled Experiment in Minnesota,* 54 Nat'l Tax J. 125, 125 (2001).

"This paper explores one part of a 1994 Minnesota Department of Revenue field experiment designed to study the effectiveness of alternative enforcement strategies. Two letters containing different normative appeals were sent to two large groups of taxpayers; a control group received no letter. The impact of the letters on voluntary compliance is measured by comparing the change (for tax years 1994–93) in reported income and in taxes paid for treated versus control taxpayers (a difference-in-difference approach). … [The authors] find little evidence of an overall treatment effect. However, the letters do appear to impact the compliance behavior of some groups of taxpayers."

128. **Marsha Blumenthal, Charles Christian & Joel Slemrod***, The Determinants of Income Tax Compliance: Evidence from a Controlled Experiment in Minnesota* 1 (Nat'l Bureau of Econ. Research, Working Paper No. 6575, 1998), http://www.nber.org/papers/w6575.

"This paper reports on the results of a controlled experiment in Minnesota in which a random sample of taxpayers was informed that their income tax returns would be closely examined. … [The authors] analyze reported income of this sample of taxpayers, reported income on their previous year's returns, and reported income from the two corresponding years' returns of a control group of taxpayers that did not receive the letter. … [The authors] find that the treatment effect varies depending on the level of income. Low and middle income taxpayers increased reported income and tax liability relative to the control group, which … [the authors] interpret as indicating the presence of noncompliance. The effect was much stronger for those with more opportunity' to evade, as measured by their source of income. However, the reported income of the high-income treatment group fell sharply relative to the control group. … [The authors] suggest a model based on tax audits as a negotiation that can explain this apparently perverse result."

129. **Martina Hartner *et al.***, *Procedural Fairness and Tax Compliance*, 38 Econ. Analysis & Pol'y 137 (2008).

"Overall, and despite the limitations of the findings in terms of 'extrapolatibility,' the analysis shows a clear direct effect of procedural justice on motivational postures … when people feel treated in a procedurally fair manner by the tax authority and procedurally fair decision rules are employed, motivational postures of deference increase whereas motivational postures of defiance decrease. This effect is additionally mediated by national identity judgments. Receiving fair treatment and fair decision making processes communicate identity relevant information regarding peoples' status within the group (*i.e.*, respect) as well as the status of the group (*i.e.*, pride). These identity

judgments, in turn, affect motivational postures of deference positively and those of defiance negatively. The results also indicate that defiance-oriented motivational postures are associated with tax non-compliance. However, the assumed negative influence of deference-oriented motivational postures on tax non-compliance could not be shown. A possible interpretation for this unexpected result might be that unfavorable attitudes towards taxation have a stronger impact on behavior than favorable attitudes."

130. **Michael Hallsworth *et al.***, *The Behavioralist as Tax Collector: Using Natural Field Experiments to Enhance Tax Compliance* 1 (Nat'l Bureau of Econ. Research, Working Paper No. 20007, 2014), http://www.nber.org/papers/w20007.

"Using administrative data from more than 200,000 individuals in the UK … [the authors] show that including social norms and public goods messages in standard tax payment reminder letters considerably enhances tax compliance. The field experiments increased taxes collected by the Government in the sample period and were cost-free to implement, demonstrating the potential importance of such interventions in increasing tax compliance."

131. **Michael Hallsworth**, *The Use of Field Experiments to Increase Tax Compliance*, 30 Oxford Rev. of Econ. Pol'y 658, 658 (2014).

"Governments have become increasingly interested in the 'explosion' of research into taxpayer behaviour. This article briefly reviews two main theories of tax compliance ('deterrence' and 'non-deterrence'), before discussing the recent rapid rise of natural field experiments (NFEs) in this area. These NFEs represent a 'win–win' for policy-makers and academics, since they can test theories while also evaluating the impact of a specific intervention in the real world. The evidence from NFEs shows that deterrence approaches improve compliance, while the case for non-deterrence approaches is less conclusive at the moment. NFEs could be improved by paying more attention to findings from behavioural science that apparently incidental factors, such as timing, framing, and complexity, substantially affect whether compliance occurs or not. New directions for future studies include: network effects, tax payments (in addition to declarations), the behaviour of firms, the provision of public goods, and the relationship between attitudes and behaviour."

132. **Michael Howlett**, *Matching Policy Tools & Their Targets: Beyond Nudges and Utility Maximization in Policy Design,* European Consortium for Political Research Joint Session of Workshops (2016).

"Studies of policy tools traditionally have focused on the effective use of governing resources to attain policy ends, without devoting a great deal of attention to the behavioural characteristics of the objects of policy interventions. These "policy targets" are often assumed to act as simple rational utility maximizers susceptible to shifts in apparent gains and losses linked to policy incentives and disincentives. Although this is beginning to change with recent work examining policy 'nudges' and the effects of co-production and social marketing efforts which both suggest or are based on alternative logics of target behaviour, analysis of policy targets still all too often retains a crude concept of the subject inspired by utilitarianism and related assumptions about self-maximizing activity on the part of citizens. This thinking has led to many considerations of policy design focusing on the calibrations of policy tools — such as the relative size of penalties or rewards — rather than upon the nature of the tools themselves and whether the appropriate type or mix of tools is being used to match the nature of compliance and co-operation required or demanded by a design situation. This paper reviews the literature on the subjects of compliance and policy tools,

proposing a new research and practice agenda focused on better understanding and matching tool resources to target behaviour."

133. **Michael Keen & Joel Slemrod**, *Optimal Tax Administration*, 1, 19 (Nat'l Bureau of Econ. Research, Working Paper No. 22408, 2016), http://www.nber.org/papers/w22408.pdf.

"This paper sets out a framework for analyzing optimal interventions by a tax administration, one that parallels and can be closely integrated with established frameworks for thinking about optimal tax policy. At its heart is a summary measure of the impact of administrative interventions — the "enforcement elasticity of tax revenue" — that is a sufficient statistic for the behavioral response to such interventions, much as the elasticity of taxable income serves as a sufficient statistic for the response to tax rates. Amongst the applications are characterizations of the optimal balance between policy and administrative measures, and of the optimal compliance gap."

"An extensive and long-established literature has produced much information on compliance and, especially, administration costs, but has focused much more on their levels than on how they vary with alternative interventions, which is what matters for the efficient design of those interventions and their comparison with policy measures. Most fundamental, however, is the lack of empirical information on enforcement elasticities. While tax administrations often recognize the importance of these elasticities in their budget submissions, they have received almost no direct attention in the academic literature, and the information that can be inferred indirectly is very limited."

134. **Michael McKee & Christian Vossler**, *Tax Withholding, Taxpayer Segmentation and Tax Reporting Behavior: Effects of Taxpayer Services* (2014).

Theoretical and empirical evidence suggests that taxpayer information services improve tax compliance. Thus, targeting information to those less likely to report truthfully would, *a priori*, be more efficient than an information service that was not so targeted. This report suggests that the following factors are associated with less truthful reporting: being in a tax under-withholding position; having faced a unexpected, positive increase in tax liability; having a higher tax liability; having a greater opportunity for underreporting (as through non-matched income and higher level of itemized deductions); being male; and, being young.

135. **Michael Wenzel**, *The Social Side of Sanctions: Personal and Social Norms as Moderators of Deterrence*, 28(5) Law and Hum. Behav. 547, 547 (Oct. 2004).

"In a survey of Australian citizens (valid $N = 1,406$), personal and social norms were found to moderate effects of deterrence on tax evasion. Personal, internalized norms of tax honesty were negatively related to tax evasion and moderated the effects of deterrence variables (*i.e.*, sanction severity), suggesting deterrence effects only when individual ethics were weak. Perceived social norms, beyond those internalized as personal norms, were not directly related to tax evasion but moderated the effects of sanction severity. Only when social norms were seen as strongly in favor of tax honesty was sanction severity negatively related to tax evasion. This result held only for respondents who did not identify strongly as Australians. Hence, when internalized, norms delimit effects of deterrence; when considered external to one's self, norms boost deterrence effects, giving social meaning to formal sanctions."

136. **Nadja Dwenger *et al.***, *Extrinsic and Intrinsic Motivations for Tax Compliance: Evidence from a Field Experiment in Germany,* 8 Am. Econ. J. 203, 204-05 (2016), https://www.aeaweb.org/articles?id=10.1257/pol.20150083.

"Our setting is the local church tax in a metropolitan region of Bavaria, Germany. Three features of this setting are important for the empirical analysis. First, it combines taxation with charitable giving: the church tax is compulsory and non-compliance represents a violation of tax law, but the church highlights the good cause and encourages overpayments that are defined as donations. Hence, tax evaders and donors can coexist in this system. Second, the true tax base relevant for the church is defined as reported taxable income to the government, which we can perfectly observe for each individual by linking church tax records to administrative income tax records. This allows us to compare actual church taxes paid with true taxes owed for each individual, and thus precisely distinguish between evaders, compliers, and donors. This overcomes a key limitation of most tax evasion studies, namely that the outcome of interest is not observed (Slemrod and Weber, 2012). Third, even though the church has the legal right to cross-check filed taxes against income tax returns (which would detect evasion with certainty), they have not previously exercised this right. In other words, prior to our field experiment there is zero deterrence in this tax system. Together with the previous point, this implies we can observe compliance in a baseline with zero deterrence, providing a direct measure of intrinsically motivated tax compliance …

Around 20 percent of individuals pay at least the true taxes owed, while the remaining 80 percent of individuals evade taxes and most of them fully evade … there is sharp bunching at exact compliance in the zero deterrence baseline … announcing a zero audit probability (the *status quo*) has only a small impact on compliance, suggesting there is little misperception on average."

137. **Natalie Taylor**, *Understanding Taxpayer Attitudes Through Understanding Taxpayer Identities, in* Taxing Democracy: An Understanding of Tax Avoidance and Evasion 71, 89 (Valerie Braithwaite ed., 2003).

This chapter argues "that an understating of social identity processes is fundamental to understanding why particular factors might motivate behavior in some situations not others … that to treat taxpayers as rational, self-interested, utility-maximizing actors in all situations is to limit our ability to understand the processes involved in taxpaying behavior, and … that taxpayer social identities vary according to the situational and psychological contexts in which taxpayer find themselves. Resulting differences in attitudes and perceptions of fairness are natural outcomes of this self-categorization process."

138. **Nat'l Comm'n on Restructuring the IRS**, *A Vision for a New IRS* 23 (June 25, 1997), http://www.house.gov/natcommirs/report1.pdf.

"The Commission believes that good customer service and taxpayer education, which assists taxpayers in meeting their tax obligations to the government, leads to increased compliance. Two initiatives in the past decade — Compliance 2000 and the compliance research approach — embody IRS efforts to turn away from high-cost enforcement solutions to noncompliance to lower-cost, non-enforcement solutions. The traditional enforcement approach to compliance was focused on one-by-one enforcement of taxpayers through audit and examination of individual taxpayers. Not only was this approach expensive, but it did not identify patterns of noncompliance. The new approach shifts emphasis to preventing noncompliance by identifying areas in which noncompliance is most likely to occur. By integrating these research efforts with other IRS compliance programs,

and ensuring proper training and technology resources, the result will be an IRS that better serves the needs of the American people."

139. **Nat'l Sci. & Tech. Council**, Exec. Off. of the President, *Soc. & Behav. Sci. Team, Annual Report* 15-16 (2015), https://www.whitehouse.gov/sites/default/files/microsites/ostp/sbst_2015_annual_report_final_9_14_15.pdf.

The Social and Behavioral Sciences Team (SBST) moved an online signature box from the bottom to the top of the form. By doing so, they improved the accuracy of government contractors' self-reported sales to the General Services Administration (GSA). It concluded "[T]he signature box was effective; the Federal Government collected an additional $1.59 million in fees within a single quarter as a result of the box. The median self-reported sales amount was $445 higher for vendors signing at the top of the form compared with those vendors who were not required to make this confirmation. …

SBST [also] worked with the Department of the Treasury's Debt Management Service (DMS) to increase collections from individuals with outstanding non-tax debt. … Individuals sent the new letter [did not pay significantly more than a control group], however, were significantly more likely to make a payment online (2.16 percent of those sent the new letter made a payment online, versus 1.49 percent of those sent the standard letter). This was likely due to the fact the web address was shortened in the new letter and was changed from a long string of meaningless characters to a shorter set of meaningful words (see Figure 11)."

140. **National Taxpayer Advocate 2012 Annual Report to Congress vol. 2**, 1-70 (*Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*), http://www.taxpayeradvocate.irs.gov/2012-Annual-Report/downloads/Volume-2.pdf.

This discussion reports survey results suggesting that trust in government, the tax laws, and the IRS are more significantly associated with voluntary compliance by small businesses than most other factors including economic deterrence.

141. **National Taxpayer Advocate 2013 Annual Report to Congress vol. 2**, 1-14 (*Do Accuracy-Related Penalties Improve Future Reporting Compliance by Schedule C Filers?),* http://www.taxpayeradvocate.irs.gov/2013-Annual-Report/downloads/Volume-2-TAS-Research-And-Related-Studies.pdf.

This analysis shows that examination assessments were correlated with improved reporting compliance by small businesses (as estimated by an IRS model), but those subject to an accuracy-related penalty had no better subsequent reporting compliance than those who were not and had lower subsequent compliance if the penalty was assessed by default, was abated, or was appealed, potentially suggesting that penalties perceived as unfair reduce voluntary compliance.

142. **National Taxpayer Advocate 2013 Annual Report to Congress vol. 2**, 33-56 (*Small Business Compliance: Further Analysis of Influential Factors),* http://www.taxpayeradvocate.irs.gov/2013-Annual-Report/downloads/Volume-2-TAS-Research-And-Related-Studies.pdf.

This analysis of survey data suggests that taxpayer service is the principal component of trust in government, which is associated with voluntary compliance, lending further support to the suggestion in the National Taxpayer Advocate 2012 Report to Congress that improvements in

taxpayer service could increase voluntary compliance by small businesses. It also observed that noncompliance was geographically concentrated, whereas compliance was more dispersed.

143. **National Taxpayer Advocate 2014 Annual Report to Congress vol. 2**, 27-42 (Research Study: *Estimating the Impact of Audits on the Subsequent Reporting Compliance of Small Business Taxpayers: Preliminary Results),* http://www.taxpayeradvocate.irs.gov/Media/Default/Documents/2014-Annual-Report/Volume-Two.pdf.

    This analysis suggests that IRS audits of small business taxpayers have a modest deterrent effect that diminishes in the years following the audit, disappearing altogether by year five, and that field and office audits are more effective than correspondence audits in promoting subsequent reporting compliance.

144. **National Taxpayer Advocate 2015 Annual Report to Congress vol. 2**, 68, 70 (*Audit Impact Study),* http://www.taxpayeradvocate.irs.gov/Media/Default/Documents/2015ARC/ARC15_Volume2.pdf.

    Small business "taxpayers who receive a positive additional recommended tax assessment increase their subsequent reporting of taxable income dramatically (+120%), while those who receive no additional tax assessment actually report less (-35%) three years later." The report explained that the reduction in reporting compliance could be because (1) the audit is a coercive enforcement activity that may reduce tax morale among honest taxpayers, (2) the audit process might provide currently compliant taxpayers with a "window" on potential opportunities for tax avoidance, and (3) taxpayers may infer that the risk of a future examination is low given that no adjustments were made during the recent audit.

145. **Neil Gunningham**, *Strategizing Compliance and Enforcement: Responsive Regulation and Beyond, in* Explaining Compliance: Business Responses to Regulation 199 (Christine Parker & Vibeke Lehmann Nielsen eds., 2011).

    "The evidence suggests that neither compliance nor deterrence has proved an effective or efficient enforcement strategy. Responsive regulators have found that they will gain better results by developing more sophisticated strategies, which employ a judicious blend of persuasion and coercion, the actual mix being adjusted to the particular circumstances and motivations of the entity with which they are dealing. In thinking about how best to tailor enforcement strategy to individual circumstances, a valuable heuristic is the enforcement pyramid. This embraces an approach which rewards virtue and punishes vice. Likewise, with this approach the regulator is responsive to the past actions of the regulated entity. Thus although it is not possible for the regulator to be confident, at the outset, of a duty holder's motivation, or of whether they are an industry leader, a reluctant complier, a recalcitrant or incompetent — that will gradually become apparent through the tit for tat strategy of pyramidal enforcement."

146. **Nina Mazar, On Amir & Dan Ariely**, *The Dishonesty of Honest People: A Theory of Self-Concept Maintenance,* 45 J. Marketing Res. 633-644 (2008), http://ssrn.com/abstract=979648.

    According to the abstract, "results show that (1) given the opportunity to engage in beneficial dishonesty, people will engage in such behaviors; (2) the amount of dishonesty is largely insensitive to either the expected external benefits or the costs associated with the deceptive acts; (3) people know about their actions but do not update their self-concepts; (4) causing people to become

more aware of their internal standards for honesty decreases their tendency for deception; and (5) increasing the 'degrees of freedom' that people have to interpret their actions increases their tendency for deception. We suggest that dishonesty governed by self-concept maintenance is likely to be prevalent in the economy, and understanding it has important implications for designing effective methods to curb dishonesty."

147. **OECD**, *Measures of Tax Compliance Outcomes: A Practical Guide* (2014), http://taxwatch.org.au/wp-content/uploads/2014/10/Measures-of-tax-compliance-outcomes.pdf.

"This report provides an overview of strategic compliance approaches for measuring tax compliance outcomes and the effectiveness of compliance activities designed to prevent non-compliance."

148. **OECD**, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* 7-8 (2012), http://www.oecd.org/site/ctpfta/49428016.pdf.

This report suggests that to be effective, tax agencies should adopt the "right from the start" approach to promote tax compliance, explaining: "Working with a 'Right from the Start' approach will shift the attention of a revenue body in important ways: (1) From focusing on the past (for example the report on the previous fiscal year) to focusing on the present (the ongoing tax-related processes in the businesses); (2) From focusing mostly on the internal process of the revenue bodies to also considering the external processes of taxpayers and stakeholders; and (3) From mostly focusing on the taxpayer to focusing also on factors in the taxpayer's environment that influence compliance behaviour."

149. **Paul Corcoro & Peter Adelsheim**, *A Balance Due Before Remittance: The Effect on Reporting Compliance*, IRS Research Conference 18 (2010), https://www.irs.gov/pub/irs-soi/10rpresonsmalbus.pdf.

"Taxpayers' reporting compliance behavior is different depending on prepayment position, holding all else constant … For every dollar balance due increases the amount of underreporting by about $0.38 … For every dollar refund due decreases the amount of underreporting by about $0.09"

150. **Peter John, Michael Sanders & Jennifer Wang**, *The Use of Descriptive Norms in Public Administration: A Panacea for Improving Citizen Behaviours?* 17 (2014), http://ssrn.com/abstract=2514536.

"In this paper … [the authors] have mapped the growing use of social norms in public administration and in academic fields that have a ready application to public administration settings. … [The authors] noted that there is an information asymmetry between citizens and administrators as administrators often have greater access to information relative to citizens. The act of rectifying the asymmetry is low cost and can usually have beneficial effects as citizens can update their beliefs to reflect a reality which is often in the public's, and therefore the administrator's interest."

151. **Premier & Cabinet Behavioural Insights Unit**, *Understanding People, Better Outcomes: Behavioural Insights in NSW,* 11 (2014), http://bi.dpc.nsw.gov.au/assets/Behavioural-Insights/Library/Understanding-People-Better-Outcomes.pdf.

"It is still very early days for the application of BI [Behavioral Insights] in government, particularly in Australia. So it wasn't clear whether behavioural techniques and frameworks developed in the UK would work in the NSW [New South Wales] context. … [However, the BI Unit] has successfully replicated established techniques from the UK, for instance, the use of social norms and simplification of tax letters. This has enriched the international evidence base, demonstrating that similar techniques can work in different countries. … [The] trial results also demonstrate that low-cost, subtle changes to communications and delivery mechanisms can substantially improve policy interventions, and can offer an alternative to more expensive regulatory approaches."

152. **Press Release, The White House**, *Fact Sheet: President Obama Signs Executive Order; White House Announces New Steps to Improve Federal Programs by Leveraging Research Insights* (Sept. 15, 2015), https://www.whitehouse.gov/the-press-office/2015/09/15/fact-sheet-president-obama-signs-executive-order-white-house-announces.

"Behavioral science insights — research insights about how people make decisions — not only identify aspects of programs that can act as barriers to engagement, but also provide policymakers with insight into how those barriers can be removed through commonsense steps, such as simplifying communications and making choices more clear. That same study on financial aid found that streamlining the process of applying — by providing families with assistance and enabling families to automatically fill parts of the application using information from their tax return — increased the rates of both aid applications and college enrollment."

153. **Raj Chetty, John N. Friedman & Emmanuel Saez**, *Using Differences in Knowledge Across Neighborhoods to Uncover the Impacts of the EITC on Earnings*, 103 Am. Econ. Rev. 2683 (2013), https://eml.berkeley.edu/~saez/chetty-friedman-saezAER13EITC.pdf.

"We estimate the impacts of the Earned Income Tax Credit on labor supply using local variation in knowledge about the EITC schedule. We proxy for EITC knowledge in a Zip code with the fraction of individuals who manipulate reported self-employment income to maximize their EITC refund. This measure varies significantly across areas. We exploit changes in EITC eligibility at the birth of a child to estimate labor supply effects. Individuals in high-knowledge areas change wage earnings sharply to obtain larger EITC refunds relative to those in low-knowledge areas. These responses come primarily from intensive-margin earnings increases in the phase-in region."

154. **Richard D. Schwartz & Sonya Orleans**, *On Legal Sanctions,* 34 U. Chi. L. Rev. 274, 299 (1967).

"The study reported was a field experiment aimed at determining the effectiveness of sanction, as compared with an appeal to conscience and with a placebo control, in increasing normative sentiments about compliance and in heightening actual compliance in the payment of federal income taxes. The findings indicate that motivations of various kinds make a difference in taxpaying. They suggest that the two types of appeal affect normative orientation differently according to the status of those subjected to the appeals. Sanction threat increases normative orientation most markedly among the upper class, the better educated, and non-Catholics. Appeals to conscience change attitudes toward tax compliance most among the best and least well-educated, those employed by others, and Protestants and Jews. As to actual changes in tax compliance, returns

currently available for the gross treatment groups suggest that conscience appeals are more effective than sanction threats, though both have some effect. The conscience appeal appears, moreover, to produce less loss through resistance, an effect implied by the increase in aggregate deductions noted in the sanction-treated group."

155. **Richard H. Thaler & Cass R. Sunstein**, Nudge, Improving Decisions About Health, Wealth, and Happiness 232-233 (2009).

The authors "demonstrate how thoughtful 'choice architecture' can be established to nudge us in beneficial directions without restricting freedom of choice." In particular, they cite "Austan Goolsbee's 2006 estimate that the IRS could improve compliance while saving taxpayers 225 million hours and $2 billion in tax preparation costs by providing taxpayers with returns that were already filled out with any income and deductions reported to the IRS by third parties, allowing taxpayers to make any changes necessary and then sign and return the forms on paper or online, as is already being done in other countries." The authors also suggest that the "government authorize banks to issue debit cards that could only be used for charitable giving, and to provide both the IRS and taxpayers an end-of-year statement, which would simplify record keeping and serve as verification."

156. **Richard Lavoie**, *Flying Above the Law and Below the Radar: Instilling a Taxpaying Ethos in those Playing by their Own Rules,* 29 Pace L. Rev. 637, 687 (2009), http://heinonline.org/HOL/Page?handle=hein.journals/pace29&g_sent=1&collection=journals&id=645.

"This Article has demonstrated that a broad array of factors beyond the traditional deterrence approach is necessary to explain the puzzle of tax compliance. The high level of compliance seen in most Western democracies is attributable to the existence of a taxpaying ethos within those societies. … Based on this understanding of the factors that shape a taxpaying ethos, it is possible to posit steps that governments can take to cultivate a taxpaying ethos or strengthen an existing one. Lastly, the Article argues that using this approach the Service could significantly reduce the level of noncompliance in the United States by focusing on measures aimed at flipping the noncompliance norm in segments of society that have been reticent to embrace the country's generally strong taxpaying ethos."

157. **Richard Thaler**, Misbehaving: The Making of Behavioral Economics 7-10 (2015).

"Econs do not have passions; they are cold-blooded optimizers. Think of Mr. Spock in *Star Trek.*

Nevertheless, this model of economic behavior based on a population consisting only of Econs has flourished, raising economics to that pinnacle of influence on which it now rests. Critiques over the years have been brushed aside with a gauntlet of poor excuses and implausible alternative explanations of embarrassing empirical evidence. …

It is time to stop making excuses. We need an enriched approach to doing economic research, one that acknowledges the existence and relevance of Humans.

… recently behavioral economists and behavioral scientists more generally are becoming a small part of the policy-making establishment. In 2010 the government of the United Kingdom formed a Behavioural Insights Team, and now other countries around the world are joining the movement to create special teams with the mandate to incorporate the findings of other social sciences into the formulation of public policy. Businesses are catching on as well, realizing that a deeper understanding of human behavior is every bit as important to running a successful business as

is an understanding of financial statements and operations management. After all, Humans run companies, and their employees and customers are also Humans.

This book is the story of how this happened, at least as I have seen it. Although I did not do all the research — as you know, I am too lazy for that — I was around at the beginning and have been part of the movement that created this field. Following Amos's dictum, there will be many stories to come, but my main goals are to tell the tale of how it all happened, and to explain some of the things we learned along the way."

158. **Robert A. Kagan, Neil Gunningham & Dorothy Thornton**, *Fear, Duty, and Regulatory Compliance: Lessons from Three Research Projects*, *in* Explaining Compliance: Business Responses to Regulation 37, 52 (Christine Parker & Vibeke Lehmann Nielsen eds., 2011).

"[S]ome significant level of legal enforcement — although it is not clear quite how much — is undoubtedly essential in generating and assuring compliance. Enforcement is important first of all in communicating regulatory norms and threatening credible levels of monitoring and legal sanctions for noncompliance; second for its reminder effect … and third, for its reassurance effect … The research … shows that in addition to legal deterrence, compliance gets a large boost from the desire of most business managers to build and preserve their firm's reputation for being a 'good corporate citizen,' as well as their own personal reputation as a good citizen. Moreover, in addition to these legal and social pressures, many, although not all, businesses are motivated by the internalized sense of duty of their managers or influential in house professionals to obey the law and to avoid doing harm."

159. **Robert Kidder & Craig McEwen**, *Taxpaying Behavior in Social Context: A Tentative Typology of Tax Compliance and Noncompliance, in* Taxpayer Compliance vol. 2: Social Science Perspectives 47 (Jeffrey Roth *et al*. eds., 1989).

This discussion identifies a typology of noncompliance and concludes that the IRS is more likely to be viewed as trustworthy and effective if it understands the population it is interacting with, and designs its communications and procedures to meet that population's needs and to address the reasons for any noncompliance.

160. **Sagit Leviner**, *A New Era of Tax Enforcement: From 'Big Stick' to Responsive Regulation,* 42 U. Mich. J.L. Reform 381, 426-27 (2009).

"Drawing on the principles of responsive regulation and the motivational posturing doctrine, the Australian model conceptualizes behavior not only as a result of the needs, desires, and constraints of an autonomous taxpayer but it also considers that the taxpayer is heavily influenced by environmental conditions, including norms, values, and habits, and by the nature of the taxpayer/tax-authority interaction. By emphasizing the role that this interaction plays in shaping taxpayer behavior, the tax administration is empowered to own up to its administrative responsibilities and explores the different ways in which it can manage this relationship. … With growing interest around the world in tax administration that focuses on customer service, and embracing a dynamic approach to the study and enforcement of compliance, the Australian compliance model has the potential to generate different — possibly more effective — conclusions regarding tax enforcement than what we have seen thus far from the traditional economic analysis of compliance."

161. **Sagit Leviner**, *The Role Tax Preparers Play in Taxpayer Compliance: An Empirical Investigation with Policy Implications,* 60 Buff. L. Rev. 1079, 1134 (2012), http://ssrn.com/abstract=1454795.

"This article empirically explores the strengths and challenges of tax preparer usage and, particularly, the role preparers play in taxpayer compliance and administration."

162. **Sandro Casal *et al.***, *Tax Compliance Depends on Voice of Taxpayers,* 56 J. Econ. Psychol. 141 (2016).

"Reducing the social distance between taxpayers and tax authorities boosts taxpayers' acceptance of tax load and tax compliance. In the present experiment participants had the opportunity to pay their tax due either as one single compliance decision or as separate compliance decisions for each type of requested contribution (coined voice on contributions). In addition, contributions were either distributed according to a fixed scheme exogenously chosen, or participants had the possibility to change the distribution pattern (coined voice on distribution). Furthermore, information about participants' contributions was either clearly related to the tax context or related to government public expenditures (coined context). Besides analyzing the effect of voice and context on compliance, order of tax payments was controlled for in the analyses. Results show that having voice on tax contributions and on tax distribution leads to higher compliance. Moreover, compliance was higher in the context avoiding tax framing."

163. **Saurabh Bhargava & Dayanand Manoli**, *Psychological Frictions and the Incomplete Take-Up of Social Benefits: Evidence from an IRS Field Experiment,* 105 Am. Econ. Rev. 3489 (2015), https://www.cmu.edu/dietrich/sds/docs/bhargava/Bhargava_Takeup%20AER%202015.pdf.

"We address the role of 'psychological frictions' in the incomplete take-up of EITC benefits with an IRS field experiment. We specifically assess the influence of program confusion, informational complexity, and stigma by evaluating response to experimental mailings distributed to 35,050 tax filers who failed to claim $26 million despite an initial notice. While the mere receipt of the mailing, simplification, and the heightened salience of benefits led to substantial additional claiming, attempts to reduce perceived costs of stigma, application, and audits did not. The study, and accompanying surveys, suggests that low program awareness/understanding and informational complexity contribute to the puzzle of low take-up."

164. **Shai Danziger, Jonathan Levav & Liora Avnaim-Pesso**, *Extraneous Factors In Judicial Decisions,* 108 Proc. Nat. Acad. Sci. 6889 (2011), http://www.pnas.org/content/108/17/6889.full.pdf.

"We record the judges' two daily food breaks, which result in segmenting the deliberations of the day into three distinct 'decision sessions.' We find that the percentage of favorable rulings drops gradually from ≈65% to nearly zero within each decision session and returns abruptly to ≈65% after a break."

165. **Steven Klepper, Mark Mazur & Daniel Nagin**, *Expert Intermediaries and Legal Compliance: The Case of Tax Preparers,* 34 J. L. Econ. 205, 228 (1991).

The authors "probed the factors influencing a taxpayer's decision to engage expert assistance in tax return preparation and the influence of the expert on the taxpayer's compliance. The authors' model predicts that the expert participation will discourage noncompliance on legally unambiguous income sources but encourage noncompliance on ambiguous sources. This dualism, which we call

the enforcer/ambiguity-exploiter effect, stems from the preparer's unique knowledge of reporting strategies for reducing penalties for noncompliance on ambiguous income, coupled with penalties that can be imposed on preparers for preparing returns that are noncompliant in some respect. Further, the model predicts that the magnitude of the enforcer/ambiguity-exploiter influence will be directly related to the quality of an evasion opportunity. The empirical analysis reveals general support for the theory among those taxpayers whose incentives for engaging a preparer reasonably accord with those emphasized in the model."

166. **Stewart Kettle *et al.***, *Behavioral Interventions in Tax Compliance: Evidence from Guatemala*, IRS Research Conference (2015), https://www.irs.gov/pub/irs-soi/15resconhemandez.pdf.

In this report, the author found that letters emphasizing compliance norms (*e.g.*, "*According to our records, 64.5 percent of Guatemalans declared their income tax for the year 2013 on time. You are part of the minority of Guatemalans who are yet to declare for this tax.*") increased the payment rate by 67 percent more than a control group.

167. **Susan C. Morse**, *Using Salience and Influence to Narrow the Tax Gap,* 40 Loy. U. Chi. L.J. 483, 483 (2009).

"This Article argues that more salient government communications and greater attention to principles of influence would improve existing and proposed policies to encourage self-employed and small business taxpayers to pay their taxes. Reversing widespread tax evasion among self-employed and small business taxpayers requires changing the existing social norm of noncompliance, which in turn demands a better connection between the government's message and the experience of the taxpayers. Policymakers should recraft their anti-tax-gap messages so that they grab the attention of the target audience. Policymakers should also take advantage of established influence tools to leverage predictable taxpayer heuristics such as conformity to the compliance behavior of similar peers and availability bias."

168. **Susan C. Morse**, *Tax Compliance and Norm Formation Under High-Penalty Regimes,* 44 Conn. L. Rev. 675, 735-36 (2012).

"For the compliance mechanisms of deterrence, separation, and/or signaling to succeed, a high-penalty regime should feature the supports of persuasive penalties, an effective mechanism for detecting noncompliers who attempt to masquerade as compliers, and a lack of close-substitute choices. The [Foreign Bank Account Report] FBAR offshore account self-reporting regime could include all of these features … an expressive law strategy might generate a norm that can then support reputational signaling, which can in turn foster deterrence and separation mechanisms if grounded in a robust reputation market. The Foreign Account Tax Compliance Act [FATCA] … provides an example of a situation appropriate for an expressive law strategy. The U.S. tax administrators enforcing FATCA should articulate a norm with reputational content; one likely subtext is "good banks tell the truth." FATCA administrators should … persuade non-U.S. financial institutions that compliance can enhance their reputation and because it may help persuade other countries to join the project of developing an enforced, automatic, and global information reporting system."

169. **Swedish Tax Agency**, *Right from the Start: Research and Strategies* 127 (2005), https://www.skatteverket.se/download/18.612143fd10702ea567b80002569/rapport200501eng.pdf.

"Audit activity should not be viewed as *a single* tool but audit activity can be used in different ways to achieve different purposes. Influencing norms and attitudes is neither audit activity nor service but one of the most important tasks for a tax administration. Such work can also be integrated with other work by ensuring that brochures, forms, decisions and similar are framed in the light of their norm-influencing function. Writing letters to taxpayers with information about rules or about audit activity is also an activity that can be substantially developed."

170. **Theodore Black *et al.***, *Federal Tax Compliance Research: Tax Year 2006 Tax Gap Estimation* 2-3 (IRS Research, Analysis & Statistics Working Paper, March, 2012), https://www.irs.gov/pub/irs-soi/06rastg12workppr.pdf.

"The gross tax gap is defined as the amount of true tax liability faced by taxpayers that is not paid on time. The voluntary compliance rate (VCR, defined as 1 minus the ratio of the gross tax gap to total liabilities) for TY2006 is estimated to be 83.1%. The VCR for TY2006 is not substantially different from the estimated 83.7% VCR for TY2001.

The net tax gap is defined as the portion of the gross tax gap that is never paid, even after enforced and other late payments. The net tax gap for TY2006 is estimated to be $385 billion. The estimated net compliance rate (NCR) for TY2006 is 85.5%. (The NCR is defined as 1 minus the ratio of the net tax gap to total liabilities.) The 85.5% NCR means that 14.5% of the estimated total tax liability for TY2006 will never be paid.

The $65 billion difference between the net and gross tax gap estimates for TY2006 represents the amount of the gross tax gap that will eventually be collected through IRS enforcement efforts and other late tax payments …

As with the TY2001 tax gap, IRS determined that compliance is far higher when reported amounts are subject to information reporting and, even more so, when subject to withholding. For example, as depicted in Chart 1, the net misreporting percentage, or NMP (defined as the net misreported amount expressed as a ratio of the true amount), for amounts subject to substantial information reporting and withholding is 1%; for amounts subject to substantial information reporting but no withholding, it is 8%; and for amounts subject to little or no information reporting, such as business income, it is 56%."

171. **Thomas Baker *et al.***, *Shared Race/Ethnicity, Court Procedural Justice, and Self-Regulating Beliefs: A Study of Female Offenders,* 49 Law & Soc'y Rev. 433, 433 (2015).

"Using survey data from a sample of white, black, and Hispanic incarcerated females … [the authors find] that female offenders who perceive the courts as more procedurally just report a significantly greater obligation to obey the law."

172. **Thomas Dohrmann & Gary Pinshaw, McKinsey & Company**, *The Road to Improved Compliance: A McKinsey Benchmarking Study of Tax Administrations 2008-2009* (2009), http://www.mckinsey.com/~/media/mckinsey/dotcom/client_service/public%20sector/pdfs/road_improved_compliance.ashx.

a. The report found based on a surveying tax administration in 13 countries that "most top performers pre-populate all of the fields for individuals' tax forms and have extensive

pre-certification initiatives for businesses, thereby helping taxpayers improve the accuracy of their submissions by ensuring the forms are correct from the beginning … conduct extensive research on the nature and prevalence of noncompliance and regularly refine their segmentation [tailoring their approach based on the needs of each distinct taxpayer group] based on these insights…" (at 4).

b. "[T]op performers mount integrated awareness campaigns targeted at the taxpayer segments that pose the highest risk of noncompliance. For example, they send issue specific letters to targeted taxpayer groups (*e.g.*, reminding restaurant owners to report gratuities as income), or they partner with industry associations and labor groups to provide guidelines on how to be compliant." (at 18).

c. "[M]ost top performers focus [prefiling agreements] on large business but at least one tax administration also has pre-filing certification activities for small and medium-sized businesses. … They publish issue-specific guidelines in historically-confusing areas of the tax code and spell out positions that, if adhered to in the filing process, will not be challenged by the tax administration." (at 19).

d. Ireland's pay as you earn withholding system "not only withholds taxes but also adjusts, at regular pay intervals, the amount of tax withheld from individuals." (at 24).

e. "[C]ustomized [debt collection] letters are significantly more effective than standard form letters …" (at 26).

f. "[T]ax administrations with extensive pre-population and distinctive practices in [service] channel management have 52 percent lower service costs than other tax administrations" (at 30).

173. **Tom R. Tyler**, *Legitimacy and Criminal Justice: The Benefits of Self-Regulation,* 7 Ohio St. J. Crim. L. 307, 307 (2009).

This article reviews studies showing that in the context of law and criminal justice the deterrence model "is costly and minimally effective in securing compliance with the law and motivating the acceptance of decisions made by police officers and judges. … outline[s] a different, self-regulatory model which focuses on engaging people's values as a basis for motivating voluntary deference to the law. … [and] review[s] empirical research suggesting that this strategy is both viable and more desirable than current sanction-based approaches."

174. **Tom R. Tyler**, *The Psychology of Self-Regulation: Normative Motivations for Compliance, in* Explaining Compliance: Business Responses to Regulation 78 (Christine Parker & Vibeke Lehmann Nielsen eds., 2011).

"The results outlined in this chapter support two key empirical propositions. First … values lead to voluntary behavior, including both voluntary decision acceptance and cooperation with legal and managerial authorities. Second, procedural justice shapes values. If authority is exercised fairly, management, and law and legal authorities are viewed as legitimate and entitled to be obeyed."

175. **Tom R. Tyler**, Why People Obey the Law 178 (2006).

The author concludes, based on analysis of prior research and two surveys in Chicago that "people obey the law [including tax laws] because they believe that it is proper to do so, they react to their experiences by evaluating their justice or injustice, and in evaluating the justice of their experiences

they consider factors unrelated to outcome, such as whether they have had a chance to state their case and been treated with dignity and respect … This image differs strikingly from that of the self-interest models which dominate current thinking. … People are more responsive to normative judgments and appeals than is typically recognized by legal authorities. Their responsiveness leads people to evaluate laws and the decisions of legal authorities in normative terms, obeying the law if it is legitimate and moral and accepting decisions if they are fairly arrived at. Police officers and judges who recognize and respond to people's normative concerns can exercise their authority more effectively; their rules and decisions will be accepted and obeyed voluntarily." The author argues that trust in and perceived legitimacy of the laws, the government, and the enforcers, which may be fostered by providing due process, promote compliance in a wide variety of contexts.

176. **Uri Gneezy & Aldo Rustichini**, *A Fine is a Price,* 29 J. Legal Stud. 1 (2000).

"The deterrence hypothesis predicts that the introduction of a penalty that leaves everything else unchanged will reduce the occurrence of the behavior subject to the fine. We present the result of a field study in a group of day-care centers that contradicts this prediction. Parents used to arrive late to collect their children, forcing a teacher to stay after closing time. We introduced a monetary fine for late-coming parents. As a result the number of late-coming parents increased significantly. After the fine was removed no reduction occurred. We argue that penalties are usually introduced into an incomplete contract, social or private. They may change the information that agents have and therefore the effect on behavior may be opposite than expected [*sic*]. If this is true, the deterrence hypothesis loses its predictive strength, since the clause 'everything else is left unchanged' might be hard to satisfy."

177. **Uri Gneezy & Aldo Rustichini**, *Pay Enough or Don't Pay at All,* 115 Q. J. Econ. 791 (2000), http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.399.562&rep=rep1&type=pdf.

"Economists usually assume that monetary incentives improve performance, and psychologists claim that the opposite may happen. We present and discuss a set of experiments designed to test these contrasting claims.

We found that the effect of monetary compensation on performance was not monotonic. In the treatments in which money was offered, a larger amount yielded a higher performance. However, offering money did not always produce an improvement: subjects who were offered monetary incentives performed more poorly than those who were offered no compensation. Several possible interpretations of the results are discussed."

178. **Valerie Braithwaite**, *Dancing with Tax Authorities: Motivational Postures and Non-compliant Actions, in* Taxing Democracy: An Understanding of Tax Avoidance and Evasion 15, 34-35 (Valerie Braithwaite ed., 2003).

"This chapter theoretically and empirically differentiates the compliance related actions of taxpayers from their evaluation of the tax system and the tax office, expressed in terms of motivational postures. Motivational postures reflect the social distance that individuals wish to place between themselves and the tax authority. Increasing social distance indicates increasing dislike for the authority and a lowering of the status ascribed to that authority. It does not, necessarily, signal disobedience. In some ways, motivational postures can be thought of as an indicator of the degree to which an individual is giving consent to the authority: Consent to consider that individual as a

participant in the tax system and consent to being regulated by the authority. Giving consent is a different phenomenon from obeying a request from a legally designated authority."

179. **Valerie Braithwaite *et al.***, *Charting the Shoals of the Cash Economy, in* Taxing Democracy: An Understanding of Tax Avoidance and Evasion 93, 93 (Valerie Braithwaite ed., 2003).

The authors "examine the issue of movement into and out of the cash economy. … An increasing economic literature is addressing the factors that drive its development and map its effects on the official economy, and society at large. Less widely researched is the behavior of those moving into and out of the cash economy, what motivates them to take part, and what keeps them at a distance from this kind of activity. … The literature on individual tax evasion points to a number of possible explanatory variables, among them perceptions of justice, civic virtue … [S]ome of these ideas are drawn together through the concept of motivational postures."

180. **W&I Research & Analysis Group 4**, Project No. 4-09-01-S-019, *SPEC Outreach Study: Final Report* 5 (Oct. 2010).

The report finds that "outreach did not significantly affect compliance because participants did not understand why the information was important to them or what steps they should take following the event."

181. **W&I Research & Analysis**, Project No. 4-09-01-S-006, *SPEC's Senior Math Error Direct Mail Marketing Campaign* 5 (Jan. 2010).

The report finds that "mailing a brochure of common math errors during February 2009 to a sample of senior taxpayers who had at least one error in their tax return in TY 2007, did not significantly reduce math errors for most segments of seniors."

182. **William G. Gale & Jeffrey Rohaly**, *Effects of Tax Simplification Options: A Quantitative Analysis, in* The Crisis in Tax Administration 276, 287 (Henry J. Aaron & Joel Slemrod eds., 2004).

This chapter provides "a unified set of quantitative estimates of the impact of simplification proposals on selected aspects of equity, efficiency, and complexity. … [The] results suggest that simplification proposals that fall well short of fundamental tax reform nevertheless can have a significant impact on the distribution average tax burdens, the level of marginal tax rates, and the use of tax preparers. That is, different ways of simplifying taxes provide widely disparate benefits to different income groups and can have significantly different effects on tax complexity and the incentives work and save."

183. **World Bank Group**, *World Development Report 2015: Mind, Society, and Behavior* 52 (2015), http://www.worldbank.org/en/publication/wdr2015.

"Some behaviors that are important for development, such as paying taxes and using toilets, vary within a population. And sometimes, people misperceive how common or how accepted certain behaviors are within their community. Where this is the case, 'marketing' social norms can be an effective and low-cost means of increasing awareness of the number of people engaging in a behavior and correcting misperceptions about the frequency of a behavior. If people understand what others think and do, they may shift their understanding of existing social norms and in turn change their own behavior. For instance, many policies aimed at increasing tax revenues are based

on the assumption that people are wealth maximizers who will evade their taxes unless they face the right incentives, such as financial penalties and the possibility of jail time. Yet expected penalties explain very little of the variation in tax compliance across countries or over time (Cowell 1990). One reason is that taxpaying is a social norm involving conditional cooperation. … When people feel that the tax system is fair and that others are obeying the law, they are much more likely to comply with their obligations (Rothstein 1998). And since most individuals are reciprocators, their decisions in a collective setting feed on one another, setting a society on a trend toward either higher or lower tax compliance (Kahan 2005)."

Geographic Considerations for Tax Administration

INTRODUCTION

The National Taxpayer Advocate has long emphasized the importance of the IRS maintaining a local presence in both service and compliance operations.[1] By having a local presence in the community, tax agencies are better equipped to improve tax morale by successfully encouraging voluntary compliance, creating a culture of compliance, and influencing prevailing social views in a locale. Voluntary tax compliance relies heavily on taxpayer discretion, integrity, and honesty. There is evidence that improvements in tax morale may be as important to tax compliance as tax enforcement. Many European and Latin American countries, in an effort to foster improved compliance, have looked to improving tax morale and have been successful in doing so through their local presence in communities. Taxpayer service can be enhanced by building presence in local communities including "education and outreach activities, improving taxpayer services and co-operation with stakeholders."[2] Local presence offers the advantage of having employees who are completely familiar with the local economy, culture, and social norms. Taxpayers "can feel more at ease when speaking with local representatives who fully understand their language and idiomatic expressions."[3] The IRS could use these insights from this literature review to design its local presence and to tailor its operations in accordance with the needs and conditions of taxpayer communities it serves, taking into consideration economic, social, and cultural conditions and norms prevalent in the region. The overriding purpose of tax administration is to enable voluntary compliance which can be achieved by providing service, creating a culture of trust, and promoting an understanding of the role taxes play "in a civilized society."[4] Geographic presence is key to that service provision, creation of the trust culture, and promoting that understanding.[5]

DISCUSSION

The Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) required the IRS to replace its geographic-based structure with organizational units serving specific groups of taxpayers.[6] In doing so, the importance of having a local, engaged presence in taxpaying communities was minimized.

1 *See, e.g.*, National Taxpayer Advocate 2004 Annual Report to Congress 8-25 (Most Serious Problem: *Taxpayer Access – Face-to-Face Interaction*); National Taxpayer Advocate 2005 Annual Report to Congress 2-24 (Most Serious Problem: *Trends in Taxpayer Service*); National Taxpayer Advocate 2007 Annual Report to Congress 162-82 (Most Serious Problem: *Service At Taxpayer Assistance Centers*); National Taxpayer Advocate 2008 Annual Report to Congress 95-113 (Most Serious Problem: *Taxpayer Service: Bringing Service to the Taxpayer*); National Taxpayer Advocate 2010 Annual Report to Congress 267-77 (Most Serious Problem: *The IRS Has Been Reluctant to Implement Alternative Service Methods that Would Improve Accessibility for Taxpayers Who Seek Face-to-Face Assistance*); National Taxpayer Advocate 2012 Annual Report to Congress 302-18 (Most Serious Problem: *The IRS Lacks a Servicewide Strategy that Identifies Effective and Efficient Means of Delivering Face-to-Face Taxpayer Services*); National Taxpayer Advocate 2014 Annual Report to Congress 31-45 (Most Serious Problem: *IRS Local Presence: The Lack of a Cross-Functional Geographic Footprint Impedes the IRS's Ability to Improve Voluntary Compliance and Effectively Address Noncompliance*).

2 Organisation for Economic Co-operation and Development (OECD), *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2015).

3 David Ingram, *The Advantages of Geographical Organizational Structure*, Chron, http://smallbusiness.chron.com/advantages-geographical-organizational-structure-717.html (last visited May 10, 2016).

4 "Taxes are what we pay for civilized society." Oliver Wendell Holmes, Jr., U.S. Supreme Court Justice, dissenting *Compania General de Tabacos de Filipinas v. Collector of Internal Revenue* (275 US 87,100).

5 *See, e.g.*, IRS Pub. 3349, *Modernizing America's Tax Agency* (Feb. 1999).

6 RRA 1998, Pub. L. No. 105-206, § 1001(a), 112 Stat. 685 (1998) (codified at Internal Revenue Code (IRC) § 7801). For more information and a detailed discussions of IRS Structure, see National Taxpayer Advocate 2016 Annual Report to Congress vol. 1. (Most Serious Problem: *IRS Structure: The IRS's Functional Structure Is Better for Managing Employees Than Identifying and Addressing What Each Taxpayer Segment Needs to Comply*).

Instead of communicating with IRS employees who understand the needs and conditions of a specific geographic economy, taxpayers are often forced to interact with IRS employees from other parts of the country who possess no real knowledge or understanding of, or exposure to the needs of specific geographic locations or groups. Taxpayers may then be forced to educate remote IRS employees on issues exclusive to a region or community simply as a way to defend themselves during an examination.

In addition to considering economic variables such as the tax rate, severity of penalties, and probability of audits to promote tax compliance, psychological influences are equally important.[7] There is a growing amount of research surrounding the concept of "tax morale" and an individual's inherent motivation to pay taxes. There are a number of psychological components that drive compliance. "Research shows that tax compliance is affected by (social and personal) norms such as those regarding procedural justice, trust, belief in the legitimacy of the government, reciprocity, altruism and identification within the group."[8] Each of these factors interacts with, and are influenced by, each other.[9] Tax agencies around the world are researching the ways to improve tax morale and inner motivation to improve compliance and perceptions of the agency.[10]

A lack of geographic presence can have a chilling effect on taxpayer morale, which in turn may decrease voluntary compliance contributing to the growth of the "shadow economy."[11] Literature has shown that individuals, in both business and tax spheres, "feel more at ease when speaking with local representatives who fully understand their language and idiomatic expressions."[12] "Local management" provides "leaders who are completely familiar with the local business environment, culture, and legal climate."[13]

As one of the "largest financial institutions in the world,"[14] the IRS should learn from literature on the effects of geographic expansion on bank efficiency. This literature discusses the importance of local knowledge in order to serve a diverse customer basis. For example, "making relationship loans to borrowers that do not quality for credit scoring because of relatively weak financial statements and collateral of questionable value requires local knowledge that is difficult to quantify and transmit to

7 Eva Hofmann, Erik Hoelzl, & Erich Kirchler, *Preconditions of Voluntary Tax Compliance: Knowledge and Evaluation of Taxation, Norms, Fairness, and Motivation to Cooperate*, 216 Z Psychol. 209–17, (2008). For a detailed discussion on behavioral research, see Most Serious Problem: *Voluntary Compliance: The IRS Can Increase Voluntary Compliance Using Behavioral Science Insights, But Is Overly Focused on so-called "Enforcement" Revenue and Productivity*, *supra* and Literature Review: *The IRS Is Missing Opportunities to Leverage Behavioral Science Insights and Measure Service Revenues*, *supra*.

8 National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 138 (Marjorie E. Kornhauser, *Normative and Cognitive Aspects of Tax Compliance*).

9 *See, e.g.*, National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 1-14 (*Do Accuracy-Related Penalties Improve Future Reporting Compliance by Schedule C Filers?*) (finding small businesses subject to an accuracy-related penalty had lower subsequent compliance if the penalty was assessed by default, was abated, or was appealed, potentially suggesting that penalties perceived as unfair reduce future compliance); Norman Gemmell & Marisa Ratto, *Behavioral Responses to Taxpayer Audits: Evidence From Random Taxpayer Inquiries*, 65 Nat. Tax J. 33–58 (Mar. 2012) (suggesting that audits of compliant taxpayers may reduce voluntary compliance); National Taxpayer Advocate 2015 Annual Report to Congress vol. 2, 67-100 (*Audit Impact Study*) (finding taxpayers who were audited but did not receive an additional assessment reduced their reported income following an audit).

10 *See, e.g.*, Anders Stridh, *The Strategic Plans and Tax Morale*, 45th Inter-American Center of Tax Administrations (CIAT) General Assembly (2011).

11 Also called the underground, informal or parallel economy, the shadow economy includes not only illegal activities but also unreported income from the production of legal goods and services, either from monetary or barter transactions. *See* Friedrich Schneider with Dominik Enste, *Hiding in the Shadows: The Growth of the Underground Economy*, IMF Econ. Issues (Mar. 2002), http://www.imf.org/external/pubs/ft/issues/issues30/.

12 David Ingram, *The Advantages of Geographical Organizational Structure*, Chron, http://smallbusiness.chron.com/advantages-geographical-organizational-structure-717.html (last visited Oct. 1, 2016).

13 *Id*.

14 IRS, *Resources Home*, https://jobs.irs.gov/resources (last visited Dec. 4, 2016).

a distant headquarter," and this "local knowledge" does not only include financial information, but information about "managers, its local economic environment, and its relationships with customers, suppliers, and local competitors."[15]

Furthermore, having a local presence, and thus local management, is vital to influencing the "norms" of the community. Specifically, literature shows that "[w]hen people are uncertain of what is an objectively appropriate and correct belief, perception or behaviour to have, they tend to be influenced by the norms of a salient group to which they belong and with whose members they identity."[16] This is consistent with the recent TAS Research study on compliance factors which identified a link between the salient relationships, *i.e.*, one's membership in a group, and one's own attitudes and behaviors towards tax and compliance.[17]

As the IRS moves toward more automation in its Future State plans, it is extremely important to maintain physical presence and face-to-face interaction with taxpayers. There is the ever-growing concern of a purely anonymous world of the internet that both taxpayers and the IRS are becoming increasingly more reliant on. "Psychological research has proven again and again that anonymity increases unethical behavior" and that "in the online world, which can offer total anonymity, the effect is even more pronounced" with "[p]eople — even ordinary, good people — often chang[ing] their behavior in radical ways."[18] Additionally, a local footprint is necessary for taxpayers in remote regions who are at or below the poverty line and rely on the tax refunds to provide for their families by claiming credits such as the Earned Income Tax Credit (EITC) and other refundable credits.[19] These refunds can only be received by properly filing a federal income tax return, and, in many instances, represent a double digit percentage of the taxpayer's annual disposable income.[20]

15 *See* Allen N. Berger & Robert DeYoung, *The Effects of Geographic Expansion on Bank Efficiency* 19 J. Fin. Services Res. 163-84 (Apr. 2001).

16 Maria Sigala, Carole B. Burgoyne & Paul Webley, *Tax Communication and Social Influence: Evidence from a British Sample*, 9 J. of Cmty. & Applied Soc. Psychol. 237, 239 (May 1999).

17 *See* National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 33-55 (Small Business Compliance: *Further Analysis of Influential Factors*).

18 Julie Zhuo, *Where Anonymity Breeds Contempt*, N.Y. Times, Nov. 29, 2010, http://www.nytimes.com/2010/11/30/opinion/30zhuo.html?_r=0.

19 Chuck Marr *et al.*, Ctr. on Budget & Pol'y Priorities, *EITC and Child Tax Credit Promote Work, Reduce Poverty, and Support Children's Development, Research Finds* (Oct. 1, 2015), http://www.cbpp.org/research/federal-tax/eitc-and-child-tax-credit-promote-work-reduce-poverty-and-support-childrens.

20 *See* Mannie Boitz, *Volunteer Tax & Loan Program Celebrates 20 Years: Alaska Business Development Center Helps Bring Millions Back to Rural Communities*, Alaska Business Monthly (Feb. 24, 2015), http://www.akbizmag.com/Alaska-Business-Monthly/February-2015/Volunteer-Tax-Loan-Program-Celebrates-20-Years/. *See also* Jason Furman, *Poverty and the Tax Code*, Democracy Journal (Spring 2014), http://democracyjournal.org/magazine/32/poverty-and-the-tax-code/.

Community presence entails developing partnerships between the IRS and the communities it serves to collaboratively resolve problems and build community trust.[21] A primary way to accomplish this is by being part of the community and displaying a desire to work with and educate local taxpayers rather than by examining, lecturing, and penalizing. By maintaining a community presence, the IRS will be better able to:

- Serve taxpayers on a local level through outreach and education;
- Serve its compliance objectives by identifying and addressing compliance problems tied to a specific region or group by developing partnerships with the communities and by working collaboratively to resolve problems and build community trust;[22]
- Provide local managers and higher level employees with additional exposure to specific trends that drive compliance in a positive or negative way and enable them with the authority to relay those trends to executives for consideration on a national level; and
- Alleviate taxpayer mistrust by providing a human aspect to the agency as a whole where employees either live amongst or interact with taxpayers in their communities on a regular basis.

LITERATURE REVIEW

1. **Allen N. Berger & Robert DeYoung**, *The Effects of Geographic Expansion on Bank Efficiency*, 19 J. Fin. Services Res. 163, 169 (Apr. 2001).

   "However, we argue that physical distance matters, will continue to matter in the near future, and that technological advances can only partially mitigate the effects, both unfavorable and favorable, of distance on bank efficiency. For example, making relationship loans to borrowers that do not quality for credit scoring because of relatively weak financial statements and collateral of questionable value requires local knowledge that is difficult to quantify and transmit to a distant headquarters. This local knowledge includes not only financial information about the firm, but information about the firms' managers, its local economic environment, and its relationships with customers, suppliers, and local competitors. Because much of this information is difficult to quantify and transmit, so that verifying whether local loan performance problems are due to adverse local conditions, poor performance of the borrowers, or lax effort/incompetence of local loan officers becomes more difficult as distance increases. In addition, geographic expansion brings potential diversification benefits that increase with physical distance, as shown above. These benefits may accrue to banks that provide loans, deposits, or other financial products and services on a multiregional, national, or international basis. It is unlikely that advances in information, communications, and financial technologies will smooth out differences in regional economic conditions and fully mitigate these potential efficiency gains from geographic expansion."

21 *See, e.g.*, U.S. Dep't of Justice, FY 2017 Performance Budget, Office of Community Oriented Policing Services, Congressional Justification (Feb. 9, 2016) (discussing the concept of community policing or building partnerships between law enforcement and local communities).

22 The Department of Justice has developed a "community policing" program since 1994, which provides promising results in reducing crime rates and building trust between the police and local communities. *See* U.S. Dep't of Justice, FY 2017 Performance Budget, Office of Community Oriented Policing Services, Congressional Justification (Feb. 9, 2016) (citing a study that showed that the crime problems targeted by COPS Office grantees 'led to a statistically precise drop in crime in subsequent years for four of the seven index crimes.').

2. **Anders Stridh**, Swedish Tax Agency, *The Strategic Plans and Tax Morale*, presented at 45th Inter-American Center of Tax Administrations (CIAT) General Assembly, 79, 82 (2011).

   "Our way forward has been to understand what drivers contribute to and influence a compliant behaviour. We have also focused a lot on understanding situations and motivation from a taxpayer perspective by commissioning extensive studies concerning different groups of taxpayers and situations. We have used the result for discussions within our organization to in order to broaden our perspective."

3. **Benno Torgler & Friedrich Schneider**, *What Shapes Attitudes Toward Paying Taxes? Evidence From Multicultural European Countries*, 88 Soc. Sci. Q. 443 (2007).

   "Considerable evidence suggests that enforcement efforts cannot fully explain the high degree of tax compliance. To resolve this puzzle of tax compliance several researchers have argued that citizens' attitudes toward paying taxes defined as tax morale helps to explain the high degree of tax compliance. However, most studies have treated tax morale as a black box without discussing which factors shape it. Additionally, the tax compliance literature provides little empirical research that investigates attitudes toward paying taxes in Europe. Thus, this paper is unique in its examination of citizen tax morale within three multicultural European countries, Switzerland, Belgium and Spain, a choice that allows far more detailed examination of the impact of culture and institutions using datasets from the World Values Survey and the European Values Survey."

4. **Canada Revenue Agency**, *Report on Plans and Priorities 2015-2016*, 9 (2015).

   "How are we making it easier for taxpayers to comply? First, by continuously expanding and improving our suite of innovative online services to provide fast, easy, convenient, and secure options for individual taxpayers and businesses. Over 80 percent of Canadians are choosing to e-file, and we anticipate rapidly growing interest in our new online mail service. Individuals who choose to receive email notifications from the CRA will be prompted to sign into My Account to read new correspondence. In 2015, individuals will be able to receive electronic notices of assessment and, by 2017, 80% of CRA routine correspondence will be available electronically.

   Second, we make sure Canadians have ready access to the information they need about taxes or benefits. In addition to providing current and comprehensive information on our website and through our call centres, we are actively working to develop and launch mobile applications for taxpayers. In 2015 we will release a mobile application to enable taxpayers to view basic personal tax information from their mobile devices.

   Third, we are modernizing our compliance strategies, beginning with expanded education and outreach activities specifically designed to prevent non-compliance. Our recently launched Liaison Officer Initiative is designed to provide information and in-person support to small businesses at key points as their businesses grow, helping them navigate the tax system and avoid making errors. The CRA is also working to increase engagement with key stakeholders to improve compliance, promote greater co-operation, and reduce errors or misunderstandings. In 2014, we signed an historic agreement with Chartered Professional Accountants of Canada (CPA Canada). The CRA-CPA Canada Framework Agreement formalizes an important partnership focused on improving our tax system and better serving Canadian taxpayers."

5. **David Ingram**, *The Advantages of Geographical Organizational Structure*, Chron, http://smallbusiness.chron.com/advantages-geographical-organizational-structure-717.html (last visited May 10, 2016).

   "The ability to hire local management offers companies the advantage of having leaders who are completely familiar with the local business environment, culture, and legal climate."

   "According to Lamar.edu, customer service quality can be enhanced by implementing a geographical structure. Customers can feel more at ease when speaking with local representatives who fully understand their language and idiomatic expressions."

6. **Erich Kirchler, Apolonia Niemirowski & Alexander Wearing**, *Shared Subjective Views, Intent To Cooperate and Tax Compliance: Similarities Between Australian Taxpayers and Tax Officers*, 27 J. Econ. Psychol. 502, 502 (2006).

   "The present study investigates how taxation is represented in the minds of Australian taxpayers and tax officers and whether shared beliefs and evaluations are related to taxpayer compliance. Shared tax views are assumed to facilitate positive interaction, and mutual satisfactory interaction to enhance taxpayers' willingness to cooperate and comply. The sample comprised 292 compliant taxpayers, 547 non-compliant taxpayers identified by the Australian Tax Office (ATO), and 358 ATO officers who had direct contact with taxpayers. Shared perceptions were measured as similarity in beliefs and evaluations of tax law complexity, tax mentality, ethics and social norms, horizontal and vertical distributive fairness and fair exchange with the government, attitudes towards the government, and judgments of tax officers and tax preparers' support. The ATO reported non-compliance was found to be related to respondents' willingness to cooperate (*i.e.*, filing timely and correctly) which, in turn, was related to respondents' beliefs and evaluation of tax issues and their shared views on these issues. Willingness to cooperate appears to function as a mediator between tax compliance and taxpayer's beliefs and evaluations as well as shared tax officials' and taxpayers' views."

7. **Erich Kirchler, Erik Hoetzl & Ingrid Wahl**, *Enforced Versus Voluntary Tax Compliance: The "Slippery Slope" Framework*, 29 J. Econ. Psychol. 210, 211 (Apr. 2008).

   "The framework suggested here starts from the idea that the tax climate in a society can vary on a continuum between an antagonistic climate and a synergistic climate. In an antagonistic climate, taxpayers and tax authorities work against each other; in a synergistic climate, they work together. The antagonistic climate can be characterized by a 'cops and robbers' — attitude on both sides: tax authorities perceive the taxpayers as 'robbers' who try to evade whenever they can and need to be held in check; taxpayers feel persecuted by the authorities ('cops') and feel it right to hide (Braithwaite, 2003a). In such a climate, the social distance (Bogardus, 1928) is likely to be large, with little respect and little positive feelings towards the regulatory authorities on behalf of individuals and groups. Voluntary compliance is likely to be negligible, and individuals are likely to resort to 'rational' weighing of the costs and benefits of evading. The synergistic climate can be characterized by the idea that tax authorities perform a service for the community, and are a part of the same community the individual taxpayers belong to. The authorities' approach could be described as a 'service and client' — attitude, as it is propagated in New Public Management. Authorities aim for transparent procedures and for respectful and supportive treatment of taxpayers."

8. **Erich Kirchler**, *The Art of Dodging*, FinancialWorld 40, 43 (June/July 2015).

"Institutions and authorities have started to recognize that trust-building measures promote voluntary compliance. The paradigm of compliance regulation, therefore, is changing: interaction between authorities and taxpayers known as 'cooperative-relationships' and 'horizontal monitoring' are being applied in several countries. For example, in 2005, the Dutch tax authorities started switching from traditional vertical monitoring to horizontal monitoring. While vertical monitoring relies on checking tax files retroactively, horizontal monitoring focuses on fair play, on understanding and transparency between taxpayers and the authorities, and on the planning of future business activities and their respective tax consequences. The interaction paradigm is shifting to a trust relationship between taxpayers and authorities, which is based on a compliance and fair-play agreement as well as on effective tax control."

"Reviews of empirical studies in economics and psychology provide evidence about strong determinants of tax compliance that have practical implications: (a) Audits and fines are necessary to protect cooperative taxpayers from free-riders and to make well-targeted resistant citizens contribute their share. (b) The power of tax authorities needs to be perceived as legitimate and professional. In particular, tax auditors need to be well trained and to cooperate intensively with legislators, judges and international authorities to combat evasion and aggressive avoidance. (c) Tax law must be simplified to be comprehensible for taxpayers. (d) Taxpayers need to be segmented according to their needs and appropriate services must be offered. (e) Trust in authorities needs to be high. Distributive justice and procedural justice, as well as retributive justice, are very important in establishing and maintaining trust. Revenue collection and investment need to be transparent, and the balance of contributions and participation in public goods by different income earners needs to be perceived as fair. All in all, measures need to be taken to strengthen people's identification with the community and cooperation must be established as the dominant social norm."

9. **Erich Kirchler**, The Economic Psychology of Tax Behaviour 203-05 (2007).

"After comprehensively surveying tax compliance research this book concludes that when tax authorities enforce compliance they foster a 'cops and robbers' mentality which deters noncompliance but also undermines trust, prompting taxpayers to comply only when they have no choice, a strategy requiring significant enforcement resources; but when authorities adopt a 'service and client' approach they stimulate trust, cooperation, and true voluntary compliance; a downward spiral of compliance or 'slippery slope' can occur when the authority's enforcement power or taxpayer's trust in the agency drop below threshold levels."

10. **Eva Hofmann, Erik Hoelzl, & Erich Kirchler**, *Preconditions of Voluntary Tax Compliance: Knowledge and Evaluation of Taxation, Norms, Fairness, and Motivation to Cooperate*, 216 Z Psychol. 209–17 (2008).

"Taxpayers' willingness to cooperate with the state and its institutions in general, and their willingness to pay taxes in particular, depend on a variety of variables. While economists stress the relevance of external variables such as tax rate, income and probability of audits and severity of fines, psychological research shows that internal variables are of similar importance. We present a comprehensive review on the relevance of citizens' knowledge of tax law, their attitudes towards the government and taxation, personal norms, perceived social norms and fairness, as well as motivational tendencies to comply, and discuss possibilities for strategic intervention to increase tax compliance."

"In a climate of mutual distrust, citizens can be forced to comply. On the other hand, if the climate is characterized by mutual trust, audits and fines would signal authoritarianism and distrust, and thus, rather than increasing compliance, be ineffective or even counterproductive. In a climate of mutual trust, citizens have positive representations of the tax systems and tax authorities and cooperate spontaneously. High subjective tax knowledge, favorable attitudes, personal and social norms of cooperation, as well as perceived fairness of the tax system are the basis of a motivational tendency to cooperate, of trust, and of voluntary compliance."

11. **Fatemeh Khatibloo**, *The Mechanics of Trust: Processes: The Customer Trust And Privacy Playbook*, Forrester Research (Apr. 26, 2016).

"In today's always-on, post-digital world, consumers are skeptical of even their favorite brands, so marketers' old methods of building trust simply don't work anymore. This report outlines a modern, three-pronged approach to earning and keeping customer trust."

"Marketers Must Take A Three-Pronged To Trust-Building 1) Master the drivers of trust: integrity, competence, and transparency; 2) Align trustbuilding efforts with brand values; 3) Create a cultural commitment to trust."

12. **Government Accountability Office**, GAO-16-151, *2015 TAX FILING SEASON: Deteriorating Taxpayer Service Underscores Need for a Comprehensive Strategy and Process Efficiencies* (Dec. 2015).

"IRS has struggled to provide taxpayers with access to service. Maintaining quality customer service is important because it helps taxpayers comply with the tax code. In our prior work, we reported that despite realizing efficiency gains, IRS struggled to provide taxpayers access to services, and IRS's performance would likely continue to suffer unless it made tough choices about what services to provide. Beginning in 2012, we reported that IRS needed to dramatically revise its service strategy to reverse declining performance trends. Consistent with our findings, IRS launched service initiatives in fiscal years 2014 and 2015 that reduced or eliminated service in certain areas, with IRS redirecting resources last year toward responding to inquiries into taxpayers' accounts and addressing issues that only IRS could resolve." (at 2).

"IRS eliminated or reduced some services in fiscal year 2014 and redirected taxpayers to lower-cost channels to focus on core taxpayer services that only IRS can provide (see appendix II for a full list of the fiscal year 2014 service initiatives). As a result, some taxpayers would have lost access to services previously provided and had to seek assistance from other sources such as paid tax preparers. We estimated IRS realized about $50 million that it shifted to core services after it spent about $356,000 on implementing these initiatives. Figure 7 shows the estimated resources realized by each initiative." (at 35).

"Face-to-face assistance: Face-to-face assistance remains an important part of IRS's service efforts, particularly for low-income taxpayers. Taxpayers can receive face-to-face assistance at IRS's walk-in sites or at thousands of sites staffed by volunteer partners. At walk-in sites, IRS staff provide services including answering basic tax law questions, reviewing and adjusting taxpayer accounts, taking payments, authenticating Individual Taxpayer Identification Number applicants, and assisting identity theft victims. At sites staffed by volunteers, taxpayers can receive free return preparation assistance as well as financial literacy information." (at 4-5).

"For fiscal years 2014 and 2015, IRS implemented service initiatives that included reducing or eliminating certain telephone and walk-in services, and redirecting taxpayers toward other service channels such as IRS's website." (at 5).

13. **Heather Maloy**, *Can a Change in LB&I Approach Improve Taxpayer Compliance?*, 150 Tax Notes 1, 3 (Mar. 14, 2016).

"In a time of limited resources, actions taken by the tax administrator should be designed to have a multiplier effect — to change the behavior of as many taxpayers as possible. The best way to achieve that effect is to resolve most if not all of the uncertainty in the law before a taxpayer files a return. Shifting resources away from large examinations and toward activities designed to provide more certainty would be a significant change to the way the IRS allocates its resources. However, that shift would lead to more efficient and effective tax administration, generating what could be thought of as a compliance annuity — dollars collected each year through the filing of compliant returns well into the future."

"The IRS already uses several innovative programs that have embraced the concept of providing certainty. Among them are the compliance assurance process, which resolves material issues with a real-time audit conducted before the filing of a return; the industry issue resolution program, which issues guidance designed to resolve frequently disputed or burdensome tax issues that affect a significant number of business taxpayers; and the prefilling agreement program, which enables taxpayers and the IRS to resolve, before the filing of a return, the treatment of issues otherwise likely to be disputed in post-filing audits. The question now is what the next generation of those and other innovative programs will look like."

14. **International Monetary Fund**, *Current Challenges in Revenue Mobilization: Improving Tax Compliance*, 41 (Apr. 2015).

"Managing relationships with taxpayers and other stakeholders is important for effective compliance management — with much to do in many developing countries. RAs [Revenue Agents] need strong relationships with many groups: taxpayers (and intermediaries), trade associations, and other agencies responsible for different aspects of tax compliance (such as customs, when tax and customs are separate, social contribution agencies, withholding agents, and anti-money laundering (AML) agencies). More advanced administrations have a range of channels through which tax officials communicate with the public, ranging from regular briefings with trade and other organizations to working with an official taxpayer representative or ombudsman — all of which provide channels for taxpayer grievances and allow the taxpaying community to give the RA feedback on its operations and initiatives. But — with some exceptions, such as with commercial banks acting as withholders — the stakeholder relationships of most developing country RAs are largely ad hoc. This means that opportunities for exchanging information, sharing intelligence, or carrying out joint/coordinated actions with other agencies, are not exploited effectively."

15. **IRS**, Pub. 4579, *The 2007 Taxpayer Assistance Blueprint Phase 2*, at 2, 31 (2007), http://www.irs.gov/pub/irs-pdf/p4579.pdf.

"Examining taxpayer service needs necessitates an understanding that different individuals require and prefer different services at different times. The TAB team analyzed *services sought and used* to comply with federal tax obligations when examining needs. The team analyzed the *channels through which a taxpayer receives or would like to receive services* when examining preferences. The IRS and its partners provide a mix of channels to deliver taxpayer services … As an agency legislatively tasked to administer tax law, the IRS views service needs within the context of maximizing taxpayer compliance with tax laws. From a business perspective, the IRS makes resource investment decisions based on the value of an initiative weighed against its cost. Thus, actual taxpayer demand for specific services is a useful baseline for future investment decisions. From a taxpayer or partner

perspective, the inability to perform and complete a service task is another important component of service need. Therefore, the team identified three different approaches for meeting taxpayer needs:

- Facilitating compliance with federal tax obligations;
- Satisfying demand for services; and
- Removing barriers to service use."

16. **IRS Restructuring: Hearings Before the Committee on Finance**, United States Senate, 105th Cong. 20, 26 (Jan. 28, 1998) (testimony of Charles Rossotti, Commissioner of Internal Revenue), https://www.irs.gov/pub/irs-news/ir-98-3.pdf.

    "Fortunately, there are solutions to this organizational problem which are widely used in the private sector and may enable us to better serve the American taxpayer. The approach I am discussing today is to organize around the needs of our customers, the taxpayers. Just as many large financial institutions have different divisions that serve retail customers, small to medium business customers, and large multinational business customers, the taxpayer base falls rather naturally into similar groups. This fact simply reflects the structure of the US economy."

17. **James Alm & Benno Torgler**, *Culture Differences and Tax Morale in the United States and in Europe*, 27 J. Econ. Psychol. 224-25 (Apr. 2006).

    "In recent years much research has investigated whether values, social norms, and attitudes differ across countries and whether these differences have measurable effects on economic behavior. One area in which such studies are particularly relevant is tax compliance, given both the noted differences across countries in their levels of tax compliance and the marked inability of standard economic models of taxpayer compliance to explain these differences. In the face of these difficulties, many researchers have suggested that the intrinsic motivation for individuals to pay taxes — what is sometimes termed their 'tax morale' — differs across countries. However, isolating the reasons for these differences in tax morale is notoriously difficult. In a common approach, studies sometimes referred to as 'cultural studies' have often relied upon controlled laboratory experiments conducted in different countries because such experiments can be set up with identical experimental protocols to allow cultural effects to be isolated. In this paper we first analyze a cross-section of individuals in Spain and the United States using the World Values Survey (WVS). In line with previous experiments, our findings indicate significantly higher tax morale in the United States than in Spain, controlling in a multivariate analysis for additional variables. We then extend our multivariate analysis to include 14 European countries in the estimations. Our results again indicate that the United States has the highest tax morale across all countries, followed by Austria and Switzerland. We also find a strong negative correlation between the size of shadow economy and the degree of tax morale in those countries."

18. **Janet Spragens & Nancy Abramowitz**, *Low-Income Taxpayers and the Modernized IRS: A View from the Trenches,* 107 TaxNotes 1407, 1409 (June 13, 2005).

    "Moreover, many low-income taxpayers are entrepreneurs with their own small businesses — for example, as food service providers, taxi drivers, hairdressers, roofers, merchants, child care providers, or carpet installers — and, as a result, are required to file quarterly estimates of tax, pay self-employment taxes, and claim business deductions on Schedule C. Often, those self-employed low-income taxpayers have only the most rudimentary understanding about the recordkeeping necessary

to meet filing requirements or about the filing requirements themselves. A growing number of low-income taxpayers are limited English proficiency (LEP) taxpayers and face major language barriers in understanding their tax obligations and the avenues for challenging IRS disallowance of their filing positions. Many of those taxpayers seek help with their tax obligations from professional preparers, but their inability to communicate in English often leads them to seek out preparers who speak their language without checking the preparer's credentials or training in taxation. The advice they get from those preparers can range from excellent to incompetent to totally fraudulent. If the taxpayers are undocumented workers, they may be more likely to become embroiled in issues with the IRS involving erroneous Social Security numbers or identity theft."

"Fair resolution of those cases has traditionally involved cultural, communication, language, and other barriers for the IRS that are different from those raised in cases involving other taxpayers. In resolving those issues successfully, an important part of the process has historically involved allowing the taxpayers the time and opportunity to have a face-to-face meeting with IRS employees. Taxpayers in that demographic tend not to keep good records, and the face-to-face meetings afford taxpayers an opportunity to tell their stories and for the government to assess their credibility, ask them questions, and elicit facts that the taxpayers might not otherwise know could be relevant. The opportunity for taxpayers to describe their circumstances has been very important in reaching correct resolutions, particularly when the issues have involved family status, family relationships, and living patterns (for example, the EITC, filing status, dependency exemptions, and the child credit) — issues that are often not amenable to proof by cancelled checks and other financial records. Even the communications to arrange the meetings added time, focus, and deliberation to the process for involved taxpayers, helping them to better understand what was happening."

19. **Joana van den Brink-Quintanilha**, *Managing Cross-Cultural Customer Experiences: Use The Six CX Disciplines To Navigate Cross-Cultural Differences*, Forrester Research (August 19, 2015).

"When navigating cultural differences, companies often trip up by ignoring differences and exaggerating differences. Pitfalls like uneven brand perception and industry or region-specific regulation make managing customer experience (CX) across cultural contexts tricky. This report highlights four key principles for managing cross-cultural customer experience. Finally, it offers CX pros a set of proven best practices that leading companies use to deliver experiences that are effective, easy, and emotionally engaging for a variety of cultures both within their home markets and across borders."

20. **Julia M. Puaschunder**, *Trust and Reciprocity Drive Social Common Goods Contribution Norms*, Cambridge Bus. & Econ. Conference (Dec. 12, 2012).

"In the emergent field of tax psychology, the focus on regulating tax evasion recently shifted towards searching for situational cues that elicit common goals compliance. Trust and reciprocity are argued to steer a socially-favorable environment that supports social tax ethics norms. Experiments, in which 256 participants played an economic trust game followed by a common goods game, found evidence for trust and reciprocity leading to individuals contributing to common goals. The more trust and reciprocity was practiced and experienced, the more common goals were supported — leveraging trust and reciprocity as interesting tax compliance antecedents. The results have widespread implications for governmental-citizen relations. Policy makers and public servants are advised to establish a service-oriented customer atmosphere with citizens breeding trust and reciprocity in order to reach common societal goals."

21. **Julie Zhuo**, *Where Anonymity Breeds Contempt*, N. Y. Times, Nov. 29, 2010.

"Psychological research has proven again and again that anonymity increases unethical behavior. Road rage bubbles up in the relative anonymity of one's car. And in the online world, which can offer total anonymity, the effect is even more pronounced. People — even ordinary, good people — often change their behavior in radical ways. There's even a term for it: the online disinhibition effect."

22. **Lars P. Feld & Bruno S. Frey**, *Tax Compliance as the Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation*, 29 L. & Pol'y 102, 102 (Jan. 2007).

"A psychological tax contract goes beyond the traditional deterrence model and explains tax morale as a complicated interaction between taxpayers and the government. As a contractual relationship implies duties and rights for each contract party, tax compliance is increased by sticking to the fiscal exchange paradigm between citizens and the state. Citizens are willing to honestly declare income even if they do not receive a full public good equivalent to tax payments as long as the political process is perceived to be fair and legitimate. Moreover, friendly treatment of taxpayers by the tax office in auditing processes increases tax compliance."

23. **Leandra Lederman**, *Tax Compliance and the Reformed IRS*, 972-91 (Articles by Maurer Faculty, Paper 491, 2003).

"Traditionally, enforcement has been used to combat noncompliance. However, Congress determined that the IRS was overzealous, and passed the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA '98). RRA '98 wrought enormous changes at the IRS, including a renewed focus on taxpayer rights and 'customer' service. Some have argued that a kinder, gentler IRS might increase taxpayer willingness to pay taxes voluntarily. In addition, a number of scholars have stated that enforcement does not explain the overall rate of voluntary compliance with the individual federal income tax."

"What role does a reformed, 'friendlier' IRS play in a tax compliance strategy? Do taxpayers respond differently to a service-oriented IRS or to a softer tone in IRS enforcement?"

"Some IRS officials and others apparently hold the view that a friendlier IRS is better for compliance. Theoretically, greater responsiveness to taxpayers may support greater tax collection, just not through enforcement. Kent Smith has argued that: '[r]esponsive service and procedural fairness as positive treatments by tax authorities can have both direct and indirect effects on taxpayers' compliance behavior. Positive actions by authorities toward taxpayers may be reciprocated by compliant actions on a simple tit-for-tat basis, a direct effect on taxpayers' actions that is not mediated by normative or legitimating processes. However, reciprocity also appears to be a basic, normative obligation in many social situations, and positive treatments by authorities may also engender in taxpayers a more general normative commitment to compliance, particularly if the taxpayers believe that the authorities normally and routinely act positively toward taxpayers.'"

24. **Leslie Book**, *Freakonomics and the Tax Gap: An Applied Perspective,* 56 Am. U. L. Rev. 1163, 1172-73 (2007).

"There are numerous studies testing the variables that economists believe contribute to taxpayers' decisions to comply with the tax laws. Psychologists and sociologists have rightly pointed out that the economic model is insufficient as an explanatory tool. Sociologists and psychologists alike argue

that [some economic models] fail to capture the complexities of human behavior and relationships, and fail to explain why compliance rates exceed what would otherwise be expected if people were solely evaluating compliance in terms of dollars and cents. … The challenge among policymakers mining the social science research is that the research is at times inconsistent and incomplete."

"This article considers how the current earned income tax credit (EITC) creates opportunities for individuals to affirmatively misstate eligibility. It examines insights from the popular book *Freakonomics* and argues that despite the confusing and sometimes inconsistent state of research relating to tax compliance, policymakers concerned with reducing the tax gap should consider structural incentives and visibility as key factors relating to the decision to intentionally comply with the tax laws."

25. **Maria Sigala, Carole B. Burgoyne & Paul Webley**, *Tax Communication and Social Influence: Evidence from a British Sample*, 9 J. of Cmty. & Applied Soc. Psychol. 237, 237 (May 1999).

"An in-depth, semi-structured, interview study was conducted with 23 British employed and self-employed taxpayers in various occupations. The study points to factors discouraging tax communication and proposes social norms as an alternative way of investigating social influence on taxpaying behaviour."

"When people are uncertain of what is an objectively appropriate and correct belief, perception or behaviour to have, they tend to be influenced by the norms of a salient group to which they belong and with whose members they identify." (at 239).

26. **Marta Orviska & John Hudson**, *Tax Evasion, Civic Duty and the Law Abiding Citizen*, 19 European J. Pol. Econ. 83 (2002).

"This paper examines attitudes to tax evasion. Sample survey data from a randomly chosen group of people are used to analyze this problem using hypothetical questions. The results suggest that evasion is condoned by a large proportion of the population, who are particularly ready to take advantage of someone else's evasion. The problem seems greatest among the young and men. People however appear to be deterred from tax evasion by the consequences of being caught. Empirical analysis supports the importance of both civic duty and 'law abidance' in deterring tax evasion."

27. **Michael P. Dolan**, *Envisioning LB&I's 'Future State'*, TaxAnalysts (Mar. 14, 2016), http://www.taxanalysts.org/content/envisioning-lbis-future-state.

"A reported driver of the new design is LB&I's desire to exercise more control over how it spends its resources. Rather than automatically committing staffing to recurring cycles of the same large case audits, the new approach is geared to make LB&I more agile and strategic in addressing emerging compliance risks no matter where they exist. If the design works as planned, agents and specialists will be assigned to campaigns and treatments that concentrate on an inventory of specific centrally identified risk issues. While agents will not be precluded from identifying additional issues during an issue-focused audit, the implication is that the additional issue will have to be material in order to expand the audit."

28. **National Taxpayer Advocate 2013 Annual Report to Congress vol. 2**, 44 (*Small Business Compliance: Further Analysis of Influential Factors*), http://www.taxpayeradvocate.irs.gov/2013-Annual-Report/downloads/Volume-2-TAS-Research-And-Related-Studies.pdf.

This analysis of survey data suggests that taxpayer service is the principal component of trust in government, which is associated with voluntary compliance.

"To recapitulate, the analysis above shows that taxpayer service and trust in government account in significant part for high or low levels of voluntary compliance. Unlike generic economic tendencies, such as risk aversion or rational maximization, taxpayer service with associated trust are socially conditioned and thus geographically identifiable. These factors travel along social networks. By mapping these networks, tax administration can focus outreach more effectively."

29. **The Netherlands Tax & Customs Administration**, *Horizontal Monitoring Within the Medium to Very Large Businesses Segment*, 7 (Nov. 30, 2010).

"Horizontal monitoring refers to mutual trust between the taxpayer and the Netherlands Tax and Customs Administration, the more precise specification of each other's responsibilities and options available to enforce the law and the setting out and fulfilment of mutual agreements. In so doing, the mutual relationships and communications between citizens and the government shift towards a more equal position. Horizontal monitoring is also compatible with social developments in which the citizen's personal responsibility is accompanied by the feeling that the enforcement of the law is of great value. In addition, the horizontal monitoring concept also implies that enforcement is feasible in today's complex and rapidly changing society solely when use is made of society's knowledge."

30. **Nina E. Olson**, *The Future of Tax Administration*, 150 TaxNotes 1315 (Mar. 14, 2016).

"[T]he trend of large bureaucracies is to move toward procedures that allow them to process the volume of their work efficiently, at least superficially. However, an effective tax system is not a monologue by the government; it is a conversation between the government and its taxpayers. This dialogue is all but absent in the IRS of today, with the possible exception of those 'lucky' large entities, high-income individuals, and the serially noncompliant who get the benefit of 'concierge level,' one-to-one attention in field exam and collection."

31. **OECD**, *Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education* 3 (2015).

"*Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education* captures this change of approach through a sample of innovative ideas for taxpayer education from Asia, the Baltic region, the Caribbean, Latin America, the Middle East, North Africa and sub-Saharan Africa. It focuses on activities for citizens conducted by national tax administrations as well as on the issues of how and why taxes have to be paid, with strong links to the social expenditure aspect of the public finance equation."

32. **OECD**, *Improving Taxpayer Service Delivery: Channel Strategy Development Forum on Tax Administration Committee on Fiscal Affairs* 6 (2007).

"The taxpayer service delivery function plays a crucial role in the administration of the tax legislation in all countries. Providing services that are user-friendly, in the sense of being accessible

and understandable for all, helps to maintain and strengthen the taxpayers' willingness to comply voluntarily and thereby contribute to improvements in overall levels of compliance with the laws."

"For some time now, revenue bodies have been providing more accessible information services through use of new technology (*e.g.,* by building on-line capability or making information available 24 hours a day, 7 days a week). More recently, many revenue bodies have given taxpayers the functionality of registering for tax system purposes, filing tax returns and paying tax electronically, all at times convenient to them. There have also been developments in the use of telephony services with revenue bodies in many countries establishing large call centre arrangements employing sophisticated telephony technology to facilitate access by phone for taxpayers to the information and other services they require."

33. **OECD**, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* 3 (2015).

"This information note provides an introduction to the concept of 'Right from the Start' and shares practical examples of how measures that fall within the scope of this approach are currently being applied by revenue bodies across the FTA [Forum on Tax Administration].

'Right from the Start' is a compliance approach that emphasizes the need to create an environment which supports compliant behaviour while at the same time opportunities for non-compliant behaviour are reduced to a large extent. The traditional approach would be to focus on the tax return, monitor the compliance level and decide on interventions when needed. Most of the time these interventions target events from the past and are rather costly, using audits as the primary measure, involving time consuming procedures of exchange of information and positions as well as appeal procedures in many cases. While the traditional approach will continue to be necessary, this information note points to strategies which aim to solve many problems at a much earlier stage and in a smarter way. Over recent years most revenue bodies have adopted strategies that are addressing compliance risks up-front, that is before a tax return is filed. These strategies include education and outreach activities, improving taxpayer services and co-operation with stakeholders. What all initiatives taken by revenue bodies have in common is that they aim to create an environment in which compliance is promoted and if possible will be 'the inevitable outcome' of actions and transactions performed by taxpayers."

34. **Pauline Niemirowski, Steve Baldwin & Alexander J. Wearing**, *The Influence of Tax Related Behaviours, Beliefs, Attitudes and Values on Australian Taxpayer Compliance. Is Tax Avoidance Intentional and How Serious an Offence Is It?* 6 J. Austl. Tax'n 132, 132 (2003).

"In this Australian Taxation Office ('ATO') study, taxpayers were selected according to their historical tax compliance behaviour, in order to better understand community attitudes to tax. Seven non-business taxpayer groups were firstly identified as lodgment, audit risk or tax debt compliant according to their 1995 tax return data and then either compliant or medium or high risk non-compliant for lodgment, audit risk, or tax debt payment for the following 5 years. Three separate groups of tax agents, tax office staff and youth were also studied. Compliant and non-compliant taxpayer survey responses that included wider environmental factors were matched to each individual's tax return data, but not for tax staff, tax agents or youth. Analyses identified relationships between tax-based values, beliefs, attitudes, knowledge and actual tax compliance behaviour. Noncompliance 'intent' and 'tolerance' of some tax avoidance were two key determinants of taxpaying behaviour. The implications of these results for ATO practices and policy are discussed."

35. **PwC**, World Bank Grp., *Paying Taxes 2016* (2016), http://www.pwc.com/gx/en/paying-taxes-2016/paying-taxes-2016.pdf.

Paying Taxes 2016, a joint effort of the World Bank Group and PwC, looks at tax regimes in 189 economies and provides an unrivalled global database. The results illustrate both successful reforms and reform challenges, as well as provide a platform for governments and businesses to engage in constructive discussion around tax reforms across a broader range of issues. Over eleven years of the study, almost 80 percent of the 189 economies covered in the report made significant changes to their tax regimes at least once. All three sub-indicators — the time to comply, number of tax payments and the total tax rate — have fallen consistently over the period of the study reflecting the reforms that governments have implemented making paying taxes easier for businesses to pay and governments to process. This report also shows that corporate income tax is only part of the picture when looking at the contribution made by a business to public finances. On average around the world, corporate income tax (and other profit taxes) accounted in 2014 for only 40 percent of the total tax rate, 13 percent of payments and 26 percent of time.

"All three sub-indicators (Total Tax Rate, time to comply, and number of payments) have continued to fall in 2014." (at 1).

"By 2014, 84 economies had fully implemented electronic filing and payment of taxes." (at 2).

"Rolling out an electronic filing and payment system and educating taxpayers in its use are not easy tasks for a government. The necessary infrastructure must be put into place, and this can be especially challenging where not everyone has broadband access. Yet by 2014, 84 economies had fully implemented electronic filing and payment of taxes (Figure 1.3). In the past five years Doing Business recorded 70 reforms in 53 economies introducing or enhancing electronic systems for filing and paying taxes. More than a third of these economies adopted an electronic system for the first time." (at 14).

"Globally, the Total Tax Rate as calculated for the Doing Business case study company averages 40.76% of commercial profit. This is 4 percentage points lower than five years ago, thanks in large part to 55 reforms reducing profit tax rates in 42 economies." (at 17).

"Globally, labour taxes and contributions paid by the employer account on average for almost 40% of the Total Tax Rate for the case study company. 'Other' taxes account for 20% on average." (at 17).

36. **Ranjay Gulati & James B. Oldroyd**, *The Quest for Customer Focus*, 83 Harv. Bus. Rev. 92-101 (Apr. 2005).

"Companies have poured enormous amounts of money into customer relationship management, but in many cases the investment hasn't really paid off. That's because getting closer to customers isn't about building an information technology system. It's a learning journey — one that unfolds over four stages, requiring people and business units to coordinate in progressively more sophisticated ways. The journey begins with the creation of a companywide repository containing each interaction a customer has with the company, organized not by product, purchase, or location, but by customer. Communal coordination is what's called for at this stage, as each group contributes its information to the data pool separately from the others and then taps into it as needed. In the second stage, one-way serial coordination from centralized IT through analytical units and out to the operating units allows companies to go beyond just assembling data to drawing inferences. In stage three, companies shift their focus from past relationships to future behavior. Through symbiotic coordination, information flows back and forth between central analytic units and various organizational units like marketing, sales, and operations, as together they seek answers

to questions like 'How can we prevent customers from switching to a competitor?' and 'Who would be most likely to buy a new product in the future?' In stage four, firms begin to move past discrete, formal initiatives and, through integral coordination, bring an increasingly sophisticated understanding of their customers to bear in all day-to-day operations. Skipping stages denies organizations the sure foundation they need to build a lasting customer-focused mind-set. Those that recognize this will invest their customer relationship dollars much more wisely-and will see their customer-focusing efforts pay off on the bottom line."

37. **Samuel M. Maruca**, *LB&I – The Case for a New Management Paradigm*, 150 Tax Notes 1,1 (Mar. 14, 2016).

"The IRS Large Business and International Division must be commended for the steps it is taking to align the examination workforce with the daunting realities of limited resources and growing demands. The steps include the focus on strategic issue selection, especially in the international area; the development of more sophisticated training programs; and the creation of a practice group structure for issue management (through which the executive team will have greater visibility into specific examinations). Those efforts should better position LB&I to improve enforcement credibility and program efficiency overall. This approach stands in stark contrast to the status quo ante, in which virtually all large-company returns were staffed up and processed without much forethought about actual risk exposure — and without much guidance from the leadership, which viewed its role as 'being there to support the team.' And it suggests that LB&I is pivoting from a 'volume game' (when case closure is the all-important metric) to a more targeted, quality-oriented approach regarding issue selection and development, with different measures of success."

38. **T. Keith Fogg & Leslie Book**, *Problems at the IRS in Attempting to Provide Service to Taxpayers,* 150 TaxNotes 1335, 1337 (Mar. 14, 2016).

"If the IRS is trying to build a tax system that can deliver information and services to taxpayers, it must consider the characteristics of the taxpayers themselves rather than the characteristics it would like all taxpayers to share. The reality is that there is no single tax system today; rather, there are differing systems that correspond to the programs found within the tax code. Various programs such as the EITC have their own unique challenges that depend not only on the characteristics of the claimants but also on access to information that helps the IRS and the claimants determine eligibility for the programs."

39. **Treasury Inspector General for Tax Administration**, Ref. No. 2011-40-022, *The Taxpayer Assistance Centers Are Not Located to Effectively Serve the Maximum Number of Taxpayers,* 5 (Feb. 11, 2011), https://www.treasury.gov/tigta/auditreports/2011reports/201140022fr.pdf.

"The IRS acknowledges that the locations of most TACs have not changed significantly since FY 2000 and that it has not kept pace with shifts in population and demographics." As of the date of the report 35 percent of the United States population does not live within 30 minutes of a TAC. This translates to roughly 100 million taxpayers who are without the benefit of a TAC.

40. **U.S. Dep't of Justice**, *FY 2017 Performance Budget: Office of Community Oriented Policing Services, Congressional Justification*, 2-4 (Feb. 9, 2016).

"The COPS Office was established in 1994 to assist state, local and tribal law enforcement agencies in enhancing effectiveness and building the capacity to advance public safety through

the implementation of community policing strategies. Community policing entails developing partnerships between law enforcement agencies and the communities they serve so they can work collaboratively to resolve problems and build community trust. It is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem solving techniques, in order to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, fear of crime, and satisfaction with police services. Community policing is comprised of three key components:

Community Partnerships

Collaborative partnerships between the law enforcement agency and the individuals and organizations they serve to develop solutions to problems and increase trust in police:

- Other government agencies
- Community members/groups
- Nonprofits/service providers
- Private businesses
- Media

Organizational Transformation

The alignment of organizational management, structure, personnel, and information systems to support community partnerships and proactive problem solving:

- Agency management
- Climate and culture
- Leadership
- Labor relations
- Decision-making
- Strategic planning
- Policies
- Organizational evaluations
- Transparency
- Organizational structure
- Geographic assignment of officers
- Despecialization
- Resources and finances
- Personnel
- Recruitment, hiring, and selection
- Personnel supervision/evaluations
- Training
- Information systems (Technology)

- Communication/access to data
- Quality and accuracy of data

Problem Solving

The process of engaging in the proactive and systematic examination of identified problems to develop and rigorously evaluate effective responses:

- Scan: Identify and prioritize problems
- Analysis: Research what is known about the problem [and] Develop solutions to bring about lasting reductions in the number and extent of problems
- Assessment: Evaluate the success of the responses
- Use the crime triangle to focus on immediate conditions (victim/offender/location)

In FY 2017, COPS Office will fulfill its mission of advancing public safety through community policing by continuing to:

- Provide grants under the COPS Hiring Program (CHP) to support the hiring of sworn and non-sworn law enforcement personnel nationwide;
- Promote the hiring of wounded, ill or injured veterans into non-sworn law enforcement positions;
- Develop, deliver, and continue to evaluate state-of-the-art training and technical assistance to enhance law enforcement officers' problem-solving and community interaction skills. This includes allocating up to five percent of the CHP funding to assist CHP grantees that select addressing violent crime, offender reentry, community trust, school safety and/or veteran hiring as the problem/priority area(s) on which their COPS-funded community policing officers will be focused;
- Enhance the Collaborative Reform Initiative for a proactive, non-adversarial, and cost-effective approach to practical technical assistance for agencies with significant law enforcement-related issues;
- Align training and technical assistance to problems identified in the officer hiring program;
- Promote improved public safety outcomes by infusing community policing core principles in all grant programs, and acting on evidence that it advances public safety;
- Support innovative programs that respond directly to the emerging needs of state, local, and tribal law enforcement in order to shift law enforcement's focus to preventing, rather than reacting to, crime and disorder within their communities;
- Support the Community Oriented Policing Management Education and Development Program (COP-MED), newly proposed in FY 2016, to provide a unique professional development opportunity for law enforcement managers to engage through rigorous coursework, projects, fellowships and other activities within a structured environment to prepare a new generation of police leaders;
- Support the Countering Violent Extremism (CVE) program, newly proposed in FY 2016;
- Promote collaboration among law enforcement, community members, academic institutions, and other key stakeholders to implement initiatives that have proven effective in helping to

prevent crime and build community trust, and as outlined in the final report of the President's Task Force on 21st Century Policing Report;

- Provide responsive, cost effective customer service delivery to grantees to ensure success in implementing community policing strategies within their communities."

"A study published in *Journal of Public Economics* by Evans and Owens Volume 91 (2007) showed that the crime problems targeted by COPS Office grantees 'led to a statistically precise drop in crime in subsequent years for four of the seven index crimes.'"

41. **Vikas Mittal, Wagner A. Kamakura & Rahul Govind**, *Geographic Patterns in Customer Service and Satisfaction: An Empirical Investigation*, 68 J. of Mktg. 48, 48 (July 2004).

"When firms' customers are located in geographically dispersed areas, it can be difficult to manage service quality because its relative importance is likely to vary spatially. This article shows how addressing such spatial aspects of satisfaction data can improve management's ability to implement programs aimed at enhancing service quality. Specifically, managers can identify areas of high service responsiveness, that is, areas in which overall satisfaction is low but customers are highly responsive to improvements in service quality. The authors estimate the spatial patterns using geographically weighted regression, a technique that accounts for spatial dependence in the variables. They apply this methodology to a large national sample of automobile customers served by a network of dealerships across the United States. The authors also investigate the extent to which factors related to the physical and psychological landscape explain the importance that people in different regions place on dealership service and vehicle quality."

42. **Viswanath Umashanker Trivedi, Mohamed Shehata & Bernadette Lynn**, *Impact of Personal and Situational Factors on Taxpayer Compliance: An Experimental Analysis*, 47 J. Bus. Ethics 175, 175 (2003).

"This study used a laboratory experiment with monetary incentives to test the impact of three personal factors (moral reasoning, value orientation and risk preference), and three situational factors (the presence/absence of audits, tax inequity, and peer reporting behavior), while controlling for the impact of other demographic characteristics, on tax compliance. Analysis of Covariance (ANCOVA) reveals that all the main effects analyzed are statistically significant and robustly influence tax compliance behavior. These results highlight the importance of obtaining a proper understanding of these factors for developing effective policies for increasing the level of compliance, and indicate that standard enforcement polices based on punishment alone should be supplemented by an information system that would acquaint tax payers with the compliance level of other tax payers; reinforce the concept of fairness of the tax system among taxpayers; and develop programs that enhance and appeal to a taxpayer's moral conscience and reinforce social cohesion."

43. **Yuen J. Huo, Heather J. Smith, Tom R. Tyler, & E. Allan Lind**, *Superordinate Identification, Subgroup Identification, and Justice Concerns: Is Separatism the Problem; Is Assimilation the Answer?,* 7 Psychol. Sci. 40, 40 (1996).

"The diversity of American society raises concerns about whether authorities can maintain social cohesion amid competing interests and values. The group-value model of justice suggests that authorities function more effectively when they are perceived as fair (*e.g.*, benevolent, neutral, and respectful). However, such relational evaluations may be effective only if authorities represent a

group with which people identify. In a diverse society, subgroup memberships may assume special importance. People who identify predominantly with a subgroup may focus on instrumental issues when evaluating a superordinate-group authority, and conflicts with that authority may escalate if those people do not receive favorable outcomes. Results indicate that subgroup identification creates problems for authorities only when people have strong subgroup identification and weak superordinate-group identification. As long as people identify strongly with the superordinate group, even if they also identify strongly with their subgroup, relational issues will dominate reactions to authorities."

Customer Considerations for Online Accounts

INTRODUCTION

As the IRS incorporates an online account system into its Future State strategy, it is helpful to evaluate the experience of other organizations in private industry and government. This literature review covers various online services offered by foreign tax administrations as well as private industry reports on best practices. While the research shows a clear trend toward moving more services online, there is also a trend to continue to provide multi-channel options.[1] The most pervasive best practice covered in the research is the need for organizations to understand the needs of the customer and let those needs drive the changes, rather than business or budget needs.

DISCUSSION

The literature review found discussions on various features of online services as well as best practices for organizations as they develop their online strategy. The following discussion provides highlights of the various recommended features and best practices for the IRS to consider as it develops the online taxpayer account program.

Taxpayer Needs Should Drive the Strategy

Rather than focusing on the need to streamline services for efficiency purposes, customer demand for services should drive an online strategy.[2] The IRS should perform research to determine which channels are demanded for different taxpayer segments.[3] One interesting source of customer information is to seek input from call center employees to determine the needs of callers.[4]

E-Authentication

Authentication is perhaps the most important feature of the online account. First, such procedures must be state of the art and secure.[5] Second, the IRS should monitor failed attempts to authenticate. Failed attempts could indicate fraud as well as a need to provide alternative services to legitimate taxpayers who cannot satisfy the requirements. Finally, the authentication discussion should stress the importance of

1 The Wharton School, U. of Penn., *Becoming Digital: Strategies for Business and Personal Transformation*, Knowledge@Wharton (Mar. 15, 2016), http://www.knowledgeatwharton.com/books/library/becoming-digital/?utm_source=KWsearch&utm_medium=website&utm_campaign=becomingdigital; Organisation for Economic Co-operation and Development (OECD), *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012), http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/service/right-from-the-start-influencing-the-compliance-environment-for-smes.pdf; Deloitte, *Navigating the New Digital Divide: Capitalizing on Digital Influence in Retail* (2015).

2 The Wharton School, U. of Penn., *Becoming Digital: Strategies for Business and Personal Transformation*, Knowledge@Wharton (Mar. 15, 2016), http://www.knowledgeatwharton.com/books/library/becoming-digital/?utm_source=KWsearch&utm_medium=website&utm_campaign=becomingdigital; Accenture, Partnership for Public Service, *Government for the People: The Road to Customer-Centered Services* (Feb. 2016).

3 Organisation for Economic Cooperation and Development (OECD), *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012), http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/service/right-from-the-start-influencing-the-compliance-environment-for-smes.pdf (Her Majesty's Revenue and Customs (HMRC) breaks down the taxpayers into segments and retains face-to-face assistance specifically targeted for the "needs help" segment).

4 Accenture, Partnership for Public Service, *Government for the People: The Road to Customer-Centered Services* (Feb. 2016).

5 Treasury Inspector General for Tax Administration, Ref. No. 2016-40-007, *Improved Tax Return Filing and Tax Account Access Authentication Processes and Procedures Are Needed* (Nov. 19, 2015); Natl. Inst. Stand. Technol., *Draft NIST Special Publication 800-63B: Digital Authentication Guideline*, 34 (July 13, 2016).

providing access to international taxpayers due to the difficulty these taxpayers experience trying to access personalized services.[6]

While crucial to a successful online application, strict e-authentication measures serve as a barrier to entry for those taxpayers who cannot satisfy the requirements. An example of this issue was seen during the launch of the IRS Online Get Transcript.[7] In addition, the Social Security Administration (SSA) e-authentication requirements, similar to those of the IRS online Get Transcript application, initially included a requirement that the taxpayer have a text-enabled cell phone. However, after urging from the U.S. Senate Committee on Aging, the SSA decided to roll back its text message authentication measures and provide additional options to authenticate.[8]

Electronic Form 2848 to Grant Authorizations to Representatives and Third Parties

The National Taxpayer Advocate has recommended that the IRS restrict access to the online account. First, only preparers who are subject to Circular 230 oversight can act on behalf of the taxpayer. Second, for both preparers and any other authorized third parties, the taxpayer should maintain strict control over which actions the preparer or third party can take on behalf of the taxpayer. This involves an online check-the-box power of attorney form.

The practitioner should only be able to access the taxpayer's account after the taxpayer created the account. Under no circumstances should a preparer create the account on behalf of the taxpayer. Once the taxpayer creates the account, the taxpayer can authorize the preparer. If a taxpayer does not have online access, the taxpayer can create the account and authorize the preparer through a process conducted through the mail or fax. For both online and paper processes, Form 2848, *Power of Attorney and Declaration of Representative*, should be used for this authorization.

In addition, the taxpayer should receive notifications regarding all access and actions taken. The taxpayer can choose the frequency and format of these notifications (such as real time versus weekly digest listings). Finally, the notifications should include standard language on how to report and correct any unauthorized actions.[9]

6 National Taxpayer Advocate 2015 Annual Report to Congress 72-81 (Most Serious Problem: *International Taxpayer Service: The IRS's Strategy for Service on Demand Fails to Compensate for the Closure of International Tax Attaché Offices and Does Not Sufficiently Address the Unique Needs of International Taxpayers*).

7 *Cybersecurity and Protecting Taxpayer Information: Hearing before S. Comm. on Fin.*, 114th Cong. (2016) (written statement of John Koskinen, Commissioner, IRS); National Taxpayer Advocate 2015 Annual Report to Congress 56-63 (Most Serious Problem: *Taxpayer Access to Online Account System: As the IRS Develops an Online Account System, It May Do Less to Address the Service Needs of Taxpayers Who Wish to Speak with an IRS Employee Due to Preference or Lack of Internet Access or Who Have Issues That Are Not Conducive to Resolution Online*).

8 *See* U.S. Senate Aging Committee, *Following Collins, McCaskill Effort, Seniors Will No Longer Need Cell Phones to Access Social Security Accounts Online* (Aug. 15, 2015), http://www.aging.senate.gov/press-releases/following-collins-mccaskill-effort-seniors-will-no-longer-need-cell-phones-to-access-social-security-accounts-online.

9 National Taxpayer Advocate 2015 Annual Report to Congress 64-70 (Most Serious Problem: *Preparer Access to Online Accounts: Granting Uncredentialed Preparers Access to an Online Taxpayer Account System Could Create Security Risks and Harm Taxpayers*).

Preparation of Tax Returns

The online account should provide taxpayers with access to all third party information reports filed with the IRS. The taxpayer can have the option to download this data into a tax preparation software package of the taxpayer's choice. The taxpayer should have several options to use the data:[10]

1. Simply access and read the data in a "one-stop-shopping" format so that the taxpayer can ensure that tax information is not inadvertently omitted from the return. For example, the taxpayer can choose to print out a report clearly displaying the data and either self-prepare a paper return or provide a print-out to a preparer.
2. Download the data into a Free File program or government-sponsored electronic return template, similar to Free File Fillable Forms.
3. Download the data into a commercial return preparation software package of taxpayer's choice.

As discussed in detail in the literature review below, an Organisation for Economic Co-operation and Development (OECD) report has described how several countries provide more end-to-end service by enabling small businesses to upload their accounting software data into a government-sponsored tax preparation software.[11] Perhaps this is asking American taxpayers to place too much trust in the tax agency, because the tax agency would potentially gain access to much more information than it currently possesses. There are real privacy concerns associated with this potential service. However, if provided on a purely voluntary basis, it is possible that a segment of taxpayers would be interested in this option. The IRS would need to partner with the software industry to enable the accounting software to upload into a format conducive to return preparation. Clearly, there is also a risk of "garbage in and garbage out," but the IRS can work with the accounting software and tax preparation software industries, perhaps in a pilot, to provide a user-friendly interface to assist the taxpayer in properly keeping tax records throughout the year and uploading their data to the system. There is also a risk of and complication with duplication of data between the information reports and the accounting software upload. While other countries seem to gear this service toward small businesses, it could also apply to individuals who use accounting software or online banking products to keep their tax records.

Review Account Status and Update Information

The taxpayer should be able to access the account to see the current status of filings, payments, correspondences, and compliance activities. In addition, the taxpayer should be able to update information, such as mailing address on the account.[12]

Secure Online Payments

In conjunction with the tax return preparation features discussed above and compliance activities discussed below, taxpayers should be able to securely transmit payments to the IRS through their online account. Such accounts should provide proof of payment receipts once the payment is processed.[13]

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10 National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*).

11 OECD, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012), http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/service/right-from-the-start-influencing-the-compliance-environment-for-smes.pdf.

12 For an example of such features, see the current online account provided by the California Franchise Tax Board, MyFTB. California Franchise Tax Board, *MyFTB*, CA.GOV, https://www.ftb.ca.gov/online/myacct/ (last visited Apr. 28, 2016).

13 OECD, *Tax Administration 2015: Comparative Information on OECD and Other Advanced and Emerging Economies*, 241-60 (Aug. 2015).

Online Tax Calendar

The online account should be set up to provide a tax calendar customized for the type of taxpayer.[14] The taxpayer should have the option to receive this service by checking off a box, choosing notification preferences, and providing information for customization purposes. While this service would be especially useful to small businesses, it could also provide a valuable tool for taxpayers with estimated payments or installment agreements.

Compliance Activities

Taxpayers should be able to access their tax accounts in real-time (or near real-time, depending on speed of processing) to see at any given time the status of their filings, refunds, and compliance activities.[15] The IRS should post any compliance notices on the account with links to relevant statutes, regulations, publications, and other guidance.

Taxpayers should be able to choose the method in which they prefer to receive notifications of these compliance notices. However, extreme caution should be taken in designing the process to choose these preferences. The IRS should not provide a tool for unscrupulous preparers to set up these preferences on behalf of the taxpayer. This is another reason why it is important to restrict access to the online account system.

Taxpayers or their authorized representatives should be able to respond to notices online with electronic acknowledgments of receipt. They should also be able to enter into installment agreements online through the account.

Outreach and Education

In addition to many of the transactional features of the future online account system detailed above, the IRS would be remiss if it did not use the online account system to educate the taxpayer through both preventative literature and tax tips as well as guidance to assist the taxpayer who is involved in examination or collection activities. The outreach and education component of the online account is crucial. The IRS should be able to tailor its communications so that the taxpayer only receives relevant information and is not overwhelmed with too much irrelevant tax literature.[16] At the May 17, 2016, National Taxpayer Advocate Public Forum, Rick Parrish of Forrester Research suggested that the IRS utilize wizards on the online account to walk taxpayers through the applicable tax rules.[17]

14 OECD, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012), http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/service/right-from-the-start-influencing-the-compliance-environment-for-smes.pdf (Australian Taxation Office (ATO) Tax Calendar for small businesses).

15 OECD, *Tax Administration 2015: Comparative Information on OECD and Other Advanced and Emerging Economies*, 241-60 (Aug. 2015).

16 OECD, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012), http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/service/right-from-the-start-influencing-the-compliance-environment-for-smes.pdf; OECD, *Tax Administration 2015: Comparative Information on OECD and Other Advanced and Emerging Economies*, 241-60 (Aug. 2015).

17 Oral Statement of Rick Parrish, Forrester Research, National Taxpayer Advocate Public Forum 163-165 (May 17, 2016).

LITERATURE REVIEW

1. **Accenture**, Partnership for Public Service, *Government for the People: The Road to Customer-Centered Services* (Feb. 2016).
   - "The Social Security Administration produces online tools — including a 'retirement estimator' — that consistently receive American Customer Satisfaction Index (ACSI) scores in the 90s (out of 100), which would be impressive even for the private sector …
   - Good customer service is also linked to increased trust and confidence in government. Research shows that low levels of customer satisfaction with specific services reduce citizen trust and confidence in the federal government, which is now at an all-time low. A recent Pew Research Center survey found only 19 percent of Americans trust the government to do the right thing all or most of the time, down from 77 percent in 1964.[18]
   - Improving the customer experience can also help agencies save money, improve compliance and accomplish mission-critical goals more effectively. For example, SSA made progress in reducing overpayments to Supplemental Security Income beneficiaries by creating a user-friendly mobile app that makes it easier for beneficiaries to report their incomes accurately." (at 6).
   - "Our research identified four ways agencies can become more customer-centered and improve services to the public:
     - Make better use of customer data and feedback to drive decisions and investments,
     - Establish a clear customer experience strategy and assign a leader dedicated to the customer experience,
     - Improve customer engagement and communication,
     - Build a workforce that is prepared to create a great customer experience." (at 7).
   - "The customer experience can suffer when agencies make decisions based on assumptions rather than data. For instance, they may invest heavily in a new service or product that does not actually meet a customer need. Or they may make small, well-intentioned changes that mar the customer experience."[19] (at 11).
   - "'The Internal Revenue Service also struggles to connect customer data across service-delivery channels, according to Rajive Mathur, director of online services. The agency knows why customers call but not how often or if they have checked the IRS website first, he said, adding that the agency would like to be able to track customers' activities no matter how they contact the organization.'…
   - For example, web designers for DisasterAssistance.gov hold focus groups with the program's call center representatives when designing digital services such as online applications for assistance. 'Call center representatives bring invaluable information to designing this process because they've seen how people's minds work, especially people in duress,' said Johns from FEMA. 'Our literal minds would give a different [approach], but they will bring a different perspective.'" (at 14).

18 Pew Research Center, *Beyond Distrust: How Americans View Their Government* (Nov. 23, 2015), http://www.people-press.org/files/2015/11/11-23-2015-Governance-release.pdf.

19 An example of well-intentioned initiatives marring the customer is the use of texting in authentication procedures for the SSA online account. *See* U.S. Senate Aging Committee, *Following Collins, McCaskill Effort, Seniors Will No Longer Need Cell Phones to Access Social Security Accounts Online* (Aug. 15, 2015), http://www.aging.senate.gov/press-releases/following-collins-mccaskill-effort-seniors-will-no-longer-need-cell-phones-to-access-social-security-accounts-online.

- "Cash-strapped federal programs need to maximize limited resources if they are to improve the experience for their customers. But our research found that customer experience data do not usually enter into budget decisions. Agencies often fail to use customer experience data when making digital services investments, according to Rick Parrish, a customer experience expert at Forrester Research. 'You have a lot of YouTube channels out there with seven page views. Agencies just [set up a YouTube channel] because they think they are supposed to have one,' he said …
- For example, the Social Security Administration frequently uses call center data in its budget negotiations with the Office of Management and Budget and Congress, said SSA's Erik Jones, assistant deputy commissioner of operations. The data helped the agency make the case for increased funding for some call centers." (at 15).
- "The best way to ensure that a service meets customers' needs is to involve citizens early in the design process, according to interviewees. The Social Security Administration created some of government's highest-rated digital tools, which Kim Baldwin Sparks, SSA's deputy associate commissioner for the Office of Electronic Services and Technology, attributes to extensive user testing. 'We talk to customers about three times before we put anything out,' she said. 'We start the design process with the customer at the table.'
- The U.S. Citizenship and Immigration Services also engages its customers to test new technologies. The agency is now developing a virtual assistant avatar that will help customers navigate online services and immigration processes. The avatar is being tested by a select group of volunteer customers, according to Mariela Melero, associate director of the Customer Service and Public Engagement Directorate. That testing will help the immigration service continue to build and refine the product before it is fully released to the public." (at 25).

2. *Agent Authorisation: Apply Using HMRC Online Services*, GOV.UK, https://www.gov.uk/guidance/applying-for-client-authorisation-using-hmrc-online-services (last visited Sept. 9, 2016).

   This website provides guidance on setting up online agent "authorization." The agent must first register as an agent in HMRC Online Services and enroll for each type of online service the agent will need to use. Subsequently, the taxpayer authorizes the agent to act on their behalf for each service.

3. **California Franchise Tax Board**, *MyFTB*, CA.GOV, https://www.ftb.ca.gov/online/myacct/ (last visited Apr. 28, 2016).

   MyFTB provides tax account information and online services to Individuals, Business Representatives, and Tax Preparers.

   "As an individual, you can use MyFTB to access:

   Account information:

   - View account balance and tax year details.
   - View estimated payments and credits before filing a return.
   - View payment history.
   - View a list and images of tax returns.
   - View a list and images of notices and correspondence.

- View and update contact information.
- View proposed assessments.
- View California wage and withholding information.
- View FTB-issued 1099 information.
- View a list of authorized representatives (tax preparer or a tax preparer with a power of attorney) and manage who can access your account.
- View a list of activities that occurred on your account, such as the last time you or your authorized representative accessed your account.

Online services:

- Calculate a balance due for a date in the future.
- File a power of attorney (POA).
- File a nonresident withholding waiver request.
- Protest a proposed assessment.

Options to communicate with us:

- Chat with an FTB representative about confidential matters.
- Send a secure message with attachments to FTB.
- Choose to receive an email when we send you a notice or correspondence."

4. **CGI**, *Thriving in the "New Normal" for Tax Administration*, 5 (Jan. 2016), https://www.cgi.com/sites/default/files/white-papers/cgi-new-normal-in-tax-administration.pdf.

   "Examples of self-service initiatives include: Online taxpayer registration, filing and payment; Online access to taxpayer-specific account information such as prior filings and payments; Ability to conduct transactional business online, such as updating addresses, filing returns, making payments or responding to revenue agency inquiries; Completion of self-service payment arrangements via the Internet and Interactive Voice Response (IVR) applications."

5. **Cybersecurity and Protecting Taxpayer Information: Hearing before S. Comm. on Fin.**, 114th Cong. (2016) (written statement of John Koskinen, Commissioner, IRS).

   "Given the ability of cybercriminals and identity thieves to evolve and improve their methods of stealing personal data, the need to properly verify the identity of taxpayers using online services is particularly great. In developing authentication procedures for online interactions with taxpayers, the IRS continues to follow the Office of Management and Budget (OMB) memorandum issued in 2003, E-Authentication for Federal Agencies.

   This memorandum establishes criteria for determining the risk-based level of authentication assurance required for specific electronic applications and transactions. It requires agencies to review new and existing electronic transactions, to ensure authentication processes provide the appropriate level of assurance …" (at 6).

   "As we improve the online experience, we understand the responsibility we have to serve the needs of all taxpayers, whatever their age, income, or location. We recognize there will always be taxpayers who do not have access to the internet, or who simply prefer not to conduct their transactions with

the IRS online. The IRS remains committed to providing the services these taxpayers need. We do not intend to curtail the ability of taxpayers to deal with us by phone or in person.

In building toward the future of taxpayer service, we will need to strike a delicate balance with our efforts to improve our authentication protocols described above.

Authentication protocols will need to be high, but not so high as to preclude taxpayers from legitimately using the online services we provide. As criminals become increasingly sophisticated, we will need to continue recalibrating our approach to authentication to continue maintaining this balance.

The Get Transcript online application is a good example of these tradeoffs. Under the original authentication method we required for the Get Transcript online application, we estimate that about 22 percent of legitimate taxpayers trying to access the application were unable to get through. We anticipate that under the multifactor authentication protocol to be implemented, an even higher percentage of taxpayers will be unable to use the tool. We will explain to taxpayers why these strong protections are necessary. All taxpayers will be able to order a transcript, online or by phone, and have it mailed to their address of record, if the online tool does not work for them, or if they prefer not to interact with us online." (at 13-14).

6. **Dave Lewan**, *ForeSee E-Government Satisfaction Index Q2 2016*, (ForeSee), 2016.
   - "E-gov beats overall government. E-government continues to outperform overall government in citizen satisfaction. Average citizen satisfaction with e-government (75) versus 63.9, according to the ACSI Federal Government Report 2015 (released January 2016).
   - Highlighting the sites with stellar performance. Once again, Social Security Administration leads the pack, with 'Extra Help with Medicare Prescription Drug Plan Costs' (socialsecurity.gov/i1020), 'SSA Retirement Estimator' (ssa.gov/estimator), and 'SSA iClaim' (socialsecurity.gov/applyonline) all coming in with scores of 91 for the quarter.
   - Exceeding expectations. SSA was not the only organization meeting or exceeding the excellence threshold: 34 sites (33.7%) had scores of 80 or higher.
   - Top score gains. Top gainers for the quarter include American Battle Monuments Commission (abmc.gov), Veterans Affairs (VA.gov) Department of Defense portal (defense.gov), National Library of Medicine main website (nlm.nih.gov), and NOAA Tides and Currents (tidesandcurrents.noaa.gov)." (at 3).

   In comparison, the satisfaction level for the main IRS website (irs.gov) is 58. (at 7).

7. **Deloitte**, *Navigating the New Digital Divide: Capitalizing on Digital Influence in Retail* (2015).
   - "The New Digital Divide: The gap between consumers' digital behaviors and expectations and retailers' ability to deliver the desired experiences." (at 3).
   - "Digital influence — that is, the degree to which in-store sales are influenced by digital at some point in the shopping journey — is growing at an increasing pace." (at 3).
   - "In 2014, 6.5 percent of retail sales were online — or roughly $305 billion, with the remaining 93.5 percent (or more than $4 trillion) happening through traditional brick-and-mortar stores. Most studies that focus on digital in the retail marketplace focus exclusively on the 6.5 percent of total sales that occur through digital channels. Instead, we chose to focus on the 93.5 percent of sales still taking place in physical stores and the role that digital plays on that

number. Our experience in the industry tells us that the traditional approach of focusing on digital as a channel drastically limits the value, the opportunity, and ultimately, the strategy." (at 3).

- "While many retailers continued to focus on digital as a channel, we proved that digital clearly was not just an addendum, but an integral component to traditional brick-and-mortar retail. Many retailers were failing to leverage the potential of digital, and they were quickly falling behind compared to their consumers' digital expectations." (at 4).

"Today's digital shoppers do not follow the same 'rules of the road' that they used to. An overwhelming majority — nearly 80 percent and trending up over the past few years — interact with brands or products through digital before arriving at the physical store. These customers do their research online, identify the products they want to purchase, and even select the stores and departments they want to visit. They may even purchase a product online to be picked up at a store. In short, customers in the digital era are more hunters than gatherers once they arrive in-store." (at 15).

8. **HMRC**, *Making Tax Digital*, 6, 8 (Dec. 2015).

"By April 2016, every individual taxpayer will have access to their own digital account — simple, personalized and secure, offering an increasing range of services. By 2020, HMRC aims to be interacting digitally with all taxpayers. By that time, the full range of tax and Child Benefit services will be available for all taxpayers to use, accessible from a wide range of devices and protected by the very latest technology to encrypt data and keep it safe."

"HMRC understands that taxpayers need varying levels of support. All taxpayers will receive the data and services relevant to them and, for those who have difficulty going online or who need extra support, help will be available through other channels. HMRC is training the teams on its helplines to spot taxpayers in need of extra help. These taxpayers will be offered alternative means of support — over the phone, through face-to-face visits, or through partners in the voluntary and community sector."

9. *IRS Future State*, IRS.GOV, https://www.irs.gov/uac/Newsroom/IRS-Future-State (Materials including the Taxpayer Experience Vignettes) (last visited Sept. 9, 2016).

10. *My Social Security Account*, SSA.GOV, https://secure.ssa.gov/RIL/SiView.do (last visited Oct. 31, 2016).

To create an account, users must be able to verify personal information and have the following:

- Valid e-mail address;
- Social Security number;
- U.S. mailing address; and
- Be at least 18 years of age.

SSA e-authentication requirements, similar to those of the IRS online Get Transcript application, initially included a requirement that the taxpayer have a text-enabled cell phone. However, after

urging from the U.S. Senate Committee on Aging, the SSA decided to roll back its text message authentication measures and provide additional options to authenticate.[20]

Individuals can only create an account using their own personal information and for their own exclusive use. An individual cannot create an account on behalf of another person or use another person's information or identity, even with that person's written permission.

For example, an individual cannot create an account for another person:

- With whom you have a business relationship;
- For whom you are a representative payee; or
- For whom you are an appointed representative.

Unauthorized creation of the online account may be subject to criminal or civil penalties, or both.

If the individual does not know the required information or prefers not to answer these questions online, the individual may go to the local Social Security office to apply in person.

11. **National Taxpayer Advocate 2015 Annual Report to Congress** 56-63 (Most Serious Problem: *Taxpayer Access to Online Account System: As the IRS Develops an Online Account System, It May Do Less to Address the Service Needs of Taxpayers Who Wish to Speak With an IRS Employee Due to Preference or Lack of Internet Access or Who Have Issues That Are Not Conducive to Resolution Online*), http://taxpayeradvocate.irs.gov/Media/Default/Documents/2015ARC/ARC15_Volume1_MSP_05_TP-Access-Online-Account.pdf.

12. **National Taxpayer Advocate 2015 Annual Report to Congress** 64-70 (Most Serious Problem: *Preparer Access to Online Accounts: Granting Uncredentialed Preparers Access to an Online Taxpayer Account System Could Create Security Risks and Harm Taxpayers*), http://taxpayeradvocate.irs.gov/Media/Default/Documents/2015ARC/ARC15_Volume1_MSP_06_Prep-Access-Online-Account.pdf.

13. **National Taxpayer Advocate 2013 Annual Report to Congress** vol. 2, 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*), http://taxpayeradvocate.irs.gov/2013-Annual-Report/downloads/Fundamental-Changes-to-Return-Filing-and-Processing-Will-Assist-Taxpayers-in-Return-Preparation-and-Decrease-Improper-Payments.pdf.

14. **Novantas Research**, *2016 Omni-Channel Shopper Survey: Redefining Banking Convenience*, 11 (2016).

    "But as is evident from the consumer research, 'convenience' is no longer only having the nearest branch; in fact a non-physical factor — online/mobile — now leads in defining convenience. Nearby ATMs matter, including the fees for them, as do hours to a lesser degree. Branch proximity and overall market density — while still important— is now only one of many considerations."

20 *See* U.S. Senate Aging Committee, *Following Collins, McCaskill Effort, Seniors Will No Longer Need Cell Phones to Access Social Security Accounts Online* (Aug. 15, 2015), http://www.aging.senate.gov/press-releases/following-collins-mccaskill-effort-seniors-will-no-longer-need-cell-phones-to-access-social-security-accounts-online.

15. **OECD**, *Right from the Start: Influencing the Compliance Environment for Small and Medium Enterprises* (2012).

Summary:

"This information note sets out the theoretical concepts, provides an overview of strategies under the heading of 'Right from the Start' and describes how the use of 'Right from the Start' strategies by revenue bodies can be cost-effective and save resources, while also creating benefits for the taxpayer through better service, improving the quality of tax processes and achieving compliance… The 'Right from the Start' approach is first defined in terms of four dimensions that are considered central to the compliance environment:

- Acting in real time and up-front, so that problems are prevented or addressed when they occur;
- Focusing on end-to-end processes rather than just focusing on the revenue body processes and try to make the processes of the taxpayer fit into them;
- Making it easy to comply (and difficult not to); and
- Actively involving and engaging taxpayers, their representatives and other stakeholders, in order to achieve a better understanding of the taxpayer's perspective and to cooperate with third parties." (page 3).

Tools for Small Businesses:

a. **Digital Tools for Small Businesses in Australia (Providing Online Tax Calendar).**

"The Australian Taxation Office (ATO) has developed a suite of electronic tools (downloadable from the ATO website) to support new to business taxpayers: 'Is your business tax ready?,' 'Record Keeping Evaluation Tool' and 'Your small business tax calendar.' These products were developed through consultation and were co-designed with small businesses, including using simulation centre technology. This ensured that products were relevant, useable and targeted at the risks and issues of small business. Small businesses' understanding of record keeping requirements and adopting good record keeping practices has long been an identified risk for the ATO. The provision of free self-help tools gives small businesses an ability to understand what is required without the need to necessarily engage a tax advisor. Evaluation shows that the use of the Tax Calendar leads to improvements in compliance with reporting and payment obligations." (page 23).

b. **Business Tools in New Zealand (Partnering with the industry to provide clear and user-friendly assistance online).**

"Small business owners tend to be busy and have little time for consuming large amounts of information. Therefore the Inland Revenue (IR) set out to develop a tool making it easy for SME customers to quickly find the information and guidance they require to become and stay compliant. The idea was that Tools For Businesses (TFB) should be a better way of communicating a large amount of information. The tool is intended to help those who prefer to find tax and business information for themselves rather than calling the IR or attending a workshop. The tool will be promoted through government websites, intermediaries, business associations etc. TFB is designed to help small businesses with just the information they need. Each section contains 80% of what a small business needs to know. Common misconceptions are covered quickly, and

FAQs (based on research, call centre traffic and input from field staff) are available with quick answers and references to more help and information. There also are a range of different interactive elements and resources (such as Excel spreadsheets) that have been created exclusively for the TFB. The tool has been built with SME customers in mind by a company that specialises in small businesses. The text is drafted in a conversational tone to ensure that it makes for easy and enjoyable reading. All content is based on the established educational practice of "tell me" (main text on each page), "show me" (interactive elements) and "let me do it" (downloads). Feedback shows that small business owners find the tool easier and more helpful than the current IR website. There has also been a reduction in the number of basic query calls since the introduction of the tool." (page 21).

c. **The Netherlands: Online Bookkeeping Systems Uploading to Tax Agency.**

"The Netherlands' Tax and Customs Administration are seeking to use market developments and new technologies to their advantage by co-operating with software companies and other stakeholders to develop online bookkeeping systems. The advantages of such systems are numerous. They can support correct bookkeeping by providing an updated bookkeeping system, they can improve compliance with tax rules and results from the accounts can be transferred directly to the tax reporting systems of the revenue body." (page 17).

"The growth of online bookkeeping through cloud computing (which is expected to be the most common method of bookkeeping for start-up businesses in the Netherlands within a few years) offers an opportunity to improve the bookkeeping among smaller businesses, where compliance failures can often be traced back to poor bookkeeping. The Netherlands' Tax and Customs Administration is seeking to take advantage of this development in the market by working with providers of on-demand accounting software to develop standards and promote end-to-end solutions (for instance a security certification mark) to enhance certainty, reliability and integrity of data. The aim is to gradually develop a highly automated online administrative environment offering convenience, certainty and security to businesses while also reassuring the tax administration and other stakeholders (accountants, banks, other government bodies etc.) of the integrity and reliability of the bookkeeping. The learning capabilities of the system (its intelligence) are also of interest in this respect. The project, which is part of the Horizontal Monitoring programme, is in the starting phase." (page 17).

d. **France: Electronic Data Exchange.**

"Data exchange and business reporting standards in France. Data exchange standards and standard business reporting have been designed and approved for the electronic filing of the annual profit tax return in France, allowing data for 70% of businesses to be extracted directly from the electronic bookkeeping records through an online data exchange solution. A next stage could make it possible for enterprises to provide bookkeeping records through a secure platform accessible by all public entities so that data would have to be provided only once. This would involve significant gains in terms of reducing the administrative burden, as businesses may at present be required to report the same information to various public entities six to nine times a year." (page 17).

e. **Sweden: Certified Cash Registers.**

"Certified cash registers in Sweden. All traders in Sweden selling goods or services in return for cash (or card) payments are required as of January 2010 to use a certified cash register and provide customers with receipts. The cash register must be manufactured after specifications defined by the tax agency. The cash register must also be registered with the tax agency. The tax agency conducts unannounced visits to traders to enforce the legislation. The tax agency has powers to make inspections as well as disguised visits (involving control purchases) to see if all transactions registered and that receipts are provided to customers. Failure to comply means that the trader is charged with a fine. The control visit can escalate to a full scale field audit if deemed relevant. The background to the legislation was significant tax evasion with the value added tax (VAT) in industries with high cash turnover. The problem was acknowledged both by trade federations and the tax agency, but proved difficult to deal with by traditional enforcement measures. A political initiative consequently involved strengthening the control chain by introducing certified cash registers. The initiative is supported by trade associations, as it makes a significant contribution (far outweighing the costs involved) to achieving a level playing field for businesses in sectors affected by unfair competition." (page 18).

f. **Managing Taxpayers' Lifecycle by Internet in Chile.**

"The initiative aims to reduce tax compliance costs and facilitate compliance by providing online information and guidance organised around main events in the business life-cycle. The elements considered are: business start-up and registration; issuing of electronic documents; electronic ledgers; sworn statements, monthly and annual payments; modification or updating of taxpayer information; and close of business." (page 23).

g. **Canadian Payroll Deductions Online Calculator.**

"The Canada Revenue Agency has developed several online tools to assist businesses in remitting payments accurately. One example is the payroll deductions online calculator, which is aiding businesses in calculating pay-cheques for their employees and remitting their deductions. The tool was first intended for use by payroll professionals. In order to reach a broader taxpayer segment, however, the tool was redesigned to be useable by first-time payroll users and the SME segment." (page 23).

Outreach and Education Tools for Small Businesses:

a. **Australian Small Business Assistance Programme.**

"Small businesses often suffer from poor record-keeping and lack of awareness on tax obligations, which can impact on voluntary compliance levels and damage community confidence in the tax system. The ATO Small Business Assistance Program is designed to address this risk by coordinating assistance to small business. The assistance products offered by the ATO include intensive one-to-one business assistance visits; one-to-many seminars and workshops; outbound telephone calls to new-to-business, new-to-employing, and newly incorporated taxpayers; and print and online information products and tools. The program was at first directed at start-up businesses. With the significant change in the economic climate over the past couple of years, the program has evolved to take into account all stages of the business lifecycle: business intenders, new

to business, established, growing, and ceasing. The program has a particular focus at micro businesses. The program identifies regions and/or industry sectors that are affected by various factors that may require additional or more intensive support. Regions have been targeted due to the impact of drought; fire; floods; large scale impacts due to the closure of major industries or due to the impact of the financial environment. Among the valuable lessons learnt from the implementation of the program is that stakeholders should ideally be involved from the early stages of the process when outcomes and goals are established; that assistance products and services should for optimum effects be targeted at businesses early in their business lifecycle; and that relevant online content should be developed early in the process to provide support to other channels of interaction like face-to-face meetings and phone conversations. The Small Business Assistance Program has moved to adopt a whole-of-government approach. It is expected that this will provide greater benefits to small businesses and reduce duplication of efforts between government departments. Quantitative measures used to evaluate the effectiveness of the program have confirmed that small businesses that have received assistance show improvements in progressing towards meeting the desired outcomes." (page 12).

b. **Virtual Small Business Tax Workshop in the US.**

"The virtual workshop introduces new businesses to a variety of requirements and responsibilities in order to increase awareness and facilitate compliance. The focus is on what the business-owners need to know about federal taxes; how to pay taxes using a computer; running a business from home; establishing a retirement plan; classifying workers as employees or independent contractors; withholding the proper amount of employment and social security taxes; and how to properly determine unemployment insurance contributions. The goal is to ensure that businesses understand their responsibilities when starting a business, and to ensure that they properly withhold and remit employment and social security taxes."[21] (page 15).

c. **Business Education Programme in the UK.**

"HMRC's business education programme is based around extending the reach and targeting of education for small and medium enterprises (SMEs). It is focused on:

- Targeting SME customers with a comprehensive offering of online educational support, webinars and interactive tools at key points in their business life cycle (*e.g.*, becoming self-employed, taking on their first employee, reaching the VAT threshold etc);
- Working with intermediaries (*e.g.,* trade groups and small business associations) to syndicate our education messages to hard-to-reach customers; and
- Retaining a face-to-face education offering, but targeted at those who really need help.

In addition to the new products, processes and practices involved in developing the online channel, this also involves the implementation of a strategic outbound e-mail

21 For more information on this workshop, see IRS Pub. 5104, *Small Business Taxes: The Virtual Workshop*, irs.gov (July 2013), https://www.irs.gov/businesses/small-businesses-self-employed/small-business-self-employed-virtual-small-business-tax-workshop (last visited Aug. 29, 2016).

capability. Furthermore, it requires a change in organisational culture as the roles of face-to-face presenters expand to reflect the wider range of channels for education.

The target group (HMRC's 'needs help' customer segment) forms an integral part of HMRC's customer segmentation model. This was underpinned by a more detailed analysis of the SME customer base, which was used to inform the development of the approach for each customer segment.[22] Key elements of the development of the education programme are:

- Developing a comprehensive online "journey" of education for each of the key lifecycle events, using detailed customer understanding data (*e.g.* learning styles, reading age, attitudes etc) and common causes of error as a starting point;
- Putting in place a programme of interactive webinars to enable SMEs to access a face-to-face style workshop at a time and place that suits them;
- Developing the capability to use outbound e-mails to signpost customers to the online support available; and
- Putting in place a strategic framework for working with intermediaries to ensure that this activity is aligned with the wider strategy.

HMRC is monitoring a range of data (*e.g.*, the number of 'click-throughs' from e-mails to the online material, the numbers of customers changing behaviour as a result of an educational intervention etc.) to measure the impact." (page 22).

Multi-Channel Service in France:

"To offset the complexity of tax legislation and improve compliance, the French Tax Administration has adopted a structured taxpayer service approach. Customer relations have been streamlined and simplified to be as user-friendly as possible and ensure that taxpayers can get adequate answers to their questions quickly and easily. This involves various initiatives:

- Multi-channel access to user services (internet, phone, offices);
- Online services: users can now get information and forms, calculate and pay their taxes, file returns and check their account without visiting a tax office (as of October 2011, SMEs with a turnover above a certain threshold will have to file VAT returns and make VAT and tax payments online);
- Improved phone assistance through dedicated teams at the time of duties (filing and payment) and substantial investment in equipment and more efficient management of call traffic;
- Customer service windows: one single entry solution with extended opening hours for assessment and collection of all business taxes (VAT, CIT, local taxes);
- E-mail: questions sent by e-mail are guaranteed a reply within 48 hours; and
- PVFI programme (Pour Vous Faciliter l'Impôt — making your taxes easier): a programme designed for both individuals and businesses to improve service quality through a series of user service commitments regularly measured, internally and externally." (page 20).

22 For customer segmentation information, see *Individuals Segmentation Enhancement*, GOV.UK (Oct. 17, 2012), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344843/report193.pdf (last visited Aug. 30, 2016).

Preparer Access:

Access Revenue On-line Service in Ireland (Providing representatives access to taxpayer accounts).

"The financial and time costs involved in complying with legislation are a major source of frustration for businesses. Irish Revenue is committed to reducing compliance costs and making it easy to deal with the tax administration. One recent initiative that testifies to this commitment is the Revenue On-line Service (ROS). Of primary importance to the development of ROS was agents' access to their clients' tax files and the availability of the following facilities: access to their taxpayer clients' payments, balances, returns compliance and payments compliance information on Irish Revenue's database; the ability to change the taxpayer's 'agent representation' details on Irish Revenue's files; and the allocation and maintenance of access security within the agent's firm. In the initial stages of electronic filing, feedback from filers was registered, monitored and obtained to ensure satisfactory and efficient operation of the system, compatibility of software and reliability of security systems. The ultimate aim was to make the customers interaction with Irish Revenue for payments, declarations or information available electronically in their home or place of business. The on-line revenue target of £64 million for the first year was actually achieved within a few months. This success can be attributed to the co-operation of customers, who embraced this new technology, and to the staff, who were instrumental in the design of the service and its promotion amongst customers." (page 22).

16. **OECD**, *Tax Administration 2015 Comparative Information on OECD and Other Advanced and Emerging Economies*, 241-60 (Aug. 2015).

For information on the strategic priorities for both OECD and non-OECD countries to increase the usage of online services, see the chart in the Appendix of this literature review document.

17. *Online Services for Individuals*, N.Y.S. Dep't of Tax'n & Fin., https://www.tax.ny.gov//online/ind.htm (last visited Apr. 28, 2016).

"You must have an Online Services account to access certain services.

Options to communicate with us:

Features

- Web File your IT-201, IT-214, or NYC-210 for tax year 2015
- Make an income tax return payment
- View your account
- Sign up for email to receive refund info, notices, bills & more
- Use tax preparer registration
- Manage your estimated tax account
- Pay bills and notices
- Respond to a notice."

18. **Oral Statement of Rick Parrish**, Forrester Research, National Taxpayer Advocate Public Forum 163 (May 17, 2016).

"You know one thing that I think works very well, and could build, dare we say, trust? And definitely works well in a digital format, is wizards. They guide people through tasks. And there

one federal agency called 'Business USA' that I think is one of the most customer-centric federal agencies, that does wizards quite well. So there's a place to look for wizards implemented in government. Of course, they serve people who are starting businesses and things like that, but a really great thing that speaks to people in a language they can understand, which our data shows is a key driver of a good customer experience in any channel, and guides people through and helps them see that they can find things, that self-service is not scary."

19. **PwC**, World Bank Group, *Paying Taxes 2016*, https://www.pwc.com/gx/en/paying-taxes-2016/paying-taxes-2016.pdf.

    This report is a global survey of tax systems but does not go into detail regarding e-filing and e-payment. It just acknowledges that such options make compliance easier.

20. **Sead Fasilpasic**, *A Data Breach in HMRC Could Cost £13 Billion*, ITProPortal (Jan. 27, 2016), http://www.itproportal.com/2016/01/27/a-data-breach-in-hmrc-could-cost-it-13-billion/.

    "This is why the Government is now implementing stronger security measures through its Gov.UK Verify portal, which offers highly secure multi-factor authentication to protect UK citizens when they disclose personal information online, such as completing a tax return …"

21. **Sheyna Steiner**, *Branch Banking Still Popular With Americans*, Bankrate (Dec. 21, 2015), http://www.bankrate.com/finance/consumer-index/branch-banking-still-strong-among-americans.aspx.

    - "Despite the shift to online and mobile banking, bank branches continue to exist and many people still go to them. In fact, only about 1 in 5 Americans has gone an entire year without visiting a bank branch, Bankrate's Financial Security Index for December shows."
    - 'Branches are still very important, but transactions are shifting more digitally over time, which is impacting branch staffing,' he says. 'They are shifting from transactions toward supporting more complex questions and serving customers' financial needs.'
    - 'Banks have obligations to the communities they serve. Under the Community Reinvestment Act, banks are encouraged to provide resources to traditionally underserved communities. The presence, or absence, of physical branch locations — in light of technological advances — is an integral part of the debate about how banks are meeting consumer needs,' says Dave Pommerehn, vice president and senior counsel for the Consumer Bankers Association."

22. **Susan Kreimer**, *Dealing with Dr. Google: Why Communication Is Key*, Medical Economics, http://medicaleconomics.modernmedicine.com/medical-economics/news/dealing-dr-google-why-communication-key?page=full (last visited Sept. 6, 2016).

    "The trend toward online research goes hand-in-hand with a growing emphasis on patient engagement. Knowledge can empower patients in shared decision-making. This model of care, proven to foster better outcomes, operates under the premise that well-informed patients can pose enlightened questions and express personal values and opinions about their conditions and treatment options."

23. **Susanne Christmann**, London School of Economics, Department of Media and Communications, *The Impact of Online Health Information on the Doctor-Patient Relationship: Findings from a Qualitative Study*, http://www.lse.ac.uk/media@lse/research/mediaWorkingPapers/MScDissertationSeries/2012/78.pdf (last visited Sept. 6, 2016).

    "The study finds that online health information contributes to an empowerment of the patient, while the doctor stays important due to an advantage in medical expert knowledge. Online health information can signify both an opportunity and a challenge to the relationship, mainly depending on the information's quality and the patient's capabilities to evaluate the information. Imperfections of both the information's quality and the patients' evaluation capabilities support the necessity of a powerful doctor. However, patients unaware of their limited evaluation capabilities may nevertheless behave more powerful in the relationship, causing discrepancies with the doctor. These results confirm connections relevant to the conceptual framework and literature but also hint to aspects that are worth considering in closer detail. The findings suggest that the doctor-patient relationship is affected by the new media influence, but that new media will not turn upside down the core pillars of the doctor patient relationship."

24. **Treasury Inspector General for Tax Administration**, Ref. No. 2016-40-007, *Improved Tax Return Filing and Tax Account Access Authentication Processes and Procedures Are Needed* (Nov. 19, 2015).

    "The increasing number of data breaches in the private and public sectors means more personal information than ever before is available to unscrupulous individuals. Much of these data are detailed enough to enable circumvention of most authentication processes. As such, it is critical that the methods the IRS uses to authenticate individuals' identities provide a high level of confidence that tax information and services are provided only to individuals who are entitled to receive them."

25. **Treasury Inspector General for Tax Administration**, Ref. No. 2015-40-053, *Taxpayer Online Account Access Is Contingent on the Completion of Key Information Technology Projects* (May 2015).

26. **The Wharton School**, U. of Penn., *Becoming Digital: Strategies for Business and Personal Transformation*, Knowledge@Wharton (Mar. 15, 2016), http://www.knowledgeatwharton.com/books/library/becoming-digital/?utm_source=KWsearch&utm_medium=website&utm_campaign=becomingdigital.

    - "'The digital strategy will be driven by business leaders and not by IT people,' said Mphasis CEO Ganesh Ayyar. 'It is not all about IT; it is about business.'" (at 18).
    - "Digital transformation, however, is often myopically defined as ad hoc additions of software and hardware, or automation of certain business processes that make one part of the company better instead of considering the whole. These steps can be a start, but a true digital transformation — one that provides a competitive edge and generates a positive return on investment (ROI) — will re-imagine the old way of doing things and lead to new business models." (at 19).
    - "'Too often, though, companies that say they are focused on the customer are actually serving their own needs first. A case in point is the traditional Customer Relationship Management (CRM) system, which is a set of processes designed to gather information about customers to 'manipulate' them, said Wharton's Wind. CRMs have 'nothing to do with

being customer-centric.' Instead, businesses should deploy CMRs, or Customer Managed Relationships, he said. 'It's a platform that will allow consumers to manage their relationship with you and your competitors.' A classic case of CMR is the American Airlines travel reservations system Sabre, which revolutionized the industry for travel agents in 1960 by automating fare searches and bookings. The airline created a system that listed not only its own flights but also those of competitors, to better serve its customers — the travel agents — and make the system more viable. At the time, the airline was also facing competition from an association of travel agents that was looking to create an alternative solution. By 30 years later, Sabre could store 36 million fares to create a total of more than a billion fare options. American spun off Sabre Holdings in early 2000 in a deal valued at $5.7 billion." (at 29).

Case Study: "A Digital White-Glove Experience at First Republic Bank"

"For 30 years, First Republic Bank has prided itself on delivering white-glove service to its clients in private banking and wealth management. As other banks began to minimize personal contact with their customers to reduce costs, First Republic clung fiercely to the roots of traditional banking — working even harder to maintain a "high touch" relationship.

'Our bank is focused on a more old-fashioned service model of in-person, high-touch service,' said Hugh Westermeyer, deputy chief information officer, in an interview with Knowledge@Wharton. 'We go the extra mile. You can always get someone on the phone. We're there to help you.'

As consumers began migrating to mobile devices for banking, though, the San Francisco-based bank faced a dilemma. Interacting with clients through digital channels would minimize the element of human contact — the kind of contact that First Republic has long seen as important to its success — but if it didn't move aggressively into digital, the bank would be unable to meet the changing needs of its clientele. The answer was to be digitally agile and highly personal at the same time.

'The focus is to make sure that we continue to provide that First Republic Bank-style and level of experience digitally as well as if you come in and visit us in one of our branches,' Westermeyer said.

The bank decided to harness technology to rev up its customer service even more: It automated internal processes and systems to improve the work flow so employees could serve clients more robustly and efficiently. 'That means working on things like the better delivery of information,' Westermeyer said. 'We have a Customer Relationship Management system that we built to deliver comprehensive relationship information to people who work with clients.'

First Republic takes a holistic view of its customers, many of whom have several accounts at the bank. Using technology to pull together all of a customer's data from disparate sources in the bank, First Republic can paint a more complete profile of the client and provide better service because it will have a better understanding of the customer's needs.

Compiling all of a client's information has another benefit: The bank can provide a unified view of accounts for the convenience of its customers. 'Many of our folks are focused on bringing this information together into one place so you can see it all at once, you can transact with it all at once — and it just makes it a lot easier for you,' Westermeyer said. He said the bank takes great care to make sure the digital channels it provides have user-friendly interfaces. Nothing frustrates mobile users more than a clunky webpage. Ease of use is key, Westermeyer said. 'We're doing a significant amount of work [on] the overall user experience, so things flow very smoothly. We take advantage of the current, state-of-the-art user interfaces and styles, so that it's a very familiar and easy-to-use experience.'

The overall mission is to keep standards high, whether clients interact with the bank digitally or in person. It's using technology 'to provide the same sort of experience,' Westermeyer said. 'Nowadays, not everyone wants to do everything in person. There's a lot of desire for self-service and certainly, in commercial banking, there are a lot of activities that our clients need to do themselves, so we're really focused on providing an excellent digital experience, whether that's online, mobile, or some combination, in order to support what our clients are trying to do.'" (at 43-45).

27. **Written Statement of John Sapp**, Chair, Council for Electronic Revenue Communication Advancement, National Taxpayer Advocate Public Forum (May 17, 2016).

    "The IRS must move forward with technology to serve taxpayers, but at the same time it is imperative that the public not lose the services now available from the agency. Call-in service must be maintained, and, indeed, enhanced. Appropriate walk-in options must also continue, and taxpayers who choose to send in their returns in hardcopy form should not be prohibited from doing so, although every effort should be made to explain the advantages of e-filing."

28. **Written Statement of Rick Parrish**, Forrester Research, National Taxpayer Advocate Public Forum (May 17, 2016).

    "Despite this preliminary success, only 39% of federal customers want Washington to offer more digital services, and just 32% trust it with their personal data. The public's interest in federal location-based services and a governmentwide web portal has declined."

    "Faced with pressure from the White House to boost digital public interactions, federal agencies must find the right channel for each service. They must also explain the benefits of new digital services, protect digital CX [customer experience] from overbearing security practices, and design mobile experiences more strategically."

29. **Written statement by Tina Orem**, NerdWallet, National Taxpayer Advocate Public Forum (May 17, 2016).

    "What's also interesting is that the survey found that when they have tax questions, more millennials turn to tax professionals than go online for answers. This suggests that when things get complex, millennials still prefer humans to screens."

    "Perhaps most interesting, however, is our finding that millennials like filing paper returns more than most taxpayers. An incredible 17% said they did a paper return last year and mailed it in — that's more than double the rate of those 35 and older."

APPENDIX

OECD, *Tax Administration 2015 Comparative Information on OECD and Other Advanced and Emerging Economies*, 241-60 (Aug. 2015).

Table 7.2. **Strategic priorities for increasing use of online services**

		Strategic focus for improving electronic services – five key areas of development reported for the medium term									
Country	Formal plan	Online filing	Prefilled returns	Online payment	Website service/ tools	Integrated taxpayer accounts	Other online services	VAT e-invoices	Enhanced data capture	Digital mailbox	Apps for tax agents
OECD countries											
Australia	✓	✓	✓	✓	✓	✓	✓		✓	✓	
Austria	✓	✓	✓		✓				✓	✓	
Belgium	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Canada	✓	✓/1		✓			✓			✓	
Chile	✓	✓	✓					✓	✓	✓	
Czech Republic	x	✓			✓	✓		✓		✓	
Denmark	✓	✓			✓				✓	✓	
Estonia	✓	✓	✓	✓	✓	✓			✓	✓	
Finland	✓	✓	✓	✓			✓		✓		
France	✓	✓			✓	✓	✓			✓	
Germany	-	-	-	-	-	-	-	-	-	-	-
Greece	✓	✓	✓	✓		✓	✓	✓	✓	✓	
Hungary	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Iceland	✓	✓			✓		✓		✓	✓	
Ireland	✓	✓	✓				✓		✓	✓	
Israel	✓	✓					✓		✓	✓	✓
Italy	x	-	-	-	-	-	-	-	-	-	-
Japan	✓	✓		✓	✓						
Korea	✓	✓		✓		✓	✓			✓	
Luxembourg	✓	✓		✓/1	✓/2	✓/1	✓/1	✓/1			
Mexico	✓	✓	✓		✓	✓				✓	
Netherlands	✓	✓	✓				✓		✓	✓	
New Zealand	✓	✓	✓	✓	✓	✓	✓		✓		
Norway	✓	✓	✓	✓	✓	✓	✓		✓	✓	
Poland	✓	✓	✓	✓	✓	✓					
Portugal	✓/1		✓	✓	✓		✓				
Slovak Republic	✓	✓			✓		✓		✓	✓	
Slovenia	✓	✓	✓	✓	✓	✓		✓	✓	✓	
Spain	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sweden	✓	✓		✓	✓				✓	✓	
Switzerland	✓	✓/1	✓/1	✓/1	✓/1	✓/1	✓/1		✓/1	✓/1	✓/1
Turkey	✓	✓		✓	✓		✓				✓
United Kingdom	✓	✓				✓	✓		✓		✓
United States	✓	✓		✓		✓	✓			✓	✓
Non-OECD countries											
Argentina	✓	✓				✓	✓	✓	✓		
Brazil	✓	✓	✓	✓	✓	✓	✓				✓
Bulgaria	x	-	-	-	-	-	-	-	-	-	-
China	✓	No specific key areas for development identified									
Colombia	✓	✓		✓	✓		✓	✓			
Costa Rica	✓	✓		✓	✓	✓	✓	✓	✓	✓	
Croatia	✓	✓			✓	✓	✓	✓			
Cyprus	✓	✓		✓	✓	✓	✓				
Hong Kong	✓	✓	✓		✓		✓				
India	✓	✓	✓	✓	✓	✓	✓		✓		
Indonesia	✓	✓	✓	✓			✓	✓	✓		✓
Latvia	✓	✓				✓	✓		✓	✓	
Lithuania	✓	✓	✓			✓			✓	✓	
Malaysia	✓	✓	✓	✓	✓		✓				
Malta	✓	✓		✓			✓		✓		✓
Morocco	✓	✓		✓	✓	✓	✓				✓
Romania	✓	✓		✓	✓	✓	✓		✓	✓	✓
Russia	✓	✓		✓	✓	✓	✓	✓	✓	✓	
Saudi Arabia	✓	✓		✓	✓				✓		
Singapore	✓	✓	✓				✓		✓	✓	
South Africa	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Thailand	✓	✓		✓	✓	✓			✓		

For notes indicated by "/ (number)", see Notes to Tables section at the end of the chapter, p. 259.
Source: Tax Administration 2015 survey responses.

Options for Alternative Dispute Resolution (ADR)

INTRODUCTION

Alternative dispute resolution (ADR) is the process of resolving a dispute through non-judicial means, typically by placing the case in non-binding mediation or in binding arbitration.[1] These proceedings are generally conducted by neutral parties, such as mediators, administrative law judges (ALJs), or ombudsmen. As will be developed in this literature review, researchers, commentators, and stakeholders have published substantial in-depth analysis regarding the effectiveness and flexibility of ADR in a variety of contexts. Studies in this area demonstrate that efficient ADR can have a beneficial impact on tax compliance and tax administration. Moreover, ADR has been widely embraced by businesses, various federal agencies, and tax authorities of certain foreign countries.

Likewise, the IRS itself has acknowledged that ADR can play a useful role within its operations. "A primary objective of the Internal Revenue Service is to resolve tax controversies at the lowest level without sacrificing the quality and integrity of those determinations. Alternative Dispute Resolution (ADR), or mediation programs achieve this objective."[2] Further, the IRS has expressed the view that at least some aspects of ADR can successfully be used "[t]o promote issue resolution at earlier stages and decrease the overall time from return filing to ultimate issue resolution."[3]

Nevertheless, the IRS is underutilizing this potentially valuable tool and administering ADR in a way that is unattractive to taxpayers. For example, taxpayers and their representatives could reasonably question the accessibility, cost effectiveness, and impartiality of ADR proceedings.[4] Perhaps as a result of such considerations, ADR opportunities within the IRS are infrequently embraced by taxpayers. During fiscal year (FY) 2016 the IRS had only 306 ADR case receipts.[5]

The IRS is failing to take advantage of a highly useful mechanism for administrative dispute resolution. ADR, if thoughtfully and creatively implemented, could substantially increase the efficiency and timeliness of case resolutions. In turn, an effective ADR program would protect taxpayer rights, reduce taxpayer burden and cost, encourage voluntary compliance, and economize scarce IRS resources. The IRS could benefit substantially from the ADR lessons learned by commentators, businesses, various federal agencies, and tax authorities of certain foreign countries.

1 Throughout this literature review, ADR will be used as a collective term referring both to mediation and arbitration. More specific terms will be adopted where distinctions among the various forms of ADR become relevant.

2 Internal Revenue Manual (IRM) 8.26.3.1(1), *Objective and Authority for Fast Track Mediation (FTM)* (Dec. 5, 2014).

3 Rev. Proc. 2003-40, 2003-25 I.R.B. 1044.

4 IRS personnel generally serve as the "neutral" party in ADR proceedings. *See, e.g.*, IRM 8.26.3.1(2), *Objective and Authority for Fast Track Mediation (FTM)* (Dec. 5, 2014).

5 Fiscal Year (FY) 2016 data provided by Appeals (Oct. 19, 2016).

DISCUSSION

ADR finds longstanding precedent throughout history, including application among Phoenician merchants, use by Alexander the Great's father, and inclusion in George Washington's will.[6] Specifically, "… ADR techniques can be placed on a continuum, ranging from left to right in complexity from simple two-party negotiations to mediation to binding arbitration, with an unlimited number of hybrid techniques in between."[7]

The private sector has been quick to understand and seek the benefits of ADR, particularly arbitration. According to the RAND Institute for Civil Justice (RAND), an analysis of data from 21 large public corporations indicated that over 70 percent of consumer contracts possess arbitration clauses.[8] Likewise, the majority of corporate counsels RAND surveyed believe that contractual arbitration is better, faster, and cheaper than litigation.[9] Moreover, according to studies cited by the American Bar Association Section of Dispute Resolution:

- 80 percent of attorneys and 83 percent of business people report that arbitration is a fair and just process;
- 86 percent of corporate counsels are satisfied with international arbitration; and
- Over 90 percent of parties involved in arbitration voluntarily comply with the outcome.[10]

Likewise, some federal agencies, such as the Environmental Protection Agency (EPA), the United States Air Force (Air Force), and the Social Security Administration (SSA) have used ADR to great advantage. For example, issues resolved via ADR within the EPA demand less than 50 percent of the time from staff leads than would be required in more contentious traditional proceedings.[11] Eighty-seven percent of the staff leads the EPA surveyed with respect to their particular cases indicated the belief that ADR "was a good investment for EPA."[12]

The Air Force reports that large disputes that took an average of five years to resolve through litigation are now being resolved by the use of ADR in an average of just over 12 months.[13] According to the Air Force,

6 Ji Hun Kim & Nicholas M. McGrath, *Mediation: Can't We All Just Get Along?*, 30 Am. Bankr. Inst. J. 52 (Sept. 2011); R. Jeff Knight, *Alternative Dispute Resolution in Tax Cases* (Jan. 23, 2013), http://ccintranet.prod.irscounsel.treas.gov/OrgStrat/Offices/sbse/Presentation%20Materials (on file in TAS archives); *Benefits of Arbitration for Commercial Disputes*, A.B.A. Sec. of Disp. Resol., http://www.americanbar.org/content/dam/aba/events/dispute_resolution/committees/arbitration/arbitrationguide.authcheckdam.pdf (last visited Mar. 8, 2016).

7 Steven C. Wrappe, *Advance Pricing Agreements: The IRS Rediscovers Alternative Dispute Resolution*, 63 Tax Notes 1343, 1345 (June 6, 1994).

8 Douglas Shontz, Fred Kipperman & Vanessa Soma, RAND Inst. for Civ. Just., *Business-to-Business Arbitration in the United States: Perceptions of Corporate Counsel*, 2 (2011). *See also* Mandy Walker, *The Arbitration Clauses Hidden in Many Consumer Contracts*, Consumer Reports (Sep. 29, 2015), http://www.consumerreports.org/cro/shopping/the-arbitration-clause-hidden-in-many-consumer-contracts.

9 Douglas Shontz, Fred Kipperman & Vanessa Soma, RAND Inst. for Civ. Just., *Business-to-Business Arbitration in the United States: Perceptions of Corporate Counsel*, ix (2011).

10 *Benefits of Arbitration for Commercial Disputes*, A.B.A. Sec. of Disp. Resol. 8, http://www.americanbar.org/content/dam/aba/events/dispute_resolution/committees/arbitration/arbitrationguide.authcheckdam.pdf.

11 Conflict Prevention & Resol. Ctr., U.S. Envtl. Protection Agency, *FY 2014 Environmental Collaboration and Conflict Resolution (ECCR) Policy Report to OMB-CEQ* (Feb. 17, 2015).

12 *Id*.

13 Off. Att'y Gen., *Report for the President on the Use and Results of Alternative Dispute Resolution in the Executive Branch of the Federal Government*, 155 (Apr. 2007).

it has avoided paying over $275 million in contractor claims since the "ADR First" policy was instituted in 2000.[14]

Where the SSA is concerned, ADR is conducted by administrative law judges (ALJs) who are provided free of charge and who are housed in a wholly independent unit from other SSA groups. Of the over 700,000 ALJ decisions rendered each year, only approximately 16,000 (less than 3 percent) are appealed to federal courts.[15]

Recognizing the benefits of ADR, the tax authorities of several foreign countries have also sought to institute a range of ADR programs. For example, Hong Kong utilizes an appeals system incorporating aspects of binding arbitration in which cases can be brought by taxpayers before a Board of Review (BOR) comprised of a chairman with legal training and two members with expertise in other professions.[16] In Australia, the government and taxpayers are encouraged to pursue ADR by a legal requirement that they file a "genuine steps" statement outlining the attempts they made to avoid litigation before court proceedings can begin.[17] Although relatively new, Australia's ADR procedures appear to be producing good results in achieving resolutions more frequently and earlier in the objection and appeals process.[18] Likewise, ADR implemented by Her Majesty's Revenue and Customs (HMRC) in the United Kingdom seems to be working well, with some data suggesting that ADR resolutions can be achieved approximately seven times faster than litigation decisions.[19] Further, the HMRC's 2013 ADR Project Evaluation Report indicates that 58 percent of all cases selected for ADR were fully resolved, while a further eight percent were partially resolved.[20]

When implemented effectively, ADR can have a particularly salutary effect on tax compliance and the voluntary tax system.[21] ADR's flexibility and participatory nature increase perceptions of equity and procedural justice.[22] In turn, such perceptions can positively impact tax compliance behavior in the future.[23]

Specifically, "the tax compliance literature identifies that factors associated with tax disputes resolution procedures can influence taxpayers' level of compliance."[24] Of the various factors influencing tax compliance behavior, quality of contact with the tax authorities and taxpayers' perceptions of fairness

14 The Air Force ADR Program, Dep't of the A.F., *Report to the Secretary of the Air Force on the Air Force Alternative Dispute Resolution Program*, 1 (Dec. 2012).

15 SSA, *Hearings and Appeals*, https://www.ssa.gov/appeals/about_odar.html (last visited Nov. 3, 2016).

16 Ernst & Young, *Tax Dispute Resolution: A New Chapter Emerges, Tax Administration Without Borders*, 1, 37 (2010).

17 KPMG, *Tax Disputes and Controversy Update — Focus on Alternative Dispute Resolution* (Aug. 5, 2014), https://home.kpmg.com/xx/en/home/insights/2014/08/focus-on-alternative-dispute-resolution.html.

18 *Id*.

19 Hui Ling McCarthy, *Tribunal Fees — A Tax on Justice*, Tax Advisor (Jan. 21, 2016), http://www.taxadvisermagazine.com/article/tribunal-fees-%E2%80%93-tax-justice.

20 *Id*.

21 Melinda Jone & Andrew J. Maples, *Mediation as an Alternative Option in Australia's Tax Disputes Resolution Procedures*, 27 Austl. Tax F. 525 (2012); Amy S. Wei, *Can Mediation Be the Answer to Taxpayers' Woes?: An Examination of the Internal Revenue Service's Mediation Program*, 15 Ohio St. J. on Disp. Resol. 549, 549 (2000).

22 Tonya M. Scherer, *Alternative Dispute Resolution in the Federal Tax Arena: The Internal Revenue Service Opens Its Doors to Mediation*, 2 J. of Disp. Resol. 215 (1997).

23 Marjorie E. Kornhauser, *A Tax Morale Approach to Compliance: Recommendations for the IRS*, 8 Fla. Tax Rev. 599 (2007); John Hasseldine & Peggy Hite, *Key Determinants of Compliance and Non-Compliance*, 2007 Tax Notes Today 205-40.

24 Melinda Jone & Andrew J. Maples, *Mediation as an Alternative Option in Australia's Tax Disputes Resolution Procedures*, 27 Austl. Tax F. 525, 528 (2012).

are particularly strengthened or diminished by an effective ADR program.[25] Generally, people who feel they have been treated in a procedurally fair manner by an organization are more likely to trust that organization and are more willing to accept even a negative outcome.[26] Further, "people value respectful treatment by authorities and view those authorities that treat them with respect as more entitled to be obeyed."[27] ADR done well can help generate the types of interactions and perceptions that will perpetuate the compliant behavior necessary to the success of the voluntary tax system.

LITERATURE REVIEW

Tax, Academic, and Related Publications

1. **Amy S. Wei**, *Can Mediation Be the Answer to Taxpayers' Woes?: An Examination of the Internal Revenue Service's Mediation Program*, 15 Ohio St. J. on Disp. Resol. 549, 550 (2000).

   "This Note will provide a critical overview of the present IRS mediation program, examine the benefits brought to the IRS and taxpayers by the program, and suggest areas that the IRS may want to examine to increase the program's success potential. Specifically, Parts II and III of this Note will examine the development of mediation in the IRS and provide a brief description of its present mediation pilot program. Finally, Part IV compares other state governments' and federal agencies' mediation procedures with the IRS program and suggests areas that the IRS may examine in order to increase the effectiveness of its program."

2. *Benefits of Arbitration for Commercial Disputes*, A.B.A. Sec. of Disp. Resol. 2, http://www.americanbar.org/content/dam/aba/events/dispute_resolution/committees/arbitration/arbitrationguide.authcheckdam.pdf.

   This publication defines arbitration in a commercial context, concluding that "it has many advantages over litigation in court, such as party control of the process; typically lower costs and shorter time to resolution; flexibility; privacy; awards which are final and enforceable; decision makers who are selected by the parties on the basis of desired characteristics and experience; and broad user satisfaction." The publication contains more detailed discussions of each of these advantageous aspects.

3. **Div. for Pub. Educ.**, A.B.A., *How Courts Work: Mediation,* https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/mediation_advantages.html (last visited Jan. 19, 2016).

   This article provides a general summary of mediation and its advantages. These advantages include lowered cost and increased speed of proceedings.

4. **Ji Hun Kim & Nicholas M. McGrath**, *Mediation: Can't We All Just Get Along?*, 30 Am. Bankr. Inst. J. 52 (Sept. 2011).

   This article discusses the benefits of mediation for limiting litigation regarding bankruptcy proceedings. "The U.S. economic downturn has brought about an increase in both large and

25 Melinda Jone & Andrew J. Maples, *Mediation as an Alternative Option in Australia's Tax Disputes Resolution Procedures*, 27 Austl. Tax F. 525, 528 (2012).

26 *Id.*

27 *Id.*

small bankruptcy filings, with numerous opportunities for bankruptcy practitioners to utilize the benefits of mediation to maximize time, money and value to the estate. With the economy far from stabilized, increased bankruptcy filings, overwhelmed dockets and unpredictable results, bankruptcy mediation provides an expeditious and cost-effective way to avoid some of the typical pitfalls of bankruptcy."

5. **John Hasseldine & Peggy Hite**, *Key Determinants of Compliance and Non-Compliance*, 2007 Tax Notes Today 205, 205.

   "Policymakers will find it difficult to evaluate new enforcement initiatives without understanding these behavioral responses and addressing these both strategically and operationally … We outline the salient outcomes of prior tax enforcement research in terms of compliance/non-compliance determinants based on theoretical, archival, survey, and lab studies. In addition, we discuss further issues such as sanctions and citizenship approaches within the context of prior field experiments in tax enforcement. We also speculate on factors such as tax attitudes, framing effects and publicity, and large business before offering some final remarks."

6. **Marjorie E. Kornhauser**, *A Tax Morale Approach to Compliance: Recommendations for the IRS*, 8 Fla. Tax Rev. 599 (2007).

   Kornhauser outlines the various factors involved in tax morale, which is defined as the internal motivation for compliance, and formulates a series of recommendations for the IRS with the goal of increasing voluntary tax compliance among individuals. These recommendations include establishing a department to research tax morale and implement its findings, adopting a tax morale approach to tax compliance that accounts for individual situations and the impact of interactions with institutions like the IRS itself, and designing ongoing educational and media efforts to promote tax morale.

7. **Melinda Jone & Andrew J. Maples**, *Mediation as an Alternative Option in Australia's Tax Disputes Resolution Procedures,* 27 Austl. Tax F. 525, 525 (2012).

   "In 2011 the [Australian] Inspector-General of Taxation announced the terms of reference of a review into the ATO's utilisation of early and alternative dispute resolution. Against this background, this article considers mediation as an alternative method in resolving tax disputes. Specifically, this article looks at how mediation is utilised in the tax disputes resolution procedures in the United States and in Australia by the Administrative Appeals Tribunal and Federal Court of Australia. It provides recommendations on what the ATO and Australian policymakers can learn from these experiences in order to enhance the use of tax mediation in the disputes resolution process in Australia."

8. **R. Jeff Knight**, *Alternative Dispute Resolution in Tax Cases* (Jan. 23, 2013), http://ccintranet.prod.irscounsel.treas.gov/OrgStrat/Offices/sbse/Presentation%20Materials (on file in TAS archives).

   This article briefly overviews the history of ADR, followed by an in-depth discussion of each type of ADR available in U.S. tax disputes, such as Fast-Track Settlement and Fast-Track Mediaton. The article concludes that the IRS has made positive steps in implementing ADR and that the benefits of further expanding ADR programs are numerous and clear.

9. **Steven C. Wrappe**, *Advance Pricing Agreements: The IRS Rediscovers Alternative Dispute Resolution*, 63 Tax Notes 1343, 1343 (June 1994).

   "Wrappe reports that the IRS has received acceptance of the Advance Pricing Agreement (APA) Program, an alternative dispute resolution (ADR) technique dealing with transfer pricing issues. This article attempts to explain the APA Program's success and explore the potential for other ADR techniques to resolve transfer pricing and other difficult factual issues."

10. **Tonya M. Scherer**, *Alternative Dispute Resolution in the Federal Tax Arena: The Internal Revenue Service Opens Its Doors to Mediation*, 1997 J. of Disp. Resol., 215.

    Scherer analyzes the early stages of the IRS's ADR programs, including their promising early results in terms of participant satisfaction. The discussion focuses particular attention on mediation programs. Scherer concludes that the present evidence is strongly in favor of these programs and that the IRS should be proactive in implementing widespread ADR for all taxpayers.

The Private Sector Has Been Quick to Understand and Seek the Benefits of ADR

11. **Douglas Shontz**, **Fred Kipperman & Vanessa Soma**, RAND Inst. for Civ. Just, *Business-to-Business Arbitration in the United States: Perceptions of Corporate Counsel*, ix (2011).

    "Proponents of commercial, or business-to-business (B2B), arbitration point to its potential benefits for domestic dispute resolution compared with traditional litigation, including reduced congestion and costs for the courts, as well as expedited and less costly outcomes. However, a recurring complaint in the press and academic literature is that arbitration has become as costly and time-consuming as litigation, with sharp increases in pre-hearing discovery and motion work … In this study, we set out to learn what a subset of corporate counsel think about the relative benefits of litigation and arbitration in resolving domestic B2B disputes."

12. **Elizabeth S. Strong**, *Some Reflections from the Bench on Alternative Dispute Resolution in Business Bankruptcy Cases*, 17 Am. Bankr. Inst. L. Rev. 387, 387-88 (Winter 2009).

    "The fact is, as a bankruptcy judge, I see more, not fewer, reasons for counsel, clients, and parties to consider ADR tools and techniques, including facilitated negotiations and mediation, to resolve and even to avoid disputes. The purpose of this article is to revisit some of the topics from ten years ago with the additional perspective of the bench, and to consider how these topics apply in the simultaneously broad and specialized context of dispute resolution in business bankruptcy cases."

13. **Ellen Taverna**, *You've Got No Rights*, Nat'l Ass'n Consumer Advocates (Aug. 7, 2014), http://www.consumeradvocates.org/blog/2014/you%E2%80%99ve-got-no-rights.

    This article raises concerns about the increased use of mandatory arbitration clauses in contracts between businesses and consumers. According to the author, the same aspects of arbitration that make it appealing for disputes between equal parties, such as its confidentiality, can be detrimental for consumers. Further, mandatory arbitration clauses often require the consumer to forgo the right to a class action lawsuit, one mechanism for accountability between businesses and consumers.

14. **Kevin R. Casey**, *Alternative Dispute Resolution and Patent Law*, 3 Fed. Cir. B. J. 1 (Spring 1993).

    Casey argues that the complexity and technicality of patent law, combined with the high stakes for the parties involved, make it well-suited to ADR. ADR allows parties to save time and money, as well as to select a neutral who has expertise in the relevant industry, all of which can lead to more agreeable outcomes.

15. **Mandy Walker**, *The Arbitration Clauses Hidden in Many Consumer Contracts*, Consumer Reports (Sept. 29, 2015), http://www.consumerreports.org/cro/shopping/the-arbitration-clause-hidden-in-many-consumer-contracts.

    This article details the types of arbitration clauses, often mandatory, preferred by many businesses in their dealings with consumers. The article concludes that due to the uneven relationship between many such businesses, *e.g.*, Comcast or AT&T, and their consumers, mandatory arbitration clauses are not the most favorable in terms of consumer protections, although they may save businesses time and money.

Some Federal Agencies Have Also Been Successful in Using ADR

16. **The Air Force ADR Program**, Dep't of the A.F., *Report to the Secretary of the Air Force on the Air Force Alternative Dispute Resolution Program*, 1 (Dec. 2012).

    This report provides a detailed description of the Air Force's ADR programs, policies, and results, concluding that "utilizing ADR processes continues to resolve and close workplace disputes more quickly and inexpensively, and at the appropriate organizational level. Contract disputes continue to be resolved by ADR in roughly half the time required for traditional litigation, saving money and avoiding program disruption. Through ADR, the Air Force has avoided paying over an estimated $275 million in contractor claims since the AF 'ADR First' policy was instituted over a decade ago."

17. **Conflict Prevention & Resol. Ctr.**, U.S. Envtl. Prot. Agency, *FY 2014 Environmental Collaboration and Conflict Resolution (ECCR) Policy Report to OMB-CEQ* (Feb. 17, 2015).

    This report analyzes the outcomes of EPA's newly implemented ADR program, known as ECCR, in depth and by using a variety of metrics. The report concludes that ECCR produces substantial time- and cost-savings compared with traditional dispute resolution, as well as improvements in more subjective areas, such as greater collaboration and greater control over proceedings. ECCR also led to better relationships between participants.

18. **David C. Batson, Barbara Gunner & Leslye M. Fraser**, *At the Forefront of Environmental Litigation—Effective Use of ADR in Environmental Administrative Proceedings*, A.B.A Environmental Litigation Conference (July 23, 2015).

    This panel discussion provides an overview of the uses of ADR in EPA proceedings, with attention to the specifics of EPA policy. The discussion is aimed at encouraging litigators to use ADR in environmental disputes where one party is EPA. EPA has adopted a policy of encouraging ADR as a means of preventing and resolving disputes in all Agency activities, ranging from rulemaking to policy development to administration of contracts and grants.

19. **Dep't of the A.F.**, AFI 51-1201, *Conflict Management and Alternative Dispute Resolution in Workplace Disputes*, 3 (Mar. 17, 2014).

These Air Force Instructions update older instructions regarding the Air Force's ADR program. Generally, they support the Air Force policy "to voluntarily use ADR and other conflict management processes … to the maximum extent practicable and appropriate to prevent or collaboratively resolve workplace disputes at the earliest stage feasible, by the fastest and least expensive method possible, and at the lowest possible organizational level."

20. *Disability Judges: Administrative Law Judge Case Statistics*, DisabilityJudges.com, http://www.disabilityjudges.com/state (last updated Sept. 7, 2016).

This webpage provides aggregate data by state on the SSA's ADR program. This includes the length to resolution of cases through SSA's ADR program, the number of offices and judges, and the percentages of cases approved, denied, or dismissed, and is produced using data publicly available from the SSA.

21. *Hearings and Appeals*, ssa.gov, https://www.ssa.gov/appeals/hearing_process.html (last visited Mar. 16, 2016).

This webpage provides an outline of the SSA's ADR program, which is known as the Office of Disability Adjudication and Review (ODAR). This office uses ALJs as neutrals who conduct informal hearings on disability claims, at no cost to the claimant.

22. **Memorandum from Office of Mgmt. & Budget/Council on Envt'l Quality**, Exec. Office of the President to Sec'y/Admin. of EPA, 1 (Sep. 7, 2012) (on file in TAS archives).

This memorandum builds on a 2005 memorandum to EPA, directing the Secretary of EPA to increase and expand its ADR programs, known as ECCR, to resolve disputes more efficiently. "With the magnitude of environmental challenges facing the nation, coupled with the need for careful stewardship of tax dollars and budgets, Federal departments and agencies should leverage all environmental collaboration and conflict management techniques to improve environmental governance."

23. **Off. Att'y Gen.**, *Report for the President on the Use and Results of Alternative Dispute Resolution in the Executive Branch of the Federal Government,* 1 (Apr. 2007).

This report provides a summary of each ADR program within the Executive Branch of government. "The Report outlines the significant growth that has occurred in federal use of alternative dispute resolution since 2000. It also describes the positive results of federal alternative dispute resolution, including cost savings, increased workforce productivity, and the promotion of the efficient delivery of services. Finally, the Report discusses opportunities to further develop the full potential of federal alternative dispute resolution."

24. **Terry Morgan-Besecker**, *Social Security Disability Approvals Decline*, The Times-Trib. (Dec. 1, 2013), http://thetimes-tribune.com/news/social-security-disability-approvals-decline-1.1593772.

This article describes a trend in SSA's ADR program toward an increasing number of denials of claims, which could result in decreased interest in the program. The article suggests that factors involved may be an increased total number of claims putting pressure on ALJs, as well as the fact that many of SSA's ALJs are former SSA employees, which could represent a conflict of interest for a supposed neutral.

The Tax Authorities of Some Other Countries Have Taken Active Measures to Incorporate ADR As an Element of Their Tax Controversy Process

25. **Board of Review (Inland Revenue Ordinance)**, *Functions & Procedures,* www.info.gov.hk/bor/en/functions-procedures.htm (last visited Nov. 2, 2016).

    This webpage outlines the specific circumstances in which a taxpayer in Hong Kong may appeal a tax determination. The webpage also designates particulars such as the parties who must be present for such a proceeding and the forms that must be provided for review.

26. **Ernst & Young**,*Tax Dispute Resolution: A New Chapter Emerges, Tax Administration Without Borders*, 1, 4 (2010).

    "Taxpayers are seeking, and expecting, that tools to resolve or avoid controversy be made available. Fortunately, tax administrations are also recognizing that costly litigation is not in the best interest of the government, taxpayers or the public at large, if it can be avoided…The result of our analysis is a report in which we look at the key features of ADR … We also provide summary information on the available ADR processes in more than 20 countries."

27. **Hui Ling McCarthy**, *Tribunal Fees — A Tax on Justice,* Tax Advisor (Jan. 21, 2016), http://www.taxadvisermagazine.com/article/tribunal-fees-%E2%80%93-tax-justice.

    This article discusses proposed new fees for U.K. tax tribunals, which taxpayers would have to pay in many cases in order to receive a hearing of their tax dispute. The author proposes an expansion of ADR as a possible way to alleviate unnecessary cost burdens on taxpayers.

28. **KPMG**, *Tax Disputes and Controversy Update — Focus on Alternative Dispute Resolution*, (Aug. 5, 2014), https://home.kpmg.com/xx/en/home/insights/2014/08/focus-on-alternative-dispute-resolution.html.

    KPMG describes and compares the ADR offerings of the U.S., the U.K., Australia, and Germany. While few statistics are provided, the analysis is favorably inclined toward these programs.

29. *Tax Disputes: Alternative Dispute Resolution*, gov.uk, https://www.gov.uk/guidance/tax-disputes-alternative-dispute-resolution-adr (last updated Feb. 3, 2016).

    This U.K. government website describes the types of ADR available in tax disputes, as well as the types of disputes ADR may be helpful in resolving, such as disputes in which communication between a taxpayer and the taxing authority has reached an impasse. It offers specifics for taxpayers to request and initiate ADR.

30. *Tax Mediation: An innovation promoting transparent exchanges between tax authorities and taxpayers*, Tax Mediation Ass'n, 2015.

    This proposed Canadian pilot program aims to introduce ADR at the earliest possible point in the tax controversy process. The description of the program cites many advantages of ADR, such as its time- and cost-savings, as good reasons to implement a mediation program for tax disputes. The authors also suggest that ADR proceedings can lead to better relationships between parties, in this case taxpayers and the taxing authority, which can in turn lead to greater compliance.

Reducing "False Positive" Determinations in Fraud Detection

INTRODUCTION

Over the past decade, fraud and identity theft have increasingly plagued consumers, businesses, and financial institutions.[1] The IRS has also been impacted. A 2015 Treasury Inspector General for Tax Administration (TIGTA) report found that approximately 1.5 million returns for tax year (TY) 2010 with characteristics of identity theft were processed undetected, with potentially fraudulent refunds totaling $5.2 billion issued.[2] In order to detect and prevent identity theft and potentially false wages and withholdings, the IRS established a complicated screening process.[3] When a return is flagged by one of the multiple systems that scrutinize returns for characteristics of refund fraud or identity theft,[4] the refund is stopped from being issued until the taxpayer can authenticate his or her identity or until the information on the return can be verified. Some returns flagged by these systems turn out to be false positives.[5]

The National Taxpayer Advocate has consistently advocated for taxpayers whose legitimate refunds have been wrongly selected and unreasonably delayed with IRS Refund Fraud and Identity Theft Programs.[6] This literature review explores the acceptable false positive rates in the public and private sectors and steps that can be taken to reduce false positive rates.

DISCUSSION

A survey of literature shows that the issue of false positives is common in both private and public sectors which use technology to gather and analyze information to detect and address potential problems. For instance, modern medical technology allows conducting biopsies and other procedures to detect potential health issues, and then uses that information to determine potential treatment options.[7] Another example includes the United States Department of Defense gathering intelligence information to identify high

1 American Bankers Association (ABA), *Banks Stop $11 Billion in Fraud Attempts in 2014* (Jan. 27, 2016), http://www.aba.com/press/pages/012716depositsurvey.aspx (While attempted fraud against bank deposit accounts reached $13 billion, banks' prevention measures stopped $11 billion in fraudulent transactions). An estimated 17.6 million persons, or about seven percent of U.S. residents age 16 or older, were victims of at least one incident of identity theft in 2014. *See* Erika Harrell, *Victims of Identity Theft*, 2014, Bureau of Justice Statistics (Sept. 2015), https://www.bjs.gov/content/pub/pdf/vit14.pdf.

2 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2015-40-026, *Efforts Are Resulting in the Improved Identification of Fraudulent Tax Returns Involving Identity Theft* (Apr. 24, 2015).

3 The IRS Return Integrity & Compliance Services (RICS) uses three independent systems to identify returns when it suspects identity theft has occurred or that the return is fraudulent. These systems are the Dependent Database (DDb), the Return Review Program (RRP), and the Electronic Fraud Detection System (EFDS).

4 The IRS has distinct screening processes for identity theft and refund fraud. For purposes of this report, we will refer to refund fraud in its broadest sense, to include identity theft as a subset of refund fraud. *See also* National Taxpayer Advocate 2015 Annual Report to Congress 45-55 (Most Serious Problem: *Revenue Protection: Hundreds of Thousands of Taxpayers File Legitimate Tax Returns That Are Incorrectly Flagged and Experience Substantial Delays in Receiving Their Refunds Because of an Increasing Rate of "False Positives" Within the IRS's Pre-Refund Wage Verification Program*).

5 A false positive occurs when a system selects a legitimate return and delays the refund past the prescribed review period. IRS, *IRS Return Integrity & Compliance Services (RICS): Update of the Taxpayer Protection Program (TPP)*, 4 (Aug. 17, 2016).

6 *See, e.g.*, National Taxpayer Advocate 2015 Annual Report to Congress, 45-55, 180-87; National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 44-90; National Taxpayer Advocate 2013 Annual Report to Congress 75-83; National Taxpayer Advocate 2012 Annual Report to Congress 42-67, 95-110; National Taxpayer Advocate 2011 Annual Report to Congress 48-73; National Taxpayer Advocate 2009 Annual Report to Congress 307-17; National Taxpayer Advocate 2008 Annual Report to Congress 79-94; National Taxpayer Advocate 2007 Annual Report to Congress 96-115; National Taxpayer Advocate 2005 Annual Report to Congress 25-54, 180-91; National Taxpayer Advocate 2004 Annual Report to Congress 133-36; National Taxpayer Advocate 2003 Annual Report to Congress 175-81.

7 *False-positive Results Are Common with Cancer Screening*, CancerConnect.com, http://news.cancerconnect.com/false-positive-results-are-common-with-cancer-screening/ (last visited Dec. 5, 2016).

value military targets.[8] Inevitably, there are instances in which certain presumably true information turns out to be false (*e.g.*, a biopsy that is positive turns out to be false, or a location that is identified as a military installation turns out to be a civilian location).[9] These instances are commonly referred to as a "false positives."[10] Conversely, there are situations where something is identified as not possessing the selected characteristics, but the determination is false (*e.g.*, a biopsy that is actually positive is deemed negative). This is commonly referred to as a "false negative."[11] The two examples above illustrate how acting on a false positive or not acting on a false negative comes with a very high cost of losing life, causing injury, or destroying property.

Of course, acting or not acting on false information may not always come at such a high cost, but nonetheless, the consequences can be significant. Some more comparable examples to tax administration, such as the financial sector, track their false positive rates to determine how effective their systems are in accurately identifying fraud or identity theft. In the context of commerce and the financial industry, not detecting fraudulent purchases or transactions may result in the loss of hundreds of thousands of dollars, not to mention customer loyalty. However, an overly inclusive fraud detection system that results in a high number of legitimate transactions being declined also can come at a high financial cost.

For example, sales that were blocked by the credit card companies' fraud detection systems amounted to $118 billion in 2014, while the cost of real card fraud only amounted to $9 billion for the same year.[12] Further, the percentage of consumers affected by false-positive declines is three times greater than the percentage affected by card fraud. Fifteen percent of all cardholders have had at least one transaction declined because of suspected fraud in the past year, compared to just four percent of defrauded consumers.[13] Two-thirds of cardholders who were declined during an e-commerce (electronic) transaction or m-commerce (mobile) transaction reduced or stopped their patronage of the merchant following a false-positive decline (versus 54 percent for all declined cardholders).[14]

Downstream Costs of Fraud

In regard to losses due to identity theft or fraud, the monetary cost can go far beyond the actual amount stolen. In fact, one source stated that losses caused by internal or external fraud costs five times the original amount lost:

- One dollar in actual cash or property value is lost;
- A second dollar is spent identifying how the crime was committed;

8 Neta C. Crawford, *Targeting Civilians and U.S. Strategic Bombing Norms: Plus ça Change Plus C'est la Même Chose*, *in* The American Way of Bombing: Changing Ethical and Legal Norms, from Flying Fortresses to Drones 64, 81 (Matthew Evangelista & Henry Shue, eds., 2014) ("First, algorithms that estimate noncombatant killing for preplanned strikes were employed much more widely than in previous conflicts. These algorithms are a set of decision rules, formulas, and inputs used to calculate risk and likely harm to noncombatants. And second, there was a threshold of risk to noncombatants that was considered acceptable given the understanding of military necessity and the estimated risk to U.S. forces.").

9 Matthieu Aikins, *Doctors With Enemies: Did Afghan Forces Target the M.S.F. Hospital?*, The N.Y. Times, May 17, 2016, http://www.nytimes.com/2016/05/22/magazine/doctors-with-enemies-did-afghan-forces-target-the-msf-hospital.html?_r=0.

10 Generally speaking, a false positive is a test result which incorrectly indicates that a particular condition or attribute is present.

11 "With simple matching approaches, there is a direct relationship between the number of false positives and the number of false negatives: decreasing one generally leads to an increase in the other. Fortunately, there are ways of decreasing the number of false positives without increasing the risk of false negatives. The burden of false positives can be further alleviated by adopting an approach and process that focuses effort on the highest areas of risk and removes wasted effort." Oracle, *Reducing False Positives Without Increasing Regulatory Risk*, 2 (Sept. 2011).

12 *Fraud Losses and False Positives: The Numbers*, SecuredTouch (Dec. 2015).

13 Al Pascual *et al.*, Javelin, *Overcoming False Positives: Saving the Sale and the Customer Relationship*, 4 (2015).

14 *Id.*

- A third dollar is spent in identifying who committed the crime;
- A fourth dollar is spent prosecuting the person who committed the crime; and
- A fifth dollar is spent in suing the person who committed the crime for the recovery of the money taken.[15]

Both the Financial and Commercial Sectors Have Developed Technology to Better Detect Potential Fraud or Identity Theft in an Effort to Protect Customers and Reduce Direct and Indirect Costs

In commerce, the best practice for merchants is adopting a holistic approach to validation and authorization instead of declining a transaction based on a single suspicious data point.[16] This approach entails analyzing multiple characteristics of a shopper to determine if all the available data indicate the purchase is legitimate. In essence, this approach calls for a customized understanding of each and every transaction.[17] Occasionally, transactions are declined because there is insufficient information to validate the legitimacy rather than actual fraud. Accurately tagging each transaction can help shape future authorization rules and may help decrease the rate of false-positive declines.[18]

In the financial sector, a system developed to detect fraud normally contains the following four elements:

- Detect: predict fraud before it happens;
- Respond: apply new fraud insights;
- Investigate: turn fraud intelligence into action; and
- Discover: leverage existing historical data.[19]

Most importantly, a system should be flexible, adaptable, and continuously changing to meet the various changes in risk.[20] The heart of an efficient fraud prevention solution is a strong analytics engine, which can use the available data intelligently, recognize and identify patterns, provide real time visibility into threats, and signal discrepancies.[21] It should enable the solution to detect and respond swiftly to suspicious or fraudulent transactions.[22]

An efficient fraud detection system includes a combination of these elements:

- *Advanced Analytics:* Critical data drawn from across the enterprise might be centralized in a flexible framework environment that, unlike more limiting relational databases, can accommodate and homogenize multiple data formats. This central "data mart" would also feature multiple analytical capabilities and a variety of tools that make it possible for users to work with analyzed data in a

15 Asad Ali Shah, Deloitte Pakistan, *Good Corporate Governance: Essential to Prevent Conflicts of Interest and Fraud - Pakistan's Experience*, 13, https://www.oecd.org/site/adboecdanti-corruptioninitiative/39367990.pdf.

16 Al Pascual *et al.*, Javelin, *Overcoming False Positives: Saving the Sale and the Customer Relationship*, 6 (2015).

17 *Id.* at 16, 17 (2015).

18 *Id.* at 17 (2015).

19 IBM Software, *Fighting Fraud in Banking with Big Data and Analytics*, 4 (Oct. 2014).

20 Inst. Internal Auditors, *et al.*, *Managing the Business Risk of Fraud: A Practical Guide* (June 2008), http://www.acfe.com/uploadedFiles/ACFE_Website/Content/documents/managing-business-risk.pdf.

21 Vasudevan Easwaran, WIPRO, *The Combination to a Safe Future for Banking: Using Technology in The Banking Industry to Prevent Fraud*, 4 (2015).

22 *Id.*

production environment.[23] This type of analytic modeling can help to determine when fraud is identified, and whether this type of fraud is the work of an individual or a criminal organization.[24]

- *Behavioral Analytics:* Each individual customer has his or her own unique banking behavior, consisting of a detailed, multi-faceted combination of timing, sequence, devices, locations, channels, and the financial and non-financial activities performed via those channels.[25] Behavioral analytics solutions are designed to understand the normal behavior of each individual account holder, calculate the risk of each new activity and then choose intervention methods commensurate with the risk.[26]
- *Transaction Analytics:* This technique allows financial institutions to analyze their customers' detailed transaction data over time to gain an understanding of customers' purchasing patterns and behaviors.[27]
- *Anomaly Analytics:* This analytical technique is focused on detecting inconsistencies with previously demonstrated "normal" patterns of behavior. The power of anomaly detection lies in the fact that it doesn't matter how the account is compromised - whether it's a Trojan or other malware, stolen credentials, or social engineering through customer service - the suspicious behavior relative to established norms is what provides a clue or signals that something is amiss. This component is based on a layered security strategy, as called for by the Federal Financial Institutions Examination Council (FFIEC). When (not if, but when) a person attempting to commit fraud gets past one layer (*e.g.*, device password, ID, tokens, out of wallet challenge questions, out of band authentication, or positive pay verification), another confronts him, adding to the effectiveness of the entire security strategy.[28]

Literature shows that using a mix of these fraud detection mechanisms results in a reduction of false positives because if more than one detection method flags the user who is attempting fraud, this is more credible than if only one detection method identifies attempted fraud.[29] This approach is being used in the credit card industry.

Additionally, several sources discuss the importance of communication in an organization regarding what trends are taking place in attempted fraud and identity theft. Designing an organizational structure that allows sharing of information in real time allows all necessary stakeholders to evaluate and adjust an organization's fraud detection systems and filters based on this information. In fact, for this "data mart" strategy to be effective, the organization's IT directors have to accept that some traditional IT implementation and support processes are simply too slow to react to actions of fraud groups.[30] However, having a large number of stakeholders involved in the decision-making process runs a "risk of

23 Deloitte, *The Latest Tools, Tactics for Battling Bank Fraud*, Wall St. J.: CIO J. (May 1, 2014), http://deloitte.wsj.com/cio/2014/05/01/the-latest-tools-tactics-for-battling-bank-fraud/.

24 Robert Griffin, *Combating Payments Fraud in a Big Data World*, BAI Banking Strategies (Mar. 19, 2014), https://www.bai.org/banking-strategies/article-detail/combating-payments-fraud-in-a-big-data-world.

25 Craig Priess, *Behavioral Analytics for Detecting Fraud*, BAI Banking Strategies (Mar. 18, 2015), https://www.bai.org/banking-strategies/article-detail/behavioral-analytics-for-detecting-fraud.

26 *Id*.

27 Dean Nolan, *Combating Fraud with Transaction Analytics* (Apr. 2, 2014), https://www.bai.org/banking-strategies/article-detail/combating-fraud-with-transaction-analytics.

28 Guardian Analytics, *Best Practices for Detecting Banking Fraud*, 2 (2013), http://www.cbai.com/news/Best_Practices_for_Detecting_Fraud_white_paper.pdf.

29 *Fraud Losses and False Positives: The Numbers*, SecuredTouch (Dec. 2015).

30 Deloitte, *The Latest Tools and Tactics for Battling Bank Fraud*, Wall St. J.: CIO J. (May 1, 2014), http://deloitte.wsj.com/cio/2014/05/01/the-latest-tools-tactics-for-battling-bank-fraud/.

over-governance resulting in duplication, inefficiencies, and uncertainty relating to ownership of [fraud detection] issues needing resolution."[31]

How the Australian Taxation Office is Addressing Identity Theft and Fraud

In the tax administration context, the IRS may collaborate with and learn from experiences and mistakes of the Australian Taxation Office (ATO). The ATO has implemented a number of controls and systems to detect potential refund fraud, including analytical models that use behavioral and statistical algorithms to analyze information on income tax returns, business activity statements and other tax forms.[32] However, an Inspector General review of the ATO's integrity refund program found that it was difficult for the risk-based criteria in its system to reflect recent fraudulent activity in real time.[33] This literature review may be helpful for the IRS to identify necessary elements of a robust fraud detection system and learn from private sector and other tax administration's experiences to establish aspirational goals and benchmarks for its fraud detection programs.

LITERATURE REVIEW

1. **ACI Payment Sys.**, ACI Worldwide, *An Industry Guide: Stopping Card Fraud in its Tracks*, 5 (2010), https://www.aciworldwide.com/-/media/files/collateral/aci_stopping-card-fraud-guide_tl_us_1010_4414.pdf.

   "As the number of bank cards and the number of payments made with these cards increase, so too have associated fraud levels including identity theft on cards, stealing of cards in transit/mail, physical theft, counterfeit and skimming. As such, card fraud has become a significant problem for the global retail banking sector. Debit and credit card fraud alone is estimated by Visa and MasterCard to exceed $10 billion worldwide in 2009 and financial institutions are facing an ongoing battle to beat those attempting to commit fraud while protecting their customers."

2. **ACL Servs.**, *Fraud Detection Using Data Analytics in the Banking Industry*, 5 (2014), https://www.acl.com/pdfs/DP_Fraud_detection_BANKING.pdf.

   "A fraud detection and prevention program should include a range of approaches — from point-in-time to recurring and, ultimately, continually for those areas where the risk of fraud warrants. Based on key risk indicators, point-in-time (or ad hoc) testing will help identify transactions to be investigated. If that testing reveals indicators of fraud, recurring testing or continuous analysis should be considered."

31 Inspector-Gen. of Taxation, Austl. Gov't., *Review into the Australian Taxation Office's Compliance Approach to Individual Taxpayers - Income Tax Refund Integrity Program*, 13 (Sept. 2013), http://igt.gov.au/files/2014/11/income-tax-refund-integrity-program.pdf.

32 *Refund Fraud*, Austl. Tax'n Off., https://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Refund-fraud/ (last modified Aug. 3, 2015).

33 Inspector-Gen. of Taxation, Austl. Gov't., *Review into the Australian Taxation Office's Compliance Approach to Individual Taxpayers - Income Tax Refund Integrity Program* 10 (Sept. 2013), http://igt.gov.au/files/2014/11/income-tax-refund-integrity-program.pdf.

3. **Akindele R.I.**, *Fraud as a Negative Catalyst in the Nigerian Banking Industry*, 2 J. Emerging Trends in Econ. & Mgmt. Sci. 357, 357 (2011), http://jetems.scholarlinkresearch.com/articles/Fraud%20as%20a%20Negative%20Catalyst%20in%20the%20Nigerian%20Banking%20Industry.pdf.

   "Fraud in the Nigerian Banking Industry before the recent merger and acquisition and recapitalisation efforts was at alarming rate. It has caused many banks to collapse, and many investors and depositors funds were trapped in. In fact it has prevented many banks from achieving their goals and many businesses went into liquidation. Honestly speaking it has become a cankerworm that has eating deep into the vibric [*sic*] of the financial sector of the Nigerian economy. That calls for the need for this study and the purpose of this study therefore is to identify the causes of fraud, measure its impact and identify means of controlling. The study is a survey research and questionnaire was used for the collection of primary data while libraries, journals, write-ups, seminar papers and books by popular authors were used for secondary data. The findings show that lack of adequate training, communication gap, and poor leadership skills were the greatest causes of fraud in Nigerian banking industry. It was concluded that adequate internal control system should be put in place and that workers satisfaction and comfort should be taken care of."

4. **Al Pascual *et al.***, Javelin, *Overcoming False Positives: Saving the Sale and the Customer Relationship*, 3 (2015).

   "Merchants face a serious challenge in today's marketplace as they try to balance the need for strong antifraud measures with consumers' desire for fast, easy, and digital purchases. Quite often, security measures incorrectly flag legitimate transactions, which potentially alienate customers and result in reduced revenue for merchants. One in six (15%) of all legitimate cardholders experienced at least one decline because of suspected fraud in the past year, resulting in a total of $118 billion declined. Unfortunately for merchants, 26% of declined cardholders reduced their patronage of a merchant following a decline and 32% stopped shopping with the merchant entirely."

5. **American Bankers Association (ABA)**, *Banks Stop $11 Billion in Fraud Attempts in 2014* (Jan. 27, 2016), http://www.aba.com/press/pages/012716depositsurvey.aspx.

   "The nation's banks stopped more than $8 out of every $10 of attempted deposit account fraud in 2014, according to the 2015 American Bankers Association Deposit Account Fraud Survey Report. While attempted fraud against bank deposit accounts reached $13 billion, banks' prevention measures stopped $11 billion in fraudulent transactions. Fraud against bank deposit accounts cost the industry $1.9 billion in losses — an increase from $1.7 billion in 2012."

6. **Asad Ali Shah, Deloitte Pakistan**, *Good Corporate Governance: Essential to Prevent Conflicts of Interest and Fraud: Pakistan's Experience*, 13 (2004), https://www.oecd.org/site/adboecdanti-corruptioninitiative/39367990.pdf.

   "What Does Fraud Really Cost? To put it another way, each loss caused by internal or external fraud costs at least five times the original amount: One dollar in actual cash or property value is lost; A second dollar is spent identifying how the crime was committed; A third dollar is spent in identifying who committed the crime; A fourth dollar is spent prosecuting the person who committed the crime; and crime; and A fifth dollar is spent in suing the person who committed the crime for the recovery of the money taken."

7. **Brad Jones**, *Tackling Fraud Without the Friction*, BAI Banking Strategies (Feb. 10, 2016), https://www.bai.org/banking-strategies/article-detail/tackling-fraud-without-the-friction.

"For much of its history, banking was a personal business, with customers interacting directly with their bankers and visiting bank branches when specific needs arose. In today's world, however, consumers expect full banking functionality online and on their mobile devices, which means the industry needs to find other ways to optimize the customer experience via multiple channels and devices.

The problem is that the conservative personal history of banking has made it more difficult for the industry to adopt the latest technology. That's not to say the banking industry's concern around expanding functionality on these new platforms is unfounded. The faceless nature of mobile and online banking does present unique risks for financial transactions."

8. **Damian Handzy**, *New Models for Managing Risks*, Absolute Return & Alpha, WLNR 26483176 (Mar. 19, 2009).

"New areas of research create a framework for understanding markets and risk management. The most interesting — and potentially promising — reaction to the current financial crisis has been the clamoring to fix, or even replace, one of the basic tenets underlying our understanding of economics, markets and risk management: the Efficient Market Hypothesis. The problems with the assumptions made by the EMH — which is the notion that market prices incorporate information instantaneously and rationally — have been well documented. But if markets don't have instantaneous access to perfectly correct information, if the behavior of all market participants is not totally rational and if price movements are not totally independent of all previous movements, then why use the EMH when it makes such obviously wrong assumptions? Regardless of how the answer is worded, it usually boils down to: 'Without these assumptions we couldn't do the math.'"

9. **David Divitt**, *Who Suffers the Most From False Positives?*, NCR: Fin. Blog (Nov. 19, 2015), https://www.ncr.com/company/blogs/financial/who-suffers-most-from-false-positives.

"According to a new study from Javelin Strategy & Research, one in six (15 percent) of all cardholders experienced at least one false positive decline in the last year. Three times as many consumers are affected by a false positive as fraud, while the values involved are even more telling — $118 billion was incorrectly declined compared to $9 billion lost to fraud in 2014."

10. **Dean Nolan**, *Combating Fraud with Transaction Analytic*, BAI Banking Strategies (Apr. 2, 2014), https://www.bai.org/banking-strategies/article-detail/combating-fraud-with-transaction-analytics.

"Transaction analytics, which enables financial institutions to analyze their customers' detailed transaction data over time to gain an understanding of customers' purchasing patterns and behaviors."

11. **Deloitte**, *Fraud Trends in the Banking Industry*, Wall St. J.: CIO J. (July 30, 2014), http://deloitte.wsj.com/cio/2014/07/30/fraud-trends-in-the-banking-industry/.

"According to Prakash Santhana, a director in the Advanced Analytics practice for Deloitte Transactions and Business Analytics LLP, the battle banking and other sectors are waging against fraudsters is only becoming more pitched. 'Over the last 10 years, we've seen ever more sophistication in fraud schemes,' he says. 'There has been a significant increase in the number of

cyber criminal groups that are not just going after bank accounts, they are trying to get their hands on customer lists, personal identification data, and anything else that could be of economic value.'

Santhana says financial institutions are responding in a number of ways to the increase in credit/debit card fraud. Phishing fraud, he notes, is usually the primary approach cyber criminals use to 'take over' online accounts."

12. **Deloitte**, *The Latest Tools, Tactics for Battling Bank Fraud*, Wall St. J.: CIO J. (May 1, 2014), http://deloitte.wsj.com/cio/2014/05/01/the-latest-tools-tactics-for-battling-bank-fraud/.

"Advanced analytics holds tremendous promise for preventing and detecting fraud in the banking sector. This technology's ability to help identify suspicious patterns and anomalies hidden within ever-growing stores of transactional data could prove decisive in the sector's increasingly expensive battle against fraud. According to the American Bankers Association's 2013 Deposit Account Fraud Survey of member organizations, fraud against bank deposit accounts — including debit card, check, and online fraud — cost the industry $1.744 billion in losses in 2012.

Unfortunately, few banks are taking advantage of critical analytics capabilities. Although the financial services sector has pioneered many anti-fraud tactics with credit cards and other products, organizational siloes, outdated data management technologies, and turf battles between IT and anti-fraud groups have sometimes undermined important initiatives."

13. **Deloitte Canada**, *Tipping the Triangle Predictive Analytics to Mitigate Empty Envelope Fraud*, 1 (Apr. 2013), http://www2.deloitte.com/content/dam/Deloitte/us/Documents/deloitte-analytics/us-da-tippingthetriangle-020614.pdf.

"Focusing on that human element, the Fraud Triangle illustrates three key factors that enable individuals to commit fraud: pressure, opportunity and rationalization. The economic stress of the past few years has seen motive (or pressure) and opportunity on the rise. Motive arises from the financial pressure individuals feel when they confront personal challenges such as debt, addiction or greed; opportunity defines the way in which a person might inappropriately resolve their financial pressures, given a low perceived risk of detection. The final tenet of the triangle is rationalization, which sees an individual self-justifying the fraud act as necessary in order to silence his conscience."

14. *The Duty to Prevent Identity Theft Is Partly Shifting*, Communications Daily, WLNR 20499076 (Oct. 23, 2008).

"Tom Oscherwitz, vice president for government affairs and chief privacy officer at ID Analytics, said companies must also prepare for what happens after the deadline. Developing a policy isn't enough, he said. They must update policies and procedures periodically, and also think about how to put the rules into practice. ID Analytics performed a study of red flag hit rates and found 33 percent of 700,000 applications received in a 30-day period had an identity theft red flag. There will be lots of false positives, he said, and businesses must handle the red flag hits without slowing down operations to the point of alienating customers. Handling the flags identified in its study could cost between $347,000 and $1.5 million monthly, depending if they're handled interactively or manually, he said."

15. **Emil Eifrem**, *Battling Bank Fraud with Graph Databases*, BAI Banking Strategies (Apr. 12, 2016), https://www.bai.org/banking-strategies/article-detail/battling-bank-fraud-with-graph-databases.

    "While fraud is not completely preventable, there are approaches banks can take to significantly mitigate the growing issue, including focusing on relationships in banking data to uncover patterns of suspicious fraud activity. Traditional database technologies, while necessary for certain types of prevention, are not designed to detect the most elaborate fraud operations. In contrast, graph databases provide a unique ability to uncover a variety of important fraud patterns in real time, either in groups or on an individual basis, making them a powerful addition to any financial services firm's security arsenal."

16. *E-Verify: Preserving Jobs For American Workers: Hearing Before the Subcomm. on Immigration Policy and Enf't of the H. Comm. on the Judiciary*, 112th Cong., 150-51 (2011) (Richard M. Stana, Director, Homeland Security & Justice Issues, Government Accountability Office responds to question from Cal. Rep. Zoe Lofgren).

    "The false positives are at about 3-3.5 percent according to Westat, which means an individual is not authorized to work but somehow the system, either through identity theft or employer compliance with the individual getting a job inappropriately, identifies the individual as authorized to work.

    Now, when you throw around all these statistics, it is easy to get lost in the numbers. But when you start matching the number sets up — and it is hard to do because it is not exactly the same point in time and it is not exactly the same data set — but you start getting to the point where getting much further down on the false negatives is going to be very difficult to do. It is important to do it because you have people like you talked about, Ms. Lofgren, who are getting a bad shake out of the system. So you don't want to lose that intent, but it is getting tough because you were ratcheting this down into the below 2 percent range.

    The false positives — I don't know if we are ever going to get totally on top of that without having a better way to address the resource and enforcement question. It is not a matter of when or how. That is your call in what conjunction you do it. But that is the landscape here."

17. *E-Verify Progressing, But Still Needs Work, GAO Finds*, CQ Homeland Security, WLNR 1536911 (Jan. 20, 2011).

    "The federal electronic employment verification system known as E-Verify continues to whittle away at one of its opponents' primary criticisms — its error rate — but the U.S. Citizenship and Immigration Service still needs to make improvements to cut down on false positives and protect users against identity theft, according to the Government Accountability Office."

18. *False-positive Results Are Common with Cancer Screening*, CancerConnect.com (2016), http://news.cancerconnect.com/false-positive-results-are-common-with-cancer-screening/ (last visited Dec. 2, 2016).

    "The risk of obtaining a false-positive result from screening for prostate, lung, colorectal, and ovarian cancer is high and becomes cumulatively higher with ongoing screening — after 14 screening tests, the cumulative risk of a false-positive is 60.4 [percent] for men and 48.8 [percent] for women, according to the results of a study published in the Annals of Family Medicine."

19. **FICO**, *What Is the Future of Banking Fraud Management?: Changing Market Forces Require a New Approach to Enterprise Fraud Management,* 2 (Aug. 2012), http://www.fico.com/en/wp-content/secure_upload/62_Future_of_Banking_Fraud_Management_2896WP.pdf.

"The potential for losses is certainly considerable. As always, fraudsters are shifting their attentions from more defended to less defended targets, and today there are plenty of fresh opportunities. New online and mobile services open up vulnerabilities fraudsters are quick to exploit. Under time-to-market pressure, banks may launch without adequate defenses. Indeed, the newness of the services, and the unknowns about how fraudulent and legitimate users will behave, make it difficult to extend protection with traditional fraud detection methods alone."

20. *The Fight Against Tax Crime: Our Focus: Refund Fraud*, Austl. Taxation Office, https://www.ato.gov.au/general/the-fight-against-tax-crime/our-focus/refund-fraud/ (last modified Aug. 3, 2015).

"Refund fraud occurs when people dishonestly claim refunds, rebates or offsets they aren't entitled to. This can happen in a range of ways, from claiming fictitious expenses to creating false documentation to support a claim. Some individuals lodge fraudulent claims in their own name or for their business; others lodge a claim on behalf of another person. Identity crime related to refund fraud is an increasing problem, with stolen identities used to lodge false income tax returns and activity statements with the aim of fraudulently getting refunds."

21. *Fraud Losses and False Positives: The Numbers*, SecuredTouch (Dec. 2015).

"Companies want to avoid fraud. They also want to avoid false positives. In total, around 33 million adults in the United States are wrongly blocked each year from completing a purchase with a credit card. That's around 15% of cardholders! The total of these blocked sales amounts to $118 billion, while the cost of real card fraud only amounts to $9 billion. This shows false positives cost businesses more than the actual fraud."

22. **Fraud Prevention Expert Grp.**, European Comm'n, *Report on Identity Theft/Fraud*, (Oct. 22, 2007), http://ec.europa.eu/internal_market/fpeg/docs/id-theft-report_en.pdf.

"In some EU Member States identity theft/fraud is the fastest growing type of financial fraud." (at 2).

"The misuse of personal data to impersonate somebody else and abuse of his/her banking/financial services facilities is a growing concern in developed societies." (at 5).

"Identity Theft occurs when sufficient information about an identity is obtained to facilitate identity fraud, irrespective of whether, in the case of an individual, the victim is alive or dead."

"Identity Fraud occurs when a false identity or someone else's identity details are used to support unlawful activity, or when someone avoids obligation/liability by falsely claiming that he/she was the victim of identity fraud." (at 7).

"In Sweden, where personal tax data is public, the agency in charge has specific controls that allow consumers to alert the authorities to abuse of their data, and thus minimise the on-going impact of such an abuse." (at 24).

"Identity theft/fraud does not only affect the financial sector. Its effects go beyond … Technology is part of the solution but will not be the only solution." (at 37).

23. **Georgios L. Vousinas**, *The Critical Role of Internal Auditing in Addressing Bank Fraud: A Conceptual Framework*, 5 Case Stud. J., 67 (2016).

"The recent global financial recession highlighted the critical role that the banking system plays in the modern economy. Banks are complex financial institutions that operate in a constantly changing business environment and deal with high levels of risk, while facing fraudulent actions in regular basis. In order to address these problems, banks engage in various internal audit techniques such as the implementation of controls and prevention tools, the usage of anti-fraud methods and data mining. The aim of this paper is to highlight the crucial role of internal auditing in addressing bank fraud. This is achieved by initially providing a review of both theoretical and empirical literature which helps in determining the value of internal auditing and then by proposing a conceptual framework in order to justify its interconnection with bank fraud, and also to serve as a guide for all future reference. The results confirm the fact that internal audit can play a major role in risk assurance and bank fraud management thus, ensuring banks' normal and uninterrupted operation. The paper also provides some useful insights for future application of internal audit methods thus, laying the ground for a fruitful dialogue among the various stakeholders."

24. **Graeme Burton**, *Connecting the Dots at HMRC,* Computing.co.uk (Feb. 21, 2013), http://www.computing.co.uk/ctg/feature-/2244719/connecting-the-dots-at-hmrc.

"It is, though, looking to bring in contractors with deeper skills in specialist areas such as predictive analytics, and experience in the commercial banking and insurance sector to provide extra depth in terms of thinking about the data and modelling approaches.

'It's a similar kind of market. They are trying to risk assess individuals for giving people loans. And we are in the business of risk assessing people based on information around their tax affairs. They are very similar kinds of activities,' says [Mike] Hainey [Head of the risk and intelligence service data analytics team at HMRC]."

25. **Gregg S. Henzel, Troy La Huis & Thomas M. Paar**, Crowe Horwath, *Using Model Calibration and Optimization to Reduce Fraud Risk: How Financial Institutions Can Identify Fraud More Effectively While Reducing Costs*, 3-4 (2015), https://www.crowehorwath.com/folio-pdf/Using-Model-Calibration-and-Optimization-to-Reduce-Fraud-Risk-Article-RISK-16007-008A.pdf.

"High false-positive rates present two challenges to organizations. The first is cost: As rates rise, fraud prevention requires more labor and becomes more expensive. Indeed, at very high rates, prevention becomes so costly that — from a purely economic view — it could be cheaper simply to let fraud occur.

The second problem with high false-positive results is how it affects the engagement level of those analyzing the company's data for evidence of fraud. When rates start to climb above 25:1, analysts know their next alert is unlikely to reveal fraud. Their incentive to remain diligent declines; their minds wander, and morale erodes. In contrast, when false-positives run 5:1, analysts know that they are just moments away from potentially uncovering another instance of fraud. They're engaged, focused, and efficient."

26. **Guardian Analytics**, *Best Practices for Detecting Banking Fraud*, 2 (2013), http://docs.bankinfosecurity.com/files/whitepapers/pdf/708_Best_Practices_for_Detecting_Fraud_white_paper.pdf.

"Look for inconsistencies with previously demonstrated 'normal' behavior — This is called 'anomaly detection,' which is a well-established, analytical technique for identifying unexpected or unusual behavior relative to previously established patterns of normal behavior … In order to commit banking fraud, cyber criminals must at some point access the online banking account to gather information, set up an attack or initiate a fraudulent transaction, and when they do, they will do something that is unusual or unexpected in the context of your real client's typical banking behavior. The power of using anomaly detection lies in the fact that it doesn't matter how the account is compromised — whether it's a Trojan or other malware, stolen credentials, or social engineering through customer service - the suspicious behavior relative to established norms is what provides a clue or signal that something is amiss … Use layered security — there is no silver bullet when it comes to fraud prevention. Whether it's device, ID, tokens, out of wallet challenge questions, out of band authentication, or positive pay, fraudsters have found a way to get past each of them. But it is extremely difficult to get past ALL of them. A layered security strategy, as called for by the FFIEC, means that when (not *if*, but *when*), the fraudster gets past one layer, another confronts them. Each layer adds to the effectiveness of the entire security strategy."

27. **Guardian Analytics**, *Guardian Analytics Prevents Online Fraud From Login to Logout With FraudMAP Version 2.0*, PR Newswire: News (Aug.18, 2008), http://www.prnewswire.com/news-releases/guardian-analytics-prevents-online-fraud-from-login-to-logout-with-fraudmap-version-20-64911422.html.

"The newly advanced activity modeling capabilities in Guardian Analytics' FraudMAP 2.0 analyzes all online account activity within and across sessions, including seemingly benign actions such as viewing check images or updating contact information. Sophisticated algorithms predict and weigh inherent risk by a number of parameters, such as expected account holder behavior and size of potential loss, to more accurately alert financial institutions to suspicious activity while minimizing false positives. In addition, FraudMAP 2.0 provides banks, credit unions, and brokerages with extensive session and customer-specific context for advanced fraud and identity theft investigation and prevention."

28. **IBM Software**, *Fighting Fraud in Banking with Big Data and Analytics*, 2 (2014), http://www-07.ibm.com/au/pdf/Fighting_Fraud_in_Banking_with_Analytics.pdf.

"Fraud and financial crime can no longer be an acceptable cost of doing business. Fraud schemes are growing more sophisticated, the costs are getting higher and customer expectations are ever-increasing. In addition to triggering financial losses, fraud drives significant investigative and legal costs, erodes consumer confidence and devastates brand image. To meet these challenges, the banking industry is fighting fraud in new ways using big data and analytics capabilities."

29. **Inspector-Gen. of Taxation**, Austl. Gov't, *Review into the Australian Taxation Office's Compliance Approach to Individual Taxpayers - Income Tax Refund Integrity Program*, at vii, 21 (2013), http://igt.gov.au/files/2014/11/income-tax-refund-integrity-program.pdf.

"The Inspector-General of Taxation's (IGT) review into the ATO's [Australian Taxation Office's] income tax refund integrity program (ITRIP) is one of three concurrent reviews examining aspects

of the ATO's compliance approach to individual taxpayers. The ITRIP comprises a series of analytical models designed to detect instances of overclaimed deductions, offsets or other credits in income tax returns. The ATO stops these returns for manual review before any refunds are issued to the taxpayer.

The review arose out of taxpayer and tax agent concerns regarding extended ATO delays in processing income tax returns held for review under the ITRIP. Significant complaints were raised with the Commonwealth Ombudsman, the ATO's Complaints section and the IGT in 2011-12 when higher than expected numbers of tax returns were held (109,000 returns were held when only 33,000 had been expected) leading to extended delays in the processing of those returns. This was exacerbated by the inability of taxpayers or tax agents to ascertain specific reasons for such delays or to have their returns expedited. Moreover, it was contended that the ATO's communication led to the perception that the ATO considered these taxpayers to be dishonest or fraudulent." … "EFFECTIVENESS OF THE ITRIP MODELS ITRIP strike rates [2.14] A strike rate is one means of assessing the effectiveness of a particular approach or strategy. A strike rate may generally be defined as the proportion of selected taxpayer cases, in which the relevant risk was confirmed resulting in a positive outcome or action, measured against the total population. Those taxpayers incorrectly selected or whose tax returns were released without action are not included and are considered to be false positives in the risk identification process."

30. **Inst. Internal Auditors *et al.***, *Managing the Business Risk of Fraud: A Practical Guide*, 34 (June 2008), http://www.acfe.com/uploadedFiles/ACFE_Website/Content/documents/managing-business-risk.pdf.

    "Organizations can never eliminate the risk of fraud entirely. There are always people who are motivated to commit fraud, and an opportunity can arise for someone in any organization to override a control or collude with others to do so. Therefore, detection techniques should be flexible, adaptable, and continuously changing to meet the various changes in risk."

31. *The IRS Data Breach: Steps to Protect Americans' Personal Information: Hearing Before the S. Comm. on Homeland Sec. & Gov't Affairs*, 114th Cong. 10 (June 2, 2015) (statement of Kevin Fu, Associate Professor, Department of Electrical Engineering and Computer Science, University of Michigan), http://www.hsgac.senate.gov/hearings/the-irs-data-breach-steps-to-protect-americans-personal-information.

    "The IRS used instant knowledge-based authentication in an attempt to verify identities seeking transcripts of tax returns. Unfortunately, the threat landscape is changing quickly as attackers adapt to newly fortified defenses. There will always be fraud, but a reasonable goal is to make it difficult for a single adversary to commit wide-scale, automated fraud. A major challenge in identity theft prevention is maintaining low false-positives (that would deny legitimate requests) and low false-negatives (that would allow identity theft) while serving the technologically diverse, tax paying U.S. population."

32. **Jason Freeman**, *One Step Forward and Two Steps Back: Identity Theft and Taxes*, AICPA.org, (July 24, 2015), http://www.aicpa.org/interestareas/tax/newsandpublications/taxsectionnews/2015/pages/072415_issuespotlight.aspx.

    "Tax-related identity theft is a complex and evolving threat — and one that costs taxpayers billions of dollars annually. It is, without question, one of the most pressing challenges that we face in the

world of tax administration. And while the government has taken some steps forward over the past several years in the effort to stop tax-related identity theft, it has also suffered some major setbacks. The current data indicates that the threat is growing, not shrinking, and without a more effective deterrence model, that trend is likely to continue in the wrong direction."

33. **Jayaprakash Nair**, *Analytics Applied — Fraud Prevention and Detection in the Banking Sector*, Aspire Sys. (Mar. 28, 2016), http://blog.aspiresys.com/-digital/big-data-analytics/analytics-applied-fraud-prevention-and-detection-in-the-banking-sector/.

"In a recent survey conducted by Deloitte on the Banking industry, 93% of the respondents indicated that fraud has grown in the last 2 years. Apart from the financial losses, these incidents leave a dent in the banks' reputation … Majority of the frauds happened due to either human negligence or malpractice. Part of the solution obviously is to train the staff better, tighten the manual processes, and increase the audits — in general, increase the sense of responsibility and ownership. But while those steps are definitely necessary, they are not sufficient. A large part of the solution is to use automated checks and balances throughout the workflow to ensure that such activities are either prevented before they occur, or at least caught and corrected at the time of occurrence.

… Only about 26% were caught at the point of transaction (10%) or with an automated system (16%). Agreed that these statistics are based on a sample of the population and are approximate. But even after allowing for such a sampling error, it is clear that there is a huge opportunity for the banks to reduce their losses, both tangible as well as intangible. In fact, the intangible losses — loss of goodwill, loss of confidence/faith in the bank etc. — could lead to much deeper and long-term losses for the bank's brand image and bottom line, especially in the wake of disruptive Fintech innovations knocking on the consumer's doors."

34. **Keith Mueller**, *How Technology is Shaping the Fight Against Fraud*, Inc.com (Feb. 25, 2015), http://www.inc.com/keith-mueller/technology-shaping-the-fight-of-fraud-in-2015.html.

"To minimize the potential damage of fraud, companies need to invest not just in more advanced technology but in people and policies for detecting attacks as quickly as possible. While the networks are just too large to prevent every attack from occurring, detection is crucial. Most companies do not have adequate protocols and staff in place to deal with incidents of fraud. While advanced technology serves as a great tool to combat fraud, the issue should be viewed as more than just an IT problem and looked at as a business problem. Here are some steps to take:

- Put a clear focus on segregation of duties (spread and rotate financial responsibilities, control who views sensitive documents)
- Offer internal and external audits (monthly profit and loss reviews, monthly balance sheet reviews)
- Develop protocols for electronic banking transactions (*e.g.*, limiting access, verbally confirming requests, two-step authentication process, safeguard data)."

"By taking these actions, companies can begin building a culture of system-wide accountability rooted in honesty, integrity, and transparency. Remember, the cost of trying to prevent fraud is far less expensive to a business than the cost of fraud committed on a business."

35. **Madan Lal Bhasin**, *Combatting Bank Frauds by Integration of Technology: Experience of a Developing Country*, Insight Med. Pub. (Mar. 28, 2016), http://www.imedpub.com/articles/combatting-bank-frauds-by-integration-of-technology-experience-of-a-developing-country.pdf.

"Fraud is a worldwide phenomenon that affects all continents and all sectors of the economy. With the rapidly growing banking industry in India, frauds are increasing fast, and fraudsters have started using innovative methods. Shockingly, the banking industry in India dubs rising fraud as an inevitable cost of business. One of the most challenging aspects in the Indian banking sector is to make banking transactions free from electronic crime. There is no "one silver bullet" to stop all frauds forever. By leveraging the power of data analysis software, banks can detect fraud sooner and reduce the negative impact of significant losses owing to fraud. Behavioral analytics monitor navigation techniques and other aspects of a user's online behavior to search for anomalies or suspicious activity. Behavioral Analytics: This is helping businesses identify enemies disguised as customers. The data analytics implemented by the institutions to understand customer behavior, preferences, etc. are also helping in the detection of fraudulent activity either in real-time or post mortem."

36. **Martin Merzer**, *Poll: As Card Fraud Rises, So Do False Alarms*, CreditCards.com (June 16, 2014), http://www.creditcards.com/credit-card-news/poll-fraud-false_alarm-block-transactions-1276.php.

"Millions of U.S. credit card users are experiencing — and generally tolerating — transactions being blocked or questioned as credit card companies fortify fraud-blocking systems in response to an epidemic of data breaches and credit scams, according to a new survey released Monday by CreditCards.com. The survey found that nearly four out of 10 frequent credit card users have experienced a credit card fraud alert — a transaction blocked or questioned by their credit card company because the purchase triggered a fraud alert. Two out of three affected credit card users said that some or all of the blocked or questioned transactions were actually legitimate purchases."

37. **Mary Shacklett**, *Fighting Tax Fraud with Analytics*, TechRepublic.com (Apr. 14, 2016), http://www.techrepublic.com/article/fighting-tax-return-fraud-with-analytics/.

"The Maryland Comptroller Office is one example of the efforts that states are making to improve fraud detection through the use of analytics … The state's new process, fueled by analytics, now uncovers fraudulent returns at a rate of 50 to 60% before the returns are even manually reviewed to confirm the findings."

38. **Matthieu Aikins**, *Doctors With Enemies: Did Afghan Forces Target the M.S.F. Hospital?,* The N.Y. Times, (May 17, 2016), http://www.nytimes.com/2016/05/22/magazine/doctors-with-enemies-did-afghan-forces-target-the-msf-hospital.html?_r=0.

"Restricted to a supposedly noncombat role as advisers, the Special Forces in Kunduz ended up calling in the airstrike, which was in support of Afghan troops against a target a quarter-mile away, as self-defense, which meant that it bypassed many safeguards intended to prevent civilian casualties."

39. **National Audit Office**, Her Majesty's Revenue & Customs (HMRC), *Tackling Tax Fraud: How HMRC Responds to Tax Evasion, The Hidden Economy and Criminal Attacks*, 20 (2015), https://www.nao.org.uk/report/tackling-tax-fraud-how-hmrc-responds-to-tax-evasion-the-hidden-economy-and-criminal-attacks/.

    "Revising its Strategy (2013 to 2014) HMRC began to develop a long-term strategy for its work. It aims to tackle the behaviour that leads to non-compliance, which should lead to more people giving HMRC correct information. This will allow HMRC to focus on the dishonest minority. This strategy is based on the three broad things a tax administration can do: create the right environment for people to pay their taxes (HMRC refers to this as 'promote'); put systems in place to identify and stop tax fraud as taxpayers give HMRC information ('prevent'); and identify tax fraud and take action in response ('respond')."

40. **Neta C. Crawford**, *Targeting Civilians and U.S. Strategic Bombing Norms: Plus* ça *Change Plus C'est la Même Chose, in* The American Way of Bombing: Changing Ethical and Legal Norms, from Flying Fortresses to Drones 64, 81 (Matthew Evangelista & Henry Shue, eds., 2014).

    "First, algorithms that estimate noncombatant killing for preplanned strikes were employed much more widely than in previous conflicts. These algorithms are a set of decision rules, formulas, and inputs used to calculate risk and likely harm to noncombatants. And second, there was a threshold of risk to noncombatants that was considered acceptable given the understanding of military necessity and the estimated risk to U.S. forces."

41. **Oracle**, *Reducing False Positives Without Increasing Regulatory Risk*, 1 (2011), http://www.oracle.com/technetwork/middleware/ows/documentation/ows-reducing-false-positives-wp-1864957.pdf.

    "False positives are the scourge of the Money Laundering Reporting Officer (MLRO) — the person responsible for protecting the reputation and security of a financial institution. Every occurrence of a client record matching a name on a sanction, risk, or PEP (politically exposed persons) register has to be investigated, and yet the review and research of false positives costs institutions time and manual effort. 'Fuzzy' techniques are essential to finding inexact matches, but they often produce large numbers of records for review, and the vast majority of these will be false positives.

    With some institutions swamped by the volume of false positives, the temptation to tighten match rules can be irresistible. Although this might reduce the immediate pain of so many false positives, it often increases the probability of a more insidious risk — that of false negatives. False positives do cost time and effort, but false negatives allow criminals access to the financial system and can result in fines for both the institution and the individual MLRO — and a loss of commercial reputation as well. This white paper examines some of the common matching techniques and advises MLROs that, rather than having to choose one from among an array of techniques that are imperfect in themselves, they can implement a broad array of technologies now incorporated in today's most effective watchlist screening solutions."

42. *Organisations Pay the Price of Chasing False Alerts*, ITWeb (S. Afr.), WLNR 7507843 (Mar. 10, 2016).

    "Organisations spend too much time investigating false alerts, resulting in undetected serious malware threats, says Forcepoint's Neil Thacker. The average company spends almost 199 hours a week investigating malware infections on their computer systems. Another 230 hours a week is spent on cleaning or fixing the organisation's infected devices. With all this time spent

on investigations, there are still around 40% of infections that go undetected in an average organisation's network operating system. This is according Neil Thacker, information security and strategy officer at Forcepoint EMEA, who was speaking at the Forcepoint security briefing forum organised by IT Web last week. Thacker said this is a significant amount of time for any company to spend on investigating false positive alerts and chasing erroneous cyber alerts such as suspected malware and viruses that turn out to be nothing more than dead ends."

43. *Patent Application Titled "System and Method for Mobile Identity Protection of a User of Multiple Computer Applications, Networks or Devices Using a Wireless Device,"* Telecomm. Wkly., WLNR 4754242 (Feb. 26, 2014).

"Credit card issuers and financial institutions, such as banks, attempt to limit financial identity theft and fraud losses by analyzing a variety of data and information associated with, for example, an automated credit card transaction. Rules-based 'parameter analysis' is used along with pattern recognition and probabilistic techniques to determine the legitimacy of a card transaction. Parameter analysis techniques are used to examine, for example, the number of credit card transactions on a particular account within a specified period of time, say 24 hours, and the dollar amount of the transaction. If the number of transactions or the dollar amounts exceed some pre-defined threshold, the transaction can be flagged as potentially fraudulent and further action can be taken. This action may be as drastic as denying the transaction and blocking the card holder's account. Parameter analysis, however, often times yields false-positive results, where the financial transaction is in fact legitimate, but falls outside the parameter thresholds set."

44. **PricewaterhouseCoopers (PwC)**, *Financial Services Sector Analysis of PwC's 2014 Global Economic Crime Survey: Threats to the Financial Services Sector*, 4 (2014).

"The Financial Services ("FS") sector results from PwC's seventh Global Economic Crime Survey are the most comprehensive and intriguing to date. There were 1,330 responses from the FS sector alone — 26% of the 5,128 responses received from all sectors. FS respondents hailed from 79 different countries — making this FS sector report truly global and representative of views on economic crime in its many guises, from fraud and cybercrime to money laundering and bribery and corruption.

Our survey questions were designed to assess corporate attitudes to economic crime in the current economic environment, the types of fraud encountered during the survey period, whether cybercrime is becoming more prevalent, and the extent of bribery and corruption, money laundering and anti-competition experienced."

45. **Rajesh Ramachandran**, Cognizant, *OFAC Name Matching and False-Positive Reduction Techniques*, 1 (2014), https://www.cognizant.com/InsightsWhitepapers/OFAC-Name-Matching-and-False-Positive-Reduction-Techniques-codex1016.pdf.

"Financial institutions typically spend more time, money and resources investigating false positives as transaction volume and money transfer activity increases. This can be reduced by improving their OFAC [Office of Foreign Assets Control] compliance processes and implementing new software with sophisticated time-saving matching algorithms that recognizes different variants or misspellings of names and thus reduces the number of false positives to a minimum. Other approaches include intelligent automation workflows, robust management and audit controls, implementing industry best practices and gaining the technical ability to analyze past sanctions screening results. This

white paper offers advice on unique strategies to reduce the false-positive rate, including name-matching techniques and critical mitigation steps."

46. *Recovering £7 Billion in Additional Tax Revenues*, SAS, http://www.sas.com/en_gb/customers/hm-revenue-and-customs.html (last visited Oct. 21, 2016).

"The outcome of HMRC's analytics and the Connect system — working faster and smarter, improving detection rates and finding new opportunities for prevention and deterrence — will see the government avoid significant financial losses and instead receive higher tax revenues.

'We're saving time — for example, we can limit false positive results and avoid wasted interventions,' says Cockerill. 'The more we know about people, the more opportunities we have to deselect them. Risks that can seem really strong are explained when you can look at networks and have far richer data to work with. That broader picture means we can ease burdens on taxpayers. We're also moving into an era of larger data sets that we want to analyze using our toolkit: tables approaching billions of rows in size. In many ways this is becoming much more about 'heavy lifting' to get the data in shape.'"

47. *Researchers Submit Patent Application, "Method and System for Determining and Assessing Geolocation Proximity," for Approval*, Computer, Networks & Commc'n, WLNR 25463486 (Sept. 3, 2015).

"... many existing fraud detection and prevention technologies can and do provide a false positive indication of fraudulent activity. Besides the fraud detection and prevention mechanisms already mentioned, other technologies may be employed such as behavioral profiling that is used to detect anomalous behavior. These technologies employ intelligent algorithms to analyze past user behavior when a user attempts to engage in some activity or transaction that is similar to a previous activity or transaction. If the individual's behavior when engaging in a secure activity is not consistent with that individual's past behavior, a likelihood of fraudulent activity may be deduced."

48. **RSA Security, Inc.**, *Barclays Bank Protects Online Banking Users with Behind-the-Scenes Authentication Using RSA Cyota Transaction Monitoring*, PR Newswire (Mar. 22, 2006), http://www.prnewswire.com/news-releases/barclays-bank-protects-online-banking-users-with-behind-the-scenes-authentication-using-rsar-cyotar-transaction-monitoring-55494512.html.

"RSA Cyota Transaction Monitoring provides strong, reliable protection against online fraud by analysing and scoring all online banking transactions in real-time. The bank can then decide how to handle high-risk transactions, including blocking the transaction or conducting a manual review and seeking further identification of the user. The system, which provides a second factor of transparent authentication using IP address, user and device profiles, incurs no change in the user experience. Additionally, the Company's risk-based, one-time password and EMV authentication solutions can be deployed — via RSA Adaptive Authentication — on top of Transaction Monitoring to provide the additional transaction validation, should it be required.

The RSA Cyota risk engine compares each online transaction to an automatically generated profile of that user's known behavior and other criteria, such as digital fingerprints, geographic location, device information and more. The solution also compares the data to known fraud patterns compiled by the RSA Cyota eFraudNetwork™ community, the world's most effective online financial fraud network. With membership comprising thousands of financial institutions worldwide, including the United Kingdom's largest banks, the eFraudNetwork collates some of the

best, most up-to-date intelligence from across the globe, giving banks instantaneous information and immediate protection."

49. *The Spread of Tax Fraud by Identity Theft: A Threat to Taxpayers, a Drain on the Public Treasury: Hearing Before the Subcomm. on Fiscal Responsibility and Econ. Growth of the S. Comm. on Fin.*, 112th Cong., 65, 75-76 (2011) (statement of James R. White, Director Strategic Issues, U.S. Government Accountability Office).

    "Beyond screening returns with known tax-related identity theft issues, screening all tax returns for possible refund fraud would pose similar trade-offs, but on a grander scale. For example, as noted above, one way to check for identity theft is to look for significant differences between current year and prior year tax returns, but this could be confounded by a large number of false positives. IRS officials told us that in 2009 there were 10 million address changes, 46 million changes in employer, and millions of deaths and births. Checking all returns that reflect these changes for possible refund fraud could overwhelm IRS`s capacity to issue refunds to legitimate taxpayers in a timely manner."

50. **Tom Johnson**, *Real-Time Fraud Detection: The Holy Grail for Fin. Institutions,* PAYMENTSSOURCE, WLNR 9344832 (May 11, 2011).

    "As part of (the) payment approval process, financial institutions need the tools to create their own scores and the ability to integrate their own data with additional sources to determine whether a transaction is fraudulent. Many banks currently decline specific transactions based solely on their own data. Looking at external data sources can help banks see that someone has just declared bankruptcy or reported identity theft. Also, segmenting people based on a cardholder's behavior helps identify what is likely a stolen identity or fraud."

51. *The Transportation Security Administration's Aviation Passenger Prescreening Programs: Secure Flight and Registered Traveler: Hearing Before the S. Comm. on Commerce, Science, & Transp.*, 109th Cong., 11,14-15 (2006) (statement of Cathleen A. Berrick, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office).

    "According to a TSC [Terrorist Screening Center] official, TSA [Transportation Security Administration] and TSC plan to enter into a letter of agreement that will describe the data elements from the terrorist-screening database, among other things, to be used for Secure Flight. To address accuracy, TSA and TSC plan to work together to identify false positives — passengers inappropriately matched against data contained in the terrorist-screening database — by using intelligence analysts to monitor the accuracy of data matches. An additional factor that could impact the effectiveness of Secure Flight in identifying known or suspected terrorists is the system`s inability to identify passengers who assume the identity of another individual by committing identity theft, or who use false identifying information. Secure Flight is neither intended to nor designed to address these vulnerabilities."

52. *Transportation Security Administration's Office of Intelligence: Progress and Challenges: Hearing Before the Subcomm. on Intelligence, Info. Sharing, & Terrorism Risk Assessment of the H. Comm. on Homeland Sec.*, 109th Cong., 32, 45-46 (2006) (statement of Cathleen A. Berrick, Director, Homeland Security and Justice, U.S. Government Accountability Office).

    "Prior to its rebaselining effort, TSA had also reported that it planned to work with TSC to identify false positives as passenger data are matched against data in the TSDB, and to resolve mistakes

to the extent possible before inconveniencing passengers. The agencies were to use intelligence analysts during the actual matching of passenger data to data contained in the TSDB to increase the accuracy of data matches. When TSA`s name-matching technologies indicated a possible match, TSA analysts were to manually review all of the passenger data and other information to determine if the passenger could be ruled out as a match to the TSDB. If a TSA analyst could not rule out a possible match, the record would be forwarded to a TSC analyst to conduct a further review using additional information. Until TSA completes its rebaselining effort, it is uncertain whether this or another process will be used to help mitigate the misidentification of passengers. An additional factor that could impact the effectiveness of Secure Flight in identifying known or suspected terrorists is the system`s inability to identify passengers who assume the identity of another individual by committing identity theft, or who use false identifying information. Secure Flight was neither intended nor designed to address these vulnerabilities."

53. **TrustedID**, *TrustedID™ Launches New Threat Score™ Identity Theft Risk Rating Service*, PR Newswire (Oct. 27, 2009), http://www.prnewswire.com/news-releases/trustedidtm-launches-new-threat-scoretm-identity-theft-risk-rating-service-66376852.html.

    "Identity Threat Score with IdentityScan empowers consumers with access to the type of sophisticated technology that is currently used by major credit card providers around the globe to analyze risk. The system works by identifying specific patterns and combinations of information proven to increase a consumer's risk of identity theft. By analyzing this data, IdentityScan is able to accurately predict the likelihood of identity theft, while limiting the number of false positive alerts that lead to unnecessary concern for consumers."

54. **Udi Solomon**, *The Only Thing Worse than False Positives Is No Positives!*, ThetaRay (June 23, 2015), http://www.thetaray.com/the-only-thing-worse-than-false-positives-is-no-positives/.

    "Originally termed by the medical world, false positives are no laughing matter. Of course, in the financial sector, we're not talking life or death, but don't underestimate the damage false positives can cause. Credit card fraud for example is estimated to bring losses of up to $190 billion annually. Nevertheless, false positives can mean significant losses to revenue, reputation and customer relations.

    Being on the customer end of a false positive is not much fun either, whether rejected for a loan or inexplicable credit card blocks at the point of payment. From the business side, fraud alerts have to be managed somehow, they can't be ignored for fear of missing the genuine instance of crime. Someone has to pick up the bill for lending fraud and the buck stops with the issuing bank."

55. **Written Statement of Jeffrey A. Porter**, On Behalf of the American Institute of Certified Public Accountants, presented to the Internal Revenue Service Oversight Board, *Public Forum Panel 2: Working Together to Combat Fraud* 7 (2013).

    "The IRS [Internal Revenue Service] has made great strides in issuing IP PINs [Identity Protection Personal Identification Numbers] to 250,000 taxpayers victimized by identity theft in 2012, with approximately 770,000 issued during the 2013 filing season. However, we believe the IRS could issue many more IP PINs and aid even more identity theft victims.

    New technological developments may contribute greatly to a reduction in the Service's cycle time for addressing identity theft cases. Technology improvements should also focus on providing the IRS with an ability to conduct a global account review for an identity theft victim by identifying prior returns that have been impacted and subject to potential examination and collection actions."