

An Analysis of Tax Evasion Drivers in Light of the Richard Hatch Tax Evasion Saga

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Introduction

Tax compliance research is a challenging endeavor because, amongst other things, tax returns are confidential and individuals have a vested interest in minimizing their tax liabilities. To date, the quantitative research approach to tax compliance has failed to generate satisfactory generalizations. One explanation is that the research has been driven by the need for a model fitting all possible types of compliance behavior that can then be used to make predictions about the taxpaying population in general. The compliance literature also often fails to capture the context of the reporting decision (National Taxpayer Advocate, 2007, p. 56).

The Richard Hatch tax evasion saga offers a rare insight into a tax evasion case. There is an extensive collection of documents related to his court case: his litany of appeals and the related motions, legal arguments, court transcripts, and tax-related documents, as well as news reports, interviews, and his own writing on social media sites. This collection of evidence provides a basis for a conclusion as to the factors that motivated his actions and an evaluation as to whether these factors could be used to generalize to the taxpaying population at large. The case is also interesting because of Hatch's "celebrity" status, which he earned when he won the *Survivor* TV series in 2000. The *Survivor* win brought him not only the prize money and a new car, but also income from TV appearances, income from speaking at events, and a salary for being a radio talk show host. Such a windfall would normally be the start of a bright new chapter in one's life. But this was not to be the case for Hatch, whose unreported windfall led to two court cases and, ultimately, two prison sentences.

The Internal Revenue Service (IRS) estimates the gross tax gap to be \$458 billion (IRS 2016) making tax compliance (compliance) an important area for research. Tax evasion (evasion) raises the taxes of compliant taxpayers and reduces the public services that citizens receive. When people alter their behavior to cheat on their taxes, it also creates misallocations in resource use, such as one's choice of occupations and investments. Evasion alters the distribution of income in arbitrary, unpredictable, and unfair ways. The goals of tax evasion research should be to measure the phenomenon, to explain the patterns of behavior, and to use these insights to control tax evasion (Alm 2012).

In the next section, I describe how Hatch came to receive his windfall income, his non-reporting "strategy," his tax evasion court case, the guilty verdict, and the subsequent events, motions, and appeals. I then review the set of compliance predictors used in compliance studies. In the discussion section, I review the concept of tax morale and conclude that it is a driving force behind compliance—and that the other predictive variables are all related to compliance through their influence on tax morale. I also offer some suggestions for compliance policy as well as avenues for future research. I conclude with some teaching notes for using the case in the classroom, as well as a series of discussion questions that could be used in forensic accounting, income tax, auditing, and managerial accounting classes.

The Richard Hatch Tax Evasion Case

Richard Holman Hatch, Jr. (Hatch) was born on April 8, 1961, in Newport, Rhode Island. He graduated from Middletown High School in 1979. He was a student at the Florida Institute of Technology, the United States Military Academy at West Point, NY, Baruch College in New York City, George Mason University in Fairfax, VA, National Louis University in Chicago, and Providence College in Rhode Island. At various times, he worked as a bartender, auto salesman, real

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I am willing to share the source documents and data and other resources as stated in the Teaching Notes.

estate agent, soldier in the army, corporate trainer, and company consultant. In early 2000, he applied to be a contestant on the game show *Survivor*. He was chosen to be a contestant in the first series of this now successful, long-running reality show.¹

That first *Survivor* television show in the U.S. series was filmed on the island of Pulau Tiga, Malaysia, from March 13 through April 20, 2000 (see [en.wikipedia.org/wiki/Survivor \[U.S. TV series\]](http://en.wikipedia.org/wiki/Survivor_[U.S._TV_series])). At the start of the series, the contestants were divided into two groups. Their goal was to survive the heat and the rain, to find food, and to be the last person standing while the other contestants were being voted off the show.

Each episode in the series covered three days: the first day was uneventful (giving the contestants some time to strategize and backstab), the second day had a challenge which gave a reward to the winner, and the third day ended with a voting session that eliminated one contestant from the show. Over the course of the series, the strategic alliances (collusions in voting) that Hatch formed with some of the other contestants gave him the final victory.

On August 18, 2000, Survivor Entertainment Group (SEG) prepared one check for Hatch's prize of one million dollars and one check for \$10,000 for his appearance on the finale show that aired on August 23, 2000. On August 29, 2000, he deposited the first check into his personal bank account, and he endorsed the \$10,000 check over to a construction company for work that it was doing on the rental property he owned. In 2001, SEG sent Hatch a Form 1099-MISC that showed this income of \$1,010,000.

In March 2001, Hatch hired Richard Plotkin, a CPA, to complete his 2000 tax return. He gave Plotkin his tax documents, including the Form 1099-MISC that showed his prize winnings. Plotkin prepared a 2000 tax return that included his *Survivor* winnings and that showed taxes due of \$374,831, plus \$66,670 in interest and penalties. Plotkin met with Hatch on November 20, 2001, and gave him the tax return showing the total amount due of \$441,501. Hatch told Plotkin that he would file the return with the IRS. He never filed that tax return.

In December 2001, Hatch hired another accountant, a family friend named Jodi Rodriguez-Wallis (Wallis). He gave Wallis his tax documents, including the Form 1099-MISC from SEG showing the income of \$1,010,000. He told Wallis that he had paid twenty percent of his winnings to an agent and a manager and that SEG had required him to retain an agent and a manager. He said that he owned rental property in Newport, but that there was no rental income from the property. On March 1, 2002, Wallis met with Hatch, and she gave him a 2000 tax return that included the *Survivor* prize money but that left off various income items that were shown on the earlier Plotkin return, resulting in a balance due of \$234,807. Hatch told Wallis that he would file the return with the IRS. He never filed that tax return.

In July 2002, the IRS sent Hatch a Substitute for Return (SFR) notice stating that they had not received his 2000 tax return. The notice listed the income amounts that were known to them through third party returns. The notice did not include the *Survivor* income, but it included a disclaimer that if the income amounts were incomplete, he could not simply sign and accept the IRS' calculations. Hatch later gave the notice to Wallis, who told him that he would need to file a tax return that included all of his income. She told him that he was required to pay taxes on the *Survivor* income even though it was not shown on the SFR.

In November 2002, Hatch asked Wallis what his taxes due would have been if he had not received the million-dollar *Survivor* prize. She offered to prepare a spreadsheet with that analysis, but Hatch said that he wanted the information in the form of a completed tax return. Wallis then prepared a hypothetical 2000 tax return that left off the *Survivor* income. This *Survivor*-free tax return showed that his income was negative \$41,087, with a refund due of \$4,483. When Wallis gave the *Survivor*-free tax return to him on November 19, 2002, she told him, orally and in writing, that "I have prepared the enclosed return for you per your request in order for you to see the impact that the *Survivor* winnings had on your tax situation. This return is not intended to be filed, but is simply for your information." Hatch signed a letter in her presence to the effect that this tax return was not to be filed with the IRS. Later that same day, Hatch signed and mailed that tax return to the IRS.

¹ The Richard Hatch case has been widely reported in a range of media. I have relied on the indictments, exhibits, motions, notices, transcripts, supplemental records, responses, and orders in the Richard Hatch case, spanning the period September, 2005 to July, 2014 for the presentation of the case facts. This resource is shown in the reference list. When I have used a different resource for the case facts, I have included a specific reference.

There were other omissions related to his 2000 tax return. Hatch owned a house in Newport, RI, that he rented to tenants. The rental income of \$18,709 related to the house was omitted from his tax return. Chambers Communications (Chambers) asked Hatch to appear on the pilot episode of *For Goodness Sake* and they promised to pay \$25,000 to a charity of his choice. Hatch asked for a donation to be made to a charity called *Horizon Bound*. Hatch created his own a charitable organization called *Horizon Bound*. When Chambers sent Hatch the \$25,000 check, he added his name as an additional payee and deposited the check into his personal bank account. He then spent the money on personal expenses.

Hatch further capitalized on his celebrity during 2001. He became a radio co-host on *The Wilde Thing* show with personality Charlie Wilde. He signed a two-year contract with the radio station (Entercom) in January 2001, with an annual salary of \$500,000. In March 2001, he created an S corporation called Tri-Whale Enterprises, Inc. (Tri-Whale) and then arranged for his salary to be paid to Tri-Whale. For his broadcasting work in 2001, he was paid \$70,233 in his personal capacity, and \$326,540 was paid to Tri-Whale. His broadcasting career ended in December 2001. Hatch did not report any of the Tri-Whale income on his personal return, and the company's tax return reported income of only \$68,173.

In 2001, Hatch rented his house to tenants, and he omitted the rental income of \$9,396.40 from his 2001 tax return. That same year he went to a car dealer where he selected a new Pontiac Aztec, which was another *Survivor* prize. In early 2002, General Motors sent Hatch a Form 1099-MISC for \$27,074.40 (the value of the prize). Hatch did not report the car-related income on his tax return.

In 2001, an advertising agency called Cam Media (Cam) arranged for Hatch to be a speaker at the annual meeting of East Boston Savings Bank (East Boston). Cam and East Boston each agreed to donate to Horizon Bound. After the annual meeting, Cam issued a check for \$500. Hatch deposited this check into his personal account and then spent the money on personal expenses. East Boston also issued a check for \$1,000 payable to Horizon Bound. In May 2001, Hatch opened an account at Newport Federal Savings Bank in the name of Horizon Bound and deposited this check into that account. He used the money for personal expenses, and he did not report either of the \$500 or \$1,000 on his 2001 tax return.

Weakest Link Productions produced a television show where the contestants answered general knowledge questions. Hatch agreed to be a contestant, and the producers agreed to donate to a charity of his choice. Hatch selected Horizon Bound as the charity of his choice. In June 2001, he faxed a W-9 form to NBC in Los Angeles, CA. The form was signed by "Ralph Magee," who was a real person that Hatch knew but who had no idea that Hatch was claiming that he was the treasurer of Horizon Bound. In July, Hatch sent another fax to NBC, signed by Ralph Magee, confirming that Horizon Bound was still a charitable organization. In August, NBC prepared a check for \$10,000 payable to Horizon Bound, which Hatch deposited into the Horizon Bound bank account. He used the money for personal expenses, and he did not report the \$10,000 on his 2001 tax return.

While Wallis was preparing his 2001 tax returns, she made it clear to Hatch that he was individually liable for any income of Tri-Whale and that the income also had to be reported on the S corporation's return. Hatch told her about the January–March radio station income of \$70,232, but he said nothing about the April–December income of \$321,139. He gave Wallis the Tri-Whale check stubs (evidence of expenses) and told her that there were no sources of income for Tri-Whale for that year. When Wallis asked Hatch about the company's bank account, he told her that the company did not have a bank account. He did not tell Wallis about the rental property or the redirected donations. When Wallis asked about the car (which she knew Hatch had won), he said he had not yet received it. He told Wallis that the rental property had earned no income because it was being renovated.

Wallis prepared his 2001 individual tax return, which omitted four sources of income. It showed that his income was \$228,077 and that he was owed a large refund. She also prepared a 2001 S corporation return (Form 1120S) for Tri-Whale, which left off the \$321,139 in broadcasting income and showed that the company had received only \$68,173. Hatch filed both returns in October 2002. He later received a \$44,874 refund.

In July 2003, the IRS notified Hatch that they would audit his 2000 tax return. In August 2003, Justin Holden (a tax attorney) advised the IRS that he would be representing Hatch in the audit process. Holden met with the IRS on five occasions from September to December 2003. An IRS agent later prepared a report detailing the findings and listing the names and addresses of witnesses. The report was then sent to the Tax Division of the U.S. Department of Justice and later rerouted to the U.S. Attorney's Office. In October 2004, the U.S. Attorney sent a letter to Holden telling him that a criminal investigation had commenced with respect to violations of the tax code. In January 2005, Hatch was charged with tax evasion. Holden told Hatch that he would not represent him if the matter went to trial.

Pre-trial Matters

In September 2005, a criminal indictment was handed down in the District of Rhode Island that included two counts of tax evasion for 2000 and 2001 in contravention of 26 U.S.C. § 7201 and making a false declaration under penalty of perjury for the Tri-Whale return. The government also claimed that Hatch had knowingly devised a scheme to obtain money and property from donors to charitable contributions by means of false and fraudulent pretenses and representations. This scheme gave rise to two counts of wire fraud related to the faxes sent to NBC, four counts of mail fraud related to use of the postal service to mail the checks, and one count of bank fraud related to the \$25,000 Chambers check.

At his arraignment on September 19, 2005, Hatch pled "not guilty" to the charges. He told reporters "I am not guilty of what I was originally charged with and not guilty of the new charges [wire, mail, and bank fraud]. I have always paid my taxes and always will. The allegations are hysterical" (Cassel 2005).

Hatch appointed Michael Minns of the Minns Law Firm (www.minnslaw.com) as his defense counsel, together with John MacDonald, a criminal defense attorney in Rhode Island. His first pretrial motion was a request to separate the tax evasion counts from the wire, mail, and bank fraud counts. Hatch's attorneys also asked for a delay because of the complexity of the case and their desire for an "effective pre-trial preparation." Both motions were denied. Judge Ernest C. Torres issued detailed pre-trial rulings to avoid disruptive delays during trial, and to keep the length of the court case as short as possible. These rulings dealt with sidebars, chambers conferences, witness lists, exhibits, questioning witnesses from the podium, and formalities about objections. The judge also issued orders to help ensure that the trial was conducted in a fair, orderly, and efficient manner, orders which addressed the spectators, media, sketch artists, use of electronic devices, note taking, interviews, and jury communications.

The Rhode Island Trial

The *USA v. Hatch* trial started on January 12, 2006. In his opening statement, Andrew Reich, a seasoned prosecutor, outlined the tax evasion charges and the charity-related charges. He said that the tax evasion was "willful" and that the diversions were the result of "intentional deceit." Following this, with a slow and friendly Texas drawl, Michael Minns agreed that the tax returns were "completely and totally wrong." He said that "Hatch is not a stupid man, but he is the world's worst bookkeeper, bar none" and that it was common for a person with a sudden increase in money to make mistakes in tax returns. He picked some holes in the minutiae of the government's claims and then went off on a tangent about Hatch's discharge from the army because of being gay, the bad advice he received from his accountants, and the stress related to an issue with his adopted son. Minns' conclusion centered around Hatch being an "honorable man."

The witnesses included Mark Burnett, producer of *Survivor*, testified that Hatch signed an agreement which stated that he was liable for all income taxes on any prize money. John Smith, who worked at the car dealership, testified about the Pontiac Aztec. Julie Kahn, who worked at Entercom, testified about the radio station's payments to Hatch.

The second day included a video showing the pilot episode of *For Goodness Sake* and an image of the \$25,000 check donated to Horizon Bound. Donna Manning of Newport Federal Savings Bank testified that Hatch had deposited the Horizon Bound check into his personal account using an ATM machine and that the bank had returned the check to him. An official at People's Credit Union testified that Hatch deposited the \$25,000 check into his account at their bank. Another witness testified that Hatch had told his tenants that "if you have a house that is a residence, you do not have to declare rental income."

On the third day, Ralph Magee, a friend of Hatch, testified that he never signed the documents that were faxed to NBC, and that he was not an officer of Horizon Bound. An NBC employee said that celebrity contestants were paid a small appearance fee, travelling expenses, and a \$10,000 donation to the charity of their choice. An accountant for NBC said that he prepared a \$10,000 check for Horizon Bound. Hatch's tax accountant, Plotkin, spoke about preparing the tax return that included the *Survivor* income and said that Hatch never questioned the inclusion of the *Survivor* prize on the return. Plotkin testified that they had both signed the tax return, and Hatch had turned down his offer to mail the return for him.

Hatch's second accountant, Wallis, was on the stand on the fourth day, and she testified that Hatch gave her the Form 1099-MISC showing the *Survivor* income. Hatch had said that CBS might have paid his taxes. She had told him that such a payment was improbable. Hatch had no evidence that CBS paid his taxes, and she had warned him that if CBS had done so, this payment too would be a taxable item. She testified about preparing the 2000 tax return (which Hatch never

filed), and other interactions with Hatch. At one point, Judge Torres called a sidebar to tell Minns that “there is no dispute that the returns that were filed on his behalf or that he filed were incorrect. What this case is about is whether he acted willfully.”

The witnesses on the fifth day included Jason Remeaka and Michael Pleshaw from the IRS. Pleshaw testified that Hatch had evaded paying well over \$400,000 in taxes.

On the sixth day, Hatch took the stand. The prosecutor’s questions centered on his state of mind when he was filing the tax returns. He testified that Wallis knew he was going to file the tax return that left off the *Survivor* income and that she had him sign the letter so that she could distance herself from what he was doing. He conceded that the commissions that he had paid had nothing to do with the *Survivor* prize, the “mistakes” were made in good faith, and he intended to file amended returns. He admitted that he had written a book in which he said that he would have to pay taxes on the prize, and that he had set aside \$350,000 for this event. He admitted that he had failed to report the \$320,000 in Tri-Whale income and that he had used the \$25,000 donation for personal expenses. On the seventh day, he denied adding his name as a payee on the \$25,000 Horizon Bound check, saying that the bank added his name to the check. He also testified that he paid his manager, Creative Agents Agency, ten percent of his revenues, and he paid his lawyer five percent. He also said that he paid his publicist about \$3,000 per month.

During the cross-examination, Minns portrayed SEG as a fraud, saying that parts of the show were staged such as Hatch's encounter with a shark while he was fishing. The judge interrupted the shark story because it did not seem “relevant to any issues in the case.” Minns replied by saying that this court case had also been staged to make Hatch appear evil. The judge reminded him that the case was not about the *Survivor* TV show, and so “let’s move on to the issues in this case, which are the tax evasion charges and the fraud charges.” Despite these reminders, Minns went back to talking about problems with the show.

The last witness was Julie Henderson, who was called to rebut Hatch’s testimony that an employee at People’s Credit Union added his name as a payee to the \$25,000 check. In the closing arguments, Minns switched from his charming approach and addressed the court in a businesslike manner. He said that Hatch had not intended to evade paying his taxes, but that the tax code was complex and that everyone makes mistakes.

After the closing arguments, Judge Torres summarized the case and the counts against Hatch and gave the jury their charge. He added that:

“Mr. Hatch claims that even if the returns that he filed were incorrect, any failure to include items of income that should have been reported was not due to any willful attempt on his part to evade taxes, but rather was due to oversight and ignorance of the facts and/or the law. With respect to the fraud counts, Mr. Hatch’s contention is that the amounts received were applied for the benefit of Horizon Bound, because they were used to pay expenses incurred in attempting to get Horizon Bound up and running and/or to reimburse Mr. Hatch for expenses that he previously had incurred for the purpose of promoting and organizing Horizon Bound.”

Judge Torres then summarized the law related to tax evasion and noted that to find someone guilty of tax evasion it was necessary to show that they owed more tax than was paid, they intended to evade the payment of taxes, they committed an affirmative act, and they willfully and intentionally omitted amounts that they knew were subject to tax. Acting willfully meant that the person acted voluntarily, deliberately, and with the intent to do something that they knew was unlawful. Other things to consider included Hatch’s intelligence, his experience, the information that was presented to him or made available to him, what he said, what he did, and the circumstances under which he acted.

On the next day, the jury announced their verdict of guilty on all three tax evasion counts and not guilty on all the other fraud-related counts to the judge. Hatch was calm while the verdict was being read. After the sentencing date was set, Hatch was taken into custody by the U.S. Marshals.

The Sentencing Process

Hatch's Presentence Report² referred to a guideline sentence of twenty-five to forty-one months. The prosecutors asked for an upward revision to fifty-one months because he perjured himself during his testimony and gave false information to a probation officer. Their report asserted that Hatch had directly contradicted the testimony of every key witness on almost every significant point, including conversations he had with his accountants about the amount of income that he earned in the relevant years. The prosecutors were incensed by his explanation as to why he filed the informational return that had been prepared by Wallis.

Hatch filed a motion to call witnesses at the sentencing hearing set for May 16, 2006. He asked to call Mark Higgins to testify that under Malaysian law SEG was required to withhold fifteen percent of the prize money and pay the amount to the Malaysian government.

At the sentencing hearing, Hatch was wearing prison orange with his hands handcuffed behind his back. The defense asked for a sentence in the thirty-three to forty-four-month range. Judge Torres spoke about the number of times that Hatch "willfully gave false testimony" and summed it up with "Mr. Hatch lied, and lied repeatedly."

In his address to the court, Hatch said that "I believe I have been completely truthful and completely forthright throughout the entire process. In the last four years, I have done everything I could do. There are many things you said just now that I have explanations for."

Judge Torres replied with, "What weighs most heavily in my mind is obstruction, false testimony. You basically committed perjury and you obstructed justice. You have made the offense far worse." Hatch was then sentenced to fifty-one months with an order that he have mental health counseling because "you are in a state of denial that I observed at trial and at this hearing." Hatch was also ordered to file amended tax returns for 2000 and 2001 and to pay all taxes due. After the proceedings, Hatch shook hands with his attorneys, and he said a pleasant goodbye to his mother, who was seated in the audience.

Appeals to the U.S. Court of Appeals and the Supreme Court

A few weeks later, Hatch filed a notice of appeal with the U.S. Court of Appeals for the First Circuit and asked for an extension of time to file his opening brief. He filed his 15,624-word brief on December 6, 2006. The case was argued on March 8, 2007. Hatch made four arguments in his appeal: 1) that the district court curtailed his explanation of why he believed that SEG had paid the taxes on his *Survivor* winnings; 2) that the court improperly limited the defense's right to cross examine; 3) that the court wrongly allowed the government to use "unqualified experts" while excluding some of the testimony of Hatch's own expert; and 4) that his sentence was unreasonably harsh.

In their opinion filed on February 1, 2008, the appeals court stated that the district court had encouraged Hatch to present evidence that the *Survivor* producers promised to pay his taxes. No such testimony was presented. With no evidence of a promise, the other evidence concerning irregularities in the way the show was run was immaterial. They affirmed the conviction and sentence of Hatch. On February 14, 2008, Hatch filed a petition for a panel rehearing. The court denied the petition.

On May 23, 2008 Hatch filed his petition for a *writ of certiorari* with the U.S. Supreme Court (*Hatch v. USA*, 2007). Minns argued that the judge improperly prevented Hatch from testifying about the producer's promise to pay his taxes. This petition was denied on October 6, 2008.

Petition to Vacate Sentence

In March 2009, while in a federal prison in Morgantown, West Virginia, Hatch filed a 28 U.S.C. Section 2255 motion to vacate his sentence. This application allows a prisoner to challenge his sentence on the basis that their sentence was imposed in violation of U.S. laws, or the court was without jurisdiction to impose the sentence, or the sentence exceeded the maximum authorized by law. Hatch's memorandum started with the caption "May you live in interesting times. Nowhere might this ancient Chinese double entendre be more poignantly invoked than upon the petitioner in the instant

² A Presentence Report is prepared to aid judges in felony sentencing decisions. The report is the result of an investigation into the history of person (case-specific information) convicted of a crime to determine if there are extenuating circumstances, or a history of criminal behavior, which should raise or reduce the severity of the sentence (Alarid and Montemayor, 2010).

case.” He then claimed innocence based on: a) ineffective assistance of counsel; b) an improper calculation of the base offense level; c) an improper obstruction of justice sentence increase; and d) freestanding actual innocence.

In U.S. Attorney Reich’s response to the motion, he said that the arguments “are essentially a rehashing of the same arguments which Hatch unsuccessfully made to the jury at trial, and arguments which he unsuccessfully made when appealing the verdict and sentence.” Reich also addressed the “preposterous and unsupported statements regarding the integrity of the prosecution.” On May 9, 2009, the Section 2255 motion was denied.

When Hatch appealed the denial, he said that, “How could such a travesty of justice occur in what is essentially a civil tax matter, yet somehow resulting in crimes convicted and years of prison time served? With hindsight, the answer is clear: discrimination. Discrimination against Hatch for being an openly gay person.” He also claimed to have been fully cooperative. On May 9, 2011, his second motion to vacate his sentence was denied. Judge William E. Smith noted that “Hatch’s approach appears to be that if he reiterates long enough and loud enough his misguided belief that he is innocent of his tax offenses, his claims may somehow be deemed true. He is mistaken. As the First Circuit noted, the record contains compelling evidence of Hatch’s guilt on the offenses for which he was convicted.” The judge expressed a disbelief that Hatch could willfully omit taxable income from his tax return and then expect to “belatedly negotiate the amount of tax due, without any criminal repercussions.”

Hatch’s in Forma Pauperis Motion

In March 2009, Hatch filed a motion to proceed *In Forma Pauperis*.³ He claimed that his only income was some prison income and irregular small gifts. He had no cash or bank accounts, and he did not own any assets of value. This motion was granted. He was released from prison on May 14, 2009, thirty-nine months and twenty days after being taken into confinement in early 2006. Hatch was given some time off for good behavior (good conduct time) and was to serve the rest of his sentence under home confinement.

In June 2009, he was invited to take part in the twentieth series of *Survivor*. On July 7, 2009, while still under home confinement, he asked for permission (on an expedited basis) to leave the country to participate in the series. In his motion, he noted that he was “currently serving what may be the longest sentence ever imposed for similar charges.” He added that “Petitioner is and always has been fully cooperative with the IRS and is especially eager to pay any 2000 and 2001 taxes determined to be owed.”

In his response, U.S. Attorney Reich said it would be difficult to revoke Hatch’s supervised release if he was allowed to travel overseas. Also, Hatch “continues to inaccurately state that he always has been fully cooperative with the IRS and states that his failure to file accurate returns is due to certain foreign and domestic tax issues not yet resolved by the IRS. The defendant continues to shift the blame for his offenses to others. In the event the defendant does not file amended returns, the government anticipates that it will seek revocation of the defendant’s supervised release.” The request was denied.

NBC Today Interview with Matt Lauer

On August 17, 2009, Hatch was interviewed by Matt Lauer of NBC’s *Today*. Hatch was well spoken and articulate, and he told Lauer that “The prosecutorial misconduct has been egregious. He [the prosecutor] told the court I did not pay my taxes in 2000, and he told the court I have not been cooperative. The IRS specifically contradicts that. I do not have a bill for 2000. I have not even been assessed for 2000, and I have been fully cooperative.”

Lauer asked whether a heterosexual Hatch would not have gone to prison. Hatch was adamant that he would not have gone to prison had he been a heterosexual. Hatch ended the interview by saying that “There were other issues on those tax returns, as there would be on any American’s return that people would question.” Hatch then had two more interviews that day, one with WJAR-TV and the other with *Access Hollywood*. The next morning, he made two phone calls to WPRO-AM radio.

³ The designation of *In Forma Pauperis* is given to someone who does not have the money to pay for the costs of a lawsuit or a criminal defense. This status is usually granted by a judge and in some criminal cases it includes the appointment of a defense attorney. More details can be found at <http://www.lectlaw.com/def/i020.htm>.

At 1:00 p.m. on August 18, 2009, he was taken into custody for “improper contact with the public.” He was sent back to the federal prison in Morgantown, WV and nine more days were added to the original fifty-one-month sentence. He was released on October 16, 2009.

Supervised Release: Termination and Violations

In November 2009, Hatch filed a motion to be taken off supervised release. In his response, U.S. Attorney Reich said that Hatch had still not filed amended returns for 2000 and 2001. The IRS had issued a Notice of Deficiency and a Notice of Jeopardy Assessment against Hatch, and the total amount due as of April 6, 2010, amounted to \$1,740,933.55. Reich added that, “The defendant continues to thumb his nose at the Court,” and “the defendant continues to make false representations to the Court, yet, he has the audacity to come before this Court and ask for early termination of his supervised release.” Hatch’s request was denied.

In December 2010, Hatch was charged with violating the terms of his supervised release. Hatch’s January 1, 2011, posting on his Richard Hatch II Facebook page asked his fans to wish him well at his hearing. He said that he was “an innocent man that was wrongfully convicted of having attempted to evade taxes.”

At the violation hearing on January 10, 2011, Mary McElroy, a public defender, appeared for Hatch. The prosecutors called Stacy Hopkins, a revenue agent for the IRS, to the witness stand. Hopkins confirmed that Hatch had the ability to file the amended tax returns and he had not yet done so. Furthermore, Hatch also had not paid any taxes for the years in question. Hopkins confirmed that, at the time of the hearing, Hatch owed \$1.7 million in taxes, interest, and penalties.

McElroy argued that an amended tax return could not be filed while his appeal was being reviewed by the U.S. Tax Court (*Hatch v. Commissioner of Internal Revenue*, 2010 and 2013). In that appeal, Hatch claimed that he was entitled to the foreign tax credit because foreign tax should have been paid to the Malaysian government. A defense witness confirmed that a Notice of Deficiency gave the IRS no right to collect any tax because the taxpayer had the right to protest the notice through the U.S. Tax Court. In an unusual step, Judge Smith then started questioning the witness. “Okay. So you understand, though, that the order in this case was one which required the defendant to file amended tax returns for the 2000 and 2001 calendar years as a condition of supervised release. Do you understand that?”

“Yes, I do.”

“Now, the defendant commenced his supervised release on October 16th, 2009. Okay. So, are you suggesting that something about the process of the IRS or the Tax Court makes that order of the court ineffectual? Okay. Explain that to me.”

“The Federal Court in a criminal case does not usually deal in civil aspects of the case and how the tax is assessed. So normally, they will say in a criminal procedure that you are to settle with the IRS or to file amended returns. It then goes back to the IRS for an investigation on the procedures because there is no determination made in a criminal trial as to the tax due and owing, or the tax amount, or whether there was even any tax due. They just know that there is an amount of tax due.”

Reich then said that the only reason this matter was in the Tax Court was because Hatch decided not to do what Judge Torres had ordered him to do, which was to file amended returns. Instead, Hatch had continued to fight the IRS and continued to raise the same “ridiculous arguments” that he raised during the trial. Reich concluded, “Mr. Hatch has continued to do, over all of these years, the same thing he has done going way back to when he was tried for tax evasion, which is to thumb his nose to the Court, to make misrepresentations to the Court, and to make a mockery out of Judge Torres’ amended tax returns order.”

Judge Smith was visibly irritated, “Defendants do not get to interpret the language of the orders with which they are required to comply and decide whether they think that is the spirit of the order or not and decide, well, I do not think that is really what was intended, I am not going to do it. That is not the way the system works.” Hatch’s attorney then claimed that he had done everything that he could to comply, and was interrupted by the judge:

“In everything that Mr. Hatch has filed during, and at least subsequent to, his incarceration has suggested that the entire process of his prosecution and the enforcement of the tax laws have been a witch hunt and a persecution of him for various personal and other reasons. There is nothing to suggest that this is a compliant defendant who is making a good faith but mistaken judgment about the interpretation of this Court’s order. And I challenge you to

go back and look at everything that he has written and everything that he has said, much of which has been addressed to me that I have had to read, and I do not think you could find anything that would support that statement.”

At the sentencing hearing on March 11, 2011, U.S. Attorney Reich opened with the following statement:

“Hatch does not understand that when a district court judge orders him to follow certain conditions, there is a requirement that he do so. We believe that the record in this case strongly, if not overwhelmingly, supports the view that the defendant, when he committed these violations, acted with clear deliberation and that is perhaps best exhibited by the various filings that he has made to this court, which shows that the defendant has exhibited absolutely no acceptance of responsibility or remorse relating to his conviction and that he has continued to make false accusations about both prosecution and the trial court.”

The judge brought some of his personal feelings to the table. “It all leads me to a conclusion that further supervised release would perhaps be pointless and just a drain on the resources of the Court.” He continued with:

“Why wouldn’t it make just as much sense to impose a term of incarceration and then be done with it? If the IRS has issues thereafter with the defendant, they can prosecute him for it. But I am, frankly, bothered by the amount of time and the resources that this case has taken up on the part of the court for a defendant that, as you appropriately said, has given absolutely no indication that he gets it.”

When Hatch took the stand, he said that he had been cooperative, he apologized for not being remorseful, and said that he did not believe that he attempted to evade anything. He ended with:

“Additional prison time for what is at worst, I believe, a technical violation of special conditions seems unduly severe... And with respect to what is supposed to be owed or may be determined to be owed, I truly believe that what I owe for 2000 may be zero, and I expect I will owe something for 2001. There was an inadvertent error made, but it is not what has been portrayed. My last thing, I apologize for the motions that I have written in which you have expressed some frustration.”

Judge Smith replied by saying that Judge Torres had:

“imposed a sentence, and the sentence included that you pay those taxes. And by not doing that, you have committed not a technical violation, but a fundamental violation. And you have continued to essentially try to litigate the case that was decided five years ago or more. That is over. That has been decided. You were convicted... What you seem to think is that the sentence imposed by Judge Torres is somehow the beginning of a negotiation, a negotiation that was to go on between you and the IRS. It is not a negotiation. It is an obligation, and you did not comply with the obligation.”

Judge Smith added that he was amazed at the amount of resources that had been eaten up by Hatch, who was then sentenced to nine months in prison and who was ordered to report to the U.S. Marshals on Monday at noon with only the weekend to get his things in order. Hatch filed an appeal immediately after sentencing (later denied) and a motion asking for a delay in reporting to prison. The motion for a deferral was denied.

The Order to Monetize and Tax Court

In an October 2011, handwritten letter to the IRS, Hatch claimed that he owed them nothing. His year 2000 “payment” in Figure I shows that his tax year 2000 liability at that time amounted to \$1,438,240.79. His tax year 2001 liability at that time amounted to \$457,331. [see Figure I, pg 869]

Hatch’s protest letter noted, among other things, that:

“to the best of my understanding and sincere belief, I do not have the legal ability to own property, possess lawful money or pay any debt since the Emergency Banking Act of 1933 pledged all the assets of all American people as a mortgage backing the ‘new money.’ (see H.R. 1491 of 1933) which includes Federal Reserve notes, and the circulating notes of the Federal reserve banks and national banks (see Public Law 73-10). Furthermore, this same Emergency Banking Act of 1933 (March 9, 1933) made my ‘so called, “ownership” of property reduced to mere user.’ (see Senate Document #43193). Therefore, I was dispossessed of all the inheritance that could have been left to me by my ancestors.”

After presenting some claims related to the legality of money, he asked that his debt be cancelled.

Taxpayers may dispute a tax deficiency in the Tax Court before paying any disputed amount. Hatch filed such a petition with the Tax Court on June 2, 2010. That court determined Hatch's tax deficiencies for 2000 and 2001 to be \$393,643 and \$152,645, respectively. The fraud penalties of \$297,482 and \$114,484 due for the two tax years were confirmed, along with the failure to file penalty of \$98,040.

A Summary of Hatch's Decisions

The second judge that dealt with Hatch's case, Judge Smith, was "amazed" at the amount of resources that had been spent on the Hatch case. A summary of his actions is shown below:

1. Retained an accountant to prepare the 2000 tax return. Did not file this Plotkin return.
2. Solicited a 2000 tax return from another accountant. Did not file this Wallis return.
3. Filed a 2000 return that omitted about 90 percent of his taxable income.
4. Hired a lawyer for tax negotiations with the IRS after being notified of an audit.
5. Rejected a plea bargain.
6. During the trial, alternated between a legal position of carelessness and inadvertent errors, and one where SEG had promised to pay the taxes on the prize.
7. Testified at his trial and committed perjury. Sentenced to 51 months for tax evasion and perjury.
8. Appealed to the Appeals Court, filed a Section 2255 motion, and appealed to the Supreme Court.
9. Violated the terms of his home confinement.
10. Ignored the requirement to file amended tax returns. Sentenced to a further nine months in prison.
11. Submitted correspondence similar to that of a tax protester to the IRS.
12. Disputed the case in Tax Court and appealed the Tax Court ruling.
13. Now pursuing a strategy of exoneration.

Hatch's statements have included claiming that: a) the errors were innocent mistakes due to sudden complexities in his financial situation and other traumatic events in his life; b) the foreign tax credit would offset all taxes, penalties, and interest due; c) there were various procedural irregularities including ineffective counsel; d) he has been persecuted because of his sexual preferences; and e) the debt cannot legally be paid. A list of the requests, motions, and appeals is shown in Table I. [see Table I, pg 867]

Table I lists thirty-five motions or requests, several of which were also later appealed. The next section analyzes the predictor variables used in compliance studies with a view to assessing the role that they might have played in Hatch's filing decisions.

The Predictor Variables Used in Compliance Studies

I now review the predictor variables used in taxpayer compliance studies in the light of Hatch's tax evasion case. Roth, Scholtz, and Witte (1989) define compliance to mean that the taxpayer has filed all required tax returns at the proper time, and these returns accurately report the tax liability in accordance with the tax rules applicable at the time of filing. *Compliance* therefore not only prohibits taxpayers from engaging in certain behaviors, but also requires that they take affirmative actions to comply with the law. Jackson and Milliron (JM) (1986) list fourteen compliance predictor variables and Fischer, Wartick, and Mark (1992) categorize these variables according to demographics, opportunity, attitudes and perceptions, and the tax system/structure.

Demographic Predictors

The most common finding with respect to age is that older taxpayers are more compliant. Hatch was forty-one years old when he filed his 2000 tax return. The IRS' Statistics of Income Tax Stats (www.irs.gov) for 2008 shows that the median tax return filing age is forty-two years. This places Hatch close to the median filing age, which suggests that age would

have no predictive value with respect to his filing decision. The results of Clotfelter (1983) with respect to age were inconclusive.

The most common finding with respect to *gender* is that females are more compliant. However, it might not be gender in and of itself that influences compliance, but rather an interaction between gender, age, traditionalism, and estimates of the probability of detection. A more recent study by Houston and Tran (2001) showed that women accounted for a higher proportion of tax evasion. Hatch's case agrees with the general findings for gender.

The link between education and compliance deal with the taxpayer's ability to understand the tax laws, and then to comply (or not comply) with them. Education gives the taxpayer a fiscal knowledge and an understanding of evasion opportunities, making the effect of education on evasion unclear. People without fiscal knowledge view taxation only as a burden and fail to appreciate the benefits and services provided by tax revenue. Houston and Tran (2001) found that taxpayers without a tertiary education had lower levels of compliance. Richardson (2006) found that tax compliance increased with the general level of education. Hatch's long road to a bachelor's degree makes it difficult to conclude that he gained much by way of fiscal knowledge or knowledge of evasion opportunities to affect his filing decisions.

Opportunity Predictors

The findings with respect to income level are mixed, because, with a progressive tax, high-income taxpayers have more to gain from evasion but their utility for the additional income is lower. Differences in compliance across income groups might be more closely related to the types of income earned by lower- and higher-income level -individuals. Richardson (2006) found no association between income level and compliance level. Hatch omitted almost all his income, including income that was subject to third-party reporting. If he had not received a Substitute for Return (SFR) notice for 2000, he presumably would have been a nonfiler for that year. Apparently, his income level played no role in his reporting decision.

Income source refers to the type of income, and while income source might not be a distinct compliance factor it might be a proxy for the probability of detection. More recent studies have found that self-employed individuals are less compliant. These findings are consistent with the Hatch case in that he failed to report a large part of what could be called "self-employment income" in 2000, and in 2001 he "converted" his salary income to income for his S corporation.

The findings for occupation are inconclusive. The Hatch case suggests that his occupation (landlord, celebrity contestant, and talk show host) played no role in his reporting decision. This case is also a reminder that taxpayers can have more than one occupation and various sources of income.

Attitudes and Perceptions Predictors

The concept of tax fairness relates to both the equity of the trade (benefits received against dollars paid) and the taxpayer's burden as compared to others (the horizontal and vertical equity of the system). The link between tax fairness and compliance is inconclusive, perhaps because a feeling of inequity might increase the propensity to evade or it might just serve as a rationalization for evasion. Richardson (2006) found that the fairness of a tax system played a significant role in the level of tax evasion. While the documents of the Hatch case do not give any indications as to how Hatch felt about the fairness of the tax system, his comments about being discharged from the military for being gay suggests that he might have believed that life in general was unfair.

Molero and Pujol (2012) state that tax morale is based on past (successful or unsuccessful) tax evasion behaviors, a perception of fairness, a perception of the taxation relative to benefits received or what others are paying, an ethical sense of duty, and a solidarity with the well-being of others. Hatch was discharged from the military because of his sexual orientation, and he believes that the prosecution and the judge were out to get him. Hatch told Matt Lauer that "I do not think that you or anyone else could deny that we as homosexuals face discrimination." In a radio interview, Hatch once spoke about his teenage brother, who was killed by a drunk driver who did not go to prison for the accident. A high aversion to paying thousands of dollars into the federal and state coffers might have resulted from this or any of several other similar major incidents in Hatch's life.

Finally, peer influence refers to the influence of friends, relatives, and colleagues. Taxpayers that believe that people in their peer groups evade taxes will have a lower commitment to compliance. This predictor might however, simply be correlated to the probability of detection. There are no facts in the Hatch case that suggest that peer influence played any role in his filing decisions.

Tax System/Structure Predictors

The complexity of the tax law, as measured by the level of detail in the tax rules and the numerous calculations required, is a potential compliance factor. The effect of complexity on compliance has been found to be mixed. Complexity has been associated with tax evasion on nonbusiness returns, but complexity has shown no association with evasion on business returns. Richardson (2006) finds complexity to be the most important determinant of tax evasion. Hatch hired accountants to prepare his tax returns, and while complexity might have caused this, there is no indication that complexity in and of itself played a role in his filing decisions.

With respect to the probability of detection noncompliant taxpayers generally perceive a lower probability of detection than compliant taxpayers. Also, the estimates of detection risk are not stable, and they are influenced by the personal and interpersonal experiences of taxpayers. Alm, Jackson, and McKee (2009) find that tax audits have a direct deterrent effect on the taxpayers that were audited and an indirect deterrent effect on the taxpayers that were not audited. Increases in the probability of detection generally increase tax compliance. Hatch made several filing decisions. His first decision was to not file a tax return for 2000. After a notification from the IRS on the 2000 matter, he filed his 2001 return knowing that several sources of income were understated. He then filed his *Survivor*-free 2000 tax return despite the contact from the IRS.

Hatch might have felt emboldened by his prior unaudited 1998 and 1999 net operating losses. A lack of prior audits might make a taxpayer think that they were lucky. Hatch might also have felt a measure of grandiosity because of winning *Survivor*.

JM discuss the effects of legal and interpersonal sanctions. Grasmick and Scott (1982) find that interpersonal sanctions were more important than legal sanctions. Hatch's continued "quest for exoneration" suggests that the interpersonal sanctions have weighed heavily on him.

Finally, JM state that if the tax rate were zero, then all income would be reported, and if the tax rate were 100 percent, then no income would be reported. The literature generally shows that higher tax rates reduce compliance. Hatch most likely did not know his marginal tax rate, however, and thus the tax rate probably played no role in his compliance decision.

Other Predictor Variables

Other factors influencing compliance include perceived personal control, which is related to the perception that environmental events are controllable or uncontrollable. This desire for control might lead some taxpayers to adopt a gamesmanship attitude to "beat" the government. Although Hatch wanted to beat the government, his motivation probably had nothing to do with perceived personal control.

The cost of compliance is another variable affecting the compliance decision. Some taxpayers might not be willing to pay these costs. The effect of tax preparers on compliance is unclear. An analysis of IRS data has shown more audit adjustments to paid preparer returns than to self-prepared tax returns. The cost of compliance probably did not play a role in the Hatch case.

Another potential predictive variable is the geographic location and mobility of the taxpayer. Some studies have found that certain regions of the country are more compliant than other regions, as well as that regions with a higher than average mobility have lower than average compliance. The facts of the case suggest that neither location nor mobility played any role in Hatch's filing decisions.

Taxpayers with a balance due tend to understate their income more than other taxpayers. The 2000 tax return prepared by Hatch's first accountant showed an especially large balance due amount, including penalties and interest. The late filing and the interest penalties presumably affected Hatch's filing decision by making the taxes of \$374,831 more unpalatable to pay when that bill came with \$66,670 in interest and penalties.

Analytical Modelling

Compliance models see the taxpayer as a perfectly amoral, risk-neutral, or risk-averse, utility-maximizing individual who chooses to evade tax whenever the tax savings exceed the likely cost. The models assume that both the gains and the penalties can be quantified, and that the probability of punishment can be accurately stated. The models usually assume a single penalty rate. In practice, however, there is a range of possible penalties. A significant proportion of the civil

penalties assessed (for late payments, delinquency, fraud, and negligence) is often abated. Table II lists the amounts in the Hatch tax evasion case based on the findings of the Tax Court. [see Table II, pg 868]

In the seminal modelling paper by Allingham and Sandmo (1972) the taxpayer chooses to report a proportion of their actual income. Taxpayers are utility maximizers who only focus on “being caught” or “not being caught.” The payoff from evasion depends on whether the tax return is audited. Only when the return is audited is the optimal course of action to report all income. Using the notation of Sandmo (2005), actual income, W , is known by the taxpayer. Tax is levied at a constant rate, t , on reported income. The underreported income is E , which is the taxpayer’s decision variable. The probability of detection is p . The taxpayer must pay tax on the underreported income at a penalty rate θ which is higher than t . Taxpayers will evade some proportion of their incomes when equation (1) is true:

$$E > 0 \text{ when } p\theta < t \tag{1}$$

The Hatch costs for 2000 can be estimated using a marginal tax rate of 38.5 percent, a penalty rate of seventy-seven percent, and an annual cost of time in prison at \$100,000. The prison time penalty adds 21.6 percent to the penalty rate ((27/12 * 100,000)/\$1,040,000). The audit rate for returns filed in 2002 was about 1.5 percent. Without or with the prison time, and at an audit rate of 1.5 percent, the model’s results are shown in equation (2):

$$\begin{aligned} E > 0 \text{ when } 0.015 \times 0.770 < 0.385 \\ E > 0 \text{ when } 0.015 \times 0.986 < 0.385 \end{aligned} \tag{2}$$

The left term is much smaller than the right-hand term when p is 0.015. The audit rate would have to be fifty percent or more for a taxpayer to be indifferent between compliance and evasion. The models predict that an increase in the penalty rate will lead to an increase in reported income, and an increase in the detection probability will lead to an increase in reported income.

Discussion

Andreoni, Erard, and Feinstein (1998) conclude that more work is needed to develop a fully satisfactory understanding of the intrinsically complex subject of tax compliance. Slemrod (2007) reviews the magnitude, nature, and determinants of tax evasion, and he concludes that many important questions still remain unanswered. Hatch’ case illustrates how the compliance decision takes place over time and is not simply one decision made at one point in time (for example, the imposition of penalties has several stages that includes reductions or escalations).

Apparently, tax morale was the main driver behind Hatch’s compliance decisions. Tax morale is defined by Torgler (2005) as “the intrinsic motivation to pay taxes,” and this motivation includes the moral regret or guilt over cheating on taxes. Feld and Frey (2007) believe that the three main influences on tax morale are: 1) the fiscal exchange where taxpayers get public services for the money that they pay; 2) the political procedures that lead to this exchange; and 3) the relationship between taxpayers and tax administrators. The tax morale concept is also reviewed in Alm and Torgler (2009), who state that some people will evade their taxes if they dislike the way their taxes are spent, feel they have no say in the government’s decision process, feel that the government is unresponsive to their wishes, or feel that the government unfairly treats them. More recently, MacGregor and Wilkinson (2012) show that patriotic individuals have a higher tax morale and are more positive about paying taxes to support their country than are unpatriotic individuals. It seems logical that Hatch’s discharge from the military because of his sexual orientation had a negative effect on his patriotism.

With tax morale driving Hatch’s compliance decision, the compliance effects of the quantitative variables (such as age, gender, education, tax rates, balance due, and so on) are small or inconclusive because these variables affect compliance through their effect on tax morale. The effect of peer influence (a behavioral variable) does not seem to be relevant in the Hatch case, but its influence on compliance also seems to be through its effects on tax morale.

Roth and Scholtz (1989) report that offenders are responsive to the severity of informal sanctions, such as the loss of the respect of family and friends. The stigma associated with being identified publicly as a criminal is a deterrent to crime. Hatch’s long pursuit of exoneration suggests that he found that stigma to be particularly unpleasant. He was surprised that he ended up in a public court for tax evasion. In his Section 2255 motion he wrote that, “Wallis continued as Hatch’s accountant, working closely with Hatch’s attorney throughout the IRS’ entire civil investigation of these issues.” He was upset by the change in his case from a private civil matter to a public criminal matter:

“The entire context of Hatch’s life has been neglected. There is no reference to or apparent consideration of Hatch’s honorable years of military service, academic accomplishments, crime-free life, service as a Big Brother, adoption of a behaviorally-disordered child in state care, nor of Hatch’s commitment to family and choice to live an alcohol-and-drug-free life in a monogamous relationship.”

These social sanctions also seem to apply to companies. In December 2012, the head of Starbucks U.K. announced “changes which will result in Starbucks paying higher corporation tax in the U.K.—above what is currently required by law. Specifically, in 2013 and 2014, Starbucks will not claim tax deductions for royalties or payments related to our intercompany charges.” The company would pay a “voluntary” tax of sixteen million dollars per year (Starbucks 2012).

The belief in the primary effect of tax morale on the compliance decision complicates the detection of tax evasion, because tax morale is difficult to measure and is presumably subject to change over time. Furthermore, the fairness perception, a component of tax morale, might simply be a rationalization for evasion, making tax morale even more difficult to measure. This result suggests that the government should take steps to improve the nation’s tax morale because of the positive effect this would have on tax compliance. Research into ways of improving tax morale is encouraged.

Teaching Notes and Discussion Questions

Two hours of class time are needed to review the facts of the Hatch case. This includes watching some video footage from the *Survivor* show (since students are unlikely to have watched the show in 2000), the Matt Lauer interview, and other video footage, including an interview at the federal courthouse in Providence, RI. The class time is also spent reviewing selected documents related to the Hatch court case and his litany of appeals and motions. A full set of the videos, the relevant documents, a set of teaching notes, and a note on Hatch's current situation is available from the author to instructors that are listed as teaching faculty on the website of a college or university.

The teaching aids also include a challenging comprehensive quiz with twenty multiple choice questions and five long answer questions, together with an answer key. Selected discussion questions are given below. Suggested solutions are available from the author.

Forensic Accounting

1. Discuss the link, if any, between the contributing factors of the fraud triangle, or the fraud diamond, and the tax evasion actions of Hatch. You may use the definitions given on the website of the ACFE or the definitions of the factors as outlined in *Forensic and Investigative Accounting* (by Crumbley, Heitger, and Smith).
2. The IRS has several forensic audit approaches at its disposal. These include lifestyle probes, the net worth method, and the bank deposit method. Which of these methods would have been effective at quantifying the amount of Hatch's unreported income? Which method(s) do you think that they actually used to quantify the extent of the unreported income?
3. Distinguish between an expert witness and a fact (or lay) witness. Give three examples of who you think might have been called upon as expert witnesses at Hatch's two trials, and give three examples of who you think might have been called upon as fact witnesses.

Income Tax

4. Download the most recent Rhode Island state income tax return (RI-1040) for individuals. Assume that a single taxpayer has a federal AGI of \$1,050,000, no children, and a Rhode Island taxable income of exactly \$1,000,000. Calculate the Rhode Island state income tax.
5. Assume now that the taxpayer has a liability that is exactly \$2,000 less than the amount calculated above because of credits and other adjustments (e.g., the sales/use tax due). Use this liability and compound it annually at the "interest rate on delinquent tax payments" as set out on the state website. Use the most recent interest rate for the entire period. Calculate the new total owed after adding interest from December 31, 2000, to December 31, 2016.
6. Assume that the only income not reported by Hatch was the one million dollar *Survivor* prize. Hatch argued that the Foreign Tax Credit would eliminate all the issues. Specifically, with respect to the one million dollar prize that Hatch won: (a) who can take the credit? (b) could Hatch take the credit? (c) what foreign taxes qualify for the credit? (d) how is the credit calculated? and (e) what is the time limit on a tax assessment? Assume now that a wealthy family member paid the Malaysian Government the twenty-nine percent tax on the million dollars during Hatch's trial. Would that payment do away with the tax issue for 2000? Ignore any gift taxes that might be due on the \$290,000 gift.
7. Assume that Hatch's legal and accounting fees amounted to \$400,000 and that they were all paid in 2006. Would Hatch be allowed a Schedule A deduction of \$400,000, and would the deduction be valid for the tax year 2000 or 2006?
8. Is there a specific statute, or IRS ruling or guideline, that explicitly makes game show prizes taxable for U.S. residents?

Auditing

9. Read the *IRS Audit FAQs* on www.irs.gov. How do their audit selection procedures, and their objectives, differ from the objectives of and the use of variables sampling by an external auditor?

10. Discuss the general approach taken by audit firms to determine the acceptability of a new or continuing client. Do these client acceptance rules also apply to CPA tax preparers?
11. What is the attitude of professional skepticism that is expected of CPAs during the engagement? Is this attitude also required of CPAs during their preparation of a tax return?

Managerial Accounting

12. Read the Wikipedia page on antisocial personality disorders. Did Hatch display any of these signs or symptoms? What might be the corporate outcome from hiring someone with such a disorder to a position where they can commit fraud? From a human resource perspective what safeguards, if any, might be used to avoid hiring people with this disorder in a private or public organization?

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Table I: The Requests, Motions, and Appeals Related to the Hatch Case

Date	Details	Result	Appealed
9/19/2005	Motion for Minns, based in Texas, to represent Hatch	Granted	
9/19/2005	Motion for Williams, based in Texas, to represent Hatch	Granted	
9/30/2005	Motion to extend time for filing pre-trial motions by two months	Partial	Yes
10/21/2005	Motion to compel Govt. to produce Special Agent's Report	Denied	Yes
11/9/2005	Motion to produce IRS Individual Master Files	Denied	
11/9/2005	Motion to produce all of Jodi Rodriguez-Wallis' statements	Denied	
12/12/2005	Motion for a Bill of Particulars	Denied	
12/12/2005	Motion for Severance of Counts	Denied	
12/12/2005	Motion for Disclosure	Denied	
12/27/2005	Govt. Motion to Preclude Urso's Expert Testimony	Partial	
1/19/2006	Oral motion for Judgment of Acquittal made during trial	Denied	
4/12/2006	Motion to Continue (delay) Sentencing	Granted	
5/12/2006	Motion to call two witnesses at sentencing	no decision	
5/16/2006	Notice of Appeal to Court of Appeals	n/a	
5/16/2006	Motion to release lien on property in Newport, RI	Granted	
2/1/2008	Appeal to US District Court of Appeals	Affirmed	
3/24/2008	Motion to Vacate under 28 USC § 2255	Dismissed	Yes
3/27/2008	Motion to proceed <i>In Forma Pauperis</i>	Granted	
4/6/2009	Motion for return of passport and permission to travel abroad	Denied	Yes
4/15/2009	Motion for review of Due Process	Moot	
5/27/2009	Motion for Continuance regarding Section 2255 motion	Granted	
7/7/2009	Overseas travel request (filed while under home confinement)	Denied	
9/16/2009	Petition for Writ of Habeas Corpus	Moot	
10/9/2009	Request that court appoint legal counsel for § 2255 motion	Denied	
3/24/2010	Overseas travel request	Denied	Yes
11/4/2010	Motion for early termination of supervised release	Denied	
2/23/2011	Motion to travel to Celebrity Apprentice Premiere Party	Denied	
2/25/2011	Motion to travel to New York for Joy Behar interview	Denied	
3/14/2011	Motion to delay reporting to prison	Denied	
3/14/2011	Notice of Appeal to Court of Appeals	Affirmed	
5/2/2011	Motion for bail pending appeal	Denied	
7/25/2011	Motion to proceed <i>In Forma Pauperis</i> and appoint counsel	Denied	Yes
1/4/2012	Request that drug test requirement be dropped	Granted	
1/30/2012	Request to pay IRS \$25 per month as opposed to 25 percent	Denied	
9/6/2012	Motion to be able to travel freely in U.S. and abroad	Denied	Yes

The table lists Hatch's resource-consuming requests, motions, and appeals related to his tax dispute.

Table II: A Summary of the Amounts Related to the Hatch Case

Year 2000	Income	Tax	Penalties
Income reported	\$100,000		
Income omitted	\$1,040,000		
Tax paid		\$20,000	
Tax rate on income omitted		0.385	
Tax on omitted income		\$400,400	
Tax evasion penalty (75%)			\$300,300
Failure to file penalty (25%)			\$100,100
Late payment interest			3% to 8%
Prison time			27 months
Year 2001			
Income reported	\$230,000		
Income omitted	\$402,000		
Tax paid		\$55,000	
Tax rate on income omitted		0.380	
Tax on omitted income		\$152,000	
Tax evasion penalty (75%)			\$114,000
Failure to file penalty (25%)			0
Late payment interest			3% to 8%
Prison time			6 months
Year 2006			
Perjury and personal conduct before and during the trial			18 months
Year 2011			
Failure to file amended return			9 months

The table presents a summary of the income amounts, taxes, and penalties related to the Hatch case.

Figure I: The Altered Notice of Amount Due

ORDER TO MONETIZE

Notice CP304
DATE: October 19, 2011
Social Security number: [redacted] 7037

LOS ANGELES CA 90068 3091536

Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number [redacted]-7037, the tax year (2000), and the form number (1040) on your payment and any correspondence.

Pay to the order of: The United States Treasury
INTERNAL REVENUE SERVICE
Amount due immediately \$1,438,240.79

One million four hundred thirty eight thousand two hundred forty and ⁷⁹/₁₀₀ dollars

[redacted] 037 SQ HATC 30 0 200012 670 00143824079

Richard Holman Hatch, Jr.
by Richard Holman Hatch, Jr. Agent
Exemption # 7037

Figure I shows Hatch’s year 2000 notice of amount due, including penalties and interest, together with his written notes on the document.