

Rethinking Tax Enforcement and Compliance

David G. Duff

Faculty of Law, University of British Columbia

Traditional approaches to tax enforcement assume that taxpayers are generally non-compliant, and pay taxes only to avoid legal sanctions that might otherwise apply. From this perspective, tax compliance depends solely on the risk that non-compliance will be detected and on the severity of the penalty that is imposed if non-compliance is detected.¹ For revenue authorities, in turn, tax enforcement depends on “command and control” strategies involving high audit rates and increasingly severe penalties.

Although it would be simplistic to suggest that the probability of detection and the severity of sanctions have no effect on tax compliance, there is increasing evidence that attitudes toward tax compliance are also shaped by social norms as well as institutional and procedural arrangements that build trust about the fairness of the tax system and the legitimacy of government more generally.² On this basis, a growing body of literature advocates a more “responsive” approach to tax enforcement which seeks to foster a culture of tax compliance through enhanced communication, increased certainty, and mutual trust.³

While governments in Australia and the United Kingdom have begun to adopt legislative and administrative reforms premised on this responsive approach to tax enforcement,⁴ governments in Canada and the United States have been much less receptive to this approach and continue to emphasize traditional “command and control” methods of tax enforcement.⁵

This paper will (a) explain the theoretical and empirical foundation for more “responsive” approaches to tax enforcement and compliance and (b) recommend specific legislative and administrative reforms for Canadian tax administration based on comparative experience in Australia and the United Kingdom.

¹ See, e.g., Michael G. Allingham and Angus Sandmo, “Income Tax Evasion: A Theoretical Analysis” (1972), 1 *Journal of Public Economics* 323.

² See, e.g., Leandra Lederman, “The Interplay Between Norms and Enforcement in Tax Compliance” (2003) 64 *Ohio St. L.J.* 1453; and Michael Wenzel, “The Multiplicity of Taxpayer Identities and Their Implications for Tax Ethics” (2007) 29 *Law & Policy* 31.

³ Much of this literature is based on the pioneering work of John Braithwaite. See, e.g., John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford University Press, Oxford 2002). For a recent symposium on responsive regulation and taxation, see (2007) 29 *Law & Policy* 1–158.

⁴ See, e.g., Judith Freedman, ed., *Beyond Boundaries: Developing Approaches to Tax Avoidance and Risk Management*, (Oxford: Oxford University Centre for Business Taxation, 2008).

⁵ See, e.g., Dennis J. Ventry, “Cooperative Tax Regulation” (2008), 41 *Conn. L. Rev.* 431.