

Defiance and taxation

Between 2001 and 2005, Valerie Braithwaite was Director of the Centre for Tax System Integrity at the Australian National University. She led a research team that undertook five national surveys into taxpayers' attitudes to the tax system, finding that defiance in response to taxation takes two main forms. She summarises the highlights of this work below.



Defiance in response to taxation takes two forms: resistance and dismissiveness. Resistance is the most familiar form, with around half of Australians likely to be resistant to paying tax at any one time. It often takes the form of grievance, with taxpayers complaining about

how the ATO 'brands them and hounds them, no matter how hard they try to do the right thing'. Resistance does not mean people won't pay their tax and, more importantly, resistance does not mean people don't believe in a tax system.

Generally, resistant defiance can be managed through explanation, fair treatment, transparency, helpfulness, trust, respect for the community and patience – all the things outlined in the *Taxpayers' Charter*.

A second form of defiance is dismissiveness. Repeated cycles of deliberate tax avoidance are examples of harmful practices that are likely to be initiated by those who are dismissively defiant. This is a far more serious form because there is no relationship with authority that can be nurtured or repaired. Dismissive defiance represents a challenge to authority, a desire to 'beat the system'.

Dismissive defiance of taxation is found in less than 20% of the population. While relatively uncommon, it is more worrying for tax authorities because of its links with tax evasion and unlawful activity. It is fuelled by cynicism and disrespect for the tax system – and in most cases for government as well. Those who are dismissively defiant either cut themselves off or consider themselves a match for the tax authority.

Trust plays different roles in dealing with resistant and dismissive defiance. For resistance, the best protection for a tax authority is building trust, which can be partly done through practicing the principles of the *Taxpayers' Charter*. The ATO scores as well as our law courts on trust: about half of the Australian population report that they have a fair bit or a lot of trust in the ATO.¹

Dismissive defiance will thrive when trust is absent, but building trust is not the key to managing dismissive defiance. The answer to dismissive defiance is getting the law right, morally and technically, and enforcing it effectively. The role of tax authorities here is to investigate, prosecute, track, and remove opportunities. At the same time, principles of fairness also need to be heeded. While injustice and grievance may not be drivers for those who initiate avoidance schemes, they are likely drivers of the people who come in at the tail-end as participants.

Such schemes cascade down from elites to ordinary taxpayers, albeit in less sophisticated and in more transparently illegal forms. The grievance that attracted ordinary taxpayers in the first place mushrooms when they are the first to be caught and prosecuted.

Tax authorities can't escape the complexity and sophistication of how taxpayers think and justify their actions. Each of us has many different faces when it comes to tax. So how should tax authorities take our multiple tax selves into account in designing their approach to preventing evasion and avoidance?

The best way is through scenario planning around three personas, bearing in mind that each of us has all three. First is the honest taxpayer. Instead of being cynical about the existence of the honest taxpayer, tax authorities would do well to value, strengthen and give dignity to this way of being. Second is the just and fair persona.

This persona is sensitive to any breaches of fair play and taxpayer rights. Third is the competitive, achievement-focused persona, ready to fight with the tax office on every obstacle. The best way to face the inevitable contest with the competitive persona is to pre-empt and remove as many obstacles as possible through consultation. The tax authority may not always win the contest, but in the eyes of the public, the authority has the courage of its convictions, standing up for what it believes is right for the tax system and the community.

Based on Valerie's book, *Defiance in Taxation and Governance: Resisting and Dismissing Authority in a Democracy* (2009). Cheltenham, UK and Northampton, USA: Edward Elgar (365 pages).

¹ Braithwaite, V. (2009) How do Australians Think about Taxation? Presentation to the Joint Committee of Public Accounts and Audit, Parliament House, Canberra, 23rd October. Web address <http://vab.anu.edu.au>