

Tax evasion (The Behavioral Background)

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ABSTRACT: Our research aimed to explore the “black box” of taxpayers’ decision-making in an attempt to identify generalizable patterns of behaviour. The analysis was based on the published decisions of the Curia from 2018 to 2023. The information from the judgments was transferred into the statistical data processing system, creating 39 variables. The variables and their correlations were analyzed using the statistical program SPSS. The statistical sample included 120 review judgments, which were representative of the review cases of the period. In addition to the statistical empirical evidence, our study processed models from the literature on tax avoidance and reconstructed individual tax rate positions.

KEYWORDS: taxpayer, taxpayer conduct, supreme court, tax evasion, court practice

JEL-CODES: H26, H30, K34

DOI: xxxxxx

Introduction

Tax fraud and tax evasion is a major problem worldwide. However, disputes between taxpayers and the authorities do not stop at the tax authorities, with many taxpayers seeking justice in the courts. In Hungary, 943 tax cases reached the administrative courts in 2022, with a combined value of nearly HUF 59 billion (National Tax and Customs Administration, 2022).

According to classical financial theory, taxes are the main source of government revenue, which is spent on government expenditures. Tax revenues thus affect the availability and quality of public services. The taxpayer’s motivation to pay taxes in compliance with the law is therefore not irrelevant to taxpayer behaviour. However,

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taxpayer behaviour, reasoning and self-correction resulting in tax avoidance or tax evasion are equally important (CL Act 2017, § 6 (2)).

A number of factors play a role in shaping taxpayers' behaviour. Models describing this phenomenon take into account the taxpayer's family background, micro-community, propensity to follow norms, tax morale and tax culture. Our study is an attempt to understand the background to taxpayers' decisions. We have focused not on the criminal law aspects of 'tax evasion' but on the experience of administrative litigation dealing with the consequences of 'tax avoidance'.

Literature models

The social sciences have always been open to the study of tax non-compliance. Among the analyses in the literature, the most important models are presented below.

The "classical" approach

The main focus of this branch is on taxpayer behaviour in the area of income tax. The first publications were published several decades ago, so it is legitimate to speak of a "classical" model (Allingham & Sandmo, 1972; Srinivasan, 1973; Wahl & Kirchler, 2010; Erard & Feinstein, 1994). They argue that the taxpayer's behaviour is determined by the taxpayer's income level, the size of the tax rates, the likelihood of being audited or detected and the level of the penalty. The validity of this model is contradicted by practical experience. In fact, the inverse correlation between control and tax evasion, the relatively low level of probability of tax control and the high incidence of tax evasion is not true. At the same time, the majority of taxpayers in 'normal' institutionalized economies do not generally cheat. One reason for this phenomenon is the various possibilities of tax evasion, another reason is the moral sense of the taxpayers (Erard & Feinstein, 1994).

The "prospect" theory

The starting point is that the mere possibility of being subject to a tax audit can significantly increase the likelihood of a tax audit – perceived audit – and this in turn can increase tax discipline. However, after the tax audit, the probability of tax evasion increases (bombshell effect, Guala & Mittone, 2005), as no further audit is expected (Kastlunger, Kirchler, Mittone, L., & Pitters, 2009) The assumption of this model seems to be realistic for larger economic, organizational units as well as for taxpayers where tax audits are expected regularly and "on schedule".

The "social contribution" dilemma

The basic premise of the model is that individuals (taxpayers) are aware that paying taxes is a contribution to the production of public goods, but they often question

the efficiency of the government's use of taxes. (Alm, Kirchler, Muelbacher, Gangl, Hofmann, Kogler & Pollai, 2012) The dilemma for taxpayers is whether to cooperate (even if the efficiency of use is low) or to act as free riders (i.e., to enjoy the results of "public welfare" by skipping the fact of tax avoidance) (Kirchler, Muehlbacher, Kastlunger, & Wahl, 2010) The model focuses on the taxpayer and does not include other social actors in the analysis, but it does take into account the interaction between taxpayers. It does not deny that taxpayers' preferences may differ significantly, so that their behaviour may be determined by their financial situation, moral sense, reciprocity and altruistic attitudes. It points out that employees, whose income is automatically deducted by the employer as a tax advance, do not have the possibility to conceal their income. In contrast, self-employed workers who pay their own taxes are more easily able to avoid paying taxes (Kirchler, Maciejovsky, & Weber, 2005).

The theory of the psychological contract

According to this theory, compliant taxpayer behaviour is the result of a psychological contract between taxpayers, the tax authority and the government. In this model, it is already possible to consider the impact of other social processes (Kirchler, 2007). For example, a taxpayer will follow the rules as long as he believes that his compliance is the social norm and as such a social requirement. The internal motivation to comply with the law can be weakened by external influences. Thus, excessive punishment for non-compliant behaviour or excessive rewards for cooperative behaviour can both erode the incentive to comply. The social implication of the social contract is that as long as the behaviour of tax authorities and elected politicians does not undermine the trust of citizens in them, taxpayers will ensure the financing of public goods through their cooperative, compliant behaviour. Otherwise, a loss of trust may lead to an erosion of compliance and ultimately to a Durkheimian anomie (weakening of the norms governing social behaviour) (Durkheim, 1967).

The "slippery slope" paradigm

This model is based on two factors that determine tax payments: trust in the authorities and the power of the authorities. Taxpayers behave either out of fear of punishment or out of conscience. The analytical framework is suitable to capture the relationships between all relevant actors (taxpayers, tax authorities and government). (Gangl, Hofmann & Kirchler, 2012) However, several authors have pointed out that the factors raised in the "slippery slope" analytical framework may be effective in enhancing tax discipline, but the exact mechanism of this effect is not yet fully understood.

Agent-based models

In an attempt to develop a computer model of tax evasion, the psychological motivations of taxpayers are as important as the amount of public goods produced from tax revenues (Mittone & Patelli, 2000). The evolution of taxpayer behaviour

over time is examined in a dynamic simulation in which taxpayers' behaviour can respond to changes in the social support for the amount of public goods. Several sub-models have emerged. For example, Davis and his co-authors have taken into account that taxpayers are strongly influenced by the behaviour of other taxpayers in their environment, in addition to the probability of control. Bloomquist, on the other hand, examined the role of differential tax evasion opportunities in addition to constraints. Compared to earlier models, the newer ideas account for the fact that agents "overweight" control probabilities. In addition to the direct and indirect effects of tax audits, the model also processed their induced effects.

The ethical-cultural model

This model explores the role of ethical (moral) norms governing human behaviour in tax payment and tax avoidance. Since ethical norms are an indispensable part of a social culture, an examination of the impact of norms leads inevitably to an analysis of the cultural characteristics that shape them. The history of the close relationship between moral and ethical norms and the payment of taxes did not begin in the modern era (Mowbray, 2016). There are many patterns of this relationship in different social cultures, as Paraic Madigan has pointed out (Madigan, 2016). Culture shapes and forms the "attitude" that ultimately determines the taxpayers' attitude towards paying taxes as a "deep attitude". Today's civilisations have developed highly segregated cultural patterns, as evidenced by the cultural convergence of Western capitalist countries in the field of taxation and the emergence of various large and distinct tax cultures (China, Brazil, India, and the Islamic world) (Livingston, 2020). The dynamic 'movement' of these cultures has an impact on the norms that ultimately make tax payment ethical and tax avoidance illegitimate. The ethical approach brings the problems of tax payment out of the neoclassical paradigm of economics (Alm & Torgier, 2011). The ethical standards followed by individuals may differ substantially, which can have a significant impact on taxpayers' decisions. (Luttmer & Singhal, 2014). Tax policy therefore needs an approach and strategy that incorporates a paradigm of 'trust' based on ethics (Young-dahl Song & Yarbrough, 1978).

Opening up to a new model

Our analysis extends the above models, mainly developed since the 1970s, from the point of view of criticism and usability. It takes into account the new social context, the digital age, the new tax regimes, as well as the changing culture and habits of taxpayers. Tax payment or tax avoidance is part of human behaviour (and culture) and therefore the role of the human factor cannot be ignored (Turksen, Kreissl & Blumenschein, 2023). As a result, we have to declare certain models to be unusable. The classical model is inapplicable because of the types of tax under consideration, since most of the cases brought before the Curia do not concern income tax. Other models cannot be used because our research did not cover the tax exemptions of businesses or self-taxed individuals, and therefore we do not know the average

probability of tax audits or the frequency of audits. The basic question in evaluating these models is whether they are suitable for describing the components of tax liability that are the central issue in administrative litigation. In administrative cases, the taxpayer may be a natural person or a legal entity, or possibly another civil law entity whose tax liability is determined by tax law. It is therefore necessary to maintain an approach that focuses on the taxpayer as an individual, taking into account the social components of his actions, his tax avoidance behaviour, his wider and narrower environment, the influence of these environmental influences and the content of the taxpayer's autonomous and rational decision (litigation).

Of the models described, the actor-based model seems to be the most appropriate and relevant with respect to explanatory concepts (Noguera, Quesada, Tapia & Llàcer, 2014). This paradigm system focuses on the social influence of the taxpayer as well as on the channels of influence, but it also includes the taxpayer's rational choice between norm violation or norm following. In the course of our research we have come across a number of different models, and we have to acknowledge that their common message is that tax non-compliance is a "social behaviour", and that behavioural science has a significant role to play in exploring this. According to Noguera, social influence is composed of the pressure of social norms, the compulsion to conform to a given rule, social conformity, rational imitation, rational strategy convergence, social learning, strategic interaction, strategic collective action games and equity criteria.

Many patterns of levels of social influence can occur. Their influence manifests itself in several social structures, among which micro and macro (level) social viewpoints stand out. From the individual standpoint, the law attempts to 'measure' taxpayer behaviour, whereby the taxpayer's behaviour is itself the result of a complex effect. One important factor is the challenge from the social environment. The second important factor is the intrinsic 'drive' or motivation that results from the response to the challenge. The consequence of this factor is the non-compliance which is detected by the tax authority and eventually adjudicated by the court.

The theories thus presented need to be complemented in exploring the taxpayer environment. Recent research has placed great emphasis on social networks, in particular on the analysis of the network dynamics in which individuals, including taxpayers, operate and act (Barabási, 2005). Although the full extent of network effects remains to be explored, the order of human communities and human relationships corresponds in many ways to the network logic that is built around or between individuals. The lessons of social psychology (Mérei, 1988) are eminently applicable to the cases of tax evasion and tax avoidance (deviance), as the focus on the formation of taxpayer behaviour can be sharpened by breaking up the community spaces previously treated as 'groups'. It is no longer relevant whether we are talking about a natural or legal person, or whether a group is closed or open, since the network system, especially in our digital age, opens the door to this group formation in space and time. In our study, we follow a behavioral approach that seeks to understand the socio-logical system of tax non-compliance by exploring the different levels of social influences and by considering the network system surrounding the taxpayer.

Narratives surrounding typical tax avoidance behaviour

Before the progressing to the empirical-statistical analysis of the sample, we reconstruct the taxpayer behaviour that can be captured and generally described on the basis of the facts of the judgments. Following are types of behaviour that are frequently encountered in tax law practice.

Tax evasion, failure to file a tax return

Among the known tax avoidance practices in this group are partial concealment of income of companies, multiple sales of the same asset, directed payments between companies, and incorrect VAT accounting regimes. For example, a fruit wholesaler made purchases of a much larger volume than the amount of sales declared, while not having the storage capacity to accommodate the quantity indicated in the purchase documents. (o88/2023/7.) In another case, a limited liability company leased several properties and then sold the leasehold rights to the properties in a separate agreement. The lessee and the purchaser were the same company and later claimed a tax deduction for the leasehold rights purchased (Kfv.V.35.109/2023/8.) A company tried to hide its turnover by declaring in its tax return that it had only 12 transport vehicles for hire, whereas in reality it had 59 transport vehicles (Kfv.I.35.150.2019/4.). For *natural persons*, complete concealment of income from the sale or rental of immovable property (Kfv.V.35.285/2022/8.), accounting of expenses not in line with the declared income, accumulation of assets or concealment of income from a separate activity (e.g. passenger transport) are common (Kfv.I.35.036/2019/9.).

Invoicing chain

Invoice chains are a popular way for offending taxpayers to avoid paying public charges or to obtain a tax advantage. The chain often involves Slovak or other intra-Community business partners who play a role in documenting the transaction of tax-free intra-Community supplies. In many cases, there is no proof of the origin or provenance of the goods supplied. Of particular interest is the fact that the invoicing chain is a way of avoiding not only VAT, but also employment taxes. In one of the cases in practice, the applicant was linked to the invoicing chain in order to avoid paying VAT on slaughter pigs purchased from the Community (Kfv.I.35.620/2018/7.) The participants in the chain knew each other, were aware of their financial and performance capabilities and were part of several invoicing chains. In addition to live animals, VAT fraud also occurred frequently in the case of bulk goods, granulated sugar and cereals, where there was no proof that the goods had been dispatched from Hungary (Kfv.I.35.236/2018/5; Kfv.V.35.159/2022/6)..112/2018/5.). In these cases, the applicants acted as unauthorized taxable persons (Kfv.V.35.465/2022/8.). The chains were fictitious; the origin of the goods was untraceable; or avatar taxpayers were included in the transactions (Kfv.V.35.055/2023/13.).

Local taxes

Local tax cases are different in nature from classical tax avoidance cases, as the tax authority requires taxpayers to provide information and submit tax returns, so the main issues of dispute relate to the amount of tax liability and the specific tax exemption situations. A recurring problem is that the actual use of the structures is not the same as the designation in the land register and the tax exemption is therefore not claimed. There is also a serious problem of compliance if the owner considers that the property is not or only marginally suitable for use and is subject to a high land tax. In one case, in practice, a building tax was levied ex-post because a farm building was listed in the land register as a major. The applicant had used the building from the beginning for the purpose of storing crops, but only changed the corresponding designation in the land register after several years, in 2019, and could therefore only claim the building tax relief from that year (197/2020/9.). A similar case was the one where the municipality levied a building tax on a property designated as a rented residential building, courtyard, medical clinic, which the applicant used for sports clubs and mass sports, but the conditions for the reduced rate (2,000 m² useful floor area) were not met. The judgments also include the issue of the tax on real estate subject to building restrictions (Kfv.I.35.474/2020/6.), the land tax liability of the excluded real estate unsuitable for use (Kfv.V.35.039/2022/9.), the problem of the incorrect designation and classification of real estate (Kfv.I.35.195/2020/9.).

Transfer duty

A large group of lawsuits include fee cases. In property acquisition duty cases, where the authority acts ex officio, the calculation of the duty base and the amount of the duty are the main points of contention. The deduction of the charges on immovable property from the basis of assessment and the relationship between the general and special rules for the payment of the levy have been raised. A frequently raised question is the significance of errors in the taxpayer's application, i.e., incorrect indication of the market value. In one case, for example, the relationship between the mortgage and the market value was disputed (Kfv.I.35.463/2020/5.), while in other cases the inclusion of the combined value of several properties (Kfv.I.35.222/2020/10.) or the role of the co-ownership of the property (Kfv.I.35.302/2020/8.) were not taken into account. The issue of the CSOK (family home creation allowance) has also been raised (Kfv.V.35.153/2021/12.), as well as the problem of the acquisition of property without duty (Kfv.I.35.402/2018/7.).

Missing economic event

In these cases, the falsity of the transactions underlying the tax liability was established in cases where the taxpayer's conduct resulted in the issuance of false invoices to reduce the VAT liability or avoid paying employee contributions, or to claim an unfounded tax refund. This typical behaviour also occurred in the case of

import and intra-EU transactions. A good example of this is when the invoices issued by a company producing precious metals from precious metal scrap for the purchase of gold and silver scrap proved to be false (Kfv.I.35.096/2018/9.) In another case, the taxpayer sold clothing products purchased from a Hungarian company to Croatia and then deducted VAT on the purchase invoices related to the intra-EU supply, while the tax authority found that these transactions never took place (Kfv.I.35.096/2018/9.). (457/2020/6.) Labour hire and service companies have been found to operate a fictitious invoicing system recording fictitious transactions (Kfv.V.35.068/2023/9.) The use of invoices which are not in conformity with Hungarian legislation and are not formally incorrect is not uncommon (Kfv.V.35.609/2021/8.)

Withdrawal of funds of the company

The cases in this group show that companies often use cash to pay for undocumented transactions, and that the lack of documentation of the use of cash is at the expense of the employee who holds the cash. There are also cases where the assets withdrawn from the business through transactions which are wholly or partly false constitute the income of natural persons. A good example is when the company's managing director withdrew nearly HUF 200 million from the company's bank account, of which he paid HUF 35 million into the company's bank account, but did not account for the remaining amount, and did not provide any documentary evidence of its use for business purposes. The tax authority considered the above amount as other taxable income of the managing director (Kfv.I.35.407/2020/8.). In another case, an employee of a company in liquidation, employed as an administrator, requested the equitable remission of his HUF 200 million tax debt, claiming that he was unable to pay the debt and that it would endanger his livelihood and housing. He claimed that he had not kept the amount withdrawn from his bank account but had transferred it to other persons. (Kfv.V.35.075/2023/6.) In a third case, the purchase value of all the goods sold by a catering company, which was accounted as an expense, exceeded the amount of the turnover, and the tax authority therefore established hidden turnover, which the managing director, who was authorised to manage the money, withdrew from the company and did not declare as other income..439/2022/5.) In a similar case, the tax authority also found that the manager had failed to comply with his duty to cooperate during the audit (Kfv.I.35.315/2020/8.) Finally, a company sold its real estate below market value to the private owners in exchange for a shareholder loan. The tax authority considered the difference between the purchase price and twice the market value as business income and assessed a tax liability (Kfv.V.35.639/2021/5.)

The transaction is not between the parties on the invoice

The scope of this case is very similar to cases where economic events have not occurred. The only difference is that in these cases the legal transaction in the invoice has taken place, but it has not been performed by the issuer of the invoice. However, the incriminated invoice should be disregarded for the same legal consequences. It

can be seen that the purpose of such transactions is to ensure deductible VAT, to charge deductible VAT or to regularize purchases, to prove the origin of the goods. A good example of this is the case where the tax authority found that in the case of invoices issued for the purchase of clothing and footwear documented in an invoice chain, the origin of the goods was unknown and the transaction was not between the parties indicated on the invoice (Kfv.I.35.514/2020/5.) In another case, an invoice was issued for the sale of 120 vending machines with a VAT amount of almost HUF 50 million. The tax authority found that the invoicing chain, which had been deliberately set up with the taxpayer's participation, involved only formal invoicing for the purpose of deductible VAT. (Kfv.V.35.116/2021/5.) In another case, the tax authority found that the taxpayer had not purchased the goods from the company indicated on the invoice. (Kfv.V.35.428/2022/7.)

Rate of VAT

An attempt by the taxpayer to claim a reduced rate or exempt supply instead of the standard 27% tax rate may serve to reduce the VAT payable and the tax burden. In the cases in this group, this possibility has arisen in relation to the classification of foodstuffs, charitable activities, health insurance products and the sale of immovable property. The cases show that the tax authorities do not generally approve classifications that deviate from business practice.

There was one case where several independent entrepreneurs sold similar products (Túró Rudit) on the market. Some of the competitors charged a reduced VAT rate of 18%, which gave them a competitive advantage in terms of price. The company, which had previously applied a VAT rate of 27%, wanted to switch to charging the 18% VAT rate by means of a self-audit. The tax authority refused the self-audit. (Kfv.V.35.379/2022/7.)

Other issues include the VAT exemption of persons carrying out activities in the public interest and the problems of the VAT classification of taxable activities. The tax authority is of the opinion that the mere fact of being classified as a public service provider and being of public benefit does not in itself constitute a general exemption. (Kfv.I.35.550/2019/4.) A similar case is that of an insurance company selling an insurance product providing medical treatment abroad for people with five types of serious illnesses, which was considered by the company to be exempt from VAT on the related service. (Kfv.I.35.550/2019/4) According to the tax authority, the service provided under the insurance contract cannot be classified as medical treatment, but as expert and organisational activities. (Kfv.V.35.469/2022/3.)

Specific sectoral tax

The special sectoral taxes affect the activities of capital-intensive groups of companies in Hungary that have legal backing under EU law. Despite the perceived unfair tax burden, they pay the tax and attempt to claim through subsequent self-assessment, which carries less financial risk. Their legal arguments are often based on principles

and rules of EU law. In one of these controversial cases, the gambling operator paid the special tax, but without any preparation period, it self-assessed the tax, which had been increased to five times the previous rate, because it considered the amendment to the law to be contrary to EU law, but the tax authority did not accept its position. (Kfv.I.35.425/2020/4.) In another case, a company operating in the retail sector declared and paid a sectoral special levy and then claimed a reduction of its tax liability, relying on the judgment of the Court of Justice of the European Union in the Hervis case (Case C 385/12 Hervis). However, the tax authority considered that its application was filed too late. (Kfv.I.35.123/2021/5.)

The following cover the problems of transaction fees. (Kfv.I.35.354/2018/8.)

Use of a subcontractor

Businesses often outsource and subcontract their business activities in order to remain competitive and reduce their tax burden. This outsourcing entails a significant risk if the subcontractor does not carry out a genuine activity or does not meet its tax obligations. In such cases, the outsourcing company may subsequently be liable to pay a significant amount of tax in several tax brackets. In one such case, the applicant, which provides catering services at its branches in several parts of the country, reduced its workforce but continued its activities unchanged, using nominally subcontracted workers. The subcontractors failed to comply with their tax and social security obligations and the company was liable for the unpaid taxes (Kfv.I.35.206/2019/3.) In another case, a taxpayer engaged in property protection and personal security activities fulfilled its obligations to its customers by engaging subcontractors, but the conditions for the subcontractors' performance of the subcontracting activity could not be established, so the tax authority found that the taxpayer could not pass on the VAT liability on the invoices issued by them. The tax authority found that, although the taxpayer's conduct was passive, it knew or should have known of the tax evasion. (Kfv.V.35.007/2023/6, Kfv.V.35.247/2022/5.)

Related enterprise, fraudulent conduct

In the case of related businesses, the tax authority will treat the personal merger as a circumstance that, after further investigation, will lead it to conclude that the transaction is artificial or untrue.

A typical example is when a limited liability company and an invoice-issuing limited liability company are affiliated companies and the degree of influence is 90%. The invoice-issuing rental company and the renting limited liability company have concluded a contract for the rental of machinery and the transactions have been completed. The VAT invoices issued for the rental of the machinery were considered by the tax authority to be an unauthorized recovery, as the invoice issuer

had not paid the VAT to the budget due to fraudulent conduct. The tax authority found that the tax evasion had been committed through conscious active behaviour and imposed a tax penalty of 200% accordingly (Kfv.V.35.138/2023/6.) In another case, in a transaction between two affiliated companies, invoices were issued for the organization and management of the transfer of real estate, the preparation of contracts and other services, but the tax authority considered the contracts to be a sham because no real economic justification could be established.

The message of the data

Among the correlations obtained by processing the Curia judgments, we first present the external (and measurable) circumstances of taxpayer behaviour.

External circumstances

According to the descriptive statistics, 40% of the cases were VAT cases, with about 10% being levy and municipal tax problems. There is also a significant proportion (18%) of cases where more than one tax was involved in tax investigations and court proceedings, such as the health contribution (Eho), which is almost automatically associated with social security cases. 57% of the taxpayers involved are limited companies and 25% are natural persons, which does not exclude the possibility that the tax issues of natural persons are independent of the legal and relationship problems of the business. The main economic sector of the taxpayers' activity is *trade and services* (28-28%), but the proportion of tax cases not fitting statistical standards and not linked to economic activity is above 20%. A *culmination* – supported by cross-tabulations of variables – can be observed, according to which *the taxpayers' non-compliance is mainly due to the SMEs in trade and services, and their tax affairs are predominantly VAT matters.*

37% of SMEs have their registered office in Budapest and 40% have their registered office in a city or town with county status. 44% of the limited liability companies are located in the Budapest/Pest region, 15% in Northern Great Plain and 16% in Western Transdanubia. 70% of natural person taxpayers belong to the Budapest/Pest central region.

The taxpayers appearing in the proceedings are mostly active in Hungary, with 10% active in the European Union, and one taxpayer being identified as having an intercontinental link. The number of taxpayers operating exclusively in the online (cyber) space is low at only 2%.

The taxpayer network

An important approach in the literature suggests that a crucial factor in tax non-compliance is the micro (group or network) connections of non-compliant taxpayers (Noguera, Quesada, Tapia & Llàcer, 2014). The strength of network connections is not only crucial in their relationship to tax norms, but the influence of the network as a pressure actor of social influence is present in shaping almost all human behaviour.

(Barabási, 2005) The network effect in itself can be said to be ‘value-free’, as it plays an important role in shaping not only deviant but also adaptive behaviour.

The taxpayer does not shape his or her relationship to social (tax) norms as an isolated individual, but as part of a number of networks and networked groups (or vice versa). The network is built around *nodes*. One of the nodes is the taxpayer itself, which complies with or violates the tax rules. However, the node strength of the taxpayer may not be high, as it may be linked to other network centres (Barabási, 2005) with regularly more choices (high degree index), such as a tax consultancy firm or a ‘sub-network centre’ (the accountant of the firm who also does the accounting for others) with a low degree index. The situation is different when a network member’s personal position (or the tax rate that is exclusively linked to his/her person) does not link him/her to a network of tax professionals, but his/her family or private relationships shape his/her relationship to the tax rate.

The norm enforcement and norm violation (i.e., the “network effect”) depends, therefore, on the taxpayer’s position in the network and the number of people who represent the taxpayer’s position, which is sufficient to follow the perceived network effect. In this respect, it is important to explore the structure of the virtual space and to analyse the quality of the contacts of taxpayers prosecuted for non-compliance.

Several variables have been developed to examine the network plane. The tax cases were split 49-51% between taxpayers who were involved in the tax proceedings alone or with others. The 51% multiple involvement, compared to VAT cases (40%), where there is inherent multiple involvement, indicates tax cases *other* than VAT cases, mainly tax relations related to social security. 20% of those concerned were affiliated enterprises, 36% were contractual business partners and 34% were partners in the taxpayer network. The remaining 10% showed more affiliations. The business network was also present in VAT cases, i.e., VAT cases were not the only network relationships.

Of the total taxpayers, 47% had a measurable network position, but 63% of the network taxpayers had a dominant position, 17% a strong position, 12% a medium position and 8% a weak position within the network. 74% of the taxpayers involved in VAT cases had a very strong position, indicating that the taxpayers surveyed had a fairly strong influence within the network in VAT cases. This was also noticed by the tax authorities, as in more than half of the known cases they carried out related controls on members of the network, which had an impact on the taxpayer’s case in one way or another.

Networking *has played an important role* in shaping taxpayer behaviour. In almost 60% of the cases, networking led to the taxpayer’s behaviour – (false) invoicing, filing a return, self-revision – 10% of them used the help of a tax professional and 30% made their decision independently, without external assistance or with no measurable, undetectable – latent – help.

By simply describing the distribution of the relevant variables, it can be outlined that *in the sample, network involvement and position in the network play a significant role in shaping taxpayer behaviour*. It is likely that our taxpayers are nodes in their own network. The textual formulations of the tax positions support our view that they

often report pressures that drive the network, determine the behaviour and actions of its members and, in turn, their economic – tax – objectives.

Taxpayer objectives, opinions, evaluations

The taxpayers in our sample are not merely taxpayers acting under the pressure of so-called objective circumstances, but are actors pursuing goals, reflecting on their own behaviour, evaluating the decisions of the tax authority, assessing the tax position, expressing their opinions, representing them in the procedure and making submissions. Of the variables describing the taxpayer's subjective situation, the most important is certainly the variable entitled '*the taxpayer's objective*'. It is followed in the ranking of objectives by the *avoidance of own income, higher profits* (28%), and then *tax avoidance* (22%). Tax avoidance is clearly – unconcealed – aimed at what it is, the avoidance of paying tax when this can be established beyond doubt from the information available on the assessment. For example, "*The Invoice Issuer included the VAT content of the invoices as tax payable in its tax return, but did not pay it.*" (Kfv.V.35.138/2023/6.)

The third most important objective is to *ensure personal and family well-being* (20%), followed by reducing the revenue of the public budget (13%). In the last case, we are also talking about a *direct*, inferred or explicit objective, typically in the context of special taxes. *Concealment of the real economic result* (6%) and the pursuit of *several objectives in combination* (7%) are a smaller part of the sample.

As a result of the analysis, *the purpose of the taxpayer's behaviour* (tax avoidance, profit concealment, etc.) is mainly related to the *taxable amount*, the *sector of the taxpayer's economic activity*, the *network position of the taxpayer concerned* and the *taxpayer's relationship with the network members*. However, the relationship between the *legal background* of the tax matter and the *legal status of the taxpayer* is of no relevance in the formulation of the taxpayer's objectives. This means that a natural or legal person, when formulating its own objectives, does not take into account whether its tax situation is civil, employment, entrepreneurial or financial. When we inverted the correlation and considered taxpayer objectives as an independent variable, we obtained the same results, i.e. the linkages – the fact of neutrality – are symmetric.

What has just been described also holds true for the relationship between the purpose of taxpayer behaviour and the size of the tax gap. In the so-called small and large tax cases, the situation is thus similar, i.e. taxpayer objectives are not linked to the monetary importance of the case, but are shaped by *the tax type, the economic sector and network effects*.

With regard to the subjective taxpayer zone, it can be stated that the *purpose of the taxpayer's conduct* has little to do with *the taxpayer's conduct during the procedure* or the *content of his or her remedies and objections*. The reason for this phenomenon may be that each individual behavioural objective falls within the scope of non-payment of tax, on which *expressis verbis* arguments and objections cannot be based. 90% of the taxpayers in our sample were in a position of deflection of liability and did not admit it.

One of the findings of the analysis and measurements is that in 83% of the cases, the taxpayer's subjective self-assessment and the taxpayer's opinion *did not influence the tax authority's decision at all, and the tax authority did not differentiate* between taxpayer objectives. The 27% difference where the tax authority took the taxpayer's *argument* into account was mostly due to a problem of evidence, invalidity due to illegal evidence. In these cases, the taxpayer was very active (appeals, objections) and achieved some results.

Taxpayer objectives in administrative and judicial proceedings

Our research aimed at a social science understanding of tax non-compliance. Hypothetically, to explore a chain whereby we link taxpayer behaviour before the Curia to behaviour in the administrative procedure, and continue the chain with the taxpayer's behavioural goal, possibly the objective circumstances of the tax case.

In the case of the Curia decisions, the significant (and extremely low) correlation was measured between the variables *Change in the taxpayer's position* and the *Curia's attitude towards the revised judgment*. There was a significant correlation between the variables *Taxpayer's reasoning influencing the decision of the authority* and *Taxpayer's attitude in the authority procedure*. *The purpose of the taxpayer's conduct did not play a role* in these relationships.

Since in 83% of the rulings examined, essentially nothing – taxpayer reasoning, taxpayer behaviour, taxpayer objective – influenced the decision of the tax authority, this tax authority decision can be classified as a “black box”, regardless of statistical correlation. Nevertheless, the decisions of the tax authority played a significant role in the judgments of the Curia. In the cases examined, 67.5% of the first instance court decisions agreeing with the tax authority's position were identical to those of the Curia. Thus, almost 2/3 of the decisions of the Curia “carried forward” the position of the authority, so to speak, and incorporated it into judicial practice. In 80% of cases, the Curia's position was identical to that of the court of first instance, and only in 20% of cases was a review decision taken that differed from the first instance judgments. Our result deviated by only 9 percentage points from the official appeal statistics of the Curia, where the average compliance rate for the period 2018-2022 was 71%, with different statistical parameters.

The Curia's judgments were only affected in a statistically measurable way (very weakly) by *the change of position* (and within that, a partial change of position) of the *taxpayer during the litigation*. This is, however, due to the nature of the procedure, as the rules of review inherently require a specific reasoning, an extended and legally focused argumentation from the party.

Taxpayer objectives do not seem to be very important in the procedures. Our preliminary hypothesis is supported by various statistical tests, so the explanatory power of the variable is extremely low even for a latent factor structure.

Although the procedures do indicate the taxpayer's objectives, neither the tax authorities nor the court procedures react to them, and the objectives do not play too great a role. The characteristic feature of administrative tax litigation, and

the fact that sanction decisions are taken without taking into account subjective motivations (variables) (Gyekiczky, 2013), also indicates that – in contrast to criminal proceedings – in administrative tax litigation the behaviour, objectives and motivations of the taxpayer are not assessed, but a decision is taken on the taxpayer’s tax liability after the tax norms have been violated. The role of subjective aspects in criminal proceedings is essential in assessing the individual – criminal – liability of the perpetrators of tax fraud.

Objective situation – Self-reflections – Sanctions

Are the sanctions imposed by the competent authorities and courts really that independent? Are objective and subjective circumstances really not causally linked to the sanctions? The answers to these questions were sought by analysing a selected set of variables, where we tried to explore the relationships along the causal logic of Objective Situation – Self-Reflections – Sanctions.

The statistical tests did not support our preliminary assumptions. *Causality could not be established in this traditional logic*, as the relationships between the selected variables, their strength and explanatory power, showed a rather heterogeneous “mix” of both subjective and objective situations and sanctions. Thus, for example, taxpayer objectives were present in a “pure” factor where tax, legal status, and relationship with stakeholders were present, but at the same time tax also appeared in a context where variables constituting taxpayer self-reflection were predominantly present. The tax penalty, a rather salient sanction, showed a surprisingly low correlation. This means that its size was not influenced by procedural, substantive or sociological factors. The size of the tax fine responded only to the variation in the *relationship between the first instance judgment and the administrative decision*. It is likely that, since the imposition of a tax fine is mandatory and its level is set by law, this feature was reflected in the statistical behaviour.

The overall picture was slightly nuanced by another, more subtle approach. When the tax penalty rate is adjusted as a result of different variables, we find that tax type influences the tax penalty rate in 29%, taxpayer behaviour objective in 13%, economic sector in 8%, and registered office and network position in 7%-7%. Together, these five variables influence the penalty imposed in 64% of cases, so that the penalty can ultimately be attributed – in a slight relation – to “objective” circumstances. Despite this, it is clear that the causal chain hypothesised cannot be drawn.

Subgroups of *internal heterogeneity* emerged among the variables we selected to describe the objective situation. The same could be said for taxpayer self-reflections, but the group of sanctions behaved no differently. The variables appear to be organized in a highly heterogeneous, segmented pattern of conditions and consequences, which can be broken down into sub-systems, *and taxpayer behaviour therefore also evolves in a complex structural system, shaped by a number of filters and conditions*. The results of the analysis with groups of variables other than the selected variables also did not reveal a line of circumstances – behaviour – sanctions that could be built on a linear causal logic.

Summary

The most important finding of the statistical analysis is that the variables included did not show a clear and dominant correlation with each other. The results show that *there is no dominant cause or determinant* in the field shaping taxpayer behaviour.

The same applies to the design of sanctions. There is no external or internal reason – within the procedures – for sanctions. The objective system of sanctions in the tax laws is probably a legacy. At the same time, the taxpayer who decides to pay tax is not at all indifferent as to whether the consequences of his decision are transparent or whether the administrative and judicial procedures intended to legally impose sanctions operate in an autonomous (and autocratic) or cooperative system.

In general terms, based on our sample, there is neither a single, homogeneous system behind tax avoidance as a pattern of behaviour, nor a single cause or set of causes. Taxpayers are guided by different behaviours and motivations, which are differentiated by tax type. What seems to be more important is the taxpayer's tax bracket and its position in the economic, organisational and financial network.

The network position of taxpayers in networkable cases is very strong, and therefore a future tax analysis should not ignore the network of economic organisation and legal relationships (Jackson, 2008).

The common result of the taxpayer behaviours under investigation is non-payment or avoidance of taxes, i.e., non-compliant – deviant – behaviours. According to the logic of the law, the result of non-compliance is a “penalty” (sanction). Penalties only work if they are calculable, i.e., their deterrent effect involves transparency.

The statistical analysis of our sample did not confirm this assumption. We have seen that there is no causal link between behaviour and sanctions. The size of the tax penalty is related to the type of the tax and the taxpayer's place of business and sector rather than to the purpose of the taxpayer's behaviour. This situation is presumably due to administrative logic.

The taxpayer's subjective behaviour, opinions and arguments during the procedures are not of great importance. His arguments are ignored, his views are disregarded and, when he succeeds, there are mainly procedural errors, misjudgements and lack of evidence. This still requires activity during the proceedings, objections and appeals.

But the situation is not that simple. When the tax rules were breached, the taxpayer had one choice. The behaviours revealed in the tax facts chapter concern missing economic events, undeclared income, property sales tricks, refusal to pay local taxes. To understand the full decision field, the investigative perspective needs to be broadened. For the study of deviance, it is essential to analyse non-deviant, norm-following behaviours and to examine the whole of the taxpayer's organisation – the social milieu – and its network system. This requires a shift towards more interdisciplinary research on a larger scale.

References

1. Allingham, M., & Sandmo, A. (1972): Income tax evasion: A theoretical analysis. *Journal of Public Economics*, 1 (3-4), pp 323-338.
2. Alm, J.; Kirchler, E.; Muelbacher, S.; Gangl, K.; Hofmann, E.; Kogler, C. & Pollai, M. (2012): Rethinking the research paradigms for analysing tax compliance behaviour. CESifo Forum, 2.
3. Barabási Albert-László (2005): A hálózatok tudománya. Libri, Budapest.
4. Émile Durkheim: Az öngyilkosság. Szociológiai tanulmány. (ford. Józsa Péter, bev. Cseh-Szombathy László) *Közgazdasági és Jogi*, Budapest, 1967.
5. Erard, B. & Feinstein, J. S. (1994): The role of moral sentiments and audit perceptions in tax compliance. *Public Finance/Finances Publiques* 49, pp 70-89.
6. Erzo F. P. Luttmer & Monica Singhal (2014): Tax Morale. *Journal of Economic Perspectives*, 28 (4) pp 149-168.
7. Gangl, K., Hofmann, E. & Kirchler, E. (2012): Tax Authorities' Interaction with Taxpayers: Compliance by Power and Trust, WU International Taxation Research Paper Series No. 2012 – 06, Wien, pp 25.
8. Guala, F. & Mittone, L. (2005): Experiments in economics: External validity and the robustness of phenomena. *Journal of Economic Methodology*, 12, pp 495-515
9. Gyekiczky Tamás (203): Az Európai Bíróság ítélete a magyar adóügyekben. A hozzáadottérték-adó levonásához való jog adóhatósági megtagadásáról. *Jogesetek Magyarázata (JEMA)*, Budapest, pp 42-54.
10. James Alm & Benno Torgier (2011): Do Ethics Matter? Tax Compliance and Morality Author(s). *Journal of Business Ethics* 101(4), pp 635-651.
11. John Mowbray (2016): Ethics and tax compliance: the morality of tax avoidance. *The good old days. Trusts & Trustees*, 22 (1) pp 166 – 167.
12. José A. Noguera, Francisco J. Miguel Quesada, Eduardo Tapia & Toni Llàcer (2014): Tax Compliance, Rational Choice, and Social Influence: An Agent-Based Model. *Im.: Revue française de sociologie (English Edition)*, 55(4) pp 765-804.
13. Kastlunger, B., Kirchler, E., Mittone, L., & Pitters, J. (2009): Sequences of audits, tax compliance, and taxpaying strategies. *Journal of Economic Psychology*, 30 (4), pp 405-418
14. Kirchler, E. (2007): *The economic psychology of tax behaviour*. Cambridge, UK: Cambridge University Press.
15. Kirchler, E., Maciejovsky, B., & Weber, M. (2005): Framing effects, selective information and market behavior: An experimental analysis. *Journal of Behavioral Finance*, 6 (1), pp 90-100.
16. Kirchler, E., Muehlbacher, S., Kastlunger, B., & Wahl, I. (2010): Why pay taxes? A review of tax compliance decisions. In: Alm, J., Martinez-Vazques, J. & Torgler, B. (ed.), *Developing alternative frameworks for explaining tax compliance* (15-31). London, UK: Routledge.
17. Manuel Castells (2005): *A Hálózati társadalom kialakulása. Az információ kora. Gazdaság, Társadalom és kultúra. I. kötet. Gondolat – Infonia, Budapest.*

18. Mathew O. Jackson (2008): *Social and Economics Networks*. Princeton University Press, pp 17.
19. Mérei Ferenc (1988): *Közösségek rejtett hálózata*. Tömegkommunikációs Kutatóközpont, Budapest.
20. Michael A. (2020): *Livingston, Tax and Culture: Convergence, Divergence, and the Future of Tax Law*, Cambridge University Press.
21. Mittone, L., & Patelli, P. (2000): Imitative behaviour in tax evasion. In B. Stefansson & F. Luna (Eds.), *Economic simulations in swarm: Agent-based modelling and object oriented programming*. Amsterdam: Kluwer, pp 133-158.
22. NAV (2023): *Évkönyv 2022*. Online: <https://nav.gov.hu/kiadvanyok/evkonyvek>. 32.
23. Paraic Madigan (2016). *Ethics and tax compliance: the morality of tax compliance*. *Trusts & Trustees*, 22 (1) pp 151 – 158.
24. Srinivasan, T. N. (1973): *Tax evasion: A model*. *Journal of Public Economics*, 2, pp 339-346.
25. U. Turksen, R. Kreissl & E.T. Blumenschein (2023): *The Role of Human Factors in Tax Compliance and Coutering Tax Crimes*. Im: *Tax Crimes and Enforcement in the European Union*. Edited by Umut Turksen, Donato Vozza, Reinhard Kreissl, and Fanou Rasmouki, Oxford University Press.
26. Wahl, I., Muehlbacher, S., & Kirchler, E. (2010): *The impact of voting on tax payments*. *Kyklos*, 63 (1), pp 144-158.
27. Young-dahl Song & Tinsley E. Yarbrough (1978): *Tax Ethics and Taxpayer Attitudes: A Survey*. *Public Administration Review*, 38 (5) pp 442-452. Wiley on behalf of the American Society for Public Administration Stable URL: <https://www.jstor.org/stable/975503>
28. 2017. évi CL. törvény az adózás rendjéről 6. § (2)
29. C 385/12. sz. *Hervis Sport- és Divatkereskedelmi Kft. kontra Nemzeti Adó- és Vámhivatal Közép dunántúli Regionális Adó Főigazgatósága-ügy* [ECLI:EU:C:2014:47].
30. Kfv.V.35.088/2023/7.
31. Kfv.V.35.109/2023/8.
32. Kfv.I.35.150.2019/4.
33. Kfv.V.35.285/2022/8.
34. Kfv.I.35.036/2019/9.
35. Kfv.I.35.620/2018/7.
36. Kfv.I.35.236/2018/5.
37. Kfv.V.35.159/2022/6.
38. Kfv.I.35.212/2018/5.
39. Kfv.V.35.465/2022/8.
40. Kfv.V.35.055/2023/13.
41. Kfv.I.35.197/2020/9.
42. Kfv.I.35.508/2020/6.
43. Kfv.I.35.474/2020/6.
44. Kfv.V.35.039/2022/9.

45. Kfv.I.35.195/2020/9.
46. Kfv.I.35.463/2020/5.
47. Kfv.I.35.222/2020/10.
48. Kfv.I.35.302/2020/8.
49. Kfv.V.35.153/2021/12.
50. Kfv.I.35.402/2018/7.
51. Kfv.I.35.096/2018/9.
52. Kfv.I.35.457/2020/6.
53. Kfv.V.35.068/2023/9.
54. Kfv.V.35.609/2021/8.
55. Kfv.I.35.407/2020/8.
56. Kfv.V.35.075/2023/6.
57. Kfv.V.35.439/2022/5.
58. Kfv.I.35.315/2020/8.
59. Kfv.V.35.639/2021/5.
60. Kfv.I.35.514/2020/5.
61. Kfv.V.35.116/2021/5.
62. Kfv.V.35.428/2022/7.
63. Kfv.V.35.379/2022/7.
64. Kfv.I.35.550/2019/4.
65. Kfv.V.35.469/2022/3.
66. Kfv.I.35.425/2020/4.
67. Kfv.I.35.123/2021/5.
68. Kfv.I.35.354/2018/8.
69. Kfv.I.35.206/2019/3.
70. Kfv.V.35.007/2023/6.
71. Kfv.V.35.247/2022/5.
72. Kfv.V.35.138/2023/6.
73. Kfv.I.35.338/2018/9.
74. Kfv.V.35.138/2023/6.