

Game playing with tax law

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This research note selects out those people who admit to entering into a spirit of game playing with tax law and compares them on a range of variables with those who do not identify with this posture. Game playing is a posture that people adopt toward the tax office that signals a lack of deference to the authority, although there may still be respect for being law-abiding in the technical sense (Braithwaite, 2003). Game playing is an attitude that individuals acknowledge having. As such it is slightly different from the game playing behaviour that McBarnet observes among those people who use loopholes in the law to avoid tax (McBarnet and Whelan, 1999). The point being made here is that attitude and behaviour are conceptually distinct: After all, we might *like* to do many things that we don't have the money to actually *do*. In this particular instance, however, having a game playing attitude and engaging in game playing behaviour are shown to be significantly related. A lot of people seem able to do what they would like to do. (This is not so in other areas of taxation compliance: see Braithwaite, 2003).

The attitude of game playing is measured through combining responses to the following items: "like to find the grey area of the tax law," "give the tax office a run for their money," "enjoy spending time working out how changes in the tax system will affect them," "enjoy talking to friends about loopholes in the tax system," and "enjoy minimising the tax they have to pay." Respondents indicated how much they

were like this using a 1-5 rating scale for each item. Average scores were then calculated across items. If a respondent scored above the midpoint in the year 2000 (CHFAS) or 2002 (ATSFS), that person was coded as “game playing.” If not they were coded in the “never” category.

CTSI Sample

Two consecutive surveys were conducted: the ‘Community Hopes, Fears and Actions’ survey in 2000 (CHFAS), and the follow-up ‘The Australian Tax System: Fair or not?’ survey in 2002 (ATSFS). The sample for this research note on game playing comprised respondents who answered both surveys – CHFAS in 2000 and ATSFS in 2002. The sample size was 1161 of whom:

- ✘ 84 % were not game-playing at either time – 2000 or 2002
- ✘ 16% were game-playing at one time or the other or at both times

The two groups were compared on a range of social demographic, attitudinal and behavioural variables to find out how those who are engaged in game playing were different from the majority of taxpayers.

Behavioural measures of evasion and avoidance

From Table 1, a consistent pattern emerges of game playing being more prevalent among those who evade tax through over-claiming deductions, not declaring income and using tax minimization schemes (see Braithwaite, 2003 for measures). Business owners are no more likely to display this posture than wage and salary earners. Thus, across work groups, we find evidence that those who express the game playing

posture are more likely to take *actions* that reduce their tax contribution and they are not averse to illegal means of doing so.

Table 1 Percentages and significant differences on the behavioural measures of evasion and avoidance for the game playing group and the never group

<i>Tax evasion and avoidance</i>	Category	Group		Chi-Square
		Game playing N = 158	Never N = 849	
Tax deductions in 2000	Legitimate deductions	14%	86%	9.73*
	Exaggerated deductions	24%	76%	
Tax deductions in 2002	Legitimate deductions	14%	86%	8.03*
	Exaggerated deductions	23%	77%	
Declaring income in 2000	Declared all income	13%	87%	18.03**
	Did not declare all income	30%	70%	
Declaring income in 2002	Declared all income	13%	87%	21.60**
	Did not declare all income	32%	68%	
Tax minimization in 2000	No tax min effort	11%	89%	12.49**
	Yes tax min effort	20%	80%	
Tax minimization in 2002	No tax min effort	10%	90%	30.93**
	Yes tax min effort	23%	77%	

* $p < .01$ ** $p < .001$

Other defiant postures

Game playing has been regarded as one defiant posture; disengagement and resistance are the others (Braithwaite, 2003). Interestingly, game players score significantly higher on both resistance (an in-system posture) and disengagement (an out-of-system posture) in Table 2. This may mean that some of those who game play (those who are also high on resistance) have not dismissed the tax authority altogether. In such cases, the tax authority may have the capacity to turn some of them around and rebuild respect for the system. Just as resistance can be read as a sign of hope for reintegration, disengagement can be read as a sign of intransigence. Further work of the kind recommended by Wenzel and Taylor (2004) is needed to find out when reintegration is practicable and when it is not.

Table 2 Mean scores and significant differences on the postures of resistance and disengagement for the game playing group and the never group

<i>Motivational postures</i>	Group		t-value
	Game playing N = 158	Never N = 849	
Resistance 2000	3.33	3.12	4.44**
Resistance 2002	3.30	3.11	4.03**
Disengagement 2000	2.47	2.24	4.54**
Disengagement 2002	2.50	2.22	5.65**

* $p < .01$ ** $p < .001$

External and internal regulation

Perceptions of deterrence have traditionally been measured through asking respondents the likelihood of getting caught, the likelihood of sanctions being imposed, and the seriousness of the consequences of the sanctions. A multiplicative term combines these measures and is used to represent the degree to which people perceive a deterrence effect operating in the regulatory situation.

In Table 3, deterrence is less likely to be acknowledged by game players than by those not adopting this posture. Furthermore, when individuals are given hypothetical scenarios in which they are asked to imagine themselves being caught for evasion, game players are more likely than others to blame it on the tax office and direct their anger accordingly. Pride in being an honest taxpayer was substantially lower for game players than it was for others.

These findings show game players to be distant from both the internal (eg conscience) and external (eg sanctions) regulatory mechanisms that the tax authority uses to bring taxpayers under control. Thus, we might conceive of game playing as a posture that allows individuals to escape from regulatory control.

Table 3 Mean scores and significant differences on the external and internal regulation variables for the game playing group and the never group

<i>Taxpayer's regulatory experiences</i>	Group		t-value
	Game playing N = 158	Never N = 849	
Perceived deterrence 2000	3.33	3.52	-2.60*
Perceived deterrence 2002	3.35	3.56	-2.93*
Shame displacement 2000	2.10	1.79	4.96**
Shame displacement 2002	2.09	1.85	4.25*
Pride in being an honest taxpayer 2000	3.42	3.65	-3.94**
Pride in being an honest taxpayer 2002	3.43	3.65	-3.71**

* $p < .01$ ** $p < .001$

An alternative authority?

Those who wish to defy authority need a degree of courage, hot-headedness, or strategic help, or all of these. Hot-headedness is best captured in this research note by the relative absence of fear and timidity, specifically, fear of deterrence is lower for game players and shame displacement or anger directed at the tax office is higher.

In this section we move on to the idea of winning against the tax office through strategic help. Respondents were asked to tell us about their “ideal” tax practitioner (“what qualities would you look for if you had to find a new advisor today?”) and they were asked to describe the practitioner that they are now using.

Consistently, those in the game playing group wanted to risk having more aggressive advice, they wanted an effective tax minimizer, and they were much more likely to report having someone who met their needs.

Game playing is not an activity in which people engage by themselves. The items of the scale refer to the company of others. These findings show that the others are not just friends and acquaintances – they include highly skilled professionals who act as intermediaries with the tax office.

Table 4 Mean scores and significant differences on the alternative authority variables for the game playing group and the never group

<i>Alternative authority</i>	Group		t-value
	Game playing N = 158	Never N = 849	
Has an effective tax minimizer or agent 2000 ^a	3.15	2.72	6.49**
Has an effective tax minimizer or agent 2002 ^a	3.05	2.61	6.07**
Would like an effective tax minimizer or agent 2000	2.57	2.24	4.89**
Would like an effective tax minimizer or agent 2002	2.57	2.14	6.42**
Would like an aggressive tax planning approach 2000	2.59	2.11	7.16**
Would like an aggressive tax planning approach 2002	2.43	1.99	5.94**

* $p < .01$ ** $p < .001$

^a The Ns are lower for these groups because some do not use a tax agent

The authority and its legitimacy

Those who have a game playing attitude display an unusual pattern of beliefs regarding the ATO and its legitimacy as an authority (see Table 5). On the one hand, game players believe that they should obey the law – this is not inconsistent with their posture since their *raison d’être* is to find their way around the intent of the law while being technically compliant. At the same time, they seem to see the authority as weak

and as being unable or unwilling to deal with non-compliance issues when they arise. Game players don't believe that the tax authority uses the power it has at its disposal in eliciting compliance from non-compliant taxpayers. This observation explains why game players see the ATO as treating all taxpayers as trustworthy. The message here is that game players see the tax office as falling asleep at the wheel. Instead of being firm and fair, the tax office is weak and disinterested, allowing ordinary taxpayers to do what they want.

Table 5 Mean scores and significant differences on facets of legitimacy for the game playing group and the never group

<i>Facets of legitimacy</i>	Group		t-value
	Game playing N = 158	Never N = 849	
Belief that the ATO uses its power against ordinary taxpayers	3.87	4.14	-3.76**
Belief in obeying the law	2.91	2.64	3.74**
Perception of being treated as trustworthy	3.23	3.04	2.84*

* $p < .01$ ** $p < .001$

Social values and world views

If game players are opportunists, evaluating the situation as one that can be exploited, the solution should be quite easy – catch people and game playing should stop. This

(2004) kind could provide the evidence required to justify a substantial investment of resources in this initiative. Or such an evaluation might advise against it. Why ambiguity over the outcome? Game players have quite a distinctive view of the world as we see in Table 6 below. These views suggest that game players might be like those people in Brehm and Brehm's (1981) research who reacted against deterrence through persisting in their non-compliance. Even becoming more non-compliant.

From Table 6, game players see the world through a more competitive lens than most others. They believe in competition, they want to be wealthy and successful, they value efficiency in individuals and in bureaucracy, and they want to limit the intrusion of government into private lives. They are rugged individualists who are happy to make their own way in the world and have little interest in helping those who are not so well equipped to advance their own well-being. Game players don't hold values or world views that would justify the existence of a tax system except of the most basic kind. Their idea of tax reform involves the constriction of the system, a flat rate of tax, no deductions and so on.

The effects of increasing deterrence and closing off options for game playing therefore need to be interpreted against this backdrop. Understanding these background variables may explain why some people have argued that game playing is never ending (McBarnet and Whelan, 1999); as soon as one loophole is closed, another is identified so that tax officer and tax avoider become engaged in a game of cat and mouse.

Table 6 Mean scores and significant differences on social values and world views for the game playing group and the never group

<i>Social values and world views</i>	Group		t-value
	Game playing N = 158	Never N = 849	
Values social and economic status	4.86	4.39	5.86**
Values competence and effectiveness	5.67	5.47	2.91*
Wants small government and free markets	3.32	3.09	3.28**
Supports tax reform that brings containment and efficiency	3.98	3.81	2.98*
Supports tax reform that simplifies the system - removes deduction and exemption	3.22	2.96	3.18*
Wants to pay less tax and happy to get less from government	3.13	2.91	2.95*

* $p < .01$ ** $p < .001$

Conclusion

The attitude of game playing appears to be a coherent style of engagement with the tax authority in that it is related to behaviour, it is supported by sympathetic

professionals, it is legitimated through perceptions of a “sleepy” system, and buttressed by opposition to the tax system. Probably the most interesting aspect of game playing is that it is fundamentally adversarial in terms of objectives, with signs of neither victimization nor procedural unfairness. It seems to be socially constructed as a competitive game, almost as a game between friendly rivals - the tax officer on one side, the taxpayer on the other. As the game extends to include more and more Australians, however, one wonders how the rules of the game will come to be understood by newcomers. And if the rules are clarified, questions need to be asked about the consequences. Does this mean there will be ratcheting up of the contest between taxpayer and tax administrator? Through putting everyone on their mettle, will the game intensify, with more and more action in the courts? How this game plays out will depend on the responsiveness of both parties. One thing of which we can be sure is that neither side lacks the capacity and resources to play on the world’s centre courts. As we observe the responses of each side, the question we might well ask as this cat and mouse game unfolds is: Who is the cat and who is the mouse?

References

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