

THE BELGIAN CO-OPERATIVE TAX COMPLIANCE PILOT PROJECT – KEY SUCCESS INDICATORS

Wouter Dister

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In Belgium – as well as in most, if not all, other countries – the relationship between the tax administration and the taxpayers has traditionally been based on a conflict model. Central to this model are deterrence and punishment. The tax administration enforces taxpayer compliance by detecting and penalising violations of the tax code and even though not every taxpayer is subjected to an actual audit, all of them risk being inspected. In this way, the risk of having their noncompliance detected and punished gives taxpayers the incentive to comply with the tax regulations.

For several years, however, there has been an international trend towards improving the relationship between tax administrations and large corporate taxpayers. This development is driven by various factors, such as the strive for more cost-effectiveness, the high degree of tax and legal uncertainty inherent in the taxation of large enterprises in the conflictual approach, and the fact that recent research suggests that the theoretical model supporting this conflictual approach has shortcomings. Behavioural insights suggest that a more trust-based relationship, rather than a conflictual relationship, between taxpayers and tax administrations can enhance tax compliance. That is why tax administrations and legislators have been looking at ways to incorporate trust, mutual understanding, and transparency in their tax administration–taxpayer relationships. To that end, several initiatives have been proposed and implemented around the globe.

The Belgian Co-operative Tax Compliance pilot project – the topic of this dissertation – is one of these initiatives. In this pilot project, which started in 2018, the Belgian tax administration aimed to improve the working relationship it has with the participating enterprises, to increase voluntary tax compliance, which is rooted in more recent behavioural scientific insights, to achieve more tax and legal certainty for both the taxpayers as for itself, and to become more cost-effective in handling these large enterprises.

This program is open to large enterprises on a voluntary basis. From the moment they participate in the program, a single point of contact at the tax administration is appointed to them. This person is called the ‘tax coordinator’ and together with their follow-up team, they represent the tax administration in all interactions with the enterprise.

While participating in the program, the large enterprises will have to commit to spontaneous and timely disclosure of all relevant tax data and potential risks in a transparent and unambiguous way, while also providing information on their broader business context. The tax data the enterprises provide will also have to be substantiated by a robust tax control framework (or TCF) which they must implement. The OECD defines these TCFs as *“the part of the system of internal control that assures the accuracy and completeness of the tax returns and disclosures made by an enterprise”*. The presence of this framework assures the tax administration that the information the taxpayer provides through tax returns and other disclosures is correct, accurate and complete.

When the administration is convinced that the underlying processes resulting in this information are sound, this significantly reduces the need for them to investigate a multitude of transactions and single taxable events. Additionally, when a taxpayer is selected for a tax audit – which will still happen since participation in the program does not result in an overall exemption of tax audits – the administration can perform its first analysis on the data it has already received from that taxpayer.

In return for this high degree of transparency and assurance, the tax administration provides legal certainty to the taxpayer. To that end, there is a continuous dialogue between the single point of contact at the tax administration and the representatives of the enterprise. In this dialogue, any tax risks, grey areas, and uncertainties can be discussed long before the tax returns need to be filed or other disclosure requirements need to be fulfilled. This makes it possible for the parties to arrive at a consensus or, at the very least, at more and earlier clarity. The tax administration also aims to provide earlier tax certainty by providing its opinions on tax positions.

The introduction of such a co-operative compliance program does not take place in a legal vacuum. When such programs are implemented, a legal framework and administrative practices for the taxation of large enterprises are already present. This research therefore aimed to obtain a better understanding of how the legal framework in which the Belgian Co-operative Tax Compliance pilot project is implemented, as well as the policies developed by the tax administration regarding this program, can contribute to its success. To this end, the central research objective was to reconstruct and evaluate the program theory – which is an explicit model of how the tax administration expected this program to contribute to a chain of intermediate results and to its intended ultimate outcomes.

This was performed through a program evaluation, in which the first four participating enterprises and their contact points at the tax administration were studied (by having regular, semi-structured interviews, and through document analysis) throughout the ‘intake phase’ of the program.

In a nutshell, the findings of this program evaluation suggest that for the day-to-day functioning of the program, a specific legal framework is not necessary as such. However, implementing procedural safeguards in legislation, specifically regarding the end of the cooperation, could contribute to the success of the co-operative compliance program, by addressing possible concerns of enterprises that are reluctant about joining the program. Additionally, the findings suggest that having a legal basis for the binding opinions that are provided by the single point of contact to the participating enterprises may result in more tax and legal certainty for the enterprises that are participating in the program.

Apart from these legislative proposals, the recommendations that are formulated in this research are administrative best practices. Some of the main suggestions of this research are:

- (I) that concretely determining the level of tax assurance the enterprises need to provide – that is the assurance that the information the tax administration receives from the enterprise is correct, accurate and complete – to be allowed to participate in the operational phase of the program may facilitate the cooperation in the initial phases of the program.
- (II) that providing more elaborate information about the program to participants and the wider public may prevent misunderstandings in the cooperation with the enterprises and decrease scepticism regarding the program from enterprises that are not participating.
- (III) that whereas in general the interpersonal trust and mutual understanding between the representatives of the enterprises and the tax administration was indicated to be developing well, when this was lacking, it appeared to severely affect the overall cooperation in the program. This research therefore suggests that the administration may want to continue carefully selecting the heads of the single points of contact and expand this selection to their team members and may want to stress the need to keep the representatives from both sides in the cooperation as stable as possible.