Tax Evasion and Welfare Fraud – What’s the difference?

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Primary Issue

Ways in which we treat people receiving welfare benefits differently from other people
**What’s the difference?**

<table>
<thead>
<tr>
<th></th>
<th>Tax Evasion</th>
<th>Welfare Fraud</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of crime</td>
<td>Financial fraud</td>
<td>Financial fraud</td>
</tr>
<tr>
<td>Action</td>
<td>Deliberate</td>
<td>Deliberate</td>
</tr>
<tr>
<td>How measured?</td>
<td>Can be quantified</td>
<td>Can be quantified</td>
</tr>
<tr>
<td>Victim</td>
<td>State and society</td>
<td>State and society</td>
</tr>
<tr>
<td>Outcome</td>
<td>Fewer resources to invest in society</td>
<td>Fewer resources to invest in society</td>
</tr>
<tr>
<td>Key difference</td>
<td>Not paying tax legally due</td>
<td>Taking more from the welfare system than legally entitled</td>
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</tbody>
</table>

**Benefit Fraud and Tax Evasion - The Size of the Issue (NZ$ 2015/16)**

- Benefit fraud: NZ$24,174,000
- Tax position differences: NZ$1,200,000,000
Investigations & Prosecutions

- Investigations: approximately 5% of welfare beneficiaries per annum vs 0.01% of taxpayers
- Prosecutions: 600-900 per annum for welfare fraud vs 60-80 for tax evasion

Sentencing

- Over six years (2008/09 – 2013/14)
- Average tax evasion $229,471 – 18% received a prison sentence (all prosecutions)
- Average welfare fraud $76,550 – 67% received a prison sentence (most serious cases)
Repayment?

- Tax: two cases – one in full, one $5,000
- Welfare: “Reparation order not sought: the Ministry will recover the full amount of the overpayment directly from the Defendant”

Debt Recovery

- Comparison using:
  - The Inland Revenue Department (IRD): responsible for largest proportion of government revenue (91%)
  - The Ministry of Social Development (MSD): responsible for largest proportion of government expenditure (37%)
Debt Recovery Processes

<table>
<thead>
<tr>
<th></th>
<th>Tax (Inland Revenue)</th>
<th>Welfare (Social Development)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt</td>
<td>$6 billion</td>
<td>$1 billion</td>
</tr>
<tr>
<td></td>
<td>Average debt per taxpayer in debt $14,479</td>
<td>Average debt per beneficiary in debt $2,523</td>
</tr>
<tr>
<td>Deduction notices</td>
<td>73,013 (1% of taxpayer)</td>
<td>36,269 (12% of beneficiaries)</td>
</tr>
<tr>
<td>Debt written off:</td>
<td>$435 million (plus around 50% of penalties &amp; interest)</td>
<td>$8.7 million</td>
</tr>
<tr>
<td>Instalments</td>
<td>13%</td>
<td>88%-92% (and from NZ Super)</td>
</tr>
<tr>
<td>Cost of debt recovery</td>
<td>$2.86 / $100</td>
<td>$17 / $100</td>
</tr>
<tr>
<td>General approach</td>
<td>Recovery must not be an inefficient use of resources</td>
<td>All monies owed to the Crown are actively pursued and debts remain with each individual until all avenues to recover have been exhausted</td>
</tr>
<tr>
<td>Serious hardship</td>
<td>Written off if taxpayer is unable to meet normal community standards of living</td>
<td>Does not preclude recovery</td>
</tr>
</tbody>
</table>

Hardship: for tax

- Significant financial difficulties that arise where:
  - the taxpayer or their dependant has a serious illness;
  - the taxpayer would be unable to meet: minimum living expenses estimated according to normal community standards of cost and quality; the costs of medical treatment for an illness or injury of the taxpayer or their dependant; the cost of education for the taxpayer’s dependants;
  - or other factors that the Commissioner thinks relevant
Hardship: for welfare

• “negotiating realistic repayment rates with debtors so that significant hardship is not caused”
• “hardship does not necessarily preclude recovery”
• In “exceptional circumstances” payment may be temporarily deferred until a person’s financial circumstance improves in order that significant hardship is not caused

A further issue…

• Amendments to the Social Security Act 1964 in 2014
• Allows for:
  – Partners of people engaging in welfare fraud to be prosecuted for the crime
  – Partners of people engaging in welfare fraud to be jointly liable for the debt
• Where the partner ‘knew, or ought to have known’ of the fraud
• Around 300,000 people receiving a main welfare benefit
• 208 cases of relationship fraud in 2014 (0.07%)
• No ‘positive act’ required – departure from general principles of criminal law
• Symmetry of treatment: no attempt to hold partners of those who engage in other forms of financial offending similarly liable (e.g. tax evasion)

• Revenue negative ($1.2M additional costs)
• As at August 2016, $200K collected
• Changes result in no gain from an equity or economic perspective
• Precedent for targeting vulnerable groups in society for more punitive treatment in the justice system?
What is income?

- Money from begging / other gifts?
  - Not taxable as income in New Zealand
  - But is income for welfare purposes
  - any money received or the value in money’s worth … by the person which is not capital (except as hereinafter set out); and includes … any periodical payments made, and the value of any credits or services provided periodically, from any source for income-related purposes and used by the person for income-related purposes
Is a loan ‘income’?

• For tax purposes?
• For welfare purposes?

Questions raised

• Blue-collar offence / offender is not an aggravating factor
• White-collar offence / offender is not a mitigating factor

• Treating people as equals?
Thank you

Questions / Comments?