

TAXPAYER COMPLIANCE EFFECTS OF ENHANCING TAXPAYER RIGHTS – A RESEARCH AGENDA

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ABSTRACT

There is a current Australian and global 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 fostering 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 takes issue with 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 extremely poor analogues for taxpayer rights.

Further, this paper will demonstrate that there is a dearth of clear empirical evidence to support any 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 much greater nuance to our understanding of any such correlation in order to provide useful guidance to policy-makers considering making specific legislative changes to strengthen and or clarify particular taxpayer rights. This paper makes the case for a 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 current Inspector General of Taxation review of the Taxpayers’ Charter and taxpayer protections.¹ Internationally, there is a growing trend toward codification of taxpayer rights protections and service standards.² 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 Cooperation and Development (‘OECD’) Centre for Tax Policy and Administration. A 2001 OECD report into principles of good tax administration practice contains the

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¹ Commonwealth of Australia, Inspector-General of Taxation, *New IGT Work Program* (10 April 2014).

² See Organisation for Economic Co-operation and Development, *Tax Administration in OECD and Selected Non-OECD Countries – Comparative Information Series* (2010), 202-203.

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.’³

There is a strong (albeit far from unimpeachable) basis for the OECD conclusion that treating taxpayers fairly will foster greater willingness to comply with their tax obligations. This proposition is well-researched and widely accepted.⁴ Similarly, there has also been significant Australian and international research effort to confirm the positive relationship between taxpayer trust in the system of tax administration and compliance behaviour.⁵ This paper does not propose to challenge the conclusions of this body of research.

However, the OECD acceptance of a positive correlation between 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 takes issue with this presumption, arguing that ‘fairness’ and ‘trust’ are much broader concepts, 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 extremely poor analogues for taxpayer rights and the findings of research into links between fairness/trust and taxpayer compliance cannot be used to reliably predict taxpayer voluntary compliance responses to enhancements or greater awareness of taxpayer rights.

Further, this paper will demonstrate that there is a dearth of clear empirical evidence to support any presumption of a correlation (positive or otherwise) between enhanced taxpayer rights or awareness of those 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 much greater nuance to our understanding of this correlation in order to provide useful guidance to policy-makers considering making specific legislative changes to strengthen and or clarify particular taxpayer rights. This paper makes the case for a research agenda capable of providing that guidance.

Specifically, Part II sets out the current state of knowledge on the link between taxpayer compliance and taxpayer rights. It shows, that although there has been extensive work both in Australia and internationally on testing the link between taxpayer compliance and trust and fairness respectively, the findings of this work fall far short of confirming the existence, strength or nature of any link between taxpayer compliance and enhancement

³ Organisation for Economic Cooperation and Development, Centre for Tax Policy and Administration, *Principles of Good Tax Administration* (Practice Note GAP001, OECD, 2001), 154.

⁴ For example, see Lars Feld and Bruno Frey, ‘Tax Compliance as a Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation’ (2007) 29 *Law and Policy* 102; Tom Tyler, ‘Social Justice: Outcome and Procedure’ (2000) 35 *International Journal of Psychology* 117; and Michael Wenzel, ‘The Impact of Outcome Orientation and Justice Concerns on Tax Compliance: The Role of Taxpayers’ Identity’ (2002) 87 *Journal of Applied Psychology* 629.

⁵ For example, see Kristina Murphy, ‘The Role of Trust in Nurturing Compliance: A Study of Accused Tax Avoiders’ (2004) 28 *Law and Human Behaviour* 187; and John Scholz, ‘Trust, Taxes and Compliance’ in Valerie Braithwaite and Margaret Levi (eds), *Trust and Governance* (1998), 135.

or increased awareness of taxpayer rights, despite the intuitive logical appeal of a 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. It explores not only why such research is warranted, but why it is particularly apt to examine at this time.

Part IV sets out some general principles and challenges for designing a research agenda to explore the relationship between taxpayer rights and taxpayer compliance 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 simply testing the existence and strength of the link between tax compliance and tax authority deterrence activities. This body of research, conducted largely by 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.⁶

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’⁷ with mutual rights and obligations. Researchers from a range of disciplines have weighed in on the discussion including sociologists and psychologists. It is this work which has revealed strong links between taxpayer perceptions of fairness and trust (respectively) in the tax system and its administration and taxpayer voluntary compliance. However, as elaborated below, 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 a proposition that a strong correlation might exist.

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 provided the system is perceived to be ‘fair and legitimate’.⁸ For instance, Wenzel in his study of the impact of justice concerns on tax compliance 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.’⁹

⁶ Benno Torgler, ‘Tax Morale and Tax Compliance in Experiments’ (2002) 16 *Journal of Economic Surveys* 657.

⁷ For a good discussion see Simon James and Ian Wallschutzky, ‘The Shape of Future Tax Administration’ (1995) 49 *IBFD Bulletin* 210, 215. The psychological element of compliance behaviour is also examined by a number of other writers including: Vito Tanzi and Parthasarathi Shome, ‘A Primer on Tax Evasion’ (1994) 48 *IBFD Bulletin* 328; and John Wickerson, ‘Measuring Taxpayer Compliance: Issues and Challenges facing Tax Administrations’ (1994) 11 *Australian Tax Forum* 1.

⁸ Lars Feld and Bruno Frey, above n 4, 102; See also Michael Wenzel, above n 4; and Tom Tyler, above n 4.

⁹ Michael Wenzel, above n 4, 629.

The existence of a strong positive correlation between taxpayer fair treatment and 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 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'.¹⁰

The most recent and comprehensive Australian contribution to the field is 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.¹¹ Devos points out the prime significance 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.'¹²

Despite the inconsistency and uncertainty in the literature, a presumed positive correlation between fairness and willingness to comply has also been judicially accepted, 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'¹³. 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.'¹⁴

However, the accepted wisdom of a link between fairness and taxpayer compliance has not generated any 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. However, the results of such studies have been inconclusive. For instance, Murphy refers to the following apparently contradictory findings of an Australian survey by Worsham:

Worsham (1996)...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

¹⁰ Organisation for Economic Cooperation and Development, Centre for Tax Policy and Administration, *Principles of Good Tax Administration* (Practice Note GAP001, OECD, 2001), 154.

¹¹ Ken Devos, *Factors Influencing Individual Taxpayer Compliance Behaviour* (2014) Springer: Dordrecht.

¹² *Ibid*, 27.

¹³ Bingham LJ in *R. v Inland Revenue Commissioners Ex p. MFK Underwriting Agencies Ltd (MFK Underwriting)* [1990] WLR 1545, 1569-1570; [1989] STC 873, 892-893.

¹⁴ *Vestey v Inland Revenue Commissioners* [1977] STC 414, 439 per Walton J.

indirectly through becoming aware of another's unfair treatment did increase self-reported tax non-compliance.¹⁵

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.'¹⁶ 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 specific research to test this presumption.

B. Trust and Taxpayer Compliance:

Research into compliance behaviour has also extended to examination and confirmation of the link between trust and tax compliance.¹⁷ Typically such studies have focused on the positive compliance effects of fostering a relationship of trust and confidence between taxpayer and tax authority.¹⁸ Prime among these is work by Braithwaite in the early 2000's. The Braithwaite work ultimately led to the adoption of the ATO's current 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.¹⁹

However, similar to the studies confirming the link between fairness and taxpayer compliance, this work also falls short of confirming any specific correlation between

¹⁵ Kristina Murphy, 'Procedural Justice and Tax Compliance' (2003) 38 *Australian Journal of Social Issues* 379, 383. The reference to the Worsham study is to the study reported in Ronald Worsham, 'The Effect of Tax Authority Behaviour on Taxpayer Compliance: A Procedural Justice Approach' (1996) 18 *The Journal of the American Taxation Association* 19. In that study, at 19, Worsham notes the findings of the study 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.'

¹⁶ Leslie Book, 'The Collection Due Process Rights: A Misstep or a Step in the Right Direction' (2004) 40 *Houston Law Review* 1145, 1160.

¹⁷ See, for example, Robert Mason and Lyle Calvin, 'Public Confidence and Admitted Tax Evasion' (1984) 37 *National Tax Journal* 489; Michael Roberts and Peggy Hite, 'Progressive Taxation, Fairness and Compliance' (1994) 16 *Law and Policy* 27; Steven Sheffrin and Robert Triest, 'Can Brute Deterrence Backfire? Perceptions and Attitudes in Tax Compliance' in Joel Slemrod (ed), *Who Pays Taxes and Why? Tax Compliance and Enforcement* (1992) 193; Josef Falkinger, 'Tax Evasion, Consumption of Public Goods and Fairness' (1995) 16 *Journal of Economic Psychology* 63; and Frank Cowell, 'Tax Evasion and Inequity' (1992) 13 *Journal of Economic Psychology* 521.

¹⁸ For examples see Jenny Job and Monika Reinhart, 'Trusting the Tax Office: Does Putnam's Thesis relate to Tax?' (2003) 38 *Australian Journal of Social Issues* 307; Murphy, above n 5; Valerie Braithwaite, *Taxing Democracy: Understanding Tax Avoidance and Evasion* (2003) Aldershot: Ashgate; and Murphy, above n 15.

¹⁹ Valerie Braithwaite and John Braithwaite, 'Managing Taxation Compliance: The Evolution of the ATO Compliance Model' in Walpole, M and Evans C, *Tax Administration in the 21st Century* (2001), Prospect Media, St. Leonards, NSW, 215.

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, equally, this work also does not extend to testing or establishing the existence of any specific correlation between taxpayer rights and taxpayer compliance.²⁰ For example, leading work by Scholz and Lubell in the late 1990's 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.'²¹ Empirical work by Torgler et al in 2008 reached similar conclusions on the strength of the relationship between tax compliance and trust concluding that:

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.²²

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. This fact strongly suggests there is a *prima facie* case to be made for research specifically examining the nature and extent of any correlation between taxpayer rights and tax compliance. The following Part expounds this *prima facie* case.

PART III– THE CASE FOR A RESEARCH AGENDA

There are two core justifications underpinning the case for a specific research agenda to examine the nature and strength of any correlation between taxpayer rights and taxpayer voluntary compliance. These first of these flows from the fact that the findings of the research into the possible relationship between fairness/trust and taxpayer compliance give little reliable insight into any corresponding potential relationship between taxpayer rights and taxpayer compliance. The second stems from the fact that there are a number of changes to taxpayer rights currently being mooted in Australia. As such, the need for clear insight into the effects of such changes on taxpayer compliance is pressing. Further, the consequences of making any policy changes in this field without such insights may have significant adverse economic consequences. This balance of this Part addresses both of these core justifications in turn.

²⁰ John T. Scholz and Mark Lubell, 'Trust and Taxpaying: Testing the Heuristic Approach to Collective Action' (1998) 42(2) *American Journal of Political Science* 398. See also Slemrod, above n 17.

²¹ John T. Scholz and Mark Lubell, 'Trust and Taxpaying: Testing the Heuristic Approach to Collective Action' (1998) 42(2) *American Journal of Political Science* 398, 398.

²² Benno Torgler, Ihsan C. Demir, Alison Macintyre and Markus Schaffner, 'Causes and Consequences of Tax Morale: An Empirical Investigation' (2008) 38(2) *Economic Analysis and Policy* 313, 332.

A. Fairness/Trust and Compliance – No Answer to a Question of Taxpayer Rights

In light of the absence of specific research into the link between taxpayer rights and voluntary compliance discussed in the preceding Part, 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 appears to stem from a supposition that terms such as fairness (or trust) and taxpayer rights are synonymous. However, ‘fairness’ and ‘trust’ are much vaguer concepts, 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 legal rights.

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.’²³ 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 preceding Part, is a doctrine ‘rooted in fairness’. 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.’²⁶

Fairness and trust also encapsulate overarching principles in tax administration system design such as equity and consistency (first enunciated by economist Adam Smith²⁴), and, even more fundamentally, the Rule of Law.²⁵ Therefore, while the concepts are far from mutually exclusive, fairness and trust are poor analogues for taxpayer rights.

However, there are also a number of specific characteristics of the research to date into the links between fairness and trust and taxpayer voluntary compliance which make this work particularly inadequate for predicting likely effects on compliance behaviour of enhancing taxpayer rights or awareness of those rights. These extend far beyond the definitional differences between concepts such as trust and fairness and taxpayer rights.

First, irrespective of the strength of any findings of studies to date, it remains the case that many of the leading Australian studies such as those of Worsham,²⁶ and Wenzel²⁷ focus on procedural justice perceptions of taxpayers subject to ATO audit or inquiry into their tax affairs. Similarly, the leading work by Murphy was only tested on a group already in dispute with the ATO over compliance.²⁸ Essentially, crudely put, these are 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 compliant taxpayers and taxpayers aggrieved by acts or omissions of the ATO. It would be highly unlikely that the results of such a necessary

²³ Duncan Bentley, ‘Formulating a Taxpayers’ Charter of Rights: Setting the Ground Rules’ (1996) 25 *Australian Tax Review* 97, 111.

²⁴ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) W Strahan and T. Cadell, London.

²⁵ For example, Sales and Steyn note 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.” Phillip Sales and Karen Steyn, ‘Legitimate Expectations in English Public Law: An Analysis’ [2004] *Public Law* 564, 569.

²⁶ Worsham, above n 15.

²⁷ Wenzel, above n 4.

²⁸ Kristina Murphy, above n 5.

shift in focus would be to replicate the findings of studies centred on examining the behaviour of non-compliant taxpayers.

Similarly, it is unwise to seek to extrapolate from studies linking sanctions or rewards imposed on taxpayers and the effect on compliance²⁹ and to hypothesise on a possible positive link between greater accountability of the Commissioner and the level of taxpayer compliance. 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 depending on their willingness to comply will be the same as motivations and responses (of individual taxpayers or the taxpaying public collectively) to the potential ability to pursue legal avenues of relief against the Commissioner of Taxation 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 the Commissioner of Taxation as the officer primarily responsible for the collection of Commonwealth tax revenue 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.’³⁰

Similarly, ‘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 Commonwealth tax as an unconstitutional breach of basic taxpayer rights.³¹ 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 taxpayer trust and confidence in the Commissioner.

To compound problems, any extension of taxpayer rights principles to the activities of the Commissioner may also discourage the Commissioner from engaging in risky but important tax administration activities such as the dissemination of tax information and

²⁹ Concluding, somewhat unsurprisingly, that generally harsher sanctions might foster greater taxpayer compliance. The logic of such findings has been noted by Roth, Scholz and Witte - ‘The hypothesis that more certain or severe legal sanctions will encourage compliance with the law is consistent not only with the economic theories discussed above, but also with exchange theory in sociology.’ See Jeffrey Roth, John Scholz and Ann Witte (eds), *Taxpayer Compliance: An Agenda for Research* (1989) vol 1, 91.

³⁰ Leslie Book, ‘The Collection Due Process Rights: A Misstep or a Step in the Right Direction’ (2004) 40 *Houston Law Review* 1145, 1160.

³¹ The term ‘fiscal chaos’ has been most comprehensively examined in the literature and case law concerning restitutionary relief from the State. For good discussion see Keith Mason, ‘Money Claims by and Against the State’ in Paul Finn (ed), *Essays on Law and Government* (1996) vol 2, 104, especially at 122-123; Belinda Wells, ‘Restitution from the Crown: Private Rights and the Public Interest’ (1994) 16 *Adelaide Law Review* 191, 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 Clifford Pannam, ‘The Recovery of Unconstitutional Taxes in Australia and in the United States’ (1964) 42 *Texas Law Review* 779; and Margaret Brock, ‘Restitution of Invalid Taxes - Principles and Policies’ (2000) 5 *Deakin Law Review* 127.

provision of taxpayer advice.³² 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.

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 on public servants of the threat of litigation – 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.³³ These findings suggest that any worries about reductions in taxpayer compliance due to reduced service standards attributable to any extension of taxpayer rights may be unwarranted.

There has been recent judicial discussion of the issue in the Australian tax context in *Pape v Commissioner of Taxation*³⁴ that supports this suggestion. In that case, the Commissioner argued 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.'³⁵ 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.'³⁶

Any argument that enhancing taxpayer rights might open the floodgates to litigation against the Commissioner of Taxation may create an environment ripe for generating incentives not to comply can also be readily challenged. For example, the Commonwealth Ombudsman has noted that often litigant desire for an acknowledgement of his or her rights or an apology is a significant driver for seeking redress rather than the

³² Greenbaum notes, (Abe Greenbaum, 'The Taxpayer Bill of Rights 1 and 2: A Charter to be Followed by the Rest of the World or Just Another Attack on the Tax Authority?' (1997) 7 *Revenue Law Journal* 138, at 151): '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.' Johnson also raises the argument 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 Steve Johnson, 'A Residual Damages Right Against the IRS: A Cure Worse Than the Disease' (2000) 85 *Tax Notes* 395, 406.

³³ The most closely relevant and broad-reaching study into the issue in the Australian context is the study by McMillan and Creyke into the effects of adverse judicial review determinations on Australian government 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 changes brought about by an adverse judicial review outcome are generally received by affected agencies 'as a valuable and instructive incident.' Robin Creyke and John McMillan, 'The Operation of Judicial Review in Australia' in Mark Hertogh and Simon Halliday (eds), *Judicial Review and Bureaucratic Impact - International and Interdisciplinary Perspectives* (2004), 161, 187.

³⁴ [2009] HCA 23.

³⁵ *Pape v Commissioner of Taxation*, [2009] HCA 23, [589], relying on *Victoria v Commonwealth and Hayden* (1975) 134 CLR 338 at 418 per Murphy J who asserted that a narrow construction of the provision would have a 'chilling effect...on governmental and parliamentary initiatives.'

³⁶ *Pape v Commissioner of Taxation*, [2009] HCA 23, [596].

sole attraction of a legal remedy.³⁷ Further, the introduction of the *Taxpayers' Charter* in Australia does not appear to have resulted in any recorded sustained increase in litigious activity against the Commissioner.³⁸ Both of these facts lend weight to the United Kingdom Law Commission proposition 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.'³⁹

The task of 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. The existing research into the link between compliance and trust/fairness is simply no substitute. Any attempt to characterise the likely effects on taxpayer compliance of any enhancement to taxpayer rights on the strength of this research would be unsound.

B. Taxpayer Rights and Tax Compliance – A Pressing Need for Answers

The general acceptance of a link between how fairly taxpayers are treated and taxpayer voluntary compliance has led to a significant current Australian interest in ensuring taxpayer rights are adequately protected. However, all of this is proceeding with little pause for thought as to what effects any changes to taxpayer rights might have on taxpayer voluntary compliance.

For example, the Inspector-General of Taxation ('IGT') included in his 2014 work program a review of the Taxpayers' Charter and taxpayer protections. The IGT describes his concerns as including 'concerns regarding the adequacy of the ATO's Taxpayers' Charter and related taxpayer protections.' Consequently, the IGT review will 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'.⁴⁰ 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.⁴¹

The terms of reference for the current IGT review into the Taxpayer's Charter is broad and extends to consideration of a range of potential enhancements to taxpayer rights including endowing the Charter with legal force and the possibility of introducing

³⁷ See the Ombudsman's own motion investigation of Commonwealth arrangements for providing financial redress for maladministration - Office of the Commonwealth Ombudsman, Commonwealth of Australia, *To Compensate or Not to Compensate? Own Motion Investigation of Commonwealth Arrangements for Providing Financial Redress for Maladministration* (1999), 17.

³⁸ While it is conceded that the *Charter* did not purport to create or alter taxpayer rights against the Commissioner, it endeavoured to clarify existing taxpayer rights and created public interest in the performance of the Commissioner of Taxation. This clarification and exposure might well have been expected to create some spike in litigious activity against the Commissioner, assuming a straightforward existence of floodgates effects in the Australian tax context. In fact, however, Ombudsman figures indicate that after a brief initial spike in complaints there has been a steady and continuing drop in complaint figures against the Commissioner since the introduction of the *Taxpayers' Charter*.

³⁹ The Law Commission, United Kingdom, *Administrative Redress: Public Bodies and the Citizen*, Consultation Paper No 187 (2008), 144.

⁴⁰ Commonwealth of Australia, Inspector-General of Taxation, *New IGT Work Program* (10 April 2014), 2.

⁴¹ Commonwealth of Australia, Inspector General of Taxation, *Annual Report 2012-13* (September 2013), 7.

additional or strengthened taxpayer rights to compensation from the Commissioner. However, despite the breadth of the review, the call for submissions made no specific mention of any consideration of potential effects of enhancing taxpayer rights on taxpayer compliance.⁴² At the time of writing, the IGT is yet to release his recommendations but it seems unlikely given the silence on the issue to date that consideration of compliance effects of any recommended proposals for taxpayer rights reform will feature prominently.

The Australian Government has also signalled a recent interest in enhancing taxpayer rights. For example, prior to the 2013 election, the Liberal/National party Coalition flagged the need for an enquiry to investigate the potential to split the ATO to separate its tax investigation responsibilities from its tax prosecutorial functions. The issue was raised by then Shadow Treasurer Hockey in the context of complaints about the ATO's 'insular and inward-looking culture', its 'overly-aggressive' interpretations of tax laws and the perception that 'when dealing with taxpayers, the ATO has everything in its favour'.⁴³ This latter motivation implies clear policy intent to enhance taxpayer rights and make the ATO more accountable. In fact, Mr. Hockey made express reference in his 2012 speech to the need for taxpayers to be confident that they are being treated fairly and impartially by the ATO.⁴⁴ However, again there is no comment or discussion of the potential taxpayer compliance effects of this mooted major structural change to the ATO aimed at enhancing taxpayer rights.

The pursuit of a trusting relationship between taxpayers and the ATO and respect for taxpayer rights is also a key recent focus for the ATO itself. It is a commitment contained in the Taxpayers' Charter⁴⁵ and is regularly mentioned by tax commissioners.⁴⁶ For example, current ATO Commissioner Chris Jordan highlighted tax system fairness as a major theme and current concern of the ATO in his recent speech to the 11th ATTA International Tax Administration Conference, observing that 'in order to deliver to government, the ATO must use its power legitimately, build trust in its judgment and demonstrate fairness and integrity.'⁴⁷

⁴² Commonwealth of Australia, Inspector General of Taxation, *Review into the Taxpayers' Charter and Taxpayer Protections: Terms of Reference and Submission Guidelines* (2 November 2015). 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.

⁴³ Joe Hockey MP, Shadow Treasurer, 'Post Budget Address' (Speech delivered at the National Press Club, Canberra, 22 May 2013).

⁴⁴ Joe Hockey MP, Shadow Treasurer, 'Post Budget Address' (Speech delivered at the National Press Club, Canberra, 22 May 2013).

⁴⁵ The Australian Charter contains a commitment by the ATO to treat taxpayers 'fairly and reasonably.' This includes commitments under that heading to treat taxpayers with courtesy, consideration and respect, behave with integrity and honesty, act impartially, respect and be sensitive to the diversity of the Australian community, make fair and equitable decisions in accordance with the law and to resolve taxpayer concerns, problems or complaints fairly and as quickly as possible. Australian Taxation Office, *Taxpayers' Charter: What You Need to Know*, NAT 2548-06.2010, June 2010, 2.

⁴⁶ For example, the former Australian Commissioner of Taxation, Michael D'Ascenzo referred to fairness in the preamble to the Australian *Taxpayers' Charter* pointing to an aspiration to be 'professional, responsive and fair.' Australian Taxation Office, *Taxpayers' Charter: What You Need to Know*, NAT 2548-06.2010, June 2010, Foreword.

⁴⁷ Chris Jordan, Commissioner of Taxation, 'Reinventing the ATO – Building Trust in Australia's Tax Administration' (Speech delivered at the 11th ATTA International Tax Administration Conference, Sydney, 14 April 2014).

Similarly, the former Commissioner of Taxation, Michael D'Ascenzo has observed:

Procedural fairness, courtesy and integrity underpin a world class tax administration. This is important because the success of any tax system is highly dependent on people's propensity to voluntarily comply with their tax obligations.⁴⁸

However, this intense recent focus has been generated without any specific knowledge of the extent to which the existence of various taxpayer rights and taxpayer knowledge and understanding of those rights leads to greater willingness of taxpayers to voluntarily comply with their tax obligations. Troublingly, Australian policy-makers are on the cusp of potentially making significant changes to the trade-off between taxpayer rights and tax authority powers (and even potentially to the structure of the ATO) in the absence of any clear empirical understanding of the existence or extent of any effects such significant changes might have on taxpayer compliance.

Proceeding without this knowledge may have significant unanticipated effects on economic growth and productivity – these effects may not be positive. On the one hand, arguably taxpayers who have a strong suite of taxpayer rights and who are aware of and understand those rights will have greater trust and confidence in the impartiality and fairness of the tax and tax administration systems and, hence, be more willing to comply. Equally plausible however, is the possibility that some taxpayers who perceive themselves as being in a powerful position vis a vis the Australian Taxation Office due to a strong suite of taxpayer rights, may become more reluctant to comply, gambling that in any dispute with the ATO they will be in a relatively powerful bargaining position.⁴⁹

It is entirely conceivable that both of these propositions are correct and that there is some boundary or equilibrium level or type of taxpayer rights which will maximise positive compliance incentives without encouraging non-compliance behaviours. Again, however, where any such boundary or equilibrium might lie remains unknown and all of these inherently logical possibilities remain untested.

Almost certainly, though, 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 growth⁵⁰, 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.⁵¹

⁴⁸ Michael D'Ascenzo, Commissioner of Taxation, 'It is the Community's Tax System' (Speech delivered at the Australasian Tax Teachers' Association - 18th Annual Conference, Melbourne, Australia 30 January 2006).

⁴⁹ Kristina Murphy, above n 5.

⁵⁰ See, for example, Jordi Caballé and Judith Panadés, 'Tax Evasion and Economic Growth' (1997) 52 *Public Finance* 318.

⁵¹ For further discussion of the link between productivity and tax see Organisation for Economic Cooperation and Development, *Tax and Economic Growth – Summary and Main Findings* (Working Paper No. 620, Economics Department, OECD, 2008), 7.

The United Kingdom HMRC has provided a useful summary of the link between avoidance and both economic growth and productivity in their 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.’⁵² This summary of the economic arguments is simple and compelling.

It is well understood that to allow increased taxpayer rights against the Commissioner as the officer primarily responsible for the collection of Commonwealth tax revenue without thought for the consequences for taxpayer compliance behaviour might unwittingly impose significant contingencies on the viability of vital government initiatives and services funded by that revenue. And, 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.’⁵³ Clearly, there are sound 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

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 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 would be a misconception to assume this is the key reason for the lack of research attention to date.

This is because research into taxpayer compliance responses to changes in the taxpayer rights landscape is relatively narrower and more readily definable in scope when compared to research into difficult and nebulous terms such as ‘fairness’ and ‘trust’. And 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 more likely explanation, therefore, is that carrying out such research requires bridging the traditional divide in tax administration research between scholars engaged in taxpayer rights research and those engaged in tax compliance research. Although there is occasional cross-over, tax administration scholars tend to focus their research efforts predominantly on one of these two sub-disciplines. Accordingly, it is understandable that such an important issue may have been neglected to date.

In a similar vein, much of the research into the link between taxpayer compliance and fairness and trust has been carried out by non-tax scholars – predominantly psychologists

⁵² HM Revenue and Customs, Anti-Avoidance Strategy 2/10/2013 <http://webarchive.nationalarchives.gov.uk/+/http://www.hmrc.gov.uk/avoidance/vision-strategy.htm> .

⁵³ Osborne Reynolds, above n **Error! Bookmark not defined.**, 122 -123.

and sociologists. These researchers are comfortable dealing with generalised concepts such as ‘fairness’ and ‘trust’ and assessing psychological responses to perceptions of fairness and trust. They are far less likely to be interested in or to have the necessary tax knowledge to consider examining responses to specific taxpayer rights initiatives.

All of this provides some important insights into the design of a research agenda into the link between taxpayer rights and taxpayer compliance. First, a successful research agenda would undoubtedly need to involve experts from both the taxpayer rights and tax compliance sub-disciplines. Similarly it would need to engage scholars from non-tax disciplines – ideally sociologists and/or psychologists – in order to make use of the knowledge and research methodologies which have already been developed to provide us with the existing relevant insights into the relationship between fairness and trust and taxpayer compliance.

A successful research agenda should also involve the ATO. As noted in the preceding Part, a key justification for the carrying out of the research is the potential economic benefits which would accrue from designing a system of taxpayer rights which would maximum 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 the ATO – particularly in the long term.

For example, a taxpayer rights initiative which produces over-defensive responses from the ATO, (eg introduction of new broad-ranging taxpayer compensatory avenues of relief for ATO wrongs), may result in the ATO ceasing to provide certain perceived high risk services to taxpayers or the provision of 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.

However, a ready starting point for testing would be to examine the relevance of enforceability of taxpayer rights to taxpayer willingness to comply. This is critical for two key reasons. First, and foremost, the changes currently being examined by the Inspector-General of Taxation specifically include whether to endow the Taxpayer’s Charter with legal force and/or whether there is a need to create alternative formal legal rights for taxpayers. Hence, testing any potential correlation between the degree of legal enforceability of taxpayer rights and taxpayer voluntary compliance would provide direct and timely advice to the Inspector-General of Taxation. Similarly, internationally there is a shift toward enforceable Charters.⁵⁴ Hence the findings of any work examining the

⁵⁴ See Organisation for Economic Co-operation and Development, *Tax Administration in OECD and Selected Non-OECD Countries – Comparative Information Series* (2010).

compliance effects of this shift toward legally enforceable taxpayer rights would also be a timely 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.⁵⁵ 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 but also *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'⁵⁶ (emphasis added). If this assertion holds true, then policy makers 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 ATO power, rather than concentrating their efforts on increasing those rights.

In a similar vein, it would also be useful to have an understanding of the extent to which taxpayers respond more to *perceptions* of whether tax officials respect their rights or whether they respond more favourably to actual changes in the letter of the law as to their rights. This insight would give some long-overdue empirical data to feed into the argument as to whether a Taxpayer Charter needs to be legally enforceable in order to foster greater taxpayer voluntary compliance. This could involve applying and testing psychological theories of motivation such as attribution theory.⁵⁷

A key issue to be tested is whether taxpayers look more toward 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 the letter of any taxpayer rights. 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 toward taxpayer within the ATO as evidenced by day to day interactions with taxpayers.⁵⁸

To test this prediction, any survey of taxpayers could include questions asking about likely compliance responses based on why the ATO engages in particular behaviours. 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 ATO allowed appeals against tax assessments because (1) it wanted to treat taxpayers with justice and fairness; or (2) solely to comply with the letter of the law.

⁵⁵ *Duncan Bentley, Taxpayers' Rights: Theory, Origin and Implementation* (2007) Kluwer Law International: Netherlands.

⁵⁶ Organisation for Economic Cooperation and Development, Centre for Tax Policy and Administration, *Principles of Good Tax Administration* (Practice Note GAP001, OECD, 2001), 154.

⁵⁷ This theory was first proposed by social psychologist, Fritz Heider – Fritz Heider, *The Psychology of Interpersonal Relations* (1958), Wiley: New York.

⁵⁸ Extrapolating from the application of attribution theory to employee organisational commitment in response to the motivations of management. See, for example, Daniel Koys, 'Fairness, Legal Compliance and Organizational Commitment' (1991) 4(4) *Employee Responsibilities and Rights Journal* 283.

Any research should also extend to consideration of both long term and short term compliance effects of enhancing taxpayer rights or increasing awareness of those rights. 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. This point was made by the IGT in the context of considering the mooted restructure of the ATO to split prosecutorial and audit/investigative functions noted in the preceding Part of this paper. In this context, the IGT pointed out that ‘public and professional confidence in the independence and expertise of staff ... would take time to develop’⁵⁹ after any restructure. Consequently the public trust necessary to foster greater compliance may take some time to emerge following any ATO restructure and split of ATO investigative and prosecutorial functions and must be considered a long term potential benefit rather than a short-term gain. The same is likely to be true of any initiative to enhance taxpayer rights.

Finally, as also alluded to in the preceding Part of this paper, any research into the link between taxpayer rights and taxpayer voluntary compliance would need to extend beyond the tendency in the work examining the link between compliance and fairness and trust to focus on the attitudes of taxpayer who have been subjected to ATO audit or the subject of previous dispute with the ATO. As previously noted, any work examining the possible link between taxpayer rights and tax compliance would need to broaden the focus to compliant taxpayers and taxpayers aggrieved by acts or omissions of the ATO. There may be scope for research centred on particular classes of taxpayers, but only in cases where mooted changes to taxpayer rights are aimed only at that particular class of taxpayers.

PART IV– CONCLUSIONS

It is difficult to argue against the desirability of a fair tax administration system and a trusting relationship between the Commissioner of Taxation 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. However, this paper has also shown that even accepting this proposition without challenge it does not necessarily follow that the same is true of the relationship between stronger taxpayer rights or a greater awareness of those rights and taxpayer compliance.

There are many arguments which could be raised that enhancing taxpayer rights will indeed foster greater taxpayer compliance. Equally, though, cogent arguments could be raised that increasing taxpayer rights could have the opposite effect through opening the floodgates to claims against the Commissioner or fostering over-defensive responses from the ATO and consequent lower 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 different compliance incentives. In addition, compliance effects may well differ from the short term to the long term.

However, this paper has shown that there is little in the existing research to give our policy-makers any practical guidance on how to structure taxpayer rights reform

⁵⁹ Inspector-General of Taxation, above n **Error! Bookmark not defined.**, 107.

proposals to take advantage of any positive compliance effects and minimise the risks of any compliance disincentives. Of course, it may well be the case that enhancing taxpayer rights is a worthy pursuit of itself, irrespective of its effects on taxpayer compliance incentives. However, there is no evidence of any conscious policy decision to this effect underpinning the current focus on potential significant changes to taxpayer rights and the structure of the ATO.

In the absence of such a policy decision, and in light of the changes to the taxpayer rights landscape currently being considered by the IGT and the government, there is a pressing need for development of a research agenda to fill the void identified in this paper. There is no compelling reason why this research cannot be designed and undertaken in order to produce meaningful and timely results.

Of course, no single research model could be designed to provide all the answers currently lacking and it could well be that any initial research will raise as many questions as it answers. However, this paper has provided a primer for design of a research agenda to generate empirical results to facilitate evidence-based policy development in the related fields of taxpayer rights and taxpayer voluntary compliance. Such evidence-based policy development will ensure that any advances in taxpayer rights do not result in an unconscious erosion of the revenue, economic growth and productivity.