Tax Compliance Dancing

The Importance of Time and Space in Taxing Multinational Corporations

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Abstract: Taxation is central to the financing of most states, and monitoring that taxpayers comply with laws and regulations is a correspondingly important government activity. Governments have many ways to design tax systems, and no two national tax systems are the same. Hence, compliance strategies differ and so do outcomes. Complying with tax laws, beyond the fiscal aim of contributing revenue to a state, is multifaceted in a globalized world. Tax administrations struggle to control large multinational enterprises' (MNEs) tax planning, avoidance and general evasion, whereas MNEs grapple with the problem of having to comply with widely divergent national tax systems. As a response, tax administrations, through membership organisations such as the OECD, invent forms of collaboration between tax administrations and MNEs—all with the goal of increasing tax compliance. One way they do this is through the co-operative compliance model. Here, we compare two compliance projects, based on this model, in Norway and Sweden to shed more light on what tax compliance is in practice. We elaborate on Valerie Braithwaite's seminal concept of tax compliance as a 'dance' between tax administrations and taxpayers. In so doing we underline the significance of paying attention to conceptions of time and space as critical elements of creating compliance in practice between tax administrations and MNEs.

Keywords: co-operative compliance, multinational enterprises, Norway, Sweden, tax administration, tax compliance, time, space, Valerie Braithwaite

Taxation is central to the financing of most states,[1] and ensuring that taxpayers comply with laws and regulations is a correspondingly important government activity. Governments have many different tools at their disposal for designing tax systems, and no two national tax systems are the same (Keen and Slemrod 2021). Hence, compliance strategies differ and so do outcomes. Patriotism was a reason why Americans

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complied with high tax rates during the Second World War (Sparrow 2008); merchants in Chad comply for the right to trade (Roitman 2005); and Nordic citizens are instilled with the call of duty to contribute to the welfare state (Sejersted 2011). Complying with tax laws, beyond the fiscal aim of contributing revenue to a state, is thus multifaceted in a globalised world.

Tax compliance is a contested subject, especially when it comes to large multinational enterprises' (MNEs) tax planning, avoidance and general evasion (J. Braithwaite 2016b; McBarnett 2016; OECD 2019). MNEs operate in many countries, yet have to comply with the national tax legislation in each; there is no such thing as a 'global tax regime'.[2] With the advent of globalisation and market liberalisation from the 1990s onwards, the responses of governments and MNEs revealed a disconnectedness between national tax systems. States adapted their tax regimes and empowered their national tax administrations. Some even attempted to attract foreign direct investment with promises of low tax rates; what seemed to be a 'race to the bottom' of corporate tax rates began making it possible for MNEs to shop around for the best tax deals (Abbas and Klemm 2013).

MNEs have also, on their part, grappled with the problem of having to comply with widely divergent national tax systems. A recurrent problem for MNEs was 'double taxation', where they had to pay taxes in full to two countries, or even three or more. Not generally positive towards taxes in the first place, MNEs saw double taxation cut deep into their profit margins, and this did not improve their motivation to pay. The result was an increase in more or less licit tax avoidance schemes known among tax officials as 'creative compliance' (McBarnett 2016: 229), a kind of 'rightful resistance' (O'Brian and Li 2006) to what was perceived as an unfair, costly financial and administrative burden. Financial flows and legal forms were manipulated to reduce MNEs' tax burdens, resulting in immensely complex tax files and tax management routines. Help was needed, and the global market for highly qualified tax lawyers and accountants grew (De Widt et al. 2016), resulting in considerable costs (J. Braithwaite 2016a). The routine work of preparing files, controlling content and interpreting results to determine tax rates takes considerable time and effort by MNEs, consultants and tax administrations. This mutually dependent administrative work is here referred to as 'tax compliance dancing'.

As the complexities of this 'dancing' increased, the response from governments and MNEs to the global situation created a vicious cycle that no single entity could escape. Bilateral and multilateral tax treaties

to avoid double taxation were established between countries to address unfair tax treatment. Within various international collaboration forums such as the European Union's Tax and Customs Union (TAXUD), the Intra-European Organisation of Tax Administrations (IOTA) and the Organisation for Economic Co-operation and Development (OECD)'s Centre for Tax Policy and Administration (CTPA), national tax administrations met to exchange information and experiences of successful strategies. They began to collaborate more closely to monitor the effects of the globalisation of financial flows. The experience spilt over to inventing forms of collaboration between tax administrations and taxpayers, all with the goal of increasing tax compliance amongst MNEs.

The OECD is the main intergovernmental organisation that creates international tax law policy (Mugler 2018) and its CTPA promotes the transfer of new policies into practice amongst national tax administration members. It was from here that the idea of a 'co-operative compliance' programme emanated. In this article, we compare two such co-operative compliance projects addressing MNEs in Norway and Sweden. The projects' very different outcomes allow us to investigate cultural and societal factors while paying attention to the quality of relations that influence tax compliance practices. We show that applying a programme template, relying on best practices (Owens and Pemberton 2021) or 'soft skills' in addition to the technical expertise (OECD 2013) does not automatically increase compliance. Instead, we underline the significance of paying attention to conceptions of time and social space as critical elements of the relations between tax administrations and MNEs (and their representatives). We show how different understandings along each of these two cultural dimensions fundamentally affected how collaborative compliance fared in both Sweden and Norway. In so doing, we elaborate on Valerie Braithwaite's concept of tax compliance as a dance between tax administrations and taxpayers using insights from Charles Taylor's (1999) work on the importance of rhythm when humans follow rules. Our aim is to broaden a common argument in compliance research that indicates that trust and tax compliance reinforce each other, that trust increases if all taxpayers are deemed to comply (Kornhauser 2007; Slemrod 2007). Our discussion extends these concerns to encompass the meaning and value of compliance.

Methodology

In this article, we explore two national projects, in Norway and Sweden, that resulted from the OECD's programme to promote 'cooperative tax compliance'. Norway and Sweden are good places to explore tax compliance from this perspective. Even if these neighbouring countries are similar in many respects, the outcomes of these co-operative compliance projects, which were created in the same mould, were quite different. This article thus provides a comparative evaluation (cf. OECD 2014) by strategically selecting two very different cases (Flyvbjerg 2006: 229; cf. Björklund Larsen et al. 2018). In Norway, co-operation was not outsourced to a specific project or segment of taxpayers classified as compliant. Instead, the Norwegian case shows how co-operative compliance becomes a means to strengthen the routine of ongoing clarification in the tax administration and systematic internal tax auditing in corporations, with implications for mutual trust and taxpayer empowerment (cf. Björklund Larsen et al. 2018). The Swedish variety of co-operative compliance is an extreme case. It activated more actors than expected, and provides insights into more mechanisms in the project studied. We know of no other co-operative compliance programme that has been publicly challenged to the same extent and that has triggered a number of mechanisms that no one in the Swedish tax administration, Skatteverket, foresaw. As the project leader of the co-operative compliance programme said, 'I just could not see this aggressive resistance coming'.

This research is based on a multi-method ethnography, and the original plan was to conduct similar types of fieldwork in Norway and Sweden (Björklund Larsen et al. 2018: 15), focussing on the specific doings of co-operative compliance. The very different unfolding of the co-operative compliance programmes in the two countries shaped our fieldwork and possible engagement with various stakeholders. In 2015 and 2016, we conducted qualitative interviews with tax managers, MNEs, consultants and lawyers, and tax officials working directly with co-operative compliance projects or with corporate tax. In Norway, the majority of interviews were with corporations, whereas in Sweden most took place with tax administration employees. As the latter project became highly contested, tax officials at most Swedish corporations that we contacted declined to be interviewed. In addition, we read documents, policies and media reports about the projects in the respective countries, treating these as ethnographic data – that is, as evidence of patterns of meaning and social relations rather than sources of 'fact' (Asad 1994: 67; cf. Riles 2006). In Norway, we also followed the trajectory

of a disputed claim between the *Sentralskattekontoret for storbedrifter* or SFS (Central Office for Large Enterprises) and an MNE called BLOC AS[3] for three years. This case gave us unique insight into the back-and-forth process of working out mutual understanding of the line between compliance and non-compliance. Compliance was defined as an administrative issue, while non-compliance was defined as a problem to be solved in court.

Throughout the research, we engaged with those we studied. The Swedish 'failure' unfolded while we were conducting the interviews. The results from this research (Björklund Larsen 2018) were presented and discussed at workshops with the project team at Skatteverket as well as with tax specialists at the Confederation of Swedish Enterprises, who spearheaded the opposition to the Swedish project. In Norway, findings were presented in various fora, at internal workshops at SFS and other government bodies, and in the media.[4]

Tax compliance: From coercion to co-operation?

Tax compliance usually refers to reporting and paying tax in a timely and correct manner according to the relevant laws and requirements set forth by governments and other taxation authorities. How taxpayers are made to comply has been widely discussed, and tax administration strategies have varied. For many years, Michael Allingham and Agnar Sandmo's (1972) model for creating strategies for compliance prevailed. The model sees taxpayers as continuously attempting to maximise their economic outcome by paying only enough tax to avoid being caught by an audit control and thus paying penalties. This model, and modifications to it, has been used to devise strategies for increasing compliance. These include tax penalties (Doran 2009); receipt-based tax lotteries (Fooken et al. 2014); stable tax policies (Bergman 2003); quasi-voluntary compliance-creating structures whereby taxpayers choose to pay and those who do not are coerced if caught (Levi 1988); increasing social norms (Edlund and Åberg 2002); making tax administrations attractive to engage with (Slemrod 2015); informing taxpayers about audit efficiency (Alm and McKee 2006); and soft nudging by written communication (Andersson et al. 2021).

Valerie Braithwaite has been instrumental in both shaping and reporting on work with tax compliance. Her research has been widely used and has provided an inspiration for many tax administrations (although it has not always been applied in ways that agree with her

argument). Working with the Australian Tax Office (ATO), she and her colleagues proposed new ways of approaching taxpayers. When it was published, Braithwaite's research provided a wholly new conception of the taxpayer. It also made a further distinction between co-operative- and compliance-related actions, emphasising the difference between taxpayers who consent to be regulated and those who require more coercive forms of control. The tax administration could thus shift focus from monitoring taxpayers and collecting tax to establishing relations with taxpayers that would avoid the need for enforcement. It was a dance between tax administrations and taxpayers, where the challenge was '[to] deal with the wrongdoing today, while nurturing consent for tomorrow' (V. Braithwaite 2016: 35).

The OECD defines co-operative compliance as a regulatory framework building on the idea that participating corporations should disclose relevant information, including their tax risks, and be transparent towards tax administrations (Stevens et al. 2012). This is intended to secure good tax compliance and deliver greater tax certainty and predictability (Owens and Pemberton 2021). Tax administrations will in return provide real-time predictability and clarity concerning taxation issues of relevance for corporations. In brief, co-operative compliance builds on the slogan 'certainty in exchange for transparency' (OECD 2016: 7) – that is, for all corporations that the tax administrations define as compliant.

The main idea is thus for tax administrations to work proactively with large corporations. This proactive approach aims to enhance tax compliance before tax statements are delivered and legal control systems take over. This is a change from the traditional obligation-based relation between taxpayers and tax administrations, and has various implications for ways of working – both for the tax administrations and for the large corporate taxpayers that participate. Co-operative compliance programmes are intended to make the taxation process more efficient and beneficial for both parties by significantly reducing the number of backward-looking reviews and audits of returns submitted to the tax administrations. This is an advantage for both the large corporate taxpayers and the tax administrations, as tax work usually requires many resources.

While the OECD framework (2008, 2013, 2014, 2016) is relatively stable and consistent in its definition of what co-operative compliance is and which elements ought to be included in national co-operative compliance programmes, the implementation and adaptation of the OECD framework within the various national tax administrations

comes in many forms (see also OECD 2013: 3; 2017: 147–153). These national adaptations have been subject to much discussion amongst legal scholars, for example internationally (Bronzewska 2016; Goslinga et al. 2019; Huiskers-Stoop and Gribnau 2019) and in Sweden (Hambre 2018; Påhlsson 2012; Sörensson 2011), examining whether such co-operation increases compliance. Nevertheless, co-operative compliance has increasingly become a core concern and way of organising relations between tax administrations and large corporate taxpayers to secure compliance. Many OECD members have adopted these ideas (Owens and Pemberton 2021), and these ideas have also spread to developing countries (Aksnes 2011, 2012 a,b).

Norway: Negotiating compliance

In 2010, the SFS in Norway began planning the Enhanced Dialogue project (*Fordypet dialog*) based on a new OECD co-operative compliance programme it had helped develop. The aim of the Norwegian Enhanced Dialogue project was to increase the SFS's knowledge of selected corporations' internal tax-monitoring systems and, in turn, to increase those corporations' understanding of SFS routines. The time to test its practical applicability came when the project was to be rolled out nationally in 2011–2013 (Greni and Myhre 2018). This changed relations between the tax administration and corporate taxpayers in unintended ways.

Corporations were invited to participate in the project on an open basis. They did not have to demonstrate their compliance before being accepted onto the project (as recommended by the OECD). Neither were they required to sign any special compliance agreement. At that stage, the SFS had had direct relations with a limited number of corporations for many years. In their experience, this taxpayer segment aimed to comply. 'We do not know in advance where to draw the line between compliance and non-compliance' was the explanation a senior tax official gave for the approach.

When the project ended, its evaluation report concluded that the SFS had reached its goals, although corporations were not quite sure of the project's value. Establishing new rules of engagement between tax administrators and corporations had itself been a collaborative process and had taken considerably more effort than planned. Despite the project's emphasis on co-operation, this process engaged tax officials and tax managers in disputed tax claims. While they navigated the complexities of tax laws and regulations, tax administrators and

corporate tax managers settled on the line between compliance and non-compliance.

After the project ended in 2013, rumours started to circulate that change was afoot in the tax administration, challenging the long-established pattern of relations based on co-operation and dialogue. This pattern dated back to 1992, when the Norwegian national tax administration delegated the responsibility for monitoring large corporate taxpayers to the SFS in connection with a radical tax reform. Corporate tax rates were slashed from 50.8 per cent to 28 per cent and have been further reduced since (Schelderup and Jacobsen 2011). To monitor tax compliance, the SFS developed a routine of continuous, real-time monitoring in combination with the ordinary annual tax return, which came to be known as 'the SFS way'. This can be viewed as an early version of collaborative compliance and resonated with Norway's long-established 'three-party'-consultative style of corporate governance between employers, unions and the state (Falkum et al. 2014). Under the firm governance of the Ministry of Finance, the corporate tax community of tax officials, advisors and managers had hitherto usually managed to work out agreements about corporations' tax filings. In the few cases where they did not agree, the parties would meet at tribunals or in court. The rulings were then included in the Norwegian corporate tax 'rulebook', a volume published at irregular intervals by the tax administration (Almvik and Kristiansen 2005; Carlsen 2012).

In 2015, the national tax administration started several tax compliance projects and prepared for a major reorganisation. The SFS followed by implementing new routines, largely based on the OECD framework. The SFS sent out letters to MNEs asking for more and other information to what the corporations were used to. This changed both the rhythm and the moves of the 'tax compliance dance' they were used to. However, they had not been informed about the changes. All tax managers we interviewed had received unexpected letters from the SFS concerning one issue or another in their tax filings. They were sceptical and described their experiences as a 'fishing expedition'. 'We are being used as a pilot for training purposes', complained one, while another commented that 'the queries do not relate to any specific facts'. According to our tax managers, the letters represented a 'more controlling approach' and 'a change of culture'. All resisted the change, although the forms of resistance varied. Some phoned the SFS, others wrote to them. Some provided thousands of documents, others sent over only the most general information. All were wary of being interpreted as non-compliant. The relatively graceful dance that had been the routine turned into a

clumsy stumble. The unease amongst tax managers was so tangible that we broke with the ethnographic ethos of non-intervention and conveyed their unease to the SFS in general terms. The SFS was as stunned by the corporations' reactions as the corporations had been by the letters from the SFS. The tax officials' surprise indicated that the tax managers had not expressed their scepticism. This strengthened our assessment that the corporations were wary of being seen as recalcitrant.

One dance around a contested claim

In 2015, BLOC ASA received one of the letters referred to above. The tax managers were confused. What kind of dance was the SFS inviting them to do? BLOC had experienced rapid international growth in the previous years. With operations in fourteen tax jurisdictions, each with its own regulatory framework, monitoring financial flows between the many units had become increasingly complex. The Board of Directors had decided to establish a separate tax unit, at the corporate headquarters in Norway, with a new Head of Tax (HoT) with global responsibility. He in turn hired two tax managers to organise the mass of international contracts and transactions. By 2015, the HoT had initiated a considerable restructuring of the firm's foreign subsidiaries. He had negotiated hard with the Head of Operations to close down 'empty' or shell companies, but still thought too many had to be kept operational because BLOC was required to register a local entity. The HoT had also implemented a comprehensive tax-risk-monitoring management system as required by the Board. He had started to gain control, but it was still shaky.

The SFS, for its part, was embroiled in internal disagreements about how to categorise taxpayers and define compliance. Adding to the challenges was a major reorganisation of the national tax administration, which resulted in scores of newly hired tax officials with little previous experience working with MNEs. In addition, a new breed of legalist officials insisted that any type of resistance implied non-compliance, while the 'old-school', pragmatic tax officials insisted that all taxpayers were innocent until proven guilty. The situation was thus uncertain within the SFS as well.

It was against this background that the SFS sent their letter to BLOC, and the MNE pondered how to respond. This brief first letter was a general query about a tax deduction made in the accounts of a foreign subsidiary in 2012 with a warning that the approval of BLOC's 2015 accounts could be delayed. The three tax managers at BLOC were

puzzled. First, the signature was not from any of their designated SFS contacts. Second, the query broke with the SFS's established practice of not pursuing claims more than a year after accounts were approved. The SFS letter implicitly indicated that the books for 2013 and 2014 could be re-opened. Baffled, the tax managers wrote back to ask for more details about the requested information while the HoT enquired about what was going on at the SFS. Thus began a process that lasted for more than three years.

The second letter from the SFS was three pages long with precise questions about many issues, ranging from year-by-year deductions for research and development (R&D), marketing costs, internal transfer pricing, contract conditions and so on. BLOC's tax managers politely responded that most of the questions were irrelevant, while providing general answers to the rest. For nearly a year, they communicated in writing. The SFS reduced the number of questions in each letter they sent, while BLOC added more detail with each reply until only two disputed issues remained. One was whether a tax deduction was under R&D expenses or part of routine operations, as the SFS claimed. The other issue was how far back the SFS should re-open the accounts to check prices on transfers between companies in the group: back to 2012 or from 2014 only.[5]

After the first year of written communication, representatives of the SFS and BLOC's tax managers held their first physical meeting. By then, the tax managers also had discovered who signed the first letter. They had used a number of informal channels to do so. One was their tax advisor, another was a tax forum for large corporations, and the third was BLOC's designated contact person at the SFS, who was called by the HoT. The tax managers had found out about the change of personnel and the new methodology (SFS was secretive about the OECD manual, although it was openly available on the Internet), but they were unsure of the implications.

At the first meeting, six tax officials sat at one side of the table while BLOC's three tax managers sat at the other. There was a clear hierarchy in the seating, with the most powerful seated in the middle, and the less influential members of the teams to the left and right. The researchers sat at the end of the table as observers and only responded when addressed directly. One of the new SFS team members quickly took the lead, brusquely refusing to consider the tax managers' carefully prepared presentation about BLOC's structure and operations, and explained, in legal terms, his understanding of the situation. Another new member, the youngest person in the room, seated at the end of the row,

played up to him by repeatedly questioning the HoT's definitions and asking for clarifications. The tax managers politely contested each of the SFS's interpretations and definitions. When interacting, each party appeared to be in full control of the issues, while in private discussions they expressed doubts about their own assessments and uncertainties of the intentions of the other. Questions arose about what each sentence and each number in the documents, presentations and conversations could indicate about BLOC's level of compliance.

After a year of written correspondence and two years of meetings, the case was finally closed. The SFS and BLOC agreed on each of the two disputed issues. The explicit result was that both had yielded on a number of points and that compromises had been worked out. What was not shared between them was what they each learnt about tax compliance. The SFS had refined its use of the OECD methodology, while the tax managers had refined BLOC's tax-risk-monitoring system. The happy outcome was no costly court case and no loss of credibility or social standing for any of the parties.

This case is an example of co-operative compliance, although not quite in the manner proposed by the OECD framework. While it implies that taxpayers have to be compliant in order to be dealt with in a co-operative manner, leaving the matter of compliance to the discretion of the tax officials, co-operation was mutual and resulted in a shared understanding of where to draw the line between compliance and non-compliance. A main lesson was that compliance could not be determined *a priori*; it emerged from the 'dance' between the tax officials and tax managers. If the legalists had had their way initially, this corporation would have been a priori defined as a risky or even non-compliant taxpayer.

In this case, there was already a high level of trust and a clear understanding of the parties' respective responsibilities. Through slow, careful exchanges around specific obstacles, the parties also established new time and space frames, new rhythms and moves, so to speak. The first hurdle was the understanding of innovation, which is partly tax deductible in Norway. In the end, it was agreed that innovation could be defined at the same time as both (a) incremental change and minor projects in the subsidiaries and (b) formal R&D at the headquarters. These are both tax deductible to an extent when activities are specified. As to the year and companies to include, the reassessment was to start from the time the first letter was sent, based on a mutually agreed definition of the kind of company to include in the internal transfer pricing review. Some back taxes were paid, but that is not the main

point here. It is rather that as BLOC and SFS carefully picked their way through masses of factual information, technical and legal definitions, as well as operational issues, each party learnt the conditions set by the other. Through this careful process, a mutual understanding of the line between compliance and non-compliance was identified. Trust was re-established along with the shared understanding of what time frames to use and how far into the private MNE's tax management routines the government (SFS) could go without active resistance.

Resisting co-operation: Sweden

In their interpretation of the OECD programme on the national scene, Skatteverket, the Swedish tax administration, has not to this day managed to engage more than a handful of MNEs.[6] The project *Fördjupad samverkan* or FS (Enhanced Collaboration) was introduced by Skatteverket in 2011 but, due to heavy criticism, it was relaunched in a modified version as *Fördjupad dialog* or FD (Enhanced Dialogue) in 2014. The change of name and, to an extent, content, did not help much; in Sweden, it was met with strong resistance not only from the corporations, but also from various other stakeholders in the tax arena. The largest issue in the criticism was the project's conflicts with existing laws regarding tax confidentiality, principles of legality governing administrative law, and equal treatment before the law (cf. Hambre 2018; Påhlsson 2012). The implementation of the project was also poorly managed, with Skatteverket misreading its contemporary role in the corporate tax arena.

In hindsight, Skatteverket had not prepared the ground well for introducing FS. The co-operative compliance programme was just one of several initiatives taking place at the time in order to enhance corporate tax compliance. Skatteverket had changed strategies during the 2000s following international research and a trend of working together with taxpayers to ensure that information, taxes and fees were largely correct as early as possible. FS aligned well with Skatteverket's proactive work aiming to collect the correct, not necessarily the maximum, tax from all taxpayers (Wittberg 2005). Getting it 'right from the start', as the slogan went, would increase trust. Yet, simultaneously, Skatteverket also ran a large project aimed at identifying massive tax planning on the fringes of licit behaviour among larger corporations.[7] This project aimed to classify corporations based on risk evaluations, especially focussing on corporations active in tax-planning schemes. This was inspired by

the work of the United Kingdom's Her Majesty's Revenue and Customs (HMRC) and the ATO on the classification of risky taxpayers. Swedish corporations were to be divided into three different groups of taxpayers, where audits and control measures were applied according to 'risk'. So, on the one hand, the aim was to increase trust through collecting the correct tax and, on the other hand, to tighten Skatteverket's control over a select number of 'risky' corporations.

Although Skatteverket saw these as separate initiatives, the subject of these strategies – the MNEs – were confused. *Right from the start* suggested closer collaboration by moving tax discussions to the time when transactions happened, whereas identifying risky corporations would entail stricter control in which corporations would not have a say. In the aftermath of these contradictory compliance strategies, the *Fördjupad samverkan* or FS was launched.

It was introduced to the larger business community in an article in *Dagens Industri*, Sweden's main business newspaper in spring 2011. Described as a completely new way of working, the background for developing FS was Skatteverket's increased focus on MNEs' risk-taking and their internal control procedures in the aftermath of the 2008 financial crisis. It was argued that the management of such corporations had difficulty foreseeing tax risks that potentially could result in drawn-out legal processes and costly tax reassessments. As the details in the FS co-operation were not fully worked out when the project launched, Skatteverket stated that it understood the need to be receptive to the wishes of participating corporations. A few large MNEs would be invited to participate in a pilot at the end of 2011. Yet, the aim of FS was a long-term commitment, and both parties would sign a declaration of intent, although this would not be legally binding.

Within FS, Skatteverket intended to appoint a specific contact person for each corporation and would openly declare its judgement of the corporation's tax risk as well as propose remedies to decrease such risk. Skatteverket would use its knowledge and competence to ensure that the corporation's internal routines and control systems regarding tax were adequate. Participating corporations would, in return, be expected to be open about their judgement of their tax risk and to put difficult tax issues on the table at an early stage. In accordance with FS, Skatteverket and the corporation would make a joint inventory of internal procedures and control systems in order to make sure that correct information was delivered to Skatteverket.

On publication of the article, Skatteverket invited Sweden's one hundred largest corporations and the larger tax advisor firms to

information meetings while preliminary guidelines on FS were published. The launch of FS was hurried, and several issues regarding how FS would work were poorly described and even outright wrong. For example, Skatteverket promised that participating corporations would be excluded from audits and similar controls, which was a promise well beyond its authority. Another problematic issue for the success of this co-operative compliance project was that one guideline indicated that MNEs that chose not to participate in FS would be categorised as riskier taxpayers by default. It was unclear whether such MNEs would automatically be excluded from the group of least risky taxpayers and thus be subject to stricter control. The contradictions in communication made FS an easy target for adversaries of the very idea of more co-operation between corporate taxpayers and Skatteverket.

A storm of criticism unfolded in the media, notably in the business newspapers. 'Should Skatteverket be a buddy?' (our translation), asked professor of law Robert Påhlsson (2011). He placed FS as one amongst many of Skatteverket's changing strategies over the years, which alternated between control of and communicating with taxpayers. He argued that FS was both sides of this same coin. Påhlsson wrote:

> I choose to interpret Skatteverket's project seriously and not at all as an insidious or conspiratorial way to undermine economic discretion or entrepreneurship. Although there is always a risk when the roles coincide: when the agency that should control and make difficult decisions also aims to be a buddy. (Påhlsson 2011; our translation)

His was one of many criticisms which continued in workshops and reports prepared by legal scholars under the auspices of the Confederation of Swedish Enterprises. Although the arguments were mainly legal, there was an underlying sentiment of distrust. Skatteverket had not done its homework in preparing the legal underpinnings for the project, it had not built the needed consensus amongst stakeholders around such a change of practices, and the project was, as described above, sloppily introduced (Björklund Larsen 2018). It raised many questions, like Påhlsson's, about Skatteverket's intentions. Many in the corporate world were in doubt, in Braithwaite's terms, about which dance Skatteverket was inviting MNEs to do this time.

The confusion about Skatteverket's intentions, ways of working and legal uncertainties moved the Confederation of Swedish Enterprises to draft a letter, signed by tax managers, CFOs and other senior managers from twenty-five of Sweden's largest MNEs, stating numerous concerns[8] about the co-operation suggested in FS. The letter ended

with the signing MNE's declining to even be invited to participate in FS.[9] Even within Skatteverket there were many doubts raised about this closer way of working. Several seasoned tax officials, not working within the project, emphasised that the taxpayer and tax administration should retain their separate and explicit roles on taxation issues. 'We have different roles in society; diverse interests, tasks, capabilities and responsibilities. We cannot blend roles and responsibilities in a big cuddle box', said one of them. Roles worked out over time by taxpayers and tax collectors are important. MNEs were simply afraid of falling into the hands of a Skatteverket employee who lacked adequate tax knowledge and the necessary positive attitude towards corporate taxpayers. As one tax advisor, a partner at one of the main tax consulting firms, expressed it: 'Some auditors at Skatteverket are so fiscal, there is no understanding of our work. These auditors regard corporations as cheats by definition' (cf. Björklund Larsen et al. 2017).

Accordingly, today FD (Enhanced Dialogue), the successor to FS (Enhanced Co-operation), lives a quiet existence with only five participants, most publicly owned. One such corporation, Xenia AB, has much to gain from participating. It is government-owned and faces unique and new tax questions, given the extraordinary circumstances that will prevail for the coming twenty-five to thirty years. These are the two reasons for its participation in FD, according to its CFO. Public ownership does not have anything to do with these issues, he says, yet being owned by the government makes for special attention to tax issues. 'We cannot engage in any tax-planning schemes or activities, although we operate in a highly competitive global environment', he says. Waiting for decisions on whether costs due to the 'extraordinary circumstances' would be deductible or not through the regular tax procedures would create too many uncertainties for Xenia. In addition, many of the decisions made under FD have been to the corporation's advantage. Instead of Xenia footing the costs, Skatteverket has throughout ruled that these costs are deductible and thus taken care of by society; that is, taxpayers' money.

Dancing with the authorities: Tango, waltz or breakdancing?

A very important feature of human action is rhythmising, the organisation of action in time and space (Taylor 1999: 35). Every gesture a human makes seeks to elicit another that follows it in a co-ordinated way. When people collaborate, it is crucial that they have a shared understanding of this rhythm, of having common expectations of what

the next moves will be. This is regardless of what form the collaboration takes (1999: 36), but is, as Taylor argues, especially pertinent when we follow rules. When rules change, those who should follow them might not be sure about the next move from those defining the rules. In order to understand why certain rules are complied with or not, we have to attend not only to the rule itself, but to 'the reciprocal relation between rule and action', acknowledging 'that the second does not just flow from the first but, also transforms it' (1999: 40). Rhythmic action is thus not simply arranged in time and space, but also arranges the space and time in which it takes place as a predictable and comprehensible social field.

In our case, the dance between the Norwegian and Swedish tax administrations on the one hand and the MNEs on the other hand makes for different moves than those in interactions with personal taxpayers. Although MNEs have to comply with a set of very different tax rules, if their compliance increases, all taxpayers in society are seen to be more willing to comply (Wittberg 2005). This is why we argue that it is paramount for tax administrations to understand that what seems to be stances of creative compliance, and even of not wanting to comply, may be cases of a cultural misunderstanding and that each party acts according to their different perceptions of time and space while conducting the very mundane and practical act of 'taxation'.

Rhythm: Understanding of time

Agreements about time frames are important in professional working environments. Time structures the start and end of our working day, when we have to start and finish certain tasks, and when we get paid and evaluated. Working life is full of such deadlines. The year and even the day on which a new business is incorporated make a huge difference tax-wise. An accounting year is repetitive with recurring dates not to be missed. It can be said to be punctuated with specific events rather than a concurrent chronology (Guyer 2007). The co-operative compliance projects in Norway and Sweden changed the tacit knowledge about what time frames to use. Time is entangled with questions of power, knowledge and control (Felt 2016). An infrastructure of temporalities that standardises perceptions of time may stabilise certain moral orders and foster certain kinds of thinking and acting while inhibiting others (Bowker and Star 1999). When understanding of time frame changes, it can be a disruptive experience, or, in Jane Guyer's words, a sense of foreignness emerges (2007: 409).

In the Norwegian case, BLOC corporation's tax managers were surprised when the SFS, in a letter only, demanded historical records. They were used to dialogues about real time (i.e. the present) and the 'near future' (Guyer 2007: 410). The qualities of the exchanges had concentrated on potentialities under the current conditions rather than times long past or a 'future as a broad field of innumerable possibilities' (Bourdieu 1963: 55). As trust was re-established, as far as trust can go between tax administrators and taxpayers, time and space frames were shifted. The SFS got more historical data; BLOC got a 'distant future' tax strategy through certainty about SFS's policy and intentions. More importantly, the shift was co-created.

Time also concerns how historical relations prevail. In Sweden, there was an underlying scepticism from many large corporate taxpayers and their advisors towards Skatteverket, which were rooted in the contradictory initiatives taken towards corporations (see above) and also in their everyday handling of tax issues. Within FS, Skatteverket proposed that it would help corporations verify whether internal routines and control systems regarding tax issues are adequate. Both legal scholars and tax managers expressed doubts whether Skatteverket had the knowledge to help corporations manage their tax risks. They saw Skatteverket as a powerful yet fairly incompetent organisation when it came to complicated corporate tax issues. In a similar vein, many employees at Skatteverket are still suspicious about (corporate) taxpayers' willingness to comply[10] (Björklund Larsen et al. 2017; Stridh and Wittberg 2015), which confirms Skatteverket's own inability to overrule expert tax advisors. Some experienced tax administrators expressed fears that Skatteverket would be taken for a ride by well-informed tax advisors. There is thus a deep historical distrust between the parties. As described above, Skatteverket ran a large project aiming to identify massive tax planning on the fringes of licit behaviour amongst larger corporations prior to introducing the first co-operative compliance project in Sweden. When Skatteverket suddenly changed direction, saying they wanted to collaborate with instead of control large corporate taxpayers, the MNEs did not understand. The existing mistrust made it simply too big a step to take from being seen as a potentially risky taxpayer to a co-operator.

The co-operative compliance projects in both Norway and Sweden challenged the established understandings of time, yet in slightly different ways. History plays a role when changing established ways of working; that is, when diverging from a common understanding on when each actor ought to do what. If compliance is to be built on co-operation,

it has to be done with a common understanding of when it is the turn of each participant to make a move and where it should take place. This requires meta-communication about what rules to apply; knowing the rhythm and steps of the dance.

Moves: Social space and the quality of relationships

Corporate and tax administrations' different understanding of the distinction between issues that take place in private and public spaces complicated the 'dance moves'. Both the Norwegian and Swedish co-operative compliance projects challenged the established distinctions between what should take place in private and what in public, in the sense of what private corporate information should be disclosed for public scrutiny (cf. Carrier and Miller 1999: 25). In political science, 'public' refers to either the public sphere (civil society) or government bodies. Companies are neither civil society nor state bodies, and in this sense they are private entities. The SFS and Skatteverket indicated that they aimed to regulate the internal, 'private' operations of corporations by monitoring the quality of their tax management routines through closer, co-operative relations. This brought what was seen as public squarely into what was regarded as a private realm. Corporate taxpayers in Norway and Sweden reacted very differently to the tax administration's invitation to a new 'dance'. The Norwegians chose to keep the matter 'private', that is within the confines of the tax community. The co-operative compliance programmes did not engage the media or political bodies in any way. What caught public attention were stories of tax evasion and discussions of principles for tax justice, while tedious, administrative details were not much in demand. Media and political attention was on another OECD initiative, the country-by-country reporting of MNE assets and liabilities that became law in 2016.[11] Prevention through attention to minute detail, which is where tax evasion starts, and may be nipped in the bud, was one of the SFS's intentions. In contrast with Sweden, the SFS had long-established relations with Norwegian corporations and there was no need to move closer.

This intimacy with the public tax administration was what the Swedish business community resisted. The closer relation of 'being a buddy' can be interpreted as an insidious way to indicate that there is the risk for 'sweetheart deals' between selected taxpayers and Skatteverket employees. 'Sweetheart deals' grant preferential treatment to corporations based on individual (i.e. not legally based) judgement

(De Widt and Oats 2017; van der Enden et al. 2016). Trust-based relationships taking place behind closed doors can easily be abused (Szudoczky and Majdanska 2017). The opaque working relations within co-operative compliance programmes that take place in 'private' meetings between tax administrations and corporations risk public opinion voicing concerns about non-transparency (Gribnau and van Steenbergen 2020). If the opportunity for corruption, real or not, is perceived to exist, it is damaging for tax compliance at large. From this point of view, such collaborations have to remain public, transparent and with an appropriate distinction between the parties.

Skatteverket administrators often described the relationship with corporations as a cat-and-mouse game, in which Skatteverket and corporations are seen as opponents. The co-operative compliance programme did not provide tools for Skatteverket administrators either to develop or ameliorate the relationship with corporate taxpayers, and the project was therefore put on ice.

Conclusion

This story unfolds as an old-fashioned tale of dancing partners keeping adequate distance and getting too close for comfort. Skatteverket and SFS invited the MNEs to do a new kind of dance with them, and in neither case was the invitation understood as intended.

We have built and expanded on Valerie Braithwaite's concept of dancing with tax administrations by looking at this type of collaboration in terms of time and space. Norwegian corporations had long been used to dancing with the SFS. They both knew the moves and trusted each other. It was when the SFS started new moves, without prior warning, that corporations were confused. When the SFS suddenly asked BLOC for historical information, in a new and more formal way, the corporation did not know how to interpret it. It took some negotiation, both verbally and in writing, before both parties could agree on the type of dance they were doing. In Sweden, Skatteverket was not an acceptable dancing partner for the 'innocent' MNEs; it could not be trusted not to take liberties when it came too close to the MNEs. Skatteverket was also seen as a clumsy dancing partner and was deemed unreliable based on previous encounters; it risked stepping on the MNEs' toes or making unacceptable invitations. The way it asked the MNEs to dance through the *Fördjupad dialog* project was without finesse, so the country's largest MNEs declined without even having been asked to dance. Skatteverket

was astonished at being rejected even before inviting its would-be partners. Metaphors aside, comparing these two compliance projects, which performed so differently, allows us to conclude with the following three comments.

First, when developing and implementing new regulatory routines, we find it crucial to be attentive to conceptions of time and space. Misunderstandings about *when* to do *what* and *where* can be sources of disagreements, which in turn may lead to misunderstanding about non-compliance. Second, the outcomes of compliance practices depend not only on the quality of the process, but also on the flow of events. Routines in Norway had been characterised by dialogue and co-operation for more than two decades; in Sweden, relations between the parties had been formal and distant. The OECD framework challenged both in such a way that the corporations were shocked out of their inertia and the new story of co-operation had not had time to become a self-fulfilling prophecy. And third, compliance is therefore not only about subjects' submission to the state. In fact, it is the rhythmic, back-and-forth movements between the participants that produce compliance, not as an external imposition but through a careful joint exploration that determines where and when the boundary between compliance and non-compliance lies.

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Notes

1. Governments generally try to establish reliable tax systems. Alternatively, they may extract rents from their national resources by other means, like concession fees, tribute or even bribes.

2. At the time of writing (July 2021), there is a much published and controversial attempt by the G7 to establish a global minimum corporation tax rate. See, for example, https://www.forbes.com/sites/oliverwilliams1/2021/06/30/developing-countries-refuse-to-endorse-g7-corporation-tax-rate/?sh=5fde89294f0c.

3. The names of corporations have been changed.

4. Some sources are in Norwegian only. For example, there is the input into a national stakeholder-based committee accessible at https://www.regjeringen.no/no/dep/fin/org/styrer-rad-og-utvalg-oppnevnt-av-finansdepartementet2/utvalg-som-skal-utrede-skatteradgiveres-opplysningsplikt-og-taushetsplikt/id2577195/; European Union tax policy discussions available at https://www.norway.no/en/missions/eu/about-the-mission/news-events-statements/news2/gathered-stakeholders-to-discuss-better-solutions-for-tax-systems/; and academic review articles available at https://www.bi.no/forskning/business-review/articles/2018/10/skattesnakk-gir-riktig-skatt/.

5. In 2014, the major part of the new HoT's tax management routines were in place, although that particular factor was not mentioned to the SFS.

6. This case has been reported in more detail in Björklund Larsen (2018).

7. Interview on 14 January 2016. It was the so-called SPA (*skatteplaneringsaktiva*) project.

8. The letter said that corporations were already required to report on many and diverse types of risk and had an obligation to provide an increasingly large amount of information to Skatteverket. The administrative burden had thus increased, and they therefore had a good overview of tax risks and were already very transparent regarding those. Furthermore, if they were to engage with the FS, the benefits of this had to correspond to the increased administrative burden and legal risks, which especially concerned the secrecy of information. In addition, the letter argued that the tax law environment in Sweden did not provide proper pre-requisites for FS (here the reference was to the OECD 2013 report) and that Swedish law limits these forms of co-operation.

9. Amongst the signatories were Atlas Copco, Electrolux, H&M, IKEA, Investor and Volvo.

10. The project leader at Skatteverket noted in an internal news article that colleagues talked disdainfully about his work as organising 'cuddling time' with large corporations.

11. https://www.skatteetaten.no/en/business-and-organisation/reporting-and-industries/industries-special-regulations/transfer-pricing---internal-pricing/country-by-country-reporting/about-country-by-country-reporting/.

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