

ORGANISED BY



PREMIER TAX EVENT OF THE YEAR
NATIONAL TAX CONFERENCE
2018

16 & 17 JULY 2018 | MONDAY & TUESDAY
KUALA LUMPUR CONVENTION CENTRE

DAY 1 : 16 JULY 2018

Topic 4:
Tax Audits & Investigations –
Latest Issues & Findings

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Director, Multinational Tax Branch
Inland Revenue Board Of Malaysia

HOSTED ON



WHY ME? PERCEPTION!!!

WHY TAX AUDIT & INVESTIGATION?

**AN AUDITOR'S DUTY UNDER THE COMPANIES ACT
TAKES US INTO A FIELD THAT IS NOT EXACTLY THE SAME AS THAT
IN WHICH ANNUAL PROFITS OF A TRADE SHOULD BE
ASCERTAINED FOR THE PURPOSE OF INCOME TAX**

WHY TAX AUDIT & INVESTIGATION?

ACCOUNTING PROFIT IS COMPUTED BASED ON GAAP

WHEREAS

THE TAXABLE PROFIT COMPUTED BASED ON TAX RULES



WHY TAX AUDIT & INVESTIGATION?

“...Many will ask why has Parliament done this? Why have they allowed this search and seizure by the Revenue Officers? It did it here because the Board of Inland Revenue were worried by the devises used by some wicked people such as those ...who keep two sets of books; one for the themselves to use and the other to be shown to Revenue. Those who make two invoices; one for the customers, the other to be shown to the taxman. Those who enter into fictitious transactions and write them into their books as genuine. Those who show losses when in fact they have made gains. In the tax evasion pool there are some big fish who do not stop at the tax avoidance. They resort to frauds on a large scale. I can well see that if legislation were confined - or could be confined - to people of that sort, it would be supported by all honest citizens. Those who defraud the Revenue in this way are parasites who suck out the life - blood of our society...”

Lord Denning

Tax Audit and Investigation ~ is it worth the effort?

Marked increase in the number and intensity in tax **FIELD AUDIT** files over the last 5 years

Category	Year					
		2013	2014	2015	2016	2017
Companies	Files	5,545	7,413	6,811	5,967	5,691
	Amount in RM' Million (inclusive of penalties)	644	912	3,776	2,001	3,827
Non Companies	Files	5,658	9,790	8,433	7,516	7,036
	Amount in RM' Million (inclusive of penalties)	97	180	195	261	448
Total	Files	11,203	17,203	15,244	13,483	12,727
	Amount in RM' Million (inclusive of penalties)	741	1,092	3,972	2,262	4,275

Tax Audit and Investigation ~ is it worth the effort?

Marked increase in the number and intensity in tax **DESK AUDIT** files over the last 5 years

Category	Year					
		2013	2014	2015	2016	2017
Companies	Files	47,627	52,816	75,160	88,270	98,297
	RM (millions) Tax & Penalties	2,380	1,396	4,006	1,655	3,121
Non Companies	Files	327,578	355,135	267,652	260,845	267,235
	RM (millions) Tax & Penalties	297	271	418	526	1,198
Salary Group	Files	748,044	784,443	735,377	815,420	784,453
	RM (millions) Tax & Penalties	1,624	1,718	1,447	1,895	2,199
Total	Files	1,123,249	1,192,394	1,078,189	1,164,535	1,149,985
	RM (millions) Tax & Penalties	4,301	3,385	5,871	4,076	6,518

Tax Audit and Investigation ~ is it worth the effort?

Marked increase in the number and intensity in tax **INVESTIGATION** files over the last 5 years

Category	Year					
		2013	2014	2015	2016	2017
Companies	Files	417	497	778	906	1,173
	Amount in RM' Million (inclusive of penalties)	387	426	683	793	1,696
Non Companies	Files	200	364	510	548	648
	Amount in RM' Million (inclusive of penalties)	124	169	261	258	356
Total	Files	617	861	1,288	1,454	1,821
	Amount in RM' Million (inclusive of penalties)	511	595	944	1,051	2,052

Tax Audit and Investigation ~ is it worth the effort?

Marked increase in the number and intensity in Transfer Pricing Audits over the last 5 years

Transfer Pricing Audit

Year	Cases Resolved	Tax & Penalties (RM mil)
2017	265	681.94
2016	256	240.44
2015	250	124.87
2014	168	155.94
2013	183	166.00

Marked increase in the number and intensity in tax AUDIT/INVESTIGATION/TP over the last 5 years

WHY

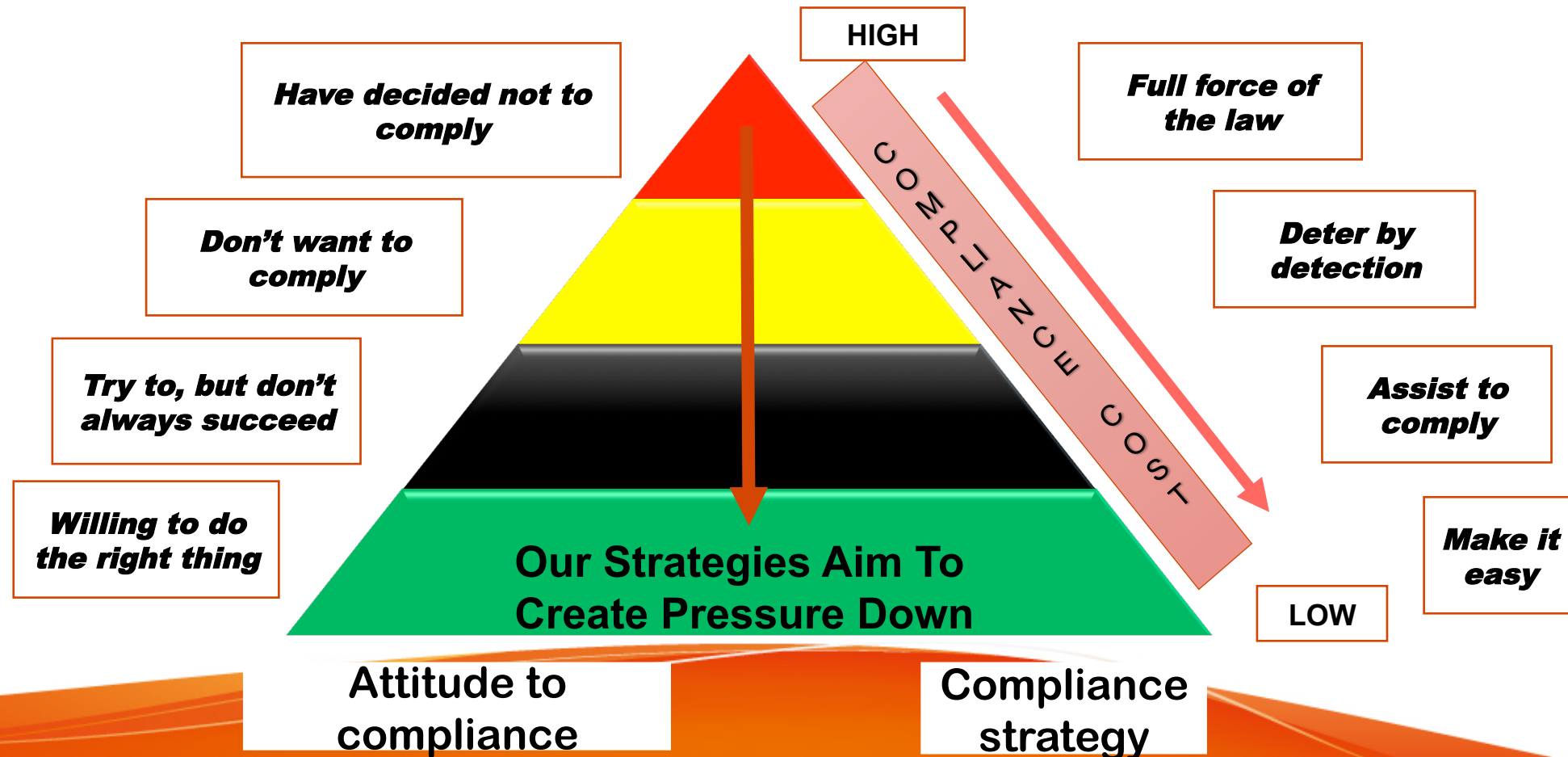
Dedicated audit / Investigation teams

The team approach to audit / Investigation / transfer pricing issues has become more sophisticated and aggressive as they gain exposure and experience

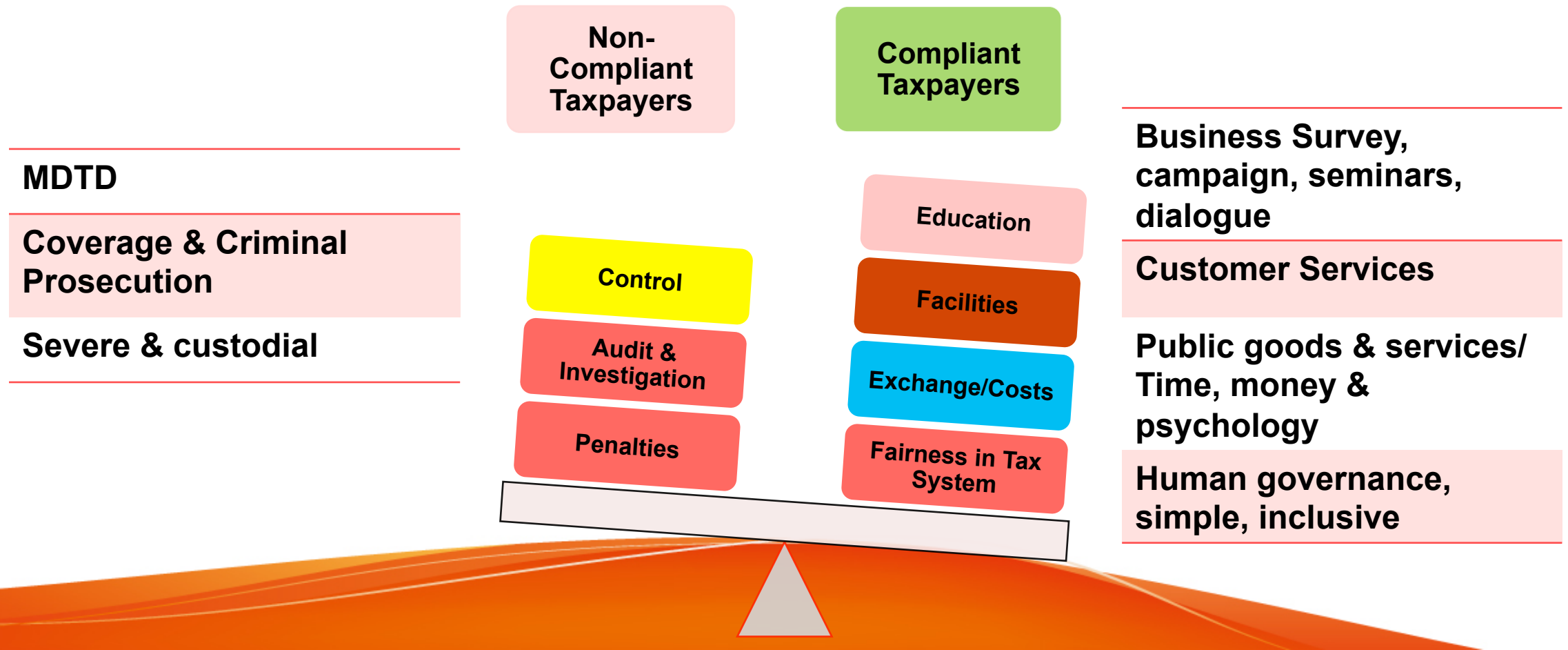
Previously the approach taken was to simply to accept small adjustments, pay the tax and close the case

Knowing how to manage and handle the audit / investigation in each jurisdiction which they operate in is itself an art

Tax Compliance Model



Tax Compliance Management



Making compliance Easy & Non Compliance Hard
Facilitating tax compliance, Tackling non-compliance

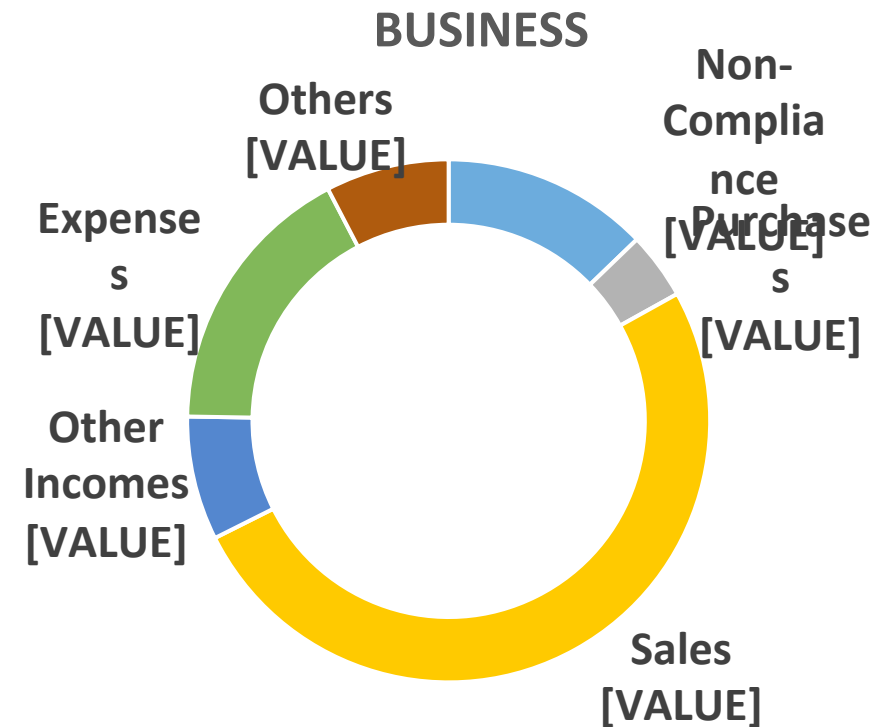
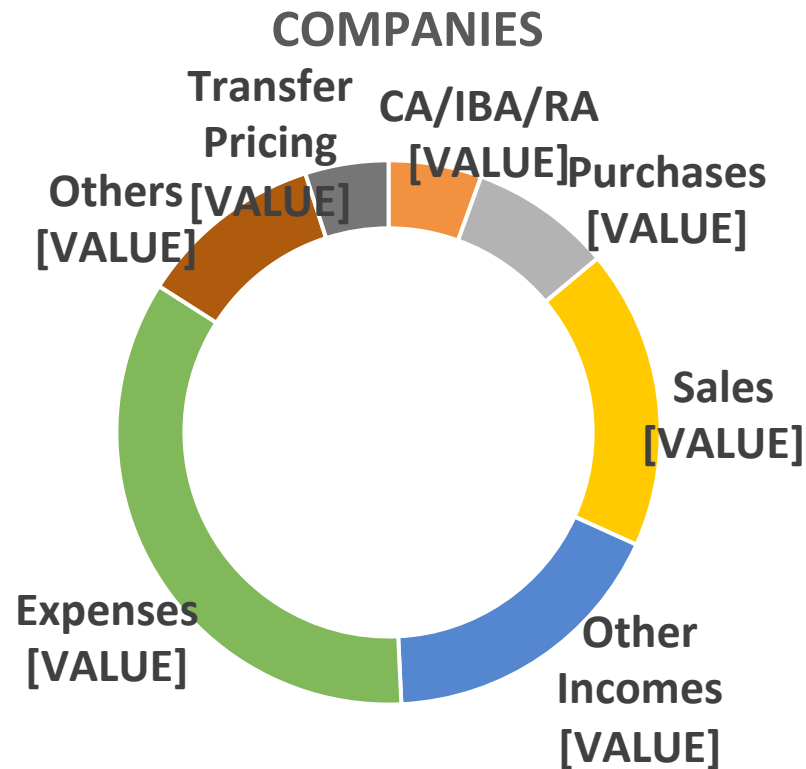
Getting it right is a money saver
Compliance is the new Tax Planning



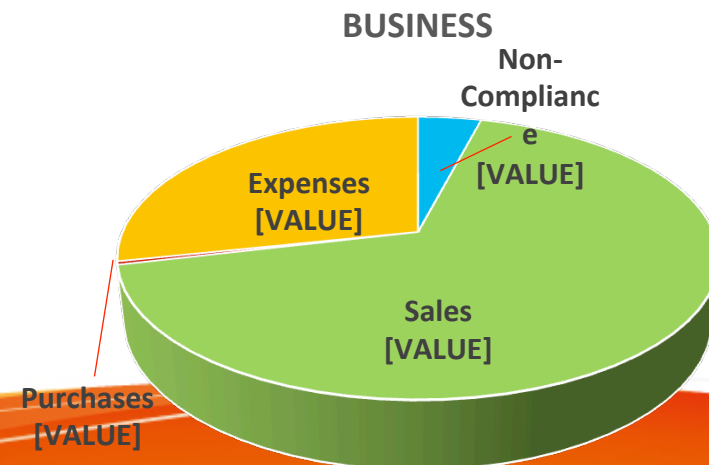
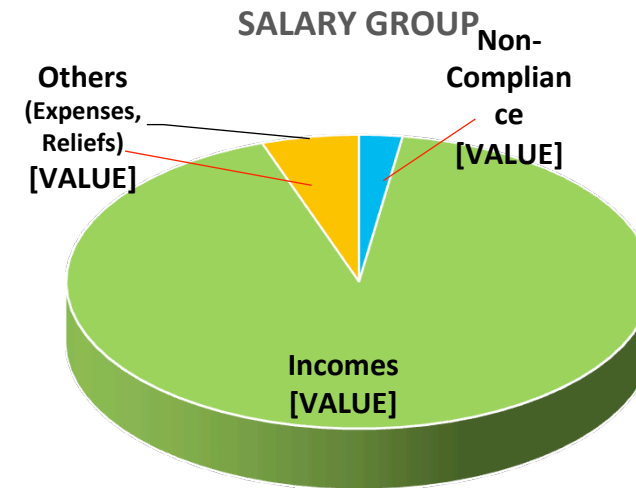
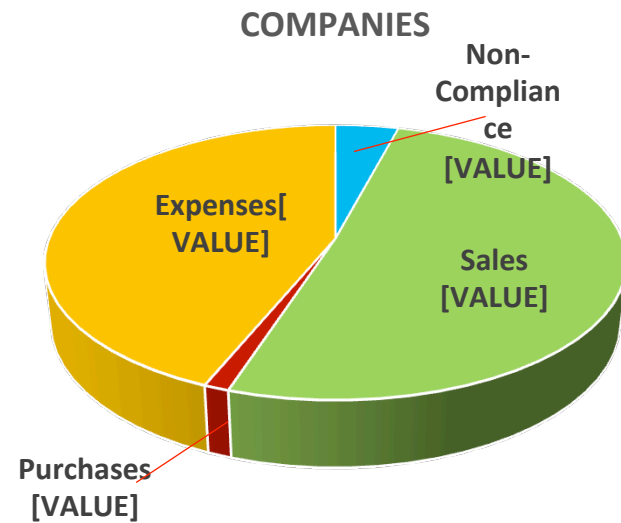


***"Now let's talk about that loophole
you've claimed!"***

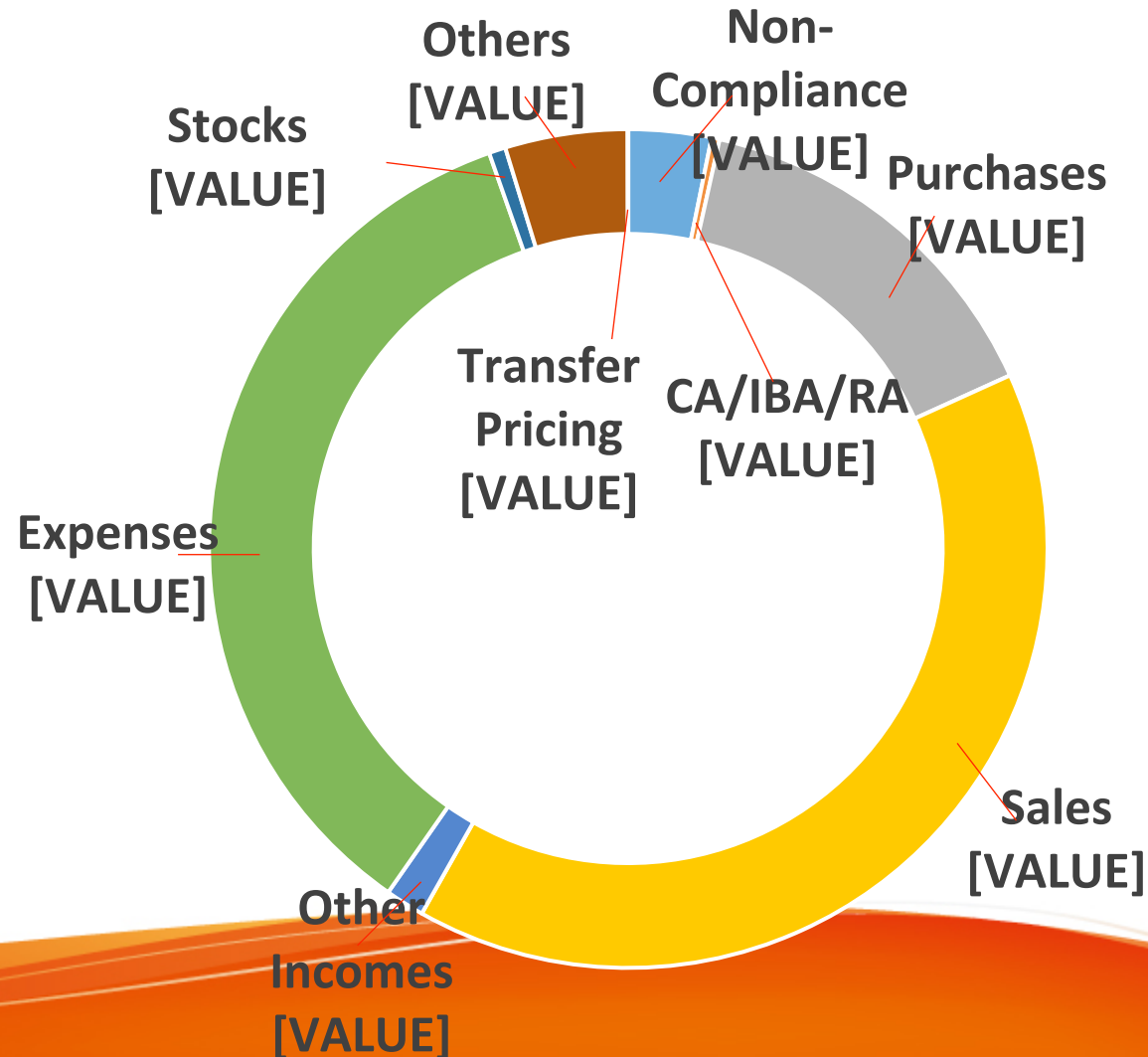
Main issues for field audit cases



Main issues for desk audit cases



Main issues for tax investigation cases



THE SCHEMES:

SALES

**Understatement / Concealing / Deferment of
Income**

Fraudulent Invoices

Falsifying books and records – 2 or more sets

Recognition of Income

Bank account in the names of proxies

Cash vs Accrued Income

Inter Company Transactions

THE SCHEMES:

OTHER INCOME

**Understatement of Income – Director Fees,
Rental, Management Fees, Profesional Fees,
Rental / Interest / Commission / Salary**

Other Business Income

ITA vs RPGT

**Loan to Directors, Sub Co etc no interest
charge & repayment period**

Sale of Intangible assets

Illegal Gains

THE SCHEMES:

PURCHASES

Inflated Purchases

Fraudulent Invoices

Purchases Outside Accounting Period

Double Claim / Over Claim

THE SCHEMES: EXPENSES

Inflated Expenses

Fraudulent Expenses

Shifting Profit

Interest Restriction

Capital vs Revenue Expenditure

Corruption /under Counter Money

**Wholly and Exclusively not incurred for the
Business**

THE SCHEMES:

TRANSFER PRICING

Interest Expenses

Intra Group Services

Business Characterization

Management Fee

Appropriate TP method

Intangible

THE SCHEMES:

CA/IBA/RA

Excessive Claim of Allowances and Incentives

Control Transfer

Project Backward Integration – RA Clawed back

Capital Allowance / Balancing Charges – asset less than 2 years

Personnel Usage

THE SCHEMES:

OTHERS

Non Compliance

Claiming False Deduction

Revenue vs Capital

Capital Statement

Embedded Royalty

WHT not Remitted

Stock Valuation

Falsifying books and records – 2 or more sets

EXAMINATION OF DOCUMENTS AND RECORDS

CHALLENGES

Tax evasion more sophisticated

Aggressive Tax Planning

Advancement of Technology

Use of Nominees

‘Fly by night’ Companies

Tax Haven

OUR EXPECTATIONS

ALL TAXPAYERS

Registered

File returns on time

Report accurately

Pay on time

I'M NOT SAYING THE ANNUAL REPORT
IS MISLEADING, BUT THE DIRECTORS
HAVE ASKED US TO TWEAK A FEW
FIGURES HERE AND THERE

CREATIVE
ACCOUNTING?

PHOTOSHOP

DIRECTOR'S
REPORT

ERASE

✓ SMOOTH
- DOUBLE CHIN
- NARROW
WHAFT
- ADD MORE
HAIR

BEATIE



"Can you keep him alive long enough for us to finish our audit of his taxes?"

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2018

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THANK YOU



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Moving  **Towards**
Together Excellence