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Ethics codes and taxpayer charters: Increasing tax morale to increase tax compliance

Kirsty Unger¹

Abstract

This paper considers ethics codes and taxpayer charters and outlines their objectives. A case study of Australia and the UK is conducted, discussing the ethics codes and taxpayer charters in place in these jurisdictions. Against this backdrop, the usefulness of these documents will be ruminated, and recommendations made as to how they could be enhanced =. Ultimately, it will be argued that these documents should form part of a well-functioning revenue administration, a necessary part of the balance between the powers given to the tax authority and the rights of the taxpayer that helps increase tax morale and, therefore, voluntary compliance of taxpayers.

¹ Institutional Affiliations: Australian Taxation Office (the views and opinions expressed in this paper do not necessarily reflect the views of the Australian Taxation Office).

1. INTRODUCTION

In some countries (in some a lot longer than in others), there has been a continual change in mentality within revenue authorities, from primarily a discourse in deterrence to regarding the relationship with taxpayers as an ongoing co-operative partnership.² Of course, there is certainly still a divergence in strategies adopted by revenue authorities but ethics codes and taxpayer charters have become an increasingly popular part of this changing dynamic.³ This paper considers these documents, analysing their objectives and usefulness. The implementation and operations of these documents in Australia and in the United Kingdom (UK) will be ruminated and findings of surveys and audits conducted in these jurisdictions discussed. Finally, recommendations are made as to how these documents may be enhanced. Ultimately, it will be argued that ethics codes and taxpayer charters are useful tools, in so far as they increase taxpayers' trust and confidence in the revenue administration, in turn increasing tax morale, which ultimately increases voluntary compliance.

2. WHAT ARE ETHICS CODES AND TAXPAYER CHARTERS?

From the mid-1970s academic and political research began to show a shift in public expectations of government; there was a push to raise government standards of performance, to operate in a more transparent way, to be more responsive to the needs and expectations of their 'customers' and to improve their complaints procedures.⁴ There was an increasing recognition that fair and transparent tax collection is essential element of a legitimate government, as is taxpayer confidence in the revenue administration, particularly in a system of self-assessment, which relies on voluntary compliance.⁵ Against this backdrop, many governments slowly began to draft codes and charters setting out ethical expectations for revenue administrators, how citizens can expect to be treated by the revenue administration, and giving a positive message about the mutual benefits of establishing a cooperative relationship.⁶ Although there is borrowing of ideas from other countries, there is not a rigid template as to the structure or content of the documents.⁷ As there are distinctions between ethics codes and taxpayer charters each will be discussed in greater detail below.

2.1 Ethics codes

The codification of ethical conduct for the public service takes a variety of forms internationally, from a 'ten commandments' approach, covering a small number of broadly expressed ideas, to comprehensive coverage of ethical rules with guidelines

² Valerie Braithwaite, 'Are taxpayers' charters 'seducers' or 'protectors' of public interest? Australia's experience' (Working Paper No. 70, Centre for Tax System Integrity, 2005) 1.

³ Ibid.

⁴ Amardeep Dhillon and Jan Bouwer, 'Reform of tax administration in developing nations' in B Dustrud and L Barr (eds) *Revenue Matters: A guide to achieving high performance under taxing circumstances* (Montgomery Research, 2005).

⁵ Deborah Brautigam, Odd-Helge Fjeldstad and Mick Moore, *Taxation and State-building in developing countries* (Cambridge University Press, 2008) 1

⁶ Braithwaite, above n1.

⁷ Gavin Drewry 'Citizen's charters: service quality chameleons' (2007) 7(3) *Public Management Review* 321, 322.

for their implementation.⁸ Their application varies in each country, some countries relying more on legislation to regulate public service ethics through various acts and regulations than others.⁹ Countries such as Australia and New Zealand have broad public service wide codes of conduct from which individual agencies can implement customized codes to reflect their particular requirement, whereas in other countries, such as Norway, codes are agency based.¹⁰ Although different countries emphasize different issues in their codes, commonalities in focus are apparent; they address issues of integrity, fairness, accountability and professionalism.¹¹ They also use the terms ‘ethics’ and ‘values’ interchangeably.¹² Codification of ethics is designed to define a “way of doing things for the public service, shaping a high performing government as a whole”.¹³ In doing so, they inspire public confidence in the government’s integrity, ultimately building trust among the citizens.¹⁴

2.2 Taxpayer charters

Whereas ethics codes represent an internal governance of the public sector (and more narrowly, the revenue administration), taxpayer charters are designed by the government to foster the relationship between taxpayers and the revenue administration.¹⁵ They state what is expected by both officials and taxpayers.¹⁶ Globally, they share key characteristics, including clear and simple language, realistic and measurable performance standards; a dedicated grievance redress mechanism, and an effective public relations strategy to increase users’ awareness about the charter.¹⁷ The OECD notes that ‘most taxpayers’ charters are a guide to the law and are not legal documents in themselves, although in some tax systems they may constitute a ‘ruling’. Generally, they would not provide additional rights or obligations other than those contained in relevant legislation.¹⁸ In 2003, the OECD published an example Taxpayers’ Charter. This document would obviously need to be tailored to reflect the relevant policy and legislative environment, administrative practices and culture of the revenue administration trying to use it, but it does provide a sound starting place for

⁸ Andrew Kakabadse, Nada Korac-Kakabasde and Alexander Kouzmin ‘Ethics, values and behaviours: comparison of three case studies examining the paucity of leadership in government’ (2003) 81(3) *Public Administration* 477, 481.

⁹ Jacques van Blijswijk, Richard van Breukelen, Aimee Franklin and Jos Raadschelders ‘Beyond Ethical Codes: The Management of Integrity in the Netherlands Tax and Customs’ (2004) 64(6) *Public Administration Review* 718, 718.

¹⁰ Kakabadse, Korac-Kakabasde and Kouzmin above n7.

¹¹ Kenneth Kernaghan ‘Integrating Values into the Public service: the values statement as centrepiece’ (2004) 63(3) *Public Administration Review* 711, 712.

¹² Ibid.

¹³ Australian Public Service Commission, *Leaving and shaping a unified, high performing APS* <www.apsc.gov.au/publications-and-media/current-publications/aps-values-and-code-of-conduct-in-practice/the-apsdefined-by-values>.

¹⁴ Ralph Heintzman, ‘Public service values and ethics’ (2008) 50(4) *Canadian Public Administration* 573, 596.

¹⁵ van Blijswijk, van Breukelen, Franklin and Raadschelders above n8.

¹⁶ Centre for Tax Policy and Administration ‘Taxpayers’ rights and obligations – practice note’ (OECD Committee of Fiscal Affairs Forum on Tax Administration, 2003) 3.

¹⁷ David Post and Sanjay Agarwal, *Citizen Charters: enhancing service delivery through accountability* (2011) The World Bank

<<http://www-esd.worldbank.org/sdvpubs/index.cfm?Page=Search&DocID=577>>.

¹⁸ OECD above n15, 4.

countries looking to implement a charter. It also provides a criterion against which countries with a pre-existing charter can assess their document.¹⁹

Interestingly, a Model Taxpayer Charter of taxpayer rights and responsibilities that can be adapted for participating nations has recently been drawn up by professional bodies representing more than half a million tax advisors worldwide.²⁰ Copies of the preliminary report have been sent to delegates of the countries who participated in the surveys, as well as the European Union (EU), the Organization for Economic Co-operation and Development (OECD), the United Nations Fiscal Affairs Committee, the World Bank, the International Monetary Fund (IMF) and other interested stakeholders.²¹ David Russell, co-author of the report said “in the absence of an appropriate balance between revenue authorities and taxpayers, the essential trust required for efficient administration of the tax laws will continue to be eroded”, and he hopes this charter will become a mechanism to address this concern.²² It will be interesting to monitor how the report is received by the international bodies, and whether any action is taken to establish it as international guidelines for the drafting of charter documents based on this document.

Before analysing the usefulness of ethics codes and taxpayer charters, and recommending enhancements, the next section will provide a case study of Australia and the UK who both have an ethics code and taxpayer charter. These countries have been chosen for the case study as they have had two very different experiences with a taxpayer charter. As will be demonstrated, the taxpayer charter in Australia has proved successful by objective measures, and is considered exemplary in contrast to the UK. These differences will provide context for the overall discussion as to whether or not the documents are useful, as well as when recommending enhancements.

3. A COMPARATIVE ANALYSIS — AUSTRALIA AND THE UK

The Australian and UK tax systems share a common cultural tradition in many ways. The development of the Australian tax system was, after all, heavily influenced by that of the ‘mother country’.²³ More recently, the UK system has been strongly influenced by Australian practices, such as the establishment of the electronic lodgement of tax returns. Given the closeness of the two jurisdictions, it is interesting to see the divergence in approaches, particularly at the level of the taxpayer charter.

¹⁹ Ibid.

²⁰ Raymond Doherty ‘International tax charter published’ *Economic Voice* (online) 13 May 2013 <<http://www.economicvoice.com/model-taxpayer-charter-to-promote-greater-fairness-in-taxation-across-the-world/50036937#axzz2TQVyStLz>>.

²¹ Ibid.

²² ‘Model taxpayer charter to promote fairness in taxation across the world’, *Step Journal* (online) 13 May 2013 <http://www.stepjournal.org/news/news/main_story/model_taxpayer_charter_to_prom.aspx?link=news_headline>.

²³ Simon James, Thamrongsak Svetalelkth and Brian Wright, ‘Tax Charters, performance indicators and the case for a more strategic approach to tax administration’ (2007) 4 <<https://eric.exeter.ac.uk/repository/handle/10036/47455>>.

3.1 Australia

The Australian Taxation Office (ATO) is subject to both an ethics code and a taxpayer charter. The ethical framework is established in the Australian Public Service (APS) Values and APS Code of Conduct, which are set out in section 13 of the *Public Service Act 1999* (Cth). This ethics code applies to all federal public servants. The Taxpayer Charter, drafted in the late 1990s, provides a set of administrative guidelines of best practice for officers of the ATO. When it was drafted, a significant number of taxpayers argued for a Charter enshrined in legislation, but this was not supported by the ATO, which drafted the Charter in its current state.²⁴ In both documents, because the values are principles-based, their application in particular circumstances is “broadly up to the officer applying them; but there are sanctions for failing to conform”.²⁵

3.1.1 The APS Values and APS code of conduct (ethics codes)

Australia is noted as being amongst the first of the OECD countries to develop an ethical structure to assist public servants. The Australian *Public Service Act*²⁶ contains a clear code of conduct for all public servants, with the capacity for agencies to supplement the code.²⁷ The knowledge among federal public servants of the ethics code is tested annually and, in accordance with the *Public Service Act*²⁸, a report is presented to Parliament outlining the findings. Encouragingly, the latest results show that there has been a growing recognition of the ethics code, and significant improvements in compliance with it.²⁹ Eighty-four per cent of employees agree their agency actively encourages ethical behaviour by all its employees, and 58 per cent agreed senior managers in their agency led by example in terms of ethical behaviour.³⁰ Of course, whilst these results are excellent, they do not provide an objective evaluation of the effectiveness of the ethical codes, rather they are subjective evaluations by the officers themselves.³¹ A more objective measure can be found in the number of breaches of the ethics code, which are progressively decreasing, particularly in the ATO.³²

Further, in 1997, the OECD published an ethics checklist, which enables governments to measure their ethics systems ‘against a series of yardsticks, the systems they have in place for setting ethical standards, for fostering ethical behaviour and monitoring ethical health, for dealing with misconduct and for keeping the public informed’.³³

²⁴ Duncan Bentley ‘Formulating a taxpayers’ charter of rights: setting the ground rules’ (1996) 25(3) *Australian Tax Review* 97, 97.

²⁵ Kathy McDermott, *Whatever happened to Frank and Fearless?: The impact of new public management on the Australian Public Service* (The Australian National University, 2008) 11.

²⁶ 1999 (Cth).

²⁷ Kakabadse, Korac-Kakabasde and Kouzmin above n7, 483.

²⁸ 1999 (Cth).

²⁹ Australian Public Service Commission, ‘Employee survey results – state of the service series 2010–11’ (24 November 2011) 4

<http://www.apsc.gov.au/__data/assets/pdf_file/0018/5913/employeesurvey.pdf>.

³⁰ Ibid.

³¹ Lynelle Briggs ‘Public Sector ethics in the 21st century: the new vulnerabilities’ (2008) *Public Administration Today* 23, 25.

³² Australian Taxation Office *Guide to managing suspected misconduct in the ATO* (October 2012) Australian Services Union 4 <<http://asutax.asn.au/doc/misconductpractitionerOct.pdf>>.

³³ Lynelle Briggs ‘Testing APS Ethics: Where’s the Integrity’ (2009) 68(2) *Australian Journal of Public Administration* 119, 122.

The literature suggests that against this, the Australian ethics code measures up fairly well, that the Australian public is aware of the code, the code has become entrenched and compliance with the code is high.³⁴ Without a doubt, this knowledge has improved the public's trust in the ATO, and it is inferred that this has led to increased compliance with the taxpayer.³⁵

3.1.2 *The Taxpayer Charter*

The ATO was the first Australian government agency to develop a charter of rights and responsibilities to supplement the APS Values and Code of Conduct. The Taxpayer Charter, first published in 1997, like most charters, represents standards which the ATO states it will meet in its daily performance and interaction with taxpayers, as well as establishing the organization's expectations of taxpayers.³⁶ The current charter consists of 13 principles: treat taxpayers fairly and reasonably, treat taxpayers as being honest unless they act otherwise, offer taxpayers professional service and assistance, accept taxpayers can be represented by a person of their choice and get advice, respect their privacy, keep the information the ATO hold about taxpayers confidential, give taxpayers access to information held about them by the ATO, help taxpayers get things right, explain the decisions the ATO makes about taxpayers, respect taxpayers' right to a review, respect taxpayers' rights to make a complaint, make it easier for taxpayers to comply and be accountable.

Initially there was a view that the Charter was merely a passing phase but it has gained acceptance and support from ATO staff over time.³⁷ Research has shown that shortly after its introduction, 21 per cent of taxpayers generally said that they had heard of the Charter, and of those taxpayers who had had direct contact with the ATO, the figure was 27 per cent.³⁸ Since its introduction, the ATO has reviewed the Taxpayer Charter twice, and made changes to the Charter's presentation, however, the underlying themes and commitments remain the same as they were in 1997.³⁹

In 2000, the Centre for Tax System Integrity, in partnership with the ATO and the Australian National University, conducted *The Community Hopes, Fears and Actions* survey, developed to obtain "a snapshot of the beliefs, attitudes, values and motivations held by Australian citizens in relation to the ATO, the tax system and Australian democracy".⁴⁰ Questions about the Taxpayer Charter were asked in this survey.⁴¹ A follow up survey was conducted between November 2001 and February 2002. When presented with the then 12 principles of the Taxpayer Charter, survey respondents indicated that on a scale of one (almost never) to five (almost always), they felt that the ATO generally meets its obligations (the average of the surveys being

³⁴ Ibid.

³⁵ Michael D'Ascenzo, *Compliance Program 2012-13*, Australian Taxation Office, 19 July 2012 <<http://www.ato.gov.au/taxprofessionals/content.aspx?doc=/content/00326650.htm&mnu=53243&mfp=001/005>>.

³⁶ Margaret McLennan 'The principles and concepts in the development of the Taxpayers' Charter' (2003) 32 *Australian Tax Review* 22, 22.

³⁷ Simon James, Kristina Murphy and Monika Reinhart 'The Taxpayer Charter' (2004) 7(2) *Journal of Australian Taxation* 336, 341.

³⁸ Ibid.

³⁹ The Australian Taxation Office, *The Commissioner of Taxation Annual Report* (25 October 2005) <http://www.ato.gov.au/corporate/content.aspx?doc=/content/64667.htm&page=77&H4_7_6>.

⁴⁰ Valerie Braithwait, 'The Community Hopes, Fears and Actions survey: goals and measures' (Working Paper No 2, Australian National University and Australian Taxation Office, March 2001) 1.

⁴¹ James, Murphy and Reinhart, above n36.

3.5), at least most of the time.⁴² This is quite clearly a positive result. What is less positive is the fact that there is an apparent fall in mean rating between the 2000 and 2002 surveys.⁴³ The reasons for this drop are not clear.⁴⁴

In addition to these public surveys, the Australian National Audit Office (ANAO) has conducted several performance audits of the ATO and its compliance with the Taxpayer Charter. The most recent audit was conducted in 2007-08, which was a follow up audit to that conducted in 2004-05.⁴⁵ The findings of the 2004-05 audit indicated that the ATO is managing its responsibilities under the charter, and that they have systems and processes in place to develop, maintain and review the Charter.⁴⁶ Importantly, the audit found the ATO to be committed to the Charter principles, encouraging mutual trust and respect with the taxpayer community.⁴⁷

3.2 United Kingdom

The UK has adopted a different approach to Australia, with regards to expressing ethics and taxpayer rights, which has not proved to be as successful. Firstly, its overarching charter, the Citizen's Charter, first appeared in 1991 and was intended specifically to achieve better quality and more responsive public services.⁴⁸ The former revenue administration, Inland Revenue, introduced a Taxpayer Charter in line with the Citizens' Charter not long after its publication.⁴⁹ Surprisingly, it would appear that references to the Citizen's Charter are seldom heard today, and it would almost appear that the Charter never existed.⁵⁰ The same can be said of the Taxpayer Charter, the status of which remained ambiguous after the amalgamation of the Inland Revenue with Customs and Excise in 2005.⁵¹ In fact, some literature suggests that the charter was abandoned as early as 1997, after New Labour came into power.⁵²

Over a decade later, the Her Majesty's Revenue and Customs (HMRC) announced in 2008 that it would enshrine a list of basic rights in a new taxpayers' charter to fill the void.⁵³ However, this Charter has been criticised, commentators noting that the summary does not make it clear that a taxpayer has obligations as well as rights, nor does the text make it as clear as it might that tax compliance is what is expected of the people.⁵⁴ It was hoped that the Charter would provide further protection of taxpayers'

⁴² Ibid.

⁴³ Ibid, 343.

⁴⁴ Ibid.

⁴⁵ Auditor General 'Taxpayers' Charter: Australian Taxation Office' (Audit Report No 19. 2004-05) 5.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Simon James, Kristina Murphy and Monika Reinhart 'The Citizen's Charter: how such initiatives might be more effective' (Working Paper 65, The Australian National University, May 2005)13.

⁴⁹ The Chartered Institute of Taxation *A taxpayers' charter for the United Kingdom*, 2008
<<http://old.tax.org.uk/attach.pl/6595/7717/CIOT%20Paper%20-%20Taxpayers%20Charter%20Feb%2008.pdf>>.

⁵⁰ Drewry, above n6, 330.

⁵¹ The Chartered Institute of Taxation, above n48.

⁵² Phillip Inman, 'Government agrees to taxpayer charter', *The Guardian* (online) 10 January 2008 <<http://www.guardian.co.uk/business/2008/jan/10/2>>.

⁵³ Ibid.

⁵⁴ Richard Murphy, *HMRC Charter* (28 November 2009) Tax Research UK
<<http://www.taxresearch.org.uk/Blog/2009/11/28/hmrc-charter/>>.

rights, but the HMRC Charter that has resulted is very weak.⁵⁵ Its language is unclear and the content is primarily directed at the revenue administration, seemingly missing the point that the Charter is primarily for the taxpayers, not the HMRC staff.⁵⁶ Many have suggested that this charter, like the former charter, is merely a passing phase, and it will shortly fall into disuse.⁵⁷

Reference to ethics can be found in the *Civil Service Code*, adopted in 1996. Unlike the APS Values and Ethics Code, the *Civil Service Code* gives pride of place to democratic and ethical values, but pays little attention to professional values.⁵⁸ There is an expectation that all departments and agencies incorporate the code into their employees' conditions of service, to clarify appropriate standards of conduct and the sanctions for breaking them.⁵⁹ As in Australia, regular surveys and audits are conducted to ensure compliance with the Code. The three most recent surveys of public servants demonstrate a growing awareness of, and confidence in, the Code.⁶⁰ Surveys have also shown that the public is comfortable that the code promotes ethical behaviour within the public service, and that the enforcement provisions are sufficient.⁶¹ The fact that the code does not address professional values, however, is of concern and potentially affects the usefulness of the code.⁶²

The above discussion has demonstrated the increasing awareness of the need for ethical conduct by public servants and the rights of taxpayers, and how this awareness has manifested itself in Australian and the UK. Many of the findings emerging from the surveys, reports and audits support discussions by academics of the effectiveness and usefulness of ethics codes and taxpayer charters generally. These are discussed in the next section. Furthermore, the history of the Taxpayer Charter (and, to a certain extent, the ethics code) in the UK provides useful lessons which will be discussed when recommendations are made later in the paper.

4. BUT ARE THEY USEFUL?

It is widely recognised that “finding good measures of effectiveness and usefulness is not easy, and all performance indicators have their weaknesses and limitations”.⁶³ However, it is argued that ethics codes and taxpayer charters are useful but for two different reasons which are explored below.

⁵⁵ Judith Freedman and John Vella ‘HMRC’s management of the UK tax system: the boundaries of legitimate discretion’ (Legal Research Paper Series, Paper No. 73/2012, University of Oxford, November 2012) 87.

⁵⁶ John Whiting ‘section 92 – HMRC Charter – Magna Carter the second?’ (2009) 5 *British Tax Review* 616, 619.

⁵⁷ Ibid.

⁵⁸ Kenneth Kernghan ‘Integrating values into the public service: the values statement as centrepiece’ (2003) 63(6) *Public Administration Review* 711, 714.

⁵⁹ Kenneth Kernghan ‘Encouraging ‘rightdoing’ and discouraging wrongdoing: a public service charter and disclosure legislation’ 2 *The Public Service and Transparency* 73, 74.

⁶⁰ Civil Service Commission ‘Annual Report and Accounts 2011–12’ (12 July 2012) 27 <<http://civilservicecommission.independent.gov.uk/wp-content/uploads/2012/07/CSC-Annual-Report-2011-12.pdf>>.

⁶¹ Ibid.

⁶² Kernghan, above n57, 715.

⁶³ Michael D’Ascenzo, ‘Sustaining good practice tax administration’ (Speech delivered at Australasian Tax Teachers Association Conference, New Zealand, 20 January 2009) <<http://www.ato.gov.au/corporate/content.aspx?doc=/content/00176063.htm>>.

4.1 Ethics codes

Empirical research strongly supports the notion that ethics can be taught.⁶⁴ Because of this, research also shows that an ethical code which persuasively addresses the range of approaches a public servant uses to analyse ethical questions becomes the foundation for an ethical public service.⁶⁵ Ethical education within the public service is far more effective if it is based on codes that can be understood by all public servants.⁶⁶ When introducing a code of conduct, particular care must be taken to account for values that are already entrenched in the public service to avoid confusion, which could lead to ineffectiveness.⁶⁷ A recent study of European countries revealed a number of countries using ethics code revisions and implementations as the backbone to government reforms.⁶⁸ They can also be the catalyst for legal reform, as well as used as a management tool, particularly in developing nations who may not have made the psychological shift to being public servants.⁶⁹

The greatest benefit of an ethical code, however, is their ability to create a shared moral consciousness among tax officers.⁷⁰ There are those who view tax codes as having little value, believing that they are either too abstract to guide tax administrators in specific situations, or too specific, providing guidance only for one particular case and being silent on appropriate behaviour in other situations.⁷¹ Whilst this criticism may be true of some codes, it is argued that codes are not meant to provide a comprehensive set of rules. Rather, they focus on the key values the government wants to promote and the behaviours it wants to prohibit. In day-to-day practice, there is a need for employees to have discretion but this discretion is better exercised when a shared moral consciousness has been developed throughout the organisation.⁷² It is particularly important that the ethics code is fostered by the senior management of the revenue administrator; the mere existence of an ethics code will not be useful or effective. However, If the revenue administration is seen to generally comply with the ethics code and that ethics code is able to be (and is) legitimately enforced in the event of non-compliance, public trust is increased.⁷³ This premise is supported by the data from Australia and UK.

4.2 Taxpayer charters

The concept of a taxpayer charter articulates the relationship between the revenue administrator and the taxpayer.⁷⁴ Many of the comments made above in relation to the benefits of a code hold true for taxpayer charters. That is, they provide a foundation

⁶⁴ Stuart Gilman, 'Ethics Codes and Codes of Conduct as tools for promoting an ethical and professional public service: comparative successes and lessons' (Report prepared for the PREM, World Bank, Washington, 2005)3.

⁶⁵ Ibid.

⁶⁶ Kenneth Kernaghan above 58.

⁶⁷ Gilman, above n63, 25.

⁶⁸ Jolanta Palidaukaite 'Codes of Conduct for public servants in eastern and central European Countries: Comparative Perspective' <<http://www.oecd.org/mena/governance/35521438.pdf>>.

⁶⁹ Gilman, above n63, 32.

⁷⁰ Public Administration Select Committee 'From citizen's charter to public service guaranteed: entitlements to public services' (House of Commons, Twelfth Report of Session 2007–08, 15 July 2008) 5.

⁷¹ van Blijswijk, van Breukelen, Franklin and Raadschelders above n 8, 718.

⁷² Ibid.

⁷³ Palidaukaite above n67.

⁷⁴ Public Administration Select Committee above n68.

for education of public servants as well as taxpayers and can assist in government reforms, as well as assisting developing countries in the transition to a 'public service'.⁷⁵

Most importantly, however, is the ability of a taxpayer charter to become a symbol of a partnership between taxpayers and the revenue administrator.⁷⁶ It is impossible to consider that parties in the tax relationship are on equal footing; the State undeniably has a position of power.⁷⁷ Although legislation generally provides for various appeal routes and safeguards, these are only useful if one knows them and can access them.⁷⁸ Otherwise, a charter is a necessary part of a modern tax system, a clearly identifiable statement addressing the balance between the powers given to the tax authority and the taxpayer's rights.⁷⁹ Crucially, it helps the taxpayer, particularly those who are unrepresented, find their rights and act as a defence, if needed, against an overbearing tax authority.⁸⁰ Furthermore, a taxpayer charter plays a key role in self-assessment tax regimes, which require a taxpayer to perform functions and exercise some responsibilities that might otherwise be undertaken by the revenue administrator.⁸¹

It is often suggested that in the international context, the absence of any international statement or covenant on taxpayer's rights, means taxpayers cannot (and perhaps should not) expect consistent treatment in their affairs from nation to nation.⁸² Taxpayers are increasingly involved in transactions and activities that bring them to the attention of revenue authorities outside their own jurisdiction so having consistency is important. This is arguably a significant downfall of a taxpayer charter at the state level. However, the Model Taxpayer Charter may address this concern, depending on the response to this document by the relevant global bodies. At any rate, in so far as taxpayer charters are based on the OECD model (or indeed charters adopted in other jurisdictions), there should be identifiable consistencies between the global documents.

In summary, it is argued that ethics codes are useful, in the sense that they create a moral compass within the revenue administration. A taxpayer charter, which supplements an ethics code, is a clearly an identifiable symbol of the revenue administrator's and taxpayer's partnership, and helps address the unevenly distributed balance of power between the two. Literature published in the realm of tax compliance indicates that tax morale plays a major role in voluntary tax compliance, which is affected by perceptions of procedural justice, trust, belief in the legitimacy of the government and so on.⁸³ Inferences drawn from the evidence suggest that the combination of an ethics code and taxpayer charter increases tax morale, and therefore voluntary compliance.⁸⁴ Although it must be recognised that what works in one

⁷⁵ Ibid, 9.

⁷⁶ Braithwaite above n1, 25.

⁷⁷ Maria Roch, 'Tax administrator vs Taxpayer: a new deal' (Speech delivered at the Manfred Moessner Lecture, Rotterdam, 2 June 2012).

⁷⁸ Whiting above n55, 617.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Australian National Audit Office 'Taxpayers' charter – follow up audit' (Audit Report No.40 2007–08) 36.

⁸² Drewry above n6, 330.

⁸³ Marjorie Kornhauser 'A Tax Morale Approach to Compliance: Recommendations for the IRS' (2007) 8(6) *A Tax Morale Approach to Compliance* 599, 601.

⁸⁴ Benno Torgler and Kristina Murphy 'Tax Morale in Australia: what shapes it and has it changed over time?' (2004) 7(2) *Journal of Australian Taxation* 298, 332.

national context may not work in another, and that the purpose and context of the documents is driven by jurisdictional politics, it is reasonable to conclude that the Australian experience supports this position.⁸⁵ Improving voluntary tax compliance is the ultimate objective for any revenue administration. Voluntary compliance is essential, as this is the most cost effective and efficient method of tax collection. Ergo, it is concluded that ethics codes and taxpayer charters are useful.

5. RECOMMENDATIONS

It is difficult to make broad statements as to how ethics codes and taxpayer charters could be enhanced, given that they differ from jurisdiction to jurisdiction, and different revenue administrations face different challenges and constraints. However, there are reoccurring criticisms of each document. Ethics codes are often criticised as having too many statements of values. If they are too open-ended it becomes too easy for public servants to justify any action; it gives them too many values to which they can attach an argument for or against a proposed action or a particular rule.⁸⁶ In other words, the public servant may value-shop.⁸⁷ The code is therefore meaningless, carrying no obligation. To prevent this from occurring, codes should be enhanced through constant review and revision, through extensive consultation with public servants and other relevant stakeholders.⁸⁸ Codes could also be enhanced by increasing the clarity with which messages are presented, and avoiding an excessively long code.⁸⁹ As has already been stated, it is widely agreed that Australia provides an excellent example of how best to do this.⁹⁰

There have also been criticisms made of the content of codes, given that a code should influence the decision making process of the public servant. It is suggested that making statements such as 'be honest', and 'obey the law' is ineffective, as this is merely restating commonly held community expectations, and therefore avoided.⁹¹ However, statements of professional values are important (such as setting out the expectations for professional communications), certainly an enhancement that could be made in the UK.⁹² Another way to enhance codes is to improve the enforcement provisions. A strong enforcement provision makes unethical action less desirable to the public servant.⁹³ Again, the Australian ethics codes are cited as good examples of how to achieve this.⁹⁴

It is suggested that these enhancements are also broadly applicable to taxpayer charters, and probably would go a way to addressing many of the concerns regarding the UK Taxpayer Charter. In addition, it is often suggested that taxpayer charters could be enhanced by having legal force, rather than simply being a guide to the law. However, it is argued that this is not necessary; in fact, this could work against the

⁸⁵ Drewry above n6, 338.

⁸⁶ Ralph Heintzman above n13, 582.

⁸⁷ Ibid.

⁸⁸ CTL Leisewitz, *Criticisms of a code of ethics* 2007 <wiredspace.wits.ac.za/bitstream/10539/2203/26/20Chapter20.pdf>.

⁸⁹ John St. Cloud 'Changing Behaviour by improving codes of ethics' (2007) 22(2) *American Journal of Business* 23, 25.

⁹⁰ OECD, *Managing conflict of interest in the public service* (OECD Publishing, 2004) 62.

⁹¹ St. Cloud above n88, 27.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid, 29.

purpose of the documents, as they can only be developed laboriously, through prescribed law amendment channels.⁹⁵ The lesson may also be drawn from the taxpayer charter in the UK that the document needs to be clear that taxpayers have obligations as well as rights enshrined. Another shortfall of taxpayer charter generally is that they do not address how the revenue administration can re-engage taxpayers who have become disassociated from the tax system. Addressing this would further enhance the document.

Of course, the problems within the UK revenue administration go far beyond the lack of an effective ethics code and taxpayer charter; factors such as ambitious IT programs, significant resource cuts and a detrimental management culture are recognised to have played a significant role.⁹⁶ Recently, a report released by the Independent Adjudicator (the de facto watchdog that investigates the way that HMRC staff handle disputes) was scathing in its appraisal of the performance of staff in their dealings with the public.⁹⁷ This shortcoming is attributed to the massive increase in complexity of the tax system over the past 15 years.⁹⁸ Nevertheless, it is argued that had more effective documents been in place, the situation may not have become so disturbing. For example, expectations in relation to management structure and standards, and the delivery of services to the taxpayer would have been clear and well established.⁹⁹ Therefore, it is argued that enhancing both the ethics code and the taxpayer charter (adopting the suggestions made above) would be a valuable starting point to repairing the revenue administration in the UK going forward.

In summary, it is difficult to make suggestions as to how ethics codes and taxpayer charters could be enhanced without knowing the context of the document in the relevant jurisdictions revenue administration. However, broadly speaking, it is argued that the documents could be enhanced, that is, further change the behaviour of those covered, by making changes to content and enforcement mechanisms. Additionally, taxpayer charters need to ensure that it is clearly states that the taxpayer has obligations and not just rights, and address taxpayers who have become disassociated from the tax system.

6. CONCLUSION

Ethics codes, properly drafted, are the ultimate term of reference for tax administrators, the framework upon which the tax system is built. A well drafted taxpayer charter supplements an ethics code, and provides a clearly identifiable statement addressing the balance between the powers given to the tax authority and the taxpayer's rights. This paper considered such documents in the Australian and UK context. Australia's ethics codes and taxpayer charter are considered exemplary examples of how such documents should be drafted and operate. Anecdotal evidence from surveys and audits conducted in Australia suggest that these documents are having a resounding

⁹⁵ Whiting above n55, 617.

⁹⁶ Simon James, 'Behavioural economics and risks of tax administration' (2012) 10(2) *eJournal of Tax Research* 345, 353.

⁹⁷ Sam Dunn, 'We fought HMRC over a £10,000 bill for four years: official report reveals how the taxman wrongly rejected thousands of legitimate claims' *This is Money* (online) 1 October 2013 <<http://www.thisismoney.co.uk/money/news/article-2440395/Taxman-wrongly-rejects-thousands-complaints-reveals-official-report.html>>

⁹⁸ Ibid.

⁹⁹ James above n96.

impact on not only the internal operations of the ATO, but the levels of trust within the community as well. Although the ethics code in the UK has to some extent had similar results (although there is certainly room for improvement), the same cannot be said of its taxpayer charter. Nevertheless, codes and taxpayer charters can have a lasting impact on the culture of the organisation, and taxpayers.¹⁰⁰ As such, they are useful documents, increasingly the cornerstone of a modern tax system which helps in improving voluntary compliance by improving tax morale.

¹⁰⁰ van Blijswijk, van Breukelen, Franklin and Raadschelders above n8, 718.

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