

Tax Governance

Corporate Experiences with Cooperative Compliance in Denmark

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Tax Governance

Corporate experiences with Cooperative Compliance in Denmark

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Abstract¹

This working paper presents an analysis of the experiences of Cooperative Compliance in Denmark. Cooperative Compliance denotes a specific kind of collaborative program for the regulation of large corporate taxpayers by the tax authorities. Cooperative Compliance programs have been implemented in several countries worldwide. In Denmark the program is called Tax Governance. Tax Governance has been studied using qualitative method and the analyses of the working paper build on an extensive base of in-depth interviews—primarily with tax directors from corporations participating in the program. The working paper shows as a general stance that the corporations are supporting the ideas behind Tax Governance and are generally satisfied with their participation. However, the working paper also shows that most of them explain to be stretched between this willingness to participate and the different challenges and contradictions they told to experience in the everyday work practices related to the Tax Governance program. The working paper *zooms in* at these various everyday experiences from the corporations. Yet, it also *zooms out* and shows that the Tax Governance program in different ways relate to wider international trends within tax administration, especially concerning the development of risk assessments and internal control in the corporations and a greater focus on monitoring of these elements by the tax authorities. Overall, the working paper concludes that Tax Governance as a model for a collaborative regulatory relationship between Skat and large corporations comes with both possibilities and challenges.

Keywords Taxation, cooperative compliance, large corporations, qualitative interview

JEL Classification H25, H11, H83, M48, Z1

¹ We would like to express our gratitude to those tax directors, civil servants, tax accountants, tax lawyers and other stakeholders who have taken their time to engage enthusiastically in the interviews about their experiences of Tax Governance. The detailed and nuanced reflections on the program leave them potentially vulnerable to criticism. For reasons of confidentiality, we cannot mention any named corporations here. Yet, we have been stunned by the openness and interests that several of the tax directors from the corporations inside and outside the program have expressed in our research. Without their engagement and their willingness to participate, this research would not have been possible. For this we are sincerely thankful.

We also like to thank Jaana Kettunen, Carsten Greve and Åsa Gunnarson for reviewing this working paper. Their inputs have helped us revise and improve the paper and their feedback provided ideas for further development of our material. Earlier versions of this paper have been discussed in several forums. We thank our discussion-partners in Work Package 6 of the FairTax research project for valuable comments at our latest meeting in Linköping, April 2018. Also, the paper was presented and fruitfully discussed at the *Reconfiguring the Welfare State* event, April 2018, organised by colleagues at Aarhus University. Finally, part of the paper was presented at the *3rd International Conference on Taxpayer Rights*, Amsterdam, May 2018. Here we also received feedback and encouragement to further develop our analysis of this Danish case of Cooperative Compliance.

1 Introduction

This working paper presents an analysis of experiences with the Tax Governance program in Denmark. The working paper is divided into ten sections. Section 2 of the working paper provides background information about the Danish Tax Governance program and section 3 introduces the working paper's methodology.

Taken together, section 4, 5 and 6 of the working paper are *backward* looking sections that analyse the experiences that the corporations have had with the Tax Governance program for the last couple of years. Section 4 is the first section reporting on the corporations' experiences of being part of the Tax Governance program. It explores the corporations' different motivations to and benefits from participating in Tax Governance. We show that the main motivations and benefits singled out by the corporations are firstly the possibility of getting direct access to Skat and fast responses and real-time clarifications from Skat. Secondly, minimizing the risk of re-active audits and a concomitant heightened predictability of their tax affairs is an important element. Thirdly, many of the corporations point to it being their moral and societal obligation to participate in the program. Furthermore, motivations *not* to participate in the program are presented. A lack of resources for embarking on the collaboration, no wish to expose oneself to Skat, a perceived low likelihood of traditional tax audits and a general satisfaction with status quo are the main reasons given for having chosen *not* to participate in the program.

Section 5 is a two-part section. First, it shows the core elements of what the corporations discuss with their Tax Governance contacts during the dialogue. It argues that there is a high general satisfaction with this element of Tax Governance among the corporations. Secondly, however, the section shows that while satisfied with this element, there are nevertheless a number of challenges connected to establishing a fruitful collaboration and dialogue. Some of the major challenges that the tax directors of the corporations point out are structural in their nature, other are agency-related. A guideline on when to start case work [sagstilskæringsnotat], no binding responses from Skat, an inattentiveness of the specificities of the corporations and problems regarding transfer pricing and international relations are the some of the main challenges to the collaboration.

Section 6 treats the other central element of Tax Governance: the planned revisions of law areas in the corporations. It shows that this work has been (and is) characterized by a number of challenges related to conducting risk assessments, in relation to developing internal control and in relation to the resources needed to be part of the collaboration. The main challenges are the heavy resource-demand that participation in the collaboration

potentially requires and furthermore the issues of substantiality and the different positions Skat and the corporations often have regarding this issue.

Section 7 is a *forward* looking section that introduces the reformed Tax Governance program, launched in 2017. It holds an analysis of the origins of the reformed Tax Governance program and shows that the ideas in this reformed version of the program are in different ways related to a number of international trends: the Sarbanes-Oxley act in the US, the PCAOB Release, the Senior Account Officer in the UK and the International Compliance Assurance Programme. While the reformed version of the Tax Governance program has just recently been launched, the section does, however, also show some of the most recent thoughts on and experiences with this new approach. The section ends by arguing that there are a number of ‘candidate contradictions’ inherent in the reformed program.

Section 8 shows how the corporations ‘use’ the Tax Governance program in different ways. The tax directors describe four main areas where the program – in addition to its core purpose area – is found to be beneficial: as a tool to strengthen their position internally in their organizations, as a tool to strengthen the corporation’s public image, as a way to get prepared for new international developments in tax administration and finally as a way to get the possibility to take a more leading role in the relation to Skat.

Section 9 is a short section that provides indications of how we wish to further develop the academic analysis of the material in the working paper. This relates specifically to a critical questioning of the concepts of transparency, accountability and meta-governance. Section 10 is the conclusion and sums up the main findings of the working paper.

2 Background: the Danish Tax Governance program

In Denmark, this collaborative relationship is called Tax Governance. This Danish Tax Governance program is managed from the unit for large corporate taxpayers [Store selskaber] in Skat, the Danish Customs and Tax Administration. This unit is responsible for the control, regulation, service and enforcement of all large corporate taxpayers in Denmark. In Denmark, a large corporate taxpayer is defined by having a turn-over above 500 million DKK and there are approximately 8,800 of these large corporate taxpayers in Denmark. In 2016 there were approximately 265 man-years allocated the unit for large corporate taxpayers. Much of this unit’s work is based on tradition reactive audits and inspections of these. However, since 2008 a steady part of the resources have been allocated to the Tax

Governance program. In 2016 this amounted to approximately 17-20 man-years (for an introduction to Tax Governance in Denmark, see also: Boll 2018).

The Tax Governance program first started as a pilot project from 2008 to 2011. At this point in time, the program was called Enhanced Relationship and the aim was to cultivate more extended collaboration with selected the large corporate taxpayers in Denmark to pre-emptively secure tax compliance (for an introduction to this pilot, see: Elkjær and Kühn Pedersen 2011). The inspiration for this initiative was the Netherlands and their program called Horizontal Monitoring (Stevens, Pheijffer et al. 2012). In the pilot, six large corporate taxpayers were invited to be part. An evaluation report was produced from the pilot and the initial reaction was not to continue the pilot—partly due to external resistance to the program from interest groups and from Big Four tax consultants. Yet, as the unit for large corporate taxpayers itself saw potential in the program, it was decided to make it into a permanent program, now called Tax Governance. The clue to this decision was closely related to the fact that Skat was under pressure to downsize and utilize their resources more efficiently (Tax advisor SS, p. 3). In relation to this, the Tax Governance program was seen as a cost-efficient way of regulating this segment of taxpayers.

In the Danish context, the now existing Tax Governance program was launched ultimo 2012. In 2018, around 30 of the largest Danish corporate taxpayers participate (From 2017). These corporations are represented anonymously in the report. Yet, to get an impression of what kinds of corporations we are dealing with, we only need to look at the first 100 corporations of this top 1000 over the largest Danish corporations—encompassing Mærsk, ISS, Arla, Vestas, Danfoss, LEGO, Grundfos, TDC, Siemens, Pandora, Rockwool, etc. (Berlingske 2017). It is 30 corporations from these first 100 corporations that have been included in the Tax Governance program, and it is corporations of this kind that are represented in this report. In Denmark, these corporations pay close to 60 pct. of all corporate tax and they are also in the top regarding their number of salaried employees (Nielsen and Kehlet 2018). Hence, the Tax Governance program is dealing with the largest contributors to the national Treasury. Several of the corporations represented in this report contribute with two- and three-digit mill. Danish kroner in corporate tax on a yearly basis. Also, importantly, most of the 30 large corporate taxpayers who participate in the program are so-called groups [koncerner] and therefore these corporations represent approximately 800 large subsidiaries [datterselskaber]. Hence, the Tax Governance program actually concerns close to 10 pct. of all the large corporate taxpayers that are under the auspice of the unit for large corporate taxpayers as it roughly covers 800 out of their 8,800 large corporate taxpayers.

The Tax Governance program includes focus on close to all taxation areas: VAT, transfer pricing, excise duty, corporate taxes, income taxes and e-capital. It does not include customs duties which are regulated by the EU. The program has a website where the guidelines to the program may be found (Skat 2018). While this information about the program is public, the names of the participating corporations are not public. Skat will not say who they have invited to be part of the program as it is seen as an internal administrative system. It is not a system or program to promote or otherwise point out the participants. If, however, the participating corporations themselves wish to announce publicly that they are part of the program, then they are free to do so.

In Skat, the Tax Governance program has two central positions or titles. One is the title of being a *Tax Governance manager*. This manager is the main contact person for a participating large corporate taxpayer. Each corporation in the program has a Tax Governance manager appointed when entering the program. These managers are typically tax officials with several years of experience and many of them are specialists in corporate taxes. Typically, a Tax Governance manager is contact person for one or perhaps two large corporate taxpayers. Being a Tax Governance manager is a time consuming task and requires good insights into the participating corporation's affairs and overview of its challenges and risks. The other central title is the *Tax Governance specialist*. In addition to the Tax Governance manager, a team of specialists will also be appointed to the participating corporations. These specialists are assigned from other departments in Skat—reflecting their area of expertise.

The 17-20 person-years that are presently allocated the Tax Governance program are spread over approximately 150 tax officials in Skat. Very few—if any—of them work full time on the program. Instead, these are allocated a certain number of hours to the program. The Tax Governance managers use most time, while many of the specialists only are allocated a specific number of hours per month to the program. One Tax Governance specialist explained—for instance—to us that he uses 10 pct. of his time on the Tax Governance program and 90 pct. on normal control and other tasks (Tax Governance specialist VV, p. 7). This is a very normal work situation in Skat as most tax officials are working on several projects at the same time.

2.1 Aim and position

The aim of this report² is to presents an analysis of the Danish Tax Governance program. The report focusses specifically on elucidating the changing and complex set of experiences that the participating corporations have had with the program and which they have shared with us in interviews. Furthermore, an aim with the report is to relate the Tax Governance program—and thereby Cooperative Compliance—to wider administrative trends within taxation and the public sector. In this report, this is done on a rough out basis. This will be elaborated when this FairTax working paper is developed into journal articles. Hence, for now the report predominantly focusses on the experiences as retold by the corporations.

Our position in relation to the Tax Governance program is not one of either *praise* or *blame*. We will not provide recommendations as to whether we believe that the program is viable or not, neither will we recommend whether corporations should accept the invitation to be part of the program. These are decision to be taken in Skat or in the corporations. Instead, we seek to provide a nuanced account of the many aspects of the program where we highlight elements that function as well as elements that are less successful. Our ambition is that this may inform the general understanding and discussion of the program. Furthermore, we hope that it may assist the various decision making processes around the Tax Governance program which are both taken in Skat and in the corporations which are either part of the program or prospect participants.

2.2 Literature on Cooperative Compliance

Several publications have been published that analyse aspects of Cooperative Compliance. Among these are a report on the Sweden experiences with Cooperative Compliance (Björklund Larsen 2016), reports on the experiences in Norway and Finland (to be published) the experiences in Netherlands (de Widt 2017), in the UK (Vella, Freedman et al. 2010), in Australia and New Zealand (Dabner and Burton 2009), and in Italy (Manca 2016). For a general introduction of Cooperative Compliance with several country examples, see Brozewska (2016), Owens (2013), van der Enden and Bronzewska (2014) and Szudoczky and Majdanska (2017). How this study adds knowledge to this existing body of knowledge will be elaborated when the working paper is published as journal articles.

² In the abstract and introduction we speak about our text as a ,working paper‘ as it is published in the FairTax Working Paper series. However, because the the text is also part of Deliverable 6.1. in the FairTax research project—which has a form of a ,report‘—we refer to our text as a ,report‘ in the remaining part of the text.

3 Methodology

The report is based on a total of 38 in-depth qualitative interviews that cover the three parties in the tax-triangle; comprising tax administrators from Skat, internal corporate tax directors/decision makers in the corporations and external advisors. Due to time constraints when analyzing the material, we have chosen that this report primarily treats the tax directors of large Danish corporations' experiences. However, the interviews with tax administrators and tax advisors work as a backdrop for this report and they will be included much more in future work with the material.

Of the 38 interviews, 14 of them are thus with tax directors (or persons in similar functions) from 12 large Danish corporations of which nine are part of the Tax Governance program. Three of these interviews are with tax directors from corporations, who for different reasons have chosen not to be part of the Tax Governance program or have not been invited. These non-participants have been interviewed in order to be able to include some voices from the margins of the formal Tax Governance program. All of these corporations and interviewees are represented anonymously. These interviews were predominantly conducted between February and April 2018. In the report these are cited as Corporation AA through to Corporation LL.

In addition to the interviews with tax directors, the report also to a minor degree draws on 12 interviews with external advisers (tax accountants, tax lawyers and interest groups). The tax accountants and tax lawyers all have one or more clients in the Tax Governance program and know the program through their clients' experiences. These interviews were conducted between April and June 2016. Lastly, the report also to a minor degree draws on 12 interviews with employees from the Danish tax administration, Skat. These are the senior managers responsible for the decision making around the Tax Governance program, Tax Governance managers and Tax Governance specialists. These interviews were conducted between April and October 2015. In the report these are cited as Tax advisor RR, Tax Governance specialist VV etc.

All interviews have been performed as semi-structured research interviews. A question guide with pre-defined themes has been used to guide the interviews, but during the interviews themes brought up by the interviewee have also been encouraged and explored. The interviews have all been audio-recorded and transcribed verbatim. This has been followed by close readings and re-readings of the transcripts and a grounded thematic analysis of the transcripts.

Seen from above, the voices from the corporations can seem very opinion-based, and for sure we have met strong and very diverse opinions during the interviews. However, we have tried to go into the opinions and explore in-depth what concrete experiences these opinions were based on. So asking for details and examples of concrete experiences has been a way to go beyond mere detached opinions about the Tax Governance program. It is worth emphasizing that the corporations cannot be classified as simply pro or con Tax Governance as such. At the onset and as a general stance the tax directors were supporting the idea behind the program and most of them pointed to their moral obligation and wish to accept to participate in such an initiative. However, most of them also explained to be stretched between this willingness to participate and the different difficulties and challenges most of them told to experience in the everyday work practices related to the Tax Governance program.

4 Benefits and motivations to participate

The first theme we explore is the benefits that the large corporations explain that they gain from being part of the program and also—and related—their motivations to participate in the program. During the 14 interviews with the tax directors of large Danish corporations, all in different ways talked about what they have experienced as benefits from participating and most of them also told about their motivations and expectations regarding their participation.

Looking at this, it should be made clear that any participation in the Tax Governance program is voluntary and that participation is most often initiated by Skat who sends an invitation. Skat states that corporations may also themselves request to be part of the program (Skat 2018). Only corporations that are evaluated as ‘tax compliant’ by Skat are invited to be part of the program. Skat has an internal procedure to evaluate the corporations’ level of tax compliance. This procedure is not open to the public. Yet, an extensive study on the risk assessment procedures prior to entering a cooperative compliance program has been conducted in the Netherlands and the UK. See the article *Risk Assessment in a Co-operative Compliance Context: A Dutch–UK Comparison* for an introduction to how this is done (de Widt and Oats 2017).

4.1 Direct access, fast response and real-time clarification³

The tax director of Corporation AA describes their motivation to participate to be grounded in the possibility of getting fast response and clarification [afklaring] of questions. This possibility of getting fast responses and the ability to present—for instance the financial statement and get an informal ‘go’ and predictability from Skat— is something close to all the participating corporations value and describe as a key motivation to being part of the program. The tax director of Corporation LL explains:

”One of the benefits is that you have the possibility to get specific matters screened/dealt with [afdækket] through the direct access to Skat, not least that there is both a Tax Governance manager from Skat as the main contact person and also dedicated employees or teams covering the specific specialist fields” (Tax director, Corporation LL, p. 2).

This service the corporations are offered as they are connected both to a Tax Governance manager who is their key contact person and a Tax Governance team of specialists who may answer specific questions in areas such as VAT, transfer pricing, corporate tax, tax deducted from income at source [A-skat], etc. Hence, as the background section 2 notes, 5-6 persons in Skat are formally connected to the corporation and they are dedicated to provide quick replies to pressing questions in the here-and-now to provide a real-time clarification. The tax director from Corporation BB points to this aspect of real-time clarification as a strong motivation for participating in the Tax Governance program:

“The real-time aspect; that we can put our income tax form aside, when we have produced the one coming up in June 2018, then we can put the one from 2017 aside. It is over with [lukket og slukket]. Fine, away, go on! We liked that idea” (Tax director, Corporation BB, p. 3).

According to Skat, this fast response and clarification process should be based in an open and frank dialogue about taxation issues which are raised in due, good time. Close to all interviewed tax directors mention this element of the program as positive because it allows them to gain certainty over tax questions they are in doubt about and over, for instance, their yearly financial statement.

³ The elements of benefits and motivation are described rather briefly in this and the following section. This is due to the fact that all of these various processes will be dealt with in detail in section 5 and 6. The purpose for now is simply to get an impression of the immediate responses from the tax directors.

4.2 Predictability and minimized risk of re-active audits

In addition to these points, the tax director of Corporation CC explains that their motivation to participate was based in the possibility to “minimize the risk of an extensive and resource-intensive control three years back in time” (Tax director, Corporation CC, p. 2,3,7). The tax director of Corporation EE has the same position:

“A lot of cases of very big figures had been running for many years [at the time they considered entering the Tax Governance program] and one of the principal reasons [for entering the program] was to be able to get a dialogue with Skat at the forefront (...) We wanted some ongoing clarification of these areas [VAT, payroll tax and corporate tax] in order to get things closed so that we do not need to go through these things 3,4,5 or 6 years after and use resources on that” (Tax director, Corporation EE, p. 2).

Another tax director points also to the collaborative element in the planning as a major benefit from being in the program:

“Nothing comes like a thief in the night, there is not all of a sudden a call for material [materialeindkaldelse] or other things in your mailbox as if propelled by a gun [som skudt ud af en kanon] or fallen from the sky [lige er faldet ned fra himlen]. It is a formalized collaboration where you agree on a case-to-case basis, what is to come. I think that is also a benefit” (Tax director, Corporation LL, p. 2).

The collaborative element of planning and the predictability associated with it is thus also a recurring theme when the tax directors speak of the benefits from being in the Tax Governance program.

4.3 A moral imperative and willingness to collaborate

The tax director of Corporation AA describes that a motivation to participate is that the program fits very well with his organisation’s wish of being proper and responsible [ordentlige og ansvarlige]. As he says, “we care a lot about [tax] compliance” (Tax director, Corporation AA, p. 2). This is supported by the tax director of Corporation CC, who says: “We have nothing to hide, so we want to open up and collaborate” (Tax director, Corporation CC, p. 2). She says that her organisation simply likes the basic idea of the Tax Governance project. These motivations are not so much based in a concrete wish to ‘get something’ from the program, but is more related to a general support of the spirit of collaboration. This statement is also backed up by the tax director of Corporation DD:

“Basically, if someone asks you, ‘do you want to be part of a trust-based collaboration?’ You cannot say: ‘no, I do not, I want your trust but you cannot expect to get my trust’, well, that is not the way to go [det duer ikke] (...) This [Tax Governance] is the future, it *IS* the future. If it is this specific model or another can be discussed, but you cannot be in doubt whether large Danish corporations should be in a collaboration [with Skat]” (Tax director, Corporation DD, p. 10).

He further explains:

“I saw it as an offer regarding a closer collaboration and a possibility for talking about things instead of just having a relation on a case level [køre på sagsniveau]. So in that manner it was obvious to enter” (Tax director, Corporation DD, p. 2).

Hence, the participating corporations generally have a wish to collaborate and want to have a dialogue with Skat—instead of ‘only’ engaging when there are more conflicting cases going on. In addition to the very core of the collaboration and the specific work done, some of the corporations also find Tax Governance and the formalised collaboration beneficial due to the signal value both regarding their self-perception and their use of Tax Governance in their communication to their surroundings. Tax directors from two different corporations explain:

“My boss was actually happy, a bit proud and very satisfied, because as he said, when we received this letter we were for sure in a good standing with Skat. I do not think you were included in Tax Governance if you were in the black book” (Tax director, Corporation BB, p. 1).

“A direct benefit for us has been that we want to collaborate with Skat. And in part because there is some CSR in it, to be able to say that you work with Skat on a formalistic basis” (Tax director, Corporation LL, p. 2).

Lastly, the signal value of choosing *not* to participate in Tax Governance has also been aired as a concern. One tax director reflects specifically on how ‘saying no’ to the invitation may somehow put the corporations in a bad standing:

“We were very much in doubt [whether to participate]. What happens when you open your books to Skat – well, we want to conform to all the rules, we have strong stance [aktiv stillingtagen] on this, but what happens when you open up, will you get all kinds of questions and need to go in and adjust [efterkorrigere] extensively? We did not want to do that. But there was also another issues, what will happen if we say no, do they then come and say, well maybe we should do some audits there on different

areas since they do not want to enter this collaboration (...) Resources was another issue, how many resources do we need to put into this, we do not have a tax department in the corporation ready to handle this (...) But we want to be compliant and we also saw it as a way for us to be stronger on our procedures (...) We found that saying no might reflect unfavorably on us [sætte os i et dårligt lys]” (Tax director, Corporation KK, p. 1-2).

Also one of the interviewees touches upon this point in relation to the specific circumstance that the invitees to the Tax Governance program are part of the group of the largest Danish corporations, which he expresses to entail special responsibilities:

”I cannot advise others not to participate, that would be a mistake, I would say. It is also about if you are in this level of large Danish corporations, then you participate, there is no choice. The carpenter may say no, listen I do not want to use every Saturday on this in order to live up to your [demands], I do not want to bother. But for us, no, we bloody [sgu] do not have a choice. If Danske Bank says no, we have chosen not to, we do not want to use the resources, [then it makes us think] okay, so you are cheating the rest of us for something here...?” (Tax director, Corporation DD, p. 19).

Some elements of ‘noblesse oblige’ surface in this tax director’s description of what can be termed the responsibility of large corporations to participate, regardless of their wanting to do so or not. So, it can also be argued, that participating is not solely about the corporation’s relation to Skat, also potentially its relations or reputation in the larger Danish corporate landscape.

4.4 Partially concurrent motivations

Making a brief sub-conclusion on the above sections, the key benefits from being in the program may be condensed to a positive expectation about getting fast clarification over pressing questions in real-time and to get predictability as to how Skat sees their returns to Skat. The corporations are eager to get a dialogue with Skat about their returns before they are submitted to Skat because this secures that Skat accepts their content. For the corporations this creates certainty in relation to the fact that they will probably not experience a re-active audit when the documents are ‘signed off’ by Skat. Moreover, the corporations also simply want to signal that they *care* about their tax compliance by being in the program and that they *want* to collaborate and have dialogue on a regular basis—in contrast to simply engaging with the authorities when they have a (conflict) case.

We claim that these motivations show similarities or overlaps between the motivations of the corporations and Skat. This is illustrated by enquiring into what Skat points to as the benefits and motivations for the program. Skat writes that a key motivation to enter the collaboration is that the participating corporations should:

“settle their accounts of tax, VAT, duties etc. in a correct manner already the first time they settle their accounts with Skat. In this way the settlement of the accounts is ready in an early stage, the resource-demanding need of re-active control is reduced and the risk that a corporation receives a subsequent tax bill from Skat is lessened” (From 2017, 1).

This motivation is repeated several times in Skat’s presentation of the Tax Governance program: participation and what this implies in terms of collaboration and real-time dialogue—which the corporations appreciate as noted above—*increases* the likelihood of correct and timely settling of accounts and it *decreases* the likelihood of resource demanding re-active audits. Hence, here there is an alignment of motivations and expectations related to the program.

What we can find in our interviews is, however, also a divergence on this topic of benefits and motivation when we look—especially at the corporations who are not part of the Tax Governance program. Hence, before tuning in on a more detailed description of what happens during the collaboration in the program, we will use the remaining part of this section to return to another aspect of the question of motivation.

4.5 Motivations *not* to participate

We also wish to shed light on the motivations *not* to join the Tax Governance program. We have not been able to get precise information about how many corporations that have rejected the invitation to join the program. But we understand from a number of interviewees (especially the tax accountants) that a number of corporations actively have decided to reject the invitation. For instance, a tax advisor mentions that Corporation FF and Corporation XX are examples of two corporations having declined the invitation to participate in the Tax Governance program (Tax advisor RR, p. 20).

4.5.1 *Lack of resources and low likelihood of tax audits*

One interviewee, the tax director of Corporation FF, is very firm in his explanation of why not to participate: Tax Governance takes too many resources: “We would have to hire ten times more accountants [finansfolk] if we were to be ready for Tax Governance on all

points/in all respects [på alle punkter]” (Tax director, Corporation FF, p. 3-4). He says that he needs to safeguard the interests of his organisation and to make such an investment is not in the interest of the organisation. This is supported by the tax director of Corporation GG:

“If Skat would say [to us as part of the Tax Governance collaboration], that you need to go through all your processes or check something all the time, then, we need to hire three more persons fulltime to do that. And what would we gain from it? Skat cannot prove that Tax Governance gives better or more correct income tax forms [in the participating corporations]” (Tax director, Corporation GG, p. 9).

Furthermore, in relation to the question of entering a formal Tax Governance relation the tax director of Corporation HH says:

“I am in two minds about it [i syv sind], because everything in my DNA [alt i mine gener], everything in my culture point to us being part of it [Tax Governance]. But on the other hand, I almost cannot bother because there is so much work in it, work that might be more for the sake of appearances [for syns skyld]” (Tax director, Corporation HH, p. 13).

The tax director of Corporation FF makes an additional point about the heavy resource load that he thinks Tax Governance would create. He is critical towards the idea that it will take some (additional) resources to be establish tax risk identifications and to develop internal control systems—which Skat asks of the participating corporations—and that there then will be a new situation where both Skat and the corporation will save resource. He questions the idea that after an ‘initial period’ an efficient Tax Governance setup will be in place and everyone will use fewer resources. He challenges this by pointing to the constant changes and restructurings that his corporation goes through and how this begs for constant new risk identifications and constant new internal control systems (Tax director, Corporation FF, p. 14-15). This dynamic nature of the organisation he sees as a key hindrance for starting up the work suggested in the Tax Governance program. As we shall see later, both the point about Tax Governance demanding many resources and the point about the dynamic nature of the organisation are points that are also central ‘comber stones’ to some of the corporations that are already in the Tax Governance program.

The non-participating interviewees also state that they are not afraid of the normal re-active tax audits from Skat. First of all, they find that the likelihood of these audits is very small. The tax director of Corporation FF explains that they have never experienced that audits

“happen on an everyday basis”—despite them being outside the Tax Governance program. Second, he also explains:

“We do not mind audits [from Skat], we actually want tax audits, they are refreshing every time we get them. They come too seldom (...) As tax director I get a better view of [blik på] what processes and controls we have, or what we lack (...) (Tax director, Corporation FF, p. 3-4).

This experience is supported by the tax director of Corporation GG, who tells this about their latest audit:

”When we received the letter about the audit we were worrying about how extensive it would be, but I must say, it has not been as bad as we feared. When we talked to Skat they said that they wanted to come and sit here and do part of the audit here, and we thought ‘are they going to sit here days or weeks at a time, where we need to be available and so on’. But it has not been like that. It turned out that they came to our office in [name of a Danish city] and were there for two hours where they actually just gathered the material and then they left (...) They have taken it back to their office and have looked at it – not that they have commented on it or related to what we have sent - and then they have sent a request for new material. So it has been very formal and very much in writing” (Tax director, Corporation GG, p. 4).

The tax director of Corporation HH has also thoughts about how his organisation handles audits—and whether it would pay off to be part of Tax Governance to reduce the resources he uses on handling (the rare) re-active audits. He says:

“Technically, it is just a question of where we are to use resources, do we use them up front [to engage in the Tax Governance program wholehearted] or do we use them in relation to an [re-active] audit?” (Tax director, Corporation HH, p. 15).

His conclusion to this is that his organisation prefers to use the resources when and if the re-active audits come.

What is interesting about these statements about a low likelihood of audits and a view on normal re-active audits as—even—refreshing is that this challenges the main argument from Skat concerning why corporations should want to be part of the Tax Governance program. Skat argues that the Tax Governance program diminishes the likelihood of re-active audits and that the corporations thereby need not use extensive amounts of resources handling these audits. Yet, what if a number of corporations do not perceive the possibility for re-active audits as a pressing problem? And what if they make a cost-benefit analysis and

conclude that, still, they use fewer resources in handling potential re-active audits compared to entering the Tax Governance program? We have specifically asked the tax directors about this and all—except one—explains that their organizations have not been exposed to audits in any significant manner prior to entering the Tax Governance program (and the same with the corporations outside the program—except one). The tax director of Corporation CC tells of a situation where they have not had any audits for years:

“We have not had audits on any area for years; we have not experienced the large audits, not at all [but still she interestingly mentions avoiding the risk of a resource-demanding three-year back audit as a motivation for entering TG]” (Tax director, Corporation CC, p. 7+8).

Moreover, the tax director of Corporation AA tells about his experience with a decreasing amount of audits:

“When I listen to my colleagues who have been in the corporation for many years, then they tell me that in the old days, before the turn of the millennium, then they had regular audits on different areas. After the turn of the millennium the frequency has dropped and we have only had few and sporadic audits – except for the area of third party reporting [tredjepartsindberetning]” (Tax director, Corporation AA, p. 5).

Hence, while many of the participants value the fact that the risk of resource-intensive controls back in time is reduced when being in the Tax Governance program, other corporations express that the implicit ‘threat’ that either you enter the Tax Governance program or you will be exposed to resource demanding re-active audits seems like a false strawman as these do not ‘fear’ these re-active audits. It is also worth re-calling that all the invited corporations are evaluated by Skat as highly tax compliant corporations. None of these corporations are ‘red’ targets for Skat and thereby—most likely—none of them will experience extensive audits whether being inside or outside the Tax Governance program. Based on this simple fact, we will later argue that Skat may gain from alternating its rhetoric about the benefits of being part of the Tax Governance program. As we see it from our data, the ‘carrot’ of being in the Tax Governance program is not only about escaping re-active audits—as these in any case are seldom—but about gaining insights/operational overview in one’s own organisation (an argument we develop further in section 8).

4.5.2 Not wanting to expose oneself and the ‘myth’ of targeted audits

Another argument for why not to participate in the Tax Governance program relates to the wish of not wanting to expose one’s organisation to Skat [undgå at danse nøgen foran Skat]

(Tax director, Corporation FF, p. 3-4): “We know where our [taxation] processes are weak, and it is not in our interest that Skat knows that too, no corporation has an interest in that” (Tax director, Corporation FF, p. 8). He explains that he does not buy-in on the idea that it is worthwhile to have an open dialogue as part of the collaboration where the corporation discusses their taxation challenges and presents if a transaction—for instance—could have insecure derived tax consequences [skatteeffekter] in Denmark. He much more prefers to control “their own affairs” and if he is in doubt about something he uses tax professionals [professionelle skattefolk] and—especially abroad he uses local tax advisors. And then based on this, they chose their tax position in relation to transactions that may be challenging. He also states that this has nothing to do with them wanting to engage in non-compliance: “We have a tax policy stating that we are moderate and conservative – not aggressive, not driving the wrong side of the road – and we handle that very well” (Tax director, Corporation FF, p. 2).

This aversion against opening one-self up to Skat is also commented on by the tax director of Corporation GG, she says: “I have no intention of laying out all our tax risks to Skat. Then we have the first ten areas they will audit” (Tax director, Corporation GG, p. 9). This fear that the tax authority will use the openness of the corporations to ‘go after’ weak spots is also reflected by the tax director of Corporation FF. He explains that he wants his employees to use external tax advisers rather than to go to Skat or other tax authorities with questions. “(...) it can end up costing you a billion to call the tax authorities [laughs]”. He illustrates this with an example from Finland where the local financial controller had called the Finish authority concerning a question about a specific kind of expenses and if these could be deducted:

“That is terrible. Then, you know, there is made a little yellow post-it—if the Finish tax authorities are efficient—saying ‘Remember to audit [a specific kind of expenses] at Corporation FF’ (...). Such a phone call can cost us a lot of resources (...) Such a thing you just shouldn’t do” (Tax director, Corporation FF, p. 7).

These citations have to do with the fact that not all corporations see any benefit in opening up and showing their weaknesses or insecurities to Skat. And also, the citations show that these outsiders of the Tax Governance program believe that engaging in an open dialogue will enable Skat to ‘go after’ their weak spots as these are made visible due to the collaboration. From the interviews with the participating corporations we have found no evidence that this is the case: i.e. that Skat should use the Tax Governance collaboration to expose and find weak spots that they later might take out for an audit. On the one hand, we might therefore conclude that this is clearly a wrong impression and not worth considering.

Yet, on the other hand, we have found that a number of quite stubborn/ sturdily built myths exist—such as this one—that circulate around the Tax Governance program. These we believe are important to bring forth as they may obstruct Skat’s wish to open the program to include more corporations.

In relation to this, it is also important to point out that the tax directors who have chosen to stand outside the program are well-informed about the program. All of them say that they are part of groups of experienced industry professionals [Erfa-grupper] where they have enquired about Tax Governance and where they have heard about other corporations’ experiences. The tax director of Corporation GG tells that she has enquired tax directors in her “Erfa-gruppe” about their experiences with Tax Governance. What she heard, however, did not convince her about the benefits. These experiences related to the discussions that the participants had had with Skat, what approach Skat has had to them, and what Skat demanded from the participants. The sum from this was that she only saw lack of benefits and could not really define what was in it for the corporations—except from a lot of work—as pointed out earlier. As a last point, she notes, that it seems that there is much more in the collaboration for Skat, than for the participants as they do all the work of developing the risk analysis and internal controls (Tax director, Corporation GG, p. 2).

While we understand that these “Erfa-grupper” plays a key role in distributing informal information about the Tax Governance program, there are also more formal sources of information. For instance, several interviewees tell that they know Tax Governance from The Confederation of Danish Industry (DI’s) Skattepanel/skatteråd: “Well, I am a member of the tax panel of The Confederation of Danish Industry, and Skat has both presented and launched it [the Tax Governance program] for us there” (Tax director, Corporation FF, p. 6). The tax director of Corporation BB also comments on this: “I have met Hans From several times, both in the tax governance panel in Deloitte and in the tax panel in The Confederation of Danish Industry, where they have told about the status of it [Tax Governance]” (Tax director, Corporation BB, p. 10). Hence, we suggest that these groups and forums play a central role for which decisions the tax directors make and the circulation of ‘myths’ about Tax Governance may be quite harmful to the recruitment of future participants.

4.5.3 Structural hindrances and a general satisfaction with ‘status quo’

Another point which is raised as a reason for not joining the Tax Governance program is that there might be structural or operational hindrances. The tax director of Corporation GG

explains that their vague interest in the Tax Governance program also stems from the ownership of her organisation:

“We are a private, family-owned corporation; we do not have a large shareholder base or a public we need to be accountable for. Some corporations might use the Tax Governance collaboration in that context” (Tax director, Corporation GG, p. 2).

Another variant of the structural hindrance comes from the tax director of Corporation FF who explains that their organisation is decentralized with a very small tax department—consisting only of two persons. His unit is only responsible for the more strategic decisions around for instance tax strategies, whereas numerous local financial departments are responsible for all work related to VAT, salary, travel, etc. (Tax director, Corporation FF, p. 1). This decentralized structure makes it impossible for him to have an operational overview and know of all of the organisation’s various taxation processes. According to him, this makes any participation in the Tax Governance program difficult as this builds on the assumption that a tax director should know (or want to know) his/her organisation into every detail (Tax director, Corporation FF, p. 4). A tax director from a participating corporation also airs a structural condition that needed thorough consideration before they chose to participate. She explains that they had many considerations whether their particular business structure and the issue of confidentiality across their separate business areas could be contained in a Tax Governance collaboration. They eventually chose to accept the invitation. Due to this special circumstance they got two contact persons in Skat and can therefore handle the internal confidentiality issue (Tax director, Corporation BB, p. 2-3).

Last, but not least, a central reason for not joining the Tax Governance program is that the ‘outsiders’ generally are satisfied with the level of service that they get from their corporate key contact person [koncernsvarlige]. In relation to this, it should be explained that all large corporations in Denmark are assigned a key contact person in the area of corporate tax. This forms the basic service level that all large Danish corporations are offered. Tax director of Corporation FF explains about this person:

“...he is super willing to help us, and that is ten-times better than Tax Governance. This, we also said to them [Skat], when we rejected their invitation to join Tax Governance nearly three years back. We said that we were very satisfied with the collaboration that we already have [with this person] (...). Then we decide when to go to Skat rather than them showing up two or three times a year, and we have to open up to all our transactions and we need to agree on everything” (Tax director, Corporation FF, p. 5).

The tax director of Corporation GG agrees:

“Our contact with Skat [they have a corporate key contact person] has been fine during the years I have been here [7 years]. We can call him when we have questions and a need to clarify issues and then he has been accommodating [behjælpelig]. He has glanced through our income tax form and has grabbed hold of us if there was issues (...) it has been quite informal you could say and orderly [stille og roligt] (Tax director, Corporation GG, p. 2-3).

4.6 Summing up: Benefits of being *in or out*

In all of section 4 we have sketched some of the key arguments both for joining and for rejecting the invitation to join the Tax Governance program. When it comes to the motivations and benefits related to joining the Tax Governance program, three themes stand out, as we have shown. The elements of direct access, fast response and real-time clarification are central positive elements that are tightly-knit to the specificities of the workings of the specific tax work in the corporations. Next, the element of minimizing the risk of re-active audits and the concomitant heightened predictability are elements that have more of a framing character, they somehow partake in setting the scene for ‘the nature of tax work is on a general level in the corporation. Lastly, also the element of moral obligation (and to a lesser degree the fear of the consequences of rejecting the invitation to participate) is a prominent element in the corporations telling of their motivations and experienced benefits from participating in Tax Governance. This element is of a very different kind than gaining practical and processual benefits, and is an element that reflects the multi-faceted motivations and benefits encountered in the interviews.

Regarding the corporations having rejected to join Tax Governance, a single cause cannot be pointed out as the main reason not to join. Instead, the considerations touch on numerous elements: Balancing the pull on resources being in Tax Governance versus the actual use of resources—should re-active audits come. Balancing what one gets *more* from Tax Governance when one already has a well-functioning relationship to a helpful corporate key contact person. And evaluating whether the structure of one’s organisation is at all geared to Tax Governance. These points are important to keep in mind because they are more practical and mundane counterparts to the more ethically grounded position on tax compliance described as an obvious value to adhere to as a large Danish corporation with a societal responsibility. However, precisely due to their practical and mundane character they are core issues the corporations need to consider before embarking on a Tax Governance collaboration, and also come to be potential obstacles for entering Tax Governance – and

explanations for not participating that are of a different kind than not wanting to adhere to the moral ideal of tax compliance.

5 Pillar I: The running process

From the interviews with the tax directors of corporations participating in the program, we have discerned that the collaboration is constituted by what we call two pillars. One pillar concerns the continuous provision of service and guidance to questions that comes up along the way; also called ‘the running process’. The other pillar concerns a more extensive planned revision⁴ of the administrative procedures in relation to relevant fields of tax law in the corporation. This process covers a revision of the descriptions and documentations of processes in different law areas. Here this is called the pillar on planned revisions of law areas [gennemgang af lovområder]. In the following two main sections we first focus on the pillar of the *running process* and what the corporations appreciate in this process (section 5). We describe a number of challenges which in various ways hinder a fruitful running dialogue. Second, in section 6 we focus on the pillar of *planned revisions of law areas* in the corporations.

5.1 Timely and open dialogue

All writing on Cooperative Compliance programs in general emphasises the running process and the dialogue in the collaboration between the corporations and authorities. Jeffrey Owens—who formerly headed the OECD Tax work and now is professor at Vienna University of Economics and Business, leading the Global Tax Policy Centre—writes that Cooperative Compliance is based on transparency and cooperation. And that taxpayers in a cooperative compliance program must promise to actively:

“...notify the tax authorities of any issue with a possible or significant tax risk and to disclose all facts and circumstances regarding the issue without hesitation or reservation. In return for full disclosure the tax authority endeavours to provide timely advice on significant positions, taking into account real commercial deadlines when doing so (...). The main advantage is greater certainty and predictability, two features that are very important in today’s uncertain economic environment” (Owens 2013, 425-426).

⁴ Regarding the wording of this report, the word ‘audit’ refers to the traditional re-active audits while the word ‘revision’ we use to refer to the practice of going through different law areas in the realm of the Tax Governance program. What in Danish is called „gennemgang“.

Also, in the article *The Concept of Cooperative Compliance* (Enden and Bronzewska 2014) the authors write that the corner stone in Cooperative Compliance programs is to be open, to disclose upfront and to work with real time assessing of taxation position and decisions. Keywords are: trust, transparency and mutual understanding (ibid. 569).

These descriptions of Cooperative Compliance are easily recognisable in the Danish version. The public guideline states that the Tax Governance program is a trust based collaboration [tillidsbaseret samarbejde] between Skat and the participating corporation, and that the extended collaboration between these are based on equal dialog [ligeværdig dialog] and mutual understanding and openness [gensidig forståelse og åbenhed]. The aim being to create transparency and predictability for the total settlement of taxes [sikkerhed for den samlede afregning] (Skat 2018). The guidelines from Denmark also emphasise the dual pairing of *transparency* and *certainty*. The element of transparency from the side of the corporations is formulated in this way in the program:

“The corporations must be willing to present and discuss their tax and duty related risks with Skat when these occur, and must be open about issues influencing the risks” (Skat 2018, 6)

The element of certainty—to be provided from the Tax Governance team—is described in this way:

“Skat must make an effort to clarify and answer questions from the corporations as quickly as possible. Moreover, Skat must work with a high degree of openness concerning its assessment of the corporations’ tax and duty risks” (Skat 2018, 6).

Following this, a key feature in the Tax Governance program is that the corporations are open about their tax strategies and about their tax dispositions—and that they present this in due time for Skat to consider this and provide some kind of assessment of these issues. What our interest in this has been is to investigate *how* the tax directors actually are open about these matters and *what* they discuss with their Tax Governance contacts. This is the theme for the sections below.

5.2 Dialogue on pressing issues and tax dispositions

In the interviews with the tax directors we have enquired what kinds of questions and tax issues that are brought up during the collaboration. Broadly, this can for instance, be acquisitions, change of owners, selling off parts of the company, displacement of activities from country to country, mergers etc. As examples of this the tax director of Corporation AA

tells about situations of buying other banks, where decisions were taken very quickly and where they had had several informal contacts to Skat in order to clarify questions:

“We have been buying other banks, on more occasions actually, and we have been in contact with Skat [their Tax Governance manager] on each occasion. Large sums are involved and it has been fine to be able to talk to Skat about whether they roughly agreed with us that this was how it should be done [er enige i at det i runde træskolængder er sådan her], and when I say ‘roughly agreed’ then it is because these kinds of processes take place over night, so there is a limited time and limits to how far you can come, so it has been quite informal. We have called them and talked about it, ‘if we do like this, do you then roughly agree that it has these effects?’ And then we have discussed it, but almost none of this can be found/has taken place in writing” (Tax director, Corporation AA, p. 7-8).

The tax director of Corporation EE also gives an example of how a process related to the closing of a subsidiary abroad had derived tax consequence in Denmark that he was taking care of handling with his Tax Governance manager. He explains that when he took the case into the Tax Governance program then the process speeded up (Tax director, Corporation EE, p. 4). The tax director of Corporation BB gives two examples of how she has used the direct access to Skat:

“We have had an issue regarding our park – whether we could write it off for depreciation [afskrive på det] or if it is part of the site [grund]? We asked them and we agreed that it was probably part of the site, so we could not write it off [afskrive på det] (...) that is what we use it for, for getting issues treated [afhandlet], I have also just used it regarding an issue related to the payment of VAT through our tax account [skattekonto]” (Tax director, Corporation BB, p. 18-19).

The tax director of Corporation CC also describes such a situation where the running dialogue with the Tax Governance manager from Skat functioned really well:

“We have had situations where we needed to get some permissions through [fast], a permission for a restructuring, for example, and that has worked painlessly [gået smertefrit]. That part of the system [the Tax Governance program] functions well” (Tax director, Corporation CC, p. 9).

In the interview, this focus on getting fast responses in real time is a recurrent theme for this interviewee. She describes how the Tax Governance program has made the relation to Skat more ‘responsive’ for a dynamic corporation like hers where things change at a fast pace and

they therefore often need fast response to pressing issues. The tax director finds that the Tax Governance program has made it possible for them to align their interests timewise to a larger degree.

“It for sure has an effect, because on some issues there is a very long case processing time [sagsbehandlingstid] and when you are a dynamic corporation, then sometimes you have to say ‘if we cannot get this clarified right now, then we need to do the best we can because we need to make a decision tomorrow’. [Before] we needed to follow our gut feeling; there was no need to ask because we would get the answer half a year after we made the decision” (Tax director, Corporation CC, p. 21).

The tax director of Corporation DD also points to his Tax Governance manager in Skat and describes the easy access [adgang] to Skat as a huge advantage of being part of the Tax Governance program:

“It is optimal, because when it comes to calling Skat, well you might as well give up. But to be able to call *one* person on a direct line and have that one person as your access [indgang] to Skat, that is optimal. If you have a challenge, then you just call and then they take a look at it. We are very satisfied with the one [the Tax Governance manager] we have, he is very service-minded (Tax director, Corporation DD, p. 5).

“Our contact person [the Tax Governance manager], he makes it work well and answers quickly (...) He says it is as quickly as possible and in my experience it is also quick” (Tax director, Corporation DD, p. 7).

This satisfaction with the quick responsiveness from the Tax Governance managers and specialists are also reflected by interviewees from Corporation II:

“We call them [the relevant person in Skat in the Tax Governance team] if there is something new or if we need to get something clarified (...) it is one of the elements that works well, it has been nice to have some contact persons in Skat whom we can quite easily get a hold of in order to solve a problem or a question at the forefront instead of being on the rear edge of things [at være på bagkant]” (Tax director, Corporation II, p. 2).

Not only do the participating corporations present questions they have, they also present situations where they have made some mistakes in their settlement of taxes. These wrongdoings are not purposefully done, but often discovered by the organisations themselves and the Tax Governance program encourages the corporations to present such ‘mistakes’ upfront to get them settled with Skat. In contrast to—perhaps—hoping that Skat either will not

discover them or take the ‘fight’ over such issues if a financial statement is audited by Skat. The tax director of Corporation CC gives an example of a situation where they discover a large error in their financial statements [årsregnskab] in a year of a large restructuring [omdannelse]. They contacted their Tax Governance manager and asked for an extraordinary meeting where they disclosed the mistake and their plan for how to correct it. This is received well from Skat and the error was settled in a collaborative manner (Tax director, Corporation CC, p. 19).

However, for the interviewees it is also important to state, that they do not always agree with Skat. The statement that the corporations and Skat ‘agree-to-disagree’ is a very common formulation. To illustrate this, the tax director of Corporation AA describes a situation where Skat and Corporation AA did not agree on a case of an informal advance notification [hurtig tilkendegivelse] about 100+ million deductions. The disagreement about the case could be contained in the Tax Governance collaboration. The tax director says precisely that they ‘agreed-to-disagree’ and that Corporation AA could have appealed the case but that they eventually chose to go with Skat’s answer and view on the case. “My perception is that the persons in Skat are good at what they do. And I also think we are quite competent at what we do, so we can handle to disagree professionally” (Tax director, Corporation AA, p. 6, 7). The same position is described by one of the interviewees from Corporation II:

“We are good at having a dialogue, and we do not need to agree on everything. There are issues where we disagree and we have had some cases that have been taken to the legal system (...) and that is fine with me, because we do not need to agree on everything, this form of collaboration is important” (Tax director, Corporation II, p. 3).

5.3 Sub-conclusion: Touching Skat’s core professionalism

Summing up on the above; the running process of presenting questions and dispositions that have unclear tax consequences is generally very well perceived by the corporations and explained to be a huge benefit for them. The interviewees express a strong satisfaction with direct access to Skat and this real-time alignment where issues are solved and discussed in the here-an-now—as was also indicated in section 4 on the motivations to participate in the program. Time and again we heard stories of how replies come quick, of how answers are of high standard, and of how it is simply an advantage to have one direct access to Skat via the Tax Governance manager.

In relation to this, we should make the point that this is also basic knowledge for the Tax Governance managers and specialists in Skat. When a corporation presents an error in its

calculation of some tax consequences or when they ask for advice in relation to ongoing negotiations about acquisitions [opkøb] then this taps directly into the core competences and the legal knowledge of the Tax Governance employees. Dealing with these questions, they use their core specialist knowledge about large corporations and appear professional, quick and competent in the eyes of the corporations. As we shall see later in section 6, this is in contrast to the impression given when the self-same employees provide no – or very slow - responses to the risk identifications and to the development of internal control systems. As we shall see, this area presents much more hesitation and insecurity. One tax director expresses this ‘excess’ and ‘lack’ of knowledge in this way:

”In the beginning [of the Tax Governance collaboration] we had some peculiar experiences (...) sometimes we thought ‘well, do you [the Tax Governance employees] actually know how it is to operate a business and a financial department? Because it was completely common practice, nothing peculiar [the interviewee describes some tax processes]. So it seemed like a silly question [that the Tax Governance employees posed concerning these processes]. They could have posed a more qualified question. Correspondingly, we were asked [by the same Skat employees] how we lived up to this or that section in the Danish Tax Assessment Act and I thought ‘I do not know, what does it say? Can you explain to me what it says? Then I can give you an answer’ [the interviewee laughs]. When you are met with this in a conversation and do not have Karnov’s [a body of major Danish laws] in front of you, well then I do not know” (Tax director, Corporation KK, p. 14-15).

What this citation illustrates is how the tax director experienced that the Tax Governance employees were not that well-read in what is common practice and processes in running a financial department. Yet, they were very well-read in the Danish Tax Assessment Act [Ligningsloven] and the sections of this act. When we here state that many of the questions in the running process taps into the professional identity of the Tax Governance employees it is precisely because they use their knowledge of acts and legal texts to respond to this.

5.4 Challenges in the running process

While the running process of continues dialogue and questioning is well perceived as just documented, we have also been presented with a number of problems in this running process. In different ways these are highlighted by the corporations and to different degrees they can come to hinder an optimal dialogue between the corporations and Skat in the Tax Governance program.

5.4.1 The challenge of non-binding responses [*ikke-bindende svar*]

In Denmark it is possible for any taxpayer to require a “binding response” [et bindende svar] to an issue where it is necessary to know how Skat sees—and will react to—certain tax matters/dispositions. When providing such a binding response the taxpayers can be certain that Skat will follow what is stated in the response. It costs a fee to get a binding response and there is a varying case handling time to get the response. Within the Tax Governance program the much appreciated ‘assessment’, ‘advice’, ‘answers’, ‘feedback’, ‘predictability’ and ‘certainty’ (all words describing the responses from Skat) are not comparable to *binding responses*. Instead, all of this dialogue (as presented in section 5.1 and 5.2) is presented to the corporations as *informal advance notifications* [uformelle forhåndstilkendegivelser] which are indicative [vejledende] concerning how Skat sees any disposition (Skat 2018, 2). This means that in principle, Skat is not obliged to follow its own words provided in the program because the dialogue is indicative [af vejledende karakter]. In practice, however, Skat proclaims that it will follow its words and should anything otherwise happen it would be a one-off exception. The corporations are more or less divided half-in-half when it comes to seeing this as a problem. Below, we provide a few examples of how this is expressed.

Those corporations who express the lack of binding responses in the Tax Governance program to be a challenge typically explain that it is problematic for them that despite the fact that these corporations participate with openness in the collaboration and notify Skat of issues with a possible or significant tax risk, they must still live with the ‘provisional’ or ‘non-binding’ character of the responses from Skat. In brevity this is expressed by the tax director of Corporation BB: “You see, the worst enemy for the Tax Governance collaboration is this fact that there are no binding responses. This we really need to bring into this [discussion]” (Tax director, Corporation BB, p. 18). Hence, as one other interviewee explains it, the challenge is that while the corporations commit to openness and disclosure, they still only receive *informal advance notifications* about how Skat actually sees and interprets their questions (Tax director, Corporation JJ, p. 2-3).

Those that do not see the non-binding aspect of the dialogue as a problem highlight that they—by a practical track record of dialogues—have always experienced that Skat follows what they express during their meetings and dialogues. The tax director of Corporation AA explains that he does not see the non-binding aspect of Skat’s responses as a problem because his experience with Skat is that agreements made with them have been adhered to (Tax director, Corporation AA, p. 3). The tax director of Corporation EE shares the experience that agreements have not been questioned later (Tax director, Corporation EE, p. 11) as do one of the interviewees from Corporation JJ who says:

“In practice, I have not experienced it to be a problem because we have had some notifications [tilkendegivelser] from Skat that other parts of Skat subsequently have not agreed with, but I guess they have found themselves morally or ethically bound by what have been said by the Tax Governance manager (...) and they say ‘we recognize that it is what you have been told, so we stick to it’” (Tax director, Corporation JJ, p. 3).

The tax director of Corporation BB adds another aspect to the issue on binding responses:

“Well, the lack of binding responses is also an enemy for Tax Governance (...) but there is also the principle of objective interpretation [forventningsprincippet] that you can read about in the law text [juridisk vejledning] which Skat operates with. I have tried to read it, it is very academic and very tax process oriented. Yet, the bottom line in it is about that if they have declared [tilkendegivet] to us that now we have inspected the tax income form and they do not have any comments to it, then it takes a lot [der skal meget til] before they come back with second thoughts about it. I know there is no certainty; it is not a guarantee [der er ikke to streger under den sikkerhed], we are not that naïve, but it takes quite a lot [to open it up again]” (Tax director, Corporation BB, p. 18).

5.4.2 The challenge of a decreasing possibility of getting minor issues signed-off

While the ‘informal’ status of answers and the dialogue is one thing, another thing—perhaps as interesting and more problematic—is that almost all of the interviewees describe that they have experienced a new tendency over recent years. In consent they express that the Tax Governance employees have become more restricted in providing any answers, indications or responses at all within the Tax Governance program, and that the Tax Governance employees are more restricted in ‘signing-off’ issues. This element of ‘signing-off’ issues is something that is key to the corporations as this provides them with certainty and might provide some ‘green’ lights to act in certain ways in specific situations—as also indicated in the section on motivation where precisely predictability in the form of ‘signing-off’ was highlighted.

What is meant by this ‘signing-off’ is probably best understood through an example. Corporation II faced a typical situation of a problematic administrative procedure:

“We have these stock/share-programs [for our employees]. And let’s say that 2000 persons [in the organisation] are to be given shares on a given date. In principle, the rules are that the specific person needs to get the share with the specific stock price

[kurs] [at a specific time of the day when issued]. But our stock price does not fluctuate a lot [during one day], so we asked [Skat]; ‘can we use the average stock price from when we started to transfer to the specific custody accounts [depot] to when we ended the transfer’ (...)” (Tax director, Corporation II, p. 20).

He went on to emphasize that “Skat would neither become richer nor poorer because a [day] average was used” (Tax director, Corporation II, p. 20). The only entities that would be minimally influenced by it were the individual employees receiving the share; dependent on when the stock price rose or lowered during the day. It took Skat three months to discuss the case, he complained, after which Corporation II got neither a yes nor a no. The tax director believed that Skat simply did not dare take a position on this (Tax director, Corporation II, p. 20). Skat, as he saw it, would not ‘sign-off’ on letting his corporation use the day average.

The tax director from Corporation II further comments that he has experienced that the Tax Governance employees previously were able to sign-off issues if these had not large tax-related significance. For instance, in relation to giving a ‘go’ to tax an asset a year later than planned because some issues have come up. Such a ‘go’ makes the administration “insanely much more easy” [sindssygt meget nemmere] for the corporation and whether the correct tax is paid the first or the second year makes no difference for Skat—only it is much more easy for the corporation—as the tax director stresses.

“And you see, right there we have been able to make such a deal [en lokumsaftale], which Skat is actually not allowed to make. Yet, that *has* been made. I do not think it would be possible to do the same today [as the example with the average stock price indicates]” (Tax director, Corporation II, p. 18).

Furthermore he comments that the reason why the Tax Governance employees cannot ‘sign-off’ to cases like this is that “big politics” [storpolitik] influences the dialogues in the corporations. While this is no doubt a point of irritation for the tax director, he states that he has a lot of sympathy for the Tax Governance employees because their work has become harder today. He sees that it is much more difficult for them to act in the corporations as the critical perception of Skat which has been circulating in the media for the last couple of years have reduced their maneuver room. This has made them more hesitant in taking decision that may be criticized.

The tax director of Corporation DD follows this line of reasoning. He explains that he has also experienced a shift in the possibility of having an informal dialogue about issues and getting informal advanced notifications. He explains that Skat was much more

accommodating [imødekommende] on this element years back but now he finds this part to be a non-existing part of the Tax Governance collaboration. He ascribes the shift to some specific cases on withholding tax [udbyttesager], where Skat was not fully in control over its case handling and answers. Thus again referencing how case handling and critical cases outside the Tax Governance program has influenced the way the Tax Governance employees may act. He thinks this has influenced the entire organization and its approach to 'sign-off' issues:

“They have had to tighten up [stramme op] (...) and it makes an informal collaboration difficult if a few persons cannot get the authority [beføjelser] to make some agreements [with the corporations]. Well, if it is about things that can have big consequences and are hard to get an overview of, then of course they just say no. But if it is just about the process of not ending in trouble with the closing of financial statements [årsafslutning], right... Well, informal talk, that can also sound a bit grey-area [lurvet], but the idea of not going from zero to a binding response, that there is an intermediate station [is important]” (Tax director, Corporation DD, p. 7+8).

As a response to the question of whether he has experienced a development over time regarding the possibility of getting things signed-off, the tax director of Corporation KK points to both internal and external aspects of this in his reply: “Yes, absolutely, we had a better collaboration in the beginning [of the Tax Governance program]”, and he continues:

“There can be two reasons: it can be that corporate tax [office] has a much better grip of this collaboration and CAN collaborate with corporations [most Tax Governance programs starts with a focus on corporate tax]. Whereas some of the other departments – VAT and transfer pricing – seem to be really bad at collaborating with corporations and have a much more brusque and aggressive approach to this, and that of course makes collaboration difficult. Furthermore, external demands to Skat; what demands do the Legal Advisor to the Danish Government [Kammeradvokaten] or The National Audit Office [Rigsrevisionen] present to Skat? And also what circulars are sent out? and other things” (Tax director, Corporation KK, p. 8-9).

As a last example it should be mentioned, that some elements are still 'signed-off' by Skat. Such an incident is retold in the interview with Corporation JJ. Here the interviewees explain that they had had a number of fringe benefits [personalegoder] cases that had not been handled correctly internally. In the open spirit of the Tax Governance program, Corporation JJ had presented this to Skat to inform them about the mishandling and they had presented a way to solve the problem onwards, i.e. with the intention not to go back and

correct what had already been handled wrongly, but only correct it in the onwards administrative procedures.

“Presented with this, then, they [Skat] really needed to ‘bend themselves’ to accept it [and sign-off on it], but in the end they did and allowed us to handle the issue only onwards (...) They [Skat] are horrified by a [potential] situation where suddenly it would appear as front page news in Ekstra Bladet [a Danish tabloid newspaper] that ‘now, Corporation JJ gets this benefit from Skat’...because had it been a small business [they would never have gotten this agreement with Skat]” (Tax director, Corporation JJ, p. 12).

In this case, the ‘signing-off’ from the Tax Governance employees concerns accepting that a mistake in the handling of fringe benefits was simply only corrected onwards. As the interviewee describes this was really hard for Skat to provide a ‘go’ to—yet it was achieved in the end.

Listening to these cases where the Tax Governance employees are described as more hesitant towards ‘signing-off’ and/or ‘accepting’ administrative procedures which are not correct, it is interesting how the tax directors connect this to how Skat is perceived and acts in other areas. Based on this we must stress that the Tax Governance program does not operate in a vacuum. Rather how the Tax Governance employees may act in the program is influenced by how Skat as an organisation has been portrayed critically in the media for the last few years (Høberg 2013, Olsen 2013, Bendtsen 2016). From what we hear, we get a picture of some Tax Governance employees who are scared stiffly [hunderød] of being accused of privileging and/or making ‘sweet deals’ with the participating corporations. Despite the fact that all interviewees stress that none of the cases includes any significant amount of taxes, they only touch upon administrative procedures being wrong.

5.4.3 The challenge of the case handling guideline [sagstilskæringsnotatet]

Closely related to the growing challenges in getting minor administrative issues ‘signed-off’ is the publication of the new case handling guideline [sagstilskæringsnotatet] (Skat 2016). This document has been published by Skat in 2016 and provides a guideline to support a correct, uniform and legal case handling when Skat starts a case. It is thus not formal legally binding law but a ‘soft law’ guideline. The guideline focusses on three elements that should be taken into consideration when deciding if a case should be started: the relevance in terms of value/amount, time and material. With regards to the material dimension, this relates to whether the audit should be extended if related issues [forhold] covering another law area are detected during the auditing of the initial area. It should be considered if the new issues

should be audited in the same process or in a separate process, depending on the scale/dimensions [omfang] of the new issue and also the employee's professional expertise [faglighed] (Case handling guideline [Sagstilsværingsnotat], p. 14). The guideline is mandatory for all case workers in Skat—thus also for the Tax Governance employees.

Standing outside Skat, it is difficult precisely to know the backdrop for the announcement of this guideline. Yet, since it advocates 'correct, uniform and legal' case handling, there must have been some challenges with—for instance—the consistency in Skat's case handling. Furthermore, it is reasonable to assume that the publication is a reaction to the various points of public criticism of the case handling in Skat that has been circulating in the media (Bjerring 2013, Olsen 2014, Holm, Høberg et al. 2015, Hansen 2016). What the guideline touches on is a very precarious area as there is always—for any civil servant and especially for the front line workers—a room for discretion and judgement when deciding if a case should be started (For a case study on such discretion see: Boll 2015). For instance, one incident about VAT reporting in a smaller business may lead to a case as this incident is central to the business' settlement of VAT. While the same incident is seen as more trivial to a larger corporation where other challenges deserve focus.

The large corporations in the Tax Governance program describe the case handling guideline as a challenge because it limits the discretionary room for the Tax Governance managers. The interviewees express that their own Tax Governance managers and contacts in Skat have been sceptical towards this guideline as they are now obliged to start up cases where they perhaps previously would not always have done so. The tax director of Corporation GG says:

"It is my perception that the case handling guideline [sagstilsværingsnotatet] has made them [Skat] much more rigid and less flexible (...) We are dealing with turnover of billions [in our organisation] and then they sit and make an adjustment [regulering] of 6,500 DKK in a cutoff [periodeafgrænsning]..." (Tax director, Corporation GG, p. 7-8).

Furthermore, a tax director of Corporation II explains:

"It [the case handling guideline] has really made it difficult for Skat (...) because now they NEED to deal with it [tage det op], if he [our Tax Governance manager] notices that we have something of 5,000 DKK booked as a staff costs instead of representation, then he *needs* to deal with it. And we are nationally jointly taxed, so if we make a mistake in [the name of the head unit] regarding 5,000 DKK, then all income tax forms from all Danish units are corrected – it can be about 3, 17 DKK [very tiny sums], but Skat needs to correct it. It creates a lot of administrative hassle

both for Skat and for us because we need to regulate it all (...) This restrains the open collaboration (...) they [Skat] do not ask about broad areas anymore because they need to address it, so they ask about very narrow areas now (...) but I do not think it has limited us regarding what we ask Skat about, but it has restricted them and made their life more complicated” (Tax director, Corporation II, p. 7).

He explains that their Tax Governance manager also relates to the guideline in their interaction:

”It [the case handling guideline] has really made it difficult for us. I talk to [the name of their Tax Governance manager] and I say ‘well, then shouldn’t we send this and this?’ [he replies] ‘no, let us be careful here, if you consider it again, then you might just want to send that and only that’. It means that the case handling guideline has really complicated things for Skat” (Tax director, Corporation II, p. 6-7).

Lastly, another tax director says—as a consequence of the new case handling guideline:

“Right now, suddenly, nothing is too big and nothing is too small [to correct]. (...). And then, if we now are to discuss with them [the Tax Governance employees] if it is only a few thousand kroner in VAT—and if we might be able to be released from filing this. Well, you see, we have 18 milliards in VAT payments a years. So, it would be totally out of proportions to discuss [such small amounts]” (Tax director, Corporation LL, p. 25).

Some interviewees describe that they know of the guideline, but have not experienced effects of it. For example, the tax director of Corporation BB who describes that she has not noticed any effect of the case handling guideline, but that it might very well come in the future (p. 11). Moreover, the tax director of Corporation LL mentions that he has not yet experienced the case handling guideline as a problem, but he is aware of its existence. He goes on to explain that he has ‘met’ and discussed the guideline in the tax committee of the Danish Chamber of Commerce [Dansk Erhvervs skattpolitiske udvalg] and also met others with negative experiences with the guideline. He explains that he thinks it can come to be injurious for the Tax Governance program:

“I think also Skat is annoyed with it [træt af det], because I think they find it to be damaging to this collaboration. They are confined; they cannot just say that this guideline does not apply to members of Tax Governance, because they cannot change the legislation for Tax Governance members (...). It is a necessary evil, you could say. It has been damaging, no doubt about it, because now nothing is too big and nothing

is too small, and if we are now to sit and discuss a couple of thousands of kroner paid in VAT? We pay 18 billion kroner of VAT every year so that would be way out of proportion” (Tax director, Corporation LL, p. 14-15 + 24-25).

The tax director of Corporation KK gives an example of how he has experienced the case handling guideline as an obstacle both for the corporation and for Skat:

“We find an error for 2014 and then it is corrected in 2015 (...) we said [to Skat], it does not matter; do not correct these few thousands of kroner [but Skat did correct it]. As a matter of fact it is more expensive for us to get the 5,000 DDK back and have the administrative hassle with it and Skat also just gets an administrative hassle; there is no winner in this case. But we experienced that it *had* to be that way (...) and that does not make the collaboration easier in any way, so we end up correcting it. I do not really know who is the winner in this case, well, *compliance* is the winner (...) I think we have become more careful of what we present to Skat after this, especially regarding VAT” (Tax director, Corporation KK, p. 9-10).

As we understand it, the case handling guideline does serve a purpose in making equal case handling in Skat. Yet, several of the corporations mention that they find the note very strict in its guidelines as there is nearly no minimum as to *when* cases should be started. Even small issues in these large corporations would be seen as ‘case-worthy’ if they are presented to Skat—despite these issues are minor and/or insignificant to the larger compliance picture.

5.4.4 The challenge of Skat’s ignorance of the specificities of the corporations

In addition to the central discussion about the status of responses/clarifications in the program and what should be seen as ‘case worthy’—as discussed in the previous sections—there are several other minor challenges. Here we deal with the problem that several of the tax directors describe that they regret that Skat shows ignorance or a lack of knowledge about the specificities of their corporation. This problem mirrors the concern that the non-participants had regarding structural hindrances for participating (see section 4.5.3). The tax director of Corporation DD says:

“The biggest challenge is to get our corporation incorporated [indfaset] into the Tax Governance collaboration; to explain to Skat what does our business consist of and to get the risk-areas displayed [for Skat] (Tax director, Corporation DD, p. 15).

The interviewees from Corporation II point to the issue that most employees in Skat have not work experience from other areas—from consultancy or from corporations—and that can in some cases create blindness for how things work in a corporation:

“It is obvious that they lack an understanding of the practical problems. It is not as easy as it sounds to deliver this or that documentation [to Skat]. It requires a lot of work and takes a lot of time [for us]. An understanding of the extent of what they ask for [is lacking]” (Tax director, Corporation II, p. 17).

Furthermore, one of the interviewees from Corporation II comments that the more data Skat begins to receive, the more important it becomes that Skat understands the context of the corporations. Discussing this, one of the interviewees refers to the principal-agent theory—saying that Skat only knows this model of corporations that encapsulates a tradition where the principal (the main office of a corporation) uses whatever actions to make other agents (the subsidiary companies) do right. The interviewee underscores, that this model does not fit the complexity of their corporation:

“They [Skat] will not be able to handle the large amount of data if they do not have an understanding of how the corporation is structured, we are structured very differently than for example Novo Nordisk (...) they need to get knowledge about our corporation in order to plan what to look at, you cannot do that behind your desk (...) Skat only knows the principal-agent theory [principal-modellen]. That is the only tax model [organisational model] they know in the Tax Governance office, even people at a high level in Skat do not understand our setup, it is so complex” (Tax director, Corporation II, p. 25).

Subsequent to this, the interviewee provides a long example of how their subsidiary companies in several other countries have to be managed locally and have to act very decentralised. Instead of being firmly managed and steered from Copenhagen—where the headquarter is based. As we see it, the interviewee has experienced that this structural set-up of the corporation has created challenges in the Tax Governance program as the Skat-employees have had difficulties in understand the tax directors’ decisions and internal discretion power over the subsidiary companies.

In a slightly other fashion the tax director of Corporation GG tells to have experienced that Skat has seemed very opinionated in their approach to her corporation:

“I have experienced this very sceptical and critical attitude to our corporation from Skat. [Implying] that we intentionally try to avoid things [paying taxes] and that it is their task to find it. And when you are a multi-national corporation, that is almost a ‘naughty word’ [fyord]. And when you furthermore have companies in Switzerland or Lichtenstein and you have holding companies....even before they know the

background and content of [all of this], by definition you are on the black list” (Tax director, Corporation GG, p. 12-13).

She describes this predefined opinion about them as being a “cruel” corporation who will seek to avoid paying taxes [en grum virksomhed, som unddrager en masse i skat] as challenging. Especially due to the fact that her corporation “naturally lives up to the [tax] rules as everybody else. Or we try to do it as best as we can. You see, of course we do that” (Tax director, Corporation GG, p. 13). She further explains that her organisation will also, later this year, start to communicate more about their tax payments. They will make public their total tax contribution where they pay a large amount of all of their total corporate tax in Denmark. This as she says, they would like to tell about; that her corporation actually contributes a lot in various taxes to both Denmark and to other countries (Tax director, Corporation GG, p. 13). In light of this, the suspicious and opinionated approach from Skat seems *contra* productive.

Lastly, we should mention that we have also talked with interviewees who find that Skat gains better knowledge about their structure exactly *due to* the Tax Governance program. The tax director of Corporation EE finds that the Tax Governance collaboration has bettered this aspect:

“Previously, we had some instances where more or less random inspectors came, who did not have any insight into the corporation. One of the advantages [of being in the Tax Governance program] is, that the contact persons we have, they get more and more insight into what is going on in the corporation, both in terms of our business [forretningsmæssigt], how we are structured and so on” (Tax director, Corporation EE, p. 5).

The tax director of Corporation LL explains that he finds the internal setup of the corporation to be important to consider and Skat has to acknowledge this:

“We are easy to ‘exhaust’ [lægge ned ressourcemæssigt] [since they are only two employees in the tax department of the corporation], we cannot dedicate two or three employees on a law area [stofområde]. One of the challenges for Skat might be to acknowledge that tax departments come in different sizes and have different resources available” (Tax director, Corporation LL, p. 3)

The experiences presented in this section all point to the non-trivial issue of implementing a generalized model or program into very different local conditions of the individual

corporations. Furthermore, it touches upon the central role of the Tax Governance manager in how this is done, which we will return to in section 8.

5.4.5 The challenge of transfer pricing and international relations

An additional issue to touch upon as a challenge in the running dialogue is the role of international cross-border transactions and specifically the role of transfer pricing. In brevity, close to all corporations who engage in transfer pricing complain that the dialogue in this area is not in line with the spirit of the Tax Governance program. Rather, the tax directors explain to experience a radically different approach with solid revisions and control. One of the interviewees from Corporation II explains:

“In the area of transfer pricing it [the Tax Governance program] has not been functioning, and it still does not, it is as if they [the transfer pricing employees] do not understand the concept [of Tax Governance] in that office. It is as if they think it [the Tax Governance program] is an access to an audit. So mutual respect for each other’s time and work and all that, it is simply lacking” (Tax director, Corporation II, p. 3).

In the same line of reasoning, a tax director continues later in the interview:

“(...) we have made our evaluation [of Tax Governance] to Skat, and we have split the collaboration up in this regard and told them that on corporate tax and VAT and duties we have been very pleased with the collaboration. With regards to transfer pricing it has not worked, and we are probably not the first ones to say so (...)” (Tax director, Corporation II, p. 2-3)

Another tax director says that concerning transfer pricing, they first experienced a solid audit [en reel revision] and now they are talking with Skat concerning the possibility of including transfer pricing in the Tax Governance program:

“(...) the way the transfer pricing part started; it started with an audit (...) and a case came out of it, so we have actually not started the collaboration on transfer pricing yet. We had a meeting with them [the transfer pricing employees in Skat] around a month ago and they were also tuned in on trying to take it to the collaborative frame [komme over i den her samarbejdsdel]. Internally they also have great difficulties defining what it means (...) We have asked Skat, well what do other corporations do? And it [the answer] has been a bit evasive [sådan lidt uld i mund] and not a real answer. I think *this area* [transfer pricing] is the hardest for them to handle for some reason” (Tax director, Corporation JJ, p. 9).

While these transfer pricing issues clearly pose challenges for the corporations who engage in this, this also relates to wider challenges of handling other international cross-border transactions within the Tax Governance program. This challenge is aptly described by Corporation II:

“(...) we are a global corporation; we do very little internally in Denmark that is complicated with regard to tax. What we do is cross-border and as soon as we deal with cross-border then the response time is long. If we get an answer [this is outside the Tax Governance program], and it is not necessarily of any use. So, if we want to change a setup and on beforehand know if we are affected tax-wise if we do it, that answer we have not gotten (...) And I find it to be an impediment. And it is both regarding EU countries – that is one cluster because after all a different degree of collaboration exist between EU countries – but it is of course also in the relation between Denmark and countries outside of EU” (Tax director, Corporation II, p. 18).

The international relations are also touched upon by Corporation BB, who says that this is the (brute) animal in the collaborations:

”Well, we are an international business and you can say, that can give us some challenges [in relation to Tax Governance] (...) and I think it [the international element] can be a bit poisonous for the collaboration (...) I must stress, that it is not something I think about every day, but ‘the animal’ is present [men dyret er der], it is an element that slightly frames the collaboration and maybe it contributes to making the open sparring on all areas difficult (...) It is not made impossible but it is for sure made more difficult (...) On the one hand you want openness, but you quickly reach the point of saying, this we cannot discuss, and that is a challenge” (Tax director, Corporation BB, p. 12).

The two last citations come from corporations who both have a lot of cross-broader exchange and international relations to take into account. They both point out how the inability to handle international issues in the Tax Governance program limits the program’s relevance. Lastly, this same tax director (as cited in the last citation) touches upon how the new rules concerning automatic exchange of information may become another challenge to the program. She says:

“I think the biggest challenge for the Tax Governance collaboration - besides resources – lies in the EU directive [direktiv] on automatic exchange of information, the exchange of information that is to take place as decided by law in Denmark in December 2016. Because it means that everything just slightly resembling cross-

border discussions cannot be manifested in notifications [udmønte i nogen tilkendegivelser] or official conclusions because then the respective authority in the concerned country needs to be given notice [adviseret] that an agreement with a local corporation about something that can affect them has been made (...) You want openness, but then you can also quickly get to a point where you say ‘this we cannot discuss’” (Tax director, Corporation BB, p. 11+12).

As we read this concern, the tax director is worried that the new status concerning automatic exchange of information may hinder some dialogue to take place within the Tax Governance program as information required this way may be subjected to exchange.

What we want to draw out from this section is that the corporations—who engage in cross-border exchanges and who have an international focus—in agreement say that this challenges the Tax Governance program as the scope for the program is national taxation issues.

5.4.6 The challenge of long case-handling times in the National Tax Tribunal [Landsskatteretten]

A basis for the Tax Governance program is that there may arise conflicting issues between Skat and the corporations—when dialogue has first been used—and that these issues then must be handled either in the National Tax Tribunal [Landsskatteretten] and/or in the court of law, see the Guidelines to the Tax Governance program (Skat 2018). Skat also writes that such conflicting issues should be identified as fast as possible in the collaboration whereby these can be resolved in these other forums (ibid. 6). While this intention is sensible, one of the interviewees mentions the long case handling times in the National Tax Tribunal as a major challenge for this premise in the Tax Governance program:

“Regarding agreeing on disagreeing, then Skat writes that if you disagree, then you have to bring it to binding-response or further on to the National Tax Tribunal. But at the moment, we are impeded by the insanely [afsindig] long case-handling times, e.g. in the National Tax Tribunal, where I guess it is between two and five years (...) It is easy to say, that if you cannot agree, then take it to the National Tax Tribunal. But consider, if there is just one or two cases [forhold] a year that you have to wait three to five years to get settled (...) So politically or the ministry they need to get the case-handling times back on track [rydde op i] otherwise I do not think you can sustain Tax Governance in its present form” (Tax director, Corporation LL, p. 13).

While this challenge is only mentioned by one corporation it is nevertheless important because it is a necessary condition for the Tax Governance program that conflicting issues may be taken away from the program. When the possibility to ‘clear the table’ of these issues in practice is non-existing due to the long case-handling time, then these may hinder that the normal collaborative dialogue functions as the conflicting issues take overhand in their unsettled nature.

5.4.7 The challenge of co-existing audit principles in Skat’s administration

The second to last challenge to highlight is the fact that a number of corporations explain to experience two co-existing audit principles in Skat: The normal or formal system of theme-based reactive audits (based on control) and the principles introduced in the Tax Governance program, based on collaboration. This co-existence of these two audit principles is primarily ascribed a number of limitations by the interviewees.

First of all, the tax director of Corporation HH points to the two co-existing systems as a reason to postpone entering a formal Tax Governance collaboration:

“We were very interested; it [the Tax Governance program] fitted well with our values about partnerships, collaboration and open and honest dialogue. But we had just had a transfer pricing audit announced, so we had a dialogue with management and we agreed to say that we cannot go into a collaboration when we also have an audit running” (Tax director, Corporation HH, p. 2).

Here a traditional audit on transfer pricing is explained to be the reason for not entering a formal Tax Governance collaboration, in their view the new way of working cannot be initiated together with a traditional audit running.

Other interviewees describe situations where Tax Governance and the conventional audit system seem to have not been in accordance. The tax director of Corporation CC points to an outdated case that had made slow progress [trukket i langdrag] and that they began to receive letters from Skat with an unpleasant tone about penalties. They contacted their Tax Governance manager and stressed to him that they were part of the Tax Governance collaboration and that they found it peculiar to receive such unpleasant letters from Skat. The tax director explains that the case was dealt with in a fine manner by their Tax Governance manager, but the interviewee points to a more general aspect of the case:

“It is as if Skat’s systems are not adjusted to [sat op til] that this is a corporation part of the Tax Governance collaboration (...) there might be some systems-related aspects internally in Skat that cannot handle this [register that it is part of Tax

Governance and take this into concern in the communication etc.] (Tax director, Corporation CC, p. 15).

She accentuates the difficulties of handling the co-existing audit principles internally in Skat and the difficulty of making sure that Tax Governance corporations are not ‘disturbed’ with processes they are not supposed to be bothered with due to their membership of Tax Governance. When the systems are not in accordance the co-existing systems can end up ‘making a mess’ for the corporations – both practically and with regards to breaking expectations. The tax director of Corporation BB explains that with the Tax Governance collaboration follows also an expectation that it is the same persons they meet from Skat, otherwise co-existing systems in Skat can obfuscate the purported synergy for the corporation of having an appointed Tax Governance team:

“We invest a lot of resources (...) and we also expect Skat to invest some resources. It is preferable that it is the same persons [we are in contact with], so that not five different persons look at energy taxes. *One person* – that is an important element and also what they [Skat] themselves stage for [lægger op til]. And I think it is Skat’s biggest challenge; also that they do not have central systems where it is clear [står tilstrækkelig firkantet] that this is a Tax Governance corporation” (Tax director, Corporation BB, p. 14).

She goes on to tell about a situation where the lacking overview resulted in an energy tax audit in a smaller subsidiary not done by the contact person in Skat and that when she found out she insisted that their contact person was put on the case. She explains:

“The time invested in reviewing the corporation [gennemgang af virksomheder] might as well be invested by our contact person, because then when the company has a question two months later, then you call [the name of their contact person] and she can answer, because then she knows how the machine in question is connected to what pipes and stuff like that” (Tax director, Corporation BB, p. 16).

She describes the gains of ‘equipping’ the contact person with knowledge about the specificities of the corporation. This makes the collaboration person-dependent (cf. Section 9.2) and thus potentially fragile but can also pave the way to a very efficient and beneficial collaboration. This element is also touched upon by the same tax director who gives an example of these gains and the ease of it when the collaboration is functioning well. She describes a situation, where the corporation’s Tax Governance contact person on VAT takes contact directly to her in order to solve an unclear issue, which was solved easily and efficiently (Tax director, Corporation BB, p. 16-17).

Another tax director points to the co-existing systems to be a basic condition – also for the corporations’ part of Tax Governance. The tax director of Corporation LL considers the two co-existing systems:

“If it has been decided in Skat’s yearly action plan that they are to go through some specific areas, then we are not exempt from it, they cannot do that and we fully understand (...) But Skat are good at calling us and announce that something is coming up, they know we are part of Tax Governance collaboration, but they cannot exempt us from this, but then they ask when is a good time for us, for example, and there is a fine and sober tone around the planning of it” (Tax director, Corporation LL, p. 10).

‘No exemption but notice given’ somehow sums up his position and also connects to the previously mentioned benefits of the new kinds of relations Tax Governance brings about.

5.4.8 The challenge of the growing importance of the “person” in Skat

The final challenge to touch upon, is—ironically—not so much a challenge, but a calling attention to a fact that the Tax Governance program brings with it a new situation. With the collaborative setup of the Tax Governance program, and the widening of possible positions corporations can take in the collaboration, follows also a shift in the emphasis on the role of ‘the person’ in Skat. In a traditional bureaucratic setup, impersonality and formality are core elements. However, when dialogue-based collaboration is placed as a bearing principle in the relation between the corporations and Skat, the running relationship between specific *persons* and the way it is ascribed importance in influencing the collaboration also comes to the fore.

In the interviews, different aspects of this theme were touched upon by the majority of the tax directors. Some, as the tax director of Corporation CC, note the basic person-dependency:

“I have the impression that this collaboration is very much relying on [op til] the Tax Governance manager (...) it depends on how pushy he or she is and how well he or she follows up on the team from Skat (...) It is very person-dependent and dependent on who is assigned to the separate elements” (Tax director, Corporation CC, p. 12).

Others have specific experiences they use to point to the person-dependency, one of the interviewees from Corporation II explains:

“We have changed contact-person along the way which has been very positive, probably because the new contact-person has had previous experience (...) we got a

much better impression [opfattelse] of it [Tax Governance] after he came” (Tax director, Corporation II, p. 3).

Here the professional competences and professional experience of the Tax Governance managers are fore fronted as elements that partake in shaping how Tax Governance as such is perceived. The tax director of Corporation EE adds nuances of why ‘the person’ is of importance for Tax Governance:

“It is important that you speak the same language. My impression is that Skat tries to find the right employees to these collaborations, experienced employees (...) who are experienced in being out in the corporations, talking to corporations, and who also have a certain level of expertise in talking with the corporations” (Tax director, Corporation EE, p. 12).

The tax director of Corporation HH adds that the right Tax Governance team is essential for the collaboration to function: “Eventually I think it is also about having the right Tax Governance team if it is to be of any value” (Tax director, Corporation HH, p. 14). The tax director of Corporation BB elaborates on the personal – yet professional – element and says:

“It depends a lot on the specific persons; it is very person-dependent. That is my impressions from some of the others [corporations]. Well, we have a really good relation to all our contact persons. Not that you are best buddies, that is not what you are supposed to be, you have a professional distance and a professional respect. But it also depends on whether you function well together with the persons you need to be together with in all these situations, because then you have better dynamics and get more out of it” (Tax director, Corporation BB, p. 17).

The personal aspect is emphasized by a tax director of Corporation II who says:

“If the persons do not harmonize, if you cannot talk together, if we are talking at cross-purposes, then it will not be a collaboration. So, in my opinion, Skat has to replace an employee if it does not work out” (Tax director, Corporation II, p. 16).

It is thus not only the professional competences that are at the core of the collaborative relations, the personal competencies seem to get more weight as tax compliance is to be accomplished through relational and dialogue-based collaborative arrangements. The centrality of “the person” – that goes beyond the stereotypical bureaucratic, impersonal tax official in Skat - is a delicate matter. It illustrates the dependency of Skat on its ‘frontline’ staff in establishing and maintaining well-functioning, dynamic and responsive relations to

the corporations. Relations that seem to be grounded both in the personal attitudes and the professional approaches of the tax employees to Tax Governance. No matter how many guidelines, work descriptions and information meetings Skat initiates to inform and prepare its Tax Governance employees, they still have (huge) discretion in how they ‘enact’ their role and they all come with personalities that optimally must somehow ‘match’ or ‘fit’ their counterpart in the corporations.

5.5 Summing up: Possibilities and limitations

We must start this section by highlighting that the participating corporations are generally positive about *the running process*. As already introduced when looking at the motivations to participate, all participating corporations have a Tax Governance manager and a Tax Governance specialist team from Skat connected to them. There is a strong infrastructural set-up in the Tax Governance program to service the participating corporations. The corporations may contact their contacts in Skat at any time during the year to pose questions—as we have provided examples of in section 5.1 and 5.2—and these Skat-employees are committed to provide fast and qualified responses or indications of their viewpoints on the corporations’ disposition for the corporations to gain certainty about these dispositions.

That said there are also complications in the running dialogue. Reflecting on these, we have found that most of these are structural challenges that pose some rather difficult framings for the confined dialogues in the corporations between the Tax Governance employees and the corporate representatives. Another set of these are challenges on an agency level, which we anticipate may be ‘easier’ for Skat to change.

5.5.1 Structural challenges

What is meant by a structural challenge is that we here have a social structure that has priority over social action and where the structure may fluctuate and/or change a certain social reality (Marchall 1998, 646). In concrete terms this means that the new case handling guideline [sagstilskæringsnotatet] creates a structure for how the Tax Governance employees may act; a frame that overrides other concerns—for instance a consideration of the substantiality [væsentlighed] of a case in the larger compliance picture. The fact that the Tax Governance employees may also only provide informal advance notifications [uformelle forhåndstilkendegivelser] which are indicative [vejledende] also creates a framing for the collaboration that cannot be sidestepped. To some participants this creates an inherent uncertainty in the dialogue; diametrically opposed to the intentions of the program. A similar structural challenge comes into the picture when the corporations experience that

the Tax Governance employees are restricted in their ability to ‘sign-off’ on (administrative) issues. In this case, it is the wider perception of Skat and the vast amounts of criticism of the organisation that has been raised in the public media that hinders the Tax Governance employees in daring to use their discretionary room to say ‘alright’/‘ok’ to administrative decision in the corporations. Decisions which may help these greatly in their daily administration and which do not have any monetary consequences. In addition, also the long case handling time in the Tax Appeals Agency [Landsskatteretten] influences the local dialogues and actions in the Tax Governance program. The long case handling time undermines the basic idea that cases of difference of opinion may be taken away from the program and solved in this forum. Lastly, also the fact that several of the corporations operate much more internationally than nationally challenges the program, because the focus of the Tax Governance is on Danish taxation. These are thus all examples of structural challenges for the program.

What these structural challenges do is that they open the door for a contradictory stand between the *spirit* and the *reality* of the Tax Governance program. In its spirit, the program is based on an informal and open dialogue and collaboration. In this, the corporations are encouraged to notify the Tax Governance employees of any issues with a possible or significant tax risk; and the employees are encouraged to bring back indications of their viewpoints and clarifications. In its reality, the program and its ideas are, however, challenged by all the structural elements mentioned above. No matter how well the intentions about Tax Governance are from Skat, this element of what is actually feasible given the situational-factors is central to consider.

5.5.2 Agency-related challenges

Contrary to the structural challenges, there are also few of the mentioned problems which are placed on an *agency* level. This is applicable to the challenges of the Tax Governance employees’ ignorance of the specificities of the organisations, their potential lack of understanding about the (organisational) structures, and their at times preconceived idea of the non-compliance of certain types of corporations. These points are more a matter of training the Tax Governance employees in certain skills and of shifting their mind-set concerning established bias towards some taxpayers. Finally, the challenge of having co-existing audit principles is also an agency level challenge. This, we suppose, may be better coordination internally in Skat so that it becomes clearer how and when different audit principles should be used.

In the further thinking about and developing of the Tax Governance program we encourage Skat to consider these structural and agency related challenges. Especially, as it may be draining for the Tax Governance employees—and the corporations—to operate within a frame shaped by structures that work against the program’s intentions.

6 Pillar II: Planned revisions of specific law areas

This section concentrates on the work related to doing extensive planned revisions of various administrative procedures in relation to different fields of tax law in the corporations [gennemgang af lovområder]. In basic terms these revisions are being built up around a jointly developed action-plan for which administrative areas should be check-up for the coming year or two in the corporations. This action-plan may for instance point out a time plan for revising the procedures for making the income tax form, for filing VAT, for reporting energy taxes or for revising the administration of income taxes for employees. One tax director explains this focus in this way:

“Well, then they [the Tax Governance team] wanted us to take a look at corporate tax, and on VAT and on duties, and then also on salary, and what is it.... hydrocarbon taxation [kulbrintebeskatning] which we as a corporation is also subjected to. And then we also had transfer pricing. (...). And then, they have started [revisions] of these, area for area. Quite quickly we started looking at corporate tax which was the first area [to revise]” (Tax director, Corporation KK, p. 3).

Core to this work of revising these central ‘law areas’ has been that the corporations in collaboration with the Tax Governance team talk over risk areas [risikoområder drøftes]. They must make an identification of the corporation’s various tax risks and they must make an action-plan to target these risks (See: Skat 2018, 6).

In the sections below we account for the work with doing the revisions. Section 6.1 provides insights into the work with making internal tax risk assessments. Section 6.2 provides examples of the revision of the income tax form. Section 6.3 continues by examining examples of revision of other law areas. And finally, section 6.4 nails down on the work of developing internal control and the challenges related to this.

6.1 Internal tax risk assessments

Key to knowing where it makes most sense to start looking at problematic procedures in the corporations is to perform a form of risk assessment. This assessment should ideally map

out where a certain corporation's tax risks are most present. In general, when we asked the tax directors about this work the answers as to *if* they have conducted any tax risk assessments and *how* this had been done varies a lot. As we show below, we interviewed one tax director (Corporation JJ) who could tell elaborately about his corporation's tax risk assessment. The rest, as the section will show, had more implicit, manual or less systematised methodologies for knowing about their internal tax risks. In the text we also focus on the Tax Governance employees reactions to these risk assessments.

As a caveat to this section we must mention that we suspect that some interviewees—and us as interviewers—may have confused some processes. Answering the question about risk assessments we read that not many of the tax directors concretely talk about the processes of talking over risk areas [drøftelse af risikoområder] with their Tax Governance manager, which is one of the first steps in the program (as briefly mentioned above). Instead, we believe that they talk more broadly about how they work with tax risk assessments. This—for sure—is relevant to the risk identification in the Tax Governance program, but this relates more to internal processes than to processes in the Tax Governance program. This should be kept in mind when reading the section.

6.1.1 *Elaborate tax risk assessment*

Corporation JJ is an example of a corporation where the work with documenting tax risk was done in an elaborate way. In the interview, the two interviewees from this corporation describe their intensive work with making risk assessments of their internal taxation processes. They say, that they focus on developing documents with descriptions of their risks and also that they develop process descriptions for what work should be done to prevent or minimise these risks (Tax director, Corporation JJ, p. 2-3). Detailing this work, they explain that they judge the various tax risks according to the *economic impact* of a failure, the potential *frequency* of it and how *likely* the tax risk/failure is to happen. Also, they focus on how some tax risks may be related to processes that have many 'systemic' relations versus processes that are actually done 'manually'. That is, where one person for instance works with numbers in an Excel-sheet (Tax director, Corporation JJ, p. 3). As one of the interviewees states:

“Well, yes, we have made a description [of the tax risks]; it is a word-document where we actually just have listed all these various risks. And we have identified and described *what* the risks consists of (...). So, it is all in one document” (Tax director, Corporation, JJ, p. 3).

“As you know, it [the Tax Governance program] starts with a process where we make this risk assessment and we say where things may go wrong. (...). So, well, you may say, that we came with this introductory presentation of where we thought something may go wrong in our processes. But, I do not think that we got any response [modspil] from Skat. Because they are really not ready to engage in this mind-set. And then I want to say, that *when* we do this, *when* we show where in the processes something may go wrong, then when it comes right down to it, then this is my words, or *our* words come to be worthy of credence [vores ord der kommer til at stå til troende]. And well, here they [Skat] ought to be better to challenge us. Maybe they will later, over time, because [for them] it is a muscle that ‘needs training’ (Tax director, Corporation, JJ, p. 3).

Asked directly how this document has been discussed with the Tax Governance team they say:

“There have not really been any comments [from Skat] (...). Well, from the start I was told that we needed such a document to ‘sign-off’ [on our tax risks]. Well yes, then, the world changes tomorrow and then, the document is worth nothing. Or you know, then there comes a new [tax] process somewhere in the organisation, and then we also need to describe that process [in the document]. And then, what is the end-goal? (...). The world is not just static, it is quite dynamic, and so are [our tax] processes” (Tax director, Corporation, JJ, p. 4-5).

We started out our section on risk assessments by highlighting the experiences of Corporation JJ because these epitomise a number of points related to doing the risk assessments in general. This corporation has itself taken a lead on defining and describing their internal risks; a feature that characterises much of the work related to tax risk assessment in the corporations. The corporation has presented and discussed their risk assessment with the Tax Governance team with little success—as we shall see this also adheres to many other experiences. Finally, the corporation also questions whether their tax risk assessment may somehow be ‘signed-off’ by Skat and they reflect upon the relationship between making a ‘stable’ document with the risks and the ‘dynamic’ nature of their organisation where their processes constantly change and where new tax risk and processes emerge. This, indeed, resonates back to the experiences described in section 4.5.1 where it precisely is the dynamic nature of the organisation and the following constant changes and restructurings that is seen as a hindrance for participating in the Tax Governance program; it will simply be too much of a ‘Sisyphus’ task to account for tax risks in a document that can be signed-off in a changing world. Hence, we see that despite the fact that this corporation

is a kind of frontrunner in providing the documentation on tax risks that the Tax Governance program encourages, it is questionable how much the corporations have actually gained from this—in relation to the Tax Governance program.

6.1.2 Minimal systematic tax risk assessment

While Corporation JJ has worked extensively on elaborate documentation of its tax risks, the impression from the majority of the remaining interviewees was that they approach tax risk in much less structured ways. This is for instance the case for Corporation KK, the tax director explains:

”Actually, we have not done a risk assessment on this [the area of corporate tax] (...) There might be some complex issues in this area, but in general we do not perceive corporate tax as a major risk area. We pay a lot more in VAT and duties, well every month we pay 4-5 times as much in VAT and duties as we pay in corporate tax in a year, so that is where the large risk is for us” (Tax director, Corporation KK, p. 3-4).

”(...) corporate tax is low risk, whereas duty – as we see it, we will of course perceive risk from our business’ perspective – if we are not in control with regards to duty, then it is an enormous risk, it can kill the corporation if we do not have full control” (Tax director, Corporation KK, p. 20).

This citation shows that the tax director approaches tax risk with regards to where they settle the largest amounts of money. Since a much larger amount is paid in VAT and duties, even a smaller failure in the settlement of these may result in a large risk. Asked about whether their Tax Governance manager has asked for documentation on this tax risk assessment he answers that he has not immediately experienced any request for it. Not for corporate taxes, nor for VAT. He says:

”Their [the Tax Governance employees’] approach, as I experience it, is that risk is not the most important, it is that if things are to be in a certain way, they need to be like that [hvis der står det skal være sådan, så skal det være sådan]. Then it does not matter if it is about 5 DKK, 5 million DKK or 50 billion DKK. If it is stated that this is the way, then this is the way it should be (...) No, no, substantiality [væsentlighed] we have never touched upon” (Tax director, Corporation KK, p. 20).

He continues by stating that he finds it to be a problem that the risk picture has never been cleared or matched [afstemt] with the Tax Governance team. It is a problem because this has led to a situation where he feels that the collaboration is a very heavy process [en meget

meget tung process] as the focus lies not in the areas where he finds there to be the largest tax risks. Instead what happens is: "We just get everything examined, and then it [the process] gets really heavy". He exemplifies this by telling how the Tax Governance employees have been looking at the launch of a new product where a month of 'free cell phone use' was connected to one of their products. As the tax director says, they really wanted to know what to do regarding this: "But then we get into every detail of that area and the progress is very slow" (Tax director, Corporation KK, p. 20).

In continuation of this he adds that he *does* believe that the Tax Governance employees understand where the large monetary settlements are for the corporation, and thereby where the corporation sees risk. Yet, he has experienced—based on a meeting with the Tax Governance employees—that he ends up correcting some transactions that do not release any VAT, because they were typed in wrongly in the corporation's system: "Well, it resulted in neither more nor less money in the treasury [statskassen]. But you could say that the very calculation of VAT became correct, it was not before" (Tax director, Corporation KK, p. 21). Hence, instead of actually looking at where there might be potential large tax risk, he ended up using the time with the Tax Governance employees on correcting mistakes that had no 'monetary' consequences. Only effect was that this particular VAT calculation became correct in the system.

The tax director of another corporation, Corporation LL, tells of similar experiences. Here the tax director explains that he sees it as his task to develop analysis of the corporation's tax risk profile. Which he has already done and which they use internally in the corporation. Yet, he also explains that it is not something they have discussed within the Tax Governance program: "Well, they have not requested anything more elaborate [mere forkromet]" (Tax director, Corporation LL, p. 18). Concerning what his tax risk profile looks like, he says:

"Well, I do not have a grand dashboard flashing in red, yellow and green and where you can follow the progress [visually], but we have a manual overview, I would say" (Tax director, Corporation LL, p. 18).

To this he adds that this "manual overview" also includes the risk for the foreign parts/units of their corporations and hence, he then says that any discussion of these parts are not—in any case—part of the Tax Governance program. In continuation of this he adds that the Tax Governance employees are simply interested in looking at "everything"; and he is not really interested in sharing his overview of the corporation's tax risk with Skat. He explains that there are a lot of grey-areas, where the corporation has decided to take a certain stance on a tax matter and where—if Skat started to 'turn every stone' [endevender det hele] then it

might end up as a case in the legal system. Moreover, he adds, a lot of what he sees as tax risks relate to international transactions. He then specifically refers to the Polish tax authorities and says that these are very aggressive and that there is a greater risk of ending up in a (larger) tax assessment.

Hence, two of the main reasons for not sharing his internal tax risk analysis/overview within the Tax Governance program is that it depicts grey-zones and focusses on challenges with international tax assessments in other countries. That said, the tax director did mention that if he actually had a grand [forkromet] picture of the tax risks in Denmark, then he would probably share it within the Tax Governance program.

Another corporation, Corporation HH, also simply has a more implicit picture of their tax risk. The tax director of Corporation HH says:

”We have not made a systematical approach [for documenting tax risks], where we could say now we take this area, what can go wrong and what controls do we have regarding this. We have had a focus on VAT, because as I mentioned, if something goes wrong there, then it goes *very* wrong, so we have used a lot of resources on upgrading our IT-systems (...) ... regarding corporate tax, I am not that worried, except for transfer pricing, and that is a question of how much money you make in each country. So we actually have a fairly good picture of our risks” (Tax director, Corporation HH, p. 12).

Again, this case exemplifies an approach to tax risk assessment where there is no systematic documentation of the risks, but the risk picture/profile is connected to where the corporation settles most money; in this case VAT.

As a last example is Corporation EE, asked directly, if they have any kind of tax risk assessment [risikobillede] he says, “No, none, if I am to be totally honest”. Yet, as he adds he does believe that they soon have to get closer to developing actual tax risk assessments. In relation to this he mentions, that in many instances they only have one person responsible for the various tax areas and that they do not have anybody ‘controlling’ this work done by a single person. He explains: ”But I guess that is basically also a risk area, you could say”. Commenting on the situation in his own organisation he laughs and adds that: ”at present we do not have much risk description, and actually I think many others also do not [he laughs]” (Tax director, Corporation EE, p. 9).

Summing up this section, the aim is to illustrate how implicit and manual the risk assessments are in many of the corporations. The point with this is not to say that the tax

directors do not have ideas about where their tax risks are. They are certainly aware of this, but this knowledge is most often not mapped in a specific (static) document, nor explicated and described in any systematic way. Perhaps the best way to describe how the tax directors work with tax risks is to say that they hold a tacit knowledge of this or has a strong gut feeling for where they settle and pay large amounts and hence where they have the largest tax risks connected to wrong settlements. We also understand, that this way of thinking about tax risks is connected to the fact that the tax risks in many instances are dynamic and changing according to which (new) transactions and processes the corporations engage in. Furthermore, a key point is that nearly none of the tax directors experience that the Tax Governance employees have requested documentation of their tax risk assessments. Many of the tax directors' explain that importance or substantiality of tax risks is not really taken into consideration by the Tax Governance program. Instead, the Tax Governance employees seem to be interested in "everything" when they approach the corporations. How this in certain instances plays out in some rather 'absurd' or 'irrelevant' revisions will be shown in section 6.3.

6.2 Revision of law areas: the income tax form

While one thing is to make the tax risk assessments—with the complications and imperfections this implies as shown above—the corporations must also and perhaps more importantly in Skat's perspective engage in revisions of their various law areas. One such law area that is pointed out by nearly all corporations is corporate tax and the revision of the income tax form. This, indeed, is an element in the Tax Governance program that many of the corporations mention as satisfying. Keeping in mind, though, that this area is not necessarily seen as the most 'risky' to the corporations.

6.2.1 The advantage of certain offices in Skat

The revision of this area results in an upfront and early approval of their income tax form—a matter that we have already touched upon as a key motivation to participate in the program in section 4.2. Close to all participating corporations mention their income tax form as an important return to have revised and 'signed-off' by Skat. A key point with the revision of this law area is that we understand that it happens on a quite easy and informal basis. This, as we will show, diverges quite a lot from other law areas, where the revisions can be more administratively heavy and burdensome for the corporation. Also, many of the corporations experience that the revision of the corporate tax was one of the first areas to be examined. One of the tax directors says: "The [revision of the] preparation of the income tax form—for instance—was totally obvious to look at [at first]" (Tax director, Corporation BB, p. 4).

In relation to this point, a matter of context for these revisions is also important; the revision of the law area connected to corporate tax—and thereby the income tax form—is done by Tax Governance employees from the office of large corporations [Store Selskaber] in Skat. This office is where the Tax Governance program was initiated and where it is governed from, and historically, this office has had its primary expertise in the area of corporate tax. This means that the employees in this office are well informed about the spirit of the Tax Governance program. From the interviewees, we get the impression that when they meet employees from other offices in Skat, then these employees—despite working within the Tax Governance program—are often seen as less accustomed to the spirit of the Tax Governance program. One tax director expresses this concern:

”It may be that corporate tax [and the employees working with this law area] are fundamentally better equipped concerning what this collaboration is about, and well, it is also there [in that office] that the project is anchored and these CAN collaborate with the corporations. Where I believe that some of the other departments [in Skat], VAT and again transfer pricing they appear to be really bad at this collaboration with the corporations and they have a more tough-talking and aggressive approach [har mere en meget mere brysk aggressiv tilgang] to this. This makes the collaboration difficult” (Tax director, Corporation KK, p. 9).

The historicity of the program and the different experiences in different offices of Skat of being part of the Tax Governance program can thus be argued to be somewhat reflected in the corporations experiences with revising the different law areas.

6.2.2 Examples of upfront approval of the income tax form

In this section we focus on some of the processes related to getting the income tax form revised and ‘signed-off’ by Skat. One corporation who retells extensive experiences of this is Corporation II. This corporation has been in the Tax Governance program since the program was a pilot in 2007. Hence, this corporation has over 10 years of experience in the Tax Governance program. They describe—precisely—that a regular task handled in the collaboration is the review of their income tax form [gennemgang af selvangivelsen]. In relation to this, they describe, that they first have an initial meeting with their Tax Governance manager where they inform about irregularities in their return:

“Initially we have a meeting where we relate whether there has been something unusual this year [in the income tax form]. Big transactions, a large capital profit on exchanges [kursgevinst] or a large capital loss [kurstab]. We say if something flags red [springer i øjnene]. Then, we rather tell this up-front. Tell them [Skat], that ‘when

you come to this in the income tax form, then it is because of this and that” (Tax director, Corporation II, p. 14-15).

After this initial meeting, the interviewees tell that the Tax Governance employees spend around a week in the organisation where they sit and look through the income tax form [kigger selvangivelsen igennem]. “They do it a bit like the auditors” (ibid. 15). The result is that Skat produces a small document [et skriv] that describes their review of the income tax form and if there are some issues that merits special attention (ibid. 15).

The tax director of Corporation EE explains a similar process of how they work on closing the income year [indkomstår] in the frame of the Tax Governance program:

“We look at how we have calculated things, what issues [problemstillinger] have there been, and we discuss it with them [the employees from Skat] and go through it. They might have some additional questions and then we have a dialogue about matters of dispute [tvivlsspørgsmål] and then close it down in a sound and orderly manner” (Tax director, Corporation EE, p. 4).

Also, the tax director of Corporation BB describes this process of upfront approval of their income tax form:

“We have had a running process with regards to going through our income tax form (...) they sit in this room and then they go through my working papers for the selected corporations (...) The good thing for us is, that when we hand in the income tax form, then we—at least—have dealt with the larger knots [knaster]. And if we disagree on things, well you of course cannot be sure [udelukke] that we will not end up fighting about it, but we have not experienced this so far. On the contrary, it has created the predictability we really want, so our tax position is relatively settled when we reach the summer vacation, and we find this very nice (...) then you get this follow-up notice [opfølgningsskrivelse] from Skat and I can share it with the CEO and say ‘now it is closed, there are no comments’, and it is a very nice gut feeling to have as responsible for the area” (Tax director, Corporation BB, p. 8+9).

The tax director of Corporation LL touches upon the same aspect of being able to get what they describe as a kind of closure:

”I know that Skat cannot guarantee anything, because they cannot disregard the legislation in force of being able to go back 5, 6, 7 years on different issues. But I think they only do so if something very exceptional comes up. So I think it is fantastic around June 1st to be able to say now some of our income tax forms for the past year

have been approved, that nothing is lurking in the background” (Tax director, Corporation LL, p. 7).

More or less the same process is described by the tax director of Corporation KK: ”We simply send our return [opgørelse] to Skat for them to look through before we submit our income tax form [selvangivelse]” (Tax director, Corporation KK, p. 5). Later in the interview he considers the change of process; he experiences that being in the Tax Governance program actually makes him ‘work more’ on getting his returns right:

“It has become a heavier process to file our tax returns [selvangive] now [when being in the Tax Governance program]. Now we have this providence [forsyn]. Normally, I could just go in and upload stuff and fill in the income tax form and then the annual statement [årsopgørelse] would come in November. I cannot do that anymore [when being in the Tax Governance program]. Now I need to go in and participate in a dialogue [with the Tax Governance manager], so you could say that I am kept in a tight rein [holdt i ørerne], even though the opposite might have been the plan. But in return, I do not expect a revision” (Tax director, Corporation KK, p. 24).

Based on the above citations, we want briefly to highlight a key point about these processes of signing-off the income tax form to Skat. We want to stress that this process of revising the income tax form is based on meetings and oral information. Perhaps the corporations deliver something written if there are some specific issues that Skat must know about, yet our general impression is that much of the information—which provides transparency into the potential problematic areas—is provided orally at meetings with the Tax Governance employees. Hence, this revision is not as such that resource demanding in relation to providing elaborated process descriptions or procedures for administrative routines. Also, this revision is not a ‘one-off’ but a process that recurs every year when the income tax form is to be submitted.

6.3 Revision of law areas: other areas of law

While the revisions of the income tax forms is explained to function well, as indicated in the previous section, the processes of reviewing other administrative procedures in relation to other fields of tax law in the corporations are often seen as more problematic. As indicated previously, this review is based on an action-plan for what should be checked-up for the coming years. For instance, this work would focus on revising the administrative procedures related to the settlement of VAT [moms], the settlement of the accounts for the tax deducted from income at source [A-skat], the settlement of energy tax [energiafgifter], etc. This review or examination of these areas in the corporations has built on two key idea. First, the

corporations should provide accounts of how they work in these areas. This they do by providing Skat with descriptions of their processes or of their administrative procedures [procesbeskrivelse og/eller forretningsgangsbeskrivelser] which Skat then should go through, to see that the corporation had sound procedures. Second, that the corporations also describe their internal control or develop such control to secure the well-functioning of their administrative procedures. In the sections below we point to some of the hurdles that has characterised this work.

As it is quite divers how far the corporations have come with the work of documenting their internal administrative procedures in various law areas and of providing evidence of their internal control, we start with some examples of corporations that have not done much in relation to this. One example of this is Corporation EE; who is one of the corporations that have been a bit slow to engage in this work. The tax director says:

”Well, as I insinuated earlier, we have not come so far as Skat would have liked us to in this area [revision of law areas]. We have shied a bit away from it so far knowing that if we are to live up to this collaboration then firstly, we need better descriptions of our considerations regarding tax and duties and all the other areas covered [in Tax Governance] (...) These descriptions are for sure [sgu] going to make demands on us (...) the ones who are working with this area [medarbejderbeskatning], they are very experienced [erfarne rotter] and have been working with these things for many years and not everything gets described. We know how we do it, and we also know the best how we do it [laughs]. So it will come to shake them up a bit [ruske en lille smule op i folk]. But it is fair enough ... [hesitates], we are a financial corporation, we have a large internal revision and they have basically requested [punket os for] something similar for years, office procedures [forretningsgangsbeskrivelser], describe what you do, why you do as you do. It is not so much risk assessment, but descriptions of why you do as you do” (Tax director, Corporation EE, p. 7).

This citation communicates several central points about the revision of the various law areas. We see that this corporation has actually managed to nearly ‘stay out’ of this kind of work so far. Yet, the tax director also knows that if he is to engage fully in the Tax Governance program, then he needs to deliver on this point. Then he would need to provide “better descriptions” of the reflections they have on their work and of the way they—his employees—actually do their work. Moreover, he points to the fact that it is very experiences employees, who administrate many of these areas and to ask them to provide these descriptions of their work would ‘shake them up’ and perhaps create a stir. Lastly, he also points out that in fact, it is not only the Tax Governance employees who ask for such process descriptions of work,

this is also requested from the organisation's own department of internal revision. For years, they have demanded office procedures [forretningsgangsbeskrivelser] of how and why the tax administrators do as they do.

Another corporation, who has also been a bit slow to start up this work of providing procedure descriptions of their work in the various law areas, is Corporation KK.

"We made a timeline on how do they [the local employees] do things, what risks do you [the corporation] see and what procedures [forretningsgange] do you [the corporation] have. Then they [the Tax Governance employees] wanted us to hand over our procedures regarding tax. The challenge was that we did not have any, neither on VAT (...) We did not have any written procedures (...) I guess Skat had expected there to be more documentation available on how we handle this, documentation put into systems and some persons who knew what their [formal] work tasks were. But it was not beautifully structured, so then we had to put what we do in writing in order to proceed. It is actually just a description of the actions we perform, so it did not give us a whole lot of new 'aha-experiences' but Skat really wanted it" (Tax director, Corporation KK, p. 3).

What this citation shows is—again—that the process descriptions of administrative procedures were not something that the corporation had; the corporation did not have 'beautifully structured' introductions to their tax work. Yet, such descriptions were required from the Tax Governance employees and then they started drafting these. Concerning this, the tax director says that they made "20 pages of procedure descriptions [forretningsgangsbeskrivelse]" (Tax director, Corporation KK, p. 3) of one of their administrative areas and that they submitted this to their Tax Governance contact.

6.3.1 The challenge of receiving little feedback

While the tax director of Corporation KK did not comment more on the submission of this document, several of the other interviewed tax directors mentions that upon submitting these documents to Skat, they have received very little feedback. An interviewee from Corporation JJ describes—for instance—that there has been nearly no feedback from Skat on the documentation that her organisation has sent in. Reflecting on these experiences, another tax director states that: "I think when it comes to the basics, then Skat has actually not been ready for this mind-set" (Tax director, Corporation JJ, p. 4). He furthermore notes that when Skat started such a process and asked for documentation, then Skat ought to be better at challenging the corporations and what they hand in (ibid. 4).

Commenting on the work of reviewing the various fields of law and provide the descriptions of work, one of the interviewees from Corporation JJ also mentions:

“I think it is as though Skat itself has not been clear about what exactly they wanted with this [collaboration]. So, they have been fumbling a bit in blindness....it is as though there has not been any clear guidelines from the managers in Skat. And then, this situation has actually placed the employees in a kind of strange situation” (Tax director, Corporation JJ, p. 17).

The tax director of Corporation CC explains that they have a process running of reviewing their energy tax procedures. This work of reviewing this specific area has been prolonged due to long response-time from Skat on the material submitted:

“It is due to Skat. We are told to deliver something [descriptions of our administrative procedures], we send this in, and then months can pass [without a response from Skat]” (Tax director, Corporation CC, p. 5-6).

She furthermore describes that they of course want to end the process of revising their energy tax procedures and get on, but at the same time they do not want to put pressure on Skat to get a response. Because—being silent—is also a way of ‘buying time’ and push the time frame [skubbe tidsplanen]. However, the passing of time can also be resource-demanding since the internal operations changes and when they are then asked to add what could be seen as minor details in the process descriptions it can result in a lot of work if half a year has passed and things have changed internally (Tax director, Corporation CC, p. 6, 8).

“It is a balancing act, because we do not push because time is passing but at the same time we want to end it because it takes a lot of internal resources and every time half a year has passed and you are asked to clarify something or add a small detail, then you need to start all over” (Tax director, Corporation CC, p. 8).

The tax director of Corporation BB also finds that the feedback is lacking on what they have submitted—not so much because Skat has a ‘wrong’ mind-set—but more because the resources are simply not there:

“To be honest I think the biggest challenge for Skat [the Tax Governance program] is resources, because they do not have resources to do this [ask for material and review it properly]. It has made slow process [trukket vældigt i langdrag]. [Concerning our] energy tax they want to have a look at this in a small production company we have in Jutland. And they are more than welcome, but we get these risk-schemas sent on mail, [and are told] take a look at it and fill them out, ‘I [the Skat contact] will come

back to you in October at the earliest’. So, this is not at the top of my priorities right now (...) I think Skat’s worst enemy is their own internal resources” (Tax director, Corporation BB, p. 9).

So, it seems that what is resource-demanding for the corporations is also potentially resource-demanding for Skat.

6.3.2 The challenge of drains on resources

While one problem is that there is a lack of feedback on the submitted material, another problem is that it is resource demanding for the corporations to develop this material. Commenting on the work of making process descriptions [procesbeskrivelse og/eller forretningsgangsbeskrivelser] of their central administrative areas related to taxation, then one tax director first of all points at the general work load: “It is just really resource heavy for us [the corporations] to make this kind of work” (Tax director, Corporation JJ, p. 4-5). And; “It just doesn’t appear to me that anybody internally in our organisation was really aware about how much work this collaboration requires” (Tax director, Corporation JJ, p. 13)

“We underestimated the number of man-hours that was needed for the collaboration...we [the tax unit] actually asked to get more resources because of the collaboration...and we got one more employee as a result of this” (Tax director, Corporation JJ, p. 13).

The tax director of Corporation CC, explains that their tax advisors advised them not to participate since they found that Skat was not ready for the project and also, their concerns were that it would take a lot of effort and resources to go into the project, efforts and resources that would not mirror the gains (Tax director, Corporation CC, p. 2).

And, as one of the tax directors explains, in relation to setting up internal controls of various taxation processes: “It has probably been a larger task than what we anticipated. But also larger than what Skat itself anticipated. Skat did not expect that we went into this in this way” (Tax director, Corporation JJ, p. 8).

The tax director of Corporation LL also comments on the resource-demand and the ongoing processes but also couples it to the interest of the corporation: “Processes are running continuously [vi har gang i noget hele tiden] (...) and it also demands more resources from us than I had expected” (Tax director, Corporation LL, p. 2). Later in the interview he elaborates on the use of resources:

“I hope, that if you look at it on a five year timespan, then it might not [require more resources]. It is a different way of working. Instead of having some intense peaks during the five years (...) then we instead get a constant slightly heavier work load of making process descriptions and having all these discussions with Skat. But these are things we also profit from internally (...) the flow chart and descriptions of procedures might have been made at the request of Tax Governance, but it is not that we cannot use it. We use it and it will be part of our guidelines on the area” (Tax director, Corporation LL, p. 21 + 6).

He however acknowledges that Skat has been open to dialogue about prioritization of resources:

“I want to give credit to Skat for letting us prioritize (...) if you take the driver’s seat [sætter sig i førersædet] then you also have the possibility to steer the process to a large extent, I want to acknowledge Skat for that, because they say, ‘well one area can be as good as another, we need to go through them all anyway’ (...) We need to finish one area before we have the resources and capacity to start another one and Skat has acknowledged this” (Tax director, Corporation LL, p. 4).

Due to the highly regulated finance sector the tax director of Corporation AA, has a different experience regarding the resource requirements needed to deliver internal process descriptions:

“I might have to hire one more person to help Skat with this [process descriptions and tax control frameworks], but if you consider how many full-year equivalents we already use for control and compliance then it is of no importance in the larger picture (...) for highly regulated sectors I don’t think it is a weighty matter” (Tax director, Corporation AA, p. 14)

Summing up; what we see in the above is that many of the interviewees describe that Skat has a hard time responding timely and constructively on the materials that they receive from the corporations on the descriptions of their internal administrative procedures. This is, needless to say, a paradox as it is the Tax Governance employees themselves that demand the corporations to work out and submit this kind of material. Also, we see that several of the tax directors complain about the work load related to producing this documentation. It is simply a huge drain on their limited resources to produce these documents.

In relation to this, we also must stress, that Skat here receives a kind of material that does not resemble anything they are used to look at. It is hard core process descriptions of work

routines and routines for potential checking of work routines. Something entirely different from the taxation related questions they would normally get. This might explain the—at times—‘passivity’ and perhaps ‘bewilderment’ in Skat.

6.4 Encouragement to develop internal controls

While the descriptions of the internal administrative procedures are one thing, another thing that the Tax Governance employees have focus on is the development of internal control. Making our interviews, we asked all tax directors if they could provide examples of their work with developing internal controls. It turned out that the experiences with this varied a lot and that a key challenge in starting up this work is the issue of substantiality [væsentlighed].

6.4.1 Difficulties of agreeing on substantiality

Taking Corporation II as an example, the tax director of this corporation comes up with a longer story when asked about their work with tax risks and development of internal control. What he explains is that the focus on these matters has only been developed during the last year—despite the corporation being part of the program since 2007. The reason for this is twofold. First, the corporation was provided with a new Tax Governance manager who had a more up to date approach:

“We changed contact person along the way, which has been positive. Because, you see, the new contact person had probably experience from somewhere else. So then, we got a clear-cut [et brud] and we got a better understanding [of internal control] after he came in. That has been good” (Tax director, Corporation II, p. 3).

But secondly, the corporation also changed their own tax expert [skatteperson]:

“In the function where [the name of one of the interviewees] is now, we previously had a real tax-person. A *real* tax-person. Not to...but, what I mean is that when we started talking about self-control, then she started to look out of [the window]” (Tax director, Corporation II, p. 4).

Then the tax director expresses a slight satisfaction that this employee resigned because this allowed him to hire a new person with different competences. Because, as he explains, he knew that Corporation II somehow needed to work with their tax area in a new way. Because:

“We have an interest in having—for ourselves—those controls and internal control. And therefore [the name of two employees] came [to the organisation] precisely one year ago. And [the name of one of the interviewees] has a background as accountant,

so she has an understanding of control and she has started working actively with control because we have an interest in it, no doubt that it is also an area of focus for us” (Tax director, Corporation II, p. 4).

What we here see is an organisation that clearly has geared-up to be able to work actively with internal control in their taxation area. Also, what is important is that they stress that this change in focus internally is done because they *themselves* have an interest in developing internal control. That this pressure has not come from Skat is also documented by an example where the interviewees retell about their experiences with working with internal control within the Tax Governance program. Despite having the new Tax Governance manager, the interviewees explain that when they started discussing this with Skat they found that Skat did not necessarily have experience or knowledge on what an internal control actually is:

“You do notice, that they [Skat] do not know, what is a control (...) the tax official has typically only worked in Skat, so they do not know, what is a control (...) In our first discussions it was quite clear that they [the tax officials] did not know what they asked for [when talking about internal control] and that made this part of the collaboration a bit hard [tungt], we had to try to talk to them about the fact that when you deal with control and risks then it is unavoidable to also talk about substantiality [væsentlighed]” (Tax director, Corporation II, p. 5).

In relation to this, the tax director goes on to give an example where the corporation did not find substantiality [væsentlighed] to be taken into consideration:

“The first area they [the Tax Governance employees] wanted us to look at [to develop internal control] was canteen VAT [kantinemoms]. They wanted a description of how we do this, but canteen VAT is completely non-substantial [uvæsentlig] for us. We cannot detect in our financial results [regnskab] whether we do canteen VAT right or not. It is not that we do not want to do it, but there are so many other more substantial areas – how we calculate the duty on our products, which is about much, much larger sums both for us and for Skat. Well, so it was clear that canteen VAT was an area where they had done a lot of audits, it was a well-known area to them (...) so we have experienced that they have chosen some areas (....) areas that in an internal control setup are not areas we want to focus on” (Tax director, Corporation II, p. 5+6).

Lastly, the tax director stresses that he really wants his organisation to be self-controlling:

“We want to establish the control because we see a value in having them. The problem is, can we agree on *what* control we need? Because I think it is discouraging [dødssygt] to look at canteen VAT because it is about petty sums. It is not what gives me a restless night. The question is whether we can find a level of substantiality [væsentlighed]. Well if we can get Skat to accept that there is such a thing as substantiality” (Tax director, Corporation II, p. 10).

Asked how they then work with internal control—besides the area of canteen VAT—they described that they, for instance have internal control to inspect their own processes of making the income tax reform. For instance, they describe how they balance the income tax reform to the annual report [årsrapporten], they check the financial data with the accounting systems, they may also withdraw a report from the system concerning what they ought to report in VAT in various sections (Tax director, Corporation II, p. 11). This internal control, however, is not something that the Tax Governance employees (so far) have been looking at in their process of ‘seeing through’ the income tax reform.

Another example of the difficulties concerning internal control and substantiality comes from Corporation DD. Here the issue is that the majority of the (potential) internal control is not placed in the centralised tax department—who is formally responsible for the Tax Governance program. Instead, these are to be implemented in various business areas. In relation to this, the tax director says that there is a process of negotiating what is relevant to look at:

”Then you [the tax director] go out in the bank and find out ‘who are you to talk to this [internal control] about? Who do systems and these things [potential areas for internal control]?’ (...) So, the challenge with internal controls is to get mapped out what controls exist and when do they count in the ‘compliance-account’ [compliance-regnskabet]” (Tax director, Corporation DD, p. 12).

Hence, here the issue is (not yet) one of discussing substantiality with the Tax Governance manager. It is one of first figuring out where the potential internal controls should be in the organisation and figuring out if these controls are substantial ‘enough’ to be seen in the overall compliance picture of the corporation.

Corporation AA also reflects on this issue of substantiality. The tax director explains that it is related to risks and to all the many possibilities of errors in their systems. He notes that if an employee enters a wrong number in one of their automatized systems then this may have fundamental consequences. In relation to this he says:

”So we also work a lot with substantiality [in relation to developing control of our systems]. Regarding some issues, we have said to Skat that we do not want to do more about it because it is non-substantial for the bank. We live with a risk of error, also in relation to Skat, but it is insignificant compared to the rest” (Tax director, Corporation AA, p. 11).

Hence, in this case the corporation had simply communicated to Skat what they found non-substantial and substantial. In the interview there was no indication that this message had been questioned by the Tax Governance team.

6.4.2 Difficulties of knowing what an internal control is

The case of Corporation II described above—where Skat has difficulties defining what an internal control is—is not a stand-alone case. Rather, below we provide different snippets of what other tax directors have retold when asked about their work with tax risks and internal control within the Tax Governance program. Here the focus is specifically on how the tax directors have experienced ‘bewilderment’ from the Tax Governance contracts on this. The representative from Corporation CC comments:

“Skat does not know what they demand when they say ‘we want a description of an internal control [egenkontrobeskrivelse]’. Because what is a description of an internal control? It is like, it is up to us to describe it, it is like they are not geared for what they have launched [det skib de har sat i søen] [Also] “...But what self-checking [en egenkontrol] is, that is not also not clear” (Tax director, Corporation CC, p. 7, 9).

“As I perceive it, the challenge for Skat has also been that they have not known how to materialise these demands of self-checking [egenkontrol]. It has been a part of the guidelines for ten years, but they have not known how to materialise them” (Tax director, Corporation BB, p. 10).

The tax director of Corporation LL comments on the concept of self-checking:

“Exactly self-checking [egenkontroller] that is a word invented by Skat for the occasion, I think they have all attended a course, because all the time they yell about documentation of self-checking [dokumentation af egenkontroller] at us. And it is a bit hard for us to find out what they actually mean by it, and it is also for themselves sometimes” (Tax director, Corporation LL, p. 5).

The tax director of Corporation HH notes: “Skat is fumbling a bit with ‘what is a control, how much should the corporation be able to present and document’” (Tax director, Corporation

HH, p. 4). He furthermore explains that regarding the documents required they had most of them for the A-skat case and regarding corporate tax they have not used the process descriptions composed for Skat in their daily work afterwards (Tax director, Corporation HH, p. 5).

Summing up briefly, we clearly see that the tax directors in various ways have been encouraged by their Tax Governance contacts to develop internal control during the last couple of years. Yet, we also see that both agreeing on what areas are important to control (substantiality) and how this should actually be done are difficulties that stand out.

6.5 Summing up: The laborious work of documenting

The running processes described in section 5 take place primarily when the corporations call their Tax Governance manager or when they sit in meetings and discuss things. This is above all an orally based interaction that happens in the here and now with questions and answers going back and forth in real time either in meetings or over the phone. In the present section 6, by contrast, a crucial written element of the collaboration has been introduced. While meetings are also involved, the revision of the specific law areas requires a wealth of documentation to be provided to Skat by the corporations. They have to hand in descriptions of their tax risks assessments, action-plans for which areas to revise, administrative procedures and routines, and, where relevant, internal controls. This labour of documentation involved in meeting these requirements should not be underestimated, as we have indicated in section 6.3.2 on the drain on resources.

While not only labour intensive to produce this written documentation, there are also other characteristics of this work. These are that the Tax Governance employees seem reluctant to provide feedback to the descriptions provided (section 6.3.1), that they are less trained in handling this kind of work and defining what internal control is (section 6.4.2), and lastly that they are not tuned in on focussing on substantiality (section 6.4.1); a matter that is key to the corporations. A consequence of this is that the law areas have been revised with different methodologies; some Tax Governance employees have pushed the agenda a lot, others have not been very active in pressing this. Another consequence is that it is this part of the Tax Governance program that has received most critique from the corporations. Not only does it require a lot of man-power to engage in this part of the work, it also often means meetings and encounters with Tax Governance employees who are not all totally confident with this kind of work. One key exception from is this the yearly revision and approval of the income tax form (section 6.2).

A final point to make concerning the work of making the planned revisions of the specific law areas is that this work resembles normal control and audits. This fact has been pointed out by the Tax Governance employees themselves (in personal communication). The only difference is that this is now done in a collaborative framework. Yet, it is basically still about the corporations handing in some kind of material and documentation, and that this is then assessed and/or approved by Skat. Looked at in this way we may say that the corporations in the program—so far—have not experienced any significant degree of re-active audits, but they are experiencing a constant process of real-time revising of their processes. No doubt, a clear advantage in this is that the corporations may themselves—more or less—decide the ‘pace’ and ‘intensity’ of this work depending on how much engagement and resources they put into the processes.

7 The reformed Tax Governance program

There has been voiced criticism of the Tax Governance program in recent years. One criticism has been raised from the corporations—as sketched in section 6.3.1 and 6.3.2. This criticism relates to the fact that the Tax Governance employees have been less well trained in providing guidance and feedback concerning the development of risk assessments, procedure/administrative descriptions and internal control in the corporations. Another criticism concerns the fact that Skat has had challenges in documenting the effects of the Tax Governance program: What are actually the outcomes of the program? Both for Skat—in relation to working more efficiently—and in relation to the corporations—relating to being more compliant or using less time and resources on their tax-matters. This challenge of measuring or otherwise showing the effects of the program has been noted by the Danish National Audit Office. This authority has questioned the program in the report “Beretning til Statsrevisorerne om Skats indsats på transfer pricing området” (Rigsrevisionen 2014). In the report this is noted on the Tax Governance program:

“The investigation from the National Audit Office has shown that Skat has started a project on ‘Tax Governance’ despite the fact that there exists no documentation of the effectiveness of the method compared to more traditional forms of control. Skat could not—five years after the pilot project was initiated—account for whether Tax Governance is a more or less resource demanding method to lower the tax gap compared to the traditional control” (ibid. 22).

The National Audit Office finds that the change (adaption) from control to Tax Governance collaboration ought to have been based on a convincing collection of effects (ibid).

In brief, some of the corporations' less successful experiences with the program together with the challenges of showing the effects have led to a process of self-examination of the Tax Governance program within Skat. Most notably, this reformed version of the Tax Governance program has been presented publicly in the article "Skat improves Tax Governance" [Skat forbedrer Tax Governance] (From) published in 2017. 2018 and the coming years will be used to implement this new version of the program. In the article both the critique of the program from the corporations and the challenge of showing effects of the program are stated as reasons to improve the program (From 2017, 2) This section presents and discusses this reform of the program⁵.

7.1 Inspiration from the OECD

To understand the choice of *how* precisely to reform the Tax Governance program to meet the voiced criticism we find that it is helpful to draw a number of parallels to two publications from the OECD about Cooperative Compliance from 2013 and 2016. Looking at the approach to Cooperative Compliance in these two documents is illustrative because this shows a shift in emphasis concerning *what* it is necessary to implement to get a robust Cooperative Compliance program running.

7.1.1 Transparency in exchange for certainty

The first OECD report in focus is called *Co-operative Compliance: A Framework. From Enhanced Relationship to Co-operative Compliance* (2013). This report focusses on the past and current experiences with Cooperative Compliance in 24 countries (ibid. 11). What we read as a key take-away point in this report is the principle that Cooperative Compliance programs stress that corporations in such programs must be willing to be fully transparent about their tax risks and tax dispositions and in return for this, they can expect certainty about their tax position from their respective tax authorities (ibid. 11 and 14). This dual coupling is the key: "Transparency in exchange for certainty" (ibid. 29). Subsequent to laying out this premise for the collaboration, the report points to a number of central elements of Cooperative Compliance: i.e. the challenges in developing the programs, the connection between Cooperative Compliance and other strategies, the troubles of evaluating the programs, etc. In the middle of the report, there is a chapter 4—only comprising 6 pages—which describes "The importance of the Tax Control Framework" (OECD 2013, 57-63). In

⁵ We have chosen to speak about the new version of the Tax Governance program as the 'reformed' version. Skat itself calls it an 'improved' version. We have found it most suited to talk about a reform since no documentation exists so far as to whether there has been an improvement of the program due to the new orientation.

the executive summary this focus on Tax Control Framework is mentioned in a paragraph stating that:

“The report highlights the central importance of these frameworks in bringing rigour to the co-operative compliance concept, demonstrating that the relationship between the taxpayers concerned and revenues bodies is based in objective criteria and justified trust” (ibid. 14).

This chapter on the Tax Control Frameworks describes that the motto “Transparency in exchange for certainty” cannot exist without disclosure of tax risks and without an underlying framework, i.e. the Tax Control Framework, which provides assurance that these tax risks surface. This part of the report thus (briefly) underlines that what is called a Tax Control Framework must follow Cooperative Compliance programs as such frameworks translate the principles of trust and transparency into practice and reliable systems. In OECD’s words, Tax Control Frameworks secure clear, adequate and objective transparency into a corporation’s tax matters (ibid. 57). The focus on Tax Control Frameworks and internal control in this original OECD report on Cooperative Compliance takes up 6 pages out of 105. Hence, it is clear that this does not provide any solid or highly-prioritised introduction to Tax Control Frameworks. Rather, these are described alongside various other elements to consider when developing Cooperative Compliance programs.

We argue that this petite emphasis on Tax Control Frameworks and internal control that characterise the seminal OECD report on Cooperative Compliance mirrors the variable emphasis that these aspects have been given in the Tax Governance program in Denmark—as aptly illustrated in section 6.4—where we show the challenges connected to developing internal control. As they have told in the interviews, the Tax Governance employees knew that they needed to encourage the development of sound internal control in the corporations they worked with (ref from interviews will come). Yet, these employees also simply needed to learn to adhere to the spirit of the Tax Governance program. Recalling, that a totally new infrastructure needed to be invented: the corporations should be risk assessed, they should be invited, a team of specialists should be connected to them, the corporations should understand the premise of the collaboration, the Tax Governance employees should learn to provide extended service, provide fast answers and both parties should learn that their work should be conducted in real-time (and not re-actively). Accomplishing this was simply quite a thing that demanded many new tasks should be learned and new ways of interacting instigated. In this start-up phase, the focus on developing Tax Control Frameworks and internal control was not necessarily on the top of the mind—as many of the interviewees

from Skat explain that they have not (yet) really ‘entered’ this kind of work in the frame of the Tax Governance program (ref from Skat interviews will come).

7.1.2 Bringing rigour to corporative compliance

In 2016 the OECD publishes the report *Co-operative Tax Compliance: Building Better Tax Control Frameworks*. In this report, the theme is that any Cooperative Compliance program must be supported by Tax Control Frameworks in the participating corporations. Because such frameworks “assures the accuracy and completeness of the tax returns and disclosures made by an enterprise” (ibid. 7). It is described that Tax Control Frameworks play the key role in bringing rigour to Cooperative Compliance programs. Compared to the previous report, it is now stressed that *when* a tax authority has determined that a particular Tax Control Framework in a corporation is effective, and *when* the corporation provides complete disclosure (transparency), *then* “...the extent of reviews and audits of the returns submitted to it can be reduced significantly” (ibid. 11). The point being that *only* in these circumstances, the tax authority can rely on the return submitted and trust that uncertain tax positions are brought to their attention.

What we find is central to draw out from this and the previous report from the OECD is, that in the first report from 2013 Cooperative Compliance—and the slogan of certainty in exchange of transparency—is described more or less as an ideal. With minimal reflection and guidance as to how transparency actually was to occur in the relationship between a corporate taxpayer and a tax authority. In contrast to this vagueness, the 2016 report is firm on stating that the development and implementation of Tax Control Frameworks and internal control is the method to secure what the OECD calls ‘clear, adequate and objective’ transparency.

Looking at the Danish case in light of these developments, we assume that some of the challenges that have met the Tax Governance employees in recent years can be explained by the fact that there have not been sufficient clear guidelines as to how the corporations should actually demonstrate transparency. If we briefly look at the Danish experiences presented so far, transparency about tax risks, internal control, or transactions that are out of the normal, have most often been communicated to the Tax Governance employees either in talk and during meetings, or in written documents with descriptions of administrative procedures. Despite there being plans for law areas to revise in the corporations and plans for ‘signing off’ central returns, these plans have often made slow progress and while documents have been exchanged, there have been no systems to support systematic transparency. In brief, we may say that the Danish Tax Governance program has been characterised by an ad hoc

and informal way of providing transparency into the corporations' (problematic) tax affairs. Also—if we look at the public guidelines for Tax Governance on the webpage from 2015—these guidelines reflect the motto “Transparency in exchange for certainty” but has no mentioning of internal control (Skat 2018).

What that 2016 OECD report encourages is to move this ad hoc and informal information sharing into much more formalised systems. Namely, by securing transparency via the development of explicit Tax Control Frameworks and with that internal control that can be documented for the tax authorities and later also tested by these. It is thus exactly these ideas about Tax Control Frameworks and internal control what we see reflected in the reformed version of the Tax Governance program launched in Denmark in 2017.

7.2 The new “o-4 phase model” in Tax Governance

This section introduces Skat's new o-4 phase model [Fasemodellen] for the Tax Governance program (From 2017). This model describes how the participating corporations should go through a number of phases. Phase zero constitutes a selection process for being part of the program and phase one represents a process of signing a covenant and of matching expectations between the corporations and the Tax Governance team. Phase two focuses on the descriptions of the corporations' tax risks [skatterisici] and on documentation of the corporation's established internal control. Phase three focuses on Skat's assessment of these risks and on Skat's testing of the internal control. Finally, phase four represents a stage of monitoring. In this phase, Skat will monitor the program; i.e. the collaboration, the dialogues, the risks and the internal control (From 2017, 3). According to Skat, the gain with this phase model is twofold: After an initial period with extra workload with documenting risks and developing the internal control, then Skat should benefit from it as it will lessen their use of resources on traditional re-active audits. And the corporations should benefit from it as this work—needless to say—should also reduce their workload due to the fewer re-active audits.

“The further a corporation proceeds in the phases, the less re-active control and the more certainty for correct tax returns—for both parties. The degree of re-active control will become lessened as the corporations' partly become self-controlling. The control from Skat will often be reduced to tests and random checks when phase four is fully introduced” (From 2017, 3)

One notion that becomes central in this new phase model is ‘self-controlling’ [selvkontrollerende]. The article states that *in addition to* being open about their tax strategies and dispositions, and *in addition to* having a trustful relationship to Skat, the

corporations also *have to become* “self-controlling [selvkontrollerende] by establishing effective internal controls (From 2017, 1). The point with this notion is that instead of it being Skat’s prime responsibility to control, audit and otherwise revise the corporations—as we argued was the key characteristic of the work done in section 6 (see specifically section 6.5), this becomes the corporations’ own responsibility. The idea being, that Skat’s main task is then transformed to one of checking and monitoring the corporations’ self-control. As we shall later suggest, such a shift can be characterised as a shift from ‘governance’ to ‘meta-governance’ (see section 9.3) The aim is no more that the Tax Governance employees directly *govern* the corporation by receive documentation and judging this. Rather, the aim is that the Tax Governance employees engage in a *meta-governing* relation where they monitor the corporations’ own governing processes, that is their ‘self-controlling’ processes.

To meet some of the criticism raised towards the program in recent years and to help formalise the processes in the program, a strategy for Skat has also been to increase the focus on making more systematic tax risk assessments. Hence, another notion that is introduced in the article on the reformed program is that of the COSO framework. In relation to this, Skat suggests that the corporations use this established framework for assessing and documenting their tax risks (COSO 2011). The COSO framework is a somewhat classic framework that describes generally how corporations may map various operational risks. The article states that it is not obligatory to use this framework to assess one’s tax risk, but it is a suggested tool (From 2017).

While the article from Skat does not explicitly mention Tax Control Frameworks, it talks a lot about internal control and tax risk assessment—which are the core to any such framework. Moreover, with the 2016 OECD report in the back of our minds, we can better understand the focus on these elements. The reformed version of the program mirrors closely the approach advocated in the 2016 OECD report and hence, we argue that there is a parallel between the growing emphasis on internal control in the latest OECD document and the growing focus on this in Skat’s new approach. This also means that the openness and trust build up during the running process (section 5) and also the information provided during the various revisions (section 6)—from Skat’s new perspective—are actually *not* anymore sufficient to provide the kind of clear, adequate and objective transparency that is needed in a Cooperative Compliance program—as defined by the OECD. Both Skat and the OECD seem to argue that more rigorous systems must take the place of this more ad hoc and informal collaboration that has existed until recently in the Tax Governance program.

7.3 Experiences with the reformed Tax Governance program

As the reformed Tax Governance program was launched in 2017 and is to be implemented from 2018 and onwards, not much of this has already reached the corporations that we have been in contact with in spring 2018. That said, some of the tax directors either have experiences with elements of the reformed version of the program because they themselves have wanted to develop this or they have opinions on the development of the program as they have been introduced to the reformed program by Skat at various presentations. These various experiences and opinions are described below.

7.3.1 Difficulties of meeting requirements

In the interviews, several of the tax directors touch upon the way that they see that the Tax Governance program has developed over time—also knowing about the new requirements in the reformed version of the program. One common thread in this is that they have experiences that more and more elements, demands and obligations have come into the program and that it may be difficult to meet all these new requirements. Hence, many give voice to the statement that when entering the program they mostly saw it as a way to have a ‘dialogue’ and a more ‘collaborative’ relationship to Skat, yet as the program evolved they discovered that much more work was in it. Specifically the work related to performing tax risk assessments, providing descriptions of their administrative procedures and developing internal control. One tax director expresses this briefly in this way:

”We think there is progress in it [the Tax Governance program], but it is slow, and it might be even slower because Skat – as I see it - makes more demands than I would have expected when we entered” (Tax director, Corporation LL, p. 24).

When coming with this statement, the tax director at the same time flips through the public guidelines for Tax Governance which he has printed from Skat’s webpage and inserted into a ring folder. Looking at this [when the dictaphone was turned off] he says that here he cannot read anything about the new demands [krav] that he is currently met with, implicitly stating that he is slightly sceptical about this. Another interviewee tells of developments of the collaboration over time in a story of a model in decline:

“We found it to be a fine initiative and when having been in [Tax Governance program] for 1-1½ years we were really positive about it (...) then when the case handling guideline [sagtilsskæringsnotatet] came our spirits waned a bit [dalede humøret lidt], and when we entered on other areas, e.g. VAT, then our spirits waned even more. We are still positive about the collaboration, but we find that it has

changed and not in a direction beneficial to the corporations” (Tax director, Corporation KK, p. 26).

The reason for the non-beneficial development is both the challenges of the new case handling guidelines and the challenges of revising the law areas. This specific corporation had a positive experience of revising the area of corporate tax, but found the revision of the other law areas more troublesome and less collaborative.

In line with this, another tax director comments on the new requirements concerning making tax risk assessments:

“Of course you need to have a clear picture of where are the risks in your corporation, and in relation to compliance it makes sense to say that we have a risk assessment regarding tax and duties. But one thing is to say it and another is to put it into practice [få det udmøntet i noget håndterbart]” (Tax director, Corporation EE, p. 10).

He thus acknowledges the importance of the risk assessments as such but also points to the hurdle of putting it into practice in the corporation. This somewhat sums up the stance among the interviewees – most adhere strongly to the ideals of Tax Governance, however most interviewees also find them difficult to live up to in practice.

7.3.2 Skat's problem becomes the corporations' problem

With regards to the new phase model, the challenges for Skat of showing effects of the program is a main theme addressed by this tax directors. He explains:

“They [Skat] have had troubles making visible to the politicians the gains of this [the Tax Governance program], does it have an effect [flytter det noget]? (...) [with the phase model] they are going to be able to show that the corporations move from phase 0 [and onwards] to a level where you can assume a higher degree of compliance due to being in control of controls and other things” (Tax director, Corporation AA, p. 9, 10).

He continues by coupling the phase model to a perceived increased resource demand from the corporations:

“... it will demand more from us, then we NEED to go through all the areas of law (...) and we also need to justify this (...) we need to be able to make the results visible for the corporation” (Tax director, Corporation AA, p. 9, 10).

He goes on to explain or speculate that it might be a question worth considering – how many resources can the corporations legitimise using on being in the Tax Governance program and does the phase model make it too demanding to be in the collaboration? The demands faced by Skat of having to document an effect of the Tax Governance program might somewhat also spill over to the corporations when facing a revised model with increasing resource demands and possibly a diminished sensitivity to the local circumstances of the specific corporation. This, at least, is what he speculates may be consequences of the reformed program and especially its relation to showing more effects of the program.

7.3.3 Experiences and views on Tax Control Frameworks

A theme in all the interviews has been whether or how the corporations have developed some kind of Tax Control Framework—as introduced by the OECD as a method to bring rigour to a Cooperative Compliance program. The majority of the corporations have not developed anything near a systematised framework. Yet, a few of them have some limited experiences, which are highlighted here. One tax director describes his view on Tax Control Frameworks:

“We do not have a formalised Tax Control Framework (...) but we have informally you could say, what tax controls do we make, how do we log them, that is what it is about and it is part of our descriptions of procedures more or less indirectly” (Tax director, Corporation LL, p. 18).

Contrary to this, the tax director of Corporation AA describes a fairly easy process of producing an internal Tax Control Framework. This corporation operates in the financial sector which is already a highly regulated sector and thus many of the process descriptions were in place as procedures [forretningsgange] before entering the Tax Governance program and could be used for Tax Governance purposes.

“Banks are characterized by having numerous procedures for all sorts of things (...) because we are subjected to regulation from the Danish Financial Supervisory Authority, so we are criticized [får hug] from elsewhere if we do not have procedures for this and that” (Tax director, Corporation AA, p. 5).

And therefore, he argues, it was not that much of a work task for them to start working with Tax Control Frameworks. Another tax director explains that she has recently put a lot of effort into making a Tax Control Framework:

“We have made a Tax Control Framework and we are to present it to Skat soon. And then we are to talk it over [drøfte det], if they find it to be what they consider self-checking schemes [egenkontroller]” (Tax director, Corporation BB, p. 4).

The tax director explains that they see the Tax Control Framework also as an underpinning of their tax policy and tax strategy: “In order to support your tax strategy and tax policy, you need some underlying processes and that is what the Tax Control Framework is” (Tax director, Corporation BB, p. 5+6). She later in the interview elaborates on this:

“It is important to have the self-insight [selvindsig], because the complexity of the tax area is very large and I rather want to invest some time up front in order to be sure that eventually [I sidste ende] the product [what they deliver to Skat] has a reasonable quality and is quite correct (...) I see it as an investment in creating some predictability regarding my own tax position” (Tax director, Corporation BB, p. 13).

She refers to the Tax Control Framework as a way of gaining insight and some degree of predictability. Not all corporations share this view. A tax director from Corporation JJ suggests that working with Tax Control Frameworks may actually be a “pretext for doing nothing” for Skat, he explains:

“If we agree on some kind of Tax Control Framework, and then, Skat lets the taxpayer continue on his own with this, then resources in Skat can be used for something else. Yet, I think that is a pretext for doing nothing [sovepude]. It is good for us....yet, I believe that we will never come to the conclusion that now we are certain that this Tax Control Framework works” (Tax director, Corporation JJ, p. 3).

Only few corporations are this critical towards the element of Tax Control Frameworks, but more tax directors emphasize that if they are to engage in this element of Tax Governance, then the Tax Control Frameworks must be useful for the corporations, not solely for Skat. The tax director of Corporation HH explains:

“How can we do it [Tax Control Frameworks] in a way that makes sense for our corporation, how can we do something not just for control-purposes, but something that is also in a format that we can show to the governmental authorities in order to show that we are in control (...) I want to do it [Tax Control Framework] because I also find a reason to do it, there needs to be a value in it for [the name of the corporation]” (Tax director, Corporation HH, p. 8, 15).

The question of value for the corporation is central. And summing up on the above it is evident that the value of Tax Control Frameworks the tax directors are not unison about. Some highly value this element, while others find it a ‘pretext for doing nothing’ for Skat. The insisting on value is also connected to the question of the varying amount of resources are required from the corporations to comply with this element. Furthermore, Tax Control

Framework is an element where it becomes quite ‘visible’ that the corporations are participating in Tax Governance at different paces and with different local conditions and premises in the corporations.

7.4 Relations to international trends in tax administration

Reading section 7.1 on how the reformed Tax Governance program draws on inspiration from the OECD one might get the impression that the OECD univocally is pushing this new agenda. This is not the case. If we look more broadly at various international trends in the area of taxation (and accounting), it becomes clear that there are several initiatives that have similarities with the new developments in the Tax Governance program. A selection of these is mentioned below.

7.4.1 The Sarbanes-Oxley act of 2002 in the US

The Sarbanes–Oxley Act (SOX 2002) is a law passed in the US in response to a series of high-profile corporate accounting scandals. The aim with SOX was to promote responsible corporate governance and to increase disclosure in related to tax issues. This should help restore confidence in how large corporations operate. While consisting of various initiatives, our interest is specifically on section 404 on the “Management assessment of internal control” (SOX 2002). This section says that it is a responsibility of management (in a corporation) to establish and maintain an adequate internal control structure and provide procedures for financial reporting. Furthermore, the corporation must make an assessment of the effectiveness of its internal control structures and procedures. The independent accounting firm responsible for assessing the corporation “shall attest to, and report on, the assessment made by the management” (Section 404 of SOX).

We find this aspect of the SOX act interesting because the ideas in the reformed Tax Governance program closely mirror the ambitions in section 404. The reformed Tax Governance program holds identical ideas about the establishment of adequate internal control, procedures for reporting and of assessment. A difference is that in the US the development is mandatory and will—by law—be evaluated by external accounting firms. In Denmark, working with these elements is promoted on a voluntary basis in the Tax Governance program.

Moreover, what we find striking is that some describe section 404 of the SOX act as the most controversial component of SOX (Wang 2008). The reason being that the annual reviews of the internal control generate significant compliance burdens for the corporations (ibid. 4). In a hearing on the SOX act four years after its implementation the U.S. Securities and Exchange Commission [corresponding to Finanstilsynet in Denmark] initially estimated the

cost of complying with these requirements would amount to \$1.24 billion in aggregate, whereas multiple studies later showed that the actual compliance costs were to be around \$35 billion (ibid. 5). And here it should be mentioned that these calculations only include the price for the audit fee and not the costs related to staff training (to learn about internal control), consulting, provision of documentation, system development to support control and implementation. Hence, considerable costs are linked to these new requirements. Wang's analysis of the SOX section 404 thus concludes in this way:

“The Sarbanes–Oxley Section 404 is a regulatory failure in that Congress overreacted to the political pressure following the Enron scandal without adequately understanding the original problem” (ibid. 38)

We must say, that we find Wang's analysis somewhat pre-opinionated against SOX's section 404. That said, it is thought-provoking that this part of SOX is controversial and disputed, because the critique raised here precisely mirrors what several of the tax directors in Denmark state; namely that engaging in this kind of work is a drain on resources. Especially since the corporations in the Danish Tax Governance program as a starting point are highly compliant corporations.

7.4.2 Audit of internal control over financial reporting – PCAOB Release

The SOX act described above does not go into detail concerning how—for instance—an auditor should assess the internal control structures of a corporation. This, however, is detailed in the Auditing Standard No. 5, released 2007, from *The Public Company Accounting Oversight Board* (PCAOB 2007). This Board has been created in continuation of the SOX act to oversee how the audits of corporations happen in the US. Also, PCAOB publishes rules and standards—which must be approved by the U.S. Securities and Exchange Commission—to guide this auditing. The standard in focus here is No. 5 on “An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial” (PCAOB 2007). What we want to highlight from this PCAOB auditing standard is how there are parallels between the tasks of a corporation's independent auditor in the US and the tasks of the Tax Governance manager in the reformed Tax Governance program. Both of these are assigned a duty of attesting and/or monitoring a corporation's internal control. In the US, this is a judicial responsibility as defines in section 404 of the SOX act. In Denmark, it is described as the work to be done by the Tax Governance manager in phase four of the 0-4 phase model.

Looking at the PCAOB auditing standard this is “mindful” (PCAOB 2007, 5) about the “inherent differences in the roles of management [in the corporations] and the auditor”

(ibid. 5). The standard states that the corporation's management has a daily involvement with its internal control system which provides them with knowledge and information that—may—influence the management's judgments about how best to evaluate the corporation's internal control. On the other hand, stands the corporation's independent auditor—or in Denmark; the Tax Governance manager—and is required to provide an “independent opinion on the effectiveness of the company's internal control over financial reporting” (ibid. 5). The challenge here is—as the standard describes—that this person does *not* have the same familiarity with the corporation's controls that management has and the person does *not* interact with or observe these controls with the same frequency as the management does. As a consequence, the standard states that to evaluate this, the auditee needs

“...to perform procedures such as inquiry, observation, and inspection of documents, or walkthroughs, which consist of a combination of those procedures, in order to fully understand and identify the likely sources of potential misstatements, while management might be aware of those risk areas on an on-going basis” (ibid. 5).

What we see here is the acknowledgement of the vastly different access to knowledge that the management in the corporation and the auditor has. And we see the detailed efforts that the auditor must display to actually get an idea of the soundness of a corporation's internal control. Disregarding the distinct framings of these tasks in the US and Denmark—one defined by law, the other voluntary—the PCAOB auditing standard has an important message concerning the assessment of a corporation's internal control as it emphasises the asymmetry in knowledge and as it draws attention to the vast amount of work that must go into performing an assessment of any corporation's internal control. Hence, while we have talked a lot about the increased workload for the corporations then engaging in this kind of work, it must not be forgotten that the workload on the Tax Governance managers also increases when they are to perform sound assessments and monitoring of the corporations' internal controls.

7.4.3 Senior Account Officer (SAO) in the UK

Another prominent international trend that the reformed Tax Governance program links to is the HMRC's model for engaging with large businesses (HMRC 2014). In the UK, all large business groups are assigned a Customer Relationship Manager from HMRC, who is dedicated to providing service to this particular group; a phenomenon that closely resembles the role of the Tax Governance manager. In the UK, however, HMRC has taken a step further than in Denmark, as they have also implemented rules concerning Senior Accounting Officer certification (Downing and Clinton 2015, HMRC 2016). A Senior Accounting Officer is a

person in a company that has formally been appointed or certified as being responsible for ensuring that the company establishes and maintains appropriate tax accounting arrangements. With this is meant that the company has an overall sufficient control environment in relation to its taxation processes. What is moreover important is that the Senior Accounting Officer in the company is liable to personal financial penalty if he/she does not live up to the duties of reporting on the company's tax accounting arrangements. The role of the Customer Relationship Manager from HMRC is—among other things—to assess the material delivered by the Senior Accounting Officer.

In an article introducing this Senior Accounting Officer certification a number of common weaknesses that corporations encounter in relation to establishing appropriate tax accounting arrangements are listed (Downing and Clinton 2015, 3). Among other things, it is here documented that a challenge is that many corporations have had an awareness of the tax risks within their business, yet rarely have there been formalised processes to manage them. Also, it is stated that a difficulty is that many Senior Accounting Officers may have a “limited operational oversight” in their corporation (ibid. 3). While these officers are commonly placed in a professional tax department, which has—for instance—the responsibility for the overall tax strategy, much of the tax input that they are responsible for securing appropriate tax accounting arrangements for is placed decentralised in other places in the company by employees who are not necessarily tax experts. It is mentioned that areas such as employment taxes, value added tax, customs and duties, transfer pricing, etc. are handled outside the tax department in HR, Finance, Logistics, Shared Services, etc. (ibid. 3).

We find the reference to the role of the Senior Accounting Officer in the UK relevant because the tasks that this person performs in relation to establishing and maintaining appropriate tax accounting arrangements very much resemble what is demanded of the tax directors in the reformed Tax Governance program. These are also pushed to establish and maintain arrangements—in this case risk assessments and internal control—that secure and bring transparency into the corporation's tax accounting. Moreover, the weakness or challenges that the article on the experiences in UK highlights are identical to challenges noted in Denmark. As we have shown in section 6.1.2 several Danish corporations have quite minimal systematics around their tax risk assessment. And the limited operational oversight of a centralised tax unit over decentralised units that provide tax input is also a challenge in Denmark and a reason for not participating in the program as stated in section 4.5.3.

7.4.4 International Compliance Assurance Programme (ICAP)

Today, all Cooperative Compliance programs function bilaterally. Meaning that it is the individual tax authorities that invite corporations—in their jurisdiction—to be part of their programs and these authorities run the programs solely. Also, these existing bilateral programs are—as we have found so far—not focussed on external communication. Hence, communication strategies are not a major part of the existing Cooperative Compliance programs.

This, however, is the prime idea in a newly launched pilot from the OECD called the International Compliance Assurance Programme (OECD 2018). First of all, this is a *cooperative* program: as with the existing Cooperative Compliance programs it builds on a collaborative working relationship, on transparency, cooperative and trust. Secondly, however, a difference is that this new program is targeted multinational enterprises operating in several countries. By a coordinating conversation between the main responsible tax authorities and these multinational enterprises these should be ‘blue printed’ as tax compliant. Thirdly, if corporations in this ICAP program are seen to be compliant, an ‘assurance letter’ (an “ICAP outcome letter”) will be issued that documents this compliance and that the international tax risks for this enterprise is low. Lastly, the taxation areas that this program focusses on all centres on cross-border activities; a large issue in this is transfer pricing, but the program also targets other international tax risk (OECD 2018).

In comparison to the existing Cooperative Compliance programs, this ICAP program is new in that it focusses on multilateral tax certainty and that it has a clear communicative aspect in form of the assurance letter. A core idea behind this new program is that this—in contrast to the nationally bound programs—provides a multinational context to provide assurance about enterprises’ compliance in international and cross-border activities for tax authorities. As the program has just been launched as a pilot in 2018 it is a brand new idea. For now, Denmark is not one of the participating countries in the pilot. Yet, we do see that the program may be of interest to those corporations in Denmark, who are part of the Danish Tax Governance program, yet, who experience challenges with handling international affairs in this program. As we saw in section 5.4.5 on the challenges of handling transfer pricing and other international transactions a number of the corporations in the Danish program express that there are serious challenges with this aspect of the program as the Tax Governance program provides no certainty or assurance as to international affairs. For these corporations, the ICAP program may—if it is developed successfully—be of interest as the program potentially may cover much more of what is relevant for them and provide a

predictability and assurance that the Tax Governance program cannot deliver as this solely focusses on national taxation.

7.4.5 Legislative changes versus an administrative tool

Italy is one of the other European countries having implemented a Cooperative Compliance program for the segment of the largest Italian corporate taxpayers. This program—in contrast to the Danish program—has been introduced into the Italian tax system by way of a legislative decree. Hence, Decree no. 128 of 5 August 2015 introduces a new Cooperative Compliance regime into the existing legislation in Italy. This decree introduces a number of duties for the corporations and for the tax authority. Duties that resemble very much the duties attached to the Danish program. Yet, in addition to this—and of interest here—it also introduces a rule that says that

“(...) domestic ruling procedure in respect of transactions and operations presenting potential tax risks will be shorter. This faster procedure should be completed within 45 days from the receipt of the application, if all the formal requirements are met” (Manca 2016, 146).

Furthermore, an additional key advantage of being part of the program is that there is a possibility for “reduced pecuniary penalties and reimbursement of tax credits without guarantees” (ibid. 156). Hence, if a corporation and the tax authority do not agree on the consequences of a specific tax position, then potential penalties related to this may be reduced up to half. As the article on this new Italian regime states this: “(...) provides a significant financial advantage to taxpayers [in the program], especially in respect of VAT credits” (ibid. 156).

We find the Italian example interesting to compare to the Danish, as the Italian case represents a country where legislative initiatives support the Cooperative Compliance program. In this case we see that there are legally based time-limits for specific case-handling and direct pecuniary advantages from the program. In addition to this, a Decree was issued even earlier, in 2001, saying that certain large corporations in Italy must have control frameworks, internal control measures and must adopt risk management (Manca 2016, 157). Hence, here we see that a strong legal framework supports the intention of the Cooperative Compliance program. This, indeed, is different from the Danish Tax Governance program. The Danish program and its intentions are neither based in any legislation nor statutory order. This means that there is no differentiated legal treatment of the corporations *in* the Tax Governance program compared to corporations *outside* the

program. In this way the Tax Governance program is ‘solely’ an administrative guideline to be used within the frames of the existing laws.

We experienced that particularly the interviewed tax lawyers and tax accountants were skeptical about this lack of a legal backdrop to the program (further details of this will be included later into this section). Also, one of the tax directors is very critical towards the lack of a legal framework for Tax Governance. The tax director of Corporation FF thus says that the Tax Governance program represents an initiative that is very extensive [indgribende] and it is offered with no kinds of regulation neither in the shape of legislation or statutory order. It only rests in a vague guideline with no legal force (Tax director, Corporation FF, p. 11-12).

7.4.6 Blockchain and big data in tax administration

Interviewing the tax directors we—at times—went into more speculative scenarios about how revisions, internal controls and audits may look in the future. We end this section on the ‘international trends’ by going a bit into another major trend within tax administration; namely the trends of using big data or blockchain.

On his own initiative, tax director of Corporation II started talking about such a use of data. Doing this, he turned more critical of the Tax Governance program. He basically sees that the focus on the tax authority’s monitoring of ‘internal control’ (which is core to the reformed Tax Governance program) may (soon) become an outdated way to control and audit the corporations. This is due to the fact that we are just a step towards a near future where control is of a different kind due to IT and big data developments. He says:

“If you look at VAT, more and more countries demand daily reporting of transactions and then they have machines handling the large amounts of transactions and give output if something looks strange. I think that will be the way, to say this is the norm for your transactions and in relation to it this looks strange and then they will go through it. So at a point in time, I think they do not care about our internal controls anymore, they will be occupied with what falls outside the norm (...) they will ask of much more access to our data. Also, country-by-country reporting we will see a lot more of that kind” (Tax director, Corporation II, p.12).

While this tax director does not talk about blockchain technology specifically we see relations between this new phenomenon and his emphasis on the use of data and IT in control and audits. Another tax director finds that the use of Big Data or blockchain may perfectly be combined or included in the Tax Governance program. He states:

”[he mentions a name], who where our Tax Governance manager [in Skat], he had heard about a new Dutch model, where you think ‘this is the ultimate Tax Governance collaboration’. It is that Skat would have online-access to the systems [in the corporations] so they can retrieve data (...) [That means if] we say we want to return this amount of VAT then Skat can say ‘well, we will just make one of our automated probability calculations on this, then we can see, well this [the amount] looks quite reasonable’. And when three hours and twelve minutes have passed then we can tick it off and then that period is closed, then we cannot return to it” (Tax director, Corporation DD, p. 13).

In this citation we thus see that there is a clear anticipation that an ‘online-access’—which we gather is alike to a ‘blockchain-access’—is imagined to be possible to include in the Tax Governance framework.

Blockchain is the technology developed behind Bitcoins and consists—in very basic terms—of a virtual distributed ledger (a chain) of digital records and transactions (blocks). While developed in another area than taxation, the usability of this technology within tax administration is slowly given attention (Black 2017, WU/NET 2017). What can be the advantage of the blockchain technology within tax administration is that blockchain data are created in “immutable distributed ledgers” (WU/NET 2017) and that these create “a transparent audit trail virtually immune to corruption and falsification” (ibid. 4). This, in turn, can be used by the tax authorities to gain knowledge for instance about payroll systems and VAT payments in corporations on a real-time basis. This way of receiving data may potentially provide the tax authorities with a direct access to the corporations’ financial records, as indicated in the citation just above. Having this direct access to data eliminates the necessity for control of any ‘internal control’ in a corporation as the tax authority itself already has this access.

While both difficult to comprehend for those not trained in IT and a technology in its infancy, the technology has been introduced and used in Finland and Estonia. Both of these countries have tried to introduce this ‘distributed ledger technology’ into their domestic IT infrastructures in taxation (WU/NET 2017). Results of this are still to be documented. From the Danish tax authority we know that implementing new IT systems and infrastructures can be potentially more challenging than first expected (Kildebogaard 2015, Tegllund 2015, Bendtsen 2016). Hence, we see no signs that blockchain technologies will be swiftly implemented either besides or in relation to the Tax Governance program. That said, it is interesting to think about how Cooperative Compliance programs with their attached ideas of Tax Control Frameworks and monitoring of this may be ‘the new black’ of these years.

While blockchain of data and a new way to control this may, on the other hand, be ‘the new black’ of the coming decade.

7.5 ‘Candidate contradictions’ in the reformed program

To finalise this section on the reformed Tax Governance program, we are inspired by a chapter in Pollitt and Bouckaert’s now classic book *Public Management Reform* (2017). Chapter 7 of this book is titled “Trade-offs, balances, limits, dilemmas, contradictions, and paradoxes”. This chapter departs from the assumption that there are always intrinsic constraints and limits to administrative reform of the practices in the public sector (ibid. 187). And—inspired by organisation scholar Charles Perrow—they state that those reformed bureaucratic practices are inherently beset with dilemmas, since to reorganize inevitably brings about new challenges and dilemmas. Following this standpoint, Pollitt and Bouckaert present a shortlist of ‘candidate contradictions’. These are illustrative of the challenges, yet not comprehensive. Furthermore, their list simply shows areas “where there is some empirical evidence that problems have indeed occurred” (ibid. 191).

Inspired by their work, we also present a consideration of ‘candidate contradictions’ coming out of our analyses of the corporations’ experiences with the Tax Governance program. The themes explored below are illustrative, but not comprehensive. A theme which we—for instance—have not touched much upon is the outcome evaluation of the program. Hence, we do not claim to provide an all-inclusive documentation of the contradictions or challenges in the reformed program. Yet, what we address are elements which are present as contradictions in our material.

We also want to highlight this, as it is a way to recall that we have a background in organisation studies, at Department of Organization, Copenhagen Business School. Hence, it should by now be apparent that we neither focus on the technicalities of the taxation laws for large corporate taxpayers, nor on the specific preparations of the income tax form or VAT returns. Instead, our report focusses on how Skat as an organisation interacts with and organises itself in relation to a number of corporations, who in turn organise themselves to meet the requirements and new relational demands from Skat. In basic terms, the report is an analysis of the *organisation* of the Tax Governance program with the potentialities and limits this brings forth. With this introduction, we now turn to our list of ‘candidate contradictions’ which brings forth some of the trade-offs, balances, limits, dilemmas and paradoxes in the reformed program.

7.5.1 *Caught in a transitional stage*

The first dilemma we wish to point out in relation to the program is how the Tax Governance program for a couple of years has been caught in a *transitional stage*. The analysis in the report shows that the program started off; yet the first years were characterised by a non-uniform development of the program. Some corporations engaged a lot in the program, others less. Some Tax Governance managers pushed the various agendas in the program firmly, while others did not. One could say that the *pace* and *ambitions* of the program varied a lot. Both Skat and several of the corporations expressed insecurity concerning *what* exactly they should do in the program and in *which* direction it moved.

With the reformed program an important step has been taken to move the program out of its unclear transitional stage and into a new mode where there are clearer ambitions and goals with the program. Now the corporations' tax risks assessments, their internal control and Skat's assessment of these risks and Skat's testing and monitoring of this internal control are obligatory elements of the program. Skat's employees have also received training to handle these tasks better than previously. This represents a consolidation of the program that makes its foundation and direction stronger. However, recalling Perrow's famous dictum that when one organises in one way, this 'inevitable means to pay a serious price in another way', this consolidation also carries with it its own contradictions and challenges. Some of these we consider below.

7.5.2 *Bureaucratisation and interpretation*

One of the interesting elements in the changed approach is the apparent transition from an *informal* to a more *formal* form of interaction and collaboration between the corporations and Skat in the reformed program. As mentioned several times in the report, the key idea of Cooperative Compliance, i.e. the provision of certainty in exchange of transparency, is presently organised in a more or less informal way. Today, the corporations either provide transparency into their tax affairs by talking with their Tax Governance contacts over the phone or in meetings. To a lesser or greater extent some corporations also submit different kinds of written material that document their work processes. Popular speaking, we may say that in the reformed program this informal 'chit-chat' is not any more sustainable. Now the corporations must provide more solid documentation in order to provide transparency into their internal taxation processes. They *must* provide assessments of their tax risks and they *must* provide documentation of their internal control. In turn, Skat *must* assess this and provide some kind of feedback to the corporations.

This transition has two thought-provoking consequences. While we understand Skat's motivation to try to bring rigour (and 'objectivity') to the program by these means, this may also come to be a *bureaucratisation* of the program. We anticipate that the *paperwork* in relation to engaging wholehearted in these elements of the reformed program will increase. The argument from Skat's side is that this is only for a period of time and that it leads to a stage of monitoring—where the documentation work-load is lessened. While this may (or may not) be fulfilled, it nonetheless also carries with it its own 'precariousness' because the *bureaucratisation* increases the documentation requirements and paperwork for both Skat and the corporations. A challenge that is worth noticing especially since several tax directors have experiences that lack of 'time' and 'resources' on behalf of the Tax Governance employees seems to be one of the greatest challenges to the program.

The other consequence of this transition is that in the middle of this more formal and rigorous approach in the Tax governance program a strong *interpretative* element arises. This element refers—for instance—to the judgements about *how much* the processes internally in the corporation must change before the documentation to Skat becomes inadequate and should be renewed, it refers to the judgements about *how* detailed the internal controls must be to be defined as sufficient and it refers to *how* much monitoring is necessary to secure the corporations' compliance. In relation to these decisions and priorities, a whole gulf of interpretation and judgement from the Tax Governance employees comes into the otherwise more formal program.

Hence, what we want to point out is that while the reformed Tax Governance program at first sight represents a move towards bringing more rigour and formalisation into the program, this at the same time has the consequence that a strong degree of *bureaucratisation* may arise and that a new *interpretative* element comes into—or re-emerges in—the program.

7.5.3 Process and meta-control

Following the above, an additional consequence of the transition to the reformed Tax Governance program is that the way 'control' is done and conceptualised changes radically. As mentioned in the report, the present program—with its running process (section 5) and its revision of the specific law areas (section 6)— may best be described partly as a program for extended customer relations and extended service to selected corporate taxpayers, partly as a program for 'normal' control, simply done in a more collaborative fashion. The idea in the present program is that the corporations present material and that this then is checked and revised by the Tax Governance contacts. A difference from previous times is that this

now done in real-time and mostly at a pace suited the corporation. Yet, fundamentally it is direct control and inspection, as we also hinted at by the end of section 6.5.

In the reformed program, there are elements of such direct control in the first phases of the 0-4 Phase model, yet the aim is that the corporations should be self –controlling [selvkontrollerende]. In the final phase of the model, the primary role of the Tax Governance contacts is to *monitor* the corporations' state of self-controlling. Since this has not really been implemented yet, it is too soon to evaluate how this happens. What we simply want to draw attention to here is that the reformed Tax Governance program is not just a slight 'adjustment' of the program, it is an introduction of a radical new way of doing control since this will (in the near future) be based on a monitoring of the corporations' own processes of self-control. As we will describe later in the report, this is a more indirect form of control—perhaps most suitably described as a meta-control (see section 9.3).

7.5.4 The corporations' needs versus Skat's needs

The next dilemma or challenge that we wish to point to is to which degree the reformed Tax Governance program is mostly beneficial to Skat or to the corporations or whether is it a 'win-win' situation? In relation to this question, we assume that the reformed program mostly have its background and cause in a challenge *internally* in Skat concerning how to show effects and progression of the program. To show this better, the 0-4 Phase model is being introduced as this enables showing progress in the work with the corporation. In this way the reformed program accommodates present measurement challenges internally in Skat.

The improvements and changes in the program are not as such 'negative' or 'bad' for the corporations. On the contrary, they will probably experience meeting more competent and engaged Tax Governance employees, and there will be a more formalised structure around the program. That said, a challenge in the reformed program still is that it increases the demands and requirements to the corporations' engagements. And we have interviewed very few tax directors who themselves ask for this development in the program. Hence, it is a reform that is driven and defined by the 'provider' (Skat), not a reform that is driven by a 'demand in the market' (from the corporations).

Importantly here is also to recall that the similar developments internationally in form of the Sarbanes-Oxley act and its section 404 in the US and the Senior Accounting Officer certification in the UK are 'government' initiatives imposed on the corporations to make sure that they exhibit tax compliance. It is neither the corporations in these countries, nor the industry organisations that 'shout out loud' that they want their members to be subjected to

these new measures. This said, we do know and acknowledge that the Tax Governance program and Cooperative Compliance programs in general are presented as ‘win-win’ situations. Meaning that being a corporation in such a program receives advantages. Hence, the situation is not ‘black-and-white’ but a situation in which it must be acknowledged that the ‘parties’ in the collaboration have different agendas. With the reformed program, one of Skat’s agendas has been to become better at showing progress in the program. This agenda can then in turn be linked to an agenda in the corporations concerning getting fewer reactive audits by being in the program. Yet, the price to pay for this is engagement in extensive paper- and documentation work. Hence, simply ‘selling’ any Cooperative Compliance program as a ‘win-win’ situation risks blurring the fact that Skat and the corporations may enter the collaboration with different incentives and goals.

7.5.5 A new civil servant in Skat

The time-perspective that this report holds has allowed us to provide an indication of the learning curve for the Tax Governance employees in the program. In many respects we must stress that these employees have been through two steep learning curves. First, they needed to learn about the collaborative spirit of the Tax Governance program and what this implied of service and communication with the corporations. Then, secondly, they now must learn how to work with tax risks and internal control; tasks that are different from being specialists in—for example VAT or merges in an international environment. With this new emphasis in the program the Tax Governance employees must not only master specialist knowledge about the taxation of large corporations, they must also know how a corporation builds up internal control and how these may be tested and monitored. In their job there is thus both requirements for a high degree of specialist knowledge about the substance—i.e. the regulation of large corporations—and requirements for a high degree of knowledge about taxation processes and internal administrative procedures.

This development may lead to a discussion about the potential trade-off between being a ‘champion’ of the tax laws or of being a ‘champion’ of internal processes in relation to running a tax department in a large corporate setting. The reformed Tax Governance program has an ambition of training and educating the Tax Governance employees to be both experts in ‘substance’ and in ‘processes’. They should be well-rehearsed both in the tax laws and in the understanding of how the corporations’ operate. If they are not, they are in a difficult position to assess and evaluate the internal control of the corporations.

While it is certainly not impossible for the skilled individual to master both elements, the critical question arises as to the ‘public value’ of this development. In a public sector and in

a tax administration under pressure resources-wise, is it desirable that extensive resources are used on ‘training this muscle’ for Skat? A muscle that will be used to assist large corporate taxpayers who are—already—defined as compliant and where there is already a wealth of external consultants who are more than eager to take charge. In this respect, the reformed Tax Governance program opens for a principle discussion about the desirability of the new roles and tasks of the employees in Skat.

7.6 Summing up: Bringing “rigour” to the program

Section 7 of the report is a bulky section. We started this section on the reformed Tax Governance program by pointing out that criticism has been raised of the existing program. This comes partly from the corporations where some have had less successful experiences with parts of the program, and partly from the National Audit Office and Skat whom both point to challenges in documenting the effects of the program. While these may be perceived as kind of ‘pushing’ factors to reform the program to get a better program launched, we have also discussed strong external ‘pulling’ factors that have shaped the reformed program.

7.6.1 The pulling factors to reform

In relation to these ‘pulling’ factors we have presented the change in focus in the OECD documents. Here we see that the focus on Tax Control Frameworks and thereby risk assessments and internal control are introduced as the means to bring rigour to Cooperative Compliance programs. The OECD’s—and now also Skat’s—viewpoints seem to be that the much heralded notion of “transparency” cannot simply be provided by talk and dialogue. Instead, transparency into how the corporations operate must be provided by developing systems of risk assessment and internal control. The idea being that this ‘self-control’ must then be assessed and monitored by Skat.

The key idea in the reformed program is the so-called “Phase 0-4 model” where there is focus on various steps to reach a situation where Skat simply monitors the corporations’ own self-control. The important steps in the model related to a more focussed emphasis on the *identification of tax risk* (by using the COSO framework), on the *development and documentation of internal controls* and of the *assessment and monitoring of these risks and internal controls*. As we have shown, the OECD argues that this is a way to bring rigour to the Tax Governance program. In relation to this, we have also been informed—via email correspondences—that the Tax Governance employees recently have been through a series of supplementary trainings to improve their skills. For instance, we have been informed that more than 120 employees from Skat have been trained in COSO, internal controls and in Tax Control Frameworks by one of the leading ‘Big Four’ accounting firms. Hence, the reform of

the program has been followed by a training or up-grading of certain skills for the Skat employees.

In the middle part of section 7 we touch upon some of the most recent experiences that the Danish corporations have had with the reformed program. Since the reformed program has only just recently been launched, these experiences amounts mostly either to speculations about the effects of the program or they amount to experiences with elements of the reformed program that the corporations themselves have decided to embark on—for instance in relation to working with Tax Control Frameworks.

7.6.2 Attachments to related international trends

Our aim with this section's focus on the OECD's change in focus, on the Sarbanes–Oxley Act section 404, on PCAOB auditing standard and on the Senior Accounting Officer certification in the UK is to show that the new ideas launched in the reformed Tax Governance program are firmly related to already existing international practices. It may be new in Denmark that the tax authority starts to demand documentation of tax risk and internal control, and new that the tax authority wants to 'withdraw' its control to be a monitoring of the corporations' own self-control; a kind of meta-control. Yet, this is not new to many other countries.

On the one hand, we find that this is a kind of 'bullet-proofing' of the reformed Tax Governance program. This testifies that the ideas in the reformed program aligns and links to strong international trends concerning obligatory focus on internal tax control and an obligatory focus on assessing and monitoring these. Yet—on the other hand—when aligning with these trends also the downsides of these trends follow. Much of the criticism of the international trends also applies to the Danish case: increased pressure on compliance costs, challenges with asymmetry in knowledge when assessing internal control, challenges with actually making formalised tax risk analyses and finally, challenges with limited operational oversight for the centrally placed tax directors—who are still formally accountable for the functioning of internal controls concerning all kinds of taxes.

What we see this means for the reformed Tax Governance program is that the reformed approach moves the program away from some challenges—for instance linked to a lack of feedback to the corporations as shown in section 6.3.1—and it seeks to give the program more rigour due to the introduction of a systematised focus on internal control. Yet, at the same time the reformed program gets attached to a new set of challenges—challenges that are already documented by other countries that have worked with similar ideas for a longer period of time. We do not wish to say that this hinders an 'improvement' of the Danish

program, but we want to stress that the reform carries with it both opportunities and documented challenges.

It is moreover importantly to note that both the Sarbanes–Oxley Act and the Senior Accounting Officer certification are initiatives taken in an environment of *mistrust*. SOX was a reaction to a series of large corporate accounting scandals in the US and the SAO was a reaction to a lack of focus on tax risk management in large corporations in the UK. Hence, these measures were not implementing in a framework of ‘Cooperative Compliance’ with collaboration and dialogue as an aim. Rather, these measures were ‘imposed’ on the corporations as new duties to comply with to secure and document tax compliance. This is important to keep in mind because these initiatives basically air an approach of mistrust to the corporations.

Besides these trends that align closely with the ideas in the Tax Governance program, this section finishes by reporting on the new ICAP program, on the use of legislation to implement Cooperative Compliance programs and on the potentiality of using blockchain technologies. While disparate phenomenon, they are included as they point to different ways that the Tax Governance program may be sidestepped: Either by corporations that in the future will prefer the ICAP program to the Tax Governance program, by legislation that may in the future make elements of the program obligatory by decree, or by the introduction of blockchain technologies within the tax administration whereby the whole way of thinking control and revision radically changes. These are all developments that *may* affect the Tax Governance program in the future

Finally, and lastly, this section has presented a list of the ‘candidate contradictions’ in the reformed program. This is most discussion-like part of the report where a critical perspective is cast on the potential challenges of the reformed program.

8 The corporations’ additional use of Tax Governance

Just as we started out our interviews with a focus on the benefits and motivations to participate in the Tax Governance program, we also started out the report with a focus on this. Doing this, we pointed to these elements as benefits and motivations: 1) direct access, fast responses and real-time clarification, 2) predictability and minimizing the risk of reactive audits and 3) a morally based imperative and willingness to collaborate. As our interviews progressed we did, however, in many cases get information about other ‘uses’ of the Tax Governance program. These additional aspects of how the program is useful to the

corporations we describe in this section. Section 8 focusses on the additional positive experiences that many of the corporations have had from the program.

8.1 Getting better grips on processes

Internal processes is one of the areas where the interviewees mention beneficial ‘side-effects’ from being in the Tax Governance program. Some tax directors for example mention getting an overview of their own internal processes as a benefit. One of the expectations of Corporation CC was to use the program to look at the way they were organized internally in the organisation, also to get an operational oversight of how things are done in different parts of the corporation, an overview they did not have, the tax director explains (Tax director, Corporation CC, p. 3, 4, 9).

“We use it [the Tax Governance program] proactively, when we do this [resource-demanding process descriptions] it also gives a lot of knowledge about the organisation and thus possibilities for doing things a little bit different and become better at using each other’s knowledge, as I explained, two persons might pay for the exact same service [getting the same question resolved by external advisors multiple times]” (Tax director, Corporation CC, p. 9).

Moreover, the head tax units can refer to the collaboration to get a stronger ‘muscle’ or ‘voice’ in their organisation. When something relating to Tax Governance needs to be changed, for example, it is not simply an idea from the unit, but things must be in line with procedures because it is required from Skat. The tax director of Corporation EE elaborates on what the commitment to the Tax Governance program means internally: “The *bank* has committed itself to this collaboration, it is not *me*. I have signed and have the primary contact, but it is the bank who has committed to it” (Tax director, Corporation EE, p. 14). One of the interviewees from Corporation JJ describes how they internally have had a number of work processes related to taxation that was actually the “wild west” and how they have used being part of the Tax Governance program to straighten up the processes. One example is the ‘employee benefits’ (fringe benefits) that was not really in any form of system. In relation to this, one of the tax directors describes how she and her manager could say to the local administrators of this area that:

“Well, we’re in this Tax Governance collaboration with Skat. So, we can’t do this [manage fringe benefits in this ‘wild west’ manner]. You simply cannot continue doing just as you like to. You have to follow these processes that we have made....It is not to trouble you”. [And as she continues] “Then we have been able to use the

collaboration as a bogeyman [bussemand] when we have been out in the organisation talking to local administrators” (Tax director, Corporation JJ, p. 10).

Thus even though the specific administrative area has not been dealt with in the specific work in the Tax Governance program, the program can be used as a frame of reference internally to push for getting problematic processes attuned to a ‘Tax Governance standard’. The tax director elaborates:

“When we have this Tax Governance collaboration, then we can go out and say ‘we have a gap in our controls and it is a big [tax] risk. We have talked with Skat about it and now we need to change it’. So, in a way this has helped us to change processes internally in our business” (Tax director, Corporation JJ, p. 10).

The tax director of Corporation BB also tells about a positive internal change due to the Tax Governance program:

“We have got much more openness across our internal business areas and also in relation to other cases [sager]. I am more able to share things with the tax director from [the name of another part of the company] than I could before [entering Tax Governance]. Of course, where we still have some challenges is if we are working on acquisitions [opkøb]. Well, I cannot always share that information with [the name of the partnering company]. But I do not necessarily tell Skat about it at that time either” (Tax director, Corporation BB, p. 10).

Moreover, some of the tax directors use the signal value of being part of the Tax Governance program and the values pertaining to the collaboration in their communication internally. The tax director of Corporation DD explains that he uses Tax Governance internally in the corporation as a sign of quality in relation to our audit board [revisionsudvalget]:

“To me it [being part of the Tax Governance program] is to say, we have this collaboration and therefore the quality is satisfactory [i orden]. It *documents* that the quality is satisfactory [i orden]” (Tax director, Corporation DD, p. 16).

In brief, being part of the Tax Governance program is thus both used to legitimize making changes internally in the corporations and to communicate specific signals internally and – as we shall see in the following – also to communicate about and position the corporation *externally*.

8.2 Strengthening the public image

Several of the tax directors explain how they find the Tax Governance program to resonate with other tendencies and demands they face in their work. They explain that being part of the program can be used to support other issues and concerns related to their public image. One tax director explains—for instance—that the Tax Governance program resonates with more general corporate governance recommendations and their work on tax policy, tax strategy and CSR (Tax director, Corporation CC, p. 22). Another tax director explains that the program can be used to distance the corporation from unpopular issues such as tax evasion:

“We can make it visible by saying that we actually work with Skat in Tax Governance. That fits really well with the compliance agenda [e.g. related to money laundering and personal data] for banks. So it [Tax Governance] can be a brick in that agenda [they mention it in a short passage in their annual report, but have plans for using it more strategically in their annual report and tax policy] (Tax director, Corporation AA, p. 10, 12, 14).

Another tax director touches upon the same aspect:

“We have used it in our economic contribution report, it is an overview of the total tax payment that we contribute with worldwide (...) and it also contains our tax policy, and in the tax policy we write that we want an open and extended collaboration with tax authorities” (Tax director, Corporation II, p. 23).

The tax director of Corporation LL explains how they use their membership of the Tax Governance collaboration actively:

“We have a public tax strategy, and there it is stated that we collaborate with the tax authorities in the countries where we are represented, including that we in Denmark - where we have the majority of our business – are part of a formal collaboration with Skat in the form of Tax Governance. We do this because we think we have a positive message to give, because then we also say that we are a co-player [medspiller]” (Tax director, Corporation LL, p. 17).

So, both internal and external uses of being in Tax Governance are presented by the tax directors as additional or unexpected uses and benefits from participating in the Tax Governance program.

8.3 Getting prepared for new international trends

This section highlights some the international trends within tax administration that the corporations' have experienced and which the Tax Governance program in various ways have helped them to grasp and handle.

One such trend is the general focus on 'compliance' and of securing compliance through Tax Control Frameworks. The tax director of Corporation BB explains that compliance is *the* core concern for them:

“The most important task for us today is to secure the three c's: compliance, compliance, compliance. We are met with compliance demands from all directions and we have to navigate in them. The latest example is these new transfer pricing-documentation demands that have come via OECD (...) and then we have delivered a country-by-country report to Skat here at year-end 2017 (...) and you might have 100 foreign companies where you also need to remember to notify 100 foreign authorities” (Tax director, Corporation BB, p. 13).

In Corporation JJ they are very attentive to the fact that what the Tax Governance collaboration presents them for is actually an international trend: “It is an international trend; corporations simply have to be more and more capable of securing that their control frameworks are in place” (Tax director, Corporation JJ, p. 5). Also, the tax director explains, that by ‘training this muscle’ in Denmark—that is by developing control frameworks for their taxation processes—then Corporation JJ is capable of using this experience and knowledge in other countries—for instance the UK—where there are requirements for control frameworks. He explains that in the UK, corporations of a certain size simply have to document and sign that they have the necessary tax control frameworks (referring to the Senior Accounting Officer certification—as introduced in section 7.4.3). These international developments are the reason why this corporation uses much energy on developing the right control processes now. Because, this knowledge, they may then afterwards use in all the other countries. That is the reason why Corporation JJ is ambitious with this work (Tax director, Corporation JJ, p. 8).

Another tax director tells about their corporation's different experiences in both the Netherlands and in UK with other variants of relationship-based models/functions: a Tax Governance related collaboration in the Netherlands that works as an actual collaboration and where she experiences the authorities are trying to see things also from the corporations' perspective and try to understand the corporation's actions and rationales. Also, she points to UK and its Senior Accounting Officer who is to be the guarantor that the corporation has

reasonable tax compliance (Tax director, Corporation GG, p. 10 + 11). The tax director of Corporation AA also mentions the international aspect (even though Corporation AA is not as such a multi-national corporation, they only have one branch office in Germany). He mentions the tax council of Finance Denmark as a place where he encounters other international developments from EU and OECD that go very well in line with Tax Governance (Tax director, Corporation AA, p. 10). The tax director of Corporation HH adds the increasing focus on openness, transparency and communication and also the growing trend of reporting real time [realtidsrapportering] where well-functioning processes and documentation become central elements. He finds that this could be framed in Tax Governance but also in other ways (Tax director, Corporation HH, p. 18). He thus touches upon a plasticity of the program and its ability to be made to adhere to different agendas.

8.4 Taking the lead in the relation to Skat

The final aspect which thematises how the corporations “use” the Tax Governance program relates to how they to a larger extent take on a leading role in relation to Skat. This—we believe—relation to a larger discussion about changing bureaucratic practices in that the roles between tax authority and the corporations are changing in the Tax Governance program. In a ‘classical’ bureaucratic relationship it would always be Skat who would take initiative to contact the corporations and make them deliver something (documents, invoices, numbers etc.). In the interviews with the corporations we have noticed that this relationship in Tax Governance is also being inversed in the sense that the corporations can be highly in the lead with regards to defining frames, the ‘playing field’ and time-frames of the collaboration, as we will now explore.

In an interview one of the tax directors of Corporation JJ describe how they like to “set the frame for the collaboration instead of sitting around waiting for Skat to come and tell us something, something that might not suit us well” (Tax director, Corporation JJ, p. 10). She adds, that the dialogue between the corporation and Skat is good, however she describes that she does not find Skat to be particularly good/constructive in ‘bringing something to the table’ (ibid. 10), thus also providing room for the corporation to take the lead. In this case it is described to be both the lack of direction from Skat *and* the wish to set the frames that makes it possible for Corporation JJ to take this position.

A slightly different version of setting the frames is *shifting* the frames of an already planned audit to a Tax Governance context, thus exchanging the traditional audit frame with a collaborative Tax Governance frame. The tax director of Corporation HH gives an example

of how Corporation HH takes the lead using Tax Governance as the frame for an already announced electricity charge audit:

“We had an electricity charge audit about to be initiated and the collaboration had just started, so instead of doing it as a traditional audit it became a part of the extended collaboration (...) At that time there was a lot of electricity charge audits on other corporations and what we heard was that they were very hard/severe (...) and that was a bit worrying because you can always find something we have done wrong. But we had the team member from Skat [sagsmedarbejder] on the case and we articulated it. And because it was Tax Governance we had a good dialogue on what he wanted to audit” (Tax director, Corporation HH, p. 2+3).

In addition to setting and shifting the frames, another aspect of the new kind of bureaucratic relation is the need to align aspects of the dialogic collaboration, in order for it to be collaborative. In the following example, the need to align competences is pointed to by a tax director of Corporation II:

“We used the first years of the extended collaboration on training [lære op] the employees from Skat, to get them up to speed professionally [fagligt], that was a heavy task and we did not feel good about it. But now, now they are up to speed” (Tax director, Corporation II, p. 16).

Later in the interview, he points to the *current* situation; he explains that they are now being met by tax officials with a good degree of professional competence:

“[Now] the employees in Tax Governance generally have a good degree of professional competence (...) When we bring a specialist on an area to the dialogue, then you also need to be met by someone on the other side with similar professional competences” (Tax director, Corporation II, p. 22).

Another kind of adaption pointed to as important by the corporations is time and timing. The tax director of Corporation CC describes that Skat has been very willing to make time plans that fit with the corporation’s year-schedule, e.g. in planning no Tax Governance activities during the fall quarter where the financial statements [årsregnskab] are made (Tax director, Corporation CC, p. 5). She later in the interview accentuates that they are the driver of the time plan and uses it as a tool for taking the lead: “It is very important for us to have the time plan straight, when do we do what” in order to have a common understanding of the running of the processes (Tax director, Corporation CC, p. 25).

Summing up, the shifts just explored above might seem quite small, but when looked at more closely, they can also be seen as rather fundamental changes in the relationship between the corporations and Skat. In contrast to the traditional bureaucratic relationship, the corporations wishing to be proactive and partake in framing the collaboration seem to, to a large degree, to have the possibility to do so in the realm of Tax Governance.

When collaboration and dialogue-based interaction are placed as bearing principles in the relation, alignment and setting the direction in the collaboration also become important, as we have sketched above. However, when the lead is not given to reside with Skat, the roles possible to take on by the corporations multiply, they can take the lead, they can stay hesitant or they can be in a more dialogical relation. Loosening the grounding in a traditional bureaucratic relation thus widens the possible positions corporations can take in the relation to Skat.

8.5 Summing up: Additional benefits from the program

In the previously mentioned article “Skat improves Tax Governance” (From 2017), the author writes that Skat sees some clear benefits for the corporations when they participate in the program. For instance, a larger extent of certainty and—as pointed out several times in the article—that the possibility for re-active audits minimises. The article does, however, also ask the question as to whether the corporations in fact see these same benefits from the program? (ibid. p. 4). Based on the interviews it has been possible to go more into detail about what the corporations explain to be the benefits from the program. A main conclusion is that the benefits that Skat points out (certainty and fewer re-active audits) are part and parcel of the key benefits of the program also in the eyes of the corporations, yet the scope of benefits are broader.

As we have shown in this section, a key additional benefit is that the program can be used internally to strengthen the tax departments simply by gaining more knowledge of their internal taxation processes. When the tax directors develop risk assessments, process descriptions or internal controls, then these simply require better operational oversight of how things are done in different parts of their organisation. A second point that we experience is that the tax directors refer to their public image. It should probably not be underestimated how a membership of the Tax Governance program may be used to communicate a positive message; this ‘proves’ compliance and a co-player attitude. A corporation for example states its participation in the Tax Governance program in their tax policy: “Corporation YY cooperates with the Danish authorities and has entered into a so-called Tax Governance agreement with SKAT” (CorporationYY 2015). Another corporation

states its participation and cooperation with the authorities as a part of their annual report (CorporationAA 2016). Thirdly, and this concerns specifically the Danish corporations who operate internationally. The Tax Governance program prepares the corporations for requirements that they most likely will meet anyway in other international fora. Hence, participation in the program is a way to be ahead of and prepared for other developments in the area of tax administration. Finally, we also point out that a ‘use’ of the program relates to how the corporations may easier take on a lead in relation to Skat in the Tax Governance program compared to their ‘normal’ bureaucratic relations, where it is typically Skat who is the proactive party.

9 Linkages to academic theory and analysis

This section sketches some of the ways we anticipate that we will link this case to wider academic debates and theories, and thereby what kinds of analyses we want to develop on the basis of the data material. This part of the report is work-in-progress and it is included to give the reader a sense of how we wish to proceed with the analysis of the material.

9.1 Transparency

A core concept to the Tax Governance program is transparency. As we have already mentioned several times the key slogan to any Cooperative Compliance program is “Transparency in exchange for certainty”. Yet, as such ‘transparency’ is a widely debated term within the academic literature. Regarding transparency, in the more critical academic literature the limits of the adequacy of transparency as a form of accountability has been discussed (Roberts 2009). Moreover, Garsten and Lindh de Montoya (2008) focus on the connections between transparency as a global discourse and local practices (ibid. 3). They examine tensions between incentives to conceal and imperatives to reveal and the balancing of revealing and concealing. They argue that being transparent and accountable are becoming normative imperatives and transparency has become “a marker of the rational organization and an indispensable condition for a globalized audit society” (Ibid. 90).

This literature thus takes a different, more nuanced perspective on transparency than the one applied by OECD and Skat as presented so far in the report. Tax Governance is in many ways building on transparency as a core norm and value, however, as we have seen above, transparency is never absolute and neither always beneficial - the strive for transparency can also come to create unexpected problems and dilemmas. For instance in relation to how transparency is provided and what more precisely transparency makes ‘transparent’ and what it in turn might also conceal.

9.2 Accountability

While transparency is one core notion to the Tax Governance program, another notion is that of ‘accountability’. Clearly, a demand to the participating corporations is that are to be held accountable—to Skat—concerning what their tax risks are, how they work with these risks with internal control and how their internal taxation processes function. In the relationship between the corporations and the tax authority there is a wealth of ‘accountability’ in form of such internal controls and process/procedure descriptions.

In the academic literature, the theme of ‘accountability’ has been extensively discussed. Accountability and the limits and consequences hereof have been an area of academic scrutinizing; for example Messner’s focus on the limits of accountability (Messner 2009), Pellinen et al.’s study showing how different accountabilities can be conflicting in a specific organizational setting (2018) and Boström & Garsten (2008) who put emphasis on “the various ways in which organizations organize to meet demands for accountability (...) the organizational processes through which accountability is responded to or avoided” (Ibid. 10). In relation to this body of literature, we find it relevant to look further into how the material which the corporations hand-in to Skat in the Tax Governance program configures a certain kind of accountability.

9.3 Meta-governance and meta-control

A related concept is that of meta risk management, concerning “the risk management of risk management” (Braithwaite 2003, 1). As we have already indicated in the report, the reformed Tax Governance program can be understood as building on a form of meta risk management where Skat is risk managing the corporations’ risk management work. On the basis of two case studies of the risk management of corporate risk management systems by the Australian Taxation Office, Braithwaite argues that meta risk management “can be a cost-effective and responsive regulatory strategy, at least in the context of a complex risk environment such as business taxation” (ibid. 1). While Braithwaite has a somewhat optimistic or positive approach to this ‘meta’-approach several other scholars have a more critical approach to the literature on meta-governance (Jessop 2002, Kooiman and Jentoft 2009). This literature is concerned with ‘the governance of governance’ (Jessop 2011, 106). In this framing, developments and initiatives such as Tax Governance in the public sector can be understood as an example of meta-governance. In the above we have argued that there is a development where the intention is that Skat – instead of auditing the very core of the specific tax work in the corporations – is to spot-check the corporations own processes of internal control.

10 Conclusion

In this concluding section we draw together the central arguments and findings developed in this report. Through a thorough examination of the interviewed corporations' experiences with Tax Governance, the report overall argues that Tax Governance as a model for a collaborative regulatory relationship between Skat and large corporations comes with both possibilities and challenges.

10.1 Possibilities and challenges

In section 4, we have explored the benefits and motivations to participate as well as motivations not to participate in the program. We show that the main motivations and benefits singled out by the participating corporations are firstly the possibility of getting direct access to Skat and fast responses and real-time clarifications from Skat. Secondly, minimizing the risk of re-active audits and a concomitant heightened predictability of their tax affairs is an important element. Thirdly, many of the corporations point to it being their moral and societal obligation to participate in the program. The main reasons presented by the corporations for having chosen *not* to participate are: a lack of resources for embarking on the collaboration, no wish to expose oneself to Skat, a perceived low likelihood of traditional tax audits and a general satisfaction with status quo. The motivations are thus distributed on both very practical and more ideological dimensions.

Then, in section 5, we have examined pillar one of the program: the running process. We argue that the running process—where dialogue-based contact and the possibility to discuss pressing issues with Skat is the central element—is mostly taken to be a clear advantage of being in the program, despite several structural and agency-related hindrances. In the second part of the section we have discussed these hindrances and challenges. We show that the main challenges to the collaborations are: a guideline on when to start case work [sagstilskæringsnotat], getting no binding responses from Skat, an inattentiveness of the specificities of the corporations and lastly, problems regarding transfer pricing and international relations. Together with these, a number of additional minor challenges are also described. Taken together the challenges of the running process are thus not one-sided but originate in both structural and agency-related elements.

In section 6 we have examined the second pillar of the program: the planned revisions of specific law areas. The element of the planned revisions of specific law areas is an area where the corporations have varying degrees of experience due to different levels of engagement in these processes and due to their different prerequisites for engaging in this element of the

program. In general, they are satisfied with the process of getting their ‘income tax form’ revised by the Tax Governance contact. In contrast to this, they are—on the other hand—in general more sceptical about the revision of the remaining law areas. Hence, this element of the collaboration also comes with some challenges. The mostly pointed to challenges by the corporations are especially related to resource use, lack of feedback and the discorded issue of substantiality [væsentlighed] where the corporations and Skat in several cases have difficulties finding common ground. The section also shows that the majority of the corporations do not have elaborated systematics around documenting their tax risk, nor do they have elaborated internal controls to tackle these risks. Hence, both in the area of tax risk management and internal control most of the corporations are still in the initial phase of developing these elements and of organizing their tax work in this manner.

In section 7, we have discussed the reformed Tax Governance program. We show that it has strong linkages to a number of different international developments. We find it instructive to cast light on how the ideas in the reformed Tax Governance program do not ‘stand-alone’ but are intimately connected to similar ideas in the US and in the UK, and ideas promoted in recent publications from the OECD. This is important to keep in mind as working with the everyday experiences with the program – which has been the primary focus of the interviews with the tax directors - risks becoming a way to lose sight of the larger picture which the reformed program connects to. In the section we also touch briefly on a few experiences with the reformed Tax Governance program. Yet, because the reformed program has only recently been launched it is difficult to conclude precisely on these experiences. Looking at the reformed program, we end section 7 by pointing to potential inherent contradictions. This relates—among other things—to whether the reform may lead to increased bureaucratisation and to a discussion about who’s needs the reformed program accommodates.

Section 8 of the report presents some of the ways that the corporations ‘use’ the Tax Governance program for other purposes than the core purpose inherent in the program. We find this especially interesting as these additional usages extend beyond the Tax Governance program’s core promise of a *decreased* likelihood of re-active audits and an *increased* likelihood of gaining predictability. Surprisingly, many of the corporations have a strategic use of the program internally to gain better overview of their organisations and gain better operational oversight. Moreover, several of the corporations use the program to strengthen their public image, a potentially significant benefit in times where corporate social responsibility is a phenomenon that to a growing degree also encompasses tax matters. The corporations with a distinct international focus also use the program to be informed and

prepared for various international trends that mirrors those related to the reformed program. Finally, we show that some of the corporations also use the Tax Governance program to take on a more leading role in the relation to Skat. The additional usages of the program thus connect broader in the daily work of the corporations to other areas of corporate life than the specificities of filing taxes.

10.2 “If you can’t beat them, join them”

For Skat the Tax Governance program is probably a program that has come to stay. For the corporations, however, it is still an active choice whether or not to join the program. In a humorous tone, one tax directors commented that *‘If you can’t beat them, join them’* (tax director, Corporation LL, p.22), stating that his view is that when joining, one might just as well try to get the best out of it. We sympathise with this viewpoint. Yet, we also want to finalise this report with reflections on whether the Tax Governance program fits “all” large corporate taxpayers.

Categorizing the corporations, we first see that the corporations who are characterised by considerable international and cross-border activity gain less from the ‘certainty -promises’ in the program as the program deals with Danish taxation. Hence, they may only provide transparency and gain certainty concerning the minor part of their taxation issues which relates to their Danish activities. Yet, this is not the whole truth. Because the Tax Governance program deals precisely with new administrative trends (risk assessment, internal control and self-monitoring) which—as we have shown—are widely spread international administrative trends. In this way, the program clearly helps these corporations to be knowledgeable about these international developments. Secondly, we see that the corporations who operate mainly in Denmark gain a lot from the program in relation to gaining predictability over their Danish tax dispositions. These, on the other hand, are often also those corporations who are the least interested in and knowledgeable about the international scene of tax administration. Hence, this element is less useful for them.

While one dimension to classify the interviewed corporations according to is their international and cross-border activity, another dimension to classify them by is the extent to which the corporations already engage in developing the kind of documentation that is required in the reformed Tax Governance program. In relation to this, we have found that the corporations operating in the financial sector are generally better prepared for providing documentation for internal processes, since these corporations often already have established process descriptions for central taxation processes and internal controls due to the fact that the financial sector is already highly regulated. The other end of this dimension

is perhaps the food industry or industrial manufactures. In these sectors there have not been as strong established traditions for elaborated documentation of taxation processes or the like.

Based on these two dimensions, we see that the Tax Governance program in some corporations aligns itself with already established interests and agendas and is therefore easier to implement and commit to. This accounts for corporations who either know of the international administrative trends that the program is concerned with or corporations who are already working with elaborated documentation of their taxation processes. For other corporations, however, the Tax Governance program represents a radical new frame of reference where the corporations both need to get acquainted with new ideas and need to develop a whole new set of documentation processes.

So, the corporations' already existing prerequisites for entering the program and the related workload that entering the program requires thus varies among the corporations, as does the time and workload it therefore takes to gain from participating in the program.

In relation to this issue, the conclusion of the report is thus that the Tax Governance program fits or is in different ways fitted to the corporations, however in both intended and unforeseen ways. Moreover, the fit comes with very different requirements and demands due to the specificities of the individual participating corporation, but also due to how the individual Tax Governance employee meets and treats the corporation.

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12 Project information

FairTax

FairTax is a cross-disciplinary four year H2020 EU project aiming to produce recommendations on how fair and sustainable taxation and social policy reforms can increase the economic stability of EU member states, promoting economic equality and security, enhancing coordination and harmonisation of tax, social inclusion, environmental, legitimacy, and compliance measures, support deepening of the European Monetary Union, and expanding the EU's own resource revenue bases. Under the coordination of Umeå University (Sweden), comparative and international policy fiscal experts from eleven universities in six EU countries and three non-EU countries (Brazil, Canada and Norway) contribute to FairTax research.

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