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Developing risk management strategies in tax administration: the evolution of the Australian Taxation Office's compliance model

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Abstract

The cooperative compliance model was introduced by the Australian Taxation Office (ATO) toward the end of the last century as a means of improving voluntary compliance with Australia's taxation system. In some circles, the model is regarded as a new and innovative approach to tax enforcement for administrations that had apparently hitherto relied upon deterrence strategies to enforce compliance. Since its introduction in Australia many other jurisdictions, including New Zealand and the United Kingdom, have also adopted the model.

The purpose of this study, from a historical perspective, is to reveal the reasons why the compliance model was adopted. It aims to uncover the nature of the transition from the previous deterrence approach to a cooperative approach and to determine the influences that shaped the emergence of the model as it was officially adopted. It also aims to discover the key precursors that created the environment that encouraged the paradigm shift from deterring non-compliance to encouraging compliance. The study employs a traditional historiographical methodology involving the assembly, organisation and analysis of written and oral historical data using content analysis and historical narrative analysis. An historical study of the compliance model offers insights into risk management approaches in tax administrations through its determination and consideration of the factors that led to the development and introduction of the compliance model within their historical context.

This article argues that administrative equity and administrative efficiency were two factors that influenced the development and adoption of the cooperative compliance model by the ATO. Here, administrative equity refers to the taking into account of the taxpayer's circumstances that led to non-compliance while administrative efficiency refers to the cost-effectiveness of the ATO in targeting non-compliers and carrying out audit and other activities aimed toward improving compliance. Based on this historical study, it is recommended that the ATO consider new techniques to assess risk in large businesses due to the ever-increasing amount of resources these businesses will require as they continue to grow and expand their operations. While the compliance model was adopted in part to improve administrative equity and administrative efficiency, these two goals may be in conflict and the compliance model may exacerbate any such conflict since both utilise the same types of information as their input. Where administrative efficiency dominates over administrative equity, the ATO may respond inappropriately. While automated risk based audit selection techniques may be efficient, such techniques tend to give priority to the risks to the revenue from the ATO's perspective over the risks to the revenue from the taxpayer's perspective, meaning that over-compliance is not addressed. Automated risk management techniques are less effective where taxpayers can change their behaviour to avoid audit, and as a consequence, automated risk assessment methods may be increasing the inequity of the tax system.

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1. INTRODUCTION

The cooperative compliance model (the compliance model) was first officially publicised by the Australian Taxation Office (ATO) in its large business and compliance publication in 2000 (Commonwealth of Australia 2000). The model combines responsive regulation and motivational posturing theories that advocate using persuasion to convince a taxpayer to comply. Further, the model advocates that compliance can be made easier through improved customer service and education in addition to the traditional deterrence strategies.

This article reports on research into the historical context, influences and key change factors that led to the introduction of the compliance model in the ATO. It attempts to determine the causes and preconditions, both external and internal to the ATO, which led the ATO to consider a new approach to compliance and the reasons behind the compliance model's adoption. In particular, the research aims to address the following central question:

What was the historical context, influences and pattern of development of cooperative compliance in Australian taxation policy?

The following supporting questions will aid in answering this central question.

What were the key change factors that prompted and shaped the emerging discourse?

What was the nature of the transition from the previous deterrence approach to the cooperative compliance model?

What influences shaped the emergence of the officially promulgated model?

These questions are important since the ATO was the first revenue authority to use such a model as the basis of its compliance approach. Furthermore, a historical perspective on the development of such an approach may inform future tax compliance approaches, including those based on risk management.

After this introduction the article will provide a brief literature review. The methodology adopted will then be outlined after which the history of the model and compliance approaches generally will be discussed with reference to the themes of administrative equity and administrative efficiency which were the main themes that emerged from the data collected in this study.¹ The implications of these themes for risk management will be then discussed. Lastly, a brief conclusion summarises the preceding discussion.

¹ While many themes emerged out of data obtained in this study, the themes of administrative efficiency and administrative equity were particularly clear. These two themes have been chosen as the focus of this article in favour of other emerging themes due to this clarity. The other themes will be the focus of further research.

2. LITERATURE REVIEW

The literature contains only the briefest glimpses as to how the compliance model developed and why it was adopted by the ATO. A detailed history of the compliance model has not been addressed in the literature to date. This gap represents the basis for this research of which this article is a part.

The compliance model's origins are usually attributed either to John Braithwaite's (1985a) book, "To Punish or Persuade: Enforcement of Coal Mine Safety" or Ian Ayres and John Braithwaite's (1992) book, "Responsive Regulation: Transcending the Deregulation Debate." The former book discusses, from a policy perspective, when it is appropriate to use punishment or persuasion, or a combination of both, as regulatory tools in the context of the coal mining industry to improve safety. The latter book discusses whether governments and regulators should adopt a more *laissez-faire* approach to regulation over the centralised and tightly controlled forms of the past. As the sub-title of the latter book suggests, 'responsive regulation' is supposed to transcend this debate by suggesting that regulators adopt both forms of regulation, utilising one or other in the appropriate circumstances while being responsive to those same circumstances.

In 1996 the ATO established the Cash Economy Task Force in an effort to improve voluntary compliance in the cash economy and the Commissioner appointed Valerie Braithwaite to this Task Force after its first report was finalised in 1997. The second report of this Task Force, finalised in 1998, recommended that the compliance model be adopted by the ATO to improve voluntary compliance in the cash economy (Commonwealth of Australia 1998; Braithwaite, V & Braithwaite, J 2001; Braithwaite, J 2002a). The adopted model was significantly different from that described by Ayres and Braithwaite (1992). It retained Ayres and Braithwaite's responsive regulation theory but it had been combined with motivational posturing theory developed by Valerie Braithwaite. Motivational posturing is "social signals that individuals send to authority, to others, and to themselves to communicate the preferred social distance from that authority." (Braithwaite, V, Murphy & Reinhart 2007, p. 138). The 'BISEP' model was also developed to sit alongside the compliance pyramid to allow for the consideration of various business, industry, sociological, economic, and psychological (i.e. 'BISEP') factors that informed the pyramid's application and the ATO's response to non-compliance (Commonwealth of Australia 1998, p. 58).

After the Cash Economy Task Force made its recommendation to adopt the compliance model for the cash economy, the ATO considered whether it could be utilised to improve voluntary compliance of high wealth individuals and large corporations, but there were doubts as to whether the model was suitable for these taxpayer segments (Braithwaite, J 2002a, p. 177-180, 2002b, p. 267; Braithwaite, V 2002, p. 8). The ATO began looking into the affairs of these taxpayers in part due to accusations that the ATO was soft on them and treated others, such as salary and wage earners, more harshly. After its adoption in the high wealth individuals and large corporations segments, the model came to be applied across all taxpayers in the early 2000s (Australian Taxation Office n.d.).

With the introduction of the Goods and Services Tax (GST) as part of the New Tax System in the year 2000, the ATO acknowledged that it needed the cooperation of the taxpaying public to implement these large-scale reforms. Also in the late 1990s there were concerns that Australia's tax revenue stream was under threat from the cash economy and from aggressive tax planning (Braithwaite, V 2007, p. 4).

To redress the perceptions that the ATO was favouring some taxpayers over others, the ATO adopted the Taxpayers' Charter in July 1997 as a means of communicating to the taxpaying public its rights and obligations with respect to tax compliance and tax administration (Commonwealth of Australia 2004, p. 13). The compliance model was adopted to complement this Charter (Braithwaite, V 2002, p. 2; Commonwealth of Australia 1998, p. 58). At some stage, the ATO was persuaded to adopt an enforcement pyramid (Braithwaite, V & Braithwaite, J 2001, p. 216) but the story as to how, why or when that took place has not been written.

These brief accounts do not explain the specific reasons, causes, and influences as to why the ATO adopted the compliance model. This research therefore seeks to provide a platform for further research on voluntary tax compliance and risk management that may inform current and future compliance practices. A historical perspective can provide an evaluation of events so that decision making is improved in a later context (Parker 1997, 1999; Carson & Carson 1998). Since the reasons why taxpayers comply as much as they do is a puzzle that remains unsolved, this historical study may help to improve the understanding of tax compliance behaviour.

While there is some discussion of the preconditions from the preceding decades behind the development of the model, explanations of the origins of the model and the reasons for its adoption in the literature mainly refer to the flurry of activity in the mid to late 90s (Job, Stout & Smith 2007). This flurry of activity involved the adoption of the Taxpayer's Charter and the development of the model by the Cash Economy Task Force as discussed above. Despite these discussions, significant questions remain. What were the factors and causes that led to this flurry of activity in the mid to late 90s and what was the process of change? How did the Cash Economy Task Force develop the model and by which process? How did the model make the transition from being recommended for use for the cash economy to being the ATO's compliance approach for high wealth individuals and large corporations and ultimately all taxpayers?

The concentration on the flurry of activity in the late 90s suggests that the model and its associated compliance methods were unique developments for that time. Some describe the model as signalling a significant shift in tax administration since, "The traditional regulatory style of the ATO has been heavily weighted toward command and control with the automatic application of penalties for various forms of non-compliance." (Braithwaite, V 2002, p. 1; see also Job & Honaker 2002, p. 111-113; Leviner 2008, p. 360). Given that the model is being described in this way, the events surrounding its introduction are of historical significance. This research, of which this article is a part, hopes to provide that history.

3. METHODOLOGY

In broad terms, the methodology for this research encompassed traditional historiographic research. This constitutes the assembly, organisation and analysis of data from a variety of written and oral sources. Analysis involved searching for themes and patterns relevant to the above research questions. A combination of content analysis, oral history interviews and historical narrative analysis were used to provide an interpretational history that aims to describe and establish the relevant facts and interpret and evaluate relationships between those facts. This method involved an instrumentalist constructionist approach which focuses on the model that the ATO adopted and seeks to explain its existence by building an account of the past. This means that this historical study seeks to identify the causes that drove the model's development and its ultimate adoption by the ATO (Previts, Parker & Coffman 1990a, b; Parker 1997, 1999; Elliot 2005; Neumann 2006).

With respect to the development and adoption of the model, historical methodology can be used to determine how and why the model was adopted to inform decision making about tax compliance issues today and into the future. According to Parker (1999, p.18), historical methodology has this unique benefit because it contextualises the various historical data such as events, institutions, roles and culture. Contextualisation leads to improved understanding as to why decisions were made and why things were done (see also Fleischman, Mills & Tyson 1996; Bedeian 1998). Without proper context, understanding of the past can lead to inaccurate interpretations that may result in inappropriate decision-making (Bedeian 1998; Parker 1999).

Specific steps included locating the relevant evidence, evaluating the quality of that evidence, organising and synthesising the evidence, and developing historical arguments that address the research questions. All of the aforementioned tasks overlap iteratively (Tosh 1984, 2010; Fleischman, Mills & Tyson 1996; Gaffikin 1998; Neumann 2006). Rather than interview methodology being separate and distinct, this study utilised semi-structured interviews as part of the historical methodology. The semi-structured interviews employed a combination of open and closed questions that guided the interview as well as probing questions to draw out more information. The interview questions were derived from the central and supporting research questions stated above (Tosh 1984, 2010; Fontana & Frey 2000; Flick 2002; Elliot 2005; Glesne 2006; Shank 2006).

The completed interviews were transcribed from the audio recordings using a professional transcription service. They were then analysed using the steps described above. Themes (or codes) that emerged from the sources were compiled in a codebook along with a note detailing the source of the theme. This process facilitated triangulation since all the sources for a particular theme were gathered together in one place and the amount and variety of evidence for each theme could be easily determined. As more sources were analysed, some themes were combined into larger ones or were marked as being related to others.

Since this research seeks to explain the adoption of the model by identifying the causative factors in that adoption, an interpretational approach to writing the history

was adopted rather than a pure narrative approach (Tosh 1984, 2010; Previts, Parker & Coffman 1990a; Neumann 2006). Since the history was analysed thematically into codes as mentioned directly above, it is also presented herein thematically. Overall, the sources were utilised to construct the best interpretation for how and why the model was implemented from the available evidence (Tosh 1984, 2010; Gaffikin 1998; Neumann 2006).

Interview methodology raises the question as to how many interviews are sufficient. In addition to the written data obtained, this study is based on 12 interviews. The details of the types of sources used are provided below. With respect to qualitative research involving interview method, it is recognised that interview samples are purposive rather than probabilistic (Guest, Bunce and Johnson 2006, p. 61). Consequently, the number of interviews to be conducted is determined by theoretical saturation levels whereby saturation is the point where no new themes emerge (Morse, 1995; Guest, Bunce & Johnson 2006, p. 65). Guest, Bunce & Johnson (2006) found that saturation was often reached after 12 interviews and that many themes emerged after 6 interviews. Gay, Mills & Airasian (2009, p. 136) found that many qualitative studies had fewer than 20 participants. On the basis of these studies, worthwhile findings can be made after only 12 interviews. With respect to this study, the themes of administrative efficiency and administrative equity were clear themes that emerged very early in the interview process and were also present in the written data. As discussed later in this article, further research aims to conduct more interviews and gather more written evidence to uncover more themes.

4. SOURCES

The most common historical source is the written word but oral evidence is becoming more commonly used (Tosh 1984, 2010; Fleischman, Mills & Tyson 1996; Previts, Parker & Coffman 1990a, b; Carnegie & Napier 1996; Parker 1997; Neumann 2006). The types of primary written and oral sources relevant to this research are outlined below. The relevant period was the late 1970s to 2000 when the model was first officially publicised.

Primary written sources

- Scholarly books
- Journal articles
- Working papers and other non-refereed or unpublished research papers
- Australian Taxation Office publications
- Speeches given by various Commissioners of Taxation and politicians
- Hansard
- Government taxation and finance reviews
- Senate inquiry and committee reports and associated discussion
- Submissions to senate committees by interested parties
- Miscellaneous government reports concerned with taxation
- Media articles
- Commentary from the professional accounting and taxation bodies.

Primary oral sources

The primary oral evidence was obtained through semi-structured, face-to-face interviews with personnel who were participants in, or observers of, the development of the model. Interviews were also conducted with those who were observers of, had knowledge of, or were involved in, the ATO's compliance strategies in recent decades. While the interviewees have been categorised among those three types as shown below, some participants have fulfilled roles in more than one category at different stages of their career. For this study, interviewees were categorised with reference to how that person predominantly contributed to the study. The personnel comprised:

- former ATO employees;
- former members of the Cash Economy Task Force; and
- taxation academics.

Category of Interviewee	Number Interviewed
ATO employee (former)	4
Academics	4
Cash Economy Task Force Members	4

The Cash Economy Task Force was made up of a mixture of people from the business community from various industries, the ATO and other government agencies, academics, and tax specialists.

Secondary sources

Secondary sources are those sources that are derived from primary sources. This study utilised, among others, texts and journal articles on the Australian corporate, social, financial, and taxation environment as well as newspaper, television and other miscellaneous media reports commenting on the aforesaid environments.

5. DATA ANALYSIS - MAJOR HISTORICAL THEMES

As mentioned previously, two major themes to have emerged from the data analysis that influenced compliance methods and the introduction of the compliance model are administrative equity and administrative efficiency. Tax systems are typically judged in accordance with whether they are equitable, efficient, and simple (Asprey & Parsons 1975; Lewis 1982; Woellner et al 2012). These criteria tend to be discussed in economic terms with respect to the legislation and the amount of tax expected to be raised from it. This article shows that these themes can also have administrative dimensions and it will now discuss how these dimensions influenced tax compliance methods and the adoption of the compliance model.

5.1 Administrative Equity

Equity can be expressed or defined in various ways. With respect to taxation, it is often defined in economic terms such as horizontal and vertical equity. Horizontal equity refers to taxpayers in the same financial position paying the same amount of tax

(Woellner et al 2012, p. 26). Vertical equity is more concerned with a taxpayer's capacity to pay and refers to people in different financial positions paying different amounts of tax in correspondence to that capacity (Lewis 1982, p. 10; Woellner et al 2012, p. 26). These two definitions are concerned with the normative view that all taxpayers should pay their fair share of tax. Whether this occurs is considered to be one of the main drivers of voluntary compliance (Wallschutzky 1985). When a taxpayer perceives that others are not paying their fair share, that taxpayer is likely to question why they should pay. Consequently, ensuring that the burden of tax does not fall on certain taxpayers and not others should be, and is often stated as, a key goal for a successful tax administration.

Despite equity being a goal of governments, tax administrations, policy makers and other interested parties; there have been periods of considerable inequity in Australia's taxation history. Perhaps the best recognised of these periods is the 1970s and early 1980s. The tax avoidance and evasion that was practised at that time has been well documented (Sutton n.d.; Boucher 2010) but how did this influence future compliance measures, particularly the development of the compliance model and what are the implications for risk management?

During the 1970s and early 1980s, paying tax was considered optional for the rich meaning that a substantial burden of tax was borne by the poor. There were two broad ways in which this reduction in tax by the wealthy was achieved. One was through tax avoidance schemes; the other was through the fraud associated with the 'bottom of the harbour' schemes, that is, through the typical means of tax avoidance and tax evasion (Bright 1978, p. 166; Wallschutzky 1985, p. 177). The tax avoidance activities of certain taxpayers angered many others.

The massive tax avoidance of recent times has represented a scandalous inequity in the burden of taxes, and a shifting of taxes away from those most able to pay (Australian Financial Review 13 June 1979 as cited in Wheelwright 1980, p. 82).

We are being absolutely ripped off by people who are avoiding tax hand over fist, and those people are not wage-and-salary earners (Hansard 5 June 1979, p. 2936 as cited in Wheelwright 1980, p. 84).

The sources cited directly above mainly date from the late 1970s showing that the tax avoidance and evasion was tolerated for much of the 1970s until the full extent of it became understood by the general public. Reasons for such inequity include systemic factors not related to tax administration such as the legislation itself, relatively high tax rates for individuals compared to corporate entities and the double taxation of dividends. The high inflation present in the economy during the 1970s also played a role (McKerchar & Coleman 2012, p. 384). These systemic factors created incentives for tax avoidance by those who had the opportunity. The High Court of Australia (High Court) interpreted the tax laws literally and decided in favour of the taxpayer in virtually all tax avoidance cases that came before it during the 1970s (Sutton n.d. p. 4; Boucher 2010; McKerchar & Coleman 2012). Sutton (n.d., p. 4) comments that the High Court's decisions had a major impact on the Commissioner's role so as to render

his judgements about whether tax avoidance had taken place no longer appropriate. Instead the Commissioner could only “check whether the letter of the law had been obeyed.” (Sutton n.d., p. 4). This gave an open invitation to certain taxpayers to keep pushing the boundaries of tax avoidance further and develop more daring schemes. The lack of success by the ATO in addressing tax avoidance through the courts due to the literal interpretation of the general anti-avoidance rule that existed at that time by the High Court is evident in the following comment:

The Tax Office lost everything in the 70s. The other big case is Westrad. If you look at that it's a very blatant 'find the loophole' kind of scheme and that was really Barwick's [former Chief Justice of the High Court] approach (Academic).

But the courts cannot be, and were not, held solely accountable for the widespread tax avoidance and evasion of the 1970s. There were administrative causes for the inequity during this period in addition to the typical form of inequity created by the law itself. Some have interpreted the ATO's actions as legitimising evasion and avoidance through it being seen as a representative of oppression (Bright 1980, p. 168). But there was worse to come. The Costigan Royal Commission was established to investigate the activities of the Federated Ship Painters and Dockers Union and the diligence of Mr Costigan exposed the ‘bottom of the harbour’ schemes. In the wake of this discovery, the ATO came in for stinging criticism. The performances of the ATO and the Commonwealth Crown Solicitor's office were described as ‘demoralised’ and ‘inept’ with both offices being held equally responsible (Costigan 1982 as cited in Sutton n.d., p. 4). Examples of such inept performances were the ATO's secrecy and lack of cooperation with other investigators and its apparent reluctance to initiate prosecutions or pursue test cases (Costigan 1982 as cited in Sutton, p. 4).

Instead, the ATO had turned its attention to ‘ordinary people’ compounding the burden. The poor were an easy target to collect revenue since their affairs were relatively simple and mistakes could be easily found (J Braithwaite 1985b). Thus it was easier for auditors to chase small taxpayers and rake in extra tax revenue through lots of small adjustments than it was to audit larger business whose affairs were more complex.

There was a perception in the community that if you were rich you got away with it, if you were poor you got audited... they weren't necessarily clean, but we weren't talking mega dollars (former ATO employee).

In the mid to late 1990s the issue of certain groups of taxpayers escaping tax arose once more. This group included taxpayers who were part of the cash economy as well as those who were involved in mass marketed schemes. When Peter Costello (the then Federal Treasurer) was quizzed in Parliament about what he was doing about the cash economy, he replied that the Commissioner had established a Cash Economy Task Force in November 1996. The Task Force was established to respond to community perceptions that the cash economy was growing and due to fears the integrity and equity of the taxation system were under threat (Australia, House of Representatives, *Questions Without Notice*, 1997, p. 4661).

On the same day that Peter Costello made the above announcement, the ATO issued a press release in response to the Task Force's first report (Australian Taxation Office 1997). In that report, the Task Force recognised that the ATO's actions in reducing the cash economy were not perceived by the community as having "sufficient impact" (Commonwealth of Australia 2003, p. 15) and that this view was "a major threat to maintaining public confidence in the tax system and the ATO's administration" (Commonwealth of Australia 2003, p. 15). However, the compliance model did not appear until the second report was finalised in 1998 (Commonwealth of Australia 1998, p. 58). The model was introduced to the Task Force by Valerie Braithwaite and was subsequently recommended to the ATO. Equity was one of the main concerns of some Task Force members.

Industry associations... always come from the proposition that says that it is in the best interests of the industry as a whole, if everybody within that industry sector complies with the law, so there's a level playing field (Cash Economy Task Force member).

What types of equity were the developers of the model interested in? While it appears that the traditional notions of horizontal and vertical equity were relevant, what most concerned members of the Task Force was the ATO taking into account the taxpayer's circumstances in determining how it responds to non-compliance, that is, administrative equity. This type of equity includes consideration as to how penalties for non-compliance were meted out and the severity of those penalties. Relevant circumstances that the Task Force thought ought to be taken into account included difficult personal issues, difficult business issues, and the taxpayer's knowledge of business methods such as appropriate record keeping, cash controls and accounting methods. The Task Force was of the view that longer-term compliance would be forthcoming if these various reasons for non-compliance were addressed rather than simply penalising the taxpayer immediately. The Task Force and the ATO wanted to move away from a one-size-fits-all approach to tax administration. This desire was consistent with the principles of responsive regulation and made a clear distinction between those who were paying less tax due to various mitigating circumstances versus those who made a deliberate decision to evade tax. The Task Force, and those within the ATO behind the development of the model, were of the view that those two groups of taxpayers ought to be treated very differently.

So do you treat a person who, because he's not keeping records, actually hasn't given a very good reflection of his tax, the same way as you treat somebody who is criminal in the activities and is deliberately trying to absolutely knowingly break the law? Do you treat the two the same? I don't think you do... So fairness in that sense is also fairness against the person that has just made a mistake and basically wants to make good. So you make it easier for them to make good, and you bring them back into the fold and you support them (Cash Economy Task Force member).

Since the taxpayer's circumstances were the primary consideration in determining the way the ATO treats taxpayers, a method was required to gather information so as to assess and evaluate those circumstances. The aforementioned 'BISEP' approach was

developed for this purpose and was included as part of the Cash Economy Task Force's compliance model in its second report.

Despite the establishment of the Cash Economy Task Force in 1996, perceptions of administrative inequity still dogged the ATO into the late 90s. These perceptions were influenced by the Nine Network's *Sunday* television program which alleged that organised crime had infiltrated the ATO and that the ATO "treats small taxpayers unfairly and inequitably while it goes soft on the 'big end of town'" (Senate Economics References Committee 2000, p. ix). In response to these allegations, on 24 June 1998 the Senate Economics References Committee began an inquiry into the operation of the ATO. The inquiry was concerned, in part, with the equitable treatment of taxpayers from an administrative viewpoint. In its submission to that enquiry, the ATO outlined the compliance techniques it had used since self-assessment, with the newly developed compliance model taking centre stage (Australian Taxation Office 1999). The compliance model enabled the ATO to move away from a one-size-fits-all approach and consider the taxpayer's circumstances in its administration of the tax system. The ATO recognised that administrative equity also influenced vertical and horizontal equity, thus the ATO acknowledged its role in producing a more equitable tax system more generally.

It [the compliance model] summed up the evolution away from a one-size-fits-all approach to a philosophy of working with taxpayers by taking account of their taxpaying history, considering their current circumstances, and then treating them accordingly (Australian Taxation Office 1999).

The ATO is using the principles reflected in the Compliance Model in its various strategies, which include addressing compliance in the cash economy and by large corporates. Application of these principles should ensure that the community is confident that each segment pays its fair share towards funding the services for all Australians (Australian Taxation Office 1999).

This discussion has shown that equity and the equitable treatment of taxpayers from an administrative viewpoint was one driver of compliance approaches in the wake of the 'bottom of the harbour' and tax avoidance schemes of the 70s and beyond. Administrative equity also influenced the development and adoption of the compliance model. It was neither the economic concepts of vertical nor horizontal equity that was the primary concern, but rather the taking into account of the taxpayer's particular circumstances that may have led to non-compliance. With administrative equity in mind, the article will discuss the implications of it for risk management, but first the theme of administrative efficiency will be discussed.

5.2 Administrative Efficiency

Efficiency is generally defined in terms of administrative and compliance costs from the taxpayer's perspective (Woellner et al 2012, p. 32). Efficiency also refers to the tax system being neutral, an ideal where the tax system itself should not influence a taxpayer's decision making (Woellner et al 2012, p. 32). An alternative view is to define efficiency from the ATO's perspective since it needs to prioritise the allocation of its resources and ensure it is not wasteful. Efficiency from the ATO's perspective

may be named administrative efficiency. Included within its ambit is the process of selecting taxpayers for audit and the how the audit is conducted. The ATO's approach to audit in the 70s and early 80s has been already discussed above with respect to administrative equity, but there were also administrative efficiency issues associated with audits. While it was easy to audit many smaller taxpayers and create lots of adjustments that in aggregation brought in much tax revenue, the process was inefficient.

... there was certainly not a great deal of reflection on the costs of doing that. So an amendment was probably was costing \$70 in those days [early 80s], there was no limitations so we were doing adjustments for a two-dollar adjustment which might have been 60 cents worth of tax (former ATO employee).

I do remember a conversation with a senior member of [ATO] staff, who shall remain nameless, who pointed out, and I looked at the Auditor General's report and it endorsed it, that audit was an extremely expensive method of collecting tax... I forget the figures... audit was something like five times as much as education or the other methods that they used (Academic).

Due in part to the administrative inefficiencies associated with how audits were conducted at that time, and the abovementioned inequities, the ATO began to reconsider its audit approach. A key cause of this change was the appointment of Trevor Boucher as Commissioner of Taxation in 1984. Interviews conducted for this research continually single him out as the one who brought in new ideas to the ATO and drove a new approach to tax administration. Commissioner Boucher's new approach was signalled in his first annual report where he stated that most taxpayers comply voluntarily (Commonwealth of Australia 1993, p. 19). At the same time, it was recognised that a lack of resources in the form of staff was a major issue for the tax office and this hampered its ability to conduct audits (Wallschutzky 1985, p. 172). New taxes such as Fringe Benefits Tax and Capital Gains Tax (as part of the income tax system) also needed resources to administer. Later, the ATO became responsible for the Child Support Agency which further stretched its resources.

...there were insufficient resources to deal with it [corporate tax evasion and the cash economy] (former ATO employee).

The introduction of self-assessment in 1986 was a major part of the new strategy towards greater efficiency in resource allocation. The self-assessment system was adopted in response to the ATO's realisation that it did not have the resources to continue processing returns under a full assessment system, especially as the number of returns that required processing increased over time. Under the aforementioned assumption that most taxpayers are compliant, resources could be diverted toward those taxpayers that were not compliant or needed help. Self-assessment was not only a major paradigm shift in tax administration in itself but also a major shift in compliance strategies since the ATO relied on the deterrence effect of full assessment to achieve compliance prior to self-assessment. Self-assessment required the taking of a different approach to achieve compliance. The risk to the revenue had taken a

different form with post assessment audit now becoming a more important strategy. However, voluntary compliance was not the main focus at this early stage.

Self-assessment, coupled with post assessment audit, necessitated a determination of who was compliant and who was not. When self-assessment was introduced, the ATO was ill equipped to identify non-compliant taxpayers since it did not have the resources in terms of technical know-how to select cases for audit (Australian Taxation Office 1987, p. 6 as cited in Wickerson 1995, p. 219). Computer technology and statistical techniques were not in widespread use at that time (Wallschutzky 1985, p. 172). Such case selection techniques had to be developed. In the early days of self-assessment, audits still served a primarily enforcement function rather than provide support for taxpayers. The overall strategy was to increase the administrative efficiency and effectiveness of audits to recoup tax from non-compliant taxpayers (Wickerson 1995, p. 219-220).

Various reviews led to the division of audit into three main business lines in 1988, namely, complex audit, business audit and primary audit (Wickerson 1995, p. 222; Commonwealth of Australia 1993, p. 24). In doing so, audit activities became systematised for the first time. In the same year, project based audits were introduced as a means of gathering information and learning about compliance and non-compliance behaviour in certain industries (Boucher 1993, p. 239; Wickerson 1995, p. 224). In the early 90s the ATO divided taxpayers into market segments on the basis of their size and type, for example, 'non-business individuals' and 'large and international business' (Boucher 1993). The ATO operations were then streamlined into those segments so that the ATO could develop "an appropriate service, enforcement, systems and collection mix for each of these markets." (Boucher 1993, p. 231). This contrasted with the previous way the ATO organised its operations which had been on a geographic basis with individual local offices in charge of all taxpayers in their area. This market segmentation automatically resulted in taxpayers being categorised and treated differently on the basis of that categorisation.

In fact there's a guy... who came in as a consultant... he brought marketing principles, and market segmentation is of course what you do if you're a marketing man. And he looked around and said, "You're not segmenting your markets, what are your main markets... And then of course that gives extra stimulus role to the idea of, "How do you treat them differently?" (former ATO employee).

Scoping audits were introduced in 1990 primarily for research purposes, not for the purpose of revenue recovery (Wickerson 1995, p. 224, 226). Their role was to obtain reliable and unbiased quantitative and qualitative data about the extent and nature of non-compliance among various taxpayers. Random sampling techniques were used within stratified groupings to select taxpayers for a scoping audit (Wickerson 1995, p. 226).

While these new audit techniques based on risk management principles were being developed, there were calls to provide more taxpayer assistance under the relatively new self-assessment regime. A more comprehensive and accessible ruling system was

advocated by the Joint Committee of Public Accounts report ‘*An Assessment of Tax*’ (see recommendations 20 and 28-43). By this time, education and service had been combined with audit as part of an overall risk management strategy (D’Ascenzo 1993, Australian Taxation Office 1999). The ATO realised that audits did not achieve compliance ‘lock-in’ (Australian Taxation Office 1999) and it became clear that if improvements in compliance were to be achieved, a method other than audit would have to be developed. Wickerson (1995, p. 226-231) describes how the role of audit shifted from one of enforcement and recovery to one that tries to improve future compliance primarily to achieve compliance ‘lock-in’. This was in part sparked by the aforementioned Joint Committee of Public Accounts report which recommended that auditors be briefed on the reasons why an audit had been selected and that these briefings should stress the need to improve future voluntary compliance (Commonwealth of Australia 1993, p. 251 and recommendation 92). The aforementioned focus on audits for enforcement and information gathering had given way to a new goal of finding a correct mix of service and enforcement with service including education programs. For example, a review of the Large Case Program (discussed in Boucher 1993, p. 237) revealed that differing interpretations of the law accounted for more than half of the tax raised by the Program. Boucher (1993) regarded the production of rulings as being more effective than litigation and legislative reform in reducing the gap between the ATO’s view of the law and the view held by large corporates. Another example, from the small to medium sized business segment, was that project based audits would not necessarily result in more auditing of a particular taxpayer, but instead better leverage could be obtained through education and persuasion. Thus the risk to the revenue was being managed via education, service, and persuasion.

We have realised for some time ... that voluntary compliance is not achieved by enforcement alone. On the other hand, you cannot hope to achieve voluntary compliance without a strong enforcement arm. What is needed is an integrated approach to achieving voluntary compliance – that is, an approach that combines enforcement, service and education (D’Ascenzo 1993).

As mentioned above, this ‘realisation’ had its origins in self-assessment since the ATO knew that it did not have the resources to process ever increasing numbers of returns. As mentioned above, the resources required for administration of new taxes such as FBT and CGT, as well as the later responsibility associated with the Child Support Agency, would also have necessitated a more efficient resource allocation.

I think as a result of the realisation of that [that the ATO did not have the resources to process burgeoning numbers of returns] the notions of voluntary compliance, risk management, market segmentation, compliance model, they were all natural outcomes (former ATO employee).

The compliance model is a risk management [model], the risk management framework is a compliance model (former ATO employee).

These new compliance strategies as described by Boucher (1993) and others above are similar to what is advocated by responsive regulation as described by Ayres and Braithwaite (1992). Indeed, Boucher’s description of ATO’s ‘Risk Management on a

Market Segmented Basis' was published in a volume on business regulation edited by Peter Grabosky and John Braithwaite, two pioneers of responsive regulation theory which underpins the compliance model. Boucher first presented this paper at the Australian Institute of Criminology in March 1992 (Wickerson 1994, p. 128 at footnote 11). This similarity raises the question as to how the ATO became exposed to responsive regulation techniques. It has been suggested by one interviewee (Academic) that knowledge of responsive regulation was dispersed by students and influenced thinking in the workplaces that they entered into, including the ATO. The ATO was also possibly influenced by the Organisation for Economic Cooperation and Development through its publication *'Administrative Responses and the Taxpayer'* (OECD 1988). However, it is also possible that the ATO began using techniques advocated by responsive regulation of its own volition and had come to see the usefulness of those techniques independently, through its own realisation that audit and service ought to be combined together.

...the Taxpayer's Service Group was set up to complement the Taxpayer's Audit Group. They didn't really talk to each other, so it was really when the market segments came together that the notion of service and audit really began to gel together. And you really can't make a distinction between audit and service... They are not separate concepts... It's ridiculous to say that you can have an audit program that is conceptually separate from service. Even the auditors who are in "gotcha" mode would admit that often they ended up, as, part of their audit, actually helping the taxpayer anyway, because in the process of auditor saying, "Your records don't support this deduction." That's a learning thing, so it was really when all the market segments came together that, in my view, deterrence and the support notions began to coalesce a bit and the project based audit program certainly was in that mode (former ATO employee).

While the exact causal influences that led to the ATO adopting responsive regulation techniques and the exact timing of the adoption of these techniques cannot be yet determined, it can be shown that the ATO had adopted these techniques some years prior to the adoption of the compliance model. The Taxpayer Service Group was formed between 1987 and 1989 (Australian Taxation Office 1999) and thus the focus on services can be traced to that period at least. After that, the relationship between audit and services become progressively stronger. Therefore, there was a trend beginning in 1987 to 1989 to unite service and audit. By the time the abovementioned article, 'Risk Management on a Market Segmented Basis' was published; Trevor Boucher had already left the ATO and was no longer the Commissioner of Taxation. The new Commissioner, Michael Carmody, continued in the same vein. The Joint Committee of Public Accounts published *'An Assessment of Tax'* in 1993 which made many recommendations aimed toward improving administrative efficiency (for example: recommendations 54, 55, 56, 57, 72, 78) meaning that administrative efficiency remained a focus in the ATO throughout the rest of the decade thereby giving stimulus for the ATO to refine and develop its risk management strategies. In 1996, the re-emergence of non-compliance in the cash economy as an issue saw the establishment of the Cash Economy Task Force. Valerie Braithwaite's appointment to the second Task Force in 1997 or 1998 led to the introduction of the compliance model to the Task Force and its subsequent adoption by the ATO and its eventual rollout across all taxpayer segments.

Since the ATO was using responsive regulation techniques prior to the adoption of the compliance model, what particular advantage did the model bring to the ATO? Not everybody within the ATO agreed that service and education was part of their job description, particularly some auditors. The compliance model was adopted in the late 90s to provide a means of communicating the compliance approach involving services, education and persuasion consistently across the whole of the ATO and even to external parties when required.

...and it was very much a tool that was used by senior people to drive down into the organisation, because even in my latter period there was a number of, you might call old-fashioned auditors, who still said, "We're just here to audit people, we don't do any of that risk nonsense", you know, "How does this help us?" you know and this was a tool to get a sense of common spirit through the organisation (former ATO employee).

I thought it was very powerful and very effective as a symbol, and as a talisman for the new approach. I thought it was great. I'm not sure it's the most accurate representation of the actual influences or comparative influences on tax paying, tax compliance, but it plays a very effective, very clever talisman or clever icon, symbol, because everybody in the Tax Office, everybody in practice, more sophisticated taxpayers all know about it and they understand what it means and it endorsed the rhetoric (Academic).

This section has shown that self-assessment was adopted so that the ATO could allocate its scarce resources toward those who were non-compliant; however this necessitated the development of methods that could detect the non-compliant. Risk management strategies were adopted whereby information would be gathered about taxpayers so that an assessment of likely non-compliance could be made. Initially, risk management had the narrow goal of detection of non-compliance and subsequent recovery of tax, but this broadened over later years to include strategies such as education, persuasion and customer service. The ATO adopted the compliance model in part to more easily and succinctly communicate these risk management strategies throughout the whole of the organisation to ensure consistency in their adoption and application.

The [compliance] model has its basis in risk management (D'Ascenzo 2011).

6. IMPLICATIONS OF ADMINISTRATIVE EQUITY AND ADMINISTRATIVE EFFICIENCY FOR RISK MANAGEMENT

As discussed above, risk management techniques were developed to allow for the efficient allocation of the ATO's resources toward non-compliant taxpayers. The ATO's compliance model was adopted to facilitate the adoption of risk management process that combined audit, service and education across the whole of the ATO. Additionally, the ATO's compliance model was borne out of concern for administrative equity, that taxpayers should have their particular circumstances taken into account when the ATO determines its compliance strategy and associated penalties for that taxpayer. This section discusses the implications of administrative

equity and administrative efficiency for risk management in general. While there may be many implications of the history presented herein, the implications discussed in this section concern future ATO resourcing issues, administrative equity issues surrounding self-assessment, potential incompatibility between risk management and the responsive regulation, and taxpayer responses to risk management and compliance. Each of these areas will be discussed in turn.

6.1 Future ATO resourcing issues

Given that post self-assessment audit was introduced as a risk management and resource allocation process in the mid-late 80s and early 90s, examining where audits were undertaken at a particular time provides a picture as to where the ATO saw the risks at that time. Wickerson (1995, p. 224) tabulates the audits conducted over the period of 1988 to 1993. There was a sharp drop in the overall number of audits from 1988 to 1989 and then a slow rise to 1993. The trend shows a continual increase in the proportion of companies audited out of the total from 12.3% in 1988 to 30.5% in 1993 (Wickerson 1995, p. 224). Wickerson (1995, p. 229) also observes an increasing emphasis in the auditing of larger business from the period 1988 to 1993, and especially companies. After 1993, Boucher (1993, p. 237-238) explained that a key group of high-risk large corporates would be under continual observation with other less risky companies being subject to less scrutiny.

Trevor Boucher's initial plans was that he decided that he would audit the top 100 companies, and that he would place an auditor in those top 100 companies (former ATO employee).

The ATO created the role of a key account manager to act as a contact point between a large corporate entity and the ATO (Boucher 1993). Specifically, the manager's role was to ensure that the ATO's information about the business was up to date, to take note of major developments and to identify whether action was necessary. One person was charged with these tasks.

Various high wealth individual and large corporate audit programs have been undertaken by the ATO in recent decades. Resourcing issues similar to those that existed prior to the introduction of self-assessment are likely to resurface in the future as the ATO is unlikely to be able to keep up with the growth, complexity and detail of these companies and their increasing globalisation. The key account manager's role will ultimately become too large for one person to fulfil. Therefore the ATO will have to find newer and more resource efficient methods of auditing or observing large businesses.

Perhaps in recognition of the resourcing difficulties associated with auditing large business, the ATO has recently introduced the Reportable Tax Position framework as a pilot project following a similar framework introduced in the United States. This ATO framework currently targets the top 100 companies and 46 have already been selected for participation in the pilot (Branson 2012). This initiative requests that the selected large companies report to the ATO on every tax position that that is "as likely

to be as correct or incorrect or less likely to be correct than incorrect.” (Branson 2012, p. 298). With this initiative, it appears that the ATO wants large businesses to self-assess their own risks. This may increase compliance costs for large corporations in a similar fashion to that of self-assessment which is considered to have increased costs for taxpayers generally compared to full assessment.

There was such a fundamental change [that is, self-assessment] that in fact I think initially the Tax Office thought all they were doing was shifting resources into audit, and building up their audit capacity...but in doing so they didn't appreciate, I don't think, they they'd actually shifted a massive burden from themselves to the general public (former ATO employee).

It [self-assessment] was partly outsourcing the work. If they are not doing the work, any job you don't do yourself looks easy (Academic).

Imposing undue costs on compliant taxpayers is contrary to the compliance pyramid which advocates that the ATO makes it as easy as possible for taxpayers to comply. Companies may manage their own risk in response to this initiative by simply reporting all possible risks to the ATO since judgement about what is as likely to be as correct as incorrect will be difficult. If companies report all possible risks, the initiative may backfire on the ATO due to it being overwhelmed by reported tax positions stretching its limited resources even further.

6.2 Administrative equity issues surrounding self-assessment

Continuing with self-assessment issues, it has been argued that self-assessment is inherently inequitable since taxpayers have to deal with the uncertainty associated with complex tax legislation and are faced with penalties and general interest charge for non-compliance as well as the onus of proof in arguing that they have applied the law correctly (Dirkis & Bondfield 2008). The Joint Committee of Public Accounts in its 1993 report *'An Assessment of Tax'* acknowledged as much when it recommended the ATO provide more support for taxpayers in applying the law to their own circumstances. The report also acknowledged that the Commissioner effectively has the power to create law under a self-assessment system (Commonwealth of Australia 1993, p. xix, xx; see also Dirkis & Bondfield 2008; Woellner et al, p. 47-48). Little has changed since the Committee made its recommendations with the wealthy being in a better position to challenge the Commissioner's views in court meaning that despite a more binding rulings system, the Commissioner's 'power' to make law remains undiminished.

Self-assessment has led to the ATO focusing on the risks to the revenue (Wickerson 1995; Boucher 1993). Expressing the risk in this way implies that the ATO is concerned with the underpayment of tax. Self-assessment creates the environment where there are likely to be significant numbers of taxpayers who are too compliant. The ATO's risk management or compliance strategy does not contain a statement outlining a desire to reduce the burden of taxes on over-compliant taxpayers. Indeed, risk management strategies are focused on underpayment of tax rather than an

overpayment of tax. Since the burden of taxes is one factor that influences voluntary compliance, the ATO could make a greater effort to reduce over-compliance. For example, under responsive regulation, salary and wage earners who have claimed a higher level of deductions compared to others in their occupational group will be sent a letter advising them to be careful when claiming their deductions. This strategy has been regarded as successful since sending out a letter to these taxpayers usually results in more tax being paid in the next year.

Viewing it from the angle of salary and wage earners as a group, the compliance issue moves more to that of work-related expenses. They are running at a high level, despite substantiation requirements, but it is pleasing to observe that claims for such expenses in last year's returns are somewhat below what we had anticipated. This may be due to the 'steady on' messages we were sending in the middle of last calendar year (Boucher 1993, p. 242).

Our compliance approach has a strong emphasis on 'prevention is better than cure'. We alert the community to what we are focusing on at tax time and write to people we think are at risk of over-claiming (based on their last year's return) before they lodge in the current year. We provide personalised information to raise awareness and understanding of their rights and responsibilities. The average adjustment following one of these letters is a reduction of 15% in claims. We also send information to people who in the previous year claimed work-related expenses for the first time (Commonwealth of Australia 2008, p. 17).

The salary and wage taxpayer, or even a small business, receiving such a letter may actually be compliant, even though the taxpayer is regarded as a risk. There remains a danger, however, that a taxpayer who is assessed as a risk to the revenue is actually compliant but has their 'non-compliant' status reinforced through that taxpayer reducing their claims for deductions due to being scared of audit activity. In this way the risk assessment of a taxpayer as non-compliant becomes a self-fulfilling prophecy. Taxpayers who are not deterred by such letters since they are of the view that they are compliant and who do not reduce their deduction claims would be labelled as 'resistive' under the compliance model. Therefore, taxpayers who are legitimately on the high side of the deductions spectrum are backed into a corner with respect to their future compliance behaviour.

...they can send a letter out saying, 'we've had a close look at your rental expenses this year, we're not going to do anything about it but can we just remind you what your obligations are and what the rules are' then they track that and next year those people always claim less. So they just send a letter, 20 bucks cost the letter, to all these people and next year their claims reduce by 1000, pretty good bang for your buck (Cash Economy Task Force member).

When the same interviewee was asked about the possibility that the taxpayer receiving a letter was actually claiming the correct amount they responded:

*Quite possibly. They just [had] the s*** scared out of them (Cash Economy Task Force member).*

6.3 Potential incompatibilities between risk management and responsive regulation

The risk management strategies developed by the ATO from the late 1980s relied upon both qualitative information about the business, its environment and the factors impacting on that business's ability to pay tax as well as quantitative information such as the business's financial records and information in its tax return and the general economy (Boucher 1993; Wickerson 1995). Similar types of information are also part of the 'BISEP' model that was developed to support compliance pyramid by informing the ATO about the taxpayer's circumstances so that an appropriate regulatory action can be made which takes into account those circumstances.

There is, however, disagreement concerning how risk management strategies fit within a responsive regulation strategy and vice versa. As discussed above, the ATO adopted the compliance model as part of its risk management strategy and to communicate that strategy throughout the ATO. Indeed, as written above, some are of the view that the compliance model and risk management are merely different labels for the same strategy. But others are of the view that risk management is very different in nature to responsive regulation and the compliance model.

So that's one of, you know, when I was trying to answer that very early question about, well, what were the other models [that were considered]. Well the risk based regulation is obviously one of them (Academic).

...there was also the risk analysis sort of movement in government which I see as a rather, one of those different things, from responsive regulation. I don't see there being a simple progression from the bottom of the pyramid to the top of the pyramid that corresponds with risk (Academic).

For these people, since responsive regulation is a pluralist model that could encompass many potential compliance measures within it as determined by the context (Academic), the issue is not primarily whether risk management can be used with responsive regulation, but rather how these two approaches should be used in combination.

..it [the compliance model] was never about risk... but somehow with risk management, instead of seeing the differences between the compliance model and risk management there was a desire to push them together in ways that they should never have been pushed together (Cash Economy Task Force member).

While risk management can inform the compliance model, and the compliance model is itself a risk management strategy, the compliance model is not supposed to be a strategy where the lowest part of the pyramid represents the lowest risk and the highest part of the pyramid represents the highest risk. When the same type of information is used by the risk assessment and the 'BISEP' analysis, there is a danger

that the response of the ATO as determined by the 'BISEP' analysis becomes commensurate with the compliance strategy advocated by the risk assessment. This is because risk assessment is designed to identify taxpayers who are not compliant and naturally categorises taxpayers as either low risk or high risk or somewhere in between. Since the 'BISEP' approach is designed to also inform the response of the regulator to a taxpayer's circumstances as well as the risk management assessment, the response from the regulator effectively becomes aligned with the risk assessment. Such alignment means that there is a danger that the 'BISEP' analysis that is supposed to take into account the taxpayer's circumstances and administrative equity ends up becoming more focused on administrative efficiency instead. The diametrically opposed views expressed by some participants in this study concerning whether the compliance model is a risk management strategy or otherwise indicates there is potential for conflict where the same model is trying to achieve two different objectives. In some cases, risk management strategies can lead directly into deterrence strategies in response.

...in a lot of work there is a simple minded assumption that [if] the red flag for fraud is there you would want an investigation and if there is culpability [then] a prosecution (Academic).

If risk management results in an automatic fine, prosecution or a similar tough stance by the ATO, then the tax system is not being regulated in the way that responsive regulation intended and in the way that the ATO communicates to the taxpayer through its compliance program. This is because such compliance measures would not be taking into account the circumstances of the taxpayer, a key element that was desirable to members of the Cash Economy Task Force and the basis of the responsive regulation methods that underpin the model.

6.4 Taxpayer responses to risk management and compliance

As discussed above, the literal interpretations of the High Court were one reason for tax avoidance being allowed to flourish in the 70s and early 80s. As more and more cases were decided, the schemes became more daring.

...it was a frustrating time because the Tax Office were, from a Tax Office perspective, were just losing cases and I thought that the cases were more egregious as time went on, but maybe that was just my perspective of being involved (former ATO employee).

The ATO fought these schemes by trying to stay one step ahead of taxpayers by advocating for new legislation to deal with specific cases. One of the eventual legislative changes was the introduction of a new general anti-avoidance rule which exists to this day (McKerchar & Coleman 2012, p. 390). The tax avoidance cases and the subsequent rulings of the High Court showed that taxpayers who wanted to avoid tax were prepared to adapt to the new rules in the process. Taxpayers remain frustrated with the current general anti-avoidance rule since there appears to be considerable

uncertainty surrounding its application (See, for example, Cashmere 2004, 2006; Thompson 2007; Pagone 2010; Cooper 2011).

The 'bottom of the harbour' schemes also showed evidence of taxpayers engaging in certain behaviour to avoid tax, specifically with the hope of remaining off the ATO's radar. While members of the Federated Ship Painters and Dockers Union were involved in these schemes, there were also labourers, debt collector agents and sales people who were involved (Sutton n.d., p. 9). In Sutton's view (n.d., p. 9) these people were chosen on the sole basis that their lifestyle would make them difficult to trace. The cash economy is another example of certain taxpayers undertaking activity specifically to stay off the ATO's radar. Indeed, the Cash Economy Task Force was established in part to bring these taxpayers within the ATO's vision.

They wanted to get more people into the system. The GST and the BAS and so on helped that and brought a lot of people in much, much more knowledge and information which they could develop the industry standards and so on, percentages and if you are outside that then we would have a look at you (Cash Economy Task Force member).

It is perhaps useful to remember that despite the ATO's efforts, as well those of the courts, taxpayers are able to adapt and modify their own behaviour. The courts and the ATO are not benign observers of taxpayer behaviour, but compliance actions of the ATO will itself have a reflexive influence on it. While it is the point of such compliance activities to change taxpayer behaviour to improve voluntary compliance, the ATO must be prepared that its actions may also make some taxpayers less compliant and take this into account in developing its risk management systems. Once certain taxpayers become aware of compliance activities that are being pointed in their direction, they will work toward changing their behaviour once more to avoid scrutiny. On the one hand, this change might be desirable from the ATO's perspective, such as the case with the sending of letters to salary and wage earners who appear to be overclaiming deductions, assuming that is indeed the case. Such changes lead to the claiming of fewer deductions, as discussed above, leading to the taxpayer escaping the ATO's vision. In other cases, however, a taxpayer who continually avoids the ATO's radar may be engaging in persistent non-compliance of a kind that existing risk assessment strategies cannot detect. Risk assessment is therefore a double-edged sword since taxpayers in general need to be aware of the risks for it to be effective.

Computer surveillance may be used but unless taxpayers are aware of its use and its potential to catch them, it cannot effectively constrain evasion (Wallschutzky 1985, p. 172).

A similar conclusion could be made regarding any compliance measure. It could be concluded that risk assessment and an associated compliance measure may lead to increased compliance from some taxpayers; but it is also likely to lead to reduced compliance, or result in no change in compliance, from another more elusive group of taxpayers who are determined to stay off the ATO's radar. In essence, these two groups of taxpayers represent two different market segments requiring different methods of risk management. With the more elusive group, the consideration of

unusual or seemingly irrelevant data using flexible, non-automated risk assessment methods combined with a willingness to follow a lead to its conclusion may yield fruitful results.

7. CONCLUSION

This article has argued how the two factors of administrative efficiency and administrative equity were influential in the development and adoption of the ATO's cooperative compliance model. Based on the evidence and analysis presented herein, this article suggests that in addition to equity and efficiency having an economic dimension, these concepts also have an administrative dimension. For those involved in developing the compliance model, equity not only means that all taxpayers shoulder the burden of tax fairly, but also that the administrator should use different means to achieve equity where appropriate. Administrative equity also influences voluntary compliance such that if a taxpayer is of the view that they unfairly shoulder the burden of taxes they are more likely to engage in non-compliant behaviour. Furthermore, if the ATO is perceived to be wasteful in how it administers the tax system, taxpayers will evaluate it like any other government agency and reduce their compliance activity accordingly (Bowler & Donovan 1995).

In order to achieve administrative efficiency, the ATO has adopted risk management techniques that have evolved over time. However these techniques potentially come at the expense of equity, in both a traditional economic and administrative sense. Limited resources will affect the ATO's ability to audit large businesses as these businesses continue to grow and expand globally; therefore administratively efficient and equitable risk management techniques that do not place undue burden on compliant taxpayers will need to be developed. While the compliance model is a risk management tool developed to help improve administrative efficiency, parts of it (such as 'BISEP') were developed to also improve administrative equity. Just as the traditional economic concepts of equity and efficiency are in conflict (Asprey & Parsons 1975) administrative efficiency may also conflict with the administrative equity. Any such conflict may be exacerbated by the use of similar information as inputs to the compliance model, and 'BISEP' in particular, that are used to achieve these two potentially conflicting goals.

Owing to this potential conflict, the ATO must endeavour to remain aware of community views on the appropriate mix of administrative equity and administrative efficiency lest they fall out of step with community expectations to the detriment of voluntary compliance. The history of the model as argued herein shows that administrative efficiency issues tend to predominate over administrative equity issues. Administrative equity issues tend to remain in the background, seemingly of lesser day-to-day importance. When administrative equity issues do arise, they have usually festered among taxpayers for some time thereby turning administratively equitable treatment by the ATO into a controversial issue resulting in calls for an inquiry. It is important therefore to always take into account administrative equity issues to prevent another crisis developing.

The focus of risk management and managing the risks to the revenue appears to not take into account any taxpayer over-compliance and it may also lead to risk assessments becoming a self-fulfilling prophecy. Some taxpayers will alter their behaviour to work around the risk assessment once they become aware of the rules in order to remain under the ATO's radar. New, more flexible, non-automated risk management and assessment techniques will be required to detect persistent any non-compliance that would otherwise remain hidden.

Historical studies inevitably suffer from similar limitations and these are acknowledged herein. All the sources may not be available or, on the other hand, an overwhelming amount of sources may lead to a necessary selection of facts via a judgement process. Selection of evidence or lack of evidence will mean that the resulting narrative and interpretation can never be complete thereby reducing the level of certainty for the specific causes for why the compliance model was adopted. Oral history has its own set of limitations in that interviewees' memories may have faded or they may be biased thus recalling events in a distorted fashion. Interviewees may also simply be mistaken about what took place given the passage of time. Nostalgia, grievance and contamination by other sources may also occur with memories being filtered by later experiences and hindsight reflection. These potential distortions and biases mean that while the voice of an oral source may be stronger than the 'voice' of a written source, it may not always be clearer (Tosh 1984, 2010). These various limitations mean that exact causes and timing of events may never be known.

Further research areas include conducting more interviews and collecting more written data to uncover more themes. Further research will focus in the research questions raised above that have not yet been addressed in this article. Administrative equity and administrative efficiency are not necessarily the only themes that explain the development and adoption of the compliance model. In many ways this study will always remain incomplete since over time more sources and evidence will come to light that might alter previously held views on the compliance model's history. For example, as more data becomes available, the timing of events may become clearer. Since responsive regulation is a pluralist model that allows the ATO to use many responses in achieving voluntary compliance in a certain context, further research also includes determining the most appropriate response to that context. While the 'BISEP' model provides a framework for consideration of the taxpayer's circumstances, how the 'BISEP' model results in an appropriate response by the ATO is not clear. Consequently, the need for tax compliance research is undiminished as we strive to further understand taxpayer behaviour.

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