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1. INTRODUCTION

Sales tax enforcement efforts in the states are structurally similar to the income tax enforcement model utilised by the Internal Revenue Service (IRS). Adoption of this structure assumes the same voluntary reporting scheme with enforcement carried out

2003; Mikesell & Birskyte, 2006; Korobow, Johnson & Axtell, 2007). Results of surveys and experiments suggest that most taxpayers would never consider tax evasion even though the probabilities of audit are low (Long & Swingen, 1991). Varma and Doob (1998) found that harsh penalties under the deterrence model are ineffective in controlling tax evasion if people do not believe they will get caught.

Braithwaite (2011) argues that regulators tend to rush toward law enforcement solutions to compliance enforcement problems before giving adequate consideration to the full range of possible approaches that support building more compliance capacity on the part of the noncompliant business. The concept of responsive regulation holds that beginning the enforcement process with less dominating, more respectful options tends to provide legitimacy for the more coercive processes of deterrence should they become necessary after less harsh measures fail.

In the continuing search for a robust theory of tax evasion, researchers have evaluated cultural, administrative and individual factors that act as potential determinants of evasion behavior. Among these factors are the quality of services provided by the government, the existence of high tax rates, the complexity of tax laws, social norms, morality, tax amnesty policy, income levels, size of businesses, tax ethics and source of income (Madeo, Schepanski & Uecker, 1987; Reckers, Sanders & Roark, 1994; Alm, 1999; Cummings et al., 2004; Torgler & Murphy, 2004; Christian & Frank, 2006; Hyun, 2006). These determinants can be thought of as contributors to tax morale, defined by Torgler and Murphy (2004, p.4) as 'the intrinsic motivation one has to pay their tax¶ All of these determinants have e f salie ire-s,show-3(i)88ore-s, verification plays an important role in compliance enforcement on several levels. The 1982 Taxpayer Compliance Measurement Program (TCMP) found a positive correlation between under-withholding of income tax and a subsequent underreporting of the tax liability (Chang & Schultz, 1990). Martinez-Vazquez, Harwood and Larkins (1992) observed that people with liquidity problems were less likely to pay commercial debts and theorised that liquidity problems may have the same effect on the behaviour of taxpayers. Utilising experimental methods they found that if the possibility of evading taxes in a safe manner existed, a majority of people would businesses are generally required to register, collect and remit sales tax) and cannot

The typology of sales tax noncompliance was developed primarily through content analysis of interviews of subjects in criminal investigations from Miami-Dade County

3.2 Cases closed without prosecution

Case closings without prosecution occur where there is insufficient evidence to prove all of the elements of a crime, but often do result in the collection of substantial unremitted tax as a result of the investigation. If the failure to remit tax is due to, for example, a lack of understanding of the law, illness of the taxpayer, or mistakes by accounting personnel within the organisation, there is generally no evidence of intent to commit sales tax theft or evasion, which is required for criminal prosecution. Taxes and penalties would still be due, but the amounts not paid would be collected using civil rather than criminal procedures. In other cases it may be rather obvious to the investigator that a crime was committed, but there is no evidence available with which to prove the crime.

Ultimately, questions are asked that allow the subject to rationalise his or her failure to properly account for and remit the taxes collected, such as:

1. Can you explain why you have failed to file returns (on specific occasions)?

2. Can you explain why you failed to remit the sales taxes you have collected to the Department of Revenue?

3. Can you explain why you have not replaced cheques written to the Department that were dishonoured by your bank?

A complete example of prepared interview questions used by investigators generally and used in this study specifically is attached in Appendix 1. While not all interview questions are exactly the same and the content will vary based on investigator knowledge of specific taxpayer- or case-related circumstances, all interviews are designed to acquire evidence of the elements of the crime and are therefore similar in intent if not exact wording. The result of this categorisation and classification based on direct interviews, content analysis of interviews and, in some cases, follow up discussions with subjects is part of the typology of sales tax noncompliance.

The completion of the typology required a thorough review of the non-subject interview evidence in the case. Interviews of witnesses, link analysis to identify related parties, and reviews of other documentary evidence collected by investigators were important with some classifications. For example, the two subclasses within the 'Criminal' type could only be classified through thorough review of all of the evidence in the case. While rationalisation provides evidence for typology in those cases where the subject is contrite and cooperative, those classified in the 'Criminal' type will generally decline to be interviewed or will strongly deny all allegations and refuse to provide any justification for a crime they swear they did not commit. As a result, the typology begins with two overall types:

1. those who attempted to explain that they had no intention to commit a crime; and

2. those who understood all along they were committing a crime and were relatively confident the crime could not be proven.

Review of the non-subject interview evidence that some are noncompliant with no overt intent to evade while others carefully map strategies to steal large amounts of sales tax collections. The results of this study suggest a typology of sales tax noncompliance to help guide the appropriate choice of enforcement measures and provides a basis from which a realistic evaluation of current and proposed enforcement methodologies can be derived. A summary of this typology is presented in Table 4 and is followed by a discussion of how the characteristics of each type of noncompliant agent might inform enforcement choices. The typology suggests that current enforcement methodologies are inadequate for addressing theft and evasion by most types of evaders, and particularly those evaders most likely to steal and/or evade large amounts of sales tax over extended periods of time.

Table 4: Typology of Sales Tax Noncompliance

Type	Subtype	Description
Delinquent		The most understood type. They either fail to file a return or file a retur and fail to pay the taxes reported on the return. This type of noncompliance is called 'delinquency'. Delinquents are registered, have a filing history, and the amounts due are generally known.
Deficient	Inadequate training	These individuals exhibit a lack of understanding of at least some po of their responsibilities for sales tax collection and remittance, and as a result, either fail to collect all of the taxes required, or fail to remit al the taxes collected.
	Poor business skills	These individuals may run their business from a checkbook, ie 'if there is money in the account, I must be profitable'. They maintain no, or very poor, sales records, resulting in poor reporting compliance and -u remitted sales tax.
	Illness of the owner	Reporting and remitting of sales tax suffers because of the exte medical problems of the primary responsible party. Family members or friends may assist, but they are generally not well trained in paperwork aspects of the business.
	Untrained bookkeeper	The deficient business owner hires an untrained bookkeeper who pre returns from bank statements, failing to realise that many small businesses, especially bars, restaurants, convenience stores and general retail stores, do not deposit all of their cash and often pay ve with cash from the register.
Negligent	Absentee owners	Those who trust others to manage their business but do not insti adequate internal controls to prevent theft or evasion by those entrus
	Poor control over associates	Those who share their business name, licenses and other resource fee, but do not maintain control over associate tax reporting. Sometimes this occurs in an industry where proper licensing is necessary to co that business but the associates cannot qualify for the license.
Stressed	Survivor	These individuals evade in order to remain competitive in their industry In many cases, 'Survivors' were found to have knowledge of widespre theft and evasion in their industry and had given up on remai compliant, reflecting the L I \ R X F D Q ¶ W E H D ¶W W K H P mentality.
	Borrower	These

4.1 Current enforcement tools

Before looking more closely at the typology, it may be useful to review the tools currently used by state revenue agencies to enforce the sales tax laws. There are a number of general enforcement tools available.) L U V W W K H D J H Q F \ ¶ V F l person58/eare . Co4(e)tlec208.3ions staff

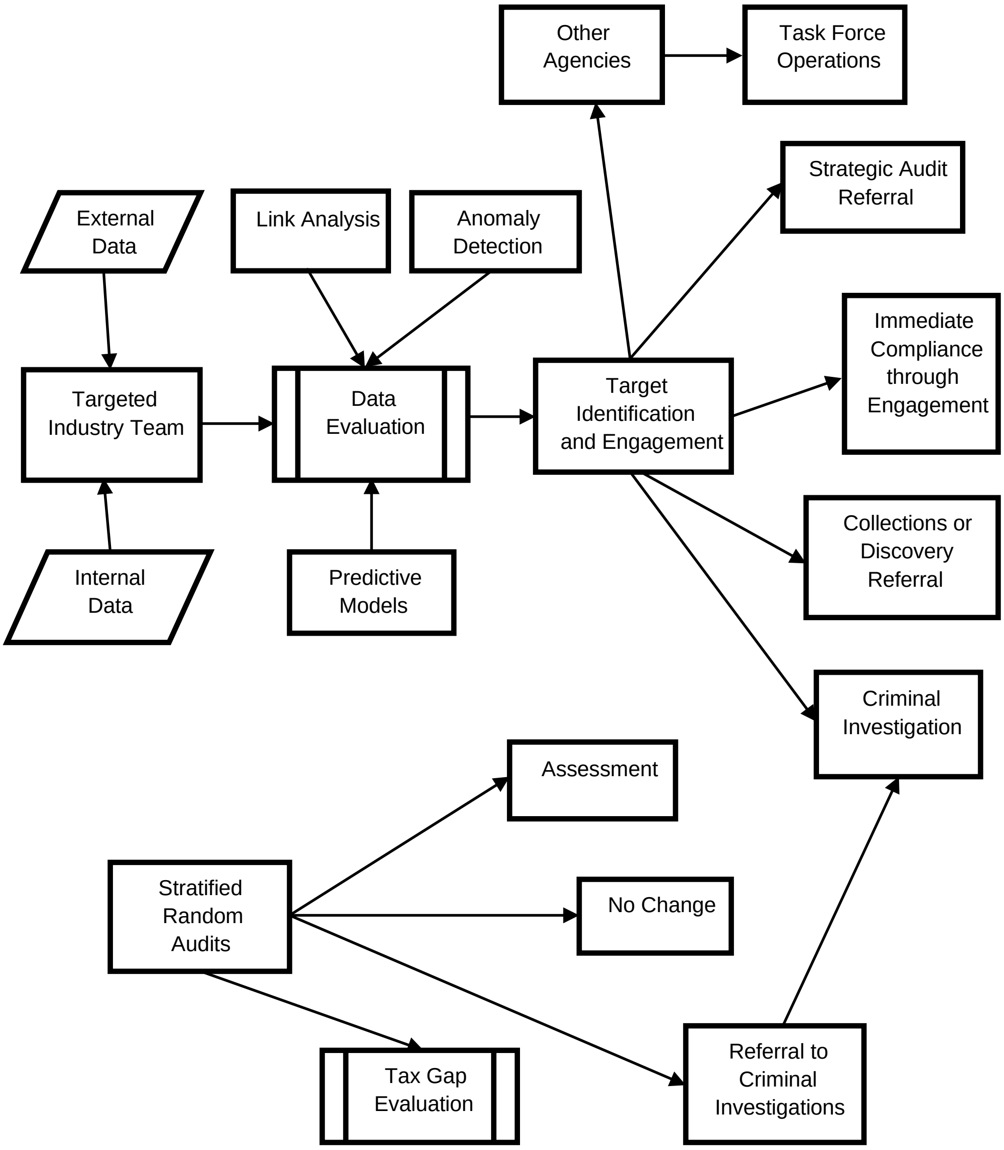
The 'Negligent' evader is normally discovered only when an audit or criminal investigation is undertaken and detailed analysis of the business source records is performed. Even if the 'Negligent' evader becomes delinquent, collections activity will generally not be sufficient to identify the additional tax due. When pressed to file a return or provide sales and tax collection information, the owner will provide information with respect to his or her 'official' sales only, not those of his or her associates, or sales accumulated from their inadequate accounting systems, and those sales will likely be consistent with prior filings, ending any further inquiry on the part of collectors.

'Stressed' evaders are motivated by finance-related pressures on their business. 'Survivor' subtypes do not generally set out to evade sales taxes: many do so to compete. A business stealing sales tax gains a 4–11 per cent profit advantage over their competitors. In many business models, particularly in industries with low profit margins, this advantage results in doubling profit or better. Many 'Survivor' business owners interviewed indicated that they engage in intelligence gathering and know when these anticompetitive situations are created and which competitors create them. A business owner faced with this situation must decide whether to compete by becoming noncompliant also or by taking alternative action, such as cooperating with the authorities to address the noncompliant behaviour of their competitors. Even when an unfair tax advantage is not specifically identified by the compliant competitor, the impact of unfair competition may nevertheless force the same choice.

The preferred tool for ensuring compliance among 'Survivors' is the fair application of the law to everyone and immediate attention to complaints of unfair competition through evasion. If it becomes impossible to fairly apply a specific statute, then it is imperative that the statute be changed so that it can be enforced, or repealed if changes are likely to be ineffective. A lack of fair enforcement causes distortions in the market and damages the tax morale of compliant businesses, making them more likely to be noncompliant generally. Equity theory, for example, posits that when the system of taxation is considered fair, compliance will be high, or at least higher than when the system is considered unfair (Thibault, Fredland & Walker, 1974). An example of states chanfyn example ofTJ ET Barket

and stratified random auditsThe least compliant industries will receive the most

Figure 1: TILD Program and Random Audit Process



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APPENDIX 1 ±

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2. Who prepares the cash register summaries of sales and taxes collected at the end of each day?
3. Who is responsible for accumulating the amount of taxes collected during the month?
4. Who is responsible for completing the sales tax return each month?
5. Who signs the sales tax returns before they are filed?
6. Who remits the sales tax payments to the Florida Department of Revenue?
7. What is your relationship to ________, Inc.?
8. How are you related to the owners of _____, Inc.?
9. Who is authorized to sign checks on the bank accounts of _______, Inc.?
10. (If he indicates he is not an authorized signer, show him a copy of one of the _____ checks issued to DOR with his signature). If you are not authorized to sign checks on the bank account of ______, why are you remitting taxes for ______ using a _____ check signed by you?
11. Why does the bank honor checks on the _____ account that you sign?
12. Are you current on your payments of other expenses of ___________, such as rent, electric, telephone, payments to food wholesalers and so forth?
13. If not, what type of arrangements have you made for these payments?
14. (If necessary) How do you stay in business without paying these vendors?
15. How do you pay these vendors? (For example, cash, money order, ______ check).
16. Can you explain why you have failed to file so many sales tax returns for _______ and continue to fail to file?
17. Can you explain why you have failed to remit the sales taxes you have collected to the Department of Revenue?

22. How many ____________ locations are currently open and operating?
23. Where are they located?
24. Were proceeds from _________ sales deposited into the _________ account?
25. Were funds generated by any other businesses deposited into the _______ account?
26. ___________ had more than $500,000 deposited into its bank account after leaving ___________ Mall. If _______ was no longer in business, what was the source of these funds?
27. Even while _______ was doing business at the ________ location, bank deposits were much higBT1 03.

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3. Please state your full name as though you were signing a legal document.
4. Present and assisting during this interview is/are ___________________________(name person(s). Have the person(s) state their name, title, and agency.
5.