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The Compliance and Penalty Regime: Its role as a compliance instrument in combating the Criminalisation of Tax Fraud in New Zealand

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Abstract

The Compliance and Penalty Regime which came into effect on the 1st April 1997 required taxpayers to take their tax obligations seriously and honestly. The adoption of the Compliance Triangle in the 2001/2002 fiscal year subsequently enabled the Inland Revenue if taxpayers deliberately confronted the tax authorities, by way of criminal tax fraud, to apply the “full force of the law”. This responsive approach in respect of criminal tax fraud was a deliberate attempt to decrease the level of criminal tax fraud and send a signal to the community that such behaviour was not to be tolerated.

The centre piece of the application of the “full force of the law” was Sections 141E, 143A and 143B of the Part IX of the Tax Administration Act 1994 which imposed upon those taxpayers who breached their tax obligations the possibility of stringent monetary and or custodial sentences. Since the sections were introduced fourteen years ago this thesis evaluates the effectiveness of the regime in combating criminal tax fraud in New Zealand.

An examination of archival data that relates to Inland Revenue compliance strategies revealed that criminal tax fraud has increased since the introduction of this regime. However, the extent of criminal tax fraud confronting the New Zealand society and tax discrepancies was difficult to tell. First, it was not easy to decipher from the Inland Revenue’s Annual Reports and media releases the full extent of tax fraud which taxpayers were indicted for. Second, the inconsistencies in reporting the tax shortfall discrepancies in its Annual Reports and its reports to Parliament clouds the true extent of criminal tax fraud discrepancies.

To achieve a reduction in criminal tax fraud, despite Inland Revenue continual focus on areas involving high tax risk, need to reinforce as a behavioural trait societies responsibility to pay tax by improving the flow and quality of information about the extent of criminal tax fraud in New Zealand. Only then will New Zealanders become aware of the burden that criminal tax fraud is. Inland Revenue also need to address the inherently conflicting principles of the Compliance and Penalty Regime, the

Compliance Triangle and the Purchase Agreement and seek to improve voluntary compliance by focusing its resources not on taxpayers who reside at lower strata but by concentrating on those taxpayers who intentionally non-comply.

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The opinions expressed in this thesis are mine and they do not represent the views of the Inland Revenue.

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