

# TAXPAYER COMPLIANCE EFFECTS OF ENHANCING TAXPAYER RIGHTS – A PRIMER FOR DISCUSSION OF A DEDICATED RESEARCH AGENDA

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## Abstract

There is a welcome continuing Australian and global tax administration policy focus on ensuring adequate protection of taxpayer rights. This policy focus is, in part, driven by a presumption that enhancing taxpayer rights will lead to greater taxpayer voluntary tax compliance through the fostering of a climate of trust and confidence between taxpayers and tax officials.

However, the acceptance of a positive correlation between enhancement and awareness of taxpayer rights and willingness to comply implies a presumption that terms such as fairness (or trust) and taxpayer rights are synonymous. This paper questions this presumption, arguing that fairness and trust are much broader concepts which are difficult to conceive of as rights. Consequently, concepts such as fairness and trust are poor analogues for taxpayer rights.

Further, this paper argues that there is a dearth of clear empirical evidence to support any unimpeachable presumption of a correlation (positive or otherwise) between enhanced taxpayer rights and greater taxpayer willingness to comply, let alone evidence as to the strength of any such correlation if it, in fact, exists. The paper takes the argument further, pointing out that even if such a correlation can be shown to exist and its strength measured, there is a need for research which adds nuance to our understanding of any such correlation in order to provide useful guidance to policymakers considering making specific legislative changes to strengthen and/or clarify particular taxpayer rights. This paper makes the case for developing a dedicated research agenda capable of providing that guidance.

## PART I – INTRODUCTION

There is a current Australian and global policy focus on ensuring adequate protection of taxpayer rights. In Australia, this is evidenced by the recent Inspector-General of Taxation's review of the Taxpayers' Charter and taxpayer protections (Commonwealth of Australia, Inspector-General of Taxation, 2016). Internationally, there is a growing trend toward codification of taxpayer rights' protections and service standards (Organisation for Economic Co-operation and Development, 2010, pp. 202-203). This policy focus is, in part, driven by a presumption that enhancing taxpayer rights will lead to greater taxpayer voluntary tax compliance. This presumption is clear from statements such as those emanating from the Organisation for Economic Co-operation and Development's (OECD) Centre for Tax Policy and Administration. A 2001 OECD report into the principles of good tax administration practice contains the following motherhood statement: "Taxpayers who are aware of their rights and expect, and in fact receive, a fair and efficient treatment are more willing to comply" (OECD, 2001, p. 154).

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There is a solid foundation for the OECD's conclusion that treating taxpayers fairly will foster greater willingness among them to comply with their tax obligations. This proposition is well-researched and widely accepted (for example, see Feld & Frey, 2007; Tyler, 2000; and Wenzel, 2002). Similarly, there has also been significant Australian and international research efforts to confirm the positive relationship between taxpayer trust in the system of tax administration and compliance behaviour (for examples, see Murphy, 2004; and Scholz, 1998). This paper does not propose to comprehensively examine or to challenge the conclusions of these bodies of well-established research.

However, the OECD's acceptance of a positive correlation between awareness of taxpayer rights and willingness to comply appears to include a presumption that terms such as fairness (or trust) and taxpayer rights are synonymous. For researchers dedicated to promoting an agenda of greater understanding of taxpayer rights and committed to seeking a resolution to the many challenges of striking an equitable and sensible balance between taxpayer rights and tax administration powers, this presumption is welcome. It is obviously tempting for a researcher with a taxpayer rights research agenda to unquestioningly accept its correctness. However, academic rigour and a fundamental concern to ensure that our research contributes to developing the best possible tax system for all stakeholders demands that we resist this temptation.

Accordingly, at the risk of eroding the economic case for enhancing taxpayer rights and understanding of those rights, this paper questions whether any such presumption should be accepted, arguing, for example, that fairness and trust are much broader concepts than taxpayer rights, conceivably encompassing a range of behaviours and attitudes, including nebulous aspirational concepts such as 'courteous' and 'respectful' treatment, which are difficult to conceive of as rights. They also encapsulate overarching principles in tax administration system design, such as equity and consistency, and, even more fundamentally, the Rule of Law. Consequently, concepts such as fairness and trust are poor analogues for taxpayer rights. It follows that the findings of research into links between fairness/trust and taxpayer compliance may, therefore, be unreliable predictors of taxpayer voluntary compliance responses to enhancements or greater awareness of taxpayer rights.

In fact, a scan of the literature demonstrates that there is a dearth of consensus as to a correlation (positive or otherwise) between enhanced taxpayer rights or awareness of those rights and greater taxpayer willingness to comply, let alone clear empirical evidence as to the strength of any such correlation if it, in fact, exists. In light of this lack of clarity, this paper proposes a dedicated research agenda to explore and seek to add some nuance to our understanding of any correlation between voluntary compliance behaviour and enhancements in taxpayer rights. This paper seeks to serve as a primer for discussion to generate such a research agenda.

Specifically, Part II sets out a brief summary of the current state of knowledge about the link between taxpayer compliance and taxpayer rights. It shows that, although extensive work has been carried out both in Australia and internationally to test the link between taxpayer compliance and trust and fairness, the findings of this work fall far short of confirming the existence, strength or nature of any link between taxpayer compliance and enhancement or increased awareness of taxpayer rights, despite the intuitive logical appeal of the proposition that a strong correlation must exist.

Part III builds upon this background, shifting attention to making the case for further research to test the existence and nature of any such correlation between taxpayer compliance and the

enhancement or awareness of taxpayer rights. Part IV sets out some general principles and challenges to consider when designing a research agenda to explore the relationship between taxpayer rights and taxpayer compliance, and is designed to serve as a primer for further discussion.

## **PART II – BACKGROUND – TAX COMPLIANCE AND TAXPAYER RIGHTS**

Taxpayer compliance research has, in recent years, progressed far beyond the simple testing of the existence and strength of the link between tax compliance and tax authority deterrence activities. This body of research, conducted largely by behavioural economists, tended to focus on testing any correlation between the severity of the consequences of failing to comply, together with the prospects of detection of non-compliance and taxpayer willingness to comply with their tax obligations. This body of work is sometimes generally referred to as work examining the "rational choice" or "deterrence model" of tax compliance (Torgler, 2002).

Increasingly, attention has shifted to looking to a broader and more nuanced range of factors which might influence taxpayer willingness to comply. This has involved a re-characterisation and general acceptance of the taxpayer/tax authority relationship as a "psychological contract" with mutual rights and obligations. Researchers from a range of disciplines have weighed in on the discussion, including sociologists and psychologists (for a good example, see James & Wallschutzky, 1995 p. 215). The psychological element of compliance behaviour has also been the subject of examination by a number of other writers since the 1990s (e.g. Tanzi & Shome, 1994, and Wickerson, 1994).

It is this body of work which has revealed strong links between taxpayer perceptions of fairness and trust (respectively) in the tax system and taxpayer voluntary compliance. However, as briefly canvassed below (a detailed examination would fill many volumes), the findings of this work fall far short of confirming a uniformly accepted existence, strength or nature of any link between taxpayer compliance and enhancement or increased awareness of taxpayer rights.

### *A. Fairness and Taxpayer Compliance:*

In terms of the relationship between fairness and taxpayer compliance, typical conclusions of recent work are that taxpayers will be more willing to comply with their tax obligations if the system is perceived to be "fair and legitimate" (Feld & Frey, 2007, p. 102). Similar conclusions are drawn by Wenzel. In his study of the impact of justice concerns on tax compliance, Wenzel notes the results of numerous studies concluding that "taxpayers are less likely to be compliant with a tax system they consider unjust, unfair, and, thus, illegitimate" (Wenzel, 2002, p. 629).

The existence of a strong positive correlation between the fair treatment of taxpayers and their willingness to comply has been picked up and unequivocally accepted as correct both in Australia and internationally. For example, as noted in the foregoing introduction, the OECD's Centre for Tax Policy and Administration has stated, without qualification, that "[t]axpayers who are aware of their rights and expect, and in fact receive, a fair and efficient treatment are more willing to comply" (OECD, 2001, p. 154). Similarly, the Australian Inspector-General of Taxation has recently concluded, without qualification, that "...taxpayers are entitled to fair treatment by tax authorities and their perception that their rights are protected and respected is key in fostering voluntary compliance" (Commonwealth of Australia, Inspector-General of Taxation, December 2016, at [1.15]).

A presumed positive correlation between fairness and willingness to comply has also been judicially accepted in some quarters, particularly in the United Kingdom, where the doctrine of legitimate expectations, which recognises a right to substantive as well as procedural justice, has been described as being "rooted in fairness" (per Bingham LJ in *R. v Inland Revenue Commissioners Ex p. MFK Underwriting Agencies Ltd*, 1990, pp. 1569-1570). In this context, Walton J has observed that fair treatment of taxpayers is in the "interests not only of all individual taxpayers...but also in the interests of the Revenue" (*Vestey v Inland Revenue Commissioners*, 1977, at p 439 per Walton J).

The most recent and comprehensive Australian scholarly contribution to the field - a project by Devos, published in 2014, which comprehensively addresses the literature and key factors affecting taxpayer compliance which have been researched to date, including any link between fairness and taxpayer compliance - is more measured in its conclusions (Devos, 2014). Devos points out the prime significance that governments attribute to fairness as a measure of a successful tax system, despite the fact that the findings of the many studies into the link between fairness and taxpayer compliance are inconsistent "...due in some respects to measurement and definitional problems as well as the multi-dimensional nature of fairness" (Devos, 2014, p. 27).

The Devos assessment is correct. Further, the accepted wisdom of a link between fairness and taxpayer compliance has not generated any sustained academic research specifically testing whether, and to what extent, any strengthening or increased awareness of taxpayer rights might result in increased perceptions of fairness with consequent greater taxpayer compliance. The studies which come closest to linking taxpayer rights with compliance behaviour are those which have examined links between procedural justice and perceptions of justice on taxpayer compliance behaviour, and the results of such studies have been inconclusive. For instance, Murphy (2003) refers to the following apparently contradictory findings of an Australian survey by Worsham, stating that its author:

failed to find an increase in tax non-compliance when taxpayers experienced procedural injustice. Using an experimental manipulation, Worsham (1996) found that procedural injustice experienced personally, either by being subject to inconsistency in enforcement or to enforcement attempts brought about by inaccurate information, did not increase the level of tax non-compliance. He did, however, find that procedural injustice experienced indirectly through becoming aware of another's unfair treatment did increase self-reported tax non-compliance (Murphy, 2003, p. 383).

In the study referred to by Murphy, Worsham summarises his findings in the following terms:

The results indicate that procedural injustice experienced indirectly through becoming aware of another's unfair treatment increased the level of non-compliance. Conversely, procedural injustice experienced personally, either by being subject to inconsistency in enforcement or to enforcement attempts brought about by inaccurate information, did not increase the level of non-compliance. In fact, inconsistent audit rates actually increased the level of compliance (Worsham, 1996, p. 19).

Book also notes the difficulty in drawing any concrete conclusions from the literature, pointing out the subtleties of tax administration and "the possibility that increasing post-assessment procedural protections may embolden non-compliance or, alternatively, increase compliance through a greater sense of public confidence in the fairness of procedures" (Book, 2004, p. 1160).

All of this suggests that any link between fairness and taxpayer compliance is far from straightforward. Even if such a link is accepted as certain, any presumption of the existence of a similar link between any enhancement of taxpayer rights and taxpayer compliance may be unwise in the absence of context-specific research to test this presumption.

### *B. Trust and Taxpayer Compliance:*

Research into compliance behaviour has also extended to the examination and confirmation of the link between trust and tax compliance (for good examples, see Mason & Calvin, 1984; Roberts & Hite, 1994; Sheffrin & Triest, 1992; Falkinger, 1995; and Cowell, 1992). Typically, such studies have focussed on the positive compliance effects of fostering a relationship of trust and confidence between taxpayer and tax authority (for examples, see Job & Reinhart, 2003; Murphy, 2003, Murphy, 2004; and Braithwaite, 2003). Prime among these is work by Braithwaite in the early 2000s. The Braithwaite work ultimately led to the adoption of the Australian Taxation Office's trust-based tax enforcement model. Braithwaite describes this model, which emphasises reward and trust over deterrence and punishment, as follows:

This approach encourages non-compliers to cooperate with tax officers in paying the taxes they owe, with prospects of punishment and loss placed in the background, only to enter into the compliance game when cooperation fails (Braithwaite & Braithwaite, 2001, p. 215).

However, like the studies confirming the link between fairness and taxpayer compliance, this work falls short of confirming any specific correlation between enhancement and/or knowledge of taxpayer rights and taxpayer compliance. The Braithwaite work touches upon aspects of taxpayer rights, but only incidentally, in the context of the broader relationship between procedural justice and willingness to comply.

There has also been significant international focus on the relationship between trust and compliance behaviour – although this work does not extend to testing or establishing the existence of any specific correlation between taxpayer rights and taxpayer compliance either. For example, leading work by Scholz and Lubell in the late 1990s found that trust in government by United States' citizens leads to levels of tax compliance "over and above the levels expected from an internalized sense of duty to obey laws and the fear of getting caught by enforcement agencies like the IRS" (Scholz & Lubell, 1998, p. 398).

Empirical work by Torgler, Demir, Macintyre and Schaffner in 2008 reached similar conclusions on the strength of the relationship between tax compliance and trust:

Trust in public officials might tend to increase taxpayers' positive attitudes and commitment to the tax system and tax-payment, which has finally a positive effect on tax compliance. Taxes can be seen as a price paid for government's positive actions. Thus, if taxpayers trust the public officials, they are more willing to be honest. If the government acts in a trustworthy manner, taxpayers might be more willing to comply with the taxes (Torgler et al., 2008, p. 332).

Whilst it is difficult to challenge the inherent logical appeal of such reasoning (or the corresponding reasoning that there is a positive correlation between perceptions of tax system fairness and taxpayer voluntary compliance), it is clear that such broad findings fall far short of any meaningful proof of any specific and direct correlation between taxpayer rights (and/or awareness of those rights) and taxpayer compliance.

Even where the research does venture to suggest a possible correlation founded on taxpayer trust and confidence in the tax administration system, the findings are nuanced and qualified. For example, Uslaner concludes that while taxpayers appear to respond rationally in their compliance behaviour by being more willing to comply when they have trust and confidence in the system and have legal recourse to defend their rights, this confidence only seems to matter when there is an effective judiciary (Uslaner, 2007, p. 17).

Examples such as this consolidate the prima facie case for more research specifically examining the nature and extent of any correlation between taxpayer rights and tax compliance. Part III expounds this prima facie case.

### **PART III – THE CASE FOR A RESEARCH AGENDA**

In light of the absence of specific research into the link between taxpayer rights and voluntary compliance discussed in Part II, acceptance of any link between taxpayer rights and compliance, such as that contained in the OECD motherhood statement cited in the introduction of this paper, should be questioned.

One possibility is that such sweeping statements stem from a supposition that terms such as fairness (or trust) and taxpayer rights are synonymous. However, analysis reveals key differences. For example, fairness and trust are much vaguer concepts than taxpayer rights, conceivably encompassing a range of behaviours and attitudes, including nebulous aspirational concepts such as "courteous" and "respectful" treatment. These are difficult to characterise as legal rights in any tangible sense.

Bentley describes such concepts as "aspirational administrative rights" which "depend upon normative prescriptions of behaviour that do not have agreed content. As their definition depends upon general social rules, they are inherently uncertain" (Bentley, 1996, 111). This point is aptly illustrated by the difficulties in attempts to translate concepts of fairness into an enforceable legal right in the context of the UK doctrine of legitimate expectations which, as noted in the Part II, is a doctrine "rooted in fairness". In that context, UK commentators have lamented that "[n]o real attempt has been made... to clarify what – as a general matter – counts as 'fair' or 'unfair', or the role which fairness plays in the overall scheme of judicial review" (Bamforth, 2004, p. 1. See also Clayton, 2003, and Stewart, 2000).

The United States has taken the lead in attempting to conceptualise and translate fairness into enforceable rights in its Taxpayer Bill of Rights (TBOR) which states under the heading "The right to a fair and just tax system" that:

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through normal channels (Department of the Treasury, Internal Revenue Service, 2014).

These are concrete commitments that can be identified, delivered, and remedied if the IRS fails to fulfil them. However, in most other jurisdictions, fairness remains firmly in Bentley's "aspirational administrative rights" category.

Fairness and trust also encapsulate overarching principles in tax administration system design, such as equity and consistency (first enunciated by economist Adam Smith (Smith, 1776), and, even more fundamentally, the Rule of Law. With respect to the latter, Sales and Steyn describe the link between the Rule of Law and fairness, noting that "the Rule of Law enforces the minimum standards of fairness, both substantive and procedural; it requires regularity and reasonable predictability in areas where government exercises discretionary power" (Sales & Steyn, 2004, p. 569). Notwithstanding, concepts such as the Rule of Law and principles such as equity and consistency are equally notoriously difficult to pin down and are certainly not unique to the tax context. Therefore, while the concepts are far from mutually exclusive, fairness and trust are poor analogues for taxpayer rights.

However, definitional distinctions aside, the research into the links between fairness and trust and taxpayer voluntary compliance carried out to date has a number of specific characteristics which make it particularly inadequate for predicting the likely effects of enhancing taxpayer rights or awareness of those rights on compliance behaviour.

First, irrespective of the strength of any findings of studies to date, many of those which have ventured into the field have studied cohorts of taxpayers with particular characteristics and whose behaviour may not be representative of the broader taxpaying public. For example, the leading Australian studies, such as those of Worsham (1996) and Wenzel (2002), focus on the procedural justice perceptions of taxpayers subject to Australian Taxation Office (ATO) audit or inquiry into their tax affairs. Similarly, the leading work by Murphy (2004) was only tested on a group already in dispute with the ATO over compliance. Crudely put, these are, essentially, studies into the treatment of taxpayer "villains" rather than taxpayer "victims." In contrast, any work examining the possible link between taxpayer rights and tax compliance would need to broaden the focus to include compliant taxpayers and taxpayers aggrieved by acts or omissions of the Revenue. It would be highly unlikely that such a necessary shift in focus would result in the replication of the findings of studies centred on examining the behaviour of non-compliant taxpayers.

Recent work commissioned by the United States Taxpayer Advocate Service (TAS) appears to confirm this. For example, a study by Beer, Kasper, Kirchler, & Erard (2015), commissioned by TAS, on the compliance impact of enforcement activity on subsequent compliance behaviour of a broad sample of (seemingly) compliant and (seemingly) non-compliant, self-employed taxpayers concluded that, insofar as compliant taxpayers are concerned, a:

...“direct deterrent effect” (Alm et al., 2009) of additional tax assessments potentially increases the compliance of caught evaders. The response of compliant taxpayers to enforcement activity is ambiguous, however. While audits could be seen as a justified means to enforce the law, increasing the trust in the state and the willingness to comply voluntarily, a coercive experience might have the opposite outcome (Beer, Kasper, Kirchler, & Erard, 2015, p. 71).

Similarly, it is unwise to seek to extrapolate from studies linking sanctions or rewards imposed on taxpayers and the effect on compliance and to hypothesise on a possible positive link between greater accountability of tax officials and the level of taxpayer compliance. These studies generally conclude that harsher sanctions might foster greater taxpayer compliance. The logic of such findings has been noted:

The hypothesis that more certain or severe legal sanctions will encourage compliance with the law is consistent not only with ... economic theories ... but also with exchange theory in sociology’ (Roth, Scholz & Witter, 1989, p.91).

Of course, there are many nuances to such generalisations. Again, work by the United States TAS bears this out. For example, a study into the effects of accuracy-related penalties on voluntary compliance on sole proprietors found that those subject to an accuracy-related penalty had no better subsequent reporting compliance than those who were not (Beers, Wilson, Nestor, Ibbotson, Saldana, & LoPresti, 2013, p. 3).

However, even if general propositions assuming a close positive correlation between compliance and harshness of penalties imposed on non-compliant taxpayers are unquestioningly accepted, there are limits on the ability to extrapolate from this reasoning that there is a similar correlation between strength of taxpayer rights and compliance. Specifically, it would be a significant leap of faith to assert that the motivations and responses of private taxpayers to the prospect of sanctions or rewards imposed on them insofar as their willingness to comply is concerned will be the same as the motivations and responses of individual taxpayers or the taxpaying public collectively to the potential ability to pursue legal avenues of relief against the tax officials for breaches of taxpayer rights.

Those motivations and responses may lead to changes in taxpayer compliance behaviour which are impossible to predict without dedicated research. For example, dedicated research into any correlation between taxpayer rights and voluntary tax compliance may find that expanded regulatory or judicial scrutiny of acts of tax officials might discourage voluntary compliance and impose significant contingencies on the viability of vital government initiatives and services funded by that revenue. Book has expressed this as a concern with how "a potentially hostile judiciary or the imposition of additional procedures could put sand in the gears of government machinery" (Book, 2004, p. 1160).

Alternatively, as already noted above, the work of Uslander suggests that in the absence of an effective judiciary willing to enforce sanctions against breaches of taxpayer rights, increased voluntary compliance behaviour may not result from a tax administration system which otherwise incorporates strong taxpayer rights (Uslander, 2007).

Similarly, not all taxpayer rights enhancements will have the same effect on voluntary compliance behaviour. For example, in an extreme case, ‘fiscal chaos’ might result from a successful challenge to longstanding tax administration practices in taxpayer claims. This

would be similar to the fiscal chaos that might result from the declaration of a longstanding tax as an unconstitutional breach of basic taxpayer rights.<sup>2</sup> The uncertain tax administration environment created by such a declaration might be ripe for abuse by vexatious or opportunistic taxpayer litigants and create fewer incentives for voluntary taxpayer compliance. In turn, somewhat ironically, this might actually lead to an erosion of trust and confidence in the tax administration system among taxpayers.

Equally, an extension of taxpayer rights to allow actionable sanctions against individual tax officials for breaches of those rights may also discourage those tax officials from engaging in risky but important tax administration activities, such as the dissemination of tax information and provision of taxpayer advice. The consequent reduction in service standards might ultimately also result in an erosion of trust and confidence in the tax administration system and have a long-term net effect of lowering rates of voluntary taxpayer compliance.

This argument is often referred to as a "chilling" or "chill factor" risk. For example, in the U.S. context, it has been argued:

Although there is a valid argument that a civil action against the IRS should be available in the appropriate circumstances, it should be noted that such an action is not without risks to the operation of the tax system. The availability of a civil action against the IRS is of concern, since the threat of civil action may have a "chilling effect" on the legitimate actions of the IRS and thus diminish its effectiveness' (Greenbaum, 1997, p. 151).

Similar arguments have been raised in the context of discussing the distorted behavioural incentives which might be generated through an extension of taxpayer rights to monetary compensation from the IRS (see Johnson, 2000, p. 406).

The problem is that there are equally reasonable challenges to most of these predictions. For example, there are only limited and narrow studies which have empirically examined the motivational effects of the threat of litigation on public servants – and no tax-specific research at all. The research that does exist indicates that statutory authorities overwhelmingly respond positively and constructively to adverse judicial determinations.

The most closely relevant and broad-reaching study into the issue is the Australian study by McMillan and Creyke into the effects of adverse judicial review determinations on Australian governmental bodies. The findings from that study indicate that, in the majority of cases, changes in organisational behaviour did result from adverse judicial determinations. However, aside from a few noted instances, there was no evidence of significant over-defensiveness or "chill factor" consequences. In fact, the study concluded that an adverse judicial review outcome that brings about changes is generally received by affected agencies "as a valuable and instructive incident" (Creyke & McMillan, 2004, p. 187). Findings such as these suggest that any worries about reductions in taxpayer compliance due to reduced service standards attributable to any extension of taxpayer rights may be unwarranted.

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<sup>2</sup> The term "fiscal chaos" has been most comprehensively examined in the literature and case law concerning restitutionary relief from the State. For a good discussion, see Mason, 1996, especially at pp. 122-123; Wells, 1994, p. 201; and the discussion by La Forest J. in the Canadian case of *Air Canada v British Columbia* (1989) 59 DLR (4th) 161. See also Pannam (1964); and Brock (2000).

Recent judicial discussion of the issue in the Australian tax context in *Pape v Commissioner of Taxation* has supported this suggestion (*Pape v Commissioner of Taxation*, 2009). In that case, the Commissioner argued (relying on *Victoria v Commonwealth and Hayden* (1975) at p. 418, per Murphy J, who asserted that a narrow construction of the provision would have a "chilling effect...on governmental and parliamentary initiatives") that the taxpayer's argument in seeking to place constitutional limits on the appropriation power contained in s81 of the Constitution "would cause Parliament constantly to be 'looking over its shoulder and being fearful of the long term consequences' if it made an appropriation outside power" (*Pape v Commissioner of Taxation*, [2009] at [589]) HCA 23, at [589]). Heydon J rejected the argument, observing that "[t]he occasional declaration that federal legislation is invalid does not cause the progress of government to be unduly chilled or stultified" (*Pape v Commissioner of Taxation*, 2009, [596]). Equally, however, there are numerous examples of judicial acceptance of such arguments (see Bevacqua, 2015).

Any argument that enhancing taxpayer rights might open the floodgates to litigation against the Revenue, creating an environment ripe for the generation of incentives not to comply, can also be readily challenged. For example, the Australian Commonwealth Ombudsman has noted that litigant desire for an acknowledgement of his or her rights or an apology is often a significant driver for seeking redress rather than being the sole attraction of a legal remedy (see Office of the Commonwealth Ombudsman, Commonwealth of Australia, 1999, p. 17). The United Kingdom Law Commission has reached a similar conclusion, observing that "[i]t is...well-known in the socio-legal literature that ...the relationship between a liability regime and the propensity to litigate is by no means straightforward" (Law Commission, United Kingdom, 2008, p. 144).

Resolving the validity of these arguments and counter-arguments is almost impossible without targeted research. The only way to determine the accuracy of the various hypotheses is to specifically test the relationship between taxpayer rights and taxpayer voluntary compliance. Unfortunately, the existing research into the link between compliance and trust/fairness cannot adequately fill this void in the literature.

This void is particularly troubling in the current tax administration climate because, as noted from the outset, the general acceptance of a link between how fairly taxpayers are treated and taxpayer voluntary compliance has led to a significant current international interest in ensuring taxpayer rights are adequately protected and understood. However, all of this is proceeding whilst there is still significant work to be done to determine what effects any changes to taxpayer rights might have on taxpayer voluntary compliance.

By way of pertinent illustration, the Australian Inspector-General of Taxation (IGT) included a review of the Australian Taxpayers' Charter and taxpayer protections in his 2014 work program. The IGT described his concerns as including "concerns regarding the adequacy of the ATO's Taxpayers' Charter and related taxpayer protections" (Commonwealth of Australia, Inspector-General of Taxation, 10 April 2014, p. 2). Consequently, the IGT review set out to consider "...the nature of the Taxpayers' Charter, the existing avenues available to taxpayers seeking redress for defective ATO administration and further forms of redress that may be required" (Commonwealth of Australia, Inspector-General of Taxation, 10 April 2014, p. 2). This is not the first time the IGT has noted concerns with the Taxpayers' Charter and taxpayer rights to recourse, such as compensation for infringements of those rights, including, most recently, in the IGT's 2012-13 Annual Report (Commonwealth of Australia, Inspector-General of Taxation, September 2013, p. 7).

The terms of reference for the IGT review into the Taxpayer's Charter were broad and extended to consideration of a range of potential enhancements to taxpayer rights, including endowing the Charter with legal force and the possibility of introducing additional or strengthened taxpayer rights to compensation from the Australian Commissioner of Taxation. However, despite the breadth of the review, the call for submissions made no specific mention of any consideration of the potential effects of enhancing taxpayer rights on taxpayer compliance. Specifically, the Terms of Reference note 14 specific issues for examination, none of which mention taxpayer compliance. Interestingly, though, the background to the Terms of Reference opens with the quote from the OECD noted in the introduction of this paper, apparently accepting the link between fairness and taxpayer compliance (Commonwealth of Australia, Inspector-General of Taxation, 2 November 2015).

The IGT released his report, which made significant findings, rejecting calls for legislative entrenchment of the Australian Taxpayers' Charter and similarly rejecting calls for further enforceable taxpayer remedies, in 2016. These conclusions were, necessarily, reached without the benefit of any solid insights into the potential consequences of these recommendations for taxpayer compliance (Commonwealth of Australia, Inspector-General of Taxation, December 2016).

Of course, given the current absence of a dedicated research agenda into the link between taxpayer rights and taxpayer voluntary compliance behaviour, the IGT had no other option in making its recommendations. It is clearly undesirable for oversight bodies, such as the Australian IGT, and policymakers to continue to make recommendations or determinations with respect to significant adjustments to the trade-off between taxpayer rights and tax authority powers in the absence of any clear empirical understanding of the existence or extent of any effects such significant changes might have on taxpayer compliance.

The clearest evidence of a recognition of this fact and of concerted effort to change this situation is emanating from the United States. The National Taxpayer Advocate has been extremely proactive in pursuing a research agenda to provide multidisciplinary and empirical insights into taxpayer behaviour in response to IRS tax collection powers and behaviours, and in expressing those insights in terms of their effects on taxpayer rights. For example, in her 2016 Annual Report to Congress, the Taxpayer Advocate recommends that the IRS utilises behavioural research insights to increase voluntary compliance and identifies the links between "alternative treatment" approaches informed by such insights, tax compliance and taxpayer rights, observing, for example, that such approaches:

...help alert taxpayers when they may not have complied, promoting the *right to be informed*. They are less intrusive than coercive treatments, furthering the taxpayers' *right to privacy*. They help taxpayers comply more quickly, promoting the taxpayers' *right to finality*. Because coercing those who would respond to nudges seems unfair, they also support the taxpayer's right to a *fair and just tax system*. Because the IRS can over-reach when using coercive tools, they also further the taxpayer right to *pay no more than the correct amount of tax* (National Taxpayer Advocate, 2016a, p. 62).

The United States' approach, evidenced by the Taxpayer Advocate's work, provides a leading effort to acquire the knowledge necessary to avoid the significant potential economic effects - which may or may not be positive - of continuing to make decisions as to taxpayer rights without a clear understanding of the tax compliance effects of those decisions.

These potential economic consequences add to the case for the development of a research agenda to examine and measure any relationship between taxpayer rights and taxpayer voluntary compliance behaviour. The issue is real, given the general acceptance of a link between levels of tax compliance and economic growth - typically framed in terms of the link between the level of tax evasion or avoidance and economic growth (see, for example, Caballé & Panadés, 1997). It follows that any material change in taxpayer compliance behaviour is likely to have corresponding measurable effects on levels of economic growth. The possibility of reducing non-compliance behaviour may also indirectly aid productivity by increasing aggregate revenue raised and providing opportunities for reductions in marginal tax rates, thus fostering greater productivity, particularly in entrepreneurial industries (for further discussion of the link between productivity and tax, see OECD, 2008, p. 7).

The United Kingdom HMRC has provided a useful summary of the link between avoidance and both economic growth and productivity in its anti-avoidance strategy, pointing out that avoidance "...directly affects the delivery of public services and long-term economic growth. Avoidance distorts markets, is economically unproductive and breaks the link between economic productivity and reward" (HM Revenue and Customs, 2 October 2013). This summary of the economic arguments is simple and compelling.

It is also well-understood that to allow increased taxpayer rights against a tax authority without a clear understanding of the consequent effects on taxpayer voluntary compliance behaviours might unwittingly impose significant contingencies on the viability of vital government initiatives and services funded by the revenue collected by that revenue authority. It is trite but true that, as one author has put it, "[t]here is obviously a strong public interest in keeping the government solvent so that it may continue to defend and improve our society" (Reynolds, 1968, pp. 122-123). Clearly, there are good economic reasons for conducting research into the likely effects on taxpayer compliance of any mooted taxpayer rights reform proposal.

#### **PART IV – THE GENESIS OF A RESEARCH AGENDA**

It is a relatively simple thing to identify a need for research, but quite another to conceive if or how it is possible to carry out that research. This is particularly true of designing a research agenda to examine the strength and nature of any correlation between taxpayer voluntary compliance and taxpayer rights. First, despite the cogent reasons for research to examine the strength and nature of any correlation between tax compliance and taxpayer rights, there could be a number of good reasons for the absence of any such research to date. Accordingly, any research agenda for redressing this apparent important gap in knowledge must be sensitive to these reasons and must be structured so as to address them.

One of the possible reasons for the ostensible void in the research literature is the perceived difficulty in measuring the compliance effects of any changes in taxpayer rights. It would undoubtedly be difficult (probably impossible) to design a research model or survey instrument capable of capturing taxpayer compliance responses to any of a broad range of possible taxpayer rights initiatives. However, it is unlikely that this is the only reason for the lack of research attention to date.

This is because, despite the unlikelihood of a single solution to the problem existing, research into taxpayer compliance responses to changes in the taxpayer rights landscape is, in some respects, narrower and more readily definable in scope than research into more nebulous concepts such as fairness and trust. Yet, as discussed in the preceding parts of this paper, there

has been no shortage of research into the relationship between taxpayer compliance and fairness and trust.

A possible alternative explanation for the lack of research, therefore, is that a great deal of the research into the link between taxpayer compliance and fairness and trust has been carried out by non-tax scholars – predominantly psychologists, sociologists and behavioural economists. These researchers are comfortable dealing with generalised concepts such as fairness and trust and assessing psychological and behavioural responses to perceptions of fairness and trust. Conversely, they are less likely to have the tax knowledge to consider examining responses to specific taxpayer rights initiatives, something which is necessary if we are to examine any correlation between those specific rights and taxpayer compliance.

Again, however, the United States National Taxpayer Advocate appears to be leading the way in recognising and addressing this issue. The 2016 National Taxpayer Advocate Report to Congress includes a detailed literature review which draws together the behavioural science (psychology, anthropology, sociology, market research, and behavioural economics) lessons for taxpayer compliance, examining 183 separate sources from around the world from a range of behavioural science scholars (National Taxpayer Advocate, 2016b, pp. 44-101) This is the most comprehensive recent work of its kind and is a significant necessary stride in the right direction with regard to generating a research agenda for exploring any link between taxpayer rights and taxpayer voluntary compliance.

A successful research agenda must also involve Revenue authorities and officials in its formulation. As noted in Part III, a key justification for carrying out the research is the potential economic benefits which would accrue from designing a system of taxpayer rights which would maximise taxpayer voluntary compliance. However as also noted, compliance responses to any taxpayer rights initiative are likely to be intrinsically linked to the likely motivational effects of any such initiative on tax officials – particularly in the long term.

For example, a taxpayer rights initiative which produces over-defensive responses from the tax officials (e.g. the introduction of new, expansive taxpayer compensatory avenues of relief for tax administration failures), may result in tax officials ceasing to provide certain perceived high-risk services to taxpayers or providing those services only after lengthy and expensive rigorous legal risk assessment. These responses may be perceived by taxpayers as drops in service standards or efficiency with commensurate reductions in incentives to comply. In the long term, this may cancel out any short-term economic benefits of any increase in compliance resulting from enhancing taxpayer rights.

Even with the involvement of a wide range of stakeholders and relevant experts, it is implausible to consider that a single research model could be devised which would produce a complete answer to all the questions surrounding the nature and strength of any relationship between taxpayer rights and tax compliance. A body of relevant work would need to be built up over time, just as has been the case with the work examining the relationship between fairness and trust and tax compliance.

Given the relationship of culture to perceptions of fairness and rights, and attitudes toward government, this research would also need to be country-specific. Cultural norms are likely to have a key influence on the findings of any study – not only between countries, but potentially also between different cultural groups within nations.

As alluded to above, this body of work would also need to consider both short-term and longer-term effects of particular taxpayer rights reform initiatives on taxpayer compliance behaviour. This is particularly true if the relationship between trust and compliance is to be accepted as correct. Trust takes time to develop and any change is unlikely to have immediate results. Any positive compliance effects of any change to taxpayer rights may not be evident in the short term.

As for the substance of any research agenda, a ready starting point for testing would be to examine the relevance of enforceability of taxpayer rights to taxpayer willingness to comply. This is advisable as, internationally, there is a shift towards enforceable charters (OECD, 2010). The question of whether taxpayer charters should be endowed with binding legislative force is also frequently raised and the debate is frequently divisive (for a detailed discussion of the case for endowing taxpayer charters with legislative force, see Bevacqua, 2013, and for a comprehensive literature review considering questions of the nature of taxpayer charters, see National Taxpayer Advocate, 2016b, pp. 27-43). Hence the findings of any work examining the compliance effects of a shift toward legally enforceable taxpayer rights would be a timely and useful contribution to the international debate.

The second reason for examining the link between compliance and enforceability of taxpayer rights is that the nationally and internationally accepted model for categorising taxpayer rights formulated by Bentley categorises taxpayer rights according to the degree of enforceability of those rights (Bentley, 2007). Accordingly, a model which tests variables built around this same categorisation is also likely to garner greater attention and acceptance from a wider taxpayer rights audience, provide a useful contribution to the taxpayer rights literature and provide further validation of the Bentley model.

As alluded to throughout, any research would also need to examine taxpayer compliance responses both to changes in taxpayer rights and *knowledge* of those rights. This is an important research priority, as it would directly test the accepted OECD assertion cited throughout this paper that "[t]axpayers who are *aware of their rights* ... are more willing to comply" (OECD, 2001, p. 154 - emphasis added). If this assertion holds true, policymakers may be best advised to simply direct their attention to better communicating to taxpayers the existing array of taxpayer rights, and checks and balances on Revenue power, rather than concentrating their efforts on increasing those rights. Work carried out by the United States' TAS in the run-up to the adoption of the TBOR by the IRS and subsequent to its enactment appears to confirm the OECD's assertion, indicating a much higher awareness and knowledge of taxpayer rights in the wake of the enactment of the TBOR.

In a similar vein, a useful third limb of any research agenda would be work aimed at gleaning an understanding of the extent to which taxpayers respond more favourably (in terms of willingness to voluntarily comply with their tax obligations) to *perceptions* of whether tax officials respect their rights or to actual changes in the letter of the law as to their rights. This insight would provide some long-overdue empirical data which could be fed into the argument as to whether taxpayer charters should be legally enforceable in order to foster greater taxpayer voluntary compliance.

In terms of nuances worthy of examination, an example of a key issue worth testing would be whether or to what extent taxpayers look towards the actual behaviours of tax officials based on their personal experiences as a guide to whether they should comply with their tax obligations rather than towards the letter of the law with regard to any taxpayer rights. This

could involve applying and testing psychological theories of motivation, such as attribution theory. This theory was first proposed by social psychologist, Fritz Heider (see Heider, 1958). Extrapolating from the application of attribution theory to employee organisational commitment in response to the motivations of management (see, for example, Koys, 1991), social motivation theories, such as attribution theory, would suggest that enhancing taxpayer legal rights is unlikely to have any effect (positive or negative) on the behaviour of taxpayers unless accompanied by a clear attitude of respect and fairness towards taxpayers among tax officials, as evidenced by day-to-day interactions with taxpayers.

To test this prediction, any survey of taxpayers could include questions about likely compliance responses based on tax officials' motivations for behaving in particular ways towards taxpayers. For example, questions could be devised asking taxpayers whether it would make any difference to their willingness to comply with their tax obligations if they thought the tax officials allowed appeals against tax assessments because (1) they wanted to treat taxpayers with justice and fairness; or (2) they solely wanted to comply with the letter of the law.

Finally, as alluded to in Part III of this paper, any research into the link between taxpayer rights and taxpayer voluntary compliance would need to extend beyond the previous work examining the link between compliance and fairness and trust, which has tended to focus on the attitudes of taxpayers who have been subjected to tax audits or the subjects of previous tax disputes. As previously noted, any work examining the possible link between taxpayer rights and tax compliance would need to broaden the focus to include compliant taxpayers and taxpayers aggrieved by acts or omissions of the Revenue. There may be scope for research centred on particular classes of taxpayers to be carried out, but only in cases where mooted changes to taxpayer rights are aimed only at those particular classes of taxpayers.

## **PART V – CONCLUSIONS**

It is difficult to argue against the desirability of a fair tax administration system and a trusting relationship between tax officials and the taxpaying public. This paper has shown that, although there are many uncertainties and inconsistencies in the findings, there is a significant body of research indicating that a fairer and more trustworthy tax administration system will foster greater voluntary compliance. This paper has not sought to challenge any of these findings, nor does it purport to comprehensively examine this very large body of literature. The reason for this is that, even if accepting these findings without challenge, it does not follow that the same correlation between taxpayer rights and/or awareness of those rights and taxpayer compliance necessarily exists.

There are many arguments which could be raised in support of the idea that enhancing taxpayer rights will indeed foster greater taxpayer compliance. Equally, though, cogent arguments could be raised to support the theory that increasing taxpayer rights could have the opposite effect through, for example, opening the floodgates to claims against tax officials or fostering over-defensive responses from tax officials and, consequently, lowering service standards. The likely reality is that both points of view are overly simplistic. Different taxpayer rights reform proposals will likely generate different responses and have different compliance behaviour ramifications. In addition, compliance effects may well differ from the short term to the long term. However, there is little in the existing research to give policymakers any practical guidance on how to structure taxpayer rights reform proposals to take advantage of any positive compliance effects and minimise the risks of any voluntary compliance disincentives.

Of course, there is a strong case to be made that enhancing taxpayer rights is a worthy pursuit per se, irrespective of its effects on taxpayer voluntary compliance behaviour. For example, as Owens, Olson and Baker have recently eloquently observed:

On the other hand, you can come at it from a totally different view, which is simply to say compliant or noncompliant, taxpayers have rights. They are human beings or they are entities owned by, staffed by, human beings. There is a good in protecting human rights come what may, regardless of the advantages for tax administrations (Owens, Olson, & Baker, 2016. p. 599).

If, though, a primary motivation for the pursuit of enhanced and clearer taxpayer rights is the fostering of greater voluntary compliance behaviour, a concerted effort to specifically explore the existence and strength of any correlation between taxpayer rights and tax compliance would be invaluable. Of course, it is unlikely that any single research model could be designed to provide all the answers currently lacking. However, this paper provides a justification and a primer for a long-overdue direct discussion of how to design a research agenda to facilitate evidence-based taxpayer rights policy development which will maximise taxpayer voluntary compliance.

## REFERENCES

- Air Canada v British Columbia*, (1989) 59 DLR (4th) 161.
- Bamforth, N. (1997). Fairness and Legitimate Expectation in Judicial Review. *Cambridge Law Journal*, 56(1), 1-4.
- Beer, S., Kasper, M., Kirchler, E., & Erard, B. (2015). Audit Impact Study. In National Taxpayer Advocate, *2015 Annual Report to Congress – Volume II* (pp. 68-99).
- Beers, T., Wilson, J., Nestor, M., Ibbotson, A., Saldana, J., and LoPresti, E. (2013). Do Accuracy-Related Penalties Improve Future Compliance by Schedule C Filers? In National Taxpayer Advocate, *2013 Annual Report to Congress – Volume II* (pp. 1- 14).
- Bentley, D. (1996). Formulating a Taxpayers' Charter of Rights: Setting the Ground Rules. *Australian Tax Review*, 25, 97-115.
- Bentley, D. (2007). *Taxpayers' Rights: Theory, Origin and Implementation*. Netherlands: Kluwer Law International.
- Bevacqua, J. (2013). Redressing the Imbalance – Challenging the Effectiveness of the Australian Taxpayers' Charter. *Australian Tax Forum*, 28, 377-400.
- Bevacqua, J. (2015). A Chilling Account: North American and Australasian Approaches to Fears of Over-defensive Responses to Taxpayer Claims against Tax Officials. *e-Journal of Tax Research*, 13(1), 262-279.
- Book, L. (2004). The Collection Due Process Rights: A Misstep or a Step in the Right Direction. *Houston Law Review*, 41(4), 1145-1206.
- Braithwaite, V., & Braithwaite, J. (2001). Managing Taxation Compliance: The Evolution of the ATO Compliance Model. In M. Walpole. & C. Evans (Eds), *Tax Administration in the 21st Century* (pp.215-224). St. Leonards, NSW: Prospect Media.
- Braithwaite, V. (Ed.) (2003). *Taxing Democracy: Understanding Tax Avoidance and Evasion*. Aldershot: Ashgate.

- Brock, M. (2000). Restitution of Invalid Taxes - Principles and Policies. *Deakin Law Review*, 5(1), 127-155.
- Caballé, J., & Panadés, J. (1997). Tax Evasion and Economic Growth. *Public Finance*, 52(3-4), 318-340).
- Clayton, R. (2003). Legitimate Expectations, Policy and the Principle of Consistency. *Cambridge Law Journal*, 62(1), 93-105.
- Commonwealth of Australia, Inspector-General of Taxation. (2014, April 10). *New IGT Work Program*.
- Commonwealth of Australia, Inspector-General of Taxation. (2013, September). *Annual Report 2012-13*.
- Commonwealth of Australia, Inspector-General of Taxation. (2015, November 2). *Review into the Taxpayers' Charter and Taxpayer Protections: Terms of Reference and Submission Guidelines*.
- Commonwealth of Australia, Inspector-General of Taxation. (2016, December). *Review into the Taxpayers' Charter and Taxpayer Protections*.
- Cowell, F. (1992). Tax Evasion and Inequity. *Journal of Economic Psychology*, 13(4), 521-543.
- Creyke, R., & McMillan, J. (2004). The Operation of Judicial Review in Australia. In M. Hertogh & S. Halliday (Eds). *Judicial Review and Bureaucratic Impact - International and Interdisciplinary Perspectives* (pp.161-189). Cambridge, UK: Cambridge University Press.
- Department of the Treasury, Internal Revenue Service (2014). *Taxpayer Bill of Rights*. Publication 5170 (7-2014) Catalog Number 66849X, Retrieved from <https://www.irs.gov/pub/irs-pdf/p5170.pdf>
- Devos, K. (2014). *Factors Influencing Individual Taxpayer Compliance Behaviour*. (Dordrecht: Springer Netherlands).
- Falkinger, J. (1995). Tax Evasion, Consumption of Public Goods and Fairness. *Journal of Economic Psychology*, 16(1), 63-72.
- Feld, L., & Frey, B. (2007). Tax Compliance as a Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation. *Law and Policy*, 29(1), 102-120.
- Greenbaum, A. (1997). Taxpayers' Bills of Rights 1 and 2: A Charter to be Followed by the Rest of the World or Just Another Attack on the Tax Authority? *Revenue Law Journal*, 7(1), 138-163.
- Heider, F. (1958). *The Psychology of Interpersonal Relations*. New York: John Wiley & Sons.
- HM Revenue and Customs. (2013, October 2). *Anti-Avoidance Strategy*. Retrieved from <http://webarchive.nationalarchives.gov.uk/+/http://www.hmrc.gov.uk/avoidance/vision-strategy.htm>.
- James, S. & Wallschutzky, I. (1995). The Shape of Future Tax Administration. *International Bureau of Fiscal Documentation Bulletin*, 49(5), 210-218.
- Job, J., & Reinhart, M. (2003). Trusting the Tax Office: Does Putnam's Thesis Relate to Tax? *Australian Journal of Social Issues*, 38(3), 299-322.

- Johnson, S. (2000). A Residual Damages Right Against the IRS: A Cure Worse Than the Disease. *Tax Notes*, 88, No. 395, 1-13.
- Koys, D. (1991). *Fairness, Legal Compliance and Organizational Commitment*. *Employee Responsibilities and Rights Journal*, 4(4), 283-291.
- Law Commission, United Kingdom. (2008). *Administrative Redress: Public Bodies and the Citizen*. Consultation Paper No 187.
- Mason, K. (1996). Money Claims By and Against the State. In P. Finn (Ed.), *Essays on Law and Government - The Citizen and State in the Courts* (Vol. 2, p116). Sydney: Law Book Company.
- Mason, R., & Calvin, L. (1984). Public Confidence and Admitted Tax Evasion. *National Tax Journal*, 37(4), 489-496.
- Murphy, K. (2003). Procedural Justice and Tax Compliance. *Australian Journal of Social Issues*, 38(3), 379-407.
- Murphy, K. (2004). *The Role of Trust in Nurturing Compliance: A Study of Accused Tax Avoiders*. *Law and Human Behaviour*, 28(2), 187-209.
- National Taxpayer Advocate. (2016a). *2016 Annual Report to Congress – Volume I*.
- National Taxpayer Advocate. (2016b). *2016 Annual Report to Congress – Volume III*.
- Office of the Commonwealth Ombudsman, Commonwealth of Australia. (1999). *To Compensate or Not to Compensate? Own Motion Investigation of Commonwealth Arrangements for Providing Financial Redress for Maladministration*.
- Organisation for Economic Co-operation and Development, Centre for Tax Policy and Administration. (2001). *Principles of Good Tax Administration*. (Practice Note GAP001).
- Organisation for Economic Co-operation and Development, Economics Department. (2008). *Tax and Economic Growth – Summary and Main Findings* (Working Paper No. 620).
- Organisation for Economic Co-operation and Development. (2010). *Tax Administration in OECD and Selected Non-OECD Countries – Comparative Information Series*.
- Owens, J., Olson, N., & Baker, P. (2016). Conversations: Jeffrey Owens, Nina Olson, and Philip Baker. *Tax Notes International*, 81(7), 595-600.
- Pannam, C. (1964). The Recovery of Unconstitutional Taxes in Australia and in the United States. *Texas Law Review*, 42(6), 777-803.
- Pape v Commissioner of Taxation*, [2009] HCA 23
- R. v Inland Revenue Commissioners Ex p. MFK Underwriting Agencies Ltd (MFK Underwriting)* [1990] WLR 1545, 1569-1570; [1989] STC 873, 892-893.
- Reynolds, O. (1968). The Discretionary Function Exception of the Federal Torts Claims Act. *Georgetown Law Journal*, 57, 81-133.
- Roberts, M., & Hite, P. (1994). Progressive Taxation, Fairness and Compliance. *Law and Policy*, 16(1), 27-48.
- Roth, J., Scholz, J., & Witte, A. (Eds.). (1989). *Taxpayer Compliance, Vol I: An Agenda for Research*. Pennsylvania, US: University of Pennsylvania Press.

- Sales, P., & Steyn, K. (2004). Legitimate Expectations in English Public Law: An Analysis. *Public Law*, 2004, 564-592.
- Sheffrin, S. & Triest, R. (1992). Can Brute Deterrence Backfire? Perceptions and Attitudes in Tax Compliance. In J. Slemrod (Ed.), *Who Pays Taxes and Why? Tax Compliance and Enforcement* (pp. 193-218). Ann Arbor, Michigan: University of Michigan Press.
- Scholz, J. (1998). Trust, Taxes and Compliance. In V. Braithwaite and M. Levi (Eds.), *Trust and Governance* (pp. 135-166). New York: Russell Sage Foundation.
- Scholz, J., & Lubell, M. (1998). Trust and Taxpaying: Testing the Heuristic Approach to Collective Action. *American Journal of Political Science*, 42(2), 398-417.
- Smith, A. (1776). *An Inquiry into the Nature and Causes of the Wealth of Nations*. London: Strahan, W. & Cadell, T.
- Stewart, C. (2000). Substantive Unfairness: A New Species of Abuse of Power? *Federal Law Review*, 28(3), 617-635.
- Tanzi, V. & Shome, P. (1994). *A Primer on Tax Evasion*. *International Bureau of Fiscal Documentation Bulletin*, 48(6-7), 328-337.
- Torgler, B. (2002). Tax Morale and Tax Compliance in Experiments. *Journal of Economic Surveys*, 16(5), 657-683.
- Torgler, B., Demir, I., Macintyre, A., & Schaffner, M. (2008). Causes and Consequences of Tax Morale: An Empirical Investigation. *Economic Analysis and Policy*, 38(2), 313-339.
- Tyler, T. (2000). *Social Justice: Outcome and Procedure*. *International Journal of Psychology*, 35(2), 117-125.
- Uslaner, E. (2007). Tax Evasion, Trust, and the Strong Arm of the Law. In N. Hayoz & S. Hug (Eds.), *Tax Evasion, Trust and State Capacities* (pp. 17-50). Bern, Switzerland: Peter Lang AG.
- Vestey v Inland Revenue Commissioners* [1977] STC 414, 439 per Walton J.
- Victoria v Commonwealth and Hayden* (1975) 134 CLR 338
- Wells, B. (1994). Restitution from the Crown: Private Rights and the Public Interest. *Adelaide Law Review*, 16(1), 191-213.
- Wenzel, M. (2002). The Impact of Outcome Orientation and Justice Concerns on Tax Compliance: The Role of Taxpayers' Identity. *Journal of Applied Psychology*, 87(4), 629-645.
- Wickerson, J. (1994). Measuring Taxpayer Compliance: Issues and Challenges Facing Tax Administrations. *Australian Tax Forum*, 11(1), 1-44.
- Worsham, R. G. Jr. (1996). The Effect of Tax Authority Behavior on Taxpayer Compliance: A Procedural Justice Approach. *The Journal of the American Taxation Association*, 18(2), 19-39.