

Chapter 2

Dancing with Tax Authorities: Motivational Postures and Non-compliant Actions

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The management of tax systems is a complex business and is likely to become increasingly so in the 21st century as they are forced to adjust to the changes accompanying globalisation. The popular stereotype of the ‘taxman’ collecting the revenue through the process of detecting non-compliance and imposing penalties provides a simplistic account of the realities of modern tax administration (see Tomkins, Packman, Russell and Colville, 2001). As tax systems are adjusted, the community needs to be educated, persuaded and encouraged to cooperate, long after the vote is cast at the ballot box. Added to this process is the universal problem of tax law, unable to respond adequately to the increasing pressures put on the tax system through the increasingly common practice of tax avoidance. What the law can not fix, tax administration must at least contain until the law catches up to close the offending loopholes, a never ending process since each piece of legislation brings new opportunities for avoidance (see McBarnet, Chapter 11, this volume). Containing problems of tax avoidance, checking problems of tax evasion and convincing the public that tax reforms are for the public good require a conception of taxpayers that is multidimensional and dynamic, but at the same time leaves taxpayers in no doubt about the integrity of the tax administration as a whole. This chapter provides a foundation for this new conception of the taxpayer through drawing a distinction between cooperation (or consent to being regulated) and compliance related actions. This distinction is not only critical to implementing responsive regulation, but also reflects the current state of taxpayer behaviour. This chapter reveals that those who resist most vocally, who challenge tax authority decisions and are openly critical of the institution, are not discernibly more non-compliant as a group than taxpayers who choose other ways of engaging with the system. As resisters exercise their democratic rights, they provide valuable feedback for tax administrations grappling with unprecedented pressures on their systems of revenue collection.

Theoretical Background

As tax authorities approach communities to explain tax obligations and encourage, or indeed, enforce compliance, taxpayers are equally active, practicing their own responsiveness to the authority in ways that meet their own needs and interests (Bardach and Kagan, 1982; McBarnet, Chapter 11, this volume). The regulated are not powerless when faced with authority. They may cooperate or they may withdraw, they may practice defiance, or find ways of sidestepping the issue (Kelman, 1961). And what they do is not unrelated to what the authority does to them (Braithwaite, Braithwaite, Gibson and Makkai, 1994; Tyler, 1990). Community responsiveness to a tax system and tax authority is multidimensional, changeable, and has as much to do with social relationships as with technical and administrative procedures. This observation is not new, but it has only recently begun to resonate through the tax literature (Schmölders, 1970; Smith and Stalans, 1991; Alm, Sanchez and de Juan, 1995; Cullis and Lewis, 1997).

Community responsiveness is defined as the evaluation that individuals or groups make of the tax authority in their community, as well as the actions that taxpayers take in response to the expectations of this authority.¹ In this chapter, two fundamental dimensions of community responsiveness are examined, the first being attitudinal and broad in conception, the second, by contrast, being behavioural and specific. These dimensions translate directly onto the ATO Compliance Model (see Figure 1.1 in Chapter 1). The broad attitudinal kind of responsiveness measured in this chapter is represented by motivational postures. Motivational postures describe the stance of taxpayers that must be managed when a tax authority seeks to change or wants an explanation for taxpaying behaviour.

Compliance related behaviours are different from motivational postures. The behavioural responses of taxpayers that are noticed most keenly by tax authorities are those that are illegal or involve aggressive tax minimisation. Specific actions that signal non-compliance, particularly when undertaken by substantial numbers of taxpayers, provide a trigger for the use of the Compliance Model for management purposes. The taxpaying behaviours that are singled out in this chapter for analysis are those that are traditionally regarded as relevant to compliance: failure to declare income on a tax return, participation in the shadow economy, false declaration of deductions, failure to file a tax return or pay a tax debt, and involvement in tax avoidance (Webley, Robben, Elffers and Helsing, 1991; Kinsey and Grasmick, 1993; Wallschutzky, 1996; Alm, 1999; Schneider and Enste, 2000).

The conceptualisation of attitude and behaviour as separate dimensions of community responsiveness is in keeping with empirical findings in the area of tax compliance, but departs from the expectation of consistency theorists that attitudes and behaviour should be related.² The gap between attitude and action extends beyond the taxation context. The criminological literature is rich in accounts of how people do not always obey the law, even when they believe in it. Consistency

of thought and action implies a rationality and thoughtfulness that does not always occur in the behaviour of individuals in everyday life (Massey, 2002). Many reasons have been given to explain lack of correspondence between attitudes and behaviour. Circumstances may provide opportunities for non-compliance that tempt us to do things we would not normally do (Carver and Scheier, 1998), or circumstances may present barriers to compliance that make us give up trying to do what is expected (Bandura, 1986). Human actions are not always premeditated. Often they are driven by emotion (Massey, 2002), or by habit (Kuhl and Fuhrmann, 1998). And sometimes, those who act do so with a very inadequate understanding of what the situation demands (Bandura, 1986). In the taxation context, law is complex, changing and ambiguous, and can be broken unintentionally as well as intentionally (James, Lewis and Allison, 1987; Smith and Kinsey, 1987; Long and Swingen, 1988; Coleman and Freeman, 1997).

The second reason for why responsiveness of the broad attitudinal kind needs to be distinguished from responsiveness of the specific behavioural kind is largely methodological (Fishbein and Ajzen, 1974; Epstein, 1983). In order for attitude and action to be consistent, specific attitudes must be paired with specific actions, general attitudes with general actions. The reasoning behind these assertions is that any single act is shaped by multiple factors, and that any small change in context can be a factor that changes specific behaviour. Thus, to predict a specific act, one needs to measure perceptions and attitudes relating to context as well as to the object of interest (see Ajzen, 1991, for an account of how this argument has developed over the years). Attitude measures that are not context sensitive, such as motivational postures, therefore, can only be expected to be a marker of behaviour when we are considering general behaviour, or an amalgam of behaviours.

But the purpose of this chapter, and the regulatory challenge more broadly, is not to find ways to match attitudinal and behavioural measures to extend or modify consistency theories, but rather to move to a different level of analysis and theorise how these different concepts can be used to better manage tax system integrity. Thus, this chapter proceeds from the assumption that responsiveness can be conceptualised in terms of two dimensions, one broad and attitudinal, the other specific and behavioural. These two dimensions bear some relationship to each other as consistency theorists would expect, but in no sense can one be conceived as a proxy for the other. Evaluations of the tax authority of an attitudinal kind and obedience to the tax authority of a behavioural kind are being proposed as distinctly different aspects of the construct of community responsiveness.

Motivational Postures: Evaluating the Tax Authority

Motivational postures have been used in past research to capture the way regulatees position themselves in relation to regulatory authority (Braithwaite et al., 1994; Braithwaite, 1995). Authorities may have legal legitimacy, but this does not guarantee them psychological legitimacy. Individuals and groups evaluate authorities in terms of what they stand for and how they perform. As evaluations are made, revised, shared and accumulated over time, individuals and groups

develop positions in relation to the authority. A psychological concept that is central to positioning is social distance (Bogardus, 1928). Bogardus used this term to refer to the degree to which individuals (or groups) had positive feelings for other ethnic groups and ascribed status to other ethnic groups. In the regulatory context, social distance indicates liking and the ascription of status to the regulatory authority. When individuals and groups decide how much they want to associate or be aligned with an authority, and how much they want to be out of reach of and out of contact with the authority, they are indicating the social distance they wish to place between themselves and the authority.³

The distance placed between regulatee and regulator may be intuitive at first, but it does not remain that way for long. Individuals and groups articulate their beliefs, develop rationalisations for their feelings, and use values and ideologies to justify the ways they position themselves in relation to legally sanctioned authorities (Sykes and Matza, 1957; Rokeach, 1973; Thurman, St. John and Riggs, 1984; Griffin and Buehler, 1993; Bersoff, 1999). These interconnected sets of beliefs and attitudes are shared, borrowed, challenged, and elaborated upon even further as part of the social life of a community. The interconnected sets of beliefs and attitudes that are consciously held and openly shared with others are called motivational postures. Five motivational postures have been identified as important in the context of taxation compliance: (a) commitment, (b) capitulation, (c) resistance, (d) disengagement, and (e) game playing.

The two postures that reflect an overall positive orientation to authority are commitment and capitulation. The kinds of beliefs and attitudes that comprise these postures are represented in Table 2.1. Commitment reflects beliefs about the desirability of tax systems and feelings of moral obligation to act in the interest of the collective and pay one's tax with good will. Capitulation reflects acceptance of the tax office as the legitimate authority and the feeling that the tax office is a benign power as long as one acts properly and defers to its authority.

In contrast to these postures of deference, are three postures of defiance. The first is the familiar posture of resistance. Resistance reflects doubts about the intentions of the tax office to behave cooperatively and benignly towards those it dominates and provides the rhetoric for calling on taxpayers to be watchful, to fight for their rights, and to curb tax office power. Disengagement is also a motivational posture that communicates resistance, but here the disenchantment is more widespread, and individuals and groups have moved beyond seeing any point in challenging the authorities. The tax office and the tax system are beyond redemption for the disengaged citizen, the main objective being to keep both socially distant and blocked from view.

The fifth posture is game playing. Unlike the previous postures, game playing has not been examined in other regulatory contexts, emerging instead from discussions about posturing with tax officials and taxpayers. The behaviours previously have been described by social scientists working in fields involving economic regulation (McBarnet, 1992; McBarnet and Whelan, 1999). McBarnet (Chapter 11, this volume) sees game playing as a particular kind of attitude to law:

Law is seen as something to be moulded to suit one's purposes rather than as something to be respected as defining the limits of acceptable activity. Game playing was included as a motivational posture for the purposes of testing whether or not players consciously adopted this style of engagement with the tax system and the tax office.

Measuring Motivational Postures

In view of the features of motivational postures, the most convenient measuring procedure is a self-report questionnaire. The statements presented to individuals for their response were modelled on those that had been used successfully in other regulatory contexts. Additional statements were derived from open-ended discussions with people about the tax system and the tax office. In particular, the game playing posture was measured through collecting statements from people about their orientation to the tax system. In all, 29 statements were used to measure the five postures. The statements that were considered to be good indicators of each of the postures are listed in Table 2.1. A brief description of the motivational postures among a sample of Australian taxpayers will be provided shortly. First, the context for the collection of these data requires explanation.

The Community Hopes, Fears and Actions Survey

Between June and December, 2000, a national survey was conducted by the Centre for Tax System Integrity at the Australian National University (for details see Braithwaite, 2001; Braithwaite, Reinhart, Mearns and Graham, 2001). A stratified random sample of 7754 persons was selected from the publicly available electoral rolls. A lengthy questionnaire on tax matters was sent to each person who had been randomly selected, together with a letter explaining the intent of the study and a stamped addressed envelope for the return of the completed questionnaire. Two reminder cards were sent at two to three week intervals. After 5 weeks, a second questionnaire was posted to non-respondents, again followed by two reminder cards. (Details of the methodology of the survey are available in Mearns and Braithwaite, 2001.)

Completed returns of the survey were obtained from 29 per cent of the sample, providing 2040 cases for further analysis. This response rate, while low in absolute terms, compares favourably with rates reported for other tax surveys (Pope, Fayle and Chen, 1993; Wallschutzky, 1996; Kirchler, 1999; Webley, Adams and Elffers, 2002). Interestingly, the sample provided a relatively representative cross-section of the population with regard to sex, ethnicity, education, age, occupation, and marital status (see Mearns and Braithwaite, 2001). The biases that were detected were an over-representation of those in scribing occupations who would have been more comfortable with a detailed response-intense questionnaire, and an under-representation of younger age groups (18 to 25 years) who traditionally are difficult to recruit for self-completion surveys.

Table 2.1 Statements representing motivational postures of commitment, capitulation, resistance, disengagement, and game playing

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.
 Paying my tax ultimately advantages everyone.
 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

If you don't cooperate with the Tax Office, they will get tough with you.
 The Tax Office is more interested in catching you for doing the wrong thing, than helping you do the right thing.
 It's important not to let the Tax Office push you around.
 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.
 As a society, we need more people willing to take a stand against the Tax Office.

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 spending time working out how changes in the tax system will affect me.
 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.
 The Tax Office respects taxpayers who can give them a run for their money.

Are Motivational Postures Discernible Among Taxpayers and Citizens?

The survey responses, made in relation to each of the 29 motivational posture statements on a 1 (strongly disagree) to 5 (strongly agree) rating scale, provided the data base for answering two questions: First, do individual taxpayers identify with the postures of commitment, capitulation, resistance, disengagement, and game playing; and second, do individuals hold these postures (or a subset of them) simultaneously? Some readers may feel that the statements representing each posture are inconsistent with each other (for instance, compare commitment with game playing). Such would be the case if we subscribed to the idea that each of us has one self. But actually we are not so unitary in our make up. Work by colleagues on aggressive tax planning, for instance, provides evidence of individuals simultaneously holding a conception of self as citizen who should pay taxes with good grace, and a conception of self as a business adviser who makes a living out of game playing on behalf of those who want to avoid their tax obligations (Murphy and Byng, 2002; Braithwaite, J., personal communication). The notion of each individual having multiple selves is now the dominant conception of self in psychology and sociology (Geertz, 1973; Burke, 1980; Baumeister, 1996). The co-existence of different postures boosted or suppressed by various institutional configurations challenges regulation theorists and practitioners to design their systems with an appreciation of the individual. Regulating people through understanding the simultaneous emergence and retreat of various postures means that at the most fundamental level, regulation rests on the art of managing relationships. Before this argument can be convincing, however, there is a need to examine the data on motivational postures to find out about their distinctiveness and co-existence.

In order to confirm the fit of the taxpaying data set to the conceptual schema of five postures of commitment, capitulation, resistance, disengagement, and game playing, a principal components factor analysis with a varimax rotation was performed on responses to the 29 statements. The results showed that each factor was defined predominantly by statements representing one of the postures (see Braithwaite and Reinhart, 2001). This means that the five postures are relatively distinctive, and when we examine the statements that measure each posture as outlined in Table 2.1, we find coherence and consistency in the way that people are responding to statements within each set. In other words, these data provide evidence that the motivational postures are fairly coherent sets of beliefs that are part of the way individuals think about themselves in relation to tax authorities.

The next step was to examine the relationships among the postures: Were they relatively independent of each other, and therefore supportive of the co-existence assumption, or were some postures incompatible with other postures? In order to answer this question, scale scores on each posture were calculated for each person in the sample. Survey respondents had used ratings from 1 (representing strong disagreement) to 5 (representing strong agreement) to indicate the extent to which they agreed or disagreed with each of the statements representing each of the postures in Table 2.1. Ratings for a particular motivational posture were then summed and divided by the number of items used to measure it, producing a scale

score ranging from 1 to 5. Having arrived at scores for each person on the scales of commitment, capitulation, resistance, disengagement, and game playing, the scale scores were intercorrelated to find out if there was some consistency in how people were responding to the postures. These Pearson product-moment correlation coefficients appear in Table 2.2, along with an alpha reliability coefficient to reflect the degree of internal consistency within each scale.

These findings show some relationships among the postures. Commitment and capitulation are compatible postures, but where these exist, one is less likely to find disengagement and resistance. Disengagement is a posture that is compatible with resistance, but also with game playing. None of these correlations, however, are sufficiently high (correlations are substantially lower than the alpha reliability coefficients in the diagonal) to justify an assumption that taxpayers can be placed on a simple adversarial-cooperative dimension. On the basis of the findings in Table 2.2, taxpayers' responsive selves are far more multifaceted. Although the correlations demonstrate that the five postures are not likely to be equally strong in any one individual at any one time, having one posture does not rule out the possibility of having another for any individual taxpayer. In other words, the assumption of co-existence remains plausible. Taxpayers can demonstrate more than one posture in any specific encounter.

Table 2.2 Pearson product-moment correlation coefficients among motivational posture scales (alpha reliability coefficients in diagonal)

Posture	1	2	3	4	5
Commitment	.82	-	-	-	-
Capitulation	.38	.63	-	-	-
Resistance	-.30	-.36	.68	-	-
Disengagement	-.36	-.15	.35	.64	-
Game playing	-.13	.16	.17	.33	.69

Note: All Pearson product-moment correlation coefficients are significant at the .01 level.

So what proportion of the population display commitment, capitulation, resistance, disengagement and game playing in response to the tax authority? The mean scores for the survey respondents on commitment, capitulation, resistance, disengagement, and game playing were used to construct the graph in Figure 2.1.

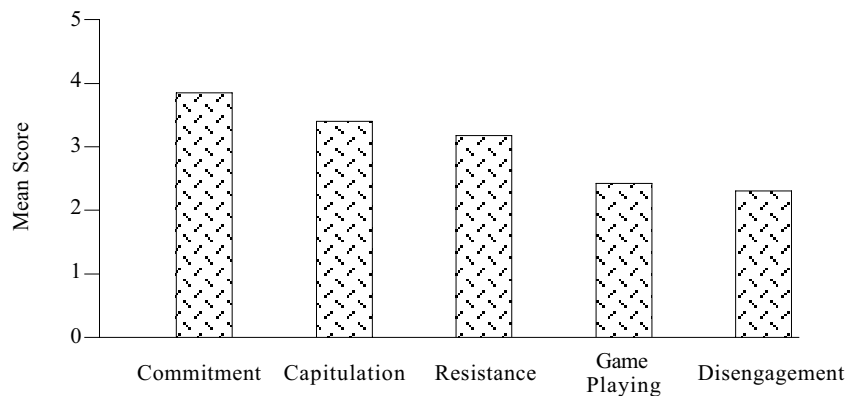


Figure 2.1 Mean scores for motivational postures of commitment, capitulation, resistance, disengagement, and game playing

As expected in a democracy, the dominant postures are those reflecting a positive orientation to authority, that is, commitment ($M = 3.85$, $SD = .54$) and capitulation ($M = 3.40$, $SD = .54$). Approximately 92 per cent of respondents relate positively to the posture of commitment and 73 per cent recognise themselves in the posture of capitulation. Resistance ($M = 3.18$, $SD = .54$) is the next most widely endorsed, again a sign that the democracy is working as it should be in that a sizeable proportion (55%) are willing to question the tax office openly. Least pervasive in the community are disengagement ($M = 2.31$, $SD = .52$) and game playing ($M = 2.42$, $SD = .62$). Disengagement is the posture that, on the basis of previous research, is the least easy for regulators to manage (Braithwaite et al., 1994). Only 7 per cent of respondents recognised themselves in this posture. Through placing themselves outside the regulatory institution, those who choose to disengage can cut themselves off psychologically from attempts at persuasion and influence. Game playing takes place within the regulatory institution, but players use the letter of the law to circumvent the intention of the law (see McBarnet, Chapter 11, this volume), in time re-creating the regulatory institution itself. The relatively small segment who identify with game playing, 13 per cent, is likely to reflect the fact that such practices have generally been the prerogative of elite groups. As tax avoidance schemes become increasingly available and acceptable to the general public through mass marketing (Commonwealth Ombudsman, 1999; Senate Economics References Committee, 2001), the game playing mindset is expected to increase.

Because motivational postures can be held simultaneously, it is relatively easy for them to wax and wane over time. When instructions arrive in the mail for the yearly tax return we might feel committed, or at least, capitulate to the system. As we look in detail at how much tax we have paid or owe, we might feel resistance, disengagement, or perhaps even a desire to play games. Having completed the transaction, however, we might revert to our committed posture, believing that

paying tax is the right thing to do. In other words, as the context in which we find ourselves changes, our motivational postures change, making us cooperative at times, uncooperative at others.

Nevertheless, it is reasonable to assume that individuals have a basic comfort zone in relation to tax, and that survey responses reflect the social distance that individuals generally place between themselves and the tax authority and tax system. Compared with the postures of commitment and capitulation, the defiant postures are more likely to be associated with perceptions of threat from taxation, low satisfaction with the democracy, anti-government and pro-market attitudes, relatively weak identification with being an Australian citizen and an honest taxpayer, higher than average investment in pursuing aggressive tax options, and a desire to abolish the tax system (see Braithwaite, 2002a; Taylor, Chapter 4, this volume). Furthermore, the postures of defiance are more likely to be closed to persuasion of all kinds – education and discussion, as well as the usual deterrence measures of being caught and punished for wrongdoing (Braithwaite, 2002b).

Motivational postures are proving to be useful markers of degree of consent, cooperation and commitment that underlies the human system as it comes into contact with the administrative/technical tax system. When commitment and capitulation are high, the conditions for introducing measures to improve compliance are optimal. These measures may involve setting up social contexts where tax issues can be contested in a constructive and dialogic fashion, and where tax administrators and citizens can co-design tax systems to make them work better for everyone. When the defiant postures of resistance, disengagement and game playing are high, however, a truce will need to be negotiated in all likelihood before any meaningful attempts at the co-design of the tax system can proceed.

Compliance Related Activities: Obeying the Tax Authority

A definition of tax compliance ideally should be one that captures issues of theoretical importance as well as giving practical direction for measuring the concept. James and Alley (1999) offer a definition that does not allow us to back away from the essence of the compliance concept, and at the same time challenges those of us who want to measure tax non-compliance:

the willingness of individuals and other taxable entities to act...within the spirit as well as the letter of tax law and administration, without the application of enforcement activity (p. 10).

The behavioural dimension of tax compliance measured in this section represents only part of the domain mapped out by this definition. The part that is the focus of attention is compliance related activity by individuals within a self-assessment tax system. Non-compliance is inferred from either: (a) individual taxpayers expressing uncertainty as to whether they have acted within either the letter or the spirit of the law; or (b) individual taxpayers taking actions that are widely recognised in the community as being outside the letter or the spirit of the law. In addition, measures were taken of tax minimisation activities ranging from

the cautious to the aggressive. The Australian Taxation Office (ATO) can deny tax benefits where a reasonable person would conclude that the sole or dominant purpose for entering into the tax minimisation arrangement was to obtain a tax benefit (under Part IVA of the *Income Tax Assessment Act 1936*).

The source of data for an analysis of the behavioural dimension of non-compliance and minimisation was the *Community Hopes, Fears and Actions Survey* (Braithwaite, 2001) in which taxpayers were asked to self-report on their activities. In order to ensure that we were measuring the behavioural dimension of tax non-compliance and tax minimisation in ways that were meaningful to the majority of those sampled in the survey, the focus of attention was the personal or individual tax return. Most Australians who have worked are likely to have been required to lodge a tax return at some time in their lives. Five sub-domains of taxpayer activity where tax law and taxpayer obligations are common knowledge were chosen for analysis: (a) lodging a tax return; (b) paying a tax debt; (c) declaring income through an income tax return; (d) engaging in the cash (shadow) economy; and (e) claiming work-related expenses and other deductions. The final sub-domain examined the use of strategies to minimise tax payments comprising cautious (legal) activities, as well as aggressive activities that could fall foul of Part IVA.

In this section of the chapter, the compliance related actions discussed above are reported for this sample from the Australian population. These compliance behaviours are then correlated with each other in order to find out if there is evidence to support the existence of a generalised tendency to not comply with tax requests across a range of contexts. All indications are that whether or not an individual complies or fails to comply depends on context, undoubtedly influenced by a multitude of factors including opportunity, surveillance, social networks, and knowledge (Smith and Kinsey, 1987; Collins, Milliron and Toy, 1992; Andreoni, Erard and Feinstein, 1998; Richardson and Sawyer, 2001). If so, measures of non-compliance, for the most part, should not be highly correlated with each other. Nevertheless, it may be the case that some activities make others possible because of their contextual similarities. In particular, an important question to examine is whether or not cautious minimising strategies of the kind that may be encouraged by government accompany the more aggressive activities that tax authorities are trying to discourage because of the threat they pose to the tax system (Sakurai and Braithwaite, 2001; Murphy and Byng, 2002).

Lodgment

In the *Community Hopes, Fears and Actions Survey*, two questions were asked about lodgment of a 1998-99 tax return. Respondents were asked 'Should you have filed an income tax return in 1998-99' and immediately afterward, 'Did you file an income tax return for 1998-99?' 81.8 per cent of respondents said that they should have lodged a return or that they did not know if they should have lodged a return

for the 98-99 financial year.⁴ Of this group, 4.7 per cent had not yet lodged their return. When those who did not need to lodge were included with the compliant group, the per cent non-compliant on lodgment in the sample was 3.8 per cent. In other words, 3.8 per cent of the sample acknowledged having the capacity to defy the ATO's request to lodge, and did so.

In addition, respondents were asked: 'Have you any income tax returns not yet completed from previous years?'. Of the total sample, 4.5 per cent said that they were in this situation.

Not having lodged a 98-99 income tax return that respondents said should have been lodged and not having lodged returns for earlier financial years were actions that were significantly and notably correlated ($r = .37, p < .001$). Those who had not lodged a 98-99 return were also likely to have not lodged previous returns. Using these data, a non-compliance index called non-lodgment was constructed. The index was calculated by adding together compliance scores for the two time periods. A score of 2, meaning that neither the 98-99 return nor all earlier returns had been filed, was obtained by 1.6 per cent of the sample. A score of 1, meaning that either the 98-99 return or an earlier return had not been lodged, was obtained by 5.1 per cent of the sample. A score of 0, meaning that all tax returns that should have been lodged had been lodged, characterised 93.3 per cent of the sample.

Non-payment of Tax Debt

One question was used to assess having a tax debt: 'Do you have an outstanding debt with the Tax Office?'. Those who said they had an outstanding debt constituted 3.4 per cent of the sample. It should be noted that those with a debt are not necessarily behaving this way without tax office permission: They may have arranged a payment plan with the ATO. It is common knowledge, however, that the law requires taxpayers to pay the money they owe on time, and therefore, carrying an outstanding debt remains an example of not behaving in accordance with the law, even if one is granted an extension of time to pay.

Failure to Declare Income

Respondents were presented with income from a variety of sources and were asked if they 'did not declare it', 'declared some', 'declared most', or 'declared all' in their 98-99 return. They were also given the option of indicating that they received nothing from this income source (scored the same as 'declared all' for the purposes of analysis). The sources of income were: (a) salary, wages; (b) honorariums, allowances, tips, bonuses, director's fees; (c) eligible termination payments; (d) Australian government allowances like Youth Allowance, Austudy, Newstart; (e) Australian government pensions, superannuation pensions, and other pensions or annuities; (f) interest; and (g) dividends. The percentage of the sample failing to

declare each type of income is given in Table 2.3. Because of the small percentages in the failure to declare 'some', 'most' and 'all' categories, responses were combined into one non-compliant category (see far right column in Table 2.3).

Table 2.3 Percentage of sample not declaring all income: 'Think about each of the sources of income listed below and select the response that best describes your 1998-99 income tax return'

Income source	Per cent not declaring all			
	did not declare it	declared some	declared most	failure to declare (total)
salary, wages	.4	.7	2.1	3.2
honorariums, tips, allowances, bonuses	1.9	1.3	1.3	4.5
eligible termination payments	.5	.7	.5	1.7
Australian government allowances	.5	.8	.4	1.7
Australian government pensions	1.4	.8	.5	2.7
interest	2.0	1.3	1.8	5.1
dividends	.9	.7	.6	2.2

After answering this set of specific questions about sources of income, respondents were asked: 'As far as you know, did you report all the money you earned in your 1998-99 income tax return?'. 4.3 per cent admitted that they did not declare all their income in their 98-99 return.

Responses to this general question, along with the dichotomised compliant and non-compliant data for the seven sources of income in Table 2.3, were intercorrelated. The correlations ranged from .06 to .60 (median = .36), providing sufficient justification for combining the responses to form an index representing failure to declare income on a tax return (alpha reliability coefficient = .76). The failure to declare income on the 98-99 tax return index revealed that 13 per cent of taxpayers had failed to declare income of some kind. Most episodes of failure to declare income were restricted to one or two categories.

Participation in the Cash Economy

Respondents were asked about whether, in the last 12 months, they had been a provider of services in the cash economy or a purchaser of such services: (a) 'Have you worked for cash-in-hand payments in the last 12 months? By cash-in-hand we mean cash money that tax is not paid on', and (b) 'Have you paid anyone cash-in-hand payments in the last 12 months for work or services they provided to you? By cash-in-hand we mean cash money that tax is not paid on'.

In response to the first question, 6.1 per cent said that they had worked for cash-in-hand payments, and 14.5 per cent said that they had paid for cash-in-hand services. When responses were combined for providers and purchasers, 19.1 per cent of respondents were participating in the cash economy, with 1.5 per cent being both a purchaser and provider.

Over-claiming Deductions

Two questions were asked regarding deductions claimed on the 98-99 income tax return. The first was: 'As far as you know, did you exaggerate the amount of deductions or rebates in your 1998-99 income tax return?'. The majority of respondents (89.8%) answered 'not at all', but 7.1 per cent admitted to exaggerating 'a little', 2.1 per cent 'somewhat', .3 per cent 'quite a lot', and .7 per cent 'a lot'.

The second question on over-claiming was: 'Think of the deductions and rebates you claimed in your 1998-99 income tax return. Would you say you were (a) absolutely confident that they were all legitimate, (b) a bit unsure about some of them, (c) pretty unsure about quite a lot, or (d) haven't a clue, someone else did it'. Most of the sample claimed to be absolutely confident about the legitimacy of the claims (84.8%), 7.9 per cent were a bit unsure about some, .7 per cent were unsure about a lot, and 6.6 per cent did not have a clue because someone else had completed the tax return for them. For this latter group, signing an income tax return appears to be a ritualised activity with a third party being assigned responsibility for its accuracy.

These data show that 10 per cent are willing to admit to some over-claiming and 15 per cent are prepared to express some uncertainty about whether their claims for deductions and rebates are all legitimate. Responses to these two questions were used to form an over-claiming deductions index. Before this could be done, the second question was dichotomised in terms of whether respondents were absolutely confident (84.8%) or not (15.2%). Responses to the two questions were then correlated ($r = .34, p < .001$), showing that the more one exaggerates deductions, the less confident one admits to being about the correctness of the claim. Responses to these two items were transformed into standardised scores (mean of 0, standard deviation of 1) and then summed to form an over-claiming deductions index (alpha reliability coefficient = .51). The percentage expressing doubts or admitting to over-claiming deductions was 19.8 per cent of the sample.

Seeking and Using Strategies to Minimise Tax

Respondents were presented with a list of 8 strategies that are known to provide for tax minimisation. Respondents were asked if they were able to minimise their tax through these strategies in the 1998-99 financial year. Respondents were also asked to circle a special category if they did not know what the particular strategy was. The findings are reported in Table 2.4 under two headings. First, the percentage of

the sample using the strategy is recorded. The second column represents the percentage of the sample with no knowledge of the strategy as a method of minimising tax. Of particular note is that although tax minimisation is a popular topic for media attention, knowledge about the specific methods of tax minimisation have not penetrated into the community as extensively as had been assumed when the survey was conducted. This apparent lack of understanding of specific methods of tax minimisation among some segments of the population may be comforting to a tax administration that feels in control of its taxpayers and able to shield its constituency from temptation. However, in a world where mass marketed schemes are aggressively promoted and individual taxpayers need to be alert to the dangers, a poor understanding of tax avoidance measures and their consequences leads to vulnerability in the system (Commonwealth Ombudsman, 1999; Murphy, 2002).

The strategies listed in Table 2.4 differ enormously in the degree to which they meet the expectations of the tax office, or to put it another way, the degree to which they risk being defined as avoidance measures by the tax office. Paying into superannuation schemes to minimise tax is explicitly encouraged, for example, whereas using off-shore tax havens is explicitly discouraged. There is no way in which Part IVA of the *Income Tax Assessment Act 1936* can be operationalised in relation to survey responses to divide strategies into those that are legal and those that are illegal. It is possible, however, to divide the strategies in terms of the degree to which they push the limits of legality.⁵ With this in mind, the list of 8 was divided into those that are on the more cautious side (negative gearing, employee share arrangements, salary packaging, superannuation planning, and warrants or leveraged investments) and those that are on the more aggressive side (schemes, tax shelters, and off-shore tax havens).

Table 2.4 Percentage of sample using tax minimisation strategies and lacking knowledge of these strategies

	Per cent of sample	
	Used it	No know- ledge
<i>Investment strategies</i>		
<i>Cautious minimisation strategies</i>		
Negative gearing (property & shares)	12.1	8.1
Employee share arrangements	1.7	13.3
Salary packaging	7.2	11.6
Superannuation planning	20.2	6.7
Warrants or leveraged investments	.9	21.2

Risky or aggressive minimisation strategies

Schemes to convert income into capital gains	1.6	16.4
Tax shelters (e.g. film or agricultural schemes)	1.7	15.2
Off-shore tax havens or other international tax planning	.6	13.9

Evidence to suggest that people who used one strategy were more likely to use others was not strong. The correlations among the 8 strategies were all positive, but they were also relatively low ranging from .02 to .34 (median = .09).⁶ It seems most likely that having found one strategy, most individuals really did not need to look for another. As a result, a tax minimisation index was not formed from these measures, but it was still possible to count the number of strategies that were being used by each respondent, of either a cautious or aggressive kind. A count on the use of the five cautious strategies revealed that 69.1 per cent were using none, 22.6 per cent were using one, 7.1 per cent were using two, 1.1 per cent three, .1 per cent four and .1 per cent five. On the three more aggressive strategies, 96.9 per cent were using none, 2.7 per cent one, .3 per cent two, and .1 per cent three.

From a legal perspective, purpose or intent is critically important for ascertaining the acceptability of a tax minimisation scheme to the ATO (Part IVA of the *Income Tax Assessment Act 1936*). In the context of a general population survey in which individuals are asked to self-report on their activities, intent was defined in terms of how much effort the taxpayer dedicated to finding ways to minimise tax. A scale to measure effort to minimise tax was constructed from two items. The first question was: 'Some people put in a lot of effort to plan their financial affairs in order to legally pay as little tax as possible. How much effort did you or your family devote to this objective in preparing for your 1998-99 income tax return?'. In response, 6.7 per cent circled 'a lot', 8 per cent 'quite a bit', 17.2 per cent 'some', 21.2 per cent 'a little', and 46.9 per cent 'none'. The second question asked respondents: 'In preparing for your 1998-99 income tax return, did you look at several ways of arranging your finances to minimise your tax?'. Respondents replied 'yes' (22.2%) or 'no' (77.8%).

These two items correlated positively with each other ($r = .49$, $p < .001$), showing that those who put a lot of effort into legal tax minimisation were also likely to have looked at several different ways of arranging their finances to minimise tax. When the responses to these questions were considered conjointly, 45.2 per cent of the sample reported having put no effort into minimising their tax. Scores on the two items were standardised and were summed to produce the tax minimisation effort index (alpha reliability coefficient = .66).

The Overall Picture of Compliance Related Activities

The scores of individuals on 9 indicators of tax non-compliance and minimisation activities were intercorrelated to find out if there was evidence of a broad band

practice of tax evasion and avoidance whereby individuals openly acknowledged that they acted in ways to defy the authorities on a number of different compliance dimensions. From Table 2.5, there was not much evidence of broad band defiance of tax office expectations. There were, however, noteworthy correlations in what might be called compatible contexts.

The first area in which there appeared to be some systematic defiance was around the activity of over-claiming deductions. Those over-claiming deductions were more likely to not declare all their income on their tax return. Not declaring all income and over-claiming deductions are associated weakly with working for cash-in-hand as well as being a slow or negligent lodger. And those who were prepared to over-claim deductions acknowledged dedicating special effort to doing their tax return in a way that minimised their tax.

The second area in which there appeared to be links among different activities revolved around tax minimisation. The greater the number of cautious tax minimising strategies adopted by a person, the more likely it was that the person would be engaged in aggressive forms of tax minimisation. Not surprisingly, the greater the number of cautious and aggressive strategies used, the greater the effort devoted to tax minimisation.

Table 2.5 Pearson product-moment correlation coefficients among indicators of tax non-compliance and minimisation

Indicator	1	2	3	4	5	6	7	8
1. Non-lodgment	-	-	-	-	-	-	-	-
2. Non-payment tax debt	.09	-	-	-	-	-	-	-
3. Undeclared income	.18	.05	-	-	-	-	-	-
4. Provider cash-in-hand	.03	.03	.25	-	-	-	-	-
5. Purchaser cash-in-hand	.06	-.01	.02	.08	-	-	-	-
6. Over-claim deductions	.13	.10	.38	.13	.05	-	-	-
7. No. cautious strategies	.03	-.01	.01	.02	.10	.03	-	-
8. No. aggressive strategies	.08	-.02	.09	.04	.07	.09	.23	-
9. Tax minimisation effort	.00	-.02	.10	.02	.06	.15	.30	.19

Note: Coefficients of .08 or over are significant at the .001 level.

While these patterns of behavioural defiance are apparent in the correlation matrix in Table 2.5, the more important story is one of relatively little overlap across these different actions. In each of the 9 instances of defiance listed above, the vast majority of people (over 80%) are doing what the tax office expects of them. If we analyse the problem differently, however, and ask, what proportion of the sample are meeting tax office expectations on all indicators, we get a slightly different picture. In asking this question, the 9 indicators are separated into those

that are more commonly linked with evasion (non-lodgment, non-payment of tax debt, failure to declare income, provider of cash-in-hand services, purchaser of cash-in-hand services, and over-claiming deductions) and those more commonly linked with avoidance (number of cautious minimising strategies, number of aggressive minimising strategies, and effort to minimise). The sample segment that claimed to be doing all the right things in terms of lodgment, paying debt, declaring income, correctly claiming deductions, and refraining from participating in the cash economy in any form numbered a rather low 52.2 per cent. The sample segment that was active in tax minimisation was 63.9 per cent, leaving 36.1 per cent claiming complete lack of involvement in tax minimising activities. When cautious minimising was excluded, the percentage engaged in aggressive minimising or effortful minimising dropped to 55.6 per cent, leaving 44.4 per cent in clearly identified 'safe' territory, not committed to tax minimisation activity.

Motivational Postures and Compliance Related Activities

This chapter began with the assertion that how we evaluate the tax authority and the tax system may have little to do with whether we comply with the wishes of that authority: Many factors influence whether or not we obey. The opposite also applies. The level of our obedience does not dictate our readiness to support new tax systems or cooperate with changes to an old one. With a constantly changing taxpaying environment, tax authorities have to worry not only about the community's compliance rates, but also its willingness to accept change and cooperate in the change process. Responsiveness of both the attitudinal and behavioural kind are critical to the effective management of tax systems by tax authorities. In this section, the basic assertion underlying the chapter is tested empirically: Are the motivational postures that people adopt in relation to authorities such as the ATO a reflection of their compliance related actions, or is it best to conceptualise the management of taxpayers in terms of two separate dimensions, one attitudinal and evaluative of the authority, the other behavioural and reactive to tax law?

Correlations were calculated between the motivational postures of commitment, capitulation, resistance, disengagement and game playing and compliance related activities. For the analysis reported in Table 2.6, the compliance related variables were reduced to two kinds of activity. The first variable assigned a score of 1 to any individual who had engaged in at least one of the six evasion-related activities (non-lodgment, carrying a tax debt, failure to declare income, provider of cash-in-hand services, purchaser of cash-in-hand services, over-claiming deductions) and a score of zero to those who did not participate in any of them. The second variable assigned a score of 1 to any individual who had engaged in aggressive strategies or who had put effort into tax minimisation. All others were assigned a score of zero. Through creating variables that reflected compliance actions across contexts, the chances of linking attitudes and behaviour at the general level of measurement should have been optimised. This step was taken to remove the methodological

criticism that one cannot expect general attitudes to correlate with specific compliance related actions.⁷

Table 2.6 presents the correlations between motivational postures and evasion or avoidance related actions. As anticipated the relationships are small. Those who try some evasion related activities are more likely to express postures of resistance to and disengagement from the tax system. Interestingly, being committed or captured by the system does not prevent individuals from acting in ways that are likely to get them into trouble with tax authorities.

When we turn our attention to tax avoidance, however, commitment provides a little protection from investing in tax minimising activities. The more committed people are to paying tax, the less likely they are to put effort into the more aggressive forms of tax minimisation. The postures most strongly related to the aggressive minimisation of tax were game playing and resistance. Overall, these data suggest that avoidance is the preferred option of those who dislike tax and can practice their defiance within the letter of the law. Evasion is the option for those who dislike tax and have located themselves outside the reach of the law, at least psychologically.

Table 2.6 Point-biserial correlation coefficients between motivational postures and compliance related actions

Motivational postures	Evasion related actions	Avoidance related actions
Commitment	-.05	-.11
Capitulation	-.04	-.06
Resistance	.12	.12
Disengagement	.14	.07
Game playing	.07	.17

Note: Coefficients of .08 or over are significant at the .001 level.

It is worth noting that all relationships between motivational postures and compliance related activities are in the expected direction from a consistency theory perspective. It must be emphasised, however, that the correlations are uniformly low. Figures 2.2 and 2.3 show that evaders, avoiders, and model citizens do not differ much from each other when they are sitting by themselves completing a questionnaire. If their postures change in the course of acting out their non-compliance, they are responding to triggers from reference groups, the environment, or perhaps even tax authorities. Thus, we can conclude that the motivational postures that people generally espouse in relation to taxation, and the compliance related actions these same people take in response to tax authority demands, while weakly related to each other, provide different information about community responsiveness.

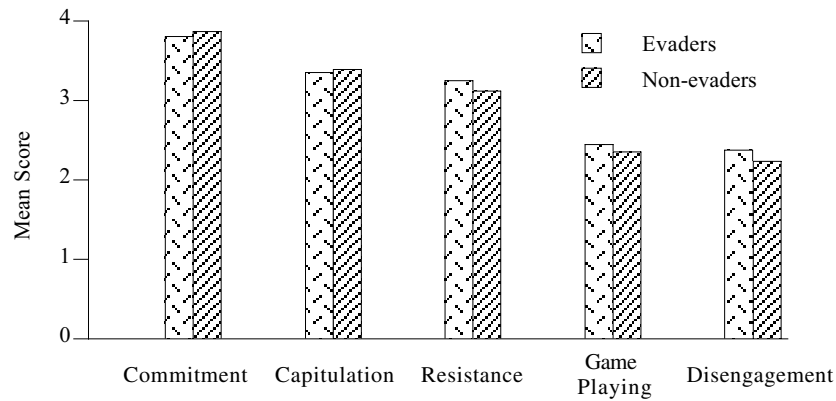


Figure 2.2 Motivational posture mean scores for evaders and non-evaders

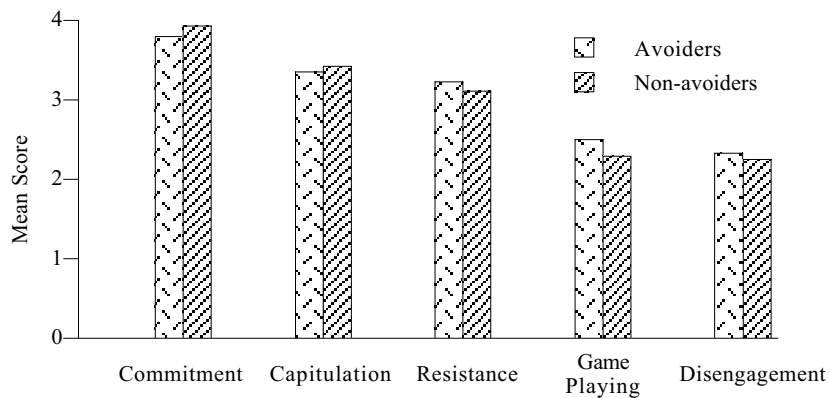


Figure 2.3 Motivational posture mean scores for avoiders and non-avoiders

Conclusion

This chapter theoretically and empirically differentiates the compliance related actions of taxpayers from their evaluation of the tax system and the tax office, expressed in terms of motivational postures. Motivational postures reflect the social distance that individuals wish to place between themselves and the tax authority. Increasing social distance indicates increasing dislike for the authority and a lowering of the status ascribed to that authority. It does not, necessarily, signal disobedience. In some ways, motivational postures can be thought of as an

indicator of the degree to which an individual is giving consent to the authority: Consent to consider that individual as a participant in the tax system and consent to being regulated by the authority. Giving consent is a different phenomenon from obeying a request from a legally designated authority.

When framed in terms of consent and compliance related action, the two-dimensional conception of responsiveness offered in this chapter is less puzzling. Non-compliant actions may be initiated for any number of reasons, only some of which are attitudinal. Once non-compliance has occurred, it requires a response by the authority. All too often, authorities make the assumption of consistency between attitude and behaviour: People who do the wrong thing are bound to be nasty pieces of work, and need to be treated like the villains they are (Braithwaite et al., 1994). This is not always the case, as this chapter demonstrates. The important question then is does this simplistic formulation of 'bad guys do bad things' cause harm? From the perspective of an authority, part of dealing with an individual's non-compliance is to ensure that it will not happen again, and part is to show the community that compliance standards are high and will be maintained. Neither of these goals is served well through management strategies that provoke non-compliant individuals into revoking their consent to be a participant in the system. No-one is going to like being sanctioned for non-compliance, but few benefit when discontent of this kind is fuelled by disrespectful treatment from the authorities, leaving individuals with a life long passion for resistance and defiance. Furthermore, community confidence in standards is unlikely to be boosted when the story of detected non-compliance is trumped by a horror story of unfair treatment at the hands of the authority. When individuals withdraw their consent to being part of the tax system, the legitimacy of the system itself is vulnerable.

Thus, non-compliant actions on the part of taxpayers must be met by a responsiveness from authority that recognises and deals with the wrongful act, but at the same time works to bring the more cooperative motivational postures to the fore (Braithwaite, 2002). Resentment and anger may be present, but the findings presented in this chapter suggest that there is also likely to be goodwill and acceptance of the rules of the game, if they can be brought into the discussion and the resolution of the problem. The challenge for tax administrators is to play a two-handed game: To deal with the wrongdoing today, while nurturing consent for tomorrow.

Notes

- 1 These two aspects of community responsiveness were recognised by Schmolders (1970) in his early work on tax systems in different cultures.
- 2 The poor relationship between attitude and behaviour has been widely recognised and has given rise to research that has tried to build theory that provides a better fit between attitudes and behaviour in line with consistency theorists' general expectations (see, for example, Lewis, 1982; Hessing, Elffers and Weigel, 1988; McGraw and Scholz, 1991; Scholz, McGraw and Steenbergen, 1992; Taylor, Chapter 4, this volume). This chapter, however, pursues a different direction.

- 3 Black (1976) has used the term, relational distance, to describe social distance from the regulator's perspective. In the present context, social distance is used to represent the regulatee's perspective.
- 4 Of the respondents, 32 (1.6%) said that they did not know if they should have filed a return. Given that citizens have a responsibility to find out if they are exempt, this group was included with those who agreed that they should have filed a return.
- 5 Tax researchers use the term, avoision, to capture the problem associated with differentiating legal and illegal tax effective schemes (Seldon, 1979; Sawyer, 1996; see also James and Alley, 1999).
- 6 For the correlational analyses, respondents who had never heard of the strategy were included with those who had not used the strategy.
- 7 In order to exhaust all possibilities, the motivational postures were correlated with the 9 specific compliance related measures. The results did not change substantively: Significant correlations with specific compliance-related actions were reflected in the amalgamated action measures presented in Table 2.6.

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