COMMENTS

TAX AMNESTY IN THE AMERICAN STATES: COMMENTS

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THE PAPER BY MIKESELL AND ROSS ANALYZES the changing structure and yield of state tax amnesties in the Great Recession. Their paper does a good job of walking the reader through the structural evolution of over 100 historical and contemporary amnesty programs in the first 30 years of amnesty history in the American states. The historical factoid included in their paper about the first tax amnesty on record, reported on Rosetta Stone in Egypt in 200 BC, is fascinating! [1]

The authors argue that tax amnesties have evolved from a mechanism for improved tax administration to a low cost source of quick cash for states. The Federation of Tax Administrators posts a table on state tax amnesty programs on their website that is updated periodically.[2] The latest FTA table indicates that forty six states[3] and the District of Columbia[4] have enacted amnesties since the early 1980's with variations in the coverage of taxes, length of amnesty, periodicity, and other program characteristics. It appears that thirty eight states offered repeat amnesties as the use of state tax amnesties are reported to have increased during hard economic times. Since the Great Recession, the number of states passing tax amnesties have sky rocketed with many launching their fourth or fifth ones.[5] I would like to suggest a detailed table be included in the paper listing all the characteristics with a "Yes" or a "No" against state names — the typical 50-state a-la-Mikesell table!

In the following, the New Jersey tax amnesty experience will be summarized and used to discuss the major findings of the paper. New Jersey has launched four amnesty programs between fiscal years 1987[6] (it's first) and 2009, two of which were launched during the last two recessions. These programs have similar tax coverage but differ in terms of length of the program and revenue yield, which ranged from $187 million (1987) to $740 million (2009). In aggregate these programs have generated over $1.5 billion in amnesty revenues. It is interesting to note that the distribution of amnesty dollars by major tax categories has shifted over time. The percent distribution of revenues generated during the first and last amnesty programs is presented below:

Revenue Category	1987	2009
Sales & Use Tax	39%	12%
Corporation Business Tax	29%	53%
Gross Income Tax	27%	19%
Other	5%	16%

Apparently, the percent share of sales tax declined from the highest to the lowest share between 1987 and 2009 (down from 39 percent to 12 percent), while the percent share of CBT moved up from the second highest to the top most share in 2009 (up from 39 percent to 53 percent). The corresponding share of the individual income tax also declined from 27 percent in 1987 to 19 percent in 2009 but its relative rank remained unchanged. The percent share of revenues from other sources more than tripled from 5 percent to 16 percent of the total.

The Mikesell-Ross paper reflects that structural variance can have an influence on the revenue yield of state tax amnesty programs.[7] For instance, they find that the inclusion of accounts receivable in amnesty eligibility tends to generate high per capita recoveries. The paper employs a good measure of the recovery rate, modeled using a log-linear specification with a vector form. The latest results of high yield amnesty states such as Illinois and New Jersey validate the positive contribution of accounts receivables to the revenue productivity of amnesty programs. However, as noted in the paper, amnesty revenues account for a very small fraction of total state tax revenues. It would be useful to consider extending their analysis to examine the

*The views expressed are those of the author and do not necessarily represent the views of the Office of Chief Economist or the New Jersey Department of Treasury. I would like to thank the Division of Taxation and the OMB for providing insightful information on the New Jersey tax amnesty programs.

distribution of amnesty collections by major taxes in other states and to track any shifts in the distribution over time as reflected above for New Jersey.

The paper finds that highest collections have occurred in the third quarter amnesties. In New Jersey, two of the most revenue productive amnesties were conducted during the fourth fiscal year quarter (with the highest yield of $700+ million in 2009) and the lowest yield one was during the fourth calendar quarter in New Jersey (with yield below $200 million in 1987). The interaction of Voluntary Disclosure Program (VDP) mechanics is not very clear. My understanding is that states generally temporarily suspend their VDP during the state tax amnesty; New Jersey is a case in point.

The recovery table shows that real recovery was around 91 percent for the largest and latest tax amnesty in New Jersey. It is not clear as to how to interpret the real recovery results for the different states with multiple amnesties. Since 2005 is set at 100, for most states the recovery ratio is below 100 for state tax amnesties conducted after 2005. The paper finds that the presence of installment payments tends to increase participation enough so as to increase the recovery rate as in specification (D). In this context it is interesting to note that New Jersey did not include this feature but had a reported high recovery rate. Extending the table with an additional column showing the percent share of recovery to real recovery by state would be helpful.

The results of the paper do not appear to support the view that amnesty length significantly affects participation. This trend appears to be true for New Jersey. For instance, the 1987 amnesty was nearly twice the length of the last one held in 2009 (under 1.5 months) but the yield was only around one-fourth of revenues generated during that amnesty. The compliance effects of state tax amnesties are crucial and this paper makes a useful contribution but more empirical work needs to be done. Madhusudhan and Cohen (2011) attempt to examine the trend in enforcement collections through tax amnesty cycles in New Jersey and they observe that corporation business tax enforcement collections tended to increase during amnesties, followed by a drop off in such revenues.

CONCLUSION AND BEYOND

The paper presents a very timely topic and analysis. The fact that states are engaging in repeat amnesty programs with decent level of revenue yield by itself would seem to suggest that there is significant scope for improving tax administration and enforcement. Policymakers would need to decide whether to use tax amnesties to improve compliance or to invest in additional regular enforcement efforts to enhance tax administration and encourage voluntary compliance?

It is not clear why the state tax amnesty results indicate that the final "amnesty dollars in the door" is so many times higher than originally anticipated? There is a need to examine the mechanics of "amnesty illusion" or windfalls[8] to evaluate how much is real "new money" and to what extent long term compliance is expected to increase?

A lot more could be done in processing results from state amnesty programs to improve an understanding of tax evader/noncompliance behavior. Some potential areas include:

- generating a carefully designed sample of amnesty participants from the state amnesty data file
- developing a good database would have many potential applications, particularly for improving taxpayer compliance
- developing detailed tax evader profiles would be useful in designing more effective enforcement policies
- distinguishing between business and individual participants is also very useful
- follow up studies should be conducted to evaluate long term benefits, if any, of state tax amnesty on compliance behavior

The ultimate goal is to encourage long term voluntary tax compliance through a well administered tax system and a supportive set of enforcement initiatives!

Notes

1. See Mikesell and Ross (2011, pg.1).
2. For details visit: http://www.taxadmin.org/fta/rate/amnesty1.pdf.
3. The exceptions include: Alaska, Montana, Tennessee, and Utah.
4. New York City had a tax amnesty program covering major taxes from 10/20/2003 to 1/23/2004.
5. New York, for instance, launched its fifth amnesty in 2010.
6. See Madhusudhan (1988) for a comparative discussion of the New Jersey tax amnesty experience in 1987.

[7] For a list of common factors affecting tax amnesty collections, including, public outreach and marketing, see Madhusudhan and Cohen (2011).

[8] For instance, New Jersey's receipts from its 2009 amnesty were more than three times the estimated $200 million and there are other states with similar experiences.

References

Madhusudhan, Ranjana. Discussion: What did we Learn from State Tax Amnesty Programs? In the National Tax Association Annual Conference Proceedings, 1988, pp.146-147.

Madhusudhan, R. and Roger Cohen. Enforcement Collection Trends Through Amnesty Cycles in New Jersey: A Comparison with Selected Neighboring States. FTA 2011 Annual Revenue Estimation Conference website slides. October, 2011.

Mikesell, John and Justin Ross. The Changing Structure and Yield of Amnesties in the Great Recession. November, 2011.