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A Critical Appraisal of Tax Amnesty through the Lens of Member States: A Journey into Tax Compliance

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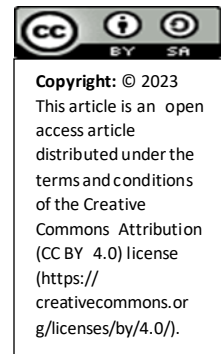
Abstract

Tax income remains a major source of revenue for governments in various States. The deliberate act or omission to pay the taxes as and when due has negatively impacted this stream of income thereby prompting the need for States to devise mechanisms to address this situation. Tax Amnesty is a reconciliatory approach by the government to enable tax defaulters redeem themselves and sometimes forgo the penalties accrued. This mechanism has in some ways helped the government realize the income from otherwise reluctant taxpayers, fairly improved tax compliance in some ways and prevented huge expenses on prosecuting erring taxpayers. However, while the partial or complete policy of forgiving the debts of tax payers have increased the tax disclosure and compliance by taxpayers of taxes owed and reduced penalties to a great extent, it suffices to say that this system has been abused by certain taxpayers who have now adopted it as an effective way to strategize and effectively plan their income tax. Hitherto, the system has been abused by deterrent or persistent tax defaulters. This paper therefore seeks to provide answer to the effectiveness of tax amnesty programs adopted by States in various jurisdictions whilst analyzing the tax evasion mechanisms utilized by individual and corporate taxpayers.

Keywords: Tax Amnesty, tax compliance, tax evasion, taxation

Introduction

The Concept of Tax Amnesty can be traced to the deliberate or negligent refusal by taxpayers to pay taxes to the government. Sometimes, this act is done by tax professionals in conjunction with taxpayers to deprive the government of the income



¹ The author thanks Professor Yariv Brauner.

to be realized from the payment of the tax through effective avoidance and evasion schemes. This has resulted in the need for States to devise strategies to curb the acts of tax avoidance and evasion by minimizing tax liabilities in tax reporting. Tax amnesty presents an amicable opportunity between the citizens and the government to reach a consensus on late tax payments, penalties arising from underpayment or total refusal to pay, the system has been met with a mixed approach of progress and deliberate abuses by taxpayers.

This paper will wholistically address the issues of tax evasion and the operations of tax amnesty programs adopted by States in different jurisdictions. There is also the growing concern of public policy by law-abiding citizens with regards to the constant manipulation of the tax system by errant taxpayers. Thus, governments have had to amend and other times abolish the system to allow for a fair ground of tax payments and curb further excesses.

Every tax season, people try to get out of paying the full share of what they owe the U.S. government in income taxes. The Internal Revenue service usually starts accepting tax returns in late January and returns typically need to be filed by April 15. Here are a few ins and outs of federal tax evasion — why it matters, why people do it and how they do it².

The size and distribution of tax evasion is a source of sustained interest and controversy among the public. Some believe that the bulk of tax evasion is done by the wealthy, a view fueled recently by high-profile leaks from offshore financial institutions such as the “Panama Papers.” Others stress that poorer individuals may be more likely to evade taxes, highlighting fraud by the self-employed or abuse of refundable tax credits.³

The HSBC leak, the Panama Papers, and the amnesty data all paint the same picture: the probability of hiding assets offshore appears to rise sharply, continuously, and significantly with wealth, including within the very top groups of the wealth distribution.

The HSBC leaked documents contain records of some 30,000 accounts kept at HSBC's Swiss subsidiary between 2005 and 2007. The accounts contained almost \$120 billion and were tied to politicians, royalty, designers and sports figures in every part of the world. They were also tied to corrupt businessmen, dictators, arms industry officials and high-end criminals. The documents were downloaded by Herve Falciani, a former computer security expert at HSBC and they were released over the weekend by the International Consortium of Investigative Journalists. The records show bank employees actively helped customers conceal the accounts from authorities. The bank

² Clark Merrefield “Federal Tax Evasion: Why it matters and who does it” January 14, 2020.

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also provided customers with bundles of cash in various currencies so they couldn't be traced.

The document release comes at a time when the secretive Swiss banking industry has been under investigation by the United States and other countries for helping its wealthy clients conceal their assets. HSBC, one of the biggest banks in the world, was fined \$1.9 billion by the U.S. government for money laundering in late 2012.⁴

Since the Panama Leak, Governments around the world have now recouped more than \$1.36 billion in back taxes and penalties as a direct result of the Panama Papers, including \$185 million in newly-reported recoveries over the past two years. Five years after the International Consortium of Investigative Journalists (ICIJ) led a worldwide investigation exposing the secrets of the offshore finance industry, twenty-four countries have reported official recoveries, with hundreds more proceedings still ongoing.

Along with journalists from 100 media partners all over the globe, ICIJ examined over 11.5 million secret documents from the Panamanian law firm Mossack Fonseca. The files, which were leaked to the German newspaper *Süddeutsche Zeitung*, exposed a worldwide web of offshore shell companies that Mossack Fonseca set up for a list of clients including heads of state, business executives and star athletes.⁵

Since April 2019, Australia has added close to \$45 million to its total, which now sits at nearly \$138 million. Italy has reported recouping an additional \$31.8 million since 2019 — nearly doubling its total to \$65.5 million. And in February 2021, the Norwegian Tax Administration reported for the first time to ICIJ's media partner that it had been able to recover nearly \$34 million.⁶

With its new findings, Australia becomes the fifth country to have officially reported more than \$100 million in revenue recouped after the Panama Papers revelations. The United Kingdom has recovered \$252.8 million; Germany has reclaimed \$195.7 million (\$12.5 million new since 2019); Spain has recovered \$166.5 million; and France has recouped \$142.3 million, Colombia has recovered \$88.88 million, Ecuador has recovered \$84.3 million.

In France, ICIJ partners Maxime Vaudano and Jeremie Baruch report that as of January 2021, in addition to hundreds of ongoing proceedings conducted by the tax agency, the office of the French financial prosecutor was still pursuing 15 investigations that could potentially result in jail time.

In Malta, the revelations in the Panama Papers formed part of an investigation into Keith Schembri, chief of staff to former Prime Minister Joseph Muscat. Schembri, who resigned in November 2019 after being questioned during an investigation into the 2017 murder of investigative reporter Daphne Caruana Galizia

⁴ Jim Zarroli “Leaked HSBC Documents Shed Light on Swiss Banking Industry”

⁵ Ibid

⁶ Ibid

(he was released without charges), was charged in March 2021 with money laundering, corruption, fraud and forgery, in relation to his secret offshore holdings.⁷

This paper shall examine the various tax amnesty mechanisms in some States in the United States and outside the United States, the effectiveness and otherwise of the failure of the system. The second part shall focus on State tax amnesty programs and the effect of such program on tax compliance. The third part of this paper shall discuss the impacts of the media on the payment of tax especially by celebrity tax payers and the impact on the implementation or otherwise of the program. The fourth and final part shall address possible alternatives for tax amnesty programs and ways to improve the effectiveness thereof of existing tax amnesty programs.

An Overview of Tax Amnesty in Various Jurisdictions

International evidence regarding the effectiveness of tax amnesties is mixed. “Successful” tax amnesties—at least based on the gross amount of revenue raised—include the Argentine general amnesty of 1995 (whose gross yield was around \$3.9 billion), an amnesty in India in 1997 (\$2.5 billion) according to Time Asia (1998), the Irish amnesty of 1988 (\$700 million), and Italy’s 2002 amnesty on capital repatriation. In the United States, the gross revenue collected from the 78 amnesties during the period 1980–2004 totaled \$6.6 billion (in 2004 U.S. dollars). Repeated tax amnesties tend to be less successful in raising gross tax revenues. Recently, Ireland offered a series of tax amnesties (1988, 1993, and 1999); Italy adopted 27 amnesties over a roughly 20-year period; the Philippines had about 15 amnesties over 11 to 12 years in the 1980s and 1990s, and compliance declined over that time. India has a long history of amnesty.⁸

Kentucky⁹

Faced with an economic downturn and a projected reduction (in nominal terms) in General Fund (GF) fiscal revenue for fiscal year (FY) 2002, the governor of the U.S. state of Kentucky decided to introduce a tax amnesty in 2002. The aims of the program were twofold: first, to raise revenue in the short term so as to loosen the fiscal constraint (i.e., Kentucky has a strict balanced budget requirement for its GF); second, to broaden the tax base and improve future compliance. The key features of the tax amnesty program were¹⁰ (1) generous incentives to participate, (2) a

7 Sean McGoey “Panama Papers Panama Papers revenue recovery reaches \$1.36 billion as investigations continue” International Consortium of Investigative Journalists.

8 Recent Trends and Evidence IMF Working Paper Tax Amnesties: Theory, Trends, and Some Alternatives.

9 For more details, see “Commonwealth of Kentucky: 2002 Tax Amnesty Final Report,” Kentucky Revenue Cabinet, November 2003.

10 Other features were (1) a short participation window (the program ran for 61 days starting from August 1, 2002), (2) widespread taxpayer eligibility (only taxpayers under criminal investigation or those subject to criminal litigation were not eligible), (3) inclusion of all state taxes, and (4) an extensive period of time covered (all tax evaded from the end of the previous tax amnesty coverage (December 1, 1987) up to December 1, 2001)

significant increase in the costs of tax evasion, and (3) a widespread public information campaign. Among the incentives were a waiving of all interest and collection fees on taxes owed as well as criminal prosecution and all civil penalties. The added tax-evasion costs included (1) collection fees increasing from 20 to 25 percent, (2) a new 25 percent assessment fee on all additional liabilities assessed for any amnesty-eligible period, (3) a new 50 percent failure-to-file fee, (4) the possibility of publishing the list of delinquent taxpayers, and (5) corporate officers and members of limited liability and limited partnership companies being individually liable for payment of some evaded taxes. The operational cost of the tax amnesty (mainly advertising) reached \$2.8 million (lower than the allocated \$3.1 million).¹¹

The 2002 tax amnesty was Kentucky's second; the first one dated back to 1988. That first amnesty provided for the waiver of criminal prosecution, all civil penalties, and one-half of the interest due (compared with 100 percent in 2002). A total of 18,761 taxpayers participated in that first amnesty program and paid a total of \$61.1 million—representing 1.8 percent of total GF revenue (which reached \$3.344 billion in 1988).¹²

Effects and Assessment

The 2002 amnesty program attracted a large number of participants and raised significant revenue. A total of 23,592 taxpayers' applications were received in 2002 (52 percent from individuals, the rest from businesses).¹³ Of these 23,592 taxpayers, only 346 applicants (i.e., less than 1.5 percent of the total) were new filers. The vast majority of amnesty revenue came from businesses (86 percent, or \$103.7 million). Total revenue collection reached \$123.4 million.

Kentucky's 2002 tax amnesty program did not meet one of its two goals (broadening the tax base and improving future compliance). However, it did manage to raise revenue in the short term (tax amnesty payments amounted to 1.7 percent of the state's 2002 GF revenue), which provided the state some fiscal breathing space in a difficult economic environment and, at the margin, therefore helped the state either not to increase taxes or not to cut expenditures, given its balanced-budget requirement. The (significant) downside of this short-term revenue gain is its cost: a large share of these revenues stemmed from identified tax evaders who would have eventually paid most of their tax liabilities; compliance, going forward, might also have been negatively affected, as data from Kentucky's previous tax amnesty indicate.

¹¹ Ibid at 8.

¹² Ibid at 8.

¹³ Eighty-seven percent (20,510) of applications for amnesty were eventually accepted. Those that were not ultimately approved were rejected because the taxpayer failed to pay the liability in full.

*Michigan*¹⁴

In 2002, the U.S. state of Michigan introduced a tax amnesty, motivated by a nominal decline in the state's revenue (two years in a row) and also a desire to broaden the tax base. After a peak in revenue in 2000, GF revenue declined, in nominal terms, by 2% in 2001 to \$9.8 billion and, from 2001 to 2002, by another 5.5 percent (to \$9.3 billion). This left the state's public finances in a difficult situation because, by law, the governor has to submit a balanced budget, and the legislature is required to pass a balanced budget.

The key features of the 2002 program were ¹⁵(1) moderate participation incentives (although it provided for a waiver of penalties and prosecutions for program participants—provided filing and payments were received before July 1, 2002—interest due was not waived); (2) a moderate increase in the future costs of tax evasion (after the amnesty period ended, failing to file a return incurred an additional 25 percent penalty); and (3) a limited public information campaign.

Effects and Assessment

A total of 22,220 taxpayers participated in the 2002 amnesty, 26 of which 4,225 were new taxpayers (they filed a total of 13,854 tax returns) and 15,995 were taxpayers with existing assessments (they filed 53,001 returns). Most taxpayers filed for the individual income tax (10,095 taxpayers, of whom 2,482 were new filers), with income tax withholding (3,452 taxpayers) and sales tax (3,067 taxpayers) being the other major taxes for which taxpayers decided to take advantage of the amnesty. The amnesty was successful in terms of gross revenue generated from new filers (compared with expectations). Indeed, actual revenue collected from new filers reached \$31.7 million, significantly exceeding the expected target of \$24.3 million (out of this, \$1.5 million was set aside for program expenses). Also worth noting was the high share of revenue collected from new filers out of total tax amnesty collection (39 percent).

Further analysis reveals that, out of a total gross revenue collection of \$81.9 million, more than a quarter (\$20.5 million) came from interest paid on the delinquent taxes (of which \$6.9 million came from new filers), and that business taxpayers contributed to 77 percent of the tax amnesty payments.

Overall, the 2002 tax amnesty had only half the success of the 1986 tax amnesty. Although the 2002 tax amnesty raised \$81.9 million of gross revenue, this amount

¹⁴ For more details, see "State of Michigan Tax Amnesty Program 2002," Office of Revenue and Tax Analysis, Michigan Department of Treasury, February 2003.

¹⁵ Other features were (1) a short participation window (the program ran from May 15 to July 1, 2002); (2) widespread taxpayer eligibility (both individuals and businesses)—only taxpayers subject to a current tax-related court case or criminal investigation were not eligible; taxpayers with existing tax assessments or accounts receivable were eligible to participate; (3) inclusion of all state taxes; and (4) an extensive period of time covered (all tax evaded up to June 1, 2001).

represents less than 0.9 percent of the state of Michigan's 2002 GF revenue, and only about half the 1.7 percent of GF revenue collected during the previous—and first—tax amnesty of 1986. Similarly, amnesty revenue from new taxpayers amounted to 0.3 percent of GF revenue, less than half the 0.7 percent collected during the 1986 tax amnesty.

Ireland

Ireland's public sector finances were in a precarious situation toward the end of the 1980s (e.g., the public debt-to-GDP ratio peaked at 147 in 1988). The tax administration (the Irish Revenue, IR) was also widely seen as inefficient. In 1998, as part of a wide-ranging public sector consolidation and reform effort, the IR decided to reform its "business processes" fundamentally (e.g., it introduced self-assessment of taxpayers' liabilities and undertook a large investment in information technology). To assist this reform effort and start anew in its relationship with taxpayers, three major types of tax amnesty/voluntary disclosure programs were introduced: (1) the 1988 interest rate amnesty, whose goal was to clear the large stock of tax arrears; (2) the 1993 "underreporting" amnesty;¹⁶¹⁷ and (3) a series of voluntary disclosure schemes (1999 onward).

These schemes were not the most commonly used tax amnesties in that they did not include any financial incentives to program participants: all tax and interest generally had to be paid in full. However, they provided for legal forgiveness (a waiver from civil and criminal prosecutions). The IR was able to offer the voluntary disclosure schemes without financial incentives because of strong new administrative powers it obtained in 1999 (providing the IR with access to previously secret bank accounts). The IR notified (in advance) target groups that it intended to use these new powers, which encouraged voluntary disclosure before a tax investigation was started. These powers proved very fruitful (yielding more than €1 billion); see Appendix I for more details on these schemes.

Effects and Assessment

The 1988 amnesty successfully met its goal of clearing the large stock of tax arrears and, in the process, collected significant revenue. The stock of arrears went down from 40 percent of annual revenue to an annual level of approximately 2.5 percent. Also, gross revenue collected reached yielded IR£517 million (1.9 percent of GDP) through some 350,000 payments.²⁹ The IR had forecasted a yield of just IR£50 million.

¹⁶ The 1993 amnesty also brought in some IR£75 million in respect of "straightforward" arrears of tax: tax that had been declared but remained unpaid. Effectively this was akin to the 1988 interest amnesty.

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The 1993 amnesty was also relatively successful in terms of gross revenue collection (IR£185 million). However, large numbers of people did not come forward to pay even the 15 percent. This was evident from the number of taxpayers who subsequently came forward under the voluntary disclosure schemes that started in 1999. One possible reason is that the tax administration was perceived as having limited powers and, at the time, low credibility in terms of follow-through: the amnesty program did not raise the cost of tax evasion sufficiently compared with the benefits to affect overall tax compliance fundamentally.

This new voluntary disclosure model is fairly widely accepted because it involves considerable pain for the tax evader; in many cases the impact of full interest and penalties (penalties can be mitigated for post-1993-amnesty years only) means that voluntary settlement amounts are typically three or four times the evaded tax.

Ireland's tax amnesty programs, especially the voluntary disclosure schemes, have had a positive impact on reducing noncompliance and on driving long-term revenue upward.¹⁸ Key to this success, however, was not the tax amnesty programs per se, but the much improved enforcement capacity that was developed prior to the launch of the programs. More effective enforcement programs led to a significant and structural shift in the cost benefit analysis of tax evasion in Ireland: the improved capacity of the tax administration to detect evaders and follow through, the increased penalties for tax evasion, and strong administrative and legal enforcement powers all led to a sharp increase in the cost of tax evasion (higher expected probability of detection, higher penalties and fines if caught, and higher likelihood of being forced to pay if detected). At the same time, through a series of large cuts in the top marginal tax rates, the benefits of tax evasion have also been reduced. The combined effort to significantly increase the cost and lower the benefits of tax evasion has resulted in a large improvement in tax compliance.

Argentina

Argentina had approximately a dozen tax amnesties between the mid-1950s and the early 1990s. It granted amnesties roughly every other year over the 1977–87 period. Most of these amnesties coincided with changes in government. More recently, seven tax amnesty programs were launched from 1995 to 2004. Argentina has experimented with various types of tax amnesties. Although all these programs provided for a reduction of penalties and interest, the other participation incentives varied significantly. The key programs and their key features are the following: The blanqueos provided for a reduction of the basic tax liability.

¹⁸ Irish Revenue does not systematically publish estimates of noncompliance for the major taxes. However, data on total tax revenue collections and the ratio of tax arrears to total tax collection suggest that noncompliance has been falling steadily. Total tax receipts collected by Irish Revenue increased from approximately IR£12 billion in 1988 to approximately IR£55 billion in 2005, an increase of 358 percent over the 17-year period. Total tax debt as a proportion of total tax collection fell from about 38 percent in 1988 to about 3 percent in 2005. These trends are reflected in the figure in Appendix I.

The moratorias are time-limited amnesties, implying reduction of penalties and interest, and can be implemented as “spontaneous filing” (voluntary filing) and as “payment facilities.” Payment facilities were introduced in 1990 to include obligations that had not been included in the spontaneous filing regime. The main difference between the two types of amnesty is that the spontaneous filing regime does not benefit taxpayers undergoing tax audits. The mechanism is simple: the legislation defines a cut-off date—to consolidate the tax obligations—and a deadline for filing under the special conditions of the amnesty. The legislation specifies the maximum number of payments, the interest rate, and the minimum amount of each payment. In 1991, an “audit amnesty” was introduced to “protect” taxpayers against audits and to encourage compliance with current tax obligations.

The program limited the tax administration’s capacity to audit taxpayers for a certain period of time (for tax periods prior to 1991), as long as they were complying with their current obligations. In 1997, an amnesty program contained (1) a regime of voluntary filing of tax returns to encourage taxpayers to declare taxes and social security contribution liabilities that were more than one year old, (2) a reduction in the interest rate for late payment of up to 50 percent, (3) a waiver of financial penalties, and (4) a payment installment program for the remaining tax liabilities. In 2000, an amnesty program provided for (1) a regime for consolidating tax debts; (2) the elimination of the regime of voluntary filing of returns; and (3) a complete waiver of financial penalties and sanctions, and a partial waiver of interest penalties for late payment. In November 2001, a tax amnesty provided participants who paid 1 percent of their tax arrears by December 2001 eligibility for partial forgiveness of interest due and full cancellation of fines and penalties.

Participants could also reschedule payment of their remaining arrears under payment facility plans. By February 2002, no debtors had met the conditions to be entitled to the tax amnesty. With tax revenue continuing to fall, the tax administration decided to extend the amnesty via a so-called “mini-amnesty” for unpaid taxes that accumulated between October 2001 and January 2002. In 2003, a tax amnesty program provided for (1) a 50 percent reduction in overdue interest payments, which were also capped at 30 percent of the principal value of the tax obligations, and (2) a waiver of all financial penalties. It also capped the interest rate on the repayment of the principal amount of tax owed (which could be paid over five years) at 6 percent annually, compared with the prevailing monthly rate of 3 percent.

Managing these amnesty programs has implied costs for the Argentine tax administration, including lost time and resources, because of the interruption of regular administrative procedures (in particular, audit and enforcement activity). However, the tax department has not measured these costs or taken them into account when considering new tax amnesty programs.

Repeated tax amnesty programs in Argentina have adversely affected the equity and fairness of the tax system. Taxpayers who comply with their obligations on a regular basis see potential benefits from noncompliance in the form of either reduced tax

payments via reliance on tax amnesties or long-term noncompliance in light of the revealed lack of strong administrative capacity. Noncompliers face fewer incentives to change their behavior given the prospect of repeated tax amnesties and the low likelihood that they will face enforcement actions.

The tax amnesties that were offered to encourage previously unregistered taxpayers to register to pay taxes (2000, 2001, and 2002 amnesties) failed to achieve this objective. A 2005 study by the Argentine tax agency found that only 551 new taxpayers registered to pay taxes as a result of the amnesty programs offered since 1995¹⁹

Two major reasons for introducing so many tax amnesty programs are weak tax administration procedures²⁰ and an inadequate penalty structure.²¹ Argentina's tax amnesty programs have not been successful, as revealed by the need to frequently introduce new programs aimed at boosting tax compliance and by the results of some of the tax amnesties, which have recently been analyzed by the Argentine tax department. Most amnesties were introduced independently of significant tax policy changes or of an overall program to strengthen the tax administration's detection and enforcement capacity. Thus, even though it is difficult to measure the effects of the repeated amnesties on overall tax compliance because of the effect of other factors (tax rate increases, new taxes, etc.), these programs do not appear to have contributed in any evident way to improve tax compliance and, on the contrary, are likely to have negatively affected taxpayers' perception of the fairness and effectiveness of the tax system.

The Implementation of State Tax Amnesties²²

The use of tax amnesty programs by states has grown since the early 1980's, when Arizona became the first to do so in 1982 (Parle and Hirlinger, 1986; Fisher et al,

¹⁹ For more details, see Salim and Vassallo (2005).

²⁰ For example, a 2004 law offered a tax amnesty to taxpayers in the simplified tax regime who had ceased their activity without formally communicating this to the tax authority. The tax arrears that appeared as though they had accumulated since these taxpayers ceased their activity (although according to the tax department they were still economically active) were waived. Thus, part of the problem with the accumulation of tax arrears could be attributed to an inaccurate taxpayer register for taxpayers in the simplified regime. Instead of solving this problem through administrative procedures aimed at updating the register and ensuring it contained accurate information, the government issued an amnesty.

²¹ An amnesty introduced at end-2003 offered taxpayers in arrears a 50 percent reduction in overdue interest payments and a waiver of all financial penalties. Many taxpayers had accumulated arrears because of the high interest rates on overdue tax and the ensuing rapid accumulation of overdue interest payments. However, rather than more reasonable penalty interest rates being included in the tax legislation, an amnesty was offered.

²² Strategic Tax Planning for State Tax Amnesties: Evidence from Eligibility Period Restrictions-Justin M. Ross School of Public & Environmental Affairs Indiana University Bloomington, Neal D. Buckwalter School of Public, Nonprofit and Health Administration Grand Valley State University Grand Rapids.

1989; Luna et al. 2006²³ Since that time, nearly every state has conducted a tax amnesty program (Le Borgne, 2006; Luna et al, 2006)²⁴ The underlying goal of these state-administered amnesty programs is to induce payment of taxes owed by noncompliant taxpayers, most typically by offering to waive some or all of the penalties, fees, and interest associated with the unpaid tax liabilities. Furthermore, these programs aim to increase revenues – both short- and long-term – by collecting delinquent taxes during the amnesty period, and by increasing compliance through the addition of taxpayers to the registers.

One of the earliest pieces to address the question directly was that of Parle and Hirlinger (1986). The authors claim that states have in mind three essential goals when considering the use of tax amnesty programs: First, to collect outstanding tax revenues inexpensively, including revenue which might be otherwise uncollectible due to the limited availability of enforcement resources. Second, to promote improved future citizen compliance with the tax code. And, third, to bring into the state's revenue system [taxpayers] who have somehow managed to remain outside the tax rolls and who are thus not easily detectable by other means (p. 247).²⁵

Effect of Amnesty on Compliance

One important feature of tax amnesty programs deals with the after-amnesty enforcement environment of the state. Efforts to publicize increased enforcement intentions after the amnesty period are important in obtaining future compliance²⁶ (Tax Foundation, 1985). Many experts have advised that an amnesty which waives some or all of the legal penalties, fees, or interest associated with tax evasion should be followed up with increased and more stringent enforcement practices in order to minimize potential losses to future compliance ²⁷ Leonard and Zeckhauser (1987) suggest that more vigorous enforcement of tax compliance may be necessary to obtain political support for tax amnesties. On the other hand, Mikesell (1986) considers the possibility that amnesties are executed for the purpose of serving as a political segue into an era of stricter tax enforcement.

Several researchers have attempted to study the potential impacts of amnesty programs on compliance behavior. Fisher et al. (1989) examined data from Michigan, and concluded that the evidence did not provide support for amnesty as an effective device for returning delinquent tax payers to the tax rolls on a permanent basis. In a unique experimental design, Alm et al. (1990) found that the average level of taxpayer compliance decreases among game participants presented with amnesty, suggesting

²³ Others point to 1981 as the starting date, including Mikesell (1984,1986), Alm and Beck (1990, 1991, 1993), Alm et al.(1990), and Dubin et al (1992). Illinois ran a limited eligibility amnesty from Dec. 28, 1981 to Jan. 8, 1982.

²⁴ The Federation of Tax Administrators has compiled a list of amnesty states, which shows a total of 45 states having offered at least one tax amnesty between 1982 and May 2012. See <http://www.taxadmin.org/fta/rate/amnesty1.html>.

²⁵ Parle and Hirlinger (1986) (p.247)

²⁶ (Tax Foundation, 1985)

²⁷ (Mikesell, 1984, 1986; Leonard and Zeckhauser, 1987; Fisher et al, 1989; Alm et al., 1990).

some concern of the long-run impact of amnesty programs on voluntary tax compliance. Mikesell and Ross (2012) found that an average amnesty recovery was equivalent to less than one percent of state tax collections and therefore was unlikely to reverse any systemic fiscal problems. Regardless, for governments faced with budget challenges, amnesty may be seen as a viable revenue-generating option. Indeed, nationwide it seems these programs have become particularly oriented to that end.²⁸

The Allingham and Sandmo (1972) model of tax evasion informs the incentives created by tax amnesty programs to motivate the empirical approach of this paper.⁹ In this model, taxpayers' reported income is directly related to the probability of detection and the penalties imposed if they are caught.²⁹ Improving tax compliance is a major policy goal for developed economies. An eroded tax base constrains a government's choice of economic strategies, forcing it to consider higher and more distortionary taxes, increased borrowing, or reduced provision of public goods. The public perception that others are not paying their share may increase disrespect for the law and diminish trust between individuals. The costs of administering the tax system will rise, even as policy-makers find that their ability to measure—and hence steward—the economy has been significantly weakened. In short, effective tax collection is fundamental to a well-functioning state.³⁰

Compliance includes three main obligations, not all of them applicable to all actors: (i) filing tax returns on time; (ii) making accurate reports on these returns; (iii) paying any tax owed on time.³¹

Three points are worth making about this definition. First, it means that my focus is broader than 'tax evasion', and includes the sizeable chunk of revenue (around 10 per cent of the US tax gap) that is declared but not paid on time, as well as those actors who fail to file on time despite owing no money³². Second, legal but potentially controversial 'tax avoidance' measures are excluded. Third, I am concerned with

²⁸ Mikesell, John L. and Justin M. Ross. (2012). "Fast Money? The Contribution of State Tax Amnesties to Public Revenue Systems." *National Tax Journal* 65(3): 000-000.

²⁹ Other examples of research on tax amnesty programs that are modeled in the Allingham and Sandmo (1972) tradition include Alm and Beck (1991), Malik and Schwab (1991), Stella (1991), and Macho-Stadler et al. (1999).

³⁰ Michael Hallsworth- The use of field experiments to increase tax compliance *Oxford Review of Economic Policy*, Volume 30, Number 4, 2014, pp. 658–679.

³¹ US Treasury (2009), Update on Reducing the Federal Tax Gap and Improving Voluntary Compliance. Vogel, J. (1974), 'Taxation and Public Opinion in Sweden—Interpretation of Recent Survey Data', *National Tax Journal*, 27, 499–513.

³² Slemrod, J. (2007), 'Cheating Ourselves: The Economics of Tax Evasion', *Journal of Economic Perspectives*, 21, 25–48.

whether a payment or report is made, not the spirit or willingness with which it is made³³

Sandmo's (1972) model,³⁴ which draws on Becker (1968),³⁵ a taxpayer's decision whether to evade tax is based on their expected utility after considering the probability of audit, the size of fine, tax rates, and income. In other words, compliance is seen as a gamble with the risk of punishment. Accordingly, the way to curb non-compliance is through vigilant monitoring, the threat of sanctions and penalties, and restrictions on the opportunities to cheat. Effective enforcement procedures are the routes to success for the authorities; without these procedures (and given the opportunity), taxpayers will not comply.

Deterrence has been the dominant approach in economic studies and revenue departments.³⁶ However, a common objection is that this model significantly over-predicts non-compliance, given the very low probability of audit. This has led to the remark that, if the model is valid, the greater puzzle is why people pay taxes, not why they evade them.³⁷ Proponents of the deterrence approach generally make three main responses. One is that the decision is based on the perceived risk of detection, not the true audit rate, and there is much evidence that we are prone to overweight the small probability of this happening—one study found that participants estimated the rate as 2,000 per cent higher than it was.³⁸ The second is that the audit rate does not represent the true probability of detection, since tax authorities can and do use third-party information to check the veracity of taxpayer reports. Empirical evidence supports this claim: evasion is lower when third-party reporting is present.³⁹

Finally, tax payers may be aware that enforcement is not random, and that their own actions or characteristics may increase the likelihood they will suffer action; these endogeneities can provide sufficient incentives to comply even when the enforcement parameter levels are low.⁴⁰ The non-deterrence approach claims that the taxpaying decision does not rest solely on the financial decisions, but rather is influenced by

³³ James, S., and Alley, C. (2004), 'Tax Compliance, Self-Assessment, and Tax Administration', *Journal of Finance and Management in Public Services*, 2, 27–42.

³⁴ Allingham, M. G., and Sandmo, A. (1972), 'Income Tax Evasion: A Theoretical Analysis', *Journal of Public Economics*, 1, 323–8.

³⁵ Becker, G. (1968), 'Crime and Punishment: An Economic Approach', *The Journal of Political Economy*, 76, 169–217.

³⁶ Feld, L. P., and Larsen, C. (2012), 'Self-perceptions, Government Policies and Tax Compliance in Germany', *International Tax and Public Finance*, 19, 78–103.

³⁷ Alm, J. (2012), 'Measuring, Explaining, and Controlling Tax Evasion: Lessons from Theory, Experiments, and Field Studies', *International Tax and Public Finance*, 19, 54–77.

³⁸ Bobek, D. D., Hageman, A. M., and Kelliher, C. F. (2013), 'Analyzing the Role of Social Norms in Tax Compliance Behavior', *Journal of Business Ethics*, 115, 451–68.

³⁹ Slemrod, J. (2007), 'Cheating Ourselves: The Economics of Tax Evasion', *Journal of Economic Perspectives*, 21, 25–48; Kleven, H. J., Knudsen, M. B., Kreiner, C. T., Pedersen, S., and Saez, E. (2011), 'Unwilling or Unable to Cheat? Evidence from a Tax Audit Experiment in Denmark', *Econometrica*, 79, 651–92.

⁴⁰ Phillips, M. (2014), 'Deterrence vs Gamesmanship: Taxpayer Response to Targeted Audits and Endogenous Penalties', *Journal of Economic Behavior and Organization*, 100, 81–98.

factors such as social norms, perceptions of fairness, tax morale, and the provision of public goods.⁴¹ Essentially, two variants of this argument exist. The first holds that these factors can be integrated into the utility decision of the individual, thus representing a certain ‘cost’ to them.⁴² Indeed, Allingham and Sandmo themselves suggested that this would be an appropriate development. The second variant is a more radical departure, since it rejects the premise that taxpayers seek to maximize their utility in a calculating manner. Rather, it starts from the position that taxpayers have ‘a primary disposition to comply with tax laws’⁴³ This viewpoint posits a fundamentally cooperative relationship between tax authority and taxpayer, with the latter asking ‘what should I do?’ rather than ‘what can I get away with?’⁴⁴ The deterrence model is critiqued as overly individualistic, and neglectful of the fact that taxpayers are grounded in a set of interactions and identities stretching beyond themselves⁴⁵

In terms of administrative policy, the non-deterrence approach argues that taxpayers should be treated fairly and with respect, given clear and helpful information, and provided with a competent service to make compliance easy. In order to reduce evasion, administrations should persuade taxpayers by emphasizing that tax compliance is ethical, practiced by the great majority of people, and creates valued public goods.⁴⁶ Traditional deterrence procedures, on the other hand, will create an adversarial relationship in which taxpayers react against the attempt to control their behavior, which then undermines (or ‘crowds out’) voluntary compliance.⁴⁷

⁴¹ Erard, B., and Feinstein, J. S. (1994), ‘The Role of Moral Sentiments and Audit Perceptions in Tax Compliance’, *Public Finance-Finances Publiques*, 49, 70–89, Kirchler, E. (2007), *The Economic Psychology of Tax Behaviour*, Cambridge, Cambridge University Press.

⁴² Gordon, J. P. F. (1989), ‘Individual Morality and Reputation Costs as Deterrents to Tax Evasion’, *European Economic Review*, 33, 797–805.

⁴³ Ariel, B. (2012), ‘Deterrence and Moral Persuasion Effects on Corporate Tax Compliance: Findings from a Randomized Controlled Trial’, *Criminology*, 50, 27–69.

⁴⁴ McGraw, K. M., and Scholz, J. T. (1991), ‘Appeals to Civic Virtue Versus Attention to Self-Interest—Effects on Tax Compliance’, *Law and Society Review*, 25, 471–98.

⁴⁵ Taylor, N. (2003), ‘Understanding Taxpayer Attitudes through Understanding Taxpayer Identities’, in V. Braithwaite (ed.), *Taxing Democracy: Understanding Tax Avoidance and Tax Evasion*, Aldershot, Ashgate

⁴⁶ Kirchler, E. (2007), *The Economic Psychology of Tax Behaviour*, Cambridge, Cambridge University Press.

⁴⁷ Brehm, S. S., and Brehm, J. W. (1981), *Psychological Reactance: A Theory of Freedom and Control*, New York, Academic Press; Hessing, D., Robben, H., and Elffers, H. (1989), ‘The Relationship between Self-reported and Documented Behaviour in the Case of Fraud with Unemployment Benefits’, 1989 Annual Meeting of the Law and Society Association, Madison, WI; Sheffrin, S., and Triest, R. (1992), ‘Can Brute Deterrence Backfire? Perceptions and Attitudes in Taxpayer Compliance’, in J. Slemrod (ed.), *Why People Pay Taxes: Tax Compliance and Enforcement*, Ann Arbor, MI, University of Michigan Press.

Impact of Media on Tax Amnesty

Findings contribute to studies that investigate the role of media for tax payers.⁴⁸ It shows that the switch from the traditional to Internet-based public disclosure of tax filings in Norway caused people to report higher income levels. Using an experimental setting, Kasper, Kogler, and Kirchler (2015) find that newspaper reports on tax issues affect the intentions of participants to comply with the law.⁴⁹ According to Battiston et al. (2016), the effect of tax audits on subsequent VAT payments is larger when the audit receives more attention from the media⁵⁰. In contrast to these studies, we investigate the role of news coverage about celebrities with tax issues. We find that this news coverage increases the likelihood that people voluntarily disclose taxes they evaded. Thus, tax authorities could have a special incentive to prosecute celebrity tax evaders.⁵¹

According to German law, tax evasion is defined by the objective matter of tax reduction and the subjective matter of intent (i.e., knowledge and consent), whereby conditional intent (i.e., approving acceptance) is sufficient. Tax evasion, therefore, does not take place in the case of a missing sense of wrongdoing. Tax reduction occurs if taxes are not assessed at all, remain partially unassessed, or are not paid on time. Tax evasion is a criminal offense that is subject to compulsory prosecution. However, German amnesty regulations allow tax payers to rectify transgressions without being held criminally liable. The possibility of self-denunciation applies if incorrect statements are corrected, incomplete entries are complemented, or omitted information is provided. Although tax evasion is considered a completed crime, a legally successful self-denunciation results in mandatory exemption from criminal conviction, while the consequences according to the tax laws remain in force. The incentives for self-denunciation derive from the avoidable punishment. An amount of evaded taxes exceeding 50,000 euros customarily leads to a suspended prison sentence. A monetary penalty is imposed above a threshold of 100,000 euros, and exceeding the one-million-mark results in at least two years of prison. In addition, another large incentive relates to the procedural consequences. Tax evaders can avoid being (publicly) tried if their self-denunciation is complete and valid.⁵²

The results from the findings of the report show that participation in tax amnesties is strongly affected by the media. Policy makers who are interested in maximizing revenues from tax amnesty programs not only need to pay attention to tax havens,

⁴⁸ Bo, E. E., Slemrod, J., & Thoresen, T. O. (2015). Taxes on the Internet: Deterrence Effects of Public Disclosure. *American Economic Journal: Economic Policy*, 7, 36–62.

⁴⁹ Kasper, M., Kogler, C., & Kirchler, E. (2015). Tax Policy and the News: An Empirical Analysis of Taxpayers' Perceptions of Tax-Related Media Coverage and Its Impact on Tax Compliance. *Journal of Behavioral and Experimental Economics*, 54, 58–63.

⁵⁰ Battiston, P., Duncan, D., Gamba, S., & Santoro A. (2016). The Italian Blitz: A Natural Experiment on Audit Publicity and Tax Compliance. FBK-IRVAPP Working Paper.

⁵¹ Cautionary Tales: Celebrities, the News Media, and Participation in Tax Amenities. CESIFO Working Paper No.6795 – GERMANY

⁵² Cautionary Tales: Celebrities, the News Media, and Participation in Tax Amenities. CESIFO Working Paper No.6795 – GERMANY

data leaks, or court decisions, but may also want to account for news coverage on these issues. Specifically, the findings indicate that the way authorities, courts, and the press deal with prominent tax evaders can be crucial for the behavior of other tax payers. Because celebrity trials have a signaling effect, it is important that famous personalities are not granted a bonus when they are tried; otherwise, tax evasion might be encouraged. However, prosecutors and judges also have to resist the temptation of making an example of celebrities because democratic societies are built on the equal treatment of their members, independent of fame. This argument applies to the media as well. It would be desirable if profit-maximizing outlets acted responsibly and did not engage in sensationalist or prejudging coverage due to of the potential effects on public opinion and verdicts.⁵³

Conclusion

Tax amnesty programs remain a viable means for governments in various countries to raise revenue. However, from a cost perspective, there is the need to conduct an analysis of the expenses to be incurred and the possible amount of funds to be recovered, this will ensure that the government is not on a wild goose chase by spending more to recover less.

It is the author's suggestion that States may need to review their current tax amnesty programs such as the tax penalties provisions. There is no need to give concessions or reduce the penalties to corporate or individual taxpayers who have persistently abused the system to derive gain and benefits rather stricter penalties should be imposed to discourage such act. This is true as taxpayers may also evade future taxes if they believe they will benefit from a future amnesty; offering an amnesty today could also affect the beliefs about future amnesty and enforcement policies more generally.⁵⁴

Furthermore, it is the author's opinion that there may be need to restrict the benefit of the amnesty program to taxpayers within a certain tax income bracket thus excluding the application to other taxpayers to allow for effective execution. Governments in various jurisdictions may need to grant amnesty on a case-by-case basis and not in the usual way to all and sundry. This will involve a thorough scrutiny of taxpayers, obtaining taxpayers information to improve tax collection.

Considering the income realized from cross border transactions, there is the need to further improve the tax compliance structure among States while emphasizing the need for mutual collaboration among States. The improved exchange of information

⁵³ Ibid at 51.

⁵⁴ Toward An Understanding of Tax Amnesties: Theory and Evidence from a Natural Field Experiment Patricia Gil Justin E. Holz John A. List Andrew Simon Alejandro Zentner May 2023 Working Paper NO. 2023-061

among States will expose erring taxpayers who may want to avoid taxes by hiding their investments or divert their income to other jurisdictions.