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**A Study of the Changing Relationship between
Large Corporates and the Inland Revenue**

By

Penelope Ann Louise Tuck

**A thesis submitted in partial fulfilment of the requirements
for the degree of Doctor of Philosophy**

Warwick Business School, University of Warwick

February 2007

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List of Abbreviations

ATO	Australian Tax Office
BIR	Board of the Inland Revenue
CPA	Certified Public Accountants
CTSA	Corporate Tax Self Assessment
CRAKA	Centre for Research in Accounting Knowledge and Accountability
HMRC	HM Revenue and Customs
ITSA	Income Tax Self Assessment
IR	Inland Revenue
IRS	Internal Revenue Service
IMF	International Monetary Fund
LBO	Large Business Office
LBS	Large Business Service
LCF	Large Corporates Forum
NCP	New Compliance Process
NPM	New Public Management
SLTCU	Specialist Large Taxpayer Compliance Units
SV	Share Valuation Division of the IR

Acknowledgements

I wish to thank my supervisor Professor Keith Hoskin for both his encouragement and the intellectually demanding and enjoyable supervisions which have enlightened me to new ways of thinking. I also wish to thank my latterly second supervisor, Dr Lynne Oats for her encouragement, support and friendship and also my former second supervisor before her move to the US, Dr Margaret Lamb for her enthusiasm to open up the tax administration research agenda.

The thesis could not have been completed without the generous funding of the Chartered Accountants' Trust for Education and Research of Institute of Chartered Accountants in England and Wales and all the interviewees who have given their time freely and generously. I express my thanks to all concerned.

I thank my fellow 'PhD pals' who have offered great support and excellent friendship throughout this experience: Layla Branicki, Derek Condon, Ken Le Meunier-Fitzhugh, and Michael Nottage.

Obviously I could not have completed this thesis without the great support and sacrifices of my family and I wish to thank, my husband Paul for his love and wise advice, my son Alexander for his determination and confidence in me and my father, Arthur for being there to laugh!

This thesis is dedicated to Paul, Alexander, Arthur and Priscilla (1925 – 2000).

Declaration

This is to declare that:

- **I am responsible for the work submitted in this thesis.**
- **This work has been written by me**
- **All verbatim extracts have been distinguished and sources specifically acknowledged**
- **During the preparation of this thesis, a paper was prepared as listed below. The remaining parts of the thesis are unpublished.**

Tuck, Penelope (2004) 'No Accounting for Taste: Remaking the Large Corporate Taxpayer into a Visible Customer'.

Paper presented at the European Accounting Association Conference, Prague, Czech Republic, April 2004 and also presented at the British Accounting Association Conference, University of York, April 2004.

- **This work has not previously been submitted with in a degree programme at this or any other institution.**

Signature: Penelope A Tuck

Date: 6 February 2007

Abstract

This thesis addresses the following research questions:

- 1. How is the process of corporate tax compliance changing for large groups of companies?**
- 2. How is this process being managed by the Inland Revenue?**

The empirical evidence consists of 33 interviews conducted in 2002-04 with IR officials; tax directors and tax managers of large corporates; and tax partners from a Big 4 accounting firm. This thesis also draws upon archival data including state papers and documentary data from the IR.

Theoretically this thesis draws from the new public management, administration, and the tax compliance literatures. However I argue that an approach grounded purely in these literatures does not adequately explain the changing tax compliance environment for large groups. Therefore I utilise other literatures which draw on Foucault's work on multiple expertise constructing subjects engaging with disciplinary knowledge and power, to assist in filling this gap.

Against a backdrop where new organisational structures and processes are shifting a once bureaucratic Inland Revenue to a more strategic and marketing-based organisation, the corporate tax compliance process for large corporates has changed. Where the process was previously a long (in terms of time scale), formal and distant relationship with the IR carried out principally in writing, it has, while retaining aspects of this past, shifted towards being a mixture of the written and the oral, generating a more inclusive dialogue with the taxpayer, frequently in the form of meetings based on targeted yet potentially open-ended questioning. This has opened up what is described here as a new kind of 'truth game', which is less one based on inquisitorial practices but more based on examination techniques, played by knowledge experts: the IR official and the corporate taxpayer.

Drawing on a governmentality framework as articulated by Foucault and his latter works, I argue that the nature of the corporate tax compliance game resembles a truth game between two kinds of subject generated in this transdisciplinary world: the new shape tax official and the visible customer (the taxpayer). The IR official – the HM Inspector of Taxes, has been remoulded from one type of knowledge expert to another, which is a 3 dimensional transdisciplinary T shaped tax official. This is a tax official who both has the detailed deep technical knowledge as a knowledge expert but also has to relate, in a broader sense, to the new way of operating in a strategic and marketing organisation. The emergence of the corporate taxpayer as a visible customer has changed the process of corporate tax compliance for large corporates whereby they exercise certain power in the relationship by virtue of this visibility.

This research tracks a new kind of interaction of the interplay between subjectivization and objectivization which seems to have become established and develops a theoretically informed way of looking at emergent governmental and more wide ranging forms of application.

Chapter 1 – Introduction

1.1 The Research Issues and Questions

The purpose of this chapter is to introduce the research questions addressed in this thesis and to outline the main arguments that the thesis then utilises to address those questions. The thesis seeks to address the following two main research questions:

- 1. How is the process of corporate tax compliance changing for large groups of companies?**
- 2. How is this process being managed by the Inland Revenue?**

To address these questions, the thesis examines the corporate tax compliance processes of the United Kingdom national tax gathering body, the Inland Revenue (IR)¹, and the ways in which large corporate entities address and respond to them. The question being addressed is not: “How do large corporates comply with the tax legislation?” but rather there is an attempt to develop a more inclusive and interactive focus on the whole field of practice of corporate tax compliance inside and across the IR and the large corporates and between these parties. The ‘process’ as conceived here therefore has multiple aspects.

¹ From April 2004 IR and HM Customs & Excise were merged to form HM Revenue & Customs (Cm 6163).

First it is a process with a historical or 'diachronic' dimension, which has to be understood in its historical and cultural context, which includes the internal evolution of the IR as part of the UK governmental apparatus and as an entity in its own right. This evolution includes not only internal reorganizations, culminating most recently (though outside the terms of my fieldwork) in the merging of the IR with Customs and Excise to form Her Majesty's Revenue and Customs (HMRC), but also the increasing incorporation across UK government of what has been called the New Public Management (NPM) as a means of revitalising or moving beyond old-style bureaucracy.

Second it is a process with a here and now or 'synchronic' dimension. This includes the doing or enacting of the process in 'real time', involving such practical and material aspects as paying the agreed amount of tax at the right time, whatever is defined as the agreed amount of tax, or the mechanics of the way that the process of compliance operates or how these issues interrelate. It also includes the way in which doing or enacting the process is lived and experienced by its participants, who are for the most part highly qualified, skilled and reflective professionals, on both sides of the fence. The process in this respect is something that gets achieved through a mix of writing (including calculating), talking and reflecting, as the means by which these expert professionals engage with regulations, forms, requests for information and responses to those requests. One interesting development in this part of the lived process that emerged during the period of my PhD research was a shift from a predominantly writing-focussed approach to obtaining information (via

forms, follow-up letters and written responses to these) towards an approach which while retaining a strong writing focus component, made much more use of oral exchange, in question and answer sessions involving IR officials and taxpaying entities and their advisors.

The object of the analysis undertaken here is therefore this process taken as a whole, and with a particular focus on the way changes within the past decade have played out and arguably transformed the nature of the process of corporate tax compliance in significant ways, whose effects can be expected to have reverberations as the compliance process evolves in future. Corporate tax is a significant feature of the tax-raising activities of any national tax authority. It is also a process which has had to evolve because of the growing economic power of major transnational corporations and their ability to engage in tax avoidance, whether on a global scale or by exploiting differences within the EU between national tax regimes and EU practice. Revenue authorities are therefore not in a position simply to impose tax demands and expect them to be met. There is necessarily a game involving negotiation and the seeking of mutually optimal outcomes. Precisely because of the globalisation of tax activity and the attendant evolution in approaches and attitudes, corporate tax has become a more high profile and strategic issue for many large corporates, causing them to seek to manage their taxation affairs more actively than previously, when the focus was largely on compliance with national-level legislation².

² While the merger of IR and HM Customs & Excise to form HMRC is important and some organisational change has occurred, it is unlikely to have any material effects on the underlying relationship between the taxing authority and large corporates in the context of Corporation Tax.

This thesis theorises the impact of these changes and the tensions arising from securing corporate tax compliance in a changing environment within both the IR and the corporates. One focus is on the IR becoming a strategic and managerial organisation (Hoskin, Lamb and Tuck, 2001b) and large corporates changing how their tax affairs are managed by their in-house tax departments³ (KPMG, 2006; PricewaterhouseCoopers, 2000b), with a particular interest, pursued via fieldwork research, in the everyday practices and discourses utilised by the IR to achieve their objectives of compliance and the potential implications thereof. The second focus is on the knowledge expertise inside the taxpaying entities, and within the inter-relations between the IR and the taxpayer.

I have obtained accounts of practice via discourse including seeing the new role of discourse (e.g. in the different interplay of writing and talking). A key aspect of this thesis is the high level access obtained to key players within the IR and the corporates. Evidence has been obtained from semi-structured interviews with informants involved in the process. These informants from within the IR include those who have initiated, directed and led the process; those who have implemented the process; those who are significant players in the process and those who have the ability to alter future processes. This has enabled significant insights to be obtained into the process from different perspectives. In addition my previous experience as a senior tax manager in London with Coopers & Lybrand, a predecessor firm of

³ Porter, (1999a: 50) defines an in-house tax department as “a unit of at least one staff member who is employed full-time within [the] organisation on tax matters”.

PricewaterhouseCoopers, specialising in corporate and international tax has helped me in developing a longitudinal research approach. I had significant experience of dealing with the IR as a tax advisor on behalf of large corporates and advising those large corporates on tax planning opportunities in the late 1980s and early 1990s and this has allowed me to develop a personally informed perspective on the corporate tax compliance process over recent time, which I have drawn upon to supplement the archival and interview data I have collected in the course of my doctoral research. Combining this personal experience and archival set of understandings with extensive in depth interviews with tax officials, tax directors and tax managers of in-house tax departments and tax advisors undertaken during the period 2002 to 2004 in order to understand the current environment, has enabled valuable and significant insights into the process to be obtained. I acknowledge that there are potential weaknesses in coming to the research from being an insider. This, I would suggest, was eliminated by the significant period which has passed since I left the tax advising profession and my more recent experience working on the CRAKA⁴ research project with Professor Keith Hoskin and Dr. Margaret Lamb, which enabled me to look more holistically at research problems from an academic viewpoint which enabled me to complement my former way of seeing with a more academic research perspective.

During the thirteen years since I left the profession there has been a considerable change in the business environment, due to, amongst other things, the development of electronic communications technology and further

⁴ Centre for Research in Accounting Knowledge and Accountability, Warwick Business School.

'globalisation' of corporates. Large corporates are responding to globalisation and have gone through their own transformation. As a result of the separation of the ownership and managerial control of a company and the increase in administrative practices and administrative personnel, companies have been able to expand into international groups (Chandler, 1977). This has been evidenced by the movement from a system in the UK dominated by family capitalism to one which increasingly fits into Chandler's category of managerial capitalism (Chandler, 1997). The professional manager has replaced the owner and the job of dealing with corporate tax compliance has been delegated to the corporate tax manager. Due to the changing regulatory and globalisation environment, such managers are having to operate in a new world where the traditional practices of compliance do not suffice and a new way of interacting with the IR has to be learnt.

The IR also has been in the process of considerable change (Cm 6225:5; Montagu, 1999). Partly in response to NPM and partly in response to the change in complexity of the compliance process, the IR is changing the regulation process from one of direct bureaucratic control to another more inclusive type of working in partnership and in dialogue with the corporates. It is becoming an outward facing managerial organisation where focusing on marketing and strategy is an important part of managing the inward facing process of tax collection. It is utilising techniques from the business world such as market segmentation. However bureaucratic processes have not been abandoned. They are embedded in these new changing processes in a process that itself now takes place in a globalised context.

Part of the motivation for this research is that the focus on the IR as a research site is relatively new⁵ and the research will show a key site/ vehicle for NPM practices. Tomkins et al. (2001) have highlighted the under-researched area of tax management and identify external trends and researchable areas which impact on and may be of value to the management of tax administrations. They identify two different ways of posing research questions standpoints: firstly to question the effect of the changing political, economic, social and technological environments and the consequential implications for taxation; and secondly to compare the operations of different tax administrations and understand why they differ. This constructs gaps or silences in the research agenda such as that identified by Preston⁶:-

“Within the accounting literature the relationship between powers and practices of the Inland Revenue and the practice of accounting is largely ignored” (Preston, 1989:390).

Lamb (2001: 273) has noted that “taxation is a process of regulation (...) that relies on accounting practice to provide regulative techniques”. An aspiration of this thesis is to give an empirical and theoretical contribution to our understanding of the IR and how regulation of the tax compliance process is governed by discourse and practice.

The empirical contribution is a greater understanding of how a tax administration functions in the NPM era, in which the public sector has acquired private sector characteristics (Hood, 1995; Brunsson and Sahlin-

⁵There are opportunities for further work (Lamb, 2005:70).

Andersson, 2000). The core of NPM is to remove or reduce the traditional distinction between public sector bodies and private sector entities and to shift “the emphasis from process accountability towards a greater element of accountability in terms of results” (Hood, 1995: 94). A key feature of NPM would therefore seem to be greater accountability. The IR is abandoning or supplementing traditional bureaucratic practices and values by grafting on a range of new more business-mirroring practices and discourses (e.g. in the strategic and marketing areas) and is being very clearly remade as a more managerial and business-like entity (e.g. Hoskin, Lamb and Tuck, 2001a, 2001b). It is also arguably recontextualising traditional bureaucratic practice so that doing ‘the same’ work as before does not necessarily carry the same significance and importance. The theoretical contribution is a greater understanding of how NPM is crossing boundaries between business and public sector management; in other words how governance and government is taking place in a strategic and managerial albeit public sector organisation.

The relationship between large corporates (defined in Section 1.3) and the IR is unlike the relationship the IR has with employees, small businesses and individuals with simple tax affairs. This is because there has always been a two way pattern of practices of government between large corporates and the IR. Examples of these practices are:-

- Selective non-disclosure

The law requires full disclosure of transactions to the IR. However Corporates can engage in selective non disclosure, for example by not

⁶ Although this quote of Preston is dated, it still has significance now.

providing all the information at the beginning of an enquiry or only providing information which is specifically asked for by the IR (see McBarnet, 1991).

- **Negotiation**

Large corporates engage in complex transactions which may not be covered by tax law; there may be no provision for the particular circumstances or the law may be unclear on a particular issue. Negotiation has to take place between the IR and the large corporates over an appropriate tax treatment. The ultimate sanction is for the Courts to decide the appropriate treatment, but few disputes reach that stage; the vast majority are settled via negotiation between the IR and the large corporate taxpayer and these negotiations inevitably involve an element of 'horse trading'.

- **Ability to move offshore**

Large corporates frequently have many overseas subsidiaries and a complex group structure. This allows them to move operations or companies controlling these operations outside the UK, and therefore out of the jurisdiction of the UK Government and the IR if they choose to do so.

- **Access to professional advice and expertise.**

By virtue of their size large corporates have the resources to be able to employ specialists who have detailed knowledge of a specific area of tax legislation and experience in dealing with the IR.

- **Ability to influence legislation**

Large corporates employ significant numbers of employees and control significant economic resources. Therefore they are able to lobby government for changes in tax legislation.

One consequence of government agencies becoming outward facing is an increasing importance and use of discourses of marketing and strategy. In the case of the IR, these new practices of government have developed and altered the relationship between the tax authority and taxpayer. Previously no robust theorising on these practices has been undertaken. I consider an appropriate approach is to utilise a Foucauldian framework based on a governmentality and disciplinarity approach. A number of studies have utilised this approach. Some have explored governmentality in a historical context (Neu, 2000; Bush and Maltby, 2004) and in contemporary financial services (Roberts et al., 2006; Hodgson, 2002). Government in this sense involves the attempt to shape human conduct via law, rules and rational (including calculative) procedures. By focusing on the discourse and practices that enable government to operate, this allows different insights into what after Foucault we may call the “truth game” (i.e. this instance of tax). This is not as Foucault puts it “the discovery of true things” (Florence/Foucault⁷, 1994: 315) but rather the constitution of a game with true/ false, correct/ incorrect statements and interpretations carried on via certain practices including discursive practices, and taking place in a domain of governmentality. A fuller discussion of the theoretical approach will be undertaken in section 1.5 below.

1.2 The IR: past and present

In this section I first discuss the IR as a whole organisation as a backdrop before looking at the department of the IR, namely the Large Business Office (LBO) which deals with large corporates. For the purposes of this research, the IR's heritage can be separated into two periods: the old regime dominated by bureaucracy and the new regime influenced by NPM.

Until April 2004 there were two National tax gathering bodies in the UK; the IR dealing with direct tax including income taxes and corporate taxes; and HM Customs and Excise (C&E) dealing with indirect taxes such as VAT. This was an uncommon arrangement as the majority of tax jurisdictions have one entity dealing with both direct and indirect taxes (Cm 6163), for example Canada Revenue and Customs and the Internal Revenue Service (IRS) in the US. Given that the vast majority of the fieldwork was undertaken in the period prior to April 2004, this thesis limits itself to that period when the IR was a separate department of UK central government. The Minister of State who was responsible for the IR was the Paymaster General in the Treasury office. The activities of the IR as shown in the Annual report for the year ended 31 March 2003 include:

- “collecting income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duty and National Insurance Contributions;
- administering Working Families' Tax Credits and Disabled Person's Tax Credits and preparing for New Tax Credits;

⁷ It is now acknowledged that Foucault under the pseudonym of Maurice Florence wrote an entry on Michel Foucault in the *Dictionnaire des philosophes*, edited by Denis Huisman (Presses Universitaires de France, 1984) towards the end of his life (Gutting, 1994: viii).

- providing valuation services for rating, Council Tax, Inland Revenue and other public sector purposes;
- providing policy advice to Ministers in all the above areas;
- administering Oil and Gas Royalties and enforcing the National Minimum Wage on behalf of the Department of Trade and Industry;
- collecting student loan repayments” (Cm 6050: 39).

These activities have changed since the Board of the IR was established as a distinct department of the UK Government in 1849⁸. Since the 19th century the IR has had operational responsibility in practice for collecting tax in accordance with legislation passed by Parliament (Lamb, 2002). However the scope of the IR’s activities has widened in that, as well as collecting tax, the IR is now responsible for paying out tax credits. In common with other government departments the IR was a classic bureaucratic organisation. Bureaucracy comes with structures of administration. Weber regarded bureaucratic management as constituting three areas; official duties, authority governed by rules, and the duties carried out by qualified employees (Weber, 1947: 196). I discuss the notion of bureaucracy in the context of the development of the IR further in Section 5.3.

Within the Civil Service the emergence of NPM was represented by “management by accounting” in that accounting became a key aspect to the organisation and was a key factor and constituent of any proposed and actual changes (McSweeney, 1994). The reforms introduced were intended to address the criticisms of the old system: inputs were not related to activities or outputs and accounting was carried out on a receipts and payments basis. The accounting reforms introduced included the Financial Management Initiative (Cmnd. 8616), the Fulton Committee (Cmnd. 3638) and the Next Steps

Initiative (HC 496)⁹ and concentrated on changing the scope and reach of accounting in order to improve the management of the public sector (McSweeney, 1994 :263).

The bureaucratic stage of the IR is the inward facing IR. This approach can be summarised in a two by two model as detailed below:

	Inward facing
Practices <i>(What gets done)</i>	Operational
Discourse <i>(What gets said)</i>	Management

Figure 1: The “two box” entity

- **Inward facing operational practices**

There is an increased emphasis on the 3 ‘E’s (economy, efficiency, effectiveness¹⁰) as a result of the implementation of the new Resource Accounting and Budgeting system introduced into Government

⁸ www.inlandrevenue.gov.uk/history/taxhis2.htm seen 11.4.03

⁹ The details of these initiatives are beyond the scope of this thesis.

¹⁰ Where efficiency is the difference between actual input and actual output; economy is the difference between actual input and planned input and effectiveness is the difference between actual output and planned output. Effectiveness can be split into two forms: cost-effectiveness; and outcome effectiveness where a cost effectiveness delivers its outcome objectives (Bailey, 2004).

departments. The Public Finance literature introduces a fourth dimension “equity” which relates to the distribution of costs and benefits of public finance (Bailey, 2004). This has resulted in more autonomous activity as employees are subjected to targets and performance indicators.

- **Inward facing management discourse**

Management is now answerable for achieving the targets that articulate and define proper (i.e 3 ‘E’s) inward facing activity. They are in that process increasingly being judged on what they say as well as what they do. They have to talk the ‘right’ talk, as well as walk the right walk.

Thus the corporate tax compliance process must be viewed against a background of a bureaucratic organisation which itself is changing as a consequence of NPM. The changes to the IR have not been just limited to the range of its activities being expanded. In addition the new approach has been demonstrated by a wider appreciation of managerial activities such as strategic policy making; reconceptualising the taxpayer as a customer; new IT approaches; the use of performance targets and the introduction of the Resource Accounting and Budgeting system. In the course of the CRAKA project we developed a four by four matrix (Hoskin, Lamb and Tuck, 2001b:2). We suggested that the IR has moved from being a “two box” entity to a “four box” entity which we refer to as the IR ‘boxology’ (Figure 2).

	Inward facing	Outward facing
Practices <i>[What gets done]</i>	Operational	Strategic
Discourse <i>[What gets said]</i>	Management	Marketing

Figure 2: “The Inland Revenue ‘boxology’”

Source: Table 1 Hoskin, Lamb and Tuck (2001b)

The inward and outward facing IR is one that incorporates a new-style of strategic practices allied to a now integral marketing discourse.

- **Outward facing strategic practices**

The IR is refining its role with central government. It is in the vanguard of UK Government policy. The role of IR is to be part of the wider “social agenda” as articulated by the Labour Government (Martin, 2002). One impact of this is that the variety of activities of IR have increased from the mere collection of tax as described above.

- **Outward facing marketing discourse**

The IR has introduced a customer service orientation. This development is an important part of a number of changing practices which are discussed in more detail in Chapter 8. There I examine the customer

discourse adopted by the IR in the context of the wider body of taxpayers and in particular the large corporate taxpayer.

All of these factors have caused significant changes to the way in which the IR deals with large corporate taxpayers and the relationships it has with them. Part of this development is structural with the setting up of Specialist Large Taxpayer Compliance Units (SLTCU) by tax administrations (International Monetary Fund, 2002). These units deal with large corporate taxpayers. In the UK the IR set up the Large Business Office (LBO) which deals with 900 of the largest UK groups of companies, including banks, building societies and insurance companies. There are approximately 850 employees¹¹ of the LBO. In Chapter 2, I discuss further the reasons for setting up these units and the benefits and risks associated with their formation. Another development is the change in the practices and discourse used when dealing with large corporates. These include different practices; internally within the LBO such as remaking employees to be outwardly facing, and externally by the LBO to clients in general (customers) and large corporates.

1.3 The Large Corporate Taxpayer

The research undertaken has focused on the large corporate taxpayer. Whilst there are differences between individuals and companies, the basic tax regime of these entities has similarities; likewise with the traditional approach to large corporates, and small and medium sized companies. However when corporates

¹¹ <http://www.inlandrevenue.gov.uk/lbo/index.htm> seen 7/04/05

become transnational the possibilities for widespread use of tax minimisation strategies across jurisdictions become greater. The large corporate will establish different relationships with the tax administration of the country in which the holding company of the large corporate is situated and tax administrations of host governments where subsidiary activities are carried out.

The great majority of the interviews were carried out with tax directors and tax managers of FTSE 100 groups. These groups have complex structures and tax affairs and are able to structure their activities to take advantage of tax planning opportunities. All but one of the FTSE 100 groups of companies (A5, 2003) employ tax specialists in an in-house tax department to deal with tax compliance and tax planning. These departments will deal with the full range of taxes and not just Corporation Tax; in that they will be responsible for the all the tax affairs of the group including payroll taxes and VAT. The tax departments vary in size from one individual to a team of 3 –10. In the words of one interviewee the tax departments are ‘lean and mean’ (interview, A5, 2003). Some of the tax departments use an outside professional firm to prepare the corporation tax computations but they retain responsibility for the submission of the tax returns and dealing with queries from the IR. Others will prepare the tax computation in-house. The groups use professional tax advisors, mainly tax specialists from either the Big 4 firms of accountants or major law firms, to advise on planning opportunities, acquisitions, mergers and restructuring and to advise on negotiations with the IR in complex areas such as transfer pricing¹², ‘controlled foreign companies¹³’ etc. Some of the groups

¹² Transactions between connected companies have to be carried out at an arm’s length basis for taxation purposes. Transfer pricing refers to the price at which the transaction is conducted.

outside these companies will employ a firm of professional advisors to prepare the tax computations and deal with the IR enquiries. It was decided to focus the research on those groups which had an in-house tax department for two reasons. Firstly, they would have more direct experience of dealing directly with the IR rather than through an intermediary and, secondly, some of the IR changing practices such as the New Compliance Process (“NCP”) have been directed at those groups which have an in house tax department.

The work of these in house departments has changed in recent years (KPMG 2004; PricewaterhouseCoopers, 1999). From a previously passive role where the tax department were seen primarily as cost managers, the in-house tax function now is expected to add value to the rest of the corporate business (PricewaterhouseCoopers, 2000b) and best practice includes marketing its services as knowledgeable and professional experts to other parts of the corporate group (Interview C5; PricewaterhouseCoopers, 2002). Therefore in-house tax departments have had to adopt a customer focus approach within their organisations. The increased expectations that most large groups have of their in-house tax departments are reflected in the enhanced goals and objectives which the modern tax director/ manager is expected to achieve in order to be considered successful and to gain the rewards associated with success. This has a direct impact on the behaviour of the tax departments and

There is potential for disputes between the IR and the taxpayer on whether the transaction price is an arm's length price.

¹³ Controlled Foreign Companies legislation is a complex anti avoidance provision which under certain conditions taxes in the UK the profits of subsidiaries tax resident outside the UK (which would not normally be subject to UK tax). It applies to those subsidiaries which are subject to a lower level of taxation than if the same subsidiaries were UK tax resident.

the relationships they develop with the IR in the course of the tax compliance process.

1.4 Corporate Tax Compliance

Alm, (1991) defines tax compliance as “reporting all income and paying all taxes in accordance with the applicable laws, regulations, and court decisions” (Alm, 1991:577). However corporate tax compliance is a term which has different meanings to different individuals. To the tax professional in the private sector, such as a partner or employee of a Big 4 firm of accountants, one definition of corporate tax compliance is the process of submitting corporate tax returns to the IR. To the IR, compliance is an “activity to chase people who haven’t got it [the tax computation] right” and “customers doing what they should do in relation to the rules” (Senior IR official, IR6, 2004).

There are two divergent processes of compliance from a corporate viewpoint. Firstly a company’s compliance work needs to be performed effectively and at minimum cost. Secondly ‘compliance’ includes carrying out tax planning activities where the ‘value added component’ is to ensure that the company is bearing the lowest (taking all costs into consideration¹⁴) possible tax burden. Although these processes apply to the large corporates there are significant differences between the process for a single small company and a large corporate group due the specific practices as discussed earlier in this chapter.

¹⁴ Costs here include both tax and non tax costs (Scholes et al, 2002) and opportunity costs.

From an IR perspective the process of corporate tax compliance has changed with the introduction of new rules such as 'Pay and File' and Corporate Tax Self Assessment (CTSA) in the early 1990s designed to speed up the process of assessing and collecting tax due. The IR was previously responsible for correctly applying the legislation and calculating the tax liability based on information provided by a company in a non standardized way. There were no statutory deadlines by which accounts and tax computations had to be submitted to the IR. This frequently resulted in long delays and the IR often had to resort to listing the information required but which it had not received for a hearing before the General Commissioners of Taxes before the information would be received from the taxpayer. In addition there was no set single time limit for when the tax liability for the year of assessment had to be paid. The date by which the tax liability was due was calculated using a complex set of rules which was determined by the date of the assessment raised by the IR. This assessment by the IR was often based on estimated profits chargeable to tax using the prior year's result as a guide.

In 1993, 'Pay and File' was introduced. Under this legislation¹⁵ a company had to estimate the Corporation Tax liability prior to receiving a formal assessment from the IR; make a payment of taxation within a set time frame and file its Corporation Tax form in a standard format by a fixed date. However the IR was still responsible for agreeing the computation and determining the profits chargeable to Corporation Tax. The relevant Inspector of Taxes would have to issue a notice of determination based on the profits agreed. This procedure was

¹⁵ Finance Acts (No2)1987 ss 87-97, 1990 ss 95-103 and 1993 Sch 14.

changed with the introduction of CTSA in 1999. Under this arrangement companies (on an individual basis) complete a prescribed format return known as a 'Company Tax Return'¹⁶, which details their taxable income and their own calculation of the tax due. This return has to be submitted within 12 months of the end of the accounting period, although the tax due is paid at an earlier date either; partly within the year of assessment and partly shortly after the end of the year of assessment, or nine months after the year end, depending on the size of the taxable profits of the company. The return can be amended up to 12 months after the filing date by the taxpayer. The IR has 12 months from the filing date to give notice that they are intending to commence enquiries (COP 14, 2003). CTSA has therefore introduced new managerial time relations into the traditional relationship between the IR and the taxpayer.

The impact of the change in the Corporation Tax compliance process has given rise to changes in the way each party operates. Traditionally enquiries into the tax return have been commenced by written correspondence with recourse to meetings if an impasse in the negotiations has occurred. There is a move towards meetings held before the submission of tax computations and commencement of enquiries by letter. With the introduction of CTSA areas of concern now have to be disclosed by corporates to the IR rather than waiting for the IR to raise questions (e.g. transfer pricing issues). Additionally the IR now assume the information shown on the return is correct unless it is found to be otherwise following IR enquiries and this has altered the audit methods employed in the examination of the tax return.

¹⁶ CT600, 2002 Version 1

I seek to demonstrate that these changes in practice have impacted on the relationship between the parties and that they therefore would seem to alter the traditional balance of power between the IR and large corporates, raising new opportunities and threats for each party. Correspondingly the IR is engaging in a different game with these large corporates. I explain what I mean by these new opportunities and threats in the following section.

1.5 Theoretical Approach

Complex power relations exist between the IR and the large corporate taxpayer. On one level the IR is the regulator of the tax compliance process and it has recourse to law and ultimately to the Courts by virtue of its position as a regulator. There are strengths and weaknesses on each side. The IR is employing new practices such as open questioning and new discourses such as the construct of the customer for taxpayer, such that the taxpayer is referred to by the IR as a 'customer'. However the large corporates have a range of practices available to them - 'a whole series of specific governmental apparatuses', with which they can also deploy and exert power in the relationship. For instance there is potentially greater expertise to be employed and/ or deployed on the private sector side which potentially results in an unstable balance of power between the two sides in the relationship.

In my opinion the choice of a Foucauldian framework is the best approach to link practices and discourse whilst at the same time distinguishing the two conceptually. The range of what gets said by the IR on one side of the

compliance process and the large corporates on the other side, is different both at the surface level and at a deeper level. Discourse is not just what gets said, but also involves codes and practices and, just as importantly silences i.e. what does not get said. The shared discourse between the IR and large corporates cannot be restricted in a binary sense as this shared discourse affects the whole taxpaying population. Accepted practices are part of “discourse as produced truths” (Kendall & Wickman, 1999: 40), so discourse is a key constituent of the ‘truth game’¹⁷ as will be discussed more fully later.

Governmentality as articulated by Foucault, describes the movement from an older historical regime, sovereign power, to a modern, disciplinary power. Sovereign power as exercised by rulers operates as a top down power whose subjects are kept in line via punishment (and often horribly punished). Disciplinary power operates from top to bottom and bottom to top, and also horizontally. The disciplinary approach has been developed in a number of research projects in recent years. Some of these (Anderson-Gough, 2002; Lim, 2000) have drawn in one way or another on the work of Hoskin and Macve (e.g. 1986; 1988) and the theoretical framework expressed by Hoskin (1994) and others. In this approach drawn from the ideas articulated by Foucault (1977a, 1986), there is a particular focus on how disciplinarity is a two-sided term, which designates both a certain mode of knowledge (the knowledge ‘disciplines’), and a mode of conduct (behavioural discipline, including self-discipline). The disciplinary model tells us that we need to understand and factor in the constitutive role of knowledge in the operation of power relations.

¹⁷ Foucault writing as Maurice Florence, 1994.

The power exercised by discipline is not inconsistent with a bureaucratic organisation whose power is exerted by administration as Burrell (1988) argues.

“thus whilst we may not live in total institutions, the institutional organization of our lives is total...Foucault and Weber are not unconnected, for the ‘bureaucratic mode of domination (Weber 1947) is also the ‘disciplinary’ mode of domination (Smart 1983,1985). Individuals may move in and out of given organizations but remain, for most purposes, within either a form of bureaucratic organization, or at least within a life space which is shaped and moulded by its confrontation with bureaucracy. For Weber, human life takes place within the ‘iron cage’ of bureaucracy. For Foucault, human life is existence within an institutional framework of incarceration” (Burrell, 1988:232-3).

However disciplinarity is not limited to power but incorporates knowledge in a further respect. We need to understand the key roles of knowledgeable subjects. People at the top of organisations, bureaucracies and outside experts are all exponents of disciplinary expertise. A key aspect of this research is tracing how these knowledge experts are taking on new kinds of expertise and how they interact both inside the bureaucracy and externally as expert ‘subjects’.

Discipline is only one type of power, albeit a complex power. Disciplinary power operates in many directions and deploy disciplinary expertise in its operation. Therefore subjects are embedded in a net of expertise where they have to engage actively with knowledge and being knowledgeable. Therefore they are never purely passive objects of some external rule based disciplining

but also become self disciplining and self regulating. In Chapter 4, I develop this further.

This thesis argues that modern apparatuses of government are being developed in terms of their external relations to taxpaying subjects through the adoption of a customer focussed approach and in respect of the large corporate taxpayer an added value approach. At a more specific level the corporate tax compliance process is undertaken by representatives both of the IR and of the corporate taxpayer. These elite professionals are being made into expert knowledge subjects both by discourse and the practices of the Corporate Tax Compliance process. During the event that forms part of the process of compliance, these expert knowledge subjects undertake 'truth games' whereby the detail of the tax computation is investigated by the IR to ensure that the appropriate amount of tax is assessed. Chapter 4 will focus on the theoretical underpinnings of this thesis.

1.6 Structure of the Thesis

This thesis is divided into nine chapters. In chapter 2, I outline the background to the research area. Chapter 3 is the literature review. Chapter 4 is the methodology chapter. In this chapter I amplify the reasons for the choice of theoretical model and the particular research methods and methodology adopted. Chapter 5 and 6 are the narrative chapters which discuss the IR; Chapter 5 focusing on the structure whereas Chapter 6 looks at the processes and practices of corporate tax compliance. Chapters 7 and 8 are the analysis chapters which consider the parties to the compliance process and how they

have changed. Chapter 7 considers the tax official whereas Chapter 8 examines the corporate taxpayer. These chapters examine the development of the knowledge expert subjects. Chapter 9 looks at the event of compliance and how the 'truth games' are played between the subjects. Chapter 10 is the concluding chapter.

Chapter 2 - Setting the Scene: the background to the Corporate Tax Compliance Process.

2.1 Introduction

The purpose of this chapter is to explain the context of the corporate tax compliance process and how this process can be defined and differentiated for large corporates. As previously mentioned in Chapter 1, it must be recognised that the process as such must be distinguished from the process as explained by the parties.

This chapter is divided into six sections. Section 2.2 looks at the nature of Corporation Tax; Section 2.3 tax avoidance; Section 2.4 discusses the corporate taxpayer; Section 2.5 considers why tax authorities set up specialist large taxpayers' compliance units; Section 2.6 examines the elite group of professional dealing with taxation of large corporate entities and in Section 2.7 I look at the external factors affecting Corporation Tax compliance.

2.2 Corporation Tax

In the UK companies paid a combination of Income tax and Profits tax until 1965 when Corporation Tax was introduced. Although Addington's Income Tax Act 1804 introduced Income Tax on the income of individuals, corporate bodies were also subject to income tax, however this tax acted as a withholding tax on dividends (Brooks, 1986: 387). This meant that the shareholder in

receipt of the dividend had received net income (in effect the dividend has been “franked”) and no further tax, payable by the shareholder, was due on the dividend.

The Joint Stock Companies Act 1844 enabled companies to be incorporated by registration and the Limited Liability Act of 1855 allowed shareholders of companies to limit their liabilities for the company’s commercial debts. Initially these early companies were viewed as being similar to partnerships because a common form of ownership would have been the closely held company in which there were only a few shareholders and those shareholders were frequently also the directors of the company. Under UK tax legislation partnerships are not subject to tax. The profits of the partnership are subject to Income Tax in the hands of the partners. Profits tax in one form or another¹⁸ was also payable by companies. This was first introduced in 1915 and was assessed on business profits.

In 1965 the Labour Government reformed the taxation treatment of companies and introduced Corporation Tax. The main reasons given for the introduction of Corporation Tax were that there were perceived to be generous allowances on investments which had the effect of widening the gap between accounting profits and taxable profits on which the tax liability was calculated, and tax was calculated on a preceding¹⁹ not a current year basis (Talbot, 1964). However in the case of *National Provident Institution v. Brown*²⁰ it was found that tax can

¹⁸ From 1937 – 1946 the National Defence Contribution was a form of profits tax.

¹⁹ The previous year profits were taken as the basis for the taxable profits in the year of Assessment.

²⁰ (1921) 8 TC 57

only be assessed on income which has a source in the year of assessment. Even though special rules were in force for opening and closing years, certain income was doubly taxed whilst other income was not taxed at all. Another consequence of this was that shareholders were receiving credit for tax which had not been paid as their dividends were being paid out of accounting profit. The Government of the day also wanted to encourage profits to be retained in the company and not distributed so that the company could grow using their retained profits (Cmnd. 2347).

Corporation Tax when first introduced was therefore a classical system of taxation in that there was no credit in the hands of the shareholders for taxation which had been paid by the company making the dividend payment. In 1973 the Conservative Government introduced a tax credit system: an imputation system known as Advance Corporation Tax. On paying a dividend a company had to pay an appropriate amount of corporation tax in advance of the normal payment date. The shareholder on receipt of the dividend grossed up the dividend by the tax paid and received a credit against their tax liability for this tax suffered. The company was able to set off this advance payment of tax against their liability to Corporation Tax. Advance Corporation Tax was abolished by the current Labour government's Finance Act of 1998 although a form of an imputation system remains in a modified form (Oats, 2002; Harris, 1996).

All companies are required to notify the IR of their chargeability to tax for an accounting period²¹. This means that if the company has any taxable income on which tax is payable and is not covered by tax deducted at source then they must inform the IR accordingly. In addition there is a self assessment process, introduced in 1999. A company has to submit a return known as a 'Corporation Tax Return' together with financial statements for each accounting period on which they calculate their own tax liability and pay the tax due to the IR without prior assessment by the IR (IR, 1999). The return is due 12 months after the end of the accounting period, otherwise monetary penalties are incurred. An accounting period does not have to coincide with a year end date and may be shorter than 12 months. Once the tax return is received by the IR the information is 'processed', which means that the information is entered into the IR's own computer system. The IR have the right to check the completeness and accuracy of the return and can open enquiries within 12 months of the return being submitted.

Corporation Tax for large companies²² is paid in equal quarterly instalments commencing the 14th day of the 7th month of the accounting period with three further instalments at 3 monthly intervals (IR, 1999).

²¹ There are specific rules for defining an accounting period which is the chargeable basis period for taxation (ICTA 1988, Section 12).

²² Companies with taxable profits of more than £1.5 million. This limit is reduced where the company is a member of a group of companies or under the common control of an individual or company.

2.3 Tax Avoidance

In Section 1.4, I briefly explained corporate tax compliance. This section expands on this by considering specifically non-compliance and the boundary between non-compliance and compliance.

Non-compliance can either be intentional, for example fraud, in which case it is generally referred to as tax evasion, or non-intentional, which arises in circumstances, for example, where the taxpayer does not understand the complexity of the return. For large corporates the likelihood of non-intentional non-compliance is remote since, tax compliance for this sector is carried out by tax specialists either within the large corporate or a Big 4 accountancy firm.

The bi-polar assumption that there is a clear distinction between compliance and non-compliance can be questioned. The relationship between compliance and non-compliance alternatively may be thought of as a continuum between the two polar ends.

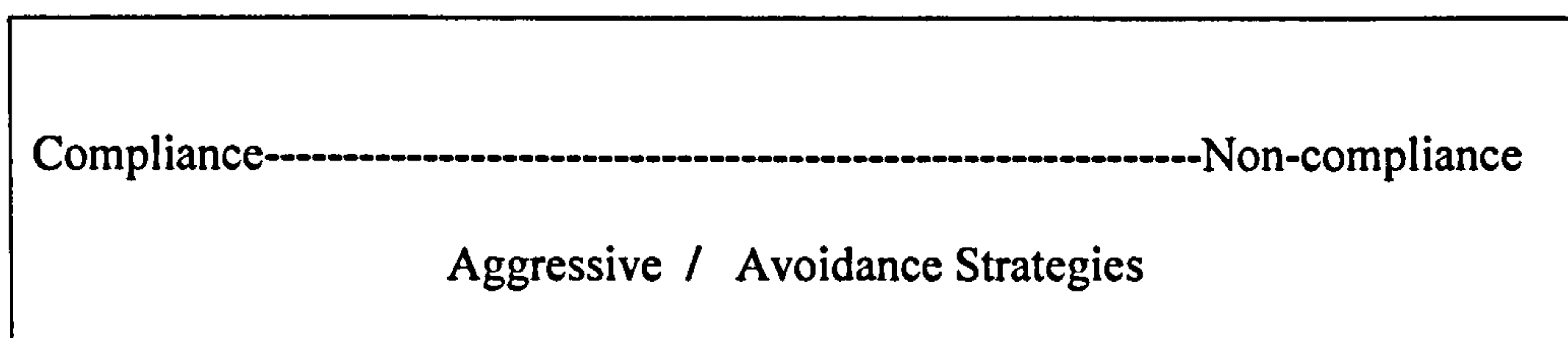


Figure 3: The compliance/ non-compliance continuum

Between the two extremities there is a region where being compliant is debatable. A taxpayer may be pursuing aggressive tax policies in that they may

be compliant with the letter of the law but the activities may not be in accordance with Parliament's intentions when the law was enacted, that is, the spirit of the law. Freedman (2003) has described this position as "non acceptable" avoidance.

In addition for large corporates there will be a number of "grey areas" in the interpretation of the tax legislation. The tax legislation does not cover all eventualities and is not all-inclusive. In addition the legislation is designed for existing transactions and scenarios and although it contains basic tax principles, it cannot predict the tax treatment of new types of transactions that Parliament cannot foresee. For complex or original transactions not envisaged when the tax law was enacted the IR and the corporates will need to apply the existing legislation in order to determine the tax treatment and hence tax liability. This application of the existing legislation becomes more difficult the more complex or unusual the transaction concerned. The process of applying existing legislation in these circumstances is a matter of interpretation: the taxpayer is likely to interpret the legislation in their favour whereas the IR is likely to interpret the legislation in such a way as to increase the tax take on the transaction.

The difference in interpretation of the tax legislation, and hence the tax impact of the transaction, will be a matter of discussion between the two parties: the IR and the corporate taxpayer. As the tax legislation does not provide an absolute answer to the question: "what is the correct tax treatment of this transaction?", the tax ultimately payable will be a matter of negotiation

between the two parties or, if they fail to reach a negotiated agreement, the Courts will be required to interpret the tax legislation and decide the correct tax liability.

The assumption that the boundary between compliance and non-compliance is hard and fast has been reiterated in the distinction between evasion and avoidance. Both are types of non compliant behaviour. The difference between tax evasion (an illegal activity) and tax avoidance (a legal activity) in the UK was historically defined in the UK *IRC v Duke of Westminster* case²³. The principle established in this case is that people are entitled to arrange their tax affairs in the most tax efficient way. However this boundary has become less distinctive in recent years, through a series of judicial decisions starting in 1980 with *W.T. Ramsay v Inland Revenue Commissioners*²⁴. The Institute of Fiscal Studies Tax Law Review Committee's Report on Tax Avoidance (1997) found difficulty in defining tax avoidance. They have defined it as:

“action taken to reduce or defer tax liabilities in a way Parliament plainly did not intend or could not have intended had the matter been put to it.”

(Executive Summary, para 7).

Unlike other jurisdictions such as Canada, US and Australia, the UK does not have a General Anti-Avoidance Rule (GAAR) and in recent years there has been some debate about whether one is desirable. A Consultative Document was issued by the IR (1998) and proposed a GAAR which would have applied to corporate transactions only. The suggested definition of tax avoidance was:

²³ [1936] AC 377

²⁴ (1981) 54TC101.

“(a) not paying tax, paying less tax or paying tax later than would otherwise be the case; or

(b) obtaining a repayment or increased repayment of tax, or obtaining repayment earlier than would otherwise be the case; or

(c) obtaining payment or increased payment by way of tax credit, or obtaining such payment earlier than would otherwise be the case.”

(in Wallworth, 2000).

There was much debate surrounding this consultative paper. Whilst not in principle opposed to the introduction of a GAAR, the ICAEW’s concerns, for example, centred on the difficulty of successfully drafting the legislation to achieve its objective to counteract highly artificial tax avoidance schemes. They felt that the introduction of GAAR in the form envisaged by the Consultative document would introduce more uncertainty and necessitate the introduction of a specific clearance system (Institute of Chartered Accountants in England & Wales, 1998:3). Freedman (2005a) argues that in Canada where a GAAR exists, the Canadian Supreme Court is “more conservative” compared with the UK House of Lords where there is no UK GAAR²⁵.

There is evidence that the IR is interpreting the meaning of the term “avoidance” in a different way by stretching the definition of evasion to include various activities previously regarded as legitimate tax planning (i.e.

²⁵ The impact of this legislation is obviously of concern to multinationals but it is not relevant to this research as this research is looking at the relationship in the UK of large corporates, a majority of which will be multinationals, and the UK IR.

avoidance) activities within the business community. It is linking avoidance with evasion²⁶.

“We [IR] simply cannot afford to go soft on fraud and avoidance in the large corporate sector, nor will we be doing so” (Montagu, 2003).

The practice of tax avoidance is not limited to arranging transactions in the most tax efficient structure²⁷. Tax avoidance activities can also be linked to the process of complying. A taxpayer should make full disclosure²⁸. The boundary between what is acceptable and what is not will be viewed differently by the different players in the tax compliance game. What is considered to be tax avoidance to the IR and therefore subject to closer scrutiny, may be regarded as effective and legitimate tax planning by a taxpayer. However the IR’s concentration on this emerging view of tax avoidance has an influence on the relationship of corporates with the IR as can be seen from the following quote.

“A number of companies have expressed concern that some Revenue inspectors see tax avoidance and aggressive tax planning everywhere. They feel that this approach taints their dealings with the Revenue and makes it difficult for them to have an open and trusting relationship. Yet tax avoidance and aggressive planning are facts of life. A recent private sector survey suggested that they are prevalent in many large companies” (IR, 2001, para 67).

²⁶ An example of this is the recent re-definition of rules relating to personal services companies commonly referred to as IR35.

²⁷ Given the close links between financial reporting and tax accounting, there may be a close connection between tax aggressiveness and financial reporting aggressiveness (see Shah, 1996). The latter has become a matter of general and regulatory concern in the fallout from the Enron Corporation scandals. “The immediate effect is a sharp decline in the shares of any company that has acquired –fairly or unfairly- a reputation for aggressive accounting” (Financial Times, 31 January 2002).

²⁸ Disclosure of tax avoidance schemes for Income Tax, Capital Gains Tax and Corporation Tax was introduced with effect from 1 August 2006 (s309-s.319, FA 2004). This followed a limited disclosure of tax arrangements concerning employment and certain financial products in 2004. The disclosure has to be made to the IR by the scheme “promoter” within 5 days of the scheme being made available. <http://www.hmrc.gov.uk/aiu/index.htm> seen 21 September 2006.

This section has shown that tax avoidance is not an easily definable term and what is understood to be tax avoidance has a changeable meaning over time and differs with the perspective of either the IR or large corporates.

2.4 Who is the corporate taxpayer?

This thesis looks at the relationships in the process of corporate tax compliance for large groups of companies. Therefore a key question to address is: who is the corporate taxpayer?

A company can be viewed in a number of ways depending on whether it is being looked at from a legal, economic or political perspective. The legal perspective regards a company as a separate entity in its own right which can contract in its own name, sue and be sued, own property and have an unlimited life. From an economic perspective the company and its shareholders may be considered a single entity. This can be distinguished from the political perspective which treats a company as a tool to regulate the market in which the companies operate (Harris, 1996). By regulating the participants (corporate entities) in the market, the market is subject to regulation.

Under UK legislation, a company is regarded as a separate legal entity which is subjected to tax in the UK on its worldwide income if it is either incorporated in the UK or 'centrally managed and controlled' from the UK. A foreign company is subject to UK taxation if it derives income from a UK source or is trading in the UK. Any resulting tax liability is payable by the company and

the company can be sued for default of payment. So for legal purposes the company is the taxpayer.

In respect of a group of companies, each company is treated as a separate entity for tax purposes. The consolidated accounts of the group are not assessed to tax. In some countries, such as the US and Australia, there are provisions whereby groups of companies can submit a consolidated return for the group. In the UK there are no such provisions although within certain restrictions trading losses and other types of losses²⁹ can be offset by means of a provision known as group relief (Lamb, 1995; Lamb et al, 1998). For a group the significant company for tax purposes may not be the holding company of the group as the holding company may be simply an investment company holding shares in the subsidiaries of the group. The most UK tax significant company in a group is likely to be the main UK trading company of that group. However it may not be necessarily so as this company may have relatively straightforward tax affairs and although it may pay the greater amount of tax, more time and attention would be spent on a company which has more sophisticated financing arrangements. The reason for this is that the transactions would be more complicated and potentially interesting from an IR viewpoint in that tax revenue may be at risk, as there is more scope for tax planning schemes to reduce the amount of UK tax payable.

The directors have a fiduciary duty to the shareholders to safeguard the company's assets. However typically this activity is delegated by the Board of Directors to a professional manager. The individual most likely to have the

ultimate responsibility for the group's taxation affairs in a large group of companies is the Financial Director, who may then delegate the detailed responsibility to a tax director or tax manager. It is common for the tax manager to be a Chartered Accountant³⁰ who may also be professionally qualified as a Chartered Tax Advisor^{31,32}. Typically such managers will have worked for a Big 4 firm of accountants specialising in taxation for a number of years before leaving the profession at a manager grade. A smaller number of tax managers are ex-IR. These individuals are likely to have been fully trained tax inspectors within the IR before taking up their present position.

The structure of in-house tax departments differs between groups of companies. Porter (1999: 50) defines an in-house tax department as "a unit of at least one staff member who is employed full-time within [the] organisation on tax matters. Such a staff member is referred to as a tax specialist". The structure of these departments is dependent on

- 1) whether the group prepares their own tax computations or outsources this work to a professional firm of accountants; and

- 2) the scale and variety of jurisdictions in which the group operates.

The degree of outsourcing also differs (McGee, 2003). At one extreme, the whole compliance process may be performed by the outsource service providers from preparation of the tax computations, submission of these computations to the IR, answering the IR's queries and the negotiation of the

²⁹ ICTA 1988 s. 380-391.

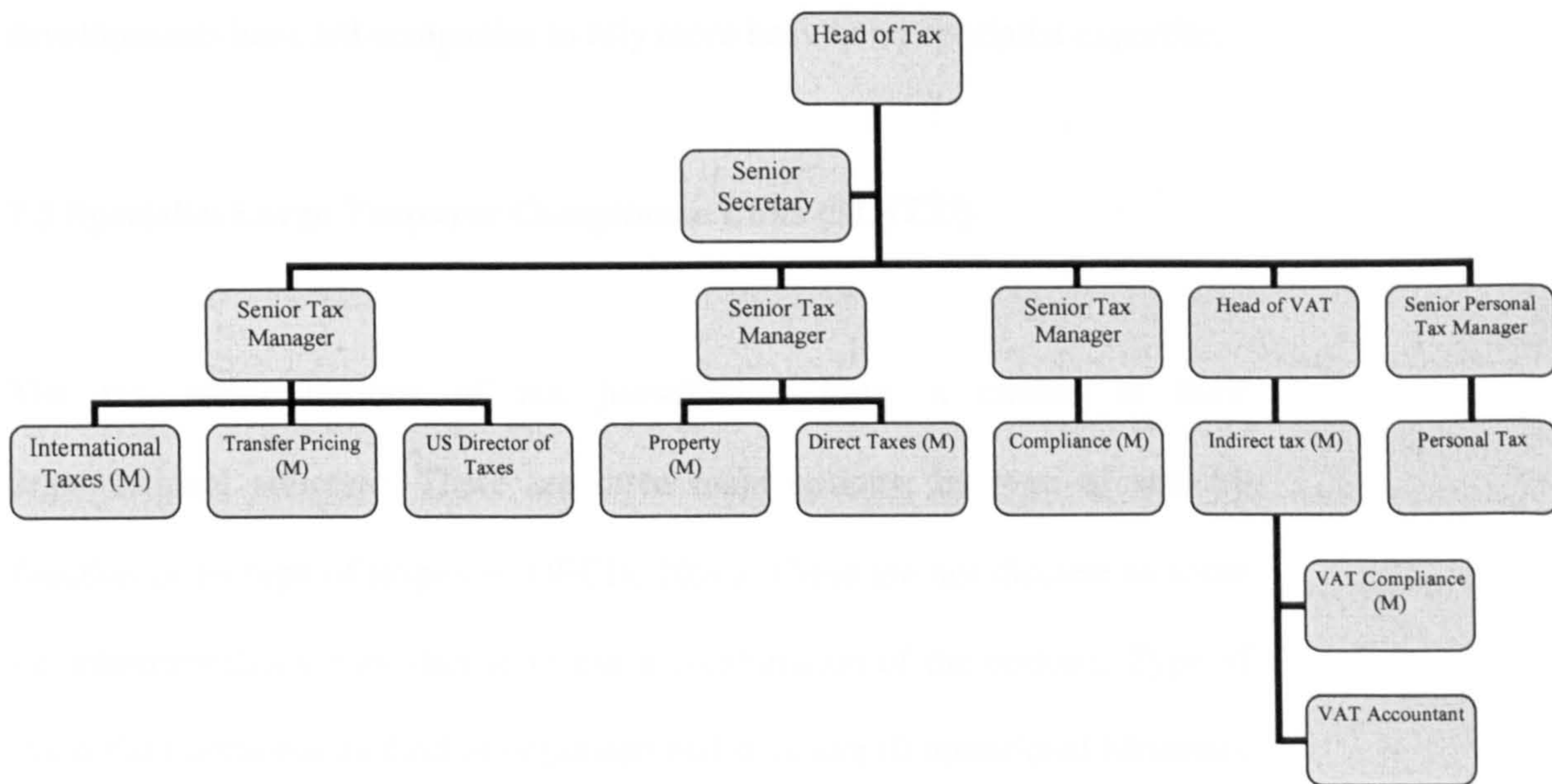
³⁰ Member of the Institute of Chartered Accountants in England & Wales or the Institute of Chartered Accountants of Scotland.

³¹ Member of the Chartered Institute of Taxation.

³² Out of the 12 interviews with tax managers, nine were Chartered Accountants. The remaining 3 were ex IR officials.

final tax liability. At the other extreme, only the preparation of the tax computations will be undertaken by the outsourcer and the in-house tax department will submit the computations and deal with the IR's questions and any negotiations.

A typical structure of an in-house tax department of a FTSE 100 group of companies is shown below. As can be seen from the figure below, the tax department is split into direct taxes compliance and planning, indirect taxes, employment taxes and personal taxes.



(M) refers to Manager

Figure 4: Organisation Structure of an in house-Tax Department of a FTSE 100 group of companies
Source: Interview C10.

The corporate tax compliance regime has become increasingly complex in the past decade. A number of external factors affect the way in which the corporate

tax compliance game is played. From the taxpayer's point of view, increased globalisation with its concomitant increase in the number and complexity of transnational transactions provides considerable scope for pushing the boundary between acceptable and unacceptable tax avoidance. The increased sophistication of financial markets, which the tax system has some difficulty in keeping pace with, also provides scope for taking advantage of ambiguities with a view to reducing overall tax liabilities. Some companies are risk minimisers, others play a more aggressive game. On the other hand, increased attention on corporate behaviour following world level events such as Enron has led to greater regulation of companies requiring them to be more transparent in reporting their affairs, particularly in the US. These recent developments have led companies to rely more heavily on specialist expertise.

2.5 Specialist Large Taxpayer Compliance Units (SLTCU)

The tax administrations of tax jurisdictions have a choice in their organizational structure. There are three main options; by type of tax; by function or by type of taxpayer (OECD, 2006). These are not discrete as some tax administrations may choose to use a combination of the options. Type of tax is the traditional method of organisational structure (International Monetary Fund, 2002). Under this option the tax administration is separated into different departments, each dealing with a particular type of tax. Each department is in effect a stand alone entity as it has separate functions to help it administer the particular tax by itself. An alternative method is to organize the tax administration such that each department is responsible for an essential

function such as tax collection, for example processing all tax returns resulting from different types of taxes. The third option is to segment the taxpayer base into 'customer segments'. The staff of the tax administration will be organised by these particular segments. The customer segments may be based on size of the taxpayer's operations, form of ownership (such as individuals), or economic sector such as retail businesses.

Different tax administrations also have different ways of organising and controlling large taxpayers (OECD, 2006). Specialist large taxpayer compliance units are based on the third option for organisation of tax administrations. The principal reasons for establishing SLTCUs have been to reduce the number of taxpayers which are non filing or do not pay; to maintain tax revenues at a certain level and to introduce systems such as risk management to curb non compliant taxpayers (IMF, 2002: 5). The number of SLTCUs in nation states has increased since the US Internal Revenue Service set up one in 1975 but the majority were established in 1990s (ibid).

The activities of these units range between controlling all aspects of compliance to being limited to auditing or debt collection. Their individual organisational structure also differs from a single office to a number of offices located across the particular territory or state.

A survey by the International Monetary Fund (IMF) (2002) reported that the advantages of setting up a specialist large taxpayer compliance unit concern improving the tax administration operations including securing tax revenues

and assisting in the identification and subsequently addressing major weaknesses in their operations. In particular:-

- “Improved identification and knowledge of the large taxpayers and their operations;
- More timely and accurate return filing and payment by the large taxpayers;
- Earlier detection of taxpayers’ non-compliance with filing and payment obligations;
- More effective audits targeted by economic sector and performed by better trained auditors;
- A reduced stock of arrears and therefore more targeted efforts by collection officers; and
- Better trained staff able to deal with more complex tax issues, provide higher quality services to taxpayers, and detect irregularities and corrupt practices.” (IMF, 2002: 36).

However there are risks in setting up a specialist unit if the unit is not sufficiently resourced, adequately championed by the Government, or has a lack of authority over the taxpayers within the unit’s remit, and if there is resistance from local tax offices outside the SLTCU impacting on local office morale. A main risk is the potential for duplication by creating a parallel tax administration.

In the UK the IR set up a SLTCU known as the Large Business Office (LBO) in 1997. In Chapter 5 I discuss the background to the establishment of the LBO and how the structure of it has developed since its formation. A key feature of the LBO is that it is split into 13 offices with sectorisation specialists or function specialists in areas such as insurance.

The IR faces increased pressure in the form of changes to UK domestic tax legislation. Pressure on government to increased revenue leads to a focus on tackling tax avoidance in areas such as transfer pricing, controlled foreign companies and securing disclosure of tax avoidance schemes. The IR is also under increasing pressure to keep pace with the changes noted previously in relation to the corporate tax environment. The IR is not just concerned with domestic revenue, but also has to interact with other revenue authorities. This includes sharing best practice with, visits by, and negotiations with (e.g. Advance Pricing Agreements³³) other Revenue authorities. The IR is also concerned with managing rogue practices such as aggressive earnings management (see Shah, 1996). As a result, a variety of strategies, including new expertise, are being adopted by the IR as a whole and the LBO in particular.

2.6 The 'elite professional' nature of large corporates' tax specialists

A key aspect of this thesis, in line with the view that modern government requires disciplinary expertise and disciplinary experts, is that the corporate tax

compliance process for large corporates is carried out by an elite group of professionals on both sides of the tax compliance fence. From the IR perspective tax officials who deal with the large corporates are senior tax inspectors who are the elite of their field. They have undergone specialist examined training to become tax inspectors and have a number of years seniority. The LBO case directors are senior civil servants. Likewise from the corporate or advisors' perspectives the individuals concerned will be professionally qualified, the majority of whom are accountants, with a substantial number of years of post qualification experience. The link between expert knowledge and professionalism has been appreciated and explored for some time (Parsons, 1968; Goldstein, 1984; Anderson-Gough, 2006). Although strictly tax officials and corporate tax advisors do not belong to the same profession, such as being Chartered Accountants, they share a claim to belonging to the taxation profession, although this is not a distinct profession as members of the taxation profession can originate from a number of different professions e.g. solicitor, accountant, Inspector of Taxes (Stary, 2006). These elite groups of professionals have a dual role. They both are involved in policy but also they sit across the table to negotiate with each other over the amount of tax payable.

2.7 External Factors

The environment in which the corporate tax compliance game takes place is subject to continuous change and both the corporate taxpayer and the IR are

³³ Advance Pricing Agreements are agreement between one or more tax authorities and a corporate taxpayer over the “correct” transfer price for inter- company transactions within a

having to adapt accordingly. This adaptation takes place against an increasingly complex background of tensions between the local, in other words the UK, and the global; the international environment. Multinational companies are able to change tax residence and move outside the UK³⁴, and so the corporate tax compliance game cannot be looked from a UK centric viewpoint only. The activities and interference of bodies such as the EC and the OECD only add to the complexity. In addition large corporates are engaging in frequent novel approaches to financing arrangements for which the tax legislation has not designed with those arrangements in mind. Likewise the IR is unable to focus exclusively on the UK tax treatment of transactions. Increasingly the IR is not just concerned with domestic revenue but also has to interact with other tax authorities. This includes sharing best practice with, visits by, and negotiations with (e.g. Advance Pricing Agreements) other tax authorities. The IR has to respond by raising its expertise as I will discuss in Chapter 7. Whilst the IR has to interact with other tax authorities there is increased competition between countries to attract Multinationals to enhance their economies and between tax authorities to maximise their share of the total tax take.

2.8 Chapter Summary

The purpose of this chapter was to set the scene for the following research project and to explain how the literature review in the following chapter makes sense within this context. In this chapter I have discussed the movement of the

group of companies.

boundary between tax evasion and avoidance so as to treat previous legitimate tax planning activities as “dubious” and considered to be unacceptable avoidance. This has included tightening of the tax rules and the “harding” of attitudes over time.

There is an increasingly sophistication in the activities large businesses which include more complex and original transactions, which the tax legislation fails to keep pace with, resulting in more “grey areas”, which give scope for different interpretations by the IR and the taxpayer. This results in more negotiations between the IR and the large corporate to ascertain the appropriate tax treatment. Consequently there is an increasingly use of expertise by large corporates whether provided in-house or from the Big 4 accountancy firms to assist in organising the corporate’s tax affairs and help with negotiating with the IR. The IR response to this development is to increase their own expertise and organisation such as the introduction of SLTCUs so that the IR can play the tax compliance game on a level playing field.

The next chapter reviews the existing literature dealing with corporate tax compliance from a number of perspectives; tax research, new public management and tax accounting research.

³⁴ This would undoubtedly involve some not inconsiderable costs which would include taxation.

Chapter 3 - Literature Review

3.1 Introduction

As stated at the outset, this thesis addresses the following two research questions:

- 1) How is the process of corporate tax compliance changing for large groups of companies?**
- 2) How is this process being managed by the Inland Revenue?**

The aim of this chapter is to discuss prior academic research studies that have addressed areas which impact on the research undertaken. The corporate tax compliance process can be looked at from a number of angles; from a tax viewpoint, a narrow view focussing on the body of rules, legislation and procedures; from the context in which the process takes place; and from an examination of the process itself and in terms of the participants as professional and knowledge experts. The first of these is found largely within the professional and legal literature. The second is most often associated with public policy literature. The third approach to this work is more diffuse and appears in a variety of literature as will be seen below. Accordingly this chapter is split into a number of sections.

This chapter concentrates on three key areas of relevant literature. I first discuss tax research in general and in particular tax compliance research and its

strengths and weaknesses. This addresses the first research question. The context is affected by changes to Central Government as the IR is a department of the UK central government and therefore the research must be sited in the context of the emergence of the new form of bureaucracy or what is also sometimes known as a post-bureaucratic approach, invoking such constructs as NPM. Since the NPM phenomenon was identified (Hood, 1995), work in the NPM tradition has reached a more mature stage in which accounting has become seen increasingly as an integral and strategic part of any NPM system, through the introduction and significance placed upon performance measurement and accountability. This section addresses the first question but also begins to address the second question. I extend this approach drawing also on the professionalisation and public administration literature to understand the tax participants as expert professional subjects.

The remaining part of this chapter is concerned with the second question. The IR has a role regulating corporate taxpayers through the administration of the tax system and the application of the rule of law. Taxation research has been widely seen as a field of study that needs to draw upon outside disciplines rather than being a separate disciplinary field in its own right (Boden, 2005). In consequence such research needs not only to draw upon such disciplines but be reflexively aware of the disciplines it chooses to use (Boden, 2005; Lamb, 2005). My home or starting point discipline is accounting so in the third section I examine the contribution of accounting-based research to the tax field, including work in both the conventional or positivist and the so-called critical accounting research traditions. I discuss how Foucault's work, not just on

disciplinary power but on governmentality, has been brought into play in some of the critical accounting research work. In the fourth section I look in more depth at the various contributions of work using a Foucauldian approach, including the study of discourse and practices, and how such work may help us understand the tax administrative process.

3.2.1 Tax Research

Tax research is a rich area (see Lamb et al, 2005). Taxation research, as just noted, has drawn on outside disciplines and so is interdisciplinary (Lamb, 2005). It is interdisciplinary in the sense that the study of taxation has drawn upon such fields as accounting, law, economics, political science and ethical philosophy (Lamb, 2005: 4), with a range of studies focussing on such issues as economic decision analysis, the behavioural strategies of taxpayers and tax advisors, the role of policy making, compliance costs of tax policies, the existence of a rational legal framework, and ethics. Studies within this interdisciplinary space can nevertheless be split into two types: those that draw principally on one disciplinary approach and those that seek to be more interdisciplinary. Both approaches have merits, the former using simplifying assumptions to clarify particular interactions, the latter seeking to reflect the complex nature of tax work with a more inclusive theoretical framework, but therefore incurring the costs of such complexity, e.g. generating more interactive, relational form of interpretation. This study draws upon both single-discipline and interdisciplinary work, with a particular focus on research carried out on tax compliance and tax administrative policy, and also on the

whole range of tax research that has drawn upon an accounting perspective. Each of the disciplines has their own distinguishable approach to tax research and it is worth here reviewing some key features of these approaches.

3.2.2 Tax Research as Legal Research

Legal research tends not to use empirical data, instead it involves categorising, criticising and constructing theories about legal events, legal structures, cases and the law. A proportion of legal researchers take a black letter law approach which Freedman (2005b) defines as an approach which “treats law as a distinct body of knowledge with some kind of internal coherence, exploration of which can provide answers” (2005b: 13). Some legal scholars look to a wider form of investigation which may draw in an empirical dimension e.g. by incorporating a historical perspective or with theoretical underpinnings drawn from a variety of other disciplines such as economics and sociology. However a key part of legal research is the appreciation of legal technique and the link with legal practice. Tax research in the legal paradigm has been greatly influenced by practitioners who combine research with practice (Tiley, 2000), examples include, Philip Baker QC, in particular on Human Rights (Baker, 2000); Malcolm Gammie QC (Bond et al., 2000) and Paul Farmer, Barrister, e.g. European Law (eg. Farmer and Lyal, 1994). Other research in addition to historical research (e.g. Stebbings, 1993, 1994) and criminal aspects of tax law (Salter, 2002), has taken an interdisciplinary approach. Some of the work by the Institute of Fiscal studies combines law and economic approaches for example work on corporate tax harmonisation (Bond et al., 2000). Freedman

and Green (1995) examined the inter-relationships of accounting and tax from legal and accounting viewpoints.

Picciotto (2002) combines tax policy with legal research in his book entitled *International Business Taxation*. This monograph is an important contribution to multi disciplinary research (Freedman, 2005b) and it examines key issues for multinational companies such as transfer pricing and anti tax haven legislation. Two other authors from a legal background who have made a significant contribution to the area of my research are John Braithwaite and Doreen McBarnet. Braithwaite, a regulation lawyer, has done so through his work at the Centre for Tax System Integrity at the Australian National University (CTSI)³⁵ with respect to tax compliance and the ATO Compliance model (Braithwaite, 2003a, 2003b; Ayers and Braithwaite, 1992). McBarnet has done so from a socio-legal perspective, both on her own and in conjunction with Whelan on 'creative compliance' which examines compliance with the letter of the law but not with the spirit of the law (McBarnet 2003, 1991; McBarnet and Whelan, 1999). This literature is discussed more fully in Section 3.3 on tax compliance.

3.2.3 Tax Research as Political Science Research

Political scientists' interests lie in tax policy research (Radaelli, 2005; Steinmo, 1993, 1998). They are interested in questions concerning the social power

³⁵ The CTSI was jointly funded by that University and the ATO from July 1999 for six years. The work of the centre located "tax systems and their administration within the context of democratic governance" <http://ctsi.anu.edu.au/about/index.html> seen 21 September 2006.

relationships between government, the state and the public including the influence of pressure groups (Citrin, 1979), constraints on social power (Martin, 1989), tax expenditures (Witte, 1983) globalization and technological advances (Bossons, 1988) and the actual policies of contemporary democracies (Steinmo, 1993). As Steinmo (1998) says “political scientists tend to focus on explaining what it is that governments actually do and understanding why they do it this way” (1998: ix). A key interest for political scientists is the role of the government in central government and local government and the relationship between ministers and the civil service (Rhodes, 2005). This is of interest to this research as the IR is a department of UK central government and tax officials are civil servants. In section 3.4 I look further at the changes termed NPM and at the role of civil servants.

Governments need to raise finance to fund public expenditure, and taxation revenues are a significant part of public finance (Bailey, 2004). However there are constraints on how much revenue can be raised by way of taxes especially with the impact of globalization (e.g. Tiebout, 1956). Based on rational choice theory³⁶ Levi (1988) has developed a theory of predatory rule in which she assumes that rulers maximise their revenue subject to three constraints; bargaining power; transaction costs and discount rates. Bargaining power refers to the degree of control over economic, enforcement activities and political resources. Transactions costs are the costs of both negotiating and implementing the revenue raising policies and the discount rate is a measure of the time frame in which the ruler i.e. the decision maker is operating. Hood

³⁶ Rational choice theory assumes that before proceeding with any action, individuals calculate all the costs and benefits of the action in order to maximize their utility.

(1985) shows that tax administration is an important constraint in tax policy. His view is that tax policy is constrained by the administration of it and in some cases difficulties in administration can alter the tax policy. He illustrates this point by examining the policy move from Estate Duty which was payable on death transfers to Capital Transfer Tax (introduced in 1975) payable on life time transfers as well as death transfers. This change in policy, Hood argues, was a result of unsuccessful attempts to make Estate Duty to work properly as social norms had changed since the enactment of Estate duty in 1894 such that the transfer of property occurred in lifetime as opposed on death.

However tax policy cannot be looked at in isolation from a political scientist viewpoint. As Slemrod (2003) notes that “a working understanding of both the details of the tax law as well as the economic and social framework within which the tax system operates is essential to evaluate tax policy” (2003: 145). Having very briefly reviewed the legal and political science tax research literature, I now turn to economic tax research.

3.2.4 Tax Research as Economic Research

Tax research within the economic discipline is well established and extensive and forms part of public finance research. The research focuses on the economic, efficiency and the allocation of resources, economic efficiency and incentives and equity and distribution (James, 2005). A key concern is maximising output given the resources available to the community.

The effect of taxes has been considered in the structure of corporate acquisitions (Erikson, 1998), the location of production facilities of US multinationals (Devereux & Griffith, 1998), the location of foreign direct investment in US (Hines, 1996) and the extent of international tax avoidance activity (Hines, 1999).

There are links in the US between economic tax and accounting tax research and joint conferences between economic and accounting academics give further encouragement to strengthen these links (Slemrod, 2003). In this context, Shackelford and Shevlin (2001) review empirical tax accounting research from a US perspective. They concentrate on three areas of tax research in accounting. Firstly the relationship between tax and non tax factors in decision making; secondly the research into linking asset prices with tax and thirdly the tax effect for companies of operating across different tax regimes either internationally for taxes levied at a national level and interstate in the US for taxes levied at a state level. This research is in the main based on the Scholes et al. (2002) model. This model is a positivistic approach explaining the role of taxes in organisations and effective tax planning. They posit that effective tax planning has three constituent parts which need to be considered, specifically:

1. the tax implications of all the parties to the transaction;
2. both explicit taxes (actual tax paid to the Revenue) and implicit taxes (indirect taxes paid as a result of lower before-tax rates of return on tax efficient investments), and

3. both tax and non tax costs such as the cost of doing the restructuring.
(Scholes et al., 2002).

Maydew (2001) when responding to Shackelford and Shevlin's paper takes the view that tax research carried out by accountants from a US perspective is rather narrower in its scope than Shackelford and Shevlin's viewpoint. It is based on microeconomics and finance and is of a quantitative nature. In Macnaughton and Mawani's (2005) review of the microeconomic literature, they note that this approach has developed from the Scholes and Wolfson model (2002). This research seeks to explain tax planning decisions by examining factors which maximise an objective function, wealth often utilising effective tax rates, subject to a number of constraints including both tax and non tax costs. A related literature looks at the impact of taxes on the capital markets (for a review see Holland, 2005): for instance the relationship between dividend yields and equity returns (Morgan and Thomas, 1998; Chui et al, 1992); the validity of tax assumptions in valuing the cost of debt (Franklin and Tuck, 2001). This "North American" type of research has influenced many of the mainstream US methodologies for undertaking tax research in accounting. This is part due to research in accounting having an economic research background (Lamb, 2005) and the volume of tax research undertaken in the US compared with the UK (Shackelford and Shevlin, 2001).

3.2.5 Tax Research as Accounting Research

“[Accounting is more than just the mere processes of] calculating, valuing, reporting, and evaluating financial transactions, performance and events. Accounting processes involve techniques, apply principles,

and attract theories of improvement and explanation. Accounting research focuses on these processes, their outputs, and the institutions around them” (Lamb, 2005: 56).

Within accounting research, taxation is sometimes viewed as a cost which has to be accounted for. The majority of tax research takes place within the major areas of accounting; financial accounting; financial management and management accounting. The range of research from an accounting discipline is wide³⁷ and draws upon other disciplines such as law as mentioned above in relation to tax and accounting (Freedman, 1995; Lamb, 1995, 2001, 2002; Macdonald, 1995; Noke, 2000; Oats and Tuck, 2006, 2005). This interdisciplinary approach is reflected in the critical accounting literature in that critical accounting literature draws upon other disciplines in particular sociology and accounting can be considered to be a “social and institutional practice” (Miller, 1994:1). In section 3.6 I discuss critical accounting literature in more detail.

Tax research has utilised a variety of methodological approaches. Hasseldine et al. (2005) note in recent work that approaches have ranged from case studies (Pentland and Carlile, 1996; Preston, 1989), interviews (Grasmick and Scott, 1982; Schwartz and Orleans, 1967), telephone surveys (Hite, 1997), postal

³⁷ The foci of tax research include reporting costs in published accounts (Holland, 1998; Hodgkinson, 2002); tax influence on financial reporting (Noke, 2000; Freedman, 1995; Macdonald, 1995; Lamb, 1995); interrelationship between tax and accounting (Oats and Tuck, 2005, 2006; Lamb, 2001, 2002); implications of tax legislation (Casson, 1998; Killian, 2006); organisation and management of tax practice and planning (Porter 1999a, 1999b; Hansford and Hasseldine, 2002; Hoskin, Lamb and Tuck, 2001a, 2001b); tax education and training (Freedman and Power 1992; Miller, 2002 and the tax influence on individual and corporate financial behaviour (Acker et al, 1997; Dobbs and Miller, 2002).

questionnaires (Hasseldine and Kaplan, 1992; Hite, 1989) and laboratory experiments (Kaplan, Newberry and Reckers, 1997, Roberts, 1994).

To understand how tax administrations function, it is important to review the literature on tax compliance research. A key aspect of understanding how tax administrations work is a consideration of how taxpayers respond to tax authorities and what influences them to comply with the requirements of the tax system in terms of rules and procedures. Previous research has looked at particular aspects of this relationship in a discrete manner and has been concentrated in well defined areas. In the following subsections, I focus particularly on the research that deals with tax compliance. I discuss key issues as follows: from the standpoint of the taxpayer in Subsection 3.3.2 and to a limited extent from the perspective of the tax authority in Subsection 3.3.3.

3.3 Tax Compliance

There is a considerable body of tax compliance literature. As mentioned in Chapter 1, Alm, (1991) defines tax compliance³⁸ “as reporting all income and paying all taxes in accordance with the applicable laws regulations, and court decisions” (Alm, 1991:577). This literature has approached tax compliance from a range of disciplinary backgrounds. Hasseldine et al, (2005) in recent work in this area, have identified the following approaches: economic (Andreoni, Erard and Feinstein, 1998), sociology (McBarnet, 2003),

³⁸ It must be noted that corporate tax compliance is a term which has different meanings. To the tax professional in the private sector such as a partner or employee of a Big 4 firm of accountants, one definition of corporate tax compliance is the process of submitting corporate tax returns to the IR.

accounting (Kaplan, Reckers and Roark, 1988), law (Smith and Kinsey, 1987) and psychology (Webley, Robben, Elffers and Helsing, 1991)³⁹. A common feature of these studies is that they focus on the reporting requirements of the tax system for taxpayers. Throughout this work, greater focus has been given to individuals as opposed to companies.

A number of studies looking at tax compliance research have approached the area from a behavioural methodology standpoint (Hasseldine, 2005). This approach addresses questions about how taxpayers and tax advisors make decisions and how these could be improved. Data is collected from surveys and from laboratory experiments whereby the researcher manipulates the data in such a way as to see whether the hypotheses based on prior theory are validated. In other words if one event happens then this will tend to lead to another event. Other researchers have formulated a model and tested the model to see if predictions are true. A feature of this type of research is that it is often quantitative in nature and based on the assumption that we can observe reality and this reality is objective truth i.e. a positivist viewpoint.

³⁹ Although not central to this research, an example of work carried out in the public sector tax practice is research on tax compliance costs (Lamb, 2005; Green, 1996). Tax compliance cost literature is well established and by using mostly large scale mail surveys supplemented by some interviews (Sandford, 1995: 378; Pope, 2005) looks at the costs that the taxpayer has to incur in complying with tax legislation (Sandford et al, 1999; Sandford 1995). Slemrod and Blumenthal (1996) looked at compliance costs for large business in the US. Research has been extended to include psychological costs in addition to monetary costs, (Woellner et al, 2002) and costs of income tax self assessment (Turner et al., 1998) and in Canada the compliance costs of individuals (Vailloncourt, 1995). The three key findings from this research on tax compliance costs worldwide are that compliance costs are firstly high with reference to either absolute terms, percentage of GDP, or by comparison with administrative costs incurred by Revenue Authorities; secondly very regressive and a major concern for small businesses and thirdly that the research into compliance costs has put compliance costs on the political agenda (Pope, 2005:210).

A body of research has focused not on compliance but on its opposite, non-compliance; the assumption being that compliance/ non-compliance is a bipolar term. Non-compliance can be split into two areas: firstly tax evasion (intentional and illegal non-compliance) (Webley et al, 2001, Alm, 1991, Roth et al., 1989); and secondly on unintentional tax non-compliance. The latter work has mostly focused on unintentional non-compliance by individuals (McKerchar, 2001; Hite and McGill, 1992; McBarnet, 1991). This literature is concerned with questions such as what makes taxpayers non compliant and from a tax administrative perspective, how to make taxpayers more compliant.

3.3.1 The Taxpayer's Perspective

As mentioned in section 3.3, a feature of this literature is that greater focus has been given to individual taxpayers or small family businesses rather than the large corporate taxpayer (Slemrod, 2004). For an individual such as an employee on a modest salary, there is little scope to plan their tax affairs in an efficient way whether illegally or legally. In the UK, Income Tax is deducted at source each month from their monthly salary under PAYE (Pay As You Earn) at prescribed rates and no further interaction with the tax authorities takes place as in these circumstances there is no requirement for a tax return to be completed. For a company or a self employed individual there are opportunities available for paying the incorrect amount of tax whether legally or not. These opportunities are much greater for large corporates as large corporates often operate in multiple jurisdictions and engage in complex transactions e.g. financing arrangements. In addition large corporates can manipulate the prices

for intra-group sales of goods and services which impact their profit on which tax is charged⁴⁰. However by reviewing the literature on individual and small corporate compliance, research areas can be identified and certain findings may be extrapolated to the large corporate environment.

Andreoni et al. (1998) address US personal income tax compliance. They describe the theoretical and empirical evidence of tax compliance literature from an economic perspective. They discuss economic compliance models such as the Allingham-Sandmo model (1972) and consider the threat of audit and detection and the imposition of penalties in deterring tax evasion. The Allingham-Sandmo model is concerned with the question of when a taxpayer is completing his income tax return, how much of his⁴¹ overall income should he declare and how much of it should he not declare and therefore evade taxes. In Andreoni et al's view, a weakness of the Allingham-Sando model is that one of the assumptions is that the taxpayer faces a constant risk of audit. They argue that this is not appropriate as a tax authority selects cases for audit on a risk basis, such as income being above a certain level. Most of the literature based on the Allingham-Sandmo model assumes that the attitude of the taxpayer to complying is based on rational choice (Pentland and Carlile, 1996:274).

The relationship between tax advisors and their clients is an important research area. Tax advisors act on behalf of their clients in dealings with the tax

⁴⁰ There is an extensive literature in academic disciplines such as in law, empirical accounting and economics, on the tax implications of transfer pricing (for discussion see Elliott, 2005; Elliott, 1995). However a review of this literature is outside the scope of this research and it is referred to here only as further evidence of large corporates playing a game with the tax administration.

⁴¹ The male pronoun is used for convenience and has no other significance.

authorities. Researchers have investigated using experimental methods the relationship between tax preparers (advisors) and their clients (taxpayers) (Schisler, 1995). Frecknall Hughes (2002) looked at the role of taxation practitioners in negotiating, with the IR, the fiscal valuation of unquoted company shares. Based on negotiation theory as articulated by Wall Jr. (1985), she concludes that the language and terminology of negotiation were used when agreeing the valuations with Share Valuation Division of the IR (SV). However SV drives the process and this type of work was dealt with by experienced tax practitioners.

Hite and Hasseldine (2003) find in a US study that returns prepared by tax professionals have less adjustments and tax assessments compared with returns completed by the taxpayers themselves. Schmidt (2001) carried out a study with adult taxpayers to investigate taxpayers' preference for aggressive tax advice from US qualified accountants such as Certified Public Accountants ('CPA's) as opposed to non CPAs. Murphy (2002) reports on an Australian study of aggressive taxpayers. This research sought to understand the factors that influence aggressive taxpayers' attitudes and perceptions to the Australian tax system. She concludes that taxpayers who take a risky approach seek aggressive tax advisors and there are multiple factors in an environment which is complex. As mentioned in section 2.4 large corporates either have an in-house specialist tax department or employ a firm of Chartered Accountants or lawyers to advise on their tax compliance. This may be an indication of large corporates' disposition to aggressive tax planning.

Shackelford & Shevlin (2001) identify the area of tax aggressiveness and the 'willingness of firms to avoid taxes' as possible areas for future research. Olhoft (1999) has examined the tax avoidance activities of US multinational corporations using effective tax rates⁴² as an indication of aggressive tax planning. The empirical results were obtained using regression analyses on a sample of US domestic companies i.e. companies operating in the US only, and US multinational companies. These results indicated that multinational companies with significant pre-tax profits have more opportunities and greater incentives to pursue tax avoidance activities compared to US domestic companies or companies generating lower profits, leading to their reporting lower effective tax rates. Much of the literature that has investigated the tax activities of multinationals is economics based and very little has been done in terms of a qualitative research approach.

A company which carries out aggressive accounting may also pursue aggressive tax approaches. Cloyd (1995), a US researcher, carried out an experimental study which investigated the inter-relationship between financial accounting treatment and aggressive tax treatment. Shah (1996) examined the close connection between tax aggressiveness and financial reporting aggressiveness given the close links between financial reporting and tax accounting. He concludes that tax planning schemes are implemented by corporates but they are assisted in this process by advisors, accountants and

⁴² The effective tax rate of a company is the ratio of the taxation charge to the profit before taxation as disclosed in the financial statements.

lawyers and in the case of tax schemes, the IR who give advance clearances on, albeit, a part of the transaction.

Doreen McBarnet, a socio-legal lawyer, is an author who has made a significant contribution in this area. Together with Whelan, she examines creative compliance with respect to financial reporting (McBarnet and Whelan, 1999). They use the term creative compliance to explain where the letter of the law is followed, but the transaction does not follow the intention of the drafters of the law. Companies pursue aggressive financial reporting treatment which complies with the letter of the rules of the existing professional standards but not with the spirit or economic reality e.g. off-balance sheet financing in order to obtain advantages such as favourable net asset values and increased earnings per share.

McBarnet (1991) looked at the amount of disclosure which constitutes creative tax compliance. Companies can over-disclose in that they can provide so much information which whilst relevant is not entirely necessary to understand a particular transaction that it is difficult for the tax official to see “the wood from the trees”. She also found that companies engage in fraud insurance. They seek Counsel’s opinion on a particular transaction in order to show that there was no intention to evade tax. By labelling or describing transactions in such a way the transactions or activities cannot be classified as violating law and are designed to confuse and obscure transactions from the IR.

McBarnet (2003) suggests that creative compliance is in part due to the nature of the law, and in part due to the attitude of taxpayers to it. She argues that the problem is not that taxpayers are not complying but the issue is the way in which they comply. This theme is reflected by Freedman (2003). She makes the distinction between acceptable tax avoidance and unacceptable tax avoidance, namely taking advantage of tax rules, but in a way that goes against the intentions of Parliament when the legislation was enacted. Both McBarnet's and Freedman's work reflects the nature of the game that large corporates engage in to alter significant results in their financial statements such as profit before tax, earnings per share and effective tax rates⁴³ in a way which is favourable to them.

3.3.2 The Tax Authority

Most of the literature on tax compliance has focussed on the perspective of the taxpayer. Less attention has been given to the viewpoint of the tax authority itself as the other player in the tax compliance game. Tomkins et al. (2001) highlight the under-researched area of tax management and identify external trends and researchable areas which impact on and may be of value to the management of tax administrations. Lamb (2005) comments there is much work to do in this area. As previously mentioned in Chapter 1, Preston (1989) acknowledges this gap in the accounting literature.

⁴³ The movement and level of these figures create signalling effects to the markets and investment analysts.

Most of the studies above have assumed that either tax legislation remains constant or that the tax authority's practices remain unchanged. Scholes et al (2002: 3) take the view that the tax authority takes a passive role in all economic ventures, despite having a vested interest in the outcome.

“ ..[T]he taxing authority is an uninvited party to all contracts. The taxing authority brings to each of its “forced” ventures with taxpayers a set of contractual terms (tax rules).
... In addition, although the taxing authority claims a partnership interest in taxpayers profits, it exercises no voting rights” (2002:3).

Hasseldine et al. (2005) have researched the way in which the revenue authority communicates with taxpayers and in particular the effect of persuasive communication with individual taxpayers. They used a controlled field experiment to examine the change in turnover and net profit over a two year period after the taxpayer receives one of five possible letters. The letters ranged along a spectrum from offering assistance to the threat of an audit and the specification of various possible penalties, and were addressed to UK sole traders who completed simplified tax returns as their turnover was below £15,000 for two consecutive years. Each of the different approaches resulted in the taxpayers reporting significant increases in reported turnover above the £15,000 threshold. What is significant about this research is that unlike the US where some academics have access to US IRS data, the UK IR has not until recently cooperated with academics on research projects. Hasseldine et al.'s work was carried out with the full co-operation of the IR and in addition was a field experiment rather than a laboratory experiment. This arguably reflects the

desire of the IR, in common with other UK government departments' desire to obtain evidenced-based research (Kelly, 2000).

Research which examines the corporate taxpayers' perspective of tax administration is that of Porter (1999a). She used a survey in 1996 to look at the practice of the IR from the perspective of tax managers in FT top 500 companies and the largest 192 companies in Jordan's (1996) listing of inward investors. This survey focused on the work and role of these in-house tax managers. In the follow-up research (1999b), Porter conducted semi structured interviews with 18 tax managers to find out their views on compliance issues and their interaction with the IR in respect of CTSA, transfer pricing and controlled foreign companies legislation. Their view was that increasingly legislative changes were increasing tax compliance work i.e. the process of tax compliance, and that the IR seem to expect the same level of detail from large companies as small ones. The interviews were conducted in 1998, just after the establishment of the LBO.

The studies above have approached these research questions from the taxpayer's viewpoint (Hasseldine et al. 2005; Roberts and Bobek, 2004; Scholes et al., 2002; Porter, 1999a, 1999b). Examples of research which has considered the relationship of the Revenue authority and the taxpayer from the perspective of the tax authority, are US based studies of the Internal Revenue Service (IRS) by Smith and Stalans (1994) and Pentland and Carlile (1996).

Smith and Stalans (1994) in a US context examine tax negotiations between IRS officials and individual taxpayers or in a partnership or closely held private company (known as a S- Corporation) using a hypothetical experiment which involved interviewing IRS officials and taxpayers. During the interviews they gave interviewees various possible responses on a card, such as persuading (A), convincing (B), find a new answer (C), compromise (D), go along (E) and hold firm (F). The interviewee had to indicate which response; A, B, C, D, E or F was appropriate in three situations as follows: which one to start with, which response they would do next if the first one did not work and which alternative would be the third step if the previous two failed. Smith and Stalans analysed the results of 48 tax officials using multivariate techniques. They concluded that IRS Officials place more emphasis on the correct interpretation of the law and were less likely to adopt compromise strategies than taxpayers.

Pentland and Carlile (1996) looked at the process of auditing tax returns by IRS auditors. Their study differs from Smith and Stalans (1994) in that they conducted 142 interviews in two tranches. The interviews were initially part of a study originally on the use of computers by accounting professionals within the IRS. During the interview, a significant part of the time was spent on gaining an understanding of tax audits. Pentland and Carlile acknowledge that “most of the data has a distinctly “backstage” flavour to it” (1996: 275). They conclude that the process of the audit is an ‘expression game’ in which the IRS auditors utilise both formal knowledge and working knowledge to audit the taxpayer’s tax return. What Pentland and Carlile show is that the tax auditors do not just restrict themselves to the information on the return but they look at

the affairs of the taxpayer in a wider context which is not limited to just the return i.e. where the taxpayer went on holiday, what sort of house the taxpayer lives in and what is the taxpayer's lifestyle e.g. "the sailboat sitting in the driveway" (1996: 285). The objective of tax agents is to get agreement or conclusion to the outstanding issues. In other words as I mentioned in Section 2.3 there is no one correct answer to being compliant, it is more of a game.

"Auditing is a classic example of an expression game. The auditor and the taxpayer are locked in a contest over the truth of the taxpayer's return" (1996: 285).

Seeking for the truth by tax officials is developed further in chapter 9.

The role of tax collection involves the application of rules prescribed by the IRS but the IRS officials have to work with the taxpayer for them to disclose the facts. The interpretation of the facts is dependent upon the relationship between the tax official and the taxpayer.

"The interpretation and application of the tax code is highly contingent upon the character of the interaction between agent and taxpayer" (Pentland and Carlile, 1996: 270).

This underlines the ambiguity in arriving at the "correct" tax liability to which I refer in Section 2.3. Hansford and Hasseldine (2002) carried out a questionnaire survey into best practice in VAT administration.⁴⁴ They found that a majority of tax advisors in the sample did not agree that the VAT officers provided 'confident, knowledgeable or consistent advice' and that some of the

⁴⁴ VAT was administered by HM Customs & Excise in 2002 and when this survey was carried out in 1997.

advice provided was confusing. Both the examples above illustrate that the relationship between tax officials and taxpayers is interdependent. Where taxpayers have tax advisors or in the case of large corporates, in-house tax departments, this interdependent relationship involves an interplay between experts.

There has been little research into the culture of tax compliance. Richardson and Lanis (1999) develop a model to examine the influence of culture on tax administration practices using Hofstede's (1980, 1991) cultural dimensions of 'individualism versus collectivism; large versus small power distance; strong versus weak uncertainty avoidance and masculinity versus femininity'. They attempt to classify a number of countries by linking these cultural dimensions with tax administration value dimension. While not reaching any firm conclusions, the authors flag this as something worthy of future research of interest to the global tax community.

However there has been a much wider tranche of compliance literature which has examined the grounding in legal relation of the compliance relationship between the taxpayer and the tax administration. This work originates from the Centre for Tax System Integrity (CTSI) at the Australian National University. This work is interdisciplinary in nature and has made a significant contribution to tax administration research and the practices of tax administrations including the use of the Compliance model by the ATO (Braithwaite and Braithwaite,

2001) and the IR (Cm 5428: 14)⁴⁵. Key contributions are in the areas of the distribution of power among the parties and reward/ punishment strategies which visualise patterns of corporate tax compliance in a new way.

Ayers and Braithwaite (1992) take the view that power should be exercised by various organisations – markets, the community, the state and associations such as trade unions, civil liberties groups, women’s organisations and the consumer and environmental movements in equal measures so that one organisation does not dominate the others (1992: 17). They argue that the state should redistribute power by giving power to previously powerless organisations such as consumer groups i.e. empowering citizens. Instead of removing regulations (deregulation), regulation should be transcending in that different degrees of regulation should apply to different strata of the regulated population. In addition the regulators should take a softly, softly approach. “[R]egulatory agencies are often best able to secure compliance when they are benign big guns. That is, regulators will be more able to speak softly when they carry big sticks (and crucially, a hierarchy of lesser sanctions). Paradoxically, the bigger and the more various are the sticks, the greater the success regulators will achieve by speaking softly” (1992:19). They also argue that this approach reduces the costs of complying with the regulations in addition to increasing compliance.

“Punishment is expensive; persuasion is cheap. A strategy based mostly on punishment wastes resources on litigation that would be better spent on monitoring and persuasion.

⁴⁵ Freedman (2005: 28) notes that “some very interesting work is now beginning to emerge from CTSI, which] is an interdisciplinary group but showcases the work of John Braithwaite and other regulation lawyers which is of great relevance to tax administration”.

A strategy based mostly on punishment fosters an organized business subculture of resistance to regulation wherein methods of legal resistance and counterattack are incorporated into industry socialization (Bardach and Kagan, 1982). Punitive enforcement engenders a game of regulatory cat-and-mouse whereby firms defy the spirit of the law by exploiting loopholes, and the state writes more and more specific rules to cover the loopholes” (1992:20).

This approach is utilised by the Australian Tax Office (ATO) tax compliance model. Braithwaite & Braithwaite (2001) have examined the evolution of this ATO tax compliance model. Securing tax compliance is depicted as a regulatory pyramid. The vast majority of taxpayers are at the base, the non-compliant at the apex. Enforcement procedures increase as one goes up the pyramid. Murphy (2004) reviewed the use of this model for small family businesses using case study evidence. She concludes that the use of the ATO Model is a favourable regulatory policy which is responsive to the needs of taxpayers and tax officials. The IR has adopted this model to improve compliance (Cm 5428: 11), which stratifies customers into those which comply, and those which do not. To the latter category, more resources are directed and a stricter approach to compliance is undertaken (Cm 5428: 14). The IR would like the corporate taxpayer to “pay the right amount of tax at the right time”, and for the IR to collect their share of the taxation on the worldwide profits of the corporate taxpayer. How this model is operationalised is discussed in Chapter 6.

Braithwaite (2003a) adapts the cash economy compliance pyramid for large corporates. He suggests that the pyramid becomes an egg shaped model (Figure

5) on the grounds that more large businesses comply with the letter of the law but not with what the ATO regards as the intention of the law.

In the grey section of the model, Braithwaite argues that many Australian Groups intend to comply with the ‘letter of the law’ but “there are many who do not intend to comply with what the ATO regards as the policy purposes of the Parliament’s tax laws (2003a: 179)⁴⁶. A difficulty with this model is that it fails to capture the complexity of the interaction between large corporates and tax administrations. Tax administrations both regulate the large corporates but also in some instances assist them when the large corporate is dealing with foreign tax administrations (LBO official, 2003: LBO 4). Also the large corporates are not as numerous as individual taxpayers or small business and the large corporates are all ‘smart’ in the game. Thus the relationship is not two dimensional, it is more multidimensional.

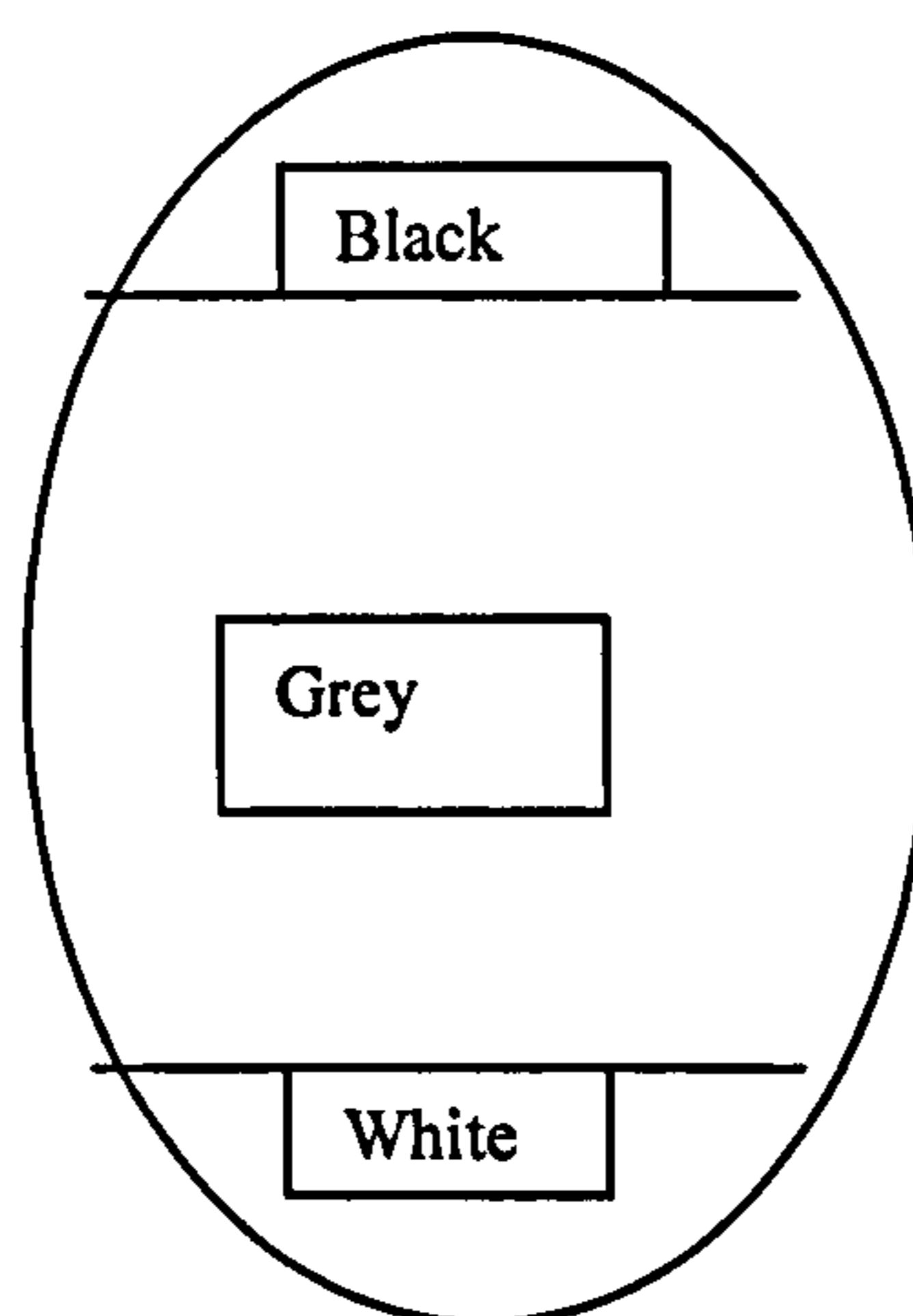


Figure 5: Patterns of corporate tax compliance and ways of shaping risk management systems for taxpayers and tax advisors, Braithwaite (2003a :180).

Braithwaite (2003b) analyses how the ATO can move towards shaping the risk management systems of taxpayers and tax advisors. He suggests this can be done by educating taxpayers to check the returns themselves and tax advisors to check these checks, and by using internal company systems to check transfer pricing records. The relationship between risk and tax approach has been the focus of a debate relating to 'Tax in the Boardroom', both by City organizations and Big 4 accountancy firms (Henderson Global Investors, 2005a, 2005b; KPMG, 2004; PricewaterhouseCoopers, 2005b) and HMRC (HMRC, 2006). As a consequence of corporate scandals such as Enron, Sarbanes Oxley ACT 2002, Early Day Motions⁴⁷ in the UK Parliament, development of pressure groups such as the Tax Justice Network and the focus of on a risk based approach by tax administrations, there has a move to look outside the silo of tax and engage Financial Directors and the Boards of companies to examine the tax strategy of their corporate. (KPMG, 2004).

3.3.3 Tax Compliance research summary

Whilst the foregoing literature review on tax compliance research illustrates the breadth and depth of tax compliance research from an economic analysis perspective following the Scholes and Wolfson paradigm, the focus has been on the compliance activities of individual taxpayers rather than corporate taxpayers. Little attention in the UK has been paid to the actual practices of tax compliance from the taxpayer, tax administration and tax advisory perspectives. Roberts and Bobek (2004) acknowledge the gap in relation to tax

⁴⁶ The 'grey' section in this model should not be confused with 'grey areas' in the tax legislation.

administration research when concluding that companies influence tax laws by engaging in political activities in the US⁴⁸. They say “this paradigm [Scholes-Wolfson] fails to recognise the state as a negotiable contracting party and the structure of tax accounting laws as endogenous to a corporation’s tax planning activities”(2004: 566/7). McBarnet (1991, 2003) and Braithwaite (2003a, 2003b) have attempted to address this gap. McBarnet’s work on creative compliance and the games played by companies who engage in tax planning has examined tax avoidance. Freedman (2003) has explored this further in the notion of acceptable and unacceptable tax planning. Braithwaite’s work has considered how tax administrations engage with large corporates to increase tax compliance. Even within this approach the issue of discursive strategies, the role of different kinds of expert knowledge and the importance in what people say has been recognized by Pentland and Carlile (1996) which they refer to as the ‘expression game’. Whilst these studies show that tax administration practices are changing, these changes must be put in the context of developments in tax administrations in a wider, more holistic sense, as part of changes occurring in government.

3.4 New Public Management (NPM)

The IR is a department of central government in the UK which administers tax collection among its other functions. It is therefore important to examine the recent changes to the operations and administration of the public sector both in general and specific terms. In chapter 5 I look at the specific changes to the IR;

⁴⁷ Early Day Motion 1204. UK House of Commons. May 18, 2004.

⁴⁸ It should be acknowledged that lobbying is different in the US than the UK.

however here I focus on the literature concerning with the general changes. A key aspect of the general changes to the public sector has been termed NPM. The phenomenon of NPM has been evidenced by the reform of the public sector not just in the UK but also in other countries such as Sweden, Canada, New Zealand and Australia and to a lesser extent France and the Netherlands (Hood, 1995) and continues to extend. The core of NPM is to remove or reduce the traditional distinction between public sector bodies and private sector entities and to shift “the emphasis from process accountability towards a greater element of accountability in terms of results” (Hood, 1995: 94). The term ‘New’ does not infer that NPM came into existence in 1980s. In fact Hood notes that some of the ideas of NPM are just repackaged ideas which have been part of Public Administration; however the term ‘New’ was used to distinguish this change in public management from other specific initiatives of individual countries.

NPM is not a singular event. Hood (1995) has identified seven dimensions of change associated with NPM, as follows:-

1. “Unbundling of the [Public Sector] into corporatized units organised by product,
2. More contract based competitive provision, with internal markets and term contracts,
3. Stress on private sector styles of management practice,
4. More stress on discipline and frugality in resource use,
5. More emphasis in visible hands-on top management,
6. Explicit formal measurable standards and measures of performance and success,
7. Greater emphasis on output controls”

(Hood, 1995:96).

For each of these dimensions, Hood identifies possible accounting implications which give more attention to cost centres and performance indicators.

Changes have been seen in management, control and accounting practices (Brunsson & Sahlin-Andersson, 2000). Brunsson and Sahlin-Andersson looked at these changes in constructing organisations as an example of public sector reforms. They used three categories to classify the reforms, which were identity (autonomy, collective resources, constructing boundaries, being an organisation and being special), hierarchy (co-ordination and control and constructing management) and rationality (setting objectives, measuring results and allocating responsibility and reforms in packages or in strings). Although this attempt at classification is helpful some of the classifications such as being special and hierarchy would seem to be rather contrived when applying these reforms to the IR as the reforms do not fit easily within these categories (see Hoskin, Lamb and Tuck, 2001a).

This form of analysis leads to the conclusion that public sector bodies have become more like a managerial organisation with the introduction of financial management practice in NPM reforms. This focus on accounting is seen by some to be at the heart of NPM reform (Guthrie et al, 1999; Power and Laughlin, 1992), although Olson et al (2001) caution against the development of this kind of control in the extreme. They refer to an 'evaluatory trap' which is described as the "pursuit of efficiency and effectiveness potentially resulting in a damaging spiral of fewer and fewer public services being provided at ever-higher unit costs" (2001 :506/7). Boden and Froud (1996) express this point

when looking at the Compliance Cost Assessment i.e. how much it costs businesses to comply with new Government legislation. They say that “deregulation of the private sector can only be achieved by increasing regulatory control over the extent and nature of public administration. “In ..sense *public sector management* becomes more management of the public sector than by it” (Boden and Froud, 1996: 530, emphasis in the original). Broadbent and Laughlin’s work on general practitioners and schools has looked at the processes of NPM being implemented (Broadbent and Laughlin, 1998) and with Jacobs, the resistance of the organisation to these changes in accounting (Broadbent et al, 2001). Du Gay (2006) is critical of the new management methods and efficiency reforms as in his opinion the Government are trustees and not owners of the state. He sees NPM as a less effective approach than bureaucracy which he sees as being more fit for purpose given that the Government are trustees.

In addition evidence suggests that the culture and the established set of attitudes held by Government Departments have changed. The focus is now less on the services provided and more on the use and users of these services: a customer, and a customer service focus. Public sector organisations have adopted ideas from the business world, including turning citizens into customers, because they are attracted to the private sector’s freedom of action (Brunsson, 1994). However the use of customer service concepts is not without operational and political difficulties for public sector bodies. They are unable to be used in isolation and cannot be divorced from the strategy of management

(Fountain, 2001)⁴⁹. Aberbach and Christensen (2005) examine how an emerging customer focus impacts on the role of the citizen. They argue that it can be difficult to define who the customers really are and that the customer focus on individualism means that group rights and the collective approach of the public sector are diminished. Additionally the concept of customer weakens the control that political leaders have over the administration.

The concept of 'customer care' within the public sector is problematic as it has different meanings to different people. Needham (2006) using interview data from central and local government has developed five concepts of customer care: "personalizing services around the user; giving users a choice of services; users paying for services; treating users with courtesy and respect; and improving user access to services" (2006: 851). She concludes that overall the customer care concept is supported but with different interpretations of what the concept means.

Political scientists have attempted to explain the nature of the change in style of Government (Hood, 1995). Rhodes has examined the new process of governing (which he terms: 'governance') which refers to the self controlling and discipline of departments of Governments which are at the same time part of central Government but also have considerable independence (Rhodes, 1997: 15). "Governance means governing without Government and is the ultimate in hands-off government" (1997: 110). Rhodes refers to this as 'hollowing out the State' (1997: 87).

⁴⁹ See Lamb et al. (2003a, 2003b, 2003c).

NPM change programmes are manifestly not uniform in form and practice across all parts of the public sector (Pollitt, 2002). Such reforms have often had effects beyond the outputs of the core public sector, *e.g.* in health and education the UK reforms can be seen as having affected the semi-autonomous institutions in the public domain (Broadbent & Laughlin, 1998). In all this, there is a general recognition that NPM reforms have initiated changes in management, control and accounting practices (Brunsson & Sahlin-Andersson, 2000: 722), as well as the culture and mindset of Government departments. Rainey and Thompson (2006) review Charles Rossotti's five year term as the Commissioner of the IRS in the US. They highlight the achievements of Mr. Rossotti in transforming the organisation and administration of the IRS along NPM lines which resulted in improved services for taxpayers. Pollitt has reviewed the similarities and differences in public management reform worldwide (Pollitt, 2002) and McGuire has examined the similarities of customer service charters in Australia, UK and US (McGuire, 2002).

There are a few studies of the customer-orientation of tax authorities and increased importance of marketing to taxpayers. The introduction of the construct of the customer to tax practice has received some attention from academics, *e.g.* in the US (Foran, 1999). Marketing to taxpayers has been considered by Coleman & Freeman (1994) in Australia and Farron *et al.* (1999) in the UK.

To date little research has been directed at a central government department such as the IR including the nature of the public institution, its services and its

relationship to central Government (Rhodes, 2005). Among what little research there is, Colville et al. (1993) consider the change management of NPM practices in HM Customs & Excise. They argue that there are unforeseen consequences resulting from this change in the public sector and any change management process in central government must be looked at in the context of the changing social environment (see also Doig and Graham, 1998).

The case of the IR is arguably significantly different from other NPM cases in the UK. For example, primary and secondary education and National Health Service reforms can be distinguished from IR reforms, to the extent that parents can choose (within reason) which schools their children will attend and patients can choose (again, within reason) which hospital to attend. Thus, a market of competing institutions can be established. But it is more difficult to apply the market-driven principles of UK-style NPM to departments such as the IR, a department without a natural competition for services outside its boundaries. The IR has a certain amount of autonomy from central Government but in addition central Government has imposed control on the IR. Some IR officials consider that the IR is in the vanguard of the Government's social policy (Martin, 2002).

However following the initiatives termed NPM, the practices of the IR have not remained constant. The IR is engaging with corporate taxpayers (the enabling process) to improve links and relationships through dialogue, discourse and changing practices. Research of the effect of NPM on tax gathering practices has been ignored. Another gap in the literature is the impact

of NPM on the public servant official – the tax inspector and how the tax official becomes a new kind of expert subject. This latter aspect is developed in Chapter 7.

3.5 Links to the Professionalisation literature

As previously mentioned in Chapters 1 and 2, the corporate tax compliance process involves elite groups of professionals acting on behalf of the IR and the large corporate taxpayer. These groups of professionals, both tax officials and in-house tax managers, play a key role as knowledge experts in the corporate tax compliance process in part on the basis of being a qualified professional whether their particular qualification is an Inspector of Taxes, qualified accountant or Chartered Tax Adviser or some combination of these. This section briefly reviews the literature on professionalisation. Particular reference is made to accountants as many of the in-house tax specialists are qualified accountants (Porter, 1999a, 1999b).

The accounting professionalisation literature has examined the area from the viewpoint of imperialism and the professions; inter-professional relations, the marginalization of so termed disadvantaged groups such as clerks, women and non white ethnic origin and commercialization (see Cooper and Robson, 2006). Anderson Gough (2002) has looked at the training of a Chartered Accountant from a disciplinary perspective. What is of interest to this research is the development and influence on the tax profession from other professionals. The tax ‘profession’ is not a profession within Carr-Saunders and Wilson’s (1933)

definition, in that the tax profession is not an organised body of experts who have a common system of training, a sole formal examination for entry and an enforced code of ethics. Qualified accountants, lawyers and Inspectors of Taxes are all part of the tax 'profession'. Therefore what is of interest to this research is the literature on inter-professional relations. Much of this work has emerged from Abbot's (1988) influential work, 'The System of Professions' which examined inter-professional rivalry (see Cooper and Robson, 2006, for a review; Suddaby and Greenwood, 2001). Other work has considered the hybridisation of professional knowledge. Kurunmaki (2004) examined the hybridisation of medical expertise in Finland. She argues that in comparison with the UK, in the Finnish example, calculable practices have been developed by medical professionals because management accounting had a different role as it is regarded as a set of tools and techniques rather than as a separate profession to compete for professional space with the medical profession.

The IR officials i.e. the Inspectors of Taxes who act on behalf of the IR, are 'professional' civil servants employed by the UK Government. Rhodes (2005) observes that there has been little research, field-based or observation-based, until recently into the role of Civil Servants within government departments. He himself has undertaken an ethnographic study and cites earlier examples of Marsh, Richards and Smith (2001) and James (1999). There has been more focus using such approaches on the role of Prime Ministers and Ministers; the 'Westminster Model'. Rhodes (2005) examines the role of permanent secretaries in the British Government. He notes the significance of the ritual of tea and coffee at the commencement of meetings which assists in breaking

down the formal barriers and tensions of meetings. One previous study looking at a non-ministerial level within the IR is that of Procter and Currie (2004) who focused on team working processes. They conclude that team working is effective when both autonomy and interdependence are operating alongside each other.

3.6 Critical Accounting Research

In Section 3.1, I explained that my home discipline was accounting, so in this section I review the accounting tax research with a particular emphasis on the critical accounting literature.

The emergence of critical research has enabled new questions to be identified and provided new ways of seeing problems. Before I discuss the complex power relationship that the IR has with its taxpayers using a lens of governmentality, it is important to see where the existing research which utilises a governmentality approach fits within the accounting literature. It is therefore necessary in the first instance to discuss approaches to accounting research in general. Most of the significant approaches to social science have been considered by accounting researchers (Laughlin, 1995). Chua argues that “[a]ccounting, it appears, remains in the throes of a ‘scientific revolution’” (Chua, 1986; 602) and considers research carried out from mainstream, interpretative and critical perspectives.

Mainstream accounting research could be thought of from the positivist ‘map making’ (Solomons, 1978) and post positivist ‘economic consequence’ (Zeff, 1978) viewpoints, mainly as a consequence of accounting research stemming from an economics background and the use of the neoclassical economics framework. The influence of economics can be seen in tax accounting research which was discussed in Subsection 3.2.5. This has led to a quantitative methodology being favoured. This approach is still practised by the majority of American academics and consequently affects publications in American Accounting journals (Ryan et al, 2002: 171).

Interpretative and critical accounting approaches developed as a ‘reaction’ to mainstream accounting research. (Lamb, 1999: 35). The ontology of many interpretative and critical researchers is that reality is socially constructed – constructivism. The constructivist approach is that representations become real in their consequences. People act upon accounting and it becomes reality that way, although there is no objective reality behind it (Hines, 1988). Accounting cannot be viewed in isolation. Laughlin (1995; 83) argues

“Accounting is a social practice conducted by diverse social actors. To claim that it has generalizable, theoretical characteristics similar to gravity is a proposition where there has to be some considerable leap of faith. The continuation of the belief “as if” these generalizations exist clearly leads to a considerable complexity- reduction process which becomes questionable in the extreme.”

Post modernism, based on a constructivist ontology, takes the view that social systems are independent of human control. The human is regarded as the ‘self’ who through observations “constructs *interpretations* of the world, these

interpretations having no absolute or universal status” (Cooper & Burrell, 1988: 94). Although these constructs are unable to be generalised they seek to inform knowledge but this knowledge is itself a construct of discourse (what is said) and the ‘game’ which is being played through the use of language or tension between the participants of the game whether these are humans (Lyotard, 1984 quoted in Cooper & Burrell, 1988) or things. Foucault’s view is that the social world is influenced by knowledge and power as these are concepts which are interlinked.

The Foucauldian lens has been increasingly used in accounting research (Boden, 1999; Boden and Froud, 1996; Burchell et al., 1985; Bush and Maltby, 2004; Hoskin and Macve 1986, 1988, 2000, 2005; Hoskin, Macve and Stone, 2006; Loft 1986; Miller and O’Leary 1987, 1994; Miller and Rose, 1990; Neu, 1999, 2000, 2006; Oats and Tuck, 2006; Preston, 1989). This research has in large part drawn upon Foucault’s disciplinary work. Much of this work looks at power relations or ‘power- knowledge’ as knowledge in relation to power (e.g. corporate interests, the extension of managerialism and the implausibility of new more effective accounting techniques). In such work there has been a focus on the ‘managed subjects’ as ‘docile bodies’⁵⁰ and not on the ‘emerging subject’ as an active, reflective and disciplinary expert which this research seeks to address.

Part of Foucault’s understanding of disciplinary power is illustrated by Bentham’s Panopticon (Foucault, 1977a: 200). The central surveillance structure is all visible observing the prisoners at all times. The actions of the

prisoners are visible to those watching from the Panopticon whether they are watching or not.

“the major effect of the Panopticon: to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power” (Foucault, 1977a: 201).

There are two aspects to the Panopticon. Firstly by making the prisoners visible they can be controlled and secondly due to their visibility, the prisoners do not know if at a particular point in time if they are being watched. As a consequence as they do not know exactly when they are watched they become self regulating in their behaviour.

At the same time, the weakness of the Panopticon model (as of the Panopticon itself in practice as a prison) was that it does not acknowledge the expertise (and cunning) of those subjects within its walls. Prisoners in panoptic institutions (like workers in corporations) are not stupid and find ways of evading the lines of visibility. Hence other approaches to using Foucault (such as those of Hoskin & Macve, and Anderson-Gough) stress the importance of acknowledging the equal and complementary role of having disciplinary expertise and so becoming, as a subject, a vehicle of positive power, and not focussing purely on the effects of modes of disciplining behaviour upon subjects who are thereby rendered as passive recipients of a negative repressive power that is largely then seen as acting upon them from outside.

⁵⁰ Foucault, 1977a Discipline and Punish.

The practice of making visible an aspect or characteristic allows that aspect or characteristic to be regulated as Boden (1999) mentions when examining the tax position of the self employed. Accounting may assist with this process of making visible (Miller and O'Leary, 1987) However Boland (1987) in a discussion of the Miller and O'Leary's paper suggests that Miller and O'Leary do not bring out the visibility issue sufficiently.

“The paper may leave the impression that making visible is akin to merely shining a light on something that was simply there but hidden. On the contrary, the visibility created by cost accounting is an invention. It is a visibility made possible by the discursive practice in which cost accounting is located. The person we see through cost accounting is a creation of that discourse not a human essence that has simply been waiting to be illuminated” (Boland, 1987: 271).

The issue is not how you become a visible object but how you become a self-revealing subject. In other words how this visibility influences in you taking an active role as a subject rather than a passive role as an object. I use this link between visibility and discourse in Chapter 8 when I discuss the corporate taxpayer as a visible customer.

The ‘automatic functioning’ of power as mentioned above has been interpreted as self regulating the individual. Whereas for Foucault the regulating of the prisoners was by them being visible, Miller and Rose (1990) look to expertise as the regulator.

“Self regulating capacities of subjects, shaped and normalized in large part through the powers of expertise, have become key resources for modern forms of government and have established some crucial conditions for governing in a liberal democratic way”(Miller and Rose, 1990: 2).

In the next section I discuss one of the particular types of power.

3.6.1 Governmentality

Governmentality as articulated by Foucault means:-

“[1]. The tendency which, over a long period and throughout the West, has steadily led towards the pre-eminence over all other forms (sovereignty, discipline etc.) of this type of power which may be termed government, resulting, on the one hand, in the formation of a whole series of specific governmental apparatuses, and on the other, in the development of a whole complex of *savoirs*.

[2]. The process, or rather the result of the process, through which the state of justice of the Middle Ages, transformed into the administrative state during the fifteenth and sixteenth centuries, gradually becomes ‘governmentalized’.” (Foucault, 1979 in Burchell et al., 1991: 102-103).

With the development of disciplinary power from sovereign power, the subjects can act as citizens to assist the state in its role as governor. Government in this sense “entails any attempt to shape with some degree of deliberation, aspects of a behaviour according to particular sets of norms and for a variety of ends” (Dean, 1999: 10). Government should be thought of ‘in terms of tactics and strategies of power, of specific, conflictual and changing aims, ideals and objectives, and varying degrees of success and failure, with a range of consequences situated across the spectrum between the intentional and unintentional’ (Dean, 1994: 187). Self regulation of subjects makes these subjects governable. One illustration of this which is identified by my research is that the IR is governing its taxpayers through practices of self regulation such as CTSA.

However for government to operate there needs to be information known about the parties which are being governed.

“Government is possible only when the strength of the state is known.. The state’s capacity and the means to enlarge it must be known. The strength and capacity of other states, rivals of my own state, must also be known. A certain specific knowledge is necessary: concrete, precise and measured knowledge as to the state’s strength. The art of governing ..is intimately bound up with the development of what was called, from this moment, political arithmetic” (Foucault, 1982 from Martin et al, 1988:151 quoted in Hoskin, 1998: 107).

How the information is disclosed and what aspect of the truth is acknowledged is part of a “truth game”. This is not “the discovery of true things, but the rules according to which, with respect to certain things, what a subject may say stems from the question of truth and falsehood” (Foucault/ Florence, 1994: 315).

“..forms according to which discourses capable of being deemed true or false are articulated with a domain of things: what the conditions of that emergence have been; what price has been paid for it, as it were; what effects it has had on the real; and the way in which, linking a certain type of object with certain modalities of the subject, it has constituted for a time, a space, and particular individuals, the historical a priori of a possible experience” (Foucault/Florence, 1994: 315).

In Chapter 9, I expand on these ‘truth games’ in which the IR official and the corporate taxpayer each disclose their perspective on the truth in different ways and for different outcomes. This disclosure of information is an important aspect of governmentality.

Governmentality has been used in a number of studies in accounting (Bush and Maltby, 2004; Preston et al, 1997; Neu, 1999, 2000, 2006). Some are historical.

This is not essential to the use of a governmentality approach. Preston (1989) focuses on a taxation episode in a contemporary setting and the way accounting and tax expertise renders evasion activity visible and creates compliance. Here a similar interest is being examined at a more sustained level across a number of episodes. Not all writing within the critical accounting tradition uses Foucault's disciplinary work in relation to modern business, new public management and the roles of expertise. For example, Foucault's work on the '*Care of the Self*' (1986) has been utilised by Anderson-Gough (2002) to examine the construction of the subject with reference to the professional training of Chartered Accountants.

The Foucauldian approach is not without its critics both from those who are more disposed to a Marxist approach e.g. Armstrong, 1994; Bryer, 1999 and Bryer et al, 2006; Neimark, 1990, and from within the so-called economic rational position e.g. Edwards et al, 1995; Fleischman and Parker, 1990; Tyson, 1993. Armstrong (1994), for example, argues that accounting controls are different from disciplinary surveillance (1994: 31). He argues, when referring to work on standard costing (Miller and O'Leary, 1987), that budgetary controls including standard costing systems are alternative methods. He sees that these controls have "close[d] off the important question of the conditions under which accounting controls have displaced bureaucratic performance rules" (1994: 31) and there are problems with these systems as certain information can be lost. Armstrong (1994) also criticises this approach in that it assumes there is no resistance to power /knowledge.

Bryer, utilising a Marxist approach to accounting history seeks to disprove the validity of Foucauldian approaches such as that of Hoskin and Macve, which focus on US developments in the nineteenth and twentieth centuries, by arguing that capitalist accounting and the modern capitalist mentality are already present in eighteenth century enterprises such as the Carron Company (Bryer et al, 2006). From a more economic rational approach Tyson (e.g. Tyson 1993) has questioned the significance of West Point graduates in the development of management and standard costing in the US arguing that businessmen pursuing their rational economic self-interest made the more significant contributions. Fleischman has focussed on the significance of some of the episodes also investigated by Bryer, e.g. also examining the Carron Company archives (Fleischman and Parker, 1990; Bryer et al. 2006). Interestingly Bryer, Fleischman and Macve have recently been involved in a “constructive engagement” in which they have sought to reconcile these different approaches so far as it is feasible (Bryer et al. 2006). However, it is apparent that significant differences remain in terms of interpretational approaches and the significance accorded to facts and episodes that have been jointly scrutinised.

At the same time the approach has been taken up to investigate the ways in which financial technologies enable the exercise of governmental power. Neu (2000) uses governmentality to examine the purchase of land by first nation people in Canada. It is a historical study of the period 1830-1860. Bush and Maltby (2004) also utilise governmentality to explore taxation in British West Africa in late 1800s to the mid 1900s. Both of these studies show that the

colonial powers utilised accounting practices to try to change the behaviour of the peoples being governed. Apart from Preston (1989) and Oats and Tuck (2006), what is missing in the accounting literature is the use of this governmentality lens to examine a contemporary tax domain.

3.6.2 The use of Foucault to study discourse and practices in tax administration.

There has been a limited amount of research in the tax administration area whether historical or contemporary, although Black (2002) examines how regulation is achieved through discourse.

Hobson (2004) uses Foucault's concept of Technology of the Self to examine individual tax effective schemes in Australia. She concludes that self assessment enables taxpayers to be self regulating but there are no provisions to provide for taxpayers who do not have the necessary expert knowledge when the legitimacy of the tax effective scheme is questioned by the ATO.

Lamb (2001) investigates the sovereign powers of the IR in the mid 19th century using the income tax appeal of Thomas Carlyle through the diaries of his wife who represented him before the General Commissioners of Income Tax in 1855. This historical account shows that at that time the tax administration primarily used sovereign powers to secure tax compliance. It also alludes to a modern IR whose powers are based on disciplinary practices and technologies.

Preston (1989) uses a disciplinary framework to examine the practices and powers of the IR within a recording company. The case study shows the accounting practices of the company were influenced by the disciplinary powers of the IR. What is interesting is that Preston is using this case example to look at the micro practices of the IR in that he looks at the detailed accounting practices within a particular company whereas this research looks at the practices of the IR towards different groups of companies. His concern was to

“explore the mechanisms which lead to individuals and organizations taking up the explicit and implicit injunctions of the Revenue. ..[I]t is concerned with connections, connections between the Revenue and organizations, connections between the Revenue and the individual and finally connections between accounting and Revenue practice” (Preston, 1989: 411).

Likhovski (2006) uses a Foucauldian analysis to review the history of the Israeli tax compliance culture in 1950s. He shows that the Israeli Government utilised various discourses and practices to encourage tax compliance by a heterogeneous population of Israelis from different ethnic backgrounds and attitudes towards tax compliance, in an “attempt to produce normalized, individualizes self-policing model citizens” (2006: 49).

The CRAKA project, for which I was the research fellow, looked at the changing discourse within the IR (Hoskin, Lamb and Tuck, 2001a, 2001b; Lamb, Tuck and Hoskin, 2003a, 2003b, 2003c). A key aspect of this research was that it examined the role of strategic discourse in constructing new “customer services” as well as improved “customer service” using publicly

available documents and a small number of interviews (five) in the IR. This research did not examine the practices which are implementing strategic discourse. My doctoral research seeks to address this gap.

3.7 Chapter Summary

This chapter has set out the framework of existing literature which has ranged across a number of literatures necessary to develop my theoretical position and the basis for the fieldwork. This process has enabled questions and areas to be identified not just about specified processes but about the practice of tax compliance. It has also enabled me to see gaps or silences in the literature. One conclusion I draw is that the tax compliance literature has not engaged to any significant extent with the process and practices of tax compliance which Pentland and Carlile (1996) commenced. With the exception of Smith and Stalans⁵¹ (1994) a neglected area is the use of empirical evidence from both Revenue Authorities and taxpayers in the same study. In addition much of the work that has been carried out has investigated the tax practices and policies of multinationals, is economics based and very little has been done in terms of the qualitative research. In terms of the NPM literature, there has been little work that has examined the actual practices of a tax administration. In respect of the Foucauldian and governmentality literature there has been little research promoting the interface of the powerful and less powerful (see McNay, 1993), truth games and the positive power of expertise. Newton (1998) laments the failure of Foucauldian studies to adequately theorise subjectivity in organisations. However there is a Foucauldian research line that looks at the

⁵¹ Hasseldine et al. (2005) worked with the IR but their focus was on how taxpayers responded to alternate approaches.

roles of knowledge and expertise in generating and constituting power relations and at the crucial roles played by knowledge experts in such processes (Anderson-Gough, 2002, 2006; Hoskin, Macve and Stone, 2006). Drawing on this work, and on certain possibilities raised in the professionalism and public management literatures this research addresses what therefore appears a significant the gap in the literature, by seeking to understand the key roles of powerful disciplinary experts inside the public sector professional world and in dealings with powerful taxpaying entities and experts.

Chapter 4 - Methodology

4.1 Introduction

The purpose of this chapter is to set out the methodology and the methods that I have utilised to address the research questions.

In Chapter 1, I noted that the research questions contained subsidiary questions such as: what is the process of corporate tax compliance and how is this process explained from the perspectives of the parties to the process: the IR, the large corporate taxpayer and the tax professional. This changing process has multiple aspects at different levels; the tax official, the tax manager and the tax professional; the IR and the large corporates; and at the level of the interrelationships between these parties. Additionally in Chapter 1, I introduced the theoretical approach that I was taking. I explained that I was taking an interpretative and critical approach to this research drawing on the influence of Foucault. The approach here is to look at:

1. the use of the theoretical framework of governmentality, discourse and practices leading to the production of truth and
2. the particular forms of data gathering and interrogation that I have deployed to fit within this particular framework.

Theory and data are interdependent. It is not possible to look at data collected in isolation as the data depends on the context in which it was obtained.

However utilisation of this theoretical framework enables me to explore the relations between the taxing entity (the Inland Revenue), the taxable subject (the taxpayer), and expert knowledge.

As mentioned in Section 3.6, the Foucauldian approach to accounting research has been increasingly followed (Burchell et al., 1985; Hoskin and Macve, 1986, 1988; Miller & O'Leary, 1987; Miller and Rose, 1990; Neu, 2000; Preston, 1989; among others), frequently from a historical perspective (Loft, 1986). In addition the kind of approach I am drawing on has been developed in a number of research projects in recent years. Some of these (Anderson-Gough, 2002; Lim, 2000) have drawn in one way or another on the work of Hoskin and Macve (1986; 1988) and the theoretical framework articulated, among other places, by Hoskin (1994) informs Hoskin and Macve 1986, 1988, 2000, 2005 and Hoskin, Macve and Stone, 2006. In this approach, there is a particular focus on how disciplinarity is a two-sided term, which designates both a certain mode of knowledge, the knowledge 'disciplines', and a mode of conduct, behavioural discipline, including self-discipline. Thus the approach draws on the ideas articulated by Foucault in *Discipline and Punish* (1977), where he talked about power-knowledge relations with a focus on the ways in which knowledge-based techniques (e.g. forms of surveillance, judgement and examination) were used from around 1800 to exercise a historically new kind of detailed disciplinary 'power' over 'populations' of 'calculable' selves. At the same time, it also draws on the ideas developed in Foucault's last work on the *Care of the Self*, where particular networks of 'practices' were identified as the means for exercising self-care in different ways in different eras, e.g. via

regimens of physical and spiritual exercise, with 'examination' of one's acts being a particular technique referred to in the Roman era (Foucault, 1986). Hoskin and Macve's approach has focussed on how historically specific sets of secondary practices (i.e. those that operate below the level of conscious action, as the practices through which people 'learn to learn' in a particular way at a particular historic juncture) may work to constitute particular modes of powerful knowing (such as the modern disciplinary mode) and simultaneously to constitute particular modes of conduct (again for the modern era, discipline and self-discipline).

Through a mix of analysis of documentary sources and in-depth, semi structured, interview work, this theoretical approach makes it possible to focus on the changing roles of management practices and 'discourses'. It also enables an engagement with the question of what gets accepted as 'truth' (as opposed both to error and to falsehood) within the interplays between the taxing entity and taxable subject over the question of the 'correct' tax to be paid in any given instance by the latter. The establishment of this truth is of course not a momentary or simple process: it will involve the rules for the calculation and recording of taxable amounts, written returns containing such amounts and where necessary explanations of the sums entered. But where there is not straightforward agreement between the parties that a given sum is 'correct' there must be further examination and possibly argumentation over an acceptable version of truth. A key aspect of this thesis, therefore, is an examination of the "truth game" or "games" being played by tax officials and the taxpayer in the process of corporate tax compliance, with a particular focus

on what takes place in those circumstances where there is not straightforward agreement, e.g. at those events where tax officials and taxable subjects and their advisors meet. Since it is not possible for me to attend and record such events as a researcher, this study has done the next best thing, i.e. interview participants in such events as to their experience of and their reflections upon them.

This chapter commences with a discussion of qualitative research versus quantitative research, following which I discuss previous approaches to tax compliance research. I then examine what is meant by the term “discourse” and how this is interpreted by Foucault, in order to create a space for a critical discourse analysis. In the next section I look at power, knowledge and truth practices before explaining the methods I used to carry out the research. The data consisted of both documentary/ archival evidence and semi structured interviews with the expert officials who are informants to the process. This has enabled a rich quality of information to be obtained. It has proved possible to track through the documentary/ archival evidence, the pattern of changes in the way the IR has operated across the past ten to fifteen years, so to determine the extent and nature of the new practices which have set up current regularities in the interaction between parties in the tax game. My interview-based evidence and the analysis subsequently carried out indicates that the key people on either side of the process are themselves aware of certain of these changes and the consequently changed ‘rules of the game’, and that consequently expectations in going into the game and tactics to be adopted in playing it are now considerably different from what was the case 10 –15 years ago.

4.2 Quantitative versus qualitative

Whether research work and the methodology adopted should be defined as either quantitative or qualitative depends on the research question which needs to be addressed and the availability of data (Silverman, 2001; 25). However the choice between quantitative or qualitative is not as straightforward as this as the research question can be framed in the 'right' methodological and philosophical approaches and the method of collecting the data selected accordingly.

A quantitative approach entails collecting large volumes of data by using methods such as surveys, structured interviews, questionnaires, National Statistics; evidence which can be measured. Analysis of causal relationships between variables can be carried out from which predictions are made. It is therefore possible to develop general theories across time and space from which generalisations and universal laws may be derived. This approach is consistent with a positivist viewpoint whereby we can apply scientific assumptions to the social world; where reality subsists in external objects and is independent of our human consciousness. A hypothesis can be devised and tested. Experiments can be set up and repeated in similar conditions; the object being to verify the hypothesis.

Since its development positivism has been widely criticised. One of the criticisms of positivism put forward by Karl Popper as described by Delanty (1997: 31) is that the logic of science does not proceed from observation of

data to the construction of theories or hypotheses⁵². In addition all observations are theory dependent. Observations can never be said to exist independently of the assumptions on which the hypothesis is derived. Latour (1987) has taken this argument further. In the natural world what you are observing in general is inert; it doesn't react and change through the process of observation. However even scientific experiments carried out in the so called controlled conditions of a laboratory are impacted by 'actors' (or more recently 'actants') in the network; humans, test tubes, measuring instruments etc., all part of a network which are interacting with each other.

A qualitative approach entails most generally, although not universally, 'an emphasis on processes and meanings that are not rigorously examined, or measured (if measured at all), in terms of quantity, amount, intensity, or frequency' (Denzin & Lincoln, 1994: 4). Qualitative approaches have been more associated with the anti-positivist viewpoint which takes the view that reality is socially constructed and does not exist independently of human consciousness. People construct their social world and the researcher interacts with them. During the research process, knowledge is being structured. Reality is constructed through social interaction and social activity.

The choice between quantitative or qualitative approaches is influenced by the dominant paradigm of the discipline in which the research is being carried out. A paradigm sets the foundation for the majority of the research within a discipline. A discipline shares common assumptions upon which new

⁵² A frequently used example of this is if I see a number of black swans, I then conclude all swans are black.

knowledge is built. Kuhn, writing from a physics discipline perspective, looked at the assumptions of scientific knowledge and his view was that all observations are theory dependent; 'the scientific community knows what the world is like' (Kuhn, 1962: 5). This is what he regarded as 'normal science'. Revolutionary science occurs when there is a shift of assumptions and history is rewritten to eliminate the trauma of the revolution. There are criticisms of Kuhn's model in that it is very restrictive and most social science disciplines do not conform to this view. Burrell and Morgan (1979) take the view that a particular paradigm is exclusive to one discipline. A discipline which does not control its own domain could be thought as one which is in a pre-paradigm stage. Burrell and Morgan's approach has been to split social theory into four paradigms arising from a two by two matrix; the dimensions being subjective and objective; radical change and regulation (1979: 22). This has been criticised for being too simplistic in that there are more dimensions of choice. (Chua, 1986; Laughlin, 1995; Willmot, 1993). Laughlin 1995 proposes a three dimensional model: 'theory, methodology and change' (1995: 66).

This research is qualitative but located within the tax accounting research paradigm and especially tax compliance research. It draws on research into discourse and discursive practices. My approach differs from much of the tax compliance research which has used alternative approaches, such as behavioural and positivist methodology, as these alternative approaches may not be well suited to opening up the 'black box' of the actual practices and discourse of tax compliance.

4.3 Definitions of discourse

The constructs 'discourse' and 'discourse analysis' have been widely used in qualitative research in recent years. At the widest level, discourse is what gets articulated both orally and in writing. I intend to introduce Foucault's views on the nature of discourse since they are of key relevance to the analysis of this research. However Foucault's definition is not the only possible definition and interpretation. One highly influential research approach is that of Phillips and Hardy (2002). Phillips and Hardy define discourse as "an interrelated set of texts, and the practices of their production, dissemination, and reception, that brings an object into being" (2002:3). Discourse analysis looks at the changing range of things that get said (and what does not get said) in particular organisational contexts. But discourse is not just about what gets said orally, it is also about what gets said in internal documents, press releases and annual reports and this documentary communication becomes increasingly important but does not supplant oral communication.

In Phillips and Hardy's view discourse analysis can be regarded as both a methodology and a method: it is a methodology in the sense that to carry out discourse analysis the researcher must take a social constructivist view of the world in which discourse involves assumptions about the effect and the impact of what gets said. However it is also a method of analysis and as such includes approaches such as narrative analysis and conversational analysis.

Phillips and Hardy recognise that there are consequently a wide range of different approaches to discourse and discourse analysis. They classify these approaches along two axes: firstly in terms of context and text; and secondly in terms of constructivist versus critical approaches, where constructivist focuses on how social reality is constructed and the critical focuses on the relationships between power, knowledge and ideology. On this basis they construct a 2 x 2 matrix which defines the different approaches into four categories (see Figure 6).

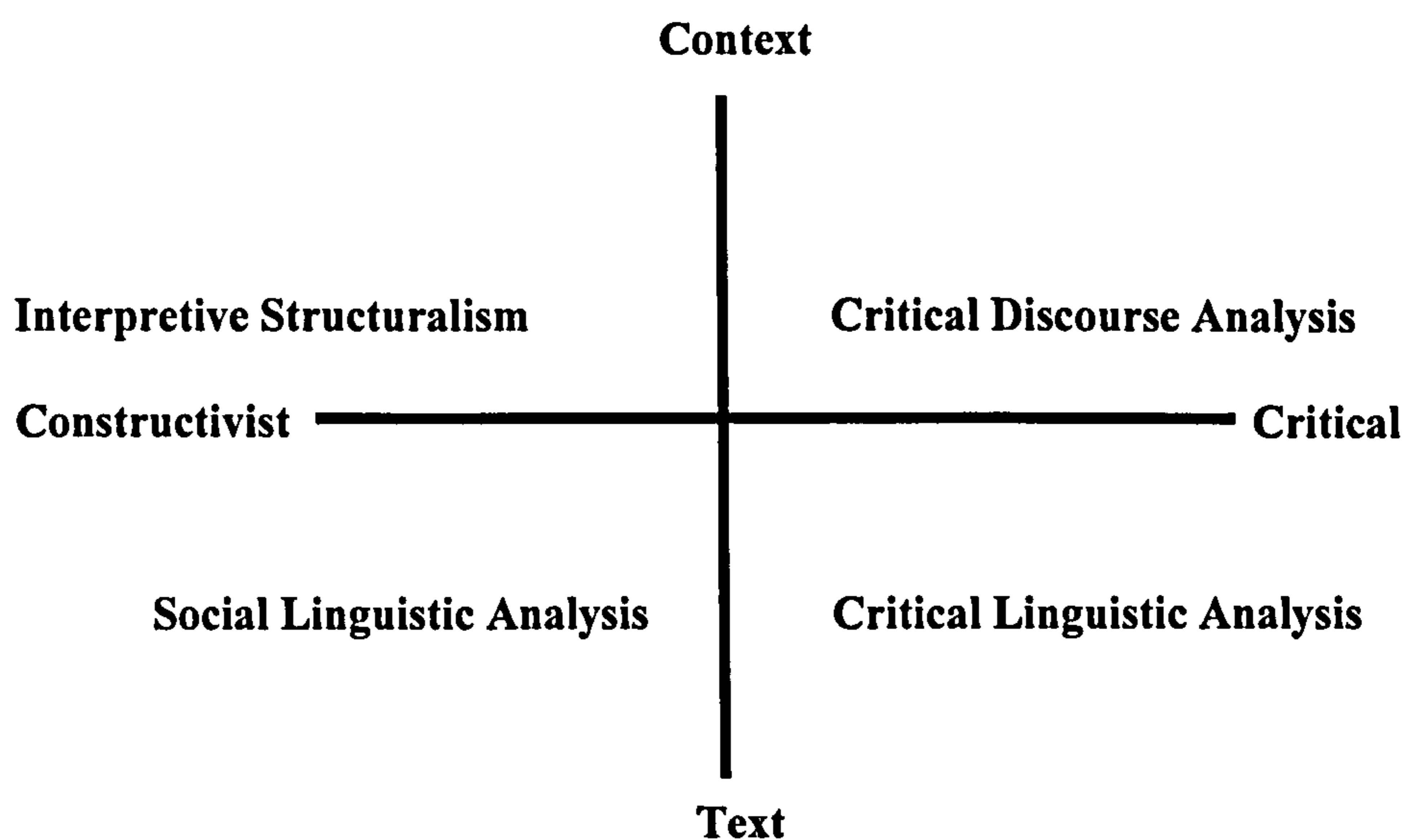


Figure 6 - Different Approaches to Discourse Analysis

Source: Phillips and Hardy (2002: 20).

The analysis of these categories is as follows:

- **Interpretive Structuralism** is helpful in understanding the context of large scale changes in broad discourse over a number of years. An example is the changing use of metaphors in corporate takeovers (Hirsch, 1986).

- **Social Linguistic Analysis** involves a close examination of the text which is in written form such as detailed examination of transcripts of interviews.
- **Critical Linguistic Analysis (CLA)** focuses on the individual texts but also examines the power relationships.
- **Critical Discourse Analysis** looks at the role of discourse in relationships of power and is developed from Foucauldian approaches. It differs from CLA in that CLA focuses more closely on the microdynamics of the texts. Fairclough (1995) looks at the relationship of discourse with language and ideology by examining the combination of “a) analysis of text, (b) analysis of processes of text production, consumption and distribution, and (c) sociocultural analysis of the discursive event” (1995:23). Fairclough’s approach is to take a Marxist viewpoint and to examine the domination of the underclass by discourse and power ‘hegemony’.

Foucault takes a different perspective in that he considers the relations between discourse and power and knowledge.

4.4 Towards a Foucault- based approach to Critical Discourse Analysis – discourse/ power/ knowledge

Foucault’s approach concerns power, knowledge and discourse. In his lecture ‘The Order of Discourse’ (1981b) he argues that ‘discourse’ is the fundamental (and historically grounded) linguistic category, in the sense that we are born

into a world of discourse and we develop as speaking (and for most of us today) writing subjects through engaging in the specific modes of discourse and discursive practices that we encounter along life's path⁵³. In the lecture he then explores the operation of discourse with reference to mental illness and sexuality. He argues that discourse operates through two inseparable components, firstly open discourse which is unrestricted and without limits and secondly by institutions controlling and constraining what can be said. It is as much about what does not get said as what gets said. Discourse is more than just about examining a text⁵⁴, discursive practices are distinguished by "a delimitation of a field of objects, the definition of a legitimate perspective for the agent of knowledge, and the fixing of norms for the elaboration of concepts and theories" (Language, Counter- Memory, Practice, Foucault, 1977c, quoted by Young, 1981: 48).

Within the order of discourse there will be many specific modes of discourse and discursive practice. Such modes and practices will change frequently as 'new utterances ('énoncés') are included. Foucault argues there are three criteria which affect such change; formation, transformation and correlation⁵⁵ and these differentiate a) the field, and b) the individual's discourse and

⁵³ In this respect Foucault is arguing that the 'order of discourse' comes before and makes possible the more traditional 'orders' of language as defined in Saussurian linguistics "langue" or "parole" (Saussure, 1916).

⁵⁴ Foucault reiterates this point in "Politics and the study of discourse". He says "what I am analyzing in discourse is not the system of its language, nor, in a general sense, its formal rules of construction: for I am not concerned about knowing what makes it legitimate, or makes it intelligible, or allows it to serve in communication. The question which I ask is not about codes but about events: the law of *existence* of statements, that which rendered them possible"(Foucault 1968 in Burchell et al, 1991: 59)..

⁵⁵ For Foucault, the criteria of formation means the rules which apply to the existence of the discourse. Criteria of transformation is ascertaining the threshold when new rules of formation arise. Finally the criteria of correlation is how a discourse fits within another discourse. Foucault uses the example of the discourse of clinical medicine and how this is positioned in

discursive practices. My approach is to use these categories to examine a) and b).

In Foucault's view discourse is always a practice.

“Discourse is a complex and differentiated practice subject to analyzable rules and transformations” (Foucault 1968, Politics and the Study of Discourse in Burchell et al, 1991: 71).

Discourse must make space for text, signified practice and also content. Discourse takes place through practices (discursive and non discursive) and produces context signification. Discourse cannot exist in isolation. There is no discourse without content and significance. Likewise discourse cannot exist without “the subject”/ “subjects” which are speaking, writing, listening, reading subjects producing and learning the knowledge/ content of a particular discursive field. There is in addition no discourse without power effects.

Foucault sees the link between discourse and power as two way and reciprocal.

“Discourses are not once and for all subservient to power or raised up against it, any more than silences are. We must make allowances for the complex and unstable process whereby discourse can be both an instrument and an effect of power, but also a hindrance, a stumbling – block, a point of resistance and a starting point for opposing strategy. Discourse transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it”(Foucault, The History of Sexuality, 100-101 in Young, 1991: 50-51).

other discourse such as biology and chemistry amongst others (Foucault in Burchell et al., 1991: 54).

One study where aspects of this can be seen is Knights and Morgan (1991b) who examine the role of discourse in the corporate strategy of organizations. They argue that by examining discursive practices different understandings of the process of strategy can be illuminated. The unintended consequences show that the exercise of power and the identity of the managerial subject facilitates “the development of a corporate image and rationalizations of success and failure for organizations” (1991b:270).

I now seek to expand this kind of analysis here by a focus on the interplays between power, truth and the speaking/ writing subject. However to analyse these interplays effectively it is necessary to introduce the other key Foucauldian term “practices”.

4.5 Definition of Practices

Practices can be thought of as the usual way of doing something or the way in which persons operate. There are a number of different ways of looking at practices and the use of examining practices to examine the subject/ object divide in different ways.

Bourdieu looks at practices in the context in which they are carried out; ‘habitus’. Habitus is a “system of durable, transposable dispositions which functions as the generative basis of structured objectively unified practices” and which “produces individual and collective practices” (Bourdieu, 1990:13).

This system can be determined by a number of influences; the social or cultural background and the relative position of the individual in the particular field being examined. In Bourdieu's view, practices must be viewed in relation to the habitus (i.e. not in isolation), that is the concept of how individuals develop their identity and the way in which individuals engage in particular practices. A critique of this viewpoint is that Bourdieu's view of practices is somewhat limited by the constraining nature of the habitus (de Certeau, 1984).

A different view of practices is taken by Foucault. In order to determine the interrelationships between the subject and the object, Foucault looked at what is done and what the processes and practices are that determine this inter-relationship. By examining and making visible these practices then greater understanding can be obtained of the relationship. Specifically, Foucault asked:

“what are the processes of subjectivization and objectivization that allow the subject to become as subject, an object of knowledge?” (Maurice Florence: 315).

and

“He first studies the practices- ways of doing things- that are more or less regulated, more or less conscious, more or less goal-oriented, though which one can grasp the lineaments both of what was constituted as real for those who were attempting to conceptualise and govern it, and of the way in which those same people constituted themselves as subjects capable of knowing, analysing, and ultimately modifying the real. These “practices”, understood simultaneously as modes of acting and of thinking, are what provide the key to understanding a correlative constitution of the subject and the object” (Foucault/ Florence, 1994: 318).

Hoskin and Macve (1986) talk about this level of practices being “secondary practices”. Such practices in fact begin as primary practices in the sense that speaking and writing are the objects as our focus when we are learning to speak and write. Then they go into the background as secondary for the practice of speaking/ writing particular things. In our modern world alphanumeric is such a secondary practice as it is taken for granted means through which we articulate the things “in writing”. In a similar way, Hoskin and Macve (1986) argue that in a modern era examining and grading as practices we learn under are taken for granted secondary supports to the objects of learning, which is precisely why they become centrally significant practices. Therefore such practices are always part of what we say and how we act. At the same time the sets of such practices change over time, often in small ways. Occasionally a new set stabilises and shapes how we become subjects in a systematically new way.

Foucault sees using notebooks and following a teacher as key practices for the care of the self in Greece and Rome. He sees confession added to these practices in the monastic world. Hoskin and Macve (1986) argue that ‘inquisitio’, a formal examination of texts to extract apparent contradictions and establish their truth is a further medieval addition found first in Abelard’s *Sic et Non* and adopted as a key reading technique in the first universities. New developments never totally eradicate older techniques. We can still use written notebooks but we have added new ways of establishing and constituting truth.

This thesis takes the Foucauldian approach to practices and examines how certain practices have become visible. What I am looking at is the expert, using practices of data capture, analysing the data so as to generate truth statements. In the IR, the tax officials use practices which implement the rules and law, commence certain procedures such as enquiries into taxation computations and respond to correspondence and analyse particular forms of tax statements.

These practices constitute the ways of working and they are the means through which truth is linked to systems of power. Hoskin (1993) argues that once a generation of students begin to learn under constant writing, examining and grading practices, they translate these practices into a research context and generate new kinds of disciplinary knowledge both in science and the new social sciences. His view is that it is precisely these practices that generate knowledge based disciplines, but they are also the practices that carry out the effects of power and the justification of that power. They are in addition the means of ensuring the legitimacy of truths that support the power and ensure the indefinite extension of the validities of the truths. This thesis describes a modern example of how practices relate to the constitution and maintenance of any given truth regime. Particular modes of discourse and sets of practices constitute particular forms of power and truth in different eras and form us as subjects of our time.

4.6 Power, truth and the “subject”

A significant part of Foucault’s work concerned the interrelationships between the subject, truth and power and the object. Foucault, writing under the pseudonym of Maurice Florence, says.

“The question is one of determining what the subject must be, what conditions are imposed on it, what status it is to have, and position it is to occupy in reality or in imaginary, in order to become the legitimate subject of one type of knowledge or another.....it is a matter of determining its mode of “subjectivization”” (Foucault/Florence, 1994: 315).

In order to understand the subject – object divide, Foucault was interested in the mechanics and practices of power (Rabinow, 1984: 58).

“Power relations, [Foucault] claims, are “intentional and non-subjective.” Their intelligibility derives from this intentionality. “They are imbued, through and through, with calculation: there is no power that is exercised without a series of aims and objectives” (Foucault, 1984). (Dreyfus and Rabinow, 1982: 187))

Foucault refers to calculation specifically in *Discipline and Punish*. It is by calculation and through the ‘apparatus of writing’ that the individual is constituted as a ‘describable, analysable object’ (Foucault, 1977a: 190). We could refer to this as an apparatus of objectivism.

Foucault’s view was that power is not just negative (Foucault, 1977a: 194) as many critics, especially those from a Marxist persuasion, have argued the opposite e.g. Neimark (1990).

This view is clear already in Discipline and Punish:

“We must cease once and for all to describe the effects of power in negative terms: it ‘excludes’, it ‘represses’, it ‘censors’, it ‘abstracts’, it ‘masks’, it ‘conceals’. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth” (Foucault, 1977a :194).

It is further articulated in the late Foucault/ Florence work.

“It is obviously not a matter of interrogating “power” as to its origin, its principles, or its legitimate limits, but of studying the devices and techniques that are used in different institutional contexts to act on the behavior of individuals taken separately or in groups; to shape, direct, and modify their behavior, to impose limits on their inaction, or to inscribe it within overall strategies that are thus multiple in their forms and zones of enactment. Such strategies are diverse as well in the procedures and techniques they deploy: these power relations characterize the way human beings “govern” one another, and their analysis shows how, through the use of certain patterns of “governance” with madmen, sick people, criminals, and so on, the mad, ill, or delinquent subject is objectivized” (Foucault/Florence, 1994: 318).

This is about a positive power which involves and implicates the governor as much as the governed, the manager as much as the managed. Foucault gives this idea a particular embodiment in Discipline and Punish in the idea of “calculable man” who he sees as displacing memorable man at the heart of the exercise of power (Foucault, 1977a: 193). When we extend this to the insight that human beings govern one another we can see those who do via management practices do so through being calculable and calculating selves. It is here that the term discipline has a special role to play.

Foucault constantly analysed and worked on the connections between power and knowledge. As Rouse says in his essay on “Power and Knowledge”:-

“A more extensive and finer grained knowledge enables a more continuous and persuasive control of what people do, which in turn offers further possibilities for more intrusive inquiry and disclosure” (Rouse, in Gutting 1994: 96).

Certain things get validated as truth through knowledge. To Foucault power and knowledge were separate and not the same but at the same time part of a bigger entity (Hoskin, 1994: 63). Disciplinary power was for Foucault the distinct modern but not exclusively modern form of power. Knowledge, inclusive of disciplinary knowledge impacts on power.

“Discipline does not simply replace other forms of power which existed in society. Rather, it “invests” or colonizes them, linking them together, extending their hold, honing their efficiency, and “above all making it possible to bring the effects of power to the most minute and distant elements” (Foucault, 1977a: 216).

One can already see in part 3 of Discipline and Punish (“The Means of Correct Training”) that discipline in a certain sense has a double meaning; discipline in the sense of controlling behaviour and discipline as a separate school of knowledge (Foucault, 1977a: 190).

Hoskin has pursued this further by indicating that discipline is an educational term getting learning ‘into the child’ (Hoskin, 1990) which is why pedagogic practices have a particular purchase on forming selves and institutions. He argues that in the modern mass education based world, humans are shaped by pedagogic practices into disciplinary selves who internalise disciplinary

knowledge. Further for Hoskin (1988) the world of disciplinarity is also the world of governmentality.

It was in Foucault's later work that he looked at the exercise of power in the specific sense which he termed 'governmentality'. As discussed in Chapter 3 governmentality is a whole modern ensemble of practices which govern subjects and constitute them in their specific local individuality. This aligns with what Foucault says in *Discipline and Punish* about an older regime of sovereign power which focuses upwards gazing purely on the sovereign and those immediately around him or her. As Foucault puts it,

“[t]hose on whom it [sovereign power] was exercised could remain in the shade; they received light only from that portion of power that was conceded to them, or from the reflection of it that for a moment they carried. Disciplinary power, on the other hand, is exercised through its invisibility; at the same time it imposes on those whom it subjects a principle of compulsory visibility...And the examination is the technique by which power, instead of emitting the signs of its potency, instead of imposing its mark on its subjects, holds them in a mechanism of objectification” (Foucault, 1977a: 187).

These practices or technologies set in motion a distinctive new interplay between an “objectivization” and a “subjectivization” of the subject. There are some technologies

“which determine the conduct of individuals and submit them to certain ends or domination, an objectivizing of the subject [and] technologies of the self which permit individuals to effect by their own means or with the help of others a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being, so as to transform themselves” (Foucault, 1982: 19).

Such technologies are not purely within the self, however. They circulate more widely and implicate significant others, often teachers or role models. When examining the self, it is necessary to consider the role of such 'others'. Therefore to examine governmentality relationships we need to consider both the 'self' and the other. The idea of calculable / calculating self is particularly valuable in thinking about professional accountants and professional tax officials both in the way they do and say as subjects and in terms of the objects of their expertise i.e. the taxable entity (the large corporates) and the taxing state (the IR).

4.7 Regimes of Truth

For Foucault, truth games are a form of power and truth is of its time.

“Truth is a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its ‘general politics’ of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true” (Foucault, 1977b: 131).

There are historically shifting and specific regimes of truth which in today's world are a function of disciplinary expertise. Foucault goes on to say that truth has five characteristics:

- “it is centred on the form of scientific discourse and the institutions which produce it;
- it is subject to constant economic and political incitement (the demand for truth, as much for economic production as for political power);
- it is the object, under diverse forms, of immense diffusion and consumption...

- it is produced and transmitted under the control, dominant if not exclusive, of a few great political and economic apparatuses (university, army, writing, media);
- it is the issue of a whole political debate and social confrontation” (Foucault, 1977b: 131-132) .

In this research, these characteristics of truth are reflected: the IR is a key locus within government; the existence of political influence on the IR and specialist elite knowledge experts. Particularly in relation to tax there have arguably been various regimes of truth at work. As indicated in Chapter 1, I would argue that one traditional and key approach to generating truth from taxpayer subjects has drawn upon an inquisitorial truth regime of the institutional form of ‘inquisitio’: the catholic inquisition.

4.8 Truth and Inquisition Practices

The Inquisition in the Middle Ages was an ecclesiastical tribunal first developed in 1220s by the Catholic Church primarily to control, initially, Catharism. Catharism which was viewed as heresy by the Catholic Church, centred around the then still largely Romanesque south east France where the fragmented political situation of multiple, loose fiefdoms with changing loyalties between the Counts of Toulouse and the Lords of Barcelona encouraged "heretical thought" and certainly anti-Catholic feeling (Hamilton, 1981). The first inquisitors were priests from the Dominican and Franciscan Orders; the majority of whom would have been University Graduates (Hoskin, 1990) and experienced in formal oral examinations, grounded in an expert mode of critical reading known as ‘inquisitio’. Abelard had developed this form of critical reading in his *Sic et Non* (c1140 AD) as the means of

reconciling apparent contradictions in earlier theological texts. This kind of “inquisitio” quickly became established in the nascent University of Paris as a major way of reading texts. It was then used by teachers as a way of examining students as well as texts. In these examinations the master would question the student and the student would have to respond orally. Students whose answers were acceptable could go up a step or degree (‘gradus’ from Latin). Once the right of scholarly bodies, the “Universitas” or unified collective of scholars to award these degrees was sanctioned by the church, the university as a new institutional form took shape. This new approach to truth extraction was imported into the inquisition procedures by the very graduates who had undergone it as students. The truth extraction was then disseminated widely e.g. into the inquisitorial approach to law that is still widespread in Europe particularly in France (Vogler, 2005) and in Coroner Courts in the UK.

In the UK, in contrast to the inquisitional approach the adversarial approach⁵⁶ to law is applied. In the adversarial approach the judge acts as the umpire listening to the evidence of the opposing parties. Both approaches are concerned with finding out the truth but in different ways. In inquisitorial systems “the way in which the search is conducted can shape the ‘truth’” (Sanders and Young, 2000) whereas adversarial systems place more focus on proof (Sanders and Young, 2000: 15). This research considers interactions between the IR and large corporate taxpayers before any subsequent court action takes place. Whilst I acknowledge that this court action is based on the adversarial approach, my contention is that the role of the tax inspector in

⁵⁶ The procedural transformation from the inquisitional to the adversarial approach to law took place in the mid eighteenth century (Vogler, 2005: 131).

examining the accounts has inquisitorial characteristics in that the tax official looks to the facts as expressed in documentation (particularly though not exclusively tax returns and what is often referred to as “the Bible” of transactions) to establish the truth (Tiley, 2005). Therefore it is my contention is that the inquisitorial approach exists still in a modified form in the event of formal interrogation in IR cases.

What is of relevance to this research is not the reasons for the inquisition but the practices by which the inquisitors elicit their evidence, although the practices cannot be regarded in isolation without an appreciation of the powers of the inquisitors. The theoretical powers of the original inquisitors were extensive; however in practice they turned out to be limited. Part of this can be attributed to the objective of the tribunal which was to make the heretics confess and convert to catholicism. The inquisitorial procedure was standardised a short time after the commencement of the tribunals.

Once the offenders to be tried were identified, often by information provided by local informants, ‘inquisitio’ could commence. The trial, which was held in camera, consisted of the accused, one or more inquisitors and a notary who recorded in writing the proceedings (Hamilton, 1981).

The inquisitor would question the accused via a set of questions which the subject was invited to respond. Those accused who refused to disclose information, as opposed to those who refused to recant, were probably tortured. A difficulty for the inquisitor was when the accused appeared to co-operate

with the tribunal, but was equivocal with the truth telling it in a way which would be confusing to the court. Experienced inquisitors wrote manuals for their less experienced colleagues and “warned them not to ask leading questions at the beginning of the examination of a *perfectus*, since he would give truthful answers and the interrogation would be ended; whereas a more subtle approach might elicit information which the tribunal would find useful” (Hamilton, 1981: 47). This can be thought of as an example of a truth game. The issue here is not whether a statement is purely true in the sense that it corresponds with the facts, but that the truth disclosed through questioning may generate truth beyond the intentions or comprehension of the accused (i.e. after the data has been analysed). Truth overflows the boundaries of what has been said and extends what is therefore sayable⁵⁷.

The development of manuals enabled the oral inquisition process to be extended by written truth games although the manuals were secondary to the oral process. The movement to a written form of ‘inquisitio’ is further enhanced in the development of forms and questionnaires which combine specific questions with a space for answers, thereby allowing “space” to become completed by the filling in of the form. Analysing the forms takes place through subsequent writing, examining and grading of the answers that fill the space, and of any non-answers (McLean and Hoskin, 1999). A whole new regime of truth develops which focuses on texts made up of written, and so apparently objective, facts and deploys forms of interrogation which include

⁵⁷ Thus it is an alternative to the correspondence theory of truth in which the focus is purely on the internal coherence of some statements with each other as for instance applied by Arthur. Arthur (2004) develops this approach to examining truth in the context of accounting statements.

written questions and subsequent expert forms of analysis of the answers to such questions, and indeed potentially of the questions themselves.

The relation of truth to power is a fascinating aspect of the overall truth game which Foucault addresses in his Parrhesia⁵⁸ lectures delivered in the 1980s⁵⁹. Here arguably an even older discursive practice finds a new possible use within the world of disciplinary expertise. Foucault explores the role of parrhesia in understanding truth games. The essence of parrhesia is that it is a form of truth-speaking that over runs the boundaries or norms of what is usually sayable. The way in which parrhesia plays out, will vary according to the nature of the truth game involved, something which itself can be seen, reading across Foucault's work, as varying in different eras. So for instance, the kind of truth game played in the form of confession undertaken in an encounter with a psychoanalyst is very different from that played in ancient Greece, not least because the object of the game in the psychoanalytic encounter is to surface a truth that lies hidden below the level of intention in the sub-conscious. This kind of truth-game, whose understanding is the object of Foucault's interest in *The History of Sexuality, Vol. 1* (1979), engages with a category, the sub-conscious, which has no purchase in the world before Freud in the way that it does since.

In these lectures, Foucault gives an example of the truth being disclosed through questioning between Creusa and her servant in Ion, one of the

⁵⁸ "Fearless speech" (Luxon, 2004).

⁵⁹ Foucault, 1983a, 'Discourse and Truth: the Problematization of Parrhesia'- six lectures given at the University of California at Berkeley.

Tragedies of Euripides. Foucault sees this play as parrhesiastic because “this interrogative inquiry is the reversal of the oracular disclosure of truth. Apollo’s oracle is usually ambiguous and obscure, never answers a set of precise questions directly, and cannot proceed as an inquiry; whereas the method of question and answer brings the obscure to light⁶⁰” using questioning to cross boundaries and get the seemingly unsayable said. My argument here is that this kind of tactic can be adopted by either party in a ‘truth disclosure’ game. In the tax compliance process, the inspector may seek to make the taxable subject speak what is really true whether he/ she intends to or not. This may seem an inversion of the principle of parrhesia as ‘speaking truth to power’, but arguably it is, rather, an extension of that principle. Foucault poses the question:

“But does the parrhesiastes [the one who uses parrhesia i.e. the one who speaks the truth] say what he thinks is true, or does he say what is really true? To my mind the parrhesiastes says what is true because he knows that it is true; and he knows that it is true because it is really true”⁶¹.

That ironically is precisely the truth that power in the form of the IR wants spoken to it, but probably will not be able to achieve. In any inquisitorial question and answer environment truth games are played. How and how much information is disclosed (see McBarnet, 1991) influences the outcome of the game. Parrhesia is a tactic not just to suppress the truth but also to extract more truth by saying too much at the new event. Arguably it is the game. It is a new game which is an interplay of inquisitorial methods and examination techniques.

⁶⁰ <http://foucault.info/documents/parrhesia/Lecture-03/-6.ion.html>

My methodological approach draws upon therefore, not only both discourse and discursive practices but also the question of truth practices. These practices are shaped by power relations in particular the exercise of power in the sense of governmentality and by expert knowledge. Having outlined my methodological approach in the next section, I now explain the methods of my data collection.

4.9 Methods

As I have previously mentioned theory and data are interdependent. The methods by which data is collected depend on the methodology adopted. A key aspect of this research is the access gained to the key informants into the process. The methods employed are sympathetic to the theoretical framework adopted by this thesis. Two sets of data were employed. Firstly I examined archival material such as the Annual Reports of the IR which provided me with documentary evidence in which to locate the interviews and secondly, transcripts and recordings of interviews. The interviewees revealed perceptions, articulated their understanding and silences which set those perceptions within their institutional context. Ideally it would be preferable to observe the practices. However this was not possible as I was refused access so interviews are a feasible way to get at practices second hand. The interviews were semi structured and therefore discursive regularities and silences could be explored, as the research is as much about what does not get said as what does get said.

⁶¹ <http://foucault.info/documents/parrhesia/Lecture-01/03.parrhesiatruth.html>

In the following section I firstly discuss how the research site was selected and secondly how the interviews were carried out and the process of identifying themes.

4.10 Selection of research sites

A key difficulty for researchers in qualitative studies is obtaining access to key individuals in an organisation and this is especially so when interviewing elites (Hertz & Imber, 1995: x). It is also a time consuming process obtaining interviews with elites (Odendahl & Shaw, 2001: 308). Elites, by virtue of their position, have a large number of demands on them and on their time, so fixing a suitable date in their diary at some date in the future, in addition to getting past their gatekeeper (most commonly their secretary) takes a not inconsiderable length of time.

A pilot study of five semi-structured interviews was carried out to identify dominant themes in the research and also to ascertain the relevance of the research to participants. These five interviews were carried in February to June 2001 and the interviewees were tax directors or managers or financial directors or controllers of corporate taxpayers with responsibility for taxation. The companies included a privately owned food company, subsidiaries of overseas holding companies and two FTSE 100 companies. The companies were chosen on the basis that I had worked with the interviewees when I was a tax professional so the interviewees, with one exception, all had a background

similar to mine in that they had worked in the tax department of an international firm of accountants, now a Big 4 firm, and had left the firm when they had achieved senior manager status. These interviews were very wide ranging including covering the tax strategy of the companies and the issues they had in dealing with the Revenue authorities. I took an inductive approach to the research and from these interviews I became aware that an interesting research area was the changing relationships between large companies and the IR from the perspective of the large corporate. The next four interviews were carried out in September 2002. Three of these interviews were with tax partners of a Big 4 accountancy firm, as I wanted to get a professional advisors' perspective of the changing relationship. The fourth interview of this stage was with the tax manager of a specialist financial group of companies. The reason for selecting this company was that I wanted to obtain an understanding of whether the specialist nature of the financial sector would impact on the relationship with the IR. Financial groups were one of the first types of groups to be treated as specialist areas by the IR.

The third tranche of interviews were carried out with tax directors and tax managers of FTSE 100 companies. I obtained access through a tax partner of a Big 4 accountancy firm. I was able to choose those companies I wished to contact. The groups of companies selected were on the basis of having a significant UK tax charge in their latest financial statements. I did not select those companies whose UK tax charge in the accounts was mainly covered by the availability of Double Tax Relief⁶² for foreign tax suffered. In this case

⁶² Double Tax Relief is a provision within UK tax legislation whereby credit is given for foreign taxes paid against the taxpayer's UK liability to tax (ICTA 1988 Part XVIII).

these companies would have been less interested in their relationship with the UK tax authority as the amount of UK tax payable to the IR would be small. They would be more focussed on foreign tax authorities procedures as this would be a more substantial cash flow burden as a greater amount of overseas tax would be paid than in the UK.

The number of interviews to be carried out is dependent on when saturation is reached and the further interviews do not produce any new information. At the conclusion of this stage I had interviewed 14 companies and I was not reaching saturation as each group of company had a different experience with the IR and there was not a consistent viewpoint. I then decided to look at how the IR understood the process to see why I was not reaching saturation. After the next series of interviews I understood why I had not achieved a consensus as each LBO office is individual and there were no common practices of introducing the new procedures and practices.

4.11 Interview process

The interviews were carried out as semi structured interviews. Semi structured interviews were chosen as they give the possibility of following up information as part of the interview. In any interview situation the interviewer must respond to the ethical issues arising. An interview is a 'subjective gleaning information collection process' in a confidential setting, such as an office, where the interviewer and interviewee are present (Kvale, 1996: 20).

The ethical issues in this research were on two levels. Firstly information was given in the interview which could be market or price sensitive or confidential in dealing with the IR. The interviews which were taped were either transcribed by the author or by a professional transcriber who had signed a confidentiality agreement. In addition all the interview transcripts and notes were assigned a letter and were not in the name of the individual or company. Certain of the transactions of some of the groups would have been in the public domain. Where detailed quotes could have been traced to a particular group, for example a sizable disposal which would have been reported in the press, certain details were altered by the researcher to anonymise the particular group of companies. Such details would include information regarding the timing of the disposal such as year end dates. These changes did not alter the detail of the quote only the particular circumstances.

The second level of the ethical issue confronted concerned having to deal with interviewees who were senior figures with their own, often complex, agendas. The interviewees were all informants to the process of corporate tax compliance and were elites in their particular sector. These individuals, by virtue of their position, are used to presenting and disseminating information. The information involved can be of a particular type or the elites can seem to give information which on reflection is of little use at all i.e. 'just talk' (see Ostrander, 1995). Some of the information may be disclosed on purpose for dissembling the Group's discourse. It is important to be aware that there may be a dual purpose of the interview. As well as an assessment of what I wanted

from the interview I also gave consideration to the question, what use the interview was for the elite person being interviewed.

Wherever possible the interviews were taped. The interviews which were not taped were either on the basis that the interviewee would not give permission or that the status of the interviewee was politically sensitive. Research into the IR practices from the perspective of the IR by academic researchers is new and this new opening up of the IR has only occurred in recent years. Ten years ago it would have been unthinkable to have joint conferences with the IR and to be able to interview IR officials without signing the Official Secrets Act. There has been some criticism in the press about the new IR procedures and so some of the IR individuals were sensitive to criticism and therefore would not allow themselves to be taped. For each interview I gave assurances that the interviews would not be attributed directly and would be anonymised. This does not impact on the research as I wish to understand the general relationship between large companies and the IR, not the specific relationship of one particular company.

I dressed as if I was a tax professional for each interview in that I wore a formal suit to both corporate taxpayers and the IR. This enabled me to be considered as a fellow professional by interviewees, who all dressed in a similar way. At the beginning of the interview I established my knowledge of tax and explained I was a Chartered Accountant and Chartered Tax Advisor. This was helpful in establishing the depth of the interview, rapport and established my credentials. In one interview the interviewee was talking

superficially about tax and I was able to alter the depth of the interview by demonstrating my extensive tax knowledge. My tax knowledge assisted me as the interviewees were able to talk in tax code, using terms such as controlled foreign companies, transfer pricing and thin capitalisation, without having to explain these terms to me. A problem with my tax knowledge could have been that I assumed that I had understood the situation. To counteract this, during the interviews I ensured that I did not assume my perspective on the relationships between the IR and large companies and compensated by asking the interviewee to give me examples of issues they were referring to.

Each of the interviewees was sent a brief email prior to the interview to explain my research area in general terms. This enabled the interviewees to give some thought to what the interview would be about. I did not give them the specific questions which I was going to ask as I wanted the interview to be as free ranging as possible. Before the interview I researched the group of companies that the tax director was responsible for. This involved looking at their website, press releases and recent press comment and examining the most up to date financial statements of the groups. For interviews with the IR, I kept up to date with current developments by examining the IR website and press comment on the IR. It is important to do sufficient research about the particular interview site prior to the interview as this has a number of advantages.

Firstly it demonstrates to the interviewee that you understand their business and are prepared; secondly I could ask questions arising out of the information

I had gathered and thirdly it gave me a background on which the interviewee comments were made.

I requested 45 minutes for the interview and made sure that I finished the interview within 60 minutes unless the interviewee suggested that the interview could extend beyond this time. I was aware that the tax directors, tax managers and tax partners were sensitive about time and time was limited for them so I did not want to overstay. Lack of time is a key issue when interviewing elites (Odendahl & Shaw, 2001) so full use of the interview must be made as it may be the only opportunity when an interview can take place. In fact I found that the most interesting part of the interview was about 40 minutes into the interview. This was when the more sensitive issues would be discussed. I ensured that my tape recorder did not need to be turned over at this point by using the long recording facility. This was because in some early interviews I found that having to turn the tape over stopped the flow.

Each interview followed a similar pattern. I started the interview with some general questions about the qualifications of the interviewee and how the interviewee arrived at his/ her present position. I then asked questions of a practical nature on the tax compliance process before I asked subjective questions on what they thought of the changing relationships with the IR. I also asked how they thought the other parties would view the changing relationship with the IR. This was very interesting as it enabled data to be obtained as to how the interviewees saw themselves in their relationships with the key parties. I did not keep to a formal questionnaire as I found that it was preferable to have

a free ranging discussion without artificially breaking the conversation. An additional advantage was that it allowed for the possibility of developing areas which were not foreseen prior to the interview and enabled me to ask questions not previously prepared. I made sure that I asked open questions and I used probes such as nodding, looking questioningly and reflecting back part of what the interviewer had said. I also gave encouragement for example by smiling and laughing, at appropriate points. At the end of the interview I made sure that I had covered all the questions on my questionnaire and asked the interviewee if they had questions and whether there any further questions which I should have asked. This enabled me to see what significance the interviewee gave to an aspect of the tax relationship, as frequently they would reiterate points they had made before. It also had the affect of giving the interviewee the impression of retaining control over the interview so the power relationship between the interviewer and interviewee were comparable (Hirsch, 1995).

In any interview situation the quality of the data depends both on the rapport built up between interviewer and interviewee and the questions or prompts made by the interviewer. The time between questions, the particular point in the interview when the question was asked, the nature of the questions and the summary of points made by the interviewee all contribute to the data obtained. By not following a strict interview questionnaire and following areas of discussion, the possibility of a reluctance of the interviewee to go beyond the precise questions asked is reduced. As Foucault notes “as for the person answering the questions, he too exercises a right that does not go beyond the discussion itself; by the logic of his own discourse he is tied to what he said

earlier, and by the acceptance of dialogue he is tied to the questioning of the other' (Foucault, 1984;⁶³ 381). This is also part of the 'truth game' played by the interviewees.

Each taped interview was transcribed. Extensive notes of those interviews that were not taped were taken and these were written up immediately after the interview when the interview was fresh and recent. An advantage of taping is that one cannot rely on notes or recollection of interviews (Bucher et al., 1956). In Silverman's (2001) view there are three advantages to taping interviews; tapes are a public record; can be replayed and also preserve the sequences of the interview (2001:162). Different perceptions can be obtained from the interview. I found that when listening to the tape or reading the transcript different inferences would be obtained which did not occur to me on a first reading. Also when taping an interview, I found that I could listen to the interviewer and think of further questions to ask without worrying whether I was taking sufficient notes. Also I found that the taking of notes could influence the interview as the interviewee could read my notes.⁶⁴ This had the effect of the interviewee being prompted to use words which could be regarded as jargon or 'company speak'. As the NCP was in the process of being introduced and some of the IR interviewees gave the impression that it was important to 'talk the talk', it was interesting for the research when the interviewees used terms such as "taxpayer" or "cases" instead of the term "customer" (See Chapter 8). At the commencement of the first series of

⁶³ 'Polemics, politics and problematizations :an interview with Michel Foucault' (1983b) in Paul Rabinow, (1984) *The Foucault Reader*. London: Penguin Books.

interviews I asked the pilot interviewees whether they would like to comment on the transcripts. Whilst they were happy to give me an hour of their time they explained they had many competing time pressures and were unwilling to give further time to the research. In subsequent interviews I did not ask the question as I appreciated the time constraints that elites were under (Odendahl & Shaw, 2001) and in addition I did not want to disadvantage any future research opportunities with the same elites.

4.12 Matched pairs

There are a limited number of groups within the LBO and a limited number of Case Directors and therefore during the course of this research I interviewed 5 matched pairs i.e. I interviewed the Case Director responsible for the particular group for which I had also interviewed the tax manager. In one case both the taxpayer and case director were aware that I was speaking to the other party. In the rest of the situations they were unaware. In all these situations I realised early on in the interview with the tax official that the person being interviewed was the case director for one of the groups whose tax manager I had previously interviewed. There were obviously ethical considerations to be taken into account. The tax manager would obviously be sensitive to any remarks which could relate to them. I was extremely careful in my comments and during the interview to ensure that the tax inspector had no idea that I was relating to one of his cases. If I gave a viewpoint I made especially sure that the comment was

⁶⁴ At this level most of the interviewees who were trained as auditors prior to becoming tax directors, tax managers or tax partners, and tax officials would be able to read upside down without any difficulty.

as general as possible. Interesting insights were obtained from these matched pairs.

4.13 Coding and Computer Aided Qualitative Data Analysis (CAQDAS)

Coding is a key process in the analysis of qualitative data. Coding enables dominant themes to be identified and is an iterative process, albeit time consuming. By coding, the interview transcripts and other data are critically interrogated, which is more than just repeating the story or conversation held. It provides a rigour to the analysis which may not be evident if the transcripts are just read through.

CAQDAS does not supplant the interpretation of the data. There are various levels of use of the computer package from one just assisting in organising data to enabling searches to take place utilising key questions. However the advantages in using a computer package is that firstly the data is kept in a machine readable way so it can be coded in different ways. It also provides a convenient cut off point and coding can recommence after a period of time away with minimal set up time. This is especially relevant to my position as I was a part time student and lecturing at two institutions so I was unable to spend multiple consecutive days working on my PhD. Thirdly it makes large volumes of data manageable. However care must be exercised when using computer programmes to ensure the programme does not become a 'Frankenstein's monster' in that the technicalities of the programme become

the central core to the work as opposed to using the programme as a tool with which the process of coding is undertaken (Fielding & Lee, 1991).

I used QSR NVivo, a commercially available CAQDAS to interrogate the data and assist in keeping under control the volume of data generated. I converted transcripts, notes of meetings, documentary data obtained from the IR website such as minutes from LBF and departmental meetings into rich text format to enable the data to be input into the NVivo software package. I then coded the documents. The particular codes used were obtained in two ways. Firstly I drew up a list of themes arising from my theoretical framework, literature review and my previous knowledge of the area. Secondly when I was coding the data if a particular section of the text did not fit the coding scheme and suggested a different code then I would generate a new code. This last method of generating codes from the data is part of a grounded theory approach (Strauss and Corbin, 1998). However my work is different from a grounded theory approach in that this was a small part of the coding process.

The following codes were developed from the literature, my previous experience and interrogating the data through an iterative process:

Accountability	Customer	Regulating
Accounting	Customer Service	Resources
Adult relationship	Disclosure	Risk assessment
Advisors	Enabling	Specialist
Appraisal	Enquiry	Strategy

Audit process	Fast track	T shaped tax official ⁶⁵
Avoidance	Governmentality	Targets
Certainty	Institutional	Tax planning
Compliance	IR operations	Training
Compliance cost	LBO history	Trust
Conflict	LBO identity	Understanding
Confront	Moral	Visibility
Consistency	Negotiation	Voluntary compliance
Consult	Power	
CTSA	Real time	

Once I had analysed the data and generated the codes, I then reread the data to see if the original codes were still applicable and if not recoded the data with the new list. I then printed the sections of text under each code which enabled me to identify the dominant themes. This second level of analysis enabled me to develop a deeper level of identification of themes and concepts. When I realised that there were clusters around key themes such as the structure, process and practices, tax official, customer and event of compliance, these became the basis of the chapters and structure of this thesis.

4.14 Chapter Summary

In this chapter I have set out the aspects of my methodology. First I have reviewed its theoretical grounding as a Foucauldian inspired discourse and

⁶⁵ This is a tax official who both has the detailed deep technical knowledge as a knowledge expert but also has to relate, in a broader sense, to the new way of operating in a strategic and

practices framework and methods by which I have carried out the research. The methodological framework developed here concentrates on Foucault's later work, which brings together a focus of governmentality, discourse and practices and the production of truth by powerful expert subjects. Second I have reviewed the application of this framework through interviews with key informants supplemented by documentary and archival information. These two sets of data; the interview transcripts which reveal perceptions, articulation of understandings and silences, and the other documents which provide an institutional context and wider picture in which to set these perceptions, understandings and silences give a rich research site. This has enabled me to examine the practices of the tax compliance process and the production of the knowledge expert subjects. Before looking at these knowledge subjects in more detail, the next two chapters look at the structure and processes of the IR which are drawn largely from this later set of materials.

marketing organisation.

Chapter 5 - The Organisation of the IR

5.1 Introduction

In order to address the research questions ‘**How is the process of corporate tax compliance changing for large groups of companies? and How is this process being managed by the Inland Revenue?**’ we need to understand the history of the IR and where the new IR is positioned. The aim of this chapter and the next is to explain the origins of the IR and how it has changed and developed since the re-introduction of income tax in 1842, with particular emphasis on the post World War II period.

The approach adopted here draws upon Foucault’s concept of ‘History of the Present’ (Foucault, 1977a: 31), on the grounds that the past of this institution continues to have a significant influence on how it operates in the present and to shape its possible futures.⁶⁶ So the IR today may in many respects be ‘new’, but it becomes ‘new’ (and gets re-shaped into further new structures and processes) not purely through imposed re-organizations of structure and process but through the way that its workforce (and its customers) live out such re-organizations in the experience of undertaking and undergoing tax compliance.

Given the role that the IR plays in the government of the state (and in enabling the financing of the government of the state) that ‘lived experience’ can be

⁶⁶ As one recent commentator puts it in discussing this concept of Foucault’s: “[h]is primary goal is not to understand the past but to understand the present; or to put the point with more

understood as a form or practice of what Foucault named ‘governmentality’. In Chapter 3, I explained that ‘governmentality’ is the whole apparatus of government. It is not simply applicable to formal government although formal government was the context in which Foucault developed the idea. Foucault’s observation was that political arithmetic was the key technology for the governing of the state. The practices of government can be deployed through the structure of the organisation which governs and the processes by which the organisation governs – ‘the instruments of government’ (Foucault, 1979, in Burchell et al., 1991: 100). In this chapter the history of the organisational structure of the tax administration in the UK, including the IR, will be explored. In the next chapter the changing processes, discourses and practices of the IR will be discussed. The basis of the analysis is governmentality, concerning both the IR’s past as governmental entity and the governmental practices deployed. It will be seen that although the practices have changed, the governmental principle has continued to hold sway.

5.2 Localised operations

A key aspect of IR operations over much of its history has been the localised nature of them. Even in the past few decades when the design of formal organizational structures has been deployed to generate a more integrated form of administrative coordination, there has been much devolvement to local levels of discretion in the implementation of policy and the day-to-day running

nuance, to use an understanding of the past to understand something that is intolerable in the present” (Gutting, 1999: 10).

of tax offices. One IR official noted in 2001⁶⁷ that the regional executive offices of the 'Network' enjoyed relative autonomy, and each region has been described as a "fiefdom", operating independently of each other and Head Office.

Historically the administrative structure of taxation collection was based on a principal-agent type of arrangement whereby the state, as principal, set the level of taxation that it wanted from a given locality or set up a customs office at a point of passage, and appointed local worthies or officials as its agents in the collection of the relevant revenues. From Charles II's time, the net effect was that the state developed a local network of such officials across its area of jurisdiction (Ward, 1952). So, for instance, in seventeenth-century England when Parliament wished to extend the scope and amount of tax levied (Sabine, 1966), it legislated for a new administrative framework but still on the principal-agent model, whereby local Tax Commissioners were set up⁶⁸. These were usually members of the gentry (men of substantial property holding) (O'Brien, 1989) in a given neighbourhood who met two times a year to make assessments of tax due and appoint (in a further principal-agent structure) a clerk, assessors and collectors to organise the collection of that tax (Stebbing, 1993). In line with the principal-agent model, collection was made according to the significant geographical units of the British state at the time, its counties and cities. Thus in practice this was a localised system of charge-discharge collection, in which the principal charged the agent to discharge a prescribed

⁶⁷ As part of the interviews carried out for the CRAKA research.

⁶⁸ Some of the Commissioners appointed in the 1690s had served under Charles II. A proportion of the Commissioners or their fathers had sat on the Commissions from 1660 and earlier Commissions (Ward, 1952: 522).

duty and then evaluated the agent's performance. The twice-yearly appointment of agents by the local Commissioners was a key way of motivating successful discharge of duties.

Income Tax was introduced by William Pitt in 1799, substantially amended by Addington in 1803 and abolished in 1816. It was reintroduced in 1842. During this period, the system of administration and jurisdiction previously existing for assessed taxes was extended (O'Brien, 1989; Brewer, 1988; Ward, 1952). In the early 1800s, the administration of Income Tax was carried out by a number of distinct bodies: the General Commissioners who were appointed through the Land Tax Commissioners (Avery Jones, 2005; Sabine, 1966: 28; Stebbings, 1993) and were responsible for the assessment and collection of Income Tax⁶⁹; the Surveyors appointed by the Crown who had legal authority to examine tax returns and assessments before and after approval by the Commissioners; and the Commissioners for the Affairs of Taxes. Addington's 1803 tax showed similarities with Land Tax. For instance the same divisions or areas which were the basis for Land Tax, became the same divisions for income tax purposes thus retaining the localised structure. The General Commissioners were appointed from these divisions. Both the General Commissioners and Surveyors had the right of appeal direct to the Courts (Sabine, 1966:21). General Commissioners were still part of the administrative process for another 150 years (Stebbing, 1992: 398) in that they continued to be the supreme assessing body.

By 1797 an administration had been set up (although it had been proceeded by a number of different bodies) for the administration of Land Tax and Assessed taxes of the Treasury, Commissioners and Surveyors and although the appointment of Commissioners was still the result of patronage there were steps towards finding the most suitable efficient person. By the time income tax was introduced in 1799, Surveyors were acquiring more duties and were becoming a key necessity for the administration of taxation⁷⁰. The localised nature of their activities was also a feature such that even in the early part of the 20th Century Surveyors had to live within three miles of their office (Williams, 2005: 151). It is interesting to note that the Commissioners were originally people with local knowledge who were responsible for tax collection in their local area and this tradition continued with the regional network of tax offices with companies being allocated to particular offices based on the location of their Registered office rather than as a basis such as industry type. It is acknowledged in the Annual Report for the year ended 31 March 1976, that a 'local presence is desirable, from the point of view both of the Revenue and of the public. It is more convenient for the taxpayer, it makes for a greater awareness and understanding on the part of the taxman and it is often easier to settle disagreements face to face' (Cmnd. 6734: 20). However it was noted there were challenges to this practice, automation, staff shortages especially in London and large companies to concentrate their remuneration centres in one

⁶⁹ Corporation Tax was not introduced until 1965. Up to that time Companies were subject (and still are in certain cases) to Income Tax and other forms of profits tax e.g. Excess Profits Duties.

⁷⁰ Ward describes the work of Surveyors. "They represented the treasury interest when appeals were heard before the commissioners. They attended collectors upon their rounds to help extract money from defaulters; they examined collectors' books to see that their balances were promptly paid to the receivers. They also stated accounts for collectors at the beginning of the financial year, before the commissioners had made out the duplicate assessments, so that

location. Centralisation first occurred with the establishment of the Large Groups Office in 1990s which will be discussed in more detail in Section 5.8.

5.3 The formation of the IR- the emergence of bureaucracy

The IR has been a distinct department of the UK Government since the Board of the IR (BIR) was set up in 1849⁷¹ when the Board of Excise was added. Since the 19th century the IR has had operational responsibility in practice to collect income tax in accordance with Parliamentary legislation (Lamb, 2002). The BIR produced its first Annual Report for the year ended 31 March 1856 (Sabine, 1966: 87). These reports were addressed to “To the Lords Commissioners of Her Majesty’s Treasury” (1867) and therefore this was the mechanism by which the BIR was accountable to the House of Commons. The later Annual Reports show that the Surveyors have greater significance and are “beginning to emerge as the prototype of the modern government servant” (Sabine, 1966: 89; Williams, 2005)⁷² – an early version of the position of Inspector of Taxes, the tax official which will be discussed in Chapter 7.

Each Annual Report of the IR gives details of taxation and duties collected and explanations of external influences. For example, in the Eleventh Annual Report for the year ended 31 March 1867, the Commissioners point out their concerns about the reduction in taxation which was attributable to a decrease in

collecting could proceed. They were required to watch local proceedings in the courts which affected the revenue” (Ward, 1952: 540).

⁷¹ www.inlandrevenue.gov.uk/history/taxhis2.htm seen 11.4.03

⁷² In 1785, Pitt as part of his reorganisation of assessed taxes, created the position of Inspector to supervise surveyors. In 1798, surveyors were appointed to receive training so that they could

income tax and various duties such as fire insurance duty, stage carriage duty and post horse duty (1867: 3).

Bureaucracy comes with structures of administration. The hierarchical principal/ agent model in its simple original form is supplanted in such an administrative structure. The larger the organisation the more formal and impersonal structures have to be put into place to manage the organisation. Due to the size of the entity it is no longer feasible to operate using an informal rule structure. Blau and Meyer (1971: 4) define bureaucracy as a “type of organisation designed to accomplish large scale administrative tasks by systematically coordinating the work of many individuals”. Weber described the main characteristics of a bureaucratic organisation. He regarded bureaucratic management as being made up the following areas; defined divisions of labour – official duties; authority governed by rules which are formulated and recorded in writing, and the duties carried out by qualified specialist employees who are organised in an hierarchical structure (Weber, 1947: 302-3).

Hall (1963) when considering bureaucracy in organisations used six dimensions. These dimensions are as follows:-

1. “A division of labor based upon functional specialization
2. A well-defined hierarchy of authority
3. A system of rules covering the rights and duties of positional incumbents

be promoted to Inspector. This was the commencement of a professional grade of Inspector (Ward, 1952).

4. A system of procedures for dealing with work situations
5. Impersonality of interpersonal relations
6. Promotion and selection for employment based upon technical competence”.

(Hall, 1963: 33).

These six dimensions can be seen within the IR. The organisation of the IR was based on functional lines as discussed below. For instance examinations were introduced in the late 1870s which covered translation to or from either French, German or Latin, mathematics, double entry bookkeeping and political economy. The successful candidates were appointed as Surveyors. Prior to this time Surveyors were appointed by nomination (Sabine, 1966: 122-3; Lamb, 2001: 290). The introduction of examinations changed the type of staff employed by the IR. The new appointees with a background of “respectable lower middle classes” (Williams, 2005: 144), were unlikely to be members of the same social circle as the previous incumbents. After 1908, there were no specific departmental examinations and applicants for the post of Surveyor came from successful candidates of the Civil Service Intermediate Examination (Williams, 2005).

The Report of the Royal Commission on Income Tax 1920 (Cmd.615) looked at the administration of the tax system among other things such as rates and scope (Sabine, 1966: 158). Although the measures were not immediately adopted certain of the recommendations came in later, such as the appointment of Collectors by the Board of the IR and the Board being responsible for ‘the

general management of the collection of the tax' (ibid.: 187) and using the General Commissioners as a 'purely appellate body' (Sabine, 1966: 160; Stebbings, 1994: 66; Lamb, 2001: 295). As mentioned above, up to 1920, the General Commissioners had tax administrative duties. These duties were transferred to the Surveyors - the Inspector of Taxes thus bringing all tax administrative duties under the IR (Stebbing, 1994: 65). The early 1920s saw a more centralised and bureaucratic system of tax administration (Daunton, 2002: 113). The transformation of the General Commissioners into independent adjudicators from their role as tax collectors on behalf of the Government reduced the influence of lay Commissioners. The work of tax administration was now finally within the remit of professional employees.

Weber (1947) regarded a bureaucratic organisation as highly efficient and suitable for all varieties of administrative activities (1947: 309) and arguably has a relatively long modern history. For instance, Brewer argues that the English Excise in the eighteenth century was a bureaucracy "more closely approximated to Max Weber's idea of bureaucracy than any other government agency in eighteenth century Europe" (1988: 68). But Church (1981) when considering the French ministerial bureaucracy in 1770-1850 argues that it only really developed in a widespread way in the modern era.

"Weber's ideal type of bureaucracy is a specific form of administration which is a direct outgrowth of the nature of authority in the policy. Administration can and does exist in all ages and countries as an intermediary between government and governed. Bureaucracy however comes into being only with the rational and legal authority of the modern state. Basically for Weber a bureaucracy is a formal establishment of professional administrators, organised on rational lines, to carry out the wishes of a superior political will" (Church, 1981: 10-11).

5.4 Bureaucracy and disciplinarity

Weber notes that “bureaucratic administration means fundamentally the exercise of control on the basis of knowledge” (1947: 311). Knowledge in this case means technical knowledge and knowledge gained whilst carrying out the job. As mentioned previously, Burrell (1988) argues that bureaucracy and disciplinarity are not inconsistent. Disciplinarity, as mentioned in Section 4.1, is a two-sided term: the knowledge ‘disciplines’, and behavioural discipline, including self-discipline.

Bureaucracy is subject of much criticism – too much form filing, too many regulations (“red tape”) and inefficiency (du Gay, 2000; Parker 1993). NPM is seen to oppose bureaucracy and introduce reforms for the ‘better’ (du Gay, 2000: 6). It describes the introduction of commercial practices from the private sector such as competition between suppliers, market type practices, customer focus and increasingly performance management targets. The latter utilises targets against which performance of the organisation is measured.

In the next section I look at the impact of bureaucracy and the movement away from it in the structure of the IR.

5.5 The Organisational Structure of the IR

An illustration of the impact of the move from bureaucracy to NPM can be seen when comparing the organisational charts of the IR for the years ended 31

March 1969 (Figure 7), year ended 31 March 1976 (Figure 8), year ended 31 March 1983 (Figure 9), as at September 1993 (Figure 10) with the latest structure before the merger with HM Customs and Excise in April 2005 (Figure 11).

Figure 7 below shows the organisation structure of the IR as at 31 March 1969 (Cmnd: 4262 :13). What is of interest here is that the chart is organised on functional lines. However it is not clear how the separate sections (or offices) report to the 'The Secretaries' Office' comprising the three divisions; Stamps and Taxes; Establishments; and Statistics and Intelligence.

In 1975, following a review of the general organisation of the IR, the structure of the department was altered so that a common head office made up of four divisions was set up (Figure 8). These divisions consisted of Policy; Management; Technical and Finance. In addition a regional structure was set up to take over Income tax assessing and recovery work. The primary aim of the new structure was to improve management, with a secondary aim of improving service to the Government and the Public as the allocation of resources could be made more easily, tax inspectors could be deployed for specialist work and in the future the assessing and collection operations could be combined (Cmnd. 6302: 4).

HOW THE INLAND REVENUE IS ORGANISED

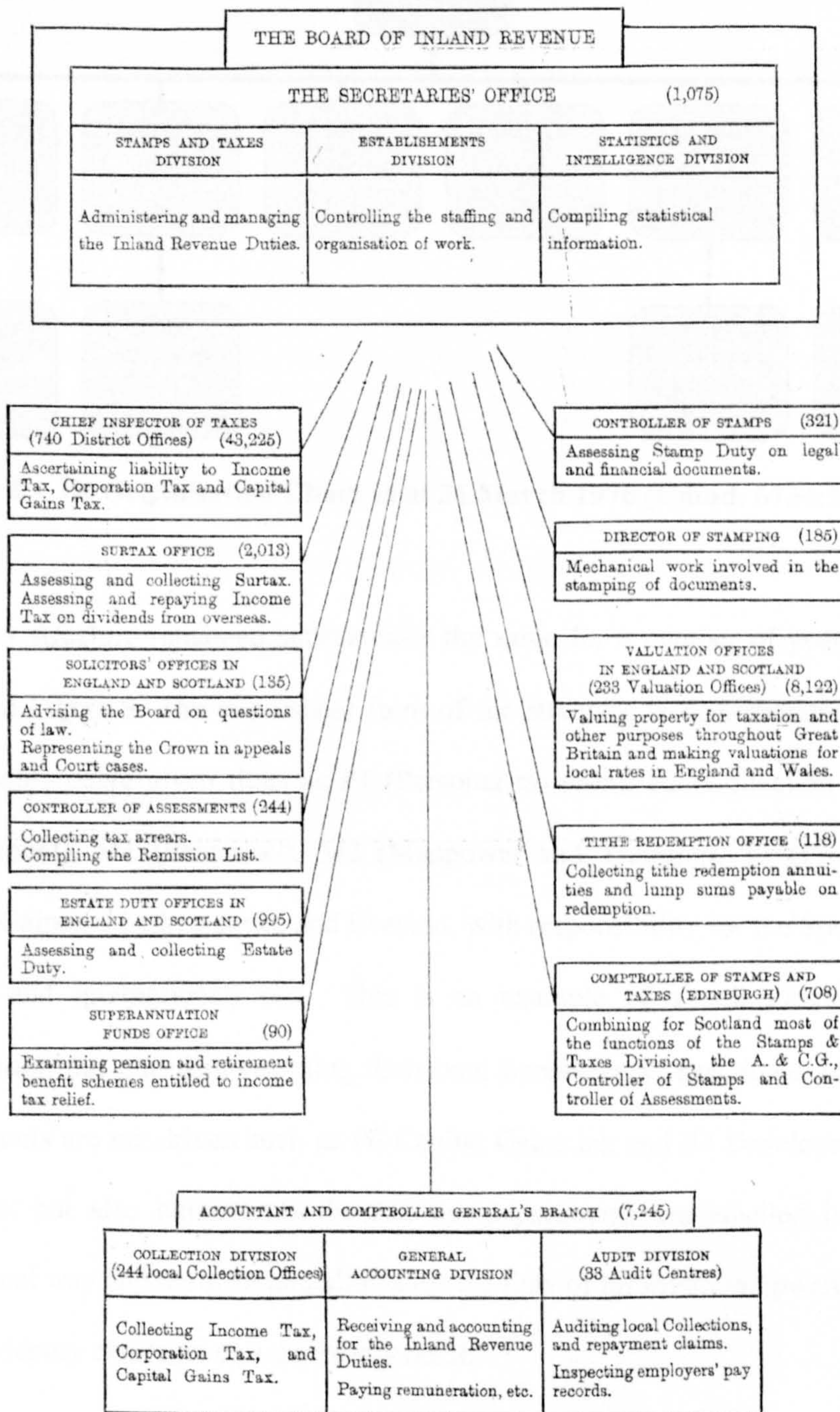


Figure 7 - Organisational Structure of the IR as at 31 March 1969 (Cmnd. 4262:3).

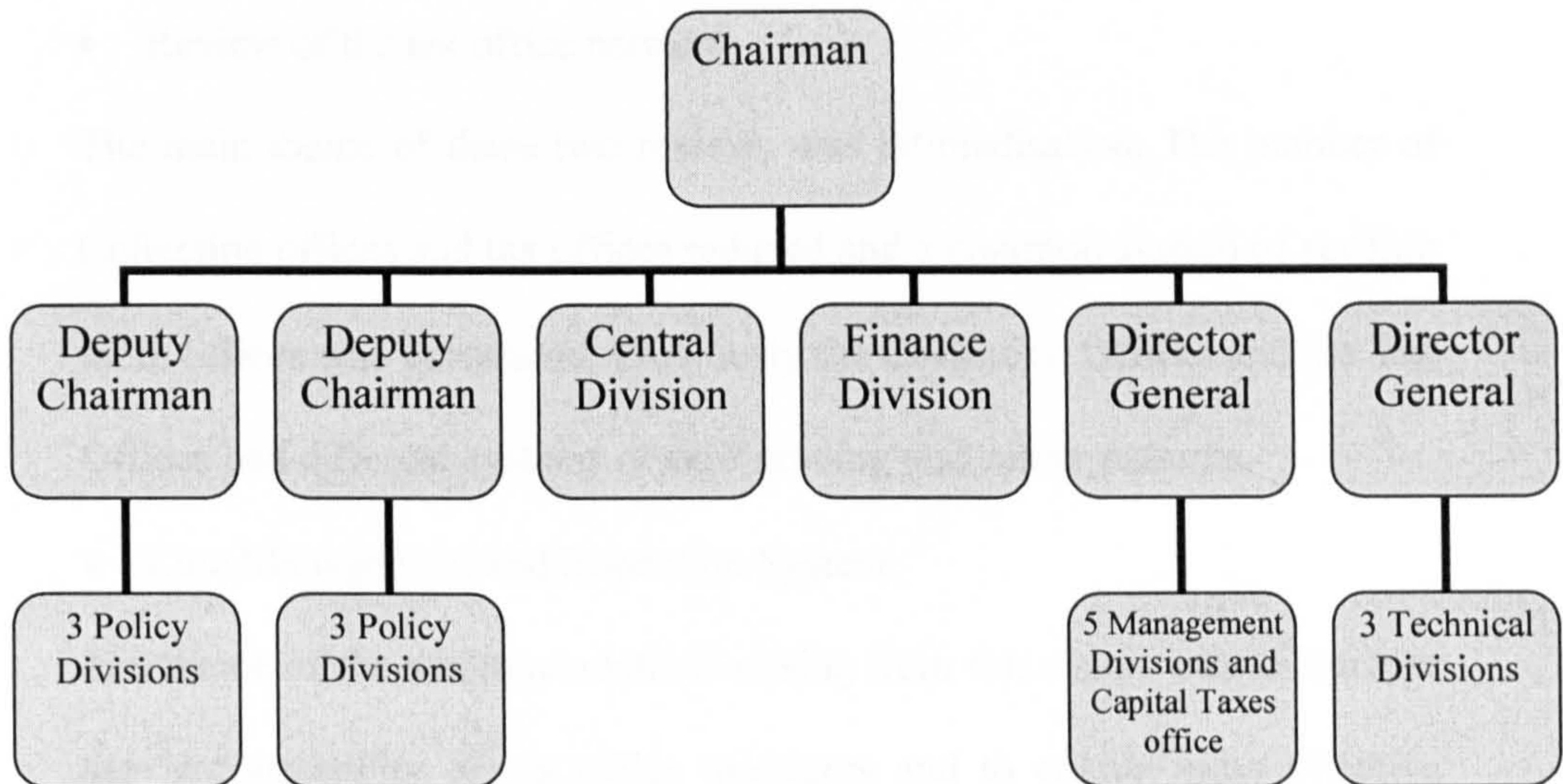


Figure 8 - IR Organisation Chart as at 31 March 1976 (Cmnd. 6734:19).

This new structure remained substantially the same for a number of years as shown in Figure 9. The impersonal form of the structure is demonstrated by departments being given titles as P1 (Personal taxation), P2 (Collection and Enforcement), M1 (Personnel), M2 (Manpower and Training), T1 (Profits, Capital Gains), T2 (Avoidance and Evasion, with responsibility for the Special Offices and International) etc. This is an example of a still functional organisation but one demonstrating divisional bureaucracy; functional as the departments are tax driven such as P6 Capital Gains tax and P7 Development Land tax but also bureaucratic in that the departments are labelled in an impersonal way and the structure allows for the flow of information upwards to either a deputy chairman or a director general.

The annual report for the year ended 31 March 1983 (Cmnd.9305: 5) refers to a number of internal management reviews including;

- Review of the Collection Service
- Review of the tax office network

The main theme of these two reviews was rationalisation. The number of Collection offices and tax offices reduced and a common system of staffing these offices was introduced. Previously the Collection Offices and the Tax Offices had different systems of staff grading and career patterns.

- Line Management and Inspection System

The theme of the recommendations arising from this report was to increase the 'accountability of tax office managers and to enable more effective monitoring of local performance to be carried out by Regional Managers' (Cmnd.9305: 6). This recommendation was in line with the Financial Management Initiative (Cmnd. 9058). The aim of this was to increase the amount of financial and management accounting information received by the Board and other managers regarding tax revenues and administration costs.

The overall aim of these changes was to improve the efficiency in the department (Cmnd. 9576: 6). Thus it may be seen that the IR developed into a classic bureaucracy where certain forms of management practices were already in place. In Hoskin and Macve's (1986, 1988) terms, these are the practices of writing (key to any bureaucratic system and process), plus forms of examining (of texts and people) and grading of performance. However within the new IR under the NPM regime these practices remain in place, but certain ways of deploying them intensify, e.g. through the articulation of quantifiable performance targets and measurement systems, plus more intensive forms of

1983

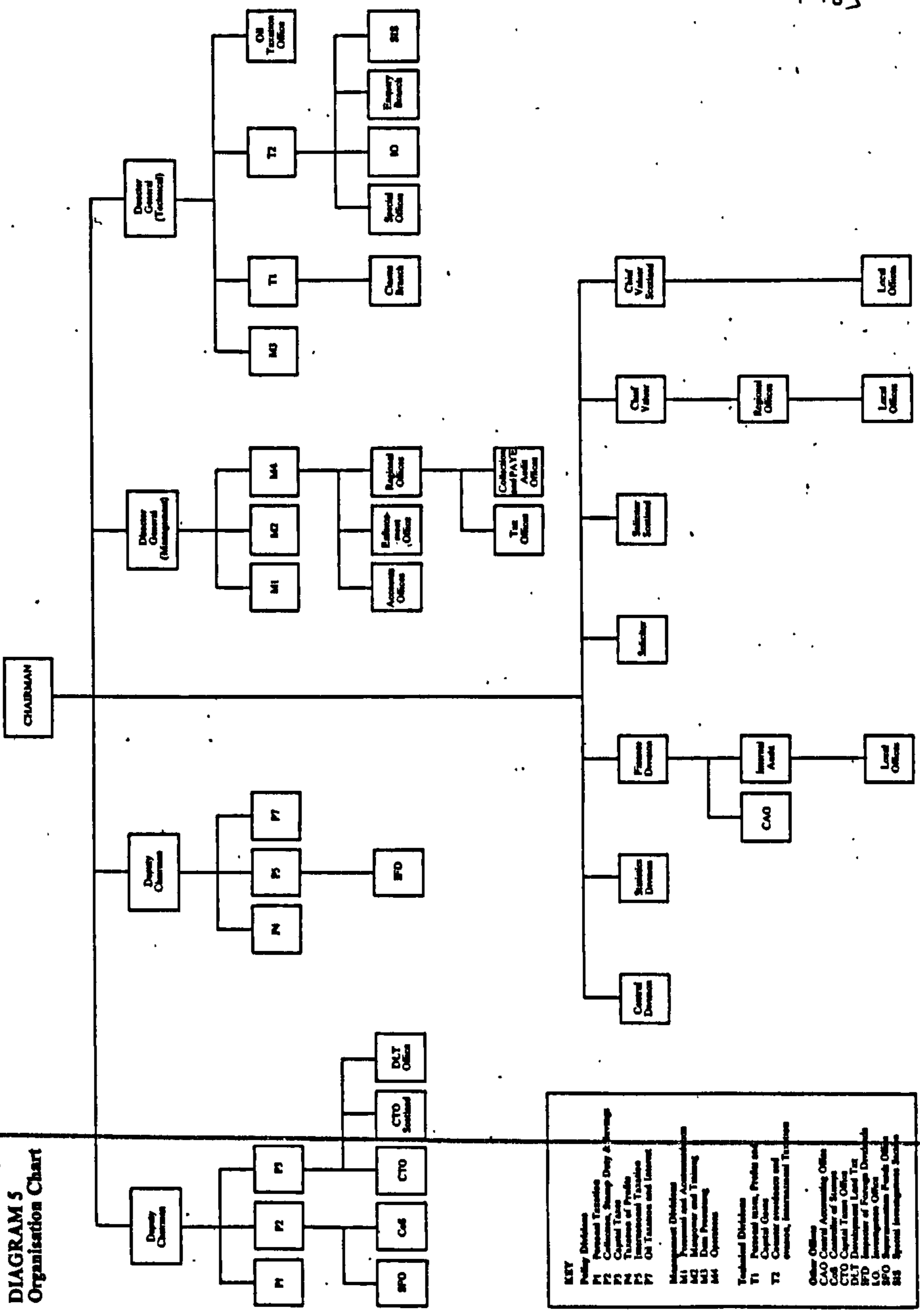


DIAGRAM 5
Organisation Chart

Figure 9 -

Organisation Structure of the IR as at 31 March 1983 (Cmnd. 9305 :16)

accounting and accountability (e.g. the attempted implementation in the Civil Service of Resource Based Accounting). So in the new 'strategic IR', top management continues to deploy the same management practices but now they serve the new purpose of 'doing strategy' (Hoskin, Lamb and Tuck, 2001). The next section discusses this new 'strategic IR'.

5.6 The Changing IR

Following the 1991 White Paper 'Competing for quality' (Cm 1730) and policies introduced by the Citizens Charter (Cm 1599), and Next Steps, the Board of the IR decided that significant change to the structure and processes of the IR was needed (NAO, 1996). This resulted in a ten year change programme starting in 1992. The change programme focused on four important areas "known as the "Four Cs":

- **Customer service** – to gain a significant improvement in customer service by getting people's tax affairs right first time;
- **Compliance** – to gain a steady improvement in compliance; with the right amount of tax paid at the right time;
- **Cost efficiency** – to gain a significant reduction in costs and provide value for money in everything the Department does;
- **Caring for staff** – to recognise that people are the Department's most important asset" (NAO, 1996: 1).

SUMMARY ORGANISATION CHART - SEPTEMBER 1993

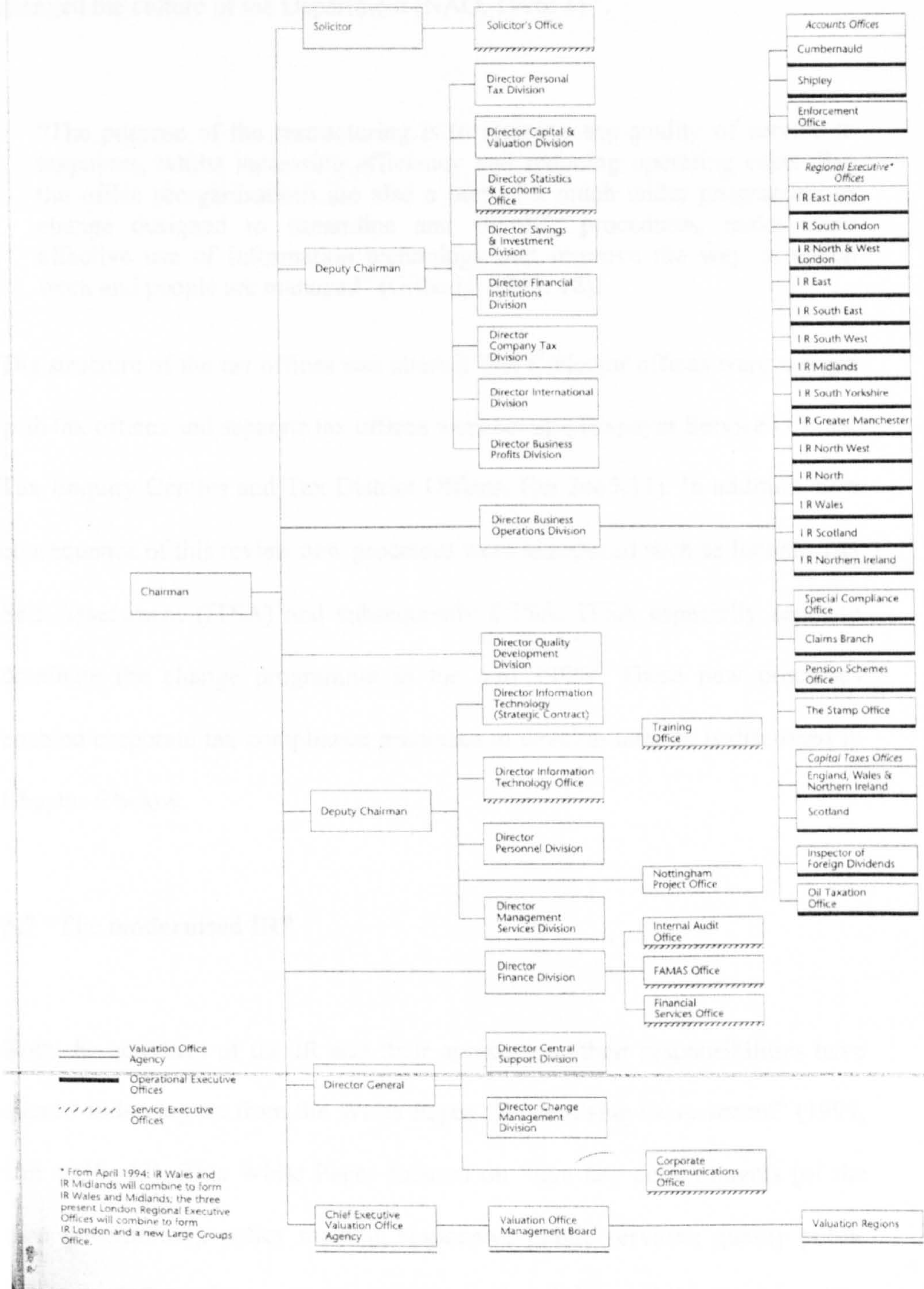


Figure 10 - Organisation Chart of the IR as at September 1993 (Cm

2328:8).

These “Four Cs” were translated into a programme which reorganised the office structure; simplified and streamlined processes; improved use of IT and changed the culture of the Department (NAO, 1996: 1)⁷³.

“The purpose of the restructuring is to improve the quality of service to taxpayers, whilst increasing efficiency and reducing operating costs. But the office reorganisations are also a part of a much wider programme of change designed to streamline and simplify procedures, make more effective use of information technology and improve the way in which work and people are managed” (Gilbody, 1993: 18).

The structure of the tax offices was altered. The Collector offices were merged with tax offices and separate tax offices were set up (Taxpayer Service Offices, Tax Enquiry Centres and Tax District Offices, Cm 2665:11). In addition, as a consequence of this review new processes were introduced such as Income Tax Self Assessment (ITSA) and subsequently CTSA. ITSA especially came to dominate the change programme in the mid 1990s. These new processes enabled corporate tax compliance processes to develop later as is discussed in Chapter 6 below.

5.7 “The modernised IR”

Both the activities of the IR and their approach to their responsibilities have altered following on from the White Paper “Modernising Government” (1999, Cm 4310: 13). This White Paper focused on “five key commitments [of the then government]: policy making; responsive public services; quality public services; information age government and valuing public services. The objective of the government in introducing these commitments was to

⁷³ See Lamb, Tuck and Hoskin (2003).

Organisation chart

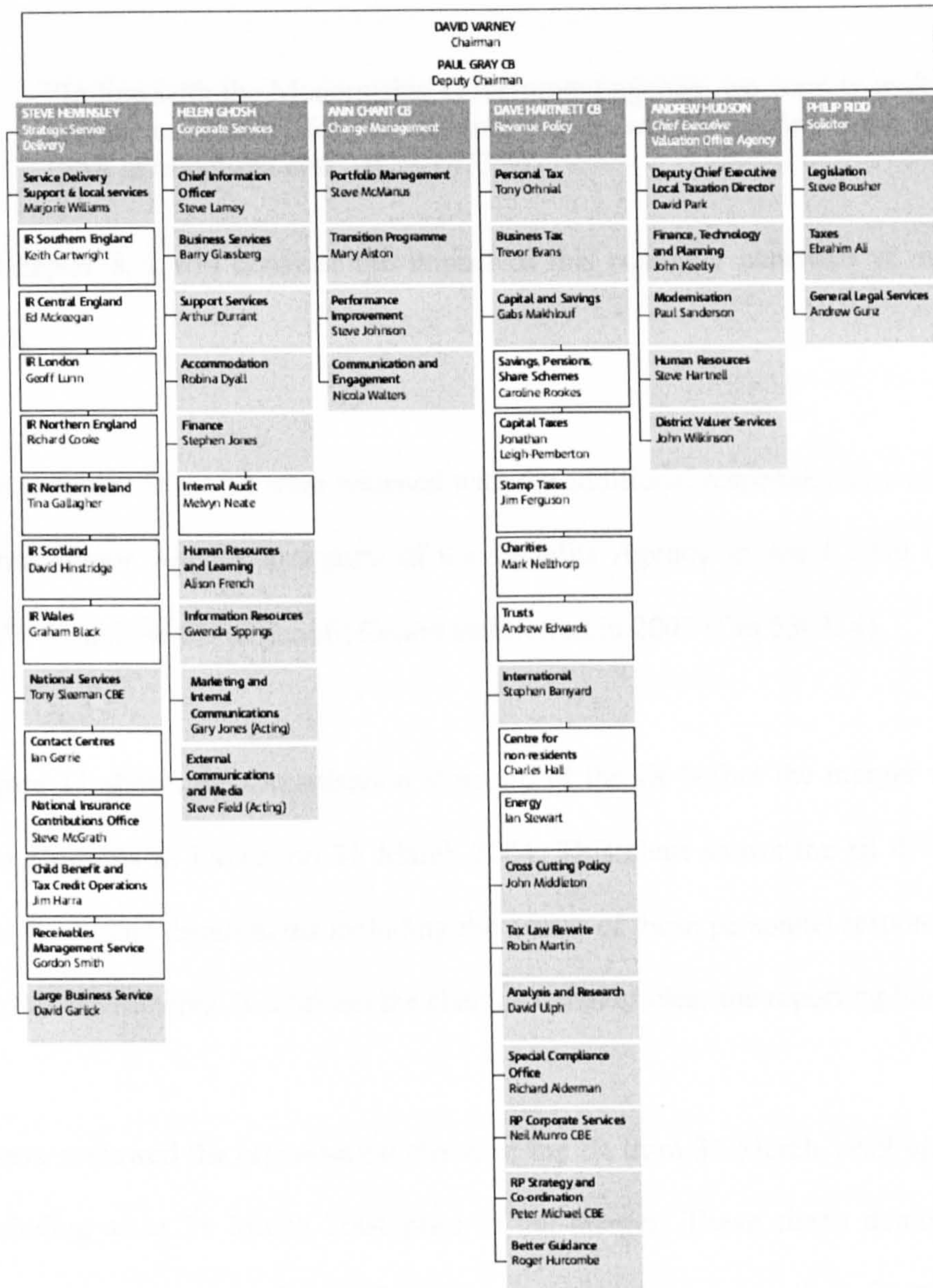


Figure 11 - Organisation Chart of the IR as at 31 March 2004 prior to the merger with HM Customs & Excise (HC 1062: 7).

modernise government so that “[b]etter government make life better for people” (Cm 4310: 13). In response to this White Paper, the IR responded to the needs of its customers.

“In line with the Modernising Government agenda, we want to make it as easy as possible for our customers to do what is needed at the right time, at minimum cost” (Cm 4477:6).

In Chapter 8, I will consider the impact of this customer construct in more detail.

The activities of the IR were widened with the additional responsibilities of the Contributions Agency and parts of the Benefits Agency in April 1999 (Cm 4477: 5) and the Child Benefit Centre transferred in 2003 (Cm 5304: 4).

Figure 11 shows the Organisation structure of the IR before the merger with HM Customs & Excise on 31 March 2004. This chart shows the IR divided into functional departments including the names of those personnel responsible for the departments. In addition the chart also makes clear the reporting lines.

I have reviewed the organisation charts of the IR from 31 March 1969 up and including as at 31 March 2004 prior to the merger. These charts depict the change in structure of the IR from an organisational structure based on different types of taxes to one which is based on functional activities reflecting NPM characteristics.

5.8 Emergence of the Large Groups office⁷⁴

As previously mentioned in Section 5.2 the assessment and collection of taxes were very localised. For a company, the particular tax district dealing with its tax affairs was dependent on where the registered office was located. As mentioned above there are no provisions to look at a group as a sole entity for tax purposes; each individual company in the group has to be examined by itself. In the 1980s, for a particular group of companies, it was not uncommon to deal with a number of tax districts and therefore a number of different tax inspectors, if the individual companies in the group did not have a common registered office address. The registered office frequently would be different from where the operations of the company took place as normally the registered office would be the site of the group's head office.

The IR had little coherent strategy for dealing with these groups. The method of examination was dependent on the individual district inspector and whether they were technically competent and what they chose to look into. An effect of this is that the issues would be considered separately and there was no joining up of issues unless the cases were referred to Head Office, for example, on a technical issue. There is evidence that some Inspectors liked having a large business in his district as there were more complex tax issues to be investigated and often it was his major case (Tax partner, A4; Senior official, IR3)⁷⁵. In

⁷⁴ The information in this section is taken from interview notes of interviewees who were IR officials at the time of the reorganisation. The documents referred to are not publicly available.

⁷⁵ I refer to each interview as to the type of person, tax official, tax manager, tax advisor. Each interview has been given a number which designates the particular interview as set out in appendix 1.

addition at that time, in the words of one IR official, “the IR thought they knew best about tax issues”. In the opinion of the IR official this was also reflected by companies. In his experience a large company would have been very wary about challenging the IR about tax technical issues. However this changed in the 1970s, in his view, with the increase in the rate of Corporation tax to 52%, an increase in the number of specialist tax advisors and the state of the economy leading to an active tax planning industry becoming established⁷⁶.

In December 1983 a review of the 58 Tax Offices headed by Principal Inspectors of Taxes (Cmnd. 9305: 6) was completed. The Committee undertaking the review was headed by Barry Pollard, who was a senior manager in Head Office, and recommended what were called Pollard districts (Tax partner, A4, 2003). This recommendation meant that without changing the basic organisation, where a Principal Inspector was in charge of a district all the files for a particular group were transferred to that one office. This allowed all the companies in a group to be looked at in the same location. However the IR still looked at cases for tax purposes on a company by company basis. There was no expectation that the group would be looked at as a group, which is logical for tax law purposes. Although these were specialised offices headed up by one principal inspector and supported by four or five inspectors and one secretary, they still retained all their other work including smaller companies. Most of these specialist offices were located in London because the registered offices of most groups of companies were located there and the rules of allocation of cases were still based on geographical area which

⁷⁶ There were a number of leading tax cases challenging the IR which the IR won such as *Furniss v Dawson* (55 TC 324).

is evidence of the enduring nature of historical structures. Some of these offices were quite specialised, for example banking and insurance, due to the nature of the groups of companies in a particular location. In the mid 1980s with the increased pressure on the IR on recruiting and retaining staff in London, some of these offices were moved outside London to the regions. IR staff could obtain significantly better remuneration in the private sector at that time and were prized by the firms of accountants who recruited them, for their 'inside' knowledge of the IR.

The position after Pollard in the opinion of one tax official interviewee (Senior official, IR4, 2003), was that some groups were held to be more important than others for no real reason. There was no separate organisation for groups. In 1993, the Davenport Report was issued which looked at groups of companies being dealt with on a group basis with other large groups. It also coincided with a number of tax offices moving out of London. In 1995 Manchester tax district became a pilot district for the new system based on the recommendations of the Davenport Report (Senior official, IR4, 2003). Non-large groups work was shipped out and the tax district retained its staff although compared with the old system they had less work to do. This enabled resources to be freed up to spend extra time on major cases such as large groups of companies. The experiment was successful and the Pollard Advisory Group review ("PAG") looked at the work post Davenport. These special districts (known as PI⁷⁷ districts) were individually run and very small and acted independently. They numbered about 70 in total and were part of the

⁷⁷ Principal Inspector

regional office structure, although a view was expressed by one interviewee that the line management structure was never straightforward. In the opinion of one IR official there was very little direction from the regional office. In the North West the then Regional Director had 7 tax districts, which were very small consisting of 1 PI, 3 or 4 assistants and a secretary. The Regional Director had also to run the rest of the regional business, which included the local tax office network. Often he was preoccupied in dealing with the bulk of the other work. In addition the PIs in these small districts were very much technically advanced in tax knowledge compared with the Regional Director. There was no co-ordinated regional structure. Each region was fairly autonomous and these small districts dealing with the large corporates followed their own particular region's policy. As a result there was little consistency across the IR as a whole in the way of dealing with large groups of companies.

An IR official expressed the view that the issues that PAG raised were about more control, more governability and accountability for the change (Senior official, IR4, 2003), which at the time raised concern among the PIs.

In 1994 in London, the Large Groups office was set up (Cm 2665:8) which subsumed the large specialist offices from the local London regional management offices. This was the forerunner to the establishment of the LBO.

“It was intended that there would be taxpayer benefits arising out of the changes, but I was not going to kid anybody in saying that this was a customer driven initiative. It was entirely an initiative designed to create greater yield by making the tax units dealing with the biggest tax payers more efficient in the way in which they were dealing with those individuals, designed to create more money. Again it's a simple

background; if you enquire into those that have the biggest numbers you're likely to get the biggest numbers in return. You know, if you spend all your money enquiring into fish and chip shops you won't create a great deal of extra yield. If you spend all your resources looking at the FTSE 200 and the Fortune 500 end in the UK you're likely to get more extra yield, and the reason for that is that you need to understand the profile of the tax take in the UK." (Tax manager, ex IR official, C10, 2003).

In many ways, NPM is easier to implement in a discrete stratified sample of taxpayers such as large corporates as the tax affairs of large corporates are harmonised to some extent.

5.9 The Large Business Office

The Large Business Office ("LBO") was set up on 1 August 1997 to deal with the largest corporate taxpayers with a new structure consisting of 15 offices (Cm 4079:23). This was a move away from the 70 or so office (PI districts) structure. This number of offices has subsequently been reduced to 13 with four in London and the rest distributed around Great Britain. This was because two of the offices were becoming too small to be efficient in the view of one interviewee (Senior official, IR7). The size of an office is influenced by the number of groups of companies within that office. If two groups dealt with by different LBO offices merge then the enlarged group will be sited in one LBO office only. There is no precise definition of what constitutes the criteria for a "large" group to be included in the LBO. The criteria for large is based on a scoring system which takes into account both the size of the group and behavioural factors such as attitude towards tax avoidance and the extent of tax planning undertaken (LBO official, LBO1, 2003).

With the introduction of the LBO there were 4 changes to the districts:

1. The full role of the Davenport Report was applied only to multinationals
2. Groups were treated as Groups – the official IR's divisions were broken down. Although legally the individual companies were dealt with separately by the IR, the transactions of the group would be looked at as a whole e.g. financing arrangements.
3. Each separate and individual regional office was run like a professional partnership by the Case Directors.
4. These professional partnerships were under single line management – the LBO. The LBO head office was responsible for the management of all LBO offices.

Each separate LBO office has a different management structure. Each LBO office has a slightly different organisational structure but in the main consists of 4 or 5 senior Inspectors who are part of the Senior Civil Service. There is no one person in charge of the particular office; the office is run by a management team - what is referred to internally as a “professional partnership”. Although groups of these offices are under the control of a deputy director, the individual offices remain fairly autonomous. Each office has an office manager who is either part of the management team or, more likely, a dedicated manager who is responsible for running the office on a day-to-day basis. For example, one particular LBO office had six senior inspectors (Case Directors) and each was allocated a major corporate group which is a household name. Each group will be allocated a number of hours from the budget. These hours represent the time that it is felt should be spent looking at the particular corporate group's tax

affairs by the LBO case team. In addition each case director will have a variety of smaller groups to be examined with any remaining unbudgeted time available. On each group, there will be a team of Inspectors of different grades, numbering up to four on the larger groups. These inspectors operate on a matrix system in which they work for a variety of case directors; in other words they will not work in the same work team for each case. The case director in charge of the team will have a certain proportion of the time of each of these different inspectors allocated to the group and they will define responsibilities for each of their subordinate inspectors on how the work on the group is divided and handled. In May 2004, there were plans to reduce the number of offices to increase specialisation. In London the 4 LBO offices, which deal with banks, financial institutions and insurance companies have now been merged into one financial office with a line management structure and a single person responsible for the combined office, thereby ending the professional partnership management structure.

Since their formation there has been further specialism in addition to the Financial Office, as each LBO office has a sector specialist interest such as Telecom companies, property companies or banks etc. The IR take the view that advantages can be gained from sector specialism as information about specific complex issues, both commercial and taxation, affecting the particular industry can be shared within the IR. In addition this structuring by sector is mirroring the structure of the Big 4 accountancy firms (Tax partner, A2, 2002).

As the then chairman of the IR, Sir Nicholas Montagu said in 2003.

“Specialisation, where it makes sense, and the concentration of work into more specialised business streams have been a growing feature of our structure over recent years. One of the first of these was the creation of the Large Business Office, or LBO, handling the affairs of large corporations and public sector employers. This has enabled us to devote some of our best technical experts to helping the customer organisations get and keep their affairs in order, and also to policing them effectively and detecting things going wrong, or risks, at an early stage. In a recent survey an overwhelming majority of large companies rated the LBO as effective in identifying and helping to resolve risks, and had confidence in their knowledge of tax law and practice” (Montagu, 2003)⁷⁸.

This move from functionalist specialisation by tax to sector specialist focus is an indication of the move from bureaucracy to NPM. In particular the structure of the organisation is being tailored to the taxpayer (customer) sectors as opposed to functional structures internal to the IR such as based on the particular type of tax.

5.10 NPM versus Bureaucracy

As mentioned previously NPM is seen by some to be the saviour of bureaucratic public administrations. The introduction of NPM or entrepreneurial governance⁷⁹ is seen to be the paradigm in opposition to the Weberian ideal of a bureaucratic structure (Du Gay, 2000: 6). Du Gay criticises this move towards NPM. In his book “In Praise of Bureaucracy” he argues that

⁷⁸ Reproduced in Lamb, Tuck and Hoskin, (2003b :41).

⁷⁹“ Entrepreneurial governments promote *competition* between service providers. They *empower* citizens by pushing control out of the bureaucracy, into the community. They measure the performance of their agencies , focusing not on inputs but on *outcomes*. They are driven by their goals – their *missions* – not by rules and regulations. They redefine their clients as *customers* and offer them choices – between schools, between training programs, between housing options. They *prevent* problems before they emerge, rather than simply offering services afterward. They put their energies into *earning* money, not simply spending it. They *decentralize* authority, embracing participatory management. They prefer *market* mechanisms to bureaucratic mechanisms. And they focus not simply on providing public services but on

bureaucratic officials' role was "administration". This had two parts; firstly policy advising and secondly management where management meant "mobilising and co-ordinating resources to carry out accepted policy" (Parker, 1993: 170). However the new discourse of public administrators is that administration has been replaced by management (du Gay, 2000: 137) which creates difficulties as management is not a synonym for administration. Managers carry out policy which has been defined by senior management for that particular organisation, whereas as civil servants, managers implement policy in a wider framework such as advising on legislation, dealing with other Governments, administering justice and regulating activities. Du Gay is not arguing that entrepreneurial governance should not be applied to the public sector but it should be recognised that public servants have a role which is greater than just maximising the '3Es⁸⁰'; their role is to act ethically in the State or public interest (du Gay, 2000: 144) – the 'ethos of office'. It is thus interesting to understand what it is to be a civil servant in that sort of environment. Under the old principal/ agent model, the tax administration was delegated to the agent with minimal intervention. However with bureaucratic practices each level of administration reflects the principal/ agent model. There is scope for invisibility as there is little investment in surveillance and control. For instance the regional office structure of tax offices outside the LBO was referred to by an IR official as a fiefdom. The bureaucratic rules defined the subjects. However with more complex practices, the formalised structure is broken down so that new practices and functions such as marketing are outside the previous formal structure. These new structures create space for elite

catalysing all sectors –public, private and voluntary – into action to solve their community's problems. (Osbourne and Gaebler, 1992: 19-20 quoted in du Gay, 2000: 5).

specialist knowledge experts. This ethos of office is taken up in Chapter 7 which looks at the changing role of the tax official.

5.11 Chapter Summary

This chapter has examined the move from bureaucracy to NPM reflected in the IR's organisation charts. It has traced the development of localised operations and the setting up of the LBO. The focus of the chapter has been on the structure of the organisation of the IR to illustrate the new practices being embedded within the IR as a response to NPM. The next chapter discusses the new practices and processes introduced to the Corporation Tax compliance game.

⁸⁰ Economy, efficiency and effectiveness.

Chapter 6 - Processes and Practices

6.1 Introduction

The previous chapter considered the changes to the organizational structure of the IR which have arisen as a result of the move from a bureaucratic structure to one which reflects NPM. The purpose of this chapter is to extend the analysis and to look at the processes and practices of tax compliance which have been influenced by this move. This chapter looks at the practices which large corporates engage in with the IR to submit their tax computations and how those practices have changed as a consequence of a change in the legislative process for filing tax computations and against a background of a changing IR using both documentary and interview data. These practices have been influenced by the move from direct bureaucratic control within the IR to one in which governance principles are being utilized as was discussed in the previous chapter. This involves taking a managerial approach to tax compliance, focusing on the method of service delivery as well as the tax collection process.

6.2 The Managerial and Strategic IR

The changes to the IR have not been limited to the range of its activities being expanded and the changes in its organizational structure which were discussed in the previous chapter. The new approach can be seen in the wider appreciation of managerial activities such as strategic policy making;

reconceptualising the taxpayer as a customer; new IT approaches; performance targets and the introduction of the Resource Accounting and Budgeting system. As mentioned in Chapter 1, Hoskin, Lamb and Tuck (2001b: 2) suggest that the IR has moved from being a two box entity to a four box entity to which they refer as the IR ‘boxology’, as set out in a figure repeated here for illustrative purposes.

	Inward facing	Outward facing
Practices <i>[What gets done]</i>	Operational	Strategic
Discourse <i>[What gets said]</i>	Management	Marketing

“The Inland Revenue ‘boxology’”

Source: Table 1 Hoskin, Lamb and Tuck (2001b)

The bureaucratic stage of the IR is the inward facing IR whereas the outward facing IR is the new style strategic and managerial IR. This model illustrates that the impact of NPM is not changing the IR into a completely new entity with private sector characteristics, but rather, the ‘managerial and strategic IR’ has within it embedded bureaucratic practices. Marketing practices have been introduced to this process: the taxpayer has been relabelled as a ‘customer’ (and a marketing director was appointed in November 2001).

Public sector agreements with measurable targets were introduced following on from the 1998 White Paper, 'Public Services for the Future: Modernisation Reform Accountability' (Cm 4181) and its 1999 supplement (Cm 4315). With the greater emphasis on performance targets some change areas have become more significant than others. Hoskin, Lamb and Tuck (2001a, 2001b) identified four areas of change: policy, operational, technological and perception. These areas are interdependent.

- **Policy.** The traditional role of policy has been extended to encompass the widened activities of the IR:

“We have established with Customs & Excise a joint policy steering group with senior representatives from both Departments. The group ensures that policies are co-ordinated and reflect the lives of citizens rather than the boundaries or working practices of a Government. Where other Government Departments have a shared interest in policy development we ensure our advice reflects consultation with them. Our overall aims are to give Ministers comprehensive, timely and high-quality analysis and policy advice which reflects wider Government policies of encouraging work, enterprise and competitiveness while promoting fairness and delivering environmental objectives. Consultation with our customers also forms a key part of our policy work and where we implement legislative changes we aim to do so in a way that minimises the administrative burden” (Cm 5029: 25-26).

Interestingly the taxpayer here is referred to as a customer. I discuss this customer concept further in Chapter 8.

- **Operational.** With the increasing pressure on resources available from central Government, the IR has to be more efficient in assessment, collection and administration of tax and seek out alternative ways of achieving their primary objectives. This has been reflected in two of the Public Sector Agreement (PSA) targets set by the Government.

“PSA target 1. Deliver year on year improvements in the number of individuals and businesses who comply with their obligations and receive their entitlements” (Cm 5706: 10).

“PSA target 4. Improve value for money by achieving annual productivity gains of at least 2.5% per year until March 2004, without detriment to accuracy or customer satisfaction” (Cm 5706: 13).

One approach used by tax authorities has been the utilisation of a model similar to the Australian Tax office (ATO) tax compliance pyramid model⁸¹. The difference between the ATO model and other traditional models is that the traditional view is that the more tax authorities punish for non-compliance, the more taxpayers will comply. The ATO model on the other hand, encourages taxpayers to co-operate with Revenue authorities in complying but with the threat in the background that if they do not comply then the Revenue authorities will apply the law strictly (Braithwaite and Braithwaite, 2001). This has been adopted by the IR in the following model (Figure 12).

Taxpayers who comply voluntarily will be ‘encouraged’. Those who do not will be pursued by the IR using their legislative powers⁸². The difference between the ATO and the IR models is that the IR model links the ATO’s compliance pyramid with customer behaviour and relationships. However

⁸¹ Notwithstanding that Braithwaite posits a different shape for Large Business see section 3.3.2.

the appropriateness of this model for large business may be questioned (Braithwaite, 2003a).

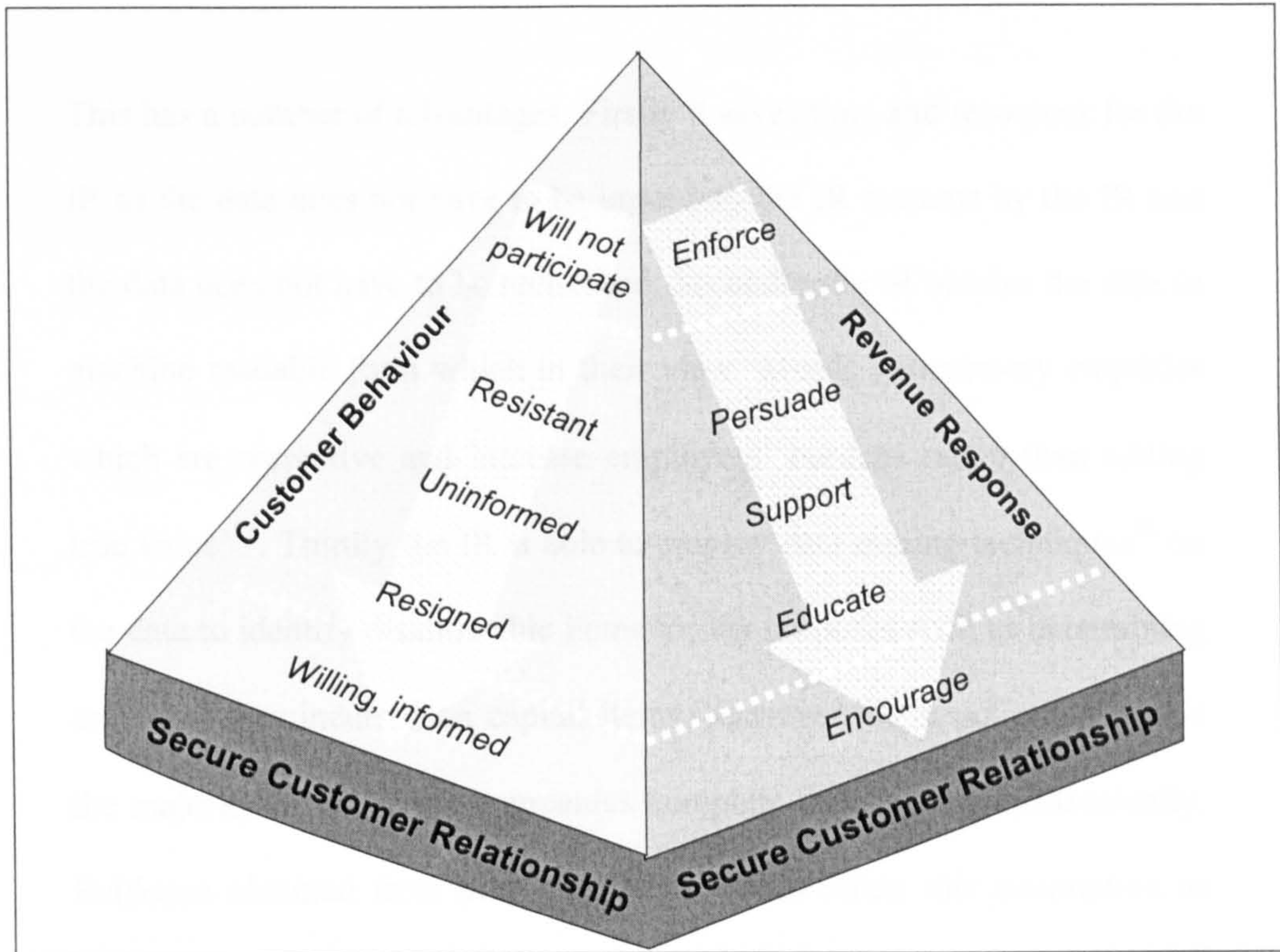


Figure 12: Inland Revenue Compliance Model

(Source: Cm 5428, 2002:11,)

Reproduced in Lamb, Tuck and Hoskin. (2003a: Fig. 8).

- **Technological.** To be more efficient the Government aim was that by 2005 all communications with taxpayers will be available electronically. This was reflected in the following target:

⁸² <http://www.hmrc.gov.uk/consult/annex3.pdf> seen 2/ 11/06.

“ PSA target 3

Ensure by 2005 that 100% of [communication] services are offered electronically, wherever possible through a common Government portal, and a take-up rate for these services of at least 50%” (Cm 5706: 10).

This has a number of advantages. Firstly it saves time and resources for the IR as the data does not have to be input into the IR systems by the IR and the data does not have to be rechecked. Secondly the IR obtains the data in machine readable form which in their view ‘avoids unnecessary enquiries which are corrective and increase employers’ burdens rather than adding true value’⁸³. Thirdly the IR is able to employ data mining techniques⁸⁴ on the data to identify disallowable items for tax purposes such as entertaining and legal fees incurred on capital items. However the target assumes that the majority of taxpaying companies complete their returns electronically. Evidence obtained from pilot interviews would refute this assumption as the companies at the time of the interviews did not have the necessary software to link with the IR systems (Tax partner, A1, 2002)⁸⁵.

- **Perception.** The IR is attempting to change the culture of paying taxes by introducing a moral argument. In a speech in January 2003, Montagu, the chairman of the IR said:

⁸³ Montagu, (2003) http://www.inlandrevenue.gov.uk/news/tax_avoidance_measures_sp.htm seen 13.3.03. This is in addition to PAYE procedures.

⁸⁴ Data mining techniques such as the use of IDEA computer programme. These programmes electronically interrogate computer held data such as the accounting records.

⁸⁵ At 30 November 2005 there was a limited take up of electronic filing: 12,300 returns out of a population of 800,000 returns received each year (Cm 6691: 77).

“The link between taxes and the social goods that would be impossible without them is the very foundation of tax morality and cannot be stated too often”⁸⁶ (Montagu, 2003).

It is questionable how relevant the moral issue is for large corporates. The activities of corporates are delegated to professional managers who understand their objective is to maximise shareholders’ wealth. Consequently, the moral argument was met with misunderstanding and irritation by tax managers and tax professionals. They did not see why the IR should have a view on the amount of tax raised but what they should be interested in is whether or not there were unfairnesses or anomalies which need removing (Tax partner, A3, Sept 2002). In addition they felt that the IR was not appreciative of the other stakeholders in the company.

“[The IR] have started talking about the implication that it is our duty to pay tax. Well clearly it is our duty to pay taxes as levied by the law. But we are not in the business of paying tax any more than we have to and it is often overlooked by revenue officials that the directors of these companies have fiduciary duties to their shareholders and paying excessive amounts of tax isn’t the way you discharge your fiduciary duties. But having said that a company like [Plc] has a good reputation in the public and with the tax authorities and other Government authorities which it jealously protects but it does reserve the right within certain parameters to do carry out schemes which or carry out transactions which may according to the Revenue’s view be offensive but from our perspective they are legitimate because we are entering into business transactions and if we choose to do that in a tax efficient way that’s up to us” (Tax director, C13, July 2003).

As mentioned in Chapter 1, large corporates have additional considerations compared with smaller companies including reputational interests and two way practices of government between the IR and them. The response of the IR and

now the HMRC has been reflected in the 'Tax in the Boardroom' agenda (HMRC, 2006). This has substituted the moral argument to one of corporate social responsibility (Henderson Global Investors, 2005a, 2005b; KPMG, 2004; PricewaterhouseCoopers, 2005b).

In addition to renaming taxpayers as customers, a further example of the marketing approach of the LBO is the setting up of the Large Corporates Forum (LCF). This body had its first meeting on 18 January 2000. The aim of the LCF was to enable the IR to get a better understanding of the needs of large corporates with the aim of 'assisting compliance'. The membership consists of tax directors and managers from large corporates and LBO officials. The membership of the forum is supposed to be representative of the corporate taxpayers dealt with by the LBO. The purpose of the LCF is to enable:

- "better understand the needs of its customers and so improve the service it provides.
- identify the compliance burden on customers with a view, where practicable, to taking measures to reduce it.
- provide a forum within which current taxation and operational issues can be debated"⁸⁷

Meetings are held approximately three times a year. The LCF is an example of the IR moving away from bureaucratic practices to be more strategic in dealing with and understanding their taxpayers.

⁸⁶ http://www.inlandrevenue.gov.uk/news/tax_avoidance_measures_sp.htm seen 13/03/03

6.3 Corporate tax compliance

This section discusses the impact of the change in practices to secure Corporate Tax Compliance. It is divided into three sections. Firstly I discuss the position pre-self-assessment, secondly the introduction of self assessment, which represented a marked change in the accountability of the taxpayer, and lastly I discuss the NCP. What can be seen is that the 'truth game' changes in response to the development of corporate tax compliance process.

6.4 Pre-Self Assessment

The IR was previously responsible for correctly applying the legislation and calculating the tax liability based on information provided by a company. This information was provided in a non-standardized way. The company would send a copy of its annual report and accounts for the particular year together with a corporation tax computation which vary in length from one page to tens of pages. The length of the corporation tax computation was partly dependent on the complexity of the company's tax affairs, but it was also dependant on the amount of disclosure the company wished to make about its tax affairs. The advantage of disclosing, for instance, a breakdown of legal and consultancy fees showing the constituent parts was that it pre-empted questions by the IR. The *Olin Energy Systems Ltd v Scorer*⁸⁸ case in 1985 also assisted the disclosure process in that it was held that if a transaction was disclosed in such a way that having regard to the circumstances and material in the Inspector's

⁸⁷ <http://www.inlandrevenue.gov.uk/lbo/lbo6.htm> seen 20/09/03

⁸⁸ 58 TC 592

possession that a competent and ordinarily inspector would come to a certain conclusion then if the issue was missed by the Inspector, then the company did not have to adjust the computation. Another possibility is what McBarnet (1991) refers to as 'non-disclosing disclosure': in this situation the taxpayer makes a full disclosure but in such a way that hides or reduces the significance of the taxable transaction.

There were no set time limits on when accounts and tax computations had to be submitted to the IR. This frequently resulted in long delays before computations were submitted to the IR. The IR often had to list the information required but not yet received for a hearing before the General Commissioners of Taxes before the information would be received from the taxpayer. This was the first stage in the legislative process and the Commissioners would have the power to determine finally the tax assessable.

In addition there was no set single time limit by which the tax liability for the year of assessment had to be paid. The date when the tax liability was due to be paid was calculated using a complex set of rules based on the date of the assessment raised by the IR. This assessment by the IR was often based on estimated profits chargeable to tax using the prior year's result as a guide. When the tax computation was finally submitted, the inspector would review each computation to see which how much investigation was required.

“Companies sent their accounts in and an inspector looked at each and every account. .. [B]efore I left, [the IR moved] to a classification system which was almost as simple as, you're just going to tick and let it pass, to, well that's more complicated - and needs a more in-depth investigation. To, this needs some sort of audit process and we really

think there is something wrong and we're going to have a really, real in-depth investigation of it and ask them all sorts of questions" (ex IR official, C9, 2003).

Large companies, due to the complex nature of their affairs, were most likely to have an investigation each year, although not of the standard of an 'audit' referred to above. It was not uncommon for groups of companies not to have tax computations agreed by the Inspector for many years, sometimes as long as 10 years.

To speed up the CT Compliance process, in 1993, 'Pay and File' was introduced. Under this legislation⁸⁹ a company had to estimate the Corporation Tax liability prior to receiving a formal assessment, make a payment of taxation within a set time frame and file its Corporation Tax form in a standard format by a fixed date. However the IR was still responsible for agreeing the computation and determining the profits chargeable to Corporation Tax. The relevant Inspector of Taxes would have to issue a notice of determination based on the profits agreed. This procedure was changed with the introduction of Corporate Tax Self Assessment (CTSA) in 1999.

6.5 Corporate Tax Self Assessment

Self assessment marked a significant change in accountability and disciplinary technology. The taxpayer, not the IR, became responsible for calculating taxable income and the actual tax due. The taxpayer became self accountable; in Foucault's terms self governable and self regulating. Under CTSA, in order

⁸⁹ Finance Acts (No2)1987 ss 87-97, 1990 ss 95-103 and 1993 Sch 14.

to arrive at the taxpayer's taxable income, the taxpayer has to take a view on how certain items or transactions will be treated for tax purposes. This contrasts with the previous position where the taxpayer disclosed a limited amount of information and the IR would assess the taxable income. The information thus disclosed has become more visible in addition to the taxpayer becoming visible.

This is reflected in the following quote from a tax advisor.

“The onuses have shifted. It's up to you to really be whiter than white. To say, look I've got this wrong. And it's quite a step now for companies. To actually put a line on your tax return that you've made an adjustment for inter company pricing. Because what's happened commercially isn't good enough for tax purposes because it's not arm's length. You've actually got to put that on your tax return. And that's really quite a different sort of you know mindset. Something we've never had had to do before. You think, well we know we've got it wrong but we think there's an argument for saying it's wrong and we'll let the Revenue come and argue about it as they might do for ten or twenty years with some companies which they have done in the past. And it's taken years and years to sort out transfer pricing. So it is a different approach from the client's perspective” (Tax advisor, A3, 2002).

The tax advisor is acknowledging the changing accountability of CTSA. In addition there is evidence of a change in the responsibility for the production of truth.

6.6 Impact of CTSA

The introduction of CTSA met with concern from the representative bodies and Corporates as it introduced a new way of working and new accountabilities,

although some tax managers were positive about the introduction (Porter, 1999b). To address this concern the Self Assessment Consultative Committee (Corporation Tax) was set up by the IR. This consisted of members of the representative bodies such as the Institute of Directors, the Institute of Chartered Accountants in England and Wales and the Chartered Institute of Taxation.

From the perspective of an IR Official the impact of CTSA has been to increase the volume and quality of disclosure, which assists the IR Official.

“I think the impact was far less on both sides than people anticipated. There are certainly areas in which it had an impact in terms of transfer pricing and CFCs. We get much better documentation now than we ever used to. So when you get submissions on returns sent in, quite often I have seen now tremendous amounts of information that you would have to have dragged kicking and screaming out of them in the past. I think on transfer pricing, the fact that they now have to tick on the boxes about it, means that they have actually thought about it. They may well have thought about it before but usually if you ask a question now they will already have had the documentation ready” (IR official, LBO2, 2003).

This reflects Porter’s (1999b) findings that tax managers anticipated that the introduction of CTSA would involve additional information flows. This is consistent with the view of tax managers interviewed in 2003 in that there was little notice of the change albeit in increased paperwork.

“I can’t make out it has any impact at all, other than the different forms going in”

(UK tax manager, C11, 2003)

PT “What do you think has been the impact of CTSA?”

Ans “I think it’s more paperwork”.

PT “Just paperwork?”

Ans “A lot more paperwork. I think it has helped to bring groups up to date. Tax payments under it are difficult. I think probably for the first two or three years groups were really struggling to be able to pay the right amount of tax at the right time. There has been a lot of extra paperwork, an extra compliance burden on the taxpayer”.

(UK tax manager, C14, 2003)

“I don’t perceive any massive change in approach from the Revenue under CTSA. Maybe they’re taking a little while to gear up to it but when I think back to the time just before CTSA came in you had all the professional firms that were jumping up and down and saying “ CTSA oh my goodness, the sky’s fallen down, it’s going to be terrible so you’ll need us to come and help you out for lots of fees etc etc”. And the Revenue I think at the time were saying at the time it was evolution rather than revolution and I think with hindsight that’s actually what’s happened it is evolution, but very slow evolution. People were worried about, for example, transfer pricing enquiries oh my God as soon as this happens there were going to be a deluge of transfer pricing enquiries that hasn’t happened and I think it’s because the Revenue are taking a while to understand and what it is they’re meant to be doing and to get inspectors up to a level of understanding where they can deal this”.

(UK tax manager, C10, 2003).

Likewise an IR Official expressed similar views.

“I don’t think that CTSA has been such a large cultural change in the corporate sector as it was on the income tax side because of the run in for CT pay-and-file, so in some ways it’s not changed things that much”

(IR Official, LBO1, 2003).

However one IR Official expressed the view that CTSA increased the take of the Exchequer.

PT “With Corporate Tax Self Assessment, what do you think has been the impact of it?

Ans “ A lot more money gained”.

PT “ Why was that?”

Ans “I don’t know. It’s probably income tax self assessment, it’s a very, very big effect. I don’t know whether it’s the public

thinking they are on to us, we had better pay what we actually owe, or partly the sentiment of better over-paying in case, and we'll get it back later. There is certainly quite a marked exchequer effect. Behaviourally, that's harder to say. It didn't seem to me personally to be a large change but certainly groups seemed to take it more seriously. There were certain areas that I know they reviewed carefully to make sure they were conforming with the law. I think for them it was more significant in the sense that they didn't feel able to take a flyer anymore. They take a view that they didn't in their heart of hearts really believe it. It certainly generated a lot of work for accountancy firms. Certainly better compliance gained in the sense of filing time. A lot of groups would just not file until it suited them. When I started out I think, it was literally several years they hadn't filed for. It was very difficult to encourage them to catch up when they get in that state but in practice they started filing currently whilst they still had a years grace ... yes I think. Certainly the major group I deal with it's clearly one of the objectives of the Tax Director to file and file correctly as well. So that's to the good, although we deal with quite sort of esoteric issues, the most important thing is to get people filed and paid. At least what they think they owe us" (IR official, LBO3, 2003).

However this quote shows that it is just not the increased amount of tax paid but CTSA is acting as a technology of government (see Miller and Rose, 1990) and its implementation is changing how the taxpayer is being governed in Foucault's terms (see Hobson, 2004) as discussed in Chapter 4.

6.7 Divergent structure and processes and uncertainty

Under the CTSA arrangements companies (on an individual basis) complete a prescribed format return which is known as a 'Company Tax Return'⁹⁰ and which details their taxable income and their own calculation of the tax due. This return has to be submitted within 12 months of the end of the accounting

⁹⁰ CT600, 2002 Version 1

period, although the tax due is paid at an earlier date, either within the year of assessment or nine months after the year, depending on the size of the taxable profits of the group of which the company is a member. The return can be amended up to 12 months after the filing date by the taxpayer. The IR also has 12 months from the filing date to give notice that they are intending to commence enquiries (COP 14, 2003)⁹¹. This has introduced a period of uncertainty. Under the previous system, there was greater certainty as the IR had to immediately make a decision whether to ask questions or accept the computation.

“You have to file the return and the Revenue no longer have to have a reason to open an enquiry. They no longer have to express dissatisfaction; they can just open and they will open an enquiry every year on every computation that’s material in the Group. You have to get back to the Revenue in a certain amount of time when they raise their enquiries. They can take 12 months to ask you a question or to write you the letter of 12 pages and then what they will say it has taken us 12 months to write it, you can reply to us in 3 months. We have had discussions with them in the past where it has taken them say 3 months or 6 months to write the letter then they expect us to turn round a reply in the same time but they don’t have any understanding of how complex it is to put together even one single item in the Profit and Loss account. In the Profit and Loss account if you have one item of expense that can come from at least 15 different sources and how we get all that information back is very time consuming” (Tax director, C13, 2003).

This change in the control of the timing of responses suggests a shift in the balance of power between taxpayers and the IR. It is a source of frustration for “customers” and additionally displays a lack of appreciation by the IR.

Another difficulty concerns the administrative aspects. CTSA doesn’t deal with groups as a whole; it looks at the individual companies separately. For instance

⁹¹ Available from <http://www.hmrc.gov.uk/pdfs/cop14.htm> seen 2/8/06.

each company in a group will be sent a separate notice of intention to open an enquiry. Another example is where differences are covered by group relief⁹² which does not involve any additional tax.

“One example where groups get away with murder is in terms of if they make a mistake and it will be something that was wrong, where in a singleton company [I] would think about interest and penalties⁹³ because it is so badly wrong, in a group situation they [the taxpayer] will quite often avoid that because they have got availability of group relief, because you are looking specifically has this company created an offence or not yes it has created an offence. Has it made a tax difference, yes, but since I have started looking at it they have changed their group relief claim and they can do that legitimately⁹⁴” (IR Official, LBO2, 2003).

This is an example of where the structure and the processes are divergent. Groups are centralised in the LBO office structure as discussed in chapter 5 but the corporate compliance process of CTSA does not follow this centralization as each individual company is treated separately. For example a separate notice of intention to open an enquiry is sent to each company in the group⁹⁵.

6.8 Secondary practices

Although the impact of CTSA has not been immediately evident, secondary practices as discussed in section 4.5, are operating at a level below the primary

⁹² Whilst the tax liability is determined for each individual company, there is some limited recognition of groups via loss relief as previously mentioned.

⁹³ Interest and penalties are a function of the tax payable. If the tax liability is covered by group relief and reduced to zero there will be no interest and penalties.

⁹⁴ The time limit for claiming group relief is the later of “two years from the end of the accounting period of the claimant company, and the date the relevant CT assessment of the claimant company becomes final and conclusive subject to an overall limit of six years from the end of the claimant company’s accounting period (‘the six year point’)” (<http://www.hmrc.gov.uk/manuals/ctmanual/ctm97920.htm> seen 7/11/06)..

practices introduced by CTSA. These secondary practices include a change in the type of questions asked by the IR. The effect of CTSA is that a more broad look is taken by the IR into the way information is captured by the accounting system of the corporates. Pre CTSA there was no assumption that the corporation tax return was correct. However under CTSA the assumption is that the figures in the return are correct unless proven otherwise as the onus is on the taxpayer to produce an accurate return..

“With CTSA you assume you are looking at the correct figures when you are looking at the accounts so the extension is to ask system questions about how did you get there. Some [taxpayers] might say it is an estimate of 20% or give details of how it is calculated accurately. Previously my approach was that my [IR Official] view was absolutely right and how did you [taxpayer] get to your view. Now it is rather why did you [taxpayer] take that view” (IR Official, LBO6, 2003).

This change in assumption has enabled audit techniques to develop. One of Mautz and Sharaf's (1961) postulates of auditing is that the data is verifiable. As a consequence, rather than the IR enquiring into the tax return on a substantive basis, enquiries can be directed at the taxpayers systems for identifying tax adjustable items such as the difference between capital expenditure and revenue items.

Traditionally enquiries into the tax return have been commenced by written correspondence with recourse to meetings only if an impasse in the negotiations has occurred. A senior IR Official expressed the view (interview, IR3, 2003) that it was a deliberate policy of CTSA that the enquiry regime would be less confrontational although it was not a direct intention to get closer

⁹⁵ <http://www.hmrc.gov.uk/manuals/emmanual/em8110.htm> seen 7/11/06.

to business. However during the Consultation process on the implementation of CTSA, regular meetings were held between the IR and corporates and their representative bodies which enabled the IR to get closer to business. The IR Official felt that this showed real success in shaping the system to Ministers' requirements and business and professional requirements. Thus the implementation of CTSA enabled the dialogue with business to develop and paved the way for the NCP, as described below, to be introduced.

“I think CTSA has helped bring about the more informed practices that we've got because under the old system with, you know, submit a set of comps., ask some questions on it, then issue a formal notice saying that year was closed and settled, it was very regimented. Under CTSA the whole situation doesn't have the same kind of rigid feel about it and I think that's partly helped create the environment within which discussions like we have with our LBO case director and head [of tax] can take place” (UK tax Manager, CR14, 2003).

6.9 The Event of 'Negotiations': Emergent Procedures

HM Treasury and the IR issued a consultative document in July 2001 which announced that a review would be carried out to consider the extent and effectiveness of the Inland Revenue's links with business on administrative matters and policy issues (HM Treasury & IR, 2001: 7). The report on the outcome of the review, 'Review of Links with Business' (IR, 2001), also known as the 'Hartnett Report' after Dave Hartnett (Director General of the IR) who was responsible for producing the report, highlights that there has been improvement in the relationship between the LBO and large companies, but also acknowledged that there is scope for further improvement. The report contains 40 recommendations which seek to address these deficiencies, among which are new faster processes for the IR's enquiries. One such process is risk

assessment meetings set up between the company and the LBO, where company officials discuss the company's tax risks with the LBO and presentations are made by the company on the accounts (known as the "Fast Track" initiative). The report also recommends changes to communication processes between the LBO and large businesses and representative bodies. The LCF, as previously mentioned, was set up in order to establish 'links' between the LBO and its customers and to provide a forum in which to debate current taxation and operational issues. In addition, the Corporate Tax Operational Consultative Committee was set up to liaise with representative bodies. There seems, however, to be mixed messages coming from the IR regarding the purpose of the review. The IR acknowledged that the review was a part of fostering the 'enabling culture'.⁹⁶ - that is, encouraging voluntary compliance. However the IR 2002 Annual Report reinforces the regulating culture as the 'enabling' message is not totally appropriate for large corporates.

"This work, principally affecting customer relationships with larger companies, aims to bring business and the Revenue closer together and modernise the administration of the corporation tax system for big business. This will result in more efficient use of resources and improve the Revenue's ability to focus on areas where tax is at risk" (Cm 5706: 17).

An action plan was drawn up out of the Review of Links with Business report to consider the 40 recommendations⁹⁷. The report was held in some significance as certain of the recommendations were discussed in detail at a number of the LCF meetings.

⁹⁶ http://www.inlandrevenue.gov.uk/ctsa/sacc_ct14_01_02.htm seen 19.03.2003.

⁹⁷ <http://www.inandrevenue.gov.uk/pbr2001/revbusinesslinks.pdf> seen 17/09/02.

There have been additionally individual meetings with the LBO and multinational companies to share the LBO's risk assessment with the taxpayer. The risk assessment sets out the areas or transactions which the IR perceive may be open to interpretation as to the correct tax treatment applicable or where tax planning techniques may have been utilised. The LBO has made its procedures for identifying areas of tax risk in tax returns more sophisticated in recent years.⁹⁸ (LCF minutes 28 June 2000).

However the New Compliance Process ("NCP") pilot scheme, which consisted of 17 multinational groups encompassing a wide range of industries,⁹⁹ has formalised this emerging approach into 'real time working'. It is also more of a joint working relationship.

"The tax team [of the corporate group] and the case team [of the IR] start by discussing and clarifying their responsibilities and expectations, and by setting a timetable for key events¹⁰⁰."

The NCP pilot scheme was set up in response to recommendation 6 of the Review of Business Links report. This recommendation suggested a "structured approach" in which an operational working framework and timetable would be agreed between the case director and the large corporate. Working practices would include a presentation on the accounts by the corporate to the IR after the tax computations had been filed, the case director discussing the risk assessment with the corporate and subsequent enquiries

⁹⁸ This has been incorporated into a performance indicator. "% of our risk-based full enquires which result in the detection of non-compliance 76 (2001/02 target compared to 75.4 (2001/02 result) (Cm 5706: 11).

⁹⁹ http://www.inlandrevenue.gov.uk/lbo/minutes_201102.htm seen 22.03.2003.

¹⁰⁰ http://www.inlandrevenue.gov.uk/lbo/minutes_201102.htm seen 22.03.2003.

would be based on the risks identified provided the company was 'open with [the IR]' (IR, 2001: 20). The pilot scheme extended this approach.

The pilot scheme consisted of 17 groups; 4 banks, 3 insurance companies, 4 retail, 2 chemical and one each from the computer, consumables, financial and media sectors (LCF minutes 25 June 2002 and LBO interviews, 2003). The particular groups were chosen on the basis that their tax compliance was undertaken in-house by the group's tax team and the tax computations for the companies in the group were reasonably up to date. The groups were identified by the relevant case director as being, in their opinion suitable for the pilot study. The new process was developed further than envisaged by the Review of Business Links Report as detailed below.

“Key elements of the new process [the LBO] were proposing were as follows.

- For corporates who were willing to work openly and co-operatively, the LBO would, before returns were filed, agree a Compliance Plan for the year focusing on significant tax risks and, where possible, try to resolve issues; and, once returns are filed, it would check less and stick to the Compliance Plan.
- A framework would be agreed between the corporate and its Case Director, to ensure mutual understanding of objectives, to clarify responsibilities and to set a timetable for the process.
- The objective was to build more effective working relationships through openness and collaboration and a more efficient use of resources, giving earlier tax certainty and focussing early on important issues.
- There would be a key responsibility on both parties to work openly and co-operatively; on the corporate partner to share knowledge of its business and of emerging tax risks; and on the LBO to work with the corporate partner to focus only on important issues and, where possible, to resolve issues before the return was filed” (LCF minutes 12 March 2002).

One case director gave the example of how the new way of working would materialise. In April 2004 the bank would give a presentation about the content

of the 31 December 2003 accounts and main issues affecting the group for that particular year. At the meeting where the presentation would be held, the group would hand out copies of the published accounts of the top 6 companies out of the 50 companies within the group. The presentation would cover the commercial background to the accounts, for example why turnover had increased and details of any group restructuring or unusual transactions. In the view of the particular case director, the presentation would cover the sorts of answers to questions which the Inspector might have when initially looking at the accounts and computations. In fact part of the presentation would involve the taxpayer anticipating the IR's questions.

The NCP is considered by the IR as a structured way of dealing with groups. In some cases it is not a new type of relationship between the IR and the Group, but rather it is formalising previous informal practices.

“It is encouraging us to do what we were doing before and particularly about open and honest relationships” (IR Official, IR4, 2003).

“Some groups do this [presentations] very roughly anyway. I always used to ask - one of the first questions I always used to ask in any meeting with a group was how are things going and what are the main issues for them. But you have got it much more formalised now and I think it makes them do it and it makes us do it as well and it keeps us to a better timetable...

I think it means the Revenue are much more better focussed in their enquiries. As I say, I think I am lucky because all the cases I have inherited on it, they were being worked in that type of vein anyway and it is largely formalising what has been developed over recent years anyway” (IR Official, LBO2, 2003).

The framework is formalised in writing in an agreement signed by both the IR and the group. This formalisation of practices has the advantage of making these secondary practices visible. By this visibility the participants in the NCP can be made accountable to the IR. The framework is disciplining the groups into conforming and making self regulated additional disclosures. This is supported by Foucault's writings as Preston (1989) quotes:

“Foucault notes that the written document proved to be a major advance in the development of disciplinary power (Foucault, 1997a). Indeed the documentary apparatus becomes a critical component of the disciplinary technology as it “makes possible the measurement of overall phenomena, the description of groups, the characterization of collective facts” (Preston, 1989: 409).

The pilot was evaluated and the responses were positive.

“The benefits [were]

- 93% of respondents thought that the process described in the framework document captured best practice.
- 83% thought that they had previously been working in the way envisaged by the new process, but only to a limited extent.
- There was agreement that the processes once bedded in would improve efficiency of tax administration in the range of 10 to 30%”(LCF minutes 20 Nov 2002).

The questionnaire sent to evaluate the pilot scheme noted that “88% of groups and case teams responding thought that the new process had changed their working methods” (IR, 2000b). It would seem that the new practices had altered the relationship between the LBO and large corporates but only to a limited extent. The main benefit to the IR was that they gained knowledge about the group so that their risk assessment would be better informed. Also resources could be saved as time would not be spent on asking fruitless questions (LCF minutes 25 June 2002 and November 2003; IR, 2003). The benefits for the corporates from the IR perspective would be more ‘real time’

working, focused and targeted questions, greater tax certainty and better co-ordination of different Revenue departments through the ‘ringmastering’ activities of the LBO (ibid.). From a tax director perspective (who is participating in the NCP) the benefits are limited.

“[There] must be some, earlier resolution of the issues ... but I haven’t actually seen that yet. The sooner I can get things agreed the better, as far as I’m concerned, because I don’t like having a lot of issues outstanding, because when we do the accounts at the end of the year, it becomes an issue with the auditors as to whether we should recognise a tax benefit or provide against and this sort of thing. So it’s always better to have certainty sooner rather than later. And it also affects our cash flow, so it’s very difficult for me when I’m feeding into the group finance director, the cash flows for next year, to know what the tax cash flows will be because I don’t know where we are with seven or eight big issues that may or may not be resolved one way or t’other and if they are, they may or may not require cash in one or another month. It’s difficult to know. So I would far rather get it resolved sooner rather than later” (UK tax director, C15, 2003).

The key benefit of NCP perceived by this tax director is to obtain greater certainty in ascertaining the amount of tax to be paid. Greater certainty can be achieved by tax queries and disputes being settled more quickly.

6.10 Resistance

Although as shown above the NCP scheme has been evaluated as a success there has been resistance to its implementation in a number of ways from both the groups and professional advisors such as tax partners of the Big four accountancy firms.

The NCP is a non statutory practice. Advisors expressed concern about discussing the tax treatment of transactions prior to filing and when the filing decision had not been determined. In addition US parent companies were not enthusiastic about the process as the practice is outside the legislation¹⁰¹.

For some groups with a large number of companies it can be difficult to collect the information worldwide and it is difficult to expose all the issues and therefore the corporates may not be sure whether they had made full disclosure. This could have the impact of making them open to the charge of concealment by the IR as the NCP process relies on an open and trusting relationship. This may be an indication that the IR still does not truly understand the corporate environment.

This open relationship also requires a certain level of disclosure of possible mass marketed schemes even though the groups might not wish to undertake them. Under the agreement between the group and the IR, the group is obliged to tell the Revenue about significant transactions as and when they happen¹⁰². The advantage to the IR is that they will know about that type of transaction far in advance of when they would have done so in the past. Therefore the scheme would have a shorter shelf life for other people who might wish to implement a similar tax scheme. Some groups felt that if they were associated with the NCP, promoters would be hesitant in approaching them and not offering them these mass marketed tax schemes. They felt they would lose a competitive advantage if they were not aware of what their competitors were doing even though they had no wish to pursue a tax aggressive position which involved

¹⁰¹ US tax law is more prescriptive than UK tax legislation.

looking at opportunities and utilizing tax planning schemes to reduce their tax liability. One tax manager expressed the opinion that in order for NCP to be successful, as it was non statutory, it relied on the co-operation of the groups. In other words large corporates have power in negotiating the framework agreement of the NCP.

“My main ground rule was that it had to be a level playing field. So they couldn’t expect me to tell them about something real time that was open to a potential change in legislation unless they’d tell me real time when they were thinking about changing the legislation. So we agreed that in writing and I think a number of people have had problems with the fast track with inspectors saying, oh well you know it’s breach of trust, you didn’t tell us this, that and the other. Instead of being very open up front about the fact that you know clearly we’re both coming at things from a different angle and therefore you know you’ve got to lay decent rules to start with. And on that basis we’ve had no problem with it. I mean we disclose everything either as it occurs or at the very latest obviously when we have to disclose anyway when we file the computation” (UK tax manager, C15, 2003).

Initially there were proposals to increase the NCP to 50% of LBO cases. It was felt by some IR officials that this may lead to a two tier scheme whereby those cases in the NCP would have preferential treatment to those cases outside the scheme. After the success of the pilot scheme 50 more cases were brought into the NCP in 2003. However in interviews IR Officials said it was becoming more difficult to sign up additional cases because groups who enjoyed currently an open and transparent relationship with the IR wondered what would be the advantages for them.

“The difficulty now is ... signing up people for the new compliance process. Most of my groups turn round to me and say what’s in it for

¹⁰² Subsequent to the interviews being undertaken, legislation has been introduced whereby certain tax avoidance schemes have to be registered.

me. What's the difference, you are doing that already" (IR official, LBO2, 2003).

The proposal seems to be that the NCP will not be extended in its current form but there will be bespoke arrangements with individual groups to make use of the best practice from NCP (Senior IR Official, IR7, 2004)¹⁰³. The NCP is still in its infancy. As it is an open and honest relationship that the IR want to foster, it is based upon one of the key assumptions of self assessment in that the figures on the return are correct.

"I think we're only now beginning to realise the implications of CTSA. As inspectors, I think for a while people went on very much as before. And the responsibility side of things, even though we've got the New Compliance Process, part of that is that we're not going to be asking questions about small things. CTSA expect them to get it right. I mean we're not saying, "we're not going to ask questions about, for example anything under a quarter of a million, say". We don't expect groups to then say, "oh well we can fiddle about with £249,000 and that'll be fine". You know the responsibility is still there. So I think it's an attitude from our point of view. What we, we expect that we should be thinking about they're trying to get it right. The companies should be trying to get it right as well. Now in the past their people have taken advantage of things. And say it could be this and you could have that technical interpretation of something or whatever. [It] might be large amounts of money involved. You say Just say that's wrong. Send it in. See if the inspector spots it or asks the question. And that's still going on to some extent with CTSA. The other side tend to still feel, particularly their sort of independent agents, still feel that they can do that legitimately. No, I think we've got, we've gradually got to move people to the, feel like they've got to try and get it right. And it's not legitimate to take a punt and hope for the best. And that's where the new compliance process I think should be helpful. Because it does put people under a sort of face to face, building a relationship if you like on trust. And people feeling that well, am I prepared to take the risk of undermining that trust by behaviour which I think you know I've done in the past" (IR official, LBO5, 2003).

¹⁰³ The LBS Operating Model was introduced in April 2006, <http://www.hmrc.gov.uk/lbo/operating-model.htm> seen 16/05/06.

The development of trust between the tax official and the corporate taxpayer enables an open relationship to develop which is the basis of the NCP process and the IR wishes to cultivate. Part of this trust, is being able to rely on the figures in the tax computation. In other words, the tax computation is an accurate representation of the truth as perceived by the large corporate.

6.11 Chapter Summary

This chapter and the previous chapter have explored the IR's, in particular the LBO's, structure, practices and processes of tax compliance. It has argued that the IR is now a different organisation from the bureaucratic one by virtue of its structure and also the marketing and strategic focus of the organisation. This is reflected in the practices of tax compliance: the use of the Australian Tax Compliance model and the introduction of NCP. However these changes of practices cannot be viewed in isolation and without acknowledgment of its history. The conflict between negotiations and a more formal rule base audit is described in the following quote.

“I think what’s happening with CTSA is that the Revenue can’t really make its mind up whether it really prefers the old negotiating style, that anybody who’s done tax over any length of time in the UK is wholly used to, or whether it wants to go fully to an audit style, as you have in the States, and I think its processes, and Fast Track [NCP] is one of them, its processes and its modus operandi are driving it inexorably towards an audit style where actually it doesn’t want an audit style, it wants to retain the old way of getting round a table and negotiating. It doesn’t want to go down this formal US approach” (ex IR official now tax advisor, A4, 2003).

This quote illustrates the tensions in practice of the NPM approach as compared with the work of the tax official in examining the tax computations and agreeing the tax liability with the large corporate.

The next two chapters examine the players in the corporate tax compliance game, the tax official and the taxpayer, and how the processes and practices introduced by the IR in response to NPM have changed their operating roles.

Chapter 7 - The Knowledge Expert - the Tax Official

7.1 Introduction

The previous two chapters have examined how, amongst other things, the impact of NPM's practices has refined the structure and processes and practices of corporate tax compliance for large groups. The corporate tax compliance process is always an interplay of experts. This chapter and the next chapter analyse the experts of the tax compliance process; the tax official and the tax director respectively. I first look at the tax official as an expert. In this chapter, I examine how the tax official as a subject is defined. This is a mixture of old and new specifications of the ideal 'tax inspector'. It is this personal selection of certain aspects of the ideal that is really key in becoming a new knowledge expert subject through the interplay of objectivizations (part of which includes specification of the ideal) and subjectivization. As discussed in section 4.6, it is this constitution of the subject as "an object of knowledge" (Foucault/ Florence 1994:315) that the knowledge expert emerges and informs "the truth" of the corporate tax compliance game.

The question of truth is central to this thesis. As Foucault notes in *The Care of the Self*:

"The task of testing oneself, examining oneself, monitoring oneself in a series of clearly defined exercises, makes the question of truth –the truth concerning what one is, what one does, and what one is capable of doing – central to the formation of the ethical subject" (1986: 68).

The apparent defining of the tax official impacts on the way the tax official engages in the tax compliance game. What practices are involved in the formation of this subject, in other words the 'subjectivization'? What practices does the official engage in as an official? At another level what are the outcomes in terms of career development and progression, and rewards achieved by the successful tax official who engages with the game, in other words part of but not limited to the 'objectivization'. This objectivization is not independent of or a consequence of subjectivization: one simultaneously influences and shapes the other and vice versa and from this 'truth games arise' (Foucault/Florence, 1994:315). Failure to acknowledge the changing game that has to be played results in the tax official receiving lower remuneration by way of a lack of bonuses, no involvement in interesting projects and being side lined. Therefore the tax official has to reconstitute himself or herself as a subject who accepts (or does not reject) the new forms of objectives. Just as Seneca, in ancient Rome, reflected in the evening on the day's activities in order not to confess his sins but to criticise and learn from his actions, the activity of the tax official has to be reflective to engage in the new game. Seneca does not punish himself but "rather he engages in a kind of administrative scrutiny which enables him to reactivate various rules and maxims in order to make them more vivid, permanent, and effective for future behaviour" (Foucault, 1983). However the tax official must do more than just reflect on his/ her actions, they must also engage with the evolving game by doing and being seen to be doing the right things in the right way and participating in the right networks. This objectivization of the subject, where the subject is examined as its own object, contributes to the new game.

This chapter also focuses on the remoulding of the tax inspector as a new knowledge expert. The objective is to examine the development of this remoulding by looking at practices and discourses which have shaped their identity as a tax official as a knowledge expert but also their identity as an Inspector of Taxes. Within the IR there is a certain status to being an Inspector of Taxes and certain jobs within the hierarchy of the IR are only open to those who are a fully qualified Inspector of Taxes. In addition my interest is in the practices and discourses which have remoulded this identity of the tax inspector from a bureaucratic inward facing technical civil servant to an outward facing new style tax official and how this has consequently impacted on the social and organisational aspects of the tax compliance process. I argue that the identity of a tax inspector has remained the same in some substantial respects, in contrast to some organisational literature on the identity of employees within the public sector such as consultants in hospitals (Doolin, 2002). What is different is that this identity has been remoulded, not by forming a new identity or changing their identity into a different one, but by becoming a new representation, which is the outcome of the 'remoulding'. These officials have to engage with tax knowledge still but must do so differently, in part through adopting a more strategic and managerial approach.

How does the tax official engage in the tax compliance game? I first examine the role of the tax official as the IR's representative. This focus is important as

1. it is a game of changing rules of entrepreneurial government,
2. where the role of the expert is exposed, and

3. a mix of inquisition and parrhesia tactics are employed within the expert disciplinary frame.

7.2 The IR's Representative

A UK tax resident company or a foreign company doing business in the UK has to submit a corporation tax return to the relevant office of the Inland Revenue which deals with the tax affairs of the corporate. The relationship between the IR and the corporate taxpayer is conducted by representative officials of the IR and by tax directors on behalf of the corporates, for those companies that have an in-house tax department. In the UK, the tax official, who is an Inspector of Taxes, reviews the tax computations submitted by the company and conducts enquiries into the tax return on behalf of the IR. These officials also negotiate with the company officials any cash settlements which may arise in respect of disputed amounts. The issue of concern to this thesis is the practices that these representative officials engage in to interface and interact with each other. This important interaction is considered from the perspective of both how it has taken place in the past and now appears to be developing in new ways moving forward into the future.

There has been limited academic work carried out in this area especially in the UK (Hasseldine et al. 2005). In the US, Pentland and Carlile (1996: 284) note when looking at the US tax administration by the IRS, that “[t]he interpretation and application of the tax code is highly contingent upon the character of the interaction between agent [tax official] and taxpayer”. As noted in Chapter 3,

this is a significant insight. At the same time the approach adopted in this thesis can be distinguished from Pentland and Carlile's work in that I am not solely looking at the interaction of pairs of subjects occupying the opposed yet interdependent roles of tax official and the taxpayer. I am also looking at how this interaction is located within historically specific apparatuses (on either side of the interaction) and at the practices and discourses that arise from the location within these apparatuses of subjects. These subjects are experts in their respective fields and typically also skilled negotiators who are not unaware of the rules of the negotiation game and the motives and interests of the other party. I am therefore looking in a broader frame at the skills and understanding they bring to their interaction and how this constitutes two types of interfaces:

1. the likely image as expert subjects on each side
2. the relationship they have to their own entities; either the IR or their own companies.

I therefore hope to reveal some significant ways in which the 'tax negotiation game' has been played and is now being played in rather different ways, as the parameters within which the interactions are being played out are changing, not least because the IR is now requiring its tax officers to engage in systematically different practices and thereby to develop significantly different discursive tactics.

As mentioned in Chapter 4, the approach I am adopting is a Foucauldian derived approach. In this approach, I am building on the concept of discursive practices as described by Foucault but in addition I am distinguishing these

discursive practices, and the discursive formation, from what has actually been done, the practices. In the context of my thesis the discursive formation under investigation is “tax” or rather the “correct amount of tax”.

This Chapter and Chapter 9 seek evidence of these transformations taking place from the perspective of the knowledge expert - the tax official. I use these three transformations to analyse the changing role of tax officials: shaping the tax official; immersion in IR discourse (this Chapter) and outward facing discourse with tax managers and tax professionals (Chapter 9) when looking at the event of tax compliance.

7.3 The Tax Official – the Inspector of Taxes

The tax official which is the subject of this research has both a general and a specific role. The tax officials interviewed are those senior Inspectors of Taxes who are at the top of the operational side of the IR. As a consequence they are instrumental in shaping tax policy and IR communications with taxpayers. They also have a specific role in that they are Inspectors of Taxes. The job of an Inspector of Taxes is to administer the collection of tax from taxpayers, whether individuals, partnerships or corporate entities. In the LBO, as elsewhere in the IR, they will be allocated a number of taxpayers depending on area of specialisation, the tax inspector’s seniority and their technical skills. They are responsible for examining the tax affairs of these taxpayers to ensure that the taxpayers pay the ‘right’ amount of tax. This may be a different amount from the correct amount of tax. As mentioned in Chapter 2, tax law does not cover every possibility and there may be grey areas in the legislation

or different views of interpretation of the legislation. For more complex cases this 'right' amount may be ascertained by mutual agreement following a process of negotiation.

In the pre-CTSA approach, the compliance process would commence with the receipt by the IR of tax computations and the financial statements from the taxpayer. The Inspector of Taxes would look at the computations to see if the calculation of tax liability would require further investigation. If he/ she decided this was the case they would ask a number of questions on the particular computation to ensure that the computation had been properly prepared in accordance with the relevant legislation (interviews A4, IR5, C9). Within the LBO the senior Inspectors of Taxes who deal with multinational companies and large corporates are Case Directors. These are very senior Revenue officials who are involved in a number of different aspects of tax work, including managing a team of subordinates to deal with the tax affairs of a number of large groups of companies and being involved in one off projects for the department as a whole. The following is extracted from the recruitment web site of the IR.

“Continuing up the technical and compliance path you could eventually become one of the people leading a major part of our compliance activity. For example, a Case Director in Large Business Office, a Senior Civil Service post where you would be setting the strategic direction to the Revenue's approach to groups of companies and other major taxpayers. In this role you would lead the most demanding technical work, influence the development of tax policy and be involved in developing strategies on litigation¹⁰⁴”.

¹⁰⁴ <http://www.inlandrevenue.gov.uk/join-us/t-and-c-c-scs.htm> seen 25/11/04

This description is a definition of the Case Director's job. It is also demonstrating the attractiveness of this job to potential recruits. However what is interesting from the empirical evidence collected is the reflections by the Case Directors not just on how they see their formal job description but also on how they identify with their role as it is now and how it has changed. These Case Directors have a major influence on how the IR services are delivered to the large corporates. They are informants to the process. Consequently how they see their changing role has an impact on the corporate tax compliance process. However before this is unpacked I will describe how the expert knowledge of the tax official is shaped.

7.4 Shaping the knowledge expert

This section considers the explicit formal training that the tax officials undertake. It looks at both the tax technical knowledge; the sufficiency of which is judged by examinations, and work based training.

A key aspect of tax specialists in the UK, whether they are employed by the IR, tax professional practice or companies, is that they usually do not study taxation specifically at undergraduate level at University. If they do study tax it will be at most a two- term course within either an Accounting or Law department (Tiley, 2006; Miller, 2002).

Tax officials are civil servants employed by the IR. These tax officials are a discrete proportion of the population of individuals who deal with tax. The

population includes, amongst others, lawyers, accountants and Chartered Tax Advisors and they come from a range of diverse academic disciplines (Stary, 2006). Unlike some countries, such as Australia, a tax advisor does not have to be registered with the tax authority to file tax returns on behalf of a client.

For a tax official it is most likely the IR is their first employer after leaving full time education. It is common for tax inspectors to have worked solely for the IR since they left University. Entrants into the IR frequently join straight from University¹⁰⁵ after studying a variety of subjects at Undergraduate level. These subjects would not be tax specific and might not be as relevant as a Law, Accounting or even a business related degree.

There are two streams of entrants to the IR; the 'Talent Recruitment Programme' ("TRP") and the 'Fast Stream'. The difference between these two streams is that the TRP recruits directly into the IR whereas the 'Fast Stream' is run by the Cabinet Office to recruit graduates with the capacity to reach the Senior Civil Service¹⁰⁶. The IR is one of a number of Central Government departments included in the 'Fast Stream'.

"It was always a feature [of the senior Civil Service] that you recruited people from diverse backgrounds, or Oxbridge backgrounds so the folk law would have it in the senior Civil Service it was very much like that but generally speaking ..but in the Revenue, you didn't recruit lawyers or accountants, people from all sorts of backgrounds; marine biologists, all sorts of people to do tax and somehow they managed to

¹⁰⁵ There are two types of inspectors: approximately 90% of them are NFT (not fully trained) and the remainder FT (fully trained). NFT inspectors deal with smaller cases. The FT Inspectors are those which have completed the Inspector training course and deal with the larger taxpayers. FT inspectors are in the majority direct graduate entry although a few will have progressed through the 'ranks'.

¹⁰⁶ <http://www.inlandrevenue.gov.uk/talent/offer-fast-stream.htm> seen 29/11/04

learn their craft and become successful, both in the Revenue as ..working in a technical field and in the general Civil Service as administrators. People running the health service for example, other than the doctors, probably had no qualifications in health care at all” (ex IR official, A1, 2002).

How do this group of diverse individuals ‘learn their craft and become successful’? What practices and discourses are utilised to become a tax inspector and what is meant by being ‘successful’? How do these individuals learn to talk like a tax official and see things like a tax official?

The next section explores the formation of the tax inspectors as knowledge experts from the perspective of formal training, the role of technical knowledge and the practices of enquiry. What is the “taken for granted knowledge” - the implicit knowledge? Part of being an expert is not only knowing the implicit rules of the specialised knowledge but also being able to read the signals within that knowledge. This expert knowledge is emphasised by the IR. From the recruitment web site of the IR - a Case manager in the LBO’s “role requires strong detection, investigation and technical skills¹⁰⁷”.

7.5 Formal training

Tax officials have to undergo formal training and pass exams to become an Inspector of Taxes¹⁰⁸. Prior to September 2003, the training programme consisted of a six- year examinable course. Since this date the programme has been condensed to four years. It combines both formal learning and practical

¹⁰⁷ <http://www.inlandrevenue.gov.uk/join-us/post-trp.htm> seen 15/11/04.

casework; 'on the job' training. Participants attend a training centre for one day a week. The practical casework training is undertaken in their respective offices where a portfolio of work carried out is completed. In the fourth year specialist training in one of four particular compliance areas is undertaken. The four areas are as follows:

- Personal Returns Compliance Offices which deal with the tax affairs of individuals.
- Special Compliance Office which deals with taxpayers who are suspected of serious tax fraud.
- Network Offices which deal with the tax affairs of companies not within the LBO.
- Large Business Office

At the successful conclusion of the training programme the title of Inspector of Taxes is obtained. There are two aspects to formal training; firstly technical knowledge and secondly investigative approach.

7.6 Technical Knowledge

This part of the training course concentrates on tax knowledge (known as 'Core Professional Training') although in the first year aspects of bookkeeping, incomplete records and business economics are covered. A Trainee Inspector Programme was introduced in 2004 for non- graduates to train as an Inspector

¹⁰⁸ Examinations were introduced for an early form of tax officials; surveyors in the late 1870s (Sabine, 1966: 73,122-123 and Lamb, 2001: 290).

of Taxes specifically in the LBO in a two year period. The training was split into four modules:

“Module 1

This module explores what a company is and its rights and obligations. You will also study basic bookkeeping and how business transactions are recorded by companies. You will be introduced to Accounting Standards and their importance to your work. You will find out what to do if the records kept by a business are inadequate for the purposes of arriving at the business profits and how the profits of companies are computed for taxation purposes.

Module 2

This module covers how cases are selected for enquiry and the law in relation to making enquiries. It also covers how to examine a company’s business records, interviewing skills and how cases are brought to a conclusion.

Module 3

Here you will learn about certain allowances available to businesses, how company profits are assessed to tax and some aspects arising when companies form a group.

Module 4

To complete your learning you will cover how employment income is taxed and what national insurance contributions are. You will consider how the capital gains tax legislation applies to companies and take an overview of some areas specific to the work of LBO”¹⁰⁹.

From the above it can be seen that the training is focused mainly on technical tax knowledge and in addition investigative skills are covered. The following quote emphasises the tax focus of the technical training.

“I mean it isn’t a formal qualification but I think in a professional world, having done what was then called a full training as Inspector of Taxes training, I think that’s recognised because it’s not just tax that you’re doing. A 180 odd tax cases that you have to sort of virtually remember and be able to quote ”(UK tax partner ex IR, A3, 2002).

This focus on tax technical knowledge constitutes the tax inspector as an expert 'subject'. However although the training is very tax focused as the above extracts illustrate, the IR and those who have undergone the training are keen to point out that the training is not just limited to tax cases. As the interviewee goes on to say.

“...But you also have to do book keeping, accounting and you have to prepare a set of accounts from incomplete records. So we have to know what T accounts are. So there is, you know there is an understanding of how to read accounts as an inspector”(UK tax partner ex IR, A3, 2002).

This training contributes to the precise calculation of the tax assessable.

“The LBO is an organisation of skilled knowledgeable people who are interested in getting the right answer whatever the right answer is. It is an intellectual exercise” (IR official, IR7, 2003).

This technical focus is an indication of the nature of the truth game. It is an intellectual exercise where more validity is accorded to truth being defined as correctness even though there is no simple right calculation of the answer to the question of what should be the amount of tax payable by a large group.

The focus on truth as correctness may also be in part a reflection of the bureaucratic nature of the IR organisation. As mentioned in Chapter 5, Hall (1963: 33) identifies six dimensions of bureaucracy in organisations, one of which is “promotion and selection for employment based upon technical competence”. In an old style bureaucratic organisation, career advancement was enhanced by having superior technical knowledge, such as knowing the

¹⁰⁹<http://www.inlandrevenue.gov.uk/join-us/inspector/business.htm> seen 25/01/04

tax cases in detail, arriving at the correct tax treatment irrespective of the length of time taken to achieve the result. Inspectors are sometimes more concerned with the detail of the 'correct answer' rather than finalising the year of accounts under review.

“They seem to be less pragmatic so they're - I don't think they're driven by, well by getting the assessments finalised. I think they're more driven by, well the law says this and I interpret it this way and therefore I'm going to pursue this argument forever and a day rather than say, well actually if I give a little bit it doesn't make a huge amount of difference to the end result. I think they're far more, but they're less pragmatic and so they, they're not as bothered about getting the tax computations that year signed off” (UK tax manager, C14, 2003).

In addition superior technical competence could be measured by examining the number of technical arguments won and settlements reached such that the 'correct truth' can be measured. For the old style knowledge expert success in doing their job would have been demonstrated by achieving a number of tax adjustments, in other words correcting the tax computations for tax technical errors. For the new style knowledge expert, it is still necessary but no longer sufficient as I discuss further in Chapter 9.

One consequence of this focus on taxation solely is that it gives tax a greater prominence than otherwise may be the case.

“that's the other thing that's been no more noticeable since I left the Revenue is that the Revenue when I was there, perhaps it was just me but, tended to think that the World began and ended with taxation and that's all anyone in business ever focussed about, but to a large extent that isn't true. The whole commercial world goes on and often tax is just an afterthought.” (ex IR UK co manager, C9, 2003).

A tax official may view every transaction outside the normal course of business to be tax motivated. The Review of Business Links report notes that large corporates want the IR to appreciate that not every business decision is driven by tax (IR, 2001: 4). This can impact on the relationship that the tax official has with his case as he may view the taxpayer with suspicion and ask more detailed questions than may be strictly appropriate as he imagines that every transaction has been undertaken for non bona fide commercial reasons. So the 'truth game' becomes an unstable game. The training has wider aspects of a more practical nature such as how to examine computations for miss-statement.

7.7 Investigative approach

The training also covers how to investigate and interview taxpayers. A tax inspector has to look for omissions in the tax computation such as income under declared or transactions not disclosed fully or where the information is presented in a more tax favourable light than may otherwise be the case. The traditional approach was that the Inspector of taxes would make enquiries into the tax computations. These enquiries would be in writing often taking the form of a large number of questions.

“You didn’t know a great deal about it but what you needed to do was to try and think about it in the broad terms and ask hopefully intelligent questions about what was going on that was sort of relevant to the taxpayer and you sort of moved between being sceptical and being cynical depending on the topic and response you were getting. It was really like an investigation you didn’t actually take anything at face value and you developed a way of asking questions etc and probing the answers that you were given. .. For a long while continued to deal with what was seen as general technical enquiries rather sort of technical questions refer to tax cases things like this generally do the job they were recruited to do” (Ex IR Tax partner, A1, 2002).

This type of questioning disguised the lack of information about the taxpayer that the Inspector had. They were able to obtain limited information from the financial statements and from the computation and from other sources such as press articles. From the questioning the Inspector would seek to satisfy himself that the computations were correct; meaning that the computations were a “true” reflection of the tax affairs of the taxpayer. An additional benefit would be that, as a result of these questions, an omission or error would be highlighted and this would result in additional tax becoming payable, known as “adjustments”. Although not expressed explicitly, this allowed a measure of how good the Inspector was perceived to be at his job (interview C9). One of the strengths of this approach is that the activities of the officials are controllable. Everyone is doing a similar thing and it is documented in a written form. As the correspondence was conducted by letter only, all interactions were documented. This can be compared with meeting notes whereby the minutes of a meeting will only record the significant matters and not all interactions such as asides. Another aspect of control is that the inspectors’ effectiveness could be managed as their performance could be made visible and measurable. The Tax Inspectors were being made into calculable selves in that their performance was being judged. Miller and O’Leary also make this point - the “life of the person comes to be viewed in relation to standards and norms of behaviour” (Miller and O’Leary, 1987: 262).

“It was never overtly declared that you would ask, you know, all these questions, but certainly from the law of averages the more questions you asked the more likely you were to get a result out of it and certainly, despite what the Revenue say, you were target orientated and there were lists or rewards for reaching certain targets [re additional tax liable], not financial rewards particularly, but actually, yes, latterly financial rewards because your pay depended on it, or increments

depended on it. Certainly promotion prospects depended on it” (Ex IR official, A1, 2002).

“That’s right. The Civil service is a classical pyramid and your promotion prospects depended upon annual reporting and your reports would be “has achieved his target”, “has not achieved his target”, “has exceeded his target” and depending on which box you fell into certainly your promotion prospects would be dented or enhanced. So, yes, there was definitely some incentive to get adjustments. That is the backdrop as far as the Revenue is concerned. There was never this, as I say, this “you will ask all these questions”, but it certainly ... the mindset of the people who were asking the questions was such that they knew that was the way to get success, or thought that was the way to get success.” (ex IR official UK company tax manager, C9, 2003).

This method is a simple hierarchical surveillance of tax officials as proposed by Foucault in his book ‘Discipline and Punish’ (1977a). However this approach can be criticised for its simplicity. The tax compliance game is between two parties; the tax official and the taxpayer. A weakness of this approach is that it views the taxpayer in a certain light.

This approach was referred to as the scatter gun approach by tax professionals outside the IR. The particular questions were not focused, in the opinion of tax professionals outside the IR, and they often demonstrated evidence of a lack of understanding by the Inspector of the business environment of the corporate.

“Well from, from what I could see that the [LBO tax district] inspectors were more the inspectors I dealt with in the early nineties and other people had described to me in the eighties, who were far more, always wanting more information, always writing very long letters, really delving into the detail. Not looking for the big issues, so a lot of people described it as the scatter gun approach. They just asked questions about everything and hopefully they’ll hit upon the one thing that’s going to give them some revenue.” (UK company tax manager, C14, 2003)

A consequence of this number of questions was that it took a large amount of the company's management time to answer these questions and obtain the required information. A further difficulty would be that the questions could relate to a previous year and a substantial amount of time could have passed since the transactions had taken place. In the meantime employees may have moved to other jobs or the records may be difficult to locate or to obtain in the required form. The use of the term 'scattergun', as well as being a shorthand description of what took place, also informs us about the parties to the relationship's understanding of the dynamics of the relationship. The tax inspector is invisible to the taxpayer and the taxpayer is almost invisible to the tax inspector. For the new style of game to be effective the tax inspector and the taxpayer must be visible to each other.

The NCP, with its focus on meetings, is an attempt to make the tax inspector and taxpayer mutually visible. However this new type of game requires a different sort of disclosure what I have described above as a form of parrhesia both by the taxpayer and by the tax official.

7.8 Immersion in the IR discourse – implicit training

As well as formal technical training in investigations work, experience gained elsewhere influences the style of questioning by Inspectors, not just those Inspectors who had the particular experience but also other Inspectors who implicitly acquired the informal knowledge through discourse.

“In the 90s I think that what has almost happened is that more of the culture of investigations in the traditional technical areas has occurred. Partly I think it is as those people who started their careers doing investigations will have moved into what was Enquiry branch, Special Compliance Office, Special Office and more of them are now out running districts and more of them have gone to the LBOs and they use the techniques that they learned before and so are not afraid to sort of say you don’t expect me to believe that do you? Even if you are dealing with somebody trying to argue that x% of this number represents a valid expenditure rather than somebody saying well yes I did win that £25,000 on the dogs at Walthamstow. Because I only ever win you know. Those techniques are coming through into the traditional technical areas and I don’t think it’s a problem as long as it’s done in a way in which you recognise that the taxpayer who is not understating profits is not essentially a crook and they are probably not lying to you whereas the ones I am saying probably is they probably are not lying to you but they may not be telling you everything and they will always be putting a gloss upon it and you start to recognise that there is a difference in the type of individual you are dealing with.” (ex IR official UK tax partner, A1, 2002).

This example of ‘implicit’ training is built around the old style version of the ‘truth game’ and the old identity of the tax inspector. However this implicitly gained knowledge is not transferred when there is a change of Tax Inspector dealing with a particular taxpayer. There are frequent changes in jobs for Tax Inspectors. They will deal with the same cases for a maximum period of 5 years although in practice it is often much shorter. The average period is approximately 2.5 years (interview LBO official, LBO4, 2003). The reason given for the movement of staff within the LBO and from and to the ‘Network’ (other IR operational offices outside the LBO) is that Inspectors should not get too comfortable with their cases. As Savage (1998: 69) writes when discussing Weber’s argument, “the modern bureaucracy depends upon distinguishing individual members of staff from their specific jobs so that they do not use such jobs as devices for self- promotion”. There is a common currency that any Case Director within the LBO has a broad but deep knowledge, and a

complexity of understanding of the key technical aspects. This knowledge enables them to deal with large retail companies one day and shipping companies another notwithstanding that the two industries are very different. It is also a reflection on the development of the identity of the Tax Inspector, as previously discussed, that Tax Inspectors ‘learn their craft’ on the job having come from a multitude of academic disciplines. However this movement of staff has an impact on the tax compliance process in that the delay in agreeing the tax figures for a particular year is even more extended.

“My experience last year [was] where we’d been arguing about something I mean literally for years, since the mid nineties this argument had been going on. And it had gone through several different inspectors. And of course every time you get a new inspector you’re always starting again to pick up the file and, oh well, what does this mean? And they pick up something, someone else hadn’t picked up. So you go round and round and round and round in circles, and at the end - it was getting to the point that we really needed to settle this somehow or other.” (UK tax advisor, A3, 2002)

This approach to implicit training is built around the old style of game and old style of identity and notion of the tax inspector as subject.

7.9 Immersion in the IR discourse – organisational structure

As well as the implicit knowledge acquired, another factor which shapes the subject, the Tax Inspector, is the organisational structure of the LBO. There are two aspects to be considered. Firstly the administrative structure of the offices, including the personnel involved, and how they are managed, including the “in” and “out” nature of their typical experience. Secondly the functional

structure of the organisation; by this I refer to the degree of specialisation and sectorisation of taxpayers amongst the various offices.

As I mentioned in section 5.9 each LBO office has a slightly different structure and is fairly autonomous. There is no one person in charge of the particular office. Below the senior inspectors in a hierarchical structure are other inspectors of more junior grades (B1 and B2). A typical LBO office had 5 case directors, 9 Inspectors of B1 grade who in limited circumstances would be case directors on smaller cases in their own right, 20 inspectors of B2 grade and in addition a number of administrative staff including an office manager, most likely at B1 level. This small size of unit enables the office to operate in an autonomous way. However the offices are bonded together by the inspectors having a shared history of training. It was interesting to note that each of the six offices that I visited had a different organisational structure and layout, only one of which was an open planned office layout. Each of the offices seemed separate within the organisation. An interesting comment was that the tax officials explained at five of the offices that they were one of the few offices not to be open planned! This is also evidence of the localised nature of the structure. Their knowledge of the other offices in the LBO was limited, showing that limited mobility within the LBO takes place.

The remuneration structure is different depending on the seniority of the Tax Inspector. At grades B1 and below their pay is determined internally by the IR. This is not true of the remuneration of case directors, who are in the main Principal Inspectors (SCS). For these individuals there is not a separate pay

scale and system for the IR. These senior employees are compared with those of the same grade across the Civil Service, in other central government departments such as Agriculture, Work and Pensions etc. In addition they are ranked against one another by the deputy directors of the LBO who are at the same grade as them. A significant factor in determining their remuneration is their relative position compared with their peers and this relative position could well change each year. It is possible for an employee's particular ranking to go down even though their performance has stayed the same or improved if some of the other employees have had a particularly successful year. The ranking has a significant impact on pay and the bonus received.

7.10 Business Sectorisation

The second aspect of organisational structure is by business sectorisation. The localised nature of operations is also evident with this sectorisation. The professional firms have industry specialists such as, but not limited to, banking, insurance, telecommunications and property companies. The LBO has matched this industry specialisation with sectorisation where a particular LBO office has a focus on a sector group, such as pharmaceutical companies at the Manchester LBO and major utilities at the West Midlands LBO office. The location of the particular sector specialist LBO initially was due to historical reasons; for example, shipping groups are based in Liverpool LBO. The West Midlands LBO was an exception in that it was set up with the intention to have the major utilities, which were previously privatised companies, all together in the particular LBO.

“.. utilities was a very interesting example, the utilities sector is nationalised industries mainly, there was no-one interested, and then you have these cash cows created with basically local monopolies and an interest created, potentially paying tax for the first time, interested in creating a low tax environment for themselves and acting in a fairly unified way. I gather we negotiated a lot of cross industry agreements with them on a particular, like how soon as we have dealt with that pipeline, transmission system.. across the board so they are all operating on a level playing field. So you see a sudden change, necessitating a consistent approach from us and having benefits for both sides” (LBO official, LBO 1, 2003).

In London where the Financial Services companies are concentrated, there are specialist offices for banking and insurance groups. The tax officials have to become sector specialists as well. Whilst this may previously have been the situation in the banking and insurance industries due to specific legislation applying solely to those sectors, this is a new development in other sectors, albeit the development of these different sectors has been rather on an ad hoc basis (interview, LBO1, 2003). Each sector has a lead contact and a second contact. The objective from the IR's perspective is to have an exchange of best practice and to ensure consistency in approach. (Interview LBO6, 2003). However not all sectors are as homogeneous as, for instance, the Financial Sector industries which have representative bodies such as the British Banking Association or the Association of British Insurers.

A difficulty for the Case Directors is where there is not an established sector. Consequently they have to develop new expertise in these different types of businesses and to understand the commercial aspects. This requires a new and different type of knowledge from tax technical knowledge.

“..Well, [among the advantages,] consistency is a big one, commercial knowledge. If I were in a provincial LBO, I would have to deal with, probably three or four different sectors. This issue is actually becoming commercially astute in relation to each of those sectors, sort of understanding the major drivers and the developments, where it is going, where the sector is going as well as the sensitivities. That’s the more difficult one, getting to grips with that, getting the knowledge formalised, making connections with the right people, the representative bodies. I mean certainly they will have to handle the, the sector committee will have to handle the representative bodies, there is no way that Head Office would handle that when it’s our own speciality. I think as well, it’s not as clear what the role of sector committees would be or sector leader or whatever, in the sense that it is possible to do too much, too little” (LBO official, LBO6, 2003).

There are acknowledged difficulties of sectorisation in that one size doesn’t fit all as illustrated by the following quote.

“The problem I suppose about sectorisation is that most groups of any size unless they are very specialist, are involved in more in one sector. And once you start categorising things as being in a sector you’re, you know you’re losing quite a bit. And you might miss out a lot of things just by persuading yourself that this is the one the group is in” (LBO official , LBO5, 2003).

The advantage from the IR viewpoint is that sectorisation “gives a much more consistent approach to all cases and we’re able to give certainty much sooner” (Cm 6050). This is an acknowledgement of the changed outward facing respect for the taxpayer’s concern for certainty.

7.11 Specialist Knowledge

Another aspect of new knowledge is specialist knowledge which is functional knowledge but not sector specific. The type of technical knowledge cannot remain the same. Tax legislation has become more complex as a result of both

anti avoidance legislation and adapting existing legislation to new business types and transactions, including different types of financial instruments. It is no longer sufficient to be just a corporate tax specialist. The professional firms have functional specialists such as transfer pricing specialists. The IR have had technical experts in the Technical Department who would be specialists in transfer pricing, thin capitalisation or international experts. These specialists are outside the main operational departments such as the LBO. Specific transactions and situations would be referred to them by tax inspectors and then the specialist would conduct enquiries with the taxpayer directly (interview, LBO official, LBO2, 2003). However what is new is the intention to recruit functional specialists to advise on commercial aspects of transactions therefore not tax specific. The intention is to recruit sector experts who understand the business on short term contracts or 'call off' contracts so the expertise is readily available. This is to counteract one of the criticisms of the LBO by corporate taxpayers which is the lack of commercial awareness (IR, 2001). The main impact of this use of functional specialists is where there are a number of questions being asked by the tax inspectors with little or no tax effect. One of the interviewees referred to a leasing expert being recruited who has made a major contribution in that he has directed people away from enquiries which were going nowhere (senior official, IR2, 2003). In addition the IR has recruited a Banking specialist to give advice on the banking industry as well as professionally qualified accountants – 'compliance accountants'. These qualified accountants, with significant professional experience gained outside the IR, assist the compliance teams with technical accountancy input. This input may include challenging either the accounting policies selected by a

company in preparing their financial statements, or the methods used to apply the chosen accounting policies in practice (interview, LBO official, LBO1, 2003). Within the LBO, these accountants represent the LBO at meetings with representatives of the corporate taxpayers and their advisors. It is common for these representatives of the corporate taxpayers to be either qualified accountants or ex IR officials, although they are predominately qualified accountants.

The advantage for the IR of this bought-in expertise is that the IR can ask more focused questions and use their time more efficiently as demonstrated by the following quote.

“I think it should do and if you are doing a capital allowances claim on a new building, trying to distinguish plant and the structure for example, apart from the industry that has grown up outside to do that, the inspector your average inspector, my gifted amateur, really wouldn't know a great deal about competent surveying or the way in which the building is constructed. Whereas if you put a surveyor in, the surveyor would at least speak the same language, would know to what extent you were pushing one area too far one way or other. They know broadly what the average percentages are in a typical building between the mechanicals and civils and this sort of thing. Therefore they are likely to be more effective in dealing with the accountant [tax professional/ tax advisor].” (Ex IR official UK tax partner, A1, 2002).

As a result tax officials are having to become not only sector specialists but are also having to understand how to make use of non tax function experts. They have always utilised the technical policy and international departments of the IR but this is a new kind of expertise. It is the understanding of how to integrate with experts who have not had the benefit of the IR training and discourse. They each have a different professional background and the way

they deal with these different types of expert knowledge is different. For example at the senior levels of the tax profession both lawyers and accountants advise on tax planning opportunities but the way they approach the problem and possible solutions will be different. Basically a lawyer will focus on what the legislation says and judicial interpretations of tax cases whereas an accountant, whilst having in mind the tax law, will also be aware of the impact of the tax planning transactions on the accounts of the company and relevant disclosures. Although the solutions may well be the same how they approach the outcome may well be different.

“we’ve had some enquiries from the LBO accountant. I’ve found, I think we found that quite difficult because he wasn’t a member and he isn’t a member of the key, of the core team. So he’s a specialist they call in for a particular area and we found that he didn’t understand our business and because he had no relationship with us, we - you know he asked questions that maybe we thought were unnecessary” (Tax manager, C14, 2003).

Miller and Rose (1990: 2) argue that the powers of expertise have become a significant aspect of government. These additional centres of expertise are translating into forms of managerial governance as the LBO attempts to mirror the specialisms of their corporate cases as well as the specialisms of the professional advisory firms.

7.14 Discussion

There is recognition within the literature that Civil Servants need to change to become a new style official. “[T]he civil service needs a new kind of specialized generalist, trained and experienced in managing” (Foster, 2001:

744). Foster argues that as the political environment has changed and Ministers are not involved in drafting legislation, Civil Servants need new skills.

This emergence of a new style tax official as knowledge expert is part of the way the IR is reinventing itself in its dealing with taxpayers. It is reinventing government (Osborne and Gaebler, 1992). This phenomena is what du Gay refers to as 'entrepreneurial government' (2003: 670).

However with any change programme there will be resistance to change both from the individual tax officials and from the organisation itself. One interviewee reflected on the lack of ambition he saw in the Inspector with whom he dealt and interpreted it as a resistance to change:

"I don't know if the inspectors are being measured on how they adopt some of the stuff that is being wheeled out. I imagine some of it is quite hard to measure. I imagine some inspectors don't particularly care, I imagine some inspectors are not quite so ambitious, they're quite happy to sit there and do what they've always done as long as they don't lose their job. It's going to be very hard to get people like that to change. I know our tax inspector not this one or the previous one, but the one before him it was the time that his case director had got another job he was moving on and I said to him over the phone "Are you interested, are you going to apply for it?" and he said "No, I'm quite happy doing what I'm doing", which I found kind of strange I thought even if you didn't have a lot of ambition, you might at least have a little bit, you might at least try it, but he was quite happy just to sit there. If he's like that there could be other people in the Revenue like that. So if there's no way of motivating people to adopt some of the changes and they're not measured on it, why are people going to change?"(UK company tax manager, C10, 2003).

The interviewee linked it with the question of measurement, suggesting that if it were possible to measure responsiveness to change, it may be possible to motivate people to embrace change:

“[T]he impression I have of the Revenue is that it’s a very large organisation, a bit of a dinosaur, and if you want to change things it’s going to take forever because change is something that’s resisted in the organisation. People get stuck in their ways and will pay lip service to new ideas perhaps, but in terms of the way they actually approach their work on a day-to-day basis, nothing really changes. Or they think that they’re changing to what’s required, but in reality they’re not they’re only changing a little bit and what’s required is a lot more”(UK company tax manager, C10, 2003).

However with the increased strategic and managerial focus of the IR this form of disciplinary knowledge no longer suffices. With the development of new style working practices that modern multinational entities discover themselves having to engage in, such as a move away from one-way authoritarian interactions ‘directed’ by the LBO towards more apparently open two-way and informal negotiating processes, the inspector has to become a new type of tax official. They need to have both the ‘old’ technical knowledge and also a new broader knowledge of ‘soft skills’ such as non confrontational meeting skills, customer service skills, and treating taxpayers as customers, in addition to greater specialist knowledge as multinational corporates and tax legislation becomes increasingly complex. The Inspectors have to become a three dimensional transdisciplinary T shaped tax inspector. Transdisciplinary in the sense of “grafting other business disciplines and skills onto a [tax] base” (Hoskin and Anderson-Gough, 2004). It is the technical knowledge used in a different way. The knowledge itself doesn’t change but the way it is used changes. This new knowledge contributes to the tax official doing his job in new ways as Deetz (1992) writes

“Disciplinary power resides in every perception, every judgement, every act....It is not just the rule and routine which

becomes internalised, but a complex set of practices which provide common sense- self evident experience and personal identity” (Deetz,1992:37 in McKinlay and Starkey, 1998a: 4).

In the next chapter I examine how the corporate taxpayer is being transformed through discursive practices into a customer. It will be seen that from the large corporates’ perspective the tax compliance game is changing as a consequence of the IR engaging in a different way with them.

Chapter 8 - The corporate taxpayer reconceptualised as a Customer

8.1 Introduction

In the last chapter it was noted that the corporate tax compliance process is always an interplay of two knowledge experts: the tax official and the taxpayer.

It is worth recalling why this focus is important as

1. it is a game of changing rules of entrepreneurial government,
2. where the role of the expert is exposed, and
3. a mix of inquisition and parrhesia-based tactics are employed within the expert disciplinary frame.

How does the other party involved, the taxpayer, play this new game as a knowledge expert subject? I argue that the taxpayer has to play a role which has to incorporate the construct of the “customer”.

The customer relationship building trend is visible across the public sector and is a key feature of NPM in practice (Needham, 2006; Brunsson & Sahlin-Andersson, 2000). In this chapter the corporate taxpayer’s reconceptualisation as a Customer subject is developed in more detail. The taxpayer’s role in the process of tax compliance cannot be looked at in isolation. The corporate taxpayer does not submit tax returns without an understanding or a perceived understanding of how the IR operates and the practices of individual tax officials. In addition corporate taxpayers are influenced by both the discourses and practices arising from the IR. However this is not a one way process. These

IR discourses and practices, which are employed by tax officials, are themselves influenced by the taxpayer's activities. Thus the focus of this chapter is on how the IR is engaging differently with the large corporate taxpayer and, as a consequence of the IR doing different things, how the nature of the tax compliance game is changing from the large corporates' viewpoint.

As with the tax official, this important interaction is considered from the perspective of both how it has taken place in the past and also how it now appears to be developing in new ways. As discussed in Chapter 2 the corporate taxpayers' representatives are either tax directors and tax managers for those corporate taxpayers that have an in-house tax department, or tax professionals who act for corporate taxpayers who subcontract their tax compliance work to a professional firm of accountants. In my professional experience, both these groups (tax directors/ managers and professional advisors) have well developed negotiation skills, equal to, if not exceeding, those of IR officials, and are aware of some of the rules and dynamics of the negotiation game and the interests of the other parties. They are also becoming aware of how these rules of the tax negotiation game have changed and how to take advantage of these new parameters of the game.

As argued in Chapter 1, the large corporate has always been in a position of power when dealing with the IR. They have a range of practices available to them, a 'whole series of specific governmental apparatuses' with which to exert power in the relationship. They are able to negotiate tax settlements and

they are significant contributors to UK plc¹¹⁰ not just by the payment of taxes but also by providing employment in the UK which contributes to the Gross Domestic Product and provides a larger pool of taxpaying individuals. In particular this chapter looks at the ways in which the large corporate's relationship with the IR is being altered strategically and the need for the IR to engage differently with the large taxpayer by doing different things. Part of engaging differently is the reconceptualisation of the corporate taxpayer as a customer.

In this chapter, I first look at the subjectivisation of the taxpayer as a customer of the IR. It is worth recalling Foucault's words (writing as Maurice Florence) here:

“The question is one of determining what the subject must be, what condition is imposed on it, what status it is to have, and what position it is to occupy in reality or in the imaginary, in order to become the legitimate subject of one type of knowledge or another” (Foucault / Florence, 1994:314).

In this section I look at the choice of customer discourse for the corporate taxpayer and how this customer discourse has shaped the customer subject. Secondly I look how the IR is determining the taxpayer as a customer subject. By this I mean what practices have been put into place, such as customer service targets, which have contributed to the objectivisation of the customer subject. Thirdly I look at how the corporate taxpayer operates as a customer subject. Through this analysis I want to argue that the customer concept has become a technology of government.

¹¹⁰ UK plc refers to the “corporation of the United Kingdom” in other words the country as a

8.2 Who is the corporate taxpayer?

Chapter 2 explained who the corporate taxpayer was. The discussion there focussed on the in-house tax manager who, as was mentioned, is usually a professionally qualified accountant with a number of years of post qualification experience.

Tax managers do not tend to stay long with the same group as there is little or no career progression within an in-house tax department, except in a very large tax department (interview, 2003, A4). The tax manager's experience is limited to the activities of the group and after a period of two years or so, the rate of increase in this experience plateaus unless the group is engaged in acquisitions and disposals of major subsidiaries or special financing structures. This is different from professional accounting firm practice where there is scope to work on a variety of clients and transactions of increasing size and complexity, and to gain promotion within the firm's taxation practice. In-house tax departments frequently are referred to as 'lean and mean' by tax professionals and tax managers in that they do not have excess staff (interviews A5, C14, 2003). This may be due to the view that they are regarded as primarily a cost centre by the company's management and therefore as a department for which costs are to be minimised.

Historically the role of tax managers encompassed submitting tax returns and implementing tax efficient structures after the commercial decisions had been taken. However this role is changing. Tax managers are much more heavily

wealth operation.

involved in business strategy, actively promote the work of their department to the Board of Directors (PricewaterhouseCoopers, 2000b) and identify and manage tax risks that the company faces (Ernst & Young, 2004). They also have a direct responsibility for ensuring that the Group's business units are able to operate tax efficiently. They need to promote the tax function by internal communication in order to market themselves to the other business units (PricewaterhouseCoopers 2000b, 2002). Tax functions are seen more as acting as a service provider to other parts of the group (Porter, 1999b). They have internal clients, customers, to which they provide tax services.

8.3 The choice of customer discourse

It is necessary to distinguish two ways in which the construct of the 'customer' can be deployed discursively. One is in the context of classic external market relations, where there is a classic supplier / buyer relationship¹¹¹. But increasingly a second way has emerged, in internal market situations, where organisations wish to redefine the intra organisational and inter departmental and divisional relations even though these relationships may not be a classic supplier/ buyer arrangement. In this context there may be a link, ultimately, to external customer relations, but the customer discourse has a principally internal focus, to remake the whole way employees both perceive and enact their own work and its interrelations with others in the organisation. If we might describe the classic external market relationship as involving the 'visible customer', the latter may be described as one with the 'invisible customer' –

¹¹¹ In the Marketing literature a distinction is made between the customer and the consumer. A wholesale business sells to a retailer, its customer. The consumer is the retailer's customer.

both in the sense that the term is being used metaphorically, by extension, not for 'real customer' relations, and because this practice may remain totally invisible to such real customers, except insofar as it changes (and possibly improves) the quality of their interrelations with the organization and its employees. The invisible customer is thus visible only to those within the organisation.

It appears, reviewing the history of the construct within the IR, that the IR introduced the customer concept internally, i.e. in the invisible customer mode, to refer to taxpayers in the early 1990s (interview, IR4, 2003). This was developed into a customer service approach. Following the White Paper 'Competing for quality' (Cm 1730) and policies introduced by the Citizens Charter¹¹² (Cm 1599), and Next Steps, the Board of the IR decided that significant change to the structure and processes of the IR was needed (NAO, 1996). This resulted in a ten year change programme starting in 1992. The change programme focused on four important areas known as the "Four Cs" which emphasised 'Customer service', 'Compliance', 'Cost efficiency' and 'Caring for staff' (NAO, 1996: 1). These "Four Cs", as they began to be known, were translated into a programme which reorganised the office structure; simplified and streamlined processes; improved the use of IT and changed the culture of the Department (NAO, 1996: 1)¹¹³.

¹¹² Government Departments and Next Steps agencies which introduced the Citizens Charter showed significant improvements such as the Passport Agency. However the introduction was not without criticism among which was the feeling that the performance targets introduced might have been set too low (Butcher,1997).

¹¹³ See Lamb, Tuck and Hoskin (2003a, 2003b, 2003c).

Management change programmes were introduced, such as Total Quality Management models, in particular the European Foundation for Quality Management “Excellence Model” (PricewaterhouseCoopers, 2000) which focuses on customer service. The customer service and enabling concepts were further emphasised with the issue of the ‘Modernising Government’ White Paper in March 1999 (Cm 4310). Marketing techniques were utilized when Income Tax Self Assessment was introduced (Farron et al, 1999) and a marketing director of the IR was appointed in November 2000 (Cm 5118: 1).

Applying this distinction to the IR, I would suggest that there was a first phase in which changes were made in this ‘invisible customer’ sense, focussed inwardly and with little external visibility. More recently the discourse of the customer has been extended to the visible customer as well, and in the process has arguably become far more visible or insistent internally as well.

The work I did as a research fellow on the CRAKA project examined the role of the Customer discourse more generally within the IR. In our paper “Emergence of the Customer Concept in Inland Revenue Discourse and Practice” (Lamb, Tuck and Hoskin, 2003c) we discussed some dilemmas and ambiguities associated with this reconceptualisation in a regulating department. We argued that “far from being just a reclassification of the taxpayer as customer, the emerging discourse and the associated embedded practices of the IR were in part being embedded in organisational change and the merger with HM Customs and Excise” (ibid: abstract). The topic of concern of this chapter which extends this work is the impact of customer discourse for large

corporates and I will argue how the large corporates are being remade into a visible customer.

The emergence of a customer discourse may still seem strange in the IR context, since taxpayers are subjects of the state rather than customers. However, it is already apparent, in many private sector contexts, that the use of customer discourse in relation to 'invisible customers' does not require that the buyer has a choice as to from whom they can purchase services or goods, insofar as there is a corporate requirement that these have to be acquired intra group. But here the point is that those who may otherwise be seen purely as 'calculable selves' in their interactions become calculable but also calculating selves, and in that respect are empowered in their interactions. As du Gay and Salaman (1992) put it:

“While this process of relabelling may appear as a totalitarian attack on diversity and difference it is never conceived of or represented as such. Rather, the enterprising customer is imagined as an empowered human being - the moral centre of the enterprising universe. Within the discourse of enterprise customers / consumers are constituted as autonomous, self-regulating and self-actualising individual actors, seeking to maximise the worth of their existence to themselves through personalized acts of choice in a world of goods and services” (Du Gay and Salaman, 1992: 622/3).

This draws on the ideas developed in Foucault's last work on the *Care of the Self*, where particular networks of 'practices' were identified as the means for exercising self-care in different ways in different eras, e.g. via regimens of physical and spiritual exercise, with 'examination' of one's acts being a particular technique referred to in the Roman era (Foucault, 1986). The new network of self regulating but invisible customers operates via these practices

and in the process constitutes a newly invigorated internal market for goods and services within an organisation.

Through adopting this kind of discourse and practice the public sector has embraced those ideas from the private sector which Ogden (1997) refers to as being part of the “enterprise culture”.

“The need to meet the “demands of customers” has been invoked by Governments in its attempts to pressure public sector organisations into performing as though they were commercial enterprises subject to the economic and efficiency imperatives of the competitive market, with the result that public sector professionals are now expected “to exercise initiative; compete for “consumers”; cost their activities and think of themselves as “producers” if they are to prosper, let alone retain their jobs (Ogden, 1997: 536).

Ogden (1997) draws on Miller and Rose’s (1990) conceptual framework when considering the introduction of the customer service concept within the newly privatised water industry even though the water companies were in a monopoly position. He interviewed Ofwat personnel and managers from five of the ten water companies and found that the measurement of customer service, even though there was no possibility of customer choice, enabled companies and analysts to compare the efficiency and effectiveness of the operations. Viavio (1999) examined the “quantified customer” within a UK manufacturing company making cleaning products.

“This space [calculable customer] reshaped traditional segmentations of responsibility. It made visible new dimensions of performance. And it restructured the patterns of dependency and power between organizational agents. (Viavio, 1999: 709).

This research differs from the preceding research in that the three parties to the tax compliance process have been interviewed; the tax official, the tax manager and the tax professional, whereas Ogden and Viavio have looked at the relationship from a single viewpoint.

8.4 Duty of care from service provider

There is arguably a complexity in the duties and responsibilities of the IR that itself pushes the IR towards this stage in a more explicit but also awkward or uncomfortable way, since it has a dual role towards taxpayers. As Montagu, the then Chairman of the IR stated in 2001.

“Put simply, our strategy is to be, and to be seen as, an enabling as well as a regulating Department” (Cm 5118: 1).

The IR has a duty to regulate taxpayers to ensure the tax legislation is applied correctly and they pay the correct amount of tax. At first sight this dual aspect of conflicting roles seems problematical. How can it be possible for a regulating department to have a customer friendly perspective? However IR Officials do not see this conflict as it is acknowledged that the term “customer” has organisational and structural effects within the IR.

“IR’s staff have now accepted the term customer but accountants complain about the term. Customer is a useful phrase; it encourages a state of mind in IR staff; ‘We [IR] rely on customers. We cannot do anything we like’” (IR official, IR3, 2003).

There is an appreciation in the IR that the roles of regulating and enabling are not conflicting but interconnected and necessary for the administration of tax collection.

“Outside the LBO environment the majority of our people spend most of their time helping people. If you are on Pay As You Earn sections largely you are helping people who write in saying “Can I claim for this?” and “Here’s my information”, and most of the contact you have there is actually the enjoyable part of the job. So a lot of our people have always been doing customer service. It was just getting the wording right for those who were more on the enabling side, on the regulating side, those who were investigating accounts. There is always a tension there because effectively you are saying, again on non LBO cases, “I don’t believe your accounts”. You don’t actually say that but you say I have got concerns. However you write it up that’s how the customer would see it. But you have still got a duty to handle them right and to handle them as you would like to be dealt with. I have never actually had that much of a problem with it. People worry about using the word customer when they used to say taxpayer but it’s not really an issue” (IR official, LBO2, 2003).

Ayers and Braithwaite (1992) support this view. They argue that more effective regulation can be achieved when regulators are ‘benign big guns’. The greater degree of compliance is achieved when the enforcement procedures are kept in the background and regulation can be conducted in a non-adversarial way. This is also reflected in the ATO Compliance Model which was discussed in Section 3.3.2.

There is some resistance to the term ‘customer’ by the large corporate taxpayer. However the interdependency of the dual roles is accepted by tax managers as the following quote illustrates.

“I told [a previous director of LBO] quite vociferously we aren’t customers. In my view the customer of the Inland Revenue is the Treasury and we are not customers we are taxpayers. But I think what

they are trying to say is, “Yes, you are taxpayers, but in terms of the service we provide you, we are acting not just as regulators but also as facilitators, so to that extent you are customers”. Clearly to the extent they are regulators we are tax payers then we have to pay up and face the consequences, but I think, to be fair to them, they are trying hard in some areas to improve the service they provide to taxpayers and make it easier for taxpayers to comply with their legal obligations.” (UK Tax Director of FTSE 100 company, C13, 2003)

This dual conflict becomes less of an issue for the IR as a whole as the IR has expanded its activities and now the IR is not just a tax collection agency, where money is being collected from taxpayers, including companies and citizens, it is also a benefits agency where money is being paid out to citizens. The focus on the customer and these additional activities have made the IR become more outwardly focused. It has moved away from an internal facing bureaucracy where, in the words of one IR official, taxpayers were regarded as a nuisance if they telephoned as this hindered the IR with getting on with the ‘real’ work, to an organisation which has a strategic plan and a marketing strategy. The following section describes the accountability practices, which have been introduced by the IR to change the relationships between the IR and large corporates.

8.5 The objectivization of the customer (Stage One): challenging providers to act ‘as if’ they had customers (the invisible customer phase)

Having seen the objectivization of the corporate taxpayer at a general level in the previous two chapters, in this section we see specifically that the corporate taxpayer as a subject has become ‘an object of knowledge’ through being constituted as a customer. This signal of change in tax determination approach

is in line with a 'customer' focus. Some IR officials have already been pursuing this approach but two documents which mark this change are firstly the July 2001 Consultative Document and secondly the 'Review of Links with Business' report (2001). The consultative document was issued by HM Treasury and the IR in July 2001. It announced a review would be carried out that would consider the extent and effectiveness of the Inland Revenue's links with business on administrative matters and policy issues (HM Treasury & IR, 2001: 7). The report on the outcome of the review, 'Review of Links with Business' (2001), highlights that there has been improvement in the relationship between the LBO and large companies, but also acknowledged that there is scope for further improvement. The report contained recommendations which sought to address deficiencies, among which were new faster processes for IR's enquiries, including meetings set up between the company and the LBO, where company officials discuss the company's tax risks with the LBO and presentations are made by the company on the accounts; and the introduction of the 'New Compliance Process' ('NCP'). The report also recommended changes to communication processes between the LBO and large businesses and representative bodies: the Large Corporate Forum, which was set up in order to establish 'links' between the LBO and its customers and to provide a forum in which to debate current taxation and operational issues; and the Corporate Tax Operational Consultative Committee set up with representative bodies. There seemed to be mixed messages coming from the IR regarding the purpose of the review. The IR acknowledged that the review was a part of the 'enabling culture'¹¹⁴. However the IR 2002 Annual

¹¹⁴ http://www.inlandrevenue.gov.uk/ctsa/sacc_ct14_01_02.htm seen 19.03.2003.

Report reinforces the regulating culture but with 'customer discourse' now centrally embedded.

“This work, principally affecting customer relationships with larger companies, aims to bring business and the Revenue closer together and modernise the administration of the corporation tax system for big business. This will result in more efficient use of resources and improve the Revenue’s ability to focus on areas where tax is at risk” (Cm 5706: 17).

These changing practices have been evidenced by certain multinational companies making presentations to the IR on aspects of their business. There have been meetings between the LBO and multinational companies to share the LBO’s risk assessment with the taxpayer. The LBO seems to have made its procedures for identifying areas of tax risk in tax returns more sophisticated in recent years.¹¹⁵ The NCP pilot scheme, which consisted of 17 multinational groups encompassing a wide range of industries,¹¹⁶ formalised this emerging approach to ‘real time working’. It is also more of a joint working relationship.

“The tax team [of the group] and the case team [of the IR] start by discussing and clarifying their responsibilities and expectations, and by setting a timetable for key events¹¹⁷”.

This is an indication of the IR building relationships with taxpayers/ customers.

8.6 Customer relationship building

Part of the development of the customer relationship has been progressed through the use of targets. Public sector agreements with measurable targets

¹¹⁵ This has been incorporated into a performance indicator. “% of our risk-based full enquires which result in the detection of non-compliance 76 (2001/02 target compared to 75.4 (2001/02 result) (Cm 5706: 11).

¹¹⁶ http://www.inlandrevenue.gov.uk/lbo/minutes_201102.htm seen 22.03.2003.

were introduced within the IR following on from the 1998 White Paper, 'Public Services for the Future: Modernisation Reform Accountability' (Cm 4181) and its 1999 supplement (Cm 4315). The public sector target concerned with customer service is as follows:-

“PSA target 5

Achieve a 2.5 point improvement in customer service by 2004, as measured by an annual customer service index” (Cm 5706: 14).

This quantifiable measure has introduced a new visibility to customer service.

This point is supported by Miller.

“as a process of attributing financial values and rationales to a wide range of social practices, thereby according them a specific visibility, calculability and operational utility” “does not reproduce the visible but *renders visible*” (Miller 1990: 316/317).

Also the inclusion of the PSA customer service target has focused the IR to measure “customer service”. However customer service is not a fixed concept and there is no precise definition of what is meant by this term. It is interpreted by different organisations and different individuals in different ways (Needham, 2006). There is clearly confusion over what is meant by ‘customer service’ amongst large corporates themselves. It can be interpreted as the IR being facilitators to help the corporates to pay the correct amount of tax:

“There were no customers when I was in the Revenue. They were taxpayers. I have to say, I don’t think the idea that we are customers sits comfortably with my idea of corporates or with inspectors. “Customers” suggests a level of voluntary participation, doesn’t it? There’s no voluntary participation with paying tax, so to call us customers is a little bit tongue in cheek. To be fair, though, that doesn’t mean the Revenue are not being sensitive. I think more so than when I

¹¹⁷ http://www.inlandrevenue.gov.uk/lbo/minutes_201102.htm seen 22.03.2003.

was there they are giving care to us as a customer, if that's the way it would be perceived, in terms of being considerate about our year-end pressures and other pressures. Group plc are going through a big disposal process at the moment and the Revenue are mindful of this and will lay off us for a little while in terms of enquiries and I don't really recall that happening when I was in the Revenue. Then the Revenue moved relentlessly on and asked enquiries and if you were busy, well you just had to deal with it as well as whatever else you had to deal with. The Revenue now are saying "We understand that your year-end approaches and we won't bother you from the middle of July to the end of August and we'll ask any enquiries [on the previous year's return] in September," (UK Company Tax manager, C9, 2003).

However customer service can also be understood to have a deeper significance than the previous quote. It can be interpreted as being a major part of the process of tax collecting; asking focused questions and concluding promptly the tax treatment of outstanding enquiries and issues:

"For me [customer] service would be asking sensible questions at an appropriate time and resolving them in a timely manner and I think it's the resolution that gets difficult because it gets bogged down" (UK Tax Director of multinational company, C8, 2003).

Likewise within the LBO there is not one consistent view of what constitutes customer service and views on what is meant by customer service differ between the IR and large corporates.

"Primarily they know who the case team are, they will know them as individuals and they can pick up a phone and talk to us. Whereas in the network [outside the LBO] it is much more likely they will get changes, different people being with the case from one year to the next" (IR LBO Official, LBO5, 2003).

"In some groups the tax function is quite marginal to the main business. They can be difficult to deal with, not so much because they're into aggressive tax planning, or whatever, it's just that they can never get the relevant information, and so they can be hard groups to deal with and so we try to give them as much support as possible to break down the culture in their organisation" (IR LBO Official, LBO2, 2003).

“They’ll quite often say we’d like to give you this information, but we can’t get it out of XYZ. So quite often it helps if you say “Okay, well lets go and visit these premises, lets meet the financial controller of this factory or this set-up, this establishment”. So that’s one way” (IR LBO official, LBO2, 2003).

The different interpretations of what is meant by “customer service” obviously has significance to the measurement of customer service such as when the monitoring of the PSA target is undertaken and this focus on measurement of customer service has continued to gain greater importance. However perhaps more significantly, the “customer service” term gets more deeply entrenched within the IR discourse, in part because of the quantified measurement, objectivization of the customer. The practice of measuring customer service has the effect that customer service takes on a more prominent role in the activities of the IR. This is evidenced by one of the recommendations¹¹⁸ included in the Review of Links with Business report: that regular independent customer satisfaction surveys should be carried out “to monitor progress in this area” (IR, 2001:9). The first customer survey was a quantitative survey, the objectives of which were to ascertain whether “the LBO was providing a satisfactory service, acting in a professional manner and identifying risks effectively” (LBO Forum minutes, 20 Nov 2002¹¹⁹). The LBO acknowledged that the survey was ‘useful’ and would continue to survey in 2003 from a qualitative perspective. The proposed survey would concentrate on five areas “Understanding the business, Contact with the LBO throughout the year; General weaknesses in commercial understanding, “Ringmastering¹²⁰” and

¹¹⁸ Recommendation 4 (IR 2001)

¹¹⁹ http://www.inlandrevenue.gov.uk/lbo/minutes_201102.htm seen 27/02/04

¹²⁰ “Ringmastering” is the term which is used to describe the co-ordination role of the LBO Case Directors. It is envisaged that this role will co-ordinate the IR’s enquiries across the range of tax areas such as employee taxes and Stamp Duty (IR, 2001:8).

Sectorisation” (LBO Forum minutes 22 July 2003¹²¹). The scope of the definition of customer service has been enlarged to encompass more of the LBO’s work. This has given customer service a greater visibility by the introduction of measurable outputs.

8.7 The objectivization of the customer (Stage Two): the institutional emergence of the visible customer

In this section I look at how the corporate taxpayer operates as a customer subject. It is worth again referring to the Maurice Florence article here.

Foucault writes that he studies

“the constitution of the subject as its own object: the formation of the procedures by which the subject is led to observe itself, to analyze itself, to decipher itself, to recognise itself as a domain of possible knowledge” (Foucault/ Florence, 1994: 316).

I am interested in how the subjectivisation and objectivisation of the customer subject by the IR impacts on the corporate taxpayer. In other words, how does the large corporate taxpayer respond to the IR? We have seen there was resistance to calling large corporate taxpayers “customers” but accepting that large corporate taxpayers are reconceptualised as customers by the IR, how does the corporate taxpayer reflect this conceptualisation?

One aspect is that the greater visibility of customer service has increased expectations from the IR perspective. One of the primary activities of the IR is a duty to collect tax in accordance with legislation (regulating). Customer

¹²¹ http://www.inlandrevenue.gov.uk/lbo/minutes_220703.htm seen 27/02/04

service is part of the enabling message. This increased focus on customer service is not without difficulties as there may be a limit to the 'enabling and regulating' message. The customer discourse may have been introduced to effect a cosmetic change in the approach of dealing with taxpayers on a superficial level, however the customer discourse approach has become embedded in the IR organisation (Lamb, Tuck and Hoskin, 2003b, 2003c). Its wider use and employment by the IR has come to encompass not just a different way of looking at taxpayers but it has also become a key part of managing and controlling IR organisational practices, such as being part of the performance appraisal mechanism of IR officials.

“We have a new director who raised the question with us a few weeks ago about whether our appraisals ought to have an element for customer appraisal and in principle I don't see anything objectionable about it. I don't really suppose we would get objective professional reaction. For example one colleague has a serious difficulty with a major customer. The customer has been a major defaulter and my colleague is looking to impose a penalty which the customer doesn't like. We are talking about millions of pounds. It's become very personal so I wouldn't want his appraisal depending upon the customer being able to take it up” (IR official, LBO3, 2003).

This development gives the large corporate taxpayer added power in their relationship with the IR although they may not be aware of it. Parrhesia is two sided game. One possibility is that these large multinationals have a new opportunity, within the new-style 'event' of the annual tax liability review, to manufacture consent through a tactically adept deployment of its newly engineered 'expertise advantage' as the taxing body has taken a decision to become more strategy and marketing focussed, reconstructing the taxpayer as 'customer' as well as 'subject' in the process. One impact of these new style

relations within the IR is the creation of customer service managers to reinforce the discourse of “customer service”. The consequential outside impact is that the customer is more visible, providing the taxpayer gets beyond the bewilderment of just being renamed a customer. The end result is that both parties “act as if” the taxpayer is a customer and as shown by the following quote the taxpayer becomes more customer like.

“I think that the thing that influences the Revenue behaviour more and more is the management focus on the customer. At the regional office level there are people who are customer service managers. Now if you know that and if you know there is more likelihood of your work being reviewed if there is a complaint then it is more likely that you will behave in a way that doesn’t cause your work to be reviewed. There is nothing worse than a complaint because you have to do a lot of work to prepare a report on a complaint and then you don’t know what’s going to happen. We go back to the way the Civil Service works again, I think: ‘If you can avoid something happening, you will’” (Ex IR official, A1, 2002).

Another impact of these new style relations is a more effective deployment of “power” by the IR. Whereas as a bureaucracy it ‘played its cards close to its chest’, in undertaking negotiations it now requires or invites the ‘customer’ into a different and apparently more open kind of dialogue. This is indicated by the way in which taxpayers, including corporate entities, are required to make more voluntary disclosure. The customer discourse is becoming a technology of government. The onus of decision is thereby shifted towards the taxpayer, and accountability becomes more open-ended. It is a more informed game from both the IR and the large corporates’ perspectives. However at the date of the interviews, it may well be that large corporates did not realise the importance of being visible and being seen to be visible. The joint working approach of the New Compliance Process means that the power relations are being played out

in different ways. The traditional view of governmentality being a top down approach is evolving into a new two-way approach. The remaking of the large corporate taxpayer as a visible customer creates power in a different way for the corporate. Notwithstanding large corporates already had power but these relations are being re-engineered as a result of the change in IR practices and discourse.

8.8 Chapter Summary

This chapter has examined the development of the corporate taxpayer to become a customer subject. The IR is engaging with the customer subject differently through the use of performance targets, and the NCP. I have argued that the customer discourse has become a technology of government and the corporate taxpayer is being made into the visible customer.

Chapter 9 - The Event of Compliance

9.1 Introduction

The previous two chapters have considered the knowledge expert; the IR official and the corporate taxpayer/ the customer, each from a separate perspective. These two kinds of expert subject meet at an event concerned with eliciting the truth but where each side has a different version or level of the truth to make visible. Truth constitution proceeds outside the event as well as during the event. Tax rules and returns procedures have yielded certain things as agreed, others for debate; specifically the quantum of the numbers or an interpretation of the law or the facts. In the event we have a mix of inquisition and parrhesia and each side comes to speak the truth as experts. And this is against a background of not just the tax authority / subject (in the terms of citizen) relation but in the new relationship of service professional / customer. The old relationship reflects the old style inquisitional approach; the new style approach is based on earlier disclosure, with a significant role still for old-style inquisition but employing oral as well as written forms of examination, thus constructing a space for a more intensive and two-way play of parrhesia.

Therefore the issue of concern of this chapter is the way in which the corporate taxpayer interfaces and interacts with the IR against a background of an IR which is changing at both structural and procedural levels. This event is significant in itself in that it takes place between new kinds of expert subjects – the tax official, now re-moulded as T shaped, and the corporate taxpayer (including sometimes the professional advisor). The corporate taxpayer is now

not merely a taxpayer but it has been constructed as a visible customer. These changes to both these subjects are not limited to the subjects themselves but the changes also effect and influence the 'other' subjects as interlocutors in the new truth game. The interface of the event takes place on a number of levels and in different media; from the formal submission of the tax computations by letter and prescribed form as detailed in Chapter 6 to an inclusive dialogue and discourse at meetings. The far end of the spectrum of the latter is the new compliance process where the IR would like to see the relationship develop into a partnership style of working.

It is worth recapping here the traditional approach to corporate tax compliance. A group of companies would send the financial statements and the tax computations of all group members based thereon to the Inspector. Until the introduction of Pay and File there was no time limit by which this information had to be received by the IR. The IR would assess the profits to tax and it was up to the taxpayer to prove otherwise with their tax computations. There was no set format for these computations; some companies would produce a tax computation for a major company on one side of a sheet of paper. Tax computations prepared by one of the large accounting firms would go into several pages containing analyses of various information in the accounts such as a detailed Profit and Loss Account. Even with the advent of Pay and File under which tax computations had to be submitted within 12 months after the end of the accounting period, the amount of information submitted to the IR was of a limited nature. Discussion on the computations would take the form of formal written correspondence between the Inspector and the taxpayer whereby

the inspector would investigate the accounts to find out what was going on, as an Inspector shows in the following quote.

“my mentality was all about investigating at the top level ... and by investigating I don't necessarily mean confrontational investigating, I mean being determined to find out the facts before I let anybody know my view of the law. Now that may sound strange but 95% of tax debate certainly used to take you know if you come up through the 1980s 1990s used to take place against a background where the only view the Revenue had of the facts was what was in a set of accounts, which tells you very little indeed, and what an accountant might have said to them if they'd asked a question or so. But neither of those gets the Revenue very far in understanding what the real facts are ..” (IR official, LBO3, 2003).

The Inspector would obtain the information he thought necessary by writing to the taxpayer and asking for detailed analyses such as a breakdown of legal and consultancy fees, and repairs and maintenance expenditure. In other words the requests for information related to those areas in which potentially tax could be at risk as a result of specific tax legislation. This exchange of correspondence could have been undertaken over a number of years. Obviously this was especially difficult for companies as the particular records would probably have been archived and the employees who dealt with the particular information may either have left the company's employment or forgotten the detail due to the passage of time.

The purpose of the questioning was to establish the 'truth' of the computations. However this truth game was framed by the relevant knowledge as disclosed in the documents. Although the questioning and answering renders the truth visible, this truth is framed in the old style bureaucratic practices. At this stage in the thesis it is interesting to recall the practices of a questioning approach by

reference to the Inquisition. In Chapter 4, I drew upon the practices of the Inquisition in the Middle Ages in France whereby the inquisitors would question the accused to find out the truth. In any inquisition question and answer environment truth games are played. How and how much information is disclosed (see McBarnet, 1991) influences the outcome of the game. Within the 'old style' practices of inquisition, the questioner has a degree of control of the investigation. The friar or the priest put the question and the accused had to answer. There was an acceptance of the questions in the form in which they were put (see Le Roy Ladurie, 1978). The authority is held by the inquisitor: the accused, i.e. the interviewee (the subject) need only to respond and in this sense is powerless to raise issues that the interviewee may wish to be covered. However compare this practice with present day practices. There is an outward facing discourse between the inquisitor and the interviewee. Both these parties have a duty and/or an opportunity to initiate truth statements. The accused can volunteer information which the inquisitor is able to follow up to find the truth. The interviewee is empowered within the parameters of the new game. He is able to answer the questions with an overflow of information both verbal and written (see McBarnet, 1991). This contributes to a change in dynamics of the game in which the principles of parrhesia are embedded. From the advisor's perspective, the information provided to the IR must be managed and controlled. Part of this is not giving more information to the IR than what is required in terms of the legislation, to prevent other lines of enquiry being opened. This means that the event of compliance for both parties becomes more significant as they both have to take an active role in the truth game and cannot remain as a mere respondent.

9.2 New Style Compliance Practices

As discussed in Chapter 6, with the introduction of CTSA there was more onus on the part of the taxpayer to disclose all relevant facts as it is up to the taxpayer to submit a correct return and indeed they sign the return to this effect¹²². This has an effect of changing the approach of the Inspector to determining the ‘truth’ of the computations. The assumption is that the information contained in the computations is correct or is true. The truth that the Inspector is seeking is different. The Inspector no longer has to find out the facts so extensively or missing information in the return and can use his investigative approach to find out different missing information using his wider perspective such as obtaining an understanding of the sector/ business in which the taxpayer is operating. The practice of obtaining this information is different. More discussion about the information takes place face to face rather than being purely documenting the information at a distance by written correspondence. Meetings are held between the IR and the representatives of the corporate taxpayer prior to the commencement of written correspondence. It is also undertaken at a different time; earlier in the corporate compliance process.

“... getting into and involved with a new group is an interesting process. Primarily you try and start with personal contact, meeting all of the tax departments and I rarely deal with accountants the advisors directly, usually the tax departments so my largest customer at the moment we started by having a meeting followed by a lunch at which there were 14 on both sides starting to get to know each other. That’s one side of the process. The other is that you start with the files and read them through from the beginning on all the issues that have yet to

¹²² Obviously if the taxpayer wishes to do so they can still choose not to disclose or misrepresent but this approach is closer to evasion.

be resolved, as well as a lot of background. We have an immense volume of material, fortunately most of it on computer, but it really is a matter of getting stuck into the group and try to understand its business, its drivers, what its plans are, whether it's going to survive. I have seen a lot of groups that have been taken over and perished over the years. One of the games you can play is try and learn by understanding whether they have actually got a viable business or not. Or are they minnows that are going to be swallowed" (IR Official, LBO3, 2003).

In addition to the different method of obtaining the information, the traditional distant way of corresponding with the IR by letter has been replaced by a more inclusive relationship where both parties know each other by face and first name. In addition to those corporate taxpayers within the NCP, corporate taxpayers and case directors for the large corporates meet at regular intervals. Often this will be a presentation of the accounts for a particular accounting period to explain the commercial aspects of the group; transactions which have occurred in the year and the group structure. It is of advantage to both the taxpayer and the Inspector.

"already we are showing the benefits of that in that we are able to agree things up front. We discuss things with them to the extent or to improve their understanding of our commercial issues, improve their understanding of our group structure so that when they see numerous companies incorporated abroad they don't suddenly think they are all for tax purposes because we are a highly regulated industry and we have to set up lots of companies in different jurisdictions where we are carrying on business" (Head of Tax, C13, 2003).

This more open dialogue is not just limited to sharing information on the group. Although the corporate tax compliance process is governed by rules, laws and cases it is also very dependent upon which tax inspector the taxpayer is dealing with, and the particular tax inspector's competency. This may be

thought of as a new type of inquisition practice where the seeking for the truth is in the face to face oral dialogue between the inquisitor, the tax inspector and the taxpayer - the customer, similar to the seeking for the truth in *Ion*, the Greek play as mentioned above in section 4.8. The dialogue also reflects the personal relationship between the parties.

The personalised nature of the relationship is illustrated in the following quote:

“I think it really does depend on personalities on both sides. And then if we had an inspector who viewed industry as all being on a scam and trying to avoid tax left, right and centre and you know smelling a rat under every boulder then we would probably be in a very, very different position to where we are today. No matter how hard we try to get a relationship going. And equally there are probably some very you know decent, pragmatic case directors out there who hit a similar stone wall on the other side. So - and I think the suspicion is equally based. Which I just find quite bizarre because I've been on this victim support group which I mean the name tells you everything you need to know about it doesn't it, where I just couldn't understand why people thought they were victims. Because the whole point was that it was supposed to be improving the relationship. But they think it's some sort of scammy way of the government trying to find things out earlier than they would otherwise do (Tax director, C15, 2003).

However the understanding of the personalised relationship may not be the same by both parties. The whole issue of agendas underneath the surface, such as a distrust of taxpayers or the imposition of targets in the IR as a whole, may be reflected in the truth game so that the truth game cannot be looked at out of its context. As mentioned in the Methods section in Chapter 4, the interviews have to be taken in context as the interviewees might be reflecting their own personal agendas behind their comments in the interviews.

“[Corporate taxpayer]’s very happy with tax inspectors, he’s just got some absolutely amazing deals on some really big issues. Why is he happy? Because his tax inspector ... his tax inspector hasn’t realised what good deals are being offered, or if he has realised, is happy to let it go. So, he’s probably getting away with more than the taxpayer who’s being dealt with by a more aggressive Principal Inspector of Taxes, who may have done a few types of arrangements or whose systems may not be perfect, or whatever, but is being far more heavily targeted and is coming under far more resource pressure and so on, because he happens to be up against a more, with a little “a”, aggressive style of tax inspector. The problem with these sorts of approaches is that it depends entirely on who you’re dealing with” (Ex IR official, A4, 2003).

The desire to get to know the other side to a negotiation process is a key element for any successful negotiation outcome (Wall, 1985). The importance of knowing the other expert is acknowledged by professional advisors and the IR.

“You have to know who you’re dealing with and therefore you have to know the type of person you’re dealing with and you have to work out how to make that relationship work and that’s important for clients if they happen to be dealing with somebody who is going to be more intrusive into their computations because they can find themselves at much greater risk than the clients who have got a tax inspector who thinks he’s got a good relationship with them when actually he doesn’t realise the reason he thinks he’s got a good relationship with them is that he’s not appreciating what’s going on, he’s not good enough to appreciate what’s going on. The problem with tax is all the time it comes down to personalities and managing the personalities and managing the personalities in a professional way and I don’t think it actually matters what surrounds all that” (Professional advisor, A4, 2003).

Thus knowing the other expert is part of the truth game: how the truth is disclosed is part of this knowing.

9.3 Managing the process of meeting the Customer

For a tax official, meeting the customer is one way of obtaining the truth. However the truth is not obtained in one meeting. The truth game is played in a number of rounds. The whole truth is produced through truth being ascertained, refined, ascertained and refined again in an iterative process. This process is dependent on both oral and written aspects. The written documents are part of the oral examination. Referring to the NCP, one IR Official said,

“We will have followed it up after the initial meeting, we will have indicated the areas we want to be interested in, I mean, usually tax planning issues, quite sizeable ones. After the meeting we would have written out saying OK we are interested in that, send us in the documents you have got prepared, the bible. They always have a bible, and that comes in, we then ask supplementary questions for information. And at that point we then start forming a view on how acceptable we find what they have done, or question it, challenge it, whatever, but with a view to resolving it, ideally by the time they file, but in practice the issues are too big to resolve but we made substantial progress. So when they file, in principle they may change their minds, (laughter) they won't, but the deal is that when they file there are no surprises, you know everything that they know we will be interested in they will already have told us about” (IR official, LBO3, 2003).

Another way tax officials use to ascertain the truth is engaging with other knowledge experts. One IR official described the position of utilising other experts as follows.

“I was going in advance of them putting in the returns, going to see a firm where they had some doubts about whether what they called their production technology group qualified for a research and development allowance or not. They had given us information before hand but, in a lot of these cases, what appeared in writing, you may think oh I'm not so sure about that but usually when you actually go to see the people and talk to people at the sharp end, we are talking actual scientists

there, you usually get a fairly good idea whether it does or not within minutes of talking to them”(IR official, LBO”, 2003).

Truth is not produced in isolation but by correspondence with other knowledges.

9.4 Managing the process of meeting the IR Official

How do tax managers manage their relationships with IR officials? There are a number of possible things that each of these parties can do. One way is to be proactive and attempt to get the IR officials to ask the appropriate questions so eliciting the information and obtaining some certainty over the tax position the company is taking.

“The major tax issue for us on the corporation tax side, is obviously capital allowances¹²³ when one is spending around £x million a day and so the classification of assets what constitutes capital expenditure is fundamental to the tax which we ultimately pay.. and we do not get questioned on this so I have had to now rather change my approach to them because they are not coming forward with the questions that would then enable us to ..define our approach and put the questions to them so I’m sending them now for instance a very detailed explanation of what we regard as or constitutes the cost of an asset and so the treatment of costs and internal utilisations and so on .So I send them a twenty page document and I say what do you think because and I have to do that because I have £x spend” [and need to have certainty of treatment] (UK tax manager, C11, 2003).

Another way is to build a relationship with IR Officials by educating them which may include a factory site visit.

¹²³ Capital allowances are allowable tax deductions (tax depreciation) against profit before taxation. They are available on certain plant, equipment and motor vehicles at prescribed rates.

“each time a new one[tax inspector] appears they have to sit through an hour from me about the way our [business] work and where we get our income from and the fact that we are regulated and so on and they get taken round a [site visit]...Oh yes they love it yes that’s in a way that the huge pleasure of this job because there cannot be an asset business that is a better business to show people round, indeed people love going behind the scenes which take them into the underworld of [particular business]” (UK tax manager, C11, 2003).

The tax manager is using the particular attributes of the company to establish rapport with the tax inspector to establish a trusting relationship. One consequence of this approach is that the personal barrier between the tax official and taxpayer is being lowered as well which permits a more open relationship which is favourable to new style practices such as NCP.

9.5 Outward facing discourse with tax managers and tax professionals

The negotiation game of the tax compliance process involves the tax official as a distinctive subject defined by his identity, albeit a remoulded identity. Just as important is the perception of the changing ‘tax official’ by tax managers and tax professionals with whom he is dealing. Evidence of this understanding and knowing the expert subject is achieved through the comments made by tax managers and tax advisors about their inspectors. Part of this is an appreciation of whether the tax official does his job differently and how differently the tax official approaches his changing job.

“But so far as we are concerned we see the same outward, if I can use their phase, customer facing organisation because at the end of the day we don’t deal with the Inland Revenue like our customers don’t deal with [Group plc] they deal with their distribution centre and we deal with our inspector and so to that extent, as far as we can see, there is no change it’s still the two inspectors” (Tax manager, C8, 2003).

This quote can be considered at different levels. It could be considered from the perspective there has been no change in the remoulding of the tax inspector. However it could also be considered that although the tax official has changed, the tax manager is not recognising those changes or alternatively organisational change has not filtered down to individual interactions.

Tax managers also recognise the expert knowledge of the tax official. This expert knowledge is restricted to detailed technical aspects reflected in the nature of the inspector’s enquiries and the wish of the tax officials to obtain the ‘correct answer’ (i.e. the truth) whatever that answer may be.

“there was an awful lot of stuff about them wanting to make sure that there was some sort of tax symmetry between investors in different countries outside the UK and the Bank as the payer of all this interest. Quite why they were so interested in acting as tax policemen for the rest of Europe, I don’t know” (UK tax Manager, C6, 2003).

There is criticism of the boundaries of ‘legitimate’ in examination and truth extraction in this quote. In addition there is implied criticism of the tax inspector. The interviewee is expressing frustration at the inability of the tax inspector to do his job as the interviewee thinks it should be carried out both on the basis of not focusing on the job the tax manager thinks it should be carried out and getting involved in activities which are outside his remit as a UK tax

official. This criticism of the individual styles of different tax inspectors is also illustrated in the following quote. This also emphasises the preconceived view that tax managers have of a tax official's duties. The interviewee understands that the tax official's role is not to concentrate on the precise calculation of the tax but to have in mind the overall objective to collect tax and focus on possible tax planning structures put in place where there would be scope for variations in tax treatment.

“Well, the guy we've got at the moment and the guy before him were quite detailed not the previous guy but the guy before him, they go into a lot of detail. For example, you'd have lots of questions about provisions or various add-backs or making sure there were symmetrical interest deductions and income between UK companies and that kind of thing, The guy we had in between was more of a broad brush guy. He was prepared to let the little things just look after themselves because they weren't going to be great big revenue raisers even if there were adjustments at the end of the day. He used to focus much more on the bigger picture you know, if there were structures we'd put in place that kind of thing.”(UK company manager, C10, 2003).

The new approach to the truth game could be regarded as more threatening by the customer but more effective by the tax official. The fragmented organisational structure of the IR and in particular the LBO, as described in chapter 5, impacts on the consistency in approach of the tax inspector:

“we've experienced a very high turnover of inspector and case directors. We've had within the past, I guess, 3 years 3 different inspectors and 3 different case directors. It's [LBO Office]. Part of it is people moving on. Actually I tell a lie we've had 4 case directors, not 3. One guy we never even got to meet he was on our case so briefly. So one of the things we notice is that there's a lot of instability and inconsistency in the approach that we have because all these individuals have different ways of working, particularly at the inspector level. They have very different approaches in the way they handle enquiries” (UK company manager, C10, 2003).

Although the frequent changes in Inspector, is not new, it has always been a problem, it is more of an issue now with the NCP and new style operating practices as there is more “knowing” of the Inspector.

Although the LBO tax officials regard themselves as specialists or sector specialists, their lack of specific non-tax specialist knowledge is recognised by tax managers and tax professionals.

“I think one of the real issues that faces the Revenue is that they are expected to know about the tax legislation, we’re not. We just go straight to our advisors and that’s how it is. They are the Revenue, of course you know about it. So we did a sale and lease-back and there were tax benefits, but it was UK to UK, so there was no actual revenue loss. It was just that we managed to gain advantage and someone else it was the use of their tax losses.

So it was a £50 million sale and leaseback. The inspector said I know nothing about sales and leasebacks can you tell me about it, please. Yes, I can. So the issue is that, in terms of education, you sometimes have to educate them about the tax as well, because they’re at a disadvantage because they have to deal with the generality of taxpayers and they can’t be expected to understand all this and sometimes they don’t go to international division, or specialist division, technical division, because they’re overwhelmed as well and so sometimes they come to the taxpayer to ask for the analysis” (UK company tax director, C8, 2003).

To respond to this, the IR have to raise their expertise game so that tax inspectors can raise their expertise as well.

In addition it is acknowledged that there are different pressures for tax officials compared with those in the private sector.

“One was that in the Revenue you could say, “I don’t like it, it doesn’t work and that’s my view about it, go away”. In the profession you can’t say that, you can say well it might not work, certainly if you did it this way it won’t work but if you did this you got somewhere. So there is always, “it’s not no, it’s no but here is another way of doing it”. You have always got to find another way of doing it as best you can. That was one particular change that I was conscious of” (Ex IR Tax partner, A1, 2002).

However there is a limit to the degree of expertise a tax official has to acquire.

His sanction is to challenge the customer to justify the course of action.

9.6 The Truth Game and the Customer

The changed character of the Corporate Tax Compliance game, is at the heart of negotiation in the calculation of taxation and this could have implications for the tax yield from MNCs. As discussed in Chapter 8, the taxpayer has been made into a visible customer. The IR wants to enable taxpayers, as customers, to get their tax right the first time but does this new visibility of the corporate taxpayer reduce the benefit of surprise and information advantage that the IR as a regulator previously had? Has the truth game been altered as a result of the customer focus? It has been altered to the extent that there is more recognition of the other person and the part which they play in the truth game.

“I think first of all you want to be concentrating on things of importance that are just not an aggravation. So you understand that the other person’s got a job to do that involves them doing other things, other than answering your questions. So that sort of awareness. I don’t think the customer minds - the customer would expect you to be quite delving you know, in your questioning. You’re not going to have much confidence if you’re not asking decent questions to any other, anybody else. So I mean there’s part of the customer service thing has to be to

make them happy that the tax system itself is operating effectively”(IR official, LBO5, 2003).

So the practices of questioning are modified to take into account the customer perspective and not just for the specific customer but in general across the department. A modified truth game is put into play by these new practices.

The truth game is also affected by increased disclosure through CTSA. The IR Official no longer has to ask so many detailed questions questioning the validity of the information as it is the responsibility of the taxpayer to submit an accurate return.

Another influence on the truth game is the introduction of new ways of working such as NCP. Not only explicit practices are introduced by these initiatives but the pressure on the IR Officials to ensure that these initiatives are successful changes the negotiation practices and consequently the truth game.

“Some saw tremendous benefits in using it [NCP] as a lever to get the Revenue to agree all sorts of things that were open, because this is a pilot and a pilot the Revenue wants to succeed, so let’s use the opportunity. One of those at least I know also said “And I will not tell you about tax avoidance” and as far as I’m aware the Revenue signed up to that. I’m aware of another very large organisation where the Revenue got very annoyed that that organisation where the Revenue pretty much knew that that organisation had been involved in something it wanted to know about and that organisation said “No, we’re not going to tell you” and the Revenue was so desperate for that organisation to be seen as part of the pilot they left it as part of the pilot and said “ OK, you don’t have to answer that avoidance question,” (IR Official, LBO3, 2003).

This is also acknowledged from the taxpayer perspective in terms of the rules for choosing or agreeing to take part change the relationship. It is also an

example where customer discourse as a technology of government is being applied to both the regulator and the regulated.

“Well my main ground rule was that it had to be a level playing field. So they couldn’t expect me to tell them about something real time that was open to a potential change in legislation. Unless they’d tell me real time when they were thinking about changing the legislation. So we agreed that in writing and I think a number of people have had problems with the fast track with inspectors saying, oh well you know it’s breach of trust, you didn’t tell us this, that and the other. Instead of being very open up front about the fact that you know clearly we’re both coming at things from a different angle and therefore you know you’ve got to lay decent rules to start with. And on that basis we’ve had no problem with it” (Tax Manager, C15, 2003).

The taxpayer has been made more powerful in that as a customer he/she can set some of the rules for the truth game with the IR. Governmentality is now a different two way process not predicated on a principle of repressive and closed-ended rule (e.g. Neu, 2000; Bush and Maltby, 2004).

9.7 Chapter Summary

This chapter has considered the changing event of negotiations between the IR Official as an expert subject and the corporate taxpayer as a customer. Once a taxpayer is constructed as a customer, the objective measures of customer service influence the regulation of the customer. It cannot be assumed that administrative performance is linked to customer satisfaction (Kelly, 2005). The corporate tax compliance game is played in new ways.

By examining the new style truth practices of the IR Officials and the remaking of the corporate taxpayer as a visible customer this chapter has explored and

extended the notion of how governmentality should be understood, which is now not purely about ruler/ subject relations but it is implicated in aspects of service provider/ customer relations as well.

Chapter 10 - Conclusion

10.1 Introduction

This chapter summarises the key findings and themes addressing the questions as posed in Chapter 1 which were:

- 1. How is the process of corporate tax compliance changing for large groups of companies?**
- 2. How is this process being managed by the Inland Revenue?**

I first address each of the questions in turn and I then explain the limitations of this study and possibilities for future work.

10.2 The Changing Process

This thesis has examined the tax compliance environment for large corporates. This environment cannot be looked at as an isolated ring fenced research site. Modern Nation States are increasingly concerned to maximise the collection of tax revenues and to prevent tax leakage from the system in order to pay for public goods and satisfy citizens' demands for improved service from hospitals, schools and other public services. The combination of attracting foreign investment with a low corporate tax rate and the need to improve taxpayers' compliance with the law is fraught with difficulty. This has resulted

in the introduction in the UK of legislation¹²⁴ which requires pre-disclosure of certain tax avoidance schemes in advance of the tax return being filed. This is in addition to the increase in so called “stealth taxes” e.g. “Total Tax Contribution” (PricewaterhouseCoopers, 2005a).

Against this backdrop, the impact of the phenomena of NPM on tax administrations can be seen. Tax Administrations have incorporated new style working practices, frequently using practices first developed in the private sector (TQM, key performance indicators etc.) which have changed both the organisational structure and the processes and practices of tax administration. This has included the setting up of specialist units to deal with the tax affairs of large corporates as mentioned in Chapter 2. In Chapter 6, I explored further the structure of the IR. Given the role that the IR plays in the Government of the state and in enabling the financing of the state, the structure and processes of the IR are instruments of government. The IR operations have developed from a localised nature with individual authority, in that the focus was on the site of the taxpayer’s business or residence not on the taxpayer itself, to one where IR operations focussed on the large corporate taxpayer as a stratified taxpayer. This can be considered the first steps of defining the large corporate taxpayer as a subject. However the past cannot be ignored as there are still localised origins in this style of operations within the LBO, such as the regional offices dealing with banks and insurance groups of companies in London and Edinburgh. Within these structures, bureaucratic practices have been supplemented by entrepreneurial governance where outcomes are more

¹²⁴ Finance Act 2004 Part 7.

important than inputs (Osbourne & Gaebler, 1992). This involves the reclassification of taxpayers as customers and the introduction and further refinement of performance targets. The practices of corporate tax compliance have changed as well, from a focus on activity being carried out by the IR, to one where the IR operates in a surveillance and disciplinary role. Taxpayers self assess their tax liabilities under CTSA and the IR audit those returns. There has been a shifting of accountability from the IR to the taxpayer. In addition, where the process was previously a long (in terms of time scale), formal and distant relationship with the IR carried out principally in writing, it has, while retaining aspects of this past, shifted towards being a mixture of the written and the oral, generating a more inclusive dialogue with the taxpayer, frequently in the form of meetings based on targeted yet potentially open-ended questioning. The NCP is part of this development.

10.3 The Managed Process

At one level, even given this background of a bureaucratic entity now having a marketing and strategic focus with greater specialisation and sectorisation, the nature of the event does not change; the basic nature of tax compliance still exists. However the corporate tax compliance game is being played by experts with different and changing expertise and under what I have conceptualised as new rules of engagement, which entail more oral interchange deploying more open-ended questions entailing a different kind of immediate if still information-based truth-telling. The representatives of the IR, the tax inspectors - knowledge expert subjects are being made into '3D T shaped'

officials. The conceptualisation of the customer is making the taxpayer more visible. This allows new ways of investigation to develop from an ‘inquisitio’ approach to a practice of more examination and disclosure. The truth is being disclosed in new ways. As the corporate taxpayer becomes the visible customer, the amount of power in the relationship is increased. Both parties to the compliance process “act as if” the taxpayer is a customer in a regulatory environment and consequently the customer becomes more customer-like.

This is a new application of the Foucauldian approach which opens up the “black box” of what goes on in the event of tax compliance. It has focused on the two knowledge expert “subjects” in the process. The subjects cannot be looked at in isolation because their subjectivization and objectivization are at the same time both separate and connected in that the IR Official and the corporate taxpayer, each operating in different separate organisations, are connected by the event of compliance. It has also made use of Foucault’s writings on the effect of the ‘truth game’ within this subjectivization and objectivization in this research site. The saying of (true) things beyond what is usually said, or parrhesia, thus develops into a two sided game where the questioned have a space for generating parrhesia from the inspectors as well as vice versa.

10.4 Limitations of the Study

A key limitation of this study is the methods adopted to obtain the empirical data. My thesis looks at the practices and discourse of the large corporate tax

compliance process. The data was obtained from semi structured interviews where the parties concerned talked about the practices that they engaged in to secure compliance. Observations of the practices taking place, such as attendance at taxpayers meetings with the IR, or attendance at internal IR meetings, would have enabled me to observe at first hand the practices being undertaken. In addition the study is restricted to the UK only and other countries are not addressed. As the study took place prior to the formation of HMRC the work of HM Customs & Excise such as Value Added Tax, duties are not covered.

Another limitation of this study is that the research has been at the same time interdisciplinary, complex, and wide-ranging theoretically informed empirical work. As such this research has not covered all the complexities in the relationship between the IR and large corporates. However I hope as a consequence of this research that I have signified new developments and thus opened opportunities for further work.

10.5 Contribution

In addition to discussing the changed process and the managed process in Sections 10.2 and 10.3 above, this section details the contribution of this research. In Chapter 1, I set out my empirical and theoretical contributions and so in this section I elaborate the detail of the contributions and set out the significant findings arising from this research.

The empirical contribution is significant in that the research site is novel. Few researchers have examined the practices of UK tax administration, in particular the IR. The level of access I gained was unique. I interviewed key senior informants at the IR, large corporates and tax partners from a Big 4 accountancy firm in the same series of interviews. This enabled me to develop a new significant theoretically informed analysis of the empirical data.

Drawing on the later work of Foucault, I was able to exploit this level of access to investigate these high level knowledge experts constituted as subjects and how these subjects interact in high stake complex negotiations. This is a pioneering methodology linking governmentality, expert knowledge subjects and subjectivization and objectivization. What makes this research unparalleled is that although it is carried out in a regulatory environment similar to prisons and mental hospitals¹²⁵, large corporates, in particular FTSE 100 companies, have a choice as to where they are regulated. They have the ability to move parts of their operations (such as head office and administrative functions, manufacturing operations and research and development) to other countries, within reason, who may offer favourable conditions such as business environment, tax concessions, availability of specialised labour etc. Therefore they effectively can choose at least partially whether to be regulated by the UK tax authorities or some other jurisdiction. At the same time the IR has reconceptualised these powerful large corporates as customers.

¹²⁵ Typical Foucauldian examples as used for example in *Discipline and Punish* (1977).

This thesis makes a major theoretical contribution as the Foucauldian theoretical framework is being applied to both the regulators and the regulatees, and so does not look purely at those who are 'disciplined' as the objects of the exercise of knowledge-based power, but also looks at those who exercise power as the disciplinary experts who have the relevant knowledge to occupy such positions. Arguably as well this is a truth game where such roles are not easily assigned, since the objects of the exercise are senior employees in the large corporates (and arguably those large corporates themselves). Additionally these regulatees (i.e. the corporates) are empowered within the playing out of the truth game through their rights to "customer choice" and operational discretion over which state will constitute their tax jurisdiction.

In addition the interviews were carried out when the IR was undergoing a period of change. This research therefore contributes theoretically to an understanding of how change and NPM practices play out in a large established bureaucracy. This research links governmentality to the whole of the NPM theme. Due to the seniority of the IR employees interviewed, this allowed me to develop insights into how high level officials cope and find opportunities in the new organisational reality. I was able, as well, to see how high level tax experts engage with the IR, cope with the changing environment and find opportunities to exploit their relationship with the IR. This in essence is the new kind of truth game and it is essential for the players to understand this game to enable them to operate successfully in a globalised corporate tax and tax jurisdiction world.

Thus this thesis has made a significant theoretical contribution in that this research tracks a new kind of interaction of the interplay between subjectivization and objectivization which seems to have become established and develops a theoretically informed way of looking at emergent governmental and more wide ranging forms of application.

Additionally, my research can inform and contribute to current policy development. The recently published 2006 Review of Links with Business Report known as the “Varney Report” has further highlighted the importance of HMRC relationships with large corporates. This report proposes a framework for HMRC to include advance rulings procedures, disclosure of risk assessment process and a greater awareness of business’s viewpoint¹²⁶. This shows that there is increasing attention to and understanding of large corporates by HMRC. Likewise large corporates have to respond and act and become visible customers.

10.6 Future Research

Both the research site, the administration of taxation, and the methodological approach offer rich opportunities for future research. The interviews conducted as part of this research were carried out before the merger of the two tax administrations in the UK – Inland Revenue (direct taxes) and HM Customs and Excise (indirect taxes) which resulted in HM Revenue and Customs (HMRC). For large corporates this has involved the setting up of a specialist

¹²⁶ <http://www.hmrc.gov.uk/large-business/review-outcomes.htm> seen 18/12/06.

unit – the Large Business Service (LBS) to deal with all the tax affairs of large corporates. This has also involved structural change within the organisation with the appointment of a Client Relationship Manager to be responsible for the total tax service from HMRC, who could either have a direct tax or indirect background. In addition a New Operating Model ‘Working with Large Business’¹²⁷ for the LBS was introduced in April 2006. This new structure is focused on 17 sectors, each with a sector leader. A future area of research would be to examine the impact of the merger on the corporate tax compliance process.

This research has highlighted the importance of expert subjects to the compliance process. I have obtained, together with Dr Lynne Oats, research funding from the Centre for Business Performance of the Institute of Chartered Accountants in England and Wales to examine the role of qualified accountants employed by HMRC in the corporate tax compliance process of large corporates.

The methodological contribution also opens up possibilities for future research. One possibility is a research project examining how the ‘truth game’ is applicable to auditors’ enquiries by addressing how an auditor goes about seeking the truth when auditing a set of financial statements.

¹²⁷ <http://www.hmrc.gov.uk/lbo/operating-model.pdf> seen 6 June 2006.

Appendix 1 - List of Interviews carried out

Number	Code	Position	Organisation	Date	Length
1	C1	Financial Director	Large private group	18 February 2001	60 mins
2	C2	Financial Controller	FTSE 100 group	5 March 2001	60 mins
3	C3	Tax Manager	FTSE 100 group	June 2001	60 mins
4	C4	Tax Manager	Large private telecom group	June 2001	45 mins
5	C5	Tax Manager	Overseas group	13 June 2001	50 mins
6	A1	Tax Partner	Big 4 accountancy firm	9 September 2002	80 mins
7	A2	Tax Partner	Big 4 accountancy firm	September 2002	60 mins
8	C6	Tax Manager	FTSE 100 group	September 2002	60 mins
9	A3	Tax Partner	Big 4 accountancy firm	24 September 2002	60 mins
10	A4	Tax Partner	Big 4 accountancy firm	24 February 2003	90 mins
11	C7	Financial Director	Large corporate	4 March 2003	15 mins
12	IR1	IR official	Inland Revenue	27 Feb 2003	20 mins
13	A5	Tax Partner	Big 4 accountancy firm	17 March 2003	60 mins
14	C8	Tax Manager	FTSE 100 group	26 June 2003	60 mins
15	C9	Tax Manager	FTSE 100 group	26 June 2003	60 mins
16	IR2	Senior official	Inland Revenue	27 June 2003	60 mins
17	C10	Tax Manager	FTSE 100 group	30 June 2003	60 mins
18	C11	Tax Manager	FTSE 100 group	21 July 2003	60 mins
19	C12	Tax Manager	FTSE 100 group	22 June 2003	45 mins
20	C13	Tax Manager	FTSE 100 group	22 June 2003	60 mins
21	C14	Tax Manager	FTSE 100 group	25 June 2003	60 mins
22	IR3	Senior official	Inland Revenue	9 September 2003	95 mins
23	IR4	Senior official	Inland Revenue	16 September 2003	105 mins
24	IR5	IR official	Inland Revenue	1 October 2003	60 mins
25	LBO 1	LBO official	Inland Revenue	10 October 2003	60 mins
26	LBO 2	LBO official	Inland Revenue	31 October 2003	120 mins
27	LBO 3	LBO official	Inland Revenue	25 November 2003	120 mins

28	LBO 4	LBO official	Inland Revenue	1 December 2003	210 mins
29	LBO 5	LBO official	Inland Revenue	2 December 2003	80 mins
30	LBO 6	LBO official	Inland Revenue	8 December 2003	105 mins
31	C15	Tax Manager	FTSE 100 group	8 December 2003	60 mins
32	IR6	Senior official	Inland Revenue	9 March 2004	45 mins
33	IR7	Senior official	Inland Revenue	20 May 2004	70 mins

Appendix 2 Interview questionnaire with Case Directors

Introduction: Brief reminder/explanation of the purpose of the research and researcher's identity. Explanation of the nature of the confidentiality/anonymity agreement plus request to tape record.

General

- Outline of my research. Discuss the research – obtain his help in forming the project.
- Could you tell me a little about your background: (possible supplement. How you ended up here)
- How long have you worked here, and what has your role been (i.e. get his view of his trajectory to where he is now)?
- What formal qualifications do you have and where did you get them? (work based training?)
- What is the nature of your job here?
- How is it different from the other case controllers in this office?

History of the LBO

- How developed?
- How is the work in the office managed?
- Specialisation?
- Use of resources – timesheets. How is the actual time compared with the budgeted figure? What is the impact if you go overbudget? Is the finite time allocation evident to the tax director/ tax manager?

Operational Practices

From what I gather, the IR has been required to change some of the nature of its activities and as part of these wider changes, they have changed, and are in a process of changing, their approach to fulfilling their activities.

- What would you say were the reasons at the time for making these changes?
- How do you think they have worked out in practice? (i.e. 'before' vs 'after' perspective)
 - More specifically, has the change in approach of the IR affected specific working practices?
 - In what ways (if at all) has the documentation required by (or sent to) the iR changed?
 - Do you have to do different things with/ for customers? (focussing on time allocation between different roles, with customers, vis-à-vis IR, or in-office or support activities, might be helpful.)
- What do you think the IR's objectives are in developing their new approach?

- How far do you think that the IR is achieving its objectives?

Fast Track

- When did fast track get replaced by the 'new compliance process'?
- How were the companies chosen? (outsources compliance – different types of customer)
- What have been the advantages to the companies? What have been the disadvantages? In your view/ in the companies' view?
- What has been the impact of the Hartnett report?

Inspector Expertise

- What kind of expertise have you had to develop? [Might be technical or more general business/ communication skills.]
- What kinds of expertise does the job demand now?
 - Would you say you are having to become a different tax inspector?
 - If yes, what's different?
 - If no, do you think you may have to down the line, with the changes underway?
- What different procedures do you have to (or, if the previous answer was 'no', envisage having to) carry out?
- What additional time do these new procedures take up?
- What do you feel about the changes underway (maybe get him to specify these if it's unclear)?
- Are you comfortable with it/ them?

Relationship with Companies

- How do you feel your relationship with corporates has changed over the last 5 years?
- Is it for the better?
 - If so, why do you think it is better? What is it in your day-to-day work that makes you feel it is better?
 - If not, why not?
 - How do you assess whether it is an improved or deteriorated relationship? What are the characteristics of it?
- Are most relationships between customers and the LBO similar, or do they vary a lot? What about outsourcing compliance?
- What has been the biggest effect, in your experience, in determining the relationship between a customer and the LBO? [The particular group of companies, the IR Case Director, the tax advisor team?]
- How do the relationships differ?
- What makes one company easier/ better to deal with than another?
- How far, in general, do you think that you understand their business? Any particularly good examples?
- How far do companies differ in the approach they want to adopt to IR enquiries?

- Is there any current topic/ focus that runs across IR enquiries?
- What is the impact of accountants being part of the LBO/ I note that the IR is currently recruiting more accountants. What do you think will be the impact of this?

CTSA

- Impact
- Audit approach
- Risk assessment
- Disclosure

Risk Assessment

- How significant is risk assessment in terms of discussions/ negotiations with companies?
- Have you been involved in a meeting with a corporate whereby the IR's risk assessment is shared with the group?
- What were the objectives of the meeting?
- What did the company feel were the objectives of the meeting?
- What were the good/ bad things about the meeting?
- Did the relationship with the company improve as a result of the meeting?
- What has been the impact of the risk based approach enquiries generated by you on your customers?
- Have any of your clients taken part in pre-enquiry discussions with the IR aimed at identifying significant risk areas?
- If so, how did you prepare for the meeting?
- How did the meeting go?
- Were you satisfied with the outcome?
- How has the approach to tax return enquiries changed?
- Have any of your customers been able to enter into a dialogue with the Case Director at the LBO before filing their return?
- Was it beneficial?
- Did it achieve its objectives?

Other

- How are case directors judged? [Targets % of full enquiries which result in the detection of non-compliance, customer service targets?]
- What do you feel is the success to date of the IR attempt to develop a more (supposedly) customer- focussed approach with large corporates?
- "Spend to Save" initiative
- Enabling/ regulating message

Close

Are there any questions I haven't asked you that you think I should have asked you?

(Are there any other people you think I should I be talking to here that I haven't seen, or haven't arranged to see)?

Do you have any questions for me?

Thank you....

Appendix 3

Interview questionnaire with tax advisors

Introduction: Brief reminder/explanation of the purpose of the research and researcher's identity. Explanation of the nature of the confidentiality/anonymity agreement plus request to tape record.

General

- **Could you tell me a little about your background: (possible supplement. How you ended up here)**
- **How long have you worked here, in this post?**
- **What formal qualifications do you have and where did you get them? (work based training?)**
- **Have you ever worked for the IR?**
- **What is the nature of your job here – is it similar to colleagues here in this office, elsewhere in the firm, what are the main differences?**

Operational Practices

From what I gather, the IR has been required to change some of the nature of its activities and as part of these wider changes, they have changed, and are in a process of changing, their approach to fulfilling their activities.

- **What would you say are, or have been, the main changes, with regard to the IR and the way it works?**
- **How has this impacted on your clients, and you/this firm?**
 - **More specifically, has the change in approach of the IR affected specific working practices (e.g. re strategy, risk assessment, return etc...) – here, your clients, the IR?**
 - **How have you adapted to these changes?**
 - **In what ways has the documentation sent to the IR changed?**
- **Do you think that the/any proposed changes will affect your organisation (further)**
- **If yes, details?**
- **If no, why not?**
- **Do you think that the IR is achieving its objectives? (What do you think those objectives are? If not answered above)**

Advisor Expertise

- **In what ways are the IR's changes impacting on your job specifically (if not answered above?)**
- **Have you had to acquire additional expertise?**
- **Are you a different tax advisor?**
 - **If yes, what's different?**

- If no, do you think you should be?
- What different procedures do you have to carry out?
- What degree do these new procedures dominate your work?
- What do you feel about the change?
- Are you comfortable with it?
- How did you/have you been preparing for the change?

Relationship with IR

- How do you feel your relationship with the IR has changed over the last 5 years?
- Is it for the better?
 - If so, Why do you think it is better? What is it in your day-to-day work that makes you feel it is better?
 - If not, why not?
 - How do you assess whether it is an improved or deteriorated relationship? What are the characteristics of it?
- What determines the relationship with the LBO? The particular group of companies, the IR Case Director or both?
- How do the relationships differ?
- What makes one case director (Inspector) easier/ better to deal with than another?
- Is the relationship dependent on an individual or a LBO office?
- Do you think that the case director understands your client's business?
- Have you had to educate the Case Director? How?
- Have they, case directors, shared information with you (i.e. have they had to 'educate' the advisor?)
- Have you found there is a common approach to IR enquires across your clients/
- Is there a current topic/ focus of IR enquiries?
- How have you had to handle disputes or disagreements? What is your strategy for doing this?

Risk Assessment

- Have you been involved in a meeting with the IR whereby the IR's risk assessment is shared with the group?
- What were the objectives of the meeting?
- What did your client feel were the objectives of the meeting?
- What do you think were the IR's objectives of the meeting?
- Did the meeting meet the objectives?
- What were the good things about the meeting?
- What were the bad things?
- Did the relationship with the IR improve as a result of the meeting?
- What has been the impact of the risk based approach enquiries generated by the IR on your client?
- Have any of your clients taken part in pre-enquiry discussions with the IR aimed at identifying significant risk areas?

- If so, how did you prepare for the meeting?
- How did the meeting go?
- Were you satisfied with the outcome?
- How has the approach to tax return enquiries changed?
- Have any of your clients been able to enter into a dialogue with the Case Director at the LBO before filing their return?
- Was it beneficial?
- Did it achieve its objectives?

Other

- In discussions with the IR how much time is being spent on discussing the commercial aspects of the business and accounting for the transactions rather than looking at the tax implications?
- Have you evidence of the use of accountants by the IR? If so in what way?
- Are any of your clients part of the LBO pilot of the new faster approach to enquiries for 2002/03?
- What do you feel are the consequences of the IR implementing / delivering a customer service approach?
- Are you using the Internet Corporation Tax Services for agents to view your clients' companies' payments and liabilities on-line? (Is it helpful? Is it showing you the information you require?)
- Evidence of IR's targets?
- What makes a good relationship with the IR?

Close

Are there any questions I haven't asked you that you think I should have asked you?

(Are there any other people you think I should I be talking to here that I haven't seen, or haven't arranged to see)?

Do you have any questions for me?

Thank you....

Appendix 4

Interview questionnaire with tax managers/ tax directors

Introduction: Brief reminder/explanation of the purpose of the research and researcher's identity. Explanation of the nature of the confidentiality/anonymity agreement plus request to tape record.

General

- Could you tell me a little about your background: (possible supplementary how you ended up here)
- How long have you worked here, in this post?
- What formal qualifications do you have and where did you get them? (work based training as part of that?)
- Have you ever worked for the IR?
- What is the nature of your job here – is it similar to colleagues here in this office, elsewhere in the company, what are the main differences?

Operational Practices

From what I gather, the IR has been required to change some of the nature of its activities and as part of these wider changes, they have changed, and are in a process of changing, their approach to fulfilling their activities.

- What would you say are, or have been, the main changes, with regard to the IR and the way it works?
- How has this impacted on your company, and you?
 - More specifically, has the change in approach of the IR affected specific working practices (e.g. re strategy, risk assessment, return etc...) – here, your company, the IR?
 - How have you adapted to these changes?
 - In what ways has the documentation sent to the IR changed?
- Do you think that the/any proposed changes will affect your company (further)
- If yes, details?
- If no, why not?
- Do you think that the IR is achieving its objectives? (What do you think those objectives are? If not answered above)

Tax manager's Expertise

- In what ways are the IR's changes impacting on your job specifically (if not answered above?)
- Have you had to acquire additional expertise?
- Are you a different tax manager?
 - If yes, what's different?

- If no, do you think you should be?
- What different procedures do you have to carry out?
- What degree do these new procedures dominate your work?
- What do you feel about the change?
- Are you comfortable with it?
- How did you/have you been preparing for the change?

Relationship with IR

- How do you feel your company's relationship with the IR has changed over the last 5 years?
- Is it for the better?
 - If so, Why do you think it is better? What is it in your day-to-day work that makes you feel it is better?
 - If not, why not?
 - How do you assess whether it is an improved or deteriorated relationship? What are the characteristics of it?
- What determines the relationship with the LBO? Your company, the IR Case Director or both?
- How do the relationships differ?
- What makes one case director (Inspector) easier/ better to deal with than another?
- Is the relationship dependent on an individual or a LBO office?
- Do you think that the case director understands your company's business?
- Have you had to educate the Case Director? How?
- Have they, case directors, shared information with you (i.e. have they had to 'educate' you?)
- Is there a current topic/ focus of IR enquiries?
- How have you had to handle disputes or disagreements? What is your strategy for doing this?

Risk Assessment

- Have you been involved in a meeting with the IR whereby the IR's risk assessment is shared with the group?
- What were the objectives of the meeting?
- What do you think were the IR's objectives of the meeting?
- Did the meeting meet the objectives?
- What were the good things about the meeting?
- What were the bad things?
- Did the relationship with the IR improve as a result of the meeting?
- What has been the impact of the risk based approach enquiries generated by the IR on your company?
- Has your company taken part in pre-enquiry discussions with the IR aimed at identifying significant risk areas?
- If so, how did you prepare for the meeting?
- How did the meeting go?
- Were you satisfied with the outcome?

- How has the approach to tax return enquiries changed?
- Have you been able to enter into a dialogue with the Case Director at the LBO before filing the return?
- Was it beneficial?
- Did it achieve its objectives?

Other

- Is your company part of the LBO pilot of the new faster approach to enquiries for 2002/03?
- What do you feel are the consequences of the IR implementing / delivering a customer service approach?

Close

Are there any questions I haven't asked you that you think I should have asked you?

(Are there any other people you think I should I be talking to here that I haven't seen, or haven't arranged to see)?

Do you have any questions for me?

Thank you....

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