Taxes, Organisations and Decisions

Fiduciary Tax Compliance in Two Modern Economies

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ABSTRACT

An analysis of tax receipts in two jurisdictions, Ireland and the United Kingdom, points to the significance of fiduciary tax collection usually carried out by organisations. This research seeks to establish if the factors which influence the fiduciary tax decision making process of organisations differ from the factors which influence tax compliance decisions by individual taxpayers. If the factors do indeed differ, are the theories which attempt to explain tax compliance behaviour, grounded as they are in individual taxpayer behaviour when settling their own personal tax liabilities, fully appropriate to organisations when settling fiduciary tax liabilities?

Because there is little extant literature on organisational tax compliance, a two phase approach to research is adopted. The first phase involved a survey of tax professionals across the two jurisdictions to map out the factors which influence fiduciary tax compliance behaviours by organisations. The second phase involved selecting a range of organisations with disparate fiduciary tax compliance obligations and interviewing officers from them to better understand their tax compliance decision making processes.

The research findings suggest that influences on organisational fiduciary tax compliance decisions indeed differ from those which influence tax compliance decisions by individuals. Organisations report a greater concern for the commercial and reputational consequences of fiduciary tax default than for revenue authority sanctions and a different appreciation of the risk of discovery of tax default. The findings also suggest that it may not be possible to consider organisational fiduciary tax compliance behaviours independently of the personal career considerations of the tax decision making officers working within those organisations.

These findings prompt a revised formulation of Expected Utility Theory, as it is applied in the literature to tax compliance decisions generally, to better describe and predict fiduciary tax compliance decisions by organisations.
Declaration

This dissertation is my own work and has not been submitted to any other university or higher education institution, or for any other academic award. Citations of secondary works have been fully referenced. The research presented has been approved by the Kemmy Business School Research Ethics Committee.

Signed:

BRIAN KEEGAN
14 February 2017
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1 INTRODUCTION

1.1 The Role of Organisations in the Tax System

Ever since Allingham and Sandmo (1972) proposed a theory that tax compliance decisions are essentially decisions taken under risk by rational actors, the emphasis of study into tax compliance behaviours has been on individuals and their one-to-one relationship with the appropriate revenue authority (Joulfaian 2000). The theories found in the literature may be classified under two broad categories; those which emphasise rational economic behaviour by assuming that tax compliance decisions are taken primarily to maximise the outcomes for the decision taker (however measured), and those which also recognise “moral, psychological, and social factors influencing tax compliance” (Kornhauser 2007, p.604). Other classifications have been advanced but the division between theories derived from models of economic deterrence and theories derived from an understanding of the psychology of the taxpayer as a compliance decision maker (or a combination of the two) seems to be constant (McKerchar and Evans 2009). The link between both sets of theories is a focus on the individual taxpayer and his or her relationship with the revenue authority (James 2012). That relationship is framed either in terms of the taxpayer’s assessment of the capacity of the revenue authority to detect and penalise tax default, or in terms of respect for the revenue authority and the fairness of their approach along with trust in how the authorities deal with people and how the system is run (Rawlings 2004, Likhovski 2007).

A focus on the individual taxpayer and the relationship with the revenue authority undoubtedly sheds light on how tax compliance decisions are made and can inform the approaches which revenue authorities should consider taking when encouraging or enforcing tax collection. This focus should not be to the exclusion of other factors within the tax systems of modern economies as found in Ireland and in the United Kingdom. Most taxes by volume of money collected in these modern economies are
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collected from organisations under fiduciary tax rules, as will be demonstrated later in this chapter. Fiduciary tax rules are discussed in some detail in Chapter 2; for now they can be taken as rules mandating the collection of taxes from other taxpayers and their onward transmission to the revenue authority. The existence of fiduciary taxes presumes the existence of an organisation – persons organised (frequently though not necessarily in a body corporate) towards achieving some form of common purpose. The main taxes paid by individuals – income tax and value added tax – are in the vast majority of cases incurred by the individual taxpayer as a worker or consumer without their having any direct contact with the revenue authority concerned. The employing organisation is an intermediary between the taxpayer and the revenue authority in the case of income tax. The organisation selling goods or services is an intermediary between the taxpayer and the revenue authority in the case of value-added tax. The organisation computes and remits the tax owing by the taxpayer to the revenue authority. The operation of fiduciary taxes is not solely the duty of organisations, but it can be inferred that the majority of certain taxes collected by fiduciary methods is collected by organisations. Payroll taxes for example can only exist in situations where there is an employer with one or more employees working as an organisation, irrespective of whether or not that individual employer is self-employed for tax purposes, or operating within a partnership, or has an incorporated structure. A measure of the central role of organisations in tax systems is provided by Christensen et al. (2001) who calculated that in 1999, the year under their study, business organisations collected and paid 83.8 percent of total taxes in the US.

If this fiduciary system of computation and remittance breaks down, the consequences are serious for tax yields overall. There are two reasons for this; the first is that there is a multiplier effect to fiduciary taxes where mistakes are amplified and the second is the potential damage to the normative effect of maintaining high levels of fiduciary tax compliance. While tax default can occur across all sectors of economies, public attention is often drawn to the high profile tax default of well-known individuals such as the Argentinian soccer star Lionel Messi (Aarons 2016) or the actor Wesley Snipes (Glaister 2008). Yet the tax collection consequences of a
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default by one individual taxpayer are minor in comparison to a default by an organisation or organisations of their fiduciary tax obligations. A mistake by a trader when applying the correct rate of VAT to a product can result in VAT underpayments by thousands of customers. A single default by an employer on payroll taxes can result in an income tax payment shortfall for however many employees are on the payroll. This multiplier effect leads to large amounts of tax being unpaid in the event of a default and there is evidence that such default routinely occurs.

1.2 The Significance of Fiduciary Taxes

1.2.1 The Scale of Fiduciary Taxes within the Overall Tax System

Most taxpayers pay tax at source, for instance through the application of VAT on their purchases or on their income through the operation of PAYE on payroll. In such instances, tax compliance – the decision to comply or not to comply – is a matter outside of their control. Organisations act as fiduciaries when withholding taxes from their customers, employees or other stakeholders. The organisation collects tax “in trust”. Table 1 below illustrates the importance of taxes such as Income Tax and VAT which are largely collected as fiduciary taxes within both the Irish and UK systems relative to the overall tax take in those two countries. The table has been extrapolated from the Exchequer returns for Ireland for the financial year 2014 (Department of Finance 2015a) and from the HMRC Annual Tax & NIC Receipts for the fiscal year 2013-14 (HM Revenue & Customs KAI Data Policy and Coordination 2015).¹

¹ The HMRC KAI analysis is carried out to a greater degree of granularity than the Department of Finance analysis. For example, tobacco, beer and spirits duties are analysed separately. For the purposes of these tables, like taxes are aggregated with like. Further, the HMRC figures include National Insurance Contributions (NICs). In Ireland, Revenue are also responsible for the collection of National Insurance (Pay Related Social Insurance or PRSI) but do not reflect the amount collected in their statistics along with the other taxes. For comparison purposes, UK NICs are removed from the figures in Table 2 and Local Property Taxes are excluded because the overall impact of Local Property Tax on the allocation of taxes, given that it only accounts for 1.2% of the total Irish tax yield, is not material. Other variances in the column totals from 100% are due to rounding.
INTRODUCTION

TABLE 1 - RELATIVE TAXES, IRELAND AND UK

<table>
<thead>
<tr>
<th>Tax</th>
<th>% of Total in Ireland</th>
<th>% of total in UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>41.60%</td>
<td>40.80%</td>
</tr>
<tr>
<td>VAT</td>
<td>27.00%</td>
<td>27.20%</td>
</tr>
<tr>
<td>Corporation Tax</td>
<td>11.20%</td>
<td>11.10%</td>
</tr>
<tr>
<td>Excise</td>
<td>12.10%</td>
<td>15.10%</td>
</tr>
<tr>
<td>Stamps</td>
<td>4.10%</td>
<td>3.20%</td>
</tr>
<tr>
<td>Capital Gains Tax</td>
<td>1.40%</td>
<td>1.00%</td>
</tr>
<tr>
<td>Capital Acquisitions Tax/Inheritance Tax</td>
<td>0.90%</td>
<td>0.90%</td>
</tr>
<tr>
<td>Customs</td>
<td>0.70%</td>
<td>0.80%</td>
</tr>
</tbody>
</table>

Table 2 drills further into the Irish tax yield for the financial year 2014 to categorise receipts between fiduciary and non-fiduciary taxes.

TABLE 2 - FIDUCIARY VS NON FIDUCIARY TAXES, IRELAND 2014

<table>
<thead>
<tr>
<th>€ Million – 2014</th>
<th>Total</th>
<th>Fiduciary</th>
<th>Non Fiduciary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs</td>
<td>275</td>
<td>275</td>
<td></td>
</tr>
<tr>
<td>Excise</td>
<td>5,134</td>
<td>5,134</td>
<td></td>
</tr>
<tr>
<td>Corporation Tax</td>
<td>4,617</td>
<td></td>
<td>4,617</td>
</tr>
<tr>
<td>Capital Acquisitions Tax</td>
<td>356</td>
<td>356</td>
<td></td>
</tr>
<tr>
<td>Capital Gains Tax</td>
<td>539</td>
<td></td>
<td>539</td>
</tr>
<tr>
<td>Local Property Tax</td>
<td>493</td>
<td>55</td>
<td>438</td>
</tr>
<tr>
<td>Stamp Duties</td>
<td>1,680</td>
<td></td>
<td>1,680</td>
</tr>
<tr>
<td>PAYE</td>
<td>10,780</td>
<td>10,780</td>
<td></td>
</tr>
<tr>
<td>Self-Assessed Income Tax</td>
<td>1,570</td>
<td>1,570</td>
<td></td>
</tr>
<tr>
<td>Withholding Taxes</td>
<td>567</td>
<td>567</td>
<td></td>
</tr>
<tr>
<td>Dividend Withholding Tax</td>
<td>268</td>
<td>268</td>
<td></td>
</tr>
<tr>
<td>Deposit Interest Retention Tax</td>
<td>437</td>
<td>437</td>
<td></td>
</tr>
<tr>
<td>Universal Social Charge</td>
<td>3,647</td>
<td>3,116</td>
<td>531</td>
</tr>
<tr>
<td>VAT Total</td>
<td>11,158</td>
<td>11,158</td>
<td></td>
</tr>
<tr>
<td>Overall Total</td>
<td><strong>41,521</strong></td>
<td><strong>31,790</strong></td>
<td><strong>9,731</strong></td>
</tr>
<tr>
<td>%</td>
<td>100.0%</td>
<td>76.6%</td>
<td>23.4%</td>
</tr>
</tbody>
</table>

The relative significance of fiduciary taxes is also to be found in the UK. For example in the year ended 5 April 2014, the ratio of income tax collected by direct
methods versus fiduciary methods is approximately 1:6.7 (HM Revenue & Customs KAI Data Policy and Coordination 2015).

1.2.2 Fiduciary Tax Risk – Individual Cases of Taxpayer Default

It appears from official reports that the most serious forms of tax default involve failures in observing fiduciary tax obligations. Such default is pursued with rigour by the revenue authority to ensure that organisations in every business sector regard fiduciary compliance as the norm for their industry. Because of obligations of taxpayer confidentiality, revenue authorities are slow to provide details of any particular compliance failure by any one taxpayer, irrespective of whether the taxpayer is an individual or an organisation. Nevertheless the extent of fiduciary tax default becomes apparent from the published lists of tax defaulters used as a sanction by revenue authorities in remediating compliance failure. There were 388 cases of tax default in Ireland published by the Irish revenue authority, the Office of the Revenue Commissioners (hereafter “Revenue”) in 2015. In 85% of these cases the tax default listed involved a failure by organisations to correctly operate fiduciary taxes.

<table>
<thead>
<tr>
<th>Cited Default – Fiduciary Taxes</th>
<th>Number of Instances</th>
</tr>
</thead>
<tbody>
<tr>
<td>PAYE</td>
<td>110</td>
</tr>
<tr>
<td>VAT</td>
<td>208</td>
</tr>
<tr>
<td>Relevant Contracts Tax</td>
<td>14</td>
</tr>
<tr>
<td><strong>Total Published Instances of Fiduciary Tax Default</strong></td>
<td><strong>332</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cited Default – Direct Taxes</th>
<th>Number of Instances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>191</td>
</tr>
<tr>
<td>Corporation Tax</td>
<td>25</td>
</tr>
<tr>
<td>Capital Gains Tax</td>
<td>42</td>
</tr>
<tr>
<td><strong>Total Published Instances of Direct Tax Default</strong></td>
<td><strong>258</strong></td>
</tr>
</tbody>
</table>

(Iris Oifigiuil, the Irish State Gazette 2015)

2 The total of instances exceeds the 388 published cases of default, because most cases showed defaults across more than one tax head.
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In addition, Revenue secured court prosecutions in 16 cases of serious tax evasion during 2015 with 28 convictions. Of these cases all except one concerned fiduciary tax default, and 14 of these 16 cases involved some form of VAT default (Revenue Commissioners 2016b). Custodial sentences were handed down in 15 of the 16 cases. It is clear from these published outcomes that the instances of tax default in Ireland most susceptible to public prosecution are almost always defaults in fiduciary tax compliance.

Comparable figures for the UK are not published to the same degree of granularity, but a 2015 report from the UK National Audit Office suggests that the majority of prosecutions for tax fraud concern the non-operation of fiduciary taxes. 69% of the cases prosecuted in the UK in the year ending 5 April 2015 concerned VAT and Excise Duties, both of which are fiduciary taxes. A further 22% concerned an aggregate category of Income Tax, National Insurance Contributions, Capital Gains Tax and Inheritance Taxes, some element of which would have involved fiduciary tax (National Audit Office 2015).

1.2.3 Fiduciary Tax Risk – Taxpayer Default across Sectors
There is substantial evidence of instances of fiduciary tax non-compliance across industry sectors as well as for individual cases.

1. High-profile instances in Ireland of sectoral fiduciary tax compliance default include the so-called National Contractors Project in 2013 and 2014. Here Revenue detected a pattern of failure in the operation of payroll withholding taxes by small closely held companies, leading to settlements of tax, penalties and interest on overdue tax by organisations within the sector. The Annual Report of the Revenue Commissioners for 2014 noted that they had concluded 400 audits of contracting companies and a further 300 audits of directors of such companies, and that over 80% of the audits conducted on companies and their directors resulted in a tax settlement (Revenue Commissioners 2015a, p.25). In 2015 it was reported that the total amounts
INTRODUCTION

recovered exceeded €17m, an amount described as “staggering” by a prominent parliamentarian (Deegan 2015).

2. The Irish Parliament’s Committee of Public Accounts conducted an examination in 2010 into the extent to which fiduciary taxes due by companies in liquidation remained unpaid. It found that in the 10 years to 2009, in excess of €1bn in such fiduciary taxes had been written off by the Revenue. This degree of what they termed “abuse of limited liability” ultimately led to changes in the law governing the personal liability of company directors for fiduciary taxes (Committee of Public Accounts 2010).

3. Widespread public concern driven by the media led to the establishment in Ireland in 1999 of a parliamentary enquiry into the fiduciary tax conduct of organisations within the financial services sector (Gunning 2007, p.306). This parliamentary enquiry, which became known as the DIRT Enquiry (DIRT being an acronym for Deposit Interest Retention Tax) established that the majority of financial institutions which took deposits from their customers during the 1990s failed to operate a withholding tax on the interest paid on their customers’ deposit accounts. The value of the settlements totalled IR£173.3m (€220m) or, to put it in some context, almost 2% of the entire income tax collected in Ireland during 2000 (Department of Finance 2000). The cost of the settlement of one form of default by just 25 taxpayers, albeit spanning a number of years, is extraordinary. Furthermore, when the reporting element of the operation of fiduciary taxes breaks down, compliance enforcement across the general taxpaying population is prejudiced. The correct operation of DIRT results in the reporting by financial institutions to Revenue of the existence of deposits held by depositors, who are separate taxpayers. It transpired that 12,175 such depositors uncovered by the DIRT Enquiry had used evasion techniques (Revenue Commissioners 2016a). An additional €649m in underpaid tax, interest and penalties was subsequently recovered from these depositors, a
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compelling example of the multiplier effect of fiduciary tax default mentioned earlier. The failure to operate DIRT by just 25 financial institutions prejudiced the tax compliance of 12,175 taxpayers. Given the seriousness of this case it merits particular attention, and the findings of that parliamentary enquiry are described in Chapter 2 as part of the discussion on how fiduciary taxes operate. The importance of the reporting element of fiduciary taxes is considered within the Literature Review in Chapter 3.

1.3 Organisations & Fiduciary Taxes – the shortfall in existing research

While the attention of scholars to tax compliance dating back some 40 years initially focussed on the utility maximizing individual taking compliance decisions under risk (Allingham and Sandmo 1972, T.N. Srinivasan 1973), this application of Expected Utility Theory to tax compliance has since been refined and extended not least through the introduction of Prospect Theory concepts (Guthrie 2003). In more recent times there has also been a recognition that not all tax compliance could be explained in terms of detection and punishment, leading to the introduction of personal values and social norms into the decision-making process under the umbrella of Tax Morale (Kornhauser 2007). Others have sought to link Expected Utility and Tax Morale concepts together in a framework for compliance behaviours reflecting on the one hand, the power and effectiveness of the revenue authority and on the other, trust in the fairness of the tax system (Kirchler et al. 2008).

All these approaches are predicated on a simplified model involving a taxpayer at personal financial risk interacting with a revenue authority capable of detecting and penalising tax wrongdoing to varying degrees. A drawback of these approaches is that they fail to acknowledge that most taxes are collected by organisations using fiduciary methods as demonstrated earlier. The tax compliance model to be studied will always involve a taxpayer and a revenue authority in a bilateral relationship. However in volume of tax terms the most important category of taxpayer is not the individual but the organisation, be that a company or some other structure, reporting and remitting the taxes due on behalf of other taxpayers using fiduciary methods.
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This form of organisational compliance behaviour in the operation of fiduciary taxes is not well understood.

It will be shown in the literature review in Chapter 3 that research on taxpayer behaviours is almost entirely based on consideration of, or experimentation on, self-assessed types of Income Tax cases. It is not based either on organisations or on fiduciary taxes. While self-assessed Income Tax is important as a source of revenue, it comprises in the order of 5% of all tax collected both in Ireland and the UK for their respective 2014 financial years (Department of Finance 2015a, HM Revenue & Customs KAI Data Policy and Coordination 2015). Therefore it seems almost inevitable that studies based on its application alone diminish the capacity of the literature to explain or predict overall tax yields (Alm 2011).

It has already been shown that:

- The “multiplier effect” of fiduciary taxes means that default by a few organisations has a severe impact on overall tax yields as evidenced by work of the Public Accounts Committee in its report on the Loss of Fiduciary Taxes arising from abuse of Limited Liability and prior to that in its work on the DIRT Enquiry.

- The most serious tax defaults pursued for publication and prosecution by the Irish and UK revenue authorities primarily involve fiduciary tax default.

- It is possible for systemic fiduciary tax default to occur across an entire industry sector such as the contracting sector and the Irish banking sector.

It is a matter of increasing concern to scholars and public administrators alike that the tax compliance behaviours of organisations are not well understood. The need for further research in the area was articulated by the OECD in its 2010 report entitled *Understanding and Influencing Taxpayers’ Compliance Behaviour*. That report aggregated existing research into taxpayer behaviours by revenue authorities in 16 OECD Member Countries. In its literature review, the report noted:
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The literature concerned with the drivers behind behaviour most often takes the point of departure in individuals or social groups. Only little of this body of literature has businesses as a focus. The literature still holds evidence of several relevant findings, also for businesses, but there might be a need to “translate” or adapt this literature to also fit the reality of businesses.

(OECD 2010, p.12)

This deficiency has also been noted in recent times by Slemrod and Gillitzer in their examination of overall tax systems and their recognition of the “practical importance of firms in tax collection” (Slemrod and Gillitzer 2014, p.26). This thesis is among the very first contributions in investigating the problem.

It has also been noted that there is still a considerable degree of difficulty being encountered in predicting the decisions of taxpayers. Up to now, the unit of investigation in tax compliance has been on the individual in contemplation of legal obligations to satisfy his or her own tax liability. The unit of investigation here will be on the behaviour of the organisation in contemplation of legal obligations under fiduciary tax rules. This thesis will extend the literature by establishing:

- Are the theories which attempt to explain tax compliance behaviour fully appropriate to organisations discharging fiduciary tax obligations?

- Are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals?

- If not, can any of the theories be adapted or modified to better explain fiduciary tax compliance decisions by organisations?

1.4 Brief outline of Thesis Findings

- A field research survey of 400 tax professionals in two jurisdictions suggested that the theories which attempt to explain tax compliance behaviour are not fully appropriate to organisations discharging fiduciary tax obligations, and pointed towards different factors being at play.
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• A second phase of field research involving interviews with professionals with tax decision-making responsibilities within organisations suggested that the factors influencing organisations do differ from those factors influencing individuals.

• The thesis suggests that a restatement of Expected Utility Theory which borrows a loss aversion concept from Prospect Theory and a normalisation concept from Tax Morale (applying to the conduct of agents within organisations) offers a theory with better descriptive and predictive results for tax compliance decisions specifically with regard to organisations.

1.5 Contributions of the Thesis

1.5.1 Contribution to the Literature
This thesis contributes to the literature in the following ways:

1. It shows that the research focus on the individual taxpayer’s compliance decisions in the context of his or her direct engagement with a revenue authority needs to be broadened to encompass compliance decision-making by organisations.

2. The fieldwork carried out in the thesis involved contact with qualified tax professionals active in tax compliance fields across two jurisdictions and with a particular focus on tax compliance work carried out within organisations by their own employees. Such fieldwork is unique in the literature because it studies the tax compliance behaviour and motivations of Agents within organisations, a set of stakeholders in the tax compliance process which is not typically examined.

3. It establishes that the approach of many organisations to put in place systems of checking and control to monitor their own compliance behaviours is more significant than the role of the revenue authority in policing the system. This approach is motivated by commercial considerations rather than by tax considerations.
4. The thesis concludes with the reformulation of Expected Utility Theory as it applies to organisations which takes into account the motivations and interests of Agents within the organisation and commercial behavioural norms along with the broader utility considerations for the organisation itself. This approach is novel to the literature.

1.5.2 Contribution to policy
The prevalence and significance of fiduciary tax collection methods suggests that fiduciary tax collection by organisations is the most efficient method of tax collection for government. As McKerchar and Evans put it “an essential objective of tax administration is to ensure the maximum possible compliance by taxpayers of all types with their taxation obligations” (McKerchar and Evans 2009, p.171) However while work has been carried out by governmental agencies (OECD 2004, OECD 2010) and scholars (Braithwaite 2000, Likhovski 2007, Leviner 2008, McKerchar and Evans 2009), their research either focuses on the structure of the revenue authority in promoting compliance, or is grounded on the anticipated responses of individual taxpayers in responding to various compliance enforcement initiatives by the revenue authority. The research within this thesis singles out the role of the organisation and establishes that the influences on compliance behaviours within organisations may be different to those for individuals. Faced with limited resources in policing the tax system, revenue authorities should prioritise giving attention to the organisations in their tax paying base with fiduciary tax obligations. Rather than applying traditional enforcement techniques derived from models of economic deterents - enhanced risk of detection with financial sanctions - they should look instead to a range of sanctions for poor compliance which create adverse reputational consequences for the taxpaying organisation. This would reinforce the norm that tax compliance makes good business sense; it must be necessary for (or at least not run counter to) an organisation’s commercial interests to be tax compliant.

Revenue authorities should also look more to the behaviour of Agents within organisations, those qualified tax compliance decision takers whose day-to-day decisions in relation to their organisations’ compliance have a disproportionate
impact on national compliance levels. The findings in this research establish that the influences on Agent behaviour are not the same as those which apply to individual taxpayers. Considerations of career prospects and personal professional reputation can outweigh the Agents consideration of their organisation’s tax compliance status, perhaps to the benefit of overall compliance levels but not necessarily so.

1.6 Structure of this Thesis - Chapter Outline

Chapter 2 provides some additional context for the concepts introduced in this chapter. It initially explores what is meant by tax compliance. The main types of taxes which exist in Ireland and the UK are described, along with the scope of their application and the primary method of their collection. An alternative categorisation of taxes is proposed based on their manner of collection, with a particular emphasis on an area somewhat neglected in the literature; the mechanics of fiduciary tax. The fiduciary tax mechanism, as it applies to income tax, is described in some detail to identify its principles and the compliance issues to which it gives rise. This clarifies that while the “payer of the tax” is the individual worker, the “taxpayer” is the organisation for which she or he works. As mentioned earlier there have been fiduciary tax compliance failures in the past, notably in the financial services sector, with results little short of catastrophic for the organisations concerned and which left a permanent mark on Irish tax law and practice. There was a publicly researched and documented breakdown in organisational fiduciary tax compliance by the banking industry in Ireland during the late 1980s and 1990s. A description of the findings from an Irish parliamentary enquiry, the DIRT Enquiry, into this systemic breakdown of fiduciary tax processes is provided.

Chapter 3 reviews the relevant tax compliance literature. It finds that the literature, though offering general theories of tax compliance, typically only examines the tax compliance decisions of individual taxpayers in the context of their relationship with the revenue authority to support these theories. It very rarely examines fiduciary tax compliance decisions taken within organisations. Three major strands in tax compliance theory, Expected Utility Theory, Prospect Theory and Tax Morale are
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examined. The chapter also examines the literature on the separation between organisational ownership and control, and proposes the Agency Theory of Jensen and Meckling (1976) as a lens through which to understand the compliance behaviours of organisations.

Chapter 4 considers an appropriate methodology to investigate how fiduciary tax compliance decisions are taken within organisations and what factors might influence positive or negative compliance behaviours by the people involved in the decision making process. A key issue is to separate influences on compliance decisions taken by individuals who have a personal liability to a particular tax, as distinct from compliance decisions of a fiduciary nature where an officer within a company or other form of organisation does not stand to personally gain or lose in tax terms from the decision being taken. A two phase approach to conducting the field research is adopted.

The first phase of the field research involved a survey of tax professionals designed to map the relative importance of a range of potential influences on the compliance decisions made within organisations. The list of potential influences is derived from influences posited by the prevailing tax compliance behaviour theories; Expected Utility Theory, Prospect Theory and the theories of Tax Morale, along with organisational influences viewed through the lens of Agency Theory. The findings from this first phase are set out and explored in Chapter 5, resulting in a composite profile of the Agent within an organisation who takes fiduciary tax compliance decisions for their organisation and which influences prevail upon them as they do so.

The second phase of the field research involved a series of interviews with Company Officers working within a range of organisations. The organisations were selected by reference to the particular fiduciary tax compliance obligations under which they operate, to establish a commonality of influences across organisations operating in
different industries with different fiduciary tax obligations. The outcomes from the interviews are discussed in Chapter 6.

Chapter 7 takes the outcomes of the survey and interview research phases and considers them in the light of the various compliance theories discussed in Chapter 3. It will be shown that Expected Utility Theory can indeed describe and predict fiduciary tax compliance behaviours by organisations but only when modified to reflect what constitutes utility to an organisation (as distinct from utility to an individual), and the role of the Agent within the organisation. A reformulation of the Expected Utility construct for organisations is proposed which borrows the approach to loss aversion from Prospect Theory and the effect of behavioural norms on Agents from Tax Morale theories. The findings of the DIRT Enquiry described in Chapter 2 are then matched to this reformulation to test this restatement of Expected Utility Theory.

Chapter 8 summarises the overall findings of the research, and suggests further areas of taxpayer compliance behaviour which require research.
2 CONTEXT

2.1 Overview
This chapter contains an analysis of the different taxes in operation in Ireland and the UK to provide a context for the differing compliance obligations for individuals and organisations. It will then present in some detail the type of fiduciary tax compliance obligation imposed on organisations. The chapter concludes with a review of a documented instance of the consequences of fiduciary tax compliance failure in the Irish Financial Services sector.

2.2 What is meant by Compliance?
Before any discussion of the incidence of individual taxes, it may be helpful to consider what is understood by tax compliance. There does not appear to be a standard definition of the concept of tax compliance, or at least as Cowell points out, a sensible definition of tax evasion, which is the absence of tax compliance (Cowell 1985). Tax evasion is broadly understood as illegal behaviour leading to an underpayment or non-payment of tax. The relevant tax law is broken by the taxpayer, typically to conceal income or gains which may be liable to tax, or to claim an allowance or relief to which the taxpayer is not properly entitled. Tax evasion, when detected, is frequently met with sanctions and penalties not all of which are monetary as will be described later at section 2.5.3.

The literature tends to focus on detailed discussions of the distinctions between tax evasion which is the illegal mitigation of tax liabilities, and tax avoidance whereby tax liabilities are mitigated within the law even if it is not immediately clear that the legislation employed was enacted for that purpose (Killian (2006), Hikaka and Prebble (2010), Alm and Torgler (2011)). While such discussion is important, it is also important to have a clear portrayal of what constitutes tax compliance. For example many of the studies which have been carried out into tax compliance and are described in the literature review in Chapter 3 do not distinguish between compliance in terms of reporting obligations, and compliance in terms of the
payment of taxes. This distinction between accountability and liability is not necessary in the context of individuals who directly pay their own personal liabilities, but may be critical in understanding fiduciary tax (Slemrod 2008). As was pointed out in Chapter 1, most tax compliance (as reckoned by volume of tax collected) centres around fiduciary taxes collected by businesses and organisations of all types. Fiduciary taxes are not paid out of the resources of the organisation itself, but are collected from its employees’ resources (via payroll taxes) or its customers’ resources (via VAT, customs duties, excise duties and the like) and remitted to the revenue authority. When an organisation charges a customer €100 for a product which attracts VAT at 23%, only €81 “belongs” to the organisation. €19 (that is €81 at 23%) “belongs” to the revenue authority, and must be paid over to them typically within a few weeks of the sale to the customer. The €19 is not part of the organisation’s income. Nevertheless the organisation is under an obligation to comply irrespective of whether or not the tax liability applies directly to itself, or is a fiduciary tax like VAT.

Some approaches to defining tax compliance follow the approach identified by Cowell by examining the consequences of its absence. The US Internal Revenue Service (IRS) have developed the concept of the “Tax Gap” – a measurement of the extent to which taxpayers do not file their tax returns and pay the correct tax on time as a way to gauge taxpayers’ compliance (Internal Revenue Service 2016). This Tax Gap concept makes more explicit the multiple tax compliance obligations of non-filing, under-reporting, and under-payment. Arguably there is a fourth component: nonregistration.

- **Non-filing** – Non-filing occurs when taxpayers who are required to file a return do not do so on time, or at all.
- **Underreporting** - Underreporting of tax occurs when taxpayers either understate their income or overstate their deductions, exemptions and credits on timely filed returns. It will be shown that this element of compliance failure is the one most often studied in the literature. Any requirement to maintain business records to enable returns to be verified by the revenue authority would also fall into this category.
• **Underpayment** - Underpayment occurs when taxpayers file their return but fail to remit the full amount due by the payment due date. For example as a general principle in Ireland, any VAT collected by an organisation is accounted for every two months. The full payment of VAT to the revenue authority must take place within three weeks of the end of the two month period. If the full payment is not made within this three-week period, an interest charge will apply. Situations also arise where even though a full payment is made, it is remitted after the due date to the revenue authority. Such a late payment (as distinct from an underpayment) of taxes can fall within the concept of underpayment and will also attract interest and penalties. As penalties for compliance failure are frequently linked to the amount of tax at issue which in turn is linked to their payment dates, this area does receive some attention in the literature (Yitzhaki 1974).

• **Nonregistration** - Failing to register for a tax must be distinguished from failing to file a return. The distinction is particularly important when considering fiduciary taxes, because a business may be registered and compliant for one fiduciary tax (for example PAYE payroll taxes) and not be registered or compliant for another (for example VAT). Organisations will often have several tax compliance dimensions to manage.

Taken together, the rules governing nonregistration, non-filing, underreporting and underpayment could be regarded as the “applicable tax rules” in the IBFD definition of tax compliance – “the procedural and administrative actions needed to satisfy a taxpayer’s obligations under the applicable tax rules” (Larking 2005, p.399). The consequences of failure to comply make up the “tax gap”. However even though the approach may seem comprehensive, not all subscribe to this view. As noted in the 2011 Annual Report of the Comptroller and Auditor General for Ireland, “there is no agreed method for measuring the tax gap and significant questions remain about its accuracy in those countries which produce estimates” (Comptroller and Auditor General 2012 paragraph 10.6). This view is echoed by the Canadian Revenue Authority cited by the Australian National Audit Office who have noted the absence
of a recognised approach to measuring the Tax Gap (Australian National Audit Office 2015, p.38).

Irish legislation governing tax evasion in the Taxes Consolidation Act 1997 uses the concept of “deliberately” making incorrect returns in its definition of evasion. It distinguishes deliberate behaviour from careless behaviour, both of which constitute tax default, but only deliberate behaviour constitutes tax evasion (Taxes Consolidation Act 1997 Section 1077E). Excluded therefore are both unwitting mistakes (even though these reduce the amounts of tax collected and are included in both the HMRC and IRS tax gaps), and any tax avoidance planning which while reducing the liability also involves full and accurate disclosure to the Revenue. All compliance obligations and requirements in the tax code attract a penalty of some description should those requirements and obligations not be fulfilled by the taxpayer. Reverting to tax law and investigating what the law itself terms non-compliance would sidestep the potential complexity derived from public policy, cultural and tax administration considerations (for instance discussions over what constitutes tax evasion rather than tax avoidance), or discussions over the importance of following the spirit and not just the letter of the tax law. This approach – defining compliance as adherence to the tax law, nothing more but nothing less – allows a consideration of tax compliance not just in terms of some type of proactive behaviour, but rather as a behaviour which is such as to ensure that no penalty is attracted in the conduct of tax affairs. There is a difference between considering “what makes taxpayers comply with taxes?” and “what makes taxpayers behave so as to avoid a tax penalty?” Perhaps for many taxpayers, individuals and organisations alike, tax compliance is indeed as the tax legislation presents it - mainly as a matter of avoiding tax penalties. The compliance decision of the taxpayer is thus framed as a penalty avoidance decision, not as a proactive tax compliance decision.
2.3 Tax Classifications

The literature rarely distinguishes between different types of taxes when considering tax compliance. It will be shown in Chapter 3 at section 3.5 that such fieldwork as exists focuses almost exclusively on income tax, and more particularly on directly assessed income tax where an individual taxpayer deals exclusively with the revenue authority on declarations entirely within his or her control, and suffers the financial and other consequences of failures to comply. One reason for this may be the focus on individual taxpayer behaviours, as distinct from the behaviour of organisations. Individual taxpayers rarely deal with matters of VAT for example as noted in Chapter 1 even though VAT is among the most important components of the overall tax take. Furthermore taxes such as VAT and Customs Duties have their own computational rules and compliance obligations which are very different to Income Tax rules and obligations. How is it possible to formulate any theory of tax compliance without recognising that there are multiple taxes with different requirements, and that the most significant compliance decisions, by reference to taxes collected, are not taken by individuals but by organisations?

The Organisation for Economic Cooperation and Development (OECD) describes tax as confined to “compulsory unrequited payments to general government” (OECD 2013a, p.312). In this context, “unrequited” is used in the sense that any benefits provided by government to taxpayers are not normally in proportion to the tax amounts those taxpayers have paid. In its analyses, the OECD classifies taxes by reference to the base on which the tax is levied – income, profits, gains, payroll, property, goods and so forth. Alternatively the International Bureau of Fiscal Documentation (IBFD) comments that there is no universally accepted classification of taxes, and proposes a number of other possible classifications. These proposals include classification by reference to the method by which the tax is levied, and classifications by reference to the use of the proceeds of the tax (Larking 2005). This thesis follows the classification of taxes applied by the Irish Revenue Commissioners in their Annual Reports. That classification is derived from the body of legislation which applies the tax. Thus for example “Income Tax” as a major category includes taxes on income including Pay as You Earn (PAYE) which is
collected through payroll, whereas the OECD and IBFD methods would not include PAYE in that category. The revenue authority in the UK, HM Revenue and Customs uses a similar classification approach, albeit with more granularity in subdividing major classes of tax. This “body of legislation” approach is also helpful as this study looks to the UK from time to time for comparative information. Up until 1922 Ireland and the UK shared the same taxation system so the body of legislation distinction continues to apply in most cases in both jurisdictions where this research has been carried out. The most significant tax introduced both in Ireland and the UK subsequent to 1922 in volume terms was VAT. The Irish and the UK VAT systems (at least until the UK’s process of leaving the EU is complete) are governed by the operation of Council Directive 2006/112/EC of 28 November 2006 on the common system of Value Added Tax.

2.3.1 Taxes Critically Dependent on Compliance by Organisations

2.3.1.1 Income Tax

Income tax is levied on the aggregate amount of earnings, salary, rent, investment income, dividends, profits from commercial activities, legal and otherwise, and other perquisites and benefits. In the main, Income Tax is levied on individuals (although technically there can be an income tax charge in limited circumstances on companies usually arising from some form of withholding tax). Different computational rules apply for each of the different types of income. For example, a taxpayer is entitled to different deductions from trading income, rental income, and employment income in arriving at the amount assessable to income tax within each category of income.

A substantial proportion of income tax is not directly recovered from the individual taxpayer, but by a variety of withholding methods. Returns on investment – deposit interest from banks, dividends from companies and the like are frequently paid out under deduction of tax, or with a credit for underlying tax already suffered attaching to the payment. In Ireland (though not in the UK), professional fees paid from State and semi-State sources are also subject to a withholding tax, principally to ensure
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compliance in the declaration by taxpayers of income from these sources\(^3\). Further, all wages and salaries derived from all employment and public offices can only be paid by employers subject to withholding tax at source, under the PAYE system. The existence of these withholding taxes creates the fiduciary tax obligation on organisations, which is the major theme in this research. The PAYE fiduciary tax obligations for organisations both in Ireland and the UK are virtually identical albeit that the UK revenue authority, HMRC, has somewhat greater reporting requirements under a process known as Real Time Information.

2.3.1.2 Value Added Tax

Value Added Tax (VAT) is a tax levied on traders and suppliers, who the law treats as “accountable persons”, in respect of sales of goods and services where value is deemed to have been added. For example, a wholesaler of goods when selling to a retailer must charge value added tax which is added to the price charged to the retailer. The sale by the wholesaler to the retailer is regarded as a value-added transaction irrespective of whether a profit is made on the sale. Similarly, when the retailer sells to the consumer, that sale too is regarded as a value added transaction (again irrespective of whether a profit is made on the sale). The retailer must add VAT to the price charged to the consumer, and then account for the VAT to the revenue authority on the proceeds.

Even though in this example the wholesaler and the retailer are accountable persons, ultimately it is the consumer who bears the burden of VAT in the increased price of the goods and services. While the tax is charged on the accountable person (the wholesaler or retailer) who is responsible for compliance, the accountable person does not bear the economic cost of the tax. Instead, it is the consumer who bears the economic cost. Almost every organisation involved in any form of trading or service delivery becomes an accountable person for VAT purposes, and therefore responsible for the operation of VAT as a fiduciary tax. A review of the VAT

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\(^3\) This withholding tax, known as Professional Services Withholding Tax (PSWT) serves to introduce a fiduciary element of collection in a tax which otherwise would be directly assessed.
fiduciary tax obligations for organisations both in Ireland and the UK shows them to be virtually identical, as would be expected for a tax with a common EU origin.

2.3.1.3 Customs and Excise Duties

Among the oldest of the taxes, these duties are levied on goods either at the point of importation, or alternatively at the point of manufacture or processing. The responsibility for satisfying these duties is with the importer, manufacturer or processor. Excisable goods include alcohol products, tobacco products and fuel oils. Customs duties are levied on a variety of goods and raw materials. Individual consumers have no responsibility for collecting or administering the tax, even though economically they suffer the uplift on the retail value of the goods which are excisable or which have had customs duties levied on them. Nevertheless, individual taxpayers can be subject to enforcement activities by the Revenue Authorities should they import goods in a manner designed to avoid Customs and Excise duties - smuggling. The approach of revenue authorities worldwide to Customs fiduciary tax obligations is coordinated by the World Customs Organisation, of which both Ireland and the UK are members. Excise duties both in Ireland and the UK share a common origin in that UK excise law was largely adopted into Irish law and elements of 19th century UK excise law are still in force in Ireland.

2.3.1.4 Other Taxes

There are other taxes which are collected and administered by organisations in a fiduciary capacity such as the Environmental Levy (a tax on plastic bags) and Betting Duty, a form of Excise Duty mandated by Ireland’s Betting Acts 1931 to 2015. The UK also operates a system of General Betting Duty.

2.3.2 Taxes Incidentally Dependent on Compliance by Organisations

2.3.2.1 Capital Gains Tax

Capital Gains Tax, separate to income tax, is charged on gains realised on the sale of chargeable assets. It can be paid either by companies (where it may be amalgamated
The purpose of capital gains tax is to bring into the charge to tax gains arising on transactions which are capital, as distinct from revenue, in nature. The distinction drawn between a capital transaction and a revenue transaction has usually to do with the frequency of the transaction. For example if an individual sells the house which is his home, and makes a chargeable gain in doing so, that gain is likely to be capital in nature and subject to Capital Gains Tax rules. However, if a property developer sells a house, or indeed a number of houses, which were built speculatively for the purposes of realising a gain, that type of transaction is viewed as being revenue in nature. In the latter case the taxation of the gains fall within income tax rules rather than capital gains tax rules.

In limited circumstances a form of withholding of Capital Gains Tax may be imposed, but because of the occasional nature of the tax this requirement cannot be fairly described as a mainstream fiduciary obligation on the part of organisations.

2.3.2.2 Irish Capital Acquisitions Tax and UK Inheritance Tax

Liability to inheritance tax arises on the death of a disponer - the person who bequeaths property. In addition in certain circumstances, liability to gift tax may also arise for gifts which are given between living individuals. These taxes are among the few instances where the Irish Revenue Authorities and the UK Revenue Authorities do not pursue the same avenues for tax collection. In Ireland, the liability to Capital Acquisitions Tax rests with the beneficiary of the gift or inheritance. In the UK, Inheritance Tax is paid out of the estate of the deceased prior to the distribution of the estate. Despite their relatively high profile and prominence
in people’s minds, neither of these taxes yields significant revenue to the exchequers of their respective countries as noted in Chapter 1.

**2.3.2.3 Stamp Duties**

Stamp Duties are taxes which are, in the main, levied on the value of transactions where the transaction cannot be completed by physical delivery of the goods or undertakings which are the subject matter of the transaction. Such transactions include transfer of ownership of real estate and legal entitlements. Stamp Duties arise on legal instruments such as conveyances, mortgages, cheques and the like. Stamp Duties are also levied on the value of transactions in shares. With regard to the latter instance, the clearing agents for share transactions hold primary responsibility for charging tax, and paying the tax across to the revenue authority. For other forms of transaction which attract Stamp Duties, the system is in effect policed by the legal agent handling the transaction on the taxpayer’s behalf. In practice therefore, compliance with Stamp Duties legislation hardly, if ever, falls on the individual taxpayer suffering the tax. Compliance obligations are satisfied by their legal agents or service providers. Arguably Stamp Duties could be described in the main as a form of fiduciary tax, particularly insofar as they are applied by dealers in securities, but of their nature are not as widely applicable in the same sense as VAT and PAYE.

**2.3.2.4 Corporation Tax**

Both the UK and Irish tax codes charge tax on “persons”. A company may also be a person. Corporation Tax can be regarded as a special instance of income tax levied on a company. Similar rules apply to the computation, collection and enforcement of Corporation Tax as apply to income tax, with the most notable differences arising in matters such as tax residence and the interaction of a company with other members of the same group of companies. The company is treated as the taxable entity in its own right, and the company’s income is not attributed to shareholders for tax purposes.
2.4 The Mechanics of Fiduciary Tax

As will be seen in the Literature Review in Chapter 3, existing theories of tax compliance are oriented around the behaviours, influences and responses of individual taxpayers:

- Who have complete control over their disclosure of their circumstances to the revenue authority,
- Who are assumed to pay a tax on income or gains, and,
- Who suffer the economic cost both of tax and of penalties should they arise in the event of a default,

all framed by reference to the taxpayer’s own knowledge, risk aversion and sentiment. However the fiduciary tax compliance experience of organisations is quite different. Within a fiduciary tax system:

- An organisation does not have complete control over the disclosure of circumstances, insofar as it is not the only taxpayer providing information on a particular circumstance (e.g. an employment or a transaction) to the revenue authority.
- Fiduciary taxes are not limited in their applicability to income or gains, but also arise on sales of goods and services.
- While an organisation is liable for the tax payment it does not usually suffer the economic cost of the tax but will suffer the economic cost of penalties in the event of a default.

It may not be possible to consider an organisation’s own knowledge, risk aversion and sentiment in comparable terms to that of an individual, but it may be necessary to consider the knowledge, risk aversion and sentiment of individual decision makers within the organisation.

To better illustrate the issues arising in Fiduciary Tax compliance, what follows is an examination of the mechanics of income tax collection from the employees of an organisation under the PAYE system in Ireland. Generally speaking, income tax in
Ireland is governed by the provisions of the Taxes Consolidation Act 1997 (Taxes Consolidation Act 1997). The opening chapters of that Act define the different types of income; income from self-employment, from rents, from deposits and other forms of investment, and from employment. Each different type of income is assigned a different set of rules to govern how the tax is to be assessed and collected.

2.4.1 Legislative basis for the charge to income tax
The closing chapters of the Taxes Consolidation Act 1997 specify how income tax is to be assessed and collected. They set out the rules for example on the nature and frequency of income tax returns and payments to be made by self-employed persons under the set of rules known as “Schedule D”. These rules place the responsibility for compliance at the door of the self-employed person who will ultimately bear the tax charge. Existing tax compliance theories can usefully be regarded as formulated by reference to this Schedule D type structure. However, a separate set of income tax assessment and collection rules called Schedule E which are applied to employees are quite different to those which apply for the self-employed.

Section 112 of the Taxes Consolidation Act 1997 specifies that

“Income tax under Schedule E shall be charged for each year of assessment on every person having or exercising an office or employment of profit mentioned in that Schedule, or to whom any annuity, pension or stipend chargeable under that Schedule is payable, in respect of all salaries, fees, wages, perquisites or profits whatever therefrom, and shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatever therefrom for the year of assessment.”

(Taxes Consolidation Act 1997 Section 112)

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4 A Schedular tax system divides income into different categories, each of which has their own set of income tax rules. Just as Schedule E is used to describe the set of rules applying to employment income, Schedule D mentioned earlier describes the set of rules applying to income from self-employment and other non-employment sources. Schedule C addresses encashment tax issues on the payment of certain securities by banks. Schedules A and B used to deal with income from real property but are defunct.
The sections immediately following section 112 specify what rules are to apply in the making of deductions from assessable employment income, and how non-cash employment income is to be assessed. Non-cash employment income includes living accommodation provided by the employer, the use of a company car and other benefits and perquisites which will be offered by employers to their employees, or indeed to persons connected with employees.

2.4.2 The liability for taxes due from employment earnings

Section 985 of Taxes Consolidation Act 1997 makes it clear that the tax on all income which falls within the Schedule E rules is to be “deducted or repaid by the person making the payment”. Therefore it is the employer, rather than the employee, who must account for the tax. Section 986 of Taxes Consolidation Act 1997 explains that the Revenue Commissioners will be empowered to make regulations to control the manner in which the employer deducts tax from the wages of the employee. The section specifies in some detail the areas for which regulations may be made. Such regulations have the force of law by virtue of being grounded within an Act of the Oireachtas (Parliament) as a statutory instrument and are known as the PAYE regulations. The current PAYE regulations in force are more formally titled Income Tax (Employments) (Consolidated) Regulations, 2001 and are contained in Statutory Instrument number 559 of 2001. Under section 986 the PAYE regulations are to cover the operation of tax in accordance with instructions for each employee provided by the Revenue to the employer (these instructions are known as the “tax deduction card”), and for the maintenance of records to prove that the instructions have been fulfilled. The regulations must also include provision:

“For rendering persons who are required to make any such deduction or repayment, in the case of a deduction (whether or not made), accountable for the amount of the tax and liable to pay that amount to the Revenue Commissioners and, in the case of a repayment, entitled (if a repayment has been made) to be paid it, or given credit for it, by the Revenue Commissioners;”

(Taxes Consolidation Act 1997 Section 986)

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5 The Statutory Instruments Act 1947 s1 (1) defines a statutory instrument as being "an order, regulation, rule, scheme or bye-law made in exercise of a power conferred by statute."
The liability for income tax is transferred from the employee to the employer by virtue of this provision. This is the critical distinction between fiduciary taxes and other forms of tax. The compliance burden lies not with the taxpayer himself or herself but with the organisation making the wage payment – the organisation is not the taxpayer but the “payer of the tax”. While the economic cost of the tax rests with the employee, the compliance decision to declare the income and the tax due on it, and then remit the tax to the revenue authority is with the employer – the company or the organisation.

The sections immediately following section 986 Taxes Consolidation Act 1997 make provision for severe penalties for the employer if they breach these regulations. A breach can include a failure to register as an employer and thus refuse responsibility for being the payer of the tax.

### 2.4.3 Main features of the Employer regulations

The PAYE regulations (Income Tax (Employments) (Consolidated) Regulations 2001) provide that:

1. The employing organisation is liable to withhold income tax from the wages of employees, and must account for the tax withheld, or any tax which should have been withheld but was not, as if it were their own liability (Regulation 4).

2. It is the Revenue Commissioners who determine the tax to be withheld in the case of each individual employee, and that the Revenue Commissioners must notify the employing organisation of the allowances and reliefs available to enable the employer to calculate the tax to be withheld (Regulation 11).

3. The employee must permit the employer to withhold income tax from wages and salaries paid and has no redress against the employing organisation for doing so (Regulation 12).
2.4.4 The consequences of PAYE compliance failure

The Taxes Consolidation Act 1997 (Taxes Consolidation Act 1997 Section 987) provides that employers will be subject to financial penalties if they fail:

- to comply with any provision of the regulations, or
- to remit income tax withheld to Revenue, or
- to make any deduction or repayment in accordance with any regulation, or
- to fail to register as an employer or
- to keep and maintain a register of employees.

These penalties are monetary penalties for fixed amounts, but in practice are rarely applied. Instead, the penalties which are applied by Revenue in the event of non-compliance by the employer are “tax geared”. That is to say, the amount of penalty to be paid is calculated by reference to the amount of tax at issue, the circumstances in which the non-compliance arose, and the extent to which the employer disclosed and cooperated with Revenue in settlement of the non-compliance. Usually there are no direct tax compliance consequences for the employee when the employing organisation fails to operate PAYE correctly.

On the other hand the responsibilities of the employee in terms of tax compliance are in effect limited to registering with Revenue in the first instance that they have become part of the workforce. Then they must provide the employer with their tax reference number (Personal Public Service Number or PPSN) or their tax record from any previous employment. If the employee fails in these requirements, no direct sanction is applied by Revenue. Instead, the employer is required to deduct a penalty amount of tax from any wages and salaries paid until the position is regularised. Once the position is regularised any amount of emergency tax over and above what would correctly have been due is returned to the employee by the employing organisation. This procedure is known as “emergency tax” and is provided for in Regulation 22 (Income Tax (Employments) (Consolidated) Regulations 2001). The enforcement of tax compliance on the employee is therefore the responsibility of the employer, and not of the Revenue Commissioners. Not only that, the sanctions for any failure to enforce the withholding tax regime, including a failure to apply emergency tax, rest on the employer. This is an illustration of a form
of default in tax compliance applicable to organisations which is not envisaged by conventional compliance theories.

2.5 The Role of the Revenue Authority

In OECD countries the tax systems generally operates on the basis of reports (often known as returns of income and gains) made by the taxpayer to the government revenue authority (OECD 2015). Based on those reports, the revenue authority will raise an assessment to taxation, which the taxpayer will fulfil by paying the amount due on the assessment. Alternatively, the taxpayer themselves will “self-assess” the amount due, and make the tax payment, often contemporaneously with the making of the return.

There are other models which have been operated over the years. Cosgel and Miceli (2009) identify different contractual forms of tax collection often involving non-governmental agents or intermediaries, but almost all involve some form of measurement of income and wealth, or other form of accountability, on the part of the taxpayer.

While taxpayer compliance involves the making of a return and making the corresponding tax payment, this is carried out within the framework of revenue powers which dictate the contents of the return and the capacity of the revenue authority to scrutinise and raise further queries on its content to verify its accuracy. The revenue authority must also have the power to enforce collection or delegate the enforcement of collection to other arms of the State. It must be able to apply sanctions either for failure to provide information, or failure to make payments. The rationale for tax compliance decisions by any taxpayer, be it an individual or an organisation, cannot be studied outside of the power framework of the revenue authority. Risk of detection and the power of the revenue authority to obtain redress are recurring themes in the tax compliance literature. It will be shown in Chapter 3 that many of the existing theories of taxpayer behaviour are entirely predicated on
one or the other of these themes and sometimes both. The behavioural models used frequently assume an omniscient revenue authority (once evasion is detected) and an absolute capacity to recover unpaid taxes along with associated penalties. The reality is less straightforward, and misapprehensions about either of these themes will lead to blind alleys in developing accurate descriptions and theories of taxpayer behaviour. The revenue authority may not always be the “prime mover” in the detection of tax evasion, and the sanctions which a revenue authority can apply might not always be the most feared deterrents. There is reason to challenge tax compliance theories which do not distinguish the role of organisations from the role of individuals, and the special treatment of fiduciary taxes compared to the handling of direct taxes. The following paragraphs explore the deterrents and evasion detection methods available to the Irish Revenue Commissioners. This exploration will provide further context for the critiques offered in the Literature Review in Chapter 3.

2.5.1 The Incidence of Tax Evasion
Both the Irish and the UK authorities devote considerable time and resources to identifying and countering tax evasion. In 2014, the Irish Revenue Commissioners intervened in cases over 400,000 times to carry out audits, compliance checks and other forms of compliance assurance designed to address tax evasion. This resulted in a yield of €610 million in unpaid tax, interest and penalties. While €610m is a vast amount of money, it must be seen against a total of €45,600 million collected in the same year (Revenue Commissioners 2015a, p.73). In the UK, HM Revenue and Customs make a more systematic comparison of shortfalls in taxes collected, through publishing an estimate of the “tax gap”. They define the tax gap as “the difference between the amount of tax that should, in theory, be collected by HMRC, against what is actually collected”. Their 2014 tax gap study notes that 93% of all tax due is collected (HM Revenue and Customs 2014).

The volume of tax properly collected is vastly greater in both the UK and Irish jurisdictions than the volume of tax evaded. A major part of the reason for this is that most organisations charged with tax collection responsibilities by fiduciary
means are compliant. However how this compliant attitude may be preserved and even enhanced has never been thoroughly addressed in the literature until now.

2.5.2 Tax Reporting - The Return of Income
In Ireland the Irish Revenue Commissioners determine precisely the information to be provided by the taxpayer on the return of income. Revenue prescribe the contents of the return of income – the exact details to be included, even if inclusion involves stating nil values or a statement by the taxpayer that a form of income or allowance does not apply to them (Taxes Consolidation Act 1997 Section 861). This rigour is necessary if Revenue are to sustain successful legal challenges in the event of a taxpayer not furnishing sufficient details on the return of income. The reference point is the contents of the prescribed form. There can be no penalties for tax default except in the absence of a Return of Income which was lawfully due, or where there are mistakes in the details of income, gains and allowances on the Return of Income.

The Taxes Consolidation Act 1997 obliges taxpayers, including organisations, to file a return on their own initiative, without prompting from Revenue (Taxes Consolidation Act 1997 Section 951). Not all taxpayers are subject to this obligation; in practice most employees are exempted. The obligation only extends to self-employed individuals, or employees who are beneficiaries of significant allowances and reliefs which cannot be recorded on the PAYE system.

Following the declarations of income and gains, and claims for allowances and reliefs on the income tax return, the default position is that Revenue will accept the self-assessment based on these declarations. The tax due becomes final and conclusive. The taxpayer may not alter these declarations even to repair a mistake. This in itself is a motivation for the taxpayer to make thorough and accurate returns of income.

Revenue retain the right to raise queries on the return submitted for a period of four years. This right is extended indefinitely if Revenue believe there has been
fraudulent or negligent behaviour in the completion of the return. Every return of income submitted to the Revenue Commissioners is now done on-line in electronic formats. Submitting a return on paper instead of the appropriate electronic format constitutes in itself a failure to comply (Taxes Consolidation Act 1997 Section 917EA et seq.). Mandatory electronic filing is fundamental to Revenue’s capacity to process the data provided to it by the taxpayer. Nevertheless most individual taxpayers are not required to file a Return of Income because their tax obligations are fulfilled through the operation of fiduciary taxes (Revenue Commissioners 2016a).

For most purposes, these conventions apply to delays, errors and mistakes in fiduciary tax returns – VAT and PAYE primarily – as to Returns of Income. Fiduciary tax returns are made at much shorter intervals than annual Returns of Income. Most organisations are required to furnish VAT returns every two months. PAYE returns are required on a monthly basis. For organisations with fiduciary tax responsibilities, the decision to be tax compliant is not an annual event. Rather it is a continuous process in the business cycle. It will be seen from the field research described in Chapters 5 and 6 that this continuous requirement has a major bearing on attitudes within organisations to their fiduciary tax compliance obligations.

2.5.3 The General Penalty Regime for Tax Default

2.5.3.1 Tax Surcharges

Irish tax law aggregates the concepts of accuracy and timeliness in determining if tax default has occurred. An inaccurate return is deemed to be late. A late return attracts a surcharge on the tax which otherwise would be payable of 5% or 10%, depending on the length of time the return is in arrears (Taxes Consolidation Act 1997 section 1084A). This surcharge may appear to be a relatively modest sanction for compliance failure, were it not for a separate regime of penalties which apply depending on the consequences of any errors or omissions on the return.
2.5.3.2 Tax Penalties

Errors and omissions deliberately made by the taxpayer attract a penalty of up to 100% of the tax at issue. Errors and omissions with “significant consequences” although not deliberately intended attract penalties of up to 30% of the tax at issue. A final category of errors and omissions, not regarded as either intentional or having significant consequences, attract penalties of up to 15% of the tax at issue (Taxes Consolidation Act 1997 Section 1077E).

These so-called “tax geared” penalties are in practice the main taxpayer sanction for compliance errors or failures on the return of income. A third category, separate to the late filing surcharge and the tax geared penalties, does exist. This involves a series of fixed monetary penalties for various errors and omissions and are specified within tax legislation. For example section 886 creates an obligation on businesses to retain books and records of account and retain them for a period of 6 years after the transaction to which they relate took place. The same section provides that anyone failing to do so will be liable to a penalty of €3,000 (Taxes Consolidation Act 1997 Section 886). It will be shown in Chapter 3, the Literature Review, that the method of penalty determination is an important component of existing tax compliance behaviour theories and that some interpretations rely on the operation of tax geared penalties rather than fixed penalties for their validity.

2.5.3.3 Publication of Tax Defaulters

The publication of the names and addresses of taxpayers who have been found to be in breach of the tax legislation follows the levying of a monetary penalty (Taxes Consolidation Act 1997 Section 1086). Publication is in Iris Oifigiúil, the Irish State Gazette and carried out on a quarterly basis. Frequently the published list is reproduced by the media. All cases where settlements of tax default have involved penalties are to be published, unless the total settlement is of a value less than €33,000, or the penalty component of the total tax and penalty settlement is 15% or less, or where the taxpayer has disclosed the extent of the default in writing to Revenue and made a settlement of the tax, interest and penalties. It will be shown
from the fieldwork that publication is regarded by organisations as a very severe sanction in its own right. Organisations take considerable care to avoid publication by cooperating with Revenue in making an eligible or “qualifying” disclosure in the course of making a settlement for tax default.

2.5.3.4 Denial of Tax Clearance Certificates
Some businesses require licences or permits to trade. These include publicans, bookmakers, auctioneers, fuel merchants, taxi drivers and banks. Other businesses avail of State contracts, grants, subsidies and the like. In both situations, the legal framework governing their operations specifies that licenses, permits or authorisations for state payments can only be obtained if the Revenue confirm that their tax affairs are in order. This authorisation is known as a Tax Clearance Certificate and it will only be issued if tax returns and tax payments (including fiduciary tax returns and payments) are up to date (Taxes Consolidation Act 1997 Section 1094). This is an extremely powerful sanction, because refusal to grant a tax clearance certificate can put affected organisations out of business. Members of the Oireachtas (Irish national parliament) and senior public servants are also required to hold Tax Clearance Certificates.

2.5.3.5 Sanctions for Late Payments of Tax
Even where tax returns are correct and filed on time, separate sanctions apply where a tax payment is made late. Chief among these is a regime of interest charges. Irish tax law provides for a simple interest charge on late payments at a daily rate which varies but at the time of writing stood at 0.0219% (annualised 8%) (Taxes Consolidation Act 1997 Section 1080). It is significant that the rate of interest on late payments of fiduciary taxes is higher, and stands at an annualised rate of 10% at the time of writing for late payment of PAYE (Taxes Consolidation Act 1997 Section 991). The annualised 10% rate also applies to Dividend Withholding Tax, VAT, Betting Duties and the like (Finance Act 2009 Section 29).
2.5.4 Revenue powers of investigation

Revenue hold very wide powers to conduct enquiries into taxpayer affairs, and these powers are critical to understanding the theories of tax compliance behaviour which are outlined in Chapter 3. Discussions of risk aversion on the part of the errant taxpayer would be redundant if the revenue authority did not have credible powers to police the taxpaying population.

“An inspector [of taxes] may make such enquiries or take such action within his or her powers as he or she considers necessary to satisfy himself or herself as to the accuracy or otherwise of any return, list, statement or particulars prepared and delivered…”  

(Taxes Consolidation Act 1997 Section 899)

Particular attention is drawn to the phrase “any return, list, statement or particulars prepared and delivered” quoted above. These powers of enquiry extend to fiduciary tax obligations by organisations just as they to direct income tax or corporation tax compliance. Subsequent sections (from section 900 onwards) provide Revenue officers with powers to:

- Call to business premises
- Examine and copy records
- Search and remove records for further examination
- Require staff to provide assistance and explanations
- Examine property listed in records

The application of these powers is not confined to verifying the corporation tax or income tax liabilities of organisations. The powers are also applied to verifying the conduct of fiduciary tax obligations. As was pointed out in Chapter 1, it appears that the most serious incidences of tax default centre around fiduciary tax failures detected through the application of these powers. Less routinely, Revenue officers may apply for permission to an external tribunal or court for powers to visit the private residence of the taxpayer, or to obtain information from third parties in relation to the affairs of the taxpayer. These powers underpin Revenue policing activity collectively known as interventions.
2.5.4.1 Forms of Revenue Intervention

There are various types of intervention, the most serious of which is an investigation. An investigation will be carried out into the affairs of a taxpayer where serious wrongdoing is suspected. Investigations are carried out with a view to Revenue securing a criminal prosecution for tax fraud. Cautioned interviews are conducted with the taxpayer, and the investigation into the taxpayer’s affairs will be particularly thorough. Because of their seriousness and complexity, investigations occur less frequently than other forms of intervention. 115 investigations were taking place at the end of 2014 (Revenue Commissioners 2015a, p.76).

A less serious, though always challenging, intervention is known as a revenue audit. The main difference between a revenue audit and an investigation is that in the event of non-compliance being detected, civil rather than criminal penalties will be sought as redress from the taxpayer. The revenue audit involves a thorough investigation into the tax compliance affairs of the taxpayer, but is limited in application to self-employed taxpayers and companies. The audit may consider some or all of the tax compliance areas where the taxpayer has exposure; not just income tax but VAT and other fiduciary taxes. Penalty mitigation is offered to the taxpayer if they facilitate the work of the Revenue by volunteering evidence of non-compliance and/or cooperating generally with the work of the Revenue inspectors (Taxes Consolidation Act 1997 Section 1077E). Alternatively, and depending on its outcome, an audit can lead to a subsequent investigation. Employees are not usually subjected to revenue audits because an audit involves the verification of a return, and as pointed out earlier not all taxpayers are obliged to make returns. This circumstance challenges the standard theories of tax compliance as they assume a constant risk of detection of default irrespective of the taxpayer’s status. Furthermore organisations with an exposure to fiduciary taxes run a greater risk of scrutiny because the volume of information available to Revenue derived from fiduciary tax compliance activity is significant. A medium sized Irish trading organisation with employees will in any twelve month period routinely furnish:

- One return of income in connection with its own direct tax affairs
• Eight returns of VAT activity (six bi-monthly returns and two end of year statistical analyses – VIES and INTRASTAT)
• 13 returns of PAYE withholding activity (12 monthly returns and one annual reconciliation)

The organisation may also be required to provide analyses of payments for services made to third parties. It will make payments or refund claims as often as 21 times in the year – twice in connection with its own tax affairs, six times in connection with VAT, 12 times in connection with monthly PAYE and one additional occasion to reconcile annual PAYE underpayments or overpayments in the process known as the P35 return. By contrast, the employees of such an organisation might have no contact whatsoever with Revenue in any one year. Tax compliance theories for a modern economy should recognise that not all taxpayers are equal when it comes to either to their compliance burden, or the risk of detection of tax default on their part. Any organisation operating fiduciary taxes has a particular exposure to the fullest rigours of the tax system.

There are several other types of less formalised intervention which may perhaps involve an informal visit to a business premises by a Revenue inspector, or a phone call or other form of contact with the taxpayer. Risk Management Interventions can involve query letters issued to taxpayers to verify the accuracy of a particular item or items on a return of income previously submitted, or to request supporting documentation for a claim to a relief or allowance. Depending on the response of the taxpayer, these may or may not lead to a Revenue Audit being launched. Revenue will also from time to time crosscheck returns from different taxpayers relating to the same transaction, employment or claims for allowances. The Revenue Commissioners report on the extent of their investigation activity annually.

### TABLE 4: REVENUE INVESTIGATIONS ACTIVITY 2014

<table>
<thead>
<tr>
<th>Type of Audit</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive (All tax heads) Audits</td>
<td>4,977</td>
</tr>
<tr>
<td>Multi Tax/Duty Audits</td>
<td>708</td>
</tr>
<tr>
<td>Single Tax/Duty Audits</td>
<td>1,478</td>
</tr>
<tr>
<td>Single Issue/Transaction Audits</td>
<td>473</td>
</tr>
<tr>
<td>Risk Management Interventions</td>
<td>191,429</td>
</tr>
</tbody>
</table>
This is a significant level of activity in a country numbering some 2.5m taxpaying entities (though of course some taxpayers may suffer multiple interventions in the course of any one year).

2.5.4.2 Detection of non-compliance by the Revenue Commissioners

Just as it would be redundant to discuss taxpayer risk aversion in the absence of significant powers of detection and sanction available to Revenue as described in the preceding sections, it is redundant to discuss taxpayer concern over detection without appreciating the processes by which Revenue identify non-compliance. The main source of information for Revenue is the taxpayer’s return of income, but they also have other sources of information at their disposal, being “results from other enquiries and audits in the sector, local knowledge, or information from third parties, including suppliers” (Revenue Commissioners 2015b, p.15). Revenue employ a software system known as REAP - Risk Evaluation, Analysis and Profiling software to collate this information and identify patterns which may suggest non-compliance.

Revenue keep the operational details regarding REAP confidential. However, in response to questioning by the Committee of Public Accounts in Oireachtas Éireann on 11 March 2010, the then Chairman of the Revenue Commissioners Josephine Feehily informed parliamentarians that by 2010 REAP had become a very large database with 43 data sources, including all Revenue data from tax returns and collection. Data sources included deposit interest data, credit union deposit interest data and rent data from the Department of Social and Family Affairs, landlords and the Private Residential Tenancies Board (Ireland 2010). The critical significance of deposit interest data to the fiduciary tax system is a theme which has already been mentioned in Chapter 1 and which will be developed further later in this thesis. The Chairman advised the Committee that the Revenue Commissioners are constantly
seeking further opportunities to obtain information from third parties. However there has to be an appropriate legal basis for obtaining information otherwise it cannot be used in the pursuit of tax default. The data sources are analysed under some 200 rules that have been worked out by looking at the behaviour that would cause suspicion. These include being late filing a return, and mismatches between third party information and what is on the tax return. The rules are run across the entire tax payer base at least twice a year and produce cases in risk order based on how many times those rules were broken. Following that analysis, Revenue concentrate its audit resources on the top cases that come out of the risk ranking. Those cases are then screened by Revenue personnel for follow up. Ms Feehily noted that the rules are constantly being refined with the objective of making sure that REAP always identifies the riskiest cases from the Revenue perspective. She also noted at the same parliamentary hearing that Revenue constantly monitor the media for taxpayer information. It can be assumed that the development of risk detection methods is ongoing within Revenue since then. For example the Irish national Budget for 2016 set aside €75m for investment in increased audit and investigation activities, supplemented by a new debt analysis tool (Department of Finance 2015b).

This detection methodology is of consequence in understanding existing compliance theories, many of which factor in the risk of detection as explained further in Chapter 3. The belief is that taxpayers will in part base their compliance decision on an evaluation of the likelihood of detection of risk of tax default. This makes fiduciary taxation a critical element of the detection armoury from a revenue authority perspective. The availability to revenue authorities of systems such as REAP points to the significance of third party reporting. If a source of income such as deposit interest is not reported by the taxpayer, but independently reported by the paying institution, then the risk of detection of the taxpayer's default is virtually 100%. Furthermore, rather than have to monitor the income tax compliance of, say 100 employees in an organisation, the revenue authority only has to monitor the payroll compliance of one organisation. This dramatically reduces the revenue authority workload. This factor when coupled with the reporting burden suffered by
organisations in comparison with individual taxpayers further underlines the importance of the organisation to the tax system and how it is necessary to understand organisational compliance motivations.

2.6 Fiduciary Tax Compliance Failure - The DIRT Enquiry

Major failures in fiduciary tax compliance by organisations during the 1990s in Ireland lead to a parliamentary enquiry into the banking sector. This enquiry, which became known as the DIRT\(^6\) Enquiry, was conducted by a subcommittee of the Oireachtas Committee of Public Accounts (PAC), an Irish Parliament Standing Committee. As part of its investigation the PAC commissioned reports from the Revenue Commissioners and from the Comptroller and Auditor General (the official Government auditor) into this breakdown. Separately the PAC itself conducted public hearings with 142 industry leaders from the banking and financial services sectors and found that there had been a widespread failure by the banking sector to operate withholding tax on the deposit accounts of individuals. The DIRT Enquiry has been described as “a triumph for the entire committee system” (Coakley and Gallagher 2005). Nevertheless despite its thoroughness, the extent and quality of its documentation and its recording of organisational behaviour across an entire sector over a period of several years, the Enquiry as a detailed description of tax compliance failure and the lessons which might be drawn from it has received little academic attention to date. This section describes the findings of the DIRT Enquiry as they relate to organisational fiduciary tax compliance.

2.6.1 Background to the DIRT Enquiry

As a general principle income tax is payable on deposit interest accruing on deposits held by persons within the charge to Irish tax. Before 5 April 1986 interest on bank deposits by both individuals and companies was paid gross to deposit holders by the financial institution where the deposit was held. The taxpayer had an obligation to declare this interest to the Revenue Commissioners and pay tax on it. However the authorities had concerns that not all interest earned was being declared by taxpayers.

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\(^6\) An acronym for “Deposit Interest Retention Tax” explained later.
The reporting obligations for interest paid imposed on the financial institutions by the Taxes Acts were not sufficiently robust to permit verification of the individual declarations received from taxpayers. Speaking in Dáil Éireann on 29 January 1986 the then Minister for Finance Alan Dukes stated that “I propose to make a significant change in the direction of equal treatment of the main deposit-taking institutions. This will ensure more orderly tax procedures, more effective countering of tax evasion and increased revenue” (Ireland 1986).

A new system of withholding tax, known as Deposit Interest Retention Tax or DIRT, was introduced for interest paid or credited by financial institutions after 5 April 1986 and onwards. DIRT would be applied at the rate of 35%; in other words for every £100 of interest earned on deposit, the financial institution which was the deposit taker would pay the deposit holder £65, and remit £35 as a fiduciary tax to the Revenue Commissioners. The £35 would be treated as a credit towards the taxpayer's final tax liability. The new DIRT tax operated largely unchanged until 1992, when a number of changes to the regime were introduced. These changes exempted interest on deposits by non-residents, by charities, by companies and by pension funds and also excluded some types of intra-financial institution deposits. This regime change did not remove deposit interest from the charge to tax, but rather removed the obligation on financial institutions to operate DIRT on interest paid from some types of deposit accounts.

2.6.2 The Nature of the Tax Default
Of special consequence in the context of the DIRT enquiry was the removal of the obligation to operate DIRT on interest paid on deposits held by non-residents. These changes, which had been prompted by the lifting of exchange controls in 1992 which among other things allowed Irish individuals to maintain foreign bank accounts, also resulted in a reduction in the amount of DIRT collected. Only half as much DIRT was collected in 1997 as had been collected in 1992 (Comptroller and Auditor General 1999). Some of this reduction was undoubtedly attributable to a combination of factors; a reduction in the DIRT rate from 30% to 27%, the introduction of special tax incentives for saving and a reduction in the commercial
rate of interest payable. Nevertheless it appeared that such a sharp reduction in the DIRT yield could not be explained by these factors alone. The main official focus fell on the number of deposit accounts held by non-residents. As already noted, following the 1992 changes, DIRT did not apply to interest on such accounts. It appeared that the number of such deposit accounts was disproportionately high. While the tax which might have been lost on the deposit interest if an account was incorrectly denoted as owned by a non-resident was a concern, the main concern was the evasion of the responsibility to report income lodged into the account. If income had been undeclared by a taxpayer, there was considerable attraction in being able to lodge such income to a deposit account where there was neither tax withholding nor reporting on the interest accruing. This generated the phenomenon known as the Bogus Non-Resident Account or BNRA, where an Irish resident taxpayer seeking to conceal income from the revenue authorities would purport to be non-resident and open a BNRA with an Irish national institution and deposit the undeclared income there.

2.6.3 The Consequences
Following a detailed examination of the DIRT compliance practices in 22 financial institutions commissioned by the DIRT Enquiry, the Comptroller and Auditor General concluded that even though there was almost full compliance by the financial institutions in seeking non-resident declarations from deposit holders (known as Form 37), there was a deficiency of some description in more than one quarter of all these declarations. He also found that this pattern was consistent across all banking sectors (Comptroller and Auditor General 1999 at Table 8.1). A so-called “look-back” audit was conducted by the Revenue Commissioners at the behest of the DIRT Enquiry (Revenue Commissioners 1999). This look-back audit only focused on BNRA. Because DIRT is a fiduciary tax the liability for its payment lay with the financial institution. There was only a liability extracted where there were documentary deficiencies and where it could not demonstrated that the person involved in making the deposit was a genuine non-resident. The amount of tax, interest and penalties recovered from this look-back audit was significant. A total of 25 Financial Institutions were investigated of which only eight were found to have fully complied with the DIRT obligations. The summary findings from the look-back audit are reproduced here:
## Table 5 - Revenue Look-Back Audit Outcomes - DIRT Enquiry

<table>
<thead>
<tr>
<th>Deposit-Taker/Group</th>
<th>Tax</th>
<th>Interest (note 1)</th>
<th>Penalties (note 2)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABN AMRO Bank N.V.</td>
<td>£8,338</td>
<td>£8,454</td>
<td>£30,000</td>
<td>£46,792</td>
</tr>
<tr>
<td>ACC Bank plc</td>
<td>£7,511,000</td>
<td>£9,958,500</td>
<td>£431,500</td>
<td>£17,901,000</td>
</tr>
<tr>
<td>Allied Irish Banks Group</td>
<td>£34,579,432</td>
<td>£55,076,758</td>
<td>£388,000</td>
<td>£90,044,190</td>
</tr>
<tr>
<td>An Post - Post Office Savings Bank</td>
<td>£46,521</td>
<td>£65,345</td>
<td>£26,500</td>
<td>£138,366</td>
</tr>
<tr>
<td>Anglo Irish Bank Group</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>Bank of America N.T. and S.A.</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>Bank of Ireland Group</td>
<td>£12,746,882</td>
<td>£17,253,118</td>
<td>£500,000</td>
<td>£30,500,000</td>
</tr>
<tr>
<td>Bank of Scotland (Ireland) Ltd</td>
<td>£27,753</td>
<td>£42,536</td>
<td>£15,500</td>
<td>£85,789</td>
</tr>
<tr>
<td>Banque National de Paris S.A.</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>Barclays Bank plc</td>
<td>£925</td>
<td>£230</td>
<td>£6,500</td>
<td>£7,655</td>
</tr>
<tr>
<td>Chase Manhattan Bank Ireland plc</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>Citibank N.A.</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>EBS Building Society</td>
<td>£1,291,862</td>
<td>£1,329,818</td>
<td>£183,500</td>
<td>£2,805,180</td>
</tr>
<tr>
<td>First Active plc</td>
<td>£1,222,358</td>
<td>£1,314,115</td>
<td>£136,500</td>
<td>£2,672,973</td>
</tr>
<tr>
<td>GE Capital Woodchester Bank Ltd</td>
<td>£1,956,890</td>
<td>£2,410,281</td>
<td>£259,500</td>
<td>£4,626,671</td>
</tr>
<tr>
<td>ICC Group</td>
<td>£103,265</td>
<td>£63,693</td>
<td>£30,000</td>
<td>£196,958</td>
</tr>
<tr>
<td>IIB Bank Ltd (note 3)</td>
<td>£13,230</td>
<td>£18,416</td>
<td>£2,500</td>
<td>£34,146</td>
</tr>
<tr>
<td>Irish Nationwide Building Society</td>
<td>£2,170,077</td>
<td>£1,977,423</td>
<td>£292,500</td>
<td>£4,440,000</td>
</tr>
<tr>
<td>Irish Life and Permanent Group (note 4)</td>
<td>£3,714,797</td>
<td>£3,645,269</td>
<td>£233,000</td>
<td>£7,593,066</td>
</tr>
<tr>
<td>National Irish Bank Group</td>
<td>£2,291,363</td>
<td>£2,774,137</td>
<td>£184,500</td>
<td>£5,250,000</td>
</tr>
<tr>
<td>Pfizer International Bank Europe</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>Scotiabank (Ireland) Ltd</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td>TSB Bank</td>
<td>£1,200,691</td>
<td>£1,367,809</td>
<td>£181,500</td>
<td>£2,750,000</td>
</tr>
<tr>
<td>Ulster Bank Group</td>
<td>£1,681,163</td>
<td>£2,352,337</td>
<td>£166,500</td>
<td>£4,200,000</td>
</tr>
<tr>
<td>Westdeutsche Landesbank (Irl) plc</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>£70,566,547</strong></td>
<td><strong>£99,658,239</strong></td>
<td><strong>£3,068,000</strong></td>
<td><strong>£173,292,786</strong></td>
</tr>
</tbody>
</table>

**Note 1** Statutory interest, which was 15% p.a. up to March 1998 and 12% thereafter, was charged on DIRT arrears due.

**Note 2** Civil penalties were charged on deposit-takers by reference to accounts individually identified by Revenue auditors as wrongly exempted from DIRT for 1994/95 and subsequent years. This was in accordance with the relevant law (which imposes a six-year time limit on the principal civil penalty relevant to DIRT non-compliance) and with legal advice (that the penalty concerned - a £500 penalty for each failure to deduct DIRT from an interest payment - could not be charged by extrapolation from the samples of accounts examined). The penalties set out above reflect the concentration on the years 1994/95 to 1998/99.

**Note 3** This audit has not been completed and the amounts shown are payments on account. Finality could not be reached because liabilities may depend on the outcome of wider investigations (into Ansbacher accounts).

**Note 4** Please refer to Note 3 which also applies to the amounts in respect of Guinness and Mahon (Ireland) Ltd included in the figures for the Irish Life and Permanent Group.

(Revenue Commissioners 1999)
The two biggest DIRT settlements were made by Bank of Ireland group and Allied Irish Banks Group (AIB group as it became subsequently known). These two banking groups held the largest share of the banking market at that time. In the year to 31 March 2000, Bank of Ireland group made profits of £920 million on which the group tax charge was £196 million (Bank of Ireland Group plc 2000, p.44). The settlement on the DIRT issue alone increased their tax charge in calendar year 2000 by 15%. In the year ended 31 December 2000, the AIB group reported an Irish Corporation tax charge for the year of €53 million (approximately £42 million) before adjusting for the £90 million DIRT settlement (AIB Group plc 2001, p.54). This fiduciary tax compliance failure had a significant impact both on the finances of the organisations concerned and on the national Exchequer receipts as noted in Chapter 1.

The DIRT Enquiry ultimately found that BNRA’s could not be opened without the cooperation, tacit or otherwise, of the financial institution concerned.

“From its inception in 1986, DIRT was evaded by depositors through the opening of bogus non-resident accounts. Deposit-takers knowingly facilitated the practice. Discoveries were made of bank officials organising the opening and operation of bogus non-resident accounts for customers and indeed of establishing them for their own use. It is now also apparent that the evasion of DIRT was practiced in a wider culture of more generalised tax evasion. Specifically in addition to the simple evasion of DIRT, bogus non-resident accounts were employed as a means of concealing otherwise taxable income from Revenue so as to ensure the evasion of other taxes due on those monies.”

(Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.2)

This parliamentary enquiry established that there was significant non-compliance in fiduciary tax obligations by organisations across an entire industry. These organisations failed to operate DIRT (which is a fiduciary tax) and thereby facilitated potential tax evasion on the part of their customers. Ultimately on discovery this failure led to material exposures to tax, interest and penalties for the organisations themselves. Whether existing theories of tax compliance behaviour could have predicted such an outcome will be considered later in this thesis at section 7.4.1.
2.7 Conclusion

This examination of the tax system suggests that when considering tax compliance, a nuanced understanding of the different types of taxes and collection methodologies is required. The discussion must recognise the particular role of fiduciary tax collection and the organisations which are accountable for it. It is also necessary to appreciate the tax default detection opportunities available to the revenue authority which differ significantly depending on the type of taxpayer involved, because of the considerable additional tax reporting burden on organisations. This in turn influences taxpayer perception of risk. It is not safe to assume that organisations might behave the same way as individual taxpayers in fulfilling their tax compliance obligations, nor that the tax compliance obligations for fiduciary taxes match those for direct taxes.

Chapter 3 will examine existing models and theories of tax compliance to provide a theoretical grounding for the field research into organisational behaviour in the management and fulfilment of fiduciary tax obligations.
3 THE LITERATURE REVIEW

3.1 Overview

No consideration of the obligations under tax law can omit the taxpayer's decision-making process in arriving at whether or not to obey the applicable tax rule, and the role of the revenue authority in influencing that decision making process. It is not surprising therefore that these considerations are the starting point for the academic literature which attempts to explain why taxpayers comply with their tax obligations.

It was clarified in the preceding chapters that there are two different types of taxpayer – individuals and organisations. It has also been shown that there are two different types of tax obligation; the obligation of the individual or organisation to satisfy the tax liability proper to themselves – say their own income tax or corporation tax, and the obligation of the individual or organisation to satisfy their fiduciary tax duties as they collect and remit tax from others through systems like PAYE and VAT. These divisions – individual vs organisation, taxpayers’ own taxes vs fiduciary taxes – do not appear to be reflected consistently in the literature.

Components of the various theories of compliance include assumptions that tax compliance decisions are taken primarily to maximise the outcomes for the decision taker. They also include the impact of moral, psychological, and social factors in influencing the compliance decision. These latter impacts suggest that it is necessary to consider if there are differences between how organisations measure value versus how individuals measure value. In addition it becomes necessary to consider if organisations, or perhaps the compliance decision makers working within them, are influenced in a coherent way by moral, psychological, and social factors. If as Kahneman suggests, organisations are “factories which manufacture judgements and decisions” (Kahneman 2011, p.417), do organisations start from a different position in assessing tax risk and measuring tax compliance utility than individual taxpayers – in short, are they likely to take different types of tax compliance decisions than an individual taxpayer might? Nevertheless such differences as there are between the factors influencing the compliance decisions of organisations and the compliance decisions of individuals appear largely unexplored in the literature.
The chapter is set out in five sections. Section 3.2 covers what has been called “the basic theoretical model used in nearly all research on tax compliance” (Alm and Torgler 2011, p.636), namely Expected Utility Theory. It examines the strengths and weaknesses of Expected Utility Theory in describing compliance behaviour and predicting compliance levels. Section 3.3 examines the attempts to modify or expand Expected Utility Theory to give more accurate predictions of tax compliance behaviour. This section looks in particular at Prospect Theory which is a variant on Expected Utility Theory. Among other things Prospect Theory distinguishes the decision-making process involved in contemplation of a loss as against the decision-making process in contemplation of a possible gain. The extant research into individual taxpayer behaviour is described. Section 3.4 deals with a family of behavioural theories used to describe tax compliance which have become known collectively as “Tax Morale”. Section 3.5 offers a brief note on empirical research as found in the literature which has already been carried out on taxpayer behaviours. Section 3.6 considers whether there might be a divergence in tax compliance behaviours by organisations compared to individuals. The main findings from this literature review which inform the research questions are summarised in the conclusion of this chapter at 3.7.

3.2 Expected Utility Theory

3.2.1 Expected Utility Theory and Decisions under Risk
Expected Utility Theory states that decisions are made between risky or uncertain prospects by comparing their “expected utility” values, that is to say the values of outcomes multiplied by their respective probabilities. Its significance here is that for the past 40 years or so, the theory has underpinned many theoretical and research-based approaches to understanding tax compliance (Alm and Jacobson 2007, Hashimzade et al. 2013). The approach which posits that compliance with the law might be assessed using risk reward ratios is traced by Leviner back to Jeremy Bentham and his theory of utilitarianism in the 18th century (Leviner 2008). Leviner suggests that modern thinking on the matter was revitalised by Becker (1968). Allingham and Sandmo articulated this approach in the context of tax compliance behaviour (Allingham and Sandmo 1972). Before their work, concepts of expected
utility were applied to what may be more typically regarded as criminal behaviour – theft and the like – rather than tax situations. Heinemann and Kocher summarise the suggestion of Allingham and Sandmo. They state the Allingham and Sandmo construct of Expected Utility Theory for tax compliance as being that:

Investment into tax cheating will be the larger, the lower the risk of detection (determined by the audit system and the audit probability), the lower the potential loss (determined by the construction and the size of the fine), the higher the potential return (determined by the tax rate) and the lower individual risk aversion (which is usually negatively correlated to income).

(Heinemann and Kocher 2013, p.231)

To see how this construct might apply in practice, consider the position of a self-employed tradesman who has completed a project and has been paid for it. He is within the charge to tax. The revenue authority has no knowledge of the work he has done or of the income he has received from doing the work. It is up to the tradesman to decide to notify the revenue authority of the income he has received, and accordingly the amount of tax which he must pay. The tradesman knows however that from time to time the revenue authority might ask to examine his books and records. If they do, they will discover all the income he has received, and compare the amount to their own records of how much he has declared for tax purposes. If there is a shortfall, that shortfall will be taxed and in addition a penalty will be applied for the failure to declare all the income received. Under Expected Utility Theory, the tradesman's decision to declare income to the revenue authority will take into account the amount of tax he must pay on declared income, the likelihood of the revenue authority discovering any undeclared income, and if they do the additional penalty that he will pay on the undeclared amounts. Moral concepts such as right and wrong do not enter into the calculation; it is a reckoning of whether the benefit of not declaring income is worth the risk of being caught out by the revenue authority and fined accordingly.

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77 This is of course an oversimplification of the process involved, which often involves the location and matching of taxpayers’ bank accounts. The revenue authority may also make estimates of undeclared income based perhaps on the profile of the taxpayer’s business, or the apparent growth in value of a taxpayer’s wealth between two points in time.
The four key influences in decision-making under Expected Utility Theory are:

- Risk of Detection,
- Penalty,
- Potential Return, and
- Risk Aversion.

Alm and Torgler (2011) have also set out illustrations of how this economics of crime model would apply. They use a similar example of an individual in receipt of income who takes the decision as to how much of the income to report to the revenue authority, and how much to conceal. Tax is paid on the declared income; no tax is paid on the concealed income. The concealment may come to the attention of the revenue authority, and the likelihood of this happening is taken as a fixed probability. A penalty will be applied related to the amount of tax which should have been paid on the concealed income. Expected Utility Theory predicts that more income will be declared by the individual if the likelihood of detection of concealed income increases, and the penalty applicable to the unpaid tax on the concealed income increases. Therefore tax evasion should decrease if revenue authority policing is improved and penalties for evasion are increased. Alm and Torgler note some of the difficulties associated with this approach, most particularly that it implies that “rational individuals should report virtually no income” (Alm and Torgler (2011) at page 637).

### 3.2.2 Criticisms of Expected Utility Theory

Allingham and Sandmo placed a heavy reliance on detection and enforcement by the Revenue Authority in arriving at the likelihood of taxpayer compliance as borne out by the study by Alm and Torgler described above. Andreoni et al. (1998) observe that in this regard the Allingham and Sandmo conclusion is intuitive. On the other hand Horowitz and Horowitz (2000) have concluded from an econometric analysis of decisions under risk that although it might seem plausible to believe that audit probability and the sanction rate can be used as policy instruments to generate higher tax revenues, there is no sound basis for the belief. They contend that honest
taxpayers will work harder in the face of higher tax rates to preserve their disposable income, whereas the effect of higher tax rates on dishonest taxpayers is ambiguous. Perhaps more fundamentally, Frey (2003) points out that the Allingham & Sandmo model which is “seemingly convincing” leads to predicted compliance levels which are not compatible with empirical observations. He finds that, with reference to taxpaying behaviour in Switzerland, that the model predicts too much tax evasion. Frey maintains that the links between the probability and sanctions attaching to being caught with the actual volume of tax evasion are not statistically significant. This echoes the Horowitz and Horowitz conclusion, coming at the issue from a different angle, though Frey does not appear to cross refer to their earlier work.

Torgler notes that in the United States, if risk aversion among individuals is estimated at a measurement of between 1 and 2, a value of 30 would be needed to arrive at the observed tax compliance rate predicted by Expected Utility Theory (Torgler 2007). According to Torgler’s figures, the level of compliance predicted by Expected Utility Theory underestimates observed compliance by a factor of at least 15. (Frey in his study of compliance in the Swiss Cantons described above found that a similar degree of risk aversion would have to pertain there). In a retrospective of his own work Sandmo (2005) notes that even if the penalty rate is twice the tax rate, the risk of detection has to be greater than 50% for there to be a deterrent effect. Sandmo comments that this is “far in excess of most empirical estimates” and goes on to wonder if the model gives a true depiction of the compliance decision making process. If income is fully reported by third parties, or further again subject to withholding taxes by third parties as is the case for VAT and payroll fiduciary taxes, the risk of detection of a failure to fully disclose income does approximate to 100% and accordingly Sandmo’s observation alone does not invalidate Expected Utility Theory (this idea is explored further later in 3.2.3). Nevertheless it is evident that as a predictive construct the theory has significant problems.

The need to refine the Allingham and Sandmo model seems to have become apparent quite early on. An important early refinement of the model was made by
Yitzhaki (1974). In the Yitzhaki model fines are levied on evaded tax, rather than on evaded income (Borck 2004). This refinement has the merit of being closer to the system in operation in Ireland of tax geared penalties provided for in the Taxes Consolidation Act 1997 at Section 1077E as described in Chapter 2. A tax geared penalty is computed by reference to the amount of tax at issue, and not the amount of income concealed. Using Yitzhaki’s idea however, another anomaly comes to light. If the tax rate increases, then the incidence of tax evasion should decrease, because the penalty for evasion increases in direct proportion to the tax rate. However some commentators have argued that in practice this is not the case because evasion tends to increase as tax rates increase. Dhami and al-Nowaihi (2007) have labelled this the “Yitzhaki puzzle”, citing the likes of Clotfelter (1983) and Andreoni et al. (1998) who showed a relationship between higher tax rates and a higher incidence of evasion. As noted earlier Horowitz and Horowitz (2000) described the relationship between tax rates and evasion as “ambiguous”. Dhami and al-Nowaihi attribute the paradoxes of Expected Utility Theory, as applied by Allingham and Sandmo and then Yitzhaki, as leading to the need to investigate of other types of framework to explain taxpayer compliance behaviour.

Another difficulty with the Allingham and Sandmo model is that of necessity, its components are stripped back to the bare essentials. These components are the rational economic person in control of and bearing the consequences of the compliance decision itself, and the amounts of income at issue (and hence the tax and penalties at issue). In practice the rational economic person arguably even has some say over the likelihood of detection, depending on how clever they are in concealing their fraud from the revenue authority. Schauer and Bajor (2007) examined this possibility but concluded that there is research to show that significant differences in opportunity to evade did not result in large numbers of reported wilful evasion. Only taxpayers who do not suffer withholding taxes such as PAYE on their income have full discretion over their compliance obligations. Slemrod (2008) has noted the importance of reporting and withholding taxes from wages by employers in income tax enforcement. The likelihood of detection of tax evasion is not the same for all taxpayers for a variety of reasons, as disparate as what they do for a living or
where they happen to live. Thirukodikaval N Srinivasan (1973) writing around the same time as Allingham and Sandmo, but apparently unaware of the similarities between his work and theirs, stated that the model is “oversimplified” but nevertheless should serve some useful purpose in comparing the outcomes of alternative tax evasion detection and penalty systems. He seems to have in mind here a scenario where a revenue authority intervention is guaranteed if a certain minimum level of income is not declared.

This issue of the over-simplification of the components of Expected Utility Theory has led to concerns among some researchers about the usefulness of the model. Beck and Jung (1989) point out that taxpayers very often don’t know what their tax liabilities might be, and that this uncertainty may also have a bearing on the taxpayer’s decision to report or under-report their income. Their analysis of Expected Utility Theory suggested that in certain circumstances, specifically where the penalty for non-compliance was tax geared, uncertainty could increase the incidence of compliance. However in other circumstances where the penalty for non-compliance was fixed, uncertainty could result in an increased incidence of under-reporting. To clarify, if the penalty for non-compliance was tax geared say at 75% of the amount of tax at issue, a taxpayer might over-estimate their earnings and declare them to the revenue authority because the monetary sanction which would apply if there were any shortfall is very high. But if the penalty for under-declaration was a fixed amount, say €1,000 irrespective of the amount of income at issue, the higher the income the lower the penalty as a proportion. Taxpayers could be reckless or careless with their declarations even to the point of persistent non-reporting in the knowledge that the penalty would never exceed €1,000.

Also in the area of detection likelihood, Revenue does not disclose publicly their criteria for triggering audit or investigative activity as noted in 2.4.5.2 above. Reinganum and Wilde (1988) consider this policy of non-disclosure of audit criteria using a model involving US Internal Revenue Service (IRS) compliance costs. The IRS keeps secret the criteria used to select cases for investigation for tax default, but
also the extent to which suspected tax default might be tolerated. A tolerance level is necessary because pragmatically the IRS does not have the resources to investigate every instance of tax default that comes to their attention. They investigate the belief on the part of the IRS, extrapolated from tax case law, that taxpayer uncertainty about the extent of known noncompliance tolerated encourages taxpayer compliance. Reinganum and Wilde conclude that some secrecy on the part of the US Revenue Authority may be required to optimise compliance levels. Their conclusion is somewhat problematic because they also suggest that “increasing the extent of uncertainty” might not maximise compliance. It is not immediately clear if degrees of uncertainty can be applied to taxpayers thinking in contemplation of investigation by the revenue authority. A taxpayer can be either certain or not that an effective revenue authority intervention in their compliance affairs might take place based on their view of the efficiency of the revenue authority. Once that certainty or uncertainty is established the taxpayer’s compliance decision will be based on an assessment of probability that the compliance intervention will happen. The taxpayer’s assessment of this probability is derived from their own knowledge of the extent of tax evasion in their own case. Like Beck and Jung’s study mentioned above, this work was not grounded in field research. As against this, while accepting that there is less unanimity among researchers on the effect of changes in the tax rate on compliance behaviour, Dalamagas (2011) concludes that there is an “unambiguous positive relationship” between tax enforcement parameters and tax compliance. Dalamagas offers the insight that evasion should not be considered as a one-off activity at a point in time. The longer evasion persists, the higher detection probability becomes and accordingly the more effective penalties should be. Again however Dalamagas’ analysis is theoretical rather than derived from field research.

3.2.3 Advantages of Expected Utility Theory
Despite these apparent shortcomings, it would be wrong to be dismissive of the contribution of Expected Utility Theory in understanding tax compliance. If there is less focus on taxpayer risk aversion and more focus on the likelihood of revenue detection, Expected Utility Theory suggests that tax compliance will increase in direct proportion to the risk of detection. In tax systems with a high degree of fiduciary taxes like the systems in Ireland and the UK, the vast majority of sales
transactions and employee payments are reported by virtue of the requirements of the fiduciary VAT and PAYE systems described in Chapter 2. Various authorities have noted that the greater the degree of accurate reporting, the greater the likelihood of detection. Slemrod (2009) notes that a salary earner whose employer has submitted his or her taxable income and Social Security number electronically to the Internal Revenue Service will be flagged for scrutiny, if the earner has not reported that income on their own personal return. Most employees in the US submit personal tax returns mainly because the withholding taxes on wages are non-cumulative in nature and therefore many find that they will have overpaid income tax through withholding at the end of the tax year (the return is primarily submitted to claim a refund). Slemrod’s observation however would also hold good for jurisdictions like Ireland and the UK where the cumulative nature of Pay As You Earn withholding tax on wages tends to result in a greater degree of accuracy, and therefore fewer returns being submitted by employees. Separate reporting by employers results in the risk of detection having a probability much closer to 100 percent. Kleven et al. (2009) cite the US Tax Compliance Measurement Study (Internal Revenue Service, 2006) which shows that individual income tax evasion rates is in excess of 50% when there is “little or no” information reporting, but that the evasion rate is less than 5% when there is substantial information reporting. Under the assumption of reporting by the fiduciary organisation, Expected Utility Theory as a predictor of overall compliance levels continues to work in the form articulated by Heinemann and Kocher (2013) without the necessity of refining it, because the risk of detection approaches 100%. This is unsatisfactory because it reduces Expected Utility Theory to a mere assertion that taxpayers comply when they know they will be caught if they don’t.

The development of Expected Utility Theory as a predictor of taxpayer behaviour has often centred around variations in audit probability and the impact of past experience of compliance and audit (Andreoni et al. 1998). What has seemed to remain constant is that up to now, expected utility research is predicated on the taxpayer being regarded as an independent agent, capable of taking a decision in full as to whether or not they comply, and suffering the consequences of their decision. Having looked at some of the advantages and disadvantages to Expected Utility
Theory as it applies to understanding tax compliance by individuals, it does not necessarily follow that these same advantages or disadvantages will apply for understanding tax compliance by organisations. Expected Utility Theory is predicated on the behaviour of a “Rational Economic Man”. There is some evidence that it may not apply directly when considering the behaviour of organisations, which will be examined in Section 4 of this chapter. None of the studies in the literature encountered in the course of this research considered the application of Expected Utility Theory to the operation of fiduciary taxes, nor did they examine the role of Expected Utility Theory in the context of the tax compliance behaviour of organisations as distinct from individuals. As will be described in the next section 3.3, the literature continued to probe the logical and structural limitations of Expected Utility Theory rather than considering the organisational contexts in which, by reference to overall volumes of taxes collected, it most needs to be applied.

3.3 Prospect Theory

3.3.1 Understanding Tax Compliance Decisions through Prospect Theory

Harrison and Rutstrom (2009) describe Expected Utility Theory along with Prospect Theory as “the two front runners for choices under uncertainty”. Prospect theory involves framing – that decision makers have different attitudes towards losses and gains. It also suggests that decision makers don’t always estimate probabilities in accordance with their statistical likelihood.

Elements of the Prospect Theory of Kahneman and Tversky (1979) originally appeared around the same time as the Allingham and Sandmo contribution (Tversky and Kahneman 1974). Their 1974 paper focuses on the heuristics employed in making judgements under uncertainty. While in no way diminishing its significance, Prospect Theory can be seen as an extension to existing approaches to explaining the decisions taken under risk. Kahneman says that the theory was closely modelled on utility theory but “departs from it in fundamental ways” (Kahneman 2011).
Guthrie (2003) identifies four elements of Prospect Theory which differentiates it from standard utility theory.

1. **Assessment of gains or losses in relative terms.** People evaluate choices relative to some reference point, which Guthrie suggests is often the status quo. In assessing possible outcomes, gains or losses are evaluated not in absolute terms but in relative terms – “if this course of action is taken, will I end up being better or worse off than at present?”

2. **People have a greater aversion to the chance of incurring a large loss than they have to surrendering the chance of a large gain.** People will take decisions which tend to guard against large losses, but be willing to wager at the prospect of a large gain.

Both of these elements to some degree challenge the idea of absolute risk aversion found in Expected Utility Theory, because they suggest that risk aversion or risk appetite are a factor of the decision taker’s current position and the amounts at stake.

3. **People suffer losses more than they enjoy gains, even if the absolute amounts are the same.**

4. **Heuristic Biases.** Lastly Guthrie points out that Prospect Theory suggests biases in people’s minds in assessing the likelihood of an event.

Tversky and Kahneman (1974) identify a number of biases (heuristic techniques) in making judgements under uncertainty. One of these techniques used by people when judging probability is what they term “representativeness”. People, they argue, are insensitive to sample size. Intuitive judgements are dominated by the sample proportion, and are essentially unaffected by the sample size. Another technique is what they term “availability” – that people assess the frequency or probability of events by the ease with which similar instances can be brought to mind. These may be important biases to consider in assessing how people make compliance decisions.
For instance these biases should lead to an assumption on the part of the taxpayer that a long track record of compliance is unlikely to be disrupted by the actions of a revenue authority. If this is the case, the risk of detection which is a key component of Expected Utility Theory needs to be reconsidered. Earlier in this chapter the articulation of tax decisions within Expected Utility Theory by Heinemann and Kocher (2013) was cited. If that same construct were to be used to articulate tax decisions within Prospect Theory, it might read (with Prospect Theory concepts added in bold):

Investment into tax cheating will be the larger, the lower the risk of detection (determined by the audit system and the perception of audit probability shaped by the taxpayer’s own experience), the lower the potential loss (determined by the taxpayer’s relative circumstances before and after the decision), the higher the potential return (also determined by the taxpayer’s relative circumstances before and after the decision) and the lower individual risk aversion (which is greater in contemplation of a loss than in expectation of a gain).

The tax compliance decision under Expected Utility Theory of a self-employed tradesman who has completed a project and has been paid for it has already been outlined. How might Prospect Theory address the same scenario? The tradesman is within the charge to tax. The revenue authority has no knowledge of the work he has done or of the income he has received from doing the work. It remains up to the tradesman to decide to notify the revenue authority of the income he has received, and accordingly the amount of tax which he must pay. The tradesman knows that from time to time the revenue authority might ask to examine his books and records. The capacity of the revenue authority to carry out an inspection is unaffected under Prospect Theory, as is the actual likelihood of the inspection being carried out. If the revenue authority discovers a shortfall in the amount of income the tradesman has declared, that shortfall will be taxed and in addition a penalty will be applied for the failure to declare all the income received. These factors too are unaffected under Prospect Theory. But unlike Expected Utility Theory, Prospect Theory suggests that
if the tradesman has never been audited or inspected by the revenue authority this would also have a bearing on his compliance decision, as indeed would having had an audit or inspection in the recent past.

The tradesman's decision to declare income to the revenue authority will take into account the amount of tax he must pay on declared income, the likelihood of the revenue authority discovering any undeclared income, and any additional penalty that he will pay on the undeclared amounts. The amounts at issue are important for both Prospect Theory and Expected Utility Theory, but Prospect Theory suggests that their importance is measured relative the tradesman's overall position. If the tradesman has legitimately earned €10,000 after tax but by under declaring stands to earn an additional €1,000, a decision to under-declare is a very different decision than if he had legitimately earned €1,000 after tax but by under declaring stood to earn an additional €10,000. Prospect Theory predicts that in this type of circumstance, the tradesman will be much less risk averse to committing tax default for the sake of an extra €1,000. Expected Utility Theory takes no account of this type of decision framing. As a separate consideration, Prospect Theory predicts that the tradesman will be more risk averse to losing money by having to pay higher tax penalties than would be expected through a simple computation of the expected utility of the decision which gave rise to the penalties. Finally, and in common with Expected Utility Theory, Prospect Theory does not allow concepts such as right and wrong to be factored in when understanding and describing the tax compliance decision being made. The reckoning of whether the benefit of not declaring income is worth the risk of being caught out by the revenue authority and fined accordingly is more nuanced under Prospect Theory than under Expected Utility Theory.

It was noted earlier that Alm and Torgler (2011) had considered the operation of Expected Utility Theory in a typical individual taxpayer situation. In the same paper they also introduced Prospect Theory considerations to such a situation. By adding the concept of loss aversion, they suggest that the ratio of income an individual might declare to the income an individual might conceal could change. As a result
less income as a proportion of the total earned by the individual is concealed from
the revenue authority, and consequently reported compliance levels would be higher.
Further they suggest that if the individual perceives that the risk of detection is
higher than it might actually be, perhaps as a result of revenue authority information
campaigns, that perception will also influence the amount of income which a
taxpayer might choose to conceal from the revenue authority. Alm and Torgler posit
that under Prospect Theory, the utility function is replaced by a value function –
relative gains and losses on the part of the taxpayer rather than absolute amounts.
The risk of detection is also modified by a factor reflecting the taxpayer’s view of
the risk of detection rather than the actual risk of detection. One of the insights
claimed for Prospect Theory as against Expected Utility Theory is that the amount of
tax at issue, or the penalty that might be suffered, is a far more important factor than
the likelihood of detection while not creating the linear trap of the Yitzhaki puzzle
described at 3.2.2. This recognition may go some way to explaining away some of
the shortcomings of Expected Utility Theory as a predictor of taxpayer behaviour, as
has been argued by Dhami and al-Nowaihi (2007).

However there is conflicting evidence that such biases do actually apply in tax
compliance decision making. Choo et al. (2016) note the outcome of a study by
Kleven et al. (2009) which reports higher compliance among self-assessed taxpayers
following an audit. On the other hand they point out that other studies by Mittone
(2006) and Kastlunger et al. (2009) find the opposite result with average compliance
dropping in the experimental period immediately following an audit. In his later
work Kahneman (2011) seems to suggest that decisions regarding tax compliance
may in actual fact be less susceptible to these biases than other types of decisions
made under risk. His overall suggestion is that the more complex the compliance
obligation, the less likely it is that the biases suggested by Prospect Theory will have
a bearing on the decision to comply.
3.4 Tax Morale – the Intrinsic Motivation to Comply

One feature of expected utility models (including Prospect Theory) is that they assume an individual pays taxes only because of the economic consequences of non-compliance (Alm 2011). Expected utility models do not of themselves admit moral considerations. They are predicated on the achievement of advantage through the maximisation of gain and the minimisation of loss. On the face of it, this disregards the possibility of the rational economic actor taking decisions by reason of a sense of personal morality or ethics.

The significance of a sense of fairness and a moral imperative to comply underpins theories of taxpayer behaviour known collectively as Tax Morale (Kornhauser 2007). Kornhauser observes that within the construct of Tax Morale, correct conduct in tax compliance is in itself its own reward. She identifies the work of Andreoni et al. (1998) as a turning point, with the majority of knowledge in the area of Tax Morale occurring since then. However as Alm and McClellan point out, the notion of “Tax Morale” as an explanatory factor in tax compliance behaviour goes back as least as far as the 1960s (Alm and McClellan 2012), as demonstrated in work by the “Cologne school” of tax psychology (Schmolders 1959).

Tax morale therefore predates the application of utility theories in understanding tax compliance. It has co-existed with the view of the compliance decision as being the simple calculation of “the economic consequences of detection and punishment”, as Alm put it (Alm 2011). Torgler has described Tax Morale as “the intrinsic motivation to pay taxes” (Torgler 2008), a shorthand that will recur in the course of this research. Just as for Expected Utility Theory, Tax Morale has been extended in several different ways.

The tax compliance decision making process of a self-employed tradesman who has completed a project and has been paid for it has already been outlined for both Expected Utility Theory and Prospect Theory. Addressing the same scenario in the
context of Tax Morale is quite different even though the parameters would be the same. The tradesman is still confronted with a decision of how much income to declare to the revenue authority. Under Tax Morale, the tradesman’s decision would not be based solely on an assessment of the risks of detection by the revenue authority should the income be underreported. The amounts of tax and penalties at issue would be a consideration but only as a factor in a broader range of issues to be considered by the tradesman. Expanding out the factors identified by McKerchar et al. (2013) these would include:

- His or her belief that it is morally or ethically wrong to evade tax which is properly due;
- His or her perception of the fairness of the tax system;
- His or her perceptions of normal tax compliance behaviour within the trade;
- His or her degree of respect for the revenue authority;
- His or her appreciation of the broader social contract which recognises that taxes must be paid if social services are to be maintained.

When analysing Tax Morale Frey cited an earlier study (Graetz and Wilde 1985) on the IRS Taxpayer Compliance Measurement Programme. He noted that the high compliance rates detected by Graetz and Wilde could be explained either by the taxpayers’ commitment to the responsibilities of citizenship and respect for the law, or by a simple lack of opportunity for tax evasion. The former explanation is characteristic of Tax Morale (Frey 2003). Cullis et al. note that the rational economic actor of Expected Utility Theory and Prospect Theory is a caricature. They suggest that predictions cannot reliably be made (or more correctly falsified) without accepting the convention of the caricature. What they call “warm glows” associated with ethical considerations are not measurable in the usual terms of utility (Cullis et al. 2006). Freedman (2004) has pointed out that morality alone without legal backing is inadequate as a guide to the duty to pay tax. Honoré (1993) argues that according to most people's moral outlooks, people within the community should share to meet the overall needs of the community. The tax system offers an equitable way of ensuring that contributions can be collected for redistribution. Taxation therefore becomes the practical expression of the moral approach. It is not
meaningful to say that a tax system is not moral, or is amoral except to the extent that the system of itself is not appropriate to secure contributions for redistribution. The tax system becomes an expression of the moral outlook of the society. That is not to say we cannot critique the operation of the tax system, as distinct from its appropriateness, on moral grounds.

3.4.1 The cases for and against Tax Morale
Frey’s concept of Tax Morale in the study mentioned earlier is with reference to an individual’s sense of obligation to the country to which they belong (Frey 2003). Such an approach has resonance with the moral framework as suggested by Honoré (1993). Frey’s argument is driven by concerns over the shortcomings of Expected Utility Theory in predicting taxpayer behaviour discussed earlier in this chapter. He argues that in countries where there is greater opportunity for democratic participation, this leads to greater civic virtue which in turn is manifested in good levels of tax compliance. He believes this to be borne out by his study of relative compliance levels across the 26 Swiss cantons and a survey of the attitudes of taxpayers.

James and Alley developed a description of the two separate approaches to tax compliance. They identify the “Economic Approach”, which is characterised by Expected Utility concepts but distinguish this from the “Behavioural Approach” involving issues of equity and fairness, and a desire on the part of the taxpayer to be a “good citizen” (James and Alley 2002). Their approach provides an insight into an appropriate starting point for field research which is discussed further at 4.1 in the chapter dealing with the methodology of the field research in this thesis.

Kirchler et al. (2008) propose a “slippery-slope” model to describe tax compliance influences. This framework considers the relationship between authorities and citizens, and the climate of interaction: antagonistic vs synergistic. These authors suggest that if a tax system is seen by taxpayers to be legitimate, it will be complied with. The key elements of the slippery-slope model are on the one hand the
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awareness of the power of the tax authorities - their perceived potential in the minds of taxpayers to detect and to punish evasion, and on the other the trust in the tax authorities - the taxpayers’ perception of tax authorities as benevolent and working for the common good. According to this theory, tax compliance will be maximised where both power and trust are in abundant supply. Conversely, where the taxpayer is indifferent to the power of the tax authority, and/or where it is not accepted by the taxpayer that the tax authority is working towards the common good, tax compliance rates will fall. The contribution of Kirchler and his colleagues can be seen as an attempt to unify Expected Utility concepts with Tax Morale concepts. The “power” axis of Kirchler’s “slippery slope” encompasses the risk of detection and the application of penalties which are intrinsic to Expect Utility Theory and Prospect Theory. The “trust” axis encompasses Tax Morale values such as trust in the revenue authority and an appreciation of the fairness of the tax system. The graphic used by Prof Kirchler to describe his approach is reproduced below:

In this framework, tax compliance will be maximised when voluntary tax cooperation driven by Tax Morale principles is matched by revenue authority enforcement. The difficulty with the approach is that it appears to ascribe success in overall tax compliance levels in equal measure to taxpayer threats and blandishments. This in turn creates difficulties in the relative measurement of
effectiveness of compliance enforcement initiatives as against promotional and confidence building initiatives by revenue authorities. Rawlings (2004) identifies that the taxpayer's understanding of where he or she stands relative to other taxpayers and the Revenue Authority would seem to be fundamental to levels of compliance. Rawlings notes a conflation in the minds of taxpayers between the societal fairness of tax laws, and the bureaucratic fairness of the Revenue Authority. The importance of social identity in compliance is also emphasised by Taylor (2009). Likhovski (2007) develops the debate as to how the state goes about treating citizens in the tax context, but he seems to be less categorical about the societal norms a Weberian bureaucratic revenue authority can create. Examining the issue by tracing the development of approaches by the Israeli Revenue Authority, he does not attribute their success to any one tactic. Braithwaite and Braithwaite have noted the “pyramidal” approach to compliance enforcement then adopted by the Australian Tax Office (Braithwaite 2000). A persuasive approach to tax compliance is less expensive for a revenue authority to undertake than hard edged enforcement carried out through audits and interventions. Within the pyramidal model, lower cost persuasive approaches are attempted first and these are only replaced when persistent non-compliance demands direct revenue authority intervention.

Figure 2 - ATO "Pyramidal" Approach to Compliance

(Australian Tax Office 2013, p.3)
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The base level of the pyramid relies on Tax Morale concepts but the main challenge to Tax Morale may be that it is virtually impossible to measure directly, as McKerchar et al have suggested (McKerchar et al. 2013). It may only be inferred with reference to indirect evidence. There may be indications to suggest its existence, but we may not need Tax Morale to explain tax compliance behaviours. After reviewing the outcome of some 1000 random IRS audits on self-assessed taxpayers, McKerchar and her colleagues were unable to definitively say where compliance had been influenced by Tax Morale concepts, or by other deterrents.

Some of the difficulty in assessing the impact of Tax Morale may lie in the assumption that theories concerning compliance with the law (as a general concept) can transfer directly across to compliance with tax law in much the same way as a general framework for decisions under risk like Expected Utility Theory can be transferred directly across to tax compliance decisions. This assumption is made by Kornhauser (2007) and while it may indeed be valid for other areas of law, it might not apply to tax law. A distinction must be drawn between acts and omissions. Compliance with the law (in the general sense) is usually a passive activity. People remain compliant with the law for instance by not committing theft or assault. On the other hand, compliance with tax law is an active pursuit which involves personal effort and cost, and failure to do so involves risk. This recognition is fundamental to Expected Utility Theory, but may be absent from Tax Morale. Graetz et al. (1986) argue that it is not in fact possible to transfer the normal parameters of civil or criminal law to the tax context because of the relationship between the taxpayer and the tax authority. It is a reporting relationship where failure to report in itself is a failure to comply. Their study also highlights the difficulties of discussing tax compliance issues without a clear view of what tax compliance means, a theme identified in Chapter 2.

Hashimzade et al. (2013) sum up the difficulties following their review of the literature, “the concept of Tax Morale captures a broad range of ideas but has so far not received a compelling formalization” (at page 973). As identified in the first
chapter of this thesis, the bulk of tax compliance decisions (at least in terms of volume of tax collected) is made by organisations – at least 80% of all taxes collected in Ireland and the UK are fiduciary taxes collected by organisations on behalf of the revenue authority. Even parking the reservations of McKerchar et al. and Hashimzade et al., is it possible to speak of organisations having a concept of Tax Morale, and that such a theory could explain the very high levels of collection of fiduciary taxes? The difficulties associated with considering organisations making decisions along expected utility lines have already been touched upon. These questions are considered further in the next section.

3.5 Empirical Research on Tax Compliance Behaviours

The instances where empirical research into taxpayer behaviour has been carried out seem relatively few given the size of the literature. James and Edwards (2010) identify some 1,000 items in their annotated bibliography of tax compliance and tax compliance costs. Kirchler et al. (2010) offer a helpful inventory identifying 31 empirical studies between 1967 and 2010. More than half of these studies (16) involve laboratory experiments. Nine utilise aggregate data from official sources, and another six used survey techniques.

While the very rarity of such empirical studies gives them value, in many instances their findings must be treated with some caution. This is particularly true of older studies because the rules of tax systems do not stay static. As an example, Ireland introduced a compliance system for individuals who are self-employed known as self-assessment in 1988. Self-assessment was introduced for individuals in the UK in 1994. Because self-assessment redefines the obligations of the individual taxpayer with reference to the revenue authority concerned, there might be limited value in comparing the findings of studies from either side of the introduction of self-assessment in whichever territory they were conducted. Also, as Ariel points out in his review of corporate tax compliance studies, heterogeneity in the findings between individual studies may be as a result of the economic, social and demographic factors in the various countries in which they were conducted rather
than as a result of tax factors per se (Ariel 2012). Doyle et al. (2009) comment that even though research aimed at increasing the understanding of tax compliance behaviour has been ongoing for decades, most of the research has been conducted in a US or Australian context and is based on hypothetical or self-reported behaviour.

Empirical research with reference to official data sources (such as from a revenue authority) is difficult to conduct, because the data is difficult to obtain by reason of the confidentiality obligations of revenue authorities. At the time of writing, there is research forthcoming from Cinta et al. on non-compliance evidence from HMRC administrative data, but this is being carried out under strict conditions within an HM Revenue and Customs sponsored research institute (Cinta et al. 2014). Other such analyses already exist (Clotfelter 1983, Feinstein 1991) but as confirmed by Kirchler et al. they constitute only a small element of the research literature.

Perhaps because empirical work by reference to experimental data seems more common, Alm can claim that virtually all aspects of compliance have been examined in some way in experimental work (Alm 2011). The scarcity of field surveys of taxpayers may be attributable to the success of such surveys being determined by the willingness of the participants to be involved and to be honest. This presents a unique challenge if investigating tax compliance and by extension tax default or evasion. As Schneider puts it (in the context of shadow economy research) many people hesitate to confess to fraudulent behaviour (Schneider 2002).

Cullis et al. carried out a study among a student population where students from different disciplines (psychology and economics) were asked to imagine themselves as being self-employed. They found that, as predicted by Expected Utility Theory, their respondents did “declare” more income as the probability of detection increases. However for their general population there was no evidence of the framing phenomenon that Prospect Theory would predict, and it would seem the primary value of their paper lies in the discovery of distinguishing gender responses
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(Cullis et al. 2006). Such an outcome would pose a significant challenge to the usefulness of Prospect Theory in predicting tax compliance were it not for legitimate concerns over the methodology. These concerns were articulated by Torgler (2002). In a subsequent study Torgler outlines some of the limitations of laboratory experimentation when researching tax conduct – the setting is too artificial, and it is not really possible to replicate either incentives or the effect of punishments in a laboratory experiment. He also notes that many tax fraud experiments (as with Cullis et al.) are done with students participating as proxies for taxpayers (Torgler 2008).

Students differ from the typical subject pool with their higher education, possibly a higher IQ, and the likelihood that they come from more affluent backgrounds. Alm and Jacobsen concede that the laboratory setting cannot capture a “catastrophic loss” (mentioning imprisonment as an example) which can follow the detection of tax default. However they suggest that there may be merit in the use of laboratory experiments to test the articulation of existing theory (Alm and Jacobson 2007). A difficulty with using students as proxies is that typically they are not primarily wage earners, and usually reliant on subvention to some degree by third parties for their upkeep (either privately, or from the State by way of grant assistance, or from borrowings repayable at a future date). Antonides and Robben list what they describe as the “determinants of tax evasion” including financial strain, opportunity, deterrence, norms, attitudes, and social comparison (Antonides and Robben 1995). Determinants such as opportunity and deterrence are not valid for research subjects who are not themselves in receipt of income. Norms, attitudes and social comparisons could vary between groups who are wage earners, and groups who are not wage earners. However two other determinants identified by Antonides and Robben, learning factors and personality factors, may be suitable for laboratory verification. In more recent research Alm and his colleagues are more positive about the reliability of laboratory experiments and find a high degree of congruence between field surveys and laboratory surveys involving students – “The comparison of the Taxpayer and Experimental Samples finds that the experimental data can
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reliably replicate known features of taxpayer compliance behavior for similar decisions in the naturally occurring world” (Alm et al. 2015, p.1182).

In a 1996 study Eriksen and Fallan compared the attitudes of students to tax evasion, before and after they had taken a course in tax law. The responses of the tax law students were compared with responses from a control group of students who are not undertaking any courses in tax law. Eriksen and Fallan reported that the student respondents who had studied tax law saw tax evasion as more serious and would be less tolerant of the evasion of others following their course of study. They would also have an apparent greater appreciation for the fairness of the tax system (Eriksen and Fallan 1996).

Another strand of research into tax compliance behaviours not frequently cited in the literature is that conducted by revenue authorities themselves. These are distinct from studies conducted by experimenters with the cooperation of the revenue authority which as Torgler notes are hardly ever conducted (Torgler 2008). The reasons he gives for this include the difficulty of establishing cooperation with the tax authorities, the one-off nature of the experiment and the length of elapsed time taken to conduct the experiment. While there would undoubtedly be methodological concerns over findings by individual revenue authorities on the compliance conduct of their own base of taxpayers, the OECD has compiled aggregate findings from such surveys and studies (OECD 2010). These demonstrate that the influences identified in academic thinking on tax compliance theory are very much of concern as revenue authorities develop and refine enforcement techniques. One such finding concerns the rating by participant revenue authorities in the OECD study of the perceived deterrent effects of audits, risk of detection and severity of sanctions. Audits were not universally held to be a deterrent, but the risk of detection in taxpayer’s minds was suggested to be more important than either audits or the severity of sanctions. This finding would point towards the importance of the decision making process of the taxpayer, individual or organisation alike, in overall
compliance levels irrespective of the particular national tax enforcement environment (OECD 2010, p.16).

The practical difficulties associated with the methodology of tax compliance research are developed further in Chapter 4. It follows that the type of research pursued in this thesis involving interviews and surveys concerning the behaviour of Agents who make actual tax compliance decisions for their organisations will make a useful contribution to knowledge. The mix of methods involving surveys and interviews is necessary because the area is largely unmapped and comparable research is rare in the extant literature.

### 3.6 Separating Organisational from Individual Conduct

Crocker and Slemrod (2005) point out that the majority of tax compliance research addresses tax evasion decisions made by individuals. Joulfaian describes the scant availability of empirical research on business tax evasion as being in sharp contrast to the “voluminous” literature on individual compliance behaviour (Joulfaian 2009). In an earlier work Joulfaian points out that the focus on individual compliance behaviour is unfortunate, suggesting a lack of knowledge of the behaviours and involvement of organisations in the corporate sector (Joulfaian 2000). The bulk of government tax revenues are collected from or by businesses, because businesses are responsible for withholding personal taxes as well as collecting sales and excise tax. According to Nur-tegin (2008) the gap in empirical research in this area is even greater than the “scant” theoretical literature on business tax evasion. He makes a further suggestion that the approach to studying compliance behaviours by organisations should be different to the approach taken for individuals. This stems from his examination of the nature of the prevalent compliance theories, whether those theories fall in the category of expected utility or the category of Tax Morale (Nur-tegin 2008).
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It seems that there are indeed grounds for considering tax compliance decisions by organisations in a different light to tax compliance decisions made by individuals. Berle and Means (1932) were among the first to emphasise the separation of ownership and control in bodies corporate. This is a critical distinction for tax purposes in that it suggests a separation between the individuals who own an organisation (the Principals) and therefore ultimately bear the economic cost of the taxes paid by the organisation, and those who take the decisions concerning the actual payment of those taxes (the Agents). This separation inevitably leads to tensions between Principals and Agents; firms it has been argued only exist to manage costs (Coase 1937). Christopher suggests that the governance of organisations should be viewed as an attempt to resolve conflicts between the rights and responsibilities of Principals and Agents (Christopher 2010).

Cullis et al. noted that Expected Utility Theory is founded on the concept, or “recognised caricature” of the rational economic man (Cullis et al. 2006). A rational economic man suggests a rational individual actor who is egoistic. The egoism takes the form of economic self-interest in narrowly defined terms. It is axiomatic that this approach precludes the direct application of Expected Utility Theory to the behaviour of organisations as organisations (as distinct from behaviour by individual stakeholders). Kahneman (2011) observes that the impact of Prospect Theory heuristics may be less pronounced in the context of organisational decision making. He asserts that organisations are better than individuals when it comes to avoiding errors, in part because they have the power to impose orderly procedures upon themselves, describing them as factories which manufacture judgements and decisions as noted at 3.1 above. This assertion may also be true for Expected Utility Theory because again as noted earlier at 3.3.1, Prospect Theory is an extension to Expected Utility Theory.

Fundamental to the notion of Tax Morale (though not to expected utility theories) is the notion of citizenship. The linking of citizenship with tax compliance can be traced back as far as Aristotle, who maintained that only taxpayers could be citizens
The difficulties inherent in considering organisations as citizens are explored by Logsdon and Wood who assert that were businesses to regard themselves as citizens, that approach might be more helpful in determining how they should conduct themselves (and not just in tax matters) from an ethical standpoint (Logsdon and Wood 2002). In response to Logsdon and Wood, Moon et al. (2005) portray organisations as individually representing the functional interests of variously their employees, managers, owners, customers and suppliers (Moon et al. 2005). In neither instance does the concept of an organisation being regarded as a citizen serve to explain or predict organisational behaviour; rather it is a lens through which organisational behaviour could be described, and perhaps coordinated by the individual decision-makers within organisations. These lines of scholarship suggest that an understanding of tax compliance behaviours by organisations cannot be derived solely from the conduct of an organisation per se, but must also be pursued with reference to the motivations of the individuals – the Agents - within the organisations and the constructs which support the behaviours.

Etzioni sets out a model for organisational compliance in his 1988 book *The Moral Dimension*. Etzioni maintained that top management of organisations are paid to protect the interests of those organisations in accordance with a deterrence model. Where an organisation is at risk of being punished, management recognises this risk and issues instructions for staff to avert the risk (Etzioni 1988). This view constituted a starting point and ultimately a target for criticism in a study by Braithwaite and Makkai (1991). Braithwaite and Makkai tested Etzioni’s argument using a modified form of Expected Utility Theory. Their modifications involved perceptions of detection risk (because the risk of detection was not quantifiable) along with perceived sanctions for non-compliance. The Braithwaite and Makkai study focused on nursing homes which are required to comply with state standards for matters such as health care, privacy and dignity enjoyed by nursing home residents, and environmental and general safety standards. They concluded that there is little warrant for accepting the deterrence hypothesis. Instead Braithwaite and Makkai suggested that future research should ask managers both how sanctions against organisations are a serious matter for the organisation, and how serious a
consequence it is for them as an individual. Reputational as well as economic consequences should be recognised at both the individual and corporate level. A subsequent study by May (2005) provides some evidence to support those findings. He used a questionnaire to ask farmers, homebuilders and the owners of marine facilities why they complied with regulations specific to their businesses. He finds divergent results across these divergent areas of enterprise. May also suggests that while enforcement practices do have a deterrent effect on non-compliance, they may have more practical effect as a reminder in underscoring compliance obligations. Visible deterrents help ensure that compliance is not an “optional extra” for decision-makers within organisations (May 2005).

The significance of the Braithwaite and Makkai study for this thesis is that it presents a model for research into organisational compliance behaviours, which is rare in the literature (Engel 2010). They recommended that the impact of organisational sanctions on the organisation’s employees at an individual level should be explored, and this recommendation is followed in this piece of research. There is an important caveat in that the subject of their research, compliance with healthcare standards, is qualitatively different from compliance with tax law. The particular approach taken in this thesis is described in the Methodology at Chapter 4. Another finding of the Braithwaite and Makkai study is that consideration has to be given to situations where the employee working in an organisation is not in a position to directly benefit personally from the compliance decision made by the organisation or business. That is not to say that the business itself might not benefit from a compliance failure. Because of the scarcity of literature in this area, it is not possible to identify a prevailing school of thought on the division between decision-making by individuals and decision-making by organisations.

It is clear though that not all commentators agree with the Braithwaite and Makkai view of the need for such a division. An analysis of studies of corporate tax compliance behaviour by Ariel notes that previous studies on tax compliance have emphasised two regulatory models. These are a deterrence based model (Expected
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Utility and Prospect Theories), and a normative or moral persuasion model which is effectively based on Tax Morale. Ariel takes a position that there is no fundamental difference between the analysis of individual decision-making processes by individuals and the analysis of decision making processes within an organisation. Ariel conducted randomised controlled trials on a significant cohort of Israeli corporates to determine if moral persuasion techniques might have influence on their VAT compliance behaviours. While finding “unattractive evidence” for moral persuasion techniques and recommending alternative approaches by revenue authorities, he nevertheless suggests that an alternative set of theories to those which apply for individuals is not necessary for corporates (Ariel 2012). Ariel cites in support of his view some research carried out by Paternoster and Simpson (1996). The work of Paternoster and Simpson developed the work of Braithwaite and Makkai, and attempted to reconcile why sanctions do not have the effect which might be expected in a classical deterrence based model within the corporate environment. As noted earlier Braithwaite and Makkai had concluded that there is a "stark failure of deterrence to explain compliance with regulatory law." Paternoster and Simpson suggested that Braithwaite and Makkai had placed too much reliance on the deterrent effect of formal sanction threats. They did not consider the effect of other informal kinds of sanctions such as reputational sanctions on the organisation (not dissimilar to the motivations of Tax Morale), nor did they include the role of perceived benefits or persons' moral sentiments (Paternoster and Simpson 1996). This assertion however appears to rely on an assumption that what is beneficial or what is costly to a firm is similarly beneficial or costly to the individual worker within the firm. There may be a link, but the link is clearly not absolute. It would not follow for example that a windfall gain for a firm will transfer to a windfall uplift in earnings for its workers.

The Paternoster and Simpson findings show closer alignment to the expected outcome of deterrence than the findings of Braithwaite and Makkai. However, Braithwaite and Makkai carried out their research in the field with executives involved in the Australian nursing home industry. Paternoster and Simpson used
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four vignettes in controlled conditions with students. The challenges associated with laboratory experiments versus real-life encounters have been noted earlier.

As well as there being distinction between the decision-making processes of organisations and the decision being processes of individuals, the literature has explored the behaviour of individuals as individuals, versus the behaviour of individuals working in organisations or other forms of group. In a review of the experimental literature on the behaviour of what he terms corporate actors but what others broadly term Agents, Engel (2010) notes that in many respects, corporate actors suffer from the same biases as individuals. As Engel explains it, corporate actors differ from individuals deciding on their behaviour in a setting with no corporate implications. A corporate actor has substantial autonomy from the ultimate beneficiaries of their actions. Separate research also confirms that individuals acting in a professional capacity (as some Agents act) take moral decisions regarding taxation on a different basis to non-specialists (Frecknall-Hughes et al. 2016). As against this the effect of taking decisions within a group on behaviour as predicted by Expected Utility Theory has been studied by Bone et al. (1999). These researchers found that in terms of expected utility, there was a high level of consistency between the behaviours of individuals and groups. All of this remains in contrast to the position taken by Alm in arguing the need to move away from modelling individual behaviour to modelling group behaviour within firms in studying tax compliance Alm (2011).

Reconciling all these divergent findings suggests that there is indeed more work to be done on reconciling organisational behaviour with the behaviour of individuals under Expected Utility, Prospect Theories and the theories of Tax Morale. It seems that Agents working within organisations may not react to influences on their decision making delivered in an organisational context in the same fashion as they might do in a private capacity. They may take tax compliance decisions on behalf of their organisations which they might not do on their own behalf when addressing their personal tax affairs. The inconclusive nature of research into compliance
decisions made by organisations as distinct from compliance decisions made by individuals prompts examination of the linkages between organisations and the individuals or Agents who work within them and take the decisions on behalf of their organisations. It follows that further research into tax compliance decision making by organisations must be conducted from a theoretical perspective which describes the conduct of individuals within and relative to the organisation in which they work.

### 3.6.1 The role of Agency Theory

In their work on the theory of the firm Jensen and Meckling developed a theory known as Agency Theory, which describes the interaction of organisations and their stakeholders (Jensen and Meckling 1976). Jensen and Meckling have argued that it is erroneous to think about organisations as if they were persons with motivations and intentions. Their Agency Theory involves an Agency Relationship. This is a “contract” under which the Principals engage another person (the Agent) to perform some services on their behalf which involves delegating some decision-making authority to the Agent. It is asserted that it is generally impossible for the Principals to ensure that the Agent will make optimal decisions from the Principals’ point of view at zero cost. These cost areas are:

- monitoring expenditures by the Principals - the costs suffered by the Principals in ensuring that the business of the organisation is conducted to their satisfaction
- bonding expenditures – these are costs incurred by the Agent, directly or indirectly, to shield the Principals from any harm, and
- residual loss, being the difference in value between the outcome of the Agent's actual decisions and alternative decisions which would have been more in the Principals’ favour.

These three cost components of Agency Theory offer a lens through which the behaviour of executives who take tax compliance decisions within an organisation (the “Agents” of Agency Theory) might be assessed. The organisation’s “compliance behaviour” is dependent on the behaviour of the individual employed within an organisation and charged with operating the fiduciary tax system on behalf
of the company. Support for the coherence of such an approach is to be found in Crocker and Slemrod (2005) who have contended that it is necessary to separate ownership and control when understanding corporate tax evasion. This is because owners stand personally to benefit or lose out from compliance and non-compliance decisions. This is not to say that the tax behaviours of organisations and those who work for them are not linked. Joulfaian has identified a link between the probity of an executive's tax affairs and the probity of the tax affairs of the organisation for which he or she works (Joulfaian 2000). Chen et al. (2010) provide evidence which suggests that family held companies are more sensitive to tax risk and reputational risk, and therefore are more likely to be tax compliant. Desai and Dharmapala (2006) have developed a theory to link the incentive arrangements for corporate executives and tax avoidance planning, finding evidence to support their theory in data on executive remuneration available in the public domain.

Another indicator of the appropriateness of the Agency Theory approach would be that the likelihood of evasion is greater in closely held entities than in widely held entities. Agency costs will be diluted by the number of Principals involved in the business. It should follow therefore that, while monitoring and bonding costs will be proportionately higher for larger businesses, the impact of Agency costs on individual Principals will be considerably less for widely held entities. Slemrod (2007) cites IRS evidence dating from the 1980s to support this. Work by Desai et al. (2007) would however seem to refute this notion, but it may be that their model is based on a key assumption which is flawed. While they assert that most transactions aimed at diverting corporate value toward controlling shareholders also reduce corporate tax liabilities, this is not the case for the Irish and UK systems which are the subject of this research. Both Irish tax legislation and UK tax legislation provide special rules for the taxation of the Principals (the tax legislation uses the term “participator”) of a company depending on the number of Principals involved. These special “close company” rules are designed to minimise arbitrage between the corporate tax system and the personal tax system. It would not be sensible to conduct research into tax compliance behaviours in a manner which does
not distinguish between organisations and their stakeholders, when the tax system itself insists on such a distinction.

### 3.7 Conclusions

From this review, a number of recurring themes have emerged in the literature. The prevailing theories of tax compliance behaviour have their advantages and disadvantages, but none seem to be able to describe or predict empirically established compliance levels. It is unclear as to the extent to which theories of tax compliance apply equally to individuals and organisations, as most of the theoretical and experimental work has involved tax compliance decisions by individuals; there is some evidence to suggest that there is a different context for organisational compliance behaviour. Very little research has been conducted into the tax compliance behaviour of organisations compared to the volume of work conducted on the tax compliance behaviour of individuals. There is also a dearth of research into the particular aspects of fiduciary tax compliance. These findings give rise to three research questions:

- Are the theories which attempt to explain tax compliance behaviour fully appropriate to organisations discharging fiduciary tax obligations?
- Are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals?
- If not, can any of the theories be adapted or modified to better explain fiduciary tax compliance decisions by organisations?

These questions will be tackled by undertaking field research into the fiduciary tax compliance behaviour of organisations. The approach taken in doing this is described in Chapter 4, where the methodology used in this thesis to approach some of the gaps in the knowledge is set out.
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4.1 Philosophical Context

Oats (2012) observes that tax researchers tend not to enter into debates regarding the philosophical underpinnings of their research. That reluctance in itself is a philosophical underpinning; a pragmatic recognition of the practical nature of tax administration. In turn this would lend support to the appropriateness of a realist approach to tax research. However, as Oats also notes, if a tax researcher is not explicit about their philosophical beliefs, it makes it more difficult for their audience to judge the validity of the researcher’s claim. The philosophical context of the research is realism, and is influenced in particular by the thinking of the sociologist Max Weber. Weber contended that we can achieve an understanding at the level of meaning when we understand not just the stimulus for, and the outcome of a given situation, but also why the stimulus led to the particular outcome (Weber 1978). Weber intended his concept of understanding on the level of meaning to distinguish between areas suitable for sociological study, and areas which were unsuited to the discipline (Timasheff 1955). The approach is not without its critics. Abel (1948) concludes that it does not serve as a means of verification. However he acknowledges that it is a source of “hunches which help us in the formulation of hypotheses”. The hunches referred to by Abel are derived from the personal experiences which underpin “understanding on the level of meaning”. He makes a distinction between interpretations which could be correct, and interpretations which are in fact correct. It is necessary to first of all test for interpretations of the response to stimuli which could be correct, and then ask questions to ensure you have arrived at true interpretations of conduct. Only then can one generalize from the data gathered.
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Abel’s critique underlines the suitability of Weberian realism to a study of this nature. In the context of organisational tax compliance, the stimuli as per the expected utility models are risk, likelihood of detection, and aversion to penalties associated with failing to comply with the requirements of the various taxes acts. Tax morale might include other stimuli conflated in Torgler’s description of tax morale as the “intrinsic motivation to pay taxes” as noted in Chapter 3 – moral beliefs, the wish to conform to social norms, respect for the revenue authority, appreciation of the broader social contract and so on. The stimuli can be seen within the context of an organisational framework, with Principals and Agents, a hierarchical management structure among the Agents, existing organisational norms and procedures and external relationships with suppliers, customers and other stakeholders including the revenue authority.

The table which follows summarising the theories and the associated stimuli is adopted from James and Alley (2002).

**TABLE 6 - TAX COMPLIANCE STIMULI**

<table>
<thead>
<tr>
<th>Tax Compliance</th>
<th>First Approach (Economic Deterrents)</th>
<th>Second Approach (Tax Morale)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concept of:</td>
<td>Tax Gap 100% compliance less actual revenue.</td>
<td>Voluntary Willingness to act in accordance with the spirit as well as the letter of the law.</td>
</tr>
<tr>
<td>Definition</td>
<td>Narrower</td>
<td>Wider</td>
</tr>
<tr>
<td>Tax compliance</td>
<td>Economic rationality</td>
<td>Behavioural co-operation</td>
</tr>
<tr>
<td>Exemplified by:</td>
<td>Trade off:</td>
<td>Individuals are not simply independent, selfish utility maximisers. They interact according to differing attitudes, beliefs, norms and roles. Success depends on co-operation.</td>
</tr>
<tr>
<td></td>
<td>1. Expected benefits of evading.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Risk of detection and application of penalties.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Maximise personal wealth</td>
<td></td>
</tr>
<tr>
<td>Issues of:</td>
<td>Efficiency in resource allocation</td>
<td>Equity, fairness and incidence</td>
</tr>
<tr>
<td>Taxpayer seen as:</td>
<td>Selfish calculator of pecuniary gains and losses</td>
<td>“Good citizen”</td>
</tr>
<tr>
<td>Can be termed the:</td>
<td>Economic approach</td>
<td>Behavioural approach</td>
</tr>
</tbody>
</table>

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The outcomes in response to the stimuli are the overall tax compliance levels noted in earlier chapters. As was shown in Chapter 3, Expected Utility Theory, Prospect Theory and the theory of Tax Morale have not been tested within organisations to explain the linkage between tax compliance stimulus and tax compliance outcomes, either for direct or for fiduciary taxes.

The Weberian approach involved dividing the research project into two separate phases.

- The first phase would explore whether or not the various stimuli and responses suggested by the theories (the “hunches” in Abel’s terminology) existed and could be correct, in the context of the tax compliance behaviour of an organisation. The findings should establish if the theories which attempt to explain tax compliance behaviour are fully appropriate to organisations discharging fiduciary tax obligations, or where there are gaps. Thus the first research question is addressed.

- Research would then be carried out to explore how the theories explained the compliance decision making process by finance professionals operating within organisations with different fiduciary tax obligations. In this way the second research question, are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals, is tackled.

If the research was successful, it could then be possible to generalise from the data collected to either confirm the applicability of the theories of tax compliance behaviour to organisations, or adjust or refine the existing theories, or discard them in favour of a new theoretical model. Such a discussion is offered in Chapter 7.

4.1.1 Addressing Bias
The lack of extant research into organisational fiduciary tax compliance behaviour meant that there were no specific safeguards identified by previous researchers
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which could be followed in conducting this research work. This research is qualitative in nature. Therefore the biases which typically are a consideration in quantitative research, while remaining important, maybe less to the fore. It does not necessarily follow that the existence of bias should be equated with the existence of error.

Observer bias can occur when the perspective of the researcher impacts on the analysis and interpretation of the findings. Experimenter bias may arise when the researcher permits personal views to impact on the survey instrument or the conduct of interviews. There is also a risk of selection bias in the population being surveyed, the survey responses which are selected for analysis and in the choosing of candidates for interview. (Roulston and Shelton 2015) link bias in qualitative research to the philosophical context adopted (which as discussed at 4.1 above is Weberian realism). They suggest four factors which should be identified and addressed when adopting qualitative research methods. These are (after Roulston and Shelton (2015, p.337):

- transparency regarding the theoretical approach
- an explanation of how the theory informs the design of the study
- the appropriateness of the research design in answering research questions
- an explanation when certain research approaches are not adopted

These factors are addressed in the description of the methodology which follows.

4.2 Research Frame of Reference

While compliance outcomes are capable of objective scientific measure – volume of taxes collected, percentage of timely returns received and so on, the tax compliance stimuli as they might apply to organisations are perhaps less so and this pointed towards a qualitative approach to the research. This is particularly the case for the stimuli for tax morale, as McKerchar et al. (2013) have pointed out. One of the methodological challenges was to develop appropriate tests reflective of the experiences of a tax professional, but which remained suitably experimental and
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objective (Lamb and Lymer 1999). This difficulty was exacerbated by the dearth of research into the compliance behaviour of organisations, along with the question marks over whether it is sensible to explore how compliance decisions are made without reference to the behaviour of individuals within the organisation. It also appeared from the literature review that while there is evidence to support an investigation of organisational behaviour in terms of the behaviour of individuals acting within those organisations, the empirical research in this area is similarly scarce. Therefore field research which is focused on tax compliance behaviour and particularly fiduciary tax compliance behaviour within organisations will make a contribution to knowledge. It was noted in the literature review that research into tax compliance decision making by organisations must be conducted from a theoretical perspective which describes the conduct of individuals within and relative to the organisation in which they work. The need to distinguish between the role of the Principal and the Agent in an organisation was also noted leading to the suggestion at 3.6.1 above that one theoretical perspective which may be applied to research in this area is Agency Theory.

It is recognised that a number of alternative theories of organisations could have been adopted as a lens in investigating the fiduciary tax compliance decisions of organisations. Freeman’s Stakeholder Theory posits that all persons with legitimate interests in an organisation do so to obtain benefits (Freeman 2010). Management decisions can be framed as attempts to maximise the benefits to all the stakeholders concerned. The difficulty this approach creates in terms of the current research is in considering whether or not the revenue authority is a stakeholder of the organisation in the sense intended within the theory. It could be argued for instance that a compliant approach to taxes, while clearly maximising the benefit to the revenue authority, also maximises the benefit to the various stakeholders of the organisation by reducing the risk of financial losses through tax penalties. However because of the manner in which fiduciary taxes are operated and accounted for as described in Chapter 2, fiduciary tax compliance by the organisation is not of particular benefit to all stakeholders. The customers of financial institutions as mentioned in the opening chapter and explained further in Chapter 7 in the context of the DIRT enquiry clearly
benefitted, at least in the short term, from the non-compliance of those financial institutions.

The uniqueness of the revenue authority relationship with the organisation also poses issues in the use of the transaction cost economics as a lens (Shelanski and Klein 1995). This approach had immediate appeal in that it treats the firm essentially as a governance structure. Transactions must be governed as well as designed and carried out and certain institutional arrangements effect this governance better than others. However transaction cost economics may be limited in the light it sheds in understanding taxation decisions because with tax there is in fact no transaction – the tax payment is by definition unrequited. Also implicit in transaction cost economics is a notion that market forces work to bring about an "efficient sort" between transactions and governance structures, so that exchange relationships observed in practice can be explained in terms of transaction cost economizing. In practice however revenue authorities don’t consent to any form of “efficient sort” in their dealings with taxpayers; there may be an awareness on their part of compliance cost implications but little enough evidence that mitigation of the compliance cost on taxpayers is fundamental to the design of their compliance approaches.

4.3 Questions of Ethics and Moral judgement

As noted at 3.5 above both Expected Utility Theory and Agency Theory are predicated on the achievement of advantage through the maximisation of gain and the minimisation of loss, while neither factor in the possibility of the rational economic actor taking decisions by reason of a sense of personal morality or ethics. As regards Expected Utility Theory Cullis et al. (2006) while noting that the rational economic actor is a recognised caricature, suggest that predictions cannot reliably be made (or more correctly falsified) without accepting the convention of the caricature. The concept of the rational economic actor also underpins Agency Theory. Jensen (one of the authors of Agency Theory) goes so far as to contend that if people within organisations act for motives other than rational self-interest, they are likely to increase agency costs (Jensen 1994). Fraedrich et al. (1994) consider it highly
questionable to assume that ethical behaviour in a business context is identical to ethical behaviour in a personal or social scenario. Because the situational factors present differ, they called for more work to be done to investigate ethical reasoning in a business context. Doyle et al. (2012) found that tax practitioners considering tax scenarios generally reason at lower levels than in social scenarios.

It has also been shown in the literature review that regarding organisations as citizens, operating within moral constraints, can at least be somewhat problematic. If the organisation is constituted as a company (as distinct from a partnership or some other form of legal entity) it is important not to conflate the company with the individual stakeholders involved in it. Tax law treats a company as a separate taxpayer in its own right, but the company only exists by virtue of the legal structure which supports it. The company may be accountable for tax (and interest and penalties in the event of tax default) but the individuals who take the tax compliance decisions do so as agents of the company (Lavermicocca and Buchan 2015).

Taken together, these views suggested that it might be more appropriate to test primarily for the applicability of theories grounded on the involvement of rational economic actors in the first instance. If no evidence was found that tax compliance decision making was grounded in accordance with this category of theory, the research net could be cast wider towards the “second category” of James and Alley (2002). However it would have been unwise to completely exclude tests for Tax Morale considerations particularly in the first phase of the research, even though the literature casts doubts over its applicability for organisations. Therefore, as will be seen later, a number of questions were raised in the survey of tax professionals addressing issues such as perceptions of normal behaviour within the business sector, the degree of willingness to blow the whistle on the evasion of others, the degree of respect for the revenue authority and the degree of willingness to commit tax default to secure competitive commercial advantage.
4.4 Phase 1 - Discovering the responses to compliance stimuli within an organisation – are the current theories appropriate?

4.4.1 Selecting a research approach
An early concern was how to select the best type of research tool for the questions on hand. The scarcity of the research in the tax compliance area has already been noted, but this begs the question as to whether or not traditional research approaches are appropriate in identifying tax compliance decision making processes. Part of the reason for the scarcity of research may have been that traditional research methods such as statistically grounded surveys provide the wrong tools to use.

It is also evident from the review of the literature and as highlighted in Chapter 3 that for excellent reasons of taxpayer confidentiality, the detailed compliance data available to the revenue authorities is either not made available to the private sector for academic research, or is made available only in very limited circumstances and subject to strict conditions. This difficulty is a recurring one in any research involving the interaction between the public sector and the private sector. As Waldo (1972) notes, every public initiative creates new and complex arrangements which blur the distinction between public and private. Although Waldo does not make explicit reference to it, this observation surely includes taxation initiatives. This makes it unlikely that revenue authority data with its focus on results and outcomes can shed much light on compliance decision making processes. That may be particularly true for decisions within organisations where little enough is known about how compliance decisions are arrived at.

Bailey (1992) notes the linkage between theory and practice in all forms of public administration. She suggests that the existence of the theory/practice bond sets public administration apart from other social sciences, and implies the need for a specialised set of research questions and research designs appropriate to address them. Boll (2014) appears to concur with this line of thought. She suggests that tax compliance research could benefit from a more practice oriented focus “studying tax compliance where it takes place as well as what it is made of” (at page 294). Boll’s
paper is a detailed study of two tax compliance situations, in her stated attempt to provide an analysis of how tax compliance comes about. Boll’s paper simultaneously displays the strength of her original research approach, and the challenge of its implementation in practice. Her two case studies, one involving a kitchen fitter, the other involving a carpentry business, raise the Weberian challenge of how to extrapolate generalisations from the undoubted knowledge gained in the analysis of a tiny cross-section of the taxpayer community.

Flyvbjerg (2006) identifies three arguments against an in-depth case study research methodology. He maintains (while not subscribing to the view that case study methodologies lack merit) that you cannot generalise from a single case, that a case study may not be well suited for full-fledged research schemes and that the case study may give too much scope for the researcher’s own interpretations. In particular Flyvbjerg notes that the case study is ideal for testing generalised conclusions using Karl Popper’s test of falsification. If just one observation does not fit with the proposition, it must be considered not valid generally and must therefore be either revised or rejected.

With these considerations in mind, it seemed that the research instrument should try to capture the practical experience of those who make compliance decisions in the places where they are made, but with a wide range of practical experience. This suggested canvassing the views of a wide number of experts in the first instance. The suggestion was underpinned by Flyvbjerg’s observation that a common feature of all experts is that they “operate on the basis of intimate knowledge of several thousand concrete cases in their areas of expertise” (Flyvbjerg 2006, p.222). The use of a questionnaire to survey the views of tax compliance experts was chosen as a reasonable approach to the initial phase of the field research. It seemed essential that the survey be completed by individuals within organisations who were responsible, at least in part, for the tax compliance decisions taken by organisations. This immediately gave rise to considering whether or not the views of tax advisers to organisations should be included. OECD surveys had suggested that in excess of
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90% of corporate returns were prepared with the assistance of tax intermediaries within Ireland and the UK (OECD 2015). In terms therefore of evaluating the compliance stimuli and the responses within organisations it seemed necessary to canvass the views of such advisers. Many professionally qualified accountants are trained in advisory firms, and then move to industry subsequently in their careers. If attitudes towards tax compliance were broadly similar from the perspective of the tax advisor and of the company officer, that data could be useful in itself. Pragmatically, in advertising the existence of the questionnaire, it would have been difficult to target only individuals within organisations without alerting the tax compliance advisory community of professionals to the existence of the research. It was felt (correctly as it turned out) that advisers would wish to be involved. The questionnaire, while anonymous, asked respondents to identify whether they were reporting in the capacity of advisers, or in the capacity of officers working within organisations on the tax compliance obligations of that organisation. This latter category of respondent comprises “Agents” as described by Agency Theory.

Revenue authority officers are also concerned with the operation of tax compliance, and may hold professional qualifications comparable with or identical to the qualifications of private sector Agents. However, as revenue authority officers have responsibilities for enforcement, it was felt that their views might contaminate findings particularly in relation to areas involving risk of detection. They were excluded from the questionnaire process. In summary the respondents comprised any individuals being Agents who are responsible in any way for decision-making, operating or implementing the direct taxes or fiduciary taxes within their organisation, along with professionals advising organisations on the operation of their direct taxes or fiduciary taxes, but excluding employees of a revenue authority.

It appeared possible, using web-based distribution methods, to conduct a survey of such individuals quite widely and cost effectively. An application to the University of Limerick Kemmy Business School Research Ethics Committee (KBSREC) was made for approval to carry out the survey. The application was considered the meeting of KBSREC on 21 January 2013 and approval granted.
4.4.2 Considerations in the design of the questionnaire

4.4.2.1 Threatening questions
Participation in, or aiding and abetting, tax default is an offence within both the jurisdictions where the survey was to be conducted. It can be treated as a criminal matter, as pointed out in Chapter 1.

Schneider describes the difficulty of traditional methods of research in the area:

The main disadvantage of this method is that it presents the flaws of all surveys: average precision and results depend greatly on the respondents’ willingness to cooperate… Most interviewed hesitate to confess a fraudulent behavior and quite often responses are rarely reliable so that it is difficult, from this type of answer, to calculate a real estimate – in monetary terms – of the extent of undeclared work… The results from these kinds of surveys are very sensitive to the way the questionnaire is formulated.”

(Schneider 2002, p.33)

Schwarz and Oyserman (2001) identify that a question may be considered “threatening” by a respondent. A question is considered threatening if it pertains either to a highly desirable or undesirable behaviour. They note that when respondents provide their answer, they may decide to edit it for reasons of social desirability and self-preservation. Socially desirable responding is less frequently observed in self-administered questionnaires than in face-to-face interviews. To reduce question threat, Schwarz and Oyserman suggest that researchers embed threatening questions among less threatening ones.

Equally however Schwarz and Oyserman suggest that too many privacy and confidentiality assurances can backfire, because they create an impression of threat or risk in the mind of the respondent who may then decide not to participate in the survey. In this they echo Lietz (2010). Prior to seeing the actual questions, respondents cannot evaluate how threatening those questions might be. Once respondents see the actual questions, they may find them less threatening than the
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opening assurances might have suggested. It is therefore preferable to introduce confidentiality assurances in low-key terms, while perhaps reinforcing them at a later stage within the survey. Couper et al. (2010) have looked at even more extreme situations where there is a risk that the individual respondent can be identified from their answers. The risk here to the research is twofold. The first is that respondents would be unwilling to identify themselves having given undesirable responses to threatening questions. The second is that those who would be willing to identify themselves might give self-censored answers so that they are not perceived as giving embarrassing responses to threatening questions. In the first instance, we lose the potential for future research with honest respondents. In the second instance, the raw data from identified individuals might not be as reliable as anonymous data.

Couper et al. (2010) also considered the impact of potential identification on respondents. The authors concluded that “it is likely that sensitive topics themselves suggest to respondents the possibility (risk) of more harmful consequences, thus rendering explicit risk and harm information redundant.” They found that specific mention of the disclosure risk was unlikely to be used by respondents in their decision as to whether or not to participate. Professionally qualified tax personnel would be in a position to determine that risk for themselves. The survey was devised with these principles in mind, while having reference as appropriate to Appendix A and B of the KBSREC Guidance Notes.

4.4.2.2 Other design considerations

Lietz (2010) offers a review of the literature concerning questionnaire design, and identifies a number of factors arising. These include:

- Questions should focus on current attitudes and very recent behaviour.
- Vague quantifiers such as “frequently”, “usually” and “regularly” should be avoided.
- Numeric and verbal anchors and endpoints should be mentioned explicitly. “Disagree” options should have lower numeric values attached to them than “agree” options.
Schwarz and Oyserman (2001) describe the behaviour of the respondent as a series of tasks which the respondent undertakes. The role of the researcher is to make these tasks as straightforward as possible, because by so doing, the likelihood of accurate responses being provided is enhanced. Self-administered surveys (and this survey was self-administered using online tools) are highly context dependent and minor changes in question wording, format or order can profoundly affect the results obtained. When completing a self-administered survey, a respondent has no one to ask for clarification. It is not enough that the respondent understands the literal meaning of the question – “they need an understanding of the pragmatic meaning as well, that is to say, an understanding of the questioner’s intentions”.

4.4.2.3 Use of survey software
Qualtrics survey software, licensed through the University of Limerick, was used to design, distribute, and collate the responses from the questionnaire. Qualtrics is an on-line survey development tool, with some capacity for response analysis and report-writing. Some of the analysis was completed using MS Excel spreadsheets with data downloaded from Qualtrics. All of the Qualtrics coding was carried out by the researcher. Question branching techniques were used in the design such that if the respondent identified himself or herself to be a company officer as distinct from a tax practitioner or external adviser, slightly different questions more appropriate to their business environment were asked. Two versions of the survey were programmed; one for the Irish tax jurisdiction and one for the UK tax jurisdiction. However they differed in no material respect other than context and terminology changes in the phrasing of questions as appropriate to the respective jurisdictions. Before the formal launch of the survey, it was piloted on a small number of tax and accounting professionals both within practice and within industry. Several helpful comments, mainly relating to the phrasing of the questions for clarity, were received back and incorporated into the final version of the survey prior to launch. The order in which some of the questions were raised in the survey was also modified following suggestions from participants in the pilot program. The use of such an online questionnaire technique facilitated the distribution of the questionnaire, while
reducing the possibility of error through results transcription mistakes and the like (Bonometti and Tang 2006).

4.4.3 Nature and implications of the questionnaire sample
To ensure that the research would be valid and compelling, it was necessary to garner survey responses from a large sample of financial professionals. It can be hard to attract the attention of highly skilled professionals, no matter from which discipline, and get them to contribute their time voluntarily. This suggested that convenience or volunteer sampling approaches might overcome this difficulty. Because of the position of the researcher as a director of a professional accountancy institute, Chartered Accountants Ireland, particular care was taken to clarify that the research was not part of the regular work of the researcher, but separate and part of a personal post-graduate research programme. As is customary, the communications also stressed that participation in the research was voluntary, and that participation was anonymous, unless the respondent indicated their consent otherwise.

Fieldwork on taxpayer behaviour using a survey instrument is relatively rare in the literature, as noted in the literature review. Where such fieldwork has been carried out, it is frequently based on relatively few responses (Ariel 2012). This survey was not carried out on a sample. The entire population of the organisations involved was invited to respond. The survey questionnaire was publicised by direct approaches to:

- The Association of Chartered Certified Accountants (Ireland)
- The Institute of Certified Public Accountants in Ireland (Ireland)
- The Irish Taxation Institute (Ireland)
- The Institute of Chartered Accountants in England and Wales (UK)
- The Institute of Chartered Accountants in Scotland (UK)
- The Ulster Society of Chartered Accountants (UK)\(^8\)

\(^8\) The Ulster Society is a District Society of the Institute of Chartered Accountants in Ireland, but has a strong identity in its own right. Virtually all those members work in Northern Ireland and are thus
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• The CCAB-I Tax Committee
• FPM Chartered Accountants

These organisations were asked to include a link to the web-based survey in some of their contact material with members. All of these professional bodies expressed interest in the research being undertaken, but the extent to which they promoted it differed widely. The majority of responses came via promotion by Chartered Accountants Ireland and the Institute of Chartered Accountants in Scotland. Both of these professional bodies routinely e-mail their members, as often as once a week, with information concerning tax developments, and therefore had an already established channel of communication which could reach financial professionals with an interest in taxation matters. In both cases, along with mention of the study in routine tax e-mail bulletins, the organisations issued a special notice which directly promoted a link to the survey. For example, on 5 July 2013, the Institute of Chartered Accountants in Scotland issued the following e-mail to 4,000 members:

A colleague from the Irish Institute, Brian Keegan, is carrying out independent research as a postgraduate student at the University of Limerick into Business Tax Compliance behaviour. Could you please spare a few minutes of your time to complete his survey and let him know what you think?

The survey can be accessed by clicking the following link: [hyperlink provided]

ICAS

CA House 21 Haymarket Yards

Edinburgh EH12 5BH

within the jurisdiction of the UK for tax purposes. The request for assistance in the survey came from the secretariat of the Ulster Society.

9 The CCAB-I Tax Committee is a group of accountancy representatives with tax specialisms, established jointly by The Association of Chartered Certified Accountants, The Institute of Certified Public Accountants in Ireland, The Institute of Chartered Accountants in Ireland and the Chartered Institute of Management Accountants as an advisory and representative group for those institutes.

10 FPM Chartered Accountants is a mid-sized practice, approached directly because it specialises in tax work across the two jurisdictions of Ireland and the UK, therefore dealing with two revenue authorities. It was felt professionals in that firm might have unique insights.
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As this example shows, in all of the publicity and promotional communications, particular care was taken to ensure that:

- the research was clearly identified as not being part of any research being carried out by a particular professional body
- that participation in the research was voluntary, and
- that participation was anonymous, unless the respondent indicated otherwise (after Couper et al. (2010))

As each professional body was given a different web link to the survey to use in their promotional material it was possible to link back the survey responses to the promoting organisation. Significant blocks of responses were received via promotion by the Institute of Chartered Accountants in Scotland (ICAS), the Ulster Society, and the Institute of Certified Public Accountants in Ireland (ICPAI). Very few responses could be attributed to promotion of the survey by the Association of Chartered Certified Accountants and the Irish Taxation Institute.

<table>
<thead>
<tr>
<th>Qualtrics Survey name</th>
<th>Constituency</th>
<th>Opened (all 2013)</th>
<th>Qualtrics reported tally</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAI - Ireland version</td>
<td>Recipients of the CAI <em>Tax News</em> publication</td>
<td>29 April</td>
<td>232</td>
</tr>
<tr>
<td>ICAS - UK version</td>
<td>Selected members of the Institute of Chartered Accountants in Scotland</td>
<td>24 May</td>
<td>190</td>
</tr>
<tr>
<td>Ulster Society - UK version</td>
<td>Members of the Ulster Society of Chartered Accountants</td>
<td>9 July</td>
<td>83</td>
</tr>
<tr>
<td>CPA - Ireland version</td>
<td>Selected members of the Institute of Certified Public</td>
<td>May 1</td>
<td>31</td>
</tr>
</tbody>
</table>
METHODOLOGY

<table>
<thead>
<tr>
<th>Qualtrics Survey name</th>
<th>Constituency</th>
<th>Opened (all 2013)</th>
<th>Qualtrics reported tally</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Committee South - Ireland version</td>
<td>Members of the CCAB – I Tax Committee, and selected individuals within FPM chartered accountants</td>
<td>June 13</td>
<td>26</td>
</tr>
<tr>
<td>ACCA - Ireland version</td>
<td>Members of the Association of Chartered Certified Accountants in Ireland</td>
<td>May 8</td>
<td>6</td>
</tr>
</tbody>
</table>

All surveys were closed on 22 August 2013. The Qualtrics software reported that while the numbers of surveys reported above had been commenced, considerably fewer surveys have been completed. The completed tallies for each jurisdiction were as follows:

**Table 8 - Qualtrics Survey Completed Responses**

<table>
<thead>
<tr>
<th></th>
<th>Completed</th>
<th>Percentage completion</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ireland</td>
<td>207</td>
<td>70%</td>
<td>295</td>
</tr>
<tr>
<td>UK</td>
<td>185</td>
<td>68%</td>
<td>273</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>392</strong></td>
<td><strong>568</strong></td>
<td></td>
</tr>
</tbody>
</table>

It is not possible to say definitively why this percentage of surveys was not completed. The Qualtrics software records the date and time when the survey was opened, and the date and time when the survey was closed. In the majority of instances where the survey was not completed, the interval between opening and closing the survey was only 1 to 2 min. It may be surmised from this that respondents clicked on the survey out of curiosity, perhaps to see the layout and the type of questions being asked, and then quickly decided that the survey was not of interest to them. There are only a few instances where time appears to have been
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spent on the survey before it was abandoned by the respondent. However care is
also needed over this finding, as it is possible that the survey was open on screen
without activity for a period of time before being closed by the user.

The Qualtrix reporting function was used to export the raw data from the complete
responses to a CSV file for analysis. All of the analysis was carried out using MS
Excel spreadsheets to sort and filter the data. The bulk of the analysis was carried
out on the 77 responses which are described in some detail in Chapter 5. It would
have been possible to use many of the reporting tools available within Qualtrix to
produce tables and analysis, and the initial analysis was in fact carried out using
these tools. However it was found that the sifting and sorting of otherwise
unprocessed content using basic MS Excel methods enabled the identification of
patterns and the development of understanding in the responses with a degree of
confidence which is perhaps difficult to achieve without being close to the data itself.

It may be also worth reiterating here that the survey was qualitative rather than
quantitative in nature. The use of advanced statistical analysis on the data given the
nature of the sample and the purpose for which it was intended might have even
turned out to be an obstacle in interpreting the survey findings and their significance.

All of the findings from the survey as presented in this thesis and as set out in the
tables within the Appendix are derived from direct MS Excel analysis, rather than
from the Qualtrix reporting tools.

Comparable surveys of tax professionals are not prevalent in the literature.
McKerchar et al. (2005) describe an electronic survey carried out by the Australian
tax office in 2004 and made available to some 20,000 tax agents in that country. The
response rate in that study was approximately 1% (the response rate of this study is
approximately 4%). Nevertheless while noting this shortcoming in
representativeness McKerchar points out that the participants in the research were
tax practitioners as opposed to students who are commonly used in this type of
research and therefore able to provide “invaluable insights” based on their practical
experience. Highhouse and Gillespie (2009) argue that it is rare in behavioural
science for the nature of the sample to be an important consideration for
generalisability. They argue that a focus on the generalisability of effects can
overshadow the more correct focus, which is on the generalisability of theoretical
inferences. As noted earlier, it is the theoretical inferences which were being sought
in this phase of the research. Cook et al. (2000) make a strong case that while
response rate is a critical consideration in any analysis of survey results, the
representativeness of the sample is more important than the response rate obtained.
The volume of responses received, analysed in Chapter 5, coupled with the spread of
ownership and business interests of the respondents, suggest that the survey findings
do reflect the approaches of tax professionals generally to the topics raised.

4.5 Phase 2 - Explaining the fiduciary tax compliance decision
making processes within organisations - are the influences
the same as for individuals?
As anticipated, the findings from the survey necessitated a deeper investigation of
the reasoning behind the respondent’s answers to the survey. Particular weight was
placed on survey responses from Agents working in industry who were not
Principals of their organisations, as this seemed to provide the most relevant insight
into the fiduciary tax compliance decision making processes of organisations. The
further research is bounded by three findings from the survey which will be
described in greater detail in Chapter 5, but which require mention here.

- There was evidence that standard concepts within the theories under
  examination, such as risk aversion and risk of detection (Expected Utility
  Theory), measurement of utility and the application of heuristics in the
decision-making process (Prospect Theory) and respect for the revenue
authority (Tax Morale) were quite different in their application to
organisational fiduciary tax compliance decision making than they are to the
tax compliance decision making processes of individuals.
- The approach to tax compliance within an organisation cannot be divorced
  from the overall commercial objectives of the organisation.
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• The Principal/Agent relationships and cost constructs applied by Agency Theory can make a contribution in understanding the environment in which compliance decisions are taken, because the concerns of Agents are major factor in determining the compliance behaviours of their organisations.

There was a significant correlation between the responses from financial professionals in industry (Agents), and their peers in practice and advisory roles in professional firms. Establishing this correlation, though not among the research objectives, merits comment. It is possible that because most financial professionals have trained in professional accountancy firms before joining industry, they retain much of the same outlook and thought processes throughout their career. If that is the case, that would imply that the tax compliance culture of professional accountancy firms has a significant bearing on tax compliance culture within industry. For the purposes of the study, it suggests that greater reliance can be placed on the smaller number of responses directly from professionals working in industry because their views are more representative than was anticipated to be the case.

An analysis of the findings from the survey led to the identification of five topic areas for further research. These are:

- **Systems and Supports** – the impact of training, computer systems and other resources provided within organisations,
- **Detection** – how effective was the revenue authority in policing the system,
- **Governance** – management involvement and concern in the tax compliance affairs of the organisation,
- **Business planning** – how the affairs of the business are arranged to ensure tax compliance, and
- **Attitudes** – how the Agent regards his or her own work
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The strategy adopted for phase 2 follows the “mixed methods” approach of Creswell (2003) to gather pragmatic knowledge. He advocates that having achieved a better understanding of the research problems from the broad qualitative survey conducted in Phase 1, qualitative open ended interviews could be conducted to collect detailed information from participants. This field research combination of survey along with interview (though not necessarily in that order) has been successfully applied in recent Ph.D. theses (Lavermicocca 2012). For Phase 2 potential survey respondents from industry rather than from practice were approached to establish if they might be willing to participate in structured interviews to clarify and elaborate on the survey findings. An application to the KBSREC was made for approval to carry out such interviews. The application was considered the meeting of KBSREC on 14 May 2014 and approval granted.

4.5.1 Selecting for interview
As part of the survey, the questionnaire respondents were invited to provide their e-mail addresses if they were willing to participate in future interviews. Approximately 25% of respondents did so, which resulted in a list of potential interview candidates. The candidate list was refined and additional candidates approached based on the following criteria.

Organisation Size

Published Irish Revenue statistics contained in the Annual Reports of the Revenue Commissioners suggested that there were significant differences in compliance behaviour by reference to the size of the taxpayer organisation. In 2014 large case compliance was as high as 96% compared with a 75% compliance rate for smaller organisations (Revenue Commissioners 2015a). This data suggested that it would be necessary to select interview candidates from a wide range of industry sizes, and ideally from a wide range of industry types.
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Breadth of tax experience

It was also necessary to consider the wide variety of compliance issues which face industry and not to exclude experience of compliance challenges under different heads of tax. Unlike VAT or PAYE, some of these heads of tax such as Excise Duties or Betting Duty are only routinely encountered by a very few organisations.

Origin

Likhovski (2010) suggests that there may also be nation specific cultural factors tied in with approaches to compliance. For that reason it was also considered desirable to include in the mix of interviewees persons operating in multinational industry as well as indigenous industry. This might suggest a difference in the outlook of multinational organisations that could not be explained by virtue of their size alone.

Country of operation

As the survey garnered responses both in Ireland and in the UK, it was considered necessary to approach Company Officers from organisations based both in the UK and in Ireland.

The list of potential interview candidates from the survey was reviewed with these selection criteria in mind. Where there were gaps in the types of organisations represented in the list of potential candidates, such gaps were filled in by direct approaches to other interviewees working in industries of different size or profile. This resulted in 16 interviews being conducted with finance professionals from the following 13 types of organisation.
Table 9 - Profile of Organisations for Interviews

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Profile</th>
</tr>
</thead>
<tbody>
<tr>
<td>IRELAND</td>
<td>Multinational European headquartered – consumer goods</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Multinational manufacturing US headquartered – industrial goods</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Multinational European headquartered back-office services for offshore manufacturing</td>
</tr>
<tr>
<td>UK</td>
<td>Indigenous property management</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Indigenous professional services</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Semi-state service provider</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Public sector regulatory</td>
</tr>
<tr>
<td>UK</td>
<td>Multinational banking</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Indigenous manufacturing and services</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Indigenous publishing</td>
</tr>
<tr>
<td>UK</td>
<td>Indigenous insurance brokerage</td>
</tr>
<tr>
<td>IRELAND</td>
<td>Multinational leisure services</td>
</tr>
<tr>
<td>UK</td>
<td>Multinational European headquartered pharmaceuticals</td>
</tr>
</tbody>
</table>

Additional interviews

A difficulty with the sample presented in that with one exception, all of the organisations were of a size which justified employing a finance professional to address compliance issues. The exception was one instance of a very small company where the owner manager happened to be a chartered accountant. To redress this potential imbalance, interviews were conducted with two principals from smaller professional firms specialising in providing outsourced tax compliance and bookkeeping services to smaller industry. Lastly, it happened that two finance professionals from the same business volunteered to carry out interviews. These were conducted to see if there were diversities of view between more senior and more junior finance professionals within an organisation, although this was not a particular focus of the research. It was found in this instance that no such diversity
arose. In fact, as will be seen in the interview analysis in Chapter 6, there was a strong degree of homogeneity in the interview responses.

4.5.2 Conduct of the Interviews
The manner of the interviews followed recommendations by Gray (2009) on the collection of primary data through interviews. The interviews were conducted face-to-face between February 2015 and July 2015, except for two occasions where arrangements to meet fell through because of other commitments for the candidate. On those occasions, the interview took place by telephone. All interviews were recorded and transcribed. Typically the interviews lasted between 30 minutes and an hour. Initially two candidates were selected for interview to pilot the topic areas and a list of potential questions to be used during the interview process as an aide memoire for the researcher. It transpired that the evidence from the pilot interviewees was valuable, and their comments have been incorporated in the findings of Phase 2. The topic areas did not change from interview to interview, but some areas were explored more deeply than others depending on the particular interviewee’s interest and insights. All the interviewees were presented with a briefing note in accordance with KBSREC guidelines. The briefing note contained a consent form. Signed copies were requested and received from the interviewee in hard copy, or in some instances consent was indicated by an e-mail from the interviewee at the time of making the arrangements for the interview.

In the next chapter, Chapter 5, the web-based survey of the first phase of the research will be described in detail and the findings analysed towards providing the answer to the first research question - are the theories which attempt to explain tax compliance behaviour fully appropriate to organisations discharging fiduciary tax obligations? Chapter 6 will explain how the findings from the first phase led to the identification of interview topics for the second phase of the field research and describes the findings from those interviews which will address the second research question - are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals?
4.5.3 Analysis of the Interviews

As noted earlier, all of the interviews were recorded. The first four of the interviews were sent to a professional transcribing company. The results were somewhat unsatisfactory given the specialist nature of the matters under discussion at the interviews. The researcher therefore personally retranscribed these interviews, and personally transcribed every subsequent interview verbatim to ensure that all the comments were accurately noted. While accuracy is always critical, it was found early on that many of the interviewees had very similar observations to make in response to the topic areas. The appropriate attribution of comments and the recording of particular nuances which individual interviewees had made on general observations was felt to be especially important. During the transcription phase, passages and comments which were felt to be particularly relevant or insightful were highlighted in the text, for ease of reference during the subsequent analysis. The resulting transcripts in total run to some 40,000 words.

A licence for the use of QSR Nvivo software was obtained from the University of Limerick to establish if this could be of assistance in analysing the interview transcripts. It was found that because the researcher was very familiar with the interview content from conducting the interviews and then transcribing the material, and because relevant material had already been highlighted at the transcription phase, the Nvivo software added little to the analysis process. The analysis which is presented in chapter 6 consists of a systematic reread of transcripts to collect comments and observations relevant to each specific topic area, and to reassemble these as a coherent narrative. It may be relevant to note that the conduct of the interviews, the transcription and subsequent analysis was in terms of time commitment the single biggest component of this thesis.
5 ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

5.1 Overview
This chapter outlines the findings of Phase 1 of the fieldwork as described in the previous chapter on Methodology.

An online survey was conducted. 568 responses to the online questionnaire were received, of which 392 were fully completed and appropriate for analysis. The survey questions were designed to test for aspects of the stimuli and responses anticipated under Expected Utility Theory, Prospect Theory and Tax Morale in the decision-making process of Agents within organisations. Questions which would provide evidence of the applicability of Agency Theory concepts in organisational decision making were also included.

5.1.1 Structure of this Chapter
Part 5.2 of this chapter explains how the survey was grounded in theory considerations. As noted in the Literature Review, there is almost no extant research on the tax compliance decision making behaviours of decision-makers – Agents – within organisations. It was necessary to devise a survey which would delineate the environment, pressures and expertise of Agents in tax decision making roles to ensure that the subsequent Phase 2 of the research, interviews with Agents, was properly focused. The questions are listed and mapped to aspects of the theories being investigated. Part 5.3 of this chapter, Cohorts of Responses, makes some general observations about the findings from the survey to help frame the analysis. It explains why the total findings were narrowed down to the responses from a cohort of 77 Agent respondents who had no equity holding (and therefore were not Principals) in their organisation. Part 5.4 summarises the key findings from the responses of these 77 Agents and discusses the findings grouped by reference to the evidence they provide to support Expected Utility Theory, Prospect Theory, and Tax Morale explanations of compliance behaviour. It also comments on findings which support the use of Agency Theory in understanding the tax compliance decision
making processes of organisations. A detailed breakdown of responses on a question by question basis is provided in the Appendix to this thesis.

The chapter concludes with a tentative model profile of the type of individual who, as an Agent for their organisation, takes compliance decisions, as compiled from the responses. This profiling grounds a further exploration of tax compliance motives and behaviours within organisations with different types of tax compliance obligation which are addressed through interviews and these will be discussed in Chapter 6.

5.2 The Survey Questions
As noted in Chapter 3, the insights into compliance behaviour provided by the literature to date are almost entirely grounded on field research or surveys which examine the individual behaviours of individual taxpayers concerned with their own personal tax liabilities. There is almost no research into organisational compliance behaviour – the conduct of companies. Neither is there substantial research into compliance behaviour where the taxes in question are fiduciary; taxes collected by organisations on behalf of government. As pointed out in Chapter 1, fiduciary taxes are a key component of the total tax yield in both Ireland and in the UK, comprising some 80% of all tax collected.

Because of the lack of existing research which could be built upon, a key challenge in this thesis and an important element of its contribution to knowledge was to establish how best the research into tax compliance by organisations could be carried out. As was noted in Chapter 4, the Methodology, a two phase Weberian approach is adopted. In this first phase, the survey questions would be prompted primarily by the compliance stimuli within organisations – legal obligations, commercial considerations and resources available to carry out tax compliance. However the questions could not be asked without any reference to prevailing theories of compliance behaviour. Otherwise it would be impossible to say whether or not the
responses tended to confirm or disprove the theories in the literature which had been derived with some success from individual tax compliance behaviours. Accordingly the questions were devised not simply by reference to organisational stimuli, but also with an eye to the key aspects of the tax compliance theories under consideration and the presumed imperatives of Agent/Principal relationships described as Monitoring, Bonding and Residual Loss Costs under Agency Theory (Jensen and Meckling 1976).

### 5.2.1 The Theories and their Indicators

We have seen from the Literature Review in Chapter 3 that a key concern among researchers has been to identify the most appropriate behavioural theories to describe tax compliance outcomes. This research probes the relevance of one or more of the theories under examination, which by way of reminder are:

- **Expected Utility Theory** as expressed for taxation initially in the work of Allingham and Sandmo (1972), along with the work of Yitzhaki (1974).
- **Prospect Theory**, which extends Expected Utility Theory and is considered by reference to Kahneman and Tversky (1979) and applied to taxation by the likes of Guthrie (2003).
- **Tax Morale**. There have been many articulations of Tax Morale but Torgler’s phrase in his description of the theory of tax morale as an “intrinsic motivation to pay taxes” is used for the purposes of this research (Torgler 2007).

*Expected Utility Theory Indicators*

Aspects of compliance decisions which would be suggestive of the stimuli and responses consistent with Expected Utility Theory are:

- **Risk of Detection** – The likelihood of detection of non-compliance. This was mainly tested for by asking respondents about the likelihood of a revenue authority audit.
- **Penalty** – what types of penalty in the event of tax default would be of greatest concern.
ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

- Potential Return – The scale of the gain or loss as a result of the compliance decision and how much tax is at issue. There could be evidence of greater concern about fiduciary taxes, which because they are linked to turnover or payroll are often greater in monetary terms than direct taxes.
- Risk Aversion – the degree to which the decision maker is averse to risk. For example the existence within an organisation of in-house verification procedures would be an indicator of risk aversion.

Prospect Theory Indicators

Because Prospect Theory is an extension of Expected Utility Theory, some of the indicators of Expected Utility Theory may also apply. As noted in the literature review Prospect Theory postulates that the carrier of value in the decision-making process is the extent of the change to wealth, and not the final state of wealth. It also proposes the importance of heuristics in the decision making process, among other aspects outlined in the literature review. Aspects of compliance decisions which would be suggestive of the stimuli and responses consistent with Prospect Theory are:

- Assessment of gains or losses in relative terms – the value of an outcome is not independent of the initial position.
- A greater aversion to loss than preference for gain.
- Suffering losses more acutely than enjoying gains.
- Heuristic biases – highly unlikely events perhaps being ignored while highly likely events perhaps being treated as certainties in the decision making process.

Tax Morale Theory Indicators

Tax Morale Theory indicators do not share the same tight definitions of concepts and variables as those associated with the theories already listed. However the presence of any or all of the following indicators derived from the Tax Morale literature would be supportive of the applicability of this theory:

- Consideration of ethical issues in compliance decision making
- Belief in the fairness of the tax system

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ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

• Perceptions of normal tax compliance behaviour within the particular business sector
• Respect for the revenue authority
• Reluctance to commit tax default to secure commercial advantage or a lack of enthusiasm to adopt strategies which might minimise tax liabilities

5.2.2 Application of Agency Theory Concepts
As outlined in the Literature Review at 3.6 above, Jensen and Meckling define the Agency Relationship as a contract under which one or more persons (the Principals) engage another person (the Agent) to perform some services on their behalf which involves delegating some decision-making authority to the Agent. It is generally impossible for the Principals to ensure that the Agent will make optimal decisions from the Principals’ point of view at zero cost. Factors in compliance decisions derived from the agency cost constructs of Agency Theory and thus which would be indicative of its relevance as a lens through which to consider organisational tax compliance decision making include:

• The extent to which the work of the Agent is monitored within the organisation. Indicators here would include the degree of interest from senior management (who might also be Principals) in the compliance process.
• The extent of bonding expenditures – incurred by the Agent, directly or indirectly, to shield the Principals from any harm which might arise from their decision. Expenditure on training and systems within organisations could be bonding indicators.
• The importance in the decision-making process of an awareness of Residual Loss (being the difference in value between the outcome of the Agent’s actual decisions and alternative decisions which could have been more in the Principals’ favour). For example an awareness among Agents of the negative consequences of poor compliance record discovered at a due diligence process (in contemplation of the sale of a business) would in turn be strongly indicative of an awareness of residual loss.
5.2.3 Survey Questions and their association with Theory

The following table lists the questions included in the survey which examined behaviour, and their relevance to the theory aspects described above. It is necessary to bear in mind that the survey is qualitative in nature rather than quantitative. The purpose of this table is to illustrate which theories prompted the question to be raised, rather than suggest definitive indicators as to whether or not one theory prevailed over another in explaining the compliance behaviours of Agents within organisations. That a particular theory prompted a question does not preclude the answer to that question shedding light on the relevance of the other two theories.

Most of the questions would also provide insight into the management of the Agency Theory costs of monitoring, bonding and residual loss. Apparent gaps in the numbering system are for background questions which were not directly associated with any particular theory, e.g. the gender of the respondent.

### Table 10 - Survey Questions and their association with Theory

<table>
<thead>
<tr>
<th>Question</th>
<th>Expected Utility Theory</th>
<th>Prospect Theory</th>
<th>Tax Morale</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. How often are your computerised accounts and payroll systems kept up to date for changes to the tax system?</td>
<td></td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>6. How much time did you spend on tax compliance work in the last month?</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>7. What do you find hardest about tax work?</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>9. Which of the following does your organisation provide?</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>On-the-job tax training; keeping computerised systems up-to-date; maintaining adequate staffing levels in the accounts/finance department; support for obtaining an externally accredited qualification, e.g. a tax or accountancy qualification; support for attending external Continuing Professional Development courses.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. If you were to make a mistake in your tax work, who might be likely to find the mistake?</td>
<td></td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>11. Does your Board of Directors or Senior Management regularly have tax issues on the agenda?</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Question</td>
<td>Expected Utility Theory</td>
<td>Prospect Theory</td>
<td>Tax Morale</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------</td>
<td>-----------------</td>
<td>------------</td>
</tr>
<tr>
<td>13. How concerned or not are you, as you do your work on a day-to-day basis, with running the risk of a Revenue Authority Compliance Check (enquiry, investigation, inspection or assurance visit)?</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>14. In your view, how likely or not is your company/organisation to have a Revenue Authority compliance check in the next 12 months?</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>15. In your view, how likely or not is your company/organisation to have a Revenue Authority compliance check in the next 5 years?</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>16. Would problems that your organisation had with the Revenue Authority reflect badly on you at a performance appraisal?</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>17. Which action that the Revenue Authority could take following a tax default would concern you most? Paying interest on tax; Publication as a tax defaulter; Prosecutions; Tax penalties; Collection Enforcement.</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>18. How concerned are you that the Revenue Authority might take action against you personally for tax wrongdoing in your organisation?</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. If your organisation was in cash flow difficulties, would you consider not paying over taxes like VAT or PAYE when due?</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>21. What proportion of other businesses in your sector do you think compete unfairly by not paying tax, for example by not charging VAT or by paying staff “under the counter”?</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>22. Which would concern you the most – paying too much tax, or paying too little tax?</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>23. How would you rate the Revenue Authority in policing the tax system and enforcing the rules?</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>24. Which of the following precautions does your organisation take to reduce the likelihood of a Revenue Authority compliance check taking place? Periodic internal reviews; Getting advice on difficult issues with professional experts; Taking great care over routine tax compliance work; Not missing payment deadlines.</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
</tbody>
</table>
## Questionnaire Answers

<table>
<thead>
<tr>
<th>Question</th>
<th>Expected Utility Theory</th>
<th>Prospect Theory</th>
<th>Tax Morale</th>
</tr>
</thead>
<tbody>
<tr>
<td>25. Would you agree that the tax system is fair to organisations like yours?</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>27. If a tax mistake occurred in your organisation, which of the following actions is most likely to be taken? Engage directly with the Revenue Authority, possibly by making a disclosure; Refer the matter to a superior within the organisation; Refer the matter to an external tax advisor or firm; Wait for it to be detected by the Revenue Authority, and then settle the matter as necessary.</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>28. Which of the following would best describe the attitude of the most senior person in your organisation if there were mistakes made in compliance work? Would see it as a priority matter requiring immediate corrective action; Would see it as a routine matter requiring resolution in the normal course; Would ignore, or be unconcerned as to the mistake and its resolution; Would wish to conceal the mistake; Would see it as a disciplinary matter for you.</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>29. How important or not is it for you to be on the lookout for tax saving ideas and opportunities?</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>30. Have you ever been involved in a &quot;due diligence&quot; process where a business was being sold?</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>31. By reference to the overall amounts of tax your business pays, which tax would cost the most to put right if something were to go wrong? Please answer for each item on the list – VAT; PAYE/PRSI/NIC; Other Withholding Taxes; Corporation Tax or Income Tax; Customs or Excise Duties.</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>

## 5.3 Cohorts of responses

### 5.3.1.1 Professionals in tax practice versus professionals in industry

As noted in Chapter 4 - Methodology, the invitation to complete the questionnaire was not specifically targeted at Agents, that is to say individuals working within their commercial organisations with responsibilities for tax compliance matters. The
majority of the responses (71%) came from tax practitioners – individuals working in professional firms offering tax compliance and advisory services to clients. This percentage is almost in inverse relation to the working roles of the accountancy profession, where by and large approximately 2/3 of qualified accountants are working in industry, as distinct from the one in every four who work in professional advisory practice (Irish Auditing and Accounting Supervisory Authority 2012).

As noted earlier, a total 568 responses to the online questionnaire were received. Of this number, 176 were registered by the Qualtrics on-line survey software as having commenced the survey but not provided responses to any questions. These respondents may have looked at the survey out of interest but opted not to complete it. 392 online questionnaires were completed and appropriate for analysis. The key categorisation was whether the respondent was a professional adviser, or working as an Agent within an organisation. This categorisation was determined by the response to the question “Are you a tax agent or adviser?” If the answer provided was “no” the respondent was then asked “Do you use a tax agent, advisor or professional firm to assist you in your work?” This sequence of questions should be adequate to remove any ambiguity in the self-classification of respondents. Following the self-categorisation 113 responses (29%) came from Agents working within organisations.

5.3.1.2 Professionals in industry and the relevance of an equity interest in their business

Within that group of 113 responses from Agents, it was necessary to separately identify comments from individuals holding an equity interest in their organisations. This was primarily for two reasons:

1. Contribution to Knowledge – as has been previously stressed, tax compliance theories and previous research grounded in tax compliance theories have focused on individuals who stand to personally gain or lose from their incomes by reference to the tax compliance decisions they make. An Agent who holds no equity interest in their organisation cannot directly personally
ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

gain or lose from the compliance decision of the organisation. For example, should a company under declare its income for Corporation Tax purposes, that will add to the distributable reserves on the balance sheet because less Corporation Tax would be paid. An Agent with an equity interest would therefore stand to gain personally from the company's non-compliance, because any dividends paid from the year's earnings will be larger than might have been expected had the company been fully tax compliant. Similarly a company which had under declared or underpaid fiduciary taxes would also have greater distributable profits than it might have had were it fully compliant.

An Agent without an equity holding could also benefit from non-compliance by the organisation in certain situations. One such situation would be where the organisation had failed to operate payroll taxes correctly on the salary of the Agent or provided the Agent with benefits such as the use of assets without declaring the benefit to the Revenue Authority. Another situation would be where the Agent purchased items from the organisation or was gifted items by the organisation without proper account being taken of VAT. It would not have been realistic to attempt to screen for such instances; the observations of Schneider (2002) on the difficulty of establishing black economy activities by individuals as mentioned in the Literature Review at 3.5 above refers. However by excluding Agents with equity interests a significant channel for benefiting from organisational non-compliance is removed. This is especially the case when it is considered that Agents with equity interests might have greater decision-making capacity within the organisation than their peers who did not hold an equity interest. This additional decision-making capacity might be manifested by Board participation, or by voting at Annual General Meetings, or simply by peer recognition. It is not suggested that Agents with equity interests apply their decision-making powers within organisations to engineer non-compliance situations to their personal advantage, but it should be acknowledged that the scope exists for them to do so.
2. For Agency Theory purposes, Agents with equity holdings are “Principals” within the Agency Theory construct. The views of professional individuals who take compliance decisions on behalf of their organisations but who stand to make no direct personal gain either from the compliance or non-compliance of the businesses in which they work provide the greatest insight when answering research questions directed towards the compliance behaviour of organisations (as distinct from individuals).

Respondents were asked how they would describe their personal equity interest in their organisation. To provoke careful consideration of the question they were asked to select one of four descriptions: Majority ( Anything from 50% ownership up to outright ownership); Substantial (more than 5% ownership but less than 50%); Significant (less than 5% ownership); or “I don’t have any holding”. Out of the 113 responses from Agents, there were 77 responses from Agents which stated “I don't have any holding”. 43 of these responses come from individuals working in the UK (and therefore subject to UK tax law administered by HM Revenue and Customs (HMRC)). The remaining 34 of the responses come from individuals working in Ireland (and therefore subject to Irish tax law administered by the Revenue Commissioners). The emphasis of the analysis that follows comes from these 77 responses. Before engaging in a consideration of the light which these 77 responses shine on the tax compliance decision process within organisations, it may be useful to consider the broad outline of responses from the 392 valid surveys completed.

5.3.1.3 Profile of the full cohort of Respondents

Of the 392 fully completed questionnaires received, there was a higher response from males (69%) than from females (31%).

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>70%</td>
<td>68%</td>
<td>69%</td>
</tr>
<tr>
<td>Female</td>
<td>30%</td>
<td>32%</td>
<td>31%</td>
</tr>
</tbody>
</table>
All respondents without exception claimed to hold either a third level or professional qualification in an accounting, finance or tax discipline. Most stated they held in managerial position in their organisation.

### Table 12 - Closest Description of Role in Organisation

<table>
<thead>
<tr>
<th>Role</th>
<th>UK</th>
<th>Ireland</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner/Manager/Partner</td>
<td>5%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>Senior finance officer or tax director</td>
<td>67%</td>
<td>59%</td>
<td>64%</td>
</tr>
<tr>
<td>Qualified finance or advisory personnel</td>
<td>21%</td>
<td>35%</td>
<td>27%</td>
</tr>
<tr>
<td>Qualified administrator</td>
<td>2%</td>
<td>0%</td>
<td>1%</td>
</tr>
<tr>
<td>Trainee or unqualified accounts personnel</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Other</td>
<td>5%</td>
<td>3%</td>
<td>4%</td>
</tr>
</tbody>
</table>

The levels of experience and seniority of respondents was high with 81% of respondents indicating they had more than 11 years of experience.

### Table 13 - Profile of Respondent Experience

<table>
<thead>
<tr>
<th>Experience</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 3 Years</td>
<td>1%</td>
</tr>
<tr>
<td>3-5 Years</td>
<td>5%</td>
</tr>
<tr>
<td>6-10 Years</td>
<td>13%</td>
</tr>
<tr>
<td>11-25 Years</td>
<td>37%</td>
</tr>
<tr>
<td>More than 25 Years</td>
<td>44%</td>
</tr>
</tbody>
</table>

Responses came from a wide cross-section of business types.

### Table 14 - Responses by Business Type

<table>
<thead>
<tr>
<th>Business Type</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sole proprietorship</td>
<td>19%</td>
</tr>
<tr>
<td>Small partnership (fewer than five partners)</td>
<td>22%</td>
</tr>
<tr>
<td>Large partnership</td>
<td>17%</td>
</tr>
<tr>
<td>Privately held (close) company</td>
<td>24%</td>
</tr>
<tr>
<td>Large multinational company</td>
<td>9%</td>
</tr>
<tr>
<td>Publicly quoted company</td>
<td>5%</td>
</tr>
<tr>
<td>Public Sector Organisation</td>
<td>4%</td>
</tr>
</tbody>
</table>

Most of the respondents held senior positions within their organisations, with almost 50% identifying themselves as being owners, managers or partners within their
businesses. As already noted, the majority of respondents work in professional advisory practice as tax practitioners. There could be several reasons for this high proportion. Tax practitioners, exposed to a greater range of tax situations and complexities, might have been more interested in completing the survey for its own sake. Also only accountants with knowledge or interest in taxation were invited to participate. Fewer industries retain taxation specialists in full-time employment than tax practices do. Industry often prefers instead to employ finance generalists, having recourse to practitioners for specialist tax work. This point will be developed further in Chapter 6.

Critical to understanding the motivations behind tax compliance is to understand how individuals could personally benefit or not benefit from their organisation's behaviour. Respondents were asked the extent of their equity stake in the business. 48% of respondents indicated that they hold equity in their organisation. This is a higher level of equity participation than might have been anticipated. It may, however, be consistent with the age, seniority and experience profiles already discussed.

5.3.1.4 **Homogeneity of Responses among Response Cohorts**

Broadly there were similarities of approach in the responses of Agents and tax practitioners in professional advisory practice. There does appear to be a difference between the attitudes of practitioners and Agents in their understanding of tax risk. 62% of practitioners see as the greatest risk the overpayment of taxes; 56% of Agents see as the greatest risk the underpayment of taxes. This finding may suggest that if Expected Utility Theory does indeed explain tax compliance behaviour, what constitutes utility for an organisation might not always be the simple minimising of taxes, measurable in monetary terms. This notion is developed further later in the chapter.

Considerable similarities in approach among respondents, irrespective of whether they operated in the Irish or in the UK tax jurisdictions, were also evident but did differ materially on a national divide in two respects:
Perception of the Revenue Authority

Irish respondents had a less jaundiced view of their Revenue Authority, the Office of the Revenue Commissioners than their UK counterparts had towards HM Revenue and Customs. When asked how they would rate the revenue authority in policing the tax system and enforcing the rules, most respondents from both jurisdictions felt they were doing a reasonable job, though professionals in Ireland were more positive about their revenue authority than their UK counterparts.

Table 15 - Attitudes Towards Revenue Authorities

<table>
<thead>
<tr>
<th>How would you rate the Revenue Authority in policing the tax system and enforcing the rules?</th>
<th>Revenue Commissioners (Ireland)</th>
<th>HM Revenue &amp; Customs (UK)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Bad</td>
<td>1%</td>
<td>7%</td>
</tr>
<tr>
<td>Bad</td>
<td>10%</td>
<td>22%</td>
</tr>
<tr>
<td>Neither Good nor Bad</td>
<td>19%</td>
<td>46%</td>
</tr>
<tr>
<td>Good</td>
<td>57%</td>
<td>24%</td>
</tr>
<tr>
<td>Very Good</td>
<td>13%</td>
<td>1%</td>
</tr>
</tbody>
</table>

Perception of the Compliance Behaviour of others

Respondents were asked if they knew of anyone, either personally or by repute, who was penalised by the revenue authority for tax evasion and if that might change their attitude towards them. These questions were designed to test awareness of the actual impact of revenue authority policing. Two out of three Irish professionals knew of taxpayers who had been penalised for tax evasion. The results from UK respondents were almost a mirror image of this finding. Almost 70% said that they did not know of anyone, personally or by repute, who was penalised by HMRC for tax evasion.

In answer to a follow-up question, more than half of all those who responded (Ireland and UK alike) said that they would be less likely to do business with such
persons in the future, with the balance of respondents suggesting it would make no difference.

5.3.1.5 Organisational Support for Compliance Activities

Support at the Systems Level

Tax Compliance requirements both in Ireland and in the UK necessitate the submission of information in electronic form\textsuperscript{11}. It is therefore more efficient for businesses to originate their tax compliance data in electronic form, even without the other commercial efficiencies which computer systems can deliver. Not only that, inherent in the design of computer systems is a degree of control. For example, if a computer system is being kept up to date, the internal references within the payroll system will contain the correct rates and bands for charging tax on salary. Many such systems are integrated or part integrated with reference files provided by the revenue authority. The existence of systems which are compatible with revenue authority systems within businesses of all types would be a strong indicator of aversion to the downside risk of tax compliance failure.

Only one in six of respondents did not have a computerised accounts system, and only one in four did not have a computerised payroll system. That 25\% of respondents did not have a computerised payroll system can perhaps be explained by their having a very small workforce, or the outsourcing of payroll services to third party provider. Over 85\% of all respondents indicated that their computerised accounting systems were updated at least annually. IT systems are only one element of embedded systems support within an organisation. The respondents were asked to identify items associated with training and staffing as provided by their organisation, and were permitted to identify more than one item from the list as appropriate. More than half said that there was support both for on the job tax training and obtaining externally accredited relevant professional qualifications.

\textsuperscript{11} In the UK, since 1 April 2011, all Company Tax Returns for periods ending after 31 March 2010 must be filed online. In Ireland, all companies have been required to pay and file returns electronically since 1 June 2011.
ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

**Table 16 - Compliance Supports Within Organisations**

<table>
<thead>
<tr>
<th>Support</th>
<th>Ireland</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-the-job tax training</td>
<td>52%</td>
<td>61%</td>
</tr>
<tr>
<td>Keeping computerised systems up-to-date</td>
<td>73%</td>
<td>83%</td>
</tr>
<tr>
<td>Maintaining adequate staffing levels in the accounts/finance department</td>
<td>51%</td>
<td>66%</td>
</tr>
<tr>
<td>Support for obtaining an externally accredited qualification, e.g. a tax or accountancy qualification</td>
<td>52%</td>
<td>59%</td>
</tr>
<tr>
<td>Support for attending external Continuing Professional Development courses</td>
<td>77%</td>
<td>78%</td>
</tr>
<tr>
<td>Other</td>
<td>4%</td>
<td>4%</td>
</tr>
</tbody>
</table>

**Support at Management Level**

When asked what the attitude of the management of their organisation might be to mistakes in tax compliance work, nine out of ten said that management would regard tax mistakes as requiring resolution. More than half said that management would require tax mistakes to be resolved as a matter of priority. Separate questions established that more than 40% of respondents knew of regular attention at Board level to tax matters, and regular involvement with the tax compliance process. Fewer than one in five suggested that there was never any involvement by members of the Board or Senior Management in the tax affairs of the organisation. While there was a small variation depending on the jurisdiction, overall these results would suggest that tax compliance, both as a policy and as an operational issue, is significant for the majority of businesses.

**Table 17 - Management Attitudes Towards Compliance**

<table>
<thead>
<tr>
<th>Which of the following would best describe the attitude of the most senior person in your organisation if there were mistakes made in compliance work?</th>
<th>Ireland</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Would see it as a priority matter requiring immediate corrective action</td>
<td>58%</td>
<td>68%</td>
</tr>
<tr>
<td>Would see it as a routine matter requiring resolution</td>
<td>36%</td>
<td>30%</td>
</tr>
</tbody>
</table>
Which of the following would best describe the attitude of the most senior person in your organisation if there were mistakes made in compliance work?

<table>
<thead>
<tr>
<th>Option</th>
<th>Ireland</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Would ignore, or be unconcerned as to the mistake and its resolution</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>Would wish to conceal the mistake</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>Would see it as a disciplinary matter for you</td>
<td>1%</td>
<td>1%</td>
</tr>
</tbody>
</table>

5.3.2 Indications from General Findings

1. There are considerable similarities in the perspectives of Irish and UK professionals towards tax compliance.

2. Most respondents appear to operate in an environment of respect for the revenue authority.

3. Most organisations provide tangible supports – resources, training and the like – to achieve positive tax compliance behaviours.

4. The management of most organisations is concerned that their organisation would be tax compliant.

These findings are consistent with the empirical macro tax compliance outcomes reported by both the Irish and UK revenue authorities as noted in 2.5.1. It would be impossible to explain such high levels of tax compliance without evidence of management and institutional supports among organisations, coupled with some degree of respect for the revenue authority concerned. Organisations account for most compliance activity and organisations appear disposed to be tax compliant, therefore overall compliance levels are high. Why organisations are disposed to be so tax compliant and why they engage in decision-making processes to achieve positive tax compliance results became issues for exploration in Phase 2, the interview stage of the research.
5.3.3 Moving from the General Findings to a focus on Agents

The focus of the analysis is now narrowed down to the responses of the 77 Agents who take compliance decisions but who do not hold equity stakes in the business in which they work. The intention behind the decision to narrow down the total responses for detailed analysis from 392 respondents to 77 respondents was to preserve the integrity of the application of agency theory as a lens to investigate the organisational compliance decision making process, as outlined at 5.3.1.2 above.

That required discounting (for this purpose) decision takers within organisations who held no equity stake in the business. In this fashion the potential for ambiguity noted at 5.3.1.2 was limited, if not entirely extinguished. The process was also intended to ensure that the responses from those whose main role was in professional tax advisory practice were eliminated, thus keeping the focus on the decision takers within organisations rather than on those who advised them. The sequence of elimination was:

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Criterion</th>
<th>Result</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confine responses for detailed analysis to respondents acting as Agents within organisations</td>
<td>Are you a tax agent or adviser? answered “No”</td>
<td>279 respondents answered “Yes”</td>
<td>Responses for analysis reduced to 113</td>
</tr>
<tr>
<td>Confine responses from Agents within organisations for detailed analysis to those Agents without an equity holding</td>
<td>Description of equity holding sought in a multiple choice question</td>
<td>36 respondents indicated that they held some equity in their organisation</td>
<td>Responses for analysis reduced to 77</td>
</tr>
</tbody>
</table>

Because these 77 respondents do not hold an equity interest, their decisions are less likely to be influenced by considerations of financial self-interest derived from the outcome of their tax compliance decisions. This is not to say that their decisions will not be motivated by self-interest; however as outlined earlier those decisions should
be distinguished from the decisions of self-employed taxpayers whose tax compliance decisions are personal to themselves and who will suffer directly the full consequences of evasion penalties.

Although the cohort is relatively small, the consistency of these responses with those from all the respondents is strongly suggestive that the responses now under detailed examination are indeed reflective of the broader population of tax professionals. The key findings from this cohort will first be listed, and then considered through the lens of each of the theories under consideration in turn.

5.4 Part 3 – Findings and Discussion of the Survey Responses of 77 Agents

5.4.1 Key Findings

1. Organisations provide significant support for the tax compliance process in terms of computerised systems and training for their Agents.

2. Senior management within organisations consider tax issues from time to time, and regard tax mistakes as matters to be rectified without delay.

3. Agents find the number of tax rules they must follow, and constant changing of those rules, difficult.

4. External consultants such as auditors are more likely to find problems with tax compliance within the organisation than the revenue authority.

5. Agents are less concerned with monetary sanctions for tax default than they are with negative reputational outcomes for their organisations.

6. Agents have a good appreciation of the consequences of tax default and the risk of detection of errors by the revenue authority, and take precautions to ensure that errors do not arise.
7. Differing concerns about compliance in fiduciary tax areas as distinct from direct tax areas seem to be derived from an awareness of the amounts at issue as fiduciary tax liabilities are often greater.

8. Agents feel sheltered by the organisation from any direct personal consequences, if the organisation is in tax default. However they recognise that tax mistakes are not helpful to their careers.

9. While Agents would be slow to commit tax default to secure competitive or cash flow advantage, they believe that other organisations in their sectors are not so scrupulous.

10. Agents believe it is their job to be on the lookout for tax saving ideas.

These findings will now be discussed by reference to the theories which prompted the survey questions.

5.4.2 Findings considered under Expected Utility Theory

5.4.2.1 Risk Aversion

In its normative sense Expected Utility Theory describes decisions taken under risk. It is a concern of this thesis that it does not always predict tax compliance decisions which in essence are decisions taken under risk. The literature review used the articulation by Heinemann and Kocher (2013) of Expected Utility Theory as it applies to tax compliance decisions. Heinemann and Kocher saw the risk of tax default becoming larger as the risk of detection (determined by the audit system and the audit probability) decreased, the potential loss (determined by the construction and the size of the fine) decreased, the potential return (determined by the tax rate) increased and individual risk aversion (which is usually negatively correlated to income) decreased. While the survey findings are suggestive of the importance of Expected Utility Theory in understanding individual behaviour as was identified in Chapter 3, there is also evidence that the theory may not hold sway in compliance decision processes within organisations.
Many organisations seem to distance themselves from having to make individual tax compliance decisions on a day-to-day basis by putting structures in place to automate routine tax compliance decisions. Organisations are rigorous in maintaining computerised accounts and payroll systems. There was significant evidence of institutional supports for positive compliance outcomes from both tax advisory practices and commercial entities. These internal supports exist without personal cost to Agents, but rather are a factor of the environment in which they work. The extent to which an organisation invests money into systems and controls is indicative of a concern to ensure compliance. The commitment to ongoing maintenance and updating of systems is also strongly indicative of an ongoing compliance concern. The regular updating of computerised compliance systems often has the result of taking compliance decisions out of the hands of individual Agents. They follow the rules embedded in the computer software. This reduces the substantive tax compliance decision in areas such as payroll and sales to micro decisions concerning what data is input. For instance the compliance decisions concerning PAYE withheld from an employee do not concern how the tax is to be applied. Rather they concern whether or not a particular individual is registered as an employee and then the employment income and particulars attributed to the employee.

Further, computerised compliance removes complexity risk to a significant extent from compliance. Non-compliance may arise not because of an unwillingness to comply, but because of a misunderstanding or a misapplication of the rules. The relatively low level of general non-compliance in both Ireland and the UK was noted at 2.5.1. The UK analysis of non-compliance is more granular than that available in Ireland, in that the various causes of non-compliance are identified and costed. HMRC estimate that error and failure to take reasonable care together accounted for the loss of over £7bn to the UK Exchequer in 2012/13 (HM Revenue and Customs 2014). However even though £7bn is a significant sum of money, it was less than 2% of the total UK tax take for that year. For the UK at least this suggests that complexity risk either is not a defining factor overall, or perhaps is very well managed by compliant taxpayers. The survey findings support the latter.
interpretation. A high level of systems investment suggests a high degree of commitment at organisational level by key stakeholders to accurate compliance. There has to be some commercial justification for such cost, otherwise the level of investment would not be as widespread as the responses suggest. Also the emphasis on computerised systems can also be seen as a shifting of the compliance decision-making process from the organisation concerned to the commercial software supplier, and as such is a form of normalising behaviour.

This has implications for the revenue authority in its policing of the tax system. For fiduciary taxes with widespread applicability, it must be a matter of concern to the revenue authority to ensure that software providers are adequately briefed on changes in compliance expectations. It may also be a policy consideration to insist on tax filing by digital means, not only to facilitate the analysis of the data received, but to help ensure taxpayers are obliged to use sophisticated software when filing their returns which have compliance rules built in. One difficulty in understanding these findings through Expected Utility Theory is that organisational tax compliance seems not to be a distinct series of individual tax compliance decisions. The tax compliance decision is arguably taken at the decision point of installing and committing to maintain such systems to support tax compliance and not at the individual decision point of deciding whether or not to accurately file a particular type of tax return at any given time. Once a payroll system has been installed for example, payroll tax compliance will be an automatic process always provided that the system is kept up-to-date both at an operational level (by maintaining the software) and at an organisational data level (by ensuring that up-to-date information concerning salaries and wages and employee registers are maintained). Organisations which do not propose to comply on a day-to-day basis with tax requirements are unlikely to expend cost and effort on systems which they are not prepared to operate properly. If a compliance system has been put in place, organisations would in fact have to work around their own internal systems should they choose not to comply with a particular tax obligation. The expected utility is very difficult to express in individual tax saving terms; it is rather an amalgam of the
consequences of compliance decisions taken right through the life-cycle of the business.

It is clear that for most organisations, computer systems are just one element of the compliance infrastructure. A comprehensive approach to supporting the tax compliance process is being reported by Agents. More often than not the organisation decides it should be able to equip itself with people who know the right thing to do when it comes to tax compliance. There would be little point in any organisation investing in trained staff to operate the compliance process, and then sustaining that investment in training and accreditation if the overall intention of the organisation was to be non-compliant. It is also possible that the Agents are themselves responsible for the purchase and implementation of these infrastructures. The finding of the importance of adequate staffing levels is suggestive of the kind of assurance linked with bonding costs under Agency Theory, but may also be tied in both to the risk aversion which is a factor in Expected Utility Theory and to the pronounced loss aversion which is characteristic of Prospect Theory. While most of the trained staff surveyed did not work full-time on tax issues, almost half of the respondents noted a time commitment of more than three days a month to tax compliance issues. This is not a trivial investment of time, and the degree of investment is borne out by a supplementary finding which suggests that attendance on continuing professional development is the most effective way for Agents to keep up-to-date on changing tax rules. In common with the investment in systems, it suggests a compliance decision at the point of hiring staff rather than the point of dealing with an individual tax compliance requirement.

5.4.2.2 Gains and Losses

The time commitment to tax compliance seems to be a function of the size of the organisation, the complexity of its affairs, and the degree of importance attached to it. Organisations with large number of employees and a wide and varied range of products and services will have greater fiduciary tax duties (payroll and sales taxes) than smaller businesses. On the other hand, businesses with apparently
straightforward affairs such as property management companies could have very complex direct tax (income tax and corporation tax) compliance requirements. Any organisation with international branches and subsidiaries will also have disproportionately complex direct tax compliance requirements. This is because of the complexities which arise from dealing with more than one revenue authority – withholding tax obligations, transfer pricing and the like. While these findings suggest at least a capacity for risk assessment and framing on the part of Agents they are also suggestive of a concern among decision-makers which goes beyond the simple consequences of tax penalties in the event of default. Risk aversion is linked to the amount of tax at issue, but is also linked to the complexity of the tax at issue and as was noted earlier helps justify the installation of systems to “automate out” the complexity of tax rules and the difficulties associated with keeping up to date with them. Complexity is a different type of risk to the risk of detection which Expected Utility Theory relies upon. In fact it could even run counter to it, because arguably the more complex a tax is, the lower the risk that wrongdoing will be detected.

The utility of positive tax compliance to an organisation seems less likely to be found in the context of any single tax compliance decision than in the commercial benefit of running a generally compliant organisation. The estimation of the likelihood of risk detection on any single taxable transaction may need to be revised to an estimation of the likelihood of the organisation being systematically non-compliant. It follows that any measurement of risk aversion should also be in the context of organisational risk aversion to be identified as a non-compliant entity, rather than a specific aversion to a specific risk of getting a particular direct tax or fiduciary tax return or payment wrong.

5.4.2.3 Likelihood of Detection
Adopting this context of organisational risk detection helps explain why there is a greater belief within an organisation that detection of default will be by virtue of internal controls rather than by screening of tax returns by the appropriate revenue
ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

authority. It seems from the survey responses that the external advisers which the organisation itself hires are more likely than the revenue authority in either jurisdiction to detect mistakes. The revenue authority ranks as the second-most effective reviewer in the UK, but only third in Ireland after more senior internal personnel. This result places a question over the findings of many previous studies of compliance behaviour which worked on the assumption that all tax default was discoverable by the revenue authority.

| TABLE 18 - COMPLIANCE ERROR DETECTION WITHIN ORGANISATIONS |

<table>
<thead>
<tr>
<th>If you were to make a mistake in your tax work, who might be likely to find the mistake? Please answer for each item on the list.</th>
<th>UK (ranking)</th>
<th>Ireland (ranking)</th>
</tr>
</thead>
<tbody>
<tr>
<td>An external advisor or auditor</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>HMRC/Revenue Commissioners</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A higher ranking colleague, say a director or manager</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>An equal ranking or more junior colleague</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>A client, customer or supplier</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

It does not however fully explain why an organisation will go to the trouble of putting checks and balances in places which operate independently of the revenue authority, unless this can be interpreted as a consequence of risk aversion. This finding is further complicated by the apparent recognition within organisations that the revenue authority does a good job. In the classic expected utility paradigm, risk aversion is a variable to be measured rather than to be managed.

It is evident that organisations take care with both fiduciary taxes and direct taxes, even though on the face of it the utility costs of failure to comply with direct taxes should be higher than the utility cost of failure to comply with fiduciary taxes, as
these are collected in trust on behalf of the revenue authority. It is difficult to identify any comparable study to date which has considered this question. This contradiction may partly be explained by prospect theory concepts, which emphasise the importance of the amount of tax at issue and which are considered in the next section. As outlined in Chapter 2 and in somewhat more detail at 5.4.3.3 below, fiduciary taxes will often involve greater monetary amounts than direct taxes involve. Also the anticipated measure of utility in considering the penalty for poor tax compliance decisions, namely the monetary value of fines, is clearly of less relevance within organisations than theory would suggest. It seems that the concept of utility is more closely linked to reputation than to financial loss for organisations when making tax compliance decisions.

Taken together, all these findings suggest that while expected utility theory can indeed shed some light on compliance decisions made within organisations, the variables applied within those theory – risk aversion, risk of detection, the potential loss and the potential return must be framed or described in different terms than are usually accepted.

5.4.3 **Findings considered under Prospect Theory**

Prospect Theory challenges some of the assumptions of Expected Utility Theory, if not by modifying the variables of risk aversion, risk detection, potential loss and potential return, but by modifying our assumptions of how these should be quantified.

5.4.3.1 **Assessment of risk – do Prospect Theory heuristics apply?**

Included in the survey were questions designed to test the perception of likelihood of revenue authority intervention in the minds of Agents. Some of the questions were straightforward in nature. Respondents were asked the degree to which they were concerned in their day to day work about the risk of a revenue authority intervention. There were strong indications that a Revenue Authority intervention is a concern for
Agents some or most of the time and that they were generally aware of the broader consequences of their day to day compliance decisions.

TABLE 19 - CONCERN OVER REVENUE INTERVENTION

<table>
<thead>
<tr>
<th>How concerned or not are you, as you do your work on a day-to-day basis, with running the risk of a Revenue Authority Compliance Check (enquiry, investigation, inspection or assurance visit)?</th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never</td>
<td>7%</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>Rarely</td>
<td>33%</td>
<td>16%</td>
<td>25%</td>
</tr>
<tr>
<td>Sometimes</td>
<td>33%</td>
<td>38%</td>
<td>35%</td>
</tr>
<tr>
<td>Most of the Time</td>
<td>21%</td>
<td>19%</td>
<td>20%</td>
</tr>
<tr>
<td>Always</td>
<td>7%</td>
<td>22%</td>
<td>13%</td>
</tr>
</tbody>
</table>

This level of concern also suggests that there may be a sanction or downside for Agents personally arising from a Revenue Intervention, even though it seems that this sanction is unlikely to come directly from within the organisation. Agents may have a reluctance to draw down more work and pressure on themselves in dealing with revenue authority enquiries, or they may have concerns over their personal reputation or career considerations. As noted in the literature review at 3.2.2 above, the measurement of risk aversion has been a recurring issue with utility theory approaches. Agents are predominantly professionals who are likely to have higher educational attainments than many other taxpayers (as was noted earlier at 5.3.1.2). They do not seem to be, or perhaps are not admitting to being, daunted by the intricacy of the tax rules, nor by the intricacy of the actual compliance actions required. Neither interpretation suggests complacency. Instead the emphasis of the concern on the number of tax rules and on their frequency of change may suggest strong risk aversion and awareness of the cost of mistakes. Further evidence for the accuracy of their perceptions of risk and risk aversion came from a series of questions involving the prospects of revenue intervention over different time spans. Agents understood well the actual risk factors associated with revenue authority methodologies for selecting cases for audit or investigation intervention. Most
respondents with a coherent understanding of the selection methodology would not be able to say that an audit or inspection would be due in the short-term (unless they had some serious reason to anticipate it). On the other hand, a competent tax professional would fully expect that their company would be audited at least once within a five-year timeframe, and this was borne out in the survey results. More than two thirds of respondents either did not know, or thought an audit or inspection was unlikely, within a 12 month timeframe. However, more than two thirds of respondents also believed that a Revenue Audit was likely or very likely within a five-year timeframe. This suggests a realistic awareness of the risks of occurrence of a Revenue Authority enquiry.

Risk of detection is fundamental to the operation of both Expected Utility and Prospect theories. Both theories suggest that compliance decisions rely heavily on the decision-makers evaluation of the risk of detection. Prospect Theory in particular suggests that heuristic decision-making can result in a miscalculation of the degree of risk. If the Agents who responded to the survey took compliance decisions by reference to their reported capacity to risk assess detection, these heuristic biases would not need to be factored in. It was noted in the Literature Review at 3.2.3 that Expected Utility Theory more accurately predicts compliance behaviour where the risk of detection was very high, as is the case where there is full and verifiable reporting of transactions to the revenue authority. The Agents who responded would be conversant with the level of disclosure to the revenue authority by their organisation, and would likely assess the probability of a revenue intervention informed by this knowledge. The characteristic overweighting of factors and overestimation of probabilities which are key extensions of Prospect Theory to Expected Utility Theory did not appear to be present to any significant degree in the survey findings.

5.4.3.2 Framing

The framing hypothesis of Prospect Theory says that the value of an outcome is not independent of the initial position. The assessment of prospective gains and losses is
not carried out in absolute terms but is measured in the mind of the risk taker by reference to what is already in possession. The implication for tax compliance decisions is that the amounts of tax at issue should have a bearing on decision making. Under Expected Utility Theory, the actual amount of tax is not a factor in the decision process; rather it is the amount of the penalty which is the critical element. The amount of tax only becomes relevant in the context of the tax rate and (as was highlighted in 3.2.2 when discussing the “Yitzhaki puzzle”) where the penalty for tax evasion is tax geared, i.e. calculated by reference to the amount of tax at issue. Further as highlighted earlier in this chapter, it seems that monetary amounts are not always key determinants of risk aversion and there are greater concerns in the minds of Agents over reputation and publicity than over money in settling tax default with the revenue authority.

### Table 20 - Consequences of Revenue Interventions

<table>
<thead>
<tr>
<th>17. Which action that the Revenue Authority could take following a tax default would concern you most? Please answer for each item on the list.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action</td>
</tr>
<tr>
<td>Paying interest on tax</td>
</tr>
<tr>
<td>Publication as a tax defaulter</td>
</tr>
<tr>
<td>Prosecutions</td>
</tr>
<tr>
<td>Tax penalties</td>
</tr>
<tr>
<td>Collection Enforcement</td>
</tr>
</tbody>
</table>

In the literature, the consequences of tax default are traditionally measured in monetary terms, even though utility is not necessarily measured in monetary terms. Yet the survey suggests that the consequences of evasion which bring the tax default

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12 Respondents were asked the sanctions which they feared most from the above list, arranged on a three point Likert scale – “least worrying”, “some concern” and “most worrying”. The mean of the responses was taken, and from those results the above likelihood ranking is derived where 1 is the most likely and 5 is the least likely.
of the organisation into the public domain are of greater concern than financial penalties on their own. Publication of the organisation's name as a tax defaulter is normally an alternative sanction to prosecution, as described in 2.5.3 above. Collection enforcement may entail solicitor or sheriff proceedings, or could involve orders of attachment. Attachment orders are primarily instruments of collection enforcement by attaching revenue debt to the payment obligations of an organisation’s debtor. However they also serve to put the customers and bankers of the business on notice that the organisation is in difficulty with the revenue authority. While collection enforcement proceedings such as legal proceedings or attachment proceedings are not always publishable, collection enforcement very frequently comes to the knowledge of the customers and suppliers to a business, often through informal channels. Similarly while prosecution for tax default may or may not lead to a custodial sentence, criminal prosecution will usually lead to a monetary fine and will inevitably lead to the matter coming into the public domain. The common link between publication, collection enforcement and prosecution is that all three place information in connection with a tax default outside the ring fence of taxpayer/revenue authority confidentiality. The consequences of tax default being made public can have significant reputational damage to an organisation and can sometimes hamper its commercial capacity. Publication of enforcement proceedings by the Revenue Authority can put organisations out of business. A lack of capacity to pay taxes discourages suppliers. Financial institutions which may have extended lines of credit to the organisation will be prompted to change credit terms or even demand immediate repayment of outstanding loans for fear that if the Revenue Authority is left with outstanding debt, they too may also be left with bad debts. The desire to avoid publicity over the desire of avoiding monetary penalty may lend credence to Prospect Theory framing as having a bearing on the decision making processes of Agents, but for both also suggests that utility for organisations must be measured in terms beyond the tax consequences alone.

13 For example the 2012 case of Target Express Haulage where the closure of the business was claimed by the company to have happened as a direct result of Irish Revenue attachment orders. See http://www.rte.ie/news/2012/0828/335237-irha-hauliers-fuel/ (link accessed 14/12/2015).
5.4.3.3 *Attitudes towards losses and gains*

A key refinement claimed for Prospect Theory over Expected Utility Theory is the prediction that decision-makers will show a greater aversion to loss than a preference for gain. There is some evidence of this in the finding that even where the penalty is a monetary penalty, either the amounts of tax involved or the heads of tax involved are considerations in compliance behaviour. Respondents were asked their view of which are the most costly taxes to rectify. A three point Likert scale was used – “Relatively Little”, “A Significant Amount”, “Very Costly” because the survey was attempting to glean the relative, rather than the absolute, significance of the tax amounts involved. Agents appeared clear that VAT and PAYE/PRSI/NIC\(^1\) would be the most costly. VAT and the payroll taxes of PAYE/PRSI/NIC are fiduciary taxes. Fiduciary taxes will often be greater in monetary terms than direct taxes because these are computed by reference respectively to turnover and payroll cost. Direct taxes are computed on profits. For example if an Irish company turns over €1m in retail sales at a net profit margin of 5%, all else being equal its VAT liability will be €230,000 which is the turnover times the VAT rate. Its corporation tax liability on the other hand will be €6,250 – a profit on sales of €50,000 taxed at the corporation tax rate of 12.5%.

The aversion to loss apparently does not hold true in every situation. Respondents were asked whether they might consider defaulting on fiduciary taxes if their organisation was in cash flow difficulties. Of necessity, the question is a hypothetical question. The responses must also be viewed in the light that admitting not paying over fiduciary taxes could be seen as a form of self-incrimination. Fiduciary tax default is associated with a very high risk of detection because of the information available to revenue authorities from third parties, for example VAT input claims from suppliers to the organisation in default. Furthermore the detection of default on fiduciary taxes by the revenue authority is rapid, because some fiduciary taxes, for instance PAYE, fall due for remittance to the revenue authority

\(^{1}\) NIC, or National Insurance Contributions, in the UK broadly equate to PRSI, Pay Related Social Insurance in Ireland. As noted elsewhere, neither are strictly speaking a tax but both are collected by employers through payroll. Collection enforcement is for all practical purposes identical to income tax collection enforcement.
as frequently as every month. On the other hand direct taxes are remitted far less frequently and for the majority of businesses are paid in two instalments annually. The interest charges associated with the failure to operate or remit fiduciary taxes are higher than for the direct taxes. Nevertheless, a quarter of Agents expressed a willingness at least to consider failing to comply. The question provides evidence of how risk might be assessed by Agents. The matter is not seen only in terms of tax default and the possibility (in this case very high) of tax default being discovered. The commercial risk to the business of non-compliance is also a factor in the decision making process.

Taken as a whole, the survey results suggest that organisational tax compliance decisions are not just tax payment related. Tax compliance decisions for organisations are complex because they are not taken solely in the context of monetary tax risks, but also in the context of the organisation's commercial viability and its reputation. Attempts to explain tax compliance within organisations cannot be reduced to the straightforward algebra of detection risk and tax reward. Tax compliance seems to be an element of the overall commercial system rather than a phenomenon in its own right disassociated from broader commercial considerations.

5.4.4 Theories involving Tax Morale
The high incidence of tax compliance by organisations noted in Chapter 1 confirms that most organisations do indeed do “the right thing” in matters concerning tax compliance. A number of the findings from the survey should be considered for their potential to validate tax morale concepts as explaining this high recorded incidence of tax compliance.

5.4.4.1 Perceptions of normal behaviour within the business sector
Some 90% of the respondents noted that tax issues were an agenda item for senior management at least once a year. This being the case, tax compliance seems to be routinely regarded within organisations as an issue of corporate governance possibly because taxation and the exposures flowing from non-compliance can be major costs to the business. The high incidence of internal support for compliance behaviour
ANALYSIS OF PHASE 1 OF THE FIELD RESEARCH

within the organisation is supportive of this interpretation. Additionally it should be noted that both Irish and UK tax law permits the Revenue Authority to take direct action against officers (“officers” in the company law sense, i.e. company directors and company secretaries and thus individuals who are Agents) in the event of tax default at a corporate level. Irish tax law provides for specific sanctions against any individuals, whether employed by the organisation or not, who collude or are complicit in tax default. UK legislation includes general sanctions for dishonest conduct leading to tax default. Respondents would be fully aware of the consequences of tax default discovered by the Revenue Authority, not just for the organisation but for themselves as well. It has already been established that Agents have demonstrated a sound awareness of Revenue Authority detection risk.

5.4.4.2 Willingness to resolve tax compliance mistakes made and/or willingness to report the evasion of others

Most respondents noted that senior management would regard a tax compliance mistake either as a matter demanding immediate resolution or rectification within the normal routines of the business cycle. This finding can be contrasted however with two thirds of Agents responding that tax saving ideas and opportunities were important. It suggests that the organisational imperative is to pay tax accurately, rather than pay tax for its own sake as a societal contribution. The outcome of this question may also suggest that tax is regarded as a cost to the business, and must be managed in much the same way as any transport, marketing or consumables costs. If a tax saving is identified, it is not clear whether it can be availed of without sanction from senior management. There may also be a sense that the Agent might be at a disadvantage if they do not secure tax saving opportunities. This response may be a contra-indicator of a broader tax morale style recognition of civic duty when paying taxes.

Another strand prompting a tax morale explanation is the general finding that Agents in business were more concerned about underpaying tax than their peers in advisory
tax practice. Alternatively this may suggest a preoccupation among tax advisors who have accuracy as a commercial objective. From a commercial viewpoint, tax professionals involved in an advisory role could be more sensitive to their clients paying more tax than they needed, because that could imply poor advice or carelessness on the part of the advising tax professional. On the other hand Agents may prefer to avoid the disruption of revenue interventions arising from an underpayment, and thus are more comfortable with an additional risk of overpayment, seeing it as a necessary trade-off, not at their personal expense, for a quieter life.

5.4.4.3 Respect for the Revenue Authority
Respect for the revenue authority was tested by asking how Agents would rate their respective revenue authority in policing the tax system and enforcing the rules. One in three was indifferent, a similar proportion felt the revenue authority was good and the outliers at the opposite extremes made up the final third of the population which responded. On balance this is a positive result and suggestive of an environment conducive to tax morale. However there is some divergence of views between Agents, divided along the lines of the two jurisdictions. This may cast some doubt on any general tax morale conclusions being drawn because it may instead reflect a measure of the respective efficacy of the tax authorities concerned. This suspicion becomes amplified by responses regarding the fairness or perceived fairness of the tax system. Irish respondents have a more positive reaction when queried over the fairness of their tax system than their UK counterparts.

5.4.4.4 Willingness to commit Tax Default to secure Commercial Advantage
The finding that there was a reluctance over not paying over taxes like VAT or PAYE when due if the organisation was in cash flow difficulties is perhaps an indication of a moral sense that it is wrong not to fulfil tax obligations even at the risk of the business failing. This finding was examined earlier through the lens of Prospect Theory as suggestive of how losses are framed. However for tax morale purposes it is also worth noting that almost one in four respondents would be either
likely or very likely to consider not fulfilling fiduciary tax responsibilities when in a difficult cash flow position. Bearing in mind that this was potentially a self-incriminatory response, this high level of willingness to consider default suggests that the underlying reasons may also contain an element of pragmatism. Perhaps the survival of the business really does come first, rather than the desire to comply?

This latter possibility is challenged to some degree by evidence of the perspective of an Agent when observing the conduct of commercial rivals. More than two out of three Agents felt that some competitors in their sector were competing unfairly by not charging tax properly. While very few felt that this was a widespread phenomenon, this result does not quite reconcile with the individual unwillingness reported by Agents to contemplate tax default.

5.4.5 Findings considered with reference to Agency Theory
The cohort of survey responses under this closer analysis has been selected with a particular emphasis on eliminating crossover between Agents and Principals who typically have a commercial stake in organisations but do not necessarily have direct management and control of day to day situations. Principals will frequently have direct participation in oversight and strategic decisions, perhaps at the board level of companies. In larger organisations they may have proxies in place either at board level or less formally to attend to their interests. Only responses from Agents who do not hold an equity interest in their employer have been included in the analysis contained in this section 5.4.

Agency Theory does not assign a special status to a revenue authority as a stakeholder of the organisation. This is in contrast to the leading role of the revenue authority which is fundamental in both Expected Utility Theory and Prospect Theory as the authority for tax detection and penalty. Trust in the fairness and efficacy of the revenue authority is a key component of Tax Morale, which in this way also assigns a leading role to the revenue authority. Agency Theory on the other hand describes the decision-making process in terms of cost management between the
Principal and their Agent. In this sense, the fact that it is tax compliance (as distinct from any other form of regulatory compliance) which is under discussion is almost incidental. The same principles could arguably apply when contemplating any level of organisational compliance with any state agency or regulatory requirement. Examples of Agency Theory costs when transposed to the tax environment would be:

- Monitoring costs are monies expended or sanctioned by the Principals to ensure that the Agent is acting in their best interests. Such Monitoring costs would include the hiring of external auditors.
- Bonding costs are monies expended by the Agents to provide assurances to the Principals that the business is conducted properly. These bonding costs will include money expended on tax compliance systems and staff training, along with the engagement of external tax professionals for advice.
- Residual costs in the tax context involve a dilution of the business value by virtue of non-compliance with tax law. Business value could be reduced by exposure to monetary penalties. Further if the business had a reputation for non-compliance, or there were unresolved tax compliance issues likely to surface at some future stage, this would reduce the amount a prospective purchaser might pay the Principals for the organisation.

### 5.4.5.1 Monitoring Costs

The involvement of independent auditors in many of the organisations was evidenced in the survey. These independent auditors had a role in detecting tax default before it ever came to the attention of the revenue authority concerned. It is not possible to say that independent auditors are engaged primarily to reduce the incidence of tax default, as they are hired for many other reasons including company law reasons. Organisations over a certain size or operating in certain sectors (e.g. the financial sector) are required to engage auditors\(^\text{15}\).

\(^{15}\) In the UK, companies with an annual turnover of more than £6.5 million and assets worth more than £3.26 million must engage auditors – section 477 Companies Act 2006. In Ireland the corresponding thresholds (if at least two are met) are an annual turnover exceeding €8.8m, a balance sheet total exceeding €4.4m and at least fifty employees – section 352 Companies Act 2014.
Turning to the approach of senior management within organisations (who may be Principals as noted earlier or more heavily influenced by the views of Principals than more junior staff would be) the survey sought to elicit the extent to which compliance concerns are to the fore in the upper echelons of an organisation. Evidence emerged that in nearly all cases the board of directors or senior management routinely considered tax issues. This suggests a desire to stay tax compliant perhaps to avoid additional costs and a view that tax compliance is an important component of the overall commercial venture. There may be reputational issues associated with having a clean tax record which management might want to preserve. It also emerged that neither the board of directors nor senior management usually got directly involved with the tax compliance process. While there was almost unanimous recognition that tax was a matter for management discussion, it was less frequently a matter for direct senior management intervention. That may be because if Agents are performing their compliance duties well, there would be less requirement for direct senior management intervention; an interpretation which fits well into the Agency Theory construct. Equally however (and perhaps somewhat counter-intuitively) this relatively low level of senior management involvement suggests less actual tax compliance decision-making by Agents. It may be that Agents only serve as skilled executives carrying out the compliance tasks, but not making any decisions as to whether to comply or not to comply. If Agents and their superiors share monitoring cost aversion it would materially distort the assumptions of Expected Utility and Prospect Theories as descriptors of tax compliance behaviour. This is because the key compliance relationship for organisations moves from the adversarial (taxpayer vs revenue authority) to one of cooperation among Agents and Principals.

5.4.5.2 Bonding Costs

The survey findings suggest that many organisations are quite content to incur costs with a view to minimising the costs of non-compliance. In the discussion of Expected Utility Theory the commitment by organisations towards adequately staffing the tax compliance decision-making process, and providing systems and training, was noted. This commitment can also be construed within the Agency
Theory construct as evidence of bonding expenditure by the Agents to satisfy the concerns of the Principals. While this interpretation within bonding costs is clear cut, the finding that a tax outcome which is to the detriment of the organisation is also to the detriment of the career of the individual Agent may be less so. Agents were asked about the linkage between organisational loss, financial, reputational or otherwise, as a result of tax default and the consequences for them as individuals. As noted in the Literature Review all previous research attempts to investigate tax compliance behaviour involved tax and revenue authority intervention consequences for the individual in the event of a tax default. It was not clear where consequences for the organisation versus consequences for its Agent start and stop. The survey results suggest that there were no direct tax consequences for Agents but there can be career consequences. If an Agent takes extra care or precautions in tax work mainly to assure his or her position and professional standing rather than to assure the tax compliance standing of the organisation, then arguably the compliance cost for the organisation goes up.

5.4.5.3 Residual Costs
As described earlier non-compliance with tax law may dilute business value by leaving outstanding tax liabilities which must be satisfied at a later date, perhaps by the new owners. A belief that there are unresolved tax issues within an organisation which could come out of the woodwork when the organisation changes hands also discourages potential buyers. The existence of these residual costs presents another route to understanding organisational tax compliance patterns. While the standard theories of tax compliance tend to focus on point in time tax compliance decisions (Tax Morale arguably less so than Expected Utility Theory or Prospect Theory), Agency Theory may better explain behaviours which are linked to the longer term value of the business. Due diligence processes are carried out when a business is being sold. The purpose of due diligence is to identify any potential issues which could have a bearing on the business sale price, and to attempt to quantify any future liabilities which may crystallise for the buyer in the future. The examination of tax issues is a critical element of due diligence, as record of past default may emerge in the course of the sale. Agents who had experience of due diligence should generally have a greater awareness of business valuation issues, and therefore could be more
sensitised to the knock-on consequences of tax default or non-compliance on the future value of the business. A significant majority of the respondents in the survey claimed a previous involvement in a due diligence process (not necessarily within the organisation in which they were then employed). The finding substantiates the recognition of issues concerning future business value. Residual value concerns are a key component of Agency Theory. Survey evidence of an awareness of the importance of tax planning among Agents could be reflective of an awareness of the need to preserve the underlying value of the business through maximising retained earnings, making tax efficient capital investments and the like.

In the round, viewing the conduct of the Agent within the taxpaying organisation within the cost constructs of Agency Theory is a helpful insight into the tax compliance decision making process. In particular it has highlighted that the concerns of the organisation and the concerns of the Agent when it comes to tax compliance issues are not always aligned. It is possible to create a portrait of an Agent within an organisation who is subject to tax compliance decision making influences that do not receive full articulation by any of the standard tax compliance theories.

5.4.5.4 The Typical Agent as a tax compliance decision maker within an organisation

The Typical Agent may be like the Rational Economic Man as was noted earlier in the Literature Review; an artificial concept not existing in reality but nevertheless a useful construct when attempting to understand decisions under risk. If the notion of a Rational Economic Man can be used to describe the behaviour of individual taxpayers whose own income is at risk, the notion of a Typical Agent may perhaps be used to assist in describing or explaining the behaviour of organisations as taxpayers.

The picture emerging from the survey of the Typical Agent is of a qualified professional individual who finds tax work difficult but manageable. This individual
benefits from the support and training provided by their organisation which is appropriate because many of them spend quite some time in their day-to-day work attending to tax issues on behalf of their organisation. It seems that this professionalism and ongoing training pays off because they appear to have a good awareness of tax risk, realise that they must be careful to check their work and engage outside help if necessary and be on the lookout for tax saving ideas for their organisation. They feel sheltered by their organisation so do not believe that action might be taken personally against them should something go wrong or leave themselves open to disciplinary proceedings. However they do realise that the relationship their organisation has with the revenue authority is important for their careers. They appear to quantify organisational tax default by reference to the amounts at issue and the difficulty of making restitution rather than by the rights and wrongs of the situation.

As a description of the person making decisions under risk, there are such fundamental differences in approach between the Rational Economic Man and the Typical Agent that existing theories involving expected utility must be finessed or re-interpreted if they are to make accurate descriptions or predictions of tax compliance behaviour by organisations. The Rational Economic Man stands to personally gain or lose as a consequence of their compliance decisions; it is apparent that the Typical Agent does not. The Rational Economic Man has a variable perception of risk in the event of a default; the Typical Agent has a very clear understanding of the likelihood of detection of non-compliance by the Revenue Authority. The Rational Economic Man fears tax penalties; the Typical Agent fears adverse publicity for the organisation and career damage for themselves. In addition the Typical Agent is not misled by the heuristic biases of Prospect Theory. This is partly because of their professional training, and partly because of the embedded systems within organisations which include continuous checking and review. Moving beyond economic deterrence models, the Typical Agent is pragmatic while appearing suspicious of competitors who act outside of tax compliance norms.
5.5 Contribution of the Survey towards resolving the Research Questions

The Literature Review had prompted three research questions.

- *Are the theories which attempt to explain tax compliance behaviour fully appropriate to organisations discharging fiduciary tax obligations?*

The survey establishes that insofar as Expected Utility Theory goes, key components such as risk aversion, risk of detection, the potential loss and the potential return must be considered differently in the organisational context. Organisations embed procedures, supports and systems towards achieving high levels of fiduciary tax compliance, and the role of the revenue authority is largely secondary in the day-to-day policing of compliance. For Prospect Theory, there is evidence that risk assessment techniques are refined so that heuristic biases do not colour judgements taken regarding compliance. There is little evidence from the survey to suggest that Tax Morale principles inform fiduciary compliance decisions to any significant extent. In answer to this first question, it may be concluded from the survey findings that the theories which attempt to explain tax compliance behaviour are not fully appropriate to organisations discharging fiduciary tax obligations.

- *Are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals?*

Using the lens of Agency Theory has been helpful in moving towards finding answers to this question. The concerns of the Agents are not the same as the concerns of the Principals who will ultimately bear the economic cost of any tax evasion. For organisations, fiduciary tax compliance decisions are taken by Agents who are largely following embedded procedures or the instructions of management, and who have little sense of personal exposure to the economic consequences of their compliance decisions. Important influences in the compliance theories under investigation, such as risk aversion, heuristic bias or sense of respect for the revenue authority seem to have little bearing on the fiduciary tax compliance decision-making processes of the Agents. This aspect of the survey responses is explored further in the interview phase of the research.
• *If not, can any of the theories be adapted or modified to better explain fiduciary tax compliance decisions by organisations?*

As described in the narrative of findings, each of the compliance theories may shed some light on fiduciary tax compliance decision-making processes within organisations. It is clear that organisations have an incentive to be fully tax compliant but it is unclear that this incentive is exclusively linked to the management and minimisation of tax costs as Expected Utility Theory and Prospect Theory might suggest. The survey findings point towards an application of theory which must factor in the commercial success of organisations and the career aspirations of their Agents. There could well be scope to modify the application of existing theories to better explain fiduciary tax compliance decisions by organisations.

Phase 2 of the research will attempt to fill in the gaps in the answers found in Phase 1 and in particular to better delineate the factors influencing fiduciary tax compliance behaviour by organisations which are the essence of the second research question. The findings in Phase 2 should also establish which theory might best serve following modification in understanding fiduciary tax compliance decisions by organisations.
6 ANALYSIS OF PHASE 2 OF THE FIELD RESEARCH

6.1 Overview

The principal driver behind Phase 2, the Interview Phase of the field research was the finding arrived at in Chapter 5 to the first of the research questions, namely that the theories which attempt to explain tax compliance behaviour are not fully appropriate to organisations discharging fiduciary tax obligations. The interview phase primarily focussed on the second research question – are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals? The survey results suggested categories of influencing factors for exploration where the influencing factors for organisations appeared to differ either in meaning, occurrence or relevance from the influencing factors on the tax compliance decisions of individuals. Concepts such as risk aversion and utility appear to have different meanings or measurements for organisations. Organisations also appear to have additional influencing factors when fiduciary tax compliance decisions are being made, such as the consequences for the Agent of the compliance decisions being taken. The capacity of the revenue authority to detect tax default seems to be considerably less relevant in the context of organisations. In turn these differences suggested topic areas for discussion with the interviewees, as follows:

*Systems and Supports* – the interviewee’s experience and view of the importance of the training, computer systems and other resources provided within organisations, and also their experience of operating tax compliance within the broader organisation

*Detection* – how effective was the revenue authority in policing the system, and in particular did the interviewee’s experience concur with the survey finding that revenue authority officers weren’t always the ones who detected mistakes
ANALYSIS OF PHASE 2 OF THE FIELD RESEARCH

Governance – obtaining first hand descriptions of management involvement and concern about the tax compliance affairs of the organisation

Business planning – how the affairs of the business are arranged to ensure tax compliance, if there is any particular approach taken to handling fiduciary taxes and what steps organisations were willing to take to manage their tax liabilities

Attitudes – how the Agent regards his or her own work, and the fairness of the tax system.

The methodology used in conducting the interviews has been described at 4.5. The findings from the interviews are set out below with reference to the topic list. The profile of the organisations to which the interviewees belonged was also set out in section 4.5. This table is reproduced here for ease of reference, along with a descriptor of the interviewee and a reference.

TABLE 21 - INTERVIEWEE IDENTIFICATION CODES

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6.2 Interview Topics

6.2.1 Systems and Supports
This topic explored the supports provided by the organisation, and the interviewee’s attitudes towards them.

6.2.1.1 The Importance of Systems - Findings
All of the interviewees clearly recognised the importance of systems within their organisations.

“With the volume of transactions in [company name], the systems would be pivotal. It's all very integrated. You know the people designing the systems. You know the people integrating them. Those interactions should be seamless. I think if you're weak in one, it doesn't matter how strong you are in the other two. You're probably going to be exposed to issues. We would see it as fundamental that you get strength across the board.” CFO2

There is some evidence that multinational corporations go to considerable lengths to ensure that their systems are standardised across the corporate group, irrespective of the territory of operation. This interview finding is of interest because it suggests indifference within the organisation to the strengths and weaknesses of individual revenue authorities. Once a decision has been made to comply it seems that the compliance decision extends across all territories where the organisation operates.

“Systems are selected on a global, group basis. There are global policies in relation to the system usage, but the system has to be bespoked [localised] for every country to ensure that the requirements of that country are met. Local commercial considerations are met, but system selection is driven by an overall centralised view, having one system across the globe. Different things can be done within each country, but the main goal is that the system looks the same across the board.” FA06

A number of interviewees working in multinationals spoke about the different approaches taken by different revenue authorities in different countries, but none suggested that their organisation would comply in one country but not in another. One interviewee noted different compliance appetites depending on the territory in which the organisation was operating.

“We handle tax issues across a range of different countries. I have noticed a difference in the approach of senior management depending on the country. It seems to me that in the Nordic
countries there is almost a “social” view of taxes, and tax would tend to be more prominent on the board agenda. FA03

The view expressed raises the possibility that tax morale explanations of behaviour may be more valid in some jurisdictions than in others. This research focuses on compliance behaviours in Ireland and the UK; a similar survey and similar follow-up interviews might yield very different results from Central and Northern Europe, or from other continents.

Almost all the interviewees said that there was not a blind reliance on the output from systems.

There is no exclusive reliance on junior staff coding stuff and putting it on the system. It’s always eyeballed by professionals and in fact the tax team would comprise only professionals. CFO1

We don't trust what comes out of the package; it has to be reviewed. And it may also be reviewed by a third party for commercial purposes before it ever gets to HMRC. FC01

Everything is checked. Salaries are done by a junior staff member. I check every single bit of it. FC03

Nor were these concerns limited to very large companies with very large accounting systems.

We take a printout of every single screen [on the Revenue Online System] before we hit the send button. We now have more papers for each return than we had in the good old days. But it's a small price to pay. OMO1

Many of the interviewees made a distinction between mainstream systems and systems to address compliance requirements under different heads of charge for their particular business. There was an attitude that could almost be described as pride of ownership in the development and operation of systems to cope with less frequently encountered areas of taxation.

Complexity is a factor. It's too complicated to do our Corporation Tax on Excel so we go to the marketplace to get bespoke software. FA04

When it comes to new system installation, we would have some accountants who are dedicated to systems work and they would facilitate the project. They would in turn involve the users, be that in the tax area or in the finance area – a tax system is going to affect both –

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and look to see what gaps there are in the current systems... It’s that type of tapping into the expertise of a lot of different people that gets the right system. FO2

Many of the interviewees had a broad perception of what a tax compliance system might involve. While some interviewees regarded their compliance system as starting and stopping with the computer and the software, other interviewees understood the system to be technology based but in addition incorporating human input and a degree of cooperation with the compliance rules embedded in the system.

Tax compliance systems in my organisation are mixed. Some payroll is outsourced; some systems are run in house. Some systems have been developed specifically in-house, or third-party systems have been redesigned. We put a lot of emphasis on the accuracy of computer systems, but all the output is human reviewed. If we have to replace any system, the old system and the new system are run in parallel until everyone is certain the new system is fit for purpose. FA03

Frustration was expressed by a number of interviewees over the lack of cooperation they perceived that colleagues offered. Other functional areas within the business were sometimes reluctant to buy in to the compliance systems of their finance departments.

Sometimes though I'd have colleagues who aren't quite as close to the compliance function, who would kick back against what we're doing. Definitely. They will see things from a sales or marketing perspective and they are always the ones who want to push the line. They will say of course we can do this, and I have to say “but we can't”, and give them the reason. FA01

There can be a tension between the finance department and operational divisions of the business. In my experience, if the systems are in place, people will perhaps grudgingly accept the systems. The accountant designs the system and the forms looking for the PPS number and so on and so forth. HR and Marketing mightn't be delighted about that, but if the system is in place, that's what they have to follow. HOD1

Other interviewees found their colleagues more cooperative:

PAYE compliance is processed through payroll, and HR looks after that. I suppose HR would do a certain amount, but we have to make sure payroll is playing by the rules. And from my experience generally HR are very well aware of their responsibilities and take them very very seriously. FA02
Whether cooperative or uncooperative, there did seem to be a sense among finance professionals that ultimately they had some responsibility for the conduct of their colleagues when it came to compliance issues. It may be that this is a bi-product of their training. It also challenges the supposition that organisations comply as organisations in their own right. It is clear from comments in the interviews that decision makers within organisations may be typically made up of Agents who do not see tax compliance as a priority and other Agents who do. Whether or not an organisation is tax compliant may have mostly to do with who “wins” when such conflicting priorities arise and that in turn may be largely determined by the senior management figures to whom they report. It may have much less to do with organisational level notions of tax morale, and still less to do with the activities of revenue authorities. In larger organisations only key people were permitted to manage the relationship with the revenue authority.

Our policy is very clear that nobody is allowed to talk to the Revenue without going through the tax function and that’s because we are the ones who understand the framework that’s in place, how matters are interpreted, what the tax language means or doesn’t mean. CFO1

This notion is several steps removed from any simpler description of the compliance process as the decision of a Rational Economic Man. Only those competent and trained to manage the tax risk in an organisation are permitted to deal with tax risk. Within organisations such discipline eliminates meaningful discussion over risk of detection and risk aversion. The decision making Agents can accurately judge risk of detection of default by the revenue authority (and the survey results suggest this was not an overwhelming concern for them). Their risk aversion is set by the culture within the organisation.

In a number of instances, compliance system selection and operation was not primarily driven by concerns over local tax compliance. All of the multinationals had reporting requirements to their head offices and those reporting requirements were standardised across the territories in which they operated.

Because of the oversight from [Headquarter City], which has a worldwide tax office, I think the credibility bit is more important than the disciplinary bit. It is rare to make mistakes, but we would actually have more exposure if our systems and processes were wrong, then if we had made a particular tax mistake. Our policy is to be fully compliant. FA01
Other businesses in particular sectors, such as insurance, had particular prudential compliance requirements to the regulatory authority for their industry.

We are in the insurance broking industry. We work as a Lloyd's broker, so the system that we have chosen is specific for Lloyd’s broking. It's a quirky accounting approach. Lloyds don't account in the same way as most companies. You need a system that complies with that. All movement of funds is very restricted and restrictive in our world. FA05

In a few cases, there were aspects to the tax compliance requirement where automated systems either were not available, or where the volume of transactions did not justify the investment in an automated transaction process. In one case, it was deemed cheaper to assume that the tax was due and pay it, rather than take a risk and get it wrong.

Because of our unusual VAT system, there is no real way of automating this. But it's hard to get somebody in Revenue if you've got a query. We don't actually use a VAT expert, but in most kinds of cases it's usually a tiny amount – maybe €50. If we’re not 100% sure, we would put the VAT on anyway. FC03

This is an example of a balanced view being taken between system cost, compliance cost and tax cost. In this case the cheapest way to avoid being non tax compliant is to be over compliant. System installation and consultancy costs outweigh the aggregate cost of overpaying tax in a number of instances. Organisational risk aversion mandates the overpayment of tax if the need arises. This point is discussed more generally later.

6.2.1.2 The Importance of Supports - Findings

Interviewees seemed to regard the support provided by their organisation to themselves and to their teams in fulfilling tax compliance as a given.

We’ve had a policy on tax for years and years and years… If the risk committee has taken a view on this, this must get done. That’s absolutely right behaviour. CFO1

CFO1 also saw support as a business investment.

You look at your systems and they may be not set up in the best way. You ask for the systems to be changed, but it goes on the “list of asks”… So you have to make a business
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case, but it mightn’t automatically go to the top of the agenda. You have to live with a workaround and try to manipulate the data ourselves until the system gets changed. CFO1

CFO2 agreed but regarded the business case for investing in compliance support more positively –

Like the old saying, pay now or pay later. You can have a threadbare [tax compliance] Department and the problems are going to crop up. You're going to lose money, or purchase ineffectively, not tax plan or have interest and penalties. Or you can put the money in upfront and get those things done properly and ultimately I think you're going to get a far better outcome. It's easier to make the case for a tax expert than for some other functions. Most people see that as a clear return, whether it's compliance that this person can protect us, or otherwise identify opportunities. CFO2

At a lower level of management not only was there an expectation of support and training, there was an anxiety to avail of it.

We have to work with CPD and training to keep on top. If anyone else in the organisation sees something about tax, the expectation is that our team will deal with it. We're expected to know about these things, even if there is no direct impact. FC01

While there is information and updates available from [the Revenue Authority], we very much rely on our training providers. Training is repeated every year, and we are very supportive of our staff going on training. FC03

A common theme among many interviewees was the attitude that external advisors – their auditors and consultants - offered support rather than supplanting their own compliance work.

With such robust systems in place, large organisations go to their advisers for comfort. It's just to get a level of comfort, and perhaps back-end support if anything does go wrong. You have somebody who can facilitate that support and an additional resource to deal with trouble. In my experience, what the Big 4 [accountancy practices] are doing is just providing a review. The actual data is all being processed and completed by internal people. There is no particular value added in terms of technical expertise, but it is there if we need it. FA06

External advisers are hardly ever used. They are never called in on compliance matters, and only very occasionally on planning matters. We’d contact our external advisor maybe for a revenue audit issue. This is not for tax technical reasons, but rather to understand what might be happening in the market. FA03
I think to be fair there was always a sense that if we were not sure we’d be getting an external adviser to say whether it was legal or whether it was not. We weren’t expected to have that level of expertise obviously ourselves. But I would say this; we didn’t use them that often. Unless it was a major project and if it was, it would be discussed at the board level… and there was never any issue about getting some external advice. FC02

It seems that most of the interviewee organisations, irrespective of size, are comfortable with their own tax compliance activities. However, the higher up the organisation you go, the greater the recognition that this degree of comfort is not something that just happens, but is something that must be invested in.

6.2.1.3 Conclusions drawn from Systems and Supports discussions with Interviewees

There is evidence from the interviews to support the survey findings that Agents do benefit from the systems support and training provided by their organisation. They are careful to check their work and willing to engage outside help if necessary. In most cases support is willingly given by the organisation; senior management may view it as an investment in the business.

6.2.2 Detection

This topic explored the attitude of Agents towards the revenue authority and the management of tax compliance risk by their organisations.

6.2.2.1 Attitudes towards the Revenue Authority

The following quote reflects prevalent insight gained from most interviewees in terms of attitudes towards the revenue authority, and supports the findings of the survey.

All the years, we've had very few mistakes with Revenue... They start an audit with the intention of finding something. I know that sounds awful, and I don't mean any harm, but that's what they do. Our policy is to be fully compliant. If that means paying a little bit extra to be fully compliant, that's what we do. FA01
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This latter theme, that the revenue authority usually did not know or understand the business, and therefore could not be in a position to scrutinise it properly, came up on several occasions. It may suggest that the cost of revenue authority scrutiny to the organisation goes beyond the obvious cost of additional tax, interest or penalties following the detection of default. There is a cost to business of explaining the operation of their sector to the revenue authority inspectors, and there is a cost arising from a disruption to the usual operations of the business by having a tax inspector on the premises. This lends credence to the approach that it makes commercial sense to be as compliant as possible, thereby reducing business costs.

These concerns were particularly strong among Agents working in smaller and more specialised sectors of industry such as semi state services and insurance. The concerns those interviewees cited were not tax issues per se, but tax issues arising from the particular way their business operated, which the revenue authorities were struggling to grasp.

We had to push HMRC for that [a technical ruling on VAT]. Their initial attitude was – submit what you think is correct, and we'll let you know if we think it is wrong. We wanted them to tell us what they thought was right, so it was a bit of a chicken and egg situation. In the end, we had to force the decision. FA05

It's hard to get somebody in Revenue if you've got a query. In the past we have sent in queries, and you could be chasing them for weeks. FC03

[Describing the Revenue Authority’s refusal to accept a work around to resolve a payroll issue] So now the result will be that they’ll probably get less money than they would have because they’ve not given us a realistic mechanism for settling the liability and they just don’t get that. CFO1

To be fair to the revenue authorities concerned, it was clear from the interviews that some of these issues were highly technical and specialised in nature. Perhaps it is unreasonable for organisations to expect that the tax inspector might understand the business without explanation.

It is trickier to deal with HMRC because of the complexity of the issues. Even though we're a small company, we ourselves created a new VAT code in the UK. Most of our clients don't have a single ship. They would have a fleet of ships. Perhaps 10, 20, 30 large vessels.
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Each vessel would be in a different location. Are they within the EC, or outside the EC? Rarely are they 100% either within or without. So for VAT purposes, you have this mixed code, which suggests that either 90% of the fleet have to be within or without. We created a third code, which is a kind of half way one, where roughly half of them are in or out. The VAT people weren't sure. If one vessel out of 100 is in or out, does that make them all in or out? They were getting confused with that. FA05

However by and large there was little sympathy for revenue authority officers struggling to tackle the nuances of the business. Not all complexity originates from the business circumstances.

It's the constant changing, rather than the complexity of the rules, which gives us the headache. Our stuff is pretty specialised. When you join a company in the specialised sector, it does take a bit of time to get used to the tax environment because of the complexity in it. But once you're there, the main difficulty is the rate of change. FC01

Similarly not all difficulties with Revenue originate from the complexity of the issues. There was a suggestion on several occasions that Revenue interventions are led by considerations of tax yield, rather than a desire to enforce compliance.

I don't mean this in a disparaging way, but the newer people we deal with [in the revenue authority] are much more ambitious and much more rule-based. It seems to me that some of them want to make their reputation dealing with us, so we can't engage with them in the same way. The more traditional guys were very business driven. Some of that is due to the recession, some of is just down to an ambition to collect as much money as possible. There is less support for sorting issues in a business-like manner. Their objective is very clear. That is to collect as much as possible within the guidelines and rules. FA01

6.2.2.2 Detection of tax default by the Revenue Authority

Generally interviewees were dismissive of the ability of the revenue authorities to detect tax mistakes in the normal course. They also felt, rightly or wrongly, that the revenue authority would not walk away from an investigation or an audit without something being highlighted, however trivial.

The one time we did have to settle – it involved VAT on a computer being given to a former employee, we settled the same day for about €1,200 but we still got hammered. It was a genuine mistake; we had been 10 or 12 years trading at the time. We had not made mistakes before, but then they came looking for things. If you want to find something, you will always find something. OM01
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Revenue? Their job is to find mistakes. They will find something. They will find something, otherwise it's a bad day's work for them. But in my experience that’s in the course of a Revenue audit – not routinely. HOD1

It rarely gets to a situation where the Revenue are the ones to find a problem. Nowadays, they are risk and systems focused. Unless they actually come in, and get a complete dump of the system, and run some diagnostic tests, Revenue don't know enough about the business to know what might be wrong. FA04

Some interviewees felt that revenue authority interventions came about through happenstance, and it was only when revenue authority staff were on the premises that any problems might be detected. That is not to say that interviewees were unconcerned about the consequences of an audit. Nor was there any suggestion that organisations might be less fearful of an audit because they considered that revenue authority staff weren’t fully up to speed with either tax knowledge or industry knowledge.

Clients are averse to Revenue audits mainly because of the perceived nuisance value. We don't have clients coming in to say to us – we're having a Revenue audit and we are terrified. 95% of the time our clients are tax compliant. AF01

Compliance is tough because you were always concerned that you mightn’t be doing the damn thing right. First of all there would be the extra hit on your figures, not on your profits even but on your cash flow that might be tough for the business to take. But secondly, if it was significant you might have to go to your Board. FC02

The survey had shown that the revenue authority was not the agency most likely to detect tax mistakes or tax default. In the UK most Agents felt that external auditors or advisers might find a problem before HM Revenue & Customs. In Ireland, Agents stated that higher ranking colleagues along with external auditors or advisors would find a mistake before the Revenue Commissioners. The interview responses offered a more nuanced view. Most interviewees were quite positive that their internal systems would detect problems before any external party, be that an adviser or a regulatory authority.

If there are mistakes, primarily we find them. FA01

We would assume that we would pick up any problems or mistakes, before our auditors and indeed before HMRC. FA05
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Our own internal controls and reconciliations would pick things up. I wasn’t actually living in fear of Revenue looking over my shoulder. I was being paid to be the experienced person there, if I made a mistake and it was I who made the mistake then I was the one to go to my Board and say listen I screwed up here. We certainly didn’t depend on Revenue to pick things up. FC02

Mistakes are unlikely because of the extent of internal reviews. FA03

I would say internal reviews and internal reconciliations and checking are key. We have certainly had situations where systems stopped working. You know, something else was changed in the system and messed up the classification of customers or data, and subsequently people said – that looks a little odd. And eventually said – hold on. The tax department would do work like that…maybe exercise a review, and even highlight to Revenue that we've identified that there have been some issues. CF02

The internal checking was not always passive in nature. Several of the interviewees reported that their organisation actively self-reviewed to ensure compliance matters were attended to. This was particularly the case if a tax strategy was in place which required maintenance over and above normal compliance requirements. Some tax planning requires specific things to be done in a particular business location, perhaps with pre-agreed costs and margins to ensure that international transfer pricing guidelines are not breached.

We will deliberately ask the [in-house] Tax Department to look periodically at a certain structure in place for tax planning and we will very proactively ask the tax function to go and inspect the files. And check that operations are being conducted consistent with the desired structure. CF02

We had a department in Dublin who were looking after tax planning… They had some kind of system where the profitability achieved in each market was pre-agreed. So you had to take markups and markdowns to get things right. That obviously was based on some kind of an understanding with the Revenue. But our people were really ruthless, like if things happened that fell outside these margins - they were absolutely not happy. FA02

FA02 is describing a situation where a multinational organisation is being transfer pricing compliant. The multinational has agreed with the revenue authorities what are known as Advance Pricing Arrangements; mark-ups on sales between entities in the same multinational group in different territories. The individual companies are not allowed to stray beyond these agreed mark-ups. If they do so, some income might be overtaxed or for that matter undertaxed depending on the prevailing rate of
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tax in the country of operation. Far from tax compliance being a series of individual decisions by an Agent, tax compliance for this organisation means monitoring margins in the accounting system and managing them, under threat of sanction not from the revenue authority but from the “tax planning” department within the organisation itself. Clearly this demonstrates none of the “intrinsic motivation” to pay tax of Tax Morale, or the tax loss minimisation of Expected Utility Theory but a commercial imperative not to fall foul of tax compliance which was pre-arranged with the revenue authority.

While the Revenue Authority was not the main agency detecting mistakes, neither was it always the main external agency of concern to the interviewees.

Compliance isn't driven as much by HMRC as it is by the FCA [Financial Conduct Authority (UK)]. We are a regulated industry, so our compliance is driven by them. They are the overall guardians. We have to stay within the green area of their compliance. FA05

Compliance isn't just about keeping on the right side of the Revenue. We have a number of joint-venture partners, where our contracts undertake that we must be compliant in certain areas. We are bound to provide them with a copy of a tax return, or even a draft tax return, by a certain date. They will sometimes want the return to be prepared by third-party, so that they can satisfy themselves that we are not doing things at their expense. FC01

Long established entities are even at more risk; this is my opinion – it comes down to the shareholders. Most of the shareholders themselves are long established. They are long-term investment shareholders. Reputational effects are key to them, perhaps more so than for investors in young fast-growing companies. If there are rumours of tax going wrong, then investors know it is potentially a high risk investment. If the entity is fast-growing, they may be willing to accept that. But if the entity is long established, I just think people don't want to take that risk. The bluer the chip, the harder it is. FA06

In these instances, it appears that it was in the interests of the business to leave itself open to inspection, in some cases by a state regulator other than Revenue and in other cases to business partners. The observation by FA06 who was an Agent in a publicly quoted pharmaceutical company is of particular interest, as he linked the tax compliance record to the share price. In all cases detection of non-compliance would have an immediate negative commercial impact, rather than a negative tax impact.
Satisfying the revenue authority became a secondary consideration rather than a primary consideration.

Some interviewees reported compliance pressure from within the organisation itself.

The big bad Wolf isn’t always the Revenue. It could be internal pressure. Our CEO is very much “you don’t waste money”. We have never been hit for any interest charge, and we would see it as a big black mark against us. FC03

6.2.2.3 Conclusions drawn from Detection discussions with Interviewees
Attitudes towards the revenue authorities can possibly best be summarised as generally respectful, but impatient at the lack of business knowledge (as distinct from tax knowledge) shown by revenue authority officers. Organisations are of the view that the revenue authority is not the primary agency which detects tax default, nor even the primary agency to be feared if tax default does arise. Tax mistakes are usually picked up by internal review, before ever reaching the attention of either the revenue authority itself or the attention of external consultants hired by the organisation such as auditors or tax advisers.

6.2.3 Governance
Interviewees were probed on the attitude of senior management within their organisation to tax compliance issues. It was seen from the survey that management regarded compliance as important and that any mistakes arising needed to be rectified. This survey finding was generally borne out by the interviews.

Two views emerged consistently. One was that tax compliance was a matter for concern for senior management. The other was that tax compliance was a matter for delegation to the finance department. These views may appear contradictory at first sight but may be reconciled if the overarching approach of management is that tax compliance is commercially necessary but can be safely delegated to an appropriately resourced finance department, as borne out by other survey and
interview findings. This approach may be comparable with the approach of senior management within organisations to functional aspects of a business such as logistics, manufacturing, human resources and the like. At one level it suggests that tax is seen as just another cost – a burden of business to be controlled and managed like any other business cost such as transport or utilities. There was some evidence however that in smaller organisations, tax was regarded somewhat differently to other business costs as something to be resisted.

Would tax be a regular issue for board members? No is a straight answer. I think there is only a once a year update to them… Their view is that you empower Finance [the Finance Department], and trust Finance to do the job properly. The work is delegated, but they retain the oversight and the interest but only to a minimal level. FA01

The only person who is going to bring tax to the boardroom as an agenda item is the accountant. They know though that they may as well talk to the wall as talk to the directors about tax… They won't focus on tax unless they absolutely have to focus on tax. Unless tax is brought kicking and screaming to the boardroom table by the accountant because some issue had arisen, it won't receive any attention. HOD1

This view as articulated by FA01 and HOD1 appears to be the most prevalent. There is evidence that senior management in more heavily regulated industries and businesses paid greater direct attention to tax issues.

Tax compliance is a regular feature on the board agenda, but more in terms of “is there any bad news, any exceptions, complaints and the like?” So while it's always discussed, at the moment it doesn't take up a lot of board time… I think in our industry, compliance responsibilities are delegated down to the operational level. FA05 (Insurance)

If there are issues with returns, it gets escalated quickly to higher management levels. They become aware very quickly that something is going wrong that needs to be corrected and ensure that it doesn't occur again. They'll put procedures in place to make sure it is accurately sorted. FA06 (Pharmaceuticals)

We have board level risk oversight. Tax compliance goes through a main Risk Committee and we have a tough committee populated by senior executives. I go into them regularly, at least twice a year. CFO1 (Banking)

The prevailing view was that attention to individual tax compliance issues at senior management and board level had to be driven by Agents involved in the day to day running of the tax compliance process.
The attitude of senior management towards the revenue authority was more ambiguous. Both the UK and the Irish revenue authorities have developed what are known as enhanced co-operation frameworks, involving a signup by the taxpayer to an agreement involving enhanced disclosure and enhanced cooperation with the revenue authority in exchange for more prompt service and greater certainty on contentious issues (Freedman et al. 2009). Such enhanced co-operation frameworks typically involve larger corporate taxpayers, and some of the interview candidates were selected from organisations of a size which would merit their revenue authority offering them an enhanced cooperation framework. Only two interviewees noted any knowledge of such arrangements. In one instance, it was evident that the organisation would have welcomed an offer of an enhanced cooperation arrangement but it wasn't put on the table for them.

Cooperative compliance would hold attractions for us. Our relation with Revenue has been damaged in the last four or five years because they have taken cheap shots at us. We collect €50 million or €60 million a year in taxes. They shouldn't argue with us over €100,000. We are more wary of them than perhaps in the past. FA01

In the other instance, the Agent had clearly given the matter some thought, and wasn't willing to enter into an enhanced cooperation arrangement.

We would resist this if at all possible now. We’ve always managed to be compliant and we would always say [to the revenue authority] – ‘actually you know how we behave. We already have a policy; we’ve shown you our policy for good governance. You know that we come and talk to you every time we have a problem so why do we need to put that into a document that we can’t kind of legally sign up to?’ CFO1

The concern here appeared to be that there was already sufficient exposure for the organisation to the consequences of tax default as enshrined in the tax legislation, without going a step further to enter into a quasi-legal arrangement which would ultimately place a heavy burden of compliance on the organisation without any great benefit, either for the organisation or for that matter the revenue authority.

By contrast to this ambiguity Agents were far clearer as to the reasons why the management of their organisations might be keen on positive tax compliance. These reasons fell into the realm of the commercial and the pragmatic. There was a link
established between tax compliance and good business practice among all interviewees. The reasons given can be divided into three distinct categories - customer and supplier impact, regulatory impact in areas other than taxation and the ability to obtain business investment and funding. These are now considered in turn.

**Customer and Supplier Impact**

I think, for sure one of the worse things that will happen to a company is that they are in the news because they are not compliant, and I'm sure the Apples and the Amazons and all those do not like what's happening at the moment. Because it is bad for business I think. FA02

The suggestion here was that customers would be put off purchasing a company’s products or services, if that company had a poor compliance reputation.

When dealing with customers and suppliers, we are more likely to raise tax issues than not. The organisation will not play ball with non-compliant suppliers. Our tax people would contact the lead executive on the customer or supplier account if we thought there was a problem. It would then be expected that the executive would resolve the matter with the customer or supplier. Failing that we would terminate the business arrangement. FA03

This impact was usually mentioned by interviewees in the consumer goods and services market.

When you go into the shop and see [our household name product] and you see [competitor’s household name product] side-by-side -- you might kind of say well, you know [the competitor] kind of pay their taxes -- it could affect our sales. FA02

It was also mentioned by two interviewees within smaller organisations in the context of providing goods and services to larger corporate customers.

It's all related. We have a contract with a multinational. We have a standard contract with them but like the first time they find any inkling there may be an issue with taxes or whatever, you are gone, that’s it, you are gone. So it's peace of mind, it's reputation, it's capacity to attract new customers, it's capacity to keep the business going. FC04

While all of the interviewees saw some link between reputation for tax compliance and reputation in the marketplace, some were careful not to overstate the positive consequences. In particular those dealing with the wholesale market rather than the retail market were less categorical about positive reputational effects than others.
Can you actually attribute sales, either directly or indirectly, to the fact you are playing with a straight bat? I guess I would have the opinion that there is an indirect correlation. UK customers would be more satisfied with a company with a strong UK reputation. FA06

Often the business impact of a solid tax compliance record was couched in negative terms. The absence of a solid tax compliance record might do harm to commercial prospects but a good compliance record doesn’t necessarily improve commercial prospects. None made reference to tax compliance as being a positive influencer of customer loyalty. Only one interviewee made any reference to firms with good compliance reputations being in a position to attract better employees.

More evident was a fear that by colluding with the illegal tax practices of customers and suppliers, the organisation's own tax affairs could be prejudiced.

I've had situations where people were looking to have payments put into their back pockets. I've made it very clear that that's not something we do… I'm conscious of the powers that Revenue have. That again is part of compliance. Revenue are entitled to seize computers. If they came to my business, and took my laptop, I might as well give up and go home. And I can't afford that. Forget the embarrassment, whatever else, I could not afford to have that happen. It's a threat that I'm aware of, and would take into account in my decision-making. OM01

In the case of the insurance broker, non-compliance with tax law could render the organisation incapable of delivering its insurance service.

But as a broker, we need to find a market to place the business with, for example [large insurance companies named], those big beasts. And I think from their point of view, they would like to know they are dealing with a broker who has a clean compliance record. It's not so much about getting the business in the door, but placing the insurance for the client. It's where you want to have the risk covered that makes the compliance record more important. In regular trading terms, the reputation issue is more important for the supplier than for the customer. FA05

**Regulatory Impact (other than taxation)**

Several of the interviewees articulated examples of the regulatory risks rather than the tax authority risks associated with non-compliance.
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Tax is a cost, but it is seen in this environment as a very important cost. That's because of the FCA [Financial Conduct Authority] regulation. The FCA can quite literally close you down. In other companies which are less regulated, you don't have this kind of cloud over you. Although it is seen as a cost to the business, it is a very important cost, a very important function. FA05

An interviewee from the State sector identified an annual requirement to confirm in writing that they were in line with a procedure known as the Code of Practice for the Governance of State Bodies (Department of Finance 2009). This requires (at Paragraph 19.2) that a report on the state sector organisation’s compliance with tax law must be provided to the government department responsible for that particular state sector organisation.

We are part of the code of Good Practice for Semi-State organisations and part of that is to say that we are tax compliant. We have to do that every year. It is the chairman that signs it. Part of that is a review of internal control every year. Our internal auditors will come in and will spend about a week just looking at our systems in finance. They will do a report on our systems of internal financial controls. That is part of the code of good practice. Part of that is that you are tax compliant. FC03

That the state agency had complied with the obligations under the Code of Practice for the Governance of State Bodies seemed to be at least as important in the mind of this interviewee as straightforward compliance with the tax obligations.

In some cases there is a direct correlation between commercial considerations and regulatory considerations. One interviewee discussed the difficulties of selling into heavily regulated markets if there was no track record of meeting the regulatory requirements of tax law. This is somewhat different to the individual customer concerns over the tax compliance track records of its suppliers as noted earlier.

Any perception that the organisation was not fully tax compliant would have a direct cost. This organisation relies heavily on government business – power generation turbines, [type of branded machine named] machines for hospitals, [type of branded vehicle named] for public transport networks. Compliance means business. FA03
Business investment and funding

A non-tax compliant organisation might find it harder to secure equity investment or loan funding. Two of the interviewees mentioned in passing that loan capital might be more difficult, if not impossible, to secure from a lending institution unless evidence of tax compliance could be provided. Generally the impact of compliance on the banking relationship was not a major factor in the minds of the Agents being interviewed, although as noted elsewhere in this thesis at 5.4.3.2., the use of tax collection enforcement methods such as Attachment Orders can seriously jeopardise the relationship a business might have with its bank. It is possible that responsibility for managing loan finance was outside the area of some of those interviewed. However it might have been expected that providing a level of assurance to the organisation's bankers with regard to their tax compliance status would have featured more prominently in the interviews than it did.

Insight was provided by one Agent in a highly regulated industry that they themselves would be less likely to invest in territories where their competitors could play fast and loose with the tax rules.

It's a disincentive for us to expand into less well-regulated countries for sure. In our industry, it is global and there is a lot of taxation. It's definitely something we have to consider, whether as a plc we can compete with other operators. It tends to be regulatory compliance as much a specific tax compliance issue…It is frustrating where other people can generate profits and use those profits to support their overall product or brand investment with what we would regard as ill-gotten gains. CFO2

While as we have noted, a good record can attract in shareholders (or at least not dissuade potential shareholders) there is little recognition that a tax compliance record enhances shareholder value.

I think when they are thinking about selling the business, they recognise, with due diligence and all the rest, that the compliance record is very important. But when that is not on the screen, then that is not an issue. But I think the position changes to one of relief when they find that the compliance is good and they come up before a due diligence test from one of the
Big Four\textsuperscript{16}. Then they are delighted they have behaved themselves. Up to that, it doesn't come into it. They get pleasure out of it at that stage, but before that it's all hassle and blame and "why have I to do this". AF02

\textbf{6.2.3.1 Personal Consequences for Agents of organisational tax default}

Under this “Governance” heading interviewees were asked to comment on the consequences for them personally if the organisation was found to be in tax default. The survey responses as described in Chapter 5 had suggested that Agents felt insulated from the immediate revenue authority consequence of tax default, but that problems would not reflect well on them as individuals in their careers. Many of the interviewees confirmed this attitude.

I have always felt that if the revenue come in and did an audit and found some big liability that I haven’t found, then my position would be very difficult in those circumstances. Plus my job is to make sure that there are no surprises. In any large organization there is always going to be mistakes, there is always going to be human error, I cannot give absolute assurances. But if I had given an assurance [to management] that we looked at this item or that item and we thought it was fine but it turned out not to be, my position would be very difficult. I am not doing my job unless there was a very clear explanation for the mistake.

CFO1

This was the observation of a senior person interviewed in a large organisation – it did not seem to matter how senior or junior the Agent was in the business; tax mistakes at the organisational level are bad for careers.

The survey results distinguished between the direct personal consequences of organisational tax default for Agents (revenue authority fines and the like) and the knock-on, less direct career effects. It does seem that where there have been direct personal consequences for an Agent, the repercussions are felt right down the reporting line of the organisation.

The Chief Financial Officer has to sign off on the accounts, and he personally has a liability of £5,000 if there is something wrong. Not surprisingly, if he has to sign off, the financial

\textsuperscript{16} The Big Four is the collective name given to the four major accountancy firms – PwC, KPMG, EY and Deloitte.
controllers have to sign off as well. We have to put our names on the line before he will sign off himself. FA04

Many interviewees offered descriptions of the internal checks and controls whereby they could be held personally responsible for mistakes. These checking and control structures were particularly prevalent in multinational organisations, where such controls seem to be the norm. Control structures frequently involved some form of personal signoff by the staff member.

There was a specific questionnaire each quarter. It would ask, say, are you aware of all of the issues or are you aware of any fraud that took place in the organisation, yes or no? And like I said that focuses minds a bit probably. Because it was made quite clear that the – what's the word – the sentence for noncompliance was automatic firing. Oh yes. Oh yes. They would be very quick to kick you out. FA02

There was also considerable concern for the impact on career prospects of poor tax compliance outcome for the organisation.

But if you are an accountant you do know that if you are paying too little tax it is going to come back and bite you in the posterior at some stage. FC02

Tax is the only business decision that can come back to haunt you five years down the road. FC04

If we're not fully compliant because our processes and systems are not up to standard, that presents a credibility issue with head office. It's especially a worry for our financial director. If they [head office] thought that the financial director didn't have good processes control in place, that would be a big negative for him. FA01

Across all the interviews, only one Agent said he was relaxed about the career consequences for him personally of organisational default. However his follow-up observation is telling.

It wasn't my experience that getting the tax wrong would have bad career consequences…but I may be an outlier in that. HOD1

6.2.3.2 Conclusions drawn from Governance discussions with Interviewees

Taken together these views suggest that the personal career consequences of non-compliance with tax rules are rarely far from the minds of Agents working in the
finance departments of organisations. This finding extends the findings of the survey and confirms a very real penalty consequence for non-compliance in organisations which is largely absent in the literature – damage to the career prospects of the staff responsible.

There is also a clear view among the management of organisations that a tax compliance record is fundamental to the success of the business, because of the negative reputational consequences when an organisation is known to be in tax default. However this reputational linkage does not extend to tax compliance being seen as a positive attribute when generating funding, supplies and sales for the organisation.

6.2.4 Business Planning
This topic area explored the relative attitudes among Agents to fiduciary taxes in comparison with the mainstream direct taxes which the organisation might owe. It also explored the willingness of an organisation to plan its tax affairs to reduce amounts owing, and also the willingness to countenance evasion.

6.2.4.1 Attitudes towards Tax Compliance within Organisations
A consistency of response emerged from the interviews concerning how organisations view their tax compliance duties. It was noteworthy however that the larger the organisation, the less apparently jaundiced the approach to tax compliance. For example, this comment was fairly typical of smaller businesses –

I think business sees tax not as a normal business expense. They see it as an unwelcome prying into the business affairs, in the disclosures that have to be made and the information that have to be provided…If they see a way of avoiding tax, they don't see it as “not a civic way” to operate. They just see it as a smart business decision. AF02

But that respondent went on to say -

I think our civics classes in school let down the students by not advising them about tax returns. Especially PAYE employees should be well able to deal with their own tax matters.
ANALYSIS OF PHASE 2 OF THE FIELD RESEARCH

A lot of them aren’t. They don’t appreciate that if people didn't pay tax, we wouldn't have services. The relationship between tax and the running of the State is lost on them. AF02

This distinction between what might be described as a personal attitude to tax compliance, and the organisational approach to tax compliance was echoed in a number of instances. It suggests a need to re-examine the motives and expected utilities ascribed to the current compliance theories when considering the position of organisations as distinct from individuals.

Interviewees from larger organisations took a more nuanced view of the tax compliance obligation, seeing it as part of an overall business requirement with many facets.

What drives us to be compliant– is it concern over interest and penalties for late payment, or is it reputational, or is it just wanting to be good corporate citizens? Is it even a personal sense of responsibility among the professionals concerned to play with a straight bat? I think it's all of those things. I would think reputation is one of the most important though. We are a consumer brand, a high-profile brand, a plc. That would certainly be very important. But all the factors would have a bearing. CF02

Throughout the interviews, Agents made no particular distinction in how they dealt with fiduciary taxes as compared to how they dealt with the direct tax liabilities of the organisation itself. There was some pushback however on the extent of compliance obligations which were not directly in connection with the organisation's own liabilities, but in connection with the requirement to act in a fiduciary capacity for withholding taxes.

In a very real sense, we are acting as unpaid agents for the Revenue. That's certainly the case on the excise side. Also for VAT and PAYE and PRSI, you're definitely a collection agent. I'm not sure though that the Revenue see it that way. Their attitude is that it is up to us to do it, and if we make a mess of it, that is just tough luck. FA01

Company directors are three things. They are officers of the law. They are agents of the Revenue Commissioners. The third thing is why they're involved in the first place – they are the entrepreneur. The director will always see themselves in the third role, and hardly ever in the first two. HOD1
When considering the tax compliance behaviours of an organisation, it would seem from the evidence of both the survey and the interviews that it is not necessary to draw a sharp distinction between behaviour regarding fiduciary taxes and behaviour regarding the organisation's own direct taxes. The attitude of organisations that fiduciary taxes are an unwelcome administrative burden does not seem to impact on their willingness to comply. However because of the high monetary value of fiduciary taxes, there is some evidence the greater care is taken over compliance accuracy.

6.2.4.2 Attitudes towards Tax Planning within Organisations

Given the widespread attitude that tax compliance was a burden, albeit a necessary one, it is not surprising that there was a universal acceptance of tax planning to minimise tax payments but with an important caveat.

If I went to the Managing Director and said listen I have an idea for just a bit of avoidance here, he would have been quite open to it. He would know that there was no reputational damage from that kind of initiative because there are lots of avoidance things you can do that are legal. FC02

This caveat on avoidance schemes concerning reputation was often repeated. The sense was that there was no downside for organisations to enter into tax avoidance arrangements as long as there were no reputational consequences.

I think organisations are definitely more wary of tax avoidance. There may be a gain here, but the reputational impact might make it not worth taking. As a UK headquartered company and entity, I believe there is an appetite to ensure that as much activity as possible is seen to be going to the UK. There may be advantageous tax positions to take in other countries that fit the strategic operations of the company but they will be passed up just to secure the profile of the company. I think there is definitely a negative view of too aggressive tax positioning. FA06

No, people are not as aggressive as they used to be. Or perhaps people are as aggressive as they used to be, but the advisers are holding them back. Because advisers would have got quite conservative in their views of extreme tax schemes. There is certainly no appetite for out and out artificial avoidance schemes. There has to be some blood and guts [commercial substance] attached to a scheme before most advisers would recommend it. AF02
One interviewee went so far as to see tax avoidance almost like taking revenge on the revenue authority for overcharging or making life difficult in other areas.

Me and my colleagues, we don't get extra pay for undercutting tax. There is no thanks for doing that. There is thanks for being accurate, there is no thanks for underpaying... The flipside is that a legal tax planning idea would be well received. We found over the years that when Revenue come in to do tax audits, and we feel we have been very compliant, they go looking for silly things. They sometimes see it as a cheap target, an easy target. That didn't sit well with us at all. FA01

These observations correlate very closely with the survey results in Chapter 4. The link between aggressive tax planning and reputational consequences seems to be sufficiently strong as to dismiss any belief that organisations might be tax compliant because of any innate sense of obligation to pay taxes. Reputation is clearly linked in the minds of Agents with business success, and therefore tax management is not a factor of adherence to the tax code on its own, but reflective of a means of ensuring ongoing commercial success.

Part of the ongoing commercial success is the damage to the organisation which failure to comply can cause.

Fear is the number one factor for clients when they comply with the Revenue. Conscience is number two. Three is the possible consequences of getting a bill which could put them out of business. AF01

This respondent also had the view that from time to time organisations might deliberately decide not to be tax compliant having calculated that the gamble of detection was worthwhile even though they might go out of business as a consequence.

To a certain extent, tax compliance is a commercial decision... Fear is of course a component only for the conscientious compliant taxpayer. I've done several liquidations over the years. Sometimes it's quite obvious that the client wasn't compliant, and had no intention of being compliant. I would nearly go so far as to say that they planned to leave the Revenue with a large bill. The worst that could happen is that the company would be shut down, and they might get restricted. So what! AF01
6.2.4.3 Conclusions drawn from Business Planning discussions with Interviewees

In operational terms, all tax compliance is seen as a burden for the organisation; fiduciary taxes more so. There appears to be no intrinsic motivation within the organisation to pay taxes. Tax planning is limited only by reputational risk considerations, and not by considerations of tax equity or fairness.

6.2.5 Attitudes

The purpose of this investigation category was to explore how Agents thought about tax issues outside of more obvious commercial constraints on them, and ask them to comment upon normative issues.

6.2.5.1 Professional Pride and Whistleblowing

Pressure to comply, as already noted, came from several pragmatic factors such as fear of the tax cost and fear of reputational damage and therefore commercial damage for the organisation. There would also appear to be some evidence that Agents had a sense of personal pride in being a member of accounting or tax professions and would not in some sense wish to let their profession down.

Integrity among staff is key. One slip could see you “outside the door”, and there are no excuses for non-compliance. Compliance can be fixed, integrity cannot be fixed. FA03

That pride is often associated with pragmatism.

I'll be confident that as a Chartered Accountant, I would be given shorter shrift than many in terms of not knowing or getting it wrong. Therefore I would be conscious of avoiding putting myself in that situation. OM01

I think it's very important to have stuff done right. I think it reflects badly on a person if the work is not up to standard. If staff underneath me are not properly qualified, or don't know what they're doing, or constantly make mistakes that would reflect badly on me, then people would go “oh but she's a chartered accountant, but she doesn't know what she's doing”… I wouldn't work in a place which was dicey or had a bad track record or had a bad reputation. FA03
ANALYSIS OF PHASE 2 OF THE FIELD RESEARCH

To some extent at least, it is hard to distinguish between behaviour motivated by pride and respect for the professional qualification, and behaviour driven by self-serving concerns over professional career damage. Some interviewees went further than FA01 in bemoaning the general lack of regard for the work they do –

There's a lot of things that Irish businesses do right, but paying tax on time doesn't even enter the lexicon of Irish business people as a badge of honour. HOD1

On the other hand, there was some consensus that doing compliance right had one positive career implication – it could (though not always) make day to day dealings with the Revenue Authorities more straightforward.

There was considerable evidence that Agents would blow the whistle on peers in other organisations if they believed there was tax wrongdoing going on which put them at a commercial disadvantage.

In here compliance is the norm. We take for granted. If we came across blatant non-compliance, we would be inclined to blow the whistle. Or I'd move myself out of that situation. FC03

Blowing the whistle on a competitor? That's a tough one. I base my answer on experience. We have done it, but we are slow to do it. FA01

Even on this relatively clear-cut issue, commercial pragmatism was never too far from the surface.

But I'm not sure that many would be fingering a named person. They might whinge about unfair competition and probably bring it up at meetings with the trade association but it wouldn't necessarily entail giving Revenue the name and address of the offender. AF01

I suppose it's slightly a “let he who is without sin” type of thing. There are grey areas. It's never really black and white. You might wonder if you might get the commercial business by squealing on the big guy. Maybe that's a temptation, but it's not from a desire to see his compliance sorted out. It's probably just to steal some business from him. I'm not sure that we would ever inform the authorities just because compliance was being broken. FA05
6.2.5.2  *Fairness and Willingness to Pay*

Interviewees were also asked if they regarded the tax system as fair. Fairness is a subjective assessment rendering it difficult to draw firm conclusions from interviewees’ comments. It could also be inferred from some of the comments cited earlier that some agents are repeatedly irritated by the actions of the revenue authority, and this may have coloured their perceptions of fairness. However a recurring theme in all the answers was that smaller organisations have a tougher time carrying out tax compliance than larger organisations and that this was objectively unfair.

We are held to the same standards as many much larger organisations. Smaller companies have to spend probably a greater percentage of their total in order to comply... The percentage cost is probably higher for us. Smaller businesses are hit more or hit harder.  
FA05

Is the tax system is fair to organizations like yours? Do you think the likes of this company get a fair crack of the whip? Interviewee: I would say no. My own wife is working in a multinational; I can see things are much better there. FC04

I wouldn’t consider really that the taxes were fair to our kind of service industry. I think one of the things that I would say about services, they [revenue authority] don’t give enough time to pay… the service industry is very very reliant on cash flow - cash flow is huge in the service industry. And a big part of the [cash flow] problem is actually how to pay taxes. 
FC02

As against that, from the perspective of an Agent in a multinational:

I find it improved like amazingly over the years, and generally Revenue are very reasonable to deal with. You know I think the whole thing is very fair to be honest. Tax for businesses is reasonable compared to other countries I know, but as I said, in a multinational environment it’s probably easier, you know what I mean. FA02

Interviewees were asked if they would be happier in the knowledge that their organisation had paid too much tax rather than too little tax. This question had also been asked in the general survey, and the finding from the interviews confirmed that by and large Agents have a preference that their organisations paid too much rather than too little in taxes.

I take the view that you should pay as much as you owe and no more. I have been working for 40 years in tax. I should be able to advise properly at this stage. But I can understand
that someone who maybe isn't up to date with tax rules and so on might pay more on the basis that if you pay a little bit more, they might stay away from you. AF01

Would I be more comfortable with the thought that we were paying too much tax or too little tax? I guess neither. Neither thought would make us sit back and say – oh we're comfortable with that. It's a tricky one. I guess if you had to, maybe you're better off paying too much. There are certainly cases where we would be comfortable; maybe you could go with a different structure here and save some money, but we might take a view. CF02

I think being honest from the accountant’s point of view paying too little tax if they got away with it would have been fine. But if you are an accountant you know if you are paying too little taxes it is because you did something wrong. FC02

And even in the cases when we were in doubt, the message [from management] was pay it. Pay it now, all right? Get it in to the PAYE, the VAT or whatever. And then we can sort it later if you have to get a refund or whatever, but the answer would always be ‘pay it’. Because the company, the multinational can afford it, but they really can’t afford the bad publicity that might arise you know. FA02

The general trend in the responses was that Agents wanted to pay taxes accurately. However if there was to be any suggestion of reputational risk, or commercial disruption, the Agents will be willing to suffer an overpayment of taxes rather than an underpayment. This is an important extension to the findings of the survey, and also sheds considerable light on the risk assessment and evaluation made by Agents in their day to day work.

### 6.2.5.3 Conclusions drawn from Attitudes discussions with Interviewees

Agents who were responsible for tax compliance decisions within the organisation are undoubtedly influenced by their own sense of professional pride. However, this influence is often touched with pragmatism; good compliance behaviours make their working lives easier.

Agents are disposed to blowing the whistle on other organisations which are not fully compliant, but will do so more for commercial reasons than for tax probity reasons. Agents see the tax system as fairer to large organisations than to smaller organisations. In situations where the correct tax position is unclear or perhaps in
dispute, Agents would be willing to make tax overpayments to avoid commercial disruption.

6.3 Conclusion
Following this interview phase, it is possible to offer an answer with some confidence to the second of the research questions - are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals? It should be noted that aside from considerations of the compliance burden and the scale of the tax amounts involved, the factors influencing fiduciary tax compliance decisions are not especially different to those influencing tax compliance decisions generally within organisations. Accepting this, it appears that the answer to the second research question is “no they are not the same”. There are in fact significant differences in the factors influencing organisational tax compliance compared to the factors influencing the tax compliance behaviours of individuals. These seem to fall into three categories:

*Utility* - for organisations the utility of tax compliance decisions is measured not just by reference to the tax amounts involved but to the commercial value of tax compliance to the organisation. This measurement takes many forms; the capacity to win and retain business, shareholder satisfaction, reduced disruption to business activity because of less revenue authority intervention and satisfying third-party regulatory requirements were among the factors mentioned by the Agents who were interviewed.

*The role of the revenue authority* – in an organisational context the role of the revenue authority as an agency to detect and punish wrongdoing seems to be somewhat diminished. Organisations have embedded procedures and processes to identify tax default before it comes to the attention of the revenue authority. It follows that organisations have their own clear parameters for risk aversion and risk of detection of tax default and manage these actively.

*The role of the Agent* - the lens of Agency Theory has been helpful in understanding how organisational tax compliance decisions are made. The influences on individual Agents with tax decision-making responsibilities within an organisation need to be
considered in parallel with the organisation's own objectives. These can range from the position the Agent holds within the organisation's hierarchy and their capacity to influence colleagues within the organisation, to consideration of what the Agent might be willing to contemplate doing in managing the revenue authority relationship, to the Agents own sense of pride in their professional qualification and their personal career considerations.

The findings from these interviews have served to confirm many of the findings from the Survey described in Chapter 5. Between the Survey Phase and the Interview Phase substantial evidence has been gleaned towards answering the first two research questions. The next chapter, Chapter 7, will consider how these answers can provide an answer to the third question - can any of the theories (Expected Utility Theory, Prospect Theory or Tax Morale) be adapted or modified to better explain fiduciary tax compliance decisions by organisations.
7 EVALUATING AND APPLYING THE FINDINGS FROM THE FIELD RESEARCH

7.1 Overview
The findings of the survey described in Chapter 5 and the outcomes of the interviews described in Chapter 6 shed considerable light on tax compliance practices within organisations. They established that the theories which attempt to explain tax compliance behaviour are not fully appropriate to organisations discharging fiduciary tax obligations (Chapter 5), and that the factors influencing fiduciary tax compliance decisions by organisations are not the same as those influencing tax compliance by individuals (Chapter 6). With these two research questions answered, it is appropriate to turn to the third and final research question – how can the theories be adapted or modified to better explain fiduciary tax compliance decisions by organisations? The findings and outcomes thus far suggest that the tax compliance decision making scenarios made within organisations are not adequately described either by the convention of the Rational Economic Man, the framings and heuristics of Prospect Theory or the intrinsic motivations of Tax Morale alone. The findings and outcomes have also established that there are elements to each of the theories which should not be dismissed altogether in the context of how organisations take their tax compliance decisions.

7.2 Key Elements of Tax Compliance Theory re-assessed in the context of Organisations
Here the key elements of each tax compliance theory as identified in the Literature Review in Chapter 3 are re-examined in the light of the field research findings into organisations.
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Expected Utility Theory (after Heinemann and Kocher (2013))

As outlined above in the discussion at 3.2.1:

Risk of Detection. For organisations this remains relevant. The risk of detection is determined largely by the organisation’s own internal systems for verification and checking along with assistance from external advisers.

Penalty. Monetary penalties are a significant deterrent for all taxpayers, but not the primary deterrent for organisations. In an organisational context deterrents such as publication in a list of tax defaulters or tax debt enforcement in the public domain which impact on the reputation and thus the commercial prospects of the organisation are a greater deterrent.

Potential Return. No particular evidence emerged either from the Survey phase or the Interview phase that organisations typically weigh up the monetary value of a tax advantage through non-compliance, though they may consider the cash-flow advantages of delayed payment. As noted in the earlier analysis, there could have been some self-censorship in the responses in this area.

Risk aversion. It seems that risk aversion for organisations cannot be analysed without taking into account the position of the decision-making Agent within the organisations. There is some evidence that Agents tend to be more risk averse if their organisations have risk averse stakeholders (for instance institutional investors and semi state bodies) or their organisations operate in a heavily regulated industry (for instance insurance) or have significant business with government agencies. There is also some evidence that Agents consider their own professional standing in the course of making compliance decisions for their organisations.

Prospect Theory (after Guthrie (2003))

As outlined above in the discussion at 3.3.1:

Assessment of gains or losses in relative terms. No particular evidence was found to suggest that organisations routinely treat gains and losses arising from tax
compliance decisions as anything other than absolute amounts, to be managed in the same way as any other commercial cost of doing business.

*People have a greater aversion to the chance of incurring a large loss than they have to surrendering the chance of a large gain.* This element of Prospect Theory holds good in that organisations appear generally very unwilling to follow a course of action which would diminish their future commercial prospects.

*People suffer losses more than they enjoy gains, even if the absolute amounts are the same.* It is not meaningful to speak of organisations as such “suffering losses” or “enjoying gains”, and Agents appear to feel shielded from the consequences to their organisation of the compliance decisions they take on the organisation’s behalf.

*Heuristic biases.* The evidence from the field research points towards unbiased decisions being made by organisations in relation to risk of detection, based on evidence, embedded systems and the professional knowledge of the Agent. This bears out Kahneman’s own description of an organisation as a “decision making factory” (Kahneman 2011).

**Tax Morale (after McKerchar et al. (2013))**

The application of moral values to organisations is problematic, and is not being considered here; rather these facets of Tax Morale as identified in the literature review at 3.4 above are being considered in the context of the Agent responses in the field research.

*Belief that it is morally or ethically wrong to evade tax which is properly due.* While there may be a moral dimension to the tax compliance decisions of Agents, commercial pragmatism plays a major part in the shaping of decisions within organisations.

*Perception of the fairness of the tax system.* While Agents show an awareness of issues of fairness and in particular feel that the tax system may be less fair to smaller organisations, this does not seem to prejudice their tax compliance decisions one way or another.
**EVALUATING AND APPLYING THE FINDINGS FROM THE FIELD RESEARCH**

*Perceptions of normal tax compliance behaviour within the trade.* Behavioural norms appear to be important to Agents, but for commercial reasons. Agents seem to be very aware of the risk that their competitors might secure some commercial advantage over them, however short term, by not being tax compliant.

*Degree of respect for the revenue authority.* It was noted from the survey that the degree of respect for the revenue authority among Agents is higher in Ireland than in the UK. If respect for the revenue authority was a major factor in tax compliance, this should result in differences in the overall compliance levels across the two jurisdictions where the field research was carried out, but there is no empirical evidence that this is the case.

*Appreciation of the broader social contract which recognises that taxes must be paid if social services are to be maintained.* No particular evidence emerged from either the survey or the interviews that a motivation for tax compliance among Agents working within organisations is the maintenance of social services. On the contrary it appears that if opportunities for tax savings through tax planning arise, which could be accomplished without prejudice to the commercial reputation of the organisation, such opportunities will be actively pursued.

Throughout this thesis the operational distinction between fiduciary taxes and direct taxes has been emphasised. It appears from the field research that influences connected with elements of Expected Utility Theory have the greatest bearing on the fiduciary tax compliance decision-making process within organisations. The strong aversion to loss not contemplated under Expected Utility Theory but rather posited by Prospect Theory is also a factor when loss is understood as being a commercial loss to the organisation, rather than as a tax or tax penalty loss. Such commercial loss may be triggered by reputational damage. The normative influences identified in Tax Morale clearly have a significant bearing on the decisions of Agents within organisations and these cannot be discounted either. Agents will ensure that their organisations are tax compliant, at least in part to secure their careers in professions which regard tax compliance as being the norm. A restatement of Expected Utility Theory which adopts stronger aversion to commercial loss and the normative
influences on Agents in its formulation should provide a theory to describe and predict the fiduciary tax compliance behaviour of organisations.

7.3 A Restatement of Expected Utility Theory for Organisational Fiduciary Tax Compliance

Starmer notes that theories of choice lie “at the very heart of economics” but nevertheless the data constantly challenges the assumptions of both Expected Utility Theory and alternate models of choice. He suggests that the way forward is to discover why and in what circumstances Expected Utility Theory might apply (Starmer 2000). Starmer’s suggestion is being followed using the framework of Heinemann and Kocher’s articulation of Expected Utility Theory in the tax compliance context cited before, as follows:

Investment into tax cheating will be the larger, the lower the risk of detection (determined by the audit system and the audit probability), the lower the potential loss (determined by the construction and the size of the fine), the higher the potential return (determined by the tax rate) and the lower individual risk aversion (which is usually negatively correlated to income). (Heinemann and Kocher 2013)

The diagram below represents the links between the various elements.

**Figure 3 - Tax Compliance Influences (after Heinemann and Kocher)**
Suggestions as to how each of these elements may be reformulated for fiduciary tax compliance by organisations are now offered in turn.

### 7.3.1 Risk of Detection
The field research findings are that it is not just the revenue authority which is involved in monitoring compliance behaviours. The survey suggested that the activities of the revenue authority rank after external advisers and external auditors (rather than revenue authority auditors) in discovering tax compliance failure. The interview phase further emphasised the role of internal financial controls and structures of the organisation itself in trapping mistakes before they came to the attention of the revenue authority. It seems that many organisations are particularly careful to invest in systems and personnel to ensure that there is no compliance failure. This suggests that the attitude of the organisation towards tax compliance is more important than the revenue authority audit system or any perceived or actual risk of detection by the revenue authority. It emerged from the interviews as described in Chapter 6 that for many organisations, interventions by the revenue authority are at the fringes of the organisation's tax compliance activity and trap accidental behaviour rather than tax compliance default in its usual sense of being an intentional act. The activity and capabilities of the revenue authority which are prominent in previous studies of tax compliance behaviours are secondary in considering the fiduciary tax compliance behaviours of organisations; instead the organisation itself will guard against its own mistakes if it regards tax compliance as important in achieving its own commercial ends.

### 7.3.2 Potential Loss
Any loss arising as a consequence of non-compliance is measured in monetary terms involving the tax at issue and the size of any penalty for tax evasion in Expected Utility Theory analysis. The field research has established that while this type of financial loss is always a consideration, much greater emphasis is placed by organisations on reputational damage perhaps through publication of the default or
collection enforcement procedures. Reputational damage can have heavy commercial consequences. Some industries such as those within the financial services sector are highly regulated. Fiduciary tax compliance failure could lead State regulators (in areas such as financial services), other than the revenue authority, to withdraw trading licences or impose sanctions of their own. In many other industries reputation was paramount and for commercial reasons organisations could not take the risk of being caught out on tax compliance for fear of the commercial costs arising from reputational damage – they would not be able to win contracts or trade successfully. There was also an awareness that a poor fiduciary tax compliance track record would diminish the value of the business in contemplation of an ultimate sale. As already suggested, this degree of awareness of potential loss is more in keeping with the Prospect Theory concept that loss aversion is exaggerated relative to appetite for gain.

7.3.3 Potential Return
From the fieldwork, the sense of any potential return for failure to comply with fiduciary tax obligations within organisations is limited to securing an advantage over tax compliant organisations competing in the same business area. Organisations bearing the full tax cost of transactions are less well able to compete with those organisations which do not comply in full (for instance by charging VAT on sales without limiting the amounts to the revenue authority). This finding must be balanced against the overarching sense that discovery of failure to comply would undoubtedly place an organisation at a competitive disadvantage particularly if knowledge of fiduciary tax compliance failure came into the public domain.

7.3.4 Individual Risk Aversion
An organisation cannot have a sense of risk aversion per se because it is not a natural person, but its Agents can. Field research has shown that the Agents who are compliance decision makers are conscious that they do not have direct personal exposure to organisational tax compliance failings and indeed feel shielded by their organisations from revenue authority activities. Nevertheless they are very clear that a poor fiduciary tax compliance track record attaching to their organisation has a
downside for their own career prospects either within the same organisation or beyond. At this point it is necessary to introduce the concept of normalisation derived from Tax Morale when assessing the behaviour of Agents.

7.3.5 Restating the Heinemann and Kocher formulation
The Heinemann and Kocher formulation of Expected Utility theory can therefore be restated on the evidence of the fieldwork by:

- Replacing “the audit system and the audit probability” with “the business attitude towards compliance”
- Replacing “the construction and the size of the fine” with “loss of business opportunity and reputation”
- Correlating “Individual Risk Aversion” with “Career considerations of Agents informed by professional norms and industry standards of behaviour”
- Acknowledging that the tax rates are not critical to the potential return; fiduciary tax rates become material in prospect of the settlement of tax default

The reformulation of Expected Utility Theory for fiduciary tax compliance by organisations will thus read:

*Investment by bodies corporate into tax cheating will be the larger, the lower the risk of detection (determined by the business attitude towards compliance), the lower the potential loss (measured as the loss of reputation and corresponding business opportunity), the higher the potential return and the lower the individual risk aversion of the Agents (which is determined by their career considerations and industry norms).*

The links within the reformulation may be illustrated as follows:
There is no formulation in the literature which marries the commercial concerns of organisations with the personal career concerns of the Agents who work within them to explain organisational tax compliance behaviour. The restatement omits the involvement of the revenue authority, not because it is irrelevant but because it does not hold a prime position in the compliance decision making process within organisations. Potential Loss is assessed in Prospect Theory terms as being disproportionately undesirable in comparison with any potential gain realised from undertaking the same risk; the Tax Morale emphasis on normalisation is adopted when assessing the Agent’s career prospects.

7.3.6 Applying the Restatement – A Hypothetical Case

The implications of this restatement become clearer when it is applied to potential scenarios involving fiduciary tax compliance. Consider the case of a taxpayer which is an organisation providing professional consultancy services to consumers, say valuation services or the like, and receiving fees for providing such services. The fees are subject to VAT. Say the fee charged for a particular piece of work is €100 which attracts a VAT charge at 23% of €23. The penalty for deliberate evasion, if
detected by the revenue authority, would be 100% of the tax at issue – another €23. Professional service providers usually have little scope to claim input credit for VAT, so the bulk of the VAT charged to the consumer will be paid over directly in cash to the revenue authority. This creates a temptation not to charge VAT because this would make the consultancy service seem more competitively priced from the consumer’s point of view without an impact on the profitability of the service.

Alternatively if the VAT is charged but not remitted to the revenue authority, the organisation benefits to the tune of the VAT not remitted. There is a utility to the organisation in either not charging the VAT at all, or charging the VAT but not paying it over. Both of these options would constitute a tax default if pursued and as the consultancy service is provided to an individual consumer who is not registered for VAT, detection of the default would be difficult for the revenue authority. However if the consultancy service were being provided to another business, evasion is much more likely to be detected by the revenue authority because the business customer will provide evidence to the revenue authority of either having paid VAT on the fee for the consultancy services, or not having paid any VAT at all. Neither the amount of the fine nor the tax rate is a variable in this example. Under classic Expected Utility Theory, VAT evasion would not be predicted where the customer of the organisation is itself a business (because of high risk of detection), but would be expected where the customer is an individual consumer (because of low risk of detection).

The research carried out for this thesis is showing that for organisations, utility cannot be evaluated in tax terms alone. The commercial concerns of the taxpaying organisation have to be taken into account. Say the professional service provider has significant government contracts which it would lose if discovered to be in tax default. The business loss could well outweigh the utility value of the evaded VAT, and from the field research this thesis suggests that the degree of concern over such loss is disproportionately high (in accordance with Prospect Theory principles). Therefore sophisticated organisations, with broader commercial concerns such as retaining government contracts, will put business process checks and balances in place to prevent this kind of default taking place, or to trap an accidental default (say
an incorrect VAT rate being applied) before it ever comes to the attention of the revenue authority. The risk of detection is not therefore dependent on the type of customer which triggers the likelihood of the revenue authority detecting the matter; it is down to the attitude of the organisation towards compliance which in turn is driven more by the organisation’s aversion to a potential loss of business, rather than suffering a tax penalty.

Furthermore it is necessary to consider whether or not the Agent who is taking the compliance decision on the organisation’s behalf sees a personal career risk arising from the failure of the organisation to comply. Imagine a case where it is normal within the particular industry not to charge VAT properly due on small contracts with individual consumers, or that it is known within the industry that the revenue authority is reluctant to pursue minor amounts of unpaid VAT. Were that the case, the Agent could take decisions for the organisation not to comply without any personal career or reputational consequences, and VAT defaults by the organisation become far more likely.

The tax rate of 23% in the scenario is only indirectly relevant to the compliance decision insofar as it determines the actual amount of tax and penalty (if the penalties are tax geared) in play. Overall the reformulation suggests that the likelihood of tax default in a scenario such as this can be predicted based on the reliance of the organisation on government work (its broader commercial concerns), the impact of the default on the Agent personally (engaging in default won't matter to his or her career prospects if it is the accepted behaviour in those circumstances), and the amount of tax at issue. The particular activity of the revenue authority is of secondary importance.

This restatement of Expected Utility Theory for organisational fiduciary tax compliance behaviour is a contribution to learning. The restatement will now be examined against the findings of the DIRT Enquiry described in Chapter 1, to test its
validity against a documented instance of a wide scale breakdown in tax compliance by organisations.

### 7.4 Assessing the Restatement in the light of the DIRT Enquiry

An earlier breakdown in the operation of tax compliance by organisations within the banking sector attracted widespread public attention in Ireland in 1998. This section considers the findings of the DIRT Enquiry as a case study of failure in organisational tax compliance. It compares the DIRT Enquiry findings to the outcome and conclusions of the field research conducted in this thesis. To recap on the more significant findings of the DIRT Enquiry:

- Amounts in excess of IR£173million were owed to the Exchequer by 25 financial institutions as a consequence of the tax default (Revenue Commissioners 1999),
- DIRT was evaded by depositors through the opening of bogus non-resident accounts and that these were employed as a means of concealing taxable income from Revenue, and
- The evasion of DIRT was practiced in a wider culture of more generalised tax evasion (Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999).

Cahill comments that “the branches of the banks appear to have reacted to the pressures from their competitors, by succumbing to the demands of some of their customers for at least a decade, or more, until 1992” (Cahill 2006). Cahill’s study concerned regulation. The following study concerns fiduciary tax compliance behaviour by organisations. The DIRT enquiry will first be considered against the existing theories of tax compliance behaviour, and then against the restatement of Expected Utility Theory for organisational tax compliance behaviour as formulated earlier in this chapter.
EVALUATING AND APPLYING THE FINDINGS FROM THE FIELD RESEARCH

The DIRT enquiry is almost unique in that it presents an official documented study of fiduciary tax compliance behaviour in the Republic of Ireland. During 1997, the Irish parliament (Dáil Éireann) became apprised of prima facie evidence of a substantial risk to the revenues of the State by means of the Interim Reports of the Committee of Public Accounts on the Appropriation Accounts 1997. In consequence, a motion of Dáil Éireann was passed on 17 December. This motion required the State’s Comptroller and Auditor General to investigate compliance with the tax obligations of the financial industry in regard to the operation of withholding tax from interest paid on deposit accounts. The Dáil Éireann Committee of Public Accounts, a standing committee of the Irish parliament, would then consider that report, assemble any further evidence itself and then make any recommendations to government.

The Committee of Public Accounts has extensive powers provided for by law in its order of reference (Standing Order 186). These include:

(a) power to send for persons, papers and records

(b) power to take oral and written evidence

(c) power to appoint sub-Committees

(d) power to engage consultants

It is also empowered to provide reports to Dáil Éireann whereupon it may then publish any report documents it sees fit. Specific powers aside, such is its influence in the Parliamentary process that when, as occurred in the course of the DIRT enquiry, it found itself thwarted in obtaining information from the Office of the Revenue Commissioners, legislation was passed to enable the Committee to direct the Revenue Commissioners to report on the conduct of the financial institutions with particular reference to their fiduciary compliance with their DIRT obligations.
The analysis of the DIRT Enquiry which follows necessitated a review of the following six elements which taken together constitute the documenting of the enquiry:

1. Transcripts of the proceedings of the Committee as recorded in the Official Report of the Parliamentary Debates during 1999 and 2000
3. The First Report of the Parliamentary Committee into DIRT in December 1999
4. The DIRT LookBack Audit Report - Report to the Committee of Public Accounts of Dáil Éireann under Section 904B (inserted by Section 68 of the Finance Act 2000) of the Taxes Consolidation Act 1997\(^\text{17}\)
5. The Second Report of the Parliamentary Committee into DIRT in November 2000
6. The Final Report of the Parliamentary Committee into DIRT in April 2001

These elements taken together constitute a unique description of a significant breakdown in organisational tax compliance. They offer an authoritative record of the scale and the consequences of the non-compliance from the State regulators together with a documented verbatim series of explanations and clarifications from the main company officers as to the reasons for the non-compliance. Therefore the findings of the DIRT enquiry provide a rich source of evidence against which to test the proposed reformulation of Expected Utility Theory to explain organisational non-compliance with fiduciary tax requirements.

\(^{17}\) Section 904B (inserted by Section 68 of the Finance Act 2000) of the Taxes Consolidation Act 1997 required the Revenue Commissioners to make a report, before 1 November 2000, to the Committee of Public Accounts of Dáil Éireann on the results of the lookback audits of financial institutions recommended by the Committee in the First Report of the Parliamentary Inquiry into DIRT.
7.4.1 Explaining the DIRT Enquiry outcomes using conventional models

7.4.1.1 Expected Utility Theory and Prospect Theory

Expected Utility Theory predicts non-compliance with emphasis on a combination of the risk of detection by the revenue authority and the size of the penalties for concealment. Given the size of the ultimate settlements, Expected Utility Theory predicts that that non-compliance on the scale discovered by the DIRT Enquiry is unlikely. The utility to the banking sector of DIRT non-compliance was virtually nil, because the utility value of compliance failure accrued to the customer rather than to any one individual bank. The DIRT Enquiry pointed out, as cited earlier, that the tax benefit was to the deposit maker because it facilitated opportunities for wider tax evasion on the part of the deposit maker. Further complicating the issue is that DIRT was only one element of the tax liability of financial institutions. The DIRT Enquiry established that generally there was compliance with fiduciary taxes other than DIRT by financial institutions; the failure to apply DIRT was for all practical purposes unique. For example, the DIRT Enquiry found that in ACC Bank an internal Due Diligence review discovered irregularities both in DIRT and PAYE, but only the irregularities in relation to PAYE were notified to Revenue and settled (Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.73).

Under Expected Utility Theory, there would be no reason to comply with one fiduciary tax and not with another unless there was a different assessment of risk of detection for each. Here the difference seems to have arisen not in an assessment of the risk of detection, but in an assessment of the magnitude of the consequences. The DIRT Enquiry found that there was “an incoherent, spasmodic and ad hoc engagement on the part of the deposit-takers and the State and its Agencies with the issue of bogus non-resident accounts.” (Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.8) The Rational Economic Man is permitted within Expected Utility Theory to form a view as to the risk of detection, but should be properly aware of the consequences of compliance failure. A scenario where the decision maker does not know the consequences of compliance
EVALUATING AND APPLYING THE FINDINGS FROM THE FIELD RESEARCH

failure is not anticipated within the Expected Utility Theory framework. Similar considerations would apply in the case of Prospect Theory. There is no evidence to suggest that consequences of negative compliance decisions were insignificant (the eventual settlement proved they were very significant indeed) yet the behaviour of the Agents suggests a belief that there would be few if any consequences.

The DIRT Enquiry also found that the risk of detection was in practice not a factor in the compliance decision making process. The DIRT Enquiry report systematically examined events in each of the financial institutions and it was apparent that in many instances at the organisational level, DIRT compliance irregularities were identified either by internal audit processes (for example in the case of the AIB group) or by external advisers (for example in the case of ACCBank) before matters ever came to the attention of the Revenue.

Virtually the entire deposit-taking sector was engaged with customers in the practice - establishing and operating bogus non-resident accounts. In the scheme of things one might expect the internal and external audit functions to pick up the evasion. Our Inquiry discovered that they did in certain cases but that external auditors in particular turned away from the implications of what stared them in the face.

(Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 2001, p.53)

Furthermore the Public Accounts Committee heard evidence that field officers of the Revenue Commissioners believed that non-compliance with DIRT regulations was taking place but that little enough action, and certainly no systemic action, was taken to counter it. The Committee noted that a general order was issued within Revenue putting the inspection provisions introduced in respect of DIRT on hold (Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.32). Financial institutions may not have been aware of this fact at the time of the non-compliance taking place. Even if they were, neither Expected Utility Theory nor Prospect Theory in their classic formulations can explain their failure to deduct DIRT in the light of all the other factors.
The risk of detection was definite, even if the belief was that detection would not be acted upon by the revenue authority. The penalties were very heavy. Overall the conduct of the banking sector in its failure to operate DIRT cannot be fully described by either Expected Utility theory or by its extension, Prospect Theory, without modifying the position of the individuals making the compliance decisions and redefining what constitutes utility for the purpose of the decision-making process. Neither theory in their typical application as described in Chapter 3, the Literature Review, could have predicted this degree of widespread compliance failure.

### 7.4.1.2 Tax Morale

Tax Morale, as a reflection of the “intrinsic motivation” to pay taxes offers little assistance in understanding the lack of compliance identified by the DIRT Enquiry. The DIRT Enquiry report was particularly dismissive of the ethical standards in relation to DIRT compliance within the financial services industry. It found that Boards of Directors of financial institutions displayed what it termed an “overly relaxed attitude” towards discharging their statutory and fiduciary duties.

Given the eminence of many of the members of the Boards of Directors of Financial Institutions, it is surprising that they did not bring a greater weight to bear on the enforcing of ethical standards either within their organisations or the banking sector generally… The industry representative bodies exercised no role in developing a code of practice that would have addressed ethics in banking.

(Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.78)

Unfortunately the DIRT Enquiry found that the conduct of the financial institutions owed more to cynicism than to any intrinsic motivations to satisfy compliance requirements.

The contribution of Tax Morale as a theory succeeds better when explaining positive tax compliance rather than when accounting for an absence of tax compliance. While a blatant disregard for clear tax law is difficult to explain through Tax Morale concepts it can offer an explanation of compliance failure where there is evidence that compliance in a particular area was either not a requirement, nor regarded as a
requirement. Insofar as Tax Morale has predictive value it may suggest (after Rawlings (2004)) that individual taxpayers may fail to comply with tax requirements by virtue of a lack of confidence in the revenue authority. In addition, and as discussed in Chapter 3, the Literature Review, applying concepts of Tax Morale to organisational behaviour is problematic.

However Tax Morale provides an insight into the behaviour of the financial sector in relation to DIRT as it stresses the importance of behavioural norms in the tax compliance decision-making process. The tax compliance decision-making process within the financial institutions appears to have been affected by the ambivalence on the part of the authorities towards the introduction of DIRT. This in turn arguably led to the issue of DIRT evasion becoming an industry-wide phenomenon. The Enquiry found that:

Given the conviction in Revenue about bogus non-resident accounts, it was a serious lapse on the part of the Board of the Revenue Commissioners not to have taken an industry-wide initiative with a view to getting the Financial Institutions to apply the law.

(Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.54)

That attitude seems to have been mirrored, with one or two notable exceptions, on the part of the financial institutions.

No evidence emerged in an examination of the behaviour of the Boards of Financial Institutions generally to suggest the operation of a planned and pragmatic work out of the problem of bogus non-resident accounts.

(Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.78)

It seems that the lack of care towards DIRT compliance on the part of the financial institutions was matched with a lack of enthusiasm for its enforcement on the part of Revenue, and therefore that non-compliance in the area was the normal approach. The emergence of an inappropriate norm for the conduct of the financial services industry on taxation matters was a matter of significant concern for the Public Accounts Committee. Tax Morale suggests that the awareness of this norm would be a factor in determining the levels of compliance exercised by the industry. On the other hand if the Irish business community as a whole including the banking sector
was tax compliant, one particular form of non-compliance within a small element of
the business community should be less, not more, likely to arise because of
normative influences. (As already mentioned the DIRT Enquiry established that
there were satisfactory degrees of tax compliance in other aspects of the banking
industry, except for DIRT).

7.4.2 Explaining the DIRT Enquiry outcomes using the Restatement of
Expected Utility Theory
For ease of reference the Restatement proposed by this thesis earlier reads:

Investment by bodies corporate into tax cheating will be the larger, the lower
the risk of detection (determined by the business attitude towards
compliance), the lower the potential loss (determined by loss of business
opportunity and reputation, the higher the potential return, and the lower
individual risk aversion of Agents (which is determined by their career
considerations).

7.4.2.1 Risk of Detection and the Business Attitude towards Compliance
As noted earlier the DIRT Enquiry found that the financial institutions were largely
tax compliant other than in the operation of DIRT. It seems that the individual
financial institutions were frequently aware of their own DIRT non-compliance, at
an operational level if not always at a senior management level, while Revenue were
not. This is in accordance with the fieldwork findings regarding the controls within
organisations and the role of external auditors and advisers. The prevailing business
attitude within the financial institutions was to be compliant, and thus in very many
cases their own checks and balances discovered the DIRT default even if they
subsequently chose not to act on the discovery.

7.4.2.2 Potential Loss and Business Opportunity and Reputation
There was a belief throughout the sector that unpaid or underpaid DIRT would not
be pursued by the authorities. Provisions were not made in the accounts of many of
the financial institutions involved against future DIRT settlements. The DIRT Enquiry concluded that The Central Bank along with two other two agencies, Revenue and the Department of Finance, were conscious for “an extended period” before and after the introduction of DIRT of the existence of evasion (Dáil Éireann Committee of Public Accounts Sub-Committee on Certain Revenue Matters 1999, p.57). Nevertheless it would seem that a potential loss arising from DIRT non-compliance was not contemplated within the financial services sector prior to the commencement of the DIRT Enquiry.

Evidence was provided that the financial institutions believed that the imposition of DIRT on the interest paid to their depositors would be harmful to their individual commercial concerns. Agents within those organisations clearly felt that if they did not offer “DIRT-free” deposit opportunities to customers, they could lose business, even if that behaviour ran contrary to instructions from senior management.

Mr M. Hely Hutchinson (Bank of Ireland): “……you know, if people are actively competing with each other, they can say all the right things at top level but the branches don’t ever carry it out.”

Dr M. Walsh (Irish Nationwide): “And we will lose a lot of genuine non-resident accounts because of the procedures we are now putting in place and also on the basis that we are going to write to everybody and get them to reiterate their status and also fill up a new declaration form, etc. That is the pattern. We believe we will lose money but better to lose it than have this thing continue.”

(Ireland 1999, Parliamentary Debates)

But then, once the DIRT non-compliance had come out in the open and it was no longer the industry norm, it became a business imperative for the financial institutions to regularise matters.

Mr M. Fingleton (Irish Nationwide): “There is no profit in this. It costs us a huge amount of money and it costs us a huge amount of time and a huge amount of disruption. Nobody in their right senses could say that they would continue in a haphazard manner again. Also, it is the norm of the day. Even from a consumer point of view you conform and you are fully transparent in every aspect or you won't stay in business. That is the reality.”

(Ireland 1999, Parliamentary Debates)
7.4.2.3 Risk Aversion and the Career of Agents

The “overly relaxed attitude” of Boards of Directors of financial institutions towards discharging their statutory and fiduciary duties has already been cited. On several occasions during the hearings, senior officers of the financial institutions were asked about consequences for their staff of the failure to operate DIRT correctly. All quoted comments below are taken from the verbatim transcript of the Public Accounts Sub-Committee hearings of 1 December 2000 (Ireland 2000, Parliamentary Debates).

Mr J. Callaghan (EBS): “No disciplinary action of the type I think you're suggesting has been taken within the organisation. In a sense it goes back so long, many of the people are no longer there and there is the difficulty of disciplining anybody.”

Dr M. Walsh (Irish Nationwide): “No disciplinary action has actually been taken directly related to this.”

Mr F. Golden (TSB): “No evidence has surfaced that there was complicity on the part of staff members within the TSB in helping customers in the avoidance of tax, the evasion of tax.”

The DIRT Enquiry chairman Mr Jim Mitchell finally gave vent to his frustrations:

I am a little taken aback that, despite all that has come out in this inquiry to date, there is still the old culture of, you know, non-deterrence, non-prosecution, non-custodial sentence for white collar crime.

This evidence directly correlates with the field research findings that Agents feel largely protected from sanction when their employing organisations are in tax default. It also bears out that the Agents involved felt that they were operating within industry norms even though they were not complying with tax law, and accordingly their actions would not be prejudicial to their careers.

7.4.2.4 High Potential Return and the Amount of Tax

Because DIRT is a fiduciary tax, the financial institutions concerned stood to get no value from failing to apply the tax. Any tax saving accrued to their customers, not to the financial institutions involved. In this instance, there was no monetary benefit in tax terms for the tax default.
The Restatement of Expected Utility Theory for fiduciary tax compliance by organisations helps explain the industry wide breach in tax compliance revealed by the DIRT Enquiry. It marries the commercial interests of the financial institutions concerned and the de facto indemnity for their Agents who took the decisions not to comply with DIRT. In a situation where it is in the commercial interests of organisations to evade tax (because the non-operation of DIRT helped banks retain customers and thus avert commercial loss) and where there are no negative consequences for individual Agents within organisations (because the non-operation of DIRT had become the norm and the banks did not take action against their own Agents for not operating DIRT), then evasion will take place. The more usual factors applied in understanding tax compliance – risk of detection and potential return – are not significant features in this case study for the reasons outlined earlier. In their absence, explanations of this failure to comply which are based on models of economic deterrents run into difficulty. The DIRT Enquiry also provided significant challenges for theories of Tax Morale, in that clearly there was no motivation apparent to the financial institutions other than commercial imperatives to operate DIRT. However by synthesising the extreme aversion among the organisations concerned towards losing business and the change in approach among Agents once DIRT compliance was normalised with the standard concepts of Expected Utility Theory, a satisfactory explanation of the DIRT scandal can be offered.
8 CONCLUSION

8.1 Summary of the Thesis

This thesis began with noting the emphasis in the literature on the tax compliance behaviour of individuals rather than on the tax compliance behaviour of organisations. Despite their role in operating fiduciary taxes, the contribution of organisations to overall tax compliance appeared neglected. It was shown that in monetary terms, fiduciary tax compliance by organisations in Ireland and the UK yields far more tax than direct tax compliance by individuals. The more serious forms of tax default often involve failure to operate fiduciary taxes and give rise to the majority of criminal prosecutions for tax offences. Along with evidence of sectoral fiduciary tax default, which included contractors in one instance and companies being wound up in another, a particular example involving the Irish financial services sector – the DIRT Enquiry - was highlighted.

An analysis of the different types of tax in operation in the UK and Ireland illustrated that different heads of charge have varying compliance obligations. Many organisations bear the burden of complying with fiduciary taxes, where an obligation to apply taxes to sales and payroll in particular, on behalf of the revenue authorities, generates a considerable compliance obligation while at the same time creating significant exposure to revenue authority sanction. Fiduciary taxes pose challenges for existing theories of tax compliance behaviour because they separate the compliance burden of the tax from the economic burden of its payment. Furthermore the particular reporting obligations associated with their operation which simplify policing from the revenue authority standpoint suggest that a different understanding of risk of detection of evasion could apply.

The main theories of tax compliance and research into taxpayer behaviour derive from Expected Utility Theory as articulated by Allingham and Sandmo (1972), the Prospect Theory of Kahneman and Tversky (1979) which extends Expected Utility Theory, and theories of Tax Morale – the “intrinsic motivation” to pay taxes (Frey
2003). These theories are most often considered in the literature in the context of decisions made by individual taxpayers who are in a direct relationship with the revenue authority and who will bear, in full, the consequences of their compliance decision. The Agency Theory of Jensen and Meckling (1976) was examined as a possible lens for examining compliance behaviour within organisations given that its concepts of monitoring, bonding and residual costs can create a framework for the tax compliance decision making process of Agents within an organisation. Three research questions for this thesis emerged from this review of the literature:

- Are the theories which attempt to explain tax compliance behaviour fully appropriate to organisations discharging fiduciary tax obligations?
- Are the factors influencing fiduciary tax compliance decisions by organisations the same as those influencing tax compliance by individuals?
- If not, can any of the theories be adapted or modified to better explain fiduciary tax compliance decisions by organisations?

A methodology for exploring a largely unmapped area of tax compliance behaviour was devised whereby field research would be carried out in two phases. In the first phase of the field research, a qualitative survey was conducted among tax professionals across two jurisdictions in the UK and Ireland. This survey found that existing theories explaining tax compliance behaviour were not fully appropriate to organisations, thus addressing the first research question. Organisations are not sensitised to the operation of the revenue authority nor to monetary tax penalties or to the social contract to the degree required for explanations of fiduciary tax compliance behaviour under Expected Utility Theory, Prospect Theory, and the theory of Tax Morale.

The second phase of the research involved interviews with Agents within organisations to identify the influences on their fiduciary taxation decisions. These interviews suggested that Company Officers within organisations take day-to-day compliance decisions without particular reference either to the risk of detection of non-compliance by the revenue authority or to the amount of tax at issue. Instead
they tend to link the commercial success of their organisation with positive tax compliance behaviours. Agents also have ongoing concerns regarding the risk of personal career disruption in the event of organisational tax compliance failure. Such factors are different to those which influence tax compliance by individuals.

The field work findings pointed towards the prevalence of expected utility considerations in the tax compliance decision-making processes within organisations but with important modifications. The financial consequences of tax evasion along with risk aversion and risk of detection are usually regarded in the literature as the key components of Expected Utility Theory, but the field work findings also point towards the need to accommodate a disproportionately strong aversion to loss on the part of organisations. Loss is not confined to financial loss through the application of back taxes due or penalties for default, but also includes commercial loss arising from reputational damage from the organisation becoming known as a tax evader. The field research also suggested that focusing on utility to the organisation alone is not sufficient. Cognisance must be taken of the normalised behaviour of Agents involved the decision-making process.

In answer to the third research question a restatement of Expected Utility Theory informed by these findings as it applies to organisational fiduciary tax compliance is proposed. The restatement was then tested against the findings of the DIRT Enquiry. When measured against the facts as presented by the DIRT Enquiry this restatement of Expected Utility Theory offers a coherent explanation of that compliance failure.

In a sentence - Organisations are likely to comply with their fiduciary tax obligations when they believe it makes commercial sense for them to do so, and when the people who work for them regard compliance by the organisation as potentially enhancing and non-compliance potentially hindering their own careers.
8.2 Limitations of this Research

It is acknowledged that there are limitations in the research and that in particular the following limitations may apply:

- **Self Selection** - the survey may have suffered from self-selection bias in that completion of the survey was voluntary. However as its intent was qualitative rather than quantitative it would appear that the survey was successful in its intention to establish whether the theories which attempt to explain tax compliance behaviour were fully appropriate to organisations discharging fiduciary tax obligations.

- **Number of Interviewees** - a total of 16 separate interviews were conducted which is a relatively modest number. As against this, the interviewees were selected by reference to geographical location and to accommodate as broad a spectrum of tax heads of charge and industry interests as is possible. The interviews were of good quality, with all interviewees showing considerable knowledge of their area and being forthcoming with their comments and contributions. Many organisations are too small to employ Agents with specialist tax knowledge to contribute to their own compliance affairs. To balance this out, interviews with two accounting and tax practitioners specialising in small to medium-size entities and their compliance matters were conducted. There were no widespread or significant differences in attitude expressed in the interview phase, nor any conflicts between the findings of the survey and the findings of the interviews except as noted in the detailed analyses in chapters 5 and 6.

- **Geographical Spread** – this research was undertaken across two tax jurisdictions, Ireland and the UK, both of which operate common law systems. The jurisdictions were chosen partly because of their proximity, but
also because of the familiarity of the researcher with the tax systems of both countries. It is possible that jurisdictions operating a civil law system, as many European countries do, might provide different results were the same research questions to be asked and fieldwork done to obtain responses.

- **Point in Time** – the fieldwork was carried out in the aftermath of severe recessions in both the territories under investigation. Were the research to have been conducted at a different stage in the economic cycle, the outcomes might have been somewhat different. It is possible to speculate for instance that concerns over commercial impact following the reputational damage of a negative tax investigation might not be as important in the minds of agents within organisations during a time of economic prosperity. A finding arising from the analysis of the composition of the tax take is that the proportion of fiduciary taxes collected relative to total taxes collected appeared to diminish as the UK and Irish economies began to recover. This finding is not highlighted in the thesis because it did not seem to be material to the research questions. Nevertheless it points towards the significance of the overall economic situation in a country when undertaking tax research.

- **Generalisability** – the main purpose of the fieldwork was to establish the applicability of existing compliance theories in explaining the incidence of fiduciary tax compliance and the factors which influence it. It does not follow that most organisations fear publicity regarding tax default over fines as redress for its occurrence, or that all agents are concerned about how their organisation’s compliance track record could impact on their careers, to take as examples two of the more striking findings from the field research. Rather what is established is that the fear of publicity and concern for careers are factors in tax compliance decisions, rather than determinants of all tax compliance decisions. It would be of interest to conduct the survey in a random sample of organisations with a statistically valid response rate, to see if the findings have general validity throughout the population of agents.
8.3 Future Directions

As argued in Chapter 1 it is important to study the compliance behaviour of organisations as well as the compliance behaviour of individuals. There remains much room for improving the understanding of the tax compliance decision-making process within organisations. The focus of the study has been on fiduciary tax compliance behaviours, yet the direct tax yield from organisations is also significant and the decision-making processes associated with the income tax liabilities of unincorporated businesses and the Corporation tax liabilities of incorporated entities merits further examination. It was clear from both phases of the research that some organisations rely heavily on their external tax intermediaries – auditors and tax advisers – when conducting tax compliance. More comprehensive analysis and follow-up on the role of such intermediaries might prove fruitful.

Also both the survey research and the interview research discovered a high incidence of what might be described as “embedded compliance”. There are business processes, procedures and supports put in place and adhered to within organisations to ensure the orderly conduct of compliance. It might be interesting to research any correlation between the level of concern within an organisation to ensure embedded compliance against the organisation’s size and type. It may also be the case that there are different levels of concern over embedded compliance at different stages of an organisation's life cycle. Revenue authorities should examine the extent to which organisational tax compliance reporting can be supported by them, perhaps through the provision of information and communications technologies which may be embedded within organisations. At the time of writing HMRC are making tentative steps in this direction under their “Making Tax Digital” initiative (HM Revenue and Customs 2015) which promises among other things to provide free software and apps to allow organisations and the self-employed to keep records of their income and expenditure. These details will be automatically transferred to HMRC on a quarterly basis from 2018. If well implemented, this research suggests that the Making Tax Digital project could have a significant positive impact on tax compliance levels.
This thesis has emphasised tax compliance behaviours but there are many other commercial and regulatory requirements applying to organisations – for example anti-money-laundering, health and safety, terms and conditions of employment, and the registration of lobbying activity. The literature review established that while there has been some work conducted in the area of organisational responses to compliance obligations (Braithwaite and Makkai 1991, May 2005) studies in this area may not be comprehensive. Furthermore there might be possibilities in examining the role of specific organisational factors such as perceived organisational support, subjective norms, learning climate, etc. in explaining fiduciary tax compliance.

Difficulties in establishing robust tax systems in developing nations are sometimes explained by deficiencies in the structure of local revenue authorities coupled with lack of enforcement capacity and corrupt officialdom. One study has correlated the impact on “tax effort” in developing countries with governance indicators developed by the World Bank which include political stability, accountability and the rule of law (OECD 2013b). This research suggests that a more pragmatic and more easily tackled cause could be the absence of a professional decision-taking class of Agent within organisations whose careers depend on their employing organisation having a solid tax compliance record.

8.4 Contribution

It may be appropriate here to amplify the contributions of this research already noted at 1.5 above. Those involved in the future formulation of tax policy should benefit from the findings, and those involved in the compliance process, be they within revenue authorities or working within private sector organisations, should better understand where the weaknesses in the overall tax system might lie. Tax compliance levels in Ireland and the UK are high primarily because of the work of
organisations in complying with fiduciary methods of tax administration and collection. This degree of compliance is not a given. This thesis shows that in situations where compliance failure is neither to the detriment of the commercial interests of the organisation nor to the career of its agents, fiduciary tax compliance can and does break down. These findings have implications for tax policy and tax practice. For tax policy they clarify that new fiduciary taxes or additional requirements to existing fiduciary taxes cannot be successfully introduced without reference to the commercial concerns of organisations. New taxes which are at odds with existing commercial practice will need more rigorous enforcement levels. On the other hand compliance obligations which can run parallel to existing business practices and procedures are most likely to succeed. There is also merit in considering systems of rewards and sanctions for Agents within organisations to improve the compliance behaviours of the organisations for which they work.

This thesis should help refine the tax compliance policy approaches towards organisations currently being adopted by revenue authorities both in Ireland and the UK, along with many other OECD tax regimes. These approaches promote “enhanced cooperation” arrangements particularly between larger organisations and the revenue authority concerned (OECD 2013a) and was a subject briefly touched upon at 6.2.3 earlier. The framework as proposed by the OECD stresses the commercial benefit to organisations of entering into such arrangements, an approach borne out by this research, but lacks any particular emphasis on the career aspirations of those who work within those organisations. This thesis suggests that tax compliance initiatives will not fully succeed in the absence of such an emphasis.

The regime for the publication of tax defaulters in Ireland was noted at 2.5.3.3 above. A similar style of regime operates in the UK, governed by section 94 of the (UK) Finance Act 2009, which provides for the naming and shaming of deliberate tax defaulters. In many respects the regimes have close parallels; they provide for the publication in an appropriate manner of the names and addresses of taxpayers found to have been in default, at regular intervals and subject to de minimis
requirements as to the amount of penalties at issue. There are however important
differences. In the UK, only taxpayers in deliberate default can be published,
whereas in Ireland taxpayers who have been grossly careless in the conduct of their
tax affairs are also published and there is no requirement to establish deliberate
intent. Furthermore the UK legislation allows for discretion on the part of the
HMRC Commissioners as to which taxpayers should be published. The Irish
legislation allows no such discretion on the part of the Irish Revenue
Commissioners, and once the taxpayer in default triggers the publication criteria,
publication must proceed.

It is clear from the fieldwork that the risk of public exposure of tax default, however
occurring, is a real influence on the behaviour of agents. The official publication of
the names of tax defaulters is not the only way in which tax default may come to
light publicly, but may be the most significant. The inevitability of publication
under the Irish system may enhance its impact on compliance behaviour. However
as with all materials placed in the public domain, there is a risk that the regular
publication of tax default may serve to normalise adverse behaviours and develop a
public perception that tax default is a routine occurrence, to be tolerated within
certain levels. It is submitted though that the regular publication of the names of tax
defaulters serves as a constant reminder of the policing and enforcement activity of
the revenue authority concerned. The impact of such reminders may well exceed the
adverse normalisation effects of publication.

To maximise the deterrent effect of using publication of the names of tax defaulters,
the field work of this thesis suggests that revenue authorities should have regard to:

- A mandatory publishing criterion, thus removing the element of discretion
for the revenue authority
- Regularity of publication; not so often that the matter ceases to be
newsworthy. Both the Irish and UK revenue authorities publish quarterly.
This may be too often for maximum impact.
CONCLUSION

- The de minimis criteria for publication. Items for publication determined by apparently trivial amounts or minor wrongdoing detract from the effect of the publication sanction.

The implications of the research on theory have been described in some detail in chapter 7, but some broader points may be summarised here. As regards organisational theory, it is clear from the fieldwork that organisations cannot be regarded as “black boxes” when it comes to making decisions under risk. They are not autonomous “decision-making factories”, in Kahneman’s phrase cited at 3.6 above. Rather the research establishes that there are personal implications, selfish or otherwise, for the agents within the organisation which must be considered. The agents particularly considered in this study are stakeholders within the organisation, but stakeholders only in the broadest sense of that term because they do not hold an equity interest, at least not in the traditionally understood sense. Their “equity” lies in their professional qualifications and career prospects and their behaviour will be influenced by their concern over securing the value of that equity.

In relation to Expected Utility Theory and its extension, Prospect Theory, a number of detailed implications have already been drawn. As a more general observation, it may be fair to claim that the proximity of the terms applied in the series to the circumstances in which they are contemplated may need to be reconsidered. For example in the classic articulations of both theories as they may apply to tax compliance, the term “loss” is taken as being a monetary tax and penalty loss. This interpretation is too limited at least in contemplating organisational tax compliance where a broader perspective involving commercial loss consequent to reputational damage is the uppermost consideration. Further study into whether or not fear over personal reputational damage is a driver of compliance for individuals might be worth considering by other researchers.
CONCLUSION

The role of Tax Morale in interpreting the fiduciary tax compliance behaviour of organisations is far less clear-cut. There may be a risk in ascribing a sense of social duty to organisations which engage in positive compliance behaviours, perhaps to go so far as to be wary of organisations which trumpet their compliance record. Their motivation for doing so may be more commercial than social, using positively regarded compliance (even if mandated by the law) as a platform for developing positive public perceptions within their suite of marketing techniques.

This somewhat negative view of the theoretical application of Tax Morale should not prejudice the positive reinforcement of good compliance behaviour on commercial grounds by organisations. This in turn has implications for the design of tax policy, the design of compliance policing and intervention by the revenue authority, and the development of business structures and procedures by organisations. When it comes to designing tax policy, the commercial considerations of the organisations which will be impacted must be considered earlier and become more of a factor. These commercial considerations are often self-evident when designing tax incentives, because the after-tax benefit to an organisation is usually immediately apparent. However, a greater sensitivity to commercial considerations may result in better designed tax incentives. In recent years, both the Irish and UK governments have redesigned their tax incentives for research and development activity by companies. The costs of appropriate research and development activities in both jurisdictions are compensated for within the tax system by the granting of a notional tax credit, expressed as a percentage of the costs incurred, which serves to reduce the overall corporation tax liability for the company concerned. This credit is granted “below the line”, in other words after the profit before tax has been computed. In many instances, because of cross-border reporting requirements, and for the sake of positive shareholder engagement, it is more useful for multinational organisations to have the benefit of the tax credit reflected “above the line”. This does not alter the ultimate tax liability in any way, but the redesign of this tax incentive should drive the economically desirable research and development activity better, because the manner of its granting is more closely aligned with commercial considerations. The reformulation of Expected Utility theory in this thesis would emphasise the need for
CONCLUSION

policymakers to examine commercial concerns, and not merely examine the after-tax impact of the tax law changes they make.

For the organisations themselves the thesis affirms the perception of a link between positive compliance behaviours and good commercial outcomes. If this is generally accepted, there may be some more specific pointers for organisational behaviour which can be extrapolated from the research. Among these, firstly there would seem to be a compelling reason for hiring qualified professionals in the conduct of tax compliance affairs. This is because of the degree of concern among professionals to “get things right” for the purposes of their own careers as well as for the best interests of the organisation. In effect, this can provide additional assurance without the need for additional incentives that tax compliance affairs are being conducted accurately and efficiently. Secondly, compliant organisations may do well to make their new business investments within territories where there is a strong compliance culture already established. Tax compliant business is a competitive disadvantage to non-tax compliant business, but only where non-compliance is the norm. A further corollary to this for policymakers is that by establishing a strong compliance environment, that in itself should attract the establishment of compliant businesses from abroad and foster the development of a compliance culture within their own indigenous sectors. In this way, a virtuous circle is created. The taxation system becomes is a pragmatic response by governments to meeting the cost of governing, met with a pragmatic response by organisations to meeting the costs of doing business.

In terms of future study it is hoped that the research will bring the role of the organisation in tax compliance and the contribution of fiduciary taxes to the overall tax yield into sharper focus. Alm commented that the puzzle of tax compliance behaviour may well be why people pay taxes, not why they evade them (Alm 2011). This thesis suggests that the puzzle may be resolved through considering organisational fiduciary tax compliance behaviour. Slemrod posed the question whether it matters who writes the cheque to the government (Slemrod 2008). This
thesis suggests that it matters a lot. The decision makers within organisations are key actors in modern tax systems, and their behaviour shapes the success or otherwise of the tax system as a whole.
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REFERENCES


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REFERENCE


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REFERENCES


REFERENCES


REFERENCES


APPENDIX – Tables of Survey Results

In this Appendix, the question numbers used follow the numbering system used within the Qualtrics data gathering and analysis software. The first four questions have been omitted from the following analysis as they are dealt with in Chapter 5, as have a number of “wrap up” questions positioned at the end of the survey.

5. How often are your computerised accounts and payroll systems kept up to date for changes to the tax system?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less often than once a year</td>
<td>2%</td>
<td>9%</td>
<td>5%</td>
</tr>
<tr>
<td>Once a year</td>
<td>39%</td>
<td>53%</td>
<td>45%</td>
</tr>
<tr>
<td>Once every 6 months</td>
<td>7%</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>Once every 3 months</td>
<td>51%</td>
<td>25%</td>
<td>40%</td>
</tr>
<tr>
<td>Never</td>
<td>0%</td>
<td>6%</td>
<td>3%</td>
</tr>
</tbody>
</table>

6. How much time did you spend on tax compliance work in the last month?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than a day</td>
<td>23%</td>
<td>24%</td>
<td>23%</td>
</tr>
<tr>
<td>A day</td>
<td>26%</td>
<td>35%</td>
<td>30%</td>
</tr>
<tr>
<td>3 days</td>
<td>33%</td>
<td>15%</td>
<td>25%</td>
</tr>
<tr>
<td>A full week or more</td>
<td>12%</td>
<td>26%</td>
<td>18%</td>
</tr>
<tr>
<td>The full month – it’s a full-time job</td>
<td>7%</td>
<td>0%</td>
<td>4%</td>
</tr>
</tbody>
</table>

7. What do you find hardest about tax work?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>There are too many tax rules</td>
<td>50%</td>
<td>36%</td>
<td>44%</td>
</tr>
<tr>
<td>The tax rules are difficult to understand</td>
<td>17%</td>
<td>6%</td>
<td>12%</td>
</tr>
<tr>
<td>The tax rules change too often</td>
<td>24%</td>
<td>45%</td>
<td>33%</td>
</tr>
<tr>
<td>Activities that should be routine, like making payments and filing returns, are cumbersome</td>
<td>10%</td>
<td>12%</td>
<td>11%</td>
</tr>
</tbody>
</table>
### APPENDIX – Tables of Survey Results

#### 9. Which of the following does your organisation provide? Tick all that apply

<table>
<thead>
<tr>
<th>Service</th>
<th>UK (%)</th>
<th>Ireland (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-the-job tax training</td>
<td>35%</td>
<td>18%</td>
</tr>
<tr>
<td>Keeping computerised systems up-to-date</td>
<td>65%</td>
<td>64%</td>
</tr>
<tr>
<td>Maintaining adequate staffing levels in the accounts/finance department</td>
<td>70%</td>
<td>64%</td>
</tr>
<tr>
<td>Support for obtaining an externally accredited qualification, e.g. a tax or accounts qualification</td>
<td>47%</td>
<td>36%</td>
</tr>
<tr>
<td>Support for attending external Continuing Professional Development courses</td>
<td>74%</td>
<td>73%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
<td>6%</td>
</tr>
</tbody>
</table>

#### 10. If you were to make a mistake in your tax work, who might be likely to find the mistake? Please answer for each item on the list.

<table>
<thead>
<tr>
<th>Party</th>
<th>UK (ranking)</th>
<th>Ireland (ranking)</th>
</tr>
</thead>
<tbody>
<tr>
<td>HMRC/Revenue Commissioners</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>An equal ranking or more junior colleague</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>A higher ranking colleague, say a director or manager</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>A client, customer or supplier</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>An external advisor or auditor</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

#### 11. Does your Board of Directors or Senior Management regularly have tax issues on the agenda?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>UK (%)</th>
<th>Ireland (%)</th>
<th>Combined (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regularly (more often than once a year)</td>
<td>42%</td>
<td>44%</td>
<td>43%</td>
</tr>
<tr>
<td>Rarely (perhaps once a year)</td>
<td>47%</td>
<td>44%</td>
<td>45%</td>
</tr>
<tr>
<td>Never</td>
<td>7%</td>
<td>6%</td>
<td>6%</td>
</tr>
<tr>
<td>Unsure/Don’t know</td>
<td>5%</td>
<td>6%</td>
<td>5%</td>
</tr>
</tbody>
</table>
### APPENDIX – Tables of Survey Results

#### 13. How concerned or not are you, as you do your work on a day-to-day basis, with running the risk of a Revenue Authority Compliance Check (enquiry, investigation, inspection or assurance visit)?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never</td>
<td>7%</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>Rarely</td>
<td>33%</td>
<td>16%</td>
<td>25%</td>
</tr>
<tr>
<td>Sometimes</td>
<td>33%</td>
<td>38%</td>
<td>35%</td>
</tr>
<tr>
<td>Most of the Time</td>
<td>21%</td>
<td>19%</td>
<td>20%</td>
</tr>
<tr>
<td>Always</td>
<td>7%</td>
<td>22%</td>
<td>13%</td>
</tr>
</tbody>
</table>

#### 14. In your view, how likely or not is your company/organisation to have a Revenue Authority compliance check IN THE NEXT 12 MONTHS?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Unlikely</td>
<td>10%</td>
<td>9%</td>
<td>9%</td>
</tr>
<tr>
<td>Unlikely</td>
<td>45%</td>
<td>18%</td>
<td>33%</td>
</tr>
<tr>
<td>Don't Know</td>
<td>17%</td>
<td>41%</td>
<td>28%</td>
</tr>
<tr>
<td>Likely</td>
<td>21%</td>
<td>12%</td>
<td>17%</td>
</tr>
<tr>
<td>Very Likely</td>
<td>7%</td>
<td>21%</td>
<td>13%</td>
</tr>
</tbody>
</table>

#### 15. In your view, how likely or not is your company/organisation to have a Revenue Authority compliance check IN THE NEXT 5 YEARS?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Unlikely</td>
<td>5%</td>
<td>0%</td>
<td>3%</td>
</tr>
<tr>
<td>Unlikely</td>
<td>7%</td>
<td>9%</td>
<td>8%</td>
</tr>
<tr>
<td>Don't Know</td>
<td>17%</td>
<td>18%</td>
<td>17%</td>
</tr>
<tr>
<td>Likely</td>
<td>40%</td>
<td>44%</td>
<td>42%</td>
</tr>
<tr>
<td>Very Likely</td>
<td>31%</td>
<td>29%</td>
<td>30%</td>
</tr>
</tbody>
</table>

#### 16. Would problems that your organisation had with the Revenue Authority reflect badly on you at a performance appraisal?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>44%</td>
<td>65%</td>
<td>53%</td>
</tr>
<tr>
<td>No</td>
<td>37%</td>
<td>18%</td>
<td>29%</td>
</tr>
<tr>
<td>Not sure</td>
<td>19%</td>
<td>18%</td>
<td>18%</td>
</tr>
</tbody>
</table>

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17. Which action that the Revenue Authority could take following a tax default would concern you most? Please answer for each item on the list.\(^{18}\)

<table>
<thead>
<tr>
<th>Action</th>
<th>UK</th>
<th>Ireland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paying interest on tax</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Publication as a tax defaulter</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Prosecutions</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Tax penalties</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Collection Enforcement</td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>

18. How concerned are you that the Revenue Authority might take action against you personally for tax wrongdoing in your organisation?

<table>
<thead>
<tr>
<th>Concern</th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never</td>
<td>42%</td>
<td>38%</td>
<td>40%</td>
</tr>
<tr>
<td>Rarely</td>
<td>33%</td>
<td>26%</td>
<td>30%</td>
</tr>
<tr>
<td>Sometimes</td>
<td>5%</td>
<td>9%</td>
<td>6%</td>
</tr>
<tr>
<td>Most of the Time</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Always</td>
<td>0%</td>
<td>6%</td>
<td>3%</td>
</tr>
<tr>
<td>I don't believe that the Revenue Authority could act against me personally</td>
<td>21%</td>
<td>21%</td>
<td>21%</td>
</tr>
</tbody>
</table>

19. If your organisation was in cash flow difficulties, would you consider not paying over taxes like VAT or PAYE when due?

<table>
<thead>
<tr>
<th>Consideration</th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Unlikely</td>
<td>43%</td>
<td>33%</td>
<td>39%</td>
</tr>
<tr>
<td>Unlikely</td>
<td>31%</td>
<td>24%</td>
<td>28%</td>
</tr>
<tr>
<td>Don't Know</td>
<td>10%</td>
<td>9%</td>
<td>9%</td>
</tr>
<tr>
<td>Likely</td>
<td>10%</td>
<td>21%</td>
<td>15%</td>
</tr>
<tr>
<td>Very Likely</td>
<td>7%</td>
<td>12%</td>
<td>9%</td>
</tr>
</tbody>
</table>

\(^{18}\) Respondents were asked the sanctions which they feared most from the above list, arranged on a three point Likert scale – “least worrying”, “some concern” and “most worrying”. The mean of the responses was taken, and from those results the above likelihood ranking is derived where 1 is the most likely and 5 is the least likely.
### 21. What proportion of other businesses in your sector do you think compete unfairly by not paying tax, for example by not charging VAT or by paying staff “under the counter”? 

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>None/does not happen in my sector</td>
<td>30%</td>
<td>35%</td>
<td>32%</td>
</tr>
<tr>
<td>Less than 5%</td>
<td>37%</td>
<td>29%</td>
<td>34%</td>
</tr>
<tr>
<td>More than 5% but less than 25%</td>
<td>26%</td>
<td>24%</td>
<td>25%</td>
</tr>
<tr>
<td>More than 25% but less than 50%</td>
<td>5%</td>
<td>9%</td>
<td>6%</td>
</tr>
<tr>
<td>More than 50%</td>
<td>2%</td>
<td>3%</td>
<td>3%</td>
</tr>
</tbody>
</table>

### 22. Which would concern you the most – paying too much tax, or paying too little tax? 

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paying too much tax would concern me most</td>
<td>49%</td>
<td>38%</td>
<td>44%</td>
</tr>
<tr>
<td>Paying too little tax would concern me most</td>
<td>51%</td>
<td>63%</td>
<td>56%</td>
</tr>
</tbody>
</table>

### 23. How would you rate the Revenue Authority in policing the tax system and enforcing the rules? 

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Bad</td>
<td>9%</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td>Bad</td>
<td>16%</td>
<td>15%</td>
<td>16%</td>
</tr>
<tr>
<td>Neither Good nor Bad</td>
<td>53%</td>
<td>6%</td>
<td>32%</td>
</tr>
<tr>
<td>Good</td>
<td>19%</td>
<td>56%</td>
<td>35%</td>
</tr>
<tr>
<td>Very Good</td>
<td>2%</td>
<td>24%</td>
<td>12%</td>
</tr>
</tbody>
</table>

19 Question 20 concerned the relative efficacy of different sources of information regarding tax. It is not included in this analysis because it makes little contribution to understanding compliance behaviours.
### 24. Which of the following precautions does your organisation take to reduce the likelihood of a Revenue Authority compliance check taking place? Tick all that apply.

<table>
<thead>
<tr>
<th>Precaution</th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Periodic internal reviews</td>
<td>37%</td>
<td>41%</td>
<td>39%</td>
</tr>
<tr>
<td>Getting advice on difficult issues with professional experts</td>
<td>91%</td>
<td>85%</td>
<td>88%</td>
</tr>
<tr>
<td>Taking great care over routine tax compliance work</td>
<td>81%</td>
<td>76%</td>
<td>79%</td>
</tr>
<tr>
<td>Not missing payment deadlines</td>
<td>86%</td>
<td>76%</td>
<td>81%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
<td>6%</td>
<td>7%</td>
</tr>
</tbody>
</table>

### 25. Would you agree that the tax system is fair to organisations like yours?

<table>
<thead>
<tr>
<th>Agreement Level</th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2%</td>
<td>0%</td>
<td>1%</td>
</tr>
<tr>
<td>Disagree</td>
<td>21%</td>
<td>24%</td>
<td>22%</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>47%</td>
<td>29%</td>
<td>39%</td>
</tr>
<tr>
<td>Agree</td>
<td>30%</td>
<td>38%</td>
<td>34%</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>0%</td>
<td>9%</td>
<td>4%</td>
</tr>
</tbody>
</table>

### 27. If a tax mistake occurred in your organisation, which of the following actions is most likely to be taken?

<table>
<thead>
<tr>
<th>Action</th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engage directly with the Revenue Authority, possibly by making a disclosure</td>
<td>42%</td>
<td>35%</td>
<td>39%</td>
</tr>
<tr>
<td>Refer the matter to a superior within the organisation</td>
<td>12%</td>
<td>15%</td>
<td>13%</td>
</tr>
<tr>
<td>Refer the matter to an external tax advisor or firm</td>
<td>42%</td>
<td>41%</td>
<td>42%</td>
</tr>
<tr>
<td>Wait for it to be detected by the Revenue Authority, and then settle the matter as necessary</td>
<td>5%</td>
<td>9%</td>
<td>6%</td>
</tr>
</tbody>
</table>
### 28. Which of the following would best describe the attitude of the most senior person in your organisation if there were mistakes made in compliance work?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Would see it as a priority matter requiring immediate corrective action</td>
<td>56%</td>
<td>50%</td>
<td>53%</td>
</tr>
<tr>
<td>Would see it as a routine matter requiring resolution in the normal course</td>
<td>42%</td>
<td>35%</td>
<td>39%</td>
</tr>
<tr>
<td>Would ignore, or be unconcerned as to the mistake and its resolution</td>
<td>2%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>Would wish to conceal the mistake</td>
<td>0%</td>
<td>6%</td>
<td>3%</td>
</tr>
<tr>
<td>Would see it as a disciplinary matter for you</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Other</td>
<td>0%</td>
<td>3%</td>
<td>1%</td>
</tr>
</tbody>
</table>

### 29. How important or not is it for you to be on the lookout for tax saving ideas and opportunities?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not at all Important</td>
<td>0%</td>
<td>3%</td>
<td>1%</td>
</tr>
<tr>
<td>Very Unimportant</td>
<td>7%</td>
<td>0%</td>
<td>4%</td>
</tr>
<tr>
<td>Neither Important nor Unimportant</td>
<td>40%</td>
<td>18%</td>
<td>30%</td>
</tr>
<tr>
<td>Very Important</td>
<td>35%</td>
<td>56%</td>
<td>44%</td>
</tr>
<tr>
<td>Extremely Important</td>
<td>19%</td>
<td>24%</td>
<td>21%</td>
</tr>
</tbody>
</table>

### 30. Have you ever been involved in a "due diligence" process where a business was being sold?

<table>
<thead>
<tr>
<th></th>
<th>UK</th>
<th>Ireland</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>72%</td>
<td>59%</td>
<td>66%</td>
</tr>
<tr>
<td>No</td>
<td>28%</td>
<td>41%</td>
<td>34%</td>
</tr>
</tbody>
</table>
31. By reference to the overall amounts of tax your business pays, which tax would cost the most to put right if something were to go wrong? Please answer for each item on the list.

<table>
<thead>
<tr>
<th>Tax Type</th>
<th>UK</th>
<th>Ireland</th>
</tr>
</thead>
<tbody>
<tr>
<td>VAT</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>PAYE/PRSI</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Other withholding taxes</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Corporation Tax or Income Tax</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Other taxes, e.g. Customs, Excise Duties</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>
END

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