

# Taxation Threat, Motivational Postures, and Responsive Regulation

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*The central proposition of motivational posturing theory is that regulatees place social distance between themselves and authority, communicating the nature of that distance through a narrative that protects the self from negative appraisal by the authority. One of the key components of posturing is the coping sensibility that individuals adopt to manage the threat of authority. At a baseline level, authorities make demands on citizens and as such threaten individual freedom. At the highest level, authorities threaten through punishment for non-compliance. Data collected from 3,253 randomly selected Australian taxpayers and a special group of 2,292 taxpayers in conflict with the tax authority are used to show that in both groups, three coping sensibilities contribute to posturing (“thinking morally,” “feeling oppressed,” and “taking control”), and that all three sensibilities are significantly heightened in the group experiencing conflict with the authority. The article argues that the most effective regulatory outcome is achieved when the regulatory process can dampen the “taking control” and “feeling oppressed” sensibilities, and strengthen the “thinking morally” sensibility. Responsive regulation is an approach that encourages tax authorities to read motivational postures, understand the sensibilities that shape them, and tailor a regulatory intervention accordingly.*

## I. INTRODUCTION

If regulation is concerned with changing the flow of events (Parker & Braithwaite 2003), any regulatory theory must take account of the fact that attempts to influence the flow come from many different sources in the regulatory community, including those actors being regulated (Meidinger 1987). Being subject to regulation intrudes on personal freedom, and while some intrusions go unnoticed, others come to be questioned and resisted, sometimes even becoming the subject of political debate and protest.

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Motivational posturing theory offers one account of how individuals who are required to engage in certain actions by a regulatory authority go about protecting themselves from threat that is contained within the demand for compliance and the regulator's statutory power.

#### A. MOTIVATIONAL POSTURES AND SOCIAL DISTANCE

Individuals choose how socially distant they wish to be from authority. Some will feel comfortable in its shadow and will not shy away from contact or communication; others will keep well away, preferring a minimum of exposure to the authority, hoping to survive below the authority's radar. This concept of social distance is commonly used by researchers interested in explaining inter-group dislike, lack of respect, lack of cooperation, and prejudice (see Bogardus 1928 for an early use of the term). In the regulatory context, social distance is a useful concept to explain the way in which individuals place themselves beyond the reach and influence of an authority so that they do not understand or hear the demands, and they do not fear the consequences of non-compliance.<sup>1</sup>

Motivational postures are the social signals that individuals send to authority, to others, and to themselves to communicate preferred social distance from that authority (Braithwaite 1995; Braithwaite et al. 1994). Motivational postures are conglomerates of beliefs, attitudes, preferences, interests, and feelings that together communicate the degree to which an individual accepts the agenda of the regulator, in principle, and endorses the way in which the regulator functions and carries out duties on a daily basis. Postures are social phenomena. They are composed in concert with others as individuals find a presumed comfort zone, that makes them feel safe in relation to the authority, and which gives them a socially acceptable justification for their position if questioned by like-minded others. Postures provide a presentation of self that allows the individual to feel confident and secure in the regulatory community.

The motivational postures have been empirically derived, emerging originally from a factor analysis that sought to test a typology of motivational compliance put forward by Kagan and Scholz (1984). These authors identified the motivational underpinnings of non-compliance in terms of being a political citizen opposed to the regulatory regime, an incompetent actor unable to meet the regulator's standards, and an amoral calculator putting personal gain ahead of compliance. Empirically, little support was found for the distinctiveness of these reasons for non-compliance (Braithwaite et al. 1994). The overriding factor in determining how regulatees approached demands for compliance was the nature of the social relationship, which could have been based on either interpersonal qualities such as trustworthiness, or on instrumental concerns such as shared goals. Usually, it was both (Braithwaite 1995).

Different kinds of social relationship between regulatee and regulator were identified through factor analysis and came to define the basic motivational

postures of commitment or accommodation to the agenda of the authority, capitulation or capture by the authority, resistance or fighting against the authority, and disengagement or detachment from the regulatory efforts of the authority (Braithwaite 1995; Braithwaite et al. 1994; see Appendix for items that make up each posture). A fifth posture of game playing was added later as a result of work carried out in taxation compliance (Braithwaite 2001a; see Appendix for items). Game playing represented an approach to authority that communicated the distance and emotional detachment of a disengaged actor, in combination with the “can-do” attitude of an actor who could beat the regulator at its own game. Game playing has been construed more in terms of individual action that shows disregard for regulatory constraints as described by McBarnet (2003), than in terms of action that is a natural outcome of the indeterminacy of rules (see Picciotto, 2007). It is of note, however, that one view does not preclude the validity of the other. Motivational postures are conceived as summary positions shaped by many considerations of a psychological, social, and structural kind.

Further work has identified two broad dimensions underlying these five postures (Braithwaite 2001a). A second-order factor analysis has produced one dimension defined as resistance-cooperation. This dimension has commitment and capitulation at one end and resistance at the other. The dimension is defined as the degree of liking, approving, and agreeing with the goals of the authority and how it does its job. For the purposes of understanding this dimension, it makes little difference whether people cooperate because they believe in taxation or because they believe the tax authority to be a legitimate authority. If both are present, cooperation is high. If both are absent, resistance is high.

The second dimension is defined by disengagement and game playing with a less important, yet significant, negative loading on commitment. The dimension has been described as one of dismissiveness<sup>2</sup> of authority because the focus is on the legitimacy of the regulatory enterprise and the power it commands. A person scoring high on the supra-posture of dismissiveness could conceivably be high or low on the cooperation dimension. For example, one person may be committed to the principle of taxation to support the democracy, another might be totally opposed to the idea. Both may agree, however, that the regime charged with responsibility for designing and administering the tax system is a waste of time and money, perhaps even morally reprehensible. The regulator, therefore, is likely to be dismissed as an institution of nonsense or irrelevance.

## B. HOW THREAT INFLUENCES POSTURING

Motivational postures are displays to authority which summarize many forces that individuals perceive in their environment, internal and external, some created by the specific actions of a regulatory authority, others existing independently of that authority. Among the relevant variables are identities

(Wenzel 2003), notions of duty and of fear (Scholz & Lubell, 1998), rationalization (Sykes & Matza 1957; Thurman, St. John & Riggs 1984), ideological preferences, and feelings of trust (Braithwaite 2004). All of these psychological inputs are part of a Lewinian life space that individuals are constantly interpreting, integrating, and to which they behaviorally respond (Lewin 1951).

This article focuses on just one of the integrated belief systems that comprise postures, the one that is considered most important and over which tax authorities are expected to have most influence, namely, the way in which taxpayers manage the threat of taxation. Taxation, because it involves government in extracting money from individuals, and because individuals are not in any real sense free to refuse, is defined at the outset as a threat (Brehm & Brehm 1981; Kirchler 1998). The purpose of this article is twofold: (a) to establish how taxpayers manage this threat, not only in circumstances where taxation is a routine affair, but also where conflict is occurring with the tax authority; and (b) to examine how well these coping sensibilities that are used to manage taxation threat predict the motivational supra-postures of resistance-cooperation and dismissiveness.

1. *Coping Sensibilities* The base for developing coping sensibilities was taken from the literature on how people deal with life events and daily hassles. In countries requiring the lodgment of a tax return, taxation represents an annual hassle, which quickly becomes a life event if the tax office responds through mounting an investigation. Threats of either the hassle or life-event variety may be dealt with using emotion-focused styles, problem-focused styles, or through a process of cognitive reframing (Antonovsky 1979; Carver & Scheier 1998; Lazarus & Folkman 1984; Pearlin & Schooler 1978).

An emotion-focused response to a threat might involve displays of anger, distress, or feelings of helplessness. When taxation is analyzed through an emotion-focused lens, the most likely response is victimization or "feeling oppressed." When the coping sensibility of "feeling oppressed" dominates, individuals deal with their threat through dwelling on what they have had to forgo in terms of material well-being, and the way in which taxation undermines their future prospects of success. "Feeling oppressed" is likely to be associated with blaming and directing anger at the authority, at no time more so than when the authority exerts pressure for the payment of more tax. "Feeling oppressed" should therefore be the coping sensibility that strengthens the motivational supra-posture of resistance and weakens cooperation.

In contrast, a problem-focused approach to threat involves remedial action, that is, actively looking for solutions and drawing on different resources to apply to the threatening situation to bring it under control. Taxpayers who engage professionals and talk to colleagues about tax minimization are being problem-focused in dealing with taxation threat. They are not prepared to accept their tax burden, instead taking up the challenge

of finding ways to reduce the amount they have to pay. Their problem-focused coping involves “taking control.” “Taking control” involves independence of judgment and the assertion of individual autonomy from the authority, and is likely to result in challenging tax authority over what the law means and more generally, its legitimacy. “Taking control” therefore is likely to strengthen the supra-posture of dismissiveness.

The third way of dealing with a threatening situation is to reframe it so that it becomes an accepted part of life. In order to reframe, the threatening situation is imbued with new meaning. Taxation comes to be seen as a necessity, and the best way for us to achieve collective goals. From this viewpoint, we should be diligent about paying tax, and we can feel safe in the knowledge that if we do the right thing we have nothing to fear from the authorities. Through reframing taxation as a social necessity and aligning ourselves with the authority, we set ourselves safely apart from those disgruntled and difficult taxpayers to whom fines, sanctions, and legal action are meant to apply. Changing one’s self and one’s place in the world in order to render the threat of taxation benign has earned this sensibility the description of “thinking morally.”

When the coping sensibility of “thinking morally” dominates, so does awareness of the costs of doing the wrong thing. Internal sanctions such as guilt and shame should boost this narrative, as should the external sanctioning system of penalties issued by the tax authority (Grasmick & Bursik 1990; Scholz & Pinney 1995). “Thinking morally” attaches self-worth to acting in a fashion that is consistent with the tax authority’s wishes. “Thinking morally” should, therefore, be the coping sensibility that strengthens the motivational supra-posture of cooperation (as opposed to resistance) and weakens the motivational supra-posture of dismissiveness.

### C. OTHER CONSIDERATIONS

The central thesis is that the three coping sensibilities of “feeling oppressed,” “taking control,” and “thinking morally” are present among taxpayers who routinely pay their tax without question or fuss, as well as among taxpayers who are in conflict with the tax authority over their tax assessments, and that these coping sensibilities help shape the motivational supra-postures of resistance-cooperation and dismissiveness. It is also hypothesized that the coping sensibilities will be higher among taxpayers who are in conflict with the Australian Taxation Office (ATO) than among those whose taxpaying is routine and relatively conflict-free. The justification for this hypothesis is that the coping responses, like the motivational postures, are narratives about taxation that are widely shared in the community, to be used by individuals when they get into trouble with the authority and need to protect the self from the stigma of breaking the law. The most potent need that individuals feel when faced with threat is protection of the self (Allport 1961; McDougall 1926).

This article rests on the assumption that threat is the aspect of a taxpayer's life space over which tax authorities have most control. However, one factor that has already been well-researched and has proven its worth as a means of improving the relationship between the regulator and the regulatee is procedural justice (Tyler 1990, 1997). Delivering procedural justice should lower feelings of threat as the authority ensures that the taxpayer is dealt with through impartial and transparent procedures, communicates its trustworthiness as an authority, and treats taxpayers with respect. Murphy (2003a) has found that perceptions of the tax office implementing procedural justice can increase trust and reduce resistance among taxpayers in conflict with the tax authority. In order to gauge the importance of the coping sensibilities for motivational posturing, independent of procedural justice, taxpayers' perceptions of procedural justice were included in the analysis, primarily as a control variable. It is of note, however, that while procedural justice was considered centrally important to the supra-posture of cooperation, it was not expected to bear any relationship to the supra-posture of dismissiveness. High scorers on dismissiveness are not likely to be persuaded by changes in the way the tax authority treats them; their dissatisfaction is more fundamental and lies more with the regulatory regime and the justification for its actions (Braithwaite 2001a, 2004; Braithwaite, Reinhart & McCrae 2004).

## II. RESEARCH METHODS

### A. SAMPLES

The taxpayers involved in this study were drawn from three different sources. The investor conflict group comprised respondents from the *Australian Tax System Survey of Tax Scheme Investors* conducted in 2002 (Murphy & Byng 2002). A random sample of taxpayers involved in mass-marketed tax avoidance schemes was contacted by the ATO and invited to participate in the research. Of those contacted, 43 percent accepted the invitation, providing a sample of 2,292 respondents. The reason for the conflict experienced by this group is described in the next section.

The random sample of taxpayers was drawn from two random general population surveys, the first conducted in 2000, *The Community Hopes, Fears and Actions Survey* (Braithwaite 2001b; Braithwaite et al. 2001), and the second conducted in 2001–02 as part of *The Australian Tax System — Fair or Not Survey* (Braithwaite & Reinhart 2005).<sup>3</sup> While it is possible that investors involved in mass-marketed schemes were randomly selected for this sample, they would have been few in number and it is unlikely that they would have taken part in both surveys. The general population surveys provided 3,253 respondents. Strictly speaking, this is not a conflict-free group since 14 percent had reported being fined or sanctioned at some

stage, and 15 percent reported contesting tax assessments in the 2000 survey (Braithwaite et al. 2001). Rather, it is a group that reflects baseline conflict of the population with the tax authority.

As for the ways in which the investor conflict group differed from the sample of general population taxpayers, Murphy (2003b) found that the investor group tended to be slightly younger, and were more likely to be married, male, in the paid workforce, more highly educated, and with higher income. These variables were included in preliminary analyses to ensure that they were not confounding factors that would interfere with hypothesis testing. They were not, and therefore are not included in the analyses presented below.

### *1. The Experience of Investors in Conflict with the ATO*

In June 1998, Australia's Commissioner of Taxation announced that the ATO would be implementing a series of initiatives aimed at combating aggressive tax planning. Of interest were schemes that had been marketed to the general public for the "dominant purpose" of obtaining a tax benefit. Under Australian tax law, this meant that the anti-avoidance provisions of Part IVA of the Australian Income Tax Assessment Act 1936 applied, and the ATO had the power to recover a taxpayers' tax shortfall with interest and penalties for a period of up to six years after the initial tax deduction was first claimed.

Tens of thousands of Australian taxpayers were affected by this ATO crackdown. Investors resented the enforcement action and the implication that they were "tax cheats," and were disappointed that they had not been consulted over the matter (Murphy 2003a). Taxpayers argued that accountants and financial planners had sold them the schemes as a way of legitimately minimizing tax, while still enabling them to make a long-term investment. During 1998–99, complaints were made to the Commonwealth Ombudsman, various legal fighting funds were set up to represent investors' interests, and the majority refused to pay back their scheme-related tax debts. The dispute between the taxpayers and the ATO culminated in a parliamentary enquiry (Australia. Senate Economics References Committee 2002).

In response to both the Senate Committee's report and the continued resistance exhibited by scheme investors in April 2001, the ATO announced a reduction of the interest rate for some scheme-related tax debts, if the taxpayer entered into a settlement arrangement. The majority of taxpayers, however, continued to resist.

In February 2002, in an attempt to finally resolve the matter, the ATO offered another opportunity for settlement. The ATO acknowledged that many investors had been the victims of bad advice. For those who were eligible (accountants, financial planners, and tax lawyers were ineligible), this final settlement involved withdrawing interest and penalty on the tax debt, and offering a two-year interest-free period in which to repay the

remaining tax shortfall (in most circumstances this offer halved taxpayers' original debt). After four years of active resistance, 87 percent of all investors finally agreed to settle their debt (Australia. Australian Taxation Office 2002). The survey of investors was conducted from January to July 2002 as the ATO was trying to bring the dispute to a close.

## B. MEASURES

The measures used to test the hypotheses are made up of single questions and multi-item scales common to surveys of the investor conflict group and the general population. These items and scales have been used in a number of research papers and their statistical reliability has been documented in earlier work (see Braithwaite 2001b; Braithwaite et al. 2001). In this article, the base items and scales are combined to form measures of higher order factors that have emerged as empirically coherent and robust, and that have been theorized as having explanatory potential in understanding the make-up of postures.<sup>4</sup> The analyses on which the motivational supra-posture scales of resistance-cooperation and dismissiveness are based have been presented in detail elsewhere and will not be repeated here (see Braithwaite 2001b). The analyses on which the composite measures of coping sensibilities are based are presented in the results section below.

### 1. *The Motivational Supra-Postures of Resistance-Cooperation and Dismissiveness*

Resistance-cooperation was measured through aggregating responses to eighteen items, which covered the three motivational posture scales of resistance, capitulation, and commitment (see items in Appendix). Respondents rated each item on a five-point "strongly disagree" to "strongly agree" rating scale. The alpha reliability coefficient for resistance-cooperation was 0.74 in the investor conflict group, and 0.81 in the general population. The mean score was 3.09 ( $SD = 0.41$ ) for the investor conflict group, and 3.36 ( $SD = 0.42$ ) for the general population. High scores on this dimension represent high cooperation.

Dismissiveness was measured through aggregating responses to ten items comprising the motivational posture scales of disengagement and game playing. Each item was rated on a 1 (strongly disagree) to 5 (strongly agree) rating scale. The alpha reliability coefficient for dismissiveness was 0.68 in the investor conflict group, and 0.70 in the general population. The mean score was 2.06 ( $SD = 0.47$ ) for the investor conflict group and 2.36 ( $SD = 0.47$ ) for the general population. High scores on this dimension represent high dismissiveness. The finding that investors were less dismissive is not counterintuitive, given that data were collected after the conflict, not before. Investors knew the power that the ATO could and would wield against

them, and were far from dismissive of authority as they struggled with what they saw as their public vilification as “tax cheats.”

The supra-postures of resistance-cooperation and dismissiveness were negatively correlated ( $r = -0.22$ ,  $p < 0.001$  in the investor conflict group, and  $r = -0.30$ ,  $p < 0.001$  in the general population). This means that resistance and dismissiveness are compatible postures. Therefore, the regression models below that are designed to predict one of these postures will require inclusion of the other as a control variable so that its unwanted influence can be partialled out of the analysis.

## 2. *Measuring the Facets of the Hypothesized Coping Sensibilities*

The hypothesized coping sensibility of “feeling oppressed” comprised four measures: (a) a three-item scale representing being economically deprived (items were: I would be better off if I worked less given the rate at which I am taxed; Paying tax removes the incentive to earn more income; and Paying tax means I just can’t get ahead); (b) a single item representing paying more than one’s fair share of tax (question was: Do you, yourself, pay your fair share of tax?); and (c) a two-item scale about receiving unfavorable tax office decisions (questions were: How often are the decisions of the Tax Office favourable to you? How often do you agree with the decisions made by the Tax Office?) (for further details see Braithwaite 2001b).

The “feeling oppressed” sensibility was expected to be associated with feelings of anger and blame directed toward the tax authority. Thus, the fourth measure that was included because of its expected relationship with “feeling oppressed” was Ahmed’s eight-item measure of shame displacement (see Ahmed & Braithwaite 2005) (sample item: If you were caught and fined for not declaring cash income or over claiming deductions, would you feel angry with the Tax Office?). Responses for each scale ranged from 1 to 5, with a high score representing feelings of oppression or anger.

The hypothesized coping sensibility of “taking control” was represented by three measures: (a) a single item measuring effort put into planning financial affairs in order to legally pay as little tax as possible; (b) a single item measuring trying several different ways of arranging finances to minimize tax; and (c) a three-item scale representing having an effective professional tax minimizer (items were: I have a tax agent who is clever in the way he/she arranges my affairs to minimize tax; My tax agent helps me interpret ambiguous or grey areas of the tax law in my favor; and My tax agent has suggested complicated schemes I could get into to avoid tax.) These measures represent a capacity to act in ways that challenge the tax authority. High scores represent taking control. The behavioral indicators of minimization ((a) and (b) above) were measured on a 1 to 5 scale and in terms of no/yes, respectively (see Braithwaite 2001a for more details). The professional tax minimizer scale scores ranged from 1 to 5 (see Sakurai & Braithwaite 2003).

The index for assessing “thinking morally” was made up of five measures: (a) a four-item scale representing an ethical taxpaying norm (items were: Do you think it is acceptable to overstate tax deductions? Do you think you should honestly declare cash earnings on your tax return? Do you think working for cash-in-hand payments without paying tax is a trivial offence? Do you think the government should actively discourage participation in the cash economy?); (b) a three-item scale representing disapproval of tax cheating (questions were: If you found out that an acquaintance was working for cash-in-hand payments, would you think they were clever? Would you care? Would you think it was wrong?); and (c) a two-item scale representing willingness to confront tax cheating (If you found out an acquaintance was working for cash in hand payments, how likely is it that you would let them know that you disapproved? Would you report them to the Tax Office?) (see Braithwaite 2001b for details).

In addition, Ahmed’s eighteen-item shame acknowledgment scale was included to assess the degree to which taxpayers experienced the expected reaction of guilt and shame when they imagined cheating on their tax (see Ahmed & Braithwaite 2005) (sample item: If you were caught and fined for not declaring cash income or over claiming deductions, would you feel guilty?), along with a measure of the likelihood of being harmed by external sanctions if found cheating on tax (the general deterrence term was used comprising the multiplicative function of the probability of being caught  $X$  likelihood of punishment  $X$  severity of punishment, see Braithwaite 2001b for details). With the exception of the deterrence term, scores ranged from 1 to 5, with 5 representing high tax morality and guilt over wrongdoing.

### 3. *Procedural Justice*

The procedural justice index was formed through combining four measures. The first was based on ratings given to the Australian Taxation Office in terms of how well it had abided by the Australian Taxpayers’ Charter in its dealings with citizens. The charter comprises twelve standards that set out taxpayer rights with regard to administrative procedures.<sup>5</sup> Previous work has demonstrated that a good measure of success in delivering procedural justice can be obtained through summing the ratings that the taxpayer has given to the ATO on these standards (Braithwaite & Reinhart 2000).

In addition, three procedural justice scales based on the work of Tyler (1997) and Braithwaite and Makkai (1994) were included in the overall index because of their specific relevance to regulating responsively and in a socially inclusive manner. They were (a) consultation with the taxpaying community; (b) treating taxpayers as trustworthy; and (c) treating taxpayers with respect. Further details concerning these scales can be found in Braithwaite (2001b). The alpha reliability coefficient that was calculated from the four procedural justice scores that individuals obtained on these measures was 0.88.

Table 1. Variance Accounted for and Factor Loadings for the Items and Scales Chosen to Represent Coping Sensibilities in the Combined Investor and General Population Samples

Coping sensibility	M(SD) <sup>a</sup>	Factor 1	Factor 2	Factor 3
<i>Feeling oppressed</i>				
Economically deprived	3.14 (0.97)	-0.10	<b>0.68</b>	0.08
Pay more than fair share	3.58 (0.81)	0.04	<b>0.66</b>	-0.10
Unfavorable tax decisions	2.90 (1.10)	-0.06	<b>0.70</b>	-0.17
Shame displacement	2.06 (0.75)	-0.11	<b>0.61</b>	0.10
<i>Taking control</i>				
Effort minimizing tax	2.19 (1.24)	0.04	0.05	<b>0.82</b>
Different ways to minimize	76% no	0.04	0.01	<b>0.79</b>
Professional tax minimizer	2.70 (0.66)	-0.25	-0.02	<b>0.58</b>
<i>Thinking morally</i>				
Ethical taxpaying norm	3.65 (0.71)	<b>0.77</b>	-0.09	-0.10
Disapproval of tax cheating	3.41 (0.86)	<b>0.84</b>	-0.07	-0.04
Confront cheating	2.19 (0.94)	<b>0.71</b>	0.07	0.10
Shame acknowledgment	2.92 (0.85)	<b>0.41</b>	-0.18	-0.11
% variance (after rotation)		18.71	16.57	15.30

Notes: <sup>a</sup>Means recorded on a 1–5 scale unless otherwise indicated.

Coefficients in bold indicate that the item has a significant loading on the factor and therefore the item has been used in the composite scale to measure that factor.

## C. RESULTS

### 1. Structure of Coping Sensibilities

A principal components factor analysis with varimax rotation was used to examine whether or not the items and scales postulated as measures of the coping sensibilities of “thinking morally,” “feeling oppressed,” and “taking control” were related to each other in the manner expected. Also included in the analyses were the measures of deterrence, shame acknowledgment, and shame displacement which were predicted to define the coping strategies of “thinking morally” and “feeling oppressed.” The results conformed to expectations with one exception. Deterrence defined “thinking morally” only for the general population sample. For the sample of scheme investors, deterrence fell on the “feeling oppressed” dimension, demonstrating that *anticipation* of punishment produces a very different sensibility from the *experience* of punishment.

In view of these findings, the same principal components analysis was repeated without the deterrence measure. The findings for the investor conflict group and the general population group were so similar that they have not been reported separately and instead the analysis for the combined groups is reported in Table 1.

Factor 1 features significant loadings for measures of “thinking morally” along with shame acknowledgment. Factor 2 brings together the measures of the coping sensibility “feeling oppressed” together with shame displacement. Factor 3 was defined by measures of “taking control.” In order to develop a single score representing each coping sensibility, the hypothesized scales and items with loadings greater than 0.40 were first standardized (using the combined sample mean and standard deviation) and then aggregated and averaged.

## 2. Predicting Motivational Supra-Postures from Coping Sensibilities

Two ordinary least squares multiple regression analyses were carried out to test whether the coping sensibilities were related to the supra-postures of resistance-cooperation (Table 2) and dismissiveness (Table 3). Because the two supra-postures are correlated, steps were taken to statistically partial out their shared variance in the regression models. In predicting resistance-cooperation in Table 2, the scores of respondents on dismissiveness were

Table 2. Standardized Beta Coefficients and Adjusted  $R^2$  Predicting Resistance-Cooperation from the Coping Sensibilities using Ordinary Least Squares Regression Analysis (Controlling for Dismissiveness, Procedural Justice, and Deterrence)

Predictor	Resistance-cooperation	
	beta coefficient (investor conflict)	beta coefficient (general pop)
<i>Controls</i>		
Dismissiveness	-0.14***	-0.14***
Procedural justice	0.58***	0.56***
<i>Coping sensibilities</i>		
Thinking morally	0.12***	0.15***
Feeling oppressed	-0.20***	-0.22***
Taking control	-0.04**	-0.03*
<i>External sanctions</i>		
Perceived deterrence	-0.01	-0.02
$R^2$	0.55***	0.62***

Notes: \* $p < 0.05$  \*\* $p < 0.01$  \*\*\* $p < 0.001$

included in the regression model to control for any effect that dismissiveness may have in masking the relationship between the coping sensibilities and resistance-cooperation. The same practice was followed in the prediction of dismissiveness in Table 3. This time, resistance-cooperation scores were controlled, so that the relationship between the coping sensibilities and dismissiveness could be seen more clearly. Because procedural justice is known to be such a major factor in the prediction of resistance-cooperation, procedural justice was included with the coping sensibilities. Procedural justice was included in both the prediction of resistance-cooperation and of

dismissiveness for the sake of consistency. It will be recalled that while a strong positive relationship was expected between procedural justice and cooperation, no relationship was hypothesized between procedural justice and dismissiveness.

The first observation to be made about the results of the regression analyses predicting resistance-cooperation in Table 2 is the striking parallel in the findings between the investor conflict group and the general population. In both groups, procedural justice dominated the regression model with lower endorsement of the ATO's performance on the procedural justice criteria being predictive of higher resistance and less cooperation. Once procedural justice was put to one side, however, all three coping sensibilities proved to be related to the supra-posture of resistance-cooperation. As hypothesized, resistance was higher when taxpayers reported "feeling oppressed" and cooperation was higher when taxpayers were coping by "thinking morally." The finding of a weak relationship between "taking control" and resistance was not predicted, but was not surprising given the context of this study. The ATO had launched an aggressive public challenge to the way in which taxpayers were taking control through investing in tax avoidance schemes.

Table 3. Standardized Beta Coefficients and Adjusted  $R^2$  Predicting Dismissiveness from the Coping Sensibilities using Ordinary Least Squares Regression Analysis (Controlling for Resistance-Cooperation, Procedural Justice and Deterrence)

Predictor	Dismissiveness	
	Beta coefficient (investor conflict)	Beta coefficient (general pop)
<i>Controls</i>		
Resistance-Cooperation	-0.25***	-0.29***
Procedural Justice	0.22***	0.20***
<i>Coping sensibilities</i>		
Thinking morally	-0.17***	-0.13***
Feeling oppressed	0.08***	0.09***
Taking control	0.27***	0.20***
<i>External sanctions</i>		
Perceived deterrence	-0.08***	-0.06***
$R^2$	0.20***	0.17***

Notes: \*\*\* $p < 0.001$

As was the case with resistance-cooperation, the regression models predicting dismissiveness did not differ notably for the investor conflict group and the general population (see Table 3). All three coping sensibilities played a role in predicting dismissiveness. "Taking control" was associated with higher dismissiveness, and "thinking morally" was associated with lower dismissiveness as hypothesized. Those "feeling oppressed" had relatively high dismissiveness scores, a result that was not predicted but that is again consistent with the degree to which the ATO was publicly asserting

its authority over those involved or thinking of becoming involved in mass-marketed scheme investments. Interestingly, higher perceived deterrence was associated with lower dismissiveness. It seems that when authority exercises power, fear of retribution means that they can no longer be dismissed as irrelevant or as a nonsense institution. Taxpayers are likely to be coerced into a state of acceptance.

The most surprising finding in Table 3 was that when taxpayers saw the tax authority carrying out its operations in accordance with principles of procedural justice, dismissiveness was high. Procedural justice was hypothesized as being irrelevant to dismissiveness, not positively related to it. The most likely explanation was that on the dimension of dismissiveness, procedural justice was perceived by regulatees as a sign of weakness and of an authority scrambling to re-capture its credibility. Alternatively, the public may have viewed the ATO as going through the motions of procedural justice, but doing so without much integrity, as part of a game playing exercise to resolve the conflict that had exposed the organization to so much criticism in the parliament. A perception of procedural justice being offered by the ATO as a low integrity ploy to win cooperation could well back-fire and exacerbate the posture of dismissiveness.

### *3. Are Coping Sensibilities Heightened by Conflict?*

The next question was: Does the investor conflict group have higher levels of “thinking morally,” “feeling oppressed,” and “taking control” than the general population? The mean scores reported in Table 4 were compared using independent t-tests. The investor conflict group scored higher than the general population on both “thinking morally” and “feeling oppressed,” but contrary to expectations, no significant difference was found on “taking control.”

One explanation for this outcome is that the greater portion of the investor conflict group had responded to the assault by the ATO by coming “into the fold” and re-committing to being law-abiding and honest taxpayers. It is of interest to note that the dismissiveness of the investor conflict group is much lower than that of the general population, suggesting that the ATO’s enforcement activities had made an impact on how investors were responding. If the supposed response of acceptance of the authority of the ATO was controlled in the regression analysis, however, it is likely that another response would be evident, one of asserting the right to take control of tax matters in spite of the ATO’s warnings and penalty regimes.

In order to test this proposition, a logistic regression analysis was carried out predicting group membership (0 = general population, 1 = investor conflict) from the coping sensibilities, after controlling for other variables on which there were known differences, that is, perceived deterrence, procedural justice, resistance-cooperation, and dismissiveness. The findings of this analysis are presented in Table 4. From the logistic regression analysis (see

Table 4. Means Scores for Two Groups (Investor Conflict and General Population) and B Coefficients and Summary Statistics for a Logistic Regression Analysis Predicting Membership in the General Population Group (0) or Investor Conflict Group (1) from Supra-Postures, Coping Sensibilities, Perceived Deterrence, and Procedural Justice

Predictor	M(SD) gen. population	M(SD) investor conflict	B coefficient
<i>Supra-postures</i>			
resistance-cooperation	3.34 (0.42)	3.02 (0.42)***	-0.23
dismissiveness	2.36 (0.47)	2.06 (0.47)***	-1.61***
<i>Coping sensibilities</i>			
thinking morally	-0.02 (0.72)	0.03 (0.68)**	0.19***
feeling oppressed	-0.21 (0.60)	0.29 (0.66)***	0.54***
taking control	-0.01 (0.79)	0.00 (0.75)	0.30***
<i>Other</i>			
procedural justice	0.37 (0.75)	-0.52 (0.75)***	-1.23***
perceived deterrence	183.73 (105.61)	223.07 (108.23)***	0.2-02***
Nagelkerke $R^2$			0.44
% correctly classified			76%

Notes: \*\* $p < 0.01$ , \*\*\* $p < 0.001$ ; meaning that the mean for the investor conflict group is significantly different from the mean for the general population.

column of B coefficients in Table 4), we see that six of the seven variables have a significant part to play in distinguishing the general population and investor conflict groups and that these significant effects are in the expected directions. In accordance with the threat hypotheses, the investor conflict group displays the three coping sensibilities of “thinking morally,” “feeling oppressed,” and “taking control” to a greater degree than the general population. The logistic regression analysis also shows that when taxpayers come under the scrutiny of the tax authority and come face to face with enforcement action, they are less dismissive of authority. They also perceive deterrence as a more likely and serious consequence of non-compliance and are less likely to consider the tax authority as procedurally just in its interactions with taxpayers.

The comparison of the mass-marketed investors targeted for enforcement action in such a public way by the ATO with a sample of general population taxpayers provides evidence of the complex psychological dynamics that regulators must understand if their goal is to change the behavior of taxpayers in the future. The investor conflict group’s heightened coping sensibilities, their less dismissive motivational postures, their critical stance toward the authority’s efforts at procedural justice, and their fear of deterrence indicate a set of sensibilities that make the mass-marketed tax avoidance scheme investors a volatile group of taxpayers to manage.

## III. DISCUSSION

This article examines a set of psychological constructs that are purported to operate in the life space of those being regulated by an authority. Two groups were chosen for analysis, one group representing baseline levels of interaction and regulatory pressure from the authority, the other representing conflict between regulator and regulatee with the kinds of arousal levels that can be assumed to accompany serious enforcement action, a fight-back by regulatees, and intense public scrutiny. Data were collected at the end of the conflict, a significant time in so far as taxpayers were in the process of establishing their future working relationship with the tax authority. The purpose of this article is to demonstrate that a complex web of psychological events accompany the demands of authority. Perceptions and understandings of events play out in shaping cooperation with the authority. Responsive regulation has merit within the context of these findings insofar as it calls on regulators to attend to these psychological forces, engage with them, and work collaboratively with the community to build a base of voluntary compliance. The argument of this article rests on the assumption that within a democratic society, regulation should be based for most people most of the time on the principle of cooperation, not on coercion in the face of mass resistance.

Methodologically, this article relies on cross-sectional data, and therefore does not allow for teasing out cause-and-effect relationships. The most obvious caveat for the regulatory theorist and practitioner is the implication that understanding coping sensibilities, assessments of procedural justice, and fear messages is important if the regulator wishes to elicit cooperation and acceptance of the authority's right to make demands and take enforcement action. The question of the skeptic is: How do we know these things affect cooperation and are not beliefs that buttress an emotional reaction of resistance?

From these data we cannot answer this question. But in terms of the psychological make-up of individuals, it is unlikely that causal pathways are simple and unidirectional. It is more in keeping with psychological theories of the protection of the self (Allport 1961) and the need for cognitive consistency (Heider 1959) to consider a situation in which a person is constantly scanning his or her life space, interpreting each event and evaluating its significance alongside the significance of other events. In other words, different parts of the life space are constantly being processed, interpreted, and integrated; and in complex, changing environments, the psychological process of aligning different perceptions is likely to occur in an iterative fashion (not a simple linear fashion) until the issue of concern can be put to rest (see Maruna, 2001, for an example of the construction of a narrative about self). The iterative adjustments give rise to a gestalt of what is happening that makes sense of the past and provides an action plan for the future, providing an answer for individuals searching for meaning in the

events that engulf them. Coping sensibilities, assessments of procedural justice, deterrence fears, and motivational posturing are all parts of the narrative that individuals construct when they are confronted with the demands of authority. They are motivated to put effort into constructing the narrative in order to live comfortably within the life space that is inhabited by themselves and the authority.

#### IV. CONCLUSION

On a narrow reading, this article is reassuring for law and policy makers who operate under a deterrence model to achieve compliance. The enforcement action of the tax authority, while subject to political scrutiny and put under much pressure by the public, appears to have achieved an important outcome. The dismissiveness of the investor conflict group was significantly lower than that of the general population, in spite of the greater willingness of this group to take control of their tax affairs and challenge the authority's decisions. For those focused on the authority's capacity to control a community, it could be argued that the tax authority won.

An alternative reading, however, would suggest that a more positive outcome might have been achieved if a responsive regulatory approach had been effectively implemented. This argument becomes more compelling if the regulator's interest is in ensuring compliance in the future rather than putting the lid on immediate tensions in the taxpaying population.

The ways in which taxpayers made sense of their dealings with the tax authority were through coping sensibilities such as "thinking morally," "feeling oppressed," and "taking control." These coping sensibilities were implicated in the postures that taxpayers displayed to the tax authority, and they were implicated in the same way in a high conflict/high threat group and in a baseline conflict/baseline threat group. In other words, if the authority wished for cooperation in the future, the meaning that taxpayers attached to their encounters with the tax authority needed to be worked through in the context of regulatory conversations (Black 1998) about what is right, what is fair, and what is reasonable behavior for taxpayers to adopt.

Such regulatory conversations, orchestrated on a mass scale (through the media, through intermediaries such as tax agents, and through letters sent by the tax office to individual taxpayers) can address directly the coping sensibilities that come to the fore when a regulator uses its power to achieve an outcome that it desires, but which is not necessarily endorsed by the public. The purpose of such communication for a regulator is threefold: (a) to build commitment to the moral worth of the request (engage with "thinking morally"); (b) to attend to injustice that may inadvertently have occurred in pursuit of the regulatory objective (engage with "feeling oppressed"); and (c) to develop a reasonable shared understanding of how

and when taxpayers should take control of their financial planning in order to reduce their tax bills (engage with “taking control”).

An integral part of a responsive regulatory approach is to provide opportunities for dialogue on these matters. A well-executed responsive regulatory intervention should allow disaffected actors within the regulatory community to express their views, to work through their reservations and grievances, and move to a position where they are on a better footing for dealing with the regulatory authority in the future. Undoubtedly, many investors have traveled this path in the wake of Australia’s mass-marketed schemes debacle. They have done so, however, through their own initiative, not through best regulatory practice on the part of their tax authority.

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#### NOTES

1. A similar concept, relational distance, has been used by Black (1976), and by Grabosky and Braithwaite (1986) to describe how distancing affects the way in which regulations are enforced by an authority. The more distant the offender from the authority, the more formal and severe will be the sanctioning process. Motivational posturing theory looks at the event from the other side of the regulatory fence. Rather than examine what regulators do, motivational posturing theory, with its notion of social distance, examines the behavior of the regulated in avoiding too intrusive a gaze by authority.
2. In earlier publications this has been described as dissociation. Dismissiveness is a better descriptor for conveying the social-relational aspect of the dimension.
3. This second survey involved a follow-up of the participants surveyed in 2000, along with a new random sample. Taxpayers were drawn from the original dataset and the new random sample.
4. The assumption underlying the measurement procedures used in this paper is that we are engaged in representational measurement (Dawes 1972). Each measure is an imperfect representation of the latent concept of interest, but sets of these imperfect measures “triangulate” on the concept that we wish to measure. Sets of

items measure basic concepts and then higher order concepts are identified through factor analyzing these basic measures (see Cattell 1952). The second order concepts can be empirically derived (e.g., “resistance-cooperation” and “dismissiveness”) or theoretically hypothesized (e.g., “feeling oppressed”, “taking control,” and “thinking morally”).

5. The standards are: (a) being accountable for what they do; (b) treating you fairly and reasonably; (c) treating you as honest in your tax affairs unless you act otherwise; (d) offering you professional service and assistance to help you understand and meet your tax obligations; (e) respecting your privacy; (f) keeping the information they hold about you confidential, in accordance with the law; (g) explaining to you the decisions they make about your tax affairs; (h) giving you advice and information that you can rely on; (i) helping you to minimise your costs in complying with the tax laws; (j) giving you the right to an independent review from outside the tax office; (k) accepting that you have the right to be represented by and get advice from a person of your choice regarding your tax affairs; (l) giving you access to the information they hold about you in accordance with the law.

## APPENDIX

Items representing the motivational postures of commitment, capitulation, resistance, disengagement, and game playing, and the supra-postures of resistance-cooperation and dismissiveness

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### Resistance-cooperation

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#### *Commitment*

Paying tax is the right thing to do.

Paying tax is a responsibility that should be willingly accepted by all Australians.

I feel a moral obligation to pay my tax.

I think of tax paying as helping the government do worthwhile things.

Overall, I pay my tax with good will.

I resent paying tax. (reversed)

I accept responsibility for paying my fair share of tax.

#### *Capitulation*

If you cooperate with the Tax Office, they are likely to be cooperative with you.

Even if the Tax Office finds that I am doing something wrong, they will respect me in the long run as long as I admit my mistakes.

The Tax Office is encouraging to those who have difficulty meeting their obligations through no fault of their own.

The tax system may not be perfect, but it works well enough for most of us.

No matter how cooperative or uncooperative the Tax Office is, the best policy is to always be cooperative with them.

#### *Resistance*

As a society, we need more people willing to take a stand against the Tax Office.

It's important not to let the Tax Office push you around.

The Tax Office is more interested in catching you for doing the wrong thing, than helping you do the right thing.

It's impossible to satisfy the Tax Office completely.

Once the Tax Office has you branded as a non-compliant taxpayer, they will never change their mind.

If you don't cooperate with the Tax Office, they will get tough with you.

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## Appendix Continued.

## Dismissiveness

*Disengagement*

If I find out that I am not doing what the Tax Office wants, I'm not going to lose any sleep over it.  
I personally don't think that there is much the Tax Office can do to me to make me pay tax if

I don't want to.

I don't care if I am not doing the right thing by the Tax Office.

If the Tax Office gets tough with me, I will become uncooperative with them.

I don't really know what the Tax Office expects of me and I'm not about to ask.

*Game playing*

I enjoy talking to friends about loopholes in the tax system.

I like the game of finding the grey area of tax law.

I enjoy the challenge of minimising the tax I have to pay.

I enjoy spending time working out how changes in the tax system will affect me.

The Tax Office respects taxpayers who can give them a run for their money.

Note: The following item from the Commitment Scale was omitted because it was not used in all surveys: "Paying my tax ultimately advantages everyone."

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