Tulane Economics Working Paper Series

Tax Compliance, Social Norms, and Influencers

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Working Paper 2413
December 2024

Abstract

While attaining perfect tax compliance is unachievable, more can and must be done. In the past, the country has relied primarily on a traditional system of sticks (e.g., audits and penalties) and carrots (e.g., refunds and whistleblower awards) to help narrow the "tax gap," or the difference between what taxpayers owe in taxes and what they actually pay. Now, in the social media era, Congress and the Internal Revenue Service (IRS) should look beyond these traditional enforcement mechanisms. To achieve an even higher voluntary compliance rate, this article advocates for policymakers to invest greater resources to enhance the social norm related to tax compliance. While scholars have long suggested that social norms play a role in tax compliance, this article suggests a revolutionary approach, one that attempts to foster a social norm of compliance by employing the use of social media influencers. The internet and other electronic media have revolutionized and amplified the stunning impact that influencers can have. Virtually everyone, particularly the younger generation, is keenly aware of the dramatic impact that influencers can have in shaping social norms. Now is thus the time for Congress and the IRS to capitalize on this power by strategically employing social media influencers. A well-crafted influencer campaign could educate taxpayers on how to fulfill their tax obligations, remind taxpayers of the laudatory impact of the tax system, and foster a positive social norm of compliance. Such a change in compliance orientation could help policymakers narrow the tax gap, yielding billions of dollars of additional tax revenue without the need to raise tax rates.

Keywords: Tax compliance, tax gap, social norms, social media, influencers, nudges
JEL codes: H2, H26, D91

TAX COMPLIANCE, SOCIAL NORMS, AND INFLUENCERS

James Alm, Jay A. Soled & Kathleen DeLaney Thomas*

Abstract: While attaining perfect tax compliance is unachievable, more can and must be done. In the past, the country has relied primarily on a traditional system of sticks (e.g., audits and penalties) and carrots (e.g., refunds and whistleblower awards) to help narrow the "tax gap," or the difference between what taxpayers owe in taxes and what they actually pay. Now, in the social media era, Congress and the Internal Revenue Service (IRS) should look beyond these traditional enforcement mechanisms. To achieve an even higher voluntary compliance rate, this article advocates for policymakers to invest greater resources to enhance the social norm related to tax compliance. While scholars have long suggested that social norms play a role in tax compliance, this article suggests a revolutionary approach, one that attempts to foster a social norm of compliance by employing the use of social media influencers. The internet and other electronic media have revolutionized and amplified the stunning impact that influencers can have. Virtually everyone, particularly the younger generation, is keenly aware of the dramatic impact that influencers can have in shaping social norms. Now is thus the time for Congress and the IRS to capitalize on this power by strategically employing social media influencers. A well-crafted influencer campaign could educate taxpayers on how to fulfill their tax obligations, remind taxpayers of the laudatory impact of the tax system, and foster a positive social norm of compliance. Such a change in compliance orientation could help policymakers narrow the tax gap, yielding billions of dollars of additional tax revenue without the need to raise tax rates.

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I. INTRODUCTION

Historically, promoting tax compliance has been challenging.[1] Akin to the approach of other industrialized nations, the United States relies primarily upon a series of "sticks," such as audits and penalties, to coax taxpayers to fulfill their civic duties.[2] As evidenced by the size of the "tax gap"—the difference between what taxpayers owe in tax and what they actually pay—this approach has proven somewhat effective.[3] The voluntary compliance rate in the United States is about 85 percent, meaning that the majority of taxes are paid on time and without enforcement efforts.[4] However, this compliance rate has been remarkably stable over the past several decades, indicating that there have been no significant improvements over time.[5] More can and should be done to boost tax compliance.

There are many reasons why people pay (or do not pay) their taxes. One reason is the "stick" of enforcement activities by the tax administration; this enforcement paradigm has long been the standard administrative tool for improving tax compliance.[6] There is also the "carrot" of positive incentives for honesty.[7] Both sticks and carrots focus mainly on the financial incentives facing individuals when they choose to pay—or not to pay—their taxes. Still, there are additional factors that motivate tax compliance.

There is increasing evidence from recent behavioral research studies that individuals are influenced by the social context in which decisions are made.[8] Relatedly, there is much evidence

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1 *See generally* Michael Keen & Joel Slemrod, REBELLION, RASCALS, AND REVENUE (Princeton Univ. Press 2021) (presenting a historical overview of the tax shenanigans that taxpayers have employed over the years to mitigate their tax burdens).

2 *See, e.g.*, Dennis J. Ventry Jr., *Cooperative Tax Regulation*, 41 CONN. L. REV. 431 (2008) ("Currently, tax regulation in the United States relies too heavily on sticks and not enough on carrots.").

3 *See generally* Robert E. Brown & Mark J. Mazur, *IRS's Comprehensive Approach to Compliance Measurement*, 56 NAT'L TAX J. 689 (2003) (describing the nature of the tax gap and how it is measured); Mark J. Mazur & Alan H. Plumley, *Understanding the Tax Gap*, 60 NAT'L TAX J. 569 (2007) (same); Eric Toder, *What Is the Tax Gap?*, 117 TAX NOTES 367 (2007) (same).

4 *See* MELANIE R. KRAUSE ET AL., INTERNAL REVENUE SERV., TAX GAP PROJECTIONS FOR TAX YEARS 2020 & 2021, at 4 (5869 pub. 2024), https://www.irs.gov/pub/irs-pdf/p5869.pdf ("The gross tax gap is the amount of true tax liability that is not paid voluntarily and timely. The projected annual gross tax gap for TY 2021 is $688 billion. . . . The voluntary compliance rate (VCR) is a ratio measure of relative compliance and is defined as the amount of 'tax paid voluntarily and timely' divided by 'total true tax,' expressed as a percentage. The projected VCR is 84.9 percent.").

5 *See The Tax Gap*, IRS.GOV (Sept. 13, 2024), https://www.irs.gov/newsroom/the-tax-gap [http://perma.cc/NNL9-7GNW] (finding 85.1 percent voluntary compliance rate for tax years 2017–2019, 83.6 percent for tax years 2011–2013, and 83.8% for tax years 2006–2008).

6 *See, e.g.*, James Alm & Benno Torgler, *Do Ethics Matter?: Tax Compliance and Morality*, 101 J. BUS. ETHICS 635, 646 (2011) ("Under . . . the traditional *'enforcement' paradigm* . . . taxpayers are viewed and treated as potential criminals, and the emphasis is exclusively on repression of illegal behavior through frequent audits and stiff penalties. This has been the conventional paradigm of tax administrations throughout history, and it fits well the standard economic model of tax evasion based on the economics-of-crime theory.").

7 *See, e.g.*, Lars P. Feld & Bruno S. Frey, *Tax Compliance as the Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation*, 29 L. & POL'Y 102, 110 (2007) ("[I]t appears to be common knowledge among psychologists that rewards lead to better outcomes than punishment.").

8 *See, e.g.*, Janice Nadler, *Expressive Law, Social Norms, and Social Groups*, 42 L. & SOC. INQUIRY 60, 60 (2017) ("To understand how law works outside of sanctions or direct coercion, we must first appreciate that law does

that human behavior is driven by a multitude of noneconomic factors, such as fairness, altruism, reciprocity, empathy, sympathy, trust, guilt, and shame.[9] Regardless of the specific term that is used, this research basically concludes that one's own *individual* behavior is strongly influenced by the behavior of the *group* with which one identifies.[10] The catchall term *social norm* aptly characterizes the interlocking web of interactions that guide individual behavior in group settings.[11] Social norms can be thought of as informal rules that people follow to foster belonging with their group, as distinct from following formal rules to avoid legal repercussions.[12] Simply put, research suggests people may comply with the tax law, in part because they perceive that there is a social norm of doing so, and they desire to cooperate with their social group.[13]

However, while the importance of a social norm in tax compliance is increasingly recognized,[14] the largely unanswered question is how to strengthen this social norm. At present, there is some new and suggestive research on specific actions that government might take to improve the social norm of tax compliance.[15] These actions include policies like allowing taxpayers to participate more fully in how their taxes are spent, such as by letting them vote on the

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not generally influence individual behavior in a vacuum, devoid of social context. Instead, the way in which people interact with law is usually mediated by group life."). The "father" of modern sociology, Émile Durkheim concurred with this point, namely, the importance of our social interactions, in his seminal work entitled THE DIVISION OF LABOUR IN SOCIETY (George Simpson trans., Free Press 1960) (1893).

9 *See* Nadler, *supra* note 8, at 70 ("People do not think about themselves and others as a collection of individuals; people instead tend to think in terms of social clusters, and assign themselves and others to those clusters.").

10 *See, e.g.*, Dan M. Kahan, *Trust, Collective Action, and Law*, 81 B.U. L. REV. 333, 334 (2001) ("When [humans] perceive that others are behaving cooperatively, individuals are moved by honor, altruism, and like dispositions to contribute to public goods even without the inducement of material incentives. When, in contrast, they perceive that others are shirking or otherwise taking advantage of them, individuals are moved by resentment and pride to retaliate.").

11 *See, e.g.*, Alm & Torgler, *supra* note 6, at 646 ("[A] *'trust' paradigm* . . . is consistent with the role of morality, of social norms, and of other 'behavioral economics' factors in the compliance decision."); Kahan, *supra* note 10, at 335 ("A growing body of empirical research suggests that the willingness of individuals to contribute to public goods turns decisively on whether they trust each other. The disposition of individuals to reciprocate—to cooperate when they anticipate that others will cooperate and to withhold cooperation when they anticipate that others will withhold—is often stronger, this research suggests, than their drive to maximize their material wealth.").

12 *See, e.g.*, James Alm, *Devising Administrative Policies for Improving Tax Compliance*, 70 CAN. TAX J. 49 (Supp. 2023) ("[A] social norm is an informal rule of behavior that individuals follow for reasons largely distinct from the fear of legal penalties. Thus, if others behave according to some socially accepted norm of behavior, the individual will do likewise; if others do not so behave, the individual will respond in kind.").

13 *See infra* Part III.B.

14 *Id.*

15 *See, e.g.*, James Alm, *Trust, the Pandemic, and Public Policies*, 75 NAT'L TAX J. 355, 355 (2022) ("[T]here is much emerging evidence that trust—and especially trust in government—is a major factor in shaping the effectiveness of public policies. In particular, when trust in government is weak, many government policies do not achieve their goals because people simply do not follow the government's laws, regulations, and directives. There is also much emerging evidence that trust is not fixed and given and immutable, mainly determined by a country's history and culture and institutions, as was once believed. Instead, recent evidence indicates that trust can vary significantly, even over short periods of time. Indeed, there is growing research that trust in government can be affected in systematic ways by systematic policy interventions.").

use of their tax dollars.[16] Other possible policies to bolster the social norm of tax compliance include targeting certain groups (e.g., new businesses or employees) in order to reinforce that paying taxes is the appropriate social norm; enlisting other organizations to promote compliance so that paying taxes is the accepted pattern of behavior; avoiding policies that lead individuals to think cheating is "OK"; and addressing perceived inequities in the ways people feel that they are treated.[17] The general thrust of these strategies is to demonstrate to taxpayers that there is a social norm of paying taxes and that they and their fellow citizens receive something in return for their tax payments, all of which in turn improve citizen trust in government.[18] However, the effectiveness of such policies remains uncertain.

To achieve an even higher voluntary compliance rate, this Article suggests an alternative and revolutionary approach that builds upon this emerging evidence on the role of social norms. Beyond the sticks and carrots of the traditional enforcement paradigm, this Article argues that the Internal Revenue Service (IRS) should appeal to a social norm of tax compliance to encourage taxpayers to accurately report and pay their taxes.[19] Such a change in compliance orientation would help policymakers narrow the tax gap, yielding additional tax revenue without the need to raise tax rates.[20]

How might this social transformation be achieved? Enter social media influencers.

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[16] *See, e.g.*, James Alm, Betty R. Jackson & Michael McKee, *Fiscal Exchange, Collective Decision Institutions, and Tax Compliance*, 22 J. ECON. BEHAV. & ORG. 285 (1993) (demonstrating that when taxpayers can direct their tax dollars on public policy objectives, they are more likely to be tax compliant); James Alm, Gary H. McClelland & William D. Schulze, *Changing the Social Norm of Tax Compliance by Voting*, 52 KYKLOS 141 (1999) (same).

[17] *See, e.g.*, Amitai Etzioni, *Social Norms: Internalization, Persuasion, and History*, 34 L. & SOC'Y REV. 157, 164 (2000) ("Moreover, the different sources of compliance produce expected consequences: studies of taxpayers, for instance, show that they are much more compliant with the law and much less resentful when they feel that tax laws square with prevailing social norms of fairness (e.g., a fair sharing of the burden) and when they believe that the funds are being used for, what they consider to be, legitimate goals than if taxpayers comply merely because they fear being caught if they cheat.").

[18] *See, e.g.*, Alm, *supra* note 12 (stressing the importance of reciprocity in fostering tax compliance); *see also* Brian Netter, *Avoiding the Shameful Backlash: Social Repercussions for the Increased Use of Alternative Sanctions*, 96 J. CRIM. L. & CRIMINOLOGY 187, 202 (2005) ("This is our prototype for Homo reciprocans: an organism that is willing to contribute his fair share for the common good but only so far as the contribution is mutual."); Werner Güth, Rolf Schmittberger & Bernd Schwarze, *An Experimental Analysis of Ultimatum Bargaining*, 3 J. ECON. BEHAV. & ORG. 367 (1982) (depicting empirical evidence that when it comes to social interactions, humans tend to demonstrate fairness and common decency).

[19] Advocating changes in social norms as a way of improving tax compliance is hardly new or unique. *See, e.g.*, Leandra Lederman, *The Interplay Between Norms and Enforcement in Tax Compliance*, 64 OHIO ST. L.J. 1453 (2003) ("Studies do show that appeals to normative beliefs about honesty in taxpaying play an important role [in fostering tax compliance]."); Marjorie E. Kornhauser, *A Tax Morale Approach to Compliance: Recommendations for the IRS*, 8 FLA. TAX REV. 599, 602–03 (2007) ("The key to the puzzle is 'tax morale,' the collective name for all the non-rational factors and motivations—such as social norms, personal values and various cognitive processes—that strongly affect an individual's voluntary compliance with laws. Higher tax morale correlates with higher tax compliance."); Ventry, *supra* note 2 (suggesting various reforms to change taxpayer attitudes regarding tax compliance). Where this article differs is the suggested mode to achieve this objective.

[20] *See, e.g.*, Eric A. Posner, *Law and Social Norms: The Case of Tax Compliance*, 86 VA. L. REV. 1781 (explaining the interconnectedness between social norms and tax compliance).

Influencers are those individuals on Instagram, TikTok, and other social media platforms who dominate the bandwidth of pop culture.[21] In pre–social media years, there were many influencers of a different sort who spurred various social initiatives. Prominent examples from the past include “Uncle Sam,” who encouraged individuals to enlist in the armed forces by promoting feelings of patriotism, and the imaginary “Rosie the Riveter,” who was the star campaigner to recruit women to work for the defense industry during World War II.[22] Now, in the technological age in which social media predominates, influencers have become ubiquitous, guiding everything from food choices to fashion to dating etiquette.[23]

To date, the IRS has not tapped into the power of influencers to help galvanize the tax compliance social norm. This is a mistake. The deployment of influencers could have a major salutary effect on tax compliance, at a relatively low cost to the government.

The use of influencers is not without some questions. For example, how would influencers be recruited, and, especially, who would be willing to work with the IRS on improving tax compliance? Also, how many individuals seem likely to be affected by influencers, and how much additional tax would these individuals report? These questions are at present unanswered. Still, as demonstrated by influencers’ impacts in many other dimensions of behavior, their potential use in improving tax compliance warrants consideration.

This Article is the first to examine the potential impact of influencers on strengthening the tax compliance norm. Part II supplies background information regarding traditional methods of bolstering tax compliance. Part III examines other approaches to explain why people pay taxes, focusing mainly on the role of social norms. Part IV explores the world of influencers and the impact they command. Part V then details how influencers, if given the opportunity, could play a vital role in fostering tax compliance, as well as what challenges might arise from this approach. Part VI concludes.

II. TRADITIONAL TAX COMPLIANCE METHODS

An axiom of any good tax system is that a healthy percentage of its taxpayers must be compliant.[24] In the United States, the nation’s voluntary compliance rate is relatively high, at least

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[21] *See infra* Part IV.

[22] *See, e.g.*, Thomas H. Bivens, *The Body Politic: The Changing Shape of Uncle Sam*, 64 JOURNALISM Q. 13 (1987) (arguing that the cartoon representation of “Uncle Sam” emerged over time as the symbol of the United States, a symbol that was eventually invoked to encourage men to enlist – ”I WANT YOU FOR U.S. ARMY”); and Lukas R.A. Wilde & Shane Denson, *Historicizing and Theorizing Pre-Narrative Figures – Who is Uncle Sam?*, 30 NARRATIVE 152 (2022) (same). Also, *see, e.g.*, Barclay Rogers, *Communicating Climate Change: Strategies to Motivate the Agricultural Sector*, 3 KY. J. EQUINE, AGRIC. & NAT. RES. L. 1, 26 (2011) (“The Rosie the Riveter campaign, with the tag line ‘We Can Do It!’ appealed to a sense of patriotism as well as feminist values. Women entered the workforce in droves following the campaign, helping to win the war and forever changing workplace stereotypes. It was a tremendous communications success that has become deeply embedded in the nation’s identity.”).

[23] *See infra* Part IV.

[24] *See, e.g.*, Leandra Lederman, *Does Enforcement Reduce Voluntary Tax Compliance?*, 2018 BYU L. REV. 623, 692 (2018) (“Given the importance to the government of tax compliance, it is important to know whether and when deterrence works.”).

relative to most other industrial countries.[25] As last measured, the so-called tax gap—the difference between what taxpayers owe in taxes and what they pay—hovers in the mid-80 percent range.[26]

There are many reasons that the U.S. compliance rate is relatively high. A major factor is that the Internal Revenue Code (Code) mandates the issuance of many third-party tax information returns (e.g., Form 1099 or Form W-2), which tend to keep taxpayers forthright in their reporting practices.[27] Information returns, which are sent to both the taxpayer and the IRS, provide the government with crucial enforcement information and discourage taxpayers from cheating.[28] Much of the high compliance observed in the United States is attributable to income that is subject to information reporting.[29] For employee wages, which are both reported on a Form W-2 and subject to withholding, compliance is nearly perfect (99%); income that is not subject to withholding but still subject to information reporting (e.g., interest and dividends) is also reported accurately at very high rates (94%).[30] By contrast, in the absence of third-party tax information returns, the taxpayer compliance rate plummets to less than 50%.[31]

To encourage taxpayers to report honestly when the IRS does not receive third-party tax information returns, policymakers have traditionally relied upon economic deterrence theory.[32] This theory assumes that taxpayers weigh the risk of being audited and the penalties associated with cheating with the potential tax savings that a particular illicit tax strategy might achieve, and,

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[25] *See, e.g.*, W. Edward Afield, *Dining with Tax Collectors: Reducing the Tax Gap Through Church-Government Partnerships*, 7 RUTGERS BUS. L.J. 53, 65 (2010) ("Some scholars have relied on the United States' relatively high tax compliance rate to argue that the United States has a generally positive culture of compliance, particularly in comparison to the rest of the world."); Robert Cooter, *Do Good Laws Make Good Citizens?: An Economic Analysis of Internalized Norms*, 86 VA. L. REV. 1577, 1579 (2000) ("Whereas economic models of self-interest predict low rates of tax compliance, some countries, like the United States and Switzerland, enjoy unusually high rates of tax compliance."); M. Bernard Aidinoff et al., *Report and Recommendations on Taxpayer Compliance*, 41 TAX LAW. 329, 329 (1988) ("The United States income tax system has one of the highest voluntary compliance levels in the world.").

[26] *See* KRAUSE ET. AL., *supra* note 4.

[27] *See* Jay A. Soled, *Homage to Information Returns*, 27 VA. TAX REV. 371 (2007).

[28] Professor Leandra Lederman compares this effect to red-light cameras that catch drivers running red lights: "[T]he taxpayer is aware the government is watching." Leandra Lederman, *Reducing Information Gaps to Reduce the Tax Gap: When Is Information Reporting Warranted?*, 78 FORDHAM L. REV. 1733, 1737–38 (2010); *see also* Soled, *supra* note 26 (arguing that by expanding information returns beyond W-2s and Form 1099s, Congress can achieve higher taxpayer compliance.)

[29] *See, e.g.,* CONG. BUDGET OFF., TRENDS IN THE INTERNAL REVENUE SERVICE'S FUNDING AND ENFORCEMENT, fig.4 (July 2020), https://www.cbo.gov/publication/56467#footnote-062-backlink [https://perma.cc/DV5Z-372V] (visually depicting how third-party information returns play a critical role in tax compliance); *see also* Leandra Lederman & Joseph C. Dugan, *Information Matters in Tax Enforcement*, 2020 BYU L. REV. 145, 145–46 (explaining that the "government needs information about taxpayers' transactions in order to determine whether their reporting is honest" and that third-party reporting helps the government obtain that information).

[30] KRAUSE ET AL., *supra* note 4, at 16 fig.4.

[31] Id. (55 percent noncompliance rate (i.e., 45 percent compliance rate) for income that is not subject to information reporting).

[32] *See, e.g*., Michelle M. Kwon, *Dysfunction Junction: Reasonable Cause and Good Faith Reliance on Tax Advisors with Conflicts of Interest*, 67 TAX LAW. 403, 410 (2014) ("Under a deterrence theory of tax compliance, civil tax penalties encourage taxpayers to compute their taxes accurately and to make timely payment of those taxes, thereby promoting voluntarily [sic] compliance in a self-assessment system by making noncompliance more costly.").

if the expected costs outweigh the expected benefits, then they will gravitate toward being compliant.[33]

A numerical example illustrates this point. Suppose a taxpayer is considering whether to report an extra $100,000 that she earned as part of a one-month overseas excursion, upon which $40,000 of income tax would be due. Suppose further that if the taxpayer fails to report the income and the associated tax, then the chances of this dereliction being detected are 5 percent and the concomitant penalty would be 20% of the unpaid tax, or $8,000 (i.e., $40,000 x 0.20).[34] Under these circumstances, deterrence theory holds that a rational taxpayer would not report this income because the tax savings associated with noncompliance (i.e., $40,000 of tax saved) greatly outweigh the expected cost of not reporting, which is only $2,400.[35] If the chances of detection and penalties significantly increased (say, each to 75%), deterrence theory indicates that this taxpayer would now refrain from undertaking this tax cheating strategy of not reporting as the expected cost would be much higher ($52,500).[36]

In practical terms, economic deterrence theory suggests that taxpayers undergo a constant weighing process in deciding whether to be tax-compliant.[37] Picture a two-sided scale: on one side is tax noncompliance, and on the other is tax compliance. Whichever side of the scale is higher will dictate the course of action that a taxpayer will choose. Subsection A discusses those "sticks" that Congress and the IRS employ to place downward pressure on the tax noncompliance side of the scale. This logic can also be applied to "carrots," or positive incentives/rewards for compliance; subsection B explores the rewards that Congress and the IRS hold out to lessen the weight on the tax compliance side of the scale.

A. Sticks

Clearly, taxpayers respond to the various financial incentives generated by the United States' deterrence-based tax enforcement regime.[38] Put somewhat differently, there is substantial

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[33] *See, e.g.*, Kathleen DeLaney Thomas, *The Psychic Cost of Tax Evasion*, 56 B.C. L. REV. 617, 618–19 (2015): ("Standard deterrence theory indicates that tax compliance can be improved by raising the expected monetary cost of evasion to taxpayers. This expected cost is a simple function of the probability of detection and the fine for evasion: If the government makes it more likely that an individual will be caught cheating or more expensive if that individual is caught, then she should be less likely to cheat. For example, a rational actor would not evade $100 of taxes if she had a fifty percent chance of incurring a $400 penalty (expected penalty of $200) or a five percent chance of incurring a $4,000 penalty (same).").

[34] The overall individual audit rate has been less than 1 percent in recent years, although the rate is higher for taxpayers with greater income. *See, e.g.*, *Compliance Presence*, IRS.GOV (Aug. 19, 2024), https://www.irs.gov/statistics/compliance-presence [https://perma.cc/963Z-KGGF ("The exam coverage rate for TY 2019 (the most recent year outside the statute of limitations period) of individual taxpayers reporting total positive income (TPI) of $10 million or more was 11.0 percent. The rate for taxpayers with TPI of $5 million–$10 million was 3.1 percent, and 1.6 percent for those with TPI of $1 million–$5 million.").

[35] This can be calculated as 0.05 (risk of detection) times $48,000 (the $40,000 tax owed plus an $8,000 penalty).

[36] Once again, the tax savings associated with noncompliance remain at $40,000, but the downside risk is now $52,500: 0.75 (risk of detection) times $70,000 (the $40,000 tax owed plus a $30,000 penalty).

[37] *See* Jingyuan Ma & Mel Marquis, *Corporate Culture and Competition Compliance in East Asia*, 15 S.C. J. INT'L L. & BUS. 1, 5 (2018) ("[O]ptimal deterrence theory—it revolves around the use of 'carrots' (fine reductions) and 'sticks' (criminal penalties) to induce compliance.").

[38] *See infra* notes 40-43.

evidence that the higher audit rates and greater penalties both improve compliance.[39] To illustrate, increasing audits almost always increases compliance; studies demonstrate that increasing audit rates by 10% generally will increase tax compliance by 2% to 4% (sometimes termed "specific deterrence").[40] Audits also typically have a spillover effect commonly known as "general deterrence," or an increase in compliance independent of revenues generated directly from the audits themselves.[41] There is also evidence that monetary fines improve compliance, although these effects, relative to audits, tend to be small.[42]

This research demonstrates that sticks are effective compliance tools that make taxpayers consider the financial and sometimes even incarceration risks associated with being noncompliant. Indeed, if taxpayers determine that these sticks are sufficiently onerous, they will generally opt to remain in the compliance fold.[43] The discussion below explores the nature of the various sticks that Congress, state legislatures, and the IRS employ to bolster tax compliance. Such sticks include the following: (1) civil and criminal penalties, (2) burdensome recordkeeping requirements, and (3) audit threats.

1. Civil and Criminal Penalties

The Code imposes a range of penalties upon taxpayers who are derelict in their tax reporting practices.[44] Such penalties can be grouped into three central categories; the first two are civil in nature, and the third is criminal.

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[39] *Id.*.

[40] *See, e.g.*, James Alm, Betty R. Jackson & Michael McKee, *Estimating the Determinants of Taxpayer Compliance with Experimental Data*, 45 NAT'L TAX J. 107 (1992) (finding that an increase in the audit rate of 10 percent yielded an increase in compliance of 2 percent for the subject group). For two additional studies that reach similar conclusions regarding the general effectiveness of tax audits, see Miguel Almunia & David Lopez-Rodriguez, *Under the Radar: The Effects of Monitoring Firms on Tax Compliance*, 10 AM. ECON. J.: ECON. POL'Y 1 (2018); and Jeffrey A. Dubin, Michael J. Graetz & Louis L. Wilde, *The Effect of Audit Rates on the Federal Individual Income Tax, 1977–1986*, 43 NAT'L TAX J. 395 (1990).

[41] The magnitude of this spillover effect varies from 4 to 12; that is, every dollar invested in tax compliance will yield between $4 to $12 of additional tax revenue, even beyond those who are audited. *See, e.g.*, Dubin, Graetz & Wilde, *supra* note 37, at 405 ("We estimate . . . that the spillover effects of audits produce six out of every seven dollars of additional revenue."); Jeffrey A. Dubin, *Criminal Investigation Enforcement Activities and Taxpayer Noncompliance*, 35 PUB. FIN. REV. 500, 523 (2007) ("[A]n additional dollar allocated to audit would return $63 in general deterrence."); James Alm, Betty R. Jackson & Michael McKee, *Getting the Word Out: Increased Enforcement, Audit Information Dissemination, and Compliance Behavior*, 93 J. PUB. ECON. 392, 401 ("We estimate that the indirect effect of audits, calculated as the taxes collected from those not audited divided by the total audit yield, is 4.4; that is, total taxes collected are 440% greater than the revenues directly collected via the audit process itself."); William C. Boning et al., *A Welfare Analysis of Tax Audits Across the Income Distribution* (Nat'l Bureau of Econ. Rsch., Working Paper No. w31376, 2023) ("We find an additional $1 spent auditing taxpayers above the 90th income percentile yields more than $12 in revenue, while audits of below-median income taxpayers yield $5.").

[42] *See, e.g.*, Alm, Jackson & McKee, *supra* note 36, at 110 ("Compliance increases with an increase in the fine rate; however, the coefficient on FINERATE is so small that the fine rate elasticity is virtually zero."); James Alm, Roy Bahl & Matthew N. Murray, *Tax Structure and Tax Compliance*, 72 REV. ECON. & STAT. 603, 612 (1990) ("[T]he penalty elasticity is –0.0810.").

[43] *See* Michael G. Allingham & Agnar Sandmo, *Income Tax Evasion: A Theoretical Analysis*, 1 J. PUB. ECON. 323 (1972) (explaining how hypothetical and purely rational taxpayers constantly weigh the risks and rewards associated with tax compliance).

[44] *See* I.R.C. §§ 6651–6751.

The first penalty category applies to those taxpayers who (i) fail to timely file their tax returns or (ii) fail to pay the taxes that they have reported on the tax returns that they have filed.[45] While the burdens associated with these derelictions vary, they can be quite onerous. For example, in the case of late filers, the penalty is 5 percent per month for every month that the return is not timely filed (up to a maximum of 25 percent).[46] and in the case of late payers, the penalty is .5 percent per month for every month that timely payment is not made (up to a maximum of 25 percent).[47]

The second penalty category pertains to those taxpayers who fail to report honestly their legally due tax liabilities on the tax returns that they have filed.[48] In such instances, a wide array of penalties can also apply, ranging from a general accuracy-related penalty[49] to a civil fraud penalty.[50] The burdens associated with these penalties also vary: in the case of negligence, the accuracy-related penalty is 20 percent on the underreporting;[51] in the case of more egregious taxpayer actions (e.g., a transaction that lacks economic substance),[52] the applicable penalty is 40 percent on the underreported tax liability;[53] finally, in the case of a taxpayer who commits civil fraud, the applicable penalty is 75 percent on the underreported tax.[54]

The third and final penalty category is applicable when a taxpayer commits a criminal violation that is tax related (e.g., a taxpayer "willfully attempts in any manner to evade or defeat any tax").[55] In such instances, the Department of Justice can commence a criminal proceeding against the taxpayer.[56] Beyond any monetary sanction that the taxpayer may endure, the taxpayer also risks years of incarceration.[57]

2. Recordkeeping Requirements

Another way in which the government deters cheating is through imposing exacting recordkeeping requirements in order to claim deductions.[58] Taxpayers are renowned for being poor

[45] I.R.C. § 6651(a)(1) & (2).
[46] *Id.* § 6651(a)(1).
[47] *Id.* § 6651(a)(2).
[48] I.R.C. §§ 6662(a) & 6663(a).
[49] *Id.* § 6662(a).
[50] *Id.* § 6663(a).
[51] *Id.* § 6662(a).
[52] *Id.* § 7701(o)(1).
[53] *Id.* § 6662(i).
[54] *Id.* § 6663(a).
[55] *Id.* § 7201.
[56] *See Id.* §§ 7201–7345.
[57] *See, e.g.*, I.R.C. § 7201 (stating that willful attempts to evade or defeat tax due and owing can result in prison sentences of up to five years).
[58] *See* I.R.C. § 274(d).

recordkeepers.[59] When they make estimates, there is anecdotal evidence that they often do so in their favor, potentially costing the government large amounts of lost revenue.[60]

In the 1930 case *Commissioner v. Cohan*,[61] the U.S. Court of Appeals for the Second Circuit was called upon to address the issue of taxpayer recordkeeping. In *Cohan*, the taxpayer claimed that certain expenses he incurred were deductible, but he failed to produce actual records to validate their legitimacy.[62] Judge Learned Hand held that, while taxpayers should be allowed to make approximations, courts should be skeptical about such estimates, holding taxpayers accountable for the shortcomings associated with their own "inexactitude."[63] This ruling and its progeny have opened the doors for taxpayers, even in the absence of retained records, to make good faith estimates.[64]

However, to keep taxpayers' possible derelictions in check and in recognition that the IRS lacks the resources to police all taxpayers' good faith estimates, legislative action was required. Thus, in 1962, Congress instituted Code section 274(d).[65] Going forward, to secure certain deductions for business and investment related to travel expenses, business gifts, and so-called listed property (e.g., business-related automobiles), good faith estimates would not suffice. Instead, taxpayers would have to produce actual records or else risk disallowance of the deduction in question.[66]

3. Audit Threats

[59] There are hundreds of cases that stand for the proposition that taxpayers are poor recordkeepers. Two recent ones are emblematic of taxpayers' derelictions: Cheam v. Comm'r, T.C.M. (RIA) 2023-23, at *2 (The taxpayers "failed to provide books and records sufficient to substantiate their reported income and expenses. Because of that failure, the Commissioner computed their taxable income through a bank deposits analysis."); Nath v. Comm'r, T.C.M. (RIA) 2023-023, at *2 (The taxpayers "failed to produce books and records from which to determine their income and expenses, so the Commissioner computed their income using a bank deposits analysis. Through the bank deposits analysis, the Commissioner uncovered unreported deposits, most of which were wire transfers from Cambodia."). For a sampling of older cases, see Comm'r v. Webb, 394 F.2d 366 (5th Cir. 1968) (holding that a taxpayer's poor recordkeeping led to the imposition of a fraud penalty); Est. of Olivo v. Comm'r, 102 T.C.M. (CCH) 35 (2011) (holding that a taxpayer's poor records resulted in the Tax Court disallowing a substantial deduction on a federal estate tax return for caregiving services); and Westbrook v. Comm'r, 66 T.C.M. (CCH) 1823 (1993) (holding that a veterinarian and his wife's poor records precluded their ability to treat farming activity as a business activity).

[60] *See* sources cited in n. 59, in which taxpayers' poor recordkeeping resulted underpaid tax.

[61] 39 F.2d 540 (2d Cir. 1930).

[62] Id. at 543 ("These expenses amounted to substantial sums, but he kept no account and probably could not have done so…. The Board refused to allow him any part of this, on the ground that it was impossible to tell how much he had in fact spent, in the absence of any items or details.").

[63] *Id.* at 544.

[64] *See, e.g.*, Smith-Hendricks v. Comm'r, No. 8213-12S, 2013 WL 1136514, at *3 (T.C. Mar. 19, 2013) ("When a taxpayer establishes that he or she paid or incurred a deductible expense but fails to establish the amount of the deduction, the Court normally may estimate the amount allowable as a deduction."); Vanicek v. Comm'r, 85 T.C. 731, 742 (1985) ("[I]t is within the purview of this Court to estimate the amount of allowable deductions where there is evidence that deductible expenses were incurred.").

[65] Revenue Act of 1962, Pub. L. No. 87-834, 76 Stat. 960, 975–76.

[66] I.R.C. § 274(d)(1)–(3).

The IRS routinely employs audit threats to keep taxpayer behavior in check.[67] As a general proposition, taxpayers deplore being audited, and rightfully so.[68] Audits are often costly, resource intensive, and time-consuming, with little or no potential upside.[69] To avoid the burdens associated with an in-depth tax audit, the Code implicitly incentivizes taxpayers to keep their books and records in pristine condition, restrict their aggressive impulses to cheat on their taxes, and even take measures designed to keep their tax-related dealings as transparent as possible (e.g., negation of penalties in those instances when taxpayers make adequate disclosure).[70]

B. Carrots

Just as Congress and the IRS seek to make taxpayers think twice before they shirk their tax responsibilities, the nation's legislative body and its tax enforcement arm have instituted measures that seek to make tax compliance attractive. While these forms of proverbial carrots come in many varieties, three salient ones are (1) tax refunds, (2) safe harbors, and (3) whistleblower awards.

1. Tax Refunds

In 1943, in the middle of World War II, Congress discovered the virtues associated with tax withholding and estimated tax payments.[71] Both withholding and estimated tax payments play a pivotal role in alleviating liquidity concerns that might otherwise beset taxpayers and their abilities to pay if they were required to make a single lump payment at the end of a particular reporting period.[72] These advanced payments can provide peace of mind to taxpayers when their tax returns are due, since they know they have already paid all or most of their tax liability during the prior year.

Even beyond alleviating liquidity concerns, withholding and estimated payments serve another fundamental role. Presumably by design, these remittance devices often result in tax overpayments. For example, in 2020 (the last year for which data are available), 76% of individual

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[67] *See, e.g.*, Leandra Lederman, *The Fraud Triangle and Tax Evasion*, 106 IOWA L. REV. 1153, 1205 (2021) ("[T]here is strong evidence that deterrence, particularly the threat of audit, is very effective at increasing tax payments."); Lederman, *supra* note 22, at 666 ("The general effectiveness of audit threats supports the notion that deterrence has positive rather than negative effects, as does the IRS's data on the indirect effects of audits and the deterrent effect of criminal tax prosecutions.").

[68] *See* IRS, *Comprehensive Taxpayer Attitude Survey 2021*, at 29-31, https://www.irs.gov/pub/irs-pdf/p5296.pdf (60 percent of taxpayers cite fear of audit as a reason they pay their taxes).

[69] *See, e.g.*, Camilla E. Watson, *Legislating Morality: The Duty to the Tax System Reconsidered*, 51 U. KAN. L. REV. 1197, 1215 (2003) ("Since these penalties are likely to be imposed only after an audit, which itself is resource-intensive, the Service may be more inclined to settle the issue in order to conclude the audit and to avoid protracted litigation.").

[70] I.R.C. § 6662(d)(2)(B).

[71] Current Tax Payment Act of 1943, Pub. L. No. 78-120, § 2, 57 Stat. 126, 128 (1943) (regarding withholding on wages); *Id.* § 5, 57 Stat. at 141 (mandating estimated payments).

[72] *See, e.g.*, Richard L. Doernberg, *The Case Against Withholding*, 61 TEX. L. REV. 595, 602 (1982) ("Partly because of the sudden increase in the number of individuals covered by the internal revenue laws in the early 1940s, some lawmakers had a paternalistic feeling that withholding would prevent many inexperienced taxpayers from being short of funds at the time their taxes came due.").

taxpayers received refunds, with the average refund being $3,745.[73] Such overpayments incentivize taxpayers to be compliant with their tax return filing obligations lest they forfeit receipt of their tax refunds. And refunds don't just encourage taxpayers to file; studies also show taxpayers are less likely to cheat on their tax return (for example, by overclaiming deductions) if they are owed a refund. [74] Even taxpayers who haven't made advance tax payments may file a tax return and/or report income in order to claim a refundable tax credit, such as the Earned Income Tax Credit.[75] The abundance of refunds is not an accident—they are strategically employed by Congress to galvanize taxpayer compliance.

2. Safe Harbors

The Code is replete with numerous safe harbors.[76] Among other things, such safe harbors provide two significant incentives to keep taxpayers compliant: they typically ease administrative burdens;[77] and, by providing certainty, they often bring peace of mind to taxpayers.[78]

Consider the standard mileage deduction.[79] Taxpayers who choose this option and who use their automobiles to engage in business travel do not have to keep all the records and receipts they receive related to every electric charge or gasoline fill-up, repair, and tune-up; they also do not need to retain such records and receipts for years to come.[80] Instead, those taxpayers who elect to utilize the standard mileage deduction must simply keep a log of those miles they drove that are business-related and then multiply this numerical figure by the standard mileage rate.[81] The allowable deduction is thus readily and easily computed.[82]

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[73] *See, e.g.*, Dan Avery, *States with the Biggest Tax Refunds: See How Yours Stacks Up*, CNET (2023), https://www.cnet.com/personal-finance/taxes/how-big-is-the-average-tax-refund-in-your-state/ [https://perma.cc/J38E-S5SA].

[74] *See, e.g.*, Paul Corcoro & Peter Adelsheim, *A Balance Due Before Remittance: The Effect on Reporting Compliance*, *in* RECENT RESEARCH ON TAX ADMINISTRATION AND COMPLIANCE: SELECTED PAPERS GIVEN AT THE 2010 IRS RESEARCH CONFERENCE 22–25 (2010) (demonstrating how the presence of a tax refund—as a opposed to a balance due—at the time of filing is linked to higher tax compliance); Henk Elffers & Dick J. Hessing, *Influencing the Prospects of Tax Evasion*, 18 J. ECON. PSYCH. 289, 292–93 (1997) (demonstrating the same).

[75] I.R.C. § 32. For a list of refundable tax credits, see *Refundable Tax Credits*, IRS.GOV (Feb. 23, 2024), https://www.irs.gov/credits-deductions/individuals/refundable-tax-credits [https://perma.cc./KY3C-E3MK].

[76] *See, e.g.*, Emily Cauble, *Safe Harbors in Tax Law*, 47 CONN. L. REV. 1385, 1385 (2015) ("Safe harbors pervade tax law.").

[77] *See, e.g.*, Glenn Walberg, *The All Events Tests in an Era of Self-Regulation,* 12 WM. & MARY BUS. L. REV. 329, 359 (2021) ("Consequently, for purposes of the recurring item exception, the Service introduced a safe-harbor method to reduce administrative burdens and controversy by deeming the all events test for a payroll tax liability satisfied in the same year that an employer satisfies the all events test for the related compensation liability.").

[78] *See, e.g.*, Peter P. Swire, *Safe Harbors and a Proposal to Improve the Community Reinvestment Act*, 79 VA. L. REV. 349, 372 (1993) ("Compared to a standard-based regime, the chief benefit of a safe harbor is a reduction in uncertainty.").

[79] I.R.C. § 274(d); Treas. Reg. § 1.274-5(j)(2).

[80] *See, e.g*., Januszewski v. Comm'r, 76 T.C.M. (CCH) 761 (imposing accuracy-related penalty when taxpayer failed to maintain adequate records to substantiate entitlement to deduct car expenses for gasoline, depreciation, insurance, repairs and maintenance, and licensure).

[81] *See* INTERNAL REVENUE SERV., PUBLICATION 463: TRAVEL, GIFT, AND CAR EXPENSES 14 (2022) (detailing the standard mileage deduction).

[82] Total business miles driven multiplied by the standard mileage rate generates a standard mileage deduction. Rev. Proc. 2019-46, § 7.01(1), 2019-49 I.R.B. 1301.

As evidenced by the standard mileage deduction, safe harbors can eliminate or, at the very least, obviate otherwise burdensome recordkeeping requirements.[83] Taxpayers who are thus inclined to be tax compliant can achieve this objective at far less cost and in far less time. The greater the number of safe harbors that Congress and the IRS can devise and institute to alleviate administrative burdens, the higher the corresponding higher tax compliance rate is likely to be.[84]

3. Whistleblower Awards

Code § 7623 provides that taxpayers who provide vital information to the IRS resulting in the collection of tax revenue are entitled to bounties, the percentage range of which varies between 15% and 30%.[85] With the enactment of this provision,[86] taxpayers have a clear financial incentive to inform the IRS of other taxpayers' derelictions.

One highly publicized whistleblower story was that of Bradley Birkenfeld and the Swiss bank UBS.[87] As an employee of UBS, Birkenfeld had access to all the bank's depositors. By delivering this account information to the IRS and offering a description of the various strategies that UBS offered its clients to avoid U.S. tax reporting, the IRS was able to collect hundreds of millions of dollars of additional tax revenue from taxpayers who had been derelict in disclosing the existence of these accounts.[88] For revealing this vital information, the IRS awarded the sum of $105 million to Birkenfeld—the largest whistleblower award to date under the statute.[89]

The revelations made by Birkenfeld have not proven unique. Many other taxpayers have submitted critical information to the IRS, which has allowed the agency the ability to prosecute claims against thousands of taxpayers who have been remiss in their reporting practices.[90] The result is the collection of billions of dollars of additional tax revenue.[91]

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[83] *See, e.g.,* IRS Rev. Proc. 2013-13 (providing a safe harbor for the home office deduction that allows a taxpayer to use a fixed formula rather than tracking actual home office expenses such as depreciation and utilities).

[84] *See, e.g.*, Jan-Emmanuel De Neve et al., *How to Improve Tax Compliance?: Evidence from Population-Wide Experiments in Belgium*, 129 J. POL. ECON. 1425 (2021) ("We find that simplification is far more cost-effective, allowing for substantial savings on enforcement costs."); Steve R. Johnson, *The 1998 Act and the Resources Link Between Tax Compliance and Tax Simplification*, 51 U. KAN. L. REV. 1013 (2003) (positing that there is a direct connection between tax simplification and tax compliance).

[85] I.R.C. § 7623(b)(1).

[86] Revenue Act of 1934, ch. 3792, 48 Stat. 680. For a historical overview of this provision, see Dennis J. Ventry Jr., *Whistleblowers and Qui Tam for Tax*, 61 TAX L. 357 (2008) (presenting abridged history of the whistleblower law).

[87] *See* STAFF OF PERMANENT SUBCOMM. ON INVESTIGATIONS, S. COMM. ON HOMELAND SEC. AND GOVERNMENTAL AFFS., 110TH CONG., REPORT ON TAX HAVEN BANKS AND U.S. TAX COMPLIANCE 2 (Comm. Print 2008), https://www.govinfo.gov/content/pkg/CHRG-110shrg44127/pdf/CHRG-110shrg44127.pdf ("UBS has an estimated 19,000 so-called undeclared accounts for U.S. citizens with an estimated $18 billion in assets that have been kept secret from the IRS.").

[88] *See, e.g.*, BRADLEY C. BIRKENFELD, LUCIFER'S BANKER: THE UNTOLD STORY OF HOW I DESTROYED SWISS BANK SECRECY (2016) (presenting Birkenfeld's personal account of the UBS scandal).

[89] *See, e,g.*, David Kocieniewski, *Whistle-Blower Awarded $104 Million by IRS*, N.Y. TIMES (Sept. 11, 2012), https://www.nytimes.com/2012/09/12/business/whistle-blower-awarded-104-million-by-irs.html.

[90] *See* I.R.S., *Whistleblower Office Annual Reports* (last visited June 25, 2024), https://www.irs.gov/compliance/whistleblower-office-annual-reports (showing that as a result of the whistleblower program, the IRS has collected billions of dollars of additional tax revenue over the last several years).

[91] *Id.*

Returning once again to the metaphoric two-sided scale of tax noncompliance and tax compliance, the United States has a respectable track record of keeping taxpayers' wayward tax tendencies in check by using various sticks and carrots.[92] The empirical evidence also supports the important role of economic deterrence in generating greater compliance.[93]

Notwithstanding these tools, tax noncompliance remains a constant and significant problem, particularly among the wealthy.[94] While it is impossible to enumerate all the tax schemes that taxpayers undertake, these plans include, but are not limited to, parking investments overseas and failing to report the income that such investments generate, investing in tax shelters that manufacture artificial losses, and camouflaging personal expenses as being deductible in nature.[95] Even among taxpayers who cannot afford elaborate tax avoidance schemes, there is significant underreporting of business income when it is not subject to third-party information reporting.[96] As a by-product, the country is on pace to lose nearly $700 billion annually in uncollected revenue.[97] These are funds that could be used to provide needed public services, reduce taxes, build infrastructure, and/or reduce the nation's debt.

Clearly, the enforcement paradigm that underlies deterrence theory has limits. Its basic conclusion is that an individual pays taxes because—and *only* because—of the economic consequences of detection and punishment.[98] Thus, a purely economic analysis of the evasion gamble suggests that most rational individuals should either underreport income not subject to withholding or overclaim deductions not subject to independent verification because it is extremely unlikely that such cheating will be caught and penalized.[99] This is an important insight

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[92] *See supra* note 4 (citing the high tax compliance rate in United States).

[93] *See, e.g.*, James Alm, *What Motivates Tax Compliance?*, 33 J. ECON. SURVEYS 365 (2019) ("Audits—both the level and the type of audit—matter and matter a lot.").

[94] Recently, ProPublica has run a series of various news stories indicating how the wealthy cheat on their taxes. *See, e.g.*, Jesse Eisinger, Jeff Ernsthausen & Paul Kiel, *When Billionaires Don't Pay Taxes, People "Lose Faith in Democracy,"* PROPUBLICA (Feb. 28, 2022, 5:00 AM), https://www.propublica.org/article/when-billionaires-dont-pay-taxes-people-lose-faith-in-democracy ("Last year, ProPublica began publishing 'The Secret IRS Files,' a series that has used a vast trove of never-before-seen tax information on the wealthiest Americans to examine their tax avoidance maneuvers."); Jesse Eisinger, Jeff Ernsthausen & Paul Kiel, *The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax*, PROPUBLICA (June 8, 2021, 5:00 AM), https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax.

[95] *See, e.g.*, Paul Kiel, *Ten Ways Billionaires Avoid Taxes on an Epic Scale*, PROPUBLICA (June 4, 2022, 5:00 AM), https://www.propublica.org/article/billionaires-tax-avoidance-techniques-irs-files (explaining the techniques the very wealthy employ to circumvent their tax obligations); Paul Kiel, *The Tax System Is So Upside Down That Millionaires and Billionaires Get Huge Breaks from Their Private Jets and Megayachts, Secret IRS Files Reveal*, FORTUNE (April 5, 2023, 12:48 PM), https://fortune.com/2023/04/05/tax-breaks-ultrawealthy-private-jets-megayachts-secret-irs-files-propublica/ (enumerating several of the tax ploys that the wealthy employ to dodge taxes).

[96] *See* KRAUSE ET AL., *supra* note 29, and accompanying text.

[97] *See* KRAUSE ET AL., *supra* note 4 (updated estimates on the magnitude of the tax gap in 2021).

[98] *See, e.g.*, J. T. Manhire, *There Is No Spoon: Reconsidering the Tax Compliance Puzzle,* 17 FLA. TAX REV. 623, 636 (2015) ("A deterrence 'purist' might conclude that individuals only comply because they are afraid of getting caught.").

[99] *See, e.g.*, James Alm & Michael McKee, *Audit Certainty, Audit Productivity, and Taxpayer Compliance*, 59 NAT'L TAX J. 801, 804 (2006) ("[A] standard result [of deterrence theory models] is that, given actual

with the obvious implication that the government can encourage greater tax compliance by changing the underlying elements of the taxpayer's benefit-cost calculation, especially by increasing audit and penalty rates.

But, research demonstrates that compliance cannot be explained entirely by purely financial considerations. The percentage of individual income tax returns that are subject to a thorough tax audit is generally quite small, almost always far fewer than 1 percent of all returns.[100] Similarly, the penalty on even fraudulent evasion fails to exceed the amount of unpaid taxes,[101] and these penalties are infrequently imposed.[102] Nonetheless, the voluntary tax compliance rate remains relatively high.[103] This observation suggests that individual compliance decisions must be affected by factors not captured by the basic approach of deterrence theory and tacitly raises the following important question: What other factors might help explain why people pay taxes?

One strand of academic research identifies a range of considerations (e.g., employer withholding) that shed light on the effectiveness of standard deterrence theory and where it falls short of the mark.[104] Another strand expands the scope of deterrence theory by introducing behavioral aspects of how individuals make decisions on their own and in group settings.[105] It is this second strand of research that is relevant here, especially the part of behavioral economics that incorporates group considerations.

The next section of this article discusses the role of group considerations in tax compliance, focusing on the role of one dominant factor—social norms—and the ways in which these norms may be affected by the recent rise of social media.

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audit and fine rates, most people should rationally choose to cheat."; "Despite what this model predicts, even in the least compliant countries evasion never rises to levels the deterrence theory would suggest, and in fact there are often substantial numbers of individuals in countries around the world who apparently pay all (or most) of their taxes all (or most) of the time. Said somewhat differently, although compliance varies significantly across countries and across taxes, compliance seldom falls to a level predicted by deterrence theory."); *see also* Jeff T. Casey & John T. Scholz, *Beyond Deterrence: Behavioral Decision Theory and Tax Compliance*, 25 L. & SOC'Y REV. 821 (1991) (explaining the multidimensional behavioral factors that affect tax compliance).

[100] *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-104960, TAX COMPLIANCE: TRENDS OF IRS AUDIT RATES AND RESULTS FOR INDIVIDUAL TAXPAYERS BY INCOME (2022), https://www.gao.gov/products/gao-22-104960 ("From tax years 2010 to 2019, audit rates of individual income tax returns decreased for all income levels. On average, the audit rate for these returns decreased from 0.9 percent to 0.25 percent.").

[101] I.R.C. § 6663(a) (taxing 75% of the amount underreported due to fraud).

[102] *See Report to the Congress on Penalty and Interest Provisions of the Internal Revenue Code*, DEP'T OF THE TREASURY, at tbl.3 (Oct. 1999), https://home.treasury.gov/system/files/131/Report-Penalty-Interest-Provisions-1999.pdf (showing that IRS civil fraud penalty imposition is virtually nonexistent).

[103] *See, e.g.*, James Alm, *supra* note 80, at 355 ("However, even in the least compliant countries evasion seldom rises to levels predicted by the purely economic analysis of deterrence theory, and in fact, there are often substantial numbers of individuals in countries around the world who apparently pay all (or most) of their taxes all (or most) of the time, regardless of the financial incentives they face from the enforcement regime.").

[104] *See, e.g.*, James Alm, Jeremy Clark & Kara Leibel, *Enforcement, Socio-Economic Diversity, and Tax Filing Compliance in the United States*, 82 S. ECON. J. 725 (2016) (identifying those factors that help bolster tax compliance, especially employer withholding and third-party information).

[105] *See, e.g.*, Nigar Hashimzade, Gareth D. Myles & Binh Tran-Nam, *Applications of Behavioral Economics to Tax Evasion*, 27 J. ECON. SURVEYS 941 (2013) (identifying and analyzing many behavioral economics considerations that both complicate and improve the ability of theory to predict taxpayer behavior).

III. THE ROLE OF SOCIAL NORMS IN TAX COMPLIANCE BEHAVIOR

There is abundant evidence that individuals are motivated not simply by financial self-interest but by a range of group notions such as social capital, customs, altruism, reciprocity, empathy, sympathy, trust, guilt, shame, morality, and alienation.[106] This body of research reveals that individual behavior is strongly influenced by the behavior of the group with which one identifies.[107]

In the realm of taxes, there is ample evidence that these group considerations influence compliance behavior. For example, studies show taxpayers care about how their effective tax rate compares to others; that is, if a taxpayer believes his/her tax rate is "too high" in comparison to the rate of others, then the taxpayer will tend to be less compliant.[108] Further, certain emotional behaviors can bear heavily on tax compliance. Thus, those taxpayers who are identified as (i) sympathetic (e.g., concern for another's well-being), (ii) empathetic (e.g., putting yourself in someone else's shoes), or (iii) patriotic (e.g., care for one's country) all tend to be more tax compliant.[109] Finally, and most relevant for this purpose, there is evidence that a social norm of tax compliance (or noncompliance) may affect taxpayer behavior.[110]

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[106] *See, e.g.*, James Alm, *Measuring, Explaining, and Controlling Tax Evasion: Lessons from Theory, Experiments, and Field Studies*, 19 INT'L TAX & PUB. FIN. 54, 63 (2012) (detailing how various factors such as "social norms, social customs, fairness, trust, reciprocity, tax morale, and even patriotism, as well as . . . individual notions of guilt, shame, morality, altruism, or alienation," can play determinative roles in shaping compliance).

[107] *See, e.g.*, Geoffrey P. Miller, *Norm Enforcement in the Public Sphere: The Case of Handicapped Parking*, 71 GEO. WASH. L. REV. 895, 898 (2003) ("[S]ocial norms are products of a desire to gain esteem, or a wish to signal others about one's propensity to be a reliable and cooperative person."); Daniel Gilman, *Of Fruitcakes and Patriot Games*, 90 GEO. L.J. 2387, 2391 (2002) ("[T]hat is, compliance with the norm serves as a signal that one is a 'good type,' a person (very substantially) likely to cooperate in any of the great many cooperative ventures."). For example, subjects in laboratory experiments are apt to pay more taxes when, together, as a group, they choose its use by voting than when the identical use is dictatorially imposed upon them. *See, e.g.*, Alm, Jackson & McKee, *supra* note 14; Alm, McClelland & Schulze, *supra* note 14; Lars P. Feld & Jean-Robert Tyran, *Tax Evasion and Voting: An Experimental Analysis*, 55 KYKLOS 197 (2002); Ingrid Wahl, Stephan Muehlbacher & Erich Kirchler, *The Impact of Voting on Tax Payments*, 63 KYKLOS 144 (2010); Sandro Casal et al., *Tax Compliance Depends on Voice of Taxpayers*, 56 J. ECON. PSYCH. 141 (2016).

[108] Numerous empirical studies confirm this proposition. *See, e.g.*, Michael W. Spicer & Lee A. Becker, *Fiscal Inequity and Tax Compliance: An Experimental Approach*, 33 NAT'L TAX J. 171 (1980); Charles T. Clotfelter, *Tax Evasion and Tax Rates: An Analysis of Individual Returns*, 65 REV. ECON. & STAT. 363 (1983); James Alm, Roy Bahl & Matthew N. Murray, *Tax Structure and Tax Compliance*, 72 REV. ECON. & STAT. 603 (1990); Jonathan S. Feinstein, *An Econometric Model of Income Tax Evasion and Its Detection*, 22 RAND J. ECON. 14 (1991); Alm, Jackson & McKee, *supra* note 37; James Alm, Isabel Sanchez & Anna de Juan, *Economic and Noneconomic Factors in Tax Compliance*, 48 KYKLOS 3 (1995); James Alm & Mohammed Yunus, *Spatiality and Persistence in U.S. Individual Income Tax Compliance*, 62 NAT'L TAX J. 101 (2009).

[109] *See, e.g.*, Roberta Calvet Christian & James Alm, *Sympathy, Empathy, and Tax Compliance*, 40 J. ECON. PSYCH. 62 (2014) (arguing that sympathy and empathy are motivating factors in tax compliance); Kai A. Konrad & Salmai Qari, *The Last Refuge of a Scoundrel?: Patriotism and Tax Compliance*, 79 ECONOMICA 516 (2012) (presenting evidence that patriotism affects tax compliance); Katharina Gangle, Benno Torgler & Erich Kirchler, *Patriotism's Impact on Cooperation with the State: An Experimental Study on Tax Compliance*, 37 POL. PSYCH. 867 (2016) (same); Giorgio Coricelli et al., *Cheating, Emotions, and Rationality: An Experiment on Tax Evasion*, 13 EXPERIMENTAL ECON. 226 (2010) (arguing that emotions affect tax compliance via their effect on how individuals make decisions); Uwe Dulleck et al., *Tax Compliance and Psychic Costs: Behavioral Experimental Evidence Using a Psychological Market*, 134 J. PUB. ECON. 9 (2016) (arguing that emotions affect tax compliance via their effect on how individuals make decisions).

[110] *See* Kornhauser, *supra* note 17; Lederman, *supra* note 17.

While there are many "social norm" definitions, one that captures its essence is as follows: "[It's] a rule without an official source (like a government), enforced without the threat of any kind of official sanction (legal action), yet complied with, nonetheless."[111] Essentially, social norms are "all rules and regularities concerning human conduct, other than legal rules and organizational rules."[112]

Like the sticks and carrots of economic deterrence discussed above (e.g., audits, penalties, and whistleblower awards), social norms can operate as a stick or a carrot. In terms of a stick, evidence shows that shaming taxpayers who evade taxes can encourage better tax compliance.[113] In terms of carrots, fostering a positive norm of compliance—for example, by publicizing the fact that most people comply with their taxes—may encourage taxpayers to report more honestly.[114] Both approaches are discussed below.

A. Social Norms as a Deterrent: Shaming

At its core, shaming involves publicizing a violation of a social norm. Social norms are important because they are what keep individual actors' behavior in check. They can be enforced informally and internally, by emotions involving guilt or embarrassment,[115] or they can be externally enforced by the person's social group shaming or ostracizing the violator.[116]

For shaming to be effective, research indicates that four elements must be present.[117] These elements include (1) an audience,[118] (2) that is in the offender's social group, [119] (3) that will react negatively toward the offender,[120] and (4) an offender to which shame has meaning.[121] If all four of these elements are present, the government's attempts to shame the actor are likely to prove effective in generating tax compliance.

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111 See Kate Klonick, Re-Shaming the Debate: Social Norms, Shame, and Regulation in an Internet Age, 75 MD. L. REV. 1029, 1035 (2016).

112 *See* Melvin A. Eisenberg, *Corporate Law and Social Norms*, 99 COLUM. L. REV. 1253, 1255 (1999).

113 *See infra* Part III.A.

114 *See infra* Part III.B.

115 *See* Robert C. Ellickson, *The Market for Social Norms*, 3 AM. L. & ECON. REV. 1, 3 (2001).

116 *See* Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623, 677–79 (1986) (discussing the relationship between norms and their enforcement vis-à-vis shaming).

117 *See generally* Toni M. Massaro, *Shame, Culture, and American Criminal Law*, 89 MICH. L. REV. 1880 (1991).

118 *Id.* at 1901–02 ("Shame is essentially public; if no one else knows, there is no basis for shame.").

119 *Id.* at 1902 ("The anxiety that shaming exploits is [the] fear of abandonment or isolation, usually from a social group or other community that is necessary or valuable to the individual.").

120 *Id.* at 1903 ("Shame requires a social encounter, an interaction between an individual and the group that exposes weaknesses or deficiencies in the individual and that reduces the post-shaming social standing or compromises her own idealized prior image.").

121 *See, e.g.*, JOHN BRAITHWAITE, CRIME, SHAME, AND REINTEGRATION 85–86 (1989) (noting that to be effective, shaming must have a negative effect on the offender).

Recognizing that publicizing social norm violations may curb unwanted behavior, many states have launched successful shaming campaigns for tax evaders.[122] Such campaigns generally involve publishing the names of tax offenders on the internet and making the list publicly available.[123] Over time, with broad publicity and improved content, these campaigns have proven increasingly effective.[124] Indeed, in the span of the last two decades, these efforts have yielded millions of dollars of additional state tax revenue.[125] The conclusion from these shaming campaigns is that taxpayers value their reputations in the larger community and wish to minimize their cognitive dissonance (or their self-assessment of being honest yet possibly cheating on their taxes).[126] Thus, anything that might impugn their reputation or their perceptions of themselves is something that taxpayers consider worth addressing and avoiding.[127]

The federal government is more constrained in its ability to use shaming as compared to states and localities due to statutory requirements under the Code to keep taxpayer information—such as audits—private.[128] However, criminal and civil court actions are public records, and the IRS does strategically publicize criminal enforcement activity against individual taxpayers.[129]

B. Using Social Norms to Encourage Tax Compliance

As previously mentioned, a social norm is a recognized, customary, and self-reinforcing pattern of behavior in which people participate, with the expectation that others will as well.[130]

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[122] *See, e.g.*, Elaine S. Povich, *To Collect Revenue, Some States Put Tax Scofflaws in Virtual "Stocks,"* PEW (May 28, 2015, 12:00 AM), https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/5/28/to-collect-revenue-some-states-put-tax-scofflaws-in-virtual-stocks ("Almost two-thirds of the states are punishing tax delinquents with a digital version of the Colonial practice of locking lawbreakers in stocks set up in the village square.").

[123] *Id.* ("It turns out publishing the names of tax scofflaws and the amounts they owe on the Internet works spectacularly well, bringing in millions to states eager for the revenue.").

[124] *See, e.g.*, Ricardo Perez-Truglia & Ugo Troiano, *Shaming Those Who Skip Out on Taxes*, N.Y. TIMES (Apr. 15, 2015), https://www.nytimes.com/2015/04/15/opinion/shaming-those-who-skip-out-on-taxes.html ("Publicly shaming tax delinquents[:] It should be a key part of government efforts to increase the collection of tax debts, and thanks to the Internet and social media, the government has the means to make it even more effective.").

[125] *See, e.g.*, Joshua D. Blank, *What's Wrong with Shaming Corporate Tax Abuse*, 62 TAX L. REV. 539, 550 (2009) ("State revenue agencies report that taxpayers have responded positively to the shaming campaigns, paying millions of dollars in outstanding taxes in recent years.").

[126] *See, e.g.*, Eang L. Ngov, *Asymmetries, Norm Matching, and the Pursuit of Equity Between the Police and the Public*, 60 AM. CRIM. L. REV. 231, 254 (2023) ("Cognitive dissonance is a psychological state of discomfort that results from holding two inconsistent (dissonant) thoughts (cognition). Dissonance is aroused when a person does or says something that is contrary to a prior belief or attitude, faces a difficult decision, or is exposed to information that is inconsistent with [her] beliefs.") (citing J.M. Balkin, *Understanding Legal Reasoning: The Legal Subject and the Problem of Legal Coherence*, 103 YALE L.J. 105, 144 (1993)).

[127] *See, e.g.*, Nadja Dwenger & Lukas Treber, *Shaming for Tax Enforcement*, 68 MGMT. SCI. 8202 (2022), https://doi.org/10.1287/mnsc.2021.4295 ("Based on a quasi-experimental research design, we document that corporations significantly reduce their tax debt in response to the threat of shaming, particularly in industries in which reputational concerns are likely to be important.").

[128] *See* I.R.C. § 6103.

[129] *See, e.g.*, Joshua D. Blank, *In Defense of Individual Tax Privacy*, 61 EMORY L.J. 265, 292 (2011) ("By carefully publicizing salient examples of tax-enforcement actions against specific taxpayers, the government actively attempts to influence individual taxpayers' perceptions of its ability to detect abusive tax activities…").

[130] *See, e.g.*, B. Douglas Bernheim, *A Theory of Conformity*, 102 J. POL. ECON. 841, 841–44 (1994) (arguing that individuals conform "because they recognize that even small departures from the norm will seriously impair their popularity").

When it comes to tax compliance, social norms appear to play a pivotal role in the voluntary compliance rate.[131] Simply put, if taxpayers perceive that others around them comply with their tax obligations, they may choose to similarly comply because they want to behave like those in their social group.[132] However, the reverse is also true: taxpayers may choose not to comply if they believe that the norm is noncompliance.[133] Thus, for social norms to drive better tax compliance, the perceived norm must be to comply, not to evade.

Some tax authorities have tried to foster a positive norm of compliance by publicizing to taxpayers that tax compliance rates are high. For example, in an experiment conducted with the Minnesota Department of Revenue, taxpayers were sent a letter informing them that the vast majority of individuals comply with their tax obligations.[134] Although such interventions have had mixed success,[135] it appears that knowing what one's "neighbors" are doing affects tax compliance both in good ways (if they are compliant) and bad ways (if they are noncompliant).[136]

Much research also suggests that social norms explain differences in compliance rates between countries with similar tax enforcement systems (for example, with similar audit rates and

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[131] *See, e.g.*, Alm, *supra* note 80, at 366 ("The overall setting in which an individual lives, works and functions has important effects on individual compliance, effects that go well beyond the ways in [which] the environment affects behavioral incentives."); Benno Torgler, *Tax Morale, Rule-Governed Behaviour and Trust*, 14 CONST. POL. ECON. 119, 124–25 (2003) (observing that taxpayers can generally be classified into four types: a "social taxpayer" (one influenced by social norms and other social factors), an "intrinsic taxpayer" (one motivated by a feeling of obligation), an "honest taxpayer" (one who is always honest regardless of any incentive to cheat), and a "tax evader" (one motivated entirely by the expected value of the evasion gamble)); DOREEN MCBARNET, CRIME, COMPLIANCE, AND CONTROL (Tom D. Campbell ed. 2004) (arguing that people may choose to comply willingly ("committed compliance"), they may choose to comply unwillingly ("capitulative compliance"), they may take full advantage of the law in minimizing their taxes ("creative compliance"), or they may choose "noncompliance"); Erich Kirchler, Erik Hoelzl & Ingrid Wahl, *Enforced Versus Voluntary Tax Compliance: The "Slippery Slope" Framework*, 29 J. ECON. PSYCH. 210 (2008) (exploring the interaction between enforcement ("power") and facilitation ("trust") on the part of the tax authority); and VALERIE BRAITHWAITE, DEFIANCE IN TAXATION AND GOVERNANCE—RESISTING AND DISMISSING AUTHORITY IN A DEMOCRACY (Edward Elgar Publ'g 2009) (arguing that individuals differ in their motivations to comply with tax law, with both positive ("deference") and negative ("defiance") motivations).

[132] Posner, *supra* note 20, at 1782 ("Some scholars therefore conclude that the explanation for the tendency to pay taxes must be that people are obeying a norm - presumably a norm of tax payment or a more general norm of law-abiding behavior.").

[133] Michael Wenzel, *Misperceptions of Social Norms About Tax Compliance: From Theory to Intervention*, 26 J. ECON. PYSCH. 862, 863 (2005) ("People who believe that tax cheating is wide-spread among their peers or colleagues tend to have more favourable attitudes towards tax evasion and are more likely to cheat on taxes.")

[134] The study found a "modest" improvement in tax compliance among taxpayers who received the letter, although authors of a subsequent study of the same data concluded that the impact was not statistically significant. *See* Marsha Blumenthal, Charles Christian & Joel Slemrod, *Do Normative Appeals Affect Tax Compliance?: Evidence from a Controlled Experiment in Minnesota*, 54 NAT'L TAX J. 125, 132 (2001).

[135] In a study like the Minnesota experiment conducted in Australia, taxpayers who were informed about high compliance rates were less likely to overstate non-work-related deductions, but there was no effect on work-related deductions. *See* Michael Wenzel, *Misperceptions of Social Norms About Tax Compliance: From Theory to Intervention*, 26 J. ECON. PSYCH. 862, 877–78 (2005).

[136] *See, e.g.*, Alm, Jackson & McKee, *supra* note 14; Werner W. Pommerehne & Hannelore Weck-Hannemann, *Tax Rates, Tax Administration, and Income Tax Evasion in Switzerland*, 88 PUB. CHOICE 161 (1996); Alm, McClelland & Schulze, *supra* note 14; Alm & McKee, *supra* note 86; Alm, Jackson & McKee, *supra* note 37; James Alm, Kim M. Bloomquist & Michael McKee, *When You Know Your Neighbor Pays Taxes: Information, Peer Effects, and Tax Compliance*, 38 FISCAL STUD. 587 (2017).

penalties).[137] In countries with more citizen trust in government institutions, research shows that tax enforcement tends to be more effective.[138]

Overall, the empirical evidence indicates that, when it comes to tax compliance, taxpayers are highly motivated by both economic and social considerations.[139] But, the degree to which is hard to pinpoint with any exactitude. What is certain is the difficulty associated with fostering a social norm of tax compliance.[140] While taxpayers respond, at least in part, to social forces when making decisions about their taxes,[141] this can affect compliance positively or negatively depending on how taxpayers perceive those around them: Do they think that others are paying what they owe, or do they think that others are cheating? The key for policymakers, then, is to capitalize on ways to foster a social norm of compliance, that is, a social norm of paying one's legally owed taxes. One potentially useful tool in shaping social norms is the use of influencers. However, to date there have been no discussions of how policymakers can employ this possible tool to shape social norms in a manner that propels tax compliance. The next two parts of this Article explore this opportunity.

IV. INFLUENCERS

In the digital age, social norms are undoubtedly shaped not just by personal interactions between individuals but through social media networks in which people engage. This presents a mostly untapped opportunity to use social media to foster a norm of tax compliance. Specifically, there is great potential in harnessing the power of social media influencers to encourage voluntary tax compliance. This Part first provides background on social media influencers; it then surveys empirical research on how and why influencers can shape behavior; finally, drawing from this research, this section concludes with a list of factors summarizing the most successful influencer campaigns.

A. The Emergence of Influencers

Influencers are individuals who post content on social media platforms—such as Instagram or TikTok—for compensation.[142] While a small portion of influencers are celebrities who have achieved fame outside of their social media presence, most influencers were not previously known,

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[137] *See, e.g.*, Alm, Sanchez & de Juan, *supra* note 95; Ronald G. Cummings et al., *Tax Morale Affects Tax Compliance: Evidence from Surveys and an Artefactual Field Experiment*, 70 J. ECON. BEHAV. & ORG. 447 (2009); Giulia Andrighetto et al., *Are Some Countries More Honest Than Others?: Evidence from a Tax Compliance Experiment in Sweden and Italy*, 7 FRONTIERS IN PSYCH. 1 (2016); Nan Zhang et al., *"Willing to Pay?" Tax Compliance in Britain and Italy: An Experimental Analysis*, 11 PLOS ONE 1 (2016); Fred Pampel, Giulia Andrighetto & Sven Steinmo, *How Institutions and Attitudes Shape Tax Compliance: A Cross-National Experiment and Survey*, 97 SOC. FORCES 1337 (2019).

[138] *See, e.g.*, PAUL WEBLEY ET AL., TAX EVASION: AN EXPERIMENTAL APPROACH (Cambridge Univ. Press 1991); Werner W. Pommerehne & Hannelore Weck-Hannemann, *supra* note 119; James Alm & Benno Torgler, *Culture Differences and Tax Morale in the United States and in Europe*, 27 J. ECON. PSYCH. 224 (2006).

[139] *See supra* Part IIA&B (economic considerations) and Part IIIA&B (social considerations).

[140] *See* Posner, *supra* note 20, at 1813-1814 (discussing the difficulty in evaluating government action due, in part, to differences in norms between communities).

[141] *See supra* Part IIIA&B.

[142] Colin Campbell & Justine Rapp Farrell, More than Meets the Eye: The Functional Components Underlying Influencer Marketing, 63 BUS. HORIZONS 2 (2020).

and they achieve status by amassing thousands (or even millions) of followers on social media. Consider, for example, Charli D'Amelio, who rose to fame by posting dancing videos on TikTok and now has millions of followers on social media platforms.[143] D'Amelio has partnered with brands like Dunkin' Donuts and Invisalign and was the highest earning TikToker in 2021, earning $17.5 million that year.[144]

Influencers like D'Amelio are generally paid by private businesses to post photos or videos using their products.[145] In one respect, this is nothing new: companies have longed relied on advertising—including celebrity endorsements—to promote and sell their products.[146] However, the evolution of the internet and social media websites like Facebook and YouTube from the early 2000s on have provided a forum to reach consumers that extends well beyond television, radio, and print ads.[147]

With the internet readily accessible, the early 2000s first saw the advent of personal blogs, on which regular individuals detailed their day-to-day activities (for example, parenting) or fashion choices.[148] Social media platforms like YouTube, Facebook, and Instagram appeared in the next decade, which provided an even easier way to disseminate content compared to writing blog posts, and allowed individuals to amass far more followers.[149] Businesses have capitalized on social media platform growth, with three-quarters of advertisers reporting that they use social media influencers to promote their products.[150] As a result, the global influencer market has exploded in recent years, growing from $1.7 billion in 2016 to $9.7 billion in 2020 to an estimated $24 billion in 2024.[151]

Scholars attribute the explosive growth of influencers on social media to several factors. First, with ubiquity of the internet and mobile devices, people are more likely to consume media online versus print, television, or radio.[152] Second, and relatedly, consumers spend a significant

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[143] D'Amelio is the second-most-followed person on TikTok (after Khaby Lame) with over 150 million followers. Justine Castany, *Top Ten Most Followed TikTokers in 2024*, FAVIKON (Mar. 21, 2024), https://www.favikon.com/blog/top-10-most-followed-tiktokers-in-2024. D'Amelio has 44 million Instagram followers. Charli D'Amelio (@charlidamelio), INSTAGRAM, https://www.instagram.com/charlidamelio/ (last visited June 20, 2024).

[144] *Profile: Charli D'Amelio*, FORBES. https://www.forbes.com/profile/charli-damelio/ (last visited June 20, 2024).

[145] Campbell & Farrell, *supra* note 142, at 2.

[146] Alexander P. Schouten et al., *Celebrity vs. Influencer Endorsements in Advertising: The Role of Identification, Credibility, and Product-Endorser Fit*, 39 INT'L J. ADVERT. 258, 258–59 (2020) ("Celebrity endorsements are a popular way for marketers to promote their brands. . . . Many academic studies have confirmed that celebrity endorsements significantly increase advertising effectiveness.").

[147] *Id.* at 259.

[148] Kelli S. Burns, *The History of Social Media Influencers, in* RESEARCH PERSPECTIVES ON SOCIAL MEDIA INFLUENCERS AND BRAND COMMUNICATION 1–6 (2021).

[149] *Id.*

[150] Campbell & Farrell, *supra* note 142, at 469.

[151] *Influencer Marketing Market Size Worldwide from 2016 to 2024*, STATISTA, https://www.statista.com/statistics/1092819/global-influencer-market-size/ (last visited June 20, 2024); *see also* Charles Alves de Castro et al., *Social Media Influencers (SMIs) in Context: A Literature Review*, 9 J. MKTG. & MGMT. 59, 62 (2021) ("This is a massive industry that seems to be only at the beginning of its growth and development.").

[152] *See* Campbell & Farrell, *supra* note 142, at 470.

portion of their time each day scrolling through social media.[153] Finally, studies indicate that online marketing is more effective when it is not overt.[154] In other words, consumers appear to respond more to products or services when perceived as an "authentic" part of a social media post (for example, a person wearing a pair of sunglasses and commenting on how much they like them), rather than when a post is clearly presented as a promotion or advertisement.[155] This consumer preference may make influencer marketing preferable to traditional advertisements for some products.

Scholars have identified distinct categories of influencers based largely on the size of their following.[156] Celebrity influencers are those individuals, such as actors, singers, or athletes, who were already famous before their social media presence and are paid by brands to promote products on social media.[157] Well-known examples include singer/actress Selena Gomez and basketball star Steph Curry.[158] Next are so-called mega influencers, who have attained celebrity status by virtue of their social media presence and tend to have over one million followers, such as the popular influencer Charli D'Amelio (discussed above).[159] Macro influencers are those with followers between 100,000 and one million.[160] Although they are not as famous as mega influencers, they tend to be popular with advertisers because they have enough followers to achieve substantial engagement but do not command the high rates that celebrities do.[161] Micro influencers are those with between 10,000 and 100,000 followers; they have less notoriety than macro influencers but may be perceived as more authentic by consumers.[162] Finally, nano influencers tend to have fewer

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[153] The average person spends about two and a half hours on social media per day, with about 61 percent of the global population using social media. Peyton Henderson, *How Much Time Does the Average Person Spend on Social Media?*, MEDIUM (Feb. 19, 2024), https://medium.com/@peyton_73233/how-much-time-does-the-average-person-spend-on-social-media-c4486c2fefcf ("The average person spends 2 hours and 24 minutes on social media every day, and the average American checks their mobile device 159 times a day.") Over half of teenagers spend more than four hours a day on social media. Jonathan Rothwell, *Teens Spend Average of 4.8 Hours on Social Media Per Day*, GALLUP (Oct. 13, 2023), https://news.gallup.com/poll/512576/teens-spend-average-hours-social-media-per-day.aspx.**Error! Hyperlink reference not valid.**

[154] Campbell & Farrell, *supra* note 142, at 470 ("When online, consumers are known to be goal-directed, which makes them more averse to overt advertisements[,] . . . [which] has led to the use of softer, less overt, and more authentic advertising approaches.").

[155] *Id.*

[156] Campbell & Farrell, *supra* note 142, at 3–4.

[157] *Id.* Some scholars draw a distinction between celebrities and influencers, considering the latter to be only those individuals not famous outside of their social media presence. *See, e.g.*, Daniel Belanche, Luis V. Casaló, Marta Flavián, & Sergio Ibáñez-Sánchez, *Understanding Influencer Marketing: The Role of Congruence Between Influencers, Products and Consumers*, 132 J. BUS. RSCH. 186, 187 (2021) ("Whereas celebrities are known for their non-social media activities (e.g. sports, music), influencers are 'born' on social media, where they develop the main activity for which they are known."); Jiwoon Park et al., *David and Goliath: When and Why Micro-Influencers Are More Persuasive Than Mega-Influencers,* 50 J. ADVERT. 584, 584 (2021) ("Compared with traditional celebrities such as actors or singers, influencers are unique in that they were previously ordinary people who built their careers by posting.").

[158] Selena Gomez has 423 million followers on Instagram; Steph Curry has 58 million. Selena Gomez (@selenagomez), INSTAGRAM, https://www.instagram.com/selenagomez/ (last visited October 20, 2024); Steph Curry (@stephcurry30), INSTAGRAM, https://www.instagram.com/stephencurry30/ (last visited October 20, 2024).

[159] Campbell & Farrell, *supra* note 142, at 3.

[160] *Id.* at 4.

[161] *See id*.

[162] *Id*.

than 10,000 followers and are often at the early stages of building a follower base. These influencers might work for little to no compensation or accept payment in product samples.[163]

B. Influencers and Their Ability to Shape Social Norms

The success of the influencer industry stems from the fact that these individuals have the power to shape consumer decisions, from fashion choices to exercise routines to diet and more.[164] Why are influencers so successful at shaping behavior? A major factor appears to be the unique sense of closeness created through connecting with an influencer on social media, a relationship that is less remote than admiring a traditional television personality or other celebrity from afar. [165]

Many influencers cater to an audience of followers that share their interests and/or aspire to be like them, making them a sort of "virtual friend" of the consumer.[166] This perception of intimacy is reinforced by influencers frequently documenting their day-to-day lives, including their home and/or their daily routines.[167] Influencers not only reveal their personal lives but also tend to speak directly to their followers in their posts.[168] Social media platforms also allow followers to respond and comment on the influencer's posts, reinforcing the perception of a mutual relationship.[169] Research shows that this perception of intimacy, in turn, makes the influencer appear more authentic and trustworthy than a traditional celebrity.[170] Hence, followers tend to rely on the opinions of influencers in making purchase decisions, making the influencer a powerful source of marketing.[171]

Research also shows that, because micro influencers (i.e., those with relatively fewer followers) are "perceived as being more authentic," their endorsements can be more effective for certain products as compared to mega influencers or celebrities.[172] Conversely, when followers perceive an influencer's promotion as "inauthentic"—because it is inconsistent with previous

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[163] *Id.*

[164] *See* de Castro et al., *supra* note 130, at 59 ("Social media influencers attempt to impact all areas of their target audience's lives. Examples include encouraging people to buy or use a particular product/service[,] . . . food consumption, lifestyle choices and even how a target audience communicate[s].").

[165] Belanche et al., *supra* note 136, at 187.

[166] Id.

[167] Schouten et al., *supra* note 146, at 259 ("Influencers attract millions of followers by sharing content curated from their daily lives on platforms like Instagram and YouTube.").

[168] *Id*. at 261.

[169] *See id.* ("The ability to comment on influencers' posts and the possibility for interaction may strengthen the feeling that the influencer is similar to oneself.").

[170] *See* Belanche et al., *supra* note 136, at 187; *see also* Schouten et al., *supra* note 146,, at 260 ("[I]nterviews with female Instagram users suggest that influencers are perceived as more credible and relatable than traditional female celebrities, and their product reviews have a significant impact on young females' purchasing behavior.").

[171] Belanche et al., *supra* note 136, at 187.

[172] Park et al., *supra* note 136, at 585 (describing results of a study showing that micro influencers were persuasive when it comes to products related to hedonic—but not utilitarian—consumption).

content or otherwise not in line with the influencer's image—brand partnerships with influencers tend to backfire.[173]

Finally, consumers tend to trust the expertise of the influencers that they follow. [174] This may be because often the influencer has created a successful career by becoming an expert on one or a narrow set of niche topics.[175] For example, a consumer may be particularly likely to trust the makeup recommendation of an influencer like Michelle Phan, who started posting makeup tutorials on YouTube in 2007 and now has 1.8 million followers on Instagram.[176] The reverse is also true: consumers are less likely to be persuaded by endorsements that they view as outside of the expertise of the influencer.[177]

In sum, unlike traditional celebrities, when it comes to influencers, consumers tend to personally identify with them and perceive them as more authentic and akin to a friend.[178] This perception of closeness and identification with the influencer leads to more trust in the influencer's recommendations and advice.[179] An influencer's devotion to a niche area also leads to consumer trust that the influencer is an expert in that area.[180]

C. Use of Influencers to Shape Nonconsumer Behavior

Influencers have a well-established track record in shaping consumer behavior when it comes to purchasing products or services.[181] Beyond consumer behavior, influencers have been successfully deployed in nudging positive behavior in other contexts, such as making healthy lifestyle choices and protecting the environment.[182] Consider the following two case studies.

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[173] Belanche et al., *supra* note 136, at 186 (describing a failed collaboration between Chriselle Lim and Volvo to promote a toxin-free car cleaner, after which followers "complained the message was unlike the content she usually posts, and even worse, promoting an eco-friendly product seemed inconsistent with the image of a jet-setting lifestyle she depicts. The lack of authenticity led to criticisms of both the influencer and the brand.").

[174] *See* Schouten, et al., *supra* note 146, at 262.

[175] *See id.* ("[A]n inherent part of influencers' success is that they have been able to establish a career by devoting themselves to a particular domain of interest and create their own expert profession.").

[176] Stephanie Hayes, *Michelle Phan, a YouTube Sensation for Her Makeup Tutorials, Has Transformed Her Life*, TAMPA BAY TIMES (Aug. 22, 2009), https://web.archive.org/web/20160304041424/http:/www.tampabay.com/features/humaninterest/michelle-phan-a-youtube-sensation-for-her-makeup-tutorials-has-transformed/1029747; Michelle Phan (@michellephan), INSTAGRAM, https://www.instagram.com/michellephan/?hl=en (last visited June 24, 2024).

[177] Schouten et al., *supra* note 146, at 263.

[178] *See supra* note 166 and accompanying text.

[179] *See* Schouten et al., *supra* note 146, at 261 ("[U]nlike celebrities, influencers present themselves like 'ordinary,' approachable and authentic personalities, which could make people feel more similar to them.").

[180] *See supra* notes 174-175 and accompanying text.

[181] Campbell & Farrell, *supra* note 142, at 1-2 (describing the success and growth of influencer marketing).

[182] *See, e.g.*, Erika Bonnevie et al., *Using Social Media Influencers to Increase Knowledge and Positive Attitudes Toward the Flu Vaccine*, 15 PLOS ONE 2 (2020), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0240828 ("Social media influencers are just starting to be used in public health, with research beginning to show their promise in promoting various health behaviors."); Frans Folkvord et al., *Promoting Healthy Foods in the New Digital Era on Instagram: An Experimental Study on the*

One study employed micro influencers to deliver a flu vaccination campaign.[183] Micro influencers were chosen "because these individuals may be more likely to be perceived as friends or aspirational peers than celebrities or influencers with significantly larger followings."[184] In the study, influencers were asked to create their own original content that incorporated message prompts about flu [s, as well as information on how to get vaccinated.[185] Following the social media campaigns, surveys in the geographic areas targeted by the campaigns showed that people were more likely to have received a flu shot and were more likely to have positive perceptions of flu vaccines.[186] The study also showed that 94% of comments on the influencer posts were positive, suggesting that "individuals will engage in a positive way with vaccine promotion messaging if it is presented from individuals that they already admire or follow."[187] In sum, conducting outreach to targeted geographic regions by utilizing micro influencers who are popular with target populations appears to be an effective strategy to promote flu vaccines and to foster a social norm of vaccination.[188]

Another study—conducted by the UK government's Behavioural Insights Team (BIT)—examined whether social media influencers could encourage environmentally sustainable behaviors.[189] The study tested the effect of various social media messages on over 6,000 Instagram and TikTok users from the UK, the U.S., and Canada by having content creators develop their own original content using guidance from the BIT.[190] The study involved videos about food waste and about plastic use, and tested both positive messaging (i.e., messages that focus on solutions to problems) and negative messaging (problem-oriented, such as focusing on a "climate emergency").[191] Compared to controls who saw neutral content, both types of messaging had a "modest but robust effect on participants' intentions to take sustainable action."[192] The study

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Effect of a Popular Real Versus Fictitious Fit Influencer on Brand Attitude and Purchase Intentions, 20 BMC PUB. HEALTH 1677 (2020) (examining whether social media influencers could successfully promote healthy food products, and finding an actual health and fitness influencer more effective at encouraging healthy consumption than a fictitious influencer due to the personal relationship and connection ("parasocial interaction") with the real influencer).

183 *See* Bonnevie et al., *supra* note 156. The term *micro-influencers* was defined for this purpose as those with 500 to 10,000 followers. *Id.*

184 *Id.*

185 *Id.* at 3–4. For example, one such message prompt read as follows: "Need a good reason to get a flu shot? How about to protect not just yourself but those you care about most? I'm getting the flu shot this year for my daughter. Check out stopflu.org to find out where to get a flu shot near you. #stopflu." *Id.* at 3.

186 *Id.* at 8–9.

187 *Id.* at 9.

188 *Id.* ("Notably, respondents in the campaign area reported significantly higher agreement with social norms and perceptions of community attitudes conductive to receiving the flu vaccine than those in the control area at follow-up.").

189 BIT Case Study 4: Exploring the Role of Social Media Influencers on Encouraging Green Behaviors, in BEHAVIOURAL INSIGHTS TEAM, HOW TO BUILD A NET ZERO SOCIETY 64 (2023), https://www.bi.team/wp-content/uploads/2023/01/How-to-build-a-Net-Zero-society_Jan-2023-1.pdf.

190 *Id.* ("This involved working with 9 creators who developed bespoke content following BIT's guidance, and building two simulated social media platforms to mimic TikTok and Instagram.").

191 Id.

192 *Id.* "For instance, we saw a 5 percentage point increase in people's intention to avoid food packaged in plastic, cut open a plastic tube to make sure they use every last bit of a product or to use all parts of produce." *How Can Influencers Encourage Sustainable Behaviours?*, BEHAVIOURAL INSIGHTS TEAM (Mar. 9, 2023) [hereinafter BIT

further found that the negative messaging motivated more sustainable action taken in the days following the message, but the positive messaging was rated as more helpful.[193] The authors suggest that for "easy or familiar actions," negative messaging may be more effective by simply calling viewers' attention to the problem; but for "complex or unfamiliar" areas, solution-oriented messaging may be more helpful.[194] In sum, while the effect was modest, social media users appear to respond positively to influencer content encouraging green behavior.[195]

D. Summary of Factors for Successful Influencer Campaigns

Research on influencers is still nascent, particularly when it comes to utilizing social media to influence behaviors outside of the context of consumer purchases.[196] However, common themes have emerged from the growing body of scholarly literature on influencers which all have relevance for designing an influencer campaign that seeks to enhance tax compliance. These key takeaways from this literature are summarized below:

- The power of influencers to shape consumer behavior lies in the sense of closeness that they create with their followers. [197]

- Having the highest degree of celebrity followers or the highest number of followers does not necessarily lead to the most successful influencer campaign; sometimes a micro influencer is more persuasive than a celebrity or mega influencer due to a higher perception of intimacy.[198]

- Authenticity matters: consumers are more likely to trust endorsements that they perceive as genuine and consistent with the influencer's image.[199]

- Expertise also matters: consumers are more likely to trust endorsements that are consistent with a niche area in which the influencer specializes and has made a name for themself.[200]

- Influencers may succeed in shaping desirable behavior beyond consumer decision-making. Influencer messages are likely enhanced by an audience connection and, for particularly complex topics, by messaging that educates or offers solutions.[201]

Blog], https://www.bi.team/blogs/how-can-influencers-encourage-sustainable-behaviours/**Error! Hyperlink reference not valid.**.

[193] *Id.*

[194] *Id.* at 65.

[195] BIT Blog, *supra* note 166 ("This goes to show that social media could play a big role in helping some people to take up more sustainable behaviours.").

[196] *See supra* Part IV.C.

[197] *See supra* notes 166-170.

[198] *See supra* note 172.

[199] *See supra* notes 170-172.

[200] *See supra* notes 174-177.

[201] *See supra* notes 189-194.

V. DEPLOYMENT OF INFLUENCERS TO ENHANCE TAX COMPLIANCE

There is clear evidence that, in the past decade, influencers have had an increasingly important impact on society and have driven numerous social trends.[202] Congress and the IRS should not ignore the tsunami-like effect that such influencers have had in shaping behavior and fostering social trends; instead, both the nation's legislative branch and tax enforcement arm should undertake measures to employ influencers on a continuous basis to help buoy tax compliance.

This Part of the Article thus advocates for the recruitment of influencers. At the behest of the federal government, influencers would use their social media platforms to prod citizens to fulfill their civic duties and keep the nation financially solvent. Subsection A offers a template of how Congress and the IRS might employ influencers to strengthen the tax compliance norm and narrow the tax gap. Subsection B then identifies several challenges in implementing the influencer policy.

A. The Role of Influencers in Narrowing the Nation's Tax Gap

As a general proposition, changing social norms is not easy.[203] By their very nature, social norms are those ingrained behavioral patterns that, somewhat akin to a skin tattoo, are essentially woven deep into the fabric of one's brain, sending strong signals of how one should function in societal settings.[204] Just as altering or removing a skin tattoo is known to be time-consuming and painful, the same can be said of social norms: they are not readily changed or removed, even though they are not immutable.

Given the resistance associated with social norm change, it often takes a perceived societal need to forge reform. Consider smoking indoors as a case study. For decades, it was widely accepted that bars, casinos, restaurants, and other social settings permitted uninhibited smoking.[205] As the dangers of secondhand smoke became more apparent,[206] however, there was a gradual shift

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[202] *See supra* Part IV.

[203] *See, e.g.*, Nicole Hallett, *The Problem of Wage Theft*, 37 YALE L. & POL'Y REV. 93, 142 (2018) ("Changing social norms is difficult."); Kristin Madison, *Government, Signaling, and Social Norms Book Review: Law and Social Norms by Eric A. Posner (2000)*, 2001 UNIV. ILL. L. REV. 867, 885 (2001) ("[I]t can be difficult to change social norms through the use of the law.").

[204] *See, e.g.*, Jennifer Bays Beinart, *Beyond Trafficking and Sexual Exploitation: Protecting India's Children from Inter and Intra-Familial Sexual Abuse*, 21 IND. INT'L & COMP. L. REV. 47, 78 (2011) ("Changing deeply ingrained social norms will not be a quick or easy process.").

[205] In the 1960s, for example, cigarette smoking was ubiquitous. *See* Michael J. Cowell, *An Insurance Company Perspective on Smoking*, 85 N.Y. STATE J. MED., July 1985, at 307 (more than 50 percent of the adult men and over 30 percent of adult women in the U.S. smoked cigarettes in 1963).

[206] The dangers of secondhand smoke first came to light in the surgeon general's report issued in 1979. U.S. DEP'T OF HEALTH, EDUC. & WELFARE, SMOKING AND HEALTH: A REPORT OF THE SURGEON GENERAL 32 (1979), https://profiles.nlm.nih.gov/spotlight/nn/catalog/nlm:nlmuid-101584932X630-doc. In 1993, the Environmental Protection Agency confirmed that secondhand smoke had potentially dire health effects upon nonsmokers. U.S. ENV'T PROT. AGENCY, RESPIRATORY HEALTH EFFECTS OF PASSIVE SMOKING: LUNG CANCER AND OTHER DISORDERS (1993), https://www.epa.gov/sites/default/files/2014-09/documents/passive_smoke.pdf.

in attitudes.[207] At first, smokers were confined to certain "smoking areas," but, when scientific evidence continued to mount regarding the dangers of secondhand smoke, the practice of smoking was ultimately banned in many public areas.[208]

With this background in mind, the following question arises: Is there sufficient societal need for greater tax compliance? Clearly, there is—the nation's multitrillion-dollar deficit. Currently, the federal debt hovers around $32 trillion.[209] This dollar figure represents roughly 120% of gross domestic product,[210] and the federal government is responsible for paying approximately half a trillion dollars in interest annually.[211] These numbers are rapidly increasing, threatening to curtail or even eliminate all discretionary governmental spending.[212] Even more ominous, entitlement payments (e.g., Social Security, Medicare, and Medicaid) are projected to skyrocket in the coming years,[213] placing the solvency of the United States at even graver financial risk.

Yet, because the current political landscape is heavily stacked against any tax increases,[214] the one ameliorative measure that Congress and the IRS can take to address the nation's deficit problem is to help close the tax gap. For example, Congress can institute legislative measures that curtail tax avoidance, and the IRS can conduct more audits to limit tax evasion. Beyond these steps, this Article argues another important but neglected measure to close the tax gap would be to reinforce and strengthen the social norm that tax compliance is pivotal to the nation's prosperity.

Below, this Article proposes a two-step approach of exactly how Congress and the IRS can accomplish this goal: (1) launching regular influencers' tax compliance campaigns and (2) measuring and analyzing the results that such campaigns produce.

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[207] *See generally* Mark J. Horvick, *Examining the Underlying Purposes of Municipal and Statewide Smoking Bans*, 80 IND. L.J. 923 (2005) (explaining the overall history of public smoking bans and how they gradually became institutionalized).

[208] *See id.* at 925-927 (discussing specific bans).

[209] *See, e.g.*, Mike Patton, *The National Debt Approaches $32 Trillion, Will It Bankrupt America?*, FORBES (2023), https://www.forbes.com/sites/mikepatton/2023/04/25/the-national-debt-approaches-32-trillion-will-it-bankrupt-america/?sh=61ba7c305a4e.

[210] *See* CONG. BUDGET OFF., THE BUDGET AND ECONOMIC OUTLOOK: 2023 TO 2033, at 5 (Feb. 2023), https://www.cbo.gov/system/files/2023-02/58848-Outlook.pdf; *Id.* at 18 ("Measured relative to the size of the economy, this year's deficit (adjusted to exclude the effects of timing shifts), at 5.3 percent of GDP . . .").

[211] *See id.* at 18 ("Net outlays for interest, which rose by 35 percent last year, are projected to increase by 35 percent again this year, from $475 billion in 2022 to $640 billion. Relative to the size of the economy, those outlays will rise from 1.9 percent of GDP in 2022 to 2.4 percent in 2023, nearly one percentage point higher than their level in 2021.").

[212] *See* U.S. GOV'T ACCOUNTABILITY OFF., THE NATION'S FISCAL HEALTH (Msy 2022), https://www.gao.gov/assets/gao-22-105376.pdf (explaining how "[t]he federal government faces an unsustainable fiscal future").

[213] *See* CONG. BUDGET OFF., *supra* note 177, at 14–15, tbl.1–4 (showing massive spending increases in Social Security, Medicare, and Medicaid outlay programs).

[214] The majority of Republican party members have vowed never to increase taxes. *See* Howard Gleckman, *House Republicans Rethink Tax Increases, at Least for a Minute*, FORBES (May 4, 2023), https://www.forbes.com/sites/howardgleckman/2023/05/04/house-republicans-rethink-tax-increases-at-least-for-a-minute/?sh=51db3c84d26d ("For decades, opposition to tax hikes was key to the GOP brand. More than 1,400 politicians, including the vast majority of current House Republicans, have signed the no new tax pledge created by lobbyist Grover Norquist in 1986.").

1. Launching Regular Influencers' Tax Compliance Campaigns

One of the IRS's central missions is to bolster tax compliance.[215] The agency seeks to achieve this objective in various ways. One is by educating taxpayers and addressing their questions. The IRS therefore regularly issues publications that are framed in layperson's terms so that taxpayers can better understand the tax landscape and be compliant,[216] and it staffs service centers so that taxpayers' questions and issues can more readily be resolved.[217] Another and even more important tool to strengthen tax compliance is conducting tax audits to reinforce the perception and reality that there are series consequences associated with tax noncompliance.[218]

However, the IRS should go beyond traditional modes of augmenting tax compliance and try something that merchants have long found successful[219]—namely, shaping people's mindsets via creative marketing campaigns. Consider, for example, the success that American Express has enjoyed when it, along with its media advisers, developed the slogan, "Don't leave home without it."[220] Utilizing this slogan, American Express has been able to strengthen its brand and develop an allegiance to it.[221] There are countless similar examples of successful marketing campaigns (e.g., Mastercard and its slogan "There are some things money can't buy; for everything else, there's Mastercard.").[222] More recently, businesses have launched highly successful marketing campaigns via social media, such as Dove's popular "Real Beauty" campaign, which has migrated to social media with the hashtag #DoveSelfEsteemProject.[223]

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[215] *See* IRS, *The Agency, Its Mission and Statutory Authority*, IRS.GOV (2024), https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority#:~:text=The%20IRS%20Mission,integrity%20and%20fairness%20to%20all ("Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.").

[216] On the IRS website are over 100 publications to facilitate the tax return submission process. *Publications Online*, IRS.GOV, https://www.irs.gov/publications (last visited July 18, 2024); *see* Joshua D. Blank & Leigh Osofsky, *Simplexity: Plain Language and the Tax Law*, 66 EMORY L.J. 189, 202 (2017) ("The primary rationale for mandating that the IRS communicate with taxpayers using plain language is that the approach will result in simplicity, which, in turn, will assist taxpayers in self-assessing their tax liability and filing their tax returns.").

[217] *See* Press Release, Internal Revenue Serv., Filing Season 2023 Report Card : IRS Delivered Significantly Improved Customer Service (Apr. 17, 2023), https://home.treasury.gov/news/press-releases/jy1421 ("The agency also answered 2 million more calls through live assistance, cut phone wait times to four minutes from 27 minutes, served 100,000 more taxpayers in-person, digitized 80 times more returns than in 2022 through the adoption of new scanning technology, cleared the backlog of unprocessed 2022 individual tax returns with no errors, launched two new digital tools, and enabled a new direct-deposit refund option.").

[218] *See supra* notes 45-57 and accompanying text (discussing civil and criminal penalties for noncompliance).

[219] *See supra* note 150.

[220] *See* The Drum Team, Editorial, *1975: American Express "Don't Leave Home Without It,"* DRUM (Mar. 31, 2016), https://www.thedrum.com/news/2016/07/03/marketing-moments-11-american-express-dont-leave-home-without-it#:~:text=The%20famous%20'Don't%20Leave,successful%20campaigns%20of%20all%20time .

[221] *Id.* ("The famous 'Don't Leave Home Without Them' tagline became synonymous with American Express traveller's cheques from the mid seventies through to the late 90s—making it one of the most successful campaigns of all time.").

[222] *See* Sarah Vizard, *"We Were Pinching Ourselves": How "Priceless" Helped Mastercard Save a Brand "in a Mess,"* MARKETINGWEEK (Sept. 19, 2019), https://www.marketingweek.com/mastercard-priceless-campaign/.

[223] *See* Semrush Team, *8 Best Social Media Campaigns to Inspire You in 2024*, SEMRUSH BLOG (Nov. 8, 2023), https://www.semrush.com/blog/best-social-media-campaigns/.

Following the lead of established business enterprises, the IRS should commence a social media marketing campaign.[224] A first step would be for the agency to develop a set of concrete objectives for the campaign. For example, agency objectives might include raising the voluntary compliance rate by several percentage points and minimizing expenses associated with launching and maintaining these compliance campaigns. With these objectives in mind, the next steps would be to identify (a) the message of the campaign, (b) the target audience, and (c) the spokesperson (that is, the influencer or influencers).

a. The Message

There are many possible messages that might foster a social norm of tax compliance. The IRS could choose several alternative strategies and compare which appear to generate the most views and the most positive engagements (for example, "likes" or positive comments). One message could simply be that whatever taxes are owed should be paid. Keeping this simple message on point would serve a dual role: it would result in those being compliant feeling that they have fulfilled their civic duties, and it would help bolster compliance.

An alternative message might be one about the benefits of paying taxes, such as taxes funding national parks or education. This could be designed in the spirit of successful social media vaccine campaigns, such as the flu shot campaign where an influencer told followers, "Need a good reason to get a flu shot? How about to protect not just yourself but those you care about most? I'm getting the flu shot this year for my daughter."[225] The idea would be to point to noncontroversial spending programs funded by taxes (education and national parks, for example, are likely less controversial than defense or social welfare programs), and to remind people that taxes are necessary and contribute to programs that benefit everyone. Indeed, the focal point of this messaging should probably be grounded generally in patriotism and specifically in the need for the United States to maintain its solvency. Expressed in a few words: paying federal taxes enables our nation and its citizenry to prosper, both economically and socially.

Another strategy could be simple messages aimed to educate. Consider, for example, a message aimed at gig economy workers that educates them about paying estimated taxes, which is a notorious area of noncompliance.[226] This lackluster compliance is understandable: many of these workers are inexperienced with taxes and do not realize that they have to remit taxes themselves on a quarterly basis because they are not subject to withholding.[227] A social media

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[224] *See, e.g.*, Mimi Flanders, *How to Successfully Launch a Global Marketing Campaign*, FORBES (Oct. 4, 2022), https://www.forbes.com/sites/forbescommunicationscouncil/2022/10/04/how-to-successfully-launch-a-global-marketing-campaign/?sh=655ee24a2971 (explaining the importance that a successful marketing campaign may have in propelling a business venture).

[225] *See* Bonnevie et al., *supra* note 159, at 3 and accompanying text.

[226] U.S. Gov't Accountability Off., GAO-20-366, *Taxpayer Compliance: More Income Reporting Needed for Taxpayers Working Through Online Platforms*, at 14 (May 2020) (finding that saving for and remitting estimated taxes is one of the top tax-compliance challenges faced by platform workers); Caroline Bruckner, *Shortchanged: The Tax Compliance Challenges of Small Business Operators Driving the On-Demand Platform Economy,* KOGOD TAX POL'Y CTR. (2016) (finding that a third of surveyed platform workers did not know whether they had to pay quarterly estimated taxes, and nearly half did not know how much they would owe in taxes and did not set aside money for taxes).

[227] Bruckner, *supra* note 190.

campaign might employ influencers to walk their followers through the process of saving for and paying quarterly taxes, tell them where and how to make the payments, and conclude that paying taxes can be simple. The benefit of an education-focused message is twofold. First, educating taxpayers would actually teach them how to comply if they otherwise don't understand their tax obligations. Second, and possibly more importantly, projecting the message that paying taxes is achievable—rather than insurmountable—might improve taxpayer morale, foster a norm of compliance, and result in less cheating. Indeed, research shows that taxpayer education is linked to higher rates of voluntary compliance.[228] This approach is also consistent with studies of social media campaigns aimed to encourage climate-friendly practices, which have found that for complex subject matter, campaigns that aim to offer concrete solutions may be the most effective.[229]

A final message could focus on the fairness of every taxpayer paying their legally due taxes. A simple approach would be to emphasize that a fair tax system is one in which everyone pays their taxes: When others cheat on their taxes, they are also cheating you, and, when you cheat on your own taxes, you are increasing the burden on others. Also, given that recent evidence has found that tax evasion is greater in absolute and relative terms among higher income taxpayers, a related message could be that improving tax compliance will lead to wealthier taxpayers paying their share of the tax burden.[230]

Whatever messaging is chosen, it should be strictly apolitical. Nonstarters would be implicit or explicit messages that a larger or smaller tax burden is either good or bad. Additionally, the IRS would be wise to recruit an equal number of respected members of both political parties to form a committee that would endorse whatever messaging is chosen. The last thing that the IRS should venture into is the cauldron of politics (e.g., crafting a message that paying one's taxes will result in a more expansive government).

Finally, message timing is crucial. The IRS knows this too. For years the agency has engaged in an annual ritual: weeks prior to April 15—the nation's traditional tax return due date—the IRS commences tax litigation against widely known public figures or others to heighten public

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[228] *See, e.g.*, Giulia Mascagni, Fabrizio Santoro & Denis Mukama, *Teach to Comply? Evidence from a Taxpayer Education Program in Rwanda*, INT'L TAX & PUB. FIN. (2024), https://doi.org/10.1007/s10797-023-09809-6 (finding that a taxpayer education program in Rwanda had long-term positive effects on compliance, including both filing and reporting accurately); Jihan Rifdah & Ni Luh Supadmi, *The Effect of Subjective Norms, Social Media Education, and Taxpayer Awareness on Taxpayer Compliance with Social Media Users*, 7 AM. J. HUMANS. & SOC. SCI. RSCH. 127, 131 (2023) ("Social media education has a positive and significant effect on taxpayer compliance using social media.").

[229] *See* BIT Case Study 4, *supra* note 194 and accompanying text.

[230] *See, e.g.*, Jason DeBacker et al., *Tax Noncompliance and Measures of Income Inequality*, 166 TAX NOTES 1103 (2020) (presenting empirical evidence from audited tax returns that "…higher income individuals are more likely to misreport"); and John Guyton et al., *Tax Evasion at the Top of the Income Distribution* (Nat'l Bureau of Econ. Rsch., Working Paper No. 28542, 2023) ("…we estimate that under-reported income as a fraction of true income (i.e., income that should legally be reported on tax returns) rises from about 10% in the bottom 90% of the income distribution to 16% in the top 1%.").

awareness of the possible consequences associated with being tax delinquent.[231] The ideal time to launch tax compliance campaigns is when tax compliance has its most salience—namely, weeks before the tax return due date and also perhaps weeks before when the Code grants automatic extensions (October 15).[232]

b. The Target Audience

The next step would be to identify a target audience.[233] However, unlike other products and services that might be limited to a particular demographic (e.g., farmers who need tractors), the same does not hold true for federal income tax compliance, which generally encompasses all adults residing in the United States (and even those citizens residing outside of the country).[234] As such, the intended audience cuts across traditional demographics, transcending ethnicity, religion, sex, and geography. Accordingly, messages focusing on patriotism or maintaining fiscal solvency might be aimed at reaching as broad a swath of social media users as possible, by either using multiple platforms or tapping mega or celebrity influencers. On the other hand, education-focused messages that target particular types of taxes or particular areas of noncompliance might place an emphasis on more tailored audiences.

The proposed tax compliance campaigns should not be confined to one social media platform; the IRS should disseminate its compliance messages wherever they will resonate most forcefully. For example, the IRS could launch a social media campaign on those platforms likely to be viewed by those taxpayers who have manifested a proclivity toward tax noncompliance (e.g., those who take, but do not qualify for, the Earned Income Tax Credit).[235] The IRS could also launch an advertising campaign to reinforce social norms among those who are the most patriotic

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[231] *See, e.g.*, Joshua D. Blank & Daniel Z. Levin, *When Is Tax Enforcement Publicized*, 30 VA. TAX L. REV. 1, 1 (2010) ("Every spring, the federal government appears to deliver an abundance of announcements that describe criminal convictions and civil injunctions involving taxpayers who have been accused of committing tax fraud. Commentators have occasionally suggested that the government announces a large number of tax enforcement actions in close proximity to a critical date in the tax compliance landscape: April 15, 'Tax Day.'"); Jeff Vaden, *Assisting Clients in an Environment of Increased FCPA and Economic Sanctions*, *in* INTERNATIONAL WHITE COLLAR ENFORCEMENT (2013 ed.) ("[I]t is no coincidence that the IRS publicizes its major investigations and prosecutions just before April 15."); Manuel A. Utset, *Corporate Actors, Corporate Crimes and Time-Inconsistent Preferences*, 1 VA. J. CRIM. L. 265, 305–06 (2013) ("Moreover, the IRS carries out a disproportionate number of their high visibility enforcement proceedings around April 15 and advertises in order to publicize the repercussions of filing false tax returns, as well as the potential for reduced sanctions for disclosing previous tax law violations.").

[232] I.R.C. § 6081(a).

[233] *See, e.g.*, Lori Hubbard, *Why Is Identifying the Target Market So Important to a Company?*, CHRON (last visited Nov. 4, 2024), https://smallbusiness.chron.com/identifying-target-market-important-company-76792.html ("Once you have identified a target market you can craft messages that appeal specifically to them.").

[234] *See* IRS, U.S. Citizens and Residents Abroad – Filing Requirements, https://www.irs.gov/individuals/international-taxpayers/us-citizens-and-residents-abroad-filing-requirements#:~:text=If%20you%20are%20a%20U.S.,residing%20in%20the%20United%20States ("If you are a U.S. citizen or resident living or traveling outside the United States, you generally are required to file income tax returns, estate tax returns, and gift tax returns and pay [U.S. taxes]."

[235] *See* CONG. RSCH. SERV., THE EARNED INCOME TAX CREDIT (EITC): AN ECONOMIC ANALYSIS (2018), https://crsreports.congress.gov/product/pdf/R/R44057 ("Studies indicate that EITC errors (whether intentional or unintentional) result in a relatively high proportion of EITC payments being issued incorrectly. The IRS estimates that between $14.9 billion and $17.6 billion in EITC payments (i.e., between 21.9 percent and 25.8 percent of payments) were issued improperly in FY2017.").

(e.g., members of the military), targeting those social media platforms that these individuals regularly view.[236]

c. The Influencers

Perhaps most crucial is selecting the right influencers for a tax compliance campaign. Recall that the empirical research discussed in Part IV reveals that successful influencing stems from the sense of closeness that influencers create with their followers;[237] thus, micro influencers can be as or more persuasive than celebrity or mega influencers in some contexts.[238] Further, people are more likely to trust influencer messages that they perceive as authentic and consistent with the influencer's image, and that are consistent with a niche area of expertise in which the influencer specializes and has made a name for themself.[239]

Turning then to the question of how to apply these insights to tax compliance, there are several routes that the IRS could take. One possibility could be for the IRS to try to recruit celebrities or mega influencers who are known for honesty and integrity, or for civic engagement and activism. Oprah Winfrey, for example, is widely known, has a reputation for trustworthiness, and is a public champion for causes like education.[240] Similarly, there are well-known athletes (e.g., Steph Curry) who rate highly in trust and public engagement.[241] The "right" celebrity could also be identified by conducting surveys. Analogously, Leonardo DiCaprio was identified in a survey as the "most trusted" celebrity authority on the climate crisis.[242] There are also macro and mega influencers who are not traditional celebrities but who have hundreds of thousands or millions of followers and are regarded as highly trustworthy.[243]

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[236] *See* Lymari Morales, *Nearly All Americans Consider Military Service "Patriotic,"* GALLUP (July 3, 2008), https://news.gallup.com/poll/108646/nearly-all-americans-consider-military-service-patriotic.aspx.

[237] *Supra* Part IV.

[238] *Supra* note 172 and accompanying text.

[239] *Supra* Subsection IV.D.

[240] *See, e.g.*, Daniele Selby, *13 Global Citizens Who Made TIME's Most Influential People List*, GLOB. CITIZEN (Apr. 19, 2018), https://www.globalcitizen.org/en/content/time-most-influential-people-2018-oprah-rihanna/ ("Winfrey has made TIME's 100 Most Influential People nearly every year since the magazine began publishing the list. And that's because Oprah not only achieved her own dreams against all odds, but inspires people around the world to do the same. Winfrey has been a champion for education and a vocal critic of gender and racial injustice.").

[241] *See, e.g.*, *Steph Curry*, ONE YOUNG WORLD, https://www.oneyoungworld.com/speaker/steph-curry (last visited July 11, 2024) ("With a following of over 15M on Twitter and nearly 35M on Instagram, Curry is one of the most influential stars both on and off the basketball court. . . . Off the court, he is an emerging figure in Silicon Valley, investing in innovative consumer and enterprise tech companies. Last year, Stephen and Ayesha Curry launched the Eat. Learn. Play. Foundation, whose mission is to unlock the potential of every child by ending childhood hunger, ensuring universal access to education, and enabling active lifestyles.").

[242] *See* Catherine Boudreau, *Leonardo DiCaprio Is the Most Trusted Authority on the Climate Crisis—Beating Greta Thunburg, Al Gore, and the Rock*, BUS. INSIDER (July 6, 2023), https://www.businessinsider.com/leonardo-dicaprio-most-trusted-climate-authority-2023-7 ("The [National Research Group] asked adults ages 18 to 64 to name the public figure or celebrity they trusted the most on sustainability. DiCaprio was the top answer, followed by the climate activist Greta Thunberg, former Vice President Al Gore, Dwayne 'The Rock' Johnson, and President Joe Biden.").

[243] *Cf. Top 70 Climate Change Activist Influencers in 2024*, FEEDSPOT (July 10, 2024), https://influencers.feedspot.com/climate_activist_instagram_influencers/ (listing several climate change activist influencers with followers in the hundreds of thousands, such as Malia Baker (@maliabakermsb), Luisa Neubauer (@luisaneubauer), Leah Thomas (@greengirlleah), and Rob Greenfield (@robjgreenfield)).

The upside of tapping these widely known influencers would be broad reach. However, convincing celebrities or mega influencers to partner with the IRS and talk about taxes may prove challenging.[244] Additionally, if citizens view a tax compliance message as "off brand" or out of the influencer's realm of expertise, the campaign could backfire.

Another promising avenue might be to employ a number of macro and micro influencers to create a tax compliance campaign, akin to the successful flu vaccination campaigns discussed in Part IV. Like the study of vaccination campaigns, the IRS could test multiple messages among various influencers to understand which are most effective.[245] Research indicates that the ideal influencer would be one whose message about paying taxes (or about how to pay taxes) would be authentic and viewed as within the influencer's expertise.[246]

Unfortunately, there does not appear to be a well-established industry of "tax influencers."[247] However, a promising category of influencers could be finance influencers (sometimes called "finfluencers"), of which there is an abundance.[248] Many of these individuals dole out advice targeted particularly toward young people on matters such as investing in stocks, saving money, and, at times, paying taxes.[249] Consider, for example, Rachel Cruze, a finance influencer with 715,000 followers on Instagram.[250] Cruze's Instagram posts cover topics ranging from paying off car loans, choosing 401(k) investments, and making budgets.[251] One particularly relevant post from Cruze is titled "The Child Credit: Everything You Need to Know"; it contains a concise, easy-to-read summary of how the credit works.[252] In a similar vein, an effective tax compliance campaign could involve one or more influencers like Cruze sharing simple educational tips or statements designed to foster a norm that paying one's taxes is manageable (e.g., "Follow

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[244] *Cf.* Boudreau, *supra* note 203 ("[There are] pros and cons associated with celebrities playing an influential role in the climate discourse. If Hollywood stars get people talking about the crisis, that can be a good thing. But celebrities often consider how advocacy will affect their personal brand, so they may shy away from taking a stand on climate policies that are controversial so they don't risk alienating fans.").

[245] *See supra* note 185 and accompanying text.

[246] *See supra* notes 172-174 and accompanying text.

[247] A Google search for "tax influencers" turns up multiple results on how influencers are taxed but yields zero lists of influencers who focus on tax (search conducted on Google on July 11, 2024). By contrast, a Google search for "finance influencers" yields multiple lists of finance influencers. *See, e.g.*, Santiago Bedoya Pardo, *"Finfluencers": The Most Popular Influencers in Finance*, INT'L ACCT. BULL. (May 11, 2023), https://www.internationalaccountingbulletin.com/news/finfluencers-the-most-popular-influencers-in-finance/.

[248] *See supra* note 207. For example, popular "finfluencer" Humphrey Yang has over 50 million social media influencers (across all platforms). *Id.* The size of Yang's following technically makes him a mega influencer.

[249] *See, e.g.*, Humphrey Yang (3.3 million followers on Twitter) @humphreytalks; Haley Sacks (one million followers on Instagram) @mrsdowjones; *see also 10 Finance Influencers to Follow for Tax Day*, CAPTIV8 (Apr. 18, 2024), https://captiv8.io/blog/2024/04/15/10-finance-influencers-to-follow-for-tax-day/ (listing different financial influencers and the financial topics they share on social media).

[250] Rachel Cruze, *Helping You Get Out of Debt, Win with Money, and Have Fun in the Process*, INSTAGRAM (last visited Nov. 4, 2024), https://www.instagram.com/rachelcruze/?hl=en.

[251] Rachel Cruze, *Here's Why You Should Pay Off Your Car Loan Early*, INSTAGRAM (July 11, 2024), https://www.instagram.com/p/C8CpXktMbGe/?hl=en&img_index=1; Rachel Cruze, *5 Steps to Choosing Your 401k Investments*, INSTAGRAM (June 10, 2024) https://www.instagram.com/p/C8CpXktMbGe/?hl=en&img_index=1; Rachel Cruze, *How to Make a Budget*, INSTAGRAM (June 6, 2024), https://www.instagram.com/p/C74lqiDPwzZ/?hl=en.

[252] Rachel Cruze, *The Child Credit: Everything You Need to Know*, INSTAGRAM (Mar. 26, 2024), https://www.instagram.com/p/C4_Y_y1PJEF/?hl=en&img_index=1.

these 3 steps to keep up with your estimated taxes and avoid penalties") or that it is the right thing to do.

2. Measuring and Analyzing the Results of These Campaigns

As with any good marketing campaign, the IRS should routinely assess whether its efforts prove successful.[253] While there are many possible benchmarks to measure triumph, two that stand out are (a) national attitude surveys regarding tax compliance and (b) tax gap measurement studies.

a. National Attitude Surveys Regarding Tax Compliance

Every year, the IRS conducts a national attitude survey that asks, among many questions, whether it is unacceptable to cheat on one's taxes.[254] The higher the percentage of those taxpayers responding positively to this question, the more likely that tax compliance promotion campaigns will have proven effective. In the vernacular of the social scientists, responses to this question function as a gauge to determine the strength of the tax compliance social norm.

b. Tax Gap Studies

Beyond the qualitative information that national opinion polls may provide, quantitative analysis of the tax gap's size is another mark of how deeply embedded the tax compliance social norm is. Every several years, the IRS conducts in-depth tax gap studies to ascertain the nation's voluntary compliance rate.[255] These studies are illuminating, informing Congress regarding the IRS's effectiveness and simultaneously directing the IRS itself as to where it should target its compliance efforts.[256] Over the past half century, the voluntary compliance rate has hovered around five-sixths of full compliance due to a myriad of various factors, some of which are directly related to tax compliance (e.g., added IRS oversight resources) and some of which are indirectly related to tax compliance (e.g., a terrorist attack such as 9/11 that might instill patriotism).[257] Whatever the case, assuming the IRS regularly undertakes tax compliance social media campaigns,

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[253] *See* John Hall, *How to Measure the Success of Your Marketing Campaign*, FORBES (Dec. 25, 2022), https://www.forbes.com/sites/johnhall/2022/12/25/how-to-measure-the-success-of-your-marketing-campaigns/?sh=7b4aa6946c44 (examining various methods to determine whether an advertising campaign was successful).

[254] *See* INTERNAL REVENUE SERV., COMPREHENSIVE TAXPAYER ATTITUDE SURVEY (CTAS) 2021, at 7 (2022) (Publication 5296), https://www.irs.gov/pub/irs-pdf/p5296.pdf ("Mirroring previous years, most taxpayers believe it is 'not at all' acceptable to cheat on taxes (88%) and that it is every American's civic duty to pay their fair share of taxes (93% agree).").

[255] The IRS dedicates one of its websites entirely to the tax gap, providing both current and prior compliance reports. *See The Tax Gap*, *supra* note 5.

[256] *See* OFF. OF TAX POL'Y, U.S. DEP'T OF THE TREASURY, A COMPREHENSIVE STRATEGY FOR REDUCING THE TAX GAP 10–12 (2006), https://www.irs.gov/pub/irs-news/comprehensive_strategy.pdf (describing how the National Research Program, which conducts tax gap studies, is pivotal in securing comprehensive data critical to learning the determinants of tax noncompliance).

[257] *See Tax Gap*, GAO, https://www.gao.gov/tax-gap (last visited July 18, 2024) ("[T]he size of the tax gap can fluctuate as a result of taxpayer behavior, Internal Revenue Service (IRS) enforcement activities, updated methods for estimating the tax gap, changes in economic activity, and changes in tax law and administration.").

it would be informative to determine if doing so correlates with greater voluntary tax compliance rates.

Based upon the feedback that the IRS receives via the national opinion polling and the tax gap studies, the agency must regularly assess its successes and failures in its message deliveries and be nimble in making necessary communication adjustments. Akin to commercial campaigns, some messaging campaigns will inevitably fall flat, and other messaging campaigns will resonate with the public.[258] Using the same playbook, the IRS should be astute and learn lessons from these prior advertising campaigns and periodically adjust its messaging to conform to the social norms of the times.

On a final note, the IRS would be wise to routinely change its chosen influencers. The world of social media is fast-paced and quickly changing.[259] Someone may be a major influencer today, but by tomorrow the very same person could suddenly lose popularity. It would therefore make sense to poll the public or use other data to determine those who should be each year's influencers on the federal government's behalf.

B. Challenges in Using Influencers

There are multiple difficulties in the use of influencers to improve the social norm of tax compliance. This subsection discusses these challenges.

First, it is simple to say that trusted public figures like Oprah Winfrey or Steph Curry should be recruited as IRS influencers. However, it is hard to answer why these, or other trusted figures, would choose to participate in public campaigns to increase tax compliance. Elected politicians seem more likely candidates as public spokespersons, but doing so risks the politicization of any influencer campaign. Instead, micro or macro influencers who already specialize in finance topics might more readily see a tax campaign as consistent with their brand while also steering clear of politics.

Second, the potential impact of any influencer campaign is difficult to estimate, in large part because it is unclear who will be among those affected. Taxpayers are incredibly varied, diverse, and heterogeneous: certain messages might resonate with some and not with others. In this regard, a 2010 IRS study concluded that taxpayers differed in their motivation to pay taxes, categorized as follows:[260]

- "Pathologically honest": This individual is committed to reporting honestly regardless of any incentives to cheat.

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[258] *See, e.g.*, Suzanne Vranica, *Best and Worst Ads of 2016: The Things We Can't Unsee*, WALL ST. J. (Dec. 28, 2016), https://www.wsj.com/articles/best-and-worst-ads-of-2016-the-things-we-cant-unsee-148292094 (describing those advertisements that appear to resonate with the public and those that failed to do so).

[259] *See* Anna Zhadan, *Social Media Changes That Shook the World in 2022*, CYBERNEWS (Jan. 01, 2023), https://cybernews.com/editorial/social-media-changes-2022/ ("Social media has taken over the world in 2022—quite literally so. According to the Datareportal July 2022 global overview, 59% of the world now uses social media, with the average daily time spent online being 2h 29m.").

[260] *See* Off. of Rsch., Analysis, and Stat., Internal Revenue Serv., Final Report for Planning Theoretical Research (T.O. 0002) (Research & Management Consulting Services, TIRNO-09-Z-00021, Dep't of the Treasury 2010), p. 22.

- “Conflicted”: This individual is motivated by social norms or moral constraints.
- “Fearful”: This individual may go so far as to overpay taxes.
- “Surprised”: This individual faces an unexpected balance due.
- “Careless/negligent/procrastinator”: This individual delays paying taxes.
- “Strategic”: This individual is the classic *homo economicus* (or rational calculator).
- “Pathologically defiant”: This individual is committed to repudiating his or her tax responsibilities even in the face of significant deterrence.

Further, the study acknowledged that the same taxpayer, at different times, may easily fall into different or multiple categories.[261]

Sorting the general composition of the taxpaying public into these broad categories, or segments, is difficult enough; it is even more difficult to estimate the impact of any public campaign on the level of compliance of these segments.[262] What can be said with certainty is that it seems unlikely that the “Pathologically honest” and “Pathologically defiant” segments will be susceptible to any influencer campaign. As for the other segments, the most obvious target for such campaigns is the “Conflicted” segment, and most of the other segments may also be at least possible targets for a campaign.

Aside from the aforementioned labels derived from the IRS study, there are two demographics on which influencers are apt to have the most impact. It seems likely that the primary influencer audiences are individuals generally classified as Millennials (or those born from the early 1980s to the mid-1990s) and Gen Zers (or those born from the mid-1990s to the early 2010s).[263] These generations comprise younger individuals, roughly those under the age of 40 years old. Indeed, after one reaches the age of 40 or so, the number of influencer site users significantly declines.[264]

How will these younger cohorts respond to influencers whose message is that citizens should pay their taxes? At present, the larger categories of influencers are those who sell products, services, and lifestyle advice, and the available evidence indicates that their followers trust these influencers more than they trust mass media advertising by large corporations.[265] However,

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261 *See also* Torgler, *supra* note 131 (describing four types of taxpayers).

262 For an exploratory attempt to map the continuum of taxpayers across these motivational postures, see Brian Erard & Chin-Chin Ho, *Mapping the US Tax Compliance Continuum: From Pathologically Honest to Flagrantly Defiant, in* TAXING THE HARD-TO-TAX: LESSONS FROM THEORY AND PRACTICE 167 (James Alm, Jorge Martinez-Vazquez & Sally Wallace eds., 2004).

263 *See* Michael Dimock, *Defining Generations: Where Millennials End and Generation Z Begins*, Pew Research Center (2019), https://www.pewresearch.org/short-reads/2019/01/17/where-millennials-end-and-generation-z-begins/ (“Anyone born between 1981 and 1996 (ages 23 to 38 in 2019) is considered a Millennial, and anyone born from 1997 onward is part of a new generation[, namely, Generation Z].”).

264 *See generally* Brooke Auxier & Monica Anderson, *Social Media Use in 2021*, PEW RSCH. CTR. (Apr. 7, 2021), https://www.pewresearch.org/internet/2021/04/07/social-media-use-in-2021/ (social media sites are predominately used by younger generations).

265 *See* Erin Rodrigue, *31 Influencer Marking Stats to Know in 2023*, HUBSPOT (updated Aug. 29, 2024), https://blog.hubspot.com/marketing/influencer-marketing-stats#:~:text=Influencer%20Marketing%20Effectiveness,-7.&text=50%25%20of%20Millennials%20trust%20product,an%20effective%20form%20of%20marketing (“50% of Millennials trust product recommendations from influencers. This drops to 38% for product recommendations from celebrities.”).

followers of these influencers may be unreceptive to messages about patriotism, civic duty, and tax compliance, and research indicates that any campaign that is viewed as inauthentic or out of the influencer's realm of expertise will likely backfire.[266] On the other hand, finance influencers, or other similarly niche macro and micro influencers, might succeed in delivering credible messages about tax compliance to their followers. The challenge in those cases will be scaling the message to enough taxpayers to have a measurable impact on compliance.

Further, even if these younger cohorts respond positively to these messages, how much additional tax revenue would be generated? It is of course difficult to predict the dollar magnitude of any increased tax compliance. Even so, based on IRS Statistics of Income data,[267] the immediate short-run contribution of younger taxpayers to income tax revenues is likely to be relatively small, given the levels of their incomes. However, their long-run contribution will almost certainly be much larger as their incomes will generally increase as they age. That being the case, any improved tax compliance should generate larger and growing amounts of tax revenue over time.

All these questions pose significant challenges to the use of influencers, signifying that their use will have an uncertain tax impact. Nevertheless, this does not mean that this strategy should not be considered and analyzed in detail. Further, shifting social norms is a process that will likely take years. Even incremental progress in shaping a positive norm of tax compliance, perhaps through targeted campaigns by a select group of micro influencers, could have advantages that might take years to appreciate. Finally, notwithstanding the potential hurdles, the cost of employing influencers to enhance compliance is exceedingly modest (even assuming the government compensates influencers) compared to traditional forms of enforcement like conducting more audits or prosecuting tax cheats.[268]

Overall, the implications associated with the implementation of a well-constructed tax compliance campaign would almost certainly be salutary. On many occasions, commentators have observed that closing the tax gap will necessitate a multiprong approach;[269] that is, there is no one silver bullet that will eliminate the tax gap. In the past, one of the most common modes to instill tax compliance was the threat of conducting a tax audit.[270] However, in an age dominated by

[266] *See supra* note 173 and accompanying text.

[267] *See* INTERNAL REVENUE SERV., SOI TAX STATS—INDIVIDUAL STATISTICAL TABLES BY SIZE OF ADJUSTED GROSS INCOME, at tbl.5 ("Individual Income Tax: Income by Gender and Age from Information Returns") (updated Aug. 20, 2024), https://www.irs.gov/statistics/soi-tax-stats-individual-statistical-tables-by-size-of-adjusted-gross-income#_grp5.

[268] *See* William C. Boning, Nathaniel Hendren, Ben Sprung-Keyser, and Ellen Stuart, *A Welfare Analysis of Tax Audits Across the Income Distribution*, NBER Working Paper 31376, p. 3, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.nber.org/system/files/working_papers/w31376/w31376.pdf ("For example, audits of taxpayers with incomes in the bottom 50% of the income distribution cost an average of $5,218 while audits of taxpayers in the top 1% and 0.1% cost an average of $11,382 and $15,170 respectively.").

[269] *See* Nina E. Olson, *Minding the Gap: A Ten-Step Program for Better Tax Compliance*, 20 STAN. L. & POL'Y REV. 7 (2009) (suggesting several steps that Congress and the IRS can follow to help close the tax gap).

[270] *See, e.g.*, Susan Cleary Morse, *Using Salience and Influence to Narrow the Tax Gap*, 40 LOY. UNIV. CHI. L.J. 483, 493 ("Using enforcement to improve taxpayer compliance is an important strategy.").

Facebook, Instagram, and TikTok, one's social image has become increasingly important.[271] The IRS should capitalize on this reality by utilizing influencers to help shape and strengthen tax compliance norms.

VI. CONCLUSION

Congress and the IRS routinely try to improve taxpayer compliance. Over the course of time, the strategies that they have been employed have varied, spanning the gamut from the imposition of hefty penalties upon those taxpayers who are remiss in fulfilling their civic duties to utilizing more fully third-party information and employer withholding to awarding generous whistleblower awards to those third parties who report other taxpayers' derelictions.[272]

Combined, these methodologies have met with measured success. The United States commands one of the lowest tax noncompliance rates in the world.[273] Nevertheless, the tax gap persists, remaining stubbornly stuck in the mid-80 percent range, with billions of dollars of revenue being lost annually.[274] Therefore, something more must be done.

This article advocates that Congress and the IRS invest greater resources to enhance the social norm related to tax compliance. Indeed, the more taxpayers view tax compliance as a shared social norm, the more likely (i) the IRS would not need to conduct expensive and time-consuming audits, (ii) taxpayers would not have to retain accounting and legal counsel, and (iii) the judicial system would be alleviated from having to resolve differences between the government and taxpayers. To shape and bolster the social norm related to tax compliance, this article advocates recruiting influencers who can spread the importance of paying one's legally owed taxes. While its utilization in the tax realm would be new, it is a strategy that is tried-and-true in other realms: during past times of social upheaval and war, Congress would often strategically employ influencers of that particular era to change and shape cultural mindsets.[275]

In the social media era that now exists, influencers are no longer confined to either print media or the silver screen. To the contrary, influencers are ubiquitous, affecting nearly every aspect of our existence and capable of rapidly changing social norms.[276] Now is the time for Congress

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[271] *See* Asociación RUVID, *Social Image Concerns Predate Social Media*, SCIENCEDAILY (Sept. 12, 2016), www.sciencedaily.com/releases/2016/09/160912101801.htm ("Maintaining a positive social image is an essential feature of human psychology, as it fosters collaborative group behaviour more efficiently than other motivations.").

[272] *See supra* Part II.

[273] *See supra* note 24 and accompanying text.

[274] *See supra* note 4 and accompanying text.

[275] *See supra* note 20 and accompanying text.

[276] *See, e.g.*, Bradley Hoos, *The Psychology of Influencer Marketing*, FORBES (Apr. 14, 2019), https://www.forbes.com/sites/forbesagencycouncil/2019/08/22/the-psychology-of-influencer-marketing/?sh=2a4944e9e1be: ("Influencer marketing is effective because it capitalizes on our most natural tendencies, emotions and desires. Influencer marketing is word-of-mouth at scale, where people listen to those they trust and those who can use storytelling effectively. When we dive into the psychological details, we find that natural emotions, fear of missing out, care and relationship-building play out digitally. These reactions are all natural, human and hardwired into all of us. The digital world has found a way to tap into personal connections. And because of these human connections, I think it's safe to say that influencer marketing is not leaving the marketing mix anytime soon.").

and the IRS to capitalize on this power. With influencers' assistance, this yet untested approach in the tax compliance sphere can comprise another mode of galvanizing taxpayer compliance.