

**THE PERCEPTION OF TAX PRACTITIONERS RELATING TO THE
INFLUENCE OF THE TAX ADMINISTRATION ACT ON TAXPAYERS' TAX
COMPLIANCE BEHAVIOUR IN SOUTH AFRICA**

BY

HEAVY MAPOSA

SUBMITTED IN ACCORDANCE WITH THE REQUIREMENTS FOR THE DEGREE OF

**MASTER OF PHILOSOPHY:
ACCOUNTING SCIENCE WITH SPECIALISATION IN TAXATION**

IN THE

COLLEGE OF ACCOUNTING SCIENCES

AT THE

UNIVERSITY OF SOUTH AFRICA

SUPERVISOR: Prof. A.P. Swanepoel

July 2016

Research Tittle

The perception of tax practitioners relating to the influence of the Tax Administration Act on taxpayers' tax compliance behaviour in South Africa.

DECLARATION

Name: HEAVY MAPOSA
Student number: 35625058
Degree: M PHIL ACCOUNTING SCIENCE.

Exact wording of the title of the dissertation as appearing on the copies submitted for examination:

THE PERCEPTION OF TAX PRACTITIONERS RELATING TO THE INFLUENCE OF THE TAX
ADMINISTRATION ACT ON TAXPAYERS' TAX COMPLIANCE BEHAVIOUR IN SOUTH AFRICA

I declare that the above dissertation is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

SIGNATURE

DATE

CHAPTER 1

INTRODUCTION AND BACKGROUND TO A STUDY ON THE PERCEPTIONS OF TAX PRACTITIONERS RELATING TO THE INFLUENCE OF THE TAX ADMINISTRATION ACT ON TAXPAYERS' TAX COMPLIANCE BEHAVIOUR IN SOUTH AFRICA

1.1 INTRODUCTION AND BACKGROUND

The extent of tax compliance has long been of concern to revenue authorities around the globe. In recent decades, as revenue authorities have become more reliant on self-assessment systems of taxation, other parties, including politicians, economists, social theorists, and academic researchers, have shown an increased interest in tax compliance (Mendel & Bevacqua, 2010:117). The effectiveness of self-assessment systems of taxation depends to a large extent on voluntary compliance by a taxpayer (Mendel & Bevacqua, 2010:117). The voluntary compliance by taxpayers creates a challenge for revenue authorities.

All revenue collection bodies share a common mandate. This mandate is to ensure a high level of compliance with the various tax laws and regulations in place within their jurisdiction (OECD, 2010:5). In order to ensure compliance, it is incumbent upon a revenue authority to influence the compliance behaviour of its taxpayer population (OECD, 2010:5). Although most taxpayers voluntarily comply with the tax laws, intentional non-compliance is a serious problem (Reckers, Sanders & Roark, 1994:825).

In terms of the European Commission (2010:21), research into tax compliance and taxpayers' behaviour started to attract attention in 1972 as a result of the research conducted by Allingham and Sandmo. Allingham and Sandmo (1972:330) presented a model, which in simplified terms, explained that tax evasion is a product of the risk of detection and punishment in the form of tax penalties. Knowledge of the drivers of tax compliance behaviour can help to delineate strategies and interventions that impact these drivers and thus tax compliance behaviour (OECD, 2010:12). However,

more general knowledge about human behaviour and principles of persuasion can be extremely helpful to increase the effectiveness of communication and treatments (OECD, 2010:12).

Therefore, the collection of tax revenue is threatened by tax compliance risks in the form of tax evasion, tax avoidance and non-compliance. Below are brief backgrounds of tax revenue, and tax compliance risks (tax evasion, tax avoidance and non-compliance), and the Tax Administration Act.

Tax revenue

Tax revenue is the main source of all governments' revenue (National Treasury, 2013:45). Every year the South African government spends billions of Rand in providing a better life for its people. This includes expenditure on health, education, social services, infrastructure development, housing, debt servicing, contingency reserves, etc. (Government spending and income, no 1 of 4). The National Treasury report (2013:60) further indicates that tax revenue for the financial year ended 2014 was 87,6% of the total government's revenue, a small decrease from the previous year which was 88,1%. Therefore, it can be seen that tax revenue forms the backbone on which the South African, and most other governments, depend on, hence the importance of managing tax compliance effectively and reducing the tax gap.

The tax gap is the total amount of tax not collected resulting from all forms of non-compliance. It is the difference between the total potential taxes collectable, which is not known, and the total tax collected (Alink & van Kommer, 2011:194). Although the size of the tax gap has not been reliably measured, studies have established that the tax gap is significant. International studies indicate that the tax gap ranges from around 10% in industrialised countries to more than 30% in developing countries (Mendel & Bevacqua, 2010:65). Both the Margo commission (1986:S27) and the Katz commission (1994:S5.1) dealt with tax morality and the tax gap in South Africa. The Margo commission points out that a tax gap is caused by tax evasion and tax avoidance.

Tax evasion, tax avoidance and non-compliance

Tax evasion and tax avoidance versus non-compliance should be briefly clarified, with a more detailed explanation to follow in Chapter 2. Tax compliance describes the willingness of a taxpayer to fulfil his tax obligation; therefore it refers to behaviour (European Commission, 2010:21). Non-compliance represents the most inclusive conceptualisation referring to failures to meet tax obligations whether or not those failures are intentional (Kirchler, 2007:21). The degree of compliance varies, however, and non-compliance does not necessarily imply the violation of a tax law (tax avoidance). The meaning of compliance is a continuum of definitions, which ranges from the narrow law enforcement approach to wider economic definitions and on to versions of taxpayer decisions to conform to the objectives of tax policy and co-operation with the society (Kirchler, 2007:21).

Tax evasion behaviour or 'tax cheating' is a deliberate act of non-compliance that results in the payment of less tax than actually owed whether or not the behaviour eventuates in subsequent conviction for tax fraud. Tax evasion excludes inadvertent non-compliance resulting from memory lapses, calculation errors, inadequate knowledge of tax laws, etc. With respect to income tax, evasion behaviour usually takes the form of deliberate under-reporting of income or claiming unwarranted deductions (Kirchler, 2007:22).

The Tax Administration Act (the TAA)

In his Budget Speech of 2005, the then Minister of Finance, Trevor Manuel, announced that the drafting of a Tax Administration Act (No. 28 of 2011) (the TAA) was to commence. The TAA was duly promulgated on 4 July 2012. The intention was that the TAA should recognise and respect taxpayers' constitutional rights in matters relating to tax administration (Klue, Arendse & Williams, 2012:vii).

SARS Legal and Policy Division (LAPD) (2011:181) indicate that the purpose of the TAA is to ensure the effective and efficient collection of tax by, *inter alia*, the following measures:

- by aligning the administration of the various tax acts as far as practically possible;
- by consolidating such provisions into a single piece of legislation;
- to determine the powers and duties of the South African Revenue Service (SARS) and its officials;
- to provide for the delegation of powers by the Commissioner of SARS (hereafter referred to as the Commissioner);
- by prescribing the rights and obligations of taxpayers and other persons to whom this act applies;
- by prescribing the powers and duties of persons engaged in the administration of the act; and,
- to generally give effect to the objectives and purposes of tax administration.

The TAA was mainly promulgated to deal with the administration of the Income Tax Act (No. 58 of 1962) (the Act) and the Value-Added Tax Act (No. 89 of 1962) (the VAT act). A brief background of these two acts will be provided in Chapter 2. What is most consistent with the taxes is that (1) the tax returns are self-assessments, in that the taxpayers submit their information, and SARS depends on this information, except in instances where SARS decides to do an audit to verify the information; and (2) the calculation of the tax due includes several considerations such as exemptions and deductions, which may be manipulated by taxpayers, resulting in non-compliance.

Several administrative sections of the VAT act and the Act were repealed in these tax acts and replaced by the corresponding provisions in the TAA. Below, are some of the examples of the changes brought about by the TAA, which will be discussed in more detail in Chapter 2:

- The oath of secrecy was repealed in the tax acts and replaced by the more detailed sections 67 to 74 of the TAA.
- The introduction of the Tax Ombud, and his duties, authority and obligations is spelled out in sections 15 to 21 of the TAA.

- Authority given to SARS to request third party returns in terms of section 26 of the TAA.
- The introduction of a fourth type of revised assessment (called a jeopardy assessment) that can be raised by SARS in terms of section 94 of the TAA.
- Authority given to SARS to carry out warrantless searches in terms of 63 and inspections without notices in terms of section 45 of the TAA.
- The introduction and regulation of understatement penalties in terms of sections 221 to 224 of the TAA.
- New regulations for tax practitioners in terms of section 239 to 243 of the TAA.

The TAA is an important determinant of tax compliance in South Africa. The OECD (2008:9) identified four pillars of tax compliance being:

- the registration for tax;
- the filling of tax returns;
- the declaration of complete and accurate information; and
- the payment of taxation obligations on time.

The TAA has, amongst others, the following objectives:

- to provide for the effective and efficient collection of tax;
- to provide for registration requirements;
- to provide for the submission of tax returns; and
- to provide for the recovery of tax (SARS LAPD, 2011:178)

The above TAA objectives are all pillars of tax compliance. This illustrates that the South African government has established the TAA with the intention to improve the tax compliance pillars.

This study aims to identify and establish how the TAA influences South African taxpayers' tax compliance behaviour, as perceived by tax practitioners. The effects of the TAA on taxpayers' behaviour will be identified by reviewing the TAA and other related literature and identifying provisions that can influence tax compliance

behaviour. The effects of the TAA will further be demonstrated by conducting a survey and face to face interviews with tax practitioners about the subject.

Tax practitioners are experts in terms of knowledge of tax, as they consult and advice on tax matters, therefore they are in the best position to give an opinion on how the TAA influences compliance behaviour. The identified effects will be approached from three perspectives, being:

- SARS' powers and duties;
- taxpayers' rights and obligations, and
- the role of tax practitioners.

The survey and face to face interviews will address the research questions in section 1.5.3 through the above mentioned three pronged approach, and it is envisaged that the results will establish how the TAA may influence tax compliance behaviour in general in South Africa. As the study's participants are only tax practitioners, the findings will relate mainly to taxpayers who make use of tax practitioners, and as part of the recommendations of the study, it will be recommended that taxpayers make use of registered tax practitioners.

A couple of research initiatives have been conducted on various determinates that may influence tax compliance in South Africa, but very little research has been done on the effects of the TAA on compliance behaviour. This study differs from previous studies in that it deals with a relatively new piece of legislation, with very limited literature available. The TAA was introduced in 2012 in South Africa, and as a result there have not been a lot of studies into this field as yet. Up to date, there is no instrument that has been identified to measure the effects of the TAA on tax compliance; hence the importance of this study.

Taking the above into consideration, the literature review, motivation of topic actuality, problem statement, and research objectives formulated for this study will now be discussed.

1.2 LITERATURE REVIEW

In the literature review the extent of the literature on the influence of the TAA on compliance behaviour will be discussed. The literature review will address the problem statement in section 1.4 and the research questions in section 1.5.3. Literature that refers to the TAA and how it affects tax compliance behaviour, sourced from the TAA, tax and tax compliance books, journals, gazettes, websites and decided court cases will be analysed and discussed comprehensively in Chapter 2, under the following headings:

1.2.1 SARS' powers and duties

This includes the powers, duties and obligations of the revenue authority as promulgated in the TAA, and how it could possibly influence tax compliance behaviour. Some of the duties include the registering of taxpayers, to penalise participants and promoters for non-disclosure of reportable transactions, the power for search and seizure, the authority to publish the names of tax offenders, the authority to request information from third parties and the authority to take on taxpayers for criminality on certain offences.

1.2.2 Taxpayers' rights and obligations

The TAA aims to bring about a better balance between SARS and taxpayers. In essence, the TAA seeks to balance the powers and duties of SARS with the rights and obligations of taxpayers in order to enhance equity and fairness in tax administration by providing a single body of law that outlines common procedures in a transparent relationship (Sabinet, 2012). Some of the rights that are to be discussed here include the appointment of the tax Ombud; the recognition of taxpayers' rights when an audit is referred to criminal investigation in terms of section 42 of the TAA; the rights to object to SARS' assessments and or decisions; the right to consent in writing under certain circumstances, e.g., SARS cannot carry out a search and seizure, unless SARS has reasonable grounds to do it without the consent; the right to fair understatement penalties based on their behaviour and motivations for lower penalties; the right to the voluntary disclosure programme; and

taxpayers have an obligation against a self-incrimination defence in terms of section 72 of the TAA.

1.2.3 The role of tax practitioners

Tax practitioners play a major role in influencing the tax compliance of their clients. Sections 240 to 243 of the TAA contain stipulations to regulate tax practitioners, to eradicate bogus practitioners and to ensure that taxpayers are advised by professional tax practitioners, which may have a positive impact on the taxpayers' compliance behaviour. The TAA will regulate tax practitioners by requiring them to be a member of a recognised controlling body (RCB) and SARS will determine which professional bodies qualify and which recognition may be withdrawn under prescribed circumstances (OECD Tax Administration, 2013:270). The tax practitioners must also be registered with SARS, and will be held responsible for the accuracy of the information they submit on behalf of their tax clients.

1.3 MOTIVATION OF TOPIC ACTUALITY

As indicated in section 1.1 above, the South African tax system is a self-assessment system. This means that SARS largely depends on information that is declared by taxpayers themselves. Despite all the efforts by SARS, there still appears to be a significant tax gap in South Africa (Naidoo, 2005:13). This threatens the country's tax base, and it's of utmost importance to protect the tax base. Through risk management, SARS may identify some taxpayers for an audit or an investigation, but this can only be done to a smaller fraction of taxpayers per given period. According to the SARS strategic plan (2009-2014), an average of 10,57% of taxpayers are audited each year. As a result huge numbers of non-complying taxpayers will remain non-compliant. The research is thus important as it revolves around tax compliance.

It is imperative to determine taxpayers' behaviour with regard to taxation in order to not only influence government policy regarding taxation, but also to enable government to market itself and its services more effectively to the general public (Lewis, 1982:41).

For the purpose of this study, three stakeholders have been identified being; SARS, the taxpayer and tax practitioners. The study provides an opportunity to measure if the duties and powers given to SARS in the TAA; the taxpayers' rights and obligations created with the introduction of the TAA; and the regulations introduced on tax practitioners can affect tax compliance behaviour.

The other potential benefits to be gained by the general public are that the TAA is a new concept which is still unknown to many people. This study may provide a better understanding of the TAA, and unveiling efforts that government and SARS are making in improving tax compliance, but taking into account the taxpayers' rights as enshrined in the Bill of Rights of the South African Constitution.

There are currently few completed studies in this field, and the findings of this study could assist in measuring if the introduction of the TAA brought a change in tax compliance behaviour in general when compared to the period before it was introduced. The findings may also bring about recommendations that could be incorporated as amendments to the TAA in future.

1.4 PROBLEM STATEMENT

According to Fourie, Landman and Schombee (2012:122) SARS estimates a South African tax gap of R30 billion per tax year, and also that about 40% of local businesses are not registered for tax purposes in South Africa. One of the main reasons for the tax gap is non-compliance by taxpayers (the definition of 'taxpayer' in the TAA is any person chargeable with any tax, and that includes non-registered taxpayers and potential taxpayers). One of the causes of non-compliance has been demonstrated to be attitudes and perceptions, or simply said, taxpayer behaviour.

The research problem to be addressed by this study is whether the newly introduced TAA influences taxpayers' behaviour to be more tax compliant, and therefore improve the general levels of tax compliance, resulting in the reduction of the tax gap and an increased collection of tax revenue for government.

1.5 RESEARCH OBJECTIVES

The research objectives comprise the main objective and secondary objectives. The research questions below, which are further reflected in the questionnaire and personal interviews, are intended to address the main and secondary research objectives. Chapter 2, the literature review section, will discuss the main and secondary research objectives in more detail based on the TAA literature, and Chapter 5, will analyse the extent to which these objectives are achieved based on the data collected from the questionnaires and personal interviews.

1.5.1 Main research objective

The main research objective for this study is to establish whether the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners, and to provide literature on the TAA, as it is still a new piece of legislation and lacks depth in terms of available literature. The envisaged influence is that taxpayers may become more compliant, and hence reduce the tax gap.

1.5.2 Secondary research objectives

The following secondary research objectives were set for this study to assist in achieving the main research objective:

- To establish the new interventions that are available in the TAA that SARS can employ to enforce and improve tax compliance, and to determine if these interventions do influence taxpayers' compliance behaviour;
- To highlight taxpayers' rights and obligations as provided by the TAA, and to establish if the rights and obligations influences taxpayers' compliance behaviour; and
- To highlight the role of tax practitioners as determined by the TAA, and to establish if the TAA's regularisation of tax practitioners influences taxpayers' compliance behaviour.

1.5.3 Research questions

The research problem, the main and the secondary research objectives will be addressed through three research questions, being the following:

- What is the role of SARS in the TAA that influences taxpayers' compliance behaviour? (SARS' duties and powers – section 1.2.1)
- What are the effects of the TAA on taxpayers that influence compliance behaviour? (Taxpayers' rights and obligations – section 1.2.2)
- What is the role of tax practitioners in the TAA that influences taxpayers' compliance behaviour? (The role of tax practitioners – section 1.2.3).

The research questions in the questionnaire and the face to face interviews emanated from the TAA. Some of the questions emanated from new TAA provisions and others from provisions that existed in the tax acts, but were amended when incorporated into the TAA.

1.6 RESEARCH METHOD

1.6.1 Participants/data source

This study will be conducted within both the quantitative and qualitative paradigm. Studies that is quantitative in nature aim to provide a broad overview of a representative sample of a large population (Mouton, 2008:152). The quantitative approach is used when one begins with a theory (or hypothesis) and tests for confirmation or disconfirmation of that hypothesis (Newman & Benz, 1998:3). It is assumed that the more than 150 anticipated respondents to the questionnaire will give a fairly good representation of the South African tax paying population, as the participants are tax practitioners who will represent the views of their several tax clients across the country.

Klenke (2008:7) defined qualitative research as a multi-method in focus, involving an interpretative, naturalistic approach to its subject matter. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or

interpret phenomena in terms of the meaning people bring to them. It involves the studied use and collection of a variety of empirical materials: case study, personal experience, introspective, life history, interviews, observational, historical, interactional, and visual texts that describe routine and problematic moments and meanings in individuals' lives. At least five face to face interviews will be conducted with tax practitioners.

The participants in the questionnaire and interviews will be tax practitioners. Requests were made to the three main tax practitioners' regulating bodies, the South African Institute of Chartered Accountants (SAICA), the South African institute of Professional Accountants (SAIPA) and the South African Institute of Tax professionals (SAIT) to download the questionnaire on their respective websites. They advised that the researcher obtained membership lists from their respective websites which include contact details and email addresses. Membership lists were extracted from the three sites, and 460 tax practitioners were randomly selected. The members were sorted in alphabetical order, per city, and every tenth member was selected to be a participant. A link to a web-based questionnaire was sent to the selected tax practitioners, through their email addresses. It was expected that at least 150 tax practitioners will participate.

Five tax practitioners were also randomly selected from the same websites to be participants for face to face interviewing using structured interview questions. The membership lists were sorted in alphabetical order, and every 50th member was selected to be an interview participant. The participants were contacted to arrange an appointment for the face to face interview.

1.6.2 Measuring instruments

A web-based questionnaire was used to obtain information from tax practitioners on their perception of the effects of the TAA on tax compliance behaviour. For each question, a participant chose whether he strongly agreed, agreed, disagreed or remained neutral on an issue. Explanatory information was provided to all participants. The participants remained anonymous, and the information obtained with the questionnaires to only be used for this study.

The other instrument used was structured interview questions. The interviews were face to face, and the researcher took notes during the interviews. The questions in the interview and questionnaire are similar, but in the interview, more explanatory details, were applicable for each question, were recorded.

1.6.3 Procedures

The web-based questionnaire link was mailed electronically to the selected tax practitioners for completion. More than 150 tax practitioners participated. The data was analysed using the approach of Rubin and Rubin (1995:226-227), which they describe as follows: “Data analysis begins while the survey questionnaires are still underway. This preliminary analysis tells you how to redesign your questions to focus in on central themes as you continue the survey. After the questionnaires are completed, you begin a more detailed and fine-grained analysis of what your conversational partners told you”.

Participants for interviews were contacted telephonically to arrange appointments for the interviews. All interviews were face to face with the participants. Details of the participants’ responses were recorded during the interview.

1.6.4 Statistical analysis

A web-based questionnaire was used as the main method of collecting data in this study, together with a number of personal interviews. The reasons for using questionnaires are the following:

- Primary data can be collected through the use of questionnaires (Saunders, Lewis & Thornhill, 2007:354);
- Questionnaires are considered an appropriate data collection method for descriptive research (Saunders *et al.*, 2007:356); and
- Questionnaires also yield quantitative information (Callahan & Hertbeg-Davis, 2013:450).

For each question, the respondents were asked to indicate whether they disagree, are neutral, agree, or strongly agree. In each of the questions, a percentage was calculated to determine the highest option of the respondents. If for example there were 150 respondents for question 1, and 28 disagreed (18,67%); 10 were neutral (15%); 100 agreed (66,67%); and 12 strongly agreed (8%), the highest choice will be respondents that agreed, and the lowest would be respondents who were neutral. Summaries of these percentages are presented in tables in Chapter 4. The above mentioned tables are done for each of the three segments of the questions (SARS' powers and duties; taxpayers' rights and obligation; and tax practitioners' influence). A conclusion is drawn from the results presented in each table in Chapter 4.

The reasons for using personal interviews, according to Gratton and Jones (2004: 142), are that they:

- Enable participants to talk about their own experience, in their own words, and allow them to elaborate on any areas of particular interest or importance;
- Allow the respondents to become more of an 'informant', providing data from their own perspective, which is often desirable, especially within inductive research; and
- Allow unexpected data to emerge, and allows the researcher to assess the participants' body language, facial expression, tone of voice, etc., which may be useful in some cases.

1.7 DELINEATION AND LIMITATIONS OF THE STUDY

The delineations of the study are; firstly, although the intention is to look into tax compliance behaviour determinates, not all taxes administered by SARS will be covered by this research. The TAA does not include the administration of the Customs and Excise Act, and therefore, this study will not discuss compliance to that type of tax. Secondly, the tax compliance behaviour that will be discussed in this study is only relevant to the South African tax system, as the TAA is a domestic legislation. References will however be made to other countries' tax administration and tax compliance, but the conclusions and recommendations will be based on the

South African TAA. Thirdly, the TAA is relatively new, having been introduced on 1 October 2012, there is still limited literature available on the subject.

The limitations of the research are: firstly, a large number of participants may not be possible due to the numerous physical impairments present in the population being studied. The impairments include, lack of tax knowledge amongst the greater South African taxpayer population, and the researcher's cost of travelling to all provinces of South Africa, as the interviews were done face to face. Logistics of contacting a large number of tax practitioners may be difficult. Secondly, the TAA is a new act, and some tax practitioners may not be familiar with certain provisions, and this may have an impact on their responses to the questions in the questionnaire. Thirdly, owing to costs implications, the five face to face interviewees are tax practitioners from the Free State and Northern Cape only.

Despite the above delineations and limitations, there remain salient reasons why the study should still be conducted. Currently, there are few studies on this subject in South Africa because the TAA is a new piece of legislation. It was not the purpose of the study to generalise the conclusions reached to the whole of the South African population, after all only taxpayers who make use of tax practitioners are represented here. The study only highlights the various perceptions of tax practitioners on this topic.

1.8 A FURTHER EXPOSITION OF THE STUDY

Chapter 1 is the introduction which includes a brief background, literature review, motivation of the topic, the problem statement, research objectives, research method and delineations and limitations.

Chapter 2 will cover a more detailed literature review. This discussion primarily centres on the provisions of the TAA that may influence taxpayers' behavioural changes.

The third Chapter discusses the research design and methodology applied for this study. The chapter provides details of the research design, sampling method, as well as the manner in which data was collected and analysed. The techniques used to enhance the validity and reliability of the outcome is also described.

The fourth Chapter presents the findings related to the main themes of the study. This chapter considers respondents' perceptions with regard to the influence of the TAA on taxpayers' compliance behaviour, and the final Chapter brings the study to a close. It highlights the respondents' comments regarding the TAA. It also considers strategies for government to improve the TAA, and tax compliance, and also discusses recommendations for future studies. The research design and methodology was summarised and the field of research was demarcated.

Chapter 5 will present the summary, conclusions and recommendations for the study. A summary of how the research objectives identified in Chapter 1, were achieved, will be presented. The limitations of the study, the research recommendations and recommendations for future research will also be discussed. The chapter will close of with the conclusions.

1.9 SUMMARY

This chapter introduced the focus of this study. It provided an introduction and background to the study and presented the problem statement and objectives. The importance and benefits of the study were also highlighted.

All revenue collection bodies share a common mandate. This mandate is to ensure a high level of compliance with the various tax laws and regulations in place within their jurisdiction. In order to ensure compliance, it is incumbent upon a revenue authority to influence the compliance behaviour of its taxpayer population.

The Tax Administration Act No. 28 of 2011 was duly promulgated on 4 July 2012. The intention was that the TAA should recognise and respect taxpayers' constitutional rights in matters relating to tax administration.

The research problem to be addressed by this study is whether the newly introduced TAA influences taxpayers' behaviour to be more tax compliant, and therefore improve the general levels of tax compliance, resulting in the reduction of the tax gap, and an increased collection of tax revenue for government. This study was conducted within both the quantitative (web-based questionnaire) and qualitative (personal interviews) paradigm.

This study portrays an expose of the influence of the tax administration legislation on tax compliance. The approach taken, which includes, a literature review, research design and method, and analysis of the research results helped in adding overall value to the understanding and influence of current tax administration legislation on people's tax behaviour in the South African context.

The next chapter, that details literature on the scope of this study, will include a background of the South African tax system, a comprehensive discussion on tax compliance, and the introduction of the TAA, which includes the tax administration before the TAA was introduced, and the changes that came with the TAA. The changes discussed in the chapter will mainly be centred on issues that influence compliance behaviour.

CHAPTER 2

LITERATURE REVIEW ON TAX COMPLIANCE AND THE TAX ADMINISTRATION ACT

2.1 INTRODUCTION

The literature review provides a contextual understanding of the South African tax system, which incorporates the general administration of the various tax Acts by SARS, tax compliance and the TAA. The discussion on the South African tax system is a brief background on the basis of taxes in South Africa. It also includes an introduction to income tax and Value-Added Tax (VAT). Tax compliance will comprise a discussion on the tax gap, tax avoidance and tax evasion. This chapter also details the introduction of the TAA, and the provisions of the TAA that relate to tax compliance. The provisions of the TAA are approached from three perspectives, namely SARS' powers and duties, taxpayers' rights and obligations and tax practitioners' influence. The discussions on SARS, taxpayers, and tax practitioners will be focussed on determining the extent to which the TAA legislation influences tax compliance behaviour. Finally, a discussion on the role of tax practitioners' controlling bodies in as far as their clients' tax compliance is concerned. The literature reviewed includes previous empirical studies and journals related to tax administration and compliance, the TAA and tax legislation, tax related books and court cases related to the subject.

2.2 THE SOUTH AFRICAN TAX SYSTEM

According to the SARS website (no date), the South African tax system is determined by the laws that the Commissioner must administer. The Act, the VAT Act, the TAA and the Customs Act No. 91 of 1964 are the most important of these. Every year the minister of finance presents the national budget, which outlines the total government expenditure for the following financial year and the ways in which this expenditure will be financed, including any amendments to the acts mentioned above (SARS website, nd). The TAA was introduced on 1 October 2012 and this affects the way SARS deals with taxpayers (SARS website, 30.01.2016).

South Africa has a residence based tax system, which means residents are, subject to certain exclusions, taxed on their world-wide income, irrespective of where their income is earned. Non-residents are, however, taxed on their income from South African (actual or deemed) sources. Foreign taxes are offset against South African tax payable on foreign income (Stiglingh, Koekemoer, van Schalkwyk, Wilcocks & de Swardt, 2015:59)

Countries with residence-based tax systems typically tax individuals and businesses resident in that country on their world-wide income (i.e. regardless of where it is earned) (World Bank, 2003:107). The resident-based tax system was introduced in South Africa for the years of assessment commencing on or after 1 January 2001 (Stiglingh *et al.*, 2015:59). Before that, a largely source-based tax system was used (Stiglingh *et al.*, 2015:59). Source-based tax systems typically tax individuals and businesses on income earned in that country (i.e. regardless of where the business is resident) (World Bank, 2003:107). As residence and source based systems can lead to double taxation on international transactions, the international tax treaties have the effect of providing “tax credits” to individuals resident in resident-based countries for income earned in source-based countries (World Bank, 2003:107).

The bulk of the South African government’s income is derived from income tax (personal and company tax), although nearly a third of the total revenue from the national government taxes comes from indirect taxes such as VAT (Stanlib, 2016:5). Taxpayers must be registered, and SARS’ aim is to grow the tax register and so reduce the tax gap. The level of economic growth is influenced by economic conditions, tax policy, legislative amendments, tax-base broadening activities, and the overall tax compliance climate (SARS Web, no date). The tax register comprises individuals, companies, Pay-as-You-Earn (PAYE) and VAT (SARS Web, no date).

The next couple of paragraphs will provide a brief background of the major tax types administered by the TAA, together with the generic risks of tax collections associated with the tax types.

2.2.1 Income tax for individual taxpayers

A taxpayer's income tax is levied on his or her 'taxable income' as defined in the Act for a particular year of assessment. Taxable income is defined in section 1 of the Act, as the balance that remains after deducting exempt income and deductions from gross income.

The starting point is 'gross income' (Williams, 2005:80). Section 1 of the Act, defines gross income as follows:

"Gross income, in relation to any year or period of assessment, means – (i) in the case of any resident, the total amount, in cash or otherwise, received by or accrued to or, in favour of such resident; or (ii) in the case of any person other than a resident, the total amount, in cash or otherwise, received by or accrued to or in favour of such person from a source within the Republic, during such year or period of assessment, excluding receipts of a capital nature..."

All of the requirements of the definition of gross income must be satisfied before an amount can be classified as gross income. If one of the requirements is not satisfied, the amount cannot be gross income and therefore will not be subject to normal tax (Stiglingh *et al.*,2015:14) SARS collects individual income tax mostly through employees tax. Employees tax, comprising 'Pay As You Earn' (PAYE) is required to be withheld monthly from 'remuneration' paid or payable by an employer to an employee in terms of the Fourth Schedule to the Act. The employer pays over the tax withheld to SARS within seven days after the end of the month it was withheld. At the end of the financial year, the employees are required to submit a tax return, and the employee's tax liability is reduced by the employees' tax that has been deducted from the remuneration during the year (Haupt, 2015:448)

Capital Gains tax (CGT), is also another form of individual income tax. The definition of gross income, as quoted above, excludes receipts of a capital nature, as such receipts attract CGT, subject to exemptions, deductions and provisions of the Eighth Schedule to the Act (Haupt, 2015:694). Another form of individual income tax is dividend tax, which became effective on 1 April 2012 and is levied at a rate of 15%

(subject to double tax agreement relief) on the amount of any dividend paid by any company to shareholders. Dividends tax replaced secondary tax on companies (STC), which was also levied on dividends paid, but the company was liable for STC (Haupt, 2015:478).

2.2.2 Income tax for companies

The definition of gross income in section 1 of the Act, specifically deals with residents and persons who are not residents. The term 'resident' is also defined, and it includes natural persons and companies. Therefore companies and natural persons are generally treated the same in terms of gross income, exemptions, and deductions, except where the act specifically differentiates, as such. For example, the section 10(1)(i) interest exemption is specifically for natural persons, and do not apply to companies.

Section 3(1)(i) of the Companies Act No. 71 of 2008 defines a company as "a company formed and registered under the Companies act or an existing company". A company is a legal or artificial person, recognised by the law. It is separate and distinct from its members or shareholders and should be treated as such for taxation purposes (Chand & Company, 2008:9). The term 'company' as defined in section 1 of the Act; includes close corporations, co-operatives, associations and body corporates.

In terms of the definition of "year of assessment" in section 1 of the Act, a company's year of assessment is not necessarily the end of February (as is the case for individuals), but coincides with the company's financial year end.

The rate at which a company's normal tax liability is determined differs from the rate applicable to other persons. The tax liability of a company is determined in accordance with the ordinary rules of taxation (i.e. gross income *less* exempt income *less* deductions). The normal tax payable by a company, for the 2016 year of assessment is 28% of the company's taxable income, in terms of paragraph three of the tax rates provided for in the Act. There is however other types of companies, for

example, a small business corporation, which is, in terms of section 12E of the Act, taxed on fixed rates per range of taxable income (Haupt, 2015:203).

In terms of section 64D of the Act, where a company pays a dividend, on or after 1 April 2012, dividends tax are levied on the dividend at a rate of 15%, subject to certain exemptions and reductions. In terms of paragraph 10 of the 8th Schedule of the Act, the inclusion rate of net capital gains into the normal taxable income is 66,6% for companies.

2.2.3 Compliance risks for income tax

Although this study does not specifically focus on general tax compliance, instead, it focuses on tax compliance as a result of the TAA, it is however vital to discuss the general compliance risks before the establishment of the TAA, some of which (the risks) could have been mitigated by the introduction of the TAA.

Personal business income is easier to disguise because individuals have more control over opportunities to disguise the income, than to disguise, for example, salary income. Company business income too can be easily disguised as companies have several sources of income and resources and opportunities to hide some of the income. (Caragata, 2012:100). Caragata (2012:101) goes on to indicate that individual taxpayers are motivated to protect their income from all incursions such as taxation because income is a personal possession and a tax on such income is a direct threat to a personal possession.

Taxpayers contemplating tax fraud may well calculate that the chance of being caught is very remote. Allingham and Sandmo (1972:234) mentioned that given the low probability of being audited, rational and selfish taxpayers would decide to evade or underreport taxable income. Their classical model of tax evasion also assumes that behaviour is influenced by factors such as the tax rates (which determines the benefits of evasion), and the penalties for fraud. Lan Mo (2003:2) mentioned that compliance risk is characterised by misrepresentation and concealment, deliberate understating revenues or overstating expenses, fabrication of invoices, and making false claims to tax allowances. According to Nelson (2006:146), tax compliance risks

include; failing to file a required tax return; filling a return based upon or containing intentional omissions or falsifications; characterising elements of ordinary earned income as reimbursements of expenses; and characterising earned income (e.g. business profits) as unearned income subject to a lower tax rate (e.g., interest, royalties, or dividends).

2.2.4 Value-Added Tax (VAT)

VAT is administered by the VAT act No. 89 of 1991. Almost every time a consumer purchases goods or services from a vendor in South Africa, he has to pay a price that includes VAT. VAT is a type of indirect tax and a direct cost to the final consumer, as he cannot claim the VAT amount paid back from SARS (Stiglingh *et al.*, 2015:1030). In terms of section 23 of the VAT act, every person who carries on an enterprise and makes, or has reasonable grounds for believing that he will make supplies with a total value of R1 million in a year, becomes liable for registration for VAT purposes, and becomes a VAT vendor. A person may register for VAT purposes where an enterprise makes taxable supplies of at least R50,000 per year. This is called voluntary registration, but should the supplies exceed R1 million, it becomes compulsory to register as a VAT vendor. Depending on the category of registration VAT returns which comprise a summary of income (outputs) and expenses (inputs), are, in terms of section 27 of the VAT act, submitted monthly, bi-monthly, four monthly, six monthly and yearly.

2.2.5 Compliance risks for VAT

As mentioned at the beginning of this chapter, the main cause of compliance risk is that throughout the world, most tax systems are based on self-assessment. The same applies to VAT - the vendor furnishes his VAT returns to SARS. If a vendor declares lesser outputs and/or higher inputs, SARS may only discover this if SARS has an intelligent compliance risk identification and selection system, otherwise this form of non-compliance may go undetected, hence the importance of understanding compliance behaviour. The other VAT compliance risks include registering companies for VAT, and issuing fraudulent tax invoices for fictitious purchases and imports between registered vendors to obtain VAT refunds from the revenue authority

(McGee, 2011:382). Businesses that deal in cash as traders and who sell from unusual locations also pose a threat to revenue collection, as the determination of their income is open to abuse (McGee, 2011:383).

2.3 TAX COMPLIANCE

Taxation and tax evasion have always gone hand in hand. In fact during William Pitt's speech introducing income tax in Britain in 1799, the problem of tax evasion occupied the centre stage: "it was to prevent all evasion and fraud that a general tax shall be imposed on all the leading branches of income" (Webley, Robben, Elffers & Hessing, 1991:1).

The meaning of tax compliance, tax evasion and tax avoidance versus non-compliance should be clarified. Tax compliance describes the willingness of a taxpayer to fulfil his tax obligation; therefore it refers to behaviour (European Commission, 2010:21). Non-compliance represents the most inclusive conceptualisation referring to failures to meet tax obligations whether or not those failures are intentional (Kirchler, 2007:21). The degree of compliance varies, however, and non-compliance does not necessarily imply a violation of a tax law. The meaning of compliance is a continuum of definitions, which ranges from the narrow law enforcement approach to wider economic definitions and on to versions of taxpayer decisions to conform to the objectives of tax policy and co-operation with the society (Kirchler, 2007:21). While on one end of the continuum non-compliance is illegal, at the other end non-compliance can conform to the law (Kirchler, 2007:22).

The different forms of tax compliance can be distinguished as follows: (a) Committed compliance being taxpayers' willingness to pay their taxes without complaints; (b) capitulative compliance which refers to reluctantly giving in and paying taxes; whereas (c) creative compliance being defined as engagement to reduce taxes by taking advantage of possibilities to redefine income and deduct expenditure within the brackets of the law (Kirchler, 2007:21).

The OECD (2008:9) has identified four categories or pillars of tax compliance, namely:

- Registration for tax purposes;
- Filing tax returns;
- Declaration of complete and accurate information; and
- Payment of taxation obligations on time.

Failure by a taxpayer to observe any of the above pillars may be construed to be non-compliance with tax legislation. Therefore, in terms of the pillars of compliance stated above, tax non-compliance occurs when there is a failure to perform a timely filling or submission by taxpayers of all required tax returns; when not accurately reporting the tax liability in accordance with the tax laws; when there is non-payment, or late payment on the tax due, an understatement of income, or overstatement of expenses.

In most countries there is a legal distinction between tax evasion and tax avoidance. Tax avoidance is not illegal, as attempts are made to reduce a tax liability by legal means, taking advantage of loopholes in the law and the 'creative designing' of one's income and deductions (Kirchler, 2007:22). On the other end, tax evasion is illegal, as it involves deliberate breaking of the law in order to reduce the amount of taxes due (Kirchler, 2007:22). Tax evasion can involve acts of omission (for example failing to report certain assets) or commission (for example falsely reporting personal expenses as business expenses) (Kirchler, 2007:22). Tax evasion behaviour or 'tax cheating' can be described as a deliberate act of non-compliance that results in the payment of less tax than actually owed whether or not the behaviour eventuates in subsequent conviction for tax fraud (Kirchler, 2007:22). Tax evasion excludes inadvertent non-compliance resulting from memory lapses, calculation errors, inadequate knowledge of tax laws, etc. With respect to income tax, evasion behaviour usually takes the form of deliberate under-reporting income or claiming unwarranted deductions (Kirchler, 2007:22).

According to Stiglingh *et al.* (2015:805) there is an important distinction between tax evasion and tax avoidance. Tax evasion refers to illegal activities deliberately undertaken by a taxpayer to free himself from a tax burden. An example of tax evasion is where a taxpayer omits income from his annual income tax return. Tax evasion is an offence and is subject to severe penalties in terms of sections 234 and

235 of the TAA. Tax avoidance, by contrast, usually denotes a situation in which the taxpayer has arranged his affairs in a perfectly legal manner, with the result that he has either reduced his income or has no income on which tax is payable. A taxpayer can, for example, donate an interest bearing investment of R100 000 to his major child without being affected by the provisions of donations tax.

No obligation rests upon a taxpayer to pay a greater tax than is legally due under the taxing Act (Williams, 2005:564). A taxpayer cannot be stopped from entering into a *bona fide* transaction which, when carried out, has the effect of avoiding or reducing a tax liability, provided that there is no provision in the law designed to prevent that avoidance or reduction of tax (Williams, 2005:564). This principle is clearly brought out in the case of IRC v Duke of Westminster (1936). The judge indicated that every man is entitled, if he can, to order his affairs so that the tax attaching under the appropriate Acts is less than what otherwise would be.

Allingham and Sandmo's (1972:338) classical model of tax evasion assumes that behaviour is influenced by factors such as tax rate (which determines the benefits of evasion), the penalties of fraud, as well as the probability of detection (which determines the cost), government's fiscal policy, tax enforcement policy and policy makers' assumption about taxpayers.

Tax compliance, tax evasion and tax avoidance influence the tax gap. The tax gap is the difference between the tax collected and tax that should be collected (the theoretical liability). The theoretical liability represents the tax that would be paid if all individuals and companies complied with tax legislation. The tax gap is quite an important tool in promoting understanding of all the causes of non-compliance and helping the tax administration to focus on them (House of Commons Treasury Committee, 2010:4).

The tax gap consists of three categories of non-compliance; (1) underreporting, which is the amount of lost revenue from filed tax return that underreport the amount of taxes owed; (2) underpayment, which is the difference between amounts that were reported to be owed, and amounts actually paid for correctly filed tax returns; and (3) non-filing, which is the amount of tax revenue lost from returns that were never filed

(Dubin, 2012:5). An understanding of tax compliance management processes is one of the strategies of reducing the tax gap (International Monetary Fund, 2012:10).

2.4 INTRODUCTION OF THE TAA

In his Budget Speech of 2005, the then minister of finance, Mr. Trevor Manuel, announced that the drafting of a TAA was to commence. The TAA No. 28 of 2011 was duly promulgated on 4 July 2012. The intention of the TAA is that it should recognise and respect taxpayer's constitutional rights in matters relating to tax administration (Klue, *et al.*, 2012: vii).

The TAA aspires to do more than merely collate and consolidate the administrative provisions of the various tax acts into a single statutory instrument, for it also attempts to make substantive changes to various administrative processes (Klue, *et al.*, 2012: vii). Klue *et al.* (2012:1-3) also indicates that the purpose of the TAA is to ensure the effective and efficient collection of tax by, inter alia, the following measures: by aligning the administration of the various tax acts as far as practically possible; by consolidating such provisions into a single piece of legislation; to determine the powers and duties of SARS and its officials; to provide for the delegation of powers by the Commissioner of SARS; by prescribing the rights and obligations of taxpayers and other persons to whom this TAA applies; by prescribing the powers and duties of persons engaged in the administration of the TAA; and generally to give effect to the objects and purposes of tax administration.

Stiglingh *et al.* (2015:1124) summarised the TAA as follows in Figure 2.1 below:

Figure 2.1: The TAA tax life cycle process

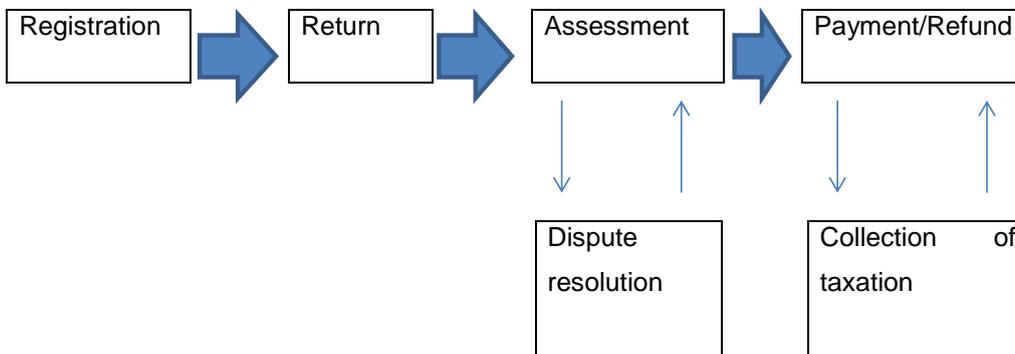


Figure 2.1 above illustrates that Stiglingh *et al*'s approach on summarising the TAA, was to divide the chapters of the TAA under the pillars of compliance, namely registration of taxpayers, submission of correct returns, assessments of correctly declared amounts, and payment of the outstanding taxes (as mentioned in section 2.3 above). Therefore the chapters are aligned to each tax compliance pillar, flagging the relationship between the TAA and tax compliance.

Section 2 of the TAA indicates that the TAA aims to align the administration of the various tax acts where practically possible. Before the TAA came into effect, the various tax acts administered by the Commissioner, each contained their own administrative provisions, which were consolidated and aligned in the TAA. Therefore, before the introduction of the TAA, some administrative issues in for example, the VAT act, were different from those in the Act.

The exercise of powers and performance of duties in terms of section 3 of the Act, and section 5 of the VAT act deal with the fact that the powers conferred to the Commissioner can be exercised by SARS officials under the supervision of the Commissioner. The TAA, in sections 6 to 9, prescribes who can exercise the powers and duties which are assigned to the Commissioner; the powers and duties required by the TAA to be exercised by a senior SARS official; the execution of tasks ancillary to a power or duty of the Commissioner or a senior SARS official; and powers and duties not specifically mentioned in the TAA. The TAA also introduced in the issue of

a conflict of interest, in that, the Commissioner or a SARS official may not exercise a power in a matter where there is a conflict of interest.

Before the dawn of the TAA, section 4 of the Act provided the requirements for SARS' employees to preserve the secrecy of taxpayer information that they may come across during the execution of their duties, including that they must take an oath before starting to work under this Act (work for SARS). Section 6 of the VAT act also dealt with the same issue, but does not specify on taking an oath. Both these sections were repealed and replaced by sections 67 to 74 of the TAA, which goes further to prevent former employees of SARS from disclosing information that they came across while being an employee of SARS. The TAA also spells out that taxpayers cannot refuse to comply with the requirements to file tax returns on the grounds that to do so might incriminate them, which was not covered in the tax acts. The tax Ombud was introduced by the TAA, in sections 15 to 21, to review and address any complaints by taxpayers regarding a service, procedural or administrative matter arising from the application of the provisions of a tax act by SARS. Before the introduction of the TAA, there was no tax Ombud, and therefore SARS dealt with the taxpayer's complaints directly.

The VAT act and the Act are silent with regard to submissions of returns by third parties, but the TAA introduced, in section 26, that the Commissioner may require returns to be submitted by third parties.

In terms of assessments, sections 77 to 80 of the Act and sections 31 to 31B of the VAT act, respectively referred to three types of assessments that could be raised by SARS, namely the additional assessments, reduced assessments, and estimated assessments. The TAA brought in a fourth type of assessment, the jeopardy assessment, which, in terms of section 94, may be raised prior to the date when that tax return is due, if SARS is satisfied that such assessment is necessary to secure an amount of tax that may otherwise be in jeopardy, for example where a taxpayer may flee the country.

The information gathering provisions of the TAA provide for, among other things, that SARS keeps taxpayers informed about the progress of an audit (section 42), and that

taxpayers can recover photocopying costs from SARS after completion of an audit or investigation (section 49(3)). SARS can now carry out inspections of taxpayer's premises without prior notice, and searches and seizures without warrants (in terms of section 63 of the TAA). These powers were not available before the implementation of the TAA.

Penalties were in two forms, namely the administrative and the additional tax penalties, in terms of sections 75B and 76 of the Act, and sections 59 and 60 of the VAT act. The TAA changed the former to non-compliance penalties, which is a fixed penalty charged for every month of non-compliance. The fixed amount is on a sliding scale depending on the amount of taxable income or assessed loss of a taxpayer. There are also prescribed reportable arrangement penalties and percentage based penalties in terms of sections 212 and 213 of the TAA. Additional tax is changed to understatement penalties (USP) in terms of sections 221 to 223 of the TAA, which is based on fixed percentages for five categories of behaviour from taxpayers. The implication of this is that, before the TAA, SARS would raise additional tax for income tax in terms of sections 75B and 76 of the Act, and for VAT in terms of sections 59 and 60 of the VAT act, but after the introduction of the TAA, the USP for both income tax and VAT were raised in terms of sections 221 to 223 of the TAA.

Stricter changes were imposed on tax practitioners (through sections 239 to 243 of the TAA), which include the fact that they must register with recognised controlling bodies, and that they will be held liable for their clients' information that they submit to SARS.

2.5. THE EFFECTS OF THE TAA ON SARS, TAXPAYERS AND REGISTERED TAX PRACTITIONERS, AND HOW IT AFFECTS COMPLIANCE BEHAVIOUR

The effects of the TAA on SARS, taxpayers and tax practitioners will be discussed with regard to SARS' powers and duties, taxpayers' rights and obligations and the tax practitioner's role.

2.5.1 SARS' powers and duties

One of the purposes of the TAA is indicated in section 2 of the TAA and that is to ensure the effective and efficient collection of tax by prescribing the powers and duties of persons engaged in the administration of a tax act. Section 2 of the Act, and section 4 of the VAT act both indicate that the Commissioner is responsible for the administration of the tax acts. Therefore the TAA prescribes the powers and duties of SARS. The literature below relates to the powers and duties of SARS as prescribed in the TAA which has an effect in influencing taxpayers' compliance behaviour, ie, Influences the compliance pillars identified in paragraph 1.1, namely; registration for tax; filling of tax returns; declaration of complete and accurate information; and payment of taxation obligations on time.

Registration

In terms of section 22(5) and 24(2) of the TAA, where a taxpayer, who is obliged to register with SARS, but fails to do so, SARS may register the taxpayer and allocate the taxpayer a reference number. One prerequisite for learning whether a taxpayer is registered is to have a reliable and efficient single register of taxpayers. Such a register is needed not only to control this gap but also to provide the basic hinge on which it will turn many of the activities to be carried out in order to narrow the other gaps (Bird & de Jantscher, 1992:276).

Section 22 of the TAA authorises persons who are obliged to register, and those who may register voluntarily to register in terms of the TAA and the relevant tax act. The Act is silent with regards to registration, which means persons who receive gross income, as defined in section 1 of the Act, are obliged to register in terms of the TAA. However, section 23 of the VAT act, which was not repealed by the introduction of the TAA, prescribes the requirements for registration for VAT purposes. This section states that every person who, carries on any enterprise and is not registered becomes liable to register (a) at the beginning of the month where the total value of taxable supplies made by that person in the period of 12 months ending at the end of that month in the course of carrying an enterprise has exceeded R1 million, (b) at the commencement of any month where there are reasonable grounds for believing that

the total value of taxable supplies to be made by that person in the period of 12 months reckoned from the commencement of the said month will exceed R1 million. Taxpayers may voluntarily register if their taxable supplies are above or expected to be above R50 000 per annum. In terms of the above stated provisions of the TAA and the VAT act, a person can be a VAT vendor even before he registers. As a result of this, taxpayers are included into the tax compliance net, even when they have not yet registered.

Section 24 of the TAA allows for the integration of all taxes into one global tax number per taxpayer. Therefore, in terms of section 24 of the TAA, if a taxpayer has a SARS liability in respect of VAT for example and due a refund in respect of income tax, this system will allow SARS to write-off the refund against the liability.

To further enforce tax compliance, section 22(a) stipulates that application for registration must be within the period provided in the tax act, or if no such period is provided for, 21 business days of so becoming obliged, and section 23 of the TAA stipulates that any changes of addresses or any other details must be updated with SARS within 21 days, otherwise penalties are payable.

Registration for tax is one of the four pillars of compliance mentioned in paragraph 1.1. Unregistered taxpayers are a direct contributor to the tax gap, and are leaving the tax burden to registered taxpayers, as SARS and the country have to obtain all the required revenue from the registered taxpayers. To encourage compliance with registration obligations, the TAA has provided a clear and compressive description of registration requirements. SARS needs to make the procedural requirements for registration as easy as possible, including investigating the feasibility of online registration in future. SARS also needs to ensure the completeness of taxpayer registration, including ensuring that taxpayers who fail to register or provide adequate information are detected. In this way, the registration requirements will be more effective in improving compliance.

Reportable arrangements

The TAA, in sections 34 to 39, imposes a duty on participants, namely the promoter of the arrangement or a company or trust which derives or assumes that it will derive a tax benefit or financial benefit by virtue of a reportable arrangement, to disclose the pertinent details of the reportable arrangement to SARS within 45 days in the prescribed manner and within the prescribed period, and failure to do so may result in penalties. This measure was introduced into the TAA to require taxpayers to disclose certain types of transactions, so-called 'reportable arrangements', to the Commissioner in advance of the transaction being reported in a tax return.

The provisions relating to reportable arrangements were repealed from sections 80M to 80T of the Act, and are now administered by sections 34 to 39 of the TAA. To further improve on tax compliance, the TAA added in section 35(1)(c), a provision that was not in the Act, which extends the meaning of a reportable arrangement to include a transaction that gives rise to an amount that is or will be disclosed by any participant in any year of assessment or over the term of the arrangement as- (i) a deduction for purposes of the Act but not as an expense for purposes of financial reporting standards; or (ii) revenue for purposes of financial reporting standards but not as gross income for purposes of the Act.

The purpose of the rules governing the reporting of reportable transactions is to enable the Commissioner to identify so-called 'tax avoidance' type transactions far earlier than was previously the case (Croome & Olivier, 2010:150). According to the United States Joint Committee on Taxation, (2007:322), which is also applicable to South African law, the United States tax law imposes a penalty on any tax adviser who fails to timely file an information return with respect to a reportable transaction.

The other substantive changes to the reportable arrangement provisions - as introduced by the TAA (in comparison to the tax Act) that may enforce tax compliance - relate to the penalties which may be imposed in the event of failure by a participant to make disclosure to SARS as prescribed by the TAA. Section 212 of the TAA imposes a penalty on a 'participant' who fails to disclose the information in respect of a reportable arrangement as required by section 37 of the TAA. The

penalty is charged for each month that the failure continues, up to 12 months, and is charged at R50 000 for a participant and R100 000 for a promoter. This penalty amount doubles if the tax benefit from the arrangement exceeds R5 000 000, and triples if the tax benefit exceeds R10 000 000. Before the introduction of the TAA, the maximum penalties that could be imposed in terms of section 80S of the Act was R1 million, which could be reduced by the Commissioner in certain circumstances.

The compliance effect of reporting an arrangement is that SARS will be notified of a transaction which it may consider to be suspect from a tax perspective and enable SARS to investigate the transaction at an early stage. The challenge is whether the promoters and participants, who are mostly related parties in the transactions, can turn up and report each other to SARS. The amended legislation, which includes the extension of the meaning of a 'reportable arrangement', quite clearly achieves the intention of the TAA, of improving compliance. The enforcement by SARS needs to be more than waiting for promoters and participants to report. SARS could consider issuing tax clearances for such transactions before they can take place, and in that way SARS would have a record of the transactions before-hand.

Search and seizure

The power of search and seizure is one of the powers granted to the Commissioner in order to effectively enforce tax compliance. Sections 74 of the Act and section 57D of the VAT act were repealed and replaced by sections 59 to 66 of the TAA. The income tax and VAT legislation relating to searches and seizures were similar and authorised the Commissioner to enter and search premises of any person, and to seize any information, documents or things, but with a warrant. In terms of section 63(1) of the TAA, a senior SARS official is authorised to conduct a warrantless search and seizure if a person who may consent thereto so consents in writing or if the senior SARS official, on reasonable grounds, is satisfied that:

- There may be an imminent removal or destruction of relevant material likely to be found on the premises. Section 1 of the TAA, defines relevant material as any information, document or thing that is foreseeably relevant for tax risk assessment, assessing tax, collecting tax, showing non-compliance with an obligation under a tax act or showing that a tax offence was committed;

- If SARS applies for a search warrant, a search warrant will be issued; and
- The delay in obtaining a warrant would defeat the object of the search and seizure.

The other improved compliance strengthening provisions that were introduced by the TAA include:

- SARS may apply for a warrant to a magistrate, if the matter relates to an audit or investigation that does not exceed the amount determined by the minister by public notice, (section 59(3) of the TAA).
- The warrant must be exercised within 45 business days or such further period as a judge or magistrate deems appropriate on good cause shown, (section 60(3) of the TAA).
- If SARS foresees the need to search and seize relevant material that may be alleged to be subject to legal professional privilege, SARS must arrange for an attorney from a panel appointed by the minister to be present during the execution of the warrant. The minister appoints a panel through a tendering process wherein a tender is published, and interested persons apply.

The OECD Tax Administration (2013:349) which supports section 63 of the TAA, indicates that in South Africa, search and seizure may be done without a warrant under special circumstances, as introduced by the TAA. And, for dwellings only the part that is used for business purposes may be entered without consent and a search warrant. Klue *et al.*, (2012:8.6.2) argues that the power to conduct a warrantless search and seizure is a narrow exception to the requirement that search and seizure occur in pursuant to a warrant. However, such narrow exceptions do occur in South African law (such as those described by section 22 of the Criminal Procedures act, a search and seizure may be conducted without a warrant), and our courts, including the Constitutional Court, have emphasised that such narrow exceptions to the warrant requirement are appropriate (Klue *et al.*, 2012:8.6.2).

The amendments of the search and seizure provisions to include warrantless searches under prescribed conditions are a fair strike to both SARS and taxpayers in

the quest to improve compliance. The reasonable grounds under which SARS can carry out warrantless searches and seizures ensure that SARS only targets evaders in pursuit for compliance. SARS would have to think twice before they carry out a warrantless search to avoid embarrassment and litigation.

Publication of tax offenders

Section 74 of the TAA authorises the Commissioner to publish, for general information, the particulars of taxpayers who committed tax offences if the taxpayers have been convicted of the offences. The information to be published includes the name of the offender and area of residence, the particulars of the offence and the details of the fine or sentence. For purposes of their credibility, taxpayers would not want their customers, competitors and other stakeholders to know of their bad tax records, and would thus be compelled to comply with tax legislation to avoid being published.

The publication of offenders was repealed in section 75A of the Act and section 62 of the VAT act. The provisions in the tax acts were similar, and the adopted legislation in section 74 of the TAA is basically similar to ones repealed in the tax acts.

The default of a minority of taxpayers shifts the tax burden to compliant taxpayers. Accordingly, the broad base of compliant taxpayers has a vested interest in knowing what action has been taken against those who have not been compliant. Certain details of taxpayers who have been convicted of a tax offence may be published by the Commissioner (SARS Short Guide, 2013:36). Despite the 'so-called' secrecy provisions contained in chapter 6 of the TAA, section 74 of the TAA empowers SARS to from time to time publish the names and particulars of offences committed under the tax acts, as well as similar offences committed under the common law (Croome & Olivier, 2010:198). It is SARS' practice to publish the names of tax offenders in the daily newspaper, on a regular basis. The aim of such publication is no doubt to act as deterrent. It should be noted that SARS' right to publish the names of tax offenders does not extend to taxpayers liable for administrative penalties, but only those to have been convicted by a court of law (Croome & Olivier, 2010:198).

South Africa is not alone in this compliance enforcement measure. According to Van der Hel (2011:314), the fiscal legislation of Spain also uses the publication instrument. It is not intended to be a sanction, but is experienced as such by taxpayers. The publication details include the name of the negligent or offending taxpayer, the amount of tax evaded, and the amount of any fines imposed.

Tax crimes and liabilities are mostly confidential and only known to the taxpayer and his or her inner circles. In this age of social media, when a name is published for tax evasion, the news goes around the world in a few minutes. These provisions have physiological effects of fear of embarrassment of being named and shamed, and being blacklisted as a tax dodger.

Jeopardy assessments

The TAA (in section 94) introduced jeopardy assessments, a new concept in the South African tax law. Before the introduction of the TAA, the types of assessments that were available to SARS were estimated assessment, additional assessments and reduced assessments in terms of sections 78 to 79A of the Act and in terms of sections 31 to 31A of the VAT act. Jeopardy assessments are the fourth type of assessment introduced by the TAA.

A jeopardy assessment is issued where the danger exists that a taxpayer will dispose of his or her assets and as a result will not be in a position to pay his or her outstanding taxes. In such circumstances a taxpayer need not be notified of the assessment (Croome & Olivier, 2010:106).

Jeopardy assessments are an addition to other powers in the TAA that may be applied if the collection of tax is in jeopardy. Jeopardy assessments, also known as protective assessments, may be issued in advance of the date on which the return is normally due in order to secure the early collection of tax that would otherwise be in jeopardy or where there is danger of tax being lost by delay (SARS Short Guide, 2013:43). It may be issued where a taxpayer, for example, tries to place assets beyond the reach of SARS' collection powers when an investigation into the taxpayer's tax affairs is initiated or where a tax debtor is about to leave South Africa

without satisfying such tax debts (SARS Short Guide, 2013:43). Since the purpose of a jeopardy assessment is to raise a liability urgently, the assessment may be an estimation based on information readily available to SARS (SARS Short Guide, 2013:43).

Payment of taxation obligation on time is one of the compliance pillars alluded to in paragraph 1.1. Most tax liabilities are determined after the end of the year of assessment, but this compliance measure, ensures that a liability is determined immediately without waiting for the end of the year of assessment. SARS can then pursue the payment of the liability. The legislation, which may be applied under prescribed conditions (paragraph 2.5.2), influences compliance, and was probably introduced because SARS was writing-off huge debts of taxpayers who have shifted their assets elsewhere before meeting their tax liabilities.

Access to third party information

SARS can via a public notice, and from the authority given in section 26 of the TAA inform any third party “who employs, pays amounts to, receive amounts on behalf of or otherwise transacts with another person, or has control over assets of another person...” to furnish them with any information SARS requires with regard thereto.

Before the introduction of the TAA, sections 74A and 74B of the Act, and sections 57A and 57B of the VAT act administered the request of information from third parties. Although the tax sections, which were similar in the Act and the VAT Act, did not state explicitly that SARS can request information from a third party, it included a statement that quote, “the Commissioner or any officer may, for purposes of the administration of the tax act...require a taxpayer or any other person to furnish information...”. The phrase “any other person” authorised SARS to request information from banks, insurance companies, or medical aid funds about a particular taxpayer.

Due to a government notice passed during February 2012 financial institutions must inform SARS every six months of specific data that is required by SARS from each of their clients who have a bank account. Tax administrations frequently obtain

information from other government bodies, regulatory bodies (who may maintain asset registers for properties, aircraft, shares and securities) and third parties that are obliged to provide certain customer data (OECD, 2009:38). Owing to this, if also applied in South Africa, verification of documents in the tax office will be far more effective if the information provided by the taxpayers in their tax returns can be cross-checked with information legally provided by third parties (Alink & Van Kommer, 2011:321). A request for relevant material from third parties is not limited to a formal audit or investigation, but may be utilised for any purpose related to the administration of the TAA, including a simple verification of registration and other details, compliance with any obligation imposed under a tax act such as reportable arrangements (SARS Guide on TAA, 2013:26).

With the rapid growth of technology, this legislation supports SARS to surprise taxpayers by pre-populating their returns with information obtained from third parties. In future, when a taxpayer logs onto e-filing, for example, they could find a return already including income received from banks and other sources, or retirement annuity deductions from insurance companies, and many others. Although taxpayers will be entitled to edit the pre-populated information, as is the case now, they will feel that they are caught out and scared to under declare received income.

Unannounced inspections

Taxpayer's compliance behaviour may also be influenced by the fact that SARS can, in theory, (in terms of section 45 of the TAA) at any moment appear at a taxpayer's doorstep and request relevant material, without prior notice. In terms of this section, a SARS official may, for the purpose of the administration of a tax act and without prior notice, conduct an inspection at premises where he has reasonable belief that a trade or enterprise is being carried on to determine:

- The identity of the person occupying the premises.
- Whether such person is registered for tax.
- Whether the person retains records, books of account or documents in the form as required by the tax acts (Stiglingh *et al.*, 2015:1138).

The provision was introduced by the TAA, and did not exist in the tax acts. The inspections will typically be used for tax base broadening purposes or verification, such as the existence of an enterprise for purposes of VAT registration (SARS Short Guide, 2013:36).

The TAA limits SARS in certain aspects and an inspection under such circumstances can only be done by a senior SARS official. In Sweden, if there is a risk that the taxpayer will not wish to co-operate in a tax audit, the tax administration is authorised to invoke the act on Special Means of coercion in Tax Matters, and institute a tax audit without advance notification (Van der Hel, 2011:264). In Slovakia, the tax administration is obliged to issue a written announcement to the taxpayer, but there is an exception to the rule where there is a threat of abuse, and of the destruction of or changes in books and accounts or other documents (Van der Hel, 2011:264). The Belgian tax administration is authorised to make examinations without prior notification (Van der Hel, 2011:265).

While an unannounced visit is an effective way of proving existence of enterprises, it could become a fruitless exercise when the visited taxpayer claims to be busy and prefers that SARS make an appointment. There is no obligation for taxpayers to stop everything when “SARS arrives”. Where SARS finds the taxpayer unavailable, SARS would have to make an appointment, effectively defeating the purpose of this provision,

Criminal offences

The provisions in respect of criminal offences relating to non-compliance and evasion of taxes as imposed by sections 234 and 235 of the TAA will influence compliance behaviour. Offences were administered by section 104 of the Act, and sections 58 and 59 of the VAT act. Section 104 of the Act and section 59 of the VAT act were repealed, and a greater part of section 58 of the VAT act was also repealed, leaving a few provisions. All the repealed sections are replaced by sections 234 to 237 of the TAA.

A taxpayer will be committing a criminal offence if they fail to comply with the tax obligations imposed under the TAA. If found guilty the taxpayer is subject to a fine or to imprisonment for a period not exceeding two years (Klue *et al.*, 2012:10.2). The TAA distinguishes between criminal offences relating to:

- Non-compliance with tax acts;
- Tax evasion;
- Secrecy provisions; and
- Filing a return without authority (Stiglingh *et al.*, 2015:1168).

The criminal offences relating to non-compliance with tax acts, and for which upon conviction are subject to imprisonment for a period of two years include:

- General offences concerning non-compliance;
- Contravening the secrecy provisions;
- Failure to register and notify SARS of a change to registered particulars;
- Failure to appoint a representative taxpayer;
- Failure to retain records;
- Non-compliance with a request issued under the information gathering powers; and
- Not disclosing relevant material or facts to SARS when required (Klue *et al.*, 2012:10.2).

The criminal offences relating to the evasion of tax, and for which upon conviction are subject to imprisonment for a period of up to five years include:

- Making or causing or allowing any false statement or entry to be made in a return or other document, or signing a statement, return or other document submitted without reasonable grounds for believing the same to be true;
- Giving a false answer, whether orally or in writing, to a request for information made under the TAA;

- Preparing, maintaining, or authorising the preparation or maintenance of false books of accounts or other records, or falsifies or authorises the falsification of books of account or other records;
- Making use of, or authorising the use of, fraud or contrivance; and
- Making any false statement for the purpose of obtaining any refund of or exemption from tax (Stiglingh *et al.*, 2015:1169).

Criminal offences, some of which don't have an option for fine, makes evaders to think twice before they evade, resulting in capitulative compliance.

Penalties

SARS is empowered by section 210 of the TAA to impose non-compliance fixed penalties if SARS is satisfied that non-compliance by a person exists. Where an amount of tax was not paid as and when required under a tax act, SARS must, in addition to any other penalty or interest for which the person may be liable, impose a penalty equal to a percentage of the amount of unpaid tax as prescribed under that tax act in terms of section 213 of the TAA. If the amount of tax in respect of which this penalty is imposed, changed, the penalty must be adjusted accordingly (Stiglingh *et al.*, 2015: 1152).

The principal goal of sanctions is based on a simple premise – the threat of punishment (imposition and effective collection of monetary administrative sanctions) deters unwanted behaviour (non-compliance and tax evasion). If the likely punishment is sufficient to outweigh the prospect of gain, a rational person will not undertake the activity that will result in that likely punishment (SARS Short Guide, 2013:73).

Fullarton (2015:106) also consider penalties as an economic factor and conclude that 'a rise in the penalty rate will lead to an increase in declared income'. Kirchler notes 'penalties are frequently used to be useful measures to prohibit undesired behaviour...' cited by Fullarton, 2015:106. He also refers to economic modelling, survey studies and laboratory experiments which indicate that higher punishment seems likely to be more efficient in preventing evasion (Fullarton, 2015:106).

Non-compliance and administrative penalties will compel taxpayers to comply with tax legislation. Taxpayers will comply better if they believe that failure to do so will mean assuming a substantial risk of being penalized in a relatively severe fashion (Bird & de Jantscher, 1992:274). If this were not so, there would be no way of explaining how it is that in Chile, in the late 1970's, with a military government that had limited popular support, there was nevertheless a marked rise in tax compliance (Bird & de Jantscher, 1992:274). Penalties are used all over the world to encourage tax compliance and to discourage tax evasion (Mendel & Bevacqua, 2010:62). The purpose of Chapter 15 of the TAA is quite clear as section 209 states in no uncertain terms that it is to ensure:

- The 'widest possible compliance' with tax legislation and the 'effective administration' of tax legislation; and
- The administrative non-compliance penalties are imposed 'impartially, consistently, and proportionately to the seriousness and duration of the non-compliance'.

The penalties introduced by section 210 of the TAA include:

- Percentage based penalties for failure to pay tax;
- Non-compliance penalties in respect of which an understatement penalty has been imposed; and
- Penalties for failure to disclose information subject to a reportable arrangement.

Sections 75 and 75B of the Act and section 59 of the VAT act were repealed and the provisions are included in section 210 of the TAA.

According to section 211 of the TAA, the fixed penalties are dependent on the amount of an assessed loss or taxable income of the taxpayer for the preceding tax year, and the penalty amount is charged for every month or part thereof that the person fails to remedy the non-compliance. At present, the only incidence that is subject to a fixed amount penalty is a natural person's failure to submit an income tax

return as and when required under the Act for years of assessment commencing on or after 1 March 2006 where the person has two or more outstanding income tax returns for such years of assessment (Stiglingh *et al.*, 2015:1152).

The other type of penalty imposed by sections 221 to 224 of the TAA is understatement penalties. The understatement penalties (section 222 of the TAA) replaced what was known as additional tax levied in terms of section 76 of the Act and section 60 of the VAT act. These sections allowed the Commissioner to levy up to 200% additional tax in respect of defaults described in the sections and permitted the Commissioner to remit as he may think fit (OECD Tax Administration, 2013:337). The 'additional tax' penalty regime was replaced by an "understatement penalty" regime in terms of section 222 under the new TAA, where relevant behaviour (reasonable care not taken in completing a tax return, no reasonable grounds for tax position, gross negligence and intentional tax evasion) will determine the level of the penalty (OECD Tax Administration, 2013:337).

Section 221 of the TAA defines "understatement" as prejudice to SARS or the fiscus in respect of a tax period. Therefore an understatement penalty may only be imposed if the fiscus is prejudiced by the taxpayer's conduct in reporting. If there is prejudice, this must have been caused because a taxpayer did not file a tax return, filled a return but omitted an item from that return, or filled a tax return in which an incorrect statement was made (SARS Short Guide, 2013:78). The understatement penalty is levied on the shortfall. "Shortfall" is defined in section 222 of the TAA, as the difference between the correct tax liability and the taxpayer's tax reported.

The TAA, in section 223, provides a table with the applicable understatement penalty rate based on the different taxpayer behaviour and conduct of taxpayers. Table 2.1 below illustrates the different percentages per type of tax behaviour.

Table 2.1: Understatement penalty table

1	2	3	4	5	6
<i>Item</i>	<i>Behaviour</i>	<i>Standard case</i>	<i>If obstructive, or if it is a 'repeat case'</i>	<i>Voluntary disclosure after notification of audit or investigation</i>	<i>Voluntary disclosure before notification of audit or investigation</i>
(i)	'Substantial understatement'	10%	20%	5%	0%
(ii)	Reasonable care not taken in completing a tax return	25%	50%	15%	0%
(iii)	No reasonable grounds for 'tax position' taken	50%	75%	25%	0%
(iv)	Gross negligence	100%	125%	50%	5%
(v)	Intentional tax evasion	150%	200%	75%	10%

An understatement penalty is calculated by applying the highest applicable understatement penalty percentage in accordance with the above table, in relation to each understatement. (Source: Section 223 of the TAA)

Penalties are often used to change undesired behaviour, and the fear of paying more results in taxpayers complying. However, the fear of penalties can also result in taxpayers being more sophisticated in their evasion, so that they are not caught and penalised.

Recovery of tax debts

Chapter 11 of the TAA contains the unique powers SARS has to recover a tax debt, as well as certain provisions that determine the procedural aspects of tax recovery. All the special recovery powers can be used to recover an amount due by any category of person liable. Some powers of recovery contained in the TAA are carried forward; with amendments from the existing tax acts (SARS Guide on TAA, 2013:62).

The powers that are contained in the tax acts, and are incorporated with the improvements in the TAA are:

- The civil judgement procedure (section 172 of the TAA). Where a person does not pay an amount owing, SARS may file a statement with the clerk of the Magistrate Court or the registrar of the High Court. This has an effect of a civil judgement lawfully given in favour of SARS, and the taxpayer's assets may be attached by the Sheriff through a writ of execution.
- Authority to institute sequestration or liquidation proceedings (section 177 of the TAA). This can be done even when the debt is in dispute.
- The appointment of a third party who holds or owes money to a tax debtor to pay the tax debt (section 179 of the TAA).
- The personal liability of persons involved in the financial management of a taxpayer, i.e., shareholders, members, and directors, including representatives and withholding agents (SARS Guide on TAA, 2013:62) (section 180 of the TAA).

The TAA introduced the following new provisions:

- The personal liability of shareholders for tax debts of companies 'stripped' of assets (section 181 of the TAA). According to Campos and Fidrmuc (2003:230), when a firm is stripped of assets, the directors reinvest them in another venture. In doing so, they benefit from the returns deriving from such assets.
- The personal liabilities of transferees who receive assets below market value from a tax debtor (section 182 of the TAA).
- The personal liability of persons who assist tax debtors to dissipate assets to frustrate the collection of tax. SARS has authority to apply for a preservation order where a tax debtor dissipates assets (section 183 of the TAA).
- Compulsory repatriation of foreign assets of a taxpayer to satisfy domestic debts (section 185 of the TAA) (SARS Guide on TAA, 2013:62).

The above provisions are an indication of the TAA's measures to improve tax compliance by shifting tax recovery to personal liability of shareholders and directors who deliberately institute interventions to frustrate the collection of tax by the Commissioner

2.5.2 Taxpayers' rights and obligations

The TAA aims to bring about a better balance between SARS and taxpayers. In essence, the TAA seeks to balance the powers and duties of SARS with the rights and obligations of taxpayers in order to enhance equity and fairness in tax administration by providing a single body of law that outlines common procedures in a transparent relationship (SARS LAPD, 2011:178)

Tax compliance rests on two principles: exchange (vertical) equity and horizontal fairness (Bergman, 2010:15). Most studies on this subject have been devoted to considering how rulers can create the right institutions to enhance vertical equity and trust, but surprisingly, much less energy has been directed towards understanding how rules can guarantee that co-operators are not being exploited (horizontal fairness) (Bergman, 2010:15). Better compliance can be ensured if states can succeed in deterring passive co-operators from defecting in the tax game (Bergman, 2010:15).

There are three key aspects to process equity and fairness. Firstly, political processes give taxpayers an opportunity to influence how and to what extent they are taxed. Secondly, tax systems include safeguards that permit to challenge the taxes assessed. Thirdly, tax administrators are expected to treat taxpayers with respect (AICPA Tax Policy Concept statement, 2007:4).

In a past work, economic psychologist, Paul Webley, focuses on business tax compliance (OECD, 2004:38). Despite the relative scarcity in this area, Paul Webley provides an overview of robust empirical findings which recur in relation to both individuals and businesses. According to Webley, one of the main reasons for non-compliant behaviour is equity (OECD, 2004:38). The perceived fairness of a tax system is important, and taxpayers' behaviour is influenced by two perceptions: that

the system treats them unfairly compared to others; and that the government is doing too little with the revenue it collects (OECD, 2004:38).

Non-economic factors, such as the trust which the government commands among its people; the social norms dictating behaviour for taxpayers and members of society; the sense of fairness to others, all influence tax behaviour and compliance with tax laws (Ongwamuhana, 2011:41). A taxpayer's perception of the fairness of the tax system is an important determinant that may influence the tax compliance behaviour of that taxpayer. When taxpayers consider the tax system to be unfair they are encouraged to be non-compliant (Gilligan & Richardson, 2005:331).

The paragraphs below detail the provisions of the TAA that talk to the rights and obligations of taxpayers, how they improve fairness in the tax system (and hence changes compliance behaviour).

Tax Ombud

Section 15 of the TAA creates the legal framework for the creation of a tax Ombud in South Africa, which did not exist before the introduction of the TAA. In terms of section 16 of the TAA, the mandate of the tax Ombud is to review and address complaints by a taxpayer regarding a service or a procedural or administrative matter arising from the application of the provision of a tax act by SARS. In terms of section 16 of the TAA, the tax Ombud must:

- Review a complaint and, if necessary, resolve it through mediation or conciliation;
- Act independently in resolving a complaint;
- Follow informal, fair and cost effective procedures in resolving a complaint;
- Provide information to a taxpayer about the mandate of the tax Ombud and the procedures to pursue a complaint;
- Facilitate access by taxpayers to complaint resolution mechanism within SARS to address complaints; and

- Identify and review systematic and emerging issues related to service matters or the application of the provisions of this act or procedural or administrative provisions of a tax act that impact negatively on taxpayers.

It might be possible to apply the co-operation component of the friendship/liking principle to matters of tax compliance (Roth & Scholz, 1989:221). That is, there exists within a revenue authority system, a program (the problem resolution program) and certain people (the tax ombud and problem resolution officers) charged with co-operating with and advocating for taxpayers towards the resolution of conflicts and difficulties (Roth & Scholz, 1989:221). The function of these individuals and the purpose of this program might well be more widely advertised to the taxpaying public, as they currently seem under recognised. In addition, when a tax authority advocate has intervened on behalf of the taxpayer's interest and some resolution of the problem has emerged, taxpayer compliance with that resolution will be increased (Roth & Scholz, 1989:221).

According to the International Monetary Fund (IMF) (2012:53), the creation of a tax ombud office in South Africa for better protection of taxpayers' rights, is one of the reforms that have been recently introduced to foster tax compliance and further improve confidence in the tax system.

In the Canadian tax system, the tax Ombud is generally responsible for ensuring that the Canadian Revenue Authority (CRA) respects the service rights contained in the Taxpayer Bill of Rights and specifically to conduct impartial and independent reviews of service related complaints about the CRA; to facilitate taxpayer access to assistance within the CRA; to identify and review systematic and emerging service-related issues within the CRA that have a negative impact on taxpayers; and to provide advice to the Minister of National Revenue about service related matters in the CRA (OECD, Tax Administration 2013:48). For the Australian tax regime (ATO), the inspector general does not deal with individual tax matters - individual taxpayer disputes are handled by the Commonwealth Ombud (CCH Wolters Kluwer Business, 2012:10).

SARS has always been the judge and the jury in that taxpayers' complaints about a service at SARS was also referred to SARS, unlike other institutions, like banking and insurance which have an ombudsman. The introduction of the tax ombud, together with all other provisions below (under paragraph 2.5.2), that deal with taxpayers' rights aim to indirectly influence tax compliance by showing taxpayers that while SARS expects them to honour their tax liabilities, they still have their constitutional rights. In this way taxpayers realise confidence and trust in the tax system and most likely comply with their tax obligations.

Referral for criminal investigations

The second provision on fairness is provided for in sections 43 and 44 of the TAA – the recognition of taxpayer's constitutional rights when a taxpayer under audit is referred to criminal investigation. This provision which did not exist in the tax acts before the introduction of the TAA seeks to ensure that taxpayers' rights are protected where a taxpayer faces a criminal investigation. It requires that audits and criminal investigations are separated, ensuring that the rights of an accused under the Constitution are protected.

In terms of the SARS Short Guide (2013:25), if a taxpayer is being audited and it appears that a serious tax offence has been committed, then the SARS auditor must refer the matter to a senior SARS official responsible for criminal investigation. Although the audit may continue, any information gathered from the taxpayer under an audit, after referral must be kept separate from a criminal investigation and is not admissible in criminal proceedings. Material obtained before this referral can be used in a criminal investigation and material obtained in the course of an investigation can be used in civil and in criminal proceedings.

When a SARS official conducts a criminal investigation, he or she is required to recognise the constitutional rights that a suspects has in a criminal investigation in terms of section 35 of the Constitution. The constitution protects the following rights of a suspect:

- The right to remain silent;
- The right to be informed promptly of the right to remain silent and the consequences of not remaining silent;
- The right not to be compelled to make a confession or admission that could be used in evidence against him or her during a criminal trial; and
- Aligned to this, the Constitution protects the right of a suspect to choose and be represented by a legal practitioner at his own expense, at least until arrest, and to be informed of this right promptly (SARS Short Guide, 2013:25).

The rights of a taxpayer, who is a suspect, are further protected in the TAA in the following ways:

- An admission of an offence by a taxpayer made in the course of information gathering by SARS is not admissible in criminal proceedings; and
- An inspection and an interview under section 47 cannot be used when conducting a criminal investigation (SARS Short Guide, 2013:25).

Added to that, section 42 of the TAA provides that a taxpayer being audited must be regularly advised of the stage of completion of the audit. Also included in the provision is that upon conclusion of an audit or a criminal investigation, SARS must inform the taxpayer thereof within 21 business days.

Jeopardy assessments

Another provision is the taxpayer's rights when a jeopardy assessment is raised in terms of section 94 of the TAA. The issue of jeopardy assessments is a narrow exception to the ordinary assessment procedures and is subject to the following limitations and rights of the affected taxpayer:

- The SARS official intending to issue a jeopardy assessment must satisfy the Commissioner that the jeopardy assessment is necessary;
- An affected taxpayer can apply to the High Court for a review of the assessment on the basis that, (i) the amount is excessive, or (ii) the

circumstances on which SARS relied to justify the making of a jeopardy assessment do not exist;

- If a taxpayer challenges a jeopardy assessment in a High Court, then SARS has the burden of showing that the making of the jeopardy assessment was reasonable under the circumstances; and
- The normal objection and appeal procedure is still available to the taxpayer (Klue *et al.*, 2012:8.6.2).

Searches and seizures

Although SARS can carry out searches and seizures as contemplated in section 61 of the TAA, taxpayers do have rights in this regard. A search and seizure may be conducted (without a warrant in terms of section 63 of the TAA), in narrow exception, and is permitted if the owner or person in control of the premises so consents in writing or where a senior SARS official has reasonable grounds to execute it (Klue *et al.*, 2012:8.6.2). And, in terms of this tax provision, a SARS official may not enter a dwelling-house or domestic premises, except any part thereof used for purposes of trade.

The other improved rights that were introduced by search and seizure sections of the TAA, which may have an influence on compliance are:

- A SARS official's failure to produce a warrant entitles a person to refuse access to the official, (section 61(2) of the TAA);
- The SARS official must make an inventory of the relevant material seized in the form, manner and at the time that is reasonable under the circumstances and provide a copy thereof to the person, (section 61(4) of the TAA);
- A SARS official may not enter a dwelling-house or domestic premises, without the consent of the occupant, except any part thereof used for purposes of trade, (section 62(2) of the TAA);
- In terms of section 63(1)(a), a warrantless search and seizure can be exercised by SARS under two instances. The second instance was discussed under section 2.5.1 – SARS powers and duties, the first one is that the owner

or person in control of the premises must consent in writing to the exercise;
and

- The person to whose affairs relevant material is seized may examine and copy it, (section 65 of the TAA).

Self-incrimination

Another issue that provides for taxpayer's constitutional rights, which has an effect on tax compliance, is self-incrimination in terms of section 72 of the TAA. This section which did not exist in the tax acts before the introduction of the TAA, stipulates that a taxpayer may not refuse to comply with his or her obligation in terms of legislation to complete and file a tax return or an application on the grounds that to do so might incriminate them. The taxpayer cannot raise the self-incrimination defence in terms of documents divulged to SARS. SARS compels taxpayers to provide the relevant information (including documents) or they may face criminal charges, but that information may lead to incrimination and may not just be used for regulatory purposes. The Constitutional Court has held that, in similar circumstances, where you need to provide the information, it cannot be used against you in future criminal prosecutions. An example of such a case is "Ferreira v Levin (1996 (1) SA 984 (CC))". In this case, the Constitutional Court invalidated a part of section 417(2)(b) of the Companies Act which allowed incriminating evidence obtained under compulsion in an earlier enquiry to be used against the accused in subsequent criminal proceedings. The court held that the rule against self-incrimination is not simply a rule of evidence but a constitutional right (Mubangizi, 2005:107).

In *Alleged tax delinquent (D) v Indian Department of Revenue (P) (Smith v Richert)*, the court held that records sought by subpoena were required records and thus not self-incriminating. However, a taxpayer cannot refuse to turn over documents requested by the Internal Revenue Service in summons enforcement proceedings on the grounds that privilege against self-incrimination is violated, even if the records can later be used as evidence against the taxpayer (United States Code Service 1980:82). To avoid this self-incrimination defence by taxpayers, in terms of section 72 of the TAA, the clause "unless a court orders otherwise" has been added. This

means that the taxpayer is entitled to approach the court to issue an appropriate order to prevent SARS using this incriminating evidence given under compulsion.

Audit assistance and recovery of photocopying expenses

An obligation is imposed on the person on whose premises an audit or investigation is carried out to provide such reasonable assistance as may be required by SARS to conduct the audit or investigation, including making available facilities, for example photocopying; answering questions relating to the audit or investigation; submitting relevant material as required (SARS Guide on TAA, 2013:27).

The provision which is in section 49 of the TAA, did not exist in the tax acts before the TAA was introduced. Section 49(2) enforces compliance by quoting:

“No person may without just cause:

- Obstruct a SARS official carrying out the audit or investigation; and
- Refuse to give the access or assistance as may be required by SARS”.

The TAA conforms with the requirements of the Promotion of Access to Information act No. 2 of 2000 (PAIA), by providing that if SARS uses photocopying facilities at a person's premises, the person may recover from SARS, after completion of the audit (or at the person's request on monthly basis), the cost for the use of the photocopying facilities in accordance with the fees prescribed in the PAIA (confirms the provision espoused under section 49(3) of the TAA).

Understatement penalties

Taxpayers' rights and obligations were improved with the introduction of understatement penalties under the TAA. The previous open-ended discretion to impose “additional tax” of up to 200% is replaced with the understatement penalty framework that is aimed at ensuring consistent treatment of taxpayers in comparable circumstances. The penalty will be determined by locating each case within a table

that assigns a percentage to objective criteria. SARS may now prove that the grounds exist for imposing an understatement penalty (SARS Short Guide, 2013:78).

According to section 223 of the TAA, once the applicable behaviour: substantial understatement; reasonable care not taken in completing return; no reasonable grounds for tax position taken; gross negligence; and intentional tax evasion, is identified, SARS must identify whether:

- The taxpayer made a voluntary disclosure before or after being notified of an audit;
- The taxpayer was obstructive when engaging SARS officials;
- It is a repeat case; or
- The case is not defined by any of the above, and is thus a standard case.

Voluntary disclosure programme

The voluntary disclosure programme introduced by sections 225 to 233 of the TAA may influence taxpayers to take advantage and to comply. In order to enhance on-going voluntary compliance subsequent to the conclusion of the voluntary disclosure programme (VDP) offered in terms of the VDP Act, part B of Chapter 16 of the TAA imposes a permanent legislative framework for the disclosure of defaults relating to all tax types, other than customs and excise. Voluntary disclosure provides an opportunity for taxpayers to step out of the forced pattern of repeatedly underreporting.

An interim voluntary disclosure programme expired in October 2011, but a permanent legislative framework for voluntary disclosure is included in the TAA. The main purpose for such a framework is to enhance voluntary compliance in the interest of the good management of the tax system and the best use of SARS' resources. It seeks to encourage taxpayers to come forward and avoid the future imposition of understatement penalties, other penalties and interest (SARS Short Guide, 2013:81).

According to the OECD (2013:331), whose facts are consistent with section 227 of the TAA, a VDP allows the taxpayer to come forward and correct inaccurate or

incomplete information or to disclose information they have not reported during previous dealings with the revenue authority. The OECD goes on to mention that a valid VDP must meet certain conditions, namely, the disclosure must:

- Be voluntary;
- Be complete;
- Involve the application or potential application of imposition of understatement penalty;
- Involve a default which has not previously been disclosed by the applicant; and
- Not result in a refund due from SARS.

The VDP allows taxpayers who have not been audited and who are not in compliance with tax laws to voluntarily come forward and to bring their accounts into compliance in exchange of a penalty waiver, a limited look back period, and an avoidance of discovery through investigative and audit process (CCH Wolters Kluwer Business, 2007:519). Although penalties will be waived for participation in the program, interest will still be imposed on tax deficiencies. Taxpayers must apply to participate prior to being contacted by the revenue authority and must be accepted to the program based on information provided to the revenue authority on a written application (CCH Wolters Kluwer Business, 2007:519). To participate in the VDP, the taxpayer must:

- File all returns and material facts for the period of voluntary disclosure;
- Pay all tax and interest for the periods agreed on;
- Agree to make books and records available to the revenue authority; and
- Waive all rights to request refunds for the periods under disclosure (CCH Wolters Kluwer Business, 2007:519).

Section 229 of the TAA states that where a taxpayer qualifies for a voluntary disclosure relief and has entered into a voluntary disclosure agreement, SARS must, despite the provision of any tax Acts:

- Not pursue criminal prosecution for a statutory offence under a tax act arising from the default or a related common law offence;
- Grant the relief in respect of any understatement penalty referred to in the understatement penalty table (voluntary disclosure after or before notification); and
- Grant 100% relief in respect of an administrative non-compliance penalty that was or may be imposed under the TAA or a penalty imposed under a tax Act. The relief excludes relief from a penalty imposed under the TAA or in terms of the tax act for the late submission of a return or a late payment of tax.

The benefit of the TAA is that it may turn non-compliant taxpayers into compliant taxpayers (Alink & van Kommer, 2011:352). Fullarton (2015:107) conclude that amnesties tend to increase compliance. They suggest that there is also a strong correlation with the social distance from government (Fullarton, 2015:106). The Ireland tax amnesty programmes, especially the voluntary disclosure schemes, have had a positive impact on reducing non-compliance on driving long-term revenue upwards (Baer & Le Borgne, 2008:31).

Confidentiality of taxpayers' information

Taxpayers have a right to expect that any information provided by them or about them under the tax acts, is treated in confidence, will not be disclosed to third parties and will only be used for tax purposes. The public policy in South Africa behind the secrecy provisions is to encourage taxpayers to register and make full and proper disclosure of their income (SARS Short Guide, 2013:33). Regarding access by third parties to taxpayer information, the protection of such information is reinforced by the mandatory protection of SARS' records by section 35 of the Protection to Access Information Act No 2 of 2000, which gives effect to the constitutional right of access to information (SARS Short Guide, 2013:33).

The OECD, (2012:21) contends that confidentiality of taxpayer information has always been a fundamental cornerstone of the tax system. Both taxpayers and tax administrators have a legal right to expect that information exchanged remains confidential. In order to have confidence in their tax systems and comply with their

obligations under the law, taxpayers need to know that the often sensitive financial information is not disclosed inappropriately.

The rights to privacy, confidentiality, access to information, and to object and appeal against decisions of the tax administration for example, are fundamental rights in democratic societies (Ongwamuhana, 2011:60). A high degree of co-operation from taxpayers is required if complex tax systems are to operate efficiently (Ongwamuhana, 2011:60).

Sections 67 to 74 of the TAA obliges current and former SARS employees to preserve the secrecy of taxpayers' information and may not disclose information to a person who is not a SARS official, except under certain circumstances like civil or criminal proceedings or by order of a High Court.

Publication of tax offenders

In terms of the publication of tax offenders, section 74(1)(b) of the TAA, makes it quite clear that SARS cannot publish the names of tax offenders until 'any appeal or review procedures in relation thereto has been completed or not been instituted within the period allowed therefore'. The result is that SARS cannot for example; publish the name of a person convicted of a crime in the High Court until it is either clear that the person will not appeal the decision, or where the Supreme Court of Appeal has confirmed the decision (Croome & Olivier, 2010:199).

Conflict of interest

Section 7 of the TAA, which deals with the conflict of interest, protects taxpayers' rights by imposing a condition that a SARS official may not exercise power or become involved in a matter pertaining to the administration of a tax act, if he has a relationship with the matter in question. The relationship referred to includes in the previous three years, a personal, family, social, business, professional, employment or financial relationship.

2.5.3. The tax practitioners' role

Taxpayers worldwide engage extensively with tax practitioners. For example, during 2002 the ATO indicated that 77% of the population made use of the services of a tax practitioner or tax agent when they submitted their tax returns (Sakurai & Braithwaite, 2001:9). Over the past few decades in South Africa there has also been a significant increase in engaging the services of tax practitioners. SARS (not dated) shows that the number of tax practitioners has increased from 3% in 1970 – 1979 to 68% from 2000 to date. It is evident that taxpayers rely heavily on tax practitioners and trust them with their tax affairs.

Boccabella (1993:392) was of the opinion that the tax practitioner's role was originally the same as that of an accountant, which focussed on tax compliance, but that it had evolved to:

- Providing an opinion on transactions such as financing and/or any structuring arrangements within an organisation;
- Providing an opinion on the taxation matters which should be included in an entity's annual financial statements;
- Tax planning around the frequency and timing of events which lead to taxation liabilities;
- Networking with attorneys and others with legal experience regarding the interpretations and practical applications of tax laws; and
- Acting and corresponding on behalf of their clients, with regulating entities such as revenue authorities and legal counsel.

The TAA incorporated section 105A of the Act and section 63 of the VAT act's provisions, under which a professional or a tax practitioner may be reported to a controlling body, into section 241 of the TAA. No major changes were effected from the tax acts to the TAA, except that a condition has been added to the existing requirements that a person who gives tax advice must register as a tax practitioner with SARS.

The regulation of tax practitioners in South Africa was first introduced by the minister of finance in his budget speech in 2002, in which he indicated that SARS would initiate discussions on the appropriate regulation of tax consultants and advisors in South Africa in order to promote compliance and to ensure that taxpayers receive advice consistent with tax legislation (Klue *et al.*, 2012:10.8).

Registration with recognised controlling bodies

Tax practitioners play a major role in influencing the tax compliance of their clients. Sections 240 to 243 of the TAA contain regulations to regulate tax practitioners; to eradicate bogus practitioners and to ensure that taxpayers are advised by professional tax practitioners, which may have a positive impact on the taxpayer's compliance. The TAA regulates tax practitioners by requiring them to be a member of a "recognised controlling body" and SARS will determine which professional bodies qualify, and which recognition may be withdrawn under prescribed circumstances (Haupt, 2015:1028).

Registration with SARS

The TAA legislation (in section 240) provides that every natural person who provides advice to any other person with respect to the application of a tax act, or completes or assists in completing any document to be submitted to SARS must register with SARS as a tax practitioner (Klue *et al.*, 2012:10.8).

Reporting unprofessional conduct

The TAA empowers a senior SARS official to lodge a complaint with the 'controlling body' of a registered tax practitioner (section 241), if, in the opinion of the senior SARS official, the registered tax practitioner did or omitted to do anything with respect to the tax affairs of a taxpayer, including the registered tax practitioner's personal tax affairs, that in the opinion of the official:

- Was intended to assist the taxpayer to avoid or unduly postpone the performance of an obligation imposed on the taxpayer under a tax act;

- By reason of negligence on the part of the person resulted in the avoidance or undue postponement of the performance of an obligation imposed on the taxpayer under a tax act;
- Constitutes a contravention of a rule or code of conduct for the profession which may result in disciplinary action being taken against the registered tax practitioner or person by the body (Klue *et al.*, 2012:10.7).

Criminal offences

In terms of sections 235 and 273 of the TAA, a person will be guilty of an offence and, upon conviction, subject to a fine or to imprisonment for a period not exceeding two years where the person:

- Fails or neglects to register as a tax practitioner;
- Submits a return or other document to SARS under a forged signature;
- Uses an electronic or digital signature of another person in an electronic communication to SARS;
- Otherwise submits to SARS a communication on behalf of another person, without the person's consent or authority;
- Is involved in preparing, maintaining, or authorising the preparation or maintenance of false books of accounts or other records or falsifies or authorises the falsification of books of account or other records.

In the United States of America, the following prohibited acts are subject to criminal penalties – aiding, abetting or assisting another in an attempt to evade the payment of all or part of a tax or to file a false claim for credit (CCH Tax Research Consultants, 2009:567).

The registration and deliberation on tax practitioners will influence tax compliance. Most business people (taxpayers) have no accounting and tax knowledge and depend on tax practitioners with regards to all tax matters. Some tax practitioners take advantage of this and practise tax fraud on behalf of tax payers, some of which won't be aware of the fraud done by their tax practitioners. The fact that SARS keeps

a register of these tax practitioners, and can report them to their controlling bodies will eliminate fraudulent and fly by night tax practitioners.

2.6 THE ROLE OF THE TAX PRACTITIONERS' PROFESSIONAL CONTROLLING BODIES

The three professional controlling bodies identified in section 1.6.1 in Chapter 1 have rules, regulations and policies to which their members have to adhere at all times. This influences compliance behaviour in that the tax practitioners, in executing their duties, will give honest and professional tax advice (compliant with tax regulations) in order to abide to the requirements of their controlling bodies. Although SAICA uses its own code of professional conduct (SAICA, 2014), and SAIT uses its own Code of Conduct in relation to Taxation (SAIT, 2011), they are both regulated by the International Ethics Standards Board for Accountants (IESBA, 2014), which SAIPA also uses. Below are some of the issues covered by the controlling bodies' policies.

2.6.1 Integrity

The SAIT (2011:1) indicates that a professional tax practitioner should be straight forward and honest in all professional and business relationships. SAICA (2014:17), which is similar to IESBA (2014:16), adds that a professional accountant shall not knowingly be associated with reports, returns, communication or other information where the professional accountant believes that the information is materially false or misleading, statements containing information furnished, is reckless, or omits or obscures information required to be included where such omission or obscurity will be misleading. When a professional accountant becomes aware that he or she has been associated with such information, the professional accountant shall take steps to be disassociated with the information. The steps include discontinuing his or her services to the client or reporting the information to the relevant authorities.

2.6.2 Objectivity

The SAIT (2011:1), states that "a member should not allow bias, conflict of interest or undue influence of others to override professional or business judgement". IESBA

(2014:17) explains that an accountant shall not perform a professional activity or service if a circumstance or relationship biases or unduly influences the accountant's professional judgement with regard to that service.

2.6.3 Professional competence and due care

The principle of professional competence and due care imposes obligations on all accountants to maintain professional knowledge and skill at the level required, to ensure that clients or employers receive competent professional service and to act diligently in accordance with applicable technical and professional standards when performing professional activities or providing professional services (IESBA, 2014:18). Competent professional service requires the exercise of sound judgement in applying professional knowledge and skill in the performance of such services. Professional competence comprises the attainment and maintenance of professional competence (IESBA, 2014:18). Maintenance requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continued professional development (CPD) enables an accountant to develop and maintain the capabilities to perform competently within the professional environment (IESBA, 2014:18). Diligence encompasses the responsibility to act in accordance with the requirements of an assignment. An accountant shall ensure that those working under his authority have appropriate training and supervision, and that those who make use of his services are aware of the limitations inherent in the services or activities (IESBA, 2014:18). An accountant needs to plan and follow a program of lifelong learning. At a minimum, members need to comply with the required CPD of their institute (SAIT, 2011:4.52).

2.6.4 Confidentiality

According to the SAIT (2011:1), a member must respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal right to disclose. The need to comply with the principle of confidentiality continues even after the end of relationships between an accountant and a client or employer. When an accountant changes employment or

acquires a new client, the accountant is entitled to use prior experience. The accountant shall not however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship (IESBA, 2014:19).

2.6.5 Tax compliance

The SAIT, in paragraph 4.20 (SAIT, 2011), stipulates that a member must carefully consider and document the merits of an arrangement which may be considered as impermissible as envisaged in the tax legislation. A scheme which depends fundamentally on concealment from tax authorities may very well amount to tax evasion and is a prohibited practice.

2.6.6 SARS recourse on non-compliant tax practitioners

Where a member of a professional body has, in the opinion of the Commissioner, enabled or assisted the taxpayer to avoid or unduly postpone his or her obligations in the tax acts, or where the member's negligence resulted in the avoidance or undue postponement of duties postponed under the tax acts or such conduct constitute a contravention of a rule or code of conduct laid down by the controlling body which may result in disciplinary action taken by the controlling body, he may lodge a complaint with the controlling body (Croome & Olivier, 2010:198).

2.6.7 Sanctions in the case of misconduct by a member

Each of the controlling bodies has an addendum By laws to the code of conduct that addresses instances when the tax practitioners can have their membership cancelled, and also prescribes a list of punishable offences. The sanctions are generally similar across the three bodies dealt with in this research. Paragraph 30 of the SAICA By laws (2011) indicate that the Board shall cancel the membership of any member who is removed from an office of trust on account of misconduct or is convicted of theft, fraud or forgery. Paragraph 34 prescribes a list of punishable offences which include "conducting themselves with gross negligence in connection with any work performed by themselves in their profession or employment including

as secretary, trustee, liquidator, judicial manager, executor, administrator or curator or any office of trust". Another offence that relates to this study is certifying or reporting on any accounts, statements, reports or other documents, without taking reasonable steps to ensure the correctness of such certificate or report.

The rules and regulations of the controlling bodies enforce professional and honest services from tax practitioners to their clients (taxpayers), which may influence tax compliance behaviour.

2.7 SUMMARY

Before empirical evidence is gathered to substantiate the effect of the TAA on tax compliance, this chapter detailed the existing literature synthesised for the purpose of this study. South Africa uses a residence based tax system, in which residents are taxed on all income from all sources, and non-residents are taxed only on income from a South African source. VAT is an indirect tax charged by vendors on the supply of goods or services. Tax evasion is illegal, but tax avoidance is legal. The main reasons for governments to understand their tax compliance is to reduce the tax gap. The tax gap is the uncollected tax revenue. The TAA was introduced in 2012, and as part of the literature review for this study, provisions of the TAA that deals with tax compliance are explored under three categories, namely SARS' powers and duties; taxpayers' rights and obligations; and tax practitioners' influence. The role played by tax practitioners' controlling bodies in tax compliance is also explored.

The analysis of the several provisions of the TAA, that were identified as determinates of compliance shows that based on the literature, each of the provisions, if enforced by SARS, could influence taxpayers' compliance behaviour. This is in line with both the main and secondary objectives of the study, as indicated in paragraphs 1.5.1 and 1.5.2.

The next chapter discusses the overall research design and research methods relevant to this study, with emphasis on the link between the theoretical framework discussed in this chapter and the design of the questionnaire and personal

interviews, and how these research instruments connects to the research problem, research objectives, and the research questions identified in Chapter 1.

CHAPTER 3

RESEARCH DESIGN AND RESEARCH METHOD

3.1 INTRODUCTION

This chapter describes the overall research design and sampling plan relevant to this explanatory research. Explanatory research looks for underlying causes and explanation of events. It encompasses what is referred to as interpretative, as a way of making sense of events. Explanatory research will be conducted to answer questions such as “Why have these events happened in the way they did?”, or “What are the implications of these events occurring the way they have?” (Rubin, Rubin & Haridakis, 2009:198). Following this, the method of data collection is discussed in which, *inter alia*, the connection between the questionnaire and interview designs and the research objectives are indicated. The technique used to analyse the data obtained, is subsequently described. At the end of this chapter the methods used to ensure the quality and rigor of the research design, are delineated.

3.2 DESCRIPTION OF OVERALL RESEARCH DESIGN

A discussion of a research design aims to highlight, in technical terms, what is to be done (Cooper & Schindler, 2013:146). The research design applied in this study is based on the classification scheme provided by Cooper and Schindler (2013:1460) and is described in this section. This scheme takes cognisance of the degree of research question crystallization, the method of data collection, the research control variables, the purpose of the study, the time dimension, the topical scope and the research environment. These aspects are addressed below.

This was an empirical study in which new information and data was gathered in relation to the problem statement formulated in section 1.4 in Chapter 1. Empirical means a kind of reasoning and a kind of research that is based on real evidence, that is, on evidence from the real world (Zyngier, Bortolussi, Chesnokova & Auracher, 2008:XI). There are many systematic ways of conducting this research. Some of them are questioning, observing and experimenting (Zyngier *et al.*, 2008:xi). The

purpose of the study is to explore a new universe, one that does not have much literature, as the TAA was only recently introduced, and therefore this type of study is relevant (McNabb, 2010:29).

Since there are two variables being investigated, that is: taxpayer's 'compliance behaviour' and the TAA - the relationship of the variables is a direct causal relationship (Brown 2008:426). The research is cross sectional, studying taxpayer's compliance behaviour at the time the questionnaires and personal interviews were completed, and not observed over a period of time (Jackson, 2009:327).

The research furthermore, represents basic research. Saunders, Lewis and, Thornhill (2007:592) describe basic research as research performed in order to better understand the outcomes which are indicated in the research objectives. The research will add to the academic research available on the compliance behaviour of taxpayers.

Quantitative and qualitative data was obtained through completed questionnaires and personal face to face interviews. Ridenour and Newman (2008:1) define quantitative research as research that generally uses measured variables to test hypothesized relationships in more controlled situations. Quantitative designs include experimental studies, quasi experimental studies, pre-test-post-test, and others in which control of variables, randomization, and valid and reliable measures are required, and in which generalisation from the sample to the population is the aim (Ridenour & Newman, 2008:7). Data in quantitative studies are coded according to priority operational and standardized definitions (Ridenour & Newman, 2008:7).

The source of quantitative data is primary data collected through questionnaires and interviews to address the research objectives of the study. Primary data are those which are collected afresh and for the first time, and thus happen to be original in character (Khotari, 2006:95).

Maxwell (2013:xiii) describes qualitative research as research that is intended to help better understand: (1) the meanings and perspectives of people you study – seeing the world from their point of view, rather than simply from your own; (2) how these

perspectives are shaped by, and shape, their physical, social, and cultural contexts, and (3) the specific processes that are involved in maintaining or altering these phenomena and relationships. It involves the studied use and collection of a variety of empirical materials – case study, personal experience, introspective, life story, interview, observational, historical, interactional, and visual texts that describe routine and problematic moments and meaning in individual's lives (Klenke, 2008:7). The research can also be described as an inquiry process of understanding based on distinct methodological traditions of enquiry that explore a social or human problem. The researcher build a complex, holistic picture, analyses words, reports, detailed view of informants, and conducts the study in a natural setting (Klenke, 2008:7).

Finally, the questionnaire (see Appendix A) used, was in closed ended format, in which respondents were offered a specified set of response options (United Nations Economic & Social affairs, 2005:176). A Likert rating scale was used, and it presented a statement rather than a question, and respondents were asked to rate their level of agreement with each statement (Jackson, 2009:94). The structured face to face interview (see Appendix B) comprised open ended questions. Structured interviews follow rigid rules, the researcher asked specific questions in an exact sequence and included well-defined rules for reporting and judging responses, and they are generally more reliable than unstructured interviews (Craig, 2005:38). Open ended questions encourage spontaneous and unstructured responses. Such questions are useful when you want to understand a larger process or draw out the interviewee's opinions, attitude or suggestions (Shelly & Rosenblatt, 2011:160).

The questions asked in both the questionnaire and the face to face interview emanated directly from the TAA. Some of the questions emanated from new provisions that did not exist before the introduction of the TAA, and other questions emanated from provisions that existed in the tax acts before the TAA, but were amended on incorporation to the TAA.

3.3 SAMPLING

A random sample selection of tax practitioners across the country was done to identify respondents to the questionnaire. Face to face interviewees were sampled

from tax practitioners in the Free State and Northern Cape provinces of South Africa, because of costs implications. The intention of the study was not to generalize the findings to all taxpayers, and potential taxpayers in South Africa, but to get a large and sufficiently diverse sample in order to obtain a meaningful spread of perceptions concerning compliance behaviour. While efforts were made to obtain respondents across the country, the sample was not intended to be statically representative of the perceptions of all South African taxpayers, especially because not all taxpayers are represented by registered tax practitioners. The findings of this study can therefore be fairly generalised to all the taxpayers who make use of registered tax practitioners in South Africa.

3.3.1 Target population and units of analysis

The target population consisted of tax practitioners registered in South Africa during the period of May 2015 to August 2015. According to Underdal and Young (2004:123) units of analysis are the entities or phenomena about which the researcher collects data. Also called cases, they are a sample from a population or a class of all conceptually-similar units that could have been studied. Babbie (2011:101) says; if the researcher is interested in exploring, describing, or explaining the different groups of individuals behave as individuals, the unit of analysis is the individual, not the group. For purposes of this study, units of analysis were taxpayers who make use of registered tax practitioners.

To give credit to a respondent's responses, as part of the preliminary questions, there were questions on the level of tax knowledge and tertiary qualifications. This might help to understand the level of tax and the South African economic landscape knowledge of the respondents. The questionnaires were sent to the respondents by emailing a link to the web-based questionnaire. The personal interviews were conducted physically with the respondents. The above respondents were identified as to be in the position to give a credible opinion of the effects that the TAA has, as they understand the environment before and after the introduction of the TAA. It is also important to point out that the cover letter to the questionnaire assured the respondents that completion of the questionnaire was anonymous, and the data collected would be generalized and not used to identify certain groups of taxpayers.

3.3.2 Sampling method and sample size

The target population of respondents to the questionnaire was at least 150 tax practitioners, and for the personal interviews, it was five tax practitioners. A stratified random sampling technique (Gravetter & Forzano, 2012:148) was applied to obtain respondents from the various geographical provinces of South Africa. Lists of tax practitioners were obtained from the websites of their three main affiliate bodies – the South African Institute of Chartered Accountants (SAICA); South African Institute of Professional Accountants (SAIPA); and the South African Institute of Tax Professionals (SAIT). On the websites of the three professional bodies, the tax practitioners were sorted by province and town, and the email addresses for most of them were available. Sixty tax practitioners were randomly selected from each of the large cities and thirty from each of the smaller cities. In each of the large cities such as Johannesburg, Pretoria, Durban and Cape Town, sixty web-based questionnaires were sent to tax practitioners identified from the three professional bodies, and for Polokwane, Bloemfontein, Kimberley, Mafikeng, Nelspruit, Port Elizabeth and East London, thirty questionnaires were sent to tax practitioners in each city. A link to the web-based questionnaire was sent to the email address available for the selected tax practitioner on the controlling bodies' websites.

For purposes of the personal interviews, due to constraints such as time, budget and geographic distance, it was not possible to conduct face-to-face interviews with tax practitioners across South Africa. As a result, five tax practitioners from tax and accounting firms in the Free State and in the Northern Cape were identified through their respective websites and contacted for a telephone interview. This sampling method used was considered to be the most logical and feasible manner in order to identify the population target and respondents. The sample may, therefore, be a fair representation of all taxpayers who make use of registered tax practitioners in South African.

The reason behind sending the link to the web-based questionnaire to a higher number of respondents was that, as this was an anonymous survey, the researcher would not know how many people responded, and most people are known for ignoring such mails, furthermore, the email addresses on the professional controlling

bodies' websites could have been outdated and no longer in use. Out of the 460 emails sent with the web-based questionnaire link, it was expected that at least 150 respondents might participate.

A probability sampling approach was employed in the study as the population elements were randomly selected based on a controlled procedure and each population element had an equal chance of selection (Cooper & Schindler, 2003:183). For this particular study, a minimum sample size of 150 was acceptable and feasible. It was considered to be an appropriate sample size by the Research and Ethics committee of the College of Accounting Sciences (CAS) at the University of South Africa.

3.4 DATA COLLECTION

This section focuses on the survey method, the questionnaire design and the pilot-test for the final questionnaire.

3.4.1 Method of data collection

Data may be grouped into two formats, namely, quantitative (data in form of numbers), and qualitative (data in form of words or pictures) (Neuman, 2000:33). Kumar (1999:10) explains that a study is classified as qualitative if its purpose is primarily to describe a situation, phenomenon, problem or event; the information is gathered through the use of variables measured on nominal or ordinal scales (qualitative measurement scales); and an analysis is done to establish the variation in the situation, phenomenon or problem without quantifying it. This approach is sometimes called the interpretative, constructivist, or post positivist approach (Leedy & Ormrod, 2005:94).

Alternatively, if the researcher wants to quantify the variation of a phenomenon, situation, problem or issue; if information is gathered using predominantly quantitative variables (interval and ratio scales); and if the analysis is geared to ascertain the magnitude of the variation, the study is classified as a quantitative study (Kumar, 1999:10). Examples of quantitative aspects of a research study include: "How many

people have a particular problem?” or “How many people have a particular attitude?” (Kumar, 1999:10). This approach is sometimes called the traditional, experimental or positivist approach (Leedy & Ormrod, 2005:94).

A positivist framework was followed as it was an empirical study with the core of the scientific endeavour being observation and measurement (Henning, Van Rensburg & Smit, 2004:17). Ritchie and Lewis (2003:6) noted that beliefs and practices associated with positivism usually include the following:

- The methods of the natural science are appropriate for the study of a social phenomenon;
- Only those phenomena which are observable can be regarded as knowledgeable;
- Knowledge is developed inductively through the accumulation of verified facts;
- Hypotheses are derived deductively from scientific theories to be tested empirically (the scientific method);
- Observations are the final arbiter in theoretical disputes; and
- Facts and values are distinct, thus making it possible to conduct an objective enquiry.

This study adhered to the above beliefs and practices, therefore, it would be appropriate to assert that a predominantly positivist framework was followed.

Questionnaires were used in collecting data for this study. Questionnaire survey research is a research method for gathering information about the characteristics, behaviour and/or attitudes of a population by administering a standardised set of questions, or questionnaires to a sample of individuals (Clifford, French & Valentine, 2010:77). The defining features of the questionnaire/structured interview schedule were that the design itself was highly structured and that the same instrument was administered to all participants in the survey (Miller & Brewer, 2003:253).

A link to the web-based questionnaire was sent to the selected respondents via email. When the respondents connected to the link, they were met with an

introductory letter from the researcher's study leader, introducing the researcher and the scope of the research topic. The letter also indicated the value of the respondent's participation, and the fact that all the information would be treated strictly confidential. The next part was the demographic section, which required information such as, age, tax knowledge and highest qualification. This information gave credit to the responses. The respondent then participated in the questionnaire, by choosing an option (strongly agree, agree, neutral or disagree) from the closed ended questions. Once completed, the respondent submitted the questionnaire. The responses were submitted and updated the report on the web hosting's website.

Over and above the questionnaires, five personal interviews were conducted with tax practitioners. Structured interviews are when interviewers are present, asking questions and helping the respondents, as in face-to-face interviews, or a telephone survey (Miller & Brewer, 2003:253). The tax practitioners were contacted telephonically to enquire whether they would participate in the study by being interviewed. An appointment was scheduled with each respondent. All five interviews were conducted face-to-face. The interviews comprised uniform open-ended questions. The open-ended questions allowed the respondent to freely describe his answers. This gave the interviewee an opportunity to reveal their subjective frame of reference and to select those elements in the situation that they regard as of the greatest concern (Kadushin, 1997:239). Open-ended, non-directive questions also communicate clearly that the interviewee has a considerable responsibility for the freedom in participating in the interview and determining the interview content and direction (Kadushin, 1997:239).

The advantages of structured interviews and questionnaires are that they are relatively cheap, you cannot email interviewers, but you can email interviews. The problems associated with training, briefing and supervising interviewers are avoided; the respondents can respond at their leisure and convenience, and respondents have been shown to be more willing to give out personal or embarrassing information or to admit to 'unsocial' opinions when filling out an anonymous questionnaire rather than telling the lurid facts face-to-face to an interviewer who is, after all a complete stranger (Miller & Brewer, 2003:254).

3.4.2 Measurement

In research, measurement consists of assigning numbers to empirical events in compliance with a set of rules. This means that observable empirical events are selected, a scheme is developed of assigning numbers or symbols to represent aspects of the event being measured and the mapping rule is applied to each observation of that event (Cooper & Schindler, 2013:221). A questionnaire was compiled and served as the main measuring instrument for the study.

The aim of this study was to measure the likelihood that the introduction of the TAA would influence taxpayer's tax compliance behaviour. Simple category as well as multiple choice single-response scales was used in the questionnaire to determine tax practitioner's responses with regard to taxpayer's behaviour. The simple category scale (also known as a dichotomous scale) offers two mutually exclusive choices (for example 'male' and 'female'). This response strategy is particularly useful for demographic questions (Cooper & Schindler, 2013:253). The rest of the questions in the demographic section and the rest of the questionnaire were multiple choice single-response questions. The multiple choice single-response is appropriate where the respondent has multiple options but only one answer is sought (Cooper & Schindler, 2013:253).

In Part A of the questionnaire, respondents were asked about their demographic information including, age, gender, population group, educational background and tax knowledge. Lewis's (1982:172) model of tax evasion highlights that the characteristics of taxpayers, in terms of their group; groups and demographic differences, influence their attitudes and perceptions of fiscal policy and constitutional structure. This in turn influences their tax compliance behaviour. According to the Australian Cash Economy Task Force (1998:18), tax compliance decisions can be affected by social factors such as age, gender, ethnic background and education level.

The measuring instruments used were questionnaires and personal interviews that consisted of sufficient and appropriate questions to address the research questions formulated in section 1.5.3 of Chapter 1. The questions asked in the two instruments

were clear, unambiguous and of reasonable length, so, completing them was easy and not time consuming (see Appendix A & B).

The questionnaire asked closed ended questions and the respondents could choose if they strongly agreed, agreed, neutral or disagreed. The personal interviews consisted of open ended questions and the respondents were also required to motivate the rationale behind their answers, where appropriate. In each of the instruments, the questions were divided into three sections, being SARS' powers and duties in the TAA; taxpayers' rights and obligations in the TAA; and the tax practitioners' role and influence in tax compliance behaviour. Each of the questions in the questionnaire and personal interview discussed a provision of the TAA, and commanded the respondents to indicate if that provision could influence taxpayers to be more tax compliant. Respondents had to respond by indicating their perceptions (by either to strongly agree, agree, neutral or to disagree).

3.4.3 Pilot testing

A pilot test was carried out in order to detect weaknesses in design and instrumentation and to provide proxy data for selection of a sample (Cooper & Schindler, 2013:86). For this study, to test and determine the functionality of the web-based questionnaire, a pilot study was done. The web-based questionnaire link was emailed to five colleagues and two tax practitioners during June 2015, who were requested to participate in the completion of the questionnaire as if they were tax practitioners. The trial run assisted the researcher in deciding whether the study was feasible and whether it was worthwhile to continue. It provided the opportunity to assess the appropriateness of the data-collection methods and other procedures and to make changes if necessary (Ary, Jacobs, Razavieh & Sorenson, 2009:95). It also permitted a preliminary testing of the problem statement, which gave some indication of its tenability and suggested whether further refinements were needed. Unanticipated problems that appeared would have been solved at this stage, thereby saving time and effort later (Ary *et al.*, 2009:95).

The pilot study participants made the following suggestions, which in turn led to a more specific refinement of the questions that would deliver more satisfactory conclusions:

- The inclusion of Question 12, (Improved and protected rights of taxpayers as imposed by the TAA will influence the taxpayers' compliance behaviour). This was a general question that covered all rights of taxpayers. It was an important question as it was part of the purposes of the TAA, as provided in Section 2 of the said act. According to World Bank Country Study (1998:220), voluntary compliance can be improved by obtaining the good will of the taxpayer, for example by providing systematic information to taxpayers on their rights and obligations. The questionnaire was adjusted accordingly to include the question.
- Inclusion of a statement indicating the average amount of time that might be taken in completing the questionnaire. The questionnaire took an average of 10 minutes to complete. It was necessary that the respondents were aware of this beforehand. Then they would not have felt reluctant to participate as the amount of time needed was relatively low, and would not have caused much inconvenience for them. The questionnaire was adjusted, and the statement was included.
- Uncertainty as to who a tax practitioner is, whether it included accountants and auditors. They recommended that a definition of a 'tax practitioner' should be included. The respondents were selected from a list of 'tax practitioners' listed on the websites of three identified controlling professional bodies. The cover letter spelled out that this was a tax related questionnaire, and that participation was voluntary, and that only respondents with tax knowledge should participate. Therefore, no adjustments were made to the questionnaire.

The pilot test was carried out in approximately the same manner that the actual data collection would be carried out, except that no pilot testing was done for personal interviews. This was seen to be unnecessary as all personal interview questions were also included in the questionnaire.

3.5 DATA ANALYSIS

The questionnaire was web-based and the software automatically collated and stored the submitted data. The data was then exported to an Excel spreadsheet. An independent auditor was engaged to audit and verify the accuracy of the spreadsheet data, compared to the survey website report, and he confirmed it to be accurate (Auditor's confirmation, Appendix D). From this Excel data, tables were compiled to explain the results of the research questionnaire (see Chapter 4 for the detailed data analysis and a discussion of the research results).

The inductive approach was used for analysing qualitative data from the personal interviews. It involves using a structure or predetermined framework to analyse data. Coding can then be done. Coding is an operation by which data are broken down, conceptualised and put back together in new ways. It is the central process by which theories can be built from data (see Chapter 4 for the detailed data analysis) (Goodwin & Goodwin, 1996:144).

3.6 ASSESSING AND DEMONSTRATING THE QUALITY AND THE RIGOUR OF THE RESEARCH DESIGN

Reliable efforts were taken to ensure the validity and reliability of the data, and that there were neither errors nor bias. This was done to make sure that the conclusions reached unequivocally addressed the research problem, the research objectives and the research questions formulated in sections 1.5.1 to 1.5.3 of Chapter 1.

The reliability of a research instrument refers to the extent to which scores on the instruments are free from errors of measurement (Dornyei, 2002:110). Validity is the extent to which an instrument measures what it is intended to measure (Dornyei, 2002:110). Questionnaires are measurement instruments and, accordingly, they too must possess adequate reliability and validity (Dornyei, 2002:110). The ideal would be made-to-measure research instruments that we develop for our specific purposes; however, it is not always feasible to provide indices of every aspect of validity and reliability. Yet, even in cases where there are no resources and opportunities for elaborate validation exercises, we should strive for a questionnaire that has

appropriate and well documented reliability in at least one aspect - internal consistency (Dornyei, 2002:110). According to Kline (2000:11), if one part of a test is measuring one variable, then the other parts, if internal consistency is low, cannot be measuring that variable. Thus, if a test is to be valid, i.e., measure what it is intended to measure, the internal consistency must be high.

The questionnaire and personal interview instruments did meet the reliability and validity requirements, and below are some of the aspects which were addressed in the instruments and are evidence of meeting the two requirements:

- All questions in the instruments were designed to measure compliance behaviour and all questions centred on how certain provisions of the TAA affects taxpayer's compliance behaviour.
- All-important constructs of the aspect (effect of the TAA on taxpayer's compliance behaviour) were covered in simple and clearly defined English language.
- The pilot study that was carried out provided confirmation that the questions were clear and made sense to the participants the way it did to the interviewer.
- The method used to identify respondents for questionnaires and personal interviews, assured with certainty that the people who participated were the intended target. No one else had access to the website where the questionnaire was developed, other than the researcher, and there was an independent auditor's confirmation of the results (Appendix D). Therefore the research results are a true reflection of the research outcome.
- As tax is quite a technical and an expert issue, careful consideration had to be taken in targeting the respondents. It had to be people with sound tax knowledge, and whose opinions cannot be doubted, hence registered tax practitioners were targeted as respondents. As part of the prelude to the questionnaires and personal interviews, the respondents were assured that data obtained would only be used for the intended purposes of the survey, and would not be divulged to organisations such as SARS. The intention was to gain the respondent's trust to get honest responses.

3.7 ETHICAL CONSIDERATIONS

Care was taken with the design, initial pilot testing; measuring instruments (access to data processing software); defining the research group; validity of procedures; quality control; the ethical aspects surrounding the proposed study and obtaining approval for it; the expected outcomes of the study and funding of the project. Great caution was exercised in collecting, processing, interpreting and communicating the research data.

Apart from the ethical clearance received from CAS (see Appendix C), other ethics were applied to this study. These included informed consent from respondents, anonymity of respondents, confidentiality of data provided and voluntary participation (Saunders *et al.*, 2007:181).

3.7.1 Ethical clearance from CAS

An application for ethical clearance was submitted to and approved by the Research Ethics Committee of CAS (Appendix C). The application included the following:

- The problem statement and the research objectives;
- The research design and methods; and
- A copy of the questionnaire and personal interview sheet.

Collection of data commenced after the formal ethical clearance was granted.

3.7.2 Informed consent

The respondents were informed that the questionnaire and personal interviews will be anonymous, as their names would not appear on it and that they would not be identified in any way by their answers. Respondents were also informed that their participation is voluntary and there is no penalty or loss of benefit for non-participation, and participants can withdraw at any time without an obligation to explain or any adverse effects. Respondents were also assured that their responses

will be used to obtain a complete view, and the results of the questionnaire and interview would only be used for the purpose of this study.

3.7.3 Anonymity of respondents and confidentiality of data provided

The questionnaire link was emailed to more than 460 registered tax practitioners. It was not necessary for them to email the questionnaire back once completed, since they were required to complete and submit the questionnaire online. In this way their anonymity was guaranteed. Although the personal interviews were face-to-face, no personal details or even demographic details were collected from the respondents to guarantee their anonymity.

After the data collection, no other person had access to the web reports and completed personal interviews. A great deal of confidence was placed in the researcher's integrity (Saunders *et al.*, 2007:192). This was maintained throughout the study, especially personal anonymity and confidentiality of the data.

3.8 SUMMARY

This was an empirical study in which new information and data were gathered to address the research problem, the research objectives and the research questions.

Quantitative and qualitative data was obtained through completed questionnaires and personal interviews. Registered tax practitioners were the target population, and they were randomly sampled from lists available from their respective professional bodies. The target population of respondents to the questionnaire was at least 150, and for the personal interviews, it was five. Questionnaires and interviews were the instruments used to obtain information and data, which was done within the ethical requirements.

A pilot test was carried out in order to detect weaknesses in design and instrumentation and to provide proxy data for selection of a sample. Reliable efforts were taken to ensure the validity and reliability of the data, and that there were neither errors nor bias. Care was taken with the design; initial pilot testing; measuring

instruments (access to data processing software); defining the research group; validity of procedures; quality control; the ethical aspects surrounding the proposed study and obtaining approval for it; the expected outcomes of the study and funding of the project.

The adopted research design and research method will sufficiently gather new quantitative and qualitative information which will address the research objectives of establishing whether the TAA does influence taxpayers' compliance behaviour.

The next chapter will analyse and discuss the research results in detail.

CHAPTER 4

ANALYSIS OF THE RESEARCH RESULTS

4.1 INTRODUCTION

This section of the study provides an analysis of the results which emerged from this exploratory study. The outcomes of the questionnaire are discussed separately from those of the personal interviews. To understand the results better, the outcomes are discussed under each of the three dimensions of SARS' powers and duties; taxpayers' rights and obligations; and the tax practitioners' role. Any relationships and differences in the results of the variables in different questions are highlighted and discussed. Where applicable, any comparisons with results of other studies indicated in the literature review are also highlighted.

The data analysis was performed on the quantitative data from the 150 questionnaires and qualitative information from the five personal interviews conducted.

A related study was carried out by Oberholzer (2008:46). She notes that there appears to be a tax gap between the tax that is theoretically collectable from economically active persons in South Africa, and the tax that is actually collected. The author attributes the tax gap to non-compliance with tax legislation by taxpayers and potential taxpayers. The attitudes and perceptions of taxpayers are cited by the author as one of the causes of non-compliance. It is against this background that the author considers it important to determine taxpayers' perceptions towards taxation. Such understanding will influence the government regarding taxation and will also protect the country's tax base.

In order to gain an understanding of the perceptions of taxpayers towards taxation, Oberholzer conducted a study that focussed on the perceptions of taxpayers towards taxation. The study comprised of natural persons from different population groups in South Africa. The secondary objective of Oberholzer's study included, amongst other things, the following:

- To determine perceptions about general tax-related issues amongst South African taxpayers;
- To determine the various demographic, economic, or other factors that might influence a taxpayer's attitude with regard to general tax-related issues, tax evasion and tax compliance statement; and
- To investigate the relationship between taxpayers' views with regard to a specific tax-related statement and their attitudes towards tax evasion and tax compliance.

The respondents were categorised according to demographic, economic and other factors. The demographic factors include the respondents' age, gender, population group, and level of education. The other factors include the respondents' level of support for the government at that time and their relationship with SARS.

Oberholzer's study was based on questionnaires which included predetermined statements relating to general tax-related issues, tax evasion and tax compliance. Some of the findings of the study are that the economic, political and social landscape of the country determines taxpayers' compliance behaviour (2008:56). The factors that determine taxpayers' behaviour include:

- Taxes used by government for meaningless purposes;
- Waste and corruption in government is high;
- The government does not provide enough information on how they use the tax money; and
- People evade tax because the risk of being caught is low.

The South African government is burdened with the responsibility of improving tax compliance, and hence increasing the tax revenue. This study is confined to one of the methods adopted to improve tax compliance, being the introduction of the TAA, whose purpose is to change the taxpayers' non-compliant behaviour, some of which are mentioned above in Oberholzer's study (2008:56).

To obtain a better understanding of the results, the primary and secondary research objectives, as stated in section 1.5 in Chapter 1 were the following:

- To establish whether the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners, and to provide literature on the TAA, as it is still a new piece of legislation and lacks depth in terms of available literature,
- To establish the new interventions that are available in the TAA that SARS can employ to enforce and improve tax compliance, and to determine if these interventions do influence taxpayers' compliance behaviour;
- To highlight taxpayers' rights and obligations as provided by the TAA, and to establish if the rights and obligations influences taxpayers' compliance behaviour; and
- To highlight the role of tax practitioners as determined by the TAA, and to establish if the TAA's regularisation of tax practitioners influences taxpayers' compliance behaviour.

The research objectives of the study are motivated by the fact that the South African tax gap is estimated at around R30 billion per tax year (or 30% of the revenue collections), (Fourie, Landman & Schombee, 2012:122).

4.2 DEMOGRAPHIC FACTORS

As previously mentioned in Chapter 3, a sample of at least 150 tax practitioners was selected across South Africa. This was considered to be an acceptable sample size, as it was not the purpose of the study to generalise the conclusions reached to the whole of the South African population. Therefore, this study only highlights the various perceptions amongst taxpayers, especially those who make use of tax practitioners. However, an attempt was made to select the sample in such a way as to be broadly representative of the demographics of the tax paying South African population as a whole.

4.2.1 Demographic profile of respondents

This section analyses the various demographic characteristics of the respondents, with the use of supporting tables. The various demographic characteristics include:

- Gender composition;
- Age distribution;
- Degree of tax knowledge; and
- The highest level of education.

According to the modified Fischer model, (Chau & Leung, 2009:35), demographic variables, which consists of age, gender and education, indirectly have an influence on taxpayers' tax compliance through their impact on non-compliance opportunities, attitudes and perceptions.

With regard to age, conducted studies have found that tax compliance is higher in older taxpayers and lower in younger taxpayer. This is due to the fact that younger taxpayers are more willing to take risks and are less sensitive to sanctions (Chau & Leung, 2009:35).

Different results have been achieved by different research studies with regard to the influence that gender has on taxpayers in relation to tax compliance. Some studies found that females are more compliant than their male counterparts due to their traditional conforming roles and moral restraints, while other research studies have found that a higher proportion of tax evasion was conducted by women (Chau & Leung, 2009:35). It can therefore be concluded that gender may or may not have an influence on tax compliance.

Education as a demographic variable refers to the taxpayers' ability to comprehend and comply or not comply with tax laws. Research on Australian taxpayers found that taxpayers with tertiary education reported higher tax compliance while taxpayers without tertiary education reported lower levels of compliance (Chau & Leung, 2009:35).

It must be noted that the total of the number of respondents in each of the demographic classifications discussed below differ because not all respondents responded to all the demographic questions in the questionnaire.

Gender composition

The gender composition of the respondents was 47,37% Female and 52,63% Males (see Table 4.1). According to Statistics South Africa’s 2011 census (Statistics South Africa, 2011:18), the gender representation was 51,4% Females and 48,6% Males. However, it is submitted that males are still, in most instances, more likely to be breadwinners, and more economically active, and therefore the distribution of the sample was considered to be reasonably representative.

Table 4.1: Gender composition of the population of the study

Gender	Female	Male	2011 SA Census Statistics
Female	72	47,37%	51,4%
Male	80	52,63%	48,6%
Total	152	100%	100%

Age distribution

The age distribution of the respondents who participated in the study is provided in Table 4.2. The age grouping of the sample is quite different from the age distribution of the South African population of census 2011 (2011:23). The huge difference is on the age groupings between 31 years to 50. For the age group 31 to 40, there are 38,12% respondents, which is much higher than the 14% representation of the 2011 census population. The same applies for the 41 to 50 age grouping, where 28,13% of the respondents participated, while the same age group represented 10% of the South African population in the 2011 census. Nevertheless, it is assumed that worldwide, the age distribution of the respondents was still regarded as a true representation, as these two age groupings have the highest number of income earning people. This is the age group that consists of economically active people (Gitman, Joehnk & Billingsley; 2014:34).

Table 4.2: Age groupings of respondents

Age Group	Number of respondents	Percentage of respondents	Age distribution of the South African population as a percentage according to the 2011 census
25 - 30	30	18,75%	20%
31 - 40	61	38,12%	14%
41 - 50	45	28,13%	10%
51 and above	24	15,00%	16%
Total	160	100%	

Knowledge of tax

The tax knowledge of the respondents in the study is indicated in Table 4.3. The credibility of this study is strengthened by the fact that 57,69% of the respondents have a good tax knowledge; 26,92% have an excellent tax knowledge, 14,74% have an average knowledge and 0,65% has a below average tax knowledge. Therefore, it can be said that the respondents had enough knowledge of the context of the questions in the questionnaire as the majority of the respondents has indicated that they have at least average tax knowledge.

Table 4.3: Tax knowledge of the respondents

Level of Tax Knowlwdge	No of respondents	Percentage of respondents
Below average	1	0,65%
Average	23	14,74%
Good	90	57,69%
Excellent	42	26,92%
Total	156	100%

Highest level of education

Table 4.4 below indicates that 53,94% of the respondents had post graduate qualifications, while 41,21% of them had a diploma or a degree; this leaves 3,03% and 1,82% with a certificate and grade 12 qualifications respectively. It therefore means that 98,18% of the respondents had at a post-grade 12 qualification of some kind.

Table 4.4: Highest level of education

Highest level of education	No of respondents	Percentage of respondents
Grade 12	3	1,82%
Certificate	5	3,03%
Diploma / Degree	68	41,21%
Post Graduate	89	53,94%
Total	165	100%

4.3 RESEARCH RESULTS OBTAINED WITH THE QUESTIONNAIRE

The questionnaire had three sections, namely SARS' powers and duties, taxpayers' rights and obligations, and the tax practitioners' role in the TAA. The research results will be discussed separately for each of the three sections of the questionnaire. Where appropriate, the results obtained from processing the data collected through the questionnaire, will be supplemented with the results obtained from the five personal interviews conducted with tax practitioners. During the personal interviews, the researcher was able to interact with the respondents and probed further questions to get a better understanding of the impact of the TAA on tax practitioners and their tax clients.

4.3.1 SARS' powers and duties in the TAA

The respondents (tax practitioners) were confronted with questions or statements in the questionnaire on the various provisions of the TAA, that relates to SARS' powers and duties, which may have an effect on taxpayers' compliance behaviour. The questions relate to new and amended provisions which were introduced by the introduction of the TAA. The amended provisions refer to provisions that existed in the Act and the vat act, but were amended on incorporation into the TAA. Table 4.5 below tabulates the respondents' feedback on SARS' powers and duties in the TAA.

Table 4.5: Questionnaire results - SARS' powers and duties in the TAA

Question / statement	Disagree	Neutral	Agree	Strongly Agree	Total
The registration requirements of the TAA would compel non-registered taxpayers to register for tax.	22 (14,47%)	35 (23,03%)	78 (51,32%)	17 (11,18%)	152 (100%)
The duty imposed on participants and promoters of reportable arrangements to report such arrangements will encourage the participants to comply with tax legislation.	10 (6,53%)	28 (18,3%)	91 (59,48%)	24 (15,69%)	153 (100%)
The warrantless search and seizure powers given to the Commissioner will change taxpayers' compliance behaviour.	21 (13,91%)	35 (23,18%)	63 (41,72%)	32 (21,19%)	151 (100%)
Publication of the names tax offenders will assist in general to get taxpayers to comply with tax laws.	22 (14,38%)	22 (14,38%)	70 (45,75%)	39 (25,49%)	153 (100%)
Jeopardy assessments will bring into the tax ring, taxpayers that could have been missed out.	9 (5,88%)	48 (31,37%)	82 (53,60%)	14 (9,15%)	153 (100%)
Access to Third party information assists SARS to get non-compliant taxpayers to become compliant.	8 (5,23%)	10 (6,54%)	82 (53,59%)	53 (34,64%)	153 (100%)
The fact that SARS can knock at a taxpayer's doorstep without prior notice may influence compliance behaviour in general.	20 (12,99%)	35 (22,73%)	62 (40,26%)	37 (24,02%)	154 (100%)
Criminal offences to be imposed for failure to comply with tax obligations imposed by the TAA may improve tax compliance.	11 (7,14%)	27 (17,53%)	78 (50,65%)	38 (24,68%)	154 (100%)
The burden of proof placed on taxpayers to prove their exemptions, deductions and validity of their objections and appeals will influence compliance behaviour.	9 (5,96%)	25 (16,56%)	80 (52,98%)	37 (24,50%)	151 (100%)
TOTALS AVERAGES	14,67 (9,61%)	29,44 (19,29%)	76,22 (49,93%)	32,33 (21,17%)	152,67 (100%)

Registration requirements of the TAA

Registration is one of the four pillars of tax compliance discussed in Chapter 2. It brings taxpayers into the tax register, and hence the tax net. In addressing the huge tax gap, SARS needs an aggressive approach in registering the un-registered taxpayers, as the TAA allows for that. SARS also ensures the completeness of taxpayer registration, to ensure that taxpayers who fail to register or provide adequate information are detected. A complete updated register helps SARS in:

- A system of access to third party information whereby SARS is notified of external events with tax implications for example the setting up of companies and one-man businesses and vehicle transactions records;
- Physical inspections of business premises;
- Following up on outstanding returns and outstanding tax payments;

- Identification of non-compliant taxpayers for audits, investigations or inspections;
- Analysis of trends for risk identification and management;
- On-the-spot checks at markets and other trade locations; and
- Searching sources of information on economic activities such as newspapers and the internet (SARS Short Guide, 2013:17).

The question asked was whether the registration requirements of the TAA would compel non-registered taxpayers to register for tax. 51% of the respondents agreed that the TAA can compel the unregistered taxpayers to register, and 11% strongly agreed on this issue. Effectively, 62% of the respondents agreed that the TAA registration requirements can influence tax compliance. However, 23% of the respondents remained neutral on this issue. This is probably a portion of respondents that do not disagree with the statement, but are not content with SARS' execution of the provision, in terms of registering the un-registered taxpayers. This notion came out during the personal interviews conducted with tax practitioners and will be discussed later on in the chapter.

The duty imposed on participants and promoters

In relation to a reportable arrangement, a participant, as defined in the TAA, means a promoter, or a company or trust which directly or indirectly derives or assumes that it derives a tax benefit by virtue of an arrangement. A promoter, as defined in the TAA, is a person who is principally responsible for organising, designing, selling, financing or managing the reportable arrangement.

A reportable arrangement, as defined in the TAA, is an arrangement listed as such in a public notice, or an arrangement wherein a tax benefit will be derived by any participant by virtue of the arrangement. The TAA goes further to expand the meaning of reportable arrangements to include some tax avoidance schemes such as tax treatments of incurral and accrual of interests, tax benefits from arrangements that lack commercial substance, tax deductions that are not accounting expenses, and accounting income that is not gross income for tax purposes.

To improve tax compliance, section 37 of the TAA, imposes an obligation on the promoter to report reportable arrangements to SARS, and where there is no promoter, the participant must report it. Failure to report a reportable arrangement is subject to administrative non-compliance penalties. This legislation empowers SARS to be advised of any such transactions where any amount is received by or accrued to a participant or actually incurred by a participant (Stiglingh *et al.*, 2015:1149). In terms of section 37 of the TAA, SARS must be advised within 45 business days after an amount is first received by or has accrued to a participant. Therefore SARS has closed a gap on these transactions evading the tax net. Section 38 of the TAA details the information that must be submitted by the promoter or participant, namely:

- A detailed description of all its steps and key features, including, in the case of an 'arrangement' that is a step or part of a larger 'arrangement', all the steps and key features of the larger 'arrangement';
- A detailed description of the assumed 'tax benefit' for all 'participant', including but not limited to, tax deductions and deferred income;
- The names registration numbers, and registered addresses of all 'participants';
- A list of all agreements; and
- Any financial model that embodies its projected tax treatment.

The question asked was whether the duty imposed on participants and promoters to report such reportable arrangements helped in encouraging them to comply with tax legislation. 59% of the respondents agreed and 15% strongly agreed that holding participants and promoters responsible for reporting any reportable arrangements may influence tax compliance. The small percentage of the respondents that disagreed (6%) and those that were neutral (18%) are most likely premised on the fact that they are not aware of any promoters or participants that have been charged by SARS for not reporting. This fact was revealed during the personal interviews conducted with tax practitioners during the research period.

Warrantless search and seizure powers

SARS may search premises in order to seize relevant material that may provide evidence of a person's non-compliance with tax legislation or the committing of a tax offence. As a general rule, SARS has to apply to a judge for a warrant under which such search and seizure is carried out. A search and seizure may however, in limited circumstances, be carried out without a warrant. In their administration of tax compliance, SARS may enter premises where relevant material is kept, and search the premises and any person present and seize relevant material (section 59 of the TAA). The legislation arms SARS with immediate access to any information that can be used to prove tax non-compliance, more so without having to wait for a warrant, which could have resulted in the information being moved.

Section 59 goes on to say that when SARS applies for a warrant they must set out facts that indicate that there are reasonable grounds to believe that:

- A person failed to comply with a provision of a tax act, or committed a tax offence; and
- Relevant material likely to be found on the premises may provide evidence of the failure or offence.

Over and above the authority to search without a warrant, SARS may, under certain restricted circumstances, enter and search premises that are not identified in a warrant. This may be done where SARS has reasonable grounds to believe that:

- The relevant material included in the warrant that may provide evidence of a person's non-compliance or offence, is at premises not identified in the warrant;
- The relevant material may be removed or destroyed;
- A warrant cannot be obtained in time to prevent the removal or destruction; and
- The delay in obtaining the warrant would defeat the object of the search and seizure.

The question asked was whether SARS' powers of warrantless search and seizure will change taxpayers' compliance behaviour. 42% of the respondents agreed to its effectiveness on tax compliance behaviour, and a further 21% of the respondents strongly agreed to this issue, but on the contrary 14% of the respondents disagreed and 23% were neutral. The respondents that disagreed or who remained neutral probably felt that it might be a futile exercise, if SARS do not get any non-compliance on the documents obtained. However, the majority of the respondents were of the opinion that this power exercised by SARS does indeed influence tax compliance behaviour.

Publication of the names of tax offenders

In terms of sections 68 and 69 of the TAA, the disclosure of SARS confidential information to a person who is not a SARS official is prohibited, as well as disclosure to a SARS official who is not authorised to have access to the information. However, in terms of section 74 of the TAA, SARS may publish for general information the particulars of a taxpayer relating to a tax offence committed by a person, if:

- The person was convicted of the offence; and
- All appeal or review proceedings relating to the offence have been completed or were not instituted within the period allowed.

The taxpayer's details that may be publicised include:

- The name and area of residence of the offender;
- Any particulars of the offence that SARS thinks fit; and
- The particulars of the fine or sentence imposed.

Taxpayers would not prefer their customers, clients, debtors, creditors, competitors, bankers, regulatory bodies to be aware of their tax non-compliance offences. Such information may affect a taxpayer's business reputation. To avoid being exposed by SARS, taxpayers may be induced to comply with tax.

The question asked was whether the publication of tax offenders would force taxpayers to comply with the tax legislation. 71% of the respondents agreed (including agreed and strongly agreed) that the publication of the names of tax offenders may influence tax compliance behaviour. The respondents who disagreed (14%) and those who remained neutral (14%) on this issue, probably did so because while this tool is available, SARS has not effectively used it, and that may be why they could have been of the opinion that that this provision might not influence tax compliance.

Jeopardy assessments

Section 94 of the TAA empowers SARS to raise a jeopardy assessment in advance of the date on which the return is normally due, if the Commissioner is satisfied that it is required to secure the collection of tax that would otherwise be in jeopardy. Jeopardy assessments are an addition to other powers in the TAA that may be applied if the collection of tax is in jeopardy. This is a tax compliance management scheme that would typically be raised where SARS is of the view that a taxpayer may be deliberately wasting an asset from which a tax liability could be paid or that the taxpayer may be fleeing the country (Stiglingh *et al.*, 2015:1150).

The purpose of a jeopardy assessment is to raise a liability urgently, and the assessment may be an estimation based on information available to SARS. In terms of section 94 of the TAA, a SARS official intending to raise a jeopardy assessment must satisfy the Commissioner that a jeopardy assessment is necessary, and the basis on which it is believed that the collection of tax is in jeopardy will be stated on the notice of assessment.

The question asked was whether jeopardy assessments will bring taxpayers into the tax ring that has been missed out by SARS. 63% of the respondents agreed (including agreed and strongly agreed) that this process may influence the tax compliance behaviour of taxpayers, while 6% disagreed and 31% were neutral on this issue.

Third party information

The TAA empowers SARS, in section 26, to require a person who employs, pays amounts to, receives amounts on behalf of, or otherwise transacts with another person, or has control over assets of another person, to submit a return by a specified date, on a specified form and manner.

Third party reporting enables income tax returns to be pre-populated and helps SARS to verify accuracy of taxpayers' disclosures. This contributes to the development of an appropriated risk assessment environment. The intention is for SARS to be able to verify, for example:

- Interest received by taxpayers (in comparison with the interest paid to the respective taxpayer by the banks);
- Medical aid deductions claimed by a taxpayer (by comparing the deductions claimed by the taxpayer with the amounts provided by the medical aid companies); or
- Retirement Annuity Fund (RAF) deductions (by comparing a taxpayer's deductions with the amounts given by the RAF company).

Access to third party information is further reinforced by the fact that section 46 of the TAA allows SARS to, in relation to a taxpayer; require the taxpayer or another person to submit relevant material that SARS requires, within a reasonable period.

The question was whether access to third party information will assist SARS to get non-compliant taxpayers to become compliant. According to the responses, this question is the one intervention which has the highest number of respondents who had agreed that it may influence tax compliance behaviour. 54% of the respondents agreed to this issue and 35% strongly agreed, while 5% of the respondents disagreed and 6% remained neutral.

Unannounced inspections

Section 45 of the TAA, empowers SARS to, without prior notice, arrive at premises where the SARS official has a reasonable belief that a trade or enterprise is carried on and conduct an inspection to determine:

- The identity of the person occupying the premises;
- Whether the person occupying the premises is registered for tax; or
- Whether the person is complying with the requirements of the TAA in as far as it is the taxpayer's duty to keep records and the form of records to be kept.

These inspections will be typically used for tax base broadening purposes, or verification of the existence of an enterprise for VAT purposes. Broadening the tax base refers to including non-registered taxpayers into the tax register, hence improving compliance. Vendors who are not genuinely carrying out an enterprise may attempt to register for VAT purposes in order to fraudulently claim VAT refunds - these inspections may identify such vendors.

The question was whether SARS' un-notified visits to a taxpayer can influence taxpayers' compliance. 64% of the respondents agreed (including strongly agreed) to this statement, while 13% percent disagreed and 23% opted to be neutral on the issue.

Criminal offences for non-compliance and tax evasion

The TAA gives power to SARS to take on criminal actions against taxpayers for certain offences. This piece of legislation is considered one of the greatest factors that can influence taxpayer's compliance behaviour, as taxpayers may comply for the fear of being prosecuted. Section 234 prescribes a list of offences relating to non-compliance with tax acts, and for which if guilty, upon conviction, is subject to a fine or to imprisonment for a period not exceeding two years. The offences include:

- Failure to register for tax purposes;
- Failure to register as a tax practitioner;
- Failure to submit a return or documents required by SARS;
- Failure to disclose to SARS any material facts which should have been disclosed under the tax act;
- Obstructs or hinders SARS official in the discharging of their duties;
- Dissipates that person's assets or assists another person to dissipate that other person's assets in order to impede the collection of any taxes;
- Failure to withhold and pay to SARS an amount of tax as and when required to do so, under the tax acts.

Section 235 prescribes a list of offences relating to evasion of tax, and for which if found guilty, upon conviction is subject to a fine or to imprisonment for a period not exceeding five years. The offences include:

- Making false statement or entry on a return or document;
- Giving a false answer, whether orally or in writing, to a question for information under the tax acts;
- Preparing, maintaining or authorising the preparation or maintenance of false books;
- Making use of fraud or contrivance; and
- Making any false statement for purposes of obtaining any refund of or exemption from tax.

For the question: Whether criminal offences imposed in terms of the TAA could influence compliance behaviour, 76% of the respondents agreed (including strongly agreed) that criminal offences to be imposed on failure to comply with the TAA could influence tax compliance, while 7% of the respondents disagreed and 17% remained neutral on the issue.

Burden of proof

Taxpayers may attempt to overstate their deductions in order to reduce their tax liability, or overstate their VAT inputs in order to obtain VAT refunds, hence reducing compliance. Section 102 of the TAA burdens the taxpayer with the onus of proving:

- That an amount is exempt or not taxable;
- That an amount is deductible or, may be set-off;
- The rate of tax applicable to a transaction, event, item or class of taxpayer;
- That an amount qualifies as a reduction of tax payable;
- That the valuation is correct; or
- Whether a decision that is subject to an objection and appeal is correct.

The question asked was whether the burden of proof placed on taxpayers to prove their exemptions, deductions, validity of objections and appeals will influence taxpayers' compliance behaviour. 77% of the respondents agreed (including strongly agreed) that burdening taxpayers with the onus of proof to prove their deductions, exemptions, objections and appeals may influence tax compliance, while 6% of the respondents disagreed and 17% remained neutral on the issue.

Summary

Registration is one of the four pillars of compliance. A complete updated register helps SARS in; following up on outstanding returns and outstanding tax payments; identification of non-compliant taxpayers for audits, investigations or inspections; analysing trends for risk identification and management - 62% of the respondents agreed that the TAA requirements on registration do influence compliance behaviour.

The TAA empowers SARS to be advised of any reportable arrangement transactions where any amount is received by or accrued to a participant or actually incurred by a participant - 75% of the respondents agreed that the duty imposed on promoters and participants to report any reportable arrangements will influence their compliance behaviour.

SARS may search premises in order to seize relevant material that may provide evidence of a person's non-compliance with tax legislation or the committal of a tax offence - 63% of the respondents agreed to its effectiveness on tax compliance behaviour.

The TAA empowers SARS to raise a jeopardy assessment in advance of the date on which the return is normally due, if the Commissioner is satisfied that it is required to secure the collection of tax that would otherwise be in jeopardy - 63% of the respondents agreed that this process may influence the tax compliance behaviour of taxpayers.

SARS may publish for general information the particulars of a taxpayer relating to a tax offence committed by a person, under certain circumstances - 72% of the respondents agreed that the publication of the names of tax offenders may influence tax compliance behaviour.

The TAA empowers SARS, in section 26, to require certain persons, for example employers, debtors, or agents to submit a return with requested information – 88% of the respondents agreed that this measure would influence tax compliance behaviour.

SARS is allowed to, without prior notice; arrive at premises where the SARS official has a reasonable belief that a trade or enterprise is carried out, and conduct an inspection – 64% of the respondents agreed that this will influence compliance.

The TAA gives power to SARS to take on criminal actions against taxpayers for certain offences – 74% of the respondents agreed that criminal offences to be imposed on failure to comply with the TAA could influence tax compliance.

Section 102 of the TAA burdens the taxpayer with the onus of proving deductions and exemptions – 77% of the respondents agreed that burdening taxpayers with the onus does influence tax compliance.

The majority of respondents were of the opinion that the TAA provisions that relate to SARS' powers and duties may influence taxpayers to comply with the tax legislation

in general. The full impact of the application of the TAA in so far as it relates to the powers and duties of SARS, as conferred to SARS in the TAA, may influence taxpayers' compliance behaviour. The powers and remedies granted to SARS in the TAA will impact on the current non-compliance levels of taxpayers in South Africa. Failure to comply will invoke the numerous penalties and prosecution possibilities at the disposal of SARS.

4.3.2 Taxpayers' rights and obligations in the TAA

The second part of the questionnaire addressed the taxpayers' rights and obligations, which have an effect on taxpayers' compliance behaviour, emanating from the various provisions in the TAA. Table 4.6 below reflects the respondents' responses.

Table 4.6: Questionnaire results - Taxpayers' rights and obligations

Question / statement	Disagree	Neutral	Agree	Strongly Agree	Total
The fairness and equity created by the TAA will cause improved compliance by taxpayers.	19 (12,42%)	40 (26,14%)	74 (48,37%)	20 (13,07%)	153 (100%)
The introduction of the Tax Ombud will lead to confidence in the tax system, and improved tax compliance.	11 (7,19%)	32 (20,91%)	66 (43,14%)	44 (28,76%)	153 (100%)
Improved and protected rights of taxpayers as imposed by the TAA will influence the taxpayers's compliance behaviour.	23 (15,03%)	36 (23,53%)	77 (50,33%)	17 (11,11%)	153 (100%)
Non-compliance, understatement and administrative penalties will compel taxpayers to become tax compliant.	17 (11,11%)	27 (17,64%)	74 (48,37%)	35 (22,88%)	153 (100%)
The Voluntary Disclosure Programme may influence taxpayers to take advantage thereof and to become tax compliant.	14 (9,15%)	33 (21,57%)	78 (50,98%)	28 (18,30%)	153 (100%)
The burden of proof placed on SARS to prove the reasonability of estimated assessments, and the basis of imposition of understatement penalties will influence tax compliance.	22 (14,57%)	42 (27,81%)	65 (43,05%)	22 (14,57%)	151 (100%)
TOTAL AVERAGES	17,67 (11,58%)	35 (22,93%)	72,33 (47,37%)	27,67 (18,12%)	152,67 (100%)

Fairness and equity

The TAA seeks to balance the powers and duties of SARS with the rights and obligations of taxpayers in order to enhance equity and fairness in tax administration by providing a single body of law that outlines common procedures in a transparent relationship (Sabinet, 2012). The perceived fairness of a tax system is important, and

taxpayers' behaviour is influenced by two perceptions: that the system treats them unfairly compared to others, and that the government is doing too little with the revenue it collects (OECD, 2004:38).

The question asked was whether the fairness and equity created by the TAA will result in improved compliance by taxpayers. Although a higher margin of tax practitioners agreed (61%) that the fairness and equity created by the TAA may cause improved tax compliance, there is however, a substantial percentage of respondents (26%) that neither agreed nor disagreed to this issue. Nonetheless the majority of respondents agreed to this statement.

Introduction of the tax Ombud

The appointment of a tax Ombud, which was introduced by section 15 of the TAA, is seen as one of the major shifts in the South African tax system in improving taxpayers' rights. According to the International Monetary Fund (IMF) (2012:53), the creation of a tax Ombud office for better protection of taxpayers' rights, is one of the reforms that have been recently introduced to foster tax compliance and further improve confidence in the tax system.

In discharging his mandate, the tax Ombud, must:

- Review a complaint and, if necessary, resolve it through mediation or conciliation;
- Act independently in resolving a complaint;
- Follow informal, fair and cost effective procedures in resolving a complaint;
- Provide information to a taxpayer about the mandate of the tax Ombud and the procedures to pursue a complaint;
- Facilitate access by taxpayers about to complaint resolution mechanism within SARS to address complaints; and
- Identify and review systematic and emerging issues related to service matters or the application of the provisions of this act or procedural or administrative

provisions of a tax act that impact negatively on taxpayers (section 16 of the TAA).

The question asked was whether the introduction of the tax Ombud will lead to confidence in the tax system and improved compliance. In this segment of the questionnaire, the introduction of the tax Ombud had the highest percentage of respondents who strongly agreed, being 29%. Added to the 43% of respondents that agreed, it means that 72% of the respondents were of the opinion that the introduction of the tax Ombud could lead to confidence in the tax system, and improved tax compliance. To the contrary, 7% of the respondents disagreed and 21% remained neutral on this issue.

Rights and obligations of taxpayers

Section 2 of the TAA reflects one of the purposes of the TAA as – prescribing the rights and obligations of taxpayers. This question was generic, touching some of the issues relating to rights that have been specifically discussed in the study and others that were not discussed.

Below are some of the examples of rights that were improved by the introduction of the TAA:

- According to section 7 of the TAA, a SARS official may not exercise a power or become involved in a matter in which he has a conflict of interest. Therefore, where a taxpayer feels a SARS official had a conflict of interest, he can raise the issue through the normal complaints escalation processes;
- The right to complain to an independent authority, the tax Ombud, on issues relating to service or procedural matters;
- The right to dispute resolution, in terms of Chapter 9 of the TAA;
- The right to be kept informed on the stage of completion of an audit;
- When an audit is referred to criminal investigation, relevant material gathered during an audit after referral, must be kept separate from the criminal

investigation and may not be used in criminal proceedings instituted in respect of the offence; and

- The person to whose affairs relevant material seized relates, may examine and copy it.

The question asked was whether the improved and protected rights of taxpayers introduced by TAA will influence their compliance behaviour – 61% of the respondents agreed (including strongly agreed) that these improved rights can lead to improved tax compliance, to the contrary, 15% of the respondents disagreed and 23% remained neutral on this issue.

New penalty regime

Administrative non-compliance penalties and understatement penalties were introduced by the TAA. SARS levies administrative non-compliance penalties when taxpayers fail to comply with administrative requirements of the tax acts, such as filling a return. The TAA sets out that the purpose of the administrative non-compliance penalties is to ensure the widest possible compliance with the tax acts. Administrative non-compliance penalties include, fixed amount penalties; percentage based penalties and penalty for failing to disclose information subject to a reportable arrangement. An understatement penalty may only be imposed if the fiscus is prejudiced by the taxpayer's reporting.

While SARS has powers to impose these penalties, taxpayers are entitled to apply to SARS to remit administrative non-compliance penalties. Sections 216 to 219 stipulate that administrative non-compliance penalties may be remitted under the following circumstances:

- If the penalty was imposed for a failure to register;
- If the failure is nominal, or a first incidence;
- If exceptional circumstances exist; and
- If the penalty was incorrectly imposed, when there was no reason to impose penalties.

A taxpayer may object to SARS' decision not to remit the penalties.

As for understatement penalties, a percentage will be determined by locating each case within a table (Table 2.1) that assigns a percentage to objective criteria. The penalty percentage is not uniform, but dependent on the taxpayer's behaviour. This is recognition of a taxpayer's rights, in that the taxpayer's circumstances are taken into account. After determining the taxpayer's behaviour, the taxpayer's conduct must be identified, that is, whether the taxpayer:

- Made a voluntary disclosure before or after being notified of an audit, or;
- The taxpayer was obstructive when engaging with SARS officials, or;
- Is a repetitive case, or;
- The case is not defined by any of the above, hence is a standard case.

The question asked was whether administrative non-compliance and understatement penalties will compel taxpayers to become tax compliant. A total of 71% of the respondents agreed (including strongly agreed) that the new penalty regime of non-compliance penalties, understatement penalties and administrative penalties would compel taxpayers to register and file their returns on time, to declare and pay their tax liabilities on time and thereby facilitate improved tax compliance. However, 11% of the respondent disagreed and 18% percent remained neutral on this issue.

The voluntary disclosure program (VDP)

The VDP allows taxpayers who have not been audited and who are not in compliance with tax laws to voluntarily come forward and to bring their accounts into compliance in exchange for a penalty waiver, a limited look back period, and an avoidance of discovery through investigative and audit process (CCH Wolters Kluwer business, 2007:519).

The TAA gave VDP a permanent place in the South African tax landscape by including it in sections 225 to 233, in terms of which taxpayers are allowed to come forward and correct inaccurate or incomplete information or to disclose information they have not reported during previous dealings with the revenue authority.

Sections 225 to 233 of the TAA, gives effect of the VDP, by:

- Introducing the concept of voluntary disclosure;
- Prescribing the relief that may be provided under the VDP;
- Stating who qualifies to make a disclosure; and
- Prescribing, when, where and how to apply for the VDP.

A defaulting taxpayer will be granted relief under the programme, provided:

- The disclosure is complete;
- SARS was not aware of the default; and
- An administrative non-compliance penalty or understatement penalty would have been imposed had SARS discovered the default in the normal course of business.

This programme is an opportunity for taxpayers to come clean and comply with the tax acts. The question asked was whether the VDP may influence taxpayers to take advantage and comply with tax requirements. The majority of the respondents (69%) agreed (including strongly agreed) that the voluntary disclosure programme gives non-compliant taxpayers an opportunity to come clean and comply; while 9% of the respondents disagreed and 22% remained neutral on this issue.

Burden of proof

While SARS has powers on certain provisions of the TAA, the taxpayers' rights are safeguarded by the fact that SARS has to give reasons for some of their decisions. For example, according to section 96(2)(a) of the TAA, in the case of SARS raising estimated assessments, or an assessment that is not fully based on a return submitted by a taxpayer, SARS carried the burden of proof and must give the taxpayers a statement of the grounds for the assessment, and in the case of jeopardy assessments, the grounds for believing that the tax would otherwise be in jeopardy.

The same applies for the determination of an understatement penalty, SARS, unlike the old penalty regime, cannot just charge a penalty. SARS needs to understand the taxpayer's circumstances and determine the applicable behaviour. To add to this, the assessment and penalty amounts are subject to objection, which means that SARS should be able to defend their decision should the case proceed from objection to a tax court.

The question asked was whether the fact that SARS carries the burden of the onus to prove reasonability of estimated assessments, and the basis of imposition of understatement penalties gives confidence in the tax system, and influence compliance – 58% of the respondents agreed (including strongly agreed) with this statement, while 14% of the respondents disagreed and 28% remained neutral on this issue.

Summary

The perceived fairness of a tax system is important, and taxpayers' behaviour is influenced by two perceptions: that the system treats them unfairly compared to others, and that the government is doing too little with the revenue it collects. Out of the respondents, 61% agreed that fairness and equity created by the TAA may cause improved tax compliance.

The creation of a tax Ombud office for better protection of taxpayers' rights is one of the reforms that have recently been introduced to foster tax compliance and further improve confidence in the tax system. The study showed that 72% of the respondents were of the opinion that that the introduction of the tax Ombud could lead to confidence in the tax system, and improved tax compliance; while 61 % of the respondents agreed that improved rights can lead to improved tax compliance.

Administrative non-compliance penalties and understatement penalties were introduced by the TAA. SARS levies administrative non-compliance penalties when taxpayers fail to comply with administrative requirements of the tax acts. A reasonably high percentage (71%) of the respondents agreed that the new penalty

regime of non-compliance penalties, understatement penalties and administrative penalties would compel taxpayers to comply.

The VDP programme is an opportunity for taxpayers to come clean and comply with the tax acts; hence 69% of the respondents agreed that the voluntary disclosure programme gives non-compliant taxpayers an opportunity to come clean and comply.

On the question whether the fact that SARS carries the burden of the onus to prove reasonability of estimated assessments, and the basis of imposition of understatement penalties gives confidence in the tax system, and influence compliance, 58% of the respondents agreed with the statement.

The majority of respondents were in agreement with the six issues discussed above, relating to the taxpayers' rights and obligations in the TAA that has an effect on taxpayers' compliance behaviour. Taxpayers do have rights but they also have obligations to fulfil in order to enjoy such rights.

4.3.3 The tax practitioners' role in the TAA

Tax practitioners play an important role in assisting taxpayers to meet their compliance obligations. The increased use of tax practitioners over the past decade suggests that more and more taxpayers are seeking their advice on the application of tax legislation and assistance to ensure that they file accurate returns. This confirms that tax practitioners are well positioned to influence the compliance decisions of taxpayers (Mahomed, 2013:ii).

The third and final part of the questionnaire dealt with the various provisions of the TAA that relates to the tax practitioners' role, which may have an effect on taxpayers' compliance behaviour. Table 4.7 below summarises the answers of the respondents.

Table 4.7: Questionnaire results - The tax practitioners' role in the TAA

Question / statement	Disagree	Neutral	Agree	Strongly Agree	Total
The requirement that tax practitioners be members of a recognised controlling body will have an impact on the tax compliance behaviour of themselves and their tax clients.	2 (1,32%)	13 (8,55%)	65 (42,76%)	72 (47,37%)	152 (100%)
The registration of tax practitioners with SARS will impact on their tax compliance behaviour, and those of their clients.	3 (1,97%)	15 (9,87%)	69 (45,40%)	65 (42,76%)	152 (100%)
The holding of tax practitioners personally liable for the accuracy of information submitted by them to SARS will influence their tax compliance behaviour, and that of their tax clients.	18 (11,76%)	20 (13,07%)	58 (37,91%)	57 (37,26%)	153 (100%)
Criminal penalties imposed on persons (such as tax practitioners) who assist other persons (such as tax clients) to evade tax will influence tax practitioners and their clients's tax compliance behaviour.	11 (7,19%)	10 (6,53%)	69 (45,10%)	63 (41,18%)	153 (100%)
TOTAL AVERAGES	8,5 (5,56%)	58 (9,51%)	65,25 (42,79%)	64,25 (42,14%)	152,50 (100%)

Tax practitioners should be members of recognised controlling bodies (RCB)

In section 240 the TAA introduced the compulsory registration of all tax practitioners, including persons who give tax advices, with recognised controlling bodies (RCB). The RCB model is a middle way between a lack of regulation and a statutory regulator, which will leverage existing bodies. It is intended to provide a framework to ensure that tax practitioners are appropriately qualified and that a mechanism is available, both to taxpayers and SARS, to ensure that misconduct is addressed, and hence enforce compliance amongst taxpayers (SARS Short Guide, 2013:86).

It is envisaged that this registration will help SARS to review the minimum qualifications and experience requirements, continuing professional education requirements, codes of ethics and conduct and disciplinary procedures of a professional association seeking recognition. It would ensure that members are required to have knowledge of tax that is kept up to date, are subject to codes of ethics and conduct that are relevant to the tax field and requires members to act ethically and professionally and that an effective disciplinary mechanism exists to deal with members who contravene the codes of ethics and conduct (SARS Short Guide, 2013:86).

The question asked was whether the TAA's requirements that a tax practitioner be a member of a RCB, will have an impact on the compliance behaviour of the tax practitioners themselves and their clients. The results showed that 43% of the respondents agreed, and a further 47% strongly agreed that the requirements that tax practitioners be members of recognised controlling bodies (for example SAICA, SAIT and SAIPA), may influence taxpayers' compliance behaviour. Only 1% of the respondents disagreed with this statement, while 9% remained neutral on this issue, which may be interpreted as a strong indication of the impact of this provision on tax compliance in general.

Registration of tax practitioners with SARS

Before the introduction of the TAA, tax practitioners did not have to be registered with SARS as tax practitioners. The TAA added this provision, and it also allows SARS to lodge complaints to the controlling bodies if their members are involved in any behaviour which are intended to avoid or postpone tax compliance. A tax practitioner may not be registered if he or she has been removed from a professional body or convicted for a crime involving dishonesty in the preceding five years.

A register of tax practitioners will help SARS to easily communicate with tax practitioners, and identify bogus tax practitioners who are involved in schemes of assisting taxpayers to not comply with tax legislation. According to the SARS compliance programme (2013-2017:9), tax practitioners are identified as one of the seven focus industries that SARS will be focusing on during the five years from 2013 to 2017. The compliance programme states that regulation of this industry will be pursued to ensure that tax practitioners and trade intermediaries are all persons of good standing, are fully tax compliant in their personal capacity and provide a high quality service and advice to their clients.

The question asked was whether the registration of tax practitioners with SARS will impact on their compliance behaviour and those of their clients – 45% of the respondents agreed to this statement, and a further 43% strongly agreed to it, while only 2% disagreed with it and 10% opted to be neutral on this issue.

Liability of tax practitioners

According to section 241 of the TAA, if an intentional or negligent act of a tax practitioner resulted in a taxpayer avoiding or unduly postponing performing an obligation contained in the tax Acts, SARS is allowed to lodge a complaint to the RCB. Added to this, if a registered tax practitioner conducts himself or herself in a manner that exposes the practitioner to disciplinary action being taken by the RCB, SARS may report that practitioner to the RCB. This, together with the effects of the codes of ethics and conduct, will ultimately hold tax practitioners accountable for the accuracy of the information submitted to SARS.

The question asked was whether personally holding the tax practitioners liable for the accuracy of information submitted by them to SARS will influence their compliance behaviour and that of their clients. Out of the respondents 38% agreed that holding tax practitioners personally liable may influence compliance behaviour and a further 37% strongly agreed in this regard. However, 12% of the respondents disagreed, and 13% were neutral on this issue.

Criminal penalties

To enforce the above issues relating to tax practitioners, according to sections 234, 235 and 237, any persons who:

- Submits documents without reasonable grounds for believing them to be true;
- Gives false answers, falsifies books;
- Makes use of fraud or contrivance;
- Fails to register as a tax practitioner;
- Forges signatures; or
- Submits information on behalf of someone, without the principal's consent;

will be guilty of an offence, and upon conviction is subject to a fine or imprisonment.

The question asked was whether criminal offences imposed on tax practitioners for assisting non-compliance, would influence their tax behaviour and that of their clients. The results showed that 45% of the respondents agreed that criminal penalties imposed on tax practitioners, who assist taxpayers to evade tax, may influence tax compliance behaviour and a further 41% of the respondents strongly agreed to this issue. Only 7% of the respondents disagreed while 7% were neutral on this issue.

Summary

The TAA introduced the compulsory registration of all tax practitioners, including persons who give tax advices, with recognised controlling bodies (RCB) – 90% of the respondents agree that this process will influence tax practitioners and their clients to be tax compliant.

Tax practitioners must now register with SARS, and SARS may lodge complaints to the controlling bodies if their members are involved in any behaviour which is intended to avoid or postpone tax compliance – 88% of the respondents agree that this provision will influence tax practitioners to be more compliant.

If an intentional or negligent act of a tax practitioner resulted in a taxpayer avoiding or duly postponing the performance of an obligation contained in the tax acts, SARS is allowed to lodge a complaint to the RCB. A total of 75% of the respondents agree that the holding of tax practitioners liable for the accuracy of the information submitted to SARS will influence tax compliance.

Tax practitioners may be criminally prosecuted for helping taxpayers to evade tax. On this question, 86% of the respondents agreed that this intervention would influence taxpayers to comply.

The majority of the respondents agreed that the TAA provisions relating to tax practitioners may influence tax compliance on issues relating to the tax practitioners' role in the TAA. This may be interpreted that the TAA will indeed influence taxpayers' compliance behaviour in general from the perspective of the tax practitioner's role in the TAA.

4.4 RESULTS OF THE PERSONAL INTERVIEWS WITH TAX PRACTITIONERS

In addition to the questionnaires completed by tax practitioners, personal interviews were also conducted with five tax practitioners. Similar questions (to the ones in the questionnaire) were asked to the tax practitioners, but the questions were open-ended, non-directive, which gave the interviewees a considerable responsibility for the freedom in participation and in determining the content and direction of the interview (Kadushin, 1997:239). The results from the personal interviews conducted, are presented below.

4.4.1 Questions relating to SARS' powers and duties

Registration requirements of the TAA

Three of the respondents indicated that the registration requirements do influence tax compliance, but SARS should apply the legislation to register unregistered taxpayers, as there are many unregistered taxpayers operating outside the tax net. The respondents also stated that, the current registration process in SARS offices eliminates 'fly by night' taxpayers, limits fraudulent registrations and promotes levelling of the playing field, which is fair for other taxpayers who are registered and complying.

The two interviewees who indicated that the registration requirements will not influence tax compliance, were of the opinion that compliant people are already registered taxpayers, but expressed their concern that the unregistered taxpayers may not be perturbed by the requirement to register. They were also of the opinion that the tax registration process in SARS offices, is cumbersome, and that SARS should make the current registration process easier.

The duty imposed on participants and promoters

To improve tax compliance, section 37 of the TAA, imposes an obligation on the promoter to report reportable arrangements to SARS, and where there is no promoter, the participant must report. Failure to report a reportable arrangement is

subject to administrative non-compliance penalties. This legislation empowers SARS to be advised of any such transactions where any amount is received by or accrued to a participant or actually incurred by a participant (Stiglingh *et al.*, 2015:1149).

Three of the interviewees were not convinced that the obligations imposed by the TAA on participants and promoters to report any reportable arrangements will change compliance behaviour. They were of the opinion that SARS does not have enough capacity to identify complex arrangements if not reported to SARS. They also indicated that SARS spends more time on petty non-compliance issues, yet the big arrangements go unnoticed and remained undetected. They also indicated that in the past, such arrangements have been reported to SARS, but SARS did not react appropriately on the reported arrangement.

To the contrary, two of the five interviewees agreed that this provision imposed by the TAA to report any reportable arrangement, may well influence tax compliance. They were of the opinion that fear of penalties to be implemented if caught may well be improved tax compliance.

Warrantless search and seizure powers

On the question of whether the fact that SARS is empowered by the TAA to carry out warrantless searches and seizures can influence tax compliance, three of the tax practitioners agreed that it will. The warrantless search and seizure provides SARS with a useful remedy to manage tax compliance. For this measure to be effective SARS should start using it more, and generate publicity on it, so that non-compliant tax payers are made aware, otherwise they will continue with their non-compliance practices.

The other two interviewees were not totally in denial about the implication of the warrantless search and seizure measure that SARS can use, but were of the opinion that the effect thereof will be minimal. They argued that tax evaders are aware of these provisions and will keep their records at a different location than their offices. They also expressed their concern that this provision might be abused by SARS officials and infringe on taxpayers' constitutional rights.

Section 63 of the TAA allows for warrantless searches only under certain circumstances such as; the owner of the premises consents or a senior SARS official has reasonable grounds for the search, therefore, the taxpayers' constitutional rights will not necessarily be infringed.

Publication of the names of tax offenders

Section 74 of the TAA allows SARS to publish for general information the particulars of a taxpayer relating to a tax offence committed by a person, if:

- The person was convicted of the offence; and
- All appeal or review proceedings relating to the offence have been completed or were not instituted within the period allowed.

All the interviewees agreed that the publication for general information of tax offenders, under certain circumstances, may affect tax compliance. One of the reasons provided by the interviewees regarding their view on the publication of the names of tax offenders included that prominent people are concerned about their reputation and would not want to be published as tax offenders. One interviewee indicated that there are tax offenses that deserve more than just the publishing of names, and this process may also expose fraudulent tax schemes to the public and SARS.

Jeopardy assessments

Section 94 of the TAA empowers SARS to raise a jeopardy assessment in advance of the date on which the return is normally due, if the Commissioner is satisfied that it is required to secure the collection of tax that would otherwise be in jeopardy.

On the question whether jeopardy assessments may change tax compliance behaviour, two of the interviewees agreed that it does, supporting their view with the fact that tax collection is immediate. The other three interviewees were of the opinion that the effect of the jeopardy assessments will not be substantial, as this is an

additional measure which will mostly be used on compliant taxpayers and SARS may abuse this measure and apply it even if it is not necessary.

Third party information and unannounced inspections

The next question posed to the interviewees dealt with the fact that SARS is empowered by the TAA to obtain information on a taxpayer from a third party and to conduct an inspection without prior notice, and whether this can influence tax compliance. Four of the interviewees indicated that this will cause taxpayers to comply, as they would know that SARS will get the information that they have not declared. This will widen the tax net, and enables SARS to collect additional tax revenue. One interviewee indicated that this measure may have a negative effect on tax compliance if the third party information provided may be wrong, and the process may be used by fraudulent people accessing taxpayers' confidential information.

Criminal offences for non-compliance and tax evasion

The TAA prescribes criminal offences for non-compliance with tax acts and for tax evasion, in section 234 and 235 respectively. On the question of whether the TAA's criminal offences for non-compliance and tax evasion will compel taxpayers to comply, all five interviewees indicated that the criminal offences will impact tax compliance behaviour convincing taxpayers to comply. They also indicated that this drastic measure will provide fairness in the tax system, as non-compliant taxpayers will be afraid of being prosecuted. The interviewees suggested that SARS should make use of this provision to deter non-compliance.

4.4.2 Questions relating to taxpayers' rights and obligations

Rights and obligations of taxpayers

One of the purposes of the TAA is to prescribe the rights and obligations of taxpayers. The question posed to the interviewees was whether the improved rights introduced by the TAA would influence tax compliance behaviour. Only one tax practitioner agreed that taxpayers who feel that they are being treated fairly are more

likely to be tax compliant out of free will. The other four indicated that improving rights does not necessarily influence tax compliance, and that more rights are given to SARS than to the taxpayers. They also indicated that where additional rights are given to taxpayers it is costly to enforce, for example litigations, and use of the Promotion of Administrative Justice act No. 3 of 2000 (PAJA) may not be affordable to taxpayers. The interviewees were also of the opinion that not all the tax practitioners had an opportunity to provide input in the drafting of the TAA, and the TAA is perceived to unfairly burdening taxpayers with a lot of additional tax administrative work.

Introduction of the tax Ombud

The tax Ombud was introduced by the TAA to among others, review and address taxpayers' complaints regarding SARS' service and procedural matters. The question posed to the interviewees was whether the introduction of the TAA may affect tax compliance behaviour. Three of the interviewees indicated that this question is related to the rights and obligations of taxpayers regarding improved rights, and improving rights does not necessarily results in improved tax compliance. They were of the opinion that, while they agree that compliance behaviour may improve, only compliant taxpayers who are aggrieved will turn to the tax Ombud, but not the non-compliant taxpayers. They also indicated that SARS is the one that can improve its services to avoid being named and shamed in Parliament. The other two interviewees were a bit sceptical whether the introduction of the tax Ombud may influence tax compliance, because in their opinion it may only be on a very small scale.

New penalty regime

SARS levies administrative non-compliance penalties when taxpayers fail to comply with administrative requirements of the tax acts, such as filling a return. The TAA sets out that the purpose of the administrative non-compliance penalties is to ensure the widest possible compliance with the tax acts. An understatement penalty may only be imposed if the fiscus is prejudiced by the taxpayer's reporting.

The interviewees were asked if the administrative non-compliance and understatement penalties will influence tax compliance behaviour. All five of them indicated that the penalties will definitely influence taxpayers to comply. They stated that penalties reduce the incentives of taking chances by not complying, the percentages involved are high, and cannot easily be waived by SARS. However, despite the severe impact the penalties may have, taxpayers' circumstances should always be taken into account by SARS before imposing the penalties.

Voluntary disclosure program (VDP)

The VDP allows taxpayers who have not been audited and who are not in compliance with tax laws to voluntarily come forward and to bring their accounts into compliance in exchange of a penalty waiver, a limited look back period, and an avoidance of discovery through investigative and audit process (CCH Wolters Kluwer business, 2007:519).

All five tax practitioners interviewed indicated that the VDP affords taxpayers whose tax affairs are irregular, to be regularised. Those taxpayers who were intentionally or unintentionally non-compliant can become compliant without fear of penalties using the VDP in this regard. One tax practitioner also indicated that he is aware of taxpayers who are now tax compliant as a result of the VDP, however, the process is time consuming and it takes too long for the whole process to be finalised.

4.4.3 Questions relating to tax practitioners' role in the TAA

Registering with SARS and an RCB

In section 240, the TAA introduced the compulsory registration of all tax practitioners, including persons who give tax advices, with a RCB. The TAA also added a new provision for tax practitioners, namely, compulsory registration with SARS. It also allows SARS to lodge complaints to the controlling bodies if their members are involved in any behaviour which is intended to avoid or postpone tax compliance. A register of tax practitioners will help SARS to easily communicate with tax

practitioners, and identify bogus tax practitioners who are involved in schemes of assisting taxpayers to not comply with tax legislation.

The first question relating to tax practitioners themselves was whether the new TAA requirements, that a tax practitioner must register with SARS and with a RCB, also allowing SARS to complain to the RCB if the practitioner commits certain offences, will influence tax compliance.

Four of the tax practitioners indicated that this will indeed influence tax compliance, while one did not agree. The tax practitioner, who disagreed, however, contradicted herself when she said that the system will regulate standards in the industry and hopefully eliminate poor tax practitioners who advise taxpayers not to comply. The practitioners who agreed further indicated that, no taxpayers would want to deal with unregistered tax practitioners, and the tax practitioners themselves wouldn't dare advise taxpayers to be non-compliant for fear of losing their registration. The registered tax practitioners will be kept up to date with changes in tax related legislation. The interviewees indicated that they are uncertain how the process will deal with bogus tax practitioners that are currently in the system.

Liability of tax practitioners

The second question relating to tax practitioners was whether the fact that tax practitioners may be held liable for the accuracy of the information submitted to SARS by them on behalf of their clients can influence tax compliance. All the interviewees indicated that this will influence compliance. The criminal charge that may be imposed on the practitioners reduces the incentive to evade tax on behalf of their clients, and the behaviour is unethical in terms of the RCB's code of ethics. However, this must only apply where the tax practitioner was involved in omitting certain facts. If the taxpayer is the one who did not divulge all the information to the tax practitioner, the taxpayer should be criminally prosecuted and not the tax practitioner.

Controlling bodies

The final question of the interviews was to establish the current measures that the controlling bodies may take against its members for tax non-compliance or on receipt of a complaint from SARS. All the interviewees indicated that their Recognised Controlling Bodies have codes of conduct that spells out expected ethical behaviour. Punishment for non-adherence can include, losing membership, going through a disciplinary process, penalties, and even criminal prosecutions.

4.5 COMPARISON BETWEEN THE QUESTIONNAIRE AND INTERVIEW RESULTS

Table 4.8 below is a summary of the percentages of the respondents who agreed and strongly agreed to each of the statements and or questions in the questionnaire to the extent that the TAA may influence tax compliance behaviour, compared to the percentages of interviewees who agreed to the same statements.

It can be concluded that the results of the questionnaire and the interviews are closely related, especially considering the fact that only five interviews were carried out compared to the more than 150 respondents to the questionnaires. In all the instances where the interview questions had 100% of participants who agreed, the questionnaire had at least a 70% of agreement, and in instances where the interviews had lower than 60% participants who agreed, the percentages for questionnaires were also lower than 75%. More so, the total averages of the two data collection tools are very close, being 71% for the questionnaire and 72% for personal interviews.

Table 4.8 Comparison of the questionnaire and the interview results

Question / statement	Agreed & Strongly Agreed per Questionnaire	Agreed per personal Interview
The registration requirements of the TAA would compel non-registered taxpayers to register for tax.	62,50%	60%
The duty imposed on participants and promoters of reportable arrangements to report such arrangements will encourage the participants to comply with tax legislation.	75,17%	40%
The warrantless search and seizure powers given to the Commissioner will change taxpayers' compliance behaviour.	62,91%	60%
Publication of the names tax offenders will assist in general to get taxpayers to comply with tax laws.	71,24%	100%
Jeopardy assessments will bring into the tax ring, taxpayers that could have been missed out.	62,75%	40%
Access to Third party information and unannounced visits can assist SARS to get non-compliant taxpayers to become compliant. (Average for the two questionnaire questions).	76,26%	80%
Criminal offences to be imposed for failure to comply with tax obligations imposed by the TAA may improve tax compliance.	75,33%	100%
The fairness and prescription of rights and obligations, created by the TAA will cause improved compliance by taxpayers.	61,44%	20%
The introduction of the Tax Ombud will lead to confidence in the tax system, and improved tax compliance.	71,90%	60%
Non-compliance, understatement and administrative penalties will compel taxpayers to become tax compliant.	71,25%	100%
The Voluntary Disclosure Programme may influence taxpayers to take advantage thereof and to become tax compliant.	69,28%	100%
The requirement that a tax practitioners be members of an RCB & registered with SARS will have an impact on the compliance behaviour of themselves and their tax clients. (Average for the two questionnaire questions).	89,15%	80%
The holding of tax practitioners personally liable for the accuracy of information submitted by them to SARS will influence their compliance behaviour, and that of their tax clients	75,17%	100%
TOTAL AVERAGE	71,10%	72%

4.6 SUMMARY

Prior research identified a number of factors that affect tax compliance behaviour including social support, social influence, attitudes, ethical values, and other demographic variables (for example age, gender, and educational level of taxpayers) (Mendel & Bevacqua, 2010:120). Demographic factors discussed for this study are, gender composition, age distribution, degree of tax knowledge and highest level of education for the respondents. The demographic representation of the questionnaire respondents is seen as a fair representation when compared to the South African population, and also when taking into consideration that the respondents are tax practitioners registered with SAICA, SAIT and SAIPA, which caused a deviation from the South African population representations.

On the TAA's provisions that relate to SARS' powers and duties, nine questions and/or statements were asked to determine if each of them would influence taxpayer behaviour to comply with tax legislation. The total average of respondents who agreed and strongly agreed was 70%; while 19% of the respondents remained neutral, and 10% disagreed.

The second part of the questionnaire was questions and/or statements relating to taxpayers' powers and obligations. The respondents were asked six questions and/or statements on whether each of the TAA's provisions influences taxpayers' compliance behaviour to comply with tax legislation. A total average of 12% of the respondents disagreed that the six questions influences taxpayers' compliance behaviour to comply. An average of 23% of the respondents opted to be neutral on the issues, while 47% agreed, and 18% strongly agreed. Effectively an average of 65% agreed that the TAA's provisions relating to taxpayers' rights and obligations do influence taxpayers' compliance behaviour.

The final part of the questionnaire comprised of the TAA's provisions relating to tax practitioners. Four questions and/or statements were asked with regards to whether the TAA's provisions relating to tax practitioners influences the tax compliance behaviour of the tax practitioners and their clients. An average of 6% of the respondents disagreed that the provisions relating to tax practitioners influences tax

compliance, and 10% of them remained neutral of the issues, while an average of 43% agreed, and 42% strongly agreed. The average total of the respondents that agreed is therefore 85%.

The second data collection tool used was personal interviews, during which thirteen questions were asked to five participants. The results reflected in Table 4.8 show a total average of 72% of agreement that the TAA's provisions influence taxpayers' behaviour to comply with tax legislation.

In line with the main objective, and supported by the secondary objectives of the study which sought to establish if the TAA influences taxpayers' compliances behaviour, the information gathered through the questionnaire and the interviews have appropriately made the intended determinations. Based on the statistics discussed above, the TAA does influence taxpayers' compliance behaviour.

The next chapter, which is the final chapter of the study details the findings and conclusions reached based on the results of the study. It also makes recommendations to SARS - as it is the authoritative power of administering the TAA - and provides suggestions for future research.

CHAPTER 5

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

The main research objective for this study was to establish whether the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners. The envisaged influence is that taxpayers may become more compliant, and hence reduce the tax gap. The collection of taxes provides the South African government with financial resources, which would, *inter alia*, allow the reduction of poverty and reduce inequalities by enabling the government to redistribute wealth through the tax system (Friedman, 2003:5). Therefore, tax revenue is a fundamental source of income for any government. It is vital that the collection of tax revenue is maximised as far as possible. Various studies have found that there are several factors that influence the attitudes of taxpayers which subsequently shape their tax behaviour. An understanding of taxpayers' behaviour will therefore assist and empower governments in maximising revenue collection and adapting a helper attitude.

This study investigated the perception of tax practitioners relating to the influence of the TAA on taxpayers' tax compliance behaviour in South Africa. The reason for this study is premised on the fact that the South African tax gap is estimated at about 30% of the current year's tax collections (for example, for the year ended 29 February 2016, the revenue collections target, according to SARS' website, is R1,081 trillion, therefore the tax gap is estimated at R300 billion for the 2016 tax year). In an effort to reduce the high level of non-compliance from a tax perspective, the South African government introduced the TAA. This study determined if the introduction of the TAA influences the tax compliance behaviour. Narrowing the tax gap, could enable the government to market itself and its services more effectively to the general public.

This chapter summarises the findings, provides recommendations and draw conclusions from the study. A summary of the findings and conclusions relating to the

research objectives is provided as well as a brief review of the limitations of the study and recommendations for future research. At the end of this chapter, the conclusion on the problem statement of the study is presented.

5.2 SUMMARY

The objectives formulated for the study were achieved in Chapters 1 to 4. This study comprised a literature review (Chapter 2), the research design and research method (Chapter 3) and an analysis of the research results (Chapter 4). A summary of how the objectives were achieved is given below with reference to each chapter.

5.2.1 Chapter 1

In Chapter 1 the background to the study and the problem statement were provided. The problem statement was whether the newly introduced TAA may influence taxpayers' behaviour to be more tax compliant, and improve the general levels of tax compliance, resulting in the reduction of the tax gap, and an increased collection of tax revenue for government.

In order to answer the problem statement, the following main objective was set (section 1.5.1 in Chapter 1):

- To establish whether the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners. The envisaged influence is that taxpayers may become more compliant, and hence reduce the tax gap.

To answer the research problem, the study identified several TAA provisions that relate to SARS' powers and duties, taxpayers' rights and obligations, and the role of the tax practitioners. These provisions formed the crust of the research questionnaire and personal interviews' questions. The findings detailed in Chapter 4 illustrates that the problem statement was addressed and the research objectives were achieved.

The magnitude and complexity of tax non-compliance calls for continuous effective tax administration and cannot be alleviated by a single intervention. The findings and

recommendations detailed below reveals that the TAA answers some of the non-compliance problems; but more research into this field, as recommended under the recommendations for future studies, would unearth a lot more interventions to manage tax non-compliance.

5.2.2 Chapter 2

Chapter 2 outlined the literature review on tax compliance and the TAA. It included a discussion of the South African tax system, tax compliance, the introduction of the TAA, the effects of the TAA on SARS, taxpayers and tax practitioners and how it affects compliance behaviour, and the role of the tax practitioners' professional controlling bodies. Chapter 2 achieved the following research objective as formulated in Chapter 1:

- To establish whether the newly enacted TAA influences taxpayers' compliance behaviour, as perceived by tax practitioners.

The literature on the TAA was guided by the research objectives mentioned above. The literature on the TAA gave birth to the research questionnaire and personal interview. These research instruments gathered data which was used in achieving the main objective of establishing whether the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners.

The following secondary research objectives were set for this study to assist in achieving the main research objective:

- To establish, through available literature, the new interventions that are available in the TAA, that SARS can employ to enforce and improve tax compliance;
- To highlight taxpayers' rights and obligations as provided by the TAA; and
- To provide literature on the TAA, as it is still a new piece of legislation and lacks depth in terms of available literature.

The above secondary objectives were achieved in that comprehensive literature on the background of the South African tax system, tax compliance, SARS' powers and duties and taxpayers' rights and obligations, as provided in the TAA were detailed in Chapter 2. The literature contained in this study will go a long way in assisting academics and future researchers on tax administration in South Africa.

5.2.3 Chapter 3

Chapter 3, that formed part of the empirical review of this study, provided an overview of the description of the research design, the sampling used, the data collection (including the questionnaire and the personal interviews), the data analysis, assessing the quality and rigour of the research design, and ethical considerations.

The empirical part of the study was done by the use of a self-developed questionnaire. The purpose of the questionnaire was to address the research questions formulated in section 1.5.3 in Chapter 1.

This is an empirical study in which new information and data was gathered in relation to the problem statement. Quantitative and qualitative data was obtained through completed questionnaires and personal interviews. A random sample selection of tax practitioners across the country was done to identify respondents to the questionnaire. Interviewees were sampled from tax practitioners in the Free State and Northern Cape provinces of South Africa. The target population of respondents to the questionnaire was at least 150 tax practitioners, and for the personal interviews, it was five tax practitioners. Lists of tax practitioners were obtained from the websites of their three main affiliate bodies – SAICA; SAIPA; and SAIT. On the websites of the three professional bodies, the tax practitioners were sorted per province and town, and the email addresses for most of them were available. Sixty tax practitioners were randomly selected from each of the large cities and thirty from each of the smaller cities. A link to the web-based questionnaire was sent to the email address available for the selected tax practitioners on the controlling bodies' websites.

For purposes of the personal interviews, five tax practitioners from tax and accounting firms in the Free State and in the Northern Cape were identified through their respective websites and they were contacted for a telephone interview.

Chapter 3 focussed on the research design and research methodology which contributed towards the achievement of the research objective stated in section 1.5.2 in Chapter 1. The results and findings of this study were discussed and illustrated by means of tables in Chapter 4.

Chapter 3 also achieved the main research objective, in that the research design and method equipped the researcher with research tools, instruments and guidance to collect data which was used to determine if the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners. The responses received from the participating tax practitioners to this study demonstrated that the questions were clear and answerable, and therefore, the purposes of Chapter 3 were achieved.

5.2.4 Chapter 4

Chapter 4 discussed and illustrated the results and findings of the study. The purpose of this chapter was to determine the perceptions of tax practitioners relating to the influence of the TAA on taxpayers' compliance behaviour in South Africa by addressing SARS' powers and duties, taxpayers' rights and obligations and the tax practitioners' role. This chapter also compared the actual results with the findings of Chapter 2 (literature review).

The intention was to determine if, the provisions of the TAA, categorised under each of the dimensions mentioned above, does influence the taxpayers' tax compliance behaviour. Two methods of data collections were used for the study, and the findings refer to both instruments.

The following findings emerged from this study:

5.2.4.1 SARS' powers and duties in the TAA

With regard to questions relating to SARS' powers and duties, nine questions and/or statements were asked in the questionnaire and seven questions were asked in the personal interview. The questions in both the instruments were similar, but the personal interview combined some of the questions, hence the number of questions in the personal interview is seven while it is nine in the questionnaire.

Section 2 of the TAA, prescribes the purposes of the TAA, and one of them is prescribing the powers and duties of persons engaged in the administration of the act (by SARS). The questions asked under this segment related to the provisions of the TAA that prescribes the powers and duties of SARS in administering the TAA, and how that can influence taxpayer' compliance behaviour.

The questions asked were sourced from the literature review in Chapter 2. Table 5.1 below illustrates the percentages of respondents in the questionnaire who agreed and strongly agreed that the provision influences taxpayers to comply, and the percentage of personal interview participants who agreed that the provision influences taxpayers to comply.

Table 5.1: Participants who agreed and strongly agreed to the statements/questions in the questionnaire and the personal interview

Question / statement	Agreed & Strongly Agreed per Questionnaire	Agreed per personal Interview
The registration requirements of the TAA would compel non-registered taxpayers to register for tax.	62,50%	60%
The duty imposed on participants and promoters of reportable arrangements to report such arrangements will encourage the participants to comply with tax legislation.	75,17%	40%
The warrantless search and seizure powers given to the Commissioner will change taxpayers' compliance behaviour.	62,91%	60%
Publication of the names tax offenders will assist in general to get taxpayers to comply with tax laws.	71,24%	100%
Jeopardy assessments will bring into the tax ring, taxpayers that could have been missed out.	62,75%	40%
Access to Third party information assists SARS to get non-compliant taxpayers to become compliant.	88,23%	80%
The fact that SARS can knock at a taxpayer's doorstep without prior notice may influence compliance behaviour in general.	64,28%	80%
Criminal offences to be imposed for failure to comply with tax obligations imposed by the TAA may improve tax compliance.	75,33%	100%
The burden of proof placed on taxpayers to prove their exemptions, deductions and validity of their objections and appeals will influence compliance behaviour.	77,48%	N/A
AVERAGE PERCENTAGE	76,26%	70%

The majority of the questionnaire and personal interview respondents agreed and strongly agreed that the provisions of the TAA that relate to SARS' powers and duties do influence taxpayers' compliance behaviour.

There are no previous studies, that are very closely related to the this study, which can be used for bench marking the average results above, except for studies referred to in the summary below (section 5.6), that related to individual provisions of the TAA. But, in light of the above, it is more likely that the provisions of the TAA that relate to SARS' powers and duties do influence taxpayers' compliance behaviour.

The validity of this conclusion is however not one hundred percent, as seen from the above statistics, there is an average of 10% questionnaire respondents who disagreed; 19% questionnaire respondents who opted to remain neutral; (Table 4.5) and 30% of the personal interviews participants who disagreed.

It became apparent during the personal interviews that, while the TAA provisions are available, SARS is not effectively applying the legislation on non-compliant taxpayers, and this was the basis of concern of most tax practitioners who disagreed or opted to remain neutral on a certain issue addressed.

The research results however, indicate that taxpayers' compliance behaviour is influenced by the TAA and they are complying with the tax legislation as a result of the TAA.

5.2.4.2 Taxpayers' rights and obligations in the TAA

The second part of the questionnaire also emanated from one of the purposes of the TAA as given in section 2 of the TAA, namely, prescribing the rights and obligations of taxpayers and other persons to whom the act applies. Six questions and/or statements were asked in the questionnaire and four questions were asked in the personal interviews. The questions asked in both research instruments were similar, but the personal interview combined some of the questions, hence the difference in the number of questions. The questions asked bordered around the provisions of the TAA that relates to taxpayers' rights and obligations, with the purpose of determining if taxpayers' rights and obligations do influence their compliance behaviour.

The questions asked were sourced from the literature review in Chapter 2. Table 5.2 below illustrates the percentages of respondents in the questionnaire who agreed and strongly agreed that the provision influences taxpayers to comply, and the percentage of personal interview participants who agreed that the provision influences taxpayers to comply.

Table 5.2: Participants who agreed and strongly agreed to the statements/questions in the questionnaire and the personal interview

Question / statement	Agreed & Strongly Agreed per Questionnaire	Agreed per personal Interview
The fairness and prescription of rights and obligations, created by the TAA will cause improved compliance by taxpayers.	61,44%	20%
The introduction of the Tax Ombud will lead to confidence in the tax system, and improved tax compliance.	71,90%	60%
Improved and protected rights of taxpayers as imposed by the TAA will influence the taxpayers's compliance behaviour.	61,44%	20%
Non-compliance, understatement and administrative penalties will compel taxpayers to become tax compliant.	71,25%	100%
The Voluntary Disclosure Programme may influence taxpayers to take advantage thereof and to become tax compliant.	69,28%	100%
The burden of proof placed on SARS to prove the reasonability of estimated assessments, and the basis of imposition of understatement penalties will influence tax compliance.	57,62%	N/A
AVERAGE RESPONSE PERCENTAGE FOR ALL QUESTIONS	65,49%	60%

On the questions pertaining to taxpayers' rights and obligations, the majority of the research respondents agreed and strongly agreed that the TAA legislation influences taxpayers to comply with tax laws.

As in the questions relating to SARS' powers and duties there are no previous studies that are very closely related to this study, which can be used for benchmarking the average results above, except for studies referred to in the summary below that relates to individual provisions of the TAA. However, in light of the above research results, it is more likely that the provisions of the TAA that relate to taxpayers' rights and obligations do influence taxpayers' compliance behaviour.

The validity of this conclusion is however not one hundred percent, as seen from the above research results. There is an average of 11% questionnaire respondents who disagreed; 23% questionnaire respondents who opted to remain neutral; (Table 4.6) and 40% of the personal interview participants who disagreed.

It became apparent during the personal interviews that while the respondents and participants who disagreed or opted to be neutral believe that the TAA provisions

may improve taxpayers' rights, it is costly for taxpayers to apply as most of the taxpayers may have to require the services of tax experts and or legal representation in dealing with the TAA. The respondents were also of the opinion that wider and extensive consultations were not done in drafting the legislation and that only a few groups were consulted, and their (interviewees') opinions were not taken into account in drafting the TAA.

The research results however, indicated that the majority of taxpayers' compliance behaviour is influenced by the TAA's provisions relating to taxpayers' rights and obligations, and that, taxpayers are complying with the tax legislation as a result of the TAA.

5.2.4.3 The tax practitioners' role in the TAA

The third and final segment of the research instruments dealt with the influence of tax practitioners on tax compliance behaviour based on the TAA's requirements for tax practitioners. Taxation is a specialised field which many businessmen and company managers are not conversant with. There are several annual changes in tax legislation, which are dealt with in the annual national budget speech by the Minister of Finance, hence the heavy reliance on tax practitioners to keep taxpayers informed. Therefore, tax practitioners play a pivotal role in determining taxpayers' compliance behaviour as they can advise taxpayers accordingly. The questions asked were about whether the TAA provisions and requirements on the tax practitioners can influence tax practitioners and their clients' compliance behaviour. Four questions or statements were asked in the questionnaire and three questions were asked in the personal interviews. As was the case in the other two segments of the questionnaire, the questions in both research instruments were similar, except that the personal interview combined some of the questions.

The questions asked were sourced from the literature review in Chapter 2. Table 5.3 below illustrates the percentages of respondents in the questionnaire who agreed and strongly agreed that the provision influences taxpayers to comply, and the percentage of personal interview participants who agreed that the provision influences taxpayers to comply.

Table 5.3: Participants who agreed and strongly agreed to the statements/questions in the questionnaire and the personal interview

Question / statement	Agreed & Strongly Agreed per Questionnaire	Agreed per personal Interview
The requirement that a tax practitioners be members of a recognised controlling body will have an impact on the tax compliance behaviour of themselves and their tax clients.	90,13%	80%
The registration of tax practitioners with SARS will impact on their tax compliance behaviour, and those of their clients.	88,16%	80%
The holding of tax practitioners personally liable for the accuracy of information submitted by them to SARS will influence their tax compliance behaviour, and that of their tax clients.	75,17%	100%
Criminal penalties imposed on persons (such as tax practitioners) who assist other persons (such as tax clients) to evade tax will influence tax practitioners and their clients's tax compliance behaviour.	86,28%	100%
AVERAGE RESPONSE PERCENTAGE FOR ALL QUESTIONS	84,94%	90%

In this category, the majority of the questionnaire respondents and face to face interviewees agreed or strongly agreed that the TAA legislation on tax practitioners influences taxpayers to comply with tax laws.

As in the questions relating to SARS' powers and duties and taxpayers' rights and obligations there are no previous studies that are very closely related to this study, which can be used for bench marking the research results, except for studies referred to in the summary below, that related to individual provisions of the TAA. However, in light of the research results obtained, it is more likely that the provisions of the TAA that relate to tax practitioners do influence taxpayers' compliance behaviour.

The validity of this conclusion is however not one hundred percent, as seen from the research results. There was an average of 5% of the questionnaire respondents who disagreed; 9% of the questionnaire respondents who opted to remain neutral; (Table 4.7) and 10% of the personal interview participants who disagreed.

It became apparent during the personal interviews that while the tax practitioners who disagreed or opted to be neutral believe that the TAA provisions generally influences

compliance behaviour, they were however concerned that SARS must start indicating to them how they are eliminating the current bogus tax practitioners in the system.

The tax practitioners also indicated that SARS should not abuse this legislation and penalise tax practitioners for inaccurate information that they received from their clients. SARS should have mechanisms to ascertain if it was the taxpayer who gave the tax practitioner inaccurate information, or the tax practitioner who declared the inaccurate information to SARS. Further they also indicated that it is costly for taxpayers to exercise their rights in terms of the TAA, while SARS may incur no costs at all.

From the research results obtained it can be concluded that taxpayers' compliance behaviour are influenced by the TAA's provisions relating to the tax practitioners' role and requirements in the TAA, and taxpayers are complying due to this.

5.3 LIMITATIONS OF THE STUDY

Although the research's units of analysis are taxpayers, owing to the complexities of sampling, and directly contacting individual taxpayers, the target population that was contacted as participants to both the survey and the personal interviews are tax practitioners.

The main data collection instrument of the study was a questionnaire. Remenyi (2013:190) details two limitations of questionnaires. The first one relates to the egalitarian nature of the data produced in the hands of the researcher. Completed questionnaires were entered once, and only once into the data set to be analysed. This is irrespective of who has supplied the data. Therefore, the response of a highly informed respondent is given the same weight as that of a relatively novice or inexperienced one. It is not easy to apply a weight to a questionnaire in a convincing manner depending on who completed it and thus all questionnaire responses were treated invariably equal.

The second issue is related to the inflexibility associated with the use of questionnaires as a data collection instrument and process. Having developed a

questionnaire, including design (pre-testing and field testing), the researcher attempted to collect as many completed questionnaires as possible. Despite the care taken during the development process there could still have been mistakes and challenges in the questionnaire. When the required number of completed questionnaires was returned, the researcher commenced the process of data capturing, analysis and interpretation. At this stage it may have become apparent that there are one or more poor questions that no useful data have been obtained from. Nothing can be done about this now (Remenyi, 2013:190).

The second data collection instrument used was personal interviews. Only five personal interviews were conducted with tax practitioners. Some of the limitations with using interviews are that interviews can only capture reconstructions of events rather than how people might actually behave, and the interviewer must be able to reflect on the impact their class, gender and position might have on the interview process (Holloway, 2005:52).

There are a very small number of completed studies on the TAA in South Africa, therefore not much secondary data was available to benchmark this study.

5.4 RESEARCH RECOMMENDATIONS

Resulting from this study, certain recommendations can be made regarding the perceptions of tax practitioners relating to the influence of the TAA on taxpayers' compliance behaviour in South Africa. The following recommendations are made:

- In an effort to reduce the tax gap, and also to improve the confidence that currently registered taxpayers have in SARS, a vigorous registration project for unregistered taxpayers could be considered. Section 26 of the TAA empowers SARS to obtain returns or information from third parties. SARS could use information from organisations such as the Companies and Intellectual Property Commission (CIPC); Deeds Office; e-NATIS; Licencing authorities; Government and Municipalities supply chains and tender boards; wholesalers and retailers associations and controlling authorities, and many others, to identify taxpayers who are trading and meet the registration requirements of

the different taxes but are currently not registered. Section 45 of the TAA also empowers SARS to carry out unannounced visits. SARS can do door-to-door visits on identified areas to identify unregistered taxpayers. And, when SARS did all of this, it must be made public to create awareness and send a message to all other non-complying taxpayers.

- SARS needs to make the procedural requirements for registration as easy as possible, including investigating the feasibility of online registration in future. SARS also needs to ensure the completeness of taxpayer registration, including ensuring that taxpayers who fail to register or provide adequate information are detected. In this way, the registration requirements will be more effective in improving compliance.
- Most of the interventions that SARS employs to circumvent non-compliance are aimed at taxpayers that are already registered, and in the tax net. There are a lot of informal traders who are not in SARS' books and are basically evading tax. It is difficult to administer the informal sector. SARS could advocate for the introduction of an Informal traders tax, which could be collected by the landlords, or lessors of informal traders as part of the monthly rent. Therefore SARS would have to register the landlords, and the landlords will collect the tax on behalf of SARS and remit to SARS monthly.
- SARS is armed with a reasonable amount of powers embedded in the TAA, which include: an authority for search and seizures; a prerogative to publicise names of tax offenders; a legal framework to criminally charge taxpayers for non-compliance and tax evasion. The personal interview participants were of the opinion that while SARS does carry out these powers, there is a need for SARS to do more, as it is a known fact that there are many tax offenders who are known to SARS. Therefore, SARS needs to carry out a lot more of these powers and publicise in the media for other tax offenders to be warned.
- This study illustrated that, according to Kirchler (2007:21), the different forms of tax compliance can be distinguished as: (a) committed compliance being taxpayers' willingness to pay their taxes without complaints: (b) capitulative

compliance which refers to reluctantly giving in and paying taxes: and (c) creative compliance which refers to taxpayers who reduce their tax liabilities by taking advantage of possibilities of redefining income and deducting expenditure within or outside the law. SARS could consider doing a profiling and categorisation exercise of their taxpayers into these categories, and then allocating more resources towards the creative compliance taxpayers and lesser resources towards the capitulative taxpayers.

- SARS should consider building stronger relationships and regular interactions with organisations such as the Recognised Controlling Bodies, professional associations, banks, provincial governments, licensing authorities, and other trade groupings. In these forums there will be an exchange of trade knowledge, latest tax changes, and SARS could use this information to identify and profile non-compliant taxpayers.
- Around the world, a country such as the United Kingdom is one of the countries with the lowest tax gap. SARS could spend more time with Her Majesty Revenue Authority (HMRC), through staff exchange programs in order for the SARS staff to be trained on some of the interventions that can be put in place in managing tax compliance, and reducing the tax gap in South Africa.
- Although there are costs involved for the taxpayer, SARS could consider encouraging taxpayers to make use of tax practitioners. The current TAA legislation enforces tax practitioners to be registered with SARS and with a RCB. This would give SARS an added advantage of administering tax compliance, through regularisation of Recognised Controlling Bodies, and also given the fact that the tax practitioners are subject to the ethical requirements of the Recognised Controlling Bodies.

5.5 RECOMMENDATIONS FOR FUTURE RESEARCH

Resulting from this study it has become apparent that more detailed information is needed with regard to:

- The view of SARS employees on whether the TAA influences the tax compliance behaviour of taxpayers; and
- A more comprehensive survey around the country involving more participants for both questionnaires and personal interviews on this topic.

Further research should be done which should include SARS' employees as participants in questionnaires or personal interviews. SARS officials in certain divisions, for example, the tax audit division and the legal division, are involved in advising taxpayers on tax legislation, auditing and verifying taxpayers' compliance with tax acts. They are in a position to give an opinion as to whether they realise a change in taxpayers' compliance behaviour which is caused by the introduction of the TAA.

This study involved about 150 tax practitioner respondents who completed the research questionnaire and a personal interview was done with five participants. Tax compliance is crucial for the country as a whole as it affects the economical, infrastructural and social development of the country. A more comprehensive study on the impact of the TAA should be conducted involving at least 500 tax practitioners completing a questionnaire and also 50 to 100 tax practitioners being interviewed to cover all nine provinces of South Africa.

5.6 SUMMARY

The findings of this study indicated that an effective tax registration system influences compliance concur with OECD (2004:7), and with those of Thiga and Muturi (2015:4). On the effectiveness of searches and seizures, the study goes along with Das-Gupta and Mookherjee (1995:11). The findings by Okello (2014:30), that access to third party information assists revenue authorities to improve compliance, were corroborated. Devos and Zackrisson (2015:115) found that despite obvious privacy

issues around releasing taxpayers' details, the naming and shaming of offenders has been successful both as a deterrent and as a revenue raiser in Portugal, for example, and has received support in the literature.

The study's findings on the use of third party information, confirmed Plumley's (1996:18) findings that there was a very significant rise in the Inland Revenue Services' (IRS) ability to detect non-compliance through the use of automated matching of third party information documents with tax returns in its Information Returns Program (IRP). Their finding concurs with the findings of this study. The findings of Modugu and Anyaduba (2014:210), that criminal offences resulting from non-compliance with tax has a significant influence on compliance, concurs with the results from this study.

On the subject of the effect of fairness on tax compliance, this study assents with Siahaan (2012:192), who found that tax fairness builds trust in the tax authority hence improved tax compliance. Ofori-Boateng's (2014:42) findings that the tax Ombud will influence the tax system in a positive way, is in line with this study's findings that the tax Ombud provides confidence in the tax system, resulting in improved tax compliance. Similar to this research, Kamil (2015:108), concluded that tax penalties have a significant effect on individual taxpayers' compliance. The findings of the study relating to the fact that the Voluntary Disclosure Programme renders an opportunity to delinquent taxpayers to come clean and comply were corroborated by the findings of Saracoglu and Caskurlu (2011:95), which were summarised, as follows, "in short term effect, tax amnesties do increase the tax compliance." According to Devos (2012:23), there was a statically significant relationship between the need for engaging tax professionals and compliance behaviour generally. This finding is in line with the findings of this study.

5.7 CONCLUSIONS

The brief overview regarding the perceptions of tax practitioners relating to the influence of the TAA on taxpayers' compliance behaviour in South Africa plays an important role in South Africa. The TAA applies equally to all registered taxpayers in South Africa.

The main purpose of the TAA, as suggested by the research, is to ensure the effective and efficient collection of tax, which can also be referred to as to improve tax compliance. The effective and efficient collection of tax is achieved, by, among others – prescribing the rights and obligations of taxpayers, and prescribing the powers and duties of SARS. This study tested if the prescription of - (1) taxpayers' rights and obligations, (2) SARS' powers and duties, (3) tax practitioners' role, influences taxpayers' compliance behaviour. The outcomes were that, more than not, the prescription of taxpayers' rights and obligations, SARS' powers and duties, and tax practitioners' role does influence taxpayers' compliance behaviour. The outcomes are briefly outlined below.

The majority of the questionnaire and face-to-face interview respondents agreed or strongly agreed that the provisions of the TAA that relates to SARS' powers and duties do influence taxpayers' compliance behaviour. The total average of respondents who agreed or strongly agreed was 71%. For face-to-face interviews, an average of 68,57% accepted that the TAA provisions in this dimension influences taxpayers to comply.

On the questions pertaining to taxpayers' rights and obligations, the majority of the questionnaire and face-to-face interviewees agreed or strongly agreed that the TAA legislation influences taxpayers to comply with tax laws. The total average of questionnaire participants who agreed or strongly agreed is 65%. For face to face interviewees, an average of 70% accepted that the TAA provisions in this dimension influences taxpayers to comply.

In the category of the tax practitioners' role in the TAA, the majority of the questionnaire respondents and face-to-face interviewee participants agreed or strongly agreed that the TAA legislation on tax practitioners influences taxpayers to comply with tax laws. The total average of agree and strongly agree is 85%. For face to face interviews, an average of 90% accepted that the TAA provisions in this dimension influences taxpayers to comply.

The limitations of the use of questionnaires in this study include the fact that the response of a highly informed respondent is given the same weight as that of a

relatively novice or inexperienced one and that they are inflexible, once rolled out, they cannot be changed, even when change is necessary. The limitations with personal interviews are that they can only capture reconstructions of events rather than how people might actually behave. Despite these limitations, the consistencies of the outcomes of the two research instruments, and the level of expertise of the respondents and participants of the study, qualifies the conclusion from the findings that the TAA influences taxpayers' tax compliance behaviour. However, as recommended in section 5.4, SARS can still do more to improve the tax compliance further.

The main objective of this study was to establish whether the newly enacted TAA does influence taxpayers' compliance behaviour, as perceived by tax practitioners. The envisaged influence is that taxpayers may become more compliant, and hence reduce the tax gap. It was determined through empirical evidence that the TAA does influence tax compliance.

The payment of taxes is invariably unpopular, and only an idiosyncratic minority is likely to say it pays too little taxes (Lewis, 1982:41). Authors have argued that avoidance has possibly ceased to be a question of the law and has become one of social responsibility (Temkin, 2004:12). This study supports the view of Torgler, (2007:243) that a sustainable tax system is based on a fair tax system, hence the review of SARS' powers and duties, and taxpayers' rights and obligations in the TAA.

The results of this study further suggest that South African taxpayers' perceptions influence their attitudes towards tax compliance. It is important that SARS concentrate on changing taxpayers' perceptions with regard to the multifaceted approaches (which are authorised by the TAA) that SARS is taking on non-compliant taxpayers. In this way, a more positive attitude towards tax compliance will be achieved from the rest of the taxpayers.

BIBLIOGRAPHY

Books:

AICPA Tax Policy Concept Statement. 2007. *Guiding principles of tax equity and fairness*. 4th ed. New York: American Institute of Certified Public Accountants.

Alink, M. & Van Kommer, V. 2011. *Handbook on tax administration*. IBFD Publications BV.

Allingham, M.G. & Sandmo, A. 1972. *Income tax evasion: A theoretical analysis*. University of Pennsylvania, Philadelphia, USA and The Norwegian School of Economics and Business Administration, Bergen, Norway.

Ary, D., Jacobs, L., Razavieh, A. & Sorenson, C. 2009. *Introduction to research in education*. 8th ed. Wardsworth: Wardsworth Publishing.

Australia Cash Economy Task Force. 1998. *Improving tax compliance in the cash economy* (online). 2nd report. Canberra. Available from: <<http://ctsi.anu.edu.au/publications/ATOpubs/improving%20tax%20compliance.pdf>> (Accessed 20 May 2015).

Babbie, E. 2011. *The basics of social research*. 5th ed. Chapman University, Berkley: Wardsworth Publishing.

Baer, K. & Le Borgne, E. 2008. *Tax amnesties: Theory, trends and some alternatives*. Washington DC: International Monetary Fund.

Bergman, M. 2010. *Tax evasion and the rule of law in Latin America*. Pennsylvania: Pennsylvania State University press.

Bird, R.M. & de Jantscher, M.S. 1992. *Improving tax administration in developing countries*. Washington DC: International Monetary Fund.

Boccabella, D.A. 1993. *Legal professional privilege: The case for tax accountants' clients*. 27(7). Taxation in Australia.

Brown, L.O. 2008. *Market research and analysis*. California: The Ronald Press Company.

Callahan, C.M. & Hertberg-Davis, H.L. 2013. *Fundamentals of gifted education: Considering multiple perspectives*. New York: Routledge Taylor & Francis Group New York.

- Campos, N. & Fidrmuc, J. 2003. *Political economy of transition and developments: Institutions politics and policies*. Berlin: Kluwer Academic Publishers.
- Caragata, P.J. 2012. *The economic and compliance consequences of taxation: A report on the health of the tax system in New Zealand*. New Zealand: Springer Science & Business Media.
- CCH Tax Research Consultants. 2009. *US Master multistate corporate Tax Guide*. Chicago: CCH Wolters Kluwer Business.
- CCH Wolters Kluwer Business. 2007. *US Master state tax practise and procedure guide*. 5th ed. Chicago: CCH Wolters Kluwer Business.
- CCH Wolters Kluwer Business. 2012. *Australian master tax guide*. 50th ed. London. CCH Australia Limited.
- Chau, G. & Leung, P. 2009. *A critical review of Fischer tax compliance model: A research synthesis, Journals of Accounting and Taxation*. Vol 1 (2), July 2009. School of Accounting and Finance, Hong Kong Polytechnic University.
- Clifford, N., French, S. & Valentine, G. 2010. *Key methods in Geography*. 2nd ed. London: SAGE Publications.
- Cooper, D.R. & Schindler, P.S. 2013. *Business research methods*. 8th ed. New York: McGraw-Hill.
- Craig, R. 2005. *Clinical & diagnostic interviewing*. 2nd ed. New York. Rowman & Littlefield Publishers.
- Croome, B. & Olivier, L. 2010. *Tax administration*. 2nd ed. Cape Town. JUTA Law.
- Das-Gupta, A. & Mookherjee, D. 1995. *Reforming income tax enforcement*. Boston: US Agency for International Development.
- Devos, K. 2012. *The impact of tax professionals upon the compliance behaviour of Australian individual taxpayers*. School of Taxation and business law (Atax), University of New South Wales, Australia.
- Devos, K. & Zackrisson, M. 2015. *Tax compliance and the public disclosure of tax information*. School of Taxation and business law (Atax), University of New South Wales, Australia.
- Dornyei, Z. 2002. *Questionnaires in second language research: Construction, administration, & processing*. New York: Routledge.
- Dubin, J. 2012. *The causes and consequences of income tax non-compliance*. New York: Springer-Verlag.

European Commission. 2010. *Compliance risk management guide for tax administrators*. Directorate General, Taxation and Customs Union. European Commission 2010.

FIDATO. 2012. *The Tax Administration Act 2012* (on line). FIDATO. Available from: < http://fidato.co.za/index.php?c=news/news_article_1 >. (Accessed 16 May 2013).

Friedman, S. 2003. *Sending a message: Culture, tax collection and governance in South Africa*. Policy: issues and actors, Vol 16 No 3. Johannesburg: Centre of Policy studies.

Fourie, L. Landman, J.P. & Schombee, P. 2012. *South Africa: How are you?* Johannesburg: Paarl Print.

Fullarton, L. 2015. *Heat, dust and taxes: A story of tax schemes in Australia's outback*. Stuttgart: Ibidem.

Gilligan, G. & Richardson, G. 2005. *Perceptions of tax fairness and tax compliance in Australia and Hong Kong – a preliminary study*. Journal of Financial crime, Vol. 12, Issue 4. Hong Kong: Emerald group publishing Limited.

Gitman, L., Joehnk, M. & Billingsley, R. 2014. *Personal financial planning*. 13th ed. Mason. Cengage Learning.

Goodwin, W. & Goodwin, L. 1996. *Understanding qualitative & quantitative research in early childhood education*. Columbia University New York: Teachers college Press.

Gratton, C. & Jones, I. 2004. *Research methods for sports studies*. 1st ed. London: Routledge Taylor and Francis Group.

Gravetter, F. & Forzano, L. 2012. *Research methods for the behavioral sciences*. 5th ed. Stamford: Cengage Learning.

Haupt, P. 2015. *Notes on South African income tax*. 14th ed. Roggebaai. H & H Publications.

Henning, E., Van Rensburg, W. & Smit, B. 2004. *Finding your way in qualitative research*. Pretoria: Van Schaik.

Holloway, I. 2005. *Qualitative research in health care*. Berkshire: Open University Press, Library of congress.

House of Commons Treasury Committee. 2010. *Closing the tax gap: HMRC's record at ensuring tax compliance*. London: House of Commons.

International Ethics Standards Board for Accountants (IESBA). 2014. *Handbook of the code of ethics for professional accountants*. New York: International Federation of Accountants (IFAC).

International Monetary Fund (IMF). 2012. *Staff country reports: Taking compliance management further*. Washington DC: International Monetary Fund Publication Services.

Jackson, S.L., 2009. *Research methods and statistics. A critical thinking approach*, Cengage Learning, USA.

Kadushin, A. 1997. *The guide for human social service professional work*. Michigan: Library of Congress Cataloguing.

Kamil, N.I. 2015. *The effect of taxpayer awareness, knowledge, tax penalties and tax authority services on tax compliance*. Faculty of Economics and Business. Mercuana University. Indonesia.

Katz Commission of enquiry. 1994. *Katz commission of enquiry on tax morality and the tax gap*. Pretoria. South African Government printers.

Kirchler, E. 2007. *The Economic psychology of tax behaviour*. Cambridge: Cambridge University Press.

Khotari, C. 2006. *Research methodology, methods and techniques*. 2nd ed. New Delhi: New Age International.

Klenke, K. 2008. *Qualitative research in the study of leadership*. Bingley: Emerald Group publishing Limited.

Kline, P. 2000. *The Handbook of psychological testing*. 2nd ed. London: Routledge Taylor and Francis Group.

Klue, S., Arendse, J.A. & Williams, R.C. 2012. *Silke on tax administration*. Durban: Lexis Nexis.

Kumar, R. 1999. *Research methodology: A step-by-step for beginners*. London, Sage.

Lan Mo, P. 2003. *Tax avoidance and anti-avoidance measures in major developing economies*. London: Greenwood Publishing Group.

Leedy, P.P. & Ormrod, J.E. 2005. *Practical research*. 8th ed. New Jersey: Pearson/Printice-Hall.

Lewis, A. 1982. *The psychology of taxation*. Oxford: Martin Robertson.

- Mahomed, R. 2013. *Understanding the role of tax practitioners within the taxpayer and tax practitioner relationship*. MCom Dissertation. University of Pretoria. Pretoria.
- Margo Commission. 1986. Report of the Commission of enquiry into the Tax Structure of the Republic of South Africa. 20 November. (RP 34/1987). Pretoria. Government Printer.
- Maxwell, J. 2013. *Qualitative research design: An Interactive approach*. 3rd ed. Washington DC: SAGE Publications.
- McGee, R. 2011. *The ethics of tax evasion, perspectives in theory and practice*. New York: Springer.
- McNabb, D. 2010. *Case research in public management*. New York: ME Sharpe.
- Mendel, J. & Bevacqua, J. 2010. *International tax administration: Building bridges*. Sidney: CCH Wolters Kluwer Group.
- Miller, R. & Brewer, J. 2003. *The A-Z of social research: A dictionary of key social science research*. London: SAGE Publications.
- Modugu, K.P. & Anyaduba, J.O. 2014. *Impact of tax audit on tax compliance in Nigeria*. Faculty of management sciences, University of Benin. Nigeria.
- Mouton, J. 2008. *How to succeed in your master's and doctoral studies: A South African guide and Resource book*. 11th ed. Pretoria: Van Schaik.
- Mubangizi, J.C. 2005. *The protection of human rights in South Africa: A legal practical guide*. Cape Town: Juta & Company.
- Naidoo, V. 2005. *Time for SARS to come to the party*. Business Day. 25 January.13.
- Nelson, B. 2006. *Law and ethics in global business: How to integrate law and business into corporate Governance around the world*. Oxon: Routledge Taylor and Francis Group.
- Neuman, W.L. 2000. *Social research methods: qualitative and quantitative approaches*. 4th ed. Boston: Allyn & Bacon.
- Newman, I. & Benz, C.R. 1998. *Qualitative-quantitative research methodology: Exploring the interactive Continuum*. Carbondale and Edwardsville. Southern Illinois University Press.
- Oberholzer, R., 2008. *Attitudes of South African taxpayers towards taxation: A pilot study*. Department of Taxation. University of Pretoria, Pretoria.

Organisation of Economic Co-operation and Development. 2004. *Compliance risk management: managing and improving tax compliance*. Paris: OECD Publishing.

Organisation of Economic Co-operation and Development. 2008. *Forum on tax administration: monitoring taxpayers' compliance*. Paris: OECD Publishing.

Organisation of Economic Co-operation and Development. 2009. *Engaging with high net worth individuals*. Paris: OECD Publishing.

Organisation of Economic Co-operation and Development. 2010. *Forum on tax administration: small/medium enterprise (SME) compliance subgroup, understanding and influencing taxpayers' compliance behaviour*. Paris: OECD Publishing.

Organisation of Economic Co-operation and Development. 2012. *Keeping it safe: Joint OECD/Global forum guide on the protection of confidentiality of information exchange for tax purposes*. Paris: OECD Publishing.

Organisation of Economic Co-operation and Development. 2013. *Tax administration: comparative information on OECD and other advanced and emerging economies*. Paris: OECD Publishing.

Ofori-Boateng, C. 2014. *Factors to consider when establishing an effective tax ombudsman in South Africa*. College of Business. North-West University, Mafikeng.

Okello, A. 2014. *Managing income tax compliance through self-assessment*. Washington DC: International Monetary Fund.

Ongwamuhana, K. 2011. *Tax compliance in Tanzania: An analysis of law and policy affecting voluntary taxpayer compliance*. Dar es Salaam: Mkuki na Nyota.

Plumley, A.H. 1996. *The determinants of individual income tax compliance: Estimating the impacts of tax policy, enforcement, and IRS responsiveness*. Washington DC: Department of the Treasury, Internal Revenue Services.

Reckers, P.M.J., Sanders, D.L. & Roark, S.J. 1994. *The influence of ethical attitude on taxpayer compliance*. Department of Accounting and Business Law. Washington State University, Pullman. National tax Journal, 47(4): 825-836.

Remenyi, D. 2013. *Field methods for academic research: Interviews, focus group and questionnaires in business management studies*. Reading: Academic conferences and publishing international.

Ridenour, C. & Newman, I. 2008. *Mixed methods research: Exploring the interactive continuum*. Carbondale: Southern Illinois University Press.

Ritchie, J. & Lewis, J. 2003. *Qualitative research practice: a guide for social science students and researchers*. London: Sage.

Roth, J.A. & Scholz, J.T. 1989. *Taxpayer Compliance: Social Science Perspectives*. Volume 2. Philadelphia: University of Pennsylvania Press.

Rubin, H.J. & Rubin, I.S. 1995. *Qualitative interviewing: The art of hearing data*. London: Sage.

Rubin, R., Rubin, A. & Haridakis, P. 2009. *Communication research: Strategies and sources*. 7th ed. Boston: Wadsworth Cengage Learning.

Sabinet. 2012. *Tax administration Act in force on 1 October 2012* (online). Pretoria: Sabinet. Available from: <<http://www.sabinetlaw.co.za/finances/articles/tax-administration-act-force-1-october-2012>>. [Accessed 16 May 2013].

Field Code Changed

Sakurai, Y. & Braithwaite, V. 2001. *Taxpayers' perception of the ideal tax adviser: Playing safe or saving Dollars*. Centre for Tax System Integrity working paper no 5. Canberra: The Australian National University.

Saracoglu, O.F. & Caskurlu, E. 2011. *Tax amnesty with effects and effecting aspect: Tax compliance, tax audits, and enforcement arounds. The Turkish Case*. Public Finance Department. Gazi University, Turkey.

Saunders, M., Lewis, P. & Thornhill, A. 2007. *Research Methods for Business Students*. 4th ed. Harlow, Essex: Pearson Education.

Shelly, G. & Rosenblatt, H. 2011. *System analysis & design*. 9th ed. Boston: Course Technology, Cengage Learning.

Siahaan, F. November 2012. *The influence of tax fairness and communication on voluntary compliance: Trust as an intervening variable*. *International Journal of Business and Social Science*, 3 (21):192.

South Africa. Government spending and income. No date. *ETU Government spending and income*, Pretoria: South African Government publishers.

South Africa. National Treasury Report. 2013. *Budget*. (online). Pretoria: National Treasury. Available from: <<http://www.treasury.gov.za/documents/national%20budget/2014/review/chapter%204.pdf>>. (Accessed 27 July 2014).

South Africa. Statistics South Africa. 2011. *Census 2011*. Pretoria: Statistics South Africa.

South African Institute of Chartered Accountants (SAICA). 2011. *SAICA by laws*. Johannesburg: SAICA.

South African Institute of Chartered Accountants (SAICA). 2014. *Code of professional conduct for Chartered Accountants*. Johannesburg: SAICA.

South African Institute of Tax Professionals (SAIT). 2011. *Code of conduct in relation to taxation*. Pretoria: SAIT.

South African Revenue Service. 2013. *SARS Compliance programme 2012/13 – 2016/17*. Pretoria: South African Revenue Service.

South African Revenue Service. 2013. *SARS Short guide to the tax administration Act, 2011*. Pretoria: South African Revenue Service, Legal & policy division.

South African Revenue Service. 2015. *SARS home page for general information about SARS*, (online). Pretoria: South African Revenue Service. Available from <<http://www.sars.co.za>>. [Accessed 19 August 2014].

South African Revenue Service. 2015. *SARS Strategic plan 2015/16 – 2019/20*. Pretoria: South African Revenue Service.

South African Revenue Service (SARS) LAPD. 2011, Memorandum on the objects of the tax administration bill. Pretoria: South African Revenue Service, Legal & policy division.

Stanlib. 2016. *South Africa's national budget 2016/2017*. Pretoria: Stanlib.

Stiglingh, M., Koekemoer, A.D., Van Schalkwyk, L., Wilcocks, J.S. & de Swart, R.D. 2015. *SILKE: South African income tax*. Johannesburg: Lexis Nexis.

Temkin, S. 2004. Is Taxation a duty higher than law? *Business day*. 13 February. 12.

Thiga, M.N. & Muturi, W. 2015. *Factors that influence compliance with tax laws among small and medium enterprises in Kenya*, ISSN, School of business, Jomo Kenyatta University of Agriculture and Technology.

Torgler, B. 2007. *Tax compliance and tax morale: A theoretical and empirical Analysis*. Cheltenham: Edward Elgar Publishing Limited.

Underdal, A. and Young, O. 2004. *Regime consequences: Methodological challenges and research strategies*. Dordrecht: Kluwer Academic Publishers.

United Nations. 2005. *Household Sample surveys in developing and transition countries*. New York: United Nations Economic and Social Affairs.

United States Code Service. 1980. *26UCSC*. University of California. California.

United States. 2007. *General explanation of tax legislation enacted in the 109th congress*. Washington DC: United Nations Joint Committee on Taxation.

Van der Hel, L. 2011. *Intra Community Tax audit*. Amsterdam. IBFD.

Webley, P., Robben, H., Elffers, H. & Hensing, D. 1991. *Tax evasion: An experimental approach*. Cambridge: Cambridge University Press.

Williams, R.C. 2005. *Income tax in South Africa: Cases & materials*. Durban: Lexis Nexis Butterworths.

World Bank. 1998. *Lithuania, an opportunity for economic success: Analytical background. Vol 2*. Washington DC: The World Bank.

World Bank. 2003. *The World Bank legal review: Law and justice for development. Vol 1*. Washington DC: World Bank Group.

Zyngier, S., Bortolussi, M., Chesnokova, A. & Auracher, J. 2008. *Directions in empirical literary studies*. Amsterdam. John Benjamins Publishing Company.

Legislation:

South Africa Government Gazette. 1962. *Income Tax Act No. 58*. Johannesburg: LexisNexis.

South Africa Government Gazette. 1964. *Customs Act No. 91*. Johannesburg: LexisNexis

South Africa Government Gazette. 1977. *Criminal Procedure Act No. 51*. Johannesburg: LexisNexis.

South Africa Government Gazette. 1991. *Value-Added Tax Act No. 89*. Johannesburg: LexisNexis.

South Africa Government Gazette. 1997. *SARS Act No. 34 of 1997*. Johannesburg: LexisNexis.

South Africa Government Gazette. 2000. *Promotion of Access to Information Act No.2*. Johannesburg: LexisNexis.

South Africa Government Gazette. 2000. *Promotion of Justice Act No.3*. Johannesburg: LexisNexis.

South Africa Government Gazette. 2008. *Companies Act No. 71*. Johannesburg: LexisNexis.

South Africa Government Gazette. 2011. *Tax Administration Act No. 28*. Johannesburg: LexisNexis.

Case Law:

Alleged tax delinquent (D) v Indian Department of Revenue (P) (Smith v Richert).

Ferreira v Levin (1996 (1) SA 984 (CC).

IRC v Duke of Westminster v IRC (1936).

Smith v Richert. (Alleged tax delinquent (D) V Indian Department of Revenue (R) 35 F 3d 300 (7th Cir. 1994).

**APPENDIX A:
QUESTIONNAIRE USED TO COLLECT DATA FOR THE
STUDY**

UNISA. Department of Taxation

Mobile: 0721273239

Dear Respondent

SURVEY AMONGST TAX PRACTITIONERS

Mr. Heavy Maposa is doing research for a Masters' dissertation in the School for Accounting Sciences at UNISA. The purpose of this research is to investigate the perception of tax practitioners relating to the influence of the Tax Administration Act (the TAA) on tax compliance behaviour in general in South Africa. As the study's participants are only tax practitioners, the findings will relate mainly to taxpayers who make use of tax practitioners, and as part of the recommendations of the study, it will be recommended that taxpayers make use of registered tax practitioners. The registration of tax practitioners is one of the requirements of the TAA. Ethical clearances to conduct the research have been obtained from UNISA.

Your participation by completing the questionnaire attached will be highly appreciated. All responses will be treated as confidential. Data collected will only be used for statistical analysis. No individual or company specific information will be revealed. Please do not hesitate to contact Mr. Heavy Maposa at the above telephone number should you require any further information or assistance in completing the questionnaire.

Your valuable contribution to determine if there is indeed any influence on tax compliance behaviours in general within South Africa is sincerely appreciated.

Yours faithfully

PROF. A.P. SWANEPOEL
SCHOOL of ACCOUNTING SCIENCES
UNISA

TAA QUESTIONNAIRE

GENERAL INFORMATION

- The purpose of this questionnaire is to investigate the tax practitioners' perception relating to the influence of the TAA on the tax compliance behaviour in South Africa, focussing on taxpayers that are represented by or make use of tax practitioners. This questionnaire forms part of a research project to qualify for an MPhil. Accounting Science (Taxation) at UNISA.
- You have been randomly selected from a list of tax practitioners on SAICA, SAIPA and SAIT websites. As a tax practitioner you have a good understanding of this subject, and therefore your participation will be of paramount importance.
- The input of each respondent is very important for the purpose of this research project. The participation of each respondent is highly valued and will make a difference.
- The information supplied by you will be treated as strictly confidential. Your responses together with those of other respondents will be used to obtain a complete view.
- Participation is voluntary and there is no penalty or loss of benefit for non-participation, and participants can withdraw at any time without an obligation to explain or any adverse effects.
- You will receive feedback of the findings in form of the published completed study that will be downloaded onto the website of your governing bodies.
- The overall findings of the study will be shared with SARS. The benefits of this study to the participants are that they get an opportunity to evaluate the effectiveness of the TAA, and some of their recommendations may be considered by the legislature in future improvements and amendments to this and other tax Acts.
- All information obtained during this study will be kept for a period of 10 years from the date of the final approval of the study by UNISA, after which it shall be destroyed.
- Please answer every question/statement in the space provided in each question/statement by clicking on the relevant radio button for your preferred choice.
- The questionnaire will not take more than 10 minutes to complete.
- Ethical clearance to conduct this research was obtained from UNISA.
- The following definitions applied for the purpose of this questionnaire:
SARS = The South African Revenue Service
TAA = Tax Administration Act
SAICA = South African Institute of Chartered Accountants
SAIPA = South Africa Institute of Professional Accountants
SAIT = South African Institute of Tax professionals

Thank you for your co-operation and participation in making this research possible.

Mr. H. Maposa

Bloemfontein

Telephone: Work: 051 501 3099

Cell: 072 127 3239 / 083 578 8247

Email: hmaposa@sars.gov.za

Study leader: Prof. A.P. Swanepoel

School of Accounting Sciences: Department of Taxation

UNISA.

QUESTIONNAIRE – TAA

Questionnaire number				
----------------------	--	--	--	--

Part A: RESPONDENT’S DEMOGRAPHIC DETAILS		
Gender:	Male	
	Female	
Age group in years	Below 30 years	
	31 to 40 years	
	41 to 50 years	
	Above 51 years	
Taxation knowledge	Below average	
	Average	
	Good	
	Excellent	
Highest level of education	Grade 12	
	Post Gr.12 Certificate	
	Diploma/Degree	
	Post Graduate	

Please complete all the questions by choosing if you “Disagree”, are “Uncertain” or “Agree” with each statement/question.

PART A: The effect of the TAA on SARS.		Disagree	Uncertain /Neutral	Agree	Strongly Agree
1.	The registration requirements of the TAA would compel non-registered taxpayers to register for tax.				
2.	The duty imposed on participants and promoters of reportable arrangements to report such arrangements will encourage the participants to comply with tax legislation.				

3.	The warrantless search and seizure powers given to the Commissioner will change taxpayers' compliance behaviour.				
4.	Publication of the names of tax offenders will assist in general to get taxpayers to comply with tax laws.				
5.	Jeopardy assessments will bring into the tax net taxpayers that may otherwise have remained untaxed.				
6	Access to third party information will assist SARS to get non-compliant taxpayers to become tax compliant.				
7.	The fact that SARS can show up at a taxpayer's door step without prior notice may influence compliance behaviour in general.				
8.	Criminal offences to be imposed for failure to comply with tax obligations imposed by the TAA may improve compliance.				
9.	The burden of onus placed on taxpayers to prove their exemptions, deductions and validity of their objections and appeals will influence compliance behaviour.				
Part C: The effect of the TAA on taxpayers.					
10.	The fairness and equity created by the TAA (e.g. recovery of photocopy costs incurred by taxpayers from SARS) will cause improved compliance by taxpayers.				
11.	The introduction of the Tax Ombud will lead to confidence in the tax system, and improved tax compliance.				
12.	Improved and protected rights of taxpayers as imposed by the TAA will influence the taxpayers' compliance behaviour.				
13.	Non-compliance, understatement and administrative penalties will compel taxpayers to be tax compliant.				

14.	The Voluntary Disclosure Programme will influence taxpayers to take advantage thereof and to become tax compliant.				
15.	The burden of proof placed on SARS to prove the reasonability of estimated assessments, and basis of imposition of understatement penalties will influence tax compliance.				
PART D: The role of tax practitioners in the TAA.					
16.	The requirement that tax practitioners must be members of recognised controlling bodies will have an impact on the compliance behaviour of themselves and their clients.				
17.	The registration of tax practitioners with SARS will impact on their compliance behaviour and those of their clients.				
18.	The prospect of personal liability of tax practitioners regarding the accuracy of information submitted by them on behalf of taxpayer clients to SARS will influence their compliance behaviour, and that of their tax clients.				
19.	Criminal penalties imposed on persons (such as tax practitioners) who assist other persons (such as tax clients) to evade tax will influence tax practitioners and their clients' tax compliance behaviour.				

THANK YOU FOR YOUR VALUABLE TIME AND INPUT IN COMPLETING THIS QUESTIONNAIRE. YOU HAVE MADE A GREAT CONTRIBUTION TO THE OUTCOME OF THIS RESEARCH.

APPENDIX B:
INTERVIEW SHEET USED FOR FACE-TO-FACE INTERVIEWS
WITH TAX PRACTITIONERS

TAX ADMINISTRATION ACT (TAA) Research Interview

UNISA. Department of Taxation

Mobile: 0721273239

Dear Respondent

INTERVIEW SURVEY AMONGST TAX PRACTITIONERS

Mr. Heavy Maposa is doing research for a Masters' dissertation in the School for Accounting Sciences at UNISA. The purpose of this research is to investigate the perception of tax practitioners relating to the influence of the Tax Administration Act (the TAA) on tax compliance behaviour in general in South Africa. As the study's participants are only tax practitioners, the findings will relate mainly to taxpayers who make use of tax practitioners, and as part of the recommendations of the study, it will be recommended that taxpayers make use of registered tax practitioners. The registration of tax practitioners is one of the requirements of the TAA. Ethical clearances to conduct the research have been obtained from UNISA.

Your participation in this interview will be highly appreciated. All responses will be treated as confidential. Data collected will only be used for statistical analysis. No individual or company specific information will be revealed. Please do not hesitate to contact Mr. Heavy Maposa at the above telephone number should you require any further information or assistance in completing the questionnaire.

Your valuable contribution to determine if there is indeed any influence on tax compliance behaviours in general within South Africa is sincerely appreciated.

Yours faithfully

PROF AP SWANEPOEL

SCHOOL of ACCOUNTING SCIENCES

UNISA

TAA INTERVIEW

GENERAL INFORMATION

- The purpose of this interview is to investigate the tax practitioners' perception relating to the influence of the TAA on the tax compliance behaviour in South Africa, focussing on taxpayers that are represented by or make use of tax practitioners. This questionnaire forms part of a research project to qualify for an MPhil. Accounting Science (Taxation) at UNISA.
- You have been randomly selected from a list of tax practitioners on SAICA, SAIPA and SAIT websites. As a tax practitioner you have a good understanding of this subject, and therefore your participation will be of paramount importance.
- The input of each respondent is very important for the purpose of this research project. The participation of each respondent is highly valued and will make a difference.
- The information supplied by you will be treated as strictly confidential. Your responses together with those of other respondents will be used to obtain a complete view.
- Participation is voluntary and there is no penalty or loss of benefit for non-participation, and participants can withdraw at any time without an obligation to explain or any adverse effects.
- You will receive feedback of the findings in form of the published completed study that will be downloaded onto the website of your governing bodies.
- The overall findings of the study will be shared with SARS. The benefits of this study to the participants are that they get an opportunity to evaluate the effectiveness of the TAA, and some of their recommendations may be considered by the legislature in future improvements and amendments to this and other tax Acts.
- All information obtained during this study will be kept for a period of 10 years from the date of the final approval of the study by UNISA, after which it shall be destroyed.
- Please answer every question/statement in the space provided in each question/statement.
- The interview will not take more than 30 minutes to complete.
- Ethical clearance to conduct this research was obtained from UNISA.
- The following definitions applied for the purpose of this questionnaire:
SARS = The South African Revenue Service
TAA = Tax Administration Act
SAICA = South African Institute of Chartered Accountants
SAIPA = South Africa Institute of Professional Accountants
SAIT = South African Institute of Tax professionals.

Thank you for your co-operation and participation in making this research possible.

Mr. H. Maposa

Bloemfontein

Telephone: Work: 051 501 3099

Cell: 072 127 3239 / 083 578 8247

Email: hmaposa@sars.gov.za

Study leader: Prof A.P. Swanepoel

School of Accounting Sciences: Department of Taxation

UNISA.

INTERVIEW – TAA

I consent to participate in this interview.

Yes		No	
-----	--	----	--

- 1. What do you think are the effects of the registration requirements as given in Chapter 3 (Sec 22-24) of the Tax Administration Act on tax compliance? Please explain your answer.

.....
.....
.....
.....

- 2. Sections 34-39 impose an obligation on participants and promoters to report any reportable arrangements. Do you think this will change tax compliance behaviours? Please explain your answer.

.....
.....
.....
.....

- 3. SARS can carry out warrantless searches and seizures as authorised by sections 59-66. How do you think this will affect tax compliance?

.....
.....
.....

- 4. The Commissioner may publish for general information the particulars of tax offenders, under certain circumstances as given in Sec 74. What is the effect of this on tax compliance?

.....
.....
.....

- 5. The introduction of the TAA saw the birth of jeopardy assessments, in section 94. In what way would this change tax compliance behaviour?

.....
.....

.....
.....

6. Sections 45 and 46 empower SARS to obtain information on a taxpayer from a third party, and to conduct an inspection without prior notice. Can these influence tax compliance behaviour? Please explain in what way.

.....
.....
.....
.....

7. Chapter 17 prescribes the various criminal offences for non-compliance. How far can this influence compliance?

.....
.....
.....
.....

8. The purpose of the TAA, as indicated in Section 2 is among others, to prescribe rights and obligations of taxpayers and other persons to whom it applies. The Act therefore brought fairness and improved rights. Would these influence tax compliance? Please explain your answer.

.....
.....
.....
.....

9. The tax Ombud was established by Sections 15-21, to review and address taxpayers' complaints regarding SARS' service or procedural matters. Does this have an effect on taxpayers' compliance behaviour?

.....
.....
.....
.....

10. The TAA saw the introduction of administrative non-compliance and understatement penalties in sections 208-224. Can these penalties influence compliance behaviour?

.....
.....
.....
.....

11. The Voluntary Disclosure Programme in sections 225-233 affords taxpayers whose tax affairs are irregular to be regularised. In what way can this influence tax compliance?

.....
.....
.....
.....

12. The TAA introduced in section 240 a new requirement for tax practitioners - being that they must register with SARS and with a recognised controlling body, also allowing SARS to complain to the controlling body if the tax practitioner commits certain offences. Would this influence tax compliance? Explain.

.....
.....
.....
.....

13. Do you think holding tax practitioners personally liable for the accuracy of information submitted by them to SARS and the criminal offences imposed on tax practitioners who assist other persons to evade tax will influence tax compliance? Explain.

.....
.....
.....
.....

14. What are the current measures in place that your controlling body may take against its members in the event of a member's non-compliance with any tax requirements or on receipt of a complaint from SARS or the member's client?

.....
.....
.....

APPENDIX C:
COLLEGE OF ACCOUNTING SCIENCES -
RESEARCH ETHICS REVIEW COMMITTEE APPROVAL

COLLEGE OF ACCOUNTING SCIENCES
RESEARCH ETHICS REVIEW COMMITTEE

Date: 11 May 2015

Ref: 2015_CAS_014
Name of applicant:
Heavy Maposa
Student #: 3562-505-8

Dear Heavy Maposa

Decision: Ethics Approval

Name: Mr Heavy Maposa
2 Leo Anne Complex
151 Andries Pretorius Street
Bloemfontein
9301

hmaposa@sars.gov.za

(051) 501 3099

Supervisor: Prof Andries Swanepoel, (012) 429 2054, swaneap@unisa.ac.za

Proposal: The Perception of Tax Practitioners Relating to the Influence of the Tax Administration Act on Taxpayers' Tax Compliance Behaviour in South Africa

Qualification: Master of Philosophy in Accounting Sciences

Thank you for the application for research ethics clearance by the College of Accounting Sciences Research Ethics Review Committee for the above mentioned research. Final approval is granted for the completion of the research.

For full approval: *The application was reviewed in compliance with the Unisa Policy on Research Ethics by the College of Accounting Sciences Research Ethics Review Committee on 25 February 2015.*

The proposed research may now commence with the proviso that:

- 1) The researcher/s will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.*
- 2) Any adverse circumstance arising in the undertaking of the research project that is*



relevant to the ethicality of the study, as well as changes in the methodology, should be communicated in writing to the College of Accounting Sciences Research Ethics Review Committee. An amended application could be requested if there are substantial changes from the existing proposal, especially if those changes affect any of the study-related risks for the research participants.

- 3) *The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study.*

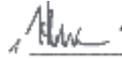
Note:

The reference number [top right corner of this communiqué] should be clearly indicated on all forms of communication [e.g. Webmail, E-mail messages, letters] with the intended research participants, as well as with the College of Accounting Sciences RERC.

Kind regards,



Mrs Soné Beyers
(Chairperson of CAS RERC)
beyers@unisa.ac.za
(012) 429 3532



Prof Elmarie Sadler
(Executive Dean of CAS)

APPENDIX D:
INDEPENDENT AUDITOR'S REPORT ON THE AUDIT OF THE
QUESTIONNAIRE RESULTS

Makho' Tax Consultants.

Tax Practitioner No: PR 57D4D95

*Sole Practitioner : UM Mashaba AGA(SA)
An Associate member of the South African Institute of Chartered Accountants
082 348 3518*

45 St Pauls

36 Wroxham Road

Paulshof

2191

e-mail : makhonjwa@gmail.com

Date – 16 September 2015

To : Whom it may concern

Subject: Audit of Research Questionnaire results- H Maposa' research on the TAA.

We were requested to audit the validity of Mr Heavy Maposa' research questionnaire results. Mr Maposa is busy with a research on the perceptions of tax practitioners relating to the influence of the Tax Administration Act (TAA) on taxpayers' compliance behaviour. The data collection instrument used for the collection of data which our audit relates to, is a web-based questionnaire. A link to the questionnaire was mailed to sampled participants. They completed the questionnaire and submitted. The results updated on a report on the web-site created by Mr Maposa. The scope of our audit involved verifying the results on the report that Mr Maposa extracted, and confirming that it agrees with the results that Mr Maposa presented in Chapter four of the research.

In our opinion, the extracted report is a 100% reflection of the participants' responses, and Mr Maposa' research results as presented in the study are correct.

Yours faithfully.



Uriah Makhonjwa Mashaba

**APPENDIX E:
LANGUAGE EDITOR'S LETTER OF CONFIRMATION**



072 250 5835
nicolabekker@gmail.com

Giesenskraal

Britstown

8782

08 January 2016

To Whom It May Concern:

I hereby acknowledge that I did the Language Editing of the dissertation: "The perception of Tax Practitioners relating to the influence of the Tax Administration Act on Taxpayer's tax compliance behaviour in South Africa" as submitted by Mr. Heavy Maposa in accordance with the requirements for the degree of Master of Philosophy: Accounting Science with specialisation in Taxation.

Yours Faithfully


.....
N. Bekker

B.A. Language Practice – 2008
B.A. Hons. Language Studies (Linguistics) *cum laude* – 2009
University of the Free State