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Addressing aggressive tax planning through mandatory corporate tax disclosures: An exploratory case study

Heidi Zummo,[1] Bronwyn McCredie[2] and Kerrie Sadiq

1. INTRODUCTION

Secrecy and aggressive tax planning are interdependent. As such, when secrecy is reduced via mandatory tax disclosures there is likely to be a consequential reduction in aggressive tax planning. However, to reduce secrecy, legislative interventions, as opposed to voluntary frameworks such as corporate social responsibility (CSR) reporting guidelines, are generally required. In response to current initiatives by the OECD, several mandatory tax disclosure reform measures have recently been adopted by national jurisdictions. Specifically, many jurisdictions have introduced legislation to enact the Automatic Exchange of Information Common Reporting Standard framework and the Base Erosion and Profit Shifting Country-by-Country Reporting recommendations. To date, these reforms require the disclosure of tax-related information to revenue authorities on a confidential basis. In this article, we argue that aggressive tax planning can also be addressed through public disclosures by revenue authorities of certain taxpayer information collected from annual corporate tax returns. Further, we propose that it is a combination of primary tax disclosures by revenue authorities and the subsequent responses of corporate taxpayers subject to the disclosure legislation, which may increase public confidence in the integrity of rules, systems and institutions.

Following this introduction, section 2 of this article briefly considers the concept of aggressive tax planning in the context of the OECD/G20 base erosion and profit shifting program of reform. Section 3 then examines the concept of mandatory corporate tax disclosures by revenue authorities. Utilising the Australian approach, one of the first jurisdictions to provide a contemporary example of mandatory disclosure of taxpayer information by a revenue authority, a possible legislative model is considered, namely, the regime contained in the *Tax Laws Amendment (2013 Measures No. 2) Act 2013* (Cth) (2013 Act) which received Royal Assent on 29 June 2013 requiring the Commissioner of Taxation to publish certain information about the tax affairs of large corporate taxpayers. Section 4 of the article then provides a theoretical framework for an investigation into taxpayer responses. Based on impression management theory, we argue that corporate taxpayers are likely to respond to mandatory disclosures by revenue authorities after they review how the public perceives them. The corporate taxpayer will then use impression management strategies in the communication of tax-related information to control and legitimise their image and identity. We argue that, ultimately, this leads to corporate taxpayers voluntarily disclosing more information about their tax planning strategies. That is, as

stream to government treasuries, but impact on the supply of public goods and benefits to society.

The payment of taxes is a fundamental way in which corporations engage in lifeblood of the social contract (Christensen & Murphy, 2004). to tax transparency is building, particularly at a time when government austerity measures are being imposed. The financial reporting of corporations is being scrutinised due to public interest in how and whether corporations contribute to the society in which they make their profit. Prior to the global focus on tax, CSR had evolved as the of ethical and moral behaviour (Sikka, 2010). This article proposes that the increase in corporate tax transparency has motivated corporations to incorporate disclosures on tax within CSR disclosures. Consequently, we also seek to determine whether this proposed change is related to their level of CSR engagement.

3. CURRENT CORPORATE TAX DISCLOSURES

In February 2013, the Australian Government announced its intention to increase transparency within corporate tax system. The rationale for doing so was that improvements in tax transparency encou to dissuade taxpayers from the use of aggressive tax minimisation arrangements and to provoke public debate on corporate tax policy (Bradbury, 2013). Following this announcement, the Australian Government introduced the 2013 Act which incorporated a new requirement into the *Taxation Administration Act 1953* for the Commissioner of Taxation to publish annual corporate tax transparency information. Specifically, new section 3C of the *Taxation Administration Act 1953* provides that where an Australian public or foreign owned company returns a total income of AUD 100 million or more for an income year, the Commissioner is

payable, as reported in its company tax return. The Commissioner is 1 0 0 1 9BT/F2 595.32 841.92

Country-by-Country Reporting recommendations as developed by the OECD. Further, it has introduced measures such as the Diverted Profits Tax and Multinational Anti-Avoidance Laws. Australia has also undertaken work around a new voluntary Tax Transparency Code, harsher penalties for breaches, new protections for whistleblowers and support for a new Tax Avoidance Taskforce within the ATO, to enforce and police these measures (Morrison, 2016). These actions indicate a signif .

With increased transparency, the

4. IMPRESSION MANAGEMENT THEORY

In this section we provide a theoretical framework to investigate taxpayer responses to the introduction of the 2013 Act. We use impression management theory, developed by Erving Goffman and published in *The Presentation of Self in Everyday Life* (1959), which examines how individuals represent themselves strategically to others in the hope of being perceived favourably (the *performance*) and extend it to corporations. First, the techniques and strategies are discussed, followed by an explanation of his dramaturgy framework.

4.1 Techniques and strategies

Goffman (1959, p. 35) tend to incorporate and exemplify the officially accredited values of the society . Based on this theory, this article uses impression management strategies to analyse the tax communications (*performances)* of Australian corporations prior to and post the 2013 Act. That is, we examine the volume and content of pre- and post-tax communications to determine, first, the impact of legislated transparency in the corporate tax system, and second, the impression management strategies employed by corporations to influence and align public perceptions of the corporation with accepted societal values (Hooghiemstra, 2000). To accomplish this, we use impression management theory, as it has been extended, to consider organisations in the same vein as the individual (Hooghiemstra, 2000; Tata and Prasad, 2015); that is, corporations act strategically to influence an *audience's* perception of them (Elsbach, Sutton & Principe, 1998). We acknowledge the concerns of Bolino et al. (2008), that looking at impression management from an organisational level can be di933(be)-33(d)11(i)-4(933()-

Table 2 provides a summary of the assertive and defensive impression management strategies along with a brief explanation of the techniques that are used to investigate corporate tax communications (*performances*).

Table 2: Definitions of Impression Management Strategies

Assertive Behaviours	
Ingratiation	A corporation trying to gain *audience* approval through trying to appear likeable.
Self-Promotion	Communication of abilities and accomplishments to the *audience* to appear competent and compliant.
Exemplification	Communication of doing more or better, than what is required, in attempt to appear dedicated and superior.
Defensive Behaviours	
Excuses	Denial of any negative behaviour or outcomes.
Justifications	Accepting responsibility for negative implications but providing reasons that there are external causes for actions.

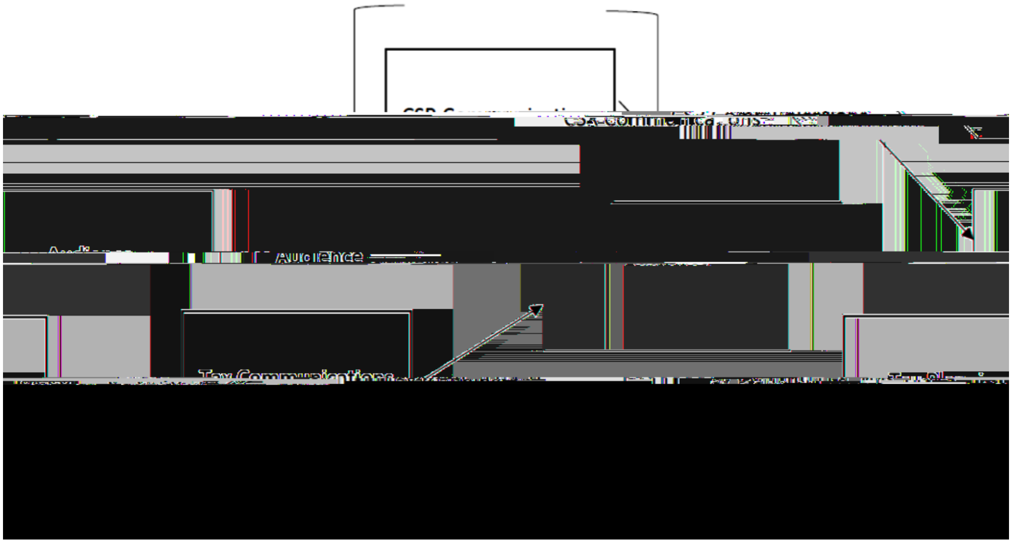
Source: adapted from Jones (1964) and Bolino et al. (2008).

4.2 Dramaturgy

To complement impression management theory, Goffman (1959) proposed a dramaturgical framework to explain the positioning of *performances*. This dramaturgy describes and compares *front stage performances*, which include the stage props, appropriate expressions, and attitudes that allow a *performer* to conjure up a desired self-image (Fine & Manning, 2003, p. 46), to *back stage* functions, where the *actors* may knowingly contradict the impressions that had carefully been publicly presented (Fine & Manning, 2003, p. 46). Such positioning of performances is no more apparent than when corporations publish Corporate Social Responsibility (CSR) reports that espouse their commitment to aiding society on the *front stage*, whilst potentially engaging in tax-minimising strategies covertly in the *back*, 'away from the glare of public scrutiny (Sikka, 2010, p. 156).

Studies examining corporate disclosures suggest that a CSR report is the medium by which corporations communicate their moral and ethical positions to society (Hooghiemstra, 2000; Tata & Prasad, 2015). As such, if we apply the dramaturgical framework, CSR reports serve as the main *performance* piece presented by corporations on the *front stage* to communicate their desired self-image to their *audience*. Historically, the CSR report has focused on three justify their actions to their *audience*, as illustrated in Figure 3. To coin a phrase, the curtain has been lifted and tax performances are now on the billing.

Figure 3: The Proposed Change of Performances on the Front Stage in a Dramaturgical Context



This article tests the proposition that tax communications have moved to the front stage by examining the relationship between the level of tax communications and CSR. If these two variables exhibit a significant positive relationship this supports our argument and provides evidence of a fourth dimension in CSR reporting, that of tax.

5. AN AUSTRALIAN CASE STUDY

The purpose of this case study is to determine how corporations have responded to changes in the Australian tax landscape, specifically the increase in corporate tax transparency. First, this section investigates whether there has been a significant increase in the volume of corporate tax communication

individuals (corporations) act strategically to influence an *audience's* perception of them, we hypothesise that legislated transparency in the corporate tax system has increased the volume of corporate tax communications. To test this hypothesis and contrast the number of tax communications made by each of the constituents of the S&P/ASX 200 index (trimmed sample), prior to and post the introduction of the 2013 Act (the 2012-13 and 2014-15 financial years respectively), descriptive statistics and a paired samples *t*-test were calculated.

The number of corporate tax communications for each year are presented in total and by report type in Table 4 below. These statistics indicate that the number of tax communications increased across the sample period, from 69 in 2012-13 to 86 in 2014-15.

Table 4: Corporate Tax Communications across the Sample Period

	2012/13 Financial Year	2014/15 Financial Year
Number of tax communications		
Total Tax Communications	69	86
Annual Report	49	58
CSR Report	20	28

Trimmed sample: 161 companies

Table 5: Changes to Corporate Tax Communications across the Sample Period

	2012/13 Financial Year	**2014/15 Financial Year**
Paired samples *t*-tests		
Average tax communication per company	0.5839	0.8012
t-statistic	3.09**	
Average tax communication per company in annual report	0.3727	0.4969
t-statistic	2.29*	
Average tax communication per company in CSR report	0.2112	0.3043
[redacted]		

Table 8: Changes in Impression Management Techniques and Strategies across the Sample Period

Impression Management Technique or Strategy	Tax communications in Annual report			Tax communications in CSR report			All tax communications		
	2012/13	2014/15	t-stat	2012/13	2014/15	t-stat	2012/13	2014/15	t-stat
Panel A: Impression management techniques									
Ingratiation	6	9	-1.13	4	7	-1.00	10	16	-1.61

where $Y_{\text{Tax communication}}^{FY}$ represents the number of tax communications and $_{\text{CSR performance score}}^{FY}$ represents the equally-weighted composite CSR score of each of the constituents of the S&P/ASX 200 (trimmed sample) for the 2012-13 and 2014-15 financial years.

This regression was then re-run substituting the equally weighted composite CSR score for each CSR dimensions score: social, environmental, and corporate governance. This was done to determine whether one dimension, or all, subsumed the influence of tax.

Table 9: Relationship between the Level of Tax Communications and CSR

CSR Performance score	**A**	**$\beta_{\text{CSR performance score}}$**
Equally weighted composite score	-0.2003	0.0150
T-statistic	(-1.58)	(7.71)**
Social score	-0.1075	0.0152
T-statistic	(-0.95)	(7.96)**
Environmental score	0.0606	0.0129
T-statistic	-0.59	(7.12)**
Corporate governance score	-0.3097	0.0135
T-statistic	(-1.33)	(4.42)**

Sample: 310 observations

Note: *, ** denotes significance at 5% and 1% respectively.

The regression results reported in Table 9 indicate that there is a significant positive relationship between the level of corporate tax communications and the level of CSR. Specifically, using the equally-weighted composite score as a proxy for the level of CSR, this analysis demonstrates that a

will lead to a 1.50 per cent increase in the number of tax communications disclosed by the company. This relationship is significant at the 1 per cent level and persists irrespective of the proxy used to measure the level of CSR, which suggests that tax is all-pervasive and now situated on the *front stage*.

5.5 Summary of case study findings

individuals, or in this case corporations, act strategically to influence an *audience's* perception of them, legislated transparency in the corporate tax system has significantly increased the volume of corporate tax communications. When the sample was partitioned by report type, both annual and CSR reports were shown to contain a significant increase in the number of tax communications since the introduction of the *Tax Laws Amendment (2013 Measures No. 2) Act 2013*. This result, when analysed using an impression management framework, communications or *performances* are partitioned by impression management techniques and report type, corporations are shown to predominantly use justifications, a defensive impression management technique, when communicating about tax in the annual report and self-promotion and exemplification, both assertive impression management techniques, when communicating about tax in the CSR report. It is also demonstrated that corporations have been both reactionary and proactive, with the number of tax communications that employ a defensive and assertive impression management strategy respectively, significantly increasing. This suggests that corporations are using impression management strategies to influence (Elsbach et al., 1998) and control (Spear & Roper, 2013) the *audiences'* view of the corporation in an attempt to legitimise and promote their tax practices (van Halderen et al., 2013).

Finally, we report a significant positive relationship between the level of corporate tax communications and the level of CSR. This suggests that tax has become a fourth dimension in CSR reporting, moving from a *back stage* function to the *front stage*.

6. CONCLUSION

Consistent with the OECD/G20 BEPS program, this article considered certain legal activities to constitute aggressive tax planning strategies because they were devoid of ethical considerations. We then argued that aggressive tax planning can be reduced through mandatory tax disclosures imposed not on the taxpayers themselves, but on the revenue authorities. It was hypothesised that these primary tax disclosures by a revenue authority, and the resulting corporate taxpayer response, are likely to increase public confidence in the integrity of rules, systems and institutions.

To test taxpayer reaction to mandatory disclosure requirements by a revenue authority, this study aimed to find out how corporations responded to the *Tax Laws Amendment (2013 Measures No. 2) Act 2013*. This change in the Australian tax landscape, including tax reforms and increased corporate tax transparency, reflected an increased focus on corporate tax contributions and how they impact societal functions. The study found that corporations have responded by increasing their communications about tax to the *audience*, with the use of control and legitimisation strategies to project a desired corporate image and identity. It also found that corporations, which provide CSR *performances*, were complementing this with tax disclosures to address concerns about their moral and ethical standing. Consequently, this study shows that tax is now on the *front stage*, in accordance with
theory, for *audience* review.

The publication, *Report of Entity Tax Information by the ATO* (Australian Tax Office, 2016), allows *audiences* to compare what corporations say and what they do, via an external impartial marker. The results support the objectives of the Australian Government in the implementa 0 595.32 reW* ive

Company	RIC	GICS Sector
Brambles Limited	BXB	Industrials
Breville Group Limited	BRG	Consumer Discretionary

Company	RIC	GICS Sector
OZ Minerals Limited	OZL	Materials
Pacific Brands Group	PBG	Consumer Discretionary
Paladin Energy Ltd	PDN	Energy
Perpetual Limited	PPT	Financials
Platinum Asset Management Limited	PTM	Financials
Premier Investments Limited	PMV	Consumer Discretionary
Primary Health Care Limited	PRY	Health Care
Qantas Airways Limited	QAN	Industrials
QBE Insurance Group Limited	QBE	Financials
Qube Holdings Limited	QUB	Industrials
Ramsay Health Care Limited	RHC	Health Care
REA Group Ltd	REA	Consumer Discretionary
Regis Resources Limited	RRL	Materials
ResMed Inc.	RMD	Health Care
Resolute Mining Limited	RSG	Materials
RIO Tinto Limited	RIO	Materials
SAI Global Limited	SAI	Industrials
Sandfire Resources NL	SFR	Materials
Santos Limited	STO	Energy
Seek Limited	SEK	Industrials
Senex Energy Limited	SXY	Energy
Seven Group Holdings Limited	SVW	Industrials
Seven West Media Limited	SWM	Consumer Discretionary
Shopping Centres Australasia Property Group Stapled	SCP	Real Estate
Sigma Pharmaceuticals Limited	SIP	Health Care
Sims Metal Management Limited	SGM	Materials

Company	RIC	GICS Sector
The Reject Shop	TRS	Consumer Discretionary
TPG Telecom Limited	TPM	Telecommunication Services
Trade Me Group Limited NZ	TME	Consumer Discretionary
Transfield	BRS	Commercial Services & Supplies
Transurban Group Stapled	TCL	Industrials
Treasury Wine Estates Limited	TWE	Consumer Staples
United Group		