

**CENTRE FOR TAX SYSTEM INTEGRITY**



**REGNET**  
REGULATORY  
INSTITUTIONS  
NETWORK

The threat of taxation: Management  
by responsive regulation

Valerie Braithwaite, Kristina Murphy & Monika Reinhart



**ANU**

THE AUSTRALIAN NATIONAL UNIVERSITY

**WORKING PAPER 72 • JUNE 2005**

**THE THREAT OF TAXATION: MANAGEMENT  
BY RESPONSIVE REGULATION**

*Valerie Braithwaite, Kristina Murphy and Monika Reinhart*

Centre for Tax System Integrity  
Research School of Social Sciences  
Australian National University  
Canberra, ACT, 0200

ISBN 0 642 76872 2  
ISSN 1444-8211

**WORKING PAPER No 72**

*June 2005*

© Centre for Tax System Integrity, Research School of Social Sciences,  
Australian National University 2005

© Commonwealth of Australia 2005

National Library of Australia  
Cataloguing-in-Publication data:

Braithwaite, V. A. (Valerie A.), 1951-  
The threat of taxation: Management by responsive  
regulation.

Bibliography.  
ISBN 0 642 76872 2.

1. Taxation - Australia. 2. Taxpayer compliance -  
Australia. I. Murphy, Kristina, 1973-. II. Reinhart,  
Monika. III. Centre for Tax System Integrity. IV. Title.  
(Series: Working paper (Centre for Tax System Integrity);  
no. 72).

336.240994

*If you would like to make any comments on this working paper please contact the author  
directly within 90 days of publication.*

### **Disclaimer**

This article has been written as part of a series of publications issued from the Centre for Tax System Integrity. The views contained in this article are representative of the author only. The publishing of this article does not constitute an endorsement of or any other expression of opinion by the Australian National University or the Commissioner of Taxation of the author's opinion. The Australian National University and the Commissioner of Taxation do not accept any loss, damage or injury howsoever arising that may result from this article. This article does not constitute a public or private ruling within the meaning of the *Taxation Administration Act 1953*, nor is it an advance opinion of the Commissioner of Taxation.

## **THE CENTRE FOR TAX SYSTEM INTEGRITY WORKING PAPERS**

The Centre for Tax System Integrity (CTSI) is a specialised research unit set up as a partnership between the Australian National University (ANU) and the Australian Taxation Office (Tax Office) to extend our understanding of how and why cooperation and contestation occur within the tax system.

This series of working papers is designed to bring the research of the Centre for Tax System Integrity to as wide an audience as possible and to promote discussion among researchers, academics and practitioners both nationally and internationally on taxation compliance.

The working papers are selected with three criteria in mind: (1) to share knowledge, experience and preliminary findings from research projects; (2) to provide an outlet for policy focused research and discussion papers; and (3) to give ready access to previews of papers destined for publication in academic journals, edited collections, or research monographs.

## **Abstract**

This paper analyses taxpaying as a threatening experience that intrudes on freedom and financial well-being. A new model (ROAM – regulation through self, oppression and autonomy) is proposed to explain why enforcement activity by tax authorities can generate outcomes that are counterproductive in eliciting future compliance. Responsive regulation is proposed as an approach that allows tax authorities to understand the mentalities of those they wish to regulate, to gain greater insight into the workings of the tax system, both positive and negative, to engender greater commitment to the system and to deliver higher compliance.

## **The threat of taxation: Management by responsive regulation**

*Valerie Braithwaite, Kristina Murphy and Monika Reinhart*

### **I. Introduction**

Individuals have very different views about the tax they pay. Some regard taxation as a way of contributing to the public good. Others view it less charitably as little more than government extortion. Regardless of where one stands, tax collection threatens individuals, financially and politically (Kirchler, 1998). At the most basic level, people forego earnings or wealth to pay tax, and most have little choice in doing so. Those who refuse to pay their taxes risk going down a path of conflict with the Australian Taxation Office (Tax Office), involving amended assessments, fines, and legal proceedings, all of which incur costs, ostensibly financial, but surreptitiously, psychological and social. Rightly or wrongly, taxpayers like to stay below the radar of tax officialdom: They know tax authorities as powerful agencies, large impersonal bureaucracies, that take rather than give, and that take without consultation or consideration (National Commission on Restructuring the Internal Revenue Service, 1997).

It is not surprising, therefore, that taxpayers who come under the scrutiny of tax administrators tend to experience high levels of stress (Commonwealth Ombudsman, 1999; IRS Customer Service Task Force, 1997; Joint Committee of Public Accounts Report, 1993; National Commission on Restructuring the Internal Revenue Service, 1997; Office of Public Affairs, 2002). This paper examines one such group caught in publicly controversial mass marketed tax avoidance schemes in Australia. The paper examines the psychology of this group of taxpayers, offended by their depiction as ‘tax cheats,’ and politically active in resisting the amended tax assessments issued by the tax authority (Senate Economics References Committee, 2002). The central argument is that taxpayers, as human beings with an unswerving desire to make sense of what is happening to them in order to restore their sense of self-worth and well-being (Allport, 1961; McDougall, 1926; Maruna, 2001), manage tax authority threat in ways that can be deceptive to those who design and administer tax systems.

A newly developed model, ROAM (Regulation through Self, Oppression and Autonomy

Mentalities), has been developed to explain a phenomenon observed in earlier regulatory work and defined as motivational posturing (Braithwaite, 1995; Braithwaite, Braithwaite, Gibson & Makkai, 1994). Posturing represents the social and relational signals that individuals send to others and to the authority to communicate preferred social distance from that authority. ROAM unveils ways of interpreting the threat of taxation – a threat to one’s purse and to one’s liberty. These three threat mentalities play a major role in defining social distance and postures. Through examining the mentalities that people adopt in response to tax threat and the posturing they adopt in relation to authority, we hope to explain how regulators can unwittingly elevate threat levels so as to lose control of the outcomes of enforcement. Responsive regulation is advocated as an approach that allows authorities to understand and manage threat and posturing so that their enforcement efforts are not counterproductive.

The paper is organised into five sections. Section II sets out the argument for why responsive regulation has a role to play in reforming taxation administration as well as tax policy and law. In tax regimes around the world, interventions tend to be seen as heavy-handed (Joint Committee of Public Accounts Report, 1993; National Commission on Restructuring the Internal Revenue Service, 1997) with taxpayers often unsure of how to stay out of trouble (Center for Tax Policy and Administration, 2001; Office of Public Affairs, 2002). Responsive regulation is an approach that encourages a regulator to seek the least interventionist strategy to elicit compliance, while having a set of options for intervention that show ever increasing levels of intrusiveness should the ‘lighter touch’ fail. The basic principle of responsive regulation is that neither persuasion nor punishment is sufficient for effective regulation: Persuasion and punishment together need to be strategically coordinated. Persuasion and punishment are most likely to be mutually reinforcing and respectful of democratic deliberation when persuasion takes precedence, and punishment becomes a back-up measure should persuasion fail.

Section III provides a theoretical framework for analysing taxation threat in the form of the ROAM model. Threat refers to an event that potentially inflicts loss or harm on a person. Taxation poses threat at the most basic level through depriving a person of income and wealth, regardless of whether that person likes it or not. The threat is heightened for

taxpayers when conflict arises over the amount of tax that should be paid. Through comparing a group of taxpayers who had been sent amended assessments by the tax authority because of their involvement in mass marketed tax avoidance schemes with taxpayers who had never experienced conflict with the tax authority, hypotheses relating to taxpayer threat and its consequences for posturing are set out for empirical verification.

Section IV describes the research methodology and presents the results of analyses showing heightened threat of different kinds among scheme investors. Also examined in Section IV is the role of procedural justice in building cooperative relations with taxpayers. Procedural justice refers to the fairness of the process of conflict resolution and enforcement, with particular reference to whether or not taxpayers felt their case was dealt with respectfully and without bias or prejudice, and whether or not the authority honoured the taxpayers' charter of rights.

Section V brings the argument back to responsive regulation as a means of restoring the legitimacy of the authority of the Tax Office among those who are in the process of losing confidence in the system and in the justice it delivers.

## **II. Responsive regulation and threat management**

### *Regulatory formalism versus responsive regulation*

In *Restorative Justice and Responsive Regulation*, John Braithwaite (2002) has pitted regulatory formalism against responsive regulation. An agency that can list its problems in advance, specify the appropriate response and generate manuals of rules to mandate these responses is structured along formalist lines. Tax authorities fit this description: and for good reason. Relatively speaking, Australia has a low population, but even here the Tax Office employs some 20 thousand staff to deal with over 10 million taxpayers, and each year these staff are confronted with millions of tax lodgments that need to be processed and screened; an enormous task even within the self-regulatory tax framework of self-assessment.

On the taxpayers' side, most Australians have little interaction with the tax authority, the main exception being an eagerly anticipated tax refund which 75% receive after an annual tax lodgment has been processed (Australian Taxation Office, 2002a). Some 77% of Australians keep their distance from the Tax Office through seeking the support of a tax professional to act as a go-between (Australian Taxation Office, 2002a; Braithwaite, Reinhart, Mearns & Graham, 2001). Tax professionals are valued for their capacity to deal with tax matters with the minimum of fuss (Sakurai & Braithwaite, 2003). But they are also valued because they are able to buffer the individual in the event of misunderstanding with the tax authority. Because of the complexity of the tax code (see Job, Stout & Smith, this issue; Picciotto, this issue), errors in completion of tax returns are not unusual: They may be intentional with knowledge of risk, intentional without knowledge of risk, or unintentional.

Commonly, anomalies in tax returns are detected through computer-based analyses, comparing databases, and using data mining procedures to throw up anything that looks suspicious. On routine matters, the process is fully automated, as are the computer generated letters that inform us that we have omitted to comply with our legal obligations, and that we owe the tax authority money, plus interest and a penalty that must be paid by a due date if we are to avoid legal action. Our circumstances, the reasons for our incorrect lodgment, and the personal consequences do not enter into the tax authority's consciousness.

It is not that the Tax Office is without capacity for conscious awareness and consideration of such issues. Australia follows OECD best practice (Committee of Fiscal Affairs, 1990), and like other countries has a *Taxpayers' Charter* (Australian Taxation Office, 1997) that commits the agency to showing reasonable levels of care and consideration in dealing with taxpayers. The issue is more that capacity for regulatory responsiveness is by-passed in favour of regulatory formalism in the interests of efficiency. An automatic data processing function enables the tax authority to process a large number of tax lodgments in a timely, impartial and fully accountable fashion.

Regulatory formalism of this kind works well most of the time. This is not to say that the process cannot be finessed through taking on board some of the principles of good regulatory practice developed by such scholars as Bardach and Kagan (1982), Kagan and Scholz (1984) and Tyler (1990, 1997). For example, automated letters from enforcement agencies do not have to be couched in legally dense and unfamiliar language, making them incomprehensible to ordinary people, nor do they have to be accusatory and offensive in tone. Regulatory formalism does not preclude fair and respectful treatment of taxpayers (Bentley, 1998).

Humanising ‘regulatory formalism,’ however, is not the intent of this paper, as important as it is. Others have risen to the challenge within the Tax Office of adjusting regulatory formalism so that it is offering procedural justice that is discernible and valued by taxpayers and the regulatory community at large (Murphy, 2003a, 2004a). Rather, the argument is that tax authorities should be able to operate a triage system, so that Tax Office functioning above and beyond the basic mass level of automated processing can be structured to make room for responsive regulation. These are the levels at which there is moral ambiguity about what is right and wrong, or where the automated regulatory system is causing more problems than it solves. The areas listed here are not exhaustive, but for illustrative purposes include ambiguous or grey areas of tax law, complaint resolution, and serious non-compliance. In each of these areas, formalists may defend their capacity to deliver consistent, transparent and impartial decisions. But what needs to be considered is that these objectives may be achieved at substantial costs. Taxpayers may judge the decisions as being *consistently* ill-informed, *consistently* out of touch, *consistently* unreasonable, and *consistently* unfair. Advocates of regulatory formalism in taxation thereby run the risk of inadvertently jeopardising the authoritativeness and legitimacy of the institution in the eyes of the public (Murphy, 2004b).

It is in the above contexts that responsive regulation needs to make its presence felt in tax administration. Regulatory formalism imposes order on a dispute, but fails to evoke the taxpayers’ sensibility of what justice is all about, leaving behind individuals who can attach meaning to their experience from their own perspective but not from an institutional or collective perspective. The contrast between a taxpayer who fails to declare her bank

interest on her income tax return and an investor who enters a newly advertised tax minimisation scheme that turns out to be illegal serves to illustrate the point being made here. Omitting bank interest may be a mistake, but it is in a category of mistakes familiar to us. We'd rather it not happen, we may protest and complain bitterly that it was just a stupid error, but at the end of the day there is a shared social reference point for our 'wrongdoing.'

By way of contrast, there are encounters that people have with the law for which they are not prepared and for which there is no shared social reference point. There is no sensibility about the function the law serves, people are not even sure they have broken the law, and there is no rehearsed script for how they or the authority should deal with this conduct that is purported to be unacceptable. Short of blind faith that the authority will always act in a just and fair way, individuals caught in such situations have every reason to be fearful. The threat they experience is not part of a narrative that they have heard before. The threat mushrooms because it is 'new,' not only to the taxpayers, but also to the tax administrators.

Through demonstrating the extent and nature of the threat among taxpayers caught up in mass marketed tax avoidance schemes, we hope to illustrate why responsive regulation may be helpful in handling problems that arise around 'new issues' that regularly erupt in interpreting tax law (see Picciotto, this issue and Rawlings, this issue for a discussion of these tax complexities).

#### *What responsive regulation has to offer*

Responsive regulation is an approach that acknowledges that 'changing the flow of events' (Parker & Braithwaite, 2003) inevitably involves changing the ways in which other human beings believe the flow of events can and should be changed. Regulatory authorities, if they have an interest in predicting the outcomes of their interventions, need to understand the narratives of those whom they are trying to regulate. Responsive regulation, through its emphasis on dialogue and persuasion, allows 'regulatory conversation' (Black, 1998) to take place. As a result, both sides of the regulatory conversation understand the position of the other, the arguments for and against are fully aired and considered, and a shared

understanding emerges of the probable steps of escalation should the conflict remain unresolved. Responsive regulation therefore offers procedural clarity with explanations for the decisions and actions taken. And importantly, regulatory arguments, for and against, become available for inclusion in the taxpayers' narratives about their predicament. It is true that threat may turn into anger as a consequence of these deliberations. But equally true is the proposition that threat may turn into acceptance and acknowledgment from the taxpayer that she did not act in the wisest of ways. Regulatory conversation gives opportunity for diffusing threat. Without regulatory conversation, threat has nowhere to go but to fear, frustration, anger, and despair.

Responsive regulation offers more, however, as a means of managing psychological threat. The approach allows intervention at any number of levels from the least intrusive level to the highly intrusive level of incapacitation. This means that taxpayers who are willing to make amends, accept responsibility for their actions, and get it right next time can be dealt with differently from taxpayers who are intent on delaying procedures and avoiding the issues – or fleeing the country. Their crimes may not differ, but how the tax authority manages these cases lies well within their domain of responsibility. There is considerable scope for using responsive regulation and a regulatory pyramid of escalated sanctioning within tax authorities as the mass-marketed tax avoidance scheme case study below demonstrates. The objective is to appeal to the self-regulating capacity of the individual, either through social responsibility or through self-interest, convincing taxpayers that the best outcome lies in resolving the conflict at the bottom of the pyramid (Ayres & Braithwaite, 1992). Failure to do so will result in an escalation of penalties and costs that are not in the interests of the taxpayer or the tax authority. Through this process, individuals can choose the point at which they settle their dispute. They are not forced to endure the threat of protracted conflict if they don't want to.

Being able to intervene at multiple levels brings greater decision making responsibility to regulators – they must arrive at an action plan that will elicit compliance – and this means the regulator must be well informed about the context in which non-compliance has occurred. Knowledge of what has been happening in the regulatory community provides an opportunity for regulators to identify compliance problems before they take hold, and

allows for a regulatory community to be gently turned away from harmful practices in the early stages, allowing cooperative relations to prevail. In the field of taxation where the next tax avoidance scheme is sitting in a bottom drawer waiting to be implemented (Braithwaite, 2005), partnerships that keep information flowing around the regulatory community are invaluable. There is a chance of averting threat to taxpayers when their investments go awry through Tax Office decisions, as well as to tax administrators when they realise a scheme has got out of hand. In this sense, responsive regulation adds to the future sustainability of a tax system: Changes in process and design can proceed in an evolutionary way rather than through the ‘fits and starts’ accompanying crisis management.

In summarising the case for responsive regulation as a means of effectively managing taxpayer threat and stress, the keyword is understanding – understanding the taxpayer’s mentality and environment and using this knowledge, rather than a rulebook, to turn non-compliance into compliance. To opt for the rulebook may be easier, but there is now considerable evidence casting doubt on its effectiveness (see Williams, 2001 for an Australian taxation example). At no time is this more so than when the rules seem arbitrary and senseless. A process that gives the rules meaning and acceptance is a prerequisite to a process that imposes order on tax collection activities, at least this is so if our normative position supports the preservation and promotion of a deliberative democratic state (Braithwaite, 2003; Braithwaite & Pettit, 1990; Dryzek, 1990).

### **III. Theorising and contextualising taxation threat**

#### *From motivational postures to ROAM threat*

In earlier work on nursing home regulation, social distancing or rift was found when nursing home directors and inspectors failed to believe in the goals of the regulators and lost trust and confidence in the regulatory process (Braithwaite et al., 1994; Braithwaite, 1995). Over time, however, the rift was healed, most commonly in cases where differences had arisen over process, and regulators had given the nursing home directors the opportunity to make the changes required and adjust to the new inspection process. The rift

did not heal, however, in cases where nursing home directors had lost hope in the regulatory system, its goals and its processes.

These two different types of response to unwelcome regulatory criticism were differentiated using the concept of motivational posturing (Braithwaite et al., 1994). Motivational posturing comprised attitudes, beliefs, feelings and interests that together presented a public statement describing how regulatees saw their relationship with the regulator and the social distance (Bogardus, 1928) that they placed between themselves and the authority. Social distance was reflected in terms of a favourable attitude of liking versus an unfavourable attitude of disliking. The postures of commitment and capitulation reflected the former end of the dimension, resistance the latter end. In recent work, these postures have been combined into a supra-posture of resistance-cooperation (Braithwaite, 2001a, 2004). Resistance is the posture that is most amenable to change, particularly if regulators are reasonable and fair in their treatment of those who are not in compliance with the law (Braithwaite et al., 1994; Murphy, 2003a, 2004a).

Also important was a second dimension, reflecting the degree to which the regulatee was prepared to ascribe status to the authority. In cases where the regulatee dismissed the authority of the regulator, the motivational posture was described as disengaged. Since the original work, a second posture involving challenge to the authority of the regulator has been added called game playing (McBarnet, 2003). Disengagement and game playing form the supra-posture of *dissociation*. This posture has been associated with persistent unwillingness to cooperate or comply with regulatory authorities (Braithwaite et al., 1995; Braithwaite, 2001a, 2004).

The value of this research was to demonstrate that behavioural acts of non-compliance are accompanied by different compliance mentalities, and if the intent is to 'change the flow of events,' regulators must be able to differentiate these mentalities and engage with non-compliant regulatees in ways that will open the channels of communication. The value of regulators having a sensibility about mindset has been documented extensively in the regulatory literature (Bardach & Kagan, 1982; Ayres & Braithwaite, 1992). Stories of the ways in which regulators nudged regulatees towards compliance, using just enough

pressure while avoiding counter-productive heavy-handed treatment formed the observational data on which the theory of responsive regulation was based (Braithwaite, 1985; Grabosky & Braithwaite, 1986).

What has remained tangential to this body of work is the explanation for why ‘nudging’ works better for regulators than ‘coercing.’ A number of theories have been used with success to explain the phenomenon. Brehm & Brehm (1981) have been influential in demonstrating experimentally the phenomenon of reactance, a form of resistance to authority that takes hold when people feel that their freedom is being threatened (see Kirchler, 1999 for an application to taxation). In order to explain reactance against authority, Taylor (Taylor & McGarty, 2001; Taylor 2003) has drawn on self-categorisation theory, arguing that an ‘us-them’ dichotomy between those with power and those without will do little to win support for the authority’s agenda. Wenzel (this issue) also has drawn on this theoretical approach to explain how identities shape our understanding of justice, which in turn, determines how cooperative or resistant we are likely to be in relation to an authority’s demands. Braithwaite (1989) and Sherman (1993) have taken another tack. They have argued that the experience of shaming can give rise to defiance among regulatees, if the experience is stigmatising rather than reintegrative, and if regulatees fail to see the process as legitimate.

The present theoretical approach differs from these other approaches, although there are common themes. Conceiving of taxation as an event that potentially threatens an individual’s well-being, stress and coping theory is used as a base to postulate a psychological process of taxation threat appraisal. The basic idea is that individuals deal with the threat of taxation through constructing a narrative, developed from knowledge acquired within the regulatory community. When taxation becomes a salient issue for them, their preferred narratives come into play, with preference depending on both personal and contextual factors. These narratives that provide an appraisal and coping strategy for dealing with the threat of taxation have implications for relationships with the authority. Individuals will adjust their social distance from the authority, and their posturing will reflect the message that they want to send about the social distance that is comfortable for them.

Three modes of threat appraisal and coping responsiveness that have been documented across different contexts appear to be particularly relevant to analysing taxation threat. Threats 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 analysed through an emotion-focused lens, the most likely response is victimisation or *oppression*. Taxpayers experience a sense of loss that they are unable to change, but that they feel is undesirable, unjustified and unfair.

In contrast, a problem-focused approach to threat involves actively looking for solutions, drawing on different resources to bring the threatening situation under control. Taxpayers who engage professionals and talk to colleagues about tax minimisation are being problem-focused in dealing with taxation threat. In other words, 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. Those who are problem-focused assert their *autonomy* against the threat of taxation.

The third way of dealing with a threatening situation is to reframe it so that it becomes an accepted, if not tolerable part of one's life. In order to reframe, the threatening situation is imbued with new meaning. In the case of taxation, we see ourselves contributing to the overall good of society. We do not lose out to the taxation system, but rather we benefit from the privileges and amenities it bestows on our community. And what of the punitiveness of the tax system? How do we reframe this threat to our well-being? Interestingly, we negate neither its presence nor its seriousness. But we do construct an identity for ourselves that is safe from its reach. Through reframing taxation as a social good and aligning ourselves with the authority that delivers that social good, we set ourselves safely apart from those disgruntled and difficult taxpayers to whom fines, sanctions and legal action are meant to apply. Changing oneself and one's place in the world in order to render the threat of taxation benign has earned this mindset the description of *regulation through self*.

The *regulation through self, oppression and autonomy mentalities* (ROAM) have been measured through a number of self-contained tax attitude scales (for details see Braithwaite, 2001b, forthcoming). As might be expected in a law enforcement context, the strongest mentality is *regulation through self*. The weakest is *autonomy*, and *oppression* occupies the middle ground. The mentalities of *regulation through self, oppression* and *autonomy* are not theorised as being mutually exclusive. All are protective of our sense of self-regard and well-being so that it is in our interests to be adaptive and to use whichever protective mechanism works best in the circumstances.

In research with the general population of taxpayers, *regulation through self* predicts cooperation with a tax authority and indicates a willingness to recognise the status of the authority. *Oppression* reduces cooperation and gives rise to resistance, sometimes even predisposing individuals to stepping outside the system and challenging authority. Mounting a challenge to the authority involves no longer ascribing status to that authority in the regulatory community. The mentality of *autonomy* combined with a decimated mentality of *regulation through self* is a forerunner of the state of relational breakdown that we call dissociation (Braithwaite, 2004; forthcoming).

When the taxation threat is heightened because we come under scrutiny of the tax authority, it is likely that all three mentalities would become stronger – whatever works to relieve the stress. This being the case, the degree to which traditional enforcement practices will result in future cooperation and compliance will surely be highly variable. Some will become more cooperative, some more resistant, some less dissociated, others more so. Amidst the chaos, tax administrators have the task of establishing the best outcomes for the tax system that they possible can. Before empirically examining their success, particularly in relation to the delivery of procedural justice, the Tax Office’s management of the mass marketed tax avoidance schemes needs to be described.

### *Managing the mass-marketed tax avoidance schemes*

In June 1998, Australia’s Commissioner of Taxation announced that the Tax Office would be implementing a series of initiatives aimed at combating aggressive tax planning. Part of

their crackdown on aggressive tax planning involved issuing amended assessments to tens of thousands of taxpayers involved in mass marketed tax avoidance schemes. The view was that taxpayers who became involved in these schemes did so for the ‘dominant purpose’ of obtaining a tax benefit, and as a result the anti-avoidance provisions of Part IVA of the Australian Income Tax Assessment Act 1936 applied. The anti-avoidance provisions give the Tax Office 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.

The Tax Office’s concerns over aggressive tax planning first arose in 1996 out of its analysis of internal and external information that showed a dramatic increase in the number of taxpayers involved in scheme arrangements. This coincided with an increase in the amounts being claimed as tax deductions. Scheme related tax deductions were found to increase from AUD\$54 million in the 1993-94 income year to over AUD\$1 billion in the 1997-98 income year.

In order to address the problem and discourage future marketing and investment in such arrangements, enforcement action was taken against the 42 000 participants thought to already be involved in such schemes. The Tax Office recognised that an unusually broad spectrum of people had been caught up in the mass marketed schemes, from middle income taxpayers (for example, school teachers and miners) through to the wealthy (for example, professionals, sports celebrities). Under the law, a statutory culpability penalty of 50 per cent of the tax shortfall usually applies to taxpayers involved in tax avoidance. However, given the nature of the taxpayers involved, the Tax Office reduced this figure to 10% by giving investors the opportunity to make a voluntary disclosure about their tax affairs. Participants were also advised that a General Interest Charge on the tax shortfall (at a rate of 13.86% per annum) would still be payable from the due date of the original assessment to the date of issue of the amended assessment (in some cases up to six years). The retrospective application of the interest charge served to inflate many debts.

Investor responses towards the Tax Office’s initial enforcement approach were hostile. Investors resented 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 minimising tax, while still enabling them to make a long-term investment. During much of 1998 and 1999, therefore, thousands of investors made complaints to the Commonwealth Ombudsman about the handling of their case, 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 Tax Office culminated in a parliamentary enquiry (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 Tax Office announced a reduction of the interest rate for some scheme related tax debts. The General Interest Charge of 13.86 per cent was reduced to a rate of 5.86 per cent. The reduction only applied if the taxpayer entered into a settlement arrangement. Even with this offer, however, the majority of taxpayers continued to resist the Tax Office's attempts to recover their outstanding tax debts.

In February 2002, in an attempt to finally resolve the matter, the Tax Office offered another opportunity for settlement. The Tax Office 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 allowed the claiming of actual cash outlays as a tax deduction, the abolishing of interest and penalty on the tax debt, and a 2-year interest free period in which to repay the remaining tax shortfall (in most circumstances this offer halved taxpayers' original debt). Taxpayers were given two months to decide whether they would take up the offer, after which time, full penalties and interest would be reapplied. The Tax Office later extended the offer for an extra three weeks so that taxpayers could take into account the outcome of two court cases that ruled in favour of the Tax Office. After four years of active resistance, 87 per cent of all investors finally agreeing to settle their debt (Australian Taxation Office, 2002b).

### *Hypotheses*

The purpose of this study was to compare the threat process experienced by two groups of taxpayers: (a) those caught up in mass marketed tax avoidance schemes (investor group);

and (b) those who had never been in conflict with the tax authority over the amount of tax they had to pay (conflict-free group). Two basic propositions derived from the ROAM model of taxation threat are to be tested.

First, all three threat mentalities should be stronger for the scheme investors than for the conflict-free group. The justification for this set of hypotheses is that the act of paying tax creates a degree of internal conflict for an individual. The conflict involves taking on board the tax authority's expectations of compliance, and at the same time, acting in a way that preserves personal self-worth. If taxpaying is 'automated,' handled by a tax professional and trouble-free, taxpayers will experience minimal, baseline taxation conflict. The conflict is likely to be elevated and made more salient when the tax authority informs taxpayers that they have not been paying their fair share and must pay more.

When the mentality of *regulation through self* comes into play, the conflict is played out in the domain of morality and ethical behaviour. Internal sanctions such as guilt and shame boost this narrative, as does the external sanctioning system of penalties issued by the tax authority. *Regulation through self* attaches self-worth to acting in a fashion that is consistent with the tax authority's wishes. Thus, we hypothesise that the investor group, in the middle of their conflict with the Tax Office, will be more strongly attracted to coping with the threat through *regulation through self* than the conflict-free group of taxpayers (Hypothesis 1).

When the mentality of *oppression* comes into operation, the conflict the individual experiences is in relation to aspirations for material well-being, both in absolute terms and in relative terms. To do what the tax authority requires is to sacrifice personal goals and forego rewards that individuals believe they deserve. If individuals are being pressured to pay their tax debts by the tax authority, as was the case with the scheme investors, we can hypothesise that the investor group will be more likely to experience the tax threat mentality of *oppression* than the conflict-free group of taxpayers (Hypothesis 2).

For the mentality of *autonomy*, the internal conflict involves rights, in this case the right to pay as little tax as is necessary under the law. When a tax authority challenges taxpayers

about the legality of their tax minimising efforts, it is more than likely that taxpayers will reaffirm their commitment to tax minimisation, even if at the same time they affirm commitment to honesty in their tax dealings. Thus, the investor group is expected to report greater autonomy from the tax authority in order to minimise tax than the conflict-free group of taxpayers, once commitment to honesty is controlled (Hypothesis 3).

The second proposition subject to empirical analysis is that all three threat mentalities will be related to motivational posturing in the investor group, just as they are in the general population (Braithwaite, forthcoming). Should the *regulation through self* mentality gain supremacy, taxpayers are expected to adopt a more cooperative posture. Should *oppression* gain supremacy, resistance is likely to become more visible. *Autonomy* is the mentality that enables taxpayers to practice dissociation. Because theoretically all three mentalities have relevance in both compliant and non-compliant populations, there is no reason to suppose that the process by which threat influences social distance and posturing in the general population cannot be generalised to the population of scheme investors. Thus, we hypothesise that within the investor group, *regulation through self* will be associated with greater cooperation and lower resistance (Hypothesis 4), *oppression* will be associated with lower cooperation and greater resistance (Hypothesis 5) and *autonomy* will be associated with increased dissociation (Hypothesis 6).

The threat mentalities can be helpful to tax authorities through encouraging a more cooperative relationship, or they can be damaging, creating social distance or rift in the form of resistance or dissociation. Should hypotheses 4 through 6 be supported, tax authorities have reason to feel concerned about creating more problems than they solve with their regulatory activities. Ideally, a tax authority, like any regulatory authority, would want to move the population systematically toward a *regulation through self* mentality and toward the posture of cooperation.

While the tax authority may be at a loss to find a blanket treatment that is likely to be effective in managing all threat mentalities, previous research suggests that authorities gain considerable advantage if they prioritise the delivery of procedural justice in their regulatory activities (Tyler, 1990, 1997). On the basis of past research with mass marketed

scheme investors, Murphy (2003a) has found that perceptions of the Tax Office implementing procedural justice can increase trust and reduce resistance. Perceptions of procedural justice, however, are not expected to dampen the supra-posture of dissociation, because those who have dissociated have placed themselves outside or beyond the reach of the system (Braithwaite, 2001a, 2004; Braithwaite, Reinhart & McCrae, 2004). The final hypothesis, therefore, is that taxpayers in the investor group, like those in the general population, will resist the authority less and cooperate more when they perceive the authority behaving in accordance with the principles of procedural justice, and specifically the *Taxpayers' Charter* (Hypothesis 7).

#### **IV. Research methodology**

##### *Method*

The sample for testing these hypotheses was drawn from three sources. The investor 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 the schemes were contacted by the Tax Office and invited to participate in the research. Of those contacted, 43% accepted the invitation, providing a sample of 2292 respondents.

The conflict-free group 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 2001-2 as part of *The Australian Tax System - Fair or Not Survey*. This second survey involved a follow-up of the participants surveyed in 2000, along with a new random sample. Conflict-free taxpayers were drawn from the original data set and the new random sample. The conflict-free group had indicated in their survey responses that they had not been involved in any kind of conflict nor had they any outstanding debt with the Tax Office at the time the survey was conducted. From the general population surveys, 2605 respondents were selected for further analysis.

Clearly, in the conflict-free group we are relying on the honesty of respondents. While we have no way of verifying the truthfulness of these responses, it is of note that the

percentages involved in various kinds of tax offences, such as not filing a tax return, were of the order expected from best available knowledge (see Mearns & Braithwaite, 2001 for a detailed discussion of the representativeness of the sample and data quality).

### *Measures*

The measures used to test the hypotheses regarding the differences between the conflict-free group and the investor group were single questions and multi-item scales common to all three surveys. They have been described in detail elsewhere (see Braithwaite, 2001b; Braithwaite et al., 2001), and therefore are outlined only briefly below.

*Resistance-cooperation* was measured through aggregating responses to 19 items which covered the three motivational posture scales of resistance (sample item: It's important not to let the Tax Office push you around), capitulation (sample item: If you cooperate with the Tax Office, they are likely to be cooperative with you (reverse scored)), and commitment (sample item: Overall I pay my tax with good will (reverse scored)). Respondents rated each item on a 5 point strongly disagree to strongly agree rating scale. The alpha reliability coefficient based on the scales making up *resistance-cooperation* was 0.55.

*Dissociation* was measured through aggregating responses to 10 items comprising the motivational posture scales of disengagement (sample item: If I find out that I am not doing what the Tax Office wants, I am not going to lose any sleep over it) and game playing (sample item: I like the game of finding the grey area of tax law). Each item was rated on a 1 (strongly disagree) to 5 (strongly agree) rating scale. The alpha reliability coefficient based on the scales making up *dissociation* was 0.54.

The index for assessing *regulation through self* was made up of five measures: (a) a four item scale representing an ethical taxpaying norm (sample item: Do you think it is acceptable to overstate tax deductions?); (b) a three item scale representing disapproval of tax cheating (sample item: If you found out an acquaintance was working for cash in hand payments, how likely is it that you would think it was wrong?) (c) a two item scale representing willingness to confront tax cheating (sample item: 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?); (d) two scenarios X a nine item scale of shame acknowledgment (sample item: If you were caught and fined for not declaring cash income or over claiming deductions, would you feel guilty?); and (e) two scenarios X a nine item deterrence measure comprising the product term of likelihood of getting caught X likelihood of various sanctions X severity of problem associated with various sanctions. The alpha reliability coefficient for these five measures was 0.70.

The index for *oppression* comprised four measures: (a) a three item scale representing being economically deprived (sample item: Paying tax means I just can't get ahead); (b) a single item on the degree to which the respondent paid more than (or less than) their fair share; (c) a two item scale about receiving unfavourable Tax Office decisions (sample item: How often are the decisions of the Tax Office favourable to you? (reverse scored)); and (d) two scenarios X a four item scale of shame displacement (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?). The alpha reliability coefficient for these four measures was 0.61

The index for *autonomy* comprised three measures: (a) a single item measure of the effort put into minimising tax; (b) a single item measure of doing tax in different ways for the most tax effective outcome; and (c) a three item scale representing having an effective professional tax minimiser (sample item: My tax agent helps me interpret ambiguous or grey areas of the tax law in my favour). The alpha reliability coefficient for these three measures was 0.58.

*The procedural justice* index was formed through combining four measures. The Australian Taxpayers' Charter comprises 12 standards that set out taxpayer rights with regard to administrative procedures. Previous work has demonstrated that through summing the ratings that the taxpayer has given to the Tax Office on these standards, we obtain a good measure of success in delivering procedural justice (Braithwaite & Reinhart, 2000). In addition, three other procedural justice scales were included in the overall index because of their specific relevance to regulating responsively and in a socially inclusive

manner: (a) consultation with the taxpaying community; (b) treating taxpayers as trustworthy; and (c) treating taxpayers with respect. The alpha reliability coefficient for these four measures was 0.88.

### *Results*

First, the six independent variables comprising the supra-postures of resistance-cooperation and dissociation, the ROAM taxation threat variables (regulation through self, oppression and autonomy), and procedural justice were correlated with the dichotomous variable – whether the respondent belonged to the conflict-free group (baseline threat) or the investor group (heightened threat), using point-biserial correlation coefficients. These are presented in the second column of Table 1.

**Table 1: Point-biserial correlation coefficients and B coefficients from a logistic regression analysis predicting membership in conflict-free (0) or amended assessment (1) tax groups from supra-postures, ROAM, and procedural justice**

Predictor	Point-biserial correlation	B coefficient
Resistance	0.39***	0.76***
Dissociation	-0.30***	-1.61***
Regulation through self	0.06***	0.39***
Oppression	0.32***	0.18*
Autonomy	0.00	0.29***
Procedural justice	-0.53***	-1.34***
Nagelkerke R <sup>2</sup>		0.46
% correctly classified		77%

\*  $p < 0.05$  \*\*\*  $p < 0.001$

Next, a logistic regression analysis was carried out predicting group membership (0 = conflict-free, 1 = investor) from the six independent variables. This analysis offered two advantages over the bivariate point-biserial coefficients. First, because of known differences in motivational posturing between the conflict-free and investor groups, it was important to control for these variables before testing the hypotheses relating to heightened ROAM responses in the investor group. Second, and more generally, this analysis allowed us to find out if each of the variables was useful in predicting membership in its own right.

For instance, it was conceivable that when we took out the known effects of resistance, dissociation and procedural justice, the threat variables would not be important at all. This would mean that while they still may have been part of people's narratives about their dealings with the Tax Office, they were not adding any special insights into the analysis of difference between the groups.

The findings of this analysis are presented in Table 1. From the column of B coefficients, we see that all six variables have a significant part to play in distinguishing the conflict-free and investor groups and that these significant effects are in the expected direction. In accordance with the threat hypotheses, the investor group displays the three threat mentalities to a greater degree than the conflict-free group. The logistic regression analysis shows that when taxpayers come under the scrutiny of the tax authority and are given amended assessments involving the payment of more tax, interest and penalties, they resist more and cooperate less, they dissociate less because they have experienced first hand the power that the tax authority has over them, they claim greater capacity to regulate through the self, to feel oppressed by taxation and to express autonomy in managing tax matters, and they feel they have been treated with less procedural justice.

Their heightened threat responses, their different motivational postures and their different perceptions of procedural justice indicate a set of sensibilities that make the mass marketed tax avoidance scheme investors a volatile group of taxpayers to manage. The next question is whether threat mentalities are related to motivational postures in the same way as they are among the general population, and if procedural justice counters the damage of threat mentalities to the relationship between taxpayers and the tax authority.

**Table 2: Predicting resistance from control, ROAM and procedural justice variables for the amended tax assessment group (in brackets, the conflict-free group)**

Predictor	Resistance	
	correlation	beta coefficient
Dissociation	0.19*** (0.28***)	0.15*** (0.15***)
Regulation through self	-0.18*** (-0.40***)	-0.10*** (-0.16***)
Oppression	0.51*** (0.51***)	0.22*** (0.19***)
Autonomy	0.06*** (0.13***)	0.04* (0.04**)
Procedural justice	-0.67*** (-0.72***)	-0.58*** (-0.57***)
$R^2$		0.55*** (0.61***)

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

**Table 3: Predicting dissociation from control, ROAM and procedural justice variables for the amended tax assessment group (in brackets, the conflict-free group)**

Predictor	Dissociation	
	beta correlation	beta coefficient
Resistance	0.19*** (0.28***)	0.27*** (0.31***)
Regulation through self	-0.28*** (-0.26***)	-0.18*** (-0.17***)
Oppression	0.11*** (0.15***)	0.08*** (0.03)
Autonomy	0.33*** (0.26***)	0.27*** (0.21***)
Procedural justice	0.05** (-0.10***)	0.25*** (0.20***)
$R^2$		0.21*** (0.17***)

\*\*  $p < 0.01$  \*\*\*  $p < 0.001$

Tables 2 and 3 present the results of two ordinary least squares multiple regression analyses, the first predicting resistance-cooperation (Table 2), the second predicting dissociation (Table 3). In predicting resistance, dissociation is used as a control variable, and vice versa for the prediction of dissociation. The reason for taking this step is that the two supra-postures are not entirely independent of each other, and by using one as a control in the prediction of the other, we remove the common variance that can ‘muddy’ the results.

The investor sample is used for the main analysis, but in brackets are the corresponding coefficients for the conflict-free group. A comparison reveals that the relationships among the threat mentalities, procedural justice and the motivational postures are comparable for the two groups of taxpayers. The following description of results focuses on the primary

group of interest in this analysis, taxpayers belonging to the mass marketed tax avoidance scheme sample (the investor group).

All predictors of the supra-posture of resistance (versus cooperation) are significant (Column 3, Table 2). Resistance is more pronounced when taxpayers have dissociated from the tax system and when they see little procedural justice being offered by the tax authority. Above and beyond these predictors, we see evidence of the tax threat mentalities accounting for location along the resistance-cooperation dimension. Oppression brings greater resistance. Even autonomy has a slight relationship with resistance. Regulation through self works in the opposite direction, bringing higher levels of cooperation.

All predictors of the supra-posture of dissociation are also significant (Column 3, Table 3). Dissociation is higher when resistance is high, when oppression and autonomy are high, and when regulation through self is low. Oppression was expected to be strongly related to resistance, and less so to dissociation. The findings are consistent with this prediction. The most surprising finding was that when taxpayers see the tax authority carrying out its operations in accordance with principles of procedural justice, dissociation is high. Procedural justice was hypothesised as being irrelevant to dissociation, not positively related to dissociation. The most likely explanation is that in the world of those who have dissociated and who see the authority as having no control or power over them, either morally or legally, procedural justice is perceived by regulatees as a sign of weakness and of an authority that does not know what else it can do. Alternatively, in the case of the scheme investors, the Tax Office may have been seen as going through the motions, engaging in impression management rather than genuinely respectful treatment of taxpayers. Investor outrage at this pretence may have caused them to dissociate even more. Further research is required to put these speculative interpretations to the test.

The regression analyses show that the threat mentality of regulation through self is the most important lever that a tax authority has at its disposal to improve its relations with its regulatory community. Regulation through self, it will be recalled, brings together high personal taxpaying ethics, awareness of external punishment that can be used against those who break the law, an internalised conscience of guilt-shame should a person become a

law breaker, and disapproval of those who shirk their taxpaying responsibilities. The synergy of these factors has been recognised previously in the tax domain (Grasmick & Bursik), and their importance is captured by Frey and his colleagues through the term, tax morale (Frey & Feld, 2002).

The reasons why a tax authority should value regulation through self above all else are twofold. Regulation through self builds firstly cooperation, and second, it undermines dissociation. This is not meant to downplay the importance of procedural justice, which clearly is associated with lower resistance and greater cooperation. But procedural justice will not help a tax authority that is battling problems of dissociation. To put it another way, how individuals are treated carries less sway when they doubt the legitimacy of the authority and what it has to offer (Braithwaite, 2004).

The remaining findings from the logistic regression and the ordinary least squares regression analyses demonstrate the ways in which elevated threat mentalities make a tax authority's job harder. Oppression is a tax mentality that increases both resistance and dissociation. Similarly, asserting autonomy through using tax effective strategies presents problems for tax administrations, most notably in the area of dissociation. Oppression and autonomy are not helpful threat mentalities from the tax authority's perspective, and yet they are likely to increase for some of the people some of the time, when a tax authority takes its enforcement responsibilities seriously. The outcome of heightened oppression and autonomy is inevitable, alongside heightened regulation through self.

## **V. Conclusions**

Through integrating the findings of this paper we have an opportunity for better appreciating the place of responsive regulation in the domain of taxation compliance. The task of integration reveals the complexity of the enforcement challenge for regulators. When a tax authority shows interest in taking action against a group of taxpayers, all threat responses are heightened, those that are desirable for effective regulation (regulation through self) and those that are undesirable (oppression and autonomy).

Yet, the observant, cost-effective tax administrator will be quick to point out that the data suggest that on average, the tax authority has done a reasonable job in managing its mass marketed tax avoidance schemes controversy. Overall, dissociation for the investor group is lower than for the conflict-free group, and this is surely a consequence of their being the focus of Tax Office attention. (This is based on what we think is a reasonable assumption, that investor taxpayers would not be less dissociated than the general population before the controversy started (see Braithwaite, Reinhart & McCrae, 2004).) What is more, higher resistance among investors is to be expected. Regulators regularly encounter resistance and a considerable body of research has now accumulated showing that resistance can be managed reasonably effectively through procedural justice. So, from the perspective of the regulator, should we pay attention to threat mentalities and the complexities they introduce into the analysis?

The answer to this question is that we should, the reason being that regulatory efforts are designed not only to send a social message about what is appropriate today, but also to modify our actions in the future. It is comforting for a tax authority to know that their scheme investors are observing regulation through self and less dissociation, and also that regulation through self protects against dissociation and increases cooperation. But it is probably a mistake to hold the view that mass marketed scheme investors are more 'dutiful' by nature, and that they will espouse such dutifulness in the future. We think it is most likely that our legal institutions bring this mentality of conscience, fear and subservience to the fore. As one of our colleagues who is a tax barrister tells it: "They come to me and say, I am an honest man. And I say to them, 'I hope you will be from now on.'" The implication, of course, is that legal institutions bring out a regulation through self mentality and a law abiding identity. Once outside the reach of the law, however, other competing identities become salient and the narratives of oppression and autonomy resurface to shape our thinking.

If our analysis is valid - there needs to be substantially more effort directed toward testing these ideas in different contexts - the regulator's challenge is to strengthen a regulation through self mentality across time and place. The challenge can only be met through strategically linking persuasion and punishment. First and foremost, people need to be

convinced that they have broken the law and that it would be better for everyone if they were to do the right thing in the future. Interestingly, the mass marketed tax avoidance scheme investors did not think that they were in any way at fault in their conflict with the tax authority. Changing people's minds means dialogue, persuasion, perhaps even changing the law, and clear explication of the costs of acting outside the law. These are goals for intervention that are undertaken at the bottom of the regulatory pyramid. Threats that oppress or trigger a quest for greater autonomy are not helpful when the regulator's task is to create stronger commitment to paying tax.

The results of the analyses presented in this paper, however, are also a reminder that the above narrative does not apply to everyone. There is nothing neat and systematic in how people respond to threat. While the investor group as a whole may have scored lower on dissociation than the general population, there are bound to be high scorers among them, and there is the danger that all manner of persuasion will fail for some people and resistance will turn into dissociation. Continuing commitment to procedural justice will be part of the answer, but all problems cannot be solved at this level and to persist in relying solely on procedural justice is not going to be an effective management strategy. Processes offering procedural justice and dialogue need to be paired with enforcement action. In other words, escalation will be required up the regulatory pyramid to deal with some persistent cases of defiance.

All of this is to recognise that people's narratives about themselves are complex, and there is no blanket treatment from a regulator that can effectively cast these narratives out of existence. But narratives can be reconstructed (Maruna, 2001). Tax authorities would be wise to broaden their remit of law enforcement. They need to understand the narratives of their regulatory communities, put down their big sticks, roll up their sleeves and engage in dialogue about what tax law means and whose interests it serves.

## REFERENCES

- Allport, G. W. (1961). *Pattern and Growth in Personality*. New York: Holt, Rinehart & Winston.
- Antonovsky, A. (1979). *Health, Stress and Coping*. San Francisco: Jossey-Bass.
- Australian Taxation Office. (1997). *The Taxpayers' Charter*. Canberra: Australian Taxation Office, Australian Government.
- Australian Taxation Office. (2002a). *Taxation Statistics 1999-2000*. Canberra: Australian Taxation Office, Australian Government.
- Australian Taxation Office. (2002b). *87% of Mass marketed Scheme Investors Accept Tax Office Settlement Offer*. Canberra: Media Release-Nat 02/55, Australian Taxation Office, Australian Government.
- Ayres, I., & Braithwaite, J. (1992). *Responsive Regulation: Transcending the Deregulation Debate*. New York: Oxford University Press.
- Bardach, E., & Kagan, R. (1982). *Going by the Book: The Problem of Regulatory Unreasonableness*. Philadelphia: Temple University Press.
- Bentley, D. (Ed). (1998). *Taxpayers' Rights: An International Perspective*. Bond University: Revenue Law Journal.
- Black, J. (1998). Talking about regulation. *Public Law, Spring*, 77-105.
- Bogardus, E. S. (1928). *Immigration and Race Attitudes*. Boston: D.C. Heath and Company.

Braithwaite, J. (1985). *To Punish or Persuade: Enforcement of Coal Mining Safety*. Albany: State University of New York Press.

Braithwaite, J. (1989). *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford and New York: Oxford University Press.

Braithwaite, J. (2005). *Markets in Vice, Markets in Virtue*. New York: Federation Press, Sydney and Oxford University Press.

Braithwaite, J., & Pettit, P. (1990). *Not Just Deserts: A Republican Theory of Criminal Justice*. Oxford: Oxford University Press.

Braithwaite, V. (1995). Games of engagement: Postures within the regulatory community. *Law and Policy*, 17(3), 225-55.

Braithwaite, V. (2001a). *Tensions between the citizen taxpaying role and compliance practices*. Centre for Tax System Integrity Working Paper 13. Canberra: Australian National University.

Braithwaite, V. (2001b). *The Community Hopes, Fears and Actions Survey: Goals and Measures*. Centre for Tax System Integrity Working Paper 2. Canberra: Australian National University.

Braithwaite, V. (2003). Tax system integrity and compliance: The democratic management of the tax system. In V. Braithwaite (Ed.), *Taxing Democracy: Understanding Tax Avoidance and Evasion*. Aldershot: Ashgate.

Braithwaite, V. (2004). The hope process and social inclusion. *The Annals of the American Academy of Political and Social Science*, 592, 128-151.

Braithwaite, V., Braithwaite, J., Gibson, D., & Makkai, T. (1994). Regulatory styles, motivational postures and nursing home compliance. *Law and Policy*, 16(4), 363-394.

Braithwaite, V., & Reinhart, M. (2000). *The Taxpayers' Charter: Does the Australian Tax Office comply and who benefits?* Centre for Tax System Integrity Working Paper 1. Canberra: Australian National University.

Braithwaite, V., Reinhart, M., & McCrae, J. (2004). Game Playing with Tax Law: Research Note 8, Centre For Tax System Integrity, The Australian National University. <http://ctsi.anu.edu.au/publications/researchnotes.html>.

Braithwaite, V., Reinhart, M., Mearns, M., & Graham, R. (2001). *Preliminary findings from the Community Hopes, Fears and Actions Survey*. Centre for Tax System Integrity Working Paper 3. Canberra: Australian National University.

Brehm, S. S., & Brehm, J. W. (1981). *Psychological Reactance: A Theory of Freedom and Control*. New York: Academic Press.

Carver, C. S., & Scheier, M. F. (1998). *On the Self-regulation of Behaviour*. Cambridge: Cambridge University Press.

Center for Tax Policy and Administration. (2001). *General Administrative Principles: GAP002 Taxpayer Rights and Obligations*. OECD Tax Guidance Series.

Committee of Fiscal Affairs, OECD. (1990). *Taxpayers' rights and obligations – a survey of the legal situation in OECD countries*. Paris: Organisation for Economic and Cooperative Development.

Commonwealth Ombudsman. (1999). *The ATO and Budplan: Report of the Investigation into the Australian Taxation Office's Handling of Claims for Tax Deductions by Investors in a Tax-effective Financing Scheme known as Budplan*. Canberra: Commonwealth Ombudsman Office.

Dryzek, J. S. (1990). *Discursive Democracy: Politics, Policy and Political Science*. Cambridge: Cambridge University Press.

Frey, B. S., & Feld, L. P. (2002). Deterrence and morale in taxation: An empirical analysis. *CESifo Working Paper No. 760*.

Grabosky, P., & Braithwaite, J. (1986). *Of Manners Gentle: Enforcement Strategies of Australian Business Regulatory Agencies*. Melbourne: Oxford University Press.

Grasmick, H. G., & Bursik, R. J. (1990). Conscience, significant others, and rational choice: Extending the deterrence model. *Law & Society Review, 24*, 837-861.

IRS Customer Service Task Force. (1997). *Report on the IRS: Reinvention, Recourse, Rights, Reform*. Washington DC: IRS Customer Service Task Force.

Joint Committee of Public Accounts. (1993). *An Assessment of Tax: A Report on an Enquiry into the Australian Taxation Office*. JCPA Report No 326. Canberra: Australian Government Publishing Service.

Kagan, R., & Scholz, J. T. (1984). The criminology of the corporation and regulatory enforcement strategies. In K. Hawkins, & J. Thomas (Eds.), *Enforcing Regulation*. Boston: Kluwer-Nijhoff.

Kirchler, E. (1998). Differential representations of taxes: Analysis of free associations and judgments of five employment groups. *Journal of Socio-Economics, 27*, 117-131.

Kirchler, E. (1999). Reactance to taxation: Employers' attitudes towards taxes. *Journal of Socio-Economics, 28*, 131-138.

Lazarus, R., & Folkman, S. (1984). *Stress, Appraisal and Coping*. New York: Springer Publishing Company.

Maruna, S. (2001). *Making Good: How Ex-convicts Reform and Rebuild their Lives*. Washington, DC: American Psychological Association.

McBarnet, D. (2003). When compliance is not the solution but the problem: from changes in law to changes in attitude. In V. Braithwaite (Ed.), *Taxing Democracy: Understanding Tax Avoidance and Evasion*. Aldershot: Ashgate.

McDougall, W. (1926). *An Introduction to Social Psychology*. Boston: John W. Luce.

Mearns, M., & Braithwaite, V. (2001). *The Community Hopes, Fears and Actions Survey: Survey method, sample representativeness and data quality*. Centre for Tax System Integrity Working Paper 4. Canberra: Australian National University.

Murphy, K. (2003a). Procedural justice and tax compliance. *Australian Journal of Social Issues*, 38(3), 379-408.

Murphy, K. (2003b). An examination of taxpayers' attitudes towards the Australian tax system: Findings from a survey of tax scheme investors. *Australian Tax Forum*, 18(2), 209-242.

Murphy, K. (2004a). The role of trust in nurturing compliance: A study of accused tax avoiders. *Law and Human Behavior*, 28(2), 187-209.

Murphy, K. (2004b). *Regulating Effectively: The Relationship between Procedural Justice, Legitimacy and Non-compliance*. The Annual Governance Network and Regulatory Institutions Network Conference, Australian National University, December 6-8.

Murphy, K., & Byng, K. (2002). *A User's Guide to 'The Australian Tax System Survey of Tax Scheme Investors'*. Centre for Tax System Integrity Working Paper 39. Canberra: Australian National University.

National Commission on Restructuring the Internal Revenue Service. (1997). *A Vision for a New IRS*. Washington DC: National Commission on Restructuring the Internal Revenue Service.

Office of Public Affairs. (2002). *Treasury Releases First in Series of Tax Simplification Proposals (Single Definition of Child) PO-2088*. Washington, DC: The Department of the Treasury. <http://www.ustreas.gov/press/releases/po2088.htm>.

Parker, C., & Braithwaite, J. (2003). Regulation. In P. Cane, & M. Tushnet (Eds.), *The Oxford Handbook of Legal Studies*. Oxford: Oxford University Press.

Pearlin, L. I., & Schooler, C. (1978). The Structure of Coping. *Journal of Health and Social Behavior*, 19, 2-21.

Sakurai, Y., & Braithwaite, V. (2003). Taxpayers' perceptions of practitioners: Finding one who is effective and does the right thing? *Journal of Business Ethics*, 46, 375-387.

Senate Economics References Committee. (2002). *Inquiry into Mass Marketed Tax Effective Schemes and Investor Protection: Final Report*. Canberra: Parliament of Australia.

Sherman, L. W. (1993). Defiance, deterrence and irrelevance: A theory of the criminal sanction. *Journal of Research in Crime and Delinquency*, 30, 445-473.

Taylor, N. (2003). Understanding taxpayer attitudes through understanding taxpayer identities. In V. Braithwaite (Ed.), *Taxing Democracy: Understanding Tax Avoidance and Evasion*. Aldershot: Ashgate.

Taylor, N., & McGarty, C. (2001). The role of subjective group memberships and perceptions of power in industrial conflict. *Journal of Community and Applied Social Psychology*, 11, 389-393.

Tyler, T. (1990). *Why People Obey the Law: Procedural Justice, Legitimacy and Compliance*. New Haven: Yale University Press.

Tyler, T. (1997). The psychology of legitimacy: A relational perspective on voluntary deference to authorities. *Personality and Social Psychology Review*, 1, 323–345.

Williams, R. (2001). *Prosecuting non-lodgers: to persuade or punish?* Centre for Tax System Integrity Working Paper 12. Canberra: Australian National University.

**THE CENTRE FOR TAX SYSTEM INTEGRITY  
WORKING PAPERS**

- No. 1. Braithwaite, V., & Reinhart, M. *The Taxpayers' Charter: Does the Australian Taxation Office comply and who benefits?* December 2000.
- No. 2. Braithwaite, V. *The Community Hopes, Fears and Actions Survey: Goals and Measures.* March 2001.
- No. 3. Braithwaite, V., Reinhart, M., Mearns, M., & Graham, R. *Preliminary findings from the Community Hopes, Fears and Actions Survey.* April 2001.
- No. 4. Mearns, M., & Braithwaite, V. *The Community Hopes, Fears and Actions Survey: Survey method, sample representativeness and data quality.* April 2001.
- No. 5. Sakurai, Y., & Braithwaite, V. *Taxpayers' perceptions of the ideal tax adviser: Playing safe or saving dollars?* May 2001.
- No. 6. Wenzel, M. *The impact of outcome orientation and justice concerns on tax compliance: The role of taxpayers' identity.* June 2001.
- No. 7. Wenzel, M. *Misperceptions of social norms about tax compliance (1): A prestudy.* June 2001.
- No. 8. Wenzel, M. *Misperceptions of social norms about tax compliance (2): A field-experiment.* June 2001.
- No. 9. Taylor, N. *Taxpayers who complain about paying tax: What differentiates those who complain from those who don't?* June 2001.
- No. 10. Wenzel, M. *Principles of procedural fairness in reminder letters and awareness of entitlements: A prestudy.* June 2001.
- No. 11. Taylor, N., & Wenzel, M. *The effects of different letter styles on reported rental income and rental deductions: An experimental approach.* July 2001.
- No. 12. Williams, R. *Prosecuting non-lodgers: To persuade or punish?* July 2001.
- No. 13. Braithwaite, V. *Tensions between the citizen taxpaying role and compliance practices.* July 2001.
- No. 14. Taylor, N. *Understanding taxpayer attitudes through understanding taxpayer identities.* July 2001.
- No. 15. Shover, N., Job, J., & Carroll, A. *Organisational capacity for responsive regulation.* August 2001.

- No. 16. Tyler, T. R. *Trust and law-abidingness: A proactive model of social regulation*. August 2001.
- No. 17. Genser, B. *Corporate income taxation in the European Union: Current state and perspectives*. August 2001.
- No. 18. McBarnet, D. *When compliance is not the solution but the problem: From changes in law to changes in attitude*. August 2001.
- No. 19. Schneider, F., Braithwaite, V., & Reinhart, M. *Individual behaviour in Australia's shadow economy: Facts, empirical findings and some mysteries*. September 2001.
- No. 20. Taylor, N., & Wenzel, M. *Assessing the effects of rental property schedules: A comparison between self-prepared tax returns lodged via paper and e-tax*. March 2004. (A version of this paper appears as 'Comparing rental income and rental deductions for electronic versus paper lodgers: A follow-up investigation'. Working Paper No. 20, 2001).
- No. 21. Braithwaite, J. *Through the eyes of the advisers: A fresh look at tax compliance of high wealth individuals*. September 2001.
- No. 22. Braithwaite, J., Pittelkow, Y., & Williams, R. *Tax compliance by the very wealthy: Red flags of risk*. September 2001.
- No. 23. Braithwaite, J., & Williams, R. *Meta risk management and tax system integrity*. October 2001.
- No. 24. Braithwaite, J., & Wirth, A. *Towards a framework for large business tax compliance*. November 2001.
- No. 25. Murphy, K., & Sakurai, Y. *Aggressive Tax Planning: Differentiating those playing the game from those who don't?* October 2001.
- No. 26. Morgan, S., & Murphy, K. *The 'Other Nation': Understanding rural taxpayers' attitudes toward the Australian tax system*. December 2001.
- No. 27. Ahmed, E., & Sakurai, Y. *Small business individuals: What do we know and what do we need to know?* December 2001.
- No. 28. Hobson, K. *Championing the compliance model: From common sense to common action*. December 2001.
- No. 29. Savage, M. *Small Business rural taxpayers and their agents: Has tax reform affected their relationship?* November 2004.

- No. 30. Job, J., & Honaker, D. *Short-term experience with responsive regulation in the Australian Taxation Office*. May 2002.
- No. 31. Frey, B. *A constitution for knaves crowds out civic virtues*. June 2002.
- No. 32. Feld, L., & Frey, B. *Trust breeds trust: How taxpayers are treated*. June 2002.
- No. 33. Wenzel, M. *An analysis of norm processes in tax compliance*. July 2002.
- No. 34. Wenzel, M. *The social side of sanctions: Personal and social norms as moderators of deterrence*. October 2002.
- No. 35. Murphy, K. *Procedural justice and the Australian Taxation Office: A study of tax scheme investors*. October 2002.
- No. 36. Hobson, K. *Financing Australia: A 'post-modern' approach to tax compliance and tax research*. August 2002.
- No. 37. Hobson, K. *'Say no to the ATO': The cultural politics of protest against the Australian Tax Office*. December 2002.
- No. 38. Wenzel, M. *Altering norm perceptions to increase tax compliance*. December 2002.
- No. 39. Murphy, K., & Byng, K. *A User's Guide to 'The Australian Tax System Survey of Tax Scheme Investors'*. December 2002.
- No. 40. Murphy, K., & Byng, K. *Preliminary findings from 'The Australian Tax System Survey of Tax Scheme Investors'*. December 2002.
- No. 41. Webley, P., Adams, C., & Elffers, H. *VAT compliance in the United Kingdom*. December 2002.
- No. 42. Wenzel, M. *Principles of procedural fairness in reminder letters: An experimental study*. December 2002.
- No. 43. Murphy, K. *'Trust me, I'm the taxman': The role of trust in nurturing compliance*. December 2002.
- No. 44. Braithwaite, J. *Making tax law more certain: A theory*. December 2002.
- No. 45. Murphy, K. *Moving towards a more effective model of regulatory enforcement in the Australian Taxation Office*. November 2004.

- No. 46. Murphy, K. *An examination of taxpayers' attitudes towards the Australian tax system: Findings from a survey of tax scheme investors*. November 2004.
- No. 47. Cooper, G., & Wenzel, M. *Does the Tax Value Method increase 'certainty' in dealing with tax? An experimental approach*. November 2004.
- No. 48. Geis, G. *Chop-chop: The illegal cigarette market in Australia*. January 2005.
- No. 49. Murphy, K. *The role of trust in nurturing compliance: A study of accused tax avoiders*. November 2004.
- No. 50. Murphy, K. *Procedural justice, shame and tax compliance*. November 2004.
- No. 51. Sakurai, Y. *Comparing cross-cultural regulatory styles and processes in dealing with transfer pricing*. November 2004.
- No. 52. Rawlings, G. *Cultural narratives of taxation and citizenship: Fairness, groups and globalisation*. February 2004.
- No. 53. Job, J., & Reinhart, M. *Trusting the Tax Office: Does Putnam's thesis relate to tax?* February 2004.
- No. 54. Braithwaite, V. *Perceptions of who's not paying their fair share*. February 2004.
- No. 55. Geis, G., Cartwright, S., & Houston, J. *Public wealth, public health, and private stealth: Australia's black market in cigarettes*. February 2004.
- No. 56. Murphy, K. *Procedural justice and tax compliance*. February 2004.
- No. 57. Wenzel, M., & Taylor, N. *Toward evidence-based tax administration*. February 2004.
- No. 58. Torgler, B., & Murphy, K. *Tax morale in Australia: What shapes it and has it changed over time?* January 2005.
- No. 59. Wenzel, M., Murphy, K., Ahmed, E., & Mearns, M. *Preliminary findings from 'The what's fair and what's unfair survey about justice issues in the Australian tax context'*. April 2004.
- No. 60. Rawlings, G. *Offshore Finance Centres: Institutions of global capital and sites of cultural practice*. January 2005.

- No. 61. Rawlings, G. *English laws and global money markets: The rise of the Vanuatu tax haven*. January 2005.
- No. 62. James, S., Murphy, K., & Reinhart, M. *The Taxpayers' Charter: A case study in tax administration*. February 2005.
- No. 63. Wenzel, M. *Motivation or rationalisation? Causal relations between ethics, norms and tax compliance*. May 2005.
- No. 64. Wenzel, M., & Jobling, P. *Legitimacy of regulatory authorities as a function of inclusive identification and power over ingroups and outgroups*. May 2005.
- No. 65. James, S., Murphy, K., & Reinhart, M. *The Citizen's Charter: How such initiatives might be more effective*. May 2005.
- No. 66. Ahmed, E. *Preliminary findings from the Graduates' Hopes, Visions and Actions (GHVA) Survey*. May 2005.
- No. 67. Ahmed, E., & Braithwaite, V. *When tax collectors become collectors for child support and student loans: Jeopardizing the revenue base?* May 2005.
- No. 68. Braithwaite, V., & Ahmed. *A threat to tax morale: The case of Australian higher education policy*. May 2005.
- No. 69. Ahmed, E., & Braithwaite, V. *Emotionally intelligent tax policy: The case of higher education funding*. May 2005.
- No. 70. Braithwaite, V. *Are taxpayers' charters 'seducers' or 'protectors' of public interest? Australia's experience*. June 2005.
- No. 71. Murphy, K. *Regulating more effectively: The relationship between procedural justice, legitimacy and tax non-compliance*. June 2005.
- No. 72. Braithwaite, V., Murphy, K., & Reinhart, M. *The threat of taxation: Management by responsive regulation*. June 2005.