

## Chapter 8

# The ATO Compliance Model in Action: A Case Study of Building and Construction

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In 1996, the Australian Commissioner of Taxation formed a Task Force comprised of representatives from industry, community groups and government to develop an understanding of the cash economy and potential responses to it. After the Task Force issued its initial report, in July 1997 the Australian Taxation Office (ATO) launched a series of initiatives aimed at the cash economy. They specifically targeted cash transactions by small firms in several industries, including building and construction. Several months later, these cash economy initiatives were augmented by an ATO decision to adopt a new approach to tax enforcement, one that incorporates principles of responsive regulation (Cash Economy Task Force, 1998). Known as the ATO Compliance Model, it reflects considerable research into regulatory processes and is touted as a more effective approach to compliance assurance (see Job and Honaker, Chapter 6, this volume). Shortly after adopting the Compliance Model, in April 1998, the Commissioner of Taxation announced that the ATO would begin using it in programs aimed at the building and construction industry and others also where evidence suggested there were significant cash transactions. Eventually, some 200 ATO personnel were assigned to the Cash Economy Building and Construction Project (CE/B&C project). Organised in teams of some 10-15 members each, they were located in major metropolitan areas throughout Australia.<sup>1</sup> The research reported here examines the reception given the Compliance Model by front-line supervisors and personnel assigned to the CE/B&C project and its short-term impact among small building and construction firms.

This chapter begins with a brief description of the objectives of our research into the implementation and impact of the CE/B&C project. We next introduce and define the concept of *organisational capacity*, which is followed by presentation of the underlying assumptions of our investigation and a description of key aspects of the ATO Compliance Model as it was applied to the small building and construction industry. The research findings are presented next, drawing from analysis of the experiences and perspectives of ATO field-level personnel and the owners of small building and construction firms. The paper concludes with a discussion of the lessons of this research.

### Research Objectives and Methods

This research commenced some eighteen months after the Compliance Model was adopted by the ATO leadership and was added to ongoing initiatives aimed at the cash economy. It was premised on awareness that reformers cannot assume that their intentions and plans will meet with committed and faithful implementation. The reasons for this are several, but it is well recognised that bureaucracies charged with implementing reform policies can show highly varied capacity for the job at hand:

Policy ideas that sound great in theory often fail under conditions of actual field implementation. The implementation process has a life of its own. It is acted out through large and inflexible administrative systems and is distorted by bureaucratic interests. Policies that emerge in practice can diverge, even substantially, from policies as designed and adopted (Bardach, 2000, p. 25).

Doubtless it was recognition of this that led the ATO's Cash Economy Task Force to emphasise as constraints on the implementation and impact of tax reform 'attributes of the tax regime,' including both 'its administration, and ATO cultural factors' (Cash Economy Task Force, 1997, p. 6).

Because the Compliance Model posits complex and slow-developing long-term relationships between the behaviour of enforcement officials and the responses of taxpayers, it was recognised at the outset that an adequate evaluation of the CE/B&C project would require collection of data over several years. At inception, our objective was a retrospective *process analysis*. Process analysis is used in evaluation research as a way of understanding *how* reforms are implemented and brought to bear in the day-to-day work routines of managers and employees (Weiss, 1998). It can lay bare how organisational realities and dynamics constrain reforms adopted in other circumstances for reasons often unknown to or unappreciated by those charged with implementing the policy. Typically, process analysis includes use of interviews and observation as a way of interpreting the statistically observable consequences of a new policy or program.

We planned to collect a variety of data on the ATO's implementation of the Compliance Model as well as evidence of some of its short-term impacts. We assumed that by using a variety of methods and collecting a variety of data, findings gained from multiple methods or sources to some extent would compensate for their individual shortcomings. Twenty months after its inauguration, however, the impending arrival of fundamental tax reform (the Goods and Services Tax, or GST) caused a substantial reduction in personnel and resources committed to the CE/B&C project. This also caused us to scale back our original research plans and to shift our focus somewhat to examination of the ATO's capacity for effective implementation of the Compliance Model.

Data were collected over a ten month period (August 1999 through May 2000). We began by interviewing fifteen ATO managers or employees, some face-to-face and others by long-distance telephone. These conversations, which averaged approximately 25 minutes in length, helped familiarise the senior author with the ATO and provided an opportunity to talk with several managers who played

important roles in the field-level implementation process. This was followed in November-December 1999 by visits to five ATO field offices where significant CE/B&C project initiatives were underway (Sydney CBD, Parramatta, Penrith, Box Hill, and Dandenong). We interviewed 26 field-level managers and operatives about their experiences with and opinions of the Compliance Model in building and construction. The semi-structured interviews followed a topical guide and averaged approximately 35 minutes each. All were tape recorded and transcribed for subsequent analysis. Following these interviews, in May-August 2000, a survey instrument was e-mailed to all ATO personnel who at any time were assigned to the CE/B&C project. After two follow-up reminders to the 260 persons who were sent surveys, 32 per cent were returned to us.<sup>2</sup>

During May-June 2000, we interviewed the owners of 27 small building and construction firms in Melbourne and Adelaide. The semi-structured interviews, which were tape recorded for subsequent transcription and analysis, averaged approximately 30 minutes and explored respondents' experiences with and beliefs about the ATO and its operations. The interviews focused primarily on respondents' contacts with the ATO in the years immediately before and after introduction of the Compliance Model in 1997. Although we had planned to interview equal numbers of firms/owners with varying degrees of contact with the ATO in the preceding two years, a variety of difficulties left us unable to do so. Among them, we were unsuccessful in obtaining telephone numbers for many firms listed in ATO files, and a substantial majority of those we did talk with declined our request for an interview. We estimate that not more than five per cent of all firms that were contacted agreed to and completed an interview. As a result, the sample of businesses almost certainly is tilted toward those who comply with tax requirements and have no particular reason, therefore, to be wary of sharing their experiences with and opinions of the ATO. As one of our subjects told us:

I think if a company is fair dinkum and up-front, they shouldn't be worried about the ATO, you know. If you're doing the right thing you've got nothing to worry about.

In the language and logic of the Compliance Model (see Figure 1.1 in Chapter 1), these firms and their owners are located near the bottom of the enforcement pyramid, and our findings are limited to the population they represent.

In addition to interviews with ATO personnel and the owners of small building and construction firms, we also interviewed an executive of the Department of Public Prosecutions and a representative of the Master Builders Association of Victoria. These interviews also were tape recorded. We recognise that the short follow-up period we employed and the limitations of our samples substantially diminish confidence in our research findings and the degree to which they can be generalised to other times and locales.

### **Organisational Capacity and Responsive Regulation**

Organisations are constrained by a variety of characteristics and conditions that affect their capacity to adopt and to implement reform initiatives. Organisational

capacity is the extent to which an organisation possesses the mandate, requisite resources, determination and facilitative environmental conditions to implement reform policies with fidelity to the goals envisioned by reformers. It also includes routinised organisational procedures for monitoring the short-term consequences of reform initiatives.

Our data collection and analysis were guided by three assumptions about the short-term changes one should reasonably expect if the ATO possessed or acquired appropriate and sufficient capacity to implement successfully the ATO Compliance Model. First, there should be evidence that top leadership of the ATO supported and invested in the reform policy. Absent this condition, there is little reason to believe that mid-level managers, their field-level counterparts and front-line staff will take seriously its prescriptions and change their behaviour accordingly. There should be evidence, moreover, that leadership has planned for and put in place from the outset mechanisms for monitoring early implementation and subsequent evaluation of the initiative. Doing so ensures the intelligence needed to assess progress or the lack of it and to make short-term corrections to the implementation process.

Second, the reform policy, as defined and presented to supervisors and front-line personnel should neither conflict with nor be cognitively incongruent with their current perspectives and practices. There should be evidence, moreover, that as they were trained and acquired experience with the new policy, ATO staff moved in the direction of increased understanding and support for it.

Last, the context and times should be permissive of, if not conducive to reform. Whilst probably few reforms are undertaken in placid times – typically there seems little reason for change in these circumstances – a calm environment lends itself to the deliberate and self-reflective decision making that can nurture and sustain through the precarious early days. Reforms undertaken in times of turbulence and tension by contrast may not permit personnel to focus on the job at hand or to reflect upon and make use of evaluations. Times of turmoil do not lend themselves easily to careful, deliberative decision-making. In sum, assuming that staff understand and are committed to reform, that sufficient organisational resources are invested in it, and that environmental conditions are hospitable, there is reason for optimism. Absent one or more of these conditions, it is doubtful a new policy can be instituted without serious departures from the vision of reformers.

#### *Small Building and Construction Industry*

In addition to legitimising and making available to officials a range of options when responding to compliance problems, programs of responsive regulation highlight the importance of understanding the characteristics and contexts of regulated industries and the variety of factors that make firms either compliant or non-compliant (Gunningham and Grabosky, 1998). It is taken for granted that a host of economic, sociological, cultural and psychological factors condition the ways typical firms see and interact with regulatory agencies and personnel.

Where the ATO is concerned, this constellation of industry-specific factors,

known as BISEP,<sup>3</sup> shape firms' capacity and inclination to comply with taxation requirements. The use of BISEP materials enables the ATO and other regulatory agencies to make use of industry-specific information which might require a particular strategy. It also strengthens awareness of both current and future challenges and permits the ATO to plan for them in a way that meets both its needs and the needs of the industry.

The conduct of business by small firms in the building and construction industry is filled with uncertainties. Business owners tend to be a fairly casual lot who, while they are prepared to take risks, are also content to remain as small businesses. Business relationships are characterised by informality; written contracts are eschewed, and a great deal of advertising is by word of mouth. Trade regulation is minimal, and licensing requirements vary. Owners of small building and construction firms are independent people who like to manage their own show. Nearly half of these business owners are sole traders, and nearly a third are in partnerships, commonly with their wife. The overwhelming majority of them use the services of tax agents, but few maintain on-going relationships throughout the year. The business records are maintained by the wives. This industry is often faced with economic uncertainty and pressures from international competition, inflation, fluctuating interest rates, and inclement weather. Barter is common, as is the use of cash. The industry norm is that weekend work is paid for in cash that is not declared as income. The industry ethic is very much one of looking after each other. Relationships in the industry are competitive but close, and the high level of union membership illustrates this. There is a strong belief in the 'level playing field', meaning that everyone should have an equal chance to make a living. The industry is dominated by males with low literacy levels and variable skill levels, many of whom come from non-English speaking backgrounds. Distrust of government and fear of the ATO are common. Generally it is considered OK not to pay tax, and peer pressure contributes to many taking the risk of cheating on their taxes. This description highlights the need for ways of communicating with the industry and with constituent firms other than by form letters couched in the language of officialdom.

### *Enforcement Technology*

Every approach to regulation features a somewhat distinctive technology of compliance assurance. Audits are a key component of command and control tax regulation. The audit process highlights the importance of monitoring individuals and business entities in order to uncover violations of law. Audits can require months to complete. Those found to be non-compliant are assessed penalties, which presumably serve to remind them and others as well that compliance is the best way to go. Accusation and confrontation are unavoidable by-products of the technology of command and control enforcement. Not surprisingly, agencies that operate in this fashion frequently are seen as high-handed adversaries by citizens and firms subject to their programs (Braithwaite, Walker and Grabosky, 1987). Historically, the ATO operated this way; it generated large numbers of

prosecutions, the bulk of which were directed at taxpayers of modest means (Grabosky and Braithwaite, 1986).

Adoption of the Compliance Model caused the ATO to develop and train its staff in a technology of compliance that contrasts in several ways from the one they used previously. Whilst maintaining audits as part of the compliance-assurance arsenal, the Compliance Model, as developed and applied by the ATO, features a technology called 'Real Time Reviews' (RTRs). The objectives here are more ambitious than a search for violations and assessment of penalties. Whereas audits typically require detailed examination of a firm's records over a period of months or even years, RTRs generally are limited to examination of business records and activities for the preceding three-months period. They require less time than traditional audits. RTRs have a strong educative focus; they are employed not only to uncover evidence of non-compliance but also to increase understanding of proper bookkeeping practices and future compliance. Taxpayers are treated according to their individual circumstances. Where significant discrepancies are identified, they are advised and invited to review and amend their previous taxation returns. The focus is on increasing the odds of compliance in the future. This technology also allows ATO field officers to refer cases for audit or prosecution when wilful or egregious non-compliance is detected. The use of RTRs allows field staff to achieve greater coverage and visibility in the business community and also garner intelligence about specific industries (Australian Taxation Office, 1999a, 1999b).

### **Research Findings**

To what extent were our assumptions about organisational capacity for change matched by conditions in the CE/B&C project during the first few years of its operation? Did it have or acquire the resources to suggest that over a longer period of time the expected results of responsive regulation would be realised?

#### *Leadership and Staff*

Doubtless few would dispute the assumption that committed and supportive executives are critical to an organisation's capacity for faithful implementation of reform policies. One way this can be demonstrated is by providing the level of fiscal and staffing resources required. Ample evidence suggests that strong and ongoing support was given by senior ATO managers. This support came from the highest levels of the ATO, particularly from the Commissioner, the Deputy Commissioner of the Small Business area, the Assistant Commissioner responsible for managing the cash economy initiative, and the Project Leader for Building and Construction. They sponsored and provided resources for training in the Compliance Model for all staff on the CE/B&C project, and they visited and provided encouragement. When the initial training program was begun, senior ATO managers signalled their support by attending and participating in the training

course. They discussed the direction the ATO was moving in and how the Compliance Model complemented it. They emphasised that ATO practices and procedures were important issues in building and maintaining community confidence in the ATO and its ability to administer the taxation system. None of the personnel we interviewed faulted ATO executives for failure to support or to provide sufficient resources for the CE/B&C project.

Survey findings were not strongly one sided, however. Thirty-five per cent of our survey respondents indicated that at some time they were responsible for supervising other ATO personnel as part of the CE/B&C project. They ranged from team leaders to mid-level managers. All survey respondents, former supervisors and operatives alike, were asked to indicate their agreement or disagreement with the statement: 'The leadership of the Australian Taxation Office failed to devote sufficient resources to implementation of the Compliance Model'. For supervisors, 33.3 per cent of respondents agreed or agreed strongly whilst 40.7 per cent disagreed or disagreed strongly. For respondents who were not supervisors, the results are 34.6 per cent and 36.5 per cent respectively. Taken together, our interview and survey findings suggest that proportionately few supervisors and operatives perceive a failure by ATO executives to provide adequate fiscal resources and personnel for the CE/B&C project.

Here and in other ways as well, support for the Compliance Model by ATO executives was not lost on field-level staff. When asked for his opinion about the Compliance Model, one ATO operative spoke with apparent conviction about the importance of treating taxpayers with 'understanding', 'respect' and 'compassion'. As the interview progressed, however, and he was asked to reconcile seemingly contradictory statements, he said that his earlier comments reflected belief that ATO executives are committed to the Compliance Model, that they expect field-level staff to get on board, and that they would be watchful for signs of weak commitment and follow through. Only then did he acknowledge that his earlier characterisation of the model masked considerable doubt about its efficacy at the coalface.

This is not to say the Compliance Model was welcomed by all or even by most staff. Some saw it as a hopelessly abstract approach that was developed by academics and then adopted by ATO executives:

Let's face it: the Compliance Model was an academic model adapted to the tax situation. It was developed by,...I think, people outside of [ATO]. ATO saw it as the way we should be moving,...and I'm not disagreeing. I think they're right. But it was done at the more senior level by people who are inclined that way [toward consultative approaches] anyway.

For most field-level personnel of the ATO, adoption of the Compliance Model for the small building and construction industry apparently came out of the blue.<sup>4</sup> For those we interviewed, there was limited awareness of how the decision was made combined with some disappointment and cynicism:

I'm an employee of the Taxation Office, and this is an instruction that's put to me. I've no input into its adoption whatsoever. I'm not asked whether, you know, this is a good

idea. Should we go this way, or whatever? You're an experienced taxation officer. You've been in this place for [more than 25] years, what have you found in that period of time about, you know, compliance in taxation?

This was imposed certainly. No two ways about it. We were given two days to provide feedback...It was like, okay, 'we've made a decision, but we should get something from the people in the office to make them think that they're having some feedback into it'. [W]e didn't feel we were part of it at all...[T]he decision was made before we even were given a chance to offer feedback. I think they ended up – so many people complained – they gave us another week to give feedback, but it was still basically we felt that they just threw it away or put it in a corner and basically came out with the model they wanted.

For these reasons, perhaps, a mid-level manager who helped implement the Compliance Model told us that:

It wasn't universally welcomed in the ATO, or in the project [CE/B&C project] anyway, which is probably representative of the ATO. I think the majority of people in the ATO thought straight off 'oh, yeah, now we're going soft on everyone', you know. I think that was the quick interpretation of it, that 'oh, now we just pat them on the head and tell them to be good in the future and walk away', you know.

The respondent noted further that apparently little thought was given to 'the ability of people' (staff) to shift to the new approach, adding that 'it's a huge jump for some'.

Whatever their initial reactions, however, successful implementation of a reform is enhanced if staff take on as their own its fundamental assumptions. Consequently, in our survey we asked current and former CE/B&C project personnel to comment retrospectively on their expectations about the ATO Compliance Model at introduction and after they gained experience using it. Responses to this series of questions suggest that the subjects fall into three groups. Nearly ten per cent (9.8%) indicated they were very sceptical about the Compliance Model when they were introduced to it whilst 4.7 per cent were equally enthusiastic about it. The remaining 85.6 per cent of respondents ranged from somewhat sceptical to somewhat enthusiastic. Although few of those who held strong opinions about the Compliance Model at introduction changed their assessment with experience, for those in this large group with less extreme opinions a majority (54.1%) became more positive about it. Our interview data are consistent with this pattern.

Q: So, you have had two years experience now with the Compliance Model?

A: Yes.

Q: And what's your assessment of it now?

A: I like it. I like it. It has a greater impact, because previously you were only dealing, you know, [one-on-one] and had no impact on the industry. But now, bringing in the various associations and what have you and getting the publicity, it has a wider impact. So it is more one-to-many, which I like. A lot more flexibility, a lot more choice, which I like.

[O]riginally...it was seen as 'oh, this is going to be Mickey-Mouse type of activity that they're going into. When will they get back to doing actual work?'. And things like that. After a while of going through it, they could see the advantages of doing some of the alternative type of work as well as the audit activities. But I think it was only when they could see that there was room for the two.

Growing field-level support for the Compliance Model does not extend to an unqualified endorsement of it; staff beliefs about and experience with tax enforcement have left many ambivalent about the long-term consequences of responsive regulation. On one hand, many prefer real time reviews to audits. Generally the latter are triggered by suspicion or evidence that something is amiss with the tax behaviour of a business. The resulting detailed examination of financial records can be both adversarial and confrontational. They can be difficult both for operatives and for the targets of their efforts. Several of the ATO operatives we interviewed commented spontaneously on their dislike for the audit process, which puts a premium on being able to act assertively. For example:

While I was an auditor I hated it. When I was doing my degree I always wanted to be an auditor, and it's like, you know, you get there and you think, 'this is horrible'. So I didn't like it. I didn't like the aggression that came along with auditing. It was more than assertive, it was probably aggressive...And it was like, let's see what we can get, how we can intimidate this person, that sort of thing...So I really learned to hate it a lot. When the Building and Construction Project came along, and we saw the methodology was real time reviews, we didn't know what it meant. But when we saw that it was a lot softer than an audit, a lot faster, and less intimidatory, and probably more helpful, I liked it. I preferred that way of doing things.

On the other hand, former CE/B&C project staff members tend to be rather cynical about the sources of tax compliance. Asked, for example, whether 'fear of penalties is more important than conscience and the obligations of citizenship' as reasons for tax compliance, 71.8 per cent of our survey respondents agreed or agreed strongly. Clearly, they believe that a strong threat is fundamental to the compliance assurance process. Not surprising, therefore, one of their most frequently mentioned concerns was whether the ATO would maintain the level of prosecutions needed to make it work. Put differently, they wonder whether the 'benign big gun' will be employed sufficiently often to maintain an acceptable level of tax compliance.

The enforcement technology at the heart of the Compliance Model does not end with real time reviews; responsive regulation highlights the importance of involving community and industry groups in efforts to maintain or improve overall tax compliance. This means that ATO staff now are expected also to contact and work with these stakeholders in order to improve awareness of and support for the tax system. This requires work routines and personal skills different from audits and penalties, the traditional mainstays of tax enforcement. Early on in the CE/B&C project, the Project Leader visited the senior management of the Master Builders' Association and the Housing Industry Association in Canberra. He explained that the project would be using the principles of the Compliance Model, and outlined the benefits its use would bring to the ATO and to the building and

construction industry. Similar meetings were held with the management of comparable associations around Australia. The new efforts bore fruit; the Master Builders' Association announced its support of the work the ATO was doing in the industry and its willingness to work with the ATO to ensure cash economy practices were ended (Australian Taxation Office, 1999c).<sup>5</sup> It is premature to examine the effects of these complex and indirect effects of responsive regulation, but field-level ATO personnel who responded to our survey were notably positive in their assessments of how well this process proceeded and the payoffs from it. Specifically, they were asked to indicate their degree of agreement or disagreement with the statement: 'During the time I worked in the Cash Economy Building and Construction Project, I witnessed substantially improved trust and cooperation between trade associations and the Australian Taxation Office'. A majority of respondents (60%) agreed or agreed strongly whilst 26.5 per cent were undecided, and the remainder disagreed or disagreed strongly.

Whilst the broad principles of the Compliance Model are endorsed by subjects, this begs the question whether their increasing support for it in the abstract reflects detailed understanding of its principles and whether they in fact changed their work routines accordingly. Concern about these matters is heightened by comments we repeatedly heard to wit: it is 'just common sense' or 'it's what we've been doing all along'. This suggests that the more arcane aspects of the Compliance Model may have been missed by a substantial proportion of those assigned to the CE/B&C project. A team leader told us:

[I]t's really interesting. When we did our one-to-one session, and even afterwards, one of my team members said to me [that] he wished he knew about this Compliance Model previously. Because it's not just a tool you can use in your work environment, it's a tool you can use in real life, you know, in your relationships with other people. I mean you give people a chance before you go heavy with them. It's what we've always done but all you've done now is put a name to it. You call it a Compliance Model. It's what we always used to do.

### *Context and Timing*

We noted that favourable environmental conditions can play a critical part in an organisation's capacity to change policy directions and to construct viable new structures and practices. Use of the Compliance Model was added to an ongoing series of initiatives begun in 1997 that were aimed at increasing citizen trust and reducing cash transactions in several industries. These initiatives came in the midst of what seemed to some of those we interviewed as a period of torrential changes, nearly all of which necessitated change in work routines and skills. To this was added later the inexorable approach of the GST. By mid-1999, when we interviewed ATO operatives, expressions of anxiety and fear of being overwhelmed were commonplace.<sup>6</sup> For example:

Our workload has increased. Our responsibilities have increased...The knowledge that you require to do your job properly is increasing...The biggest change in the ATO I've

seen [however] is because of technology, not because of the Compliance Model...I'm not the best person when it comes to technology. It's going too fast for me...and I'm more reluctant to change...Now we've got the new tax system, and it is coming on top of everything else. And I just don't want to know about it yet. I really don't. I don't want to know anything about GST.

The subject is not alone in his perceptions and anxiety. Responding to twin imperatives of the push for improved efficiency provided by rapid technological change and new tax policy, the result is a marked increase in workload and efficiency by ATO personnel (Commissioner of Taxation, 2000, pp. 13-14). Along with outsourcing of work formerly carried out by government employees, hoteling or 'hot desking' has changed forever the nature of operatives' work and their interaction with supervisors and headquarters; a great deal of this now takes place electronically. For many front-line employees, one of the principal consequences is a sense of mistrust and anxiety to which the rapid approach of the GST was a major contributor.

### *Evaluation*

The ATO evaluated its cash economy projects and reported evidence that things are working (Australian Taxation Office, 1999c, 2000). Evidence of two kinds is cited in support of this conclusion: gains in income and reported taxes by building and construction firms, and the results of an on-going series of surveys in which citizens are asked their perceptions of the ATO and its operations (Commissioner of Taxation, 2000, pp. 35-36). Both are reasonable and appropriate measures of program impact, the former because use of the Compliance Model clearly is meant to increase taxpaying and the latter because the new ATO, in time, should be seen by citizens as a more helpful and less threatening arm of government.

No data or evidence used or cited to this point as evidence of success can stand cursory methodological scrutiny, however. Although reported income is up, this increase must be seen against the backdrop of economic improvement and the upward trend in tax revenues. 'For most of the past decade, total and company tax collections have grown at a rate greater than GDP' (Commissioner of Taxation, 2000, p. 9). Since December 1996, the ATO has conducted biannual surveys to measure community perceptions of the organisation. Whilst citizen perceptions of some aspects of ATO operations have improved modestly over the past three years, 'the results to date have remained fairly constant' (Commissioner of Taxation, 2000, p. 49). Studies of samples drawn from the building and construction industry have been more promising, but failure to examine the possible influence of other factors limits confidence in these findings. The short period of time (three years) is not sufficient to warrant more than cautious optimism.

### *Business Owners and the 'New ATO'*

Underlying our interviews with the owners of small building and construction

firms is the assumption that if the Compliance Model is on the right track, there should be evidence that the word is getting out to those at whom the policy is aimed and evidence also that they are changing their perspectives. Specifically, we reasoned that if any short-term impacts of the CE/B&C project were to be apparent after less than two years duration, it should be present in the experiences and opinions of business owners who had direct contact with the ATO during this time.

Before moving to an examination of this issue, it is noteworthy that very few of those we interviewed expressed opinions of unfairness about the taxation system generally. One respondent, however, told us:

[T]he thing that you'll find in the building industry is that they are particularly hostile to the taxation department because they sit there and they watch multinational companies paying no bloody tax at all [whilst] they are being screwed into the ground. That's where the hostility comes from. That's where a lot of the cash economy comes from, because there...is resentment...The rates are too high, [and] multinationals will not pay their taxes. And not only multinationals, there are others too. But generally the wealthy don't pay their bloody taxes, and that's where the resentment comes from.

Q: What...could ATO do to soften this perception of unfairness in the taxation system?

A: Charge multinational companies exactly the same rate of tax that we pay, and don't let them write off losses that everybody knows are fake. Everybody knows that these losses are paper losses. The money's being shipped out overseas. We know that, the Government knows that...But they never touch them. It is time – all over the world – if the multinationals could be pulled into line because if they pay their share, everyone else will have to – we'll all of a sudden find that everything's down to a reasonable rate. I mean, these people deal in billions of dollars not in, you know, \$50,000 a year or something like. They deal in billions of dollars.

Q: So you think the tax system generally is simply unfair?

A: It's grossly unfair. The rich pay nothing.

Q: *Grossly* unfair?

A: Grossly unfair. It's to the point of nearly being highway robbery. The middle and lower income earners are paying for everything. The rich at the top they don't. They write it off on schemes. They can afford fancy accountants and all the rest of it. The rest of us can't...It's ridiculous.

This subject was virtually alone in his charge that the taxation system is distributively unfair.

Most business owners were less critical of the taxation system overall and directed their criticism at the ATO specifically. They were mistrustful and cynical about it and its policies. A substantial proportion believe that little good and potentially a great deal of trouble and lost production time can come from contacts with the ATO. One remarked:

Q: How often does ATO come up – I realise these are unusual times because of GST coming in, right – but if you can go back to six months ago, before everyone started to worry about GST, how often does ATO come up in conversation on the job?

A: Hardly ever...

Q: When it does come up, what is the general tenor of comments about the ATO?

A: Fear. ...Probably it's the fear of the unknown, you know. We all reckon that public

servants are arrogant pricks anyway that really don't know what they're doing, and the only reason they're there is because they couldn't make it in the real world...That's the sort of attitude because when – if you talk to anybody that's met them, that's how they come over. It's like a policeman standing there...and everybody fears a policeman, don't they? Doesn't matter whether you're not doing anything or whether you were, you know...[Y]ou think, 'what have I done wrong?'. And you get the same sort of thing when they mention the ATO or the tax department. 'What in the hell have I done wrong now?'. And that's the reason – they're not there to help you, they're there to nail you.

Another and unusually clear representation of this was given by a plumber who was interviewed along with his business partner and mate on their job site:

I mean, it's all too hard: that something that should be so simple is made so hard. On top of going to work and making a living, we're expected to work all our tax out and everything else out, and it's that bloody complicated. Chartered accountants can't work it out who are trained to do that. And yet they want us to do it. I mean, like, how many of those guys can come and put up gutters and dig trenches and lay plumbing? Fucking none of them! But they expect us to be able to do it – to keep our books in – in absolute perfect order.

The Tax Office is very inflexible when it comes to listening to any reasons why – it's not like dealing with anybody else. I mean, it's basically, 'You were due to pay that on the 21<sup>st</sup>'. And this one young lady...I spoke to her and I said, 'Look, you know, can I have, you know, two weeks [to meet tax obligations]?'. (And I had never defaulted on my taxes.) She said, 'No, I've got a record here that you paid late the last two months'. And I said, 'Yes, but I *have* paid, and I am finding it really hard at the moment'. She said, 'No, you will pay like immediately or I'll start fining you tomorrow, and you're going to get' – I can't remember what she said – some sort of record as a problem payer...And I thought she was a very hard woman...So...yes, I lost it. I couldn't even talk to her. I hung up. Anyway, she rang me back a couple of days later, and she was a little bit nicer. But...– it had got to the point where [our business] was really struggling.

Q: What is your impression of how small business owners like yourself generally see the ATO?

A: How do we see it?

Q: Yes. Does this ever come up in conversation between you and your mates?

A: Not really, no. The consensus is everybody hates it, you know. The ATO is there to rob us of any chance of making any profit for anything, and that's it, and I think that's the consensus with most people.

Another subject commented simply that 'the public perceives them to be just a bully'.

Wariness and cynicism were not universal, however; a minority of the respondents noted that the ATO merely carries out policies enacted and modified periodically by 'politicians' (i.e., Parliament). Consequently, a subject told us: '[I]f you need any advice, then who better to go to than the ATO – apart from your own accountant. [If] there are some little things that you might want to know...the ATO will be able to tell you. So it's best to go there'.

One of the principal objectives of the Compliance Model is improved business

perception of the ATO and a more cooperative culture among business owners. No one expects this will be accomplished quickly, but the Model rests on an assumption that over the long haul, its use will produce effects of this type. Our interviews focussed principally on subjects' experiences with and perceptions of the ATO over the past five years. Few of the building and construction owners were aware that the ATO had launched the Compliance Model, but a much larger number reported they had personal contacts with the ATO during this time. One of the most striking characteristics of the responses we received was the large proportion who spoke positively of the way they were treated in these contacts. A man whose business records were audited by ATO staff some ten years ago commented on the contrast between that experience and a real time review conducted by ATO approximately one year before our conversation:

Q: You mentioned a few minutes ago that, historically, the building and construction industry is one where – you didn't say it this way, but I think this is what you meant – people are suspicious of, a bit wary, of the Australian Taxation Office?

A: Years ago, yes...Up until the last few years, you know. I must admit the first time I ever got audited that they treated me like a common criminal, you know, until you're proven innocent. And consequently I had a shocking attitude to the taxation department because I just thought all they were trying to do is put you out of business...I must admit I had a shocking attitude towards them...But I think that the people that have contact with them now understand that they've got their job to do and that they are trying to be user-friendly as much as possible...I must admit, my attitude's been changed completely.

As impressive as these comments are, they and others like them are subject to a host of interpretations other than the tempting one that business owners are changing their perceptions as a result of ATO's use of the Compliance Model. The respondent was asked, for example:

Q: Do you think getting a little bit older also has anything to do with this?

A: Most certainly. Most certainly.

Q: How would you interpret that?

A: I just think that when you're younger you're a little bit more gung ho sort of thing...but I think as you get older you start to become a little bit wiser and start to understand, you know, they've [ATO] got their job to do and, consequently, we need to pay taxes to have all the benefits that everybody needs. You do have that [attitude]...when you're young. And that's when most companies are starting – they just want to go full on trying to get their businesses up and running, and if anybody comes in – it doesn't matter if it's the taxation department or anybody else – to interrupt what they're trying to achieve then they would try to dismiss them...And I think most people that run their businesses are inclined that way...They just don't like to be pulled up...They just want to go for it.

Our cautious interpretation of what we were told, however, should not obscure the fact that this respondent was not alone in noting that he has seen a change in the ATO. Responding to a question, another business owner commented:

Q: Has this [most recent] contact [with ATO] in any way changed the way you think

about them?

A: Absolutely. Absolutely. Like I said...it was, first of all it was nice to see that it was actually a human being that worked for the ATO. Because as far as I always thought, they weren't humans anyway. Yes, it was nice to have somebody you could look at and actually speak to, and, yes, he was a nice guy.

Q: But when we began talking, you used some of the words that [others] have used to describe them: 'rude', 'arrogant'...

A: That's right. Yes. And that was from speaking over the phone [with them]. And...when I had this meeting with them some time ago, that was exactly the way that I'd always thought of them. Especially from that initial time [several years previously]. Yes, my perception definitely changed after having this guy here a couple of weeks ago. Like I said, he was nice, he was understanding. He explained, you know, what we wanted to know....It was good to be one-on-one and see one of these guys.

It is well to recall again that the sample of firm owners we interviewed is made up almost entirely of those with a record of compliance. This should temper our readiness to interpret these findings as indicative of success for the ATO Compliance Model. They are strongly suggestive, however.

## **Lessons**

This research began with two overarching questions: (a) to what extent did the ATO have or acquire during the initial two years of operation of its CE/B&C project capacity to implement the ATO Compliance Model with a reasonable chance of success; and (b) what can be learned from the CE/B&C project initiative that could be useful now that the Compliance Model has been extended throughout the Australian Taxation Office?

Regarding the former, there is strong evidence that ATO executives supported the Compliance Model and provided adequate resources for its trial implementation. There is evidence also, albeit considerably weaker, that field-level staff gradually warmed to the approach although they continue to harbour ambivalence about it and reservations about its long-term impact. The Compliance Model was adopted by the ATO during a time of considerable external change and uncertainty, and it can be extremely difficult to isolate and determine the effects of new policies under conditions such as these. The ATO was powerless to maintain for the CE/B&C project an environment in which it could function smoothly and reflectively. The problems, however, are not confined to the absence of stable environmental conditions; the Compliance Model was adopted at a time of change and uncertainty within the ATO as well. Management initiatives to increase employee productivity coupled with changes in employee work routines contributed to pervasive uncertainty and stress.

For reasons presumably diverse and complex, some conditions important for achievement of reform initiatives did not materialise, however. Plans for evaluating the CE/B&C project were not built in and were hampered in any case by shortcomings in routine data collection and management capabilities. The ATO's Case Management Reports and Analysis system (CaMRA) is a case in point.

CaMRA was designed for reporting in the area of withholding tax, and only later was modified for use in other areas of taxation. The modifications, however, were stop gap in nature, and the finished product was unsatisfactory. When applied to the CE/B&C project, the resulting system of data and case management was of limited utility both for ATO personnel and for those who would use it to examine the implementation and effectiveness of the ATO Compliance Model. It proved unreliable as a guide for drawing our sample of firms with variable intensity of contact with the ATO during the preceding two years, and even efforts to determine how many RTRs were conducted during the same period yielded inconsistent numbers. Despite indications of considerable organisational capacity for responsive regulation, the ATO probably will not know with any degree of confidence how well the program operated.

What lessons can be drawn from the CE/B&C project that may be of value now that the ATO has extended the Compliance Model to all areas of compliance assurance? Clearly, new policies and procedures for evaluating them should be launched at one and the same time. This was not done when the ATO moved to responsive regulation of the small building and construction industry. One possible consequence of this is limited gain in knowledge of how to implement and make work soundly new policies. An interview subject told us:

I think the biggest problem in the office is that we always go – we don't have balance. We go all or nothing. So, we go Compliance Model... 'This is the be all and the end all, and it's happening today, and everybody will live and breathe it'. And that was the message that was put out: 'You will live the Compliance Model'... It should be – and I am not sure how to achieve it – a more subtle thing; it should be built, and it shouldn't just be bang, thrown on the table and 'here, take it away. This is what you have got to do'. We do a lot of things that way. The Office seems to always work that way; if it is going to start something it doesn't pilot it, it doesn't test it, it goes for it.

Although this subject may be unaware of it, his comments on the importance of testing new programs carefully and rigorously is disputed by few policy analysts. Not only should they be tested, but procedures for doing so and a clear understanding of the specific kinds of data to be collected should be built into the program from the outset. Decisions about the kinds of evidence that will be taken as a sign of success or failure should be reflected in routine record keeping. Whether or not the turbulent environment conditions in which the ATO has operated in recent years and its own unsettled internal worlds would have made possible anything more than was done is unknown, but the ATO's evaluation studies and the results of this research are cause for modest optimism.

## Notes

- 1 Several months before it adopted the ATO Compliance Model, the ATO issued the Taxpayers' Charter (Australian Taxation Office, 1997). Seen as a covenant with taxpayers, it spells out their rights and obligations and the options available to them should they be dissatisfied with their treatment by the ATO.
- 2 This low response rate leaves us unable to assume confidently that those who returned

the survey are representative of all who took part in the CE/B&C project. Although we can only speculate as to the reasons for it, the timing of the survey was unfortunate; by the time it was mailed to ATO personnel, the CE/B&C project had been scaled back substantially. The Compliance Model no longer was a salient issue or focus of work routines, and many ATO staff may have stopped caring about their experiences using it. In addition, the volume of e-mail field-level personnel receive daily is both sizeable and increasing, and this may make it easy to overlook or ignore messages which clearly do not require a response. The average age of the 84 survey respondents was 42.6 years, and the average length of time they were assigned to the CE/B&C project was 22.6 months. Women comprise 21 per cent of the respondents. When asked if they had worked as a supervisor at any time during the project, 34.6 per cent of the respondents answered affirmatively.

- 3 BISEP represented the idea that to understand the compliance of an individual or group, one needed to understand the environment in which they operated. The initials of this acronym stand for B = Business profile, I = Industry factors, S = Sociological factors, E = Economic factors and P = Psychological factors.
- 4 Some may see irony in the fact that the ATO Compliance Model, which highlights the importance of and the payoff from consultation, education and cooperative relationships, was adopted and implemented in a top-down, command and control fashion within the Australian Taxation Office.
- 5 The one building and construction industry representative we interviewed was quite positive in his comments about responsive regulation as he had experienced it. He was impressed particularly by the willingness of ATO personnel to attend meetings of their organisation, to do presentations as part of the meeting program, and afterwards to answer questions posed by builders in attendance.
- 6 In 30 years research, the senior author rarely has encountered the level of unease and anxiety expressed in interviews with ATO field-level personnel. Whether this results from unfamiliarity with academic investigators or from the pace of change in their work day, many of those we interviewed seemed unusually jittery.

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