AN ANALYSIS OF WAYS IN WHICH THE SOUTH AFRICAN TAX SYSTEM COULD BE SIMPLIFIED

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ABSTRACT

It has been said that the fundamental paradox of tax simplification is that, despite consensus, almost every year tax rules become more complex. This thesis considers tax simplification measures which have been implemented internationally, in order to provide a basis for an analysis of ways in which the South African tax system could be simplified.

A doctrinal methodology is applied, and an analysis is carried out of possible tax simplification measures, based on the commentary of experts in the field of tax law. Simplification measures adopted in the United Kingdom, Australia, the United States of America, Egypt, and certain European countries are discussed, together with their possible adoption in South Africa.

Tax simplification has a broad scope. This research identifies four areas in which the South African tax system could simplified: the simplification of tax legislation, addressing the role of accounting in the simplification process, reducing the number of taxes currently levied, and finally addressing the complexities evident in the SARS *e-filing* system. This thesis illustrates several measures which could be used to address the current areas of complexity. Re-writing tax legislation to assist the understanding of taxpayers is suggested. An increase in the inclusion rate for individuals of capital gains in taxable income from 40% to 60% is suggested, to compensate for the loss of revenue due to the recommended repeal of donations tax and estate duty. Aligning tax legislation with accounting standards is identified as a possible area for simplification, as there are many similarities between the two systems. To address the usability of SARS' *e-filing* platform, suggestions are made regarding the further pre-population of returns, introducing e-invoicing and providing a "sandbox" function that taxpayers could use to familiarise themselves with how *e-filing* works.

This research highlights tax simplification as a process that needs to be prioritized in order to achieve the associated benefits.

Key words: tax simplification, tax complexity, South African Income Tax, *e-filing*, multiple taxes, accounting, tax legislation.

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CHAPTER 1: INTRODUCTION

1.1 RESEARCH CONTEXT

“Tax systems tend to grow complex over time, alongside accumulated accretion of statutes, regulations, administrative practices, bureaucratic conventions and evolving societal norms” (World Bank, 2009:11). The South African tax system has also become relatively complex over many years, mainly through numerous changes to tax legislation, various changes in administrative practices and significant changes in society and politics. Legislative changes are often introduced to provide clarity on a section but can result in further complexities.

Evans, Franzsen and Stack (2019) describe tax complexity in broad terms as being ascribed to statutory complexity and effective complexity. Statutory complexity refers to the difficulty with which a body of tax law can be read, understood, and applied. They identify three main indicators of statutory complexity, namely the length of the tax legislation, its readability, and the extent of tax disputes. Effective complexity refers to the difficulty of complying with procedures and thus “the operating costs of a tax”. They further detail “operating costs of tax” as costs incurred because of the complexity of tax forms, frequent changes to tax rules and complicated calculations.

There are many contributing factors that add to the complexity of the tax system. Four areas have been identified for the purposes of the present research, to address tax simplification in South Africa. These four areas are the complex language in which taxation laws are written, as well as their structure, the number of taxes levied in South Africa, the role accounting plays in increasing tax complexity, and the SARS *e-filing* system.

Tax legislation simplification

Simplification of tax legislation is often a consideration that is overlooked when the authorities are considering tax reform; the primary focus of most tax reforms has been to raise more revenue for government and improve the efficiency of the tax collection process (World Bank: 2009). The World Bank identifies international taxation as one of the leading causes of tax law complexity, because of transfer pricing rules and the various double-taxation avoidance treaties that countries have with each other. As businesses find new ways to avoid taxes through

complex financial instruments and special vehicles, governments are under pressure to keep up with them. The World Bank states that it is inevitable that the tax law reflects the complexity of the financial environment. The South African tax system has had to provide for the same areas of complexity; for example, section 9D of the Income Tax Act, 58 of 1962 (the "Income Tax Act"), which provides for the attribution to a South African resident of the net income of controlled foreign companies, and section 31 of the Income Tax Act, which deals with international transfer pricing issues. In addition, tax statutes are often written in complex language, with a complex structure, that could also be simplified. For example, in section 18(5) of the Value-Added Tax Act, 89 of 1991 (the "VAT Act"), after the subsections (a), (b) and (c), and before the formula, the paragraph consists of 269 words without a full stop, and six modifying "ifs". The language style in the acts is legalistic and the numbering system varies; for example, in the Income Tax Act, sections such as 50A use capital letters while other sections such as 6*quat* use Latin terms. Cross-references between sections also abound, making the interpretation of the sections extremely complex. Section 16(3) of the VAT Act includes fourteen subsections, some with numerous sub-subsections and provisos, each of which is cross-referenced to a different section in the Act.

Role of accounting in tax simplification

Financial record keeping can be a challenge for many taxpayers as very specific knowledge is required, and accurate record keeping is necessary to complete a tax return. A vast number of accounting records are required to be maintained. A typical set of accounts includes, for example, ledgers, day books, cash books, purchase books, sales books, inventory, and a list of debtors and creditors. The Tax Administration Act, 28 of 2011 (the "Tax Administration Act"), mandates the manner in which records must be maintained for tax purposes, which may differ significantly from the normal business accounts. The requirement to maintain different sets of accounts imposes additional costs on businesses.

The Davis Tax Committee (2018b) identified the main sources of complexity when dealing with accounting and taxation requirements in record keeping. These are the accrual accounting rules, the capitalisation of assets and the sensitivity to timing, which involve corporate compliance costs. Corporate complexity is also caused by the different treatment of debt and equity, the existence of different types of legal organisational forms that are taxed differently,

the tax rules with respect to business restructuring, and the tax rules with respect to the transfer of business assets.

Levying of multiple taxes

South Africa has various taxes designed to raise the revenue necessary to fund the country's needs. It is clear that the number of taxes levied in South Africa has increased over the years. Franzsen (2005) describes transfer duty as one of the oldest taxes; it was first introduced in 1686 (now levied in terms of the Transfer Duty Act, 40 of 1949). Estate duty was introduced in 1955 (in terms of the Estate Duty Act, 45 of 1955) and a stamp duty in 1968 (now replaced by the Securities Transfer Tax, 25 of 2007). In 1978, a general sales tax was implemented, but this tax was replaced in 1991 by the VAT Act. Income tax, including donations tax and capital gains tax, is levied in terms of the Income Tax Act. In addition, many other forms of tax are imposed, including excise duties, various levies, and local taxes.

Multiple taxes impose an additional burden on businesses, but they generate additional revenue for government. The World Bank (2009) suggests that reducing the number of taxes while managing to collect the same amount of tax revenue would satisfy both businesses and the government. If an attempt is to be made to repeal certain taxes, the purpose of the tax must be taken into account. Not all taxes have the goal of raising revenue. Some taxes are designed to regulate (for example, environmental taxes); redistribute income (for example, progressive income tax); introduce transparency in the collection and allocation mechanism (for example, road users' taxes); emphasize the role of institutional spending (local taxes for local public goods); force savings (government-imposed compulsory payments to pension funds), and so on. The World Bank further emphasizes that any attempt to rationalize fewer taxes would have to address these various functions. It could be argued that in South Africa, estate duty, securities transfer tax, transfer duty, donations tax and capital gains tax are all taxes on the disposal of assets and in a sense involve double taxation. The Davis Tax Committee (2015:26) states: "Securities transfer tax and estate duty raise very little tax revenue in relation to the cost of collection." A case could therefore be made to repeal these taxes.

South African Revenue Service e-filing

Tax reforms to simplify the system for the submission of tax returns for ease of use by taxpayers are often neglected. Filing a return on the South African Revenue Service (SARS) *e-filing*

platform requires the taxpayer to be information technology literate, a scarce skill in many developing countries. Another inherent problem identified by the World Bank (2009) is the financing of capital expenditure and the acquisition of compatible software by taxpayers. It is also submitted that the SARS *e-filing* platform is not user-friendly. This results in many taxpayers using a tax practitioner at their own cost to submit their returns, even the simplest of returns. The cost of tax compliance in a complex system can be high in relation to the actual tax owed. The World Bank (2009) conducted a survey to quantify these costs, which highlighted the magnitude of these costs. The survey indicated that Sub-Saharan Africa has one of the highest costs of tax compliance in the world.

The South African tax system is currently complex and is in need of simplification in order to address some of these issues identified. This research is aimed at analysing ways a complex tax system can be reformed to address the problem of the system becoming ever more complex. This issue of tax reform in relation to tax simplification may offer some relief from the cost of compliance for taxpayers and possibly even reduce some of the operating costs incurred by SARS.

1.2 GOALS OF RESEARCH

The main goal of the research is to consider ways in which the South African tax system could be simplified. This goal will be addressed by the following sub-goals:

To determine:

- in what ways the Income Tax and Value-Added Tax Acts could be simplified;
- whether accounting principles and tax provisions could be harmonised to simplify tax legislation;
- to what extent the number of taxes levied in South Africa could be reduced; and
- how *e-filing* could be made more user friendly to reduce the administration costs incurred by taxpayers.

1.3 METHODS, PROCEDURES AND TECHNIQUES

The research is situated in a post-positivist paradigm. Creswell (2014) sees post-positivism as an extension of positivism, since it represents the thinking after positivism, challenging the

traditional notion of the absolute and objective truth of knowledge in the social sciences. Post-positivist approaches show a much greater openness to different methodological approaches, and often include qualitative, as well as quantitative methods (Stack: 2019). The approach in the present research can be characterised as legal interpretive research.

The methodology adopted is a doctrinal methodology. Doctrinal research can be described as a research methodology that provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments (McKerchar: 2008). The present research entails a literature survey and an interpretation of tax legislation. Commentary and articles from various tax experts are taken into account. The research is conducted in the form of an extended natural language argument, supported by documentary evidence.

The credibility of the research and the conclusions is ensured by:

- placing greater evidential weight on legislation and the writings of acknowledged experts in the field;
- discussing opposing viewpoints and advancing conclusions based on credible evidence; and
- the rigour of the arguments.

1.4 ETHICAL CONSIDERATIONS

The research is based purely on literature. As all the data are publicly available, no ethical considerations arise in relation to their use. All opinions are considered in their written form.

The researcher will not exaggerate or filter data or results, and content will not be withheld or analysed selectively to support a certain viewpoint. All sources of data are appropriately acknowledged, and full references are provided.

1.5 OVERVIEW

Chapter one serves as an introductory orientation to the study, where the context of the research is briefly described, the research question and goals of the research are set out, and an explanation of the research methodology is provided. Tax complexity is identified as a global problem, which has many facets. The present research, however, focuses on four aspects,

namely simplifying tax legislation, reducing the number of taxes, addressing the role accounting plays in taxation, and how *e-filing* can be simplified.

Chapter two provides a discussion of tax simplification from a global perspective. Many countries have prioritised tax simplification to gain the benefits of a simpler system and the initiatives in these countries can be used as a reference point for South Africa. The chapter reviews the current literature available on various tax simplification methods applied in relation to the four areas identified for the present research.

Chapter three provides an in-depth discussion in the South African context of tax simplification in relation to the literature discussed in chapter two. The chapter provides an analysis of tax simplification measures which are relevant to the South African tax system and makes recommendations which could contribute to a simpler tax system.

Chapter four serves as a conclusion of the study and provides a summary of the key findings. The chapter explains how the research goals are addressed in each chapter and makes recommendations for the simplification of the South African tax system.

CHAPTER 2: THE RATIONALE FOR TAX SIMPLIFICATION

2.1 INTRODUCTION

Paying tax is one of the most universal, frequent, and potentially contentious interactions that citizens have with their government. “If paying taxes was to be seen as easy, straightforward, fair, and robust, then individuals and businesses would be more likely to comply with the payment of tax” (PwC and the World Bank, 2020:4).

This research aims to suggest ways in which taxes in a South African context could be simplified. Tax simplification is a broad topic and therefore only four aspects are addressed in this research, namely, tax legislation simplification, the reduction in the number of taxes levied, the role of accounting, and finally, how *e-filing* could be made more user friendly and effective. This chapter firstly explores the definition of tax complexity and tax simplification and reviews the literature on the causes of tax complexity, while investigating the benefits of a simpler tax system. Secondly, an in-depth discussion is conducted of the literature available on the four elements identified.

2.2 TAX COMPLEXITY

Tax complexity has many dimensions and can be defined in different ways. Slemrod (1984) defines the complexity of a tax system as the sum of compliance costs which are incurred directly by individuals and businesses, as well administrative costs which are incurred by government. Long and Swingen (1988:132) provide a comprehensive definition of tax complexity that points to: “… the ambiguity of tax laws; the need for numerous calculations; the frequency of change in the tax laws; the excessive detail in the tax laws, such as rules and exceptions to the rules; the obligation to keep the records; and taxpayer forms and instructions.”

2.3 TAX SIMPLIFICATION

If there is universal agreement on the need to simplify taxes, why is legislation becoming more complex each year? Tran-Nam and Evans (2014) observe that tax simplification is a misunderstood concept. They suggest that there is much more to simplification than just rewriting the legislation. Tran-Nam and Evans suggest that there is both legal simplicity (how difficult tax law is to read and understand) and effective simplicity, judged by how easy it is to determine the correct tax liability. Tax simplification is an attempt to reduce the complexity of

the tax system. Evans *et al* (2019) explain that Slemrod (1984) identified four core attributes of simplicity in a tax system. These attributes which were identified can be a combination of the following: firstly, greater predictability (tax laws become more certain); secondly, lower tax administrative costs in collecting the same amount of tax revenue; thirdly, a lower degree of difficulty (lower computational tax compliance costs for the same amount of tax liabilities); and finally, fewer opportunities for manipulation (less tax planning, particularly aggressive tax planning).

The Davis Tax Committee (2018b:72) states "that the legislation should be clear and unambiguous, easy to administer and to comply with, such that taxpayers are able to understand the tax system." The Davis Tax Committee goes on to suggest that although simplicity is a desirable attribute of a good tax system, whenever there is a conflict between simplicity and any other tax objectives such as fairness or efficiency, simplicity is often sacrificed. The Committee suggests that a simple tax system is likely to be relatively transparent and, thus, any decision to introduce more complexity into the tax system must be strongly justified, given that administration and compliance costs matter a great deal and impose significant limitations on tax design.

William Gale (2001) suggests that there are at least three factors which help to explain why taxes become complicated. He explains that conflict among the consensus goals of tax policy is the first factor. He explains that although almost everyone agrees that taxes should be simple, most people also agree that taxes should be fair, conducive to economic prosperity, and enforceable. He concludes that this can result in policy outcomes usually representing efforts to balance one or more goals against the other. That is, sometimes a certain amount of complexity is created or permitted to help achieve other policy goals. He states that attempts to make taxes fairer often conflict with attempts to make taxes simpler. He explains that most countries tailor tax burdens to the characteristics of individual taxpayers. He further emphasises that this may improve tax equity, but it also creates complexity. He describes tax complexity as being similar to air pollution: it is an unfortunate and undesirable consequence of products or services that we, as a society, desire. He expands on the concept and explains that just as the optimal level of air pollution is not zero - since that would mean that many of the goods and services society cherishes could not be produced - the optimal level of tax complexity is not zero. He states that just as we should seek the most efficient ways to reduce air pollution, we should also seek the most effective ways to make taxes simpler. The second factor as to why

taxes are complex, according to Gale, is that tax complexity is a result of the political process: politicians and interest groups have interests in targeted subsidies that reduce taxes for particular groups or activities, but targeted subsidies inevitably make taxes more complex by creating more distinctions among taxpayers and among sources and uses of income. The final aspect Gale describes is that some complexity is necessary to deter tax avoidance. He states that taxpayers may reduce their taxes as long as they comply with the tax legislation, but this activity inevitably raises questions about whether particular activities or expenditures qualify for tax-preferred status. He expresses the view that complex rules are designed to limit avoidance. Taxpayers in turn respond by inventing complex transactions to circumvent the new rules and this can create a vicious cycle that leads to more and more complex rules and increasingly sophisticated and complex avoidance strategies.

In addition to the above barriers, John Whiting (2019, in Evans *et al*., 2019:xvi) suggests that some tax simplification measures could be costly, which would result in minimal action being taken by the authorities. It is clear that there are barriers to overcome, but despite these barriers there are benefits to a simpler tax system and these benefits are discussed below.

2.4 BENEFITS OF A SIMPLER TAX SYSTEM

Gale (2001) states that the notion that taxes should be simpler is one of the very few propositions in tax policy that generates universal agreement. He refers to the fundamental paradox of tax simplification that, although everyone thinks taxes should be simpler, almost every year tax policy becomes more complex. He suggests that pleas for simplification need to be buttressed by an understanding of the likely outcome of simplification efforts.

It is submitted that a simpler tax system is very desirable as it has numerous benefits. Gale (2001) describes the various benefits of a simpler tax system. The first benefit of a simpler tax system is the reduction in taxpayers' costs of complying with the tax system in terms of time, money, and mental anguish, as well as reducing the overall burden of taxation. Gale goes on to state that there would be a greater likelihood of taxpayers' taking advantage of tax incentives or subsidies as more taxpayers will understand how to qualify for these incentives. This will, in turn, encourage certain activities, such as saving for retirement. In addition, Gale believes that making taxes simpler are likely to increase compliance rates. An example of this is the reduction in illegal tax evasion, as he believes that, to some extent, people do not pay taxes

because they do not understand the tax law. Clarifying and simplifying tax rules will facilitate taxpayers' understanding of tax legislation. James, Sawyer and Wallschutzky (2015) concur with this benefit as they believe that overly complex and obscure legislation might reduce the willingness of taxpayers to comply voluntarily with the requirements of the tax system.

Gale (2001) further explains that people who cannot understand tax rules may also question the fairness of the tax system and feel that others are reaping more benefits than they are, and thus prove more likely to evade taxes. James *et al* (2015) echo this sentiment as they claim that complex taxes generate unfairness because, for example, not everyone is in a position to take advantage of the various complexities of a tax system. Finally, Gale describes simpler taxes as generating more public support and thus should be an essential part of any effort to improve the delivery of government services. James *et al* have similar views as they state that the primary purpose of taxes is to pay for public expenditure.

It is clear from the benefits described that a simpler tax system would be beneficial to both the taxpayer and the government.

2.5 EVALUTING A TAX SYSTEM FOR SIMPLICITY

In order to determine whether a tax system is simple or complex, an evaluation tool can be applied. Cooper (1993) identifies the need to evaluate a system for this determinant and lists some key concepts that should be applied to an evaluation of tax simplification. These are important evaluation tools identified by Cooper (1993:417) and could be applied to South African legislation.

> **Predictability.** In this context, a rule would be simple if that rule and its scope were easily and accurately understood by taxpayers and their advisers.
>
> **Proportionality.** A rule would be simple if the complexity of the solution were no more than reasonably necessary to achieve the intended aim.
>
> **Consistency**. This would apply where a rule deals with similar issues in the same way and without the need to make arbitrary distinctions.
>
> **Compliance.** A rule would be simple if it were easy for taxpayers to comply with without incurring excessive costs.

Administration. A rule would be simple if it were easy for a revenue authority to administer.

Co-ordination. A rule would be simple if it fitted appropriately with other tax rules; it would be complicated if its relationships with other rules were obscure.

Expression. A rule would be simple if it were clearly expressed.

Tran-Nam and Evans (2014:346) provide an alternative approach by classifying tax complexity through the identification of the different stages of the tax system. According to this approach, it is possible to distinguish between:

Policy complexity. Complexity that arises primarily because of the choice of policy by the policy-maker, perhaps too often with the intention of using tax policy for non-revenue-raising purposes.

Statutory complexity. Complexity that arises due to the drafting of the tax laws.

Administrative complexity. Complexity that arises from the rules and practices of the tax administrators.

Compliance complexity. Complexity that arises from the tax computation and tax planning behaviour of business and individual taxpayers.

The present research proposes that South African tax systems are complex and there is a need to simplify them. This is a vexing problem as there are many different facets to tax simplification. James and Edwards (2008) suggest that the problem needs to be addressed from different angles. Tran-Nam and Evans (2014) also identify a combination approach in addressing tax simplification. The present research is therefore considering multiple perspectives in an attempt to address the problem. These areas are the complex legislation and complex language in which taxation laws are written, the number of taxes which exist in South Africa, the role accounting plays in increasing tax complexity, and the SARS *e-filing* system. The literature relating to these four areas is discussed below.

2.6 TAX LEGISLATION SIMPLIFICATION

Statutory complexity is one of the aspects to be addressed when considering simplifying taxes. Evans *et al* (2019:221) describe "statutory complexity as the difficulties with which a body of tax law can be read, understood, and applied." It is proposed that statutory complexity is one of the key factors to be considered when addressing tax simplification. If there is understanding of how legislation became complex and the factors attributable to tax complexity, ways of addressing the problem can be considered. This section discusses the factors that influence complex taxes and a framework for addressing tax simplification. The approaches adopted by other countries to address the challenge of statutory complexity are investigated.

It is submitted that all taxpayers, and not just a select few, need to understand the legislation, as paying tax is a task most people have to undertake, and it is therefore important for them to understand how to interpret tax legislation. It is evident that many taxpayers find tax legislation complex and often incomprehensible and this can lead to increased non-compliance, which may be largely unintentional. Palil (2010) suggests that complexity of tax administration has, over time, had a negative impact on tax compliance behaviour. Prebble (1994:3) quotes Professor David Walker, editor of The Oxford Companion to English Law:

> More than any other branch of municipal law, tax law is open to the reproach of being utterly incomprehensible by the individuals affected, and even frequently by their legal advisers. The enormous complexity of the rules of law on each kind of tax gives rise to an enormous volume of dispute and argument, and a great deal of litigation by way of appeal from assessments … Neither justice nor reason has any place in tax law, and many decisions of the superior courts are in plain conflict with all sense.

Blank and Osofsky (2017) suggest that rather than striving to achieve simplicity in the substance of the legislation, which would involve reform of the underlying law, plain language should be used to describe complex legal rules and regulations. They describe this concept as "simplexity", and define "simplexity" as the government presenting clear and simple explanations of the law without highlighting its underlying complexity or reducing this complexity through formal legal changes.

James and Edwards (2008:47) propose a framework for addressing the need to simplify legislation. This approach captures much more than just rewriting the legislation and includes various steps:

1. identifying the aims of taxation;
2. establishing different methods of achieving the aims;
3. analysing in terms of economic criteria;
4. specifying the administrative constraints;
5. identifying different risks;
6. analysing behaviour;
7. considering the relationship between different policies;
8. developing strategies;
9. planning and implementing strategies, including intended outcomes; and
10. monitoring and evaluating the performance of the strategies against the plan.

The different views all agree that legislation can be complex. The two key factors which are highlighted by these different views is that the content of legislation and the style of language can pose a challenge in understanding tax legislation. In an attempt to simplify the legislation, it is important to address the causes of tax legislation becoming complex over time.

2.6.1 Reasons for complex legislation

A strategy to simplify a tax system should take into consideration some of the factors that complicate tax systems over time. It is submitted that such factors are not always the result of poor policies. Evans *et al* (2019) describe some of the reasons why tax legislation is complex. Firstly they describe tax avoidance as a cause for complexity. They claim that, while the large number of taxes increases the complexity of the tax system, the tax laws by themselves become increasingly complex over time because they must keep up with the creation of new financial instruments and innovations in tax avoidance. Evans *et al* further describe international taxation as one of the leading causes of tax law complexity, because of transfer pricing rules and the various double-taxation avoidance treaties that countries have with each other. Evans *et al* state further that it is inevitable that the tax law reflects the complexity of the financial environment. Secondly, Evans *et al* ascribe the changes to the legislation as a factor leading to complex legislation. They explain that tax legislation is designed to serve various economic and social goals of the government, and as a result the legislation is often amended. They propose that the

amendments can result in a patchwork of legislation. For example, number systems change throughout the legislation and the structure of the legislation becomes inconsistent over time. Evans *et al* state that these aspects further compound the problem, resulting in legislation that is difficult to understand. Finally, Evans *et al* describe litigation as a cause for complex legislation. They state that the increasing amount of litigation brought before the courts on the intent of law has contributed to complex legislation. They further note that where the decision of the courts is not what the government expects, the laws are then amended to reflect their view.

It is proposed that the reasons why tax legislation is so difficult to understand are multi-faceted. To find solutions to these problems in the context of the South African tax system, it is necessary to reflect on the successes of countries that have undertaken to review their tax laws and are working towards achieving the goal of tax simplification.

2.6.2 International tax legislation reforms

It is proposed that the simplification of tax legislation is a global goal, as many countries have taken steps to achieve this goal, including New Zealand, the United Kingdom, America and Egypt. This section evaluates the progress made in these countries with regard to tax legislation reforms.

New Zealand tax legislation simplification

Evans *et al* (2019) report that New Zealand has made great advances in simplifying their tax legislation and has been addressing this problem since 1994 with the commencement of their tax rewrite project spanning the 90s through to 2014. They explain that the area of simplification for which New Zealand is most well-known is the rewriting of tax legislation to improve readability and its ability to be understood. It is submitted that New Zealand has been a world leader in its efforts to reduce complexity through rewriting and reorganising their income tax legislation.

Evans *et al* (2019) describe the various phases of implementation of the project. The first phase of the project was the reorganisation of the Income Tax Act, 1976, and the Inland Revenue Department Act, 1974. Evans *et al* report that this phase produced three new statutes: the Income Tax Act, 1994, the Tax Administration Act, 1994, and the Taxation Review Authorities Act, 1994. The authors continue to describe that the second phase was rewriting the core

provisions in the Income Tax Act, 1994, followed by rewriting the major income, deduction and timing provisions, including the definitions. These appeared in a completely new statute, the Income Tax Act, 2004. Finally, Evans *et al* describe the Tax Rewrite Project, which addressed the remaining parts of the Income Tax Act, 2004, rewritten as the Income Tax Act, 2007. They confirm that New Zealand's Inland Revenue continues to consider addressing unintended legislative consequences of rewriting the law in its remedial work programme.

Evans *et al* (2019) explain that a review of the rewrite project was essential to evaluate whether the project was successful. Evans *et al* refer to the early work of Tan and Tower (1992) in relation to evaluations of the rewrite project, which examined the state of income tax legislation prior to the commencement of the tax rewrite project. They describe the tools used as predominantly readability tools available through most word processing packages, such as the Flesch Reading Ease Score and Flesch Kincaid Grade Level, amongst others. The Flesch readability test provides a score from zero to one hundred. A score of one hundred means the document is very easy to read, a score of zero means the text is very difficult to read. The readability tools indicated that the material would be best understood by university graduates, as scores ranged between zero to thirty.

The studies of Richardson and Sawyer (1998) evaluate each stage of the tax rewrite project using the readability measures. Their studies indicate further improvement in readability as measured by the Flesch Reading Ease Score. In particular, the results of Saw and Sawyer (2010) suggest that New Zealand's income tax legislation should now be more readable, such that a university undergraduate should be able to read and understand most of the sections in the Income Tax Act, 2007. Saw and Sawyer and Pau *et al* (2007) also observe that, in comparing the readability of the Income Tax Act 2007 with other tax-related materials, the average score is higher for the Income Tax Act 2007, suggesting that the Income Tax Act is easier to read and understand compared to Inland Revenue's Tax Information Bulletins.

Sawyer's (2011) research selects four key sections from four versions of the Income Tax Act: the Income Tax Act, 1976, the Income Tax Act, 1994, the Income Tax Act, 2004, and the Income Tax Act, 2007. The subjects used in Sawyer's study are undergraduate taxation students from introductory and advanced tax classes who should be familiar with the four key sections selected. The study addresses the key areas of tax residence for natural persons, sources of New Zealand income, the general deeming provision for income and exempt income, and the general permission for allowing deductions. Overall, Sawyer's research

identifies the Income Tax Act, 2004 version of the four sections as the easiest to understand. The Income Tax Act, 2007, the final version of the rewritten legislation, came in a close third behind the Income Tax Act, 1976, which was the pre-rewritten version. Evans *et al* (2019) confirm that earlier studies conducted on behalf of Inland Revenue utilised officials and tax practitioners to test the understandability of the Income Tax Act, 2004. They state that these tests produced an average score of 68.1% and were marginally more understandable than were extracts from the Income Tax Act, 1976, which had yielded an average score 62.5%.

It is submitted that the various studies performed to evaluate the success of the project reflect that improvements have been made to the original legislation, however as the legislation develops, for example from the 2004 version to the 2007 version, there are indications that the complexity of the legislation has slightly increased. This could be as a result of the writers of the legislation attempting to close any gaps which were not identified in the first draft. It is clear that the overall outcome, however, has produced legislation that is more understandable than the original legislation.

United Kingdom tax legislation simplification

The United Kingdom (UK) prioritized tax simplification in 2010 and formed an Office of Tax Simplification (OTS). The OTS (Office of Tax Simplification: 2012) indicates on their website that the office was set up in effect informally, not on a statutory basis. The website further explains that OTS gives independent advice to the government on simplifying the UK tax system. One development emanating from the OTS, as reported on their website, is the creation of a tax complexity index. The OTS approach is based on the usability framework, which identifies three key areas of importance: legislative complexity, effectiveness, and resource efficiency (Office of Tax Simplification: 2012).

These three broad areas identified by the OTS (2012:4) are explained by these factors:

- to provide an indication of which areas of tax legislation are considered to be particularly complex;
- to develop a tool that will, subject to ministerial approval, help to determine the future work of the OTS; and
- to provide HM Treasury and HM Revenue and Customs a methodology to be applied to future legislation.

"To address these factors, a complexity score is developed, ranging from 1 to 10, where 1 is the least complex and 10 the most complex" (Office of Tax Simplification, 2012:4). The OTS then weighted the average score of the factors. Ultimately, this weighted score becomes a measure for ranking UK tax legislation by its degree of complexity. This helps to highlight areas of legislation which are complex to understand.

Tran-Nam and Evans (2014) critically review the OTS complexity index, along with other potential measures, suggesting that the focus should be on an index that facilitates time-based comparisons of the overall level of tax complexity in a particular country. A time-based comparison in relation to tax simplification, would be a comparison of aspects which have been simplified over a time period. They also suggest there could be an index for business taxpayers separate to that for personal taxpayers.

United States of America tax legislation simplification

Blank and Osofsky (2017) identify that, in the United States of America, the federal government agencies have increasingly attempted to use plain language in written communications with the public. They further explain that the Plain Writing Act of 2010 requires agencies to incorporate clear and simple explanations of rules and regulations in official publications. They go on to explain that the introduction of plain language in government communications should promote clarity because it is designed to ensure that when government communicates with citizens, it does so in a way that people can easily understand. The research of Blank and Osofsky confirms that, in the tax context, as part of its customer service mission, the Internal Revenue Service bears a duty to explain the tax law to millions of taxpayers who file tax returns each year. Their research identifies that proponents of the plain language movement have heralded this form of communication as leading to simplicity in tax compliance, more equitable access to federal programmes, and making government structures more user friendly.

Blank and Osofsky (2017) do caution, however, that when writing tax legislation there is a need to be mindful of the trade-off between representing the tax law accurately and making it understandable to the public. They argue that merely simplifying the language structure might involve the mutation of the meaning of the underlying law and advocate the construct of "simplexity" where plain language is used to describe complex rules and regulations, thereby protecting the substance of the underlying law.

The use of simple language offers a number of potential tax compliance and administration benefits. Blank and Osofsky, (2017:236) describe these benefits as:

> The simplification can streamline the inquiry for third parties who may be assisting taxpayers with their tax return filings, thereby reducing taxpayers' costs of filing. In addition, tax law, which is simple to understand, reduces the need to expend resources contesting alternative taxpayer positions as there would be clarity regarding the legislation when the taxpayer is submitting their returns initially.

Egyptian tax legislation simplification

The World Bank (2009) report that Egypt has had some success in the area of tax simplification and confirm that in 2004 Egypt embarked upon a tax reform that included many of the good practices of a simplified tax system. The World Bank point out that the programme included several aspects, one of which was the simplification of tax laws. An example of how the tax laws were simplified is the alignment of the definitions of several tax terms with international norms. The World Bank report that the tax reforms had an immediate impact. "The number of tax returns filed increased by fifty percent in one year" (World Bank, 2009:5). The World Bank indicate that tax revenue increased from seven to nine percent of gross domestic product (GDP), even though tax rates were cut in half. They further report that while the time corporations spent on filing taxes increased slightly, as measured by *Doing Business* surveys, the overall tax burden fell due to the reduction in tax rates.

This discussion has highlighted the reasons why the complexity of tax legislation develops over time and how other countries are addressing the problem. Chapter three examines some of these initiatives to achieve tax simplification that South Africa could adopt.

2.7 THE ROLE OF ACCOUNTING IN TAX SIMPLIFICATION

It is submitted that the taxation charge, which is recorded in a company's financial statements, rarely matches the taxes filed in their tax returns, primarily because the company financial statements and tax returns have different purposes, different users, and different frameworks. It is clear that the company's financial statements are intended for investors and lenders and follow international standards. By contrast, tax returns are intended for the government and comply with public tax policy. The tax framework is specific to each country as each

government has different strategies and policies. When compiling financial statements, both of these tax calculations for financial reporting and for the tax return need to be carried out and the reconciliation between them can be complex and time consuming. It is clear that the divergence between the two frameworks is aggravated by increasing complexity in tax legislation. It is proposed that there is also a tendency for financial accounting to move even further away from taxable income, for example, the treatment of contingent liabilities and the treatment of doubtful debts. For accounting purposes, the provision for doubtful debts is an estimated amount which is deducted when calculating the profit, while for tax purposes only the exact amount of bad debt is deducted under section 11(i) of the Income Tax Act. The doubtful debts allowance, section 11(j) of the Income Tax Act, is calculated based on a percentage of the listed doubtful debts. Accounting standards allow for the recognition, by way of a transfer to reserves, of contingent liabilities, which are possible losses or debts where the outcome will only be known in the future. Tax legislation does not allow for the deduction of such expenses until the event has occurred. Depreciation allowances for tax purposes may be different from those used for accounting purposes. Some of these differences may reverse in the short term while others may not. The World Bank (2009) confirms that the reconciliation of the taxable income and accounting profits can be an extremely complicated calculation and suggests that, in order to create simplicity, the goal is to minimize these differences and thus make it easier for businesses to derive taxable income from their accounting records.

In addition to the accounting and taxation differences, record keeping can be onerous as a result of the network of entries in accounting records, for example, ledgers, cash books and purchase books (World Bank: 2009). It is submitted that, in a small business context, the main objective is to focus on operational matters, and maintaining separate accounting and tax records can be an overwhelming additional task. Even large businesses need to allocate substantial resources in order to adhere to all the taxation requirements imposed on them. It is clear that to comply with all the requirements and record the transactions accurately, skilled employees are needed, which can add further cost to the business.

This problem is not unique to the South African context; countries throughout the world have similar challenges. This section considers global developments and the proposed solutions to these complexities.

2.7.1 Global context

Czech Republic and other European countries

Jirásková and Molín (2015) are two Czech Republic researchers who investigated the adoption of the International Financial Reporting Standards (IFRS) for both accounting and tax purposes in the Czech Republic, and the optimal relationship between accounting and taxation. Jirásková and Molín report that the European Union issued Regulation No 1606/2002, which prescribes the application of IFRS in the European Union. IFRS is a framework for accounting which is highly respected and is used worldwide. The researchers indicate that this regulation proposes that all publicly traded companies prepare their consolidated financial statements in accordance with one single set of accounting standards, namely International Accounting Standards (IAS). They indicate that member states may decide to extend this requirement to other companies for the preparation of their consolidated accounts and their annual accounts. Jirásková and Molín confirm that the purpose of adopting IFRS for listed companies is not for tax purposes, but rather capital market and accounting information users' needs. They report that there is no requirement by the European Union to adopt IFRS for unconsolidated financial statements. Jirásková & Molín further emphasise that to comply with this regulation, listed companies have to invest large sums of money to be IFRS compliant, for example, they have to change accounting software, train management and accounting employees and restructure their method of accounting.

It is clear that tax policies are unique to each country. Researchers Jirásková and Molín (2015) report that the promulgation of Regulation 1606/2002 has become highly problematic as IFRS and Czech accounting regulations are not congruent. They further indicate that the Czech tax regulators do not accept this change and still require companies to pay tax on the basis of Czech accounting regulations. This has resulted in duplication of work and increased cost to those companies affected. The Czech tax authorities fear adverse tax collection and loss of control if the systems were to be changed to the IFRS base (Jirásková & Molín: 2015). It is submitted that there are disadvantages in a company maintaining two sets of records. Hanlon and Shevlin (2005) speculate that two sets of books could result in businesses manipulating both incomes and expenses. They propose that there is a possibility that financial accounting statements favour high income as this would boost market value for the shareholders and creditors and a low-income tax calculation would result in a lower tax payment. Hanlon and Shevlin conclude

that this draws attention to the need to close the gap between the two systems in order to reduce the opportunity for manipulation of amounts.

Jirásková and Molín (2015) address the problem of dual reporting for accounting and for taxation and the concern of the tax authority that tax collection would decrease if the IFRS is used to calculate tax. Jirásková and Molín perform several analyses to consider whether the companies would pay less tax revenue in the event of adopting IFRS. The results of the research indicate that tax payments would most likely change positively if the companies reported under IFRS instead of the Czech accounting bases. Jirásková and Molín investigate existing research conducted in the Czech Republic, Austria, Belgium, Hungary, Ireland, Latvia, Poland, and Slovakia, where the impact of adopting IFRS to calculate taxation was evaluated. Jirásková and Molín's investigation identifies that, apart from Ireland, all other countries using IFRS for taxation recorded a slight increase in the tax base, and therefore, the tax collections. Jirásková and Molín conclude that companies should be allowed to base the tax calculation on the profit or loss in accordance with IFRS without any adjustments.

In relation to the issue of maintaining two sets of records, Schanz and Schanz (2010) consider empirical data from research undertaken in various German industries. They conclude that a simplified tax base would cause a significant decline in both tax compliance costs and tax planning costs as the number of tax base elements that deviate from cash flows would be reduced. In turn, this would reduce the amount of record-keeping required in comparison to the current system.

The risk of manipulation associated with maintaining two sets of books has clearly been highlighted. Moreover, there should not be any negative consequences for revenue collection by using IFRS as a basis for tax calculations. While the taxpayer could incur a larger tax liability, the costs of maintaining both records would be reduced, and further simplification of the tax system could be achieved.

The United Kingdom and European countries

James (2009) examines the relationship between tax and accounting from the United Kingdom and European perspective and indicates that the relationship between accounting and taxation is an evolving partnership and is more complex than at first glance. He explains that, essentially, accounting and tax systems have different purposes. He states that to fully

understand these differences, it is helpful to understand the reasons. He submits that a tax system requires a degree of certainty that may not always be appropriate for an accounting system, for example, provisions are an accounting concept based on a future event, while tax deals with certainty of transactions. He further notes that the nature of the transaction can differ. For example, for tax purposes the transaction could be classified as revenue, but for accounting purposes it could be classified as capital. James suggests what might be appropriate for the needs of commercial accounting might not be so for taxation.

Whittington (1995) recognises that a tax system needs to rely on precise and verifiable transactions, while good financial accounting should also take account of more subjective aspects. He gives the example, in the United Kingdom, of the allowance for pension contributions for tax purposes, which is deductible on a contribution basis. That is an objective, verifiable and precise variable. He submits that a more appropriate method for accountants might be to take an actuarially based and more subjective view of an estimate of the increase in net obligation over a period.

James (2009) believes that the divergence of these two systems, makes it inappropriate to use the accounting standards as a basis for the tax calculation, due to the different objectives and the ever changing and developing standards and legislation. Despite James' beliefs, in the United Kingdom, it is common practice to start the tax calculation with the accounting profit. He further explains that if there is a lack of consensus, Inland Revenue can appeal to the United Kingdom courts to rule for a modification of the figures generated by accepted accounting practices. James indicates that there have been some attempts by the Inland Revenue to enforce this, however, recent trends confirm the importance of commercial accounts as the basis for tax calculations. This would contradict James' contention that the two systems are diametrically opposed.

It is submitted that the use of the accounting system as a starting point in the tax calculation addresses part of the problem, nevertheless, the two systems remain different. The Ruding Report (1992) proposes that a possible solution to narrow the gap between accounting and tax is by tax harmonisation, in an attempt to find the linkage between tax and accounting standards. The Ruding Report states that the progress of European tax harmonisation has been impeded through lack of consensus between the countries. The Ruding Report identifies some countries, such as Belgium, France, Germany, Greece, Italy, Luxembourg, and Spain that are making good progress towards tax harmonisation as their accounting and tax systems are similar. The

Ruding Report, however, indicates that other countries such as Denmark, Ireland, the Netherlands, and the United Kingdom report that the link between the two sets of accounts is further apart. They find that these differences are related to depreciation rules, tax rates, the tax treatment of losses, stocks, other expenses, provisions, occupational pension plans, the taxation of capital gains, and adjustments to allow for inflation.

Hoogendoorn (1996) compares the relationship between accounting and taxation in thirteen European countries. He identifies two different types of relationships, which he refers to as independence and dependence structures. Hoogendoorn argues that the essential feature of independence is when companies use different accounting policies with respect to their commercial accounts and their tax calculations. He proposes that there is, however, never complete independence between accounting and taxation as they influence each other. Hoogendoorn states that dependence is considered to exist where either the commercial accounts are based on tax rules or that taxable income is determined by the commercial accounts. The trend towards more independence between accounting and taxation was identified in several countries (Hoogendoorn: 1996).

In both independence and dependence cases, Hoogendoorn (1996) and James (2009), identify that the incentive to reduce or postpone taxation would lead to downward pressure on income figures. In summary, James identifies that accounting and taxation are two different systems for a variety of reasons and believes it is justified to keep them separate. Despite James' reservations, there is evidence of a trend in the United Kingdom to use accounting systems as a starting point for tax calculations. Hoogendoorn (1996) highlights a different response and identifies that certain European countries are not using accounting as a basis for the tax calculation and keeping the records separate. It is proposed that these developments indicate that tax simplification is not "one size fits all" and while there are benefits to a simpler tax system, there are situations where other factors outweigh the desire for simplicity. It is clear that, with continuing developments in both accounting and taxation, the relationship between the two will continue to change due to the ever-changing nature of the tax and accounting systems.

Australia

The Australian tax authorities have, since mid-1980 identified a need to streamline and simplify the administration of the accounting and tax system (Carlon, Tran-Nam & Tran, 2013). This is further evidence of one of the primary objectives of government in relation to company taxable income. Carlon *et al* investigate the relationship between taxable income and accounting profit in Australia. This research was prompted by the perception of the general Australian public that businesses were trying to avoid taxation by reporting lower taxable profits than accounting profits. The researchers survey twenty large Australian companies in an attempt to determine the extent of the differences between accounting and taxable profits. In general the researchers classify the differences generated by taxable income and accounting profit as either temporary differences or permanent differences. Carlon *et al* define temporary differences as the differences between the carrying amounts and tax bases of assets and liabilities in the balance sheet or statement of financial position. They further define permanent differences as items of revenue or expense that are recognised by accounting rules, but not tax rules, and *vice versa*. The findings from their research suggest that the effective tax rates of these twenty companies during the period selected are generally quite close to the statutory company tax rate of 30%, meaning that the accounting profit and taxable income were close. The researchers conclude that the public perceptions were not well founded. Carlon *et al* are not entirely surprised by the findings as there has been a broadening of the Australian income tax base during the past 25 years through the business income tax reform which has gradually removed most tax concessions available to Australian companies. Carlon *et al* conclude that as a result of the various tax base broadening measures and the removal of most tax concessions, in principle, the gap between taxable income and accounting profit has narrowed significantly.

It is clear in relation to the tax simplification goal, that Carlon *et al*'s (2013) research shows that in Australia, while there is a requirement to report accounting and tax separately, the dual reporting requirement results in a similar tax amount in the accounting and tax records.

Croatia

Research conducted by Lutilsky and Dragija (2016) sets out the Croatian perspective of the problem of tax and accounting record keeping and duplication. It is submitted that the purpose of preparing financial statements is to highlight to shareholders the progress of the company. From a tax perspective, a greater profit equates to a greater tax payment to the revenue service,

therefore, a smaller profit is more desirable. In Croatia, the researchers indicate that businesses have identified the benefit of keeping two sets of records and using the differences in tax and accounting to manipulate the figures to decrease their tax base and pay less tax at the end of the year. The researchers attempted to identify whether the records were manipulated. They sampled several small businesses and confirmed that companies were manipulating their tax bases to arrive at lower tax profits and ultimately, pay less tax.

It is evident from Lutilsky and Dragija's (2016) research that there is a need for tax authorities to apply a tax system more similar to the accounting system in order to address the problem of manipulating records. If common ground could be found, the overall effect should result in a reduction in tax avoidance and simultaneously address tax simplification.

2.8 LEVYING OF MULTIPLE TAXES

Multiple taxes can place a burden on taxpayers, as they need to understand multiple Acts and prepare multiple returns to comply with the legislation. This can be onerous, and the taxpayer and the revenue service incur costs in administering multiple taxes. It is clear that multiple taxes can be a great burden to small businesses, a major source of employment in many economies. If taxes could be consolidated, it could reduce the costs associated with administering the broad range of taxes for both government and the taxpayer. This section considers the feasibility of a reduction in the multiple taxes levied by government, thereby contributing to a simpler tax regime.

Gemade and Ocheni, (2015) conducted a study in Nigeria, which examined the effects of multiple taxation on the performance of small and medium scale enterprises. It is submitted that these enterprises are an avenue for job creation and are the lifeblood of many economies. The research by Gemade and Ocheni identifies that a factor contributing to the failure of many of these businesses is tax-related issues, ranging from multiple taxes to heavy tax burdens. Their study examines the effect of multiple taxes on the businesses' survival. Findings of the study reveal that multiple taxes have a negative effect the survival of businesses. In addition, the relationship between the size of small businesses and their ability to pay taxes is significant. Their research further emphasizes the need for a simplified tax system.

In considering tax simplification in relation to multiple taxes, the consequences of the levying of a single tax or a multiple tax system needs to be probed. Chand (Online) describes a single tax system as a system where tax is levied on one subject; public revenue therefore only consists of one tax. He further explains that one simple form of a single tax is the poll tax, or the head tax which is imposed on a person irrespective of his or her income, or wealth or profession. Chand refers to a tax system comprising only one tax as having been advocated at times in the past; however the recommendation was based on an inadequate understanding of a complex modern economy. Chand associates the benefits of a single tax system with the fact that taxpayers are more certain of their liabilities, it provides a more equitable distribution of the tax burden and reduces the cost of collection. He highlights that challenges associated with this system lie with the determination of the rate schedule, the adequacy and growth of revenue, and its role in promoting national objectives. He further explains that a single tax system has proved to be inefficient in meeting multiple objectives and that, consequently, economists now widely acclaim a multiple tax system. Chand defines a multiple tax system as a tax system in which taxes are levied on various items or bases. He states that this type of system tries to address the goals simultaneously of growth, equitable distribution of income, wealth, and economic stabilization. It is submitted that since no single tax can be expected to serve the needs of the economy on all fronts, the choice of a multiple tax system has become inevitable. Different taxes contribute to the attainment of different objectives. Chand acknowledges that while the merits of a multiple tax system are sound, a reduction in the current overabundance of taxes is what needs to be considered. He believes that the proposed consolidation of taxes must not be at the cost of revenue collection. The purpose is to reduce the complexity and administration costs associated with multiple taxes, while maintaining the revenue stream.

It is submitted that, when considering reducing the number of taxes levied, the original purpose for the implementation of the tax must be considered. While the primary purpose of taxes is revenue collection, government uses taxes to achieve other goals. The different purposes for the taxes levied need to be understood, prior to proposing a reduction in the number of taxes, as tax simplification is not the only objective in a tax system.

2.8.1 The purpose of multiple taxes

This section considers the purpose for which taxes were implemented and whether the taxes are achieving their purposes. In addition, this section aims to identify taxes with the same objective, in an attempt to find ways to consolidate taxes.

The World Bank (2009) considers that a portfolio of taxes poses less risk to governments in relation to the volatility in tax collection and believes that a small number of taxes would expose government revenue to economic loss. They suggest that any tax simplification reform should ensure that the resulting tax system does not become highly leveraged. In some cases, the World Bank reports that multiple taxes are levied to improve the equity of the tax system. They emphasise that different taxes capture revenue from different bases, which are proxies for various levels of wealth. They give the example that, while the progressive income tax collects revenue from those with income flows, it is possible for individuals to earn little income, but to have wealth in the form of capital assets. The World Bank offers the solution of implementing a wealth tax to capture revenue from such persons, who might otherwise escape taxation. They suggest that the same applies to taxation of certain goods more likely to be consumed by the wealthy.

The World Bank (2009) suggests that political considerations have also added to the current plethora of taxes. They identify that the method of taxing can be politically driven; for example, indirect taxes are a preferred choice as this generates additional revenue with less public resistance. In addition, they confirm that the creation of taxes targeting non-residents is favoured over taxing residents. Finally they suggest that taxes paid in smaller increments are more favourable than a single large payment. It is submitted that when considering tax simplification, these aspects need to be taken into account, as a simpler system could result in negative political consequences. This is an important consideration in the design of any tax simplification intervention.

The primary purpose of some taxes is not to increase revenue streams, but to achieve other objectives, for example to alter the behaviour of taxpayers. Examples of these taxes in South Africa include the Sugary Beverages Levy (an excise tax, part of the Heath Promotion Levy) and Carbon Tax Act, 15 of 2019. Many countries have implemented these taxes, but there are conflicting views as to the effectiveness of these taxes in meeting their objectives. It is suggested that if the tax is not meeting its objective, another measure should be considered,

and the tax should be repealed. Where taxes are aimed at achieving different objectives careful heed needs to be taken in the introduction of a new tax, to be certain that the tax will have the desired impact and the addition of the new tax will not turn out to be ineffective and later need to be amended.

This section considers the purpose of the introduction of taxes as this is the starting point in determining whether a tax could be repealed. While the original purpose for which a tax is enacted must not be ignored in the process of tax simplification, there are currently several taxes which apply to one transaction. For example when a taxpayer dies, the deceased will pay capital gains tax (in the tax period ending on the date of death) and estate duty on the same assets, although the tax owing at date of death is claimed as a deduction in arriving at the net value of the estate. A second example is when an asset is donated, the taxpayer will pay donations tax at 20% (or 25% for donations with a value in excess of R30 million) and capital gains tax (with an adjustment for the donations tax in the calculation) on the disposal. The present research contends that in order to achieve simplification in the multiplicity of taxes, it is necessary to identify taxes with the same objective. This approach would not affect the volatility of collections and the equity of the tax system, as the tax bases would not be reduced. The following section identifies areas where the consolidation of taxes could be achieved, based on taxes where synergy exists.

2.8.2 Finding synergy

In striving for tax simplicity, it is important to consider ways in which synergy can be achieved while maintaining the purpose for which the tax was implemented. Taxes on individuals can be levied in four broad areas, namely on income, consumption, capital transfers, and wealth. In South Africa, income tax is levied on all income (as defined in the Income Tax Act). Consumption taxes include value-added tax and levies and excise duties on, for example, sugary beverages, alcohol, and cigarettes; thus the tax is incurred when taxpayers purchase goods and services. Capital transfers relate to when a capital item is disposed of. Examples include donations tax, estate duty, capital gains tax, transfer duty and Securities Transfer Tax. Wealth taxes are not currently levied in South Africa, and are taxes related to an individual's wealth. Kagan (2020) describes wealth tax as usually being levied on a person's net worth, which consists of assets minus liabilities. She explains that these assets include (but are not limited to) cash, bank deposits, shares, fixed assets, personal cars, the assessed value of real

property, pension plans, money funds, owner-occupied housing, and trusts. Wealth tax can be levied annually or as the government requires.

The present research suggests that in order to identify an area where consolidation would be most appropriate, it is important to look at the tax base which produces the least revenue and is subject to a variety of similar taxes. This could lead to a reduction in administration costs, which could favour both the revenue service and the taxpayer. The OECD (2019) carried out a study to determine the percentages of revenue from these broad tax bases. The results of the study indicate that taxes on property yielded 5.8% of total tax revenue in 2019, which was one the lowest revenue streams among all different types of taxes. This indicates that taxes on property could be an area where a consolidation could be explored, as these taxes yield relatively low revenue as opposed to the other areas, but still require administration. Taxation of property can be taxed in two forms, namely a capital transfer tax, when the asset is disposed of, or as a wealth tax on the ownership of assets. As wealth taxes are not currently levied in South Africa, consideration is only given in the present thesis to the streamlining of capital transfer taxes on the transfer of assets, including disposals, donations and on the death of the taxpayer.

The Katz Commission's (1997:4) investigation into capital transfer taxes concludes as follows:

> (a) capital transfer taxes are prone to be extremely complex;
> (b) the complexities referred to … result in problems of administration and high costs of collection;
> (c) anti-avoidance measures, in addition to having to comply with equitable principles, must be designed so as to result in taxation of transactions that should be subject to the relevant taxes but, on the other hand, must endeavour not to include within the tax net transactions that have legitimate commercial and other justifications;
> (d) capital transfer taxes have a notoriously low yield, that is, revenue collected minus costs of collection; and
> (e) regrettably a worldwide phenomenon of capital transfer taxes is that it gives rise to an unproductive estate planning industry.

This finding further indicates that this would be a suitable area of taxation to consider for streamlining of taxes to aid tax simplification. Roeleveld (2012) reports on the global trends in relation to capital transfer taxes, noting that different countries have different approaches. She

reports that, in America, there was possible repeal of estate and gift taxes on death and a moratorium was placed on these taxes in 2010 with a view to reintroducing an earlier version of these taxes in 2011. She states that in 2012 estate and gift taxes constituted one unified transfer tax collected on a cumulative basis. She explains that a unified credit (US $3,500.000 in 2009 and increased to $5,000,000 for decedents dying after December 2009 and before January 2013) was allowed against the transfer tax (this is similar to the abatement of R3,500,000 for South African estate duty purposes). She confirms that there is no capital gains tax, but a generation-skipping transfer tax applies, which is a separate supplemental tax. She states that both estate tax and the generation-skipping transfer tax are levied at 45%. She further reports that each state is free to adopt an estate tax (on the transfer of property) or an inheritance tax (a tax on the receipt of property).

Roeleveld (2012) identifies that in Canada, inheritance and estate and gift taxes were abolished in 1971 in favour of the introduction of capital gains tax, which included a deemed disposal on death, and which is still in force. She explains that rollovers for spouses are in place and heirs (excluding spouses) acquire the assets at a tax cost equal to market value. This is the same as the capital gains tax on death currently levied in South Africa.

Roeleveld (2012) reports that in Australia all taxes on inheritance at state and federal government levels were abolished about thirty years ago. Capital gains tax was introduced in 1985 and although it was originally intended that capital gains tax would apply on death (as a realisation of an asset as a deemed disposal), the capital gains tax is deferred until the sale of the assets by the beneficiary who inherits them on death. She found similarities with South African tax and states that capital gains tax brings the net capital gain into the assessable income of a person (as in South Africa) but is paid by the beneficiary only when he or she eventually disposes of the asset. She emphasises that there is no capital gains tax on death or any estate taxes. In a few instances, however, capital gains tax will arise on death and that occurs when assets pass to tax-advantaged entities, for instance tax exempt institutions, and where the asset is to pass out of Australian jurisdiction (to a foreign resident).

Roeleveld (2012) discloses that in the United Kingdom inheritance tax applies not only on death (at the rate of 40%), but also on certain lifetime transfers such as gifts into trusts (at the rate of 20%). She explains that lifetime gifts to individuals are potentially exempt transfers (inheritance tax is only payable on the gift if the donor dies within seven years of making the

gift), and that there is no capital gains tax on death, but the base cost of assets owned by the deceased are uplifted to the market value at the date of death. She finds similarities between the United Kingdom and South Africa and states that certain exemptions or abatements exist, as is the case in the United States of America and South Africa.

Finally Roeleveld (2012) identifies that in New Zealand estate taxes were abolished in 1992, and that no taxes are levied on death, but an income tax liability can arise on the death of a person in respect of a deemed disposal. She explains that New Zealand does not have capital gains tax as such, but certain disposals to the executor on death, mainly relating to assets which were acquired in a scheme of profit-making, are taxed through the normal system, and that it is only the profits that are included, and the disposal is deemed to be made at market value. She explains that the tax can also be deferred in limited circumstances.

With regard to the global developments in relation to capital transfer taxes, a variety of approaches are adopted. The only consistent fact is that two taxes on similar transactions are not levied at the same time on death in any of these countries. The streamlining of taxes is an important consideration in the conceptualisation of a simpler tax system and the reduction of the administrative burden. This section has emphasised that each tax is enacted to achieve a purpose, but that there are synergies that could be exploited to streamline taxes and result in a simpler system. The area of capital transfer tax is identified as a possible starting point for the streamlining of taxes in South Africa and this is considered in chapter three.

2.9 E-FILING

It is proposed that the dawn of the fourth industrial revolution has positioned the world on the brink of a technological revolution that will fundamentally alter the way people live, work, and relate to one another. In its scale, scope, and complexity, the transformation will be unlike anything humankind has ever experienced. It is submitted that the fourth industrial revolution should bring about positive change to a tax system, which has become increasingly complex. Many countries are already embracing the technology available by streamlining processes, which is resulting in simpler processes for the end-user.

Azmi and Kamarulzaman (2010) submit that, in an attempt to simplify systems, governments internationally are increasing the use of information and communication technologies to

improve the delivery of public services. They emphasise that the success of e-government depends on the value citizen's place on factors such as convenience, usefulness, and ease of use of these services. One of the platforms used by revenue services throughout the world is *e-filing* and electronic payments (e-payments), which is the processes of submitting tax returns and payments using the Internet. The introduction of online platforms is an attempt to create simplicity and ease for the public. PwC and the World Bank (2020) indicate that over the past sixteen years there has been a trend globally of countries moving onto online platforms for the submission of tax returns. "Currently 63 economies have introduced online platforms for filing tax returns, including online payment modules" (PwC and the World Bank, 2020:27).

This section of the chapter firstly considers the benefits associated with the use of an online platform to submit tax returns and identifies the challenges faced with an on-line platform. Secondly, an investigation is conducted to evaluate the best practice from other countries that have made developments using this technology.

2.9.1 Benefits and challenges of *e-filing*

It is proposed that *e-filing* offers a more convenient system for taxpayers as opposed to the traditional channels. Furthermore, *e-filing* offers flexibility of time and a reduction in calculation errors. Azmi and Kamarulzaman (2010) outline the many benefits *e-filing* has to offer, such as that the platform minimizes the revenue service's workload and operational costs due to the submission of tax returns in a paperless environment. Additionally, *e-filing* reduces the cost of processing, storing, and handling of the tax returns. It is clear that the *e-filing* platform has the potential to benefit both the taxpayer and the revenue service.

Despite the benefits associated with *e-filing*, the implementation of the *e-filing* system presents some major challenges for the tax authorities. Azmi and Kamarulzaman (2010) identify four main challenges associated with *e-filing*. One such challenge is the public perception of the *e-filing* system. The public may be discouraged by the time and effort required to learn the new system and dealing with service failures. Although time is a non-monetary effort and varies among individuals, researchers have recognized that time is a cost that users must pay for the use of products or services. Secondly, Azmi and Kamarulzaman identify that in developing nations, many taxpayers are unable to gain access to the *e-filing* platform due to the cost of the technology and the limited infrastructure, such as the lack of hardware and connectivity.

Additionally, the online platform can be difficult to operate and many taxpayers lack the skills required to complete the returns electronically. Many taxpayers, therefore, opt not to use the *e-filing* platforms. Another challenge identified by Azmi and Kamarulzaman in relation to *e-filing* is the inability to provide automated online assistance to a taxpayer with a complex income structure. For example, a taxpayer requiring support with a complicated tax question, might find the assistance from an in-person tax professional more helpful than from a website help desk. Finally, a major challenge is to ensure that the system runs smoothly and efficiently for the tax filing period (Azmi & Kamarulzaman: 2010). More specifically they consider the technical aspects of *e-filing*, for example, the need for computer and information systems utilized for the *e-filing* system to be stable and reliable enough to process large amounts of information, especially during the peak period when deadlines need to be met. The authors emphasise that the tax authorities have to ensure that the *e-filing* system can cope with the increased processing of data during the month of tax submission.

2.9.2 Global adoption of an electronic tax system

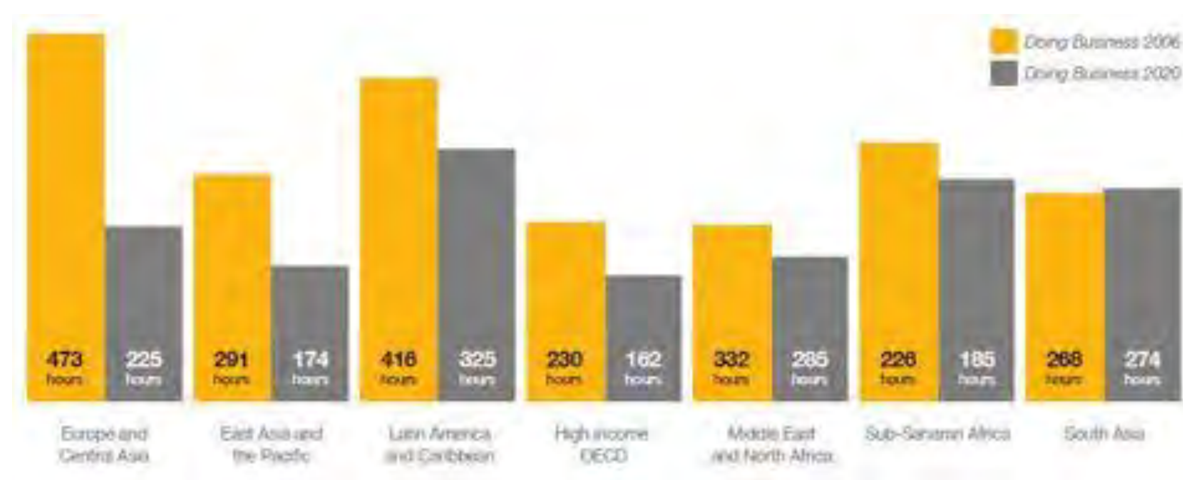
Survey research was conducted by PwC and the World Bank (2020) to analyse the regulations that enhance business activity and those that constrain it. One of the measures used by the researchers was the progress made in the online environment. This is an annual survey and is referred to as the *Doing Business* survey. One of the issues addressed in the survey is the time a taxpayer takes to comply with the country's tax requirements. The use of an electronic platform has been seen to reduce the time needed to comply. The results of this study indicate that the implementation of online filing and payment systems continues to be a challenge for African countries as they scored the second highest time to comply globally (PwC and the World Bank: 2020). "In the 2018 survey, Africa's 'time to comply' was measured as 285 hours, as compared to the world average of 234 hours" (PwC and the World Bank, 2020:7). The survey indicates that, while many other countries are using online platforms and benefiting from reduced "time to comply" rates, many African countries still need to develop the necessary infrastructure and improve their systems. This is a challenge many developing countries need to address.

The PwC and the World Bank (2020) report that the Organisation for Economic Co-operation and Development (OECD) is a high-income group of countries that are classified as developed countries. The study reflects that these countries reported that 97% of the taxpayers were using

e-filing or e-payment. In contrast the study highlights that sub-Saharan Africa reported only 17% of the taxpayers using online platforms, due to numerous challenges. The challenges highlighted by the report include low literacy levels, unreliable information technology infrastructure, and poor availability of suitable accounting and tax preparation software. These challenges can inhibit the adoption of technology by tax administrations and taxpayers. "*Doing Business* data shows, however, that the use of online systems for tax filing and payment resulted in efficiency gains in several economies in sub-Saharan Africa in 2017 and 2018, including Côte d'Ivoire, Kenya, Mauritius and Togo" (PwC and the World Bank, 2020:27).

It appears that many countries are making progress in overcoming these challenges. In the latest report of the *Doing Business Survey,* the economies of Europe and Central Asia show the most notable progress (see Figure 2.1) in improving their tax compliance time (PwC and the World Bank, 2020). "The average compliance time in this region fell from 473 hours per year in 2004 to 225 hours in 2018 and this was primarily attributed to the use of *e-filing* and e-payment" (PwC and the World Bank, 2020:27). The *Doing Business Survey* endorses the value and feasibility of a stream-lined and user-friendly system. Figure 2.1 highlights the lack of progress that sub-Saharan Africa has made when compared to their global counterparts. Sub-Saharan Africa can therefore look to other countries for best practice in order to improve their systems.

Figure 2.1: Tax compliance time (average time in hours)



Source: PwC Survey (2020)

Europe and the Central Asian region have made the most notable progress in reducing the tax compliance time. It is clear that many of the challenges identified are inherent within the countries, for example, lags in information technology development and lack of infrastructure.

Some of these challenges can be overcome through the simplification of the *e-filing* platform. Evans *et al* (2019) suggest that the goal of simplifying a tax system is to increase the ease of compliance. They measure the cost of compliance by cost and time saved. They describe an efficient tax system as one that allows taxpayers to calculate their tax liability easily, pay their taxes, file their tax returns, and redress their grievances with limited costs.

PwC and the World Bank (2020) report that more companies are using tax software, and more tax authorities are creating easier-to-use online portals that simplify tax compliance. They note that over the past fifteen years tax administrations globally have sought to introduce and continuously enhance their online systems, improve their efficiency, facilitate more comprehensive and faster risk assessment and compliance checks on returns. It has been reported by PwC and the World Bank that these measures have benefitted taxpayers by easing the compliance burden.

2.9.3 Global developments relating to *e-filing* simplification

It is proposed that a tax system that is simple at every level is more likely to perform better. It is clear that policy makers are exploring further digital technology reforms to improve tax compliance. PwC and the World Bank (2020) note that further steps are being taken worldwide to enhance the functionality of the *e-filing* platform, for example, the use of prepopulated tax returns and electronic invoices. Some of these steps include tax authorities responding to businesses' adoption of *e-filing* and e-payment by further improving the functionality of the system through diversifying the services provided by their online tax portals. PwC and the World Bank note that the main responsibility of taxpayers when filing prepopulated tax returns is checking the numbers, adding any missing information, and signing and submitting the return. They confirm that the benefits of prepopulated tax returns include faster information and refund processing, the elimination of errors, and more certainty in the reporting of certain items. They report that most OECD high-income economies, which have annual compliance times of 159 hours on average, provide prepopulated tax returns. They report in *Doing Business 2020* that nearly one-third of sub-Saharan African economies do not use prepopulated tax returns, and that the region's average compliance time is 281 hours. Finally they identify electronic invoicing as another measure of technological improvement to the system, the digital equivalent of paper invoices. They describe the use of e-invoices as enabling the digital exchange and processing of payment requests between suppliers and buyers. They state that it

is already used in some parts of the world and could be used to simplify the *e-filing* process in developing countries.

PwC and the World Bank (2020) suggest that the introduction of e-invoices would be most suited to VAT collections. PwC and the World Bank outline the benefits of e-invoicing in comparison to paper invoicing as being less prone to errors, reducing opportunities for fraud and decreasing processing costs. Furthermore, e-invoices improve accuracy and transparency by allowing the invoice data to be drawn directly from the taxpayer's accounting systems, thereby strengthening internal controls. They report that there is evidence that data is collected from both parties in a transaction where VAT is payable, therefore both the VAT output and VAT input will be accurately recorded. The e-invoice system provides the tax authorities with a more complete picture of the activities and income of the taxpayer. It is reported by PwC and the World Bank that VAT is a major source of government revenue for developing economies. Nevertheless, they have identified that many economies in Latin America, the Caribbean, and sub-Saharan Africa have not yet implemented the required technology for e-invoicing, owing to infrastructure constraints. PwC and the World Bank further report that e-invoices have gained popularity across the European Union, with many countries, including Denmark, the Netherlands, Spain, and Sweden embracing the new technology. They report that these countries adopted legislation enabling government administrations to accept electronic invoices in compliance with European Directive 2014/55/EU.12. PwC and the World Bank indicate that economies in the OECD high income group are at the forefront of invoice digitisation, with almost all countries requiring companies to use electronic invoices (see Figure 2.2).

Figure 2.2: Economies in the OECD high-income group at the forefront of invoice digitisation

Source: PwC Survey (2020)

PwC and World Bank (2020) report that Rwanda, a developing nation, is in the process of implementing an e-invoice system; this demonstrates that developing nations can make progress despite the challenges.

PwC and the World Bank indicate further global developments that include the process of replacing physical electronic billing machines, with Internet-based software that will be offered free to all VAT-registered taxpayers, and that the use of the new software is slowly gaining traction. PwC and the World Bank investigated other applications of this technology. They report that various types of electronic invoicing systems have been implemented around the world to facilitate a simpler *e-filing* experience. Their research also indicates that tax administrations in Denmark, Sweden and Singapore have used electronic platforms to enable trading partners to exchange electronic documents over a specific network, for example, Pan-European Public Procurement Online (PEPPOL). In addition, their research identifies that another e-invoicing option used in Italy and the Slovak Republic is to use XML formats where taxpayers convert invoices into a government-defined XML format and transmit them via an online portal.

Another development reported by PwC and the World Bank (2020) is the use of online tax portals that are easy to navigate and offer taxpayers a direct source of information, which alleviates the need for government representatives to be available to taxpayers in person or by

telephone to provide information. It is reported by PwC and the World Bank that in Singapore, for example, the Inland Revenue Authority provides taxpayers with a virtual assistant, “Ask Jamie”, which responds interactively to questions from the public. They report that most tax portals offer taxpayers the possibility of *e-filing*, and online tax calculators are widely offered in the economies in the OECD high-income group. The PwC and World Bank research further indicates that some have introduced further functionalities of the online tax portal system; for example, Germany offers taxpayers an interactive wage and income tax calculator. Furthermore their research indicates that Israel provides taxpayers with an income tax simulator and an income tax calculator for individual taxpayers. Their research further notes that some tax administrations in Europe and Central Asia, including Russia, Uzbekistan, and Moldova, offer taxpayers the facility to access information on their past filing and payment history.

Social media is another tool that has been successfully implemented, as reported by PwC and the World Bank (2020). They indicate that the technology is changing the way in which taxes are administered. A trend that they identify that is gaining popularity worldwide is the use of social media by tax administrations in order to be more accessible to taxpayers. Some tax portals give taxpayers the opportunity to follow tax administrators on Facebook or Twitter; for example, the United States’ Internal Revenue Service (@IRSnews) and Finland’s tax administration (@taxFinland). Researchers Budak, Sawyer and James (2016) report that some countries, such as Thailand, use social media to communicate with taxpayers.

PwC and the World Bank (2020) suggest that tax administrations can employ online cash register (OCR) initiatives whereby retailers are required to use OCR software to upload sales data to the tax administration portal instantly. Their research identifies that the Republic of Korea, Mexico and the Russian Federation use this system. They report that the use of the e-invoice systems has improved the availability of information for tax compliance purposes and the amount of VAT collected by tax administrations, as the information is stored centrally. In Korea in 2016, for example, the introduction of an OCR system resulted in 96.5% of transactions being recorded via a cash receipt. This gave the tax administrators valuable data. Their research indicates that, similarly, in Mexico, the government has successfully relied on electronic solutions to detect both errors and fraud in tax reporting and has increased the amount of VAT collected.

A discussion relating to these innovations follows in chapter three, as they form a particular point of interest in this research with reference to their application in the South African context.

2.10 CONCLUSION

The purpose of the present research is to analyse ways in which the South African tax system can be simplified. This chapter firstly considered the terms tax simplification and tax complexity and the benefits of a simpler tax system. This created a platform to investigate the four aspects of tax simplification, which is the subject of the present research.

The first aspect of the present research is an evaluation of the literature relating to tax legislation reform. This analysis investigates how other countries have simplified the legislation and the different methods used to achieve this goal. In addition, various tools were identified that measure the effectiveness of the strategies implemented. The second aspect of the present research is the relationship between tax and accounting. The different approaches adopted by various countries and the merits of these approaches are identified. Where the goal of tax simplicity is globally sought after, this review suggests that some companies are using these differences between accounting and taxation to achieve different objectives and would be opposed to simplifying the system in this way. The feasibility of relying on IFRS for the tax calculation is considered and it is found that if reliance was to be placed on the accounting standards, there may, in fact, be little impact on the collection of tax revenue. Thirdly, the use of multiple taxes and the possibility of the consolidation of multiple taxes is examined. In order to achieve the objective of consolidating taxes, the purpose for which a tax was implemented needs to be determined. This is critical in considering the possibility of streamlining the tax system, as a tax system has more objectives than just revenue collection. In order to consolidate taxes it is important to find taxes with similar tax bases, and capital transfer taxes are identified as a possible area due to the low income currently associated with the taxes. International trends are discussed in relation to the application of capital transfer taxes. Finally, the application of *e-filing* platforms is discussed. It is seen that countries are moving towards highly automated processes. The challenges associated with an on-line environment are identified and the discussion then focuses on the *e-filing* platform and successful measures other countries have introduced to streamline the process.

In the next chapter the findings from the literature are applied in a South African context in relation to reducing tax complexity and possible measures to simplify the tax system.

CHAPTER 3: TAX SIMPLIFICATION IN A SOUTH AFRICAN CONTEXT

3.1 INTRODUCTION

Many countries are striving to achieve tax simplification, but is there a need to simplify taxes in South Africa? Various studies in South Africa have commented on the complexity of the tax system. The Davis Tax Committee (2018b), which acts as an advisory committee to the Minister of Finance, emphasises that there is a need for simplicity and certainty in the South African legislation to encourage local and foreign direct investment. This chapter explores tax simplification in a South African context. Evans *et al* (2019) suggest that while there is no explicit right of taxpayers in South Africa to tax simplicity, it can be argued that the Constitution of the Republic of South Africa, 1996, by implication, provides for this right.

South Africa is a developing country and can make several improvements in an attempt to work towards tax simplification. The country is currently listed as number 84 in the World Bank Ranking (2018), which measures several aspects of doing business, for example, ease of doing business. In the study, New Zealand was ranked overall as the top country. Tax simplification, it is suggested, can go a long way to improve the ease of doing business in South Africa. Many lessons can be taken from other countries on how to successfully implement a tax simplification programme. This section reflects on the different approaches adopted by other countries to achieve this objective and considers whether they could be applied in the South African context, thereby improving the overall world ranking, and reducing tax complexity.

SARS is widely known as a well-run state entity, but every system can become more streamlined and user-friendly. SARS has reflected on this ideal in its current strategic plan 2024/25 (South African Revenue Service Strategic Plan: 2020). Nine strategic objectives are listed in the plan, three of which deal with aspects of tax simplification. This highlights the importance that SARS places on the goal of tax simplification. Firstly, the plan aims to make it easy for taxpayers and traders to comply with their obligations. In order to achieve this objective SARS' aim is to have engagements with taxpayers and traders in the fulfilment of their obligations mainly on-line, intuitive and self-managed with minimal face-to-face visits. This places the emphasis on the *e-filing* system to make sure that users find the platform easy to use to fulfil their tax obligations on an on-line platform. In SARS' Annual Report (South

African Revenue Service Annual Report: 2019) for 2018/2019, a 90.53% customer satisfaction rate is reported in calls to the call centre; this is a positive indication that SARS is making the customer call line effective and taxpayers are satisfied that their needs are being addressed, which minimizes the need for taxpayers to engage face-to-face at the branches.

Secondly the ease of compliance was prioritized in the South African Revenue Service Strategic Plan (2020). SARS recognises that providing an easily accessible, professional, and efficient service promotes voluntary compliance. SARS' service must enable taxpayers and traders, throughout their life-cycles, to meet their obligations in as fair, easy, cost effective and convenient a manner as possible. SARS (South African Revenue Service Strategic Plan, 2020:9) outlines their goal of creating ease of compliance:

> SARS aims to provide equitable access to service channels, and a seamless service from registration, filing, declaration, payment and deregistration, to taxpayers and traders, using mainly our online self-service digital channels. Service offerings will be attuned to the needs and behaviours of groups of taxpayers and traders, and where appropriate we will use intermediaries which are accredited, certified or trusted, to provide services that enable taxpayers and traders to meet their obligations with least effort and cost

Finally the South African Revenue Service Strategic Plan (2020) highlights the importance of tax simplification by aiming to modernise the systems to provide digital and streamlined online services. The digital platform has been identified in the plan as being able to provide reliable and secure services to all the constituencies, and specifically for taxpayers and traders, it enables them to meet their obligations simply, easily, and anywhere. SARS' employees are also able to deliver a world-class service to ensure performance excellence. As outlined in the plan (South African Revenue Service Strategic Plan: 2020), SARS intends to achieve this objective by hosting and continually updating digital information portals that are informative, easy to navigate and enable differentiated services. In essence, the intention is to provide innovative technologies to enable the automation and integration of business processes; secure all digital platforms and interactions; maintain the integrity of data and systems; and enable sourcing, processing, storage and distribution of large volumes and varied types of data.

SARS plans to measure their performance with the following key results and milestones as listed in South African Revenue Service Strategic Plan (2020:19):

Key results	Baseline	Five-year target 2024/25
Standard taxpayers are auto assessed by SARS - % of standard taxpayer returns auto assessed by SARS (individual taxpayers)	New	95% auto assessment of standard taxpayers
Increase the number of taxpayers and traders using digital platforms - % of taxpayers and traders using the digital platforms to interact with SARS	75%	85%
All standard taxpayers are auto-registered without the need for them to come to SARS – proportion of standard taxpayers auto-registered	New	95% of auto-registration of taxpayers and traders by SARS
Significant improvements in the ease of doing business with SARS – upward movement in the ranking by the World Bank Study	84	Top quartile ranking in the World Bank Study
When taxpayers and traders are satisfied with SARS as evidenced by Net Easy Score	New	Net Easy Score of greater than 70%

SARS' prioritisation of making improvements towards tax simplicity is evident through the evaluation of their Strategic Plan (2020) as indicated above. The present research attempts to offer ways in which other objectives could be achieved.

Slemrod's (1984) core attribute of a simple tax system is that the system must be characterised by a lower degree of difficulty and greater predictability. This attribute is addressed in the present research by considering ways in which South African tax legislation can be simplified to create more certainty and predictability. In addition, this attribute is also addressed in the streamlining of the accounting and tax systems. This could potentially facilitate a lower degree of difficulty in South African tax calculations. In addition, this research explores ways of reducing the number of taxes in South Africa. This links to Slemrod's attribute of attaining a lower degree in difficulty as the current plethora of taxes in South Africa poses additional complications for the user. Finally, this study investigates ways to simplify the *e-filing* system. This achieves Slemrod's core attribute of lowering tax administration costs through developing a simpler system.

3.2 TAX LAW SIMPLIFICATION

It is evident that tax legislation can be challenging to read because the content of the Acts is complex. In addition to the substantive complexity, the language and structure used to communicate the legislation are convoluted. In chapter two it was indicated that this is not only a South African challenge but is a universal problem. Several countries have addressed the problem and revised their legislation. Tax legislation needs to be understandable to all taxpayers. South Africa has a further challenge in this context due to the low literacy levels reported in the country. Integritax (2019:64) reported on literacy levels in South Africa as follows:

> The Progress in International Reading and Literacy Study, a study which assesses the reading comprehension and trends in reading literacy – found that South Africa was the lowest-performing country out of 50 countries in 2016. Furthermore, around 78% of South African Grade 4 learners did not have basic reading skills by the end of that school year (contrasted with 4% of learners internationally). Literacy is, therefore, clearly an issue for the youth of South Africa – the future taxpayers of the country.

This further confirms the need to simplify the legislation to order to ensure that the majority of the population is able to interpret the legislation and pay their taxes.

Many amendments are made to South African tax legislation annually for various reasons. The Income Tax Act, for example, was promulgated in 1962 and has since had innumerable amendments. These updates and changes have resulted in a patch-work effect of amendments and deleted sections. This section of the chapter considers tax legislation simplification from the perspectives of the language and structure of the tax legislation.

3.2.1 The complexity of the legislation

In substance, the South African tax legislation is seen as one of the most complex pieces of legislation in South Africa, according to Lenèz Keyse (2020), a SARS Functional Specialist on strategy and legal policy. It is submitted that complexity in the Acts is mainly centred in the areas of South African controlled foreign companies (provided for in section 9D of the Act) and transfer pricing (provided for in section 31 of the Act). These sections relate to international taxation, which is further complicated by double tax treaties. The level of complexity in

section 9D and section 31 has increased over the years due to many taxpayers attempting to find loopholes in the sections to gain tax benefits. The response was to tighten up the legislation, which resulted in the sections becoming complex. An augmented cycle of complexity is initiated as taxpayers will inherently always look for ways to avoid paying tax, which in turn, necessitates the need to close the loopholes in the legislation, which ultimately results in the ever-growing complexity of the legislation.

Blank and Osofsky (2017) acknowledge that the complexity of the legislation is necessary, but the language used to convey the acts can be simplified. They refer to achieving "simplexity". This echoes efforts in the United States of America, where the Plain Writing Act of 2010 was promulgated in an attempt to achieve this objective.

In South Africa it is evident that the writers of legislation are attempting to improve the readability of the legislation. Older legislation is more complex to read, for example section 6*quat* in the Income Tax Act, while more recently promulgated legislation such as the Eighth Schedule to the Income Tax Act, which was promulgated in 2001, is easier to understand, as indicated in the examples below.

> Section 6*quat*(1D): Notwithstanding subsection (1C), the deduction of any tax paid or proved to be payable as contemplated in that subsection shall not in aggregate exceed the total taxable income (before taking into account any such deduction) attributable to income which is subject to taxes contemplated in that subsection: Provided that in determining the amount of the taxable income that is attributable to that income -
>
> a) any allowable deductions contemplated in sections 11F and 18A must be deemed to have been incurred proportionally in respect of attributable and non-attributable taxable income;
> b) the deduction under section 11F must be allocated in relation to the taxable income from attributable and non-attributable taxable income before taking into account any deduction in terms of that section, subsection (1C) and section 18A; and
> c) the deduction under section 18A must be allocated in relation to attributable and non-attributable taxable income before taking into account any deduction in terms of that section and subsection (1C).

The paragraph 22 of the Eighth Schedule to the Income Tax Act has no Latin terms and is set out in a manner that is easy to understand:

22. Amount of donations tax to be included in base cost. – The amount of donations tax payable by a person in respect of the disposal of an asset which may be taken into account in terms of paragraph 20(1)(c)(vii) must be determined in accordance with the formula-

$$Y= (M-A)/M \times D$$

where-

(a) "Y" represents the amount to be determined;

(b) "M" represents the market value of the asset donated in respect of which the donations tax is payable;

(c) "A" represents all amounts allowed to be taken into account in determining the base cost of the asset in terms of this Part (other than paragraph 20(1)(c)(vii); and

(d) "D" represents the total amount of donations tax so payable:

Provided that where the amount included in "A" is greater than the amount included in "M", the amount of donations tax to be taken into account in terms of paragraph 20(1)(c)(vii) shall be nil.

The first extract contains numerous cross-references and the calculation prescribed in the section is difficult to understand and execute. Words such as "notwithstanding", "contemplated" and "attributable" may be difficult for second-language readers to understand. The second example uses the words "which may be taken into account", instead of "contemplated in" and refers to "donations tax" instead of using a cross-reference. As the calculation in paragraph 22 is set out by way of a formula, the calculation is relatively simple and clear, compared to the complex provisions in section 6*quat*(1D).

It is evident that much of the complexity of the legislation is difficult to change, however, the legislation could follow a simpler structure and language style to aid understanding. The following sections address areas where tax legislation can be simplified to make the complex language more understandable and the structure less complex.

3.2.2 Striving for "simplexity"

The style in which the legislation is worded could facilitate greater understanding of tax legislation. This section reflects on the current challenges relating to the structure and

readability of tax legislation, followed by an exploration of solutions used by other countries to address these challenges.

Numbering style

The numbering of South African tax legislation is inconsistent; some sections use Latin terms, for example, section 13*quin,* and often a combination of letters and Roman numerals for subsections (such as (a)(iv)), while others use Arabic numerals and capital letters to indicate sections and sub-sections, for example, section 80A, – a confusing classification system. Nevertheless, there appears to be consistency within the numbering systems used for different categories of sections. For example, section 13*quin* was introduced on 1 April 2007 and was incorporated into the existing group of capital allowances which already used a Latin numbering system. The Tax Administration Act, which was promulgated in 2011 and is one of the latest tax acts, has no Latin numbering. This seems to suggest that this form of numbering is being phased out. Additionally, dividends tax, a newer section of the income tax legislation, does not use Latin numbering. In a personal conversation with Lenèz Keyse (2020), the researcher queried the reason for South Africa's confusing tax legislation numbering system. Ms Keyse explained that it is an antiquated custom to use the Latin *bis*, *ter*, *quat*, *quin,* etc. in conjunction with a section number to indicate an inserted section following an existing section. She explained that in the early 1980s, the State Law Advisers started using A, B, C, D etc in conjunction with the section numbers to indicate the insertions and thereby help alleviate the confusion. She further explained that if a section was inserted as, for example, 13*bis* originally, it is unlikely to be changed due to people's familiarity with the numbering system. She stated further that, while the State Law Advisors were attempting to simplify the system by using letters instead of Latin terms, this led to further confusion.

It seems that to make the tax legislation more user-friendly, in particular the Income Tax and VAT Acts, an overhaul of the numbering system needs to be considered. If an overhaul of all numbering were to be made, however, it may create more confusion as many people are familiar with the numbering system of the current legislation. To address this challenge, there may need to be a period of transition into the new numbering system and, possibly, a schedule linking the old and new numbers. A re-numbering of legislation does not appear to have been done in other countries, and South Africa would be at the forefront of this development.

The language used in a section

When legislation is drafted, the purpose of the legislation provides the primary focus, whereas the usability is not prioritised. In effect, this can result in long sentences and the copious use of semi-colons but does not provide the user with language which is easy to understand. For example, in section 18(5) of the VAT Act, after the subsections (a), (b) and (c), and before the formula, the paragraph consists of 269 words without a full stop, and six modifying "ifs". This results in a section that is complicated and difficult to interpret. Drafters of legislation should not overlook the importance of developing laws which are understandable and therefore applied accurately by the public. Evans *et al* (2019) report that New Zealand applied a readability score to evaluate the readability of their tax legislation. This would be a useful tool to apply to South African tax legislation to gauge its clarity for taxpayers. In South Africa, there are currently no statistics on the readability of tax legislation; however, the Davis Tax Committee (2018b) notes that the determination of a company's taxable income can be a matter of considerable complexity. They further highlight that tax practitioners and corporate taxpayers, almost without exception, contend that the South African income tax system relating to companies, requires substantial simplification. Evans *et al* (2019) applied the Flesch readability test to section 8C of the Income Tax Act, which deals with share-based remuneration and is fairly typical of the drafting style used. The Flesch readability test provides a score from zero to one hundred. A score of one hundred means the document is very easy to read, a score of zero means the text is very difficult to read. The readability tool indicated that the material would be best understood by university graduates, as scores ranged between zero to thirty. This section, which was evaluated by Evans *et al*, scores 18.3, confirms the complexity and further highlights the need for simplification of tax legislation.

Cross-referencing

Cross-referencing can be another challenge in interpreting legislation. One section of legislation can be cross-referenced to various other sections. For example, section 16(3) of the VAT Act includes fourteen subsections, some with numerous sub-subsections and provisos, each of which is cross-referenced to different section in the Act. This can create a challenge for the reader's understanding of a section, as a general knowledge of the legislation would be needed to understand and apply the section. Cross-referencing is an important aspect in drafting legislation, but drafters need to be aware that it does add to the complexity of the text and the content of the cross-referenced section needs to be carefully considered.

3.2.3 Ways to improve the language and structure of South African legislation

The first suggestion to address the complex nature of the legislation is to undertake to re-write the legislation using simple language. This can be an overwhelming and costly task and therefore a further suggestion would be to address only parts of the legislation annually and to conduct a phased-in approach. This will result in achieving simpler legislation over time. The older legislation should be dealt with first as the present research highlights that this is where more complexities exist. When undertaking to rewrite the legislation, aspects of consistency in the numbering style and the readability of a section should be taken into account. The numbering style to be adopted should be a numeric format and not the Latin seen in parts of the legislation. The legislation should be written using simple language which is easier understood. For example, currently the Income Tax Act and VAT Act use words such as "remitted," "contemplated" and "reimbursed", instead of using words like "paid", "expected" and "refunded". A simpler wording would contribute to a deeper understanding of the legislation. In addition, the frequency of cross-referencing to multiple sections of an Act needs to be considered when revising the legislation. Prior to the release of the adjusted section a readability tool, such as the Flesch reading tool, should be applied to confirm that the new section does in fact achieve the objective of readability. James and Edwards (2008) propose a framework, as outlined in chapter two, which could be considered when rewriting legislation. This approach identifies various steps and advocates a holistic approach. These steps include identifying the aims of taxation, and aspects such as developing strategies and planning and implementing the strategies.

A second proposal to consider was made by the Davis Tax Committee (2018b). This is a radical suggestion as it suggests that the tax acts should be re-written and re-structured in their entirety. This suggestion would undoubtedly result in a rearrangement of the provisions of the acts into a more coherent and logical sequence, with content that is more understandable. This may enhance the compliance of taxpayers. Such a re-write could take into consideration industry-specific provisions, which may in some cases be simplified or in other cases be withdrawn completely. In reality, an overhaul of tax legislation is a very costly process in terms of time and resources. Evans *et al* (2019) report that New Zealand's restructuring process is an example of the time and cost involved in rewriting legislation. Sawyer (2007) reports that the cost of the project as measured in 2007 was approximately $NZD10 million for Inland Revenue in terms

of drafting and related costs, but the compliance costs for taxpayers and tax advisors are yet to be quantified.

A final recommendation could be to establish an Office of Tax Simplification as seen in the United Kingdom. Through the establishment of this office, there would be a firm commitment from government to invest in the process of tax simplification. This office could manage the process of prioritizing tax simplification. By investing in the process of tax simplification the rewards will follow, as seen in Egypt, where their tax reforms resulted in increased revenue collection.

A more reader-friendly approach to legislation would promote the accessibility of legislation to a wider population. Ultimately, the by-product could be an increase in tax collections due to increased compliance and accurate tax calculations, and these increased collections could counteract some of the costs involved in the process.

3.3 THE ROLE OF ACCOUNTING

This section explores the differences between reporting frameworks in a South African context. A discussion of the current South African legislation in terms of accounting and tax standards is undertaken, as well as a consideration of global trends to reduce the tax complexities and the different approaches to calculating accounting profit and taxable income.

In South Africa, the Tax Administration Act mandates how records must be maintained for tax purposes. To comply with the Act and submit a valid tax return, the accounting records need to accurately reflect the tax liability of the business; the records have to show the income and expenses relevant for tax purposes. In section 29 of the Tax Administration Act there is a requirement to maintain accurate records and, in some circumstances, to be kept for up to seven years. The Tax Administration Act provides that failure to retain records is a criminal offence (section 234(d)), and subject to a fine or imprisonment for up to two years. Therefore great care and expertise is required to maintain accurate records. If businesses do not have the skills to perform the tax function, the employment of a professional is encouraged, and this becomes an additional cost to the business.

The Davis Tax Committee (2018b) reports that tax simplification has been identified as an important goal. In addressing tax simplification, they identify the difference between

accounting and taxation as important aspects which contribute to tax complexity and that the differences between the two frameworks are a fundamental cause of the complexity. These differences include the accrual concept in accounting and the different treatment of debt and equity in tax and accounting frameworks. They recommend that consideration should be given to the alignment of the legislation to International Financial Reporting Standards (IFRS), where suitable. This could assist in simplifying the process of determining taxable income based on financial statements. They emphasize that a complete alignment between taxation and IFRS is neither practical nor desirable, however, areas such as the tax treatment of hedging arrangements could potentially be aligned.

The Davis Tax Committee (2018b) makes further suggestions to simplify the tax system, more specifically, to adopt the policy of "tax-follows-accounting" in selected cases. It is submitted that the differences between tax and IFRS principles are ongoing. The Davis Tax Committee concludes that these differences exist as IFRS is driven by economic substance, while tax has historically been driven by legal form. They further suggest that this situation is resulting in increasing complexity in compliance obligations as the divergence between taxation and accounting treatment increases. Many industry-specific matters are subject to stringent accounting rules, so they suggest that it may be appropriate for tax law to accept the accounting position in certain circumstances. For example, with the introduction of section 24JB of the Income Tax Act, recognition has been given in the Act to IFRS principles in the context of the financial assets and liabilities of financial institutions. The purpose of section 24JB was outlined in Integritax (2015:1):

> Section 24JB of the Act applies to a "covered person" as defined. This includes a bank or an authorised user. To the extent that section 24JB applies, a covered person will be permitted a deduction or will be required to include in its income, all amounts taken into account in respect of financial assets or financial liabilities that are recognised at fair value in profit or loss in terms of International Accounting Standard 39 of IFRS.

The Davis Tax Committee (2018b) further confirms that financial reporting has developed considerably over the past twenty years. The Committee suggests that this has significantly enhanced the reliability of financial statements as an indication of the value of assets and liabilities and the profits or losses derived by companies. They further state that certain tax provisions, however, date back to the 1962 enactment of the Income Tax Act. The Committee

suggests that to the extent that the principles applied under IFRS may be found to be acceptable to the National Treasury as a reliable measure, there should be no necessity to enact taxing provisions that achieve the same outcome. Finally they recommend that if the difference between the two is temporary then it would be justified to use an accounting basis, as over time the differences would result in the same treatment. This would reduce the burden on taxpayers in fulfilling their compliance obligations, by reducing the volume of adjustments that are invariably required to compute taxable income.

The Davis Tax Committee (2018b) recommends that aligning tax and accounting should not necessarily be applied to all industries and special consideration should be given to specialised industries. Some examples which are given include the treatment of foreign exchange differences in section 24I and the treatment of trading stock in general. The Davis Tax Committee further highlights the taxation of construction contractors who are at present subject to complex trading stock provisions and "income received in advance" calculations, under subsections 22(2A), 22(3A) and 24C of the Act, which is not aligned with the treatment in IFRS and with no apparent policy rationale for this non-alignment. They further recommended that section 24C of the Act should be retained in its current form, but a proviso should be included to the effect that its principles should not apply to income and expenditure arising from construction contracts, but that these should be dealt with in terms of accounting principles.

3.3.1 The global context

An evaluation of the literature highlights a global move towards synthesizing accounting and taxation records. The research conducted by Carlon, Tran-Nam and Tran (2013) in the Australian context, and Jirásková and Molín (2015) in relation to the Czech Republic, contends that the application of accounting standards for tax purposes would lead to similar results in the tax calculation, if not more favourable to the tax authorities. As explained in chapter two, international research suggests that the maintenance of two sets of records allows scope for manipulation and therefore advocates that the harmonization of the two records should be prioritized. It is argued that this would not only promote tax simplification, but also help reduce tax evasion. According to the Davis Tax Committee (2018b), a complete alignment is not seen as a solution in the South African context.

3.3.2 Further solutions offered

The World Bank (2009) suggests that a solution to the problem is to adjust the differences through reconciliations. This solution is plausible if the adjustments required are simple and few. This means that businesses can maintain one set of accounts and derive taxable profits from the accounting profits by adding back deductions that are not allowable under the tax legislation, such as depreciation and capital expense adjustments and deducting tax allowances such as special tax deductions, the carry-forward losses and wear and tear.

The World Bank (2009) also recommends the simplification of the accounting process; businesses should be required to maintain only a basic set of books and should be given the freedom to decide what other documentation is necessary to substantiate the information provided in their tax returns. The World Bank justifies this recommendation by stating that the maintenance of a large number of books of accounts considerably increases businesses' cost of compliance and may not necessarily help tax administrators. The World Bank recommends that by allowing businesses to decide how to substantiate their declarations encourages them to streamline their accounting even while allowing tax administrators to ensure tax compliance. The World Bank advises that in cases where businesses are not able to substantiate the information in their tax returns, they should then be subject to interest and penalties and the tax administrators would be entitled to levy the best estimate of tax payable. In the case of electronic accounts the World Bank advises that guidelines should be provided as to what kind of records need to be maintained in paper form as a backup in case the electronic accounts are accidentally erased.

It is submitted that the present computer technology should be able to process these differences between accounting and taxation frameworks in the form of a reconciliation and create the necessary outputs. It is acknowledged that the setting up of the system would require highly skilled employees or contractors, however, once the system is operational, the running costs should be relatively low. This proposal recognises that there are often amendments to the tax legislation, and therefore regular updates to the system would be required. It is suggested that the time required to calculate the accounting and taxable income should be significantly reduced, and the process should be simplified. It is proposed that a system of this nature should be able to create all the necessary reports, from an accounting and tax point of view, and therefore the volume of records could remain the same, but the processing would be reduced

significantly. Ultimately there should only be one input of information to create the multiple outputs, for example, a sale would still need to be input, however, the different treatments could be computed by the system.

In summary, this section of the chapter highlights the South African context and discusses whether the alignment of the tax standards with accounting standards could be a viable option, taking into account the global experience. Recommendations are made to address the problem of streamlining the accounting and tax processes.

3.4 LEVYING OF MULTIPLE TAXES

A contributing factor to tax complexity is the large number of taxes currently levied in South Africa. South Africa has undergone substantial changes over the past few decades and several new taxes have been introduced. The addition of these taxes contributes to the complexity of the tax system, as an understanding is required of each Act. The administration of taxes by SARS also requires time and resources and some of these taxes do not yield revenue streams large enough to justify the resources allocated.

In addition, certain transactions that are taxed several times under these different taxes, and this can result in double taxation and also results in a duplication of work for both SARS and the taxpayer. To illustrate the problem of double taxation, an example follows:

A taxpayer dies on 1 June 2019 and owns a block of flats worth R6 700 000 at his date of death, which he had purchased in 2010 for R4 500 000. The asset was bequeathed to his son on his death. The taxpayer will pay income tax at the maximum marginal rate. Assuming that the taxpayer had no other assets or liabilities, the tax effects of this transaction will be as follows:

Income tax:

He is deemed to have disposed of the asset for capital gains tax purposes on the date of death.

Proceeds[1]	6 700 000	
Less: base cost[2]	(4 500 000)	
Capital gain	2 200 000	
Less: annual exclusion on death[3]	(300 000)	
	1 900 000	
Included in taxable income @ 40%[4]		760 000
Tax liability: R760 000 x 45%		**345 000**

Estate duty:

The same asset will be subject to estate duty.

Property[5]:	
Block of flats – fair market value at the date of death[6]	6 700 000
Deduction: tax paid[7]	(345 000)
Net value of estate	6 355 000
Less: abatement[8]	(3 500 000)
Dutiable amount	2 855 000
Estate duty at 20%[9]	**571 000**

The effect of the two taxes is an estate duty liability of R571 000, in addition to the income tax effect of R345 on the capital gain, thus demonstrating the double taxation effect.

[1] Paragraph 31(1)of the Eighth Schedule to the Income Tax Act
[2] Paragraph 20(a) of the Eighth Schedule to the Income Tax Act
[3] Paragraph 5(2) of the Eighth Schedule to the Income Tax Act
[4] Paragraph 10(1)(a) of the Eighth Schedule to the Income Tax Act
[5] Section 3(2) of the Estate Duty Act, 45 0f 1955
[6] Section 5(1)(g) of the Estate Duty Act
[7] Section 4(b) of the Estate Duty Act
[8] Section 4(a)(i) of the Estate Duty Act
[9] Paragraph 1(a)(i) of the First Schedule to the Estate Duty Act

If the taxpayer had not died, but donated the asset, he would have to pay donations tax and capital gains tax, however paragraph 22 of the Eighth Schedule to the Income Tax Act would apply:

Donations tax:

Value of the property donated[10]	6 700 000
General exemption[11]	(100 000)
	6 600 000
Donations tax at 20%[12]	**1 320 000**

Income tax:

Proceeds		6 700 000	
Less base cost: R4 500 000	4 500 000	(4 933 432)	
Less: donations tax deduction[13] ((R6 700 000–R4 500 000)/R6 700 000) x R1 320 000			
	433 432		
Capital gain		1 766 568	
Less annual exclusion		(40 000)	
		1 726 568	
Included in taxable income @ 40%			690 627
Tax liability: R690 627 x 45%			**310 782**

In the second example where the asset is donated the taxpayer would be paying both income tax of R310 782 and donations tax of R1 320 000 on the disposal of the same asset, giving further evidence of double taxation.

This example illustrates why many countries such as Canada and Australia have repealed estate duty and donations tax and only apply capital gains tax. Roeleveld (2012:143) states: "South

[10] Section 62(1)(d) of the Income Tax Act
[11] Section 56(2)(b) of the Income Tax Act
[12] Section 64(1)(a)(i) of the Income Tax Act
[13] Paragraph 22 of the Eighth Schedule to the Income Tax Act

Africa is one of the few countries in the world that imposes both estate duty and capital gains tax on the assets of a person on death."

Where a multiple tax system is advantageous, potential taxes should be identified that could be consolidated without affecting the purpose for which the tax was enacted.

The reduction in the number of taxes being levied is a large and costly task, and therefore should be carefully considered. Chapter two identified capital transfer taxes as an area where such consolidation could occur. In South Africa, currently, capital transfer taxes levied on the transfer or disposal of assets include the Transfer Duty Act, 40 of 1949, the Estate Duty Act, 45 of 1955, the Securities Transfer Tax Act, 25 of 2007, and in terms of the Income Tax Act, 58 of 1962, donations tax and capital gains tax. These capital transfer taxes were identified as currently yielding low revenue and, to a certain extent, taxing the same transaction several times. It is suggested that the low revenue attributable to these types of taxes may also be as a result of tax avoidance or evasion. The Katz Commission (1997) states that estate planning is a large industry and estate planners cleverly structure assets in a manner to avoid capital transfer taxes. The collections relating to donations tax and estate duty were consolidated into one line item of the Annual Report 2018/19 (South African Revenue Service: 2019) as "other taxes and levies" and this line item contributed only 0.092% of total revenue received by SARS in the 2018/19 financial year. This provides further evidence of the low yields of these taxes. National Treasury (2011:20) further emphasized the low collections associated with these types of taxes and stated that "the revenue raised from estate duty or donations tax does not warrant the cost of administration." A further obstacle in relation to the low yield of donations tax, is that assets transferred as gifts are more difficult to identify and tax. In order for a capital transfer tax to be effective, donations tax and estate duty need to be linked, or they could be counterproductive as donations can be a means to reduce the base of the inheritance tax. For example, some taxpayers transfer their assets to a trust to avoid estate duty. For these reasons, the Katz Commission (1997) believes that capital transfer taxes and inheritance taxes in many countries are likely to remain relatively minor components of the system of direct taxation in the near future. This provides further evidence that the streamlining of these taxes should be prioritised.

Roeleveld (2012) notes that the South African Government has identified and prioritized the issue of consolidating taxes and investigating capital transfer taxes, and as a result has

appointed various Commissions in the past to investigate the prevailing tax structure with a view to changing the tax regimes in place. The most noteworthy of these were the Margo Commission (1987), the Katz Commission (1997) and more recently the Davis Tax Commission (2015) and a second Davis Tax Commission (2018a).

The Margo Commission (1987) recommended that a capital transfer tax replace both estate duty and donations tax. Since this report, capital gains tax has been introduced and both estate duty and donations tax retained. This was never a recommendation of this Commission; the recommendation made was either to introduce a capital transfer tax or retain estate duty.

The Katz Commission (1997) continued to address the issue of consolidation of taxes and set out objectives which should be considered when consolidating taxes. These objectives include the most effective utilisation of the limited resources available to the South African Revenue Service, the avoidance of unnecessary complexity, and vertical and horizontal equity in the tax system. The Katz Commission echoed the suggestion of the Margo Commission (1987) that estate duty could be an area for possible streamlining due to the low revenue collections. The Katz Commission attributes the low collections to tax planning and the utilisation of trusts. They further submit that tax planners are using sections 7, 25B and the Eighth Schedule to the Income Tax Act to transfer funds to beneficiaries with minimal tax consequences, due to insufficient anti-avoidance measures. The Katz Commission investigation revealed that should this consolidation be a possibility, streamlining the taxes could reduce the administrative burden, while still levying the tax, and would aid tax simplification. The Commission indicated that, due to the similarity in the taxes, it may be appropriate to combine the taxes and create one tax, which could reduce the administration costs associated with administering multiple taxes. The Katz Commission considered the introduction of capital transfer tax to address the problem. Under this option, tax is imposed on wealth when it is transferred from one person to another, either as a gift or as a result of death. This option does not tax transactions which were previously not taxed but attempts to consolidate donations tax and estate duty. The Katz Commission investigations indicated that capital transfer taxes are prone to be extremely complex, which results in high collection and administration costs. Where tax is complex there is often an opportunity for manipulation; in response, anti-avoidance measures would need to be in place to avoid manipulation. The Katz Commission further stated that capital transfer taxes globally also have a notoriously low yield, and concluded that, if resources were available, there would be value in the consolidation, but there was no pressing need for this.

The Katz Commission emphasised that there is a need for specific anti-avoidance measures targeting estate duty, as general anti-avoidance measures are not sufficient to target the estate planning strategies implemented. The report of this Commission was also issued prior to the implementation of capital gains tax, which resulted in the addition of another tax, but donations tax and estate duty were retained.

More recently the Davis Tax Committee (2015) continued the investigation into the possibility of streamlining taxes and reported that a fundamental challenge with the collection of donations tax is that it is difficult to identify and trace gifts among private individuals. The Committee stated that this is especially true when they are not gifts of physical assets. The Committee indicated that in both "nuclear" and extended families, the ownership of family assets is seldom clearly demarcated, and this results in very low collections associated with donations tax. The Davis Tax Committee reported that there are links between securities transfer tax (which applies to the purchase and transfer of listed and unlisted securities), transfer duty (a tax levied on any immovable property which is acquired by way of a transaction or otherwise), donations tax and capital gains tax. These are all taxes on the disposal of capital items, and these are areas where streamlining could occur. The Davis Tax Committee concluded that estate duty, coupled with donations tax, are the only direct wealth taxes in South Africa, and as such they could not justify a repeal of these taxes without introducing some other form of a wealth tax. As a result, the Davis Tax Committee recommended that the estate duty system should remain in place, however with some modifications, as implementing a new tax is a time-consuming process. The Davis Tax Committee also recommended using existing structures to increase capital transfer tax collection and recommended an increase in estate duty. The Committee further stated that this measure, in conjunction with a decrease in unauthorized and wasteful expenditure and enhanced tax morality, will go some way towards reducing South Africa's unsustainable levels of inequality.

3.4.1 Further investigations into consolidation of capital transfer taxes

Roeleveld (2012) considered the possibility of abolishing estate duty and retaining capital gains tax on death. Firstly, the question of whether abolishing estate duty is seen to favour the wealthy, needs to be addressed. Empirical evidence suggests that in South Africa wealth inequality, measured by the Gini Coefficient, is extremely high. The Gini Coefficient is a measure of statistical dispersion intended to represent the income inequality or wealth

inequality within a nation or any other group of people. A Gini Coefficient of one represents maximal inequality among values. The Davis Tax Committee (2018a:4) reported that South Africa's Gini Coefficient of wealth inequality is currently above 0.9 and is, in fact, not just higher than South Africa's income inequality, which has a Gini coefficient of 0.67, but also higher than global wealth inequality. The Davis Tax Committee indicated that the top ten percent of the population of South Africa owns more than ninety percent of the total wealth in the country. The Committee stated that it is important to maintain an equitable tax system in South Africa and any suggestion should not further exacerbate the current inequality experienced in South Africa.

Roeleveld (2012) notes that internationally, South Africa is the only country that levies capital gains tax and estate duty on death. She further explains that this may discourage capital investment into the country. There are merits in retaining capital gains tax and repealing estate duty and donations tax, as capital gains tax is considered to be superior for various reasons. Roeleveld explains that capital gains tax attracts a reasonably wide tax base. All types of assets disposed of (with some exemptions) are included. Roeleveld concludes that there is no justification or policy decision supporting the retention of the two taxes. She reports that if the current tax regime is to be changed, extensive amendments would be required. Roeleveld suggests that estate duty should be abolished, as capital gains tax legislation is far reaching and more beneficial to the fiscus.

3.4.2 Suggestions to address multiple taxes

Consolidating or reducing the number of taxes levied is a complex issue. The reviews of the Commissions indicate that the introduction of a capital transfer tax is a costly process which could result in a more complicated single tax. Despite this risk, there are merits in consolidating taxes, as this could achieve other goals such as reduced administration and compliance costs. The present research suggests that estate duty and donations tax could be repealed, and this would be in line with international trends. This would result in a decrease in tax collection, as these taxes do bring in revenue, even if the revenue stream is considered small. Donations tax and estate duty have tax implications for mainly an individual taxpayer, and a further suggestion would be to increase the inclusion rate of capital gains to 60% for individuals, to compensate for the lost revenue from estate duty and donations tax. The effect of this increase is demonstrated in an extension of the example above.

For example, a taxpayer dies on 1 June 2019 and owns a block of flats worth R6 700 000 at his date of death and he had purchased the asset in 2010 for R4 500 000. The asset was bequeathed to his son on his death. The taxpayer pays tax at the maximum marginal rate. The tax effects of this transaction are considered below:

Income tax:

He is deemed to have disposed of the asset for capital gains tax purposes on his date of death.

Proceeds	6 700 000	
Less base cost	(4 500 000)	
Capital gain	2 200 000	
Less annual exclusion	(300 000)	
	1 900 000	
Included in taxable income @ **60%**		1 140 000
Tax liability: R1 140 000 x 45%		**513 000**

In this proposal for an inclusion rate of 60% the following is noted:

Existing taxes		Increase inclusion rate
Removal of estate duty		
Income tax	345 000	
Estate duty	571 000	
Total	**916 000**	**513 000**
Removal of donations tax		
Income tax	310 782	
Donations tax	1 320 000	
Total	**1 630 782**	**513 000**

In this example it is evident that if the inclusion rate is increased, the tax collection after the repeal of these taxes would still be less than under the existing taxes. The increased inclusion rate will, however, apply to all capital transactions of individuals and not only those subject to donations tax and estate duty. Therefore the revenue stream could possibly match or exceed the current collections, and the repeal of donations tax and estate duty would contribute to a

simpler tax regime, as SARS and the taxpayer would have fewer taxes to comply with. This would also contribute to combatting the inequitable double taxation presently applying. The repeal of Transfer Duty and Securities Transfer Tax could also be considered.

This section has considered multiple aspects of the streamlining of parts of the legislation. The present research recommends the repeal of donations tax and estate duty and the increase in the inclusion rate of capital gains tax for natural persons to 60% in order to move toward a simpler tax regime.

3.5 SOUTH AFRICAN CONTEXT: *e-filing*

The *e-filing* system was introduced in South Africa in 2001, starting with Value-Added Tax and provisional tax returns (SA News: 2012). In 2006, SARS started developments to expand the *e-filing* system to the filing of income tax returns for individuals, and later to companies and it has evolved into a system that can accommodate the submission of a variety of taxes (SA News: 2012).

SA News (2012) reports that the *e-filing* system was meant to simplify the submission of tax returns and payments, making it easy and convenient. As a consequence of *e-filing,* it was hoped that it would result in the reduction of visits to SARS branches and reduce the time spent on each return from a SARS employee and taxpayer's perspective. It is further reported that this would result in the taxpayer's compliance costs decreasing. SARS continues to experience long queues of taxpayers at branch offices coming to submit tax returns instead of utilising *e-filing* to file their tax returns from the comfort of their homes. In the SARS Annual Report 2018/19 (South African Revenue Service Annual Report: 2019), SARS is reported as having 53 branches located countrywide, 23 mobile tax units and a contact centre. The Report details that during the 2019 tax year, more than 6.5 million walk-ins were serviced at SARS branches and 4.5 million telephone calls were handled, while almost 186 480 taxpayers were serviced through mobile tax units. This is a positive development compared with 2017, when they reported that there were 6.7 million walk-ins. The slight reduction in the 2019 year, however, indicates that progress still needs to be made to encourage taxpayers to utilise the *e-filing* platform.

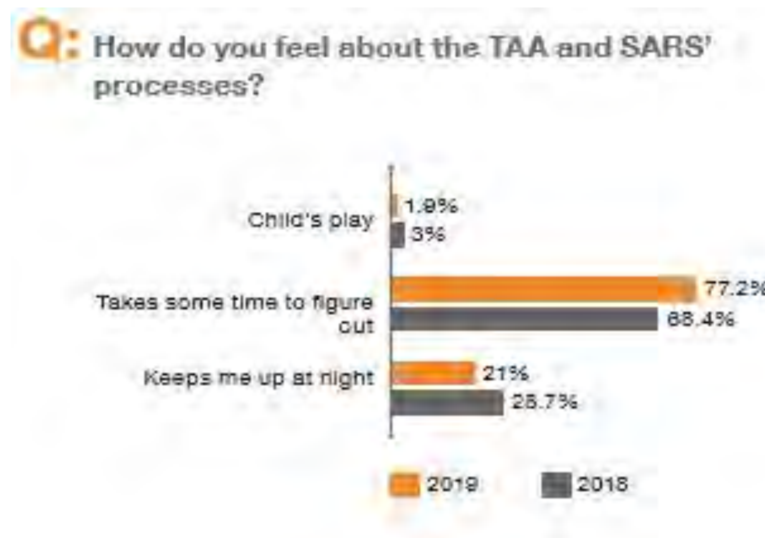
South Africa ranks in the top 50 countries globally in PwC's Paying Taxes 2019 Report regarding its overall "paying taxes" score (PwC: 2019). It is reported that the "time needed to comply" with tax requirements is approximately 210 hours, which ranks South Africa as 103 out of 189 countries. Sub-Saharan Africa has one of the highest costs of compliance, as indicated in a World Bank (2009) study. The study analyses the costs of complying with a tax directive on an international scale. This World Bank study further highlights the need for tax simplification measures on the *e-filing* platform.

The SARS Annual Report 2018/19 (South African Revenue Service Annual Report: 2019) indicates that the usage of *e-filing* in the personal income tax filing segment increased from 52.51% to 54.59% in the 2019 tax year. They attribute the increase in users to the education, promotion and support initiatives provided to taxpayers. This is a positive indication, but this usage rate could still be considerably improved. The usages of the other *e-filing* segments such as company returns, employees' tax (PAYE), trust returns and VAT returns were all close to 100% in the 2019 tax year, as reported in the SARS Annual Report. Where the submission of company returns, PAYE, trust and VAT returns are concerned, they would probably be carried out by a person who has experience in submitting these returns regularly and therefore is not hindered by the challenges experienced by an individual taxpayer who would only engage with the system on an annual basis with little tax knowledge. This indicates that the simplification of the *e-filing* system needs to focus on the personal income tax segment and aim to create a more user-friendly system in order for SARS and the taxpayer to reap the benefits of the online platform. If the *e-filing* system could be more user friendly, then more taxpayers could benefit from the on-line platform and as a result, reduce their tax compliance costs. A study conducted by Evans *et al* (2019) finds that individual taxpayers' fear of making mistakes, forgetting login details, being unable to upload supporting documents, fear of fraud or scams, and the lack of access to the internet are all factors that contribute to taxpayers' reluctance to use *e-filing*.

SARS is duty-bound to assist taxpayers to understand the legislation, as well as providing general *e-filing* support. In determining whether SARS was meeting that objective, PwC (2019) conducts an annual tax dispute survey that aims to gauge taxpayers' experience when dealing with SARS and to use their feedback to support constructive engagement with SARS concerning how it can improve efficiency, trust, and credibility. The survey highlights that taxpayers are receiving unsatisfactory service from SARS and, as a consequence, are having to seek professional help with their problems, which results in the taxpayers having to expend

more costs in tax administration. Figure 3.1 below demonstrates that more than three-quarters of survey respondents indicated that it takes them some time to understand the Tax Administration Act and SARS' processes. This suggests that the tax system may be too complex, and taxpayers have insufficient knowledge (PwC: 2019).

Figure 3.1: Perceptions of the Tax Administration Act and SARS' processes



Source: PwC (2019)

Coolidge and Yilmaz (2014) caution that countries should not rush to impose *e-filing* on all taxpayers until the revenue authorities, infrastructure, and taxpayers are ready. They consider that an early adoption may result in higher compliance costs for the taxpayer. This viewpoint should be considered as South Africa is a developing nation and many of the citizens are not technologically advanced, and many do not have the necessary access to the equipment or the internet. Coolidge and Yilmaz report that the World Bank (2009) has carried out more than a dozen tax compliance cost surveys in developing and transitioning countries. This data can be used to learn more about the relationship between *e-filing* and tax compliance costs. The purpose of the Coolidge and Yilmaz research is to investigate the effect of electronic filing on total tax compliance costs incurred by small and midsize businesses in developing countries. This analysis is carried out on tax compliance cost surveys from countries such as South Africa, Ukraine, and Nepal. Coolidge and Yilmaz's research identifies that several revenue authorities in developing countries have implemented *e-filing* in ways that unnecessarily adds to tax compliance costs, and some have tried to force all businesses (including small businesses and those in rural areas) to use *e-filing*. The research acknowledges that there is ample reason to

believe that *e-filing* can reduce errors in tax returns, facilitate data analysis and capacity for "risk-based audit" selection, and mitigate opportunities for corruption in interactions between taxpayers and tax officials. The research of Coolidge and Yilmaz concludes that these benefits can only be realized where the infrastructure is available and able to support the taxpayers.

Although this study related to small businesses, its findings also apply to individual taxpayers. Caution should be exercised in attempting to transfer individuals to *e-filing* before they are properly equipped to engage with the system.

3.5.1 Benefits of SARS *e-filing*

SARS introduced *e-filing* because it saw the possible benefits that it would bring about, for itself and the taxpayer. If more taxpayers were able to use the system, they would be able to unlock these benefits. According to SARS (South African Revenue Service *e-filing*, 2020:1), the following are benefits that are available to users and taxpayers in their *e-filing* portal:

1. *E-Filing* is a free, simple and secure way of interacting with SARS from the comfort and convenience of your home or office.

2. No more waiting in queues, finding parking or worrying about office hours. Once registered, e-Filers can submit returns, view their tax status and make payments to SARS electronically 24 hours a day!

3. E-Filers are also given more time to make their submissions and payments. Individual taxpayers and trusts have more time to submit their returns which means longer to pay any additional income tax. And if you're a business paying VAT, you get until the last business day of the month to pay it over (rather than the 25th of the month for manual filers).

4. You also have a full history of all submissions, payments and electronic correspondence available to you at the click of a button through the innovative reporting tool. E-filers can also receive SMS and email notifications to remind you when submissions are due. The simplicity of the process results in fewer errors and creates a quicker processing cycle for individuals and businesses.

This section of the present chapter considers various ways in which the *e-filing* system could be improved to enable the taxpayer to unlock the many benefits of *e-filing*.

3.5.2 Ways to improve the *e-filing* system

It has been established that there is a need for SARS to address the complexities of the *e-filing* platform. If they can reduce the complexities, SARS and the e-filer can reap the benefits of *e-filing*. It is suggested that SARS needs to consider adjustments to the system to improve the experience for the user. It is clear from the present research that the major area identified as needing improvement is the portal of personal income tax filers and the system needs to be made more user-friendly in an attempt to increase the usage of the system. It is clear that SARS has identified the need to address the simplification of the *e-filing* platform and this was highlighted when they undertook to overhaul the system in the 2019 tax year (South African Government: 2019). Further evidence of this is *e-filing* getting a new look and feel in an attempt to make the system more user friendly. It is proposed that, despite those amendments, there is still room for improvement as the system remains difficult to navigate. The possible improvements are discussed in the following paragraphs.

Sand box application

To feel comfortable with any system, one needs to use the system regularly. Many personal income tax filers would only use the system annually to file their return. This would not be regular enough to master any system. A proposal in the present thesis is to create a "sandbox" application within *e-filing*. A "sandbox" enables a user to move freely within the system without running the risk of pressing the wrong key, leading to negative consequences. SARS is seen by many as a watchdog and many taxpayers are wary to explore the system fearing that if they accidentally press the wrong key, this will lead to negative consequences such as an audit. Taxpayers could be given log in details to *e-filing*, where they could explore the system before submitting their returns.

Pre-populated returns

PwC and the World Bank (2020) suggest the use of pre-populated returns to streamline the tax submission process and create simplicity for taxpayers. They report that this has yielded positive results in many developed countries. SARS has identified that pre-populating the

returns to increase accuracy and ease of use for taxpayers is a priority. SARS, in their Strategic Plan for 2015/16 – 2019/20 (South African Revenue Service Strategic Plan: 2015) state that it is their ambition to be able to populate the tax return with all an individual's data, accessed via third parties, for example, employee information, medical aid details, and information from banks and insurance companies. This proposal would assist taxpayers who would not need to complete any aspect of their returns and thus result in further simplicity for the taxpayer. It is clear that in 2020 some progress has been made in this regard. In July and August 2020 many taxpayers received a text message (SMS) notifying them of the auto-assessment of their 2020 tax return (Khaki: 2020). The taxpayer simply needed to confirm that the assessment was correct. This is an important step towards simplifying the system. In 2020 the *e-filing* system was linked with most medical aids and banks and the income tax certificates (IRP5 and IT3(a) and (b) forms) to pre-populate the returns of individual taxpayers (Khaki: 2020). Khaki reports that the public response was that the system was not flawless, and some errors needed to be addressed.

An area which is suggested in the present research to further enhance pre-populated functionality is to create a link to the Deeds Office to reflect any property transactions. When completing a property transaction, documents regarding this transaction are completed. There is, however, a missing link, as the information does not flow through to the income tax return. Many taxpayers could unwittingly omit this information when completing their tax return as they have forgotten or do not think it is relevant. By pre-population, this will not only simplify the process, but will reduce the number of errors or deliberate omissions in returns.

Many challenges have been highlighted associated with the online platform. Research performed by the World Bank (PwC and the World Bank: 2020) provides evidence that in countries that have implemented effective *e-filing* systems, taxpayers have experienced a decrease in the time needed to complete a return due to the simplicity created for the taxpayer through the pre-population of the return.

Using applications to simplify e-filing

In the evaluation of the literature and measures taken by other countries, a useful tool identified was the use of applications (Apps). It is evident that many taxpayers have access to smartphones, which decreases the need for access to a computer. SARS has introduced an

application called “MobiApp”. This is a tool that can be used for *e-filing*. It enables taxpayers to file their income tax returns from their mobile devices. The improved MobiApp will make it even easier to use a smartphone to file a simple income tax return. MobiApp is also accessible to blind and visually impaired taxpayers. Evans *et al* (2019) report that the App may also be used to view a notice of assessment, the statement of a tax account, and it also includes a tax calculator. They indicate that this could overcome the problem of users not having access to computers, as many taxpayers have access to a smart device.

Business Tech (2019:1) report that the “revamped” App has many features that would help simplify the tax process for many taxpayers. These new features include:

1. simpler navigation
2. the introduction of biometric authentication
3. a one-time pin as an added security feature
4. the ability to reset username and password
5. security questions
6. the scanning and uploading of supporting documents.

Evans *et al* (2019) report that the constraints of this App and areas requiring improvement are that users cannot register for *e-filing* on MobiApp. Taxpayers first have to register for *e-filing* on a desktop or laptop and, once the registration is successful, they can continue using the SARS MobiApp (Evans *et al*: 2019). If this improvement could be made, more users would possibly use the system.

Social media

Social media is also used as an effective tool in countries like the United States of America and Thailand to communicate with the taxpayers. SARS does have a twitter account (@sarstax) for this purpose, although that account could be improved. One of the tweets on the SARS twitter account (@sarstax) reads as follows: “I'm so frustrated with @sarstax Almost 3 months now, I'm unable to login, countless visits to your Alberton branch, no resolution @sarstax please help me, I'm tired now”. This tweet indicates that SARS is not addressing the IT support needs

of the taxpayers in order to use the system effectively. In the SARS Annual Report (South African Revenue Service Annual Report: 2019) it is reported that complaints received had increased in the current year. In 2020 SARS reports having received 38 218 complaints; in the prior year 26 820 complaints were received. This does seem to substantiate the above "tweet" that SARS received on their twitter account. SARS needs to allocate resources to respond to queries promptly to assist taxpayers with their tax queries.

E-Invoicing

E-Invoicing Basics (2020:1) describe electronic invoicing as:

> Electronic invoicing (e-Invoicing) is the exchange of the invoice document between a supplier and a buyer in an integrated electronic format. Traditionally, invoicing, like any heavily paper-based process, is manually intensive and is prone to human error resulting in increased costs and processing lifecycles for companies.

The application of e-invoicing globally is on the VAT component of tax. Denmark, the Netherlands, Spain, and Sweden are some of the countries that have embarked with success on this method of tax simplification. In a study conducted by the PwC and the World Bank (2020), which determines which countries have embraced this technology, sub-Saharan Africa is placed last (see Figure 2.2 in chapter 2). In the age of the fourth industrial revolution where automation is ever-increasing, South Africa could learn from the rest of the world how to implement this technology to gain the best results. It is proposed that an advantage of not being at the cutting edge of this technology, is that South Africa can learn from mistakes made and can implement a more effective system.

In summary, the *e-filing* system was designed to create simplicity for taxpayers. The *e-filing* system is a functional system, but the present research indicates that some improvements can be made. Only approximately half of the individual taxpayers in South Africa in the 2019 tax year used the *e-filing* system. This section identifies ways in which it can be improved to unlock the benefits of the *e-filing* system. From SARS' strategic objectives, it is noted that tax simplification has been flagged as a priority. The expeditious implementation of some of these suggestions would improve the functionality of the *e-filing* system and reduce the time a taxpayer has to spend filing their return.

3.6 CONCLUSION

The objective of this chapter was to provide the South African context in relation to the global goal of tax simplification and suggest ways in which South Africa could make advances in this area. Tax simplification is not a straight-forward concept but is rather multi-faceted and, therefore, multiple areas were discussed. These areas include tax legislation simplification, the link between accounting standards and tax legislation, the possible reduction in the number of taxes levied, and the streamlining of the SARS *e-filing* platform.

The structure and language of current tax legislation makes the tax legislation very complex to read. This can cause confusion among taxpayers who are trying to comply with the legislation. For example, the inconsistent numbering system throughout the legislation, the complex language and punctuation used in the legislation, and the frequent use of cross-referencing complicate the legislation. The present research suggests that there should be an overhaul of the system to reduce the complexities. The process is, however, time consuming and costly, but addressing these complexities in tax legislation could result in a lesser degree of difficulty and increased tax collections. The establishment of an Office of Tax Simplification is recommended in order to provide an oversight of the process, thus giving the tax simplification process some validity.

The role of accounting in further complicating the tax calculation was considered. If the two systems could be more closely aligned there is an opportunity to create a simpler tax system. Following a review of international trends and the current situation in South Africa there does seem to be an opportunity to align the systems more closely, however there will always be differences in the two systems. This partial alignment is achievable and could contribute to a simpler tax system.

In considering a reduction in the number of taxes levied in South Africa, the area of taxes on wealth transfers such as donations tax and estate duty was identified as a possible solution due to their current low revenue collections and double taxing of the same transaction. A suggestion was made to increase the inclusion rate of capital gains tax for individuals to 60%, and to repeal donations tax and estate duty. This could possibly result in similar or increased revenues from current collections and contribute towards a simpler tax system.

In addressing the aspect of creating a more user-friendly *e-filing* system, the area of individual tax was identified as the area where there is currently the lowest usage of the system. To encourage users to engage with the system, the present research suggests the use of a "sandbox" application, further enhancing the pre-population of returns, improvements in relation to social media communications and finally the use of e-invoicing in relation to the payment of VAT. These options could make a contribution towards tax simplification.

The next chapter is the concluding chapter and provides a summary of the research findings in addressing the goals of the research.

CHAPTER 4: CONCLUSION

4.1 INTRODUCTION

The main goal of the research is to consider ways in which the South African tax system could be simplified. In doing so the global developments in relation to tax simplification are discussed and their application in a South African context is discussed. The thesis sets out to achieve the following sub-goals:

To determine:

- in what ways the Income Tax and Value-Added Tax Acts could be simplified;
- whether accounting principles and tax provisions could be harmonised to simplify tax legislation;
- to what extent the number of taxes levied in South Africa could be reduced; and
- how *e-filing* could be made more user friendly to reduce the administration costs incurred by taxpayers.

This chapter provides summaries of the findings and links these findings to the research goals of the thesis.

4.2 SUMMARY OF FINDINGS

The purpose of chapter one was to provide the context of the research dealing with tax simplification, by identifying contributing factors which have led to tax complexities. It was noted that tax simplification has many aspects, and therefore the present research identified four elements to be investigated in the present research. These aspects include the investigation of how tax legislation could be simplified, the role accounting plays in the tax calculation, the large number of taxes levied in South Africa, and finally the complexities associated with *e-filing*. The research goals were set out. The research methodology and procedures to be adopted for the research were described, together with the ethical considerations relating to the research.

The goal of chapter two was to discuss the global perspective of tax simplification in the areas identified in the sub-goals – the simplification of the Acts, harmonisation of accounting and tax, reducing the number of taxes, and making *e-filing* more user-friendly. Chapter two firstly

laid the foundation by defining the terms tax simplification and tax complexity. Secondly the benefits associated with a simplified tax system were discussed. Due to the tax simplification process potentially being a costly endeavour, the benefits associated with a simplified tax system need to be considered to justify whether the potential cost is warranted. In addition, chapter two outlined a method to determine whether a tax system has indeed been simplified. Cooper (1993) identifies the attributes of a simplified tax system as predictability, proportionality, consistency, compliance, administration, co-ordination and expression. Cooper (1993:417) refers to the attribute of administration as "a rule would be simple if it were easy for a revenue authority to administer." He refers to the co-ordination attribute as "a rule would be simple if it fitted appropriately with other tax rules; it would be complicated if its relationships with other rules were obscure" and explains the attribute of expression as "a rule would be simple if it were clearly expressed." Tran-Nam and Evans (2014) provide an alternative approach by classifying tax complexity through the identification of the different stages of the tax system. These stages include considering policy complexity, followed by a consideration of statutory complexity, then administrative complexity and finally compliance complexity. This laid the basis on which to commence an analysis of various ways in which the South African tax system could be simplified. The measures that various countries have undertaken, that have made progress in the area of tax simplification, were investigated. The first sub-goal identified in the research was to address the ways in which the Income Tax Act and Value-Added Tax Act could be simplified. The research identified international tax review projects which have shown that it is possible to make tax law easier to read and understand. New Zealand, the United Kingdom, the United States of America, and Egypt were identified as countries that have made progress in this area. In order to suggest measures to remedy the complexity problem, an understanding was gained of how the legislation arrived at the current level of complexity. Once this was done, countries were identified that had undertaken to reform tax legislation. Key aspects of the discussion relating to those countries, included the tax rewrite project conducted in New Zealand and the merits of the project. Another was the United Kingdom establishment of an Office of Tax Simplification to consider various aspects of tax simplification. The United States of America recognises the importance of the use of plain language to explain complex concepts of the legislation and introduced a Plain Language Act to promote this. Finally, Egypt's progress showcased a developing nation that has successfully implemented tax simplification measures.

The second sub-goal of this research relates to the aspect of whether accounting principles and tax provisions could be harmonised to simplify tax legislation. To achieve this goal, chapter two considered global developments in this area. Progress in this sphere of tax simplification in countries such as the Czech Republic, the United Kingdom, Australia and Croatia was discussed. This discussion revealed that there are similarities between the two systems and synergies were identified that could be applied to the South Africa tax system.

The third sub-goal was to consider the extent to which the number of taxes levied in South Africa could be reduced. The reduction of the number of taxes levied is a broad topic and the present research identified the capital transfer taxes of donations tax and estate duty as a possible area for streamlining, due to the high administrative costs and the low revenue stream associated with these taxes. An analysis was carried out of other countries' approaches to this aspect of tax simplification. The investigation revealed that, in many cases, taxes such as estate duty and donations tax have been repealed, to avoid double taxation of transactions.

The final sub-goal was to address how *e-filing* could be made more user friendly to encourage more taxpayers to make use of the system and to reduce the administration costs incurred by taxpayers. *E-Filing* is an important process in tax collection and if the tool could be made more user-friendly there could be multiple benefits for both the taxpayer and the revenue service. Many of the developed nations are continuously looking for ways to further improve their online platforms and currently embarking on a process of digitisation of invoices and rolling out pre-populated returns to create a user-friendly platform which reduces the level of knowledge required by a user to operate the system.

Chapter three set out to discuss tax simplification in a South African context, applying the findings from the literature reviewed in chapter two. The object of this chapter was to suggest ways in which tax could be simplified by addressing the sub-goals of the research. The present research attempts to incorporate aspects of Slemrod's (1984) four core attributes, as discussed in chapter two, in the analysis of ways in which the South African system could be simplified. These attributes include a tax system with a greater predictability, where tax laws become more certain; secondly, lower tax administrative costs in collecting the same amount of tax revenue; thirdly, a lower degree of difficulty; and finally, fewer opportunities for manipulation.

The first sub-goal of addressing complex legislation currently evident in the Income Tax and VAT Acts was dealt with. Firstly a phased-in approach of overhauling the current legislation

was suggested where the numbering and language style could be improved by applying a consistent numbering system throughout the Acts and re-writing the provisions in plain language that is easy to understand. Due to the cost of the process, it was suggested that older legislation should be tackled first, as older sections are more complex to understand. Cross referencing between sections and sub-sections within a section was also highlighted as an area to be addressed. Many sections have multiple cross-references, which results in taxpayers needing to have a holistic understanding of the legislation and not just the section which they are currently trying to apply. An overhaul of the Act does present challenges, however the benefits associated with tax simplification should not be overlooked. Some of these benefits include the reduction of the administration costs for both the revenue service and the taxpayer, reducing the time needed to comply with the tax requirements and deepening the taxpayers' understanding of the legislation. The suggestion made by the Davis Committee (2018b) was a complete overhaul of all legislation and not as a phased in approach; this is however a very costly and time-consuming process. Finally a recommendation was made to establish an Office for Tax simplification in South Africa which would manage the tax simplification process to ensure that the country moves towards the goal of a simplified tax system.

Secondly the sub-goal of the harmonisation of the accounting and tax records was discussed as well as an investigation into the record keeping requirements of both accounting and taxation. Maintaining two systems, namely a tax and accounting system, adds an unnecessary level of complexity for the taxpayer. The Davis Tax Committee (2018b) recommended that consideration should be given to the alignment of the legislation to International Financial Reporting Standards (IFRS), where suitable. This could assist in simplifying the process of determining taxable income based on financial statements. The Davis Tax Committee further emphasized that a complete alignment between taxation and IFRS is neither practical nor desirable, however areas such as the tax treatment of hedging arrangements could potentially be aligned. An alternative option was identified whereby reconciliations are performed to account for the differences in the two systems. Harnessing the power of computer technology was also suggested to process these differences and create the necessary outputs. The setting up of the system may require a significant start up expense, however once the system is operational, the running costs should be relatively low. There are frequent amendments to tax legislation and therefore regular updates to the system would be required. The time required to calculate the accounting and taxable income should be significantly reduced as only one input would be required.

Thirdly, the sub-goal of a reduction in the current number of taxes levied in South Africa was considered. In South Africa currently multiple taxes are levied, some which are levied on the same transaction. This increases the level of difficulty and inequity in a tax system. This section of the chapter aimed to find synergy within the taxes which are levied in order to reduce the number of taxes levied in South Africa, without affecting the revenue collections. This, in turn, would reduce administration costs associated with the management of several taxes. The possibility of consolidating taxes relating to capital transfers was identified as a possible solution. Various aspects of this proposal were discussed. Several Committees have previously been established in South Africa and they all indicated that the consolidation would be a costly process. Roeleveld (2012) concluded that there is scope for abolishing estate duty and donations tax, in favour of taxing individuals under capital gains tax provisions. The reduction in the number of taxes is a worthwhile goal, but it will require time and resources. The present research suggested an approach where donations tax and estate duty could be repealed and the inclusion rate for capital gains tax for individuals could be increased to 60% from 40% This could make up for the revenue loss from the repealed taxes. This suggestion would contribute towards reducing costs of administering multiple taxes, reduce the number of acts that need to be understood, and address the present problem of double taxation of the same transaction, thereby contributing towards tax simplification.

The final sub-goal of the research was improving the *e-filing* system in South Africa. The SARS *e-filing* system has the potential to be a vital tool in the process of tax simplification in South Africa. Evidence has indicated that the system has been widely adopted in the corporate arena, but many individual taxpayers appear to be reluctant to engage with the system. Suggestions were made that are aimed at reducing the level of difficulty, which in turn would enable taxpayers to complete their own returns. This could lower the cost of tax submissions, as professional accountants would not need to be consulted. Improvements can be made to the usability of the system. The improvement which was recommended to make the system more user friendly was implementing a "sand box" application, where taxpayers could simulate their tax return and engage with the system, without the fear of the negative consequences of making a mistake. Taxpayers could thereafter log in and submit their actual return. A further suggestion relating to the pre-population of tax returns which SARS is rolling out in the 2020 tax season, is to extend the range of transactions in a pre-populated tax return. This would create greater predictability and accuracy in the submission of tax returns. The pre-populated returns

presently link with the major banks, employers, retirement funds, and medical aids. This results in minimal input from the taxpayer, which can reduce complexity and creates fewer opportunities for manipulation. Currently there is no link with the deeds office and this link could improve the functionality of pre-populated returns. The public response to the roll out of this system has been mixed, as there appear to be some problems with the current system, which should be addressed over time. Another recommendation was to use the power of social media to engage with individual taxpayers and address their queries; many of the younger taxpayers are comfortable in the social media space, which would make the *e-filing* environment more appealing. Finally the use of e-invoicing in relation to the payment of VAT seems to have global acceptance. The e-invoicing software creates an environment where less manipulation of data is possible. E-invoicing for VAT could be implemented in South Africa. Users' administration costs could be reduced as information is centrally located. A further outcome of this software implementation is that the revenue associated with these collections could increase, as the data would be available to confirm the accuracy of VAT returns.

4.3 FINAL COMMENTS

The discussion in this thesis confirms that tax simplification should be prioritised in South Africa. The research highlights that when considering tax simplification, a holistic view needs to be taken, addressing one component in isolation will not yield effective results. This analysis considers multiple aspects of the tax system that could be simplified.

The main goal of the research was to provide ways in which the South African tax system could be simplified. Tax simplification is a global goal with many benefits for both the taxpayer and the revenue service. Based on the discussions in this thesis, these simplification measures can be summarised as follows:

- Ways to simplify the legislation:
    - a complete re-writing of the legislation in simple language, to create legislation that is more user-friendly, in a phased in approach, addressing older sections first;
    - amending the style used in the numbering of the Income Tax and VAT Acts;
    - reducing the amount of cross-referencing applied in each section to avoid complexity;

- applying the Flesch reading score to all new legislation prior to enactment to consider the level of complexity; and
- establishing an Office of Tax Simplification in South Africa to manage the process.

- Harmonisation of accounting and tax principles:
  - creating more synergy between accounting standards and tax legislation to reduce complexity;
  - allowing some industries to follow the accounting standards for taxation purposes, as many differences are only timing differences;
  - introducing a system of reconciliations between tax and accounting to allow for the recording of one system;
  - allowing the user to decide which documents are necessary to substantiate their returns and providing for penalties if these records are not available; and
  - introducing a software package which integrates the tax legislation and accounting standards.

- Reduction in the current number of taxes levied:
  - increasing the inclusion rate of capital gains tax from 40% to 60% for individual taxpayers and repealing donations tax and estate duty.

- Making *e-filing* more user friendly:
  - introducing a "sandbox" into *e-filing* to help taxpayers to navigate the system without the risk of making errors;
  - further developing the pre-population function of *e-filing* with a link to the deeds office to reflect property transactions;
  - introducing e-invoices as a method for collecting VAT; and
  - harnessing the power of social media to assist taxpayers.

While this list is not exhaustive, it is submitted that these are some suggestions which could be implemented to make progress towards a simpler tax system in South Africa. While there are many challenges currently facing the process of tax simplification in South Africa, this research highlighted the benefits associated with a simplified tax system.

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