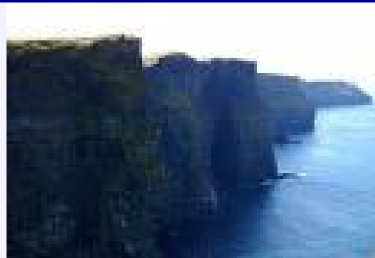
17th Annual Tax Research Network Conference

September 4th - 5th 2008 | NUI, Galway



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Tax Research Network Conference 2008, NUI Galway
Conference Programme

		Thursday, September 4th
8.30	9.15	**Registration - *J.E. Cairnes Building Foyer*** Tea/Coffee – *Friars Restaurant*
9.15	10.30	**Venue:** Lecture Hall 1 Welcome and Introduction (Dr. Emer Mulligan, Conference Organiser) Official Opening of Conference (Dr. James Browne, President, National University of Ireland, Galway) Keynote Address: Ms. Nanci Palmintere *(VP of Finance and Enterprise and Director of Global Tax and Trade for Intel Corporation)* Topic: Tax and Business Aspects of Site Selection
10.30	11.00	Tea/Coffee Break – *Friars Restaurant*
11.00	12.50	**Venue:** Lecture Hall 1 Chair: Sheila Killian (University of Limerick) Irish Taxation Institute – brief address (Mark Redmond, CEO) Paper 1: 'Research methods in taxation: developing the Defining Issues Test (DIT) for a tax specific scenario' *Elaine Doyle (University of Limerick), Jane Frecknall Hughes (Open University Business School) and Barbara Summers (Leeds University Business School)* Paper 2: 'Improving the quality of services offered by tax agents: Can regulation assist?' *Margaret McKerchar (University of New South Wales), Kim Bloomquist (IRS) and Sagit Leviner (Bar Ilan University, Israel)* Paper 3: 'Options for taxing financial supplies in Value Added Tax: EU VAT and Australian GST Models Compared' *Rita de la Feria (Oxford Centre for Business Taxation, Oxford University) and Michael Walpole, (ATAX, University of New South Wales, Australia)*
12.50	2.00	Lunch - *Friars Restaurant*

2.00	3.45	**Venue:** Lecture Hall 1 Chair: John Hasseldine (University of Nottingham) Paper 4: 'Dividend Tax Capitalisation in UK Equities' *S. Lindop (Aberystwyth University) and K. M. Holland (University of Southampton)* Paper 5: 'The influence of the tax factor on investment effectiveness in selected Central and Eastern European Countries' *Dr. Jozefa Monika Gryko and Dr. Marta Kluzek (Poznan University of Economics)* Paper 6: 'Are we in need of a European Charity?' *Dr. Sigrid Hemels (Leiden University, the Netherlands)*
3.45	4.15	Tea/Coffee Break – *Friars Restaurant*
4.15	5.25	**Venue:** Lecture Hall 1 Chair: Mukesh Gunami (ACCA) Paper 7: 'An examination of the perceptions of tax evasion across nations: US, UK, Ireland and France' *Hughlene Burton (University of North Carolina - Charlotte), Stewart Karlinsky (San Jose State University) and Sheila Killian (University of Limerick, Ireland)* Paper 8: 'An examination of the influence of inheritance tax upon business succession – lessons for Germany' *Michael Haug, Luise Holscher (Frankfurt School of Finance and Management) and Tim Vollans (Coventry University Law School)*
		Evening Arrangements Coach departs from the Radisson Hotel at 7pm for the Glenlo Abbey Hotel for the Conference Dinner Guest Speaker: Mr. Frank Daly, Head of Irish Commission on Taxation and formerly Head of the Irish Revenue Commissioners Coach departs the Glenlo Abbey Hotel at 11.30pm for the Radisson Hotel

		Friday, September 5th
8.45	9.30	**TRN Steering Group Meeting - *BS113***
9.30	10.45	**Venue:** Lecture Hall 1 Chair: Michael Walpole (University of New South Wales, Australia) Paper 9: 'Remoulding the tax official into a "3 dimensional T shaped" knowledge expert' *Penelope Tuck (University of Warwick)* Paper 10: 'Procedural justice principles and tax compliance in Ireland: A preliminary exploration in the context of reminder letters' *Elaine Doyle, Kieran Gallery (University of Limerick) and Mary Coyle (Irish Revenue Commissioners)*
10.45	11.15	Tea/Coffee Break – *Friars Restaurant*
11.15	1.00	**Venue:** Lecture Hall 1 Chair: Rebecca Boden (University of Wales Institute, Cardiff) Paper 11: 'Alternative approaches to tax risk and tax avoidance' *J. Freedman, G. Loomer and J. Vella (Oxford University Centre for Business Taxation)* Paper 12: 'Tell us what you know and we'll tell you if it matters: Disclosure of Tax Avoidance Schemes' *Lynne Oats and David Salter (University of Warwick)* Paper 13: 'Series of Transactions: is the Common Law sufficient? – A Canadian perspective' *Maureen E. Donnelly and Allister W. Young (Brock University, Canada)*
1.00	2.00	Lunch - *Friars Restaurant*
2.00	3.20	**Venue:** Lecture Hall 1 Chair: Penelope Tuck (University of Warwick) TRN Announcements Paper 14: 'Expanding the Boundaries of Tax Research' *Emer Mulligan (National University of Ireland, Galway) and Lynne Oats (University of Warwick)* Paper 15: 'Exploring the vexed plant/building distinction in an Irish tax context' *Elizabeth McCarthy (Irish Revenue Commissioners), Margery Stapleton (University of Limerick, Ireland) and David O'Donnell (Intellectual Capital Research Institute of Ireland and NCTS Research)* Closing Remarks by Jane Frecknall Hughes, TRN President Tea/Coffee – *Friars Restaurant*

List of Participants

(as at date of going to press: 26th August)

Title	First Name	Last Name	Organisation
Ms.	Phyllis	Alexander	Bournemouth University
Ms.	Monica	Bhandari	King's College London
Mr.	Kim	Bloomquist	U.S. Internal Revenue Service
Prof.	Rebecca	Boden	University of Wales Institute, Cardiff
Mr.	Philip	Brennan	Irish Revenue Commissioners
Mr.	Philip	Burgess	University of New South Wales
Dr.	Hughlene	Burton	University of North Carolina - Charlotte
Mr.	Brian	Butler	A & L Goodbody
Mr.	Brendan	Cannon	Intel Ireland
Mr.	Duncan	Cleary	Irish Revenue Commissioners
Mr.	Tom	Collins	University of Limerick
Mr.	Frank	Daly	Irish Commission on Taxation
Dr.	Rita	de la Feria	University of Oxford
Prof.	Maureen	Donnelly	Brock University
Ms.	Elaine	Doyle	University of Limerick
Mr.	David	Dunbar	Victoria University of Wellington
Ms.	Fiona	Dunn	Industrial Development Authority, Ireland
Ms.	Sandra	Eden	University of Edinburgh
Prof.	Jane	Frecknall Hughes	The Open University
Prof.	Judith	Freedman	Oxford University
Mr.	Kieran	Gallery	University of Limerick
Dr.	Marco	Greggi	University of Ferrara
Prof.	Hans	Gribnau	Leiden University
Dr.	Jozefa Monika	Gryko	Poznan University of Economics
Mr.	Mukesh	Gunamal	ACCA
Dr.	Ann	Hansford	Bournemouth University
Prof.	John	Hasseldine	University of Nottingham
Mr.	Michael	Haug	Frankfurt School of Finance & Management
Dr.	Sigrid	Hemels	Leiden University, Faculty of Law
Prof.	Kevin	Holland	University of Southampton
Mr.	Raymond	Holly	University of Limerick
Prof.	Luise	Hölscher	Frankfurt School of Finance & Management
Mr.	Joe	Howley	Irish Revenue Commissioners
Mr.	Malcolm	James	University of Wales Institute, Cardiff
Dr.	Simon	James	University of Exeter
Mr.	Pat	Jones	Horwath Bastow Charleton, Limerick
Dr.	Stewart	Karlinsky	San Jose State University
Ms.	Christine	Kelly	Industrial Development Authority, Ireland
Mr.	Paul	Kenny	Flinders University
Dr.	Sheila	Killian	University of Limerick
Mr.	Alan	Kirkpatrick	Bournemouth University
Dr.	Marta	Kluzek	Poznan University of Economics
Prof.	Bill	Lathen	Boise State University, Idaho
Ms.	Sarah	Lindop	Aberystwyth University

List of Participants Contd.

Mr.	Geoffrey	Loomer	Oxford University
Mr.	Andy	Lymer	University of Birmingham
Mr.	John	Maher	Irish Revenue Commissioners
Mr.	Giuseppe	Mania	Irish Revenue Commissioners
Dr.	Lisa	Marriott	Victoria University of Wellington
Ms.	Teresa	Marsh	University of Wales, Newport
Mr.	David	Massey	HMRC
Ms.	Eileen	McAuliffe	Coventry University
Ms.	Elizabeth	McCarthy	Irish Revenue Commissioners
Ms.	Mary	McGinley	KPMG
Dr.	Margaret	McKerchar	University of New South Wales
Ms.	Angharad	Miller	Bournemouth University
Mr.	Pat	Molan	Irish Revenue Commissioners
Dr.	Emer	Mulligan	National University of Ireland, Galway
Mr.	Donal	Murphy	Industrial Development Authority, Ireland
Mr.	Jim	Murren	Industrial Development Authority, Ireland
Dr.	Lynne	Oats	University of Warwick
Ms.	Cora	O'Brien	Irish Taxation Institute
Mr.	Seamus	O'Cathasaigh	Irish Revenue Commissioners
Mr.	David	O'Donnell	Intellectual Capital Research
Ms.	Deborah	Page	University of Southampton
Ms.	Nanci	Palmintere	Intel Corporation
Mr.	Kazi	Rahman	London School of Economics
Mr.	Mark	Redmond	Irish Taxation Institute
Mr.	David	Salter	University of Warwick
Ms.	Margery	Stapleton	University of Limerick
Mr.	John	Taylor	University of New South Wales
Prof.	John	Tiley	University of Cambridge
Dr.	Penelope	Tuck	University of Warwick
Dr.	John	Vella	University of Oxford
Mr.	Tim	Vollans	Coventry University
Prof.	Henk	Vording	Law Faculty, Leiden University
Mr.	Michael	Walpole	University of New South Wales
Mr.	Keith	Walsh	Irish Revenue Commissioners
Prof.	Neil	Warren	Unviersity of New South Wales
Prof.	Allister	Young	Brock University

BOOK OF ABSTRACTS

Research methods in taxation: developing the Defining Issues Test (DIT) for a tax specific scenario

Elaine Doyle[1], Jane Frecknall-Hughes[2] & Barbara Summers[3]

Abstract
This paper reports on the development of a well-established moral reasoning test instrument, the Defining Issues Test (as originally developed by James Rest (1979a; 1979b) and following the work of Piaget and Kohlberg), in the context of its application to a tax-specific environment, to test the moral reasoning of tax practitioners. The paper explores the reasons why a context (and profession) specific scenario needed to be developed, and the process by which this was undertaken. The paper outlines the proposed administration of the specially developed test to tax practitioners at work in Ireland and the UK, and also, to provide comparative data, to 'ordinary' taxpayers, who are not employed in the tax or accounting professions.

The work was undertaken primarily in relation to development of a PhD thesis, but is being extended to test the moral reasoning of the 'ordinary' taxpayer by all the researchers.

[1] University of Limerick
[2] Open University Business School
[3] Leeds University Business School

Improving the Quality of Services Offered by Tax Agents: Can Regulation Assist?

Margaret McKerchar[1], Kim Bloomquist[2] & Sagit Leviner[3]

Abstract
The practice of taxpayers using tax agents, or paid preparers, to lodge their tax returns is long standing and relatively common in many jurisdictions that rely on self assessment, including Australia and the United States (U.S.). However, across these jurisdictions the relevant regulatory requirements vary markedly. Tax agents in Australia are currently subject to quite rigorous regulation regarding their level of education, experience and professional conduct. Further, it appears that these requirements are soon to be made even more rigorous to improve the quality of services provided by tax agents to taxpayers. In contrast, in the U.S. in all states and territories other than California and Oregon, no educational or regulatory standards are imposed on the majority of individuals who prepare federal and state income tax returns for a fee. The performance of tax agents in Oregon, with its relatively rigorous program of paid preparer regulation, was compared to tax agents in the rest of the U.S. (except California). Paid preparer tax returns in Oregon were found to be both more accurate and more compliant on three measures of performance: (1) math errors, (2) potential reporting discrepancies of $10 or more for interest income, and (3) audit outcomes. This finding may have important implications for Australia as it seeks to introduce further regulatory reform in this area, and for other self-assessment jurisdictions, including the United Kingdom and U.S., where paid preparers play a vital role in tax administration and taxpayer compliance.

[1] University of New South Wales
[2] U.S. Internal Revenue Service
[3] Bar Ilan Law Faculty of Israel

Options for Taxing Financial Supplies in Value Added Tax: EU VAT and Australian GST Models Compared

Rita de la Feria[1] & Michael Walpole[2]

Abstract
The taxation of financial supplies is one of the most vexing aspects of a Value Added Tax (VAT). Conceptually, VAT should apply to any fee for service but where financial services are concerned there is a difficulty in "identifying that charge separately from the other elements that are included when determining levels of payments of interest or fees." As a result, most jurisdictions simply exempt financial supplies for VAT.

Exempting financial supplies, however, gives rise to significant difficulties. In particular, the supplier of financial services will have to bear input tax on acquired supplies, thus increasing the costs borne by those suppliers; where those costs are passed on in the supply chain. Exempting financial services will ultimately cause a cascade of tax. This is anomalous in a tax intended to be borne only by final consumers, rather than by suppliers in the chain of VAT transactions. Very few states have attempted to modify the conventional approach of exempting financial services from VAT. A notable recent exception is Australia which introduced a type of VAT (the GST) in 2000 which provided for a "reduced input tax credit" system for certain financial supply providers.

Within the EU, as in most countries, financial services are exempt from VAT. However, the issue of how to treat financial supplies under VAT has remained important, and in 2006, the European Commission put forward a consultation paper where it set out, for discussion, potential alternative treatments. Amongst these, was the possibility of introducing a GST-type system in Europe. After consultation it has determined that a redefinition of financial services, compiled with the introduction of a cost sharing system, and the introduction of an "option to tax", may be the best solution. It has, therefore, recently put forward a legislative proposal along those lines.

This paper compares the current treatment of financial supplies in the UK/EU and in Australia. It will use these comparisons to inform consideration of the possible introduction of an option to tax model in the EU, and consider the possibility of such a system in Australia.

[1] Oxford University Centre for Business Taxation
[2] University of New South Wales

Dividend Tax Capitalisation in UK Equities

S. Lindop[1] & K. M. Holland[2]

Introduction

This working paper reports initial results testing for the relationship between "dividend taxation" and market value of a sample of UK firms' equity. Specifically, this paper tests for the evidence of "dividend tax" capitalisation in the UK and attempts to answer the question; to what extent is dividend taxation impounded into share prices? This question has many corporate financial implications. The relationship between dividend taxes and firm value has fundamental implications for understanding why firms pay dividends. Understanding what affects corporate distributions is central to the understanding of the firm as there are potential implications regarding the allocation of resources, and investment decisions.

If share prices incorporate dividend taxation, this affects firms' cost of equity capital. If dividend taxation reduces the market value of retained earnings equity then £1 of retained earnings would be valued less by shareholders than £1 of contributed capital, because the former would be subject to income tax upon distribution and the latter would not be. The issue as to whether dividend taxation is capitalised into share prices has been examined over a number of years producing three trains of thought:

> The "Traditional View"- where any additional tax costs of paying dividends are offset by a reduction in agency and other non-tax costs.
> "The Irrelevancy View"- where the marginal investor is tax exempt and would not therefore be prepared to bear taxes through a tax induced reduction in share price.
> "The New View"- where dividend taxes are fully capitalised into share prices.

An ongoing dividend tax capitalisation debate in the US has produced conflicting results that have arisen from the utilisation of different methodologies. One group of researchers, which includes Collins, Harris, Hubbard and Kemsley, have developed and tested in a series of papers the claim that dividend tax is capitalised fully into share prices at a level which is independent of the timing of dividend payments. Another group of researchers, which includes Dhaliwal, Erickson, Frank and Banyi as well as Hanlon, Myers and Shevlin, question the validity of the first group's underlying assumptions and fail to replicate their general findings. The lack of consensus in the US raises the issue of the position with respect to UK share prices, particularly with the clear differences between the two countries tax systems.

[1] Aberystwyth University
[2] University of Southampton

The common element linking the majority of the US models is that they are derived from the basic Ohlson (1995) valuation model. Ohlson demonstrates that given certain restrictive assumptions equity value can be modelled by the book value of equity (BV) and the level of net earnings (NI). The model predicts that BV and NI are positively related to equity value, however issues of dividend tax capitalisation are likely to affect the magnitude of BV.

To relax some of the restrictive assumption of the Ohlson model, the results reported in this working paper are after a number of control factors were also added to the basic valuation model. These included level of ordinary dividends, as there is a need to control for the non-tax reasons such as signalling and agency costs for why dividends play an important role in equity values. A measure for share repurchases was included to control for the fact that there are other ways of distributing earnings to shareholders than dividends. The debt/ equity ratio was included in the model as a further control for signalling and agency costs and finally a proxy for capital expenditure was included in the model as a further signalling control. In addition the sensitivity of the results has been assessed by using a range of deflators to control for scale factors.

The Influence of the Tax Factor on Investment Effectiveness in Selected Central and Eastern European Countries

Dr. Marta Kluzek[1] & Dr. Józefa Monika Gryko[1]

Summary

Taxation is one of many factors which can influence the choice of the geographical location of foreign direct investments. The significance of this factor has grown in parallel with the growth of globalisation. Before 2004, many new EU countries carried out tax reforms, especially reforms of corporation tax, in order to attract FDI. Certain elements of tax structure have an influence on investment effectiveness. Factors like the rules of depreciation, possibilities and rules of estimating losses in time and eventually the rate of tax have the influence on the size and setting in time of all investments. The aim of this article is to demonstrate, using the example of a simulated investment project, how the construction of corporate tax in selected Central and Eastern European countries influences the effectiveness of investment measured with classical discount methods (NPV - Net Present Value, IRR – Internal Rate of Return). This will make it possible to describe the significance of the tax factor for attracting foreign investments. Our simulations, which use the Monte Carlo method to examine the influence of only one factor – corporate taxation – on FDI, show that tax burden can have a considerable impact on investment effectiveness. Data analyses of FDI inflows per capita and per GDP show that unattractive tax instruments can be hardly compensated for by other factors influencing the location of FDI. Because of this, Central and Eastern European countries should, along with other elements, use their tax systems to attract foreign direct investments to their regions.

[1] Poznan University of Economics

Are we in need of a European Charity?

The subsidiarity test applied on solutions to remove fiscal barriers for cross border charitable giving in Europe

Dr. Sigrid Hemels[1]

Summary

Most member states of the European Union only grant tax incentives for donations to resident charities. This restricts the free movement of capital and freedom of establishment and results in limiting the choice of donors to domestic charities and limits charities to residents in their fundraising. In the Stauffer Case the ECJ has forbidden this restriction. However, not only did most member states not adjust their legislation, the 'host-state control' solution of the ECJ may - in fact – still make it impossible for charities to attract funds in different member states. This paper first discusses an alternative solution at a decentralised level, home-state control through mutual recognition. However, it seems unlikely that this solution is politically feasible. Therefore the paper addresses the question whether some form of harmonisation would be a solution, using the subsidiarity test derived from fiscal federalism theory as a theoretical framework. The application of this test indicates that some harmonization would be appropriate. The suitable degree of harmonization (a directive or a resolution) depends on political factors, such as the trust member states have in each others' supervising institutions of charities.

[1] Leiden University, Faculty of Law

An Examination of the Perceptions of Tax Evasion Across Nations: United States, United Kingdom, Ireland and France

Hughlene Burton[1], Stewart Karlinsky[2] & Sheila Killian[3]

Introduction

There are two prime motivations for this study of taxpayers' perceptions of tax evasion across countries. One, there are a variety of studies on the perception of a crimes severity, but only a few consider where a person lives as a determining factor in a person's perception; and those that study location as an independent factor have found two conflicting results. One line of research has found that rural residents are less concerned about criminal law violations than urban residents (Weisheit, Falcone and Wells, 1996). Consistent with these studies, Ball (2001) found that citizens in different communities had different opinions as to the seriousness of a crime. Based on this prior research, one would expect that the perceptions of crime's severity would be different for people who live in an urban environment than people who live in a more rural setting. However two studies by Weisheit, et al. (1996, 1994) suggest that any difference between perceptions of those that live in urban and rural environments appear to be decreasing over time. If no difference is found, this study will support the Weisheit series of studies; however, if we find that location is a factor, the results of this study will add support to the idea advanced by Ball (2001) and Davis (1990) that a person's environment affects their perceptions of crime.

The typical definition of rural is low density population or small size, but rural can also relate to the type of economy, the character of social life, cultural attitudes, beliefs and the values of an area (Weisheit, et al., 1996). In the current study, we are using individuals from different countries. Thus, the differences are more social, economic and cultural than the size of the city or town where the person lives.

These prior studies were examining various types of crimes and did not focus on a particular offence. A few prior research studies have examined the differences in tax compliance, the focus of the current study. Burton and Karlinsky (2008) examined the perception of tax evasion by respondents from across the United States. The results of that project suggested that location is an important factor in a person's perception of the seriousness of a crime. Frey and Weck-Hannennmann (1984) found significant differences in countries' tax immorality. Cummings, Martinex-Vanquez, McKee and Johnson (2004) examined the differences in tax compliance behavior in different countries. Both Frey and

[1] University of North Carolina - Charlotte
[2] San Jose State University
[3] University of Limerick

Weck-Hannenmann, and Cummings et al found country differences in tax compliance levels.

Second, we wanted to test whether Hofstede's (1980) cultural framework was a good explanation of international tax compliance diversity. In addition, other research (working paper, 2007) has indicated that national culture may influence tax compliance and the perception of the severity of tax evasion. The results of that study found that countries with high uncertainty avoidance, low individualism and high power distance were less compliant. Using Hofstede's cultural framework for the four countries (the United States, France, Ireland and the United Kingdom), we will determine if this framework can predict a person's perception of the severity of a crime.

The results of our study found that the respondents in the United States rated tax evasion as significantly more serious than the respondents in France and Ireland but not the respondents in the United Kingdom. Also the results support the theory that Hofestede's cultural dimensions are somewhat relevant in explaining international tax evasion levels. Specifically, the United States has the highest level of individualism and the highest perception of the severity of tax evasion which may indicate a lower level of tax evasion.

An Examination of the Influence of Inheritance Tax upon Business Succession - Lessons for Germany

Michael Haug[1], Luise Hölscher[1] & Tim Vollans[2]

Background

In the second half of the 20th century economic growth and political stability allowed the accumulation of private and business wealth in Germany. Those assets are now and in the next years to be given to the following generation. Accordingly, business succession will be an important task to be handled: Following recent statistics, about 350,000 companies with approximately 3,400,000 employees in Germany have to be transferred in the next five years. From this point of view, business succession can be seen as a major task for the German economy.

Many factors have an influence on business succession: Not only management, legal and psychological questions have to be considered; besides that taxation plays an important role. The inherent complexity leads to specific challenges for the senior generation as for the successor. The general aim of a business succession – not only from the successor's personal point of view, but also from the German constitution's perspective – is to guarantee the survival of the company and its jobs as well as the economic existence of the successor in the long run. For closely held companies, especially if held by a family, the going concern of the company under family supervision can be an aim itself.

Of the above mentioned 3,400,000 companies, almost 95% are managed by families. Each year nearly 71,000 companies are to be transferred, and in the past approximately 44% were succeeded by a relative. Intra-family business succession is mainly not on a (100%) for-money-basis, so gift and inheritance taxes have a major influence on structure and timing of business succession. Accordingly, tax optimisation is seen as an important task in the process of planning such kind of succession.

Gift or inheritance tax have to be paid out of the successor's property and thus can lead to an extraordinary reduction of liquidity. As business succession is not normally planned under liquidity aspects, the successor has to liquidate his private property and may be even forced to extract liquidity from the business. This can lead to a lack of liquidity at the company level and may even threaten its going concern. To resolve such problems, the German tax system provides a tax deferral for such cases, but as it is bound to strong restrictions, it is of low importance for the praxis of succession planning. Additionally, these regulations

[1] Frankfurt School of Finance & Management
[2] Coventry University

just shift the tax burden in time without abolishing it, so they lead to a mere time effect.

The European Communities see causality between the failure of business succession and the connected tax burden and are regularly confirmed in their opinion by scientific literature. Even as there has not been any empirical proof for this assumption, it can be seen as a major reason for the ongoing discussion of gift and inheritance tax reforms in Germany.

On 11th December 2007, the German government published once again a new version of a gift and inheritance tax reform that still gives space for discussion in several details. As an important influence for this draft has to be seen the judgement of the highest German court of justice, dated on 7th November 2006. It forces the German government to abolish gift and inheritance tax in case that no re-regulation is implemented up to the end of 2008.

Remoulding the Tax official into a “3 dimensional T shaped” knowledge expert

Penelope Tuck[1]

Abstract

Partly in response to the phenomenon of New Public Management whereby the public sector has acquired private sector characteristics, public sector officials have had to engage in new ways of working to reflect the changing practices of the public sector. In particular officials have had to respond to an increased strategic and marketing focus. This paper examines the changing role of tax officials in the UK tax administration, Her Majesty’s Revenue & Customs (HMRC). It draws upon interviews conducted in 2003/04 and 2005/06 with tax officials who deal with the largest 900 groups of companies in the UK. Drawing on Foucauldian notions of knowledge experts, I argue that while tax officials must still acquire technical tax knowledge, an understanding and appreciation of marketing, strategy and management must be acquired as well. The HMRC official – the HM Inspector of Taxes has been remoulded from a bureaucratic inward facing technical civil servant to an outward facing new style tax official who still has to engage with the detailed technical tax knowledge as a knowledge expert but also has to relate, in a broader sense, to the new way of operating in a strategic and marketing organisation. As a result the tax official becomes a 3-dimensional transdisciplinary T shaped tax official. This changing role of the tax official has tax policy implications and impacts on the social and organizational aspects of the tax compliance process.

[1] University of Warwick

Procedural Justice Principles and Tax Compliance in Ireland: A Preliminary Exploration in the Context of Reminder Letters

Elaine Doyle[1], Kieran Gallery[1] & Mary Coyle[2]

Abstract
Procedural justice is concerned with public decision-making processes. It focuses on the fairness of decision-making procedures and the treatment individuals receive from decision-making authorities. Individuals who feel they have been fairly treated by the authorities view those authorities as having legitimate authority and therefore entitled to be obeyed, regardless of the decision outcome arrived at by the authority (Tyler and Lind 1992; Tyler 1997). It has been suggested that procedural justice plays an important role in the decision to comply with tax legislation (Tyler 1990).

The Irish Revenue authorities send reminder letters to taxpayers who fail to submit their income tax return by the income tax self-assessment deadline. This research study explores the impact that reminder letters adopting principles of procedural justice have on voluntary compliance behaviour compared with the standard letter sent by the Irish Revenue authorities. A field experiment was carried out involving 347 taxpayers who had failed to submit an income tax return over four months after the self-assessment tax deadline. One of three different reminder letters were sent to a sample of these non-compliant taxpayers while a fourth group received no communication from the Revenue authority. The compliance behaviour of the entire sample was monitored in the months following the issue of the reminder letters to explore the impact of the letters on the taxpayers' compliance behaviour. The results add to the current literature on both tax compliance and procedural justice by exploring these issues in an Irish context. The study also contributes by documenting results that are derived from the actual tax compliance behaviour of income taxpayers rather than hypothetical or self-reported behaviour.

[1] University of Limerick
[2] Irish Revenue Commissioners

‘Alternative Approaches to Tax Risk and Tax Avoidance’

J Freedman[1], G Loomer[1] and J Vella[1]

Abstract
The problem of drawing a boundary between tax planning and tax avoidance, or what is sometimes termed ‘acceptable’ and ‘unacceptable’ (or ‘aggressive’) taxpayer behaviour, is one that besets all tax jurisdictions. It raises fundamental questions about the nature of tax legislation and the relationships between taxpayers, intermediaries, the administration, the courts, and government. This paper analyzes the results of a survey of views of large businesses regarding recent UK Government initiatives aimed at modifying taxpayer behaviour and tackling what is perceived by the tax authorities acting on behalf of Government to be unacceptable/aggressive avoidance.

Specifically, this paper examines the views of tax directors obtained from face-to-face interviews conducted in spring 2008 with representatives of 30 corporate groups (comprising FTSE 100, FTSE 250, and unlisted companies) regarding alternative approaches to tax risk and tax avoidance. The paper first describes the experiences and opinions of large business representatives with respect to the Risk Rating Approach, a key feature of the HMRC links with large business programme (Varney Programme), as well as the status of relationships between HMRC and large business more generally. It next considers the respondents’ views on the practical implications of two developing legislative approaches – targeted anti-avoidance rules (TAARs) and principles-based legislation (PBL) – and how these approaches impact upon and are influenced by relationships between HMRC and large businesses.

This work builds upon the authors’ earlier pilot survey regarding the Varney Programme, conducted in spring 2007. This earlier survey revealed that there are substantial difficulties associated with Government attempts to shift the debate away from the boundary between acceptable and unacceptable behaviour and towards a framework based on mutual trust, risk assessment, and transparency. One implication arising from this earlier research appeared to be that some of the largest corporate groups do not see the benefit of reducing their tax planning activity in order to achieve a lower risk profile with HMRC. If the Varney Programme represents a ‘partnership’ between HMRC and large business, the taxpayers we interviewed saw their side of the partnership as a commitment to be open and transparent, not a commitment to curtail tax planning. Perhaps in recognition of the fact that many corporate taxpayers are unlikely to be persuaded to moderate their tax behaviour voluntarily, the Government has

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introduced various TAARs and is considering the introduction of principles-based legislation in certain areas.

In the first part of the present paper, the authors report and analyze the respondents' views regarding the Risk Rating Approach and the relationship between HMRC and large businesses. Under this approach, each company within the Large Business Service is awarded a risk rating, which determines the volume of HMRC's interventions in the company's affairs and the nature of the working relationship between the two. The interviewees were spread quite evenly along the risk rating spectrum, consistent with HMRC expectations. The authors explain that a majority of the respondents are now clear on the various risk criteria and their relative weight.. In particular, the survey reveals a welcome shift in emphasis from structural or inherent criteria to behavioural criteria but the authors note an apparent correlation between higher risk status and size/complexity. The relevance of tax policies and board involvement and the critical importance of a firm's approach to tax planning are discussed. It is noted that, although a majority of interviewees could see the benefits of being low risk, a significant number either cannot see the benefits or view the benefits as insufficient to induce them alter their tax planning behaviour. The stated aim of the Risk Rating Approach is achieving a more cost effective use of resources and efficient resolution of issues, yet it is clear that HMRC also view this approach as a means of inducing companies to alter their behaviour in terms of transparency, governance, and tax planning. The survey revealed that the relationship between HMRC and large businesses is moving in the right direction: most of the interviewees appreciated the improvement brought about by means of a cost effective use of resources and a more efficient resolution of issues, and most professed to be committed to openness, transparency, and good governance. The Risk Rating Approach has not been successful, however, in altering tax planning behaviour. These results suggest that there is still a need to define the objectives of risk rating further and to communicate these objectives more clearly to the whole range of large businesses.

The remaining parts of the paper report and analyze the results of the interviews with respect to the drafting and application of alternative anti-avoidance measures. The Government's current and future strategies for protecting tax revenues as expressed in recent Budget publications are noted. These strategies include continued reliance on the Risk Rating Approach as well as a revised anti-avoidance strategy, where simplification is said to be a major objective. The Government has stated that it will consider moving away from 'specific loophole closing measures' towards 'more recent generic approaches', notably TAARs and PBL, where appropriate. The paper highlights the Government consultation document published in December 2007 which proposed a principles-based approach to tackling financial products avoidance.

This part of the survey differs from previous more abstract surveys in that it was based on semi-structured interviews using detailed examples relating to existing

TAARs and proposed PBL. The goal was to gauge opinions on the policy and practical implications using these concrete examples, which were designed around the loan relationships rules, the draft legislation on 'tax privileged investment returns', and the recently-introduced TAAR restricting allowable capital losses. It was recognised that it was unrealistic to expect a clear consensus on what tax arrangements fall within or outside these provisions. Rather, the purpose of the interviews was to explore the common ground and to identify areas of concern. The paper discusses the respondents' views on the Government's assertion that the use of TAARs and PBL is a desirable method of addressing tax avoidance while furthering the objectives of certainty and simplicity. It also addresses respondents' opinions regarding the efficacy and workability of TAARs and principles-based rules in contrast to detailed and prescriptive rules. There was sympathy for the view that such approaches could reduce complexity in the tax system, advance the conceptual simplicity and coherence of the system, and possibly enhance competitiveness. Yet there were serious concerns about certainty of application. Most TAARs rely to some extent on an examination of a taxpayer's motives in entering a transaction or arrangement; the proposed principles-based rules share this feature. Most respondents were concerned about the generality of the purpose tests used in TAARs, fearing they could inhibit what they see as commercial tax planning. Similar views were expressed regarding the generality and imprecision of the draft PBL. Views on the value of having HMRC guidance and clearances associated with such anti-avoidance rules are also discussed. Finally, the paper comments on how businesses see these alternative legislative approaches impacting upon and being influenced by the trust relationship which the Government hopes to engender between HMRC and large businesses.

Future work will set these survey results into the context of the debates and the more theoretical literature about the rule of law and the relationship between taxpayers, intermediaries, the administration, the courts, and government.

Tell us what you know and we'll tell you if it matters: Disclosure of Tax Avoidance Schemes

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Abstract
The Disclosure regime for direct taxation in the UK is a recent innovation that has significant implications for the relationship between taxpayers and the state. The regime acts as an early warning system for Her Majesty's Revenue and Customs (HMRC) on certain aspects of tax avoidance and requires taxpayers and/or their advisors to declare involvement with tax avoidance schemes.

The Disclosure regime was introduced in the Finance Act 2004, following public consultation and scrutiny by the House of Lords Economic Affairs Committee of the draft regulations that were intended to facilitate the operation of the regime. The regime requires promoters of tax avoidance schemes, and in some cases users of those schemes, to disclose details of the schemes to HMRC within a specified time frame. The initial scope of the disclosure requirements was confined to arrangements connected with employment and in relation to financial products, issues of particular concern to HMRC at the time. In 2006 new regulations came into force which considerably widened the scope of issues for which disclosure is required. The primary legislation in Finance Act 2004 through which the regime operates is designed to provide a threshold identification of arrangements for which disclosure is required, specifically arrangements that enable, or might be expected to enable, the obtaining of a prescribed tax advantage, and is such that the main benefit, or one of the main benefits, of the arrangement is to obtain that tax advantage. As seen above, the legislation is supported by regulations which seek to clarify the characteristics of arrangements expected to fall within the regime, subsequently referred to as 'hallmarks'.

During the third reading of the bill that introduced the initial legislation in 2004, the then Paymaster General, Dawn Primarolo said:

> "Our objectives for stable public finances and world-class public services require a tax system that is fair – one in which everyone pays or claims what is due. To protect the revenue for investment in the public services that this country wants, we are determined to tackle tax avoidance and evasion. To do that, we have brought in a number of legislative changes to close loopholes that have been exploited for avoiding tax. Most importantly… we have introduced disclosure rules to ensure that we find out about new loopholes earlier and can announce changes in the law to protect the Exchequer and the generality of taxpayers."

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The government stressed that these rules would "not target straightforward tax planning, such as the advice that companies necessarily seek when planning a takeover or merger."

The amendments to the regulations contained in Finance Act 2006 both modified and extended the rules. According to the Regulatory Impact Assessment (RIA) of the 2006 regulations, "disclosures have directly led to or informed a number of anti-avoidance measures." The RIA further states:

"There is a risk that the disclosure regime could simply ratchet up the tendency for promoters to create even more complex schemes intended to avoid anti-avoidance measures themselves. But HMRC does not believe that this has been the outcome. Rather, various strands of intelligence and information strongly suggest that there has been a sharp decline in marketed tax avoidance schemes… HMRC's assessment is that disclosure has been an important contributory factor to that decline, although clearly there are others in play (e.g. corporate governance issues)."

Further refinements to the way in which the regime is administered took place in Finance Act 2008 following consultation that commenced in November 2007. These relate to the way in which schemes are registered and monitored through a reference number system.

The UK disclosure rules were introduced after similar rules were implemented in the US, and the experience of the Internal Revenue Service (IRS) was factored into the initial design of the UK regime. The introduction of this Disclosure regime is an important change in the relationship between taxpayers and HMRC which gives the latter additional powers, especially in relation to information gathering, and places the onus on the taxpayer to disclose information to HMRC about arrangements entered into at an earlier stage than previously was the case. In this regard, the regime needs to be considered against the backdrop of other changes in the institutional arrangements by which direct tax is extracted from taxpayers, and the purpose of this paper is to provide a contextualised analysis of the regime.

Series of Transactions: is the Common Law Sufficient? – a Canadian Perspective

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Abstract
2008 marks the 20th anniversary of the introduction of Canada's general anti-avoidance rule (GAAR). The GAAR is one of several provisions in the Canadian Income Tax Act (ITA) for which the definition of the term "series of transactions" is pivotal, because a transaction is an avoidance transaction if it is part of a series of transactions that would result in a tax benefit unless the transaction may reasonably be considered to have been undertaken primarily for non-tax purposes. At the time of the GAAR's implementation, a statutory definition of "series of transactions" had already been in place for two years; subsection 248(10) reads as follows:

> "[W]here there is a reference to a series of transactions or events, the series shall be deemed to include any related transactions or events completed in contemplation of the series."

In a paper entitled "Series of Transactions" that he presented to the Canadian Tax Foundation membership in 1988, John Tiley described subsection 248(10) as "an object lesson in how not to draft a statute". His remarks foreshadowed a number of hurdles in the interpretation and application of 248(10) and in his closing he expressed the hope that the Canadian experience on this point could be instructional for the UK.

Our paper analyzes how the interpretation and application of subsection 248(10) has evolved through twenty years of case law. Our analysis will include cases at all three levels of Canadian courts. We conclude that Tiley's analysis of the problem areas was, for the most part, remarkably insightful. The Courts have struggled and continue to struggle with how to utilize the statutory definition to include a transaction or event within a common-law series.

The concept of series of transactions is key to the operation of the Canadian general anti-avoidance rule. It is our hope that our analysis of this concept in the Canadian experience will be of value as the UK embarks on the implementation of its own version of GAAR.

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Expanding the Boundaries of Tax Research

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Abstract
The purpose of this paper is to challenge (mainstream) tax research within the discipline of accounting. We seek to disrupt, rather than displace, orthodox conceptions of tax accounting by offering insights from epistemological and methodological developments in other areas, including, but not limited to, critical and interpretive accounting.

In a 1999 contribution to *Accounting Horizons*, Shevlin describes North American tax accounting research as being entirely within the positivist paradigm, albeit allegedly providing an 'overview of the tax research field' (1999: 428). For example he states "that it is a mistake for doctoral candidates with a tax background to think that they do not need to take advanced econometric classes, capital market classes or modelling classes. Without these classes, the candidate is ill prepared to undertake *first class research*" (ibid, emphasis added).

Shevlin's vision of tax research, reinforced by his review of US empirical tax accounting research with Shackleford (Shackleford and Shevlin, 2001) is aligned with the Scholes et al (2002) framework; a positivistic, arguably micro-economic (McNaughton and Mawani, 2005), approach to explaining the role of taxes in organisations and effective tax planning. Slemrod, an economist writing in the context of a US symposium to bring together tax economists and accountants, celebrates the cross disciplinary dialogue that the Scholes et al framework facilitates. On the other hand, Maydew (2001) while expecting tax researchers to draw more heavily on the economics literature, also maintains that certain areas of tax research present an opportunity to engage in qualitative research. Overall, however, research based on the Scholes et al (2002) framework tends to be undertaken by researchers who believe empirical reality to be objective and thereby pursue quantitative methods of research to provide the basis for generalisations. While valuable insights are obtained from studies in this vein, there is much scope for broadening the range of approaches to tax research.

The scholarly literature in relation to tax accounting policy and practice has arguably failed to keep pace with epistemological developments in cognate disciplines, in particular mainstream accounting itself (by which we mean management/managerial accounting and financial accounting), where the past thirty years has seen a significant challenge to the economic rationalist orthodoxy in the form of critical and interpretive research.

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Inappropriate taxes can result in unintended social consequences and as such they are an important object of study (Oats & Sadler, 2007; Lamb, 2005). Yet research within the accounting literature which views taxation as a social and institutional practice is rare, with some notable exceptions (for example, Lamb et al 2005, Oats & Tuck, 2008; Miller, 1990; Boden, Childs and Wild, 1995; Boden, 1999, Miller, 1990; Pentland and Carlile, 1996).

A cogent example of recent developments in mainstream accounting (as distinct from tax accounting) is the polyphonic debate in which a number of (young) accounting researchers discuss the achievements and future prospects of interpretive accounting research (Ahrens et al, in press). A number of papers responding to the polyphonic debate suggest the marginalization of interpretive accounting research stems in part from its failure to engage with the interests and concerns of positivist accounting (for example Dillard, Merchant). In Finance scholarship also there is a movement that seeks to challenge the continued maintenance of a positivist mainstream. We argue that such reflexive debates about the positioning of research strands are healthy, but have not yet taken place within tax accounting.

Shevlin (1999) divides tax accounting research into three main categories, although obviously alternative categorizations are possible, providing examples from the mainstream literature of each. These are tax policy, tax planning and tax compliance. Each of these aspects of tax accounting research would benefit from adopting wider (critical and interpretive) perspectives.

The fragmentation of tax scholarship across a number of disciplines may to some extent insulate it from the constricting effects of positivism and in this respect tax accounting is different from mainstream accounting, in that it can more readily draw on developments in disciplines such as law and political science where some tentative steps are being taken to broaden our understanding of tax policy and practice.

Critical and interpretive research in tax accounting is at best a nascent undertaking, but is fortunate in being able to learn from developments in critical and interpretive mainstream accounting as well as those in other disciplines. Arguably, by combining findings for different studies both interpretive and positivistic, good answers to good questions of common concern may be articulated more comprehensively.

Exploring the Vexed Plant/Building Distinction in an Irish Tax Context

Elizabeth McCarthy[1], Margery Stapleton[2] & David O'Donnell[3]

Abstract

This exploratory empirical paper examines the contested plant/building distinction in terms of Irish capital allowances. Decided Irish cases and analysis of Revenue statistical reports suggest that there has been a blurring of the normative lines between what is considered part of a building and what is plant due to the fact that, in the majority of cases, expenditure on buildings is not tax deductible. This leaves open the unsurprising possibility that expenditure on building or plant may be manipulated to maximise tax relief. It is generally accepted that where a tax relief is available at different rates it will gravitate towards the highest rate. The main argument presented is that 'plant' has a contextual meaning. The primary facts, as to what plant is and what function it performs in a business are paramount. The research conducted provides some evidence, if not conclusive, to support the view that some expenditure on 'building' is being (re)classified as 'plant' to maximise such claims.

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