

**MEDICAL TAX BENEFITS TO SOUTH AFRICAN TAXPAYERS – AN  
OVERVIEW**

by

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## DECLARATION

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I, Ruyaida Moosa, declare that:

### **MEDICAL TAX BENEFITS TO SOUTH AFRICAN TAXPAYERS – AN OVERVIEW**

is my own work and all the sources that I consulted or quoted from, are indicated and acknowledged by means of complete references.



15 November 2016

Signed

Date

## **ABSTRACT**

This study presents an overview of the medical expenditure allowed to taxpayers in the South African Income Tax Act, 58 of 1962 (hereafter the “Income Tax Act”). The study traces the changes made to the allowed expenditure over time. Changes made to the Income Tax Act, illustrating the effect of qualifying medical expenses on the income of persons with disabilities in terms of the Income Tax Act, are described. Certain provisions of the Income Tax Act, as well as other legislation dealing with persons with disabilities, were analysed. Furthermore, the research shows the effect of moderate to severe limitations on a person’s ability to claim qualifying medical expenses. In particular, the change over from the medical tax deduction system (section 18 of the Income Tax Act) to the medical tax rebate system (sections 6A and 6B of the Income Tax Act) to redress the inequality between high income and low income earners, was analysed. Case studies were used to illustrate that the medical tax deduction system (section 18 of the Income Tax Act) favoured high income earners over low income earners. Finally, the change over from the medical tax deductions (section 18 of the Income Tax Act) system to the current system of medical tax rebates (sections 6A and 6B of the Income Tax Act) was analysed. Except for a very small group of taxpayers, the medical tax rebate system (sections 6A and 6B of the Income Tax Act) was found to be financially more favourable to all taxpayers.

### **Keywords:**

South African Revenue Service (SARS), Taxpayer, Deductions, Income Tax Act, Disability, Physical Impairment, Qualifying medical expenses, Dependants, Confirmation of diagnosis of disability (ITR-DD), Medical Scheme Fees Tax Credit (MTC), Additional Medical Tax Credit (AMTC)

## DEDICATION

Firstly, all recognition and thanks go to my Creator who is the reason for all and everything I ever achieved. Both my successes and my failures are according to His divine will, and I am humbled by the knowledge that success and failure are necessary for eternal success.

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# CHAPTER 1

## OVERVIEW OF THE INCOME TAX ACT

### 1.1. INTRODUCTION AND BACKGROUND

“Among the yardsticks by which to measure a society's respect for human rights, to evaluate the level of its maturity and its generosity of spirit, is by looking at the status that it accords to those members of society who are most vulnerable, disabled people, the senior citizens and its children” (Deputy President, Thabo Mbeki, 1997: 1).

During the early eighties in South Africa, disabled people organisations together with research bodies (Mbeki, 1997: 2) and other world organisations (WHO, 1980: 2)<sup>1</sup>, organised to have disabilities recognised by governments as a human rights and developmental issue rather than a medical condition (Mbeki, 1997: 4; WHO, 2002: 3). This change in emphasis implied that disabled people possess equal rights and responsibilities in society. With the implication of disabled people having equal rights, the focus of the organised disabled movement was for the removal of barriers<sup>2</sup> to equal participation and elimination of discrimination against disabled people (Chan & Zoellick, 2011: 4; Opperman, 2008: 1).

Despite the above recommendations, by 1992 none of the recommendations made were implemented by the South African government (Mbeki, 1997: 17). In 1993, the South African government established the National Coordinating Committee on Disability (hereafter “NCCD”). The main objectives of the NCCD were to interface with non-government disability organisations and to serve as an advisory body to government on disability matters during the transformation to democracy (Mbeki, 1997: 17). The NCCD paved the

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<sup>1</sup> The foreword to the 1993 reprint of the International Classification of Impairments, Disabilities and Handicaps raised the issue of the role of the physical environment and the social environment in defining handicapped persons.

<sup>2</sup> Dlamini (2015: 26) states that “Due to various barriers, many people with disabilities are not able to develop to their full potential...” Watermeyer, Swartz, Lorenzo, Schneider & Priestley (2006: 3) also noted that, “disability is created by a disablist society, through the perpetuation of barriers to the participation of persons with impairments”.

way for creating the Office on the Status of Disabled Persons (hereafter “OSDP”) in the deputy president of South Africa’s office. The OSDP<sup>3</sup> ensured that the issues of disabled people would appear on the cabinet’s agenda (Sadek & Winai, 2003: 7).

In 1997, the OSDP drafted the Integrated National Disability Strategy (hereafter “INDS”) which was a document compiled wherein disabled people participated to further the development<sup>4</sup> of disabled people. The main purpose of the INDS was to promote and protect the rights of disabled people in the South African government and society at large (Sadek & Winai, 2003: 8). In the INDS the then deputy president of South Africa, Thabo Mbeki (1997: 1), stated that by establishing the OSDP, “government wishes to express its unswerving commitment to the upliftment and improvement of the conditions of those members of our society who are disabled”. Hence, it is clear that the equal treatment of all people (including disabled people) is seen as paramount in the democracy of South Africa.

The disabled people concept is found in different areas of South African legislation. As an example, The Employment Equity Act No. 55 of 1998 uses the word disability. The concept is also mentioned in the Social Assistance Act No. 13 of 2004 as well as the Income Tax Act (Burger & Burger, 2010: 5), to mention but a few.

The Income Tax Act (43 of 1955) historically reflected the importance of disabled people. The Income Tax Act (43 of 1955) added paragraphs (q) and (r) into section 11 of the Income Tax Act (31 of 1941). Paragraph (q) stated “which allowed for deduction of expenses up to 150 pounds by a taxpayer, if the expense was in consequence of his disability and for the purpose of carrying on his trade”. Paragraph (r) stated “which allowed for deduction of expenses up to 100 pounds for any medical, dental treatment for himself, his wife<sup>5</sup>,

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<sup>3</sup> The OSDP was replaced in May 2009 with the establishment of the Ministry of Women, Children and People with Disabilities (DWCPD, 2012: 63).

<sup>4</sup> Mbeki expressed that the goal of the INDS was to create an all-inclusive society. For disabled people, “This means that there must be an integration of disability issues in all government development strategies, planning and programmes” (Mbeki, 1997: 5).

<sup>5</sup> National Treasury (2011: 31) defines dependant “as dependant of the taxpayer as defined in section 1 of Medical Schemes Act, 1988 (Act 131 of 1998) (i.e. dependent child or other members of the taxpayer’s immediate family in respect of. whom the taxpayer (member) is liable for family care & support or any other person who, under the rules of a medical scheme, is recognised as a dependant of the taxpayer)”,

OR ‘dependant’ means—

(a) “the spouse or partner, dependent children or other members of the member’s immediate family in respect of whom the member is liable for family care and support; or

(b) any other person who, under the rules of a medical scheme, is recognised as a dependant of a member and is eligible for benefits under the rules of the medical scheme” (Medical Schemes Act, 1988: 4).

children or stepchildren or expenses with regards to a nursing home for his wife's confinement"<sup>6</sup>.

The deduction of expenses deviates from the general rule<sup>7</sup> of deductions (usually deductions are only allowed for expenses due to trade), by allowing deductions of "certain medical expenses that were paid by the taxpayer<sup>8</sup>, which are, in essence, private in nature" (Steenkamp, 2011: 214). This deduction of medical expenses is an international trend and is seen as a necessary expense to maintain the productive capability of the taxpayer (National Treasury, 2011: 10). Additionally, it is seen as a production cost rather than a discretionary expense (National Treasury, 2011: 10). The objective of the tax authority is "to give relief to those taxpayers whose ability to pay income tax has been reduced by extraordinary medical expenses" (Steenkamp, 2011: 218).

The Income Tax Act was drafted to consolidate the law relating to taxation<sup>9</sup> of incomes and donations. At this stage, section 18 was introduced for the first time, and allowed the deduction of R200 as contribution to a medical aid fund or for direct expenses relating to medical and dental expenses as well as hospitals or nursing homes because of illness. The Income Tax Act is currently still in effect and all amendments are applicable only to this Act.

Section 18 of the Income Tax Act was repealed by the amended Act (88 of 1971). In section 5A paragraph (a) (ii), secondary abatements were allowed to the taxpayer for

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<sup>6</sup> National Treasury (2011: 31) defines dependant "as dependant of the taxpayer as defined in section 1 of Medical Schemes Act, 1988 (Act 131 of 1998) (i.e. dependent child or other members of the taxpayer's immediate family in respect of whom the taxpayer (member) is liable for family care & support or any other person who, under the rules of a medical scheme, is recognised as a dependant of the taxpayer)",

OR 'dependant' means—

- (a) "the spouse or partner, dependant children or other members of the member's immediate family in respect of whom the member is liable for family care and support; or
- (b) any other person who, under the rules of a medical scheme, is recognised as a dependant of a member and is eligible for benefits under the rules of the medical scheme" (Medical Schemes Act, 1988: 4).

<sup>7</sup> SARS (2008: 4) states: "As a rule, expenditure of a domestic or private nature is not deductible for tax purposes. However, an individual's cash flow (and hence ability to pay tax) may well be adversely affected by costs incurred as a result of illness or disability and for this reason a certain degree of relief is provided by the Act in respect of medical expenditure incurred and paid by a taxpayer. This relief is provided in the form of a deduction from your income of an allowance in respect of medical expenditure paid during the year of assessment (the medical allowance)".

<sup>8</sup> As per the Income Tax Act, a taxpayer "means any person chargeable with any tax leviable under this Act".

<sup>9</sup> The South African Income Tax Act is the primary source of legislation used to define how people's income is taxed in South Africa.

mentally and physically infirm child dependants. Medical and dental expenses were allowed (irrespective of whether the expenses were incurred or not) in section 5A paragraph (c) with subsequent sub-paragraphs specifying different rates for taxpayers over and under the age of 65.

Section 18 was re-introduced into the Income Tax Act by the amended Act (104 of 1980). It allowed deductions of all contributions made to a medical scheme, or non-recoverable expenses for services rendered by medical practitioners (such as dentists, optometrists, etc.) as well as for nursing homes or hospitals. Prescribed medicines were also included with the total amount being limited to a fixed rand value. The type of medical practitioners and related institutions that were included in the amendment Act (104 of 1980) were specifically listed. Section 6 (1) paragraph (a) (ii) of the same Act (104 of 1980) allowed secondary abatements for dependent children who were mentally or physically infirm.

Section 18 of the Income Tax Act, amended by Act 141 of 1992, introduced the concept "handicapped person". "The term "handicapped person" was narrowly defined and covered five categories of persons, namely a blind person, a deaf person, a permanently disabled person requiring a wheelchair, calliper or crutch to move from one place to another, a person requiring an artificial limb<sup>10</sup> and a person suffering from a mental illness as defined in section 1 of the Mental Health Care Act". The last category dealing with mental illness was added<sup>11</sup> into section 18 of the Income Tax Act by the amended Act (21 of 1995).

Furthermore, in 2009 section 18 of the Income Tax Act was amended by the legislature. The outdated<sup>12</sup> concept "handicapped person" was replaced with the concept "disability" and the concept "physical impairment" by "physical disability" (SARS, 2009: 1). According

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<sup>10</sup> Section 18 of the Income Tax Act, as amended by Act (141 of 1992) stated that, "For the purposes of this section 'handicapped person' means -  
(a) a blind person as contemplated in the Blind Persons Act, 1968 (Act No. 26 of 1968);  
(b) a deaf person, being a person whose hearing is impaired to such an extent that he cannot use it as a primary means of communication;  
(c) a person who as a result of a permanent disability requires a wheelchair, calliper or crutch to assist him to move from one place to another; or  
(d) a person who requires an artificial limb".

<sup>11</sup> Section 18 of the Income Tax Act, as amended by Act (21 of 1995) added that, "(e) a person who suffers from a mental illness as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973)".

<sup>12</sup> SANCB (2010: 1) quotes SARS which states "The term "handicapped" was outdated". The concept "handicapped person" was outdated because it was linked to the medical model of viewing disabilities (Burger & Burger, 2010: 3).

to Burger and Burger (2013, 3) the concept “handicapped person” was outdated because it was linked to the medical model, as discussed below, of viewing disabilities. The new concept “disability” included diagnostic criteria which is a more comprehensive list of conditions<sup>13</sup> (SARS, 2009: 1; Steenkamp, 2011: 214), to identify who would be considered disabled. There was also a move to define disabilities in a social context rather than just an individual condition. Previously regulations regarding what was allowed as a deduction was also seen as unclear, which necessitated<sup>14</sup> that the South African Revenue Service (hereafter “SARS”) create a List of Qualifying Physical Impairment or Disability Expenditure<sup>15</sup> (APPENDIX B) (hereafter “List of Qualifying Expenses”) to help clarify which expenses a disabled taxpayer could claim (SARS, 2009: 2).

The Income Tax Act (60 of 2008) defines disability as, "a moderate to severe limitation of a person's ability to function or perform daily activities as a result of physical, sensory, communication, intellectual or mental impairment, if the limitation:

- (a) has lasted or has a prognosis of lasting more than a year; and
- (b) is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner".

Following the South African Finance Minister’s announcement in the 2011 budget speech, the Income Tax Act was again amended. SARS moved away<sup>16</sup> from a medical tax deduction system to a medical tax rebate (credit)<sup>17</sup> system<sup>18</sup> and section 18 was replaced

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<sup>13</sup> The list of conditions is described in a SARS form which is titled Income Tax Return - Confirmation of diagnosis of disability (hereafter “ITR-DD”).

<sup>14</sup> SARS (2009: 2) had a section called “Legislative changes to increase certainty” which stated that “criteria for the diagnosis of a disability will be prescribed”.

<sup>15</sup> Qualifying expenses are those expenses not recoverable from the medical scheme by the taxpayer or his or her spouse and which were fully paid by the end of the year of assessment (Steenkamp, 2011: 214).

<sup>16</sup> In 2014, South African legislation introduced the rebate system for disability expenses, which was similar to the Canadian tax credit system (Burger, 2015: 1). Other tax credit systems, for instance those of the Republic of Ireland and the United States of America were also considered in deciding on the approach used in South Africa (National Treasury, 2011: 11).

<sup>17</sup> The words rebate and credit are used interchangeably by Lamprecht (2014: 1).

<sup>18</sup> As Pravin Gordhan, the Finance Minister, explained: “The medical aid tax credit system allows a reduction on income tax and does not reduce taxable earnings as the medical aid deduction system allowed in the past” (Fin24, 2014: 1). National Treasury (2011: 4) Budget Tax Proposals of 2011 stated that “Government’s rationale for this tax proposal is that a tax credit provides for more equitable tax relief, as the relative value of the relief does not increase as the marginal tax rate of the individual increases, as is currently the case”.

by section 6A and section 6B. (National Treasury, 2015: 9; Viviers, Coetzee & Bredenhann, 2015: 1). “Section 6A of the Income Tax Act (58 of 1962) is referred to as medical scheme fees tax credit (hereafter “MTC”) which allows a tax credit for payments made to registered medical schemes” (Venter, De Hart, Coetzee, & Koekemoer, 2015: 18). Section 6B of the same Act is referred to as additional medical expenses tax credit (hereafter “AMTC”) and allows a tax credit for all other qualifying out of pocket medical expenses. Both these sections offer tax credits to all taxpayers, who are divided into three categories, namely:

- taxpayers over 65;
- taxpayers with a disability; and
- taxpayers under 65<sup>19</sup> (Mogorosi & Halwindi, 2014: 1).

The change to the medical tax rebate system (sections 6A and 6B) was reportedly made because the medical tax deduction system (section 18) favoured high income earners over low income earners<sup>20</sup> (National Treasury 2011: 10). The medical tax rebate system (sections 6A and 6B) was included in the Income Tax Act to improve the tax system’s equity which provides a more equitable form of relief than medical deductions, as the relative value of the relief does not increase with higher income levels (National Treasury, 2012: 1). The medical tax rebate system (sections 6A and 6B) is structured to be impartial, unbiased and non-discriminatory to all taxpayers<sup>21</sup>. The change to the medical tax rebate system (sections 6A and 6B) created the scenario where taxpayers that incur the same amount of medical expenses will receive the same amount of tax benefit<sup>22</sup> through the tax rebate, irrespective of their income. In this way, horizontal equality is ensured “according to which taxpayers with the same ability to pay should pay the same

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<sup>19</sup> Stiglingh, Koekemoer, Van Zyl, Wilcocks, & De Swardt, (2014: 346) used the simpler term “all remaining taxpayers”.

<sup>20</sup> “In a progressive tax system (such as the South African personal income tax system), the net tax relief afforded through a deduction of qualifying expenditure provides greater benefits to higher income taxpayers. A system of rebates or tax credits, in contrast, results in tax relief that is equitable across income groups – the underlying idea is that the fiscus should contribute to household medical expenditure on the basis of health needs, irrespective of income or economic output” (National Treasury, 2011: 10).

<sup>21</sup> “The credit system is a more fair approach to providing tax relief as each individual contributing towards a medical aid fund will receive equal relief as it is not based on annual earnings” (Sage, 2014: 1).

<sup>22</sup> “The purpose of the change was to spread tax relief more equally across income groups, thus bringing about horizontal equity – those who pay equal values for medical expenditure receive absolute equal tax relief” (SARS, 2015(a): 2).

income tax” (Duff, 2000: 822). This amendment<sup>23</sup> in the medical tax rebate system (sections 6A and 6B) was completed in phases where taxpayers under the age of 65 years were phased into the tax rebate system from 2012, while taxpayers aged 65 years and older were only included from 2014. Effective from 1 March 2014, the conversion to the rebate system of sections 6A and 6B was finalised (National Treasury, 2012: 4).

The change to the medical tax rebate system (sections 6A and 6B) is also seen as a step towards a National Health Insurance system (hereafter “NHI”) for South Africa. The NHI should provide funds for specific health benefits to be shared by the entire South African population<sup>24</sup>. “With the advent of the new National Health Act, health care in South Africa is at a critical point as this will be the first time in history that a National Health Insurance is being implemented in this country. Globally National Health Insurance has been around for more than a hundred years; however, some countries with long established national health schemes are currently grappling with funding issues surrounding their health systems. South Africa should take note of these issues as it embarks on this journey” (Gani, 2015: 4).

There are five underlying objectives set to be achieved by the proposed changes to a rebate system:

- Equity and proportionality – The tax relief should be the same across different income groups and should be proportional to the amount spent by government for health services offered to people without medical insurance.
- Alignment with National Health Insurance objectives – The tax relief offered should be adapted towards achieving a National Health Insurance.
- Fairness – Taxpayers with equal earnings should contribute proportionate amounts of tax.
- Affordability and fiscal sustainability – Tax relief must be offered and its implementation should ensure that there is not too much strain on the fiscus.
- Administrative simplicity – Tax policy must be simple to understand and administer (National Treasury, 2011: 12, 13).

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<sup>23</sup> In the case of a deceased estate, a further amendment is effective from 1 March 2016. Sections 6A and 6B of the Income Tax Act includes a special provision for related fees to be paid by the executor in a deceased estate.

<sup>24</sup> “The NHI is intended to bring about reform that will improve service provision. It will promote equity and efficiency so as to ensure that all South Africans have access to affordable, quality healthcare services regardless of their socio-economic status” (DOH, 2011: 4).

This dissertation will briefly outline the historical changes and developments in the Income Tax Act relating to the provision of section 18 and the replacing thereof by sections 6A and 6B. At a later stage, the different changes to the legislation relating to medical tax benefits are introduced which will be described, examined and evaluated. This dissertation analyses the changes made to section 18 of the Income Tax Act by evaluating different regulations around the changes to the legislation from the time it allowed deductions for medical and dental conditions, to the time the medical tax rebate system (which substituted section 18 with sections 6A and 6B) was introduced.

## **1.2. RESEARCH OBJECTIVE AND PURPOSE**

To get a better understanding of the medical tax benefits afforded to South African taxpayers, this dissertation's research objectives are as follows:

- To analyse the changes made to the tax deductions system (section 18) and the eventual change to the current tax rebate system (sections 6A and 6B) for medical expenses;
- Examine the interpretation by SARS of specific legislation areas (namely the Confirmation of diagnosis of disability (hereafter "ITR-DD") and List of Qualifying Expenses) and to evaluate if these achieved the intended objective<sup>25</sup>; and
- Examining the financial impact of qualifying medical expenses on the income of taxpayers with disabilities and those without, by making use of case studies.

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<sup>25</sup> SARS (2009: 1) states in the paragraph named Purpose of section 18 of the Act "Private or domestic expenses are, therefore, generally not tax deductible. However, because of the unavoidable nature of certain medical expenses and the concomitant effect of these expenses on a taxpayer's ability to pay tax...the Act deviates from this rule by permitting a deduction for certain medical expenses that were paid by the taxpayer, which is in essence private in nature". This objective is also echoed by the statement "to give relief to those taxpayers whose ability to pay income tax has been reduced by extraordinary [medical] expenses" (Steenkamp, 2011: 218).

### **1.3. RESEARCH METHODOLOGY AND DESIGN**

The research methodology used in this study is a literature review. Hart (1998: 13) describes a literature review as “the selection of available documents (both published and unpublished) on the topic, which contain information, ideas, data and evidence written from a particular standpoint to fulfil certain aims or express certain views on the nature of the topic and how it is to be investigated, and the effective evaluation of these documents in relation to the research being proposed”. This research describes and analyses SARS’s interpretation of the legislation relating to the changes of medical tax benefits granted to taxpayers and the effect on the taxpayers’ income.

Therefore, the literature review for this research focuses on:

- Legislation: The Income Tax Act;
- Interpretation notes;
- Ancillary legislation;
- Relevant textbooks;
- Published articles;
- Relevant case law; and
- Other writings applicable to the Income Tax Act, namely Newspapers and Internet articles.

### **1.4. ETHICS**

The research (a literature review) was conducted using documents in the public domain; therefore, no ethical considerations should arise. No information obtained from interviews was used. The sources used were all in written form.

### **1.5. BENEFIT OF THE STUDY**

By evaluating certain changes in the Income Tax Act, relating to medical tax benefits granted to all taxpayers, areas of improvement might be highlighted. In addition, such evaluation can stimulate further debate in academic areas, resulting in an enhanced knowledge of the tax body.

## **1.6. LIMITATIONS OF THE STUDY**

This research covers the tax framework of the South African Income Tax Act. The focus is specifically on the change over from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B) in the South African Income Tax Act. A hybrid medical tax deduction/medical tax rebate system was used in the 2012/2013 and 2013/2014 tax years. The hybrid system was a temporary measure and is beyond the scope of this dissertation and will not be discussed further. In addition, this research is a mini dissertation and it is mainly limited to a quantitative study. Additionally, all the taxpayers in this research should be considered as belonging to a registered medical aid scheme, as taxpayers not belonging to a registered medical aid scheme, do not qualify for medical tax benefits. In addition, the move from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B) was due to the decision to implement the NHI. The NHI has to date not been implemented in South Africa and so NHI is not part of the scope of this study.

## **1.7. CHAPTER OVERVIEW**

Chapter 1: Introduction and Background

Chapter 2: A historical overview of and changes to the Income Tax Act. This chapter will describe the reasoning behind the changes made to the Income Tax Act and explore the objectives of the legislation.

Chapter 3: Case studies – Calculations will be used to show how changes from the old medical tax deduction system (section 18 of Income Tax Act) to the new medical tax rebate system (sections 6A and 6B of Income Tax Act) impacts the financial position of the different categories of taxpayers; those with disabilities and those without.

Chapter 4: Discussion, Conclusion and Recommendations - A discussion will be presented with recommendations for possible further research.

## **CHAPTER 2**

### **EVOLUTION OF THE MEDICAL TAX BENEFITS IN THE INCOME TAX ACT (58 OF 1962)**

#### **2.1 INTRODUCTION**

This chapter will describe the evolution of the Income Tax Act, focusing on the changes to the medical tax benefits accessible to taxpayers. By describing the evolution of the medical tax benefits granted to South African taxpayers, the first research objective of this study will be achieved.

The changes include terminology that was introduced, refinements to bring about clarity in understanding the legislation and the change from the system of tax deductions (section 18) to the current system of tax rebates (sections 6A and 6B) for medical expenses. SARS allowed medical deductions to taxpayers for medical expenses. The medical expenses are deemed a necessary expense to maintain the productive capability of the taxpayer. The deduction of medical expenses was formally introduced into the tax legislation as far back as 1962. The Income Tax Act of 1962 consolidated the deductions for medical expenses and donations.

The medical tax deductions system remained relatively unchanged until the concept “handicap” was introduced into the amended Act in 1992. In 2009, the concept “handicap” was replaced with the concept “disability”. With the introduction of the concept “disability” SARS created guidelines around the deduction of medical tax benefits. This brought clarity regarding what could be deducted with specific emphasis on the disabled taxpayer.

## **2.2. SOUTH AFRICAN LEGISLATION INTRODUCED THE CONCEPT “HANDICAP”**

The concept “handicapped person” was introduced into section 18 of the South African Income Tax Act by the amendment to the Act (141 of 1992). The world view of the concept “handicap” will assist to understand the concept more clearly and it will therefore be discussed extensively.

The three concepts, namely “impairment”, “handicap” and “disability” created much confusion concerning their meaning internationally (uOttawa, 2015: 1). In 1980 this confusion moved the WHO<sup>26</sup> to generate a manual called "International Classification of Impairments, Disabilities and Handicaps" (hereafter “ICIDH”).

According to the WHO (1980: 26), both an “impairment” and a “disability” could lead to someone being “handicapped”. Therefore, the concept “handicap” is defined as "a disadvantage for a given individual, resulting from an impairment or a disability, that limits or prevents the fulfilment of a role that is normal (depending on age, sex, and social and cultural factors) for that individual" (WHO, 1980: 29).

Diagram 1 below is based on the WHO "International Classification of Impairments, Disabilities and Handicaps". It illustrates the relationship between the concepts “impairment”, “disability” as well as “handicap” (uOttawa, 2015: 2) and the parallels to the medical model of disease.

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<sup>26</sup> The World Health Organization is a specialised United Nations agency with their primary responsibility being international health matters and public health (WHO, 1980: 1).



With the introduction of the concept “handicapped person” into the amended Act (141 of 1992), taxpayers were segregated into three categories to calculate their respective tax relief for medical expenses, namely:

- Taxpayers 65 years and older;
- Taxpayers under 65 years; and
- Taxpayers with a handicap.

The three categories are currently maintained, and it is therefore important to discuss the three categories of taxpayers extensively. This discussion is important because the different categories of taxpayers are used to calculate the financial impact of the medical expenses on a taxpayer’s income. This is the third research objective of this study.

The medical deduction allowed for each of the three categories, was calculated differently. This type of segregation either increased or limited a taxpayer’s ability to deduct an amount from the taxable income, thereby providing more or less the opportunity to capitalise on the tax benefits derived per category, as explained below.

Taxpayers 65 years and older were allowed to claim all qualifying medical expenditure (Marus, 2014: 1). Taxpayers under 65 years were allowed to deduct a fixed amount for medical aid contributions for each member of the medical scheme (SARS, 2008: 7). Furthermore, the taxpayer was expected to accumulate all out of pocket medical expenses. Any amount, by which the accumulated medical expenses exceeded the published percentage (applicable for the relevant year) of taxable income, was allowed as an additional deduction<sup>29</sup>. Taxpayers with a handicap (under 65 years), where the taxpayer or the taxpayer’s spouse or child was a handicapped person, could claim all qualifying medical expenses, irrespective if the expenses were incurred for the handicapped person<sup>30</sup>.

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<sup>29</sup> “For example: X, an unmarried taxpayer (not disabled), has a taxable income of R100 000. His qualifying medical expenses, including the medical scheme contributions in excess of the limits, amount to R9 000. The taxpayer will be able to claim a deduction equal to R1 500, viz the R9 000 in excess of R7 500 (being 7.5% of the taxable income of R100 000)” (Steenkamp, 2011: 215).

<sup>30</sup> Note that all qualifying medical expenditure can be claimed, even if no physical disability expenditure was necessarily incurred and paid as a result of being a handicapped person. The only requirement is that you, your spouse or one of your or your spouse’s children must qualify as a “handicapped person” (SARS, 2008: 16).

With regard to taxpayers with a handicap (under 65 years), it was discovered that the legislation was unclear about the amount and type of expenses<sup>31</sup> that could be deducted<sup>32</sup> (Steenkamp, 2011: 215). To shed light on what taxpayers (under 65 years) with a disability could claim, SARS introduced new terminology. Only expenses that were “necessarily incurred” and “in consequence of” the handicapped person could be claimed as per the Income Tax Act as amended by Act (21 of 1995). This was subsequently allowed only if the medical expenses were paid for in that specific tax year.

Although the new terminology “necessarily incurred” and “in consequence of” was introduced into the Income Tax Act, the terminology was never defined. SARS (2009: 5) expected that the ordinary dictionary meaning was to be used for the terminology as laid down by the courts (*Blue Circle Cement Ltd. v Commissioner for Inland Revenue* (39/84) [1984] ZASCA 14; [1984] 2 All SA 188 (D); 1984 (2) SA 764 (A), 1984: 19).

Steenkamp (2011: 232) noted that it was problematic to use such terminology since the taxpayer may not have been in a position to decide if an expense was “necessarily incurred” and “in consequence of” (by virtue of not having the necessary tax or medical knowledge) and would have to incur expenses to get tax advice. This would then generate another expense, where the legislation was attempting to provide financial relief to disabled taxpayers.

In addition to the above problem taxpayers faced in deciding what medical expenses were allowed, the concept “handicapped person” was considered to be outdated by SARS (SANCB, 2010: 1). As mentioned earlier in Chapter 1 the concept “handicapped person” was outdated because it was linked to the medical model of viewing disabilities (Burger & Burger, 2010: 3). The medical model identified people with disabilities as ill and “different from their non-disabled peers and in need of care” (Mbeki, 1997: 4). The medical model

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<sup>31</sup> SARS (2009: 2) mentioned that there was uncertainty about the amount and type of expenses that could be claimed by stating “In order to provide an increased level of certainty in respect of the type and quantum of qualifying expenses under section 18 (1) (d), the section was amended with effect from 1 March 2009”.

<sup>32</sup> SARS (2009: 2) noted that “For example, taxpayers would claim the cost of acquiring a vehicle instead of the cost of modifying the vehicle to cater to their disability. The cost of acquiring the vehicle was not necessarily incurred in consequence of a disability, while the costs of modifying it in order for a person with a disability to be able to drive the car is more directly linked to the disability (that is, modification costs are necessarily incurred and paid in consequence of the disability)”. Only the modification costs are necessarily incurred and paid in consequence of the handicap and are thus more directly linked to the disability (OTASA, 2009: 2; SARS, 2009: 2). It is suggested that disproportionate costs would be reduced or disallowed by SARS.

pointed to the disability residing in the person, which carried a degree of stigma or pathology (uOttawa, 2015: 3). Therefore, the concept “disability” was introduced in the Income Tax Act by SARS, as amended by Act (17 of 2009).

### **2.3. SOUTH AFRICAN LEGISLATION INTRODUCED THE CONCEPT “DISABILITY”**

During 2009, in the amendments to the Income Tax Act, South Africa replaced the outdated concept “handicapped person” with the concept “disability”; and “physical impairment” replaced “physical disability” (SARS, 2009: 1). The concept “disability” was associated with the social model of viewing disabilities (Burger & Burger, 2010: 4). The social model does not only focus on the ability to function, but takes into account activities as well as participation in society. For example, in contrast to the medical model, the social model<sup>33</sup> considers the social context or environment the people find themselves in.

With the introduction of the new concept “disability”, the Income Tax Act in South Africa changed and defines<sup>34</sup> “disability” to mean, "a moderate to severe limitation of a person's ability to function or perform daily activities as a result of physical, sensory, communication, intellectual or mental impairment, if the limitation –

- (a) Has lasted or has a prognosis of lasting more than a year; and
- (b) Is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner" (Bick, 2011: 1; SARS, 2009: 2).

The other concept, namely “physical impairment”, also introduced in 2009, was never defined in the Income Tax Act. Although not defined, “physical impairment” is distinguished from “disability” because a “physical impairment” can be overcome by use of a device or therapy (SARS, 2012: 1). An example would be a taxpayer with poor vision who requires surgery. If the taxpayer’s vision is corrected by surgery, the taxpayer would no longer be considered disabled as the vision problem could be operated on. The taxpayer will then, because of the successful surgery, be perceived as “physically impaired”.

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<sup>33</sup> “The International Classification of Functioning, Disability and Health, known more commonly as ICF, provides a standard language and framework for the description of health and health-related states” (WHO, 2002: 2).

<sup>34</sup> The definition of disability has not been changed up until the present time.

To distinguish between the concept “physical impairment” and “disability”, the Income Tax Act necessitated that SARS generates diagnostic criteria by which medical practitioners were to diagnose disabilities. SARS then produced the ITR-DD, which is a form (SARS, 2016(b): 1) containing the necessary criteria to aid diagnosis of a “disability” (SARS, 2009: 3). Additionally, SARS produced a List of Qualifying Expenses to clarify which expenses could be claimed as a tax deduction by disabled taxpayers.

The two areas below will be analysed to explain how SARS interpreted the legislation, in order to clarify what the Income Tax Act required, namely:

- ITR-DD (Confirmation of diagnosis of disability); and
- List of Qualifying Expenses.

### **2.3.1. Confirmation of diagnosis of disability (ITR-DD)**

The ITR-DD form has different sections consisting of diagnostic criteria dealing with different categories of impairments. The categories are: *Vision, Communication, Physical, Mental, Hearing* and *Intellectual*. Each section has basic criteria to be satisfied before the impairment is defined as a disability (SARS, 2016(b): 3, 4).

For an impairment to be considered a disability<sup>35</sup>, a moderate to severe limitation must exist on one or more daily activities of the taxpayer. Furthermore, the taxpayer must have undergone therapy, used medication or a device to correct the impairment before it will be considered a disability as per the ITR-DD form (SARS, 2016(b): 1).

Where the Income Tax Act does not define a “moderate to severe limitation”, the ITR-DD form defines it as “a significant restriction on a person’s ability to function or perform one or more basic daily activities after maximum medical correction” (SARS, 2016(b): 1). Therefore, the Income Tax Act needs to be read in conjunction with the ITR-DD form in defining a disabled taxpayer.

The ITR-DD form must be certified by a medical practitioner who is a specialist in the specific diagnostic category. This serves two purposes; firstly, the medical practitioner is in the best position to understand and to certify the condition of the taxpayer. Secondly,

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<sup>35</sup> The disability must have a moderate to severe limitation on one or more daily activities (which represents the social environment) of the disabled taxpayer, after the taxpayer has undergone maximum correction. “Maximum correction, in this context, means appropriate therapy, medication and use of devices” as per the ITR-DD form (SARS, 2016(b): 1).

the medical practitioner is able to certify that the taxpayer genuinely suffers from the condition and, in this manner, prevents abuse of the tax deduction system (Steenkamp, 2011: 232). According to the social model of viewing disabilities, the disability criterion must be judged in the impairment context<sup>36</sup> and not viewed as isolated and as a condition of the taxpayer. The ITR-DD form (SARS, 2016(b): 1) therefore states that “the diagnostic criteria seek to assess the functional impact of the impairment on a person’s ability to perform daily activities and not the diagnosis of a medical condition”<sup>37</sup>.

The ITR-DD form also classifies a disability as a permanent or temporary disability. In the case of a permanent disability, the diagnosis will be valid for five years (SARS, 2015(b): 1). If the disability is not deemed permanent, the diagnosis will only be valid for one year (SARS, 2014: 23). After the relevant period, the diagnosis must be certified again for a five-year or one-year period by a qualified medical practitioner, as deemed relevant according to the ITR-DD form (SARS, 2016(b): 1).

There are criteria in the ITR-DD form which raise concerns. According to the ITR-DD form, a taxpayer’s condition can only be certified as a disability if the disability persists after maximum correction (SARS, 2016(b): 3). The ITR-DD form “does not allow for the possibility that the ‘appropriate devices and medication’ which is supposedly to offer maximum correction may actually not be available to” the disabled taxpayer (Duff, 2000: 832). Furthermore, the ITR-DD form does not take into account the fact that the medication could “involve a significant risk” to the taxpayer’s health (Duff, 2000: 832). This criticism was levelled against the Canadian legislation<sup>38</sup>, which has the same criterion.

Furthermore, in the category *Communication* (the ITR-DD form), one criterion states that a taxpayer will be considered disabled if the taxpayer suffers an “inability to make self-understood to familiar communication partners using speech in a quiet setting” (SARS, 2016(b): 1). This paints the picture of a laboratory scenario where the disabled taxpayer is tested. Such a criterion is also contained in the Canadian Income Tax Act, Section 118.4(1)c(iii), which states “speaking so as to be understood, in a quiet setting, by another

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<sup>36</sup> The ITR-DD form states “The diagnostic criteria seek to assess the functional impact of the impairment on a person’s ability to perform daily activities and not the diagnosis of a medical condition” (SARS, 2016(b): 1).

<sup>37</sup> Refer to APPENDIX A (copy of the ITR-DD form).

<sup>38</sup> Steenkamp (2011: 216) notes that “The Canadian tax credit provisions are alluded to in the discussion Document” of South African National Treasury dealing with the introduction of a tax credit system.

person familiar with the individual” (Duff, 2000: 831). This criterion was criticised by the Council of Canadians with Disabilities<sup>39</sup>, suggesting that “[t]he test should be whether the person can speak or hear satisfactorily in typical situations from day to day life, where not all settings are quiet and people have to speak with and hear strangers” (Duff, 2000: 832). The same principle could be applied to the South African ITR-DD criterion. It is recommended that the impairment condition be evaluated before “appropriate therapy, medication and use of devices” as per the ITR-DD form (SARS, 2016(b): 1). A similar scenario was considered by Duff (2000: 825), which resulted in The Council of Canadians with Disabilities making the same recommendation<sup>40</sup>.

Another concern regarding the ITR-DD form criterion is a taxpayer receiving treatment for a severe impairment which is then considered as “less than moderate to severe”. This taxpayer would not be considered disabled and the result is that the taxpayer would not receive the same medical tax benefit as the disabled taxpayer, as the taxpayer would be considered “impaired”<sup>41</sup> and not “disabled”. This example, falling under the *Communication* category mentioned above, illustrates that a taxpayer incurring extraordinary expenses due to a health-related issue<sup>42</sup>, will not fall into the “disability” category. This example seems to be in contradiction with the purpose of the disability provision, which is “to give relief to those taxpayers whose ability to pay income tax has been reduced by extraordinary expenses” (Steenkamp, 2011: 218). This clearly indicates that there is a fine line between the boundary that defines a disability and impairment.

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<sup>39</sup> This is Further, with regards to the Canadian criterion, Duff (2000: 41) states that “regarding speech and hearing impairments, it seems unreasonable to establish a statutory test based on communication in “a quiet setting” with “another person familiar with the individual”, rather than everyday situations which are likely to give rise to additional undocumented costs which the DTC (Disability Tax Credit) is designed to recognize. For this reason, as the Canadian Council for Disabilities has suggested, “The test should be whether the person can speak or hear satisfactorily in typical situations from day to day life, where not all settings are quiet and people have to speak and hear strangers”.

<sup>40</sup> Duff (2000: 832) noted the recommendation that eligibility for the credit should be broadened by reconsidering the requirement... that a “marked restriction” in a basic activity of daily living be determined only after taking into account “therapy and the use of appropriate devices and medication”.

<sup>41</sup> “A person diagnosed by a registered medical practitioner as having a disability, as defined in the Income Tax Act, is entitled to greater tax relief than a person with a physical impairment” (Bechard, 2014: 1).

<sup>42</sup> SARS (2015(a): 2) notes that “There are a number of reasons that tax systems provide such relief. One of the reasons is that serious injury or illness can present taxpayers with disproportionately high medical bills in relation to income, which can be difficult to meet. The resulting hardship affects a number of economic areas for taxpayers, including the ability to settle obligations to the fiscus, such as a tax bill”.

This fine line in the definition is not a concept unique to the young democracy of South Africa, as compared to the United States of America, which is an older democracy. The United States of America<sup>43</sup> also experienced issues in this regard. In the Supreme Court cases of *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), the courts ruled against the “impaired” persons, who were not found to be “disabled”. Fearing that the US Supreme Court cases were being used to narrow the broad scope of protection intended by the American’s with Disabilities Act of 1990 (hereafter “ADA”), the ADA Amendments Act of 2008 was published, to ensure that broader coverage was offered by the ADA. It is therefore concluded that the line between “disability” and “impairment” is vague, even when interpreted by the judiciary.

The next criterion to classify a taxpayer as disabled is the fact that the disabled taxpayer must have a condition that lasts or has a prognosis of lasting more than a year<sup>44</sup> (SARS, 2016(b): 3). The SARS criteria therefore exclude “impaired taxpayers” whose impairment can be treated within one year. The criterion for one year is considered too restrictive<sup>45</sup> and it excludes taxpayers whose symptoms have the following two characteristics:

1. Those whose condition can be treated within a year; and
2. Those whose symptoms are episodic (Steenkamp, 2011: 17).

For example, the taxpayer could suffer the symptoms of a condition that lasts longer than a year, which could be clearly debilitating, but since the symptoms are episodic, they are excluded from the disability definition. Therefore, this person would not receive the same tax benefit as the disabled taxpayer.

In the Canadian legislation, a similar criticism of the same type of condition was debated in the Canadian House of Commons. The example used was a taxpayer diagnosed with multiple sclerosis (hereafter “MS”). It was found that taxpayers suffering from MS are

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<sup>43</sup> Steenkamp (2011: 217) notes that “although the judgments of the courts of other countries are not binding on South African courts, they are of significance because they do have persuasive value”. Also according to the Constitution of the Republic of South Africa, Section 39 states that the judiciary must consider international law and may consider foreign law when interpreting the Bill of Rights. (Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)).

<sup>44</sup> In the Income Tax Act Section 6B (d) (a) requires that a disability “has lasted or has a prognosis of lasting more than a year...”.

<sup>45</sup> Steenkamp (2011: 229) states: “One could argue that the ‘more than a year’ requirement is too restrictive and could exclude many individuals whose impairments are serious and long lasting, but do not necessarily occur for more than a year at a time when a diagnosis has to be made or reconfirmed”.

excluded from receiving the same tax benefit as a disabled taxpayer. South Africa uses the same criteria with regards to the timeframe, therefore chances are that MS would not be judged a disability in South Africa either (Steenkamp, 2011: 229).

Another case that could raise a concern about the ITR-DD criteria is the Canadian case *Leduc v. The Queen*, 1999, CanLII 344 (TCC). In this case, a woman was gluten intolerant and suffering from celiac disease. She had to drive long distances for gluten free food and she then had to spend time preparing food and adapting recipes. The Canadian court accepted that the act of feeding oneself had to be extended to include the purchase and preparation of food. The court found in favour of the appellant and instructed the state to allow the credits claimed. The judge (Lamarre, J.T.C.C.) quoted Judge Létourneau J.A.<sup>46</sup> when he stated that “if the object of Parliament, which is to give to disabled persons a measure of relief that will to some degree alleviate the increased difficulties under which their impairment forces them to live, is to be achieved, the provisions must be given a humane and compassionate construction”. The judge further noted that although the scope of these provisions is limited in their application to severely impaired persons, they must not be interpreted so restrictively as to negate or compromise the legislative intent.

The question that could be raised is if the scenario played itself out in South Africa, would the medical practitioner, certifying the case, facilitate such a credit to be claimed. The answer is most likely no, based on the fact that the Income Tax Act defines a disability as “a moderate to severe limitation of a person's ability to function or perform daily activities as a result of physical, sensory, communication, intellectual or mental impairment” (SARS, 2009: 2). Furthermore, in terms of the ITR-DD formula, this case would not meet the diagnostic criteria of a disability.

In addition, episodic disabilities and disabilities that do not last a year should be included as disabilities<sup>47</sup> in the ITR-DD form. Concerning this recommendation, Steenkamp (2011: 229) states that “it is furthermore believed that this recommendation would assist in aligning fiscal legislation with Government’s goal for the right of people with disabilities to

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<sup>46</sup> From the Canadian case *Robert C. Johnston v. The Queen*, [1998] F.C.J. No. 169, 98 DTC 6169, at para.10.

<sup>47</sup> As further support, Steenkamp (2011: 229) reiterates the argument of “Koenraad J Burger Disability Tax Fairness in South Africa (2007), that this tax relief is not meant to subsidise or offset these non-discretionary costs, but rather to achieve equity and greater fairness in the allocation of the tax burden”.

play a full, participatory role in society”. Steenkamp (2011: 229) further clarifies that “the recommendation made in this article is not for temporary conditions<sup>48</sup> to be considered as a ‘disability’, but, rather, for prolonged (or permanent) conditions with ‘temporary’ symptoms (i.e. recurring symptoms lasting for less than a year at the time of diagnosis, but repeatedly occurring more than a year after the diagnosis was made) to fall within the ambit of ‘disability’”. To illustrate this point, the MS example (raised in Canada) is used, which is a “cyclical, unpredictable, progressive and degenerative disease” (Steenkamp, 2011: 229), which is a long-term condition<sup>49</sup>, with recurrent symptoms, but do not last for a year.

When taking the Canadian court cases (i.e. *Leduc v. The Queen*, 1999 CanLII 344 (TCC)), into account, it seems that the disabilities definition in South Africa should be widened.<sup>50</sup> “Impairments” such as gluten intolerance, where a great deal of time is taken up to perform basic activities of living (such as the buying and preparing of food), should be included.

Regarding the disability definition, it is interesting to note that in 2006 the South African cabinet recommended a definition of disability, which was never adopted and would have covered the area of episodic disability and temporary disabilities or impairments. It stated, “the loss or elimination of opportunities to take part in the life of the community equitably with others that is encountered by persons having physical, sensory, psychological, developmental, learning, neurological, or other impairments, which may be permanent, temporary, or episodic in nature, thereby causing activity limitations and participation restriction with the mainstream society” (DPSA, 2007: 3).

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<sup>48</sup> Steenkamp (2011: 229) explains that an illness or temporary condition like flu should not be considered an inclusion in the definition of disability.

<sup>49</sup> Steenkamp (2011: 217) states that although judgements in other countries are not binding in South Africa, they are significant because they are applied to cases and could help with a decision when both legislations deal with a common point. From the Canadian case *Robert C. Johnston v. The Queen*, [1998] F.C.J. No. 169, 98 DTC 6169, at para. 10, Létourneau J.A. states in this regard “If the object of Parliament, which is to give to disabled persons a measure of relief that will to some degree alleviate the increased difficulties under which their impairment forces them to live, is to be achieved, the provisions must be given a humane and compassionate construction”.

<sup>50</sup> In a Canadian court case *Radage v Her Majesty the Queen*, 1996 3 C.T.C. 2510, the judge noted that “the medical expense provisions are intended to provide relief, and have to be liberally and humanely interpreted” and so if applied to the South African legislation, would imply liberalizing the diagnostic criteria in the ITR-DD form.

### 2.3.2. Creation and expansion of the list of qualifying expenses

In the same manner as SARS produced the ITR-DD<sup>51</sup> form which clarified the type of expenses that could be claimed because of a disability or physical impairment, a List of Qualifying Expenses<sup>52</sup> was also published. As per the example mentioned above, prior to publication of the list, taxpayers would claim the cost of a vehicle rather than the cost of modifying the vehicle (SARS, 2009: 2). Therefore, the List of Qualifying Expenses brought about clarity regarding what could be claimed. “Although the List of Qualifying Expenses is extensive, care has been taken to ensure that it does not exclude a legitimate expense that is not listed. Therefore, instead of a comprehensive list, it identifies broad categories of qualifying expenses and provides examples of expenditure that could be claimed” (SANCB, 2010: 2).

The current list, published in 2012 (SARS, 2012: 5), contains nine broad categories of expenses, which are numbered below:

- Category 1: Personal Attendant Care Expenses
- Category 2: Travel and other related expenses
- Category 3: Insurance, maintenance, repairs and supplies
- Category 4: Prosthetics
- Category 5: Aids and other devices (excluding motor vehicles, security systems, swimming pools, and other similar assets)
- Category 6: Services
- Category 7: Continence Products
- Category 8: Service animals
- Category 9: Alterations or modifications to assets acquired or to be acquired

Categories 1, 2, 5, 6, 8, and 9 contain a basic description of the type of expense envisaged and a list of examples. Category 3 contains only a basic description without

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<sup>51</sup> According to SANCB (2010: 1), the 2008 amendments to the Income Tax Act clarified which expenses SARS would allow as a deduction. However, for the aims of the law to be fully realised, the Commissioner was required to prescribe the qualifying expenses and the criteria for diagnosing a disability.

<sup>52</sup> SARS (2009: 2) mentioned that there was uncertainty about the amount and type of expenses that could be claimed by stating “In order to provide an increased level of certainty in respect of the type and quantum of qualifying expenses under section 18 (1) (d), the section was amended with effect from 1 March 2009”.

any examples, whereas categories 4 and 7 each only list four allowable expenses (SARS, 2012: 5).

After consultation with relevant stakeholders, SARS undertook to review the List of Qualifying Expenses on a regular basis (SARS 2009: 3). However, the above list was only reviewed once and before the review, category 1 was known as “Attendant care expenses”; category 4 was known as “Artificial limbs or organs and other” and category 7 was known as “Products required because of incontinence” (SARS, 2011: 21).

Examples of other changes made on the list included “heater, fan” which were added to the first example list under “Aids and other devices (excluding motor vehicles, security systems, swimming pools, and other similar assets)”. Another example was under the Category ‘Personal Attendant Care Expenses’, in the case of disabled parents hiring a care-giver for a disabled dependant, where the full salary of the attendant was deductible, after the change limits were applied.

Although SARS made changes to the List of Qualifying Expenses, it should be noted that the Canadian List of Qualifying Expenses was expanded many times since 1942 (Steenkamp, 2011: 232). Yet Duff (2000: 818) mentions that “technology and prescribed therapies are certain to lead to the emergence of comparable items that are not contemplated within the existing categories”. It is understood that the South African List of Qualifying Expenses would be subject to the same limitation.

Concerning the fact that it is difficult for legislation to keep up with technological advancements, it could therefore be argued that SARS should add a principle statement that would allow disability expenses to be certified by a medical practitioner (Steenkamp, 2011: 232). If a medical practitioner certifies an expense, SARS would be convinced that the expense was necessarily incurred and would prevent fraud by the taxpayer. Furthermore, a medical practitioner certification would imply that the technology or therapy being claimed is a medical necessity (Steenkamp, 2011: 232). Considering this information, the possibility exists that SARS could substitute the List of Qualifying Expenses in favour of a certification by a relevant medical practitioner.

The List of Qualifying Expenses discussed above, as well the other changes, all dealt with deductions allowed to taxpayers for medical expenses. SARS found that the deduction system favoured high income earners over lower income earners, even when both spent

the same amount on medical expenses (SARS 2011: 10). This conclusion led to the introduction of the medical tax rebate system (sections 6A and 6B).

## **2.4. TAX CREDIT/REBATE SYSTEM INTRODUCED**

The need to bring about equality among South African taxpayers came after the Apartheid era. The South African government searched for guidance from the rest of the world on how to improve health care (DOH, 2015: 8; Mbeki, 1997: 1; WHO, 2016: 1).

After rich and poor countries requested practical ways to finance health care, the WHO produced the World Health Report in 2010 (Gani, 2015: 4). There was overall consensus to allow equal medical care access for all people<sup>53</sup>. South Africa considered the NHI implementations in other countries in deciding what would suit the South African context the best. The countries reviewed included Canada, the Republic of Ireland and the United States of America (National Treasury, 2011: 11).

The first step in achieving universal health coverage in South Africa was the change to the tax rebate system. The Department of Health (hereafter “DOH”) (2015: 7) often referred to the WHO reports in an attempt to choose the best process to achieve NHI. The DOH reviewed attempts by countries that were both successful as well as unsuccessful in implementing NHI before implementation in South Africa. The NHI would offer health care to all citizens of the country, irrespective of membership to a medical scheme (Section 27, 2011: 2).

In 2014, SARS completely converted from the tax deduction system to the tax rebate system (National Treasury, 2012: 4). The change to the tax rebate system aimed to create the scenario where taxpayers incurring the same amount of medical expenses will receive the same<sup>54</sup> amount of medical tax benefit, thereby achieving horizontal equality<sup>55</sup> (National

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<sup>53</sup> “In a progressive tax system (such as the South African personal income tax system), the net tax relief afforded through a deduction of qualifying expenditure provides greater benefits to higher income taxpayers. A system of rebates or tax credits, in contrast, results in tax relief that is equitable across income groups – the underlying idea is that the fiscus should contribute to household medical expenditure on the basis of health needs, irrespective of income or economic output” (National Treasury, 2011: 10).

<sup>54</sup> “The purpose of the change was to spread tax relief more equally across income groups, thus bringing about horizontal equity – those who pay equal values for medical expenditure receive absolute equal tax relief” (SARS, 2015(a): 2).

Treasury, 2011: 10). Section 18 of the Income Tax Act, dealing with deductions, was replaced by the introduction of the tax rebate system (Section 6A and Section 6B of the Income Tax Act). The previously discussed taxpayer categories were maintained, with the medical expenses allowed for the disabled taxpayer category under the rebate system comparing well with that of disabled taxpayers in Canada (Burger, 2015: 1).

The new Income Tax legislation categorised medical expenses into two parts, namely:

1. A medical scheme fees tax credit (“MTC”), applicable to medical aid contributions (referred to as Section 6A); and
2. An additional medical expenses tax credit (“AMTC”), applicable to all other qualifying out of pocket medical expenses (referred to as Section 6B) (SARS, 2013: 1).

The MTC is set at a fixed amount per month, applicable to all taxpayers independent of the category of taxpayer (i.e. irrespective of age and whether they are disabled), with a fixed value for the taxpayer, another fixed value for the first dependant and a third fixed value for each subsequent dependant<sup>56</sup> (Sage HR & Payroll, 2016: 1).

The MTC is a non-refundable rebate and not a deduction, which can be deducted from the tax payable. It cannot exceed the amount of tax payable to SARS by the taxpayer. The AMTC is also a rebate against taxes payable and therefore cannot exceed the amount owing to SARS (SARS, 2015(a): 8).

All three categories of taxpayers, namely taxpayers under 65 years, taxpayers 65 years and older and taxpayers with a disability can qualify to claim MTC and AMTC. The tax rebate calculation differs for each category of taxpayer (SARS, 2015(a): 2) and will be illustrated with examples in the next chapter.

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<sup>55</sup> Duff (2000: 822) states that “since one can obtain whatever degree of progressivity one desires’ by changes to the rate structure, the treatment of involuntary expenses such as extraordinary medical and disability-related costs is best understood as a matter of horizontal equity (according to which taxpayers with the same ability to pay should pay the same income tax) not vertical equity (according to which taxpayers with a greater ability to pay should pay an appropriately greater amount of tax)”.

<sup>56</sup> The MTC values for 2017 would be R286 for the main member, R286 for the second member and R192 for each subsequent dependant.

Where previously, in the deduction system, disabled taxpayers and taxpayers over 65 years were allowed to deduct 100%<sup>57</sup> of their qualifying medical expenses, in section 6A and 6B of the tax credit system the amount that can be claimed has been reduced; being restricted by the way in which the tax credit is calculated (National Treasury, 2012: 1). The financial impact on the three categories of taxpayers is illustrated in Chapter 3, with calculations followed by an explanation describing the scenario painted by the figures.

## 2.5. SUMMARY

The changes in the Income Tax Act were discussed in this chapter, focusing on the evolution of the tax deduction system. The Income Tax Act introduced the concept “handicapped person”, thereby offering financial assistance to taxpayers for extraordinary medical expenses. There was uncertainty amongst taxpayers regarding which expenses could be claimed; SARS therefore introduced terminology to clarify the type of expenses that could be claimed. Only expenses that were incurred in direct consequence of the condition of the “handicapped person” and that were necessarily incurred could be claimed.

When the concept “handicapped person” became outdated, SARS, in tandem with world changes, introduced the concept “disability”. The changes made to the Income Tax Act necessitated<sup>58</sup> that SARS create supporting criteria (called the ITR-DD), clearing up who disabled taxpayers were and additionally supplied a List of Qualifying Expenses which explained what could be claimed as a deduction. The criteria and List of Qualifying Expenses was evaluated to establish if the criteria were not too narrow and if the list was complete.

After 1994, South Africa entered the post-Apartheid era and discovered that the deduction system, in effect, favoured high income earners over low income earners. In an attempt to bring about equality and offer equal medical care to all South African citizens, SARS implemented changes towards NHI. The first step towards NHI, in the Income Tax Act,

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<sup>57</sup> SARS (2013: 18) describes the effect of new tax credit system as: “A full medical deduction for both contributions and other expenses can no longer be claimed when the taxpayer, his or her spouse or any of his or her children or his or her spouse’s children is a person with a disability”.

<sup>58</sup> SARS (2009: 2) had a section called “Legislative changes to increase certainty” which stated that “criteria for the diagnosis of a disability will be prescribed”.

was the change from a medical deduction system (section 18) to a medical rebate system (sections 6A and 6B).

To illustrate the first step towards NHI, calculations will follow in Chapter 3 which will demonstrate the financial impact on taxpayers from a medical tax deduction system (section 18) to a medical tax rebate system (sections 6A and 6B). The tax rebate system brought about changes in the way financial relief was offered to taxpayers. The financial implications of the rebate system will also be examined.

## CHAPTER 3

### FINANCIAL IMPACT ON TAXPAYERS OF THE CHANGE FROM MEDICAL TAX DEDUCTION SYSTEM TO THE MEDICAL TAX REBATE SYSTEM

#### 3.1. INTRODUCTION

The medical tax deduction system (section 18) as well as the transition to the medical tax rebate system (sections 6A and 6B), was discussed in Chapter 2. In addition, the medical tax deduction system (section 18) was found to favour high income earners over low income earners (National Treasury, 2011: 10), whilst the medical tax rebate system (sections 6A and 6B) is structured to be fairer to all taxpayers. This chapter will focus on the financial impact of the changes made to the Income Tax Act, specifically the change from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B). In order to examine the financial effect of the two medical tax systems, case studies will demonstrate the financial impact on the taxpayers.

Under the medical tax deduction system (section 18), medical expenses incurred were allowed as a deduction from the taxable income to reduce the income amount that was taxable (SARS, 2015(a): 2). Also, under the medical tax deduction system (section 18), taxpayers 65 years or older, or with a disability were allowed to claim all qualifying medical expenditure, which included all medical aid contributions as well as all out of pocket expenses (SARS, 2008: 16). However, taxpayers under 65 years with no disability were only allowed a fixed deduction for medical aid contributions and a percentage of all other medical expenses, (above an allowed amount) (SARS, 2008: 7).

Under the medical tax deduction system (section 18), the amount of medical expenses was deducted from taxpayers' income and was limited to the taxpayers' income. This method of calculation favoured high income earners over low income earners. The favourable position (National Treasury, 2012: 1) occurred because high income earners had more income from which to offset medical expenses. Naturally, low income earners could only claim medical expenses up to their taxable income.

To establish equality between high and low income earners, the medical tax deduction system (section 18), in its entirety, was used for the last time in the 2011/2012 tax year. A hybrid medical tax deduction system (section 18)/medical tax rebate system (sections 6A and 6B) was used in the 2012/2013 and 2013/2014 tax years (Brink, 2014: 1; National Treasury, 2012: 1). The hybrid system was a temporary measure and is seen as beyond the scope of this dissertation and will not be discussed. The medical tax rebate system (sections 6A and 6B) was brought into effect in the 2014/2015 tax year, which replaced the medical tax deduction system (section 18) (National Treasury, 2012: 4).

Although SARS moved from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B), SARS maintained a simple grouping of taxpayers for financial calculations (SARS, 2015(a): 17, 19). The simplification took the form of grouping taxpayers under 65 years with no disability into one group. The other group included taxpayers 65 years or older, or with a disability.

Compared to the medical tax deduction system (section 18), the medical tax rebate system (sections 6A and 6B) does not allow deductions of medical expenses to reduce the taxable amount (SARS, 2015(a): 2). In the medical tax rebate system (sections 6A and 6B), the amount of medical expenses is deducted from tax payable and is therefore limited to the tax payable to SARS (2015(a): 2). The medical tax rebate system is split into two parts, namely MTC (section 6A) and AMTC (section 6B). The MTC (section 6A) is a tax rebate for medical scheme contributions and is capped. The AMTC (section 6B) is also a rebate but for contributions over the above cap and all other out of pocket medical expenses. The AMTC (section 6B) rebate uses a complex calculation (explained below), which differs for the two groups of taxpayers.

The two medical tax systems also differ in that all expenses can no longer be claimed by taxpayers 65 years or older, or with a disability, as was the case in the medical tax deduction system (section 18). The AMTC (section 6B) claimable also cannot exceed the amount of tax owed to SARS (2015(a): 8). This means that a negative amount cannot be created, (where SARS owes money to the taxpayer) as the system is a non-refundable tax rebate system (SARS, 2015(a): 8).

A financial comparison will be done by using case studies which will address the third objective of this dissertation namely, examining the financial effect of qualifying medical

expenses on the income of taxpayers. The current tax tables (for the tax year 2016/2017) will be used in the calculations of the medical tax rebate system (sections 6A and 6B). In addition, since the medical tax deduction system (section 18) no longer exists, values from the current tax tables (for the tax year 2016/2017) will also be used in calculations of the medical tax deduction system (section 18), allowing for easier comparison. Seven different income ranges, which fall into different marginal rates<sup>59</sup> (the rates of tax chargeable on taxable income), will be used in the calculations to illustrate the consequences of the change. The same medical scheme contribution and out of pocket expenses are used for each of the income ranges. The age rebates granted by SARS for the tax year 2016/2017, will not be considered in the calculations, as it adds no value in comparing the two medical tax systems.

This chapter will use six tables (Table A to Table F) when comparing the financial impact of the medical tax deduction system (section 18) and the medical tax rebate system (sections 6A and 6B). The same scenario will be used for both groups<sup>60</sup> of taxpayers at different income levels. Using the same scenario will allow a direct comparison between the medical tax deduction system (section 18) and the medical tax rebate system (sections 6A and 6B).

The same scenario (discussed below), will be used in the case studies and tables that follow. Each Table will discuss the seven income ranges with their respective marginal rates and will compare the different categories of taxpayers. Each table will be discussed and analysed individually, and Table A to Table F are structured as follows:

- Table A will illustrate the financial impact on taxpayers under 65 years with no disability, under the medical tax deduction system (section 18).
- Table B will illustrate the financial impact on taxpayers 65 years or older, OR with a disability, under the medical tax deduction system (section 18).
- Table C will illustrate the financial impact on taxpayers under 65 years with no disability, under the medical tax rebate system (sections 6A and 6B).
- Table D will illustrate the financial impact on taxpayers 65 years or older, OR with a disability, under the medical tax rebate system (sections 6A and 6B).

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<sup>59</sup> “The rates of tax chargeable on taxable income are determined annually by Parliament, and are generally referred to as ‘marginal rates of tax’ or ‘statutory rates’” (SARS, 2016(a): 1).

<sup>60</sup> The two taxpayer groups are: taxpayers under 65 years with no disability, and taxpayers 65 years or older, or with a disability.

- Table E will illustrate the financial impact on taxpayers under 65 years with no disability, under both the medical tax deduction system (section 18) and the medical tax rebate system (section 6A and 6B).
- Table F will illustrate the financial impact on taxpayers 65 years or older, OR with a disability under both the medical tax deduction system (section 18) and the medical tax rebate system (section 6A and 6B).

Under the next heading, a description of the scenario to be used in all the case studies follows.

### **3.2. SCENARIO USED IN CASE STUDIES**

Mr X is a married man with two children. Mr X contributed R48 000 to a registered medical scheme for the tax year. Mr X incurred qualifying, out of pocket medical expenses of R20 000 for the year.

Mr X's tax payable to SARS is calculated at different income ranges, e.g. R100 000, R150 000, R200 000, R300 000, R350 000, R600 000, R750 000 for the year. These income ranges above represent values at the different marginal tax rates of 18%, 26%, 31%, 39% and 41%. The income ranges pair of R100 000 and R150 000 and the pair of R300 000 and R350 000 are chosen from the 18% and 31% marginal tax rates respectively. The pairs are chosen from the same marginal rate to highlight certain calculations and findings.

The first set of case studies to be considered will be the financial impact on taxpayers under the medical tax deduction system (section 18).

### **3.3. MEDICAL TAX DEDUCTION SYSTEM (SECTION 18)**

The first case study to be considered, under the medical tax deduction system (section 18), will deal with the financial impact on taxpayers under 65 years with no disability.

### 3.3.1. Case study 1: taxpayers under 65 years with no disability

Taxpayers under 65<sup>61</sup> years with no disability were allowed to deduct a capped amount for medical scheme contributions for each member and their dependants. Further medical scheme contributions in excess of the capped amount and all other out of pocket medical expenses were considered to be the total non-recoverable medical expenses. Any amount, by which the total non-recoverable medical expenses exceeded a published percentage, (applicable for the relevant year) of the taxable income, was allowed as an additional medical expenditure deduction. The scenario described above will be demonstrated in Table A. Table A is a reflection of the scenario's financial impact used in the case study (Refer to 3.2).

**Table A: Taxpayers under 65 years with no disability**

Taxpayers under 65 years with no disability + three dependents								
Taxable Income after all deductions, before medical deductions	Marginal Tax Rate	100,000	150,000	200,000	300,000	350,000	600,000	750,000
Total medical scheme contribution	48,000							
Limited to the capped amount (using 2017 MTC rate) (Note 1)	11,472	-11,472	-11,472	-11,472	-11,472	-11,472	-11,472	-11,472
Taxable income after the medical scheme contribution deduction	(A)	88,528	138,528	188,528	288,528	338,528	588,528	738,528
Medical scheme contributions not allowed above the capped amount	48,000 - 11,472	36,528	36,528	36,528	36,528	36,528	36,528	36,528
Out of pocket qualifying medical expenses		20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total non-recoverable medical expenses		56,528	56,528	56,528	56,528	56,528	56,528	56,528
Limited to amount in excess of 7,5% of taxable income (after the medical scheme contribution)		6,640	10,390	14,140	21,640	25,390	44,140	55,390
Additional medical expense deduction (Note 2)	(B)	49,888	46,138	42,388	34,888	31,138	12,388	1,138
Total medical deductions allowed under Section 18 (Note 1 + Note 2)		61,360	57,610	53,860	46,360	42,610	23,860	12,610
Limited to taxable income								
Taxable income after all deductions	(A)-(B)	38,640	92,390	146,140	253,640	307,390	576,140	737,390
Tax Payable to SARS		6,955	16,630	26,305	50,906	65,571	158,151	221,761

**Note 1:**

The medical scheme contribution deduction is limited to the capped amount granted to the taxpayer and the number of dependants.

Use 2017 MTC rates for medical scheme contribution deductions.

MTC Rate : R286+R286+R192+R192=R956\*12=R11472

**Note 2:**

The additional medical expense deduction is the amount that is in excess of 7,5% of taxable income will be allowed as a deduction.

Source: Author

In Table A, the MTC for the 2016/17 tax year is used as the medical scheme contribution deduction, namely R286 per month for the taxpayer and first dependant and R192 for each additional dependant. The marginal tax rates used are for the 2016/17 tax year of assessment. The medical scheme contribution deduction for the tax year 2016/2017 for a family of four is R11 472.

<sup>61</sup> In the Act (section 6B (3) (c)), impaired persons are included in the category of persons without an impairment with the use of the words "in any other case".

Table A indicates that the higher the taxable income the lower the total medical deduction allowed. This means that the tax payable to SARS increases as the taxable income increases. If the taxpayer incurs more medical expenses than taxable income, the deduction allowed is limited to the taxable income. Overall, the lower income taxpayer appears to be in a more favourable position.

The second case study to be considered under the medical tax deduction system (section 18) will deal with the financial impact on taxpayers 65 years or older, or with a disability.

### 3.3.2. Case study 2: taxpayers 65 years or older, or with a disability

Taxpayers 65 years or older, or with a disability could claim all qualifying medical expenses. A taxpayer with a disability means that the taxpayer or the taxpayer's spouse or child is a disabled person. The scenario described above will be demonstrated in Table B. Table B is a reflection of the scenario's financial impact used in the case study (Refer to 3.2).

**Table B: Taxpayers 65 years or older, or with a disability**

<u>Taxpayer 65 years or older, or with a disability + three dependents</u>							
Taxable Income after all deductions, before medical deductions	100,000	150,000	200,000	300,000	350,000	600,000	750,000
Marginal Tax Rate	18%	18%	26%	31%	31%	39%	41%
Less: 100% qualifying medical expenses allowed							
Medical scheme contribution deduction	48,000	48,000	48,000	48,000	48,000	48,000	48,000
Out of pocket qualifying medical expenses	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total medical deductions allowed under s18	-68,000	-68,000	-68,000	-68,000	-68,000	-68,000	-68,000
Taxable Income after all deductions	32,000	82,000	132,000	232,000	282,000	532,000	682,000
Tax Payable to SARS	5,760	14,760	23,760	45,280	58,280	141,480	199,437

Source: Author

Table B indicates that taxpayers 65 years or older, or with a disability are allowed all medical deductions regardless of their taxable income. The taxpayer at 18% marginal rate is allowed the same medical deduction as the taxpayer at 26%, 31%, 39% and 41% marginal rates. If the taxpayer incurs more medical expenses than taxable income, the medical deduction allowed is limited to the taxable income. In Table B, as the taxable income increases, the tax payable to SARS increases which implies that the low income taxpayers are in a more favourable position.

A comparison of the two case studies discussed above under the medical tax deduction system (section 18) will follow.

### **3.3.3. Comparison between Case study 1 and Case study 2**

When comparing Table A to Table B, it is clear that the total medical expenditure allowed decreases with increasing taxable income in Table A, but stays the same in Table B, for all taxable income ranges. It must however be noted that in both Table A and Table B, limiting the total medical deductions to the taxable income amount favours high income earners. In a scenario where both the high and low income earner incur extremely high medical expenses, the higher income earners will be able to deduct more from the taxable income, by virtue of having a higher taxable income.

The next set of case studies to be considered will be the financial impact on taxpayers under the medical tax rebate system (sections 6A and 6B).

## **3.4. MEDICAL TAX REBATE SYSTEM (SECTIONS 6A AND 6B)**

The first case study to be considered under the medical tax rebate system (sections 6A and 6B) will deal with the financial impact on taxpayers under 65 years with no disability.

SARS recognised that high income earners were favoured over low income earners by the medical tax deductions system (section 18). To redress the inequality, SARS chose to introduce a medical tax rebate system (sections 6A and 6B), which offered the same medical tax benefit to taxpayers for the same amount of medical expenses incurred, independent of taxable income.

### **3.4.1. Case study 3: Taxpayers under 65 years with no disability**

Taxpayers under 65 years are allowed a fixed MTC. The MTC for the 2016/17 tax year is R286 per month for the taxpayer and first dependant and R192 for each additional dependant. The marginal tax rates used are for the 2016/17 tax year of assessment. The MTC for the tax year 2016/2017 for a family of four is R11 472. The scenario described above will be demonstrated in Table C. Table C is a reflection of the scenario's financial impact used in the case study (Refer to 3.2).

**Table C: Taxpayers under 65 years with no disability**

Taxpayers under 65 years with no disability + three dependents							
Taxable income after all deductions, before medical rebates	100,000	150,000	200,000	300,000	350,000	600,000	750,000
Marginal Tax Rate	18%	18%	26%	31%	31%	39%	41%
MTC: R286+R286+R192+R192=R956*12=R11472 (Note 1)							
Medical scheme contribution	48,000	48,000	48,000	48,000	48,000	48,000	48,000
Out of pocket qualifying medical expenses	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total medical expenditure	68,000	68,000	68,000	68,000	68,000	68,000	68,000
Tax Payable before medical rebates (using 2017 tax tables for individuals)	18,000	27,000	36,960	63,280	78,780	167,457	226,931
Less:MTC (Note 1)	-11,472	-11,472	-11,472	-11,472	-11,472	-11,472	-11,472
Normal Tax Payable after MTC	6,528	15,528	25,488	51,808	67,308	155,985	215,459
Less:AMTC (Note 2)	-3,653	-2,716	-1,778	NIL	NIL	NIL	NIL
Tax payable to SARS (Note 3)	2,875	12,812	23,710	51,808	67,308	155,985	215,459

Note 1: MTC stays the same regardless of taxable income.

Note2: AMTC is calculated as follows:

25% X sum of : Medical scheme contributions - (4 X MTC), PLUS  
Qualifying medical expenses, LESS  
7,5% X taxable income.

Note3:The MTC and AMTC cannot create a negative amount and are limited by the tax payable.

Source: Author

Table C indicates that the higher the taxable income of a taxpayer, the lower the AMTC. This implies that the tax payable to SARS would increase as the taxable income increases. If the taxpayers' MTC and/or AMTC exceed the tax payable, the MTC and/or AMTC allowed are limited to the tax payable to SARS (National Treasury, 2011: 11).

The AMTC is calculated according to the calculation in Table C (Note 2). The taxpayers at 31%, 39% and 41% marginal rates are allowed a RNIL AMTC because, according to the SARS formula, the taxpayer is not allowed an AMTC.

The MTC in Table C is calculated as  $MTC = R11\ 472$  ( $R286 + R286 + R192 + R192 = R956 \times 12$  months = R11 472). The MTC, as calculated in Table C, is the same for all the different taxable income ranges in the table, namely R100 000, R150 000, R200 000, R300 000, R350 000, R600 000 and R750 000.

The AMTC in Table C is calculated below for all the different taxable income ranges, namely R100 000, R150 000, R200 000, R300 000, R350 000, R600 000 and R750 000. The general AMTC formula<sup>62</sup> is:

25% x sum of:            Medical aid contributions – (4 x **MTC**), **PLUS**  
   Qualifying medical expenses, **LESS**  
   7,5% x taxable income.

Using the formula above, the AMTC calculation for a taxpayer with a taxable income of R100 000 is calculated as:

25% x sum of:

- R48 000 – (4 x **R11,472**) = R2 112 **PLUS**
- R20 000 **LESS**
- 7,5% x R100 000 = R7 500

= 25% x [R2 112 + R20 000 - R7 500] = R3 653

The AMTC at the taxable income of R100 000 is R3 653.

From the formula above, the AMTC calculation for a taxpayer with a taxable income of R600 000 is calculated as:

25% x sum of:

- R48 000 – (4 x **R11 472**) = R2 112 **PLUS**
- R20 000 **LESS**
- 7,5% x R600 000 = R45 000

= 25% x [R2 112 + R20 000 - R45 000] = -R5 722

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<sup>62</sup> Bestbier (2014: 1) describes the formula in words as “The additional medical expenses tax credit will be 25% of so much of the aggregate of:

- The amount of fees paid to a medical scheme as exceeds four times the amount of the medical scheme fees tax credit, to which that person is entitled; and
- The amount of qualifying medical expenses paid by the person as exceeds 7.5% of the person’s taxable income (excluding any retirement lump sum benefit, retirement lump sum withdrawal and severance benefit)”.

The AMTC for the taxable income of R600 000 is limited to RNIL because the formula arrives at a negative amount of -R5 722.

The summary of Table C's AMTC values, using the same formula above, is as follows:

R100 000 taxable income = R3 653 AMTC

R150 000 taxable income = R2 716 AMTC

R200 000 taxable income = R1 778 AMTC

R300 000 taxable income = negative R97 therefore, limited to RNIL AMTC

R350 000 taxable income = negative R1 035 therefore, limited to RNIL AMTC

R600 000 taxable income = negative R5 722 therefore, limited to RNIL AMTC

R750 000 taxable income = negative R8 535 therefore, limited to RNIL AMTC

The second case study to be considered under the medical tax rebate system (sections 6A and 6B) will deal with the financial impact on taxpayers 65 years or older, or with a disability.

#### **3.4.2. Case study 4: Taxpayers 65 years or older, or with a disability**

Taxpayers 65 years or older, or with a disability, are allowed MTC and AMTC. A taxpayer with a disability means that the taxpayer or the taxpayer's spouse or child is a disabled person.

The MTC for the tax year 2016/17 is R286 per month for the taxpayer and first dependant, and R192 for each additional dependant. For the tax year 2016/2017, the MTC for a family of four is R11 472. The MTC remains the same regardless of the taxpayer's income because it is a fixed rate. The AMTC is independent of the taxable income but is dependent on the medical expenses incurred. The medical tax rebate system, MTC and AMTC, was designed to achieve horizontal equity (for the same amount of medical expenses the taxpayer will receive the same amount of medical tax benefit) (National Treasury, 2011: 10). The scenario described above will be demonstrated in Table D. Table D is a reflection of the scenario's financial impact used in the case study (Refer to 3.2).

**Table D: Taxpayers 65 years or older, or with a disability**

Taxpayer 65 years or older, OR with a disability + three dependents								
Taxable income after all deductions, before medical rebates	100,000	150,000	200,000	300,000	350,000	600,000	750,000	
Marginal Rate	18%	18%	26%	31%	31%	39%	41%	
MTC: R286+R286+R192+R192=R956*12=R11472 (Note 1)								
Medical scheme contribution	48,000	48,000	48,000	48,000	48,000	48,000	48,000	
Out of pocket Qualifying medical expenses	20,000	20,000	20,000	20,000	20,000	20,000	20,000	
<b>Total medical expenditure</b>	<b>68,000</b>	<b>68,000</b>	<b>68,000</b>	<b>68,000</b>	<b>68,000</b>	<b>68,000</b>	<b>68,000</b>	
Tax Payable before medical rebates (using 2017 tax tables for individuals)	18,000	27,000	36,960	63,280	78,780	167,457	226,931	
Less: MTC (Note 1)	-11,472	-11,472	-11,472	-11,472	-11,472	-11,472	-11,472	
Normal Tax Payable after MTC	6,528	15,528	25,488	51,808	67,308	155,985	215,459	
Less: AMTC (Note 2)	-11,183	-11,183	-11,183	-11,183	-11,183	-11,183	-11,183	
<b>Tax payable to SARS</b> (Note 3)	<b>NIL</b>	<b>4,345</b>	<b>14,305</b>	<b>40,625</b>	<b>56,125</b>	<b>144,802</b>	<b>204,276</b>	

Note 1: MTC stays the same regardless of taxable income.

Note 2: AMTC is calculated as follows:

33,3% X sum of : Medical scheme contributions - (3 X MTC), PLUS  
Qualifying medical expenses.

Note 3: The MTC and AMTC cannot create a negative amount and are limited by the tax payable.

Source: Author

In Table D, if the taxpayer's MTC and/or AMTC exceeds the tax payable, the MTC and/or AMTC allowed is limited to the tax payable (National Treasury, 2011 :11). For example, for the taxpayer with an income of R100 000 at 18% marginal rate, the tax payable is RNIL. Although the MTC and AMTC, for the taxpayer is R22 655 (R11 472 + R11 183) in total, the rebate is limited to R18 000, which is the tax payable. The tax payable to SARS for the relevant taxpayer is therefore RNIL.

The AMTC calculation is based on the total medical aid contributions and out of pocket qualifying medical expenses incurred. In Table D the AMTC is the same for all taxpayers because all taxpayers incurred the same medical expenditure of R68 000.

Theoretically, if the taxpayer's medical scheme contribution is less than the MTC, the taxpayer will receive an MTC above what was paid. For example, if a taxpayer contributes R150 per month towards a medical scheme, the taxpayer will receive MTC of R286 per month.

The MTC in Table D was calculated as  $MTC = R11\ 472$  (R286 + R286 + R192 + R192 = R956 x 12 months = R11 472). The MTC, as calculated in Table D, is the same for all the different taxable income ranges in the table, namely R100 000, R150 000, R200 000, R300 000, R350 000, R600 000 and R750 000.

Below, the AMTC in Table D was calculated for all the different taxable income ranges, namely R100 000, R150 000, R200 000, R300 000, R350 000, R600 000 and R750 000. The general AMTC formula is:

33,3% x sum of:      Medical aid contributions – (3 x **MTC**), **PLUS**  
  
   Qualifying medical expenses

Using the formula above, the calculation of AMTC for all the taxpayer income ranges in Table D will be calculated as:

33,3% x sum of:

- R48 000 – (3 x **R11 472**) = R13 584, **PLUS**
- R20 000

= 33,3% x [R13 584 + R20 000] = R11 183

A comparison of the two case studies discussed above, under the medical tax rebate system (sections 6A and 6B), will follow.

### **3.4.3. Comparison between Case study 3 and Case study 4**

Analysing Table C, taxpayers (with no disability) who are low income earners get a greater AMTC when compared to high income earners. Therefore, low income earners are favoured over high income earners. The scenario is different in Table D, where taxpayers (with a disability) are not affected by the taxable income because the AMTC is the same for all taxpayers. The AMTC is the same because the medical expenses incurred are the same.

Above, the case studies under the medical tax deduction system (section 18), (Tables A and B), and the medical tax rebate system (sections 6A and 6B), (Tables C and D), were discussed in isolation. Following is a description of the financial impact on taxpayers under 65 years with no disability, under both the medical tax deduction system (section 18) and the medical tax rebate system (sections 6A and 6B). Thereafter, the financial impact on taxpayers 65 years or older, OR with a disability, under both the medical tax deduction system (section 18) and the medical tax rebate system (sections 6A and 6B), will be discussed.

### 3.5. COMPARISON OF MEDICAL TAX DEDUCTIONS AND TAX REBATE SYSTEMS FOR TAXPAYERS UNDER 65 YEARS WITH NO DISABILITY

Table E compares the tax payable to SARS of the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B). Table E compares taxpayers under 65 years with no disability and is a reflection of the financial impact of Table A and Table C.

**Table E: Taxpayers under 65 years with no disability**

Comparing Tax Payable to SARS for Taxpayers under 65 with no disability (and 3 dependents) under section 18 and section 6A and 6B

Taxable Income	100,000	150,000	200,000	300,000	350,000	600,000	750,000
Marginal Tax Rate	18%	18%	26%	31%	31%	39%	41%
<u>Medical tax deduction system (Section 18)</u>							
Tax Payable to SARS (TABLE A)	6,955	16,630	26,305	50,906	65,571	158,151	221,761
<u>Medical tax rebate system (Sections 6A and 6B)</u>							
Tax Payable to SARS (TABLE C)	2,875	12,812	23,710	51,808	67,308	155,985	215,549
Effect of deduction system vs rebate system	4,080	3,818	2,595	-902	-1,737	2,166	6,212

Source: Author

Taxpayers under 65 years with no disability are better off under the medical tax rebate system (sections 6A and 6B) than the medical tax deduction system (section 18). The reason for the advantage under the medical tax rebate system (sections 6A and 6B) might be explained by the fact that the final tax payable to SARS is less. The only exception to this rule, is taxpayers at the 31% marginal rate with a taxable income between R300 000 and R350 000. These taxpayers are worse off, because they pay more tax. In Table E, for taxpayers in the 31% marginal rate, this anomaly is illustrated.

### 3.6. COMPARISON OF MEDICAL TAX DEDUCTIONS AND TAX REBATE SYSTEMS FOR TAXPAYERS OVER 65 YEARS OR OLDER, OR WITH A DISABILITY

Table F compares the tax payable to SARS in respect of the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B). Table F compares taxpayers 65 years or older, or with no disability and is a reflection of the financial impact highlighted in Tables B and D.

**Table F: Taxpayers 65 years or older, or with a disability**

Comparing Tax Payable to SARS for Taxpayers 65 years or older, OR with a disability (and 3 dependents) under section 18 and section 6A and 6B

Taxable Income	100,000	150,000	200,000	300,000	350,000	600,000	750,000
Marginal Tax Rate	18%	18%	26%	31%	31%	39%	41%
<u>Medical tax deduction system (Section 18)</u>							
Tax Payable to SARS (TABLE B)	5,760	14,760	23,760	45,280	58,280	141,480	199,437
<u>Medical tax rebate system (Sections 6A and 6B)</u>							
Tax Payable to SARS (TABLE D)	NIL	4,345	14,305	40,625	56,125	144,802	204,276
Effect of deduction system vs rebate system	5,760	10,415	9,455	4,655	2,155	-3,322	-4,839

Source: Author

In general, taxpayers (65 years or older, or with a disability) are better off under the medical tax rebate system (sections 6A and 6B) than the medical tax deduction system (section 18). The taxpayers (65 years or older, or with a disability) in the lower income ranges pay less tax under the medical tax rebate system (sections 6A and 6B). The exception is for the high income taxpayers (65 years or older, or with a disability) at R600 000 and above who pay more tax under the medical tax rebate system (sections 6A and 6B).

### 3.7. SUMMARY

This chapter focused on taxpayers' financial impact because of the change from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B). The same scenario was used for both groups of taxpayers (taxpayers under 65 years with no disability and taxpayers 65 years or older, or with a disability) in different income ranges. A comparison was drawn of the financial impact on the taxpayers under the medical tax deduction system (section 18) and the medical tax rebate system (sections 6A and 6B) for each of these case studies.

In Chapter 4, the results of the case studies in Chapter 3 will be discussed in the light of the literature study done in Chapter 2. Possibilities for further research opportunities will be included in Chapter 4.

## **CHAPTER 4**

### **OVERALL CONCLUSIONS AND RECOMMENDATIONS**

#### **4.1. INTRODUCTION**

In Chapter 3 the financial impact on taxpayers, brought about by the change from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B), was examined. The financial impact of these two medical tax systems was demonstrated through case studies. In this chapter, the results of the research will be discussed in conjunction with the research objectives of the study. Conclusions will be made and opportunities for further research will conclude this chapter.

#### **4.2. RESEARCH OBJECTIVES AND RESEARCH PROBLEM**

There were three guiding research objectives in this dissertation, each of which will be explored below.

The first objective was:

To analyse the changes made to the system of medical tax deductions (section 18) and the eventual change to the current system of medical tax rebates (sections 6A and 6B) for medical expenses.

In this dissertation, the above objective was achieved by describing the changes made to the medical tax deduction system (section 18) and the implications to the taxpayer. Changes were made to terminology, measures were put in place to address the issues around the ambiguity of the disabled taxpayer classification and what expenses could be claimed as medical expenses were described. Further financial inequalities, namely that high income earners were being favoured over low income earners, were addressed by the change from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B).

The second objective was:

To examine the interpretation by SARS of specific legislation areas (namely the ITR-DD and the List of Qualifying Expenses) in order to evaluate if SARS achieved the intended objective<sup>63</sup>. The intended objective of SARS was “to give relief to those taxpayers whose ability to pay income tax has been reduced by extraordinary [medical] expenses” (Steenkamp, 2011: 218).

The Income Tax Act was drafted in such a way that it required SARS to publish criteria that defined who would be considered a disabled taxpayer and what expenses could be claimed. In order to address the area of ambiguity around who would be identified as a disabled taxpayer as well as what expenses could be claimed by a disabled taxpayer, SARS then created specific legislation areas which could be used by taxpayers. SARS created the ITR-DD which could identify who disabled taxpayers are and a List of Qualifying Expenses that clarified which expenses would be allowed as a deduction.

In Chapter 2, the criteria and the List of Qualifying Expenses published by SARS, to define a disabled taxpayer and what expenses could be claimed by the taxpayer, were evaluated. The criteria (ITR-DD) of SARS were compared to similar criteria in other countries. The changes to SARS’s List of Qualifying Expenses was analysed and it was compared to Canada, who has a well-established List of Qualifying Expenses. This objective was achieved through the literature review.

The final objective was:

To examine the financial impact of qualifying medical expenses on the income of taxpayers with disabilities and those without disabilities, by making use of case studies.

Case studies were presented in Chapter 3 to compare the financial impact on the income of taxpayers under the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B). A discussion on the results of the research, including a discussion of the case studies’ financial impact, will follow.

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<sup>63</sup> SARS (2009: 1) states in the paragraph named Purpose of section 18 of the Act “Private or domestic expenses are, therefore, generally not tax deductible. However, because of the unavoidable nature of certain medical expenses and the concomitant effect of these expenses on a taxpayer’s ability to pay tax...the Act deviates from this rule by permitting a deduction for certain medical expenses that were paid by the taxpayer, which is in essence private in nature”.

### 4.3. DISCUSSION OF RESEARCH RESULTS

The South African Income Tax Act governs one of the income sources that directly benefit the South African *fiscus*, from taxpayer's assessed income. In general, the Income Tax Act allows for the deductions of expenses due to trade. An exception of deductions due to trade is the deduction of "certain medical expenses that were paid by the taxpayer<sup>64</sup>, which are, in essence, private in nature" (Steenkamp, 2011: 214). This medical expenses deduction is an international trend and is seen as a necessary expense to maintain the taxpayer's productive capability (National Treasury, 2011: 10). It is also seen as a production cost rather than a discretionary expense (National Treasury, 2011: 10). The objective of SARS is to offer relief for all taxpayer categories, incurred as extraordinary medical expenses (Steenkamp, 2011: 218).

The Income Tax Act section dealing with the deduction of medical expenses changed over time<sup>65</sup>, and was the main objective discussed in Chapter 2. A fixed amount was initially allowed for medical expenses, whether they were incurred or not. Terminology was later introduced into the Income Tax Act, thereby ensuring that expenses allowed as deductions, were in fact incurred. These deductions would only be allowed if the taxpayer paid for a medical condition. To bring clarity on what expenses could be claimed for, criteria were published. The Income Tax Act added additional criteria to identify a specific category of taxpayer, namely those considered to be disabled.

The other two taxpayer categories that were allowed to deduct medical expenses, were taxpayers under 65 years with no disability and taxpayers 65 years or older. To facilitate the deduction of medical expenses, SARS used a medical tax deduction system (section 18) which was found to favour high income taxpayers over low income taxpayers. SARS then amended the Income Tax Act to bring about equality amongst high and low income taxpayers (National Treasury, 2011: 10), by replacing the medical tax deduction system (section 18) with a medical tax rebate system (sections 6A and 6B) in the Income Tax Act. This change was also motivated by the decision of the South African National Treasury to introduce an NHI (to date the NHI has not yet been implanted in South Africa). Chapter 3

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<sup>64</sup> *Ibid* 6.

<sup>65</sup> Rogers (2010: 1) notes that "it is extremely unusual, if not unprecedented that just one section (Section 18) of the Income Tax Act (of just over two pages in length) can receive so much attention in just over three years".

discussed the financial impact on taxpayers due to the change from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B).

Based on the case study calculations in Chapter 3, as reflected in Table E, taxpayers (under 65 years with no disability) are better off under the medical tax rebate system (sections 6A and 6B) than the medical tax deduction system (section 18). The only exception (as seen in Table E) was taxpayers at the 31% marginal rate who paid more tax under the medical tax rebate system (sections 6A and 6B).

The low income taxpayer under the medical tax rebate system (sections 6A and 6B) was favoured<sup>66</sup> because the MTC was capped<sup>66</sup> for medical scheme contributions at a relatively low value and the taxpayer would be able to recover all medical scheme contributions paid. The high income earner, under the medical tax rebate system (sections 6A and 6B), would not be able to recover all the medical scheme contributions paid through the MTC, if the medical scheme contributions exceeded the MTC cap.

As seen in Table E, where low income taxpayers were found to be favoured by the capped MTC calculations, high income taxpayers benefitted from the AMTC calculations. As SARS adopted a system of non-refundable medical tax credits (National Treasury, 2011: 7), the AMTC is limited to the tax payable to SARS. Taxpayers could therefore only claim out of pocket qualifying medical expenses and medical aid contributions (above the cap) to the amount of tax payable to SARS. High income taxpayers could therefore claim more medical expenses back from SARS than low income earners. Although the criticism exists that SARS implemented a non-refundable tax credit system which is advantageous to higher income earners, the South African National Treasury has indicated that they will be considering a refundable tax credit system sometime in the future (National Treasury, 2011: 14). From the start, a non-refundable tax credit system was not implemented<sup>67</sup>, to minimise administrative expenses and complexity.

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<sup>66</sup> SARS (2011: 16) gives an example that illustrates the point: "The proposed medical scheme contribution tax credit is R216 a month each for the member (taxpayer) and first dependant, and R144 a month (two-thirds of the member credit) for each additional dependant (in 2011/12 prices). This is broadly equivalent to the present medical scheme contribution deduction for taxpayers in the 30 per cent marginal tax rate bracket (taxable income of R235 001 - R325 000 in 2011/12) and more favourable for lower-income taxpayers. It is somewhat less favourable for taxpayers in higher income brackets (35%, 38% and 40% marginal tax rates)".

<sup>67</sup> National Treasury (2011: 7) notes that "For administrative and fiscal cost reasons this is not proposed at this stage, though it is a possible further step towards a National Health Insurance system", further National Treasury (2011: 11) also notes that "A refundable credit is more complex and expensive to administer...".

Taxpayers (65 or older, or with a disability) pay less tax under the medical tax rebate system (sections 6A and 6B) than the medical tax deduction system (section 18), except for the higher income earners (as seen in Table F). The favouring of the lower income taxpayer takes on greater significance as DSD (2008: 358) notes that disabled individuals are statistically over-represented among lower-income taxpayers. The same point is echoed by SARS (2011: 10) which stated that “health needs are inversely related to income”.

Overall, it can be concluded that the move to the medical tax rebate system (sections 6A and 6B) is more favourable to taxpayers. Some exceptions were found, with the middle income taxpayers under 65 years with no disability (as seen in Table E) and the higher income taxpayers 65 years or older, or with a disability (as seen in Table F) paying more tax under the medical tax rebate system (sections 6A and 6B). In light of the research results discussion above, recommendations for further research opportunities will follow.

#### **4.4. RECOMMENDATIONS**

In the research process as well as the discussions above, certain areas of concern were highlighted. These areas might be addressed in further research.

The Income Tax Act brought about a change in terminology from the outdated concept “handicap” to the concept “disability”. With the concept, “disability” came more clarity of which taxpayer was considered disabled and what could be claimed as a “disability” expense. The criteria for defining a “disability” were found to be too restrictive. Similar restrictive issues were found in the USA and Canada. Based on the discussion and arguments presented in Chapter 2, a research study on the concept of “disability” might assist in clarifying this concept.

As discussed in Chapter 2, SARS also published a List of Qualifying Expenses, claimable by taxpayers, based on certain criteria. It was determined that the list could not keep up with expenses evolving with medical advances. This was also the case in Canada, where the list was adapted several times over the years. It is suggested that a research study on the completeness of the List of Qualifying Expenses could assist in restructuring the list to incorporate future medical advances.

In Chapter 2, it was found that SARS required a medical practitioner to certify an expense, before it could be claimed. It was therefore argued that the List of Qualifying Expenses could be substituted in favour of a relevant medical practitioner certification. Additionally, the medical practitioner would be in touch with the latest technological advancements relevant to the medical condition. A research study considering the substitution of the List of Qualifying Expenses by a relevant medical practitioner's expense certification could assist in ensuring that the qualifying medical expense incurred was necessary for the specific medical condition.

Chapter 3 illustrated the financial impact on taxpayers with the move from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B). The move to the medical tax rebate system (sections 6A and 6B) was to remedy the inequality that existed in the former system. From the calculations done in Chapter 3, it was found that the medical tax rebate system (sections 6A and 6B) achieved the overall objective of establishing a level of equality. For fiscal cost and administrative reasons, the proposed medical scheme contribution credit was made non-refundable. It was found that with the credit being non-refundable the medical tax rebate system (sections 6A and 6B) could still favour high income earners with very high medical expenses. The move to a refundable medical tax rebate system (sections 6A and 6B) was envisaged for the future as a step towards the NHI (National Treasury, 2011: 7).

Looking back at the financial impact on taxpayers, taxpayers pay less tax overall under the medical tax rebate system. There were exceptions under both financial categories of taxpayers, namely taxpayers 65 years or older, or with a disability and taxpayers under 65 years. In the case of taxpayers 65 years or older, or with a disability, the higher income earners paid more tax under the medical tax rebate system (sections 6A and 6B). A future research study, where SARS policy makers are interviewed, would assist in understanding the rationale intended by SARS where high income disabled taxpayers paid more tax under the medical tax rebate system (sections 6A and 6B).

Chapter 3 illustrated the exception for taxpayers under 65 years, where the middle income taxpayers (at the 31% marginal rate) paid more tax under the medical tax rebate system (sections 6A and 6B). A further research study, interviewing SARS policy makers, would assist in understanding the rationale used by SARS where the middle income taxpayers (at the 31% marginal rate) subsidise both the lower and higher income taxpayers. As

previously mentioned, this dissertation was strictly limited to a quantitative study; therefore, an additional mix method study will enrich the information presented in the case studies (Chapter 3). A further research study, interviewing disabled taxpayers, would shed light on the taxpayers' personal experience and their perceived impact of the change from the medical tax deduction system (section 18) to the medical tax rebate system (sections 6A and 6B) impact. Finally, an overall conclusion will follow, highlighting the most salient points of the dissertation.

#### **4.5. CONCLUSION**

This study comprised an overview of the medical tax benefits granted to SA taxpayers. There were several changes made to the Income Tax Act over the years relating to medical tax benefits. In this regard, the objective of SARS was to offer financial relief to taxpayers in the event of catastrophic medical circumstances, where extraordinary medical expenses were incurred. SARS used a method allowing taxpayers a deduction for medical expenses incurred from their taxable income. The Income Tax Act divided taxpayers into three categories, one being taxpayers with a disability.

In analysing the Income Tax Act, it was suggested that the criteria SARS used to distinguish a taxpayer's disability status was too restrictive and the suggestion was to possibly widen the criteria in determining who is regarded as disabled. Correspondingly, SARS drafted a List of Qualifying Expenses, identifying expenses deductible from taxable income. Judged in its context, the list was found to be too restrictive and drafted in a way that did not take into account future medical advances.

SARS established that the medical tax deduction system (section 18) favoured high income taxpayers over low income taxpayers and SARS chose to move towards the NHI. To bring about equality between high income and low income taxpayers, the medical tax deduction system (section 18) was changed to a medical tax rebate system (sections 6A and 6B). To minimise administrative expenses and complexity, a non-refundable medical tax rebate system (sections 6A and 6B) was implemented. Being non-refundable, the system still favoured high income taxpayers with very high medical expenses. This was conceded and a refundable system is envisaged for the future. It is recognised that there is merit in the case for a refundable arrangement, as this would benefit income earning

taxpayers at or below the tax threshold. Additionally, this will further promote access to medical scheme memberships as well as a move towards the NHI.

Taxpayers paid less tax under the medical tax rebate system (sections 6A and 6B). When considering the financial impact on taxpayers it seems that the medical tax rebate system achieved the objective of being favourable to lower income taxpayers, who are in the majority. The two exceptions were middle income taxpayers with no disability and the high income taxpayers who are disabled, both groups paying more tax. One must consider whether these two exceptional taxpayer groups were intended to subsidise the other taxpayers, in their respective tax groups.

It has been noted that the medical tax rebate system (sections 6A and 6B) will constantly change with future legislation changes (moving towards the NHI) envisaged for the medical tax rebate system (sections 6A and 6B) (National Treasury, 2011: 14; Gani, 2015: 1). As history has shown, the Income Tax Act evolves over time, and so similarly, will the medical tax benefits granted to taxpayers in the years to come.

As a final thought, I quote Heraclitus, the Greek philosopher; “the only thing that is constant is change” (The Daily Philosopher, 2004).

## BIBLIOGRAPHY

### ACTS AND LEGISLATION

*Americans with Disabilities Act of 1990*. Available from: [http://library.clerk.house.gov/reference-files/PPL\\_101\\_336\\_AmericansWithDisabilities.pdf](http://library.clerk.house.gov/reference-files/PPL_101_336_AmericansWithDisabilities.pdf) [Accessed 22 March 2017].

*ADA Amendments Act of 2008*. Available from: <http://www.eeoc.gov/laws/statutes/adaaa.cfm> [Accessed 1 September 2015].

*Constitution of the Republic of South Africa (Act No. 108 of 1996) Issue 38*. Pretoria: Government Printer.

*Income Tax Act (Act No. 31 of 1941)*. Pretoria: Government Printer.

*Income Tax Act (Act No. 43 of 1955)*. Pretoria: Government Printer

*Income Tax Act (Act No. 58 of 1962)*. Pretoria: Government Printer.

*Income Tax Act (Act No. 104 of 1980)*. Pretoria: Government Printer.

*Income Tax Act (Act No. 141 of 1992)*. Pretoria: Government Printer.

*Income Tax Act (Act No. 21 of 1995)*. Pretoria: Government Printer.

*Income Tax Act (Act No. 60 of 2008)*. Pretoria: Government Printer.

*Income Tax Act (Act No. 17 of 2009)*. Pretoria: Government Printer.

*Mental Health Care Act (Act No. 18 of 1973)*. Pretoria: Government Printer.

*Medical Schemes Act 1988 (Act No. 131 of 1998)*. Pretoria: Government Printer.

## ARTICLES, PUBLICATIONS AND RELATED ONLINE SOURCES

- Bechard, M. 2014. *Wearing glasses in the eyes of SARS*. [Online]. Available from: <http://www.iol.co.za/business/personal-finance/tax/wearing-glasses-in-the-eyes-of-sars-1.1773779#.VhE1SLFh3IU> [Accessed 4 October 2015].
- Bestbier, P.J. 2014. *Medical tax credits and SARS codes*. [Online]. Fin24. Available from: <http://www.fin24.com/Money/Money-Clinic/Tax/Medical-tax-credits-and-Sars-codes-20140901> [Accessed 8 June 2015].
- Bick, L. 2011. *South Africa: Definitions Of Disability And The 2011 Census*. [Online]. Available from: <http://www.mondaq.com/southafrica/x/147254/Arbitration+Dispute+Resolution/Definitions+Of+Disability+And+The+2011+Census> [Accessed 20 October 2015].
- Brink, S. 2014. *New Medical credit system: Disadvantageous for disabled persons*. [Online]. University of Stellenbosch. Available from: <http://www.thesait.org.za/news/167595/TaxTalk-New-medical-credit-system-Disadvantageous-for-disabled-persons.htm> [Accessed 3 June 2016].
- Burger, K. (21 January 2015). *Re: UNISA\_C/O Prof Mariki Eloff\_assistance please*. Email to [moosar@unisa.ac.za](mailto:moosar@unisa.ac.za).
- Burger, P. & Burger, K. 2010. *Defining Disability*. [Online]. NCPPDSA (The National Council for Persons with Physical Disabilities in South Africa). Available from: [http://www.rural\\_rehab.co.za/uploads/3/0/9/0/3090989/defining\\_disability.pdf](http://www.rural_rehab.co.za/uploads/3/0/9/0/3090989/defining_disability.pdf) [Accessed 20 July 2014].
- Chan, M. & Zoellick, R.B. 2011. *World Report on Disability*. [Online]. WHO Available from: [http://www.who.int/disabilities/world\\_report/2011/report.pdf?ua=1](http://www.who.int/disabilities/world_report/2011/report.pdf?ua=1) [Accessed 30 September 2015].
- Dlamini, B.O. 2015. *Draft National Disability Policy (Notice 29 of 2015)*. Pretoria: Government Printer.
- DOH (Department of Health), 2011. *NATIONAL HEALTH INSURANCE IN SOUTH AFRICA POLICY PAPER*. Government Gazette 34523. [Online]. Pretoria: Department of Health. Available from: <http://www.mediscor.net/docs/National%20Gazette%20No%2034523%20of%2012-August-2011,%20Volume%20554.pdf> [Accessed 20 August 2016].

- DOH (Department of Health), 2015. *National Health Insurance For South Africa, Towards Universal Health Coverage*. [Online]. Pretoria: Department of Health. Available from: <http://www.mm3admin.co.za/documents/docmanager/f447b607-3c8f-4eb7-8da4-11bca747079f/00090702.pdf> [Accessed 28 August 2016].
- DPSA (Department of Public Service and Administration), 2007. *Handbook on Reasonable Accommodation for People with Disabilities in the Public Service*. [Online]. Pretoria: Department of Public Service and Administration. Available from: <http://www.dpsa.gov.za/dpsa2g/documents/ee/AccessibilityHB.pdf> [Accessed 4 June 2016].
- DSD (Department of Social Development), 2008. *Committee reports of the Taylor Committee into a social security system for South Africa*. [Online]. Available from: <http://www.sarpn.org/CountryPovertyPapers/SouthAfrica/taylor/report9.php> [Accessed 18 October 2015].
- DWCPD (Department of Women, Children and People with Disabilities), 2012. Draft first country report to the United Nations on the implementation of the convention on the rights of persons with disabilities. [Online]. Available from: <http://www.gov.za/sites/www.gov.za/files/Draft%20Country%20Report%20on%20the%20CRPD%20for%20for%20Public%20Comment%2026%20Nov%202012.pdf> [Accessed 12 March 2017].
- Fin24, 2014. *Budget update on medical scheme tax credits*. [Online]. Available from: <http://www.fin24.com/Budget/Tax-credits-for-medical-scheme-contributions-20140303> [Accessed 9 June 2015].
- Gani, S. 2015. *Factors Influencing the Financing of South Africa's National Health Insurance*. [Online]. Pretoria: University of South Africa. Available from: <http://hdl.handle.net/10500/19998> [Accessed 30 June 2016].
- Hart, C. 1998. *Doing a Literature Review*. [Online]. London: Sage Publications. Available from: <http://www.sjsu.edu/people/marco.meniketti/courses/ARM/s0/Literature-review-Hart.pdf> [Accessed 31 July 2016].
- Lamprecht, I. 2014. *How to calculate your medical tax credit*. [Online]. Moneyweb. Available from: <http://www.moneyweb.co.za/archive/how-to-calculate-your-medical-tax-credit/> [Accessed 9 June 2015].
- Marus, L. 2014. *Medical aid tax credits have gone up*. *HR Pulse*. [Online]. Available from: <http://www.hrpulse.co.za/editors-pick/230876-medical-aid-tax-credits-have-gone-up> [Accessed 8 June 2015].

- Mbeki, T.M. 1997. *Integrated National Disability Strategy*. [Online]. Available from: [http://www.gov.za/sites/www.gov.za/files/disability\\_2.pdf](http://www.gov.za/sites/www.gov.za/files/disability_2.pdf) [Accessed 11 June 2015].
- Mogorosi, D. & Halwindi, N. 2014. *What you need to know about medical tax credits*. [Online]. Available from: [https://www.saica.co.za/News/NewsArticlesandPressmedia\\_releases/tabid/695/itemid/4612/language/en-ZA/Default.aspx](https://www.saica.co.za/News/NewsArticlesandPressmedia_releases/tabid/695/itemid/4612/language/en-ZA/Default.aspx) [Accessed 3 September 2016].
- National Treasury. 2011. *CONVERSION OF MEDICAL DEDUCTIONS TO MEDICAL TAX CREDITS – TAX POLICY DISCUSSION DOCUMENT FOR PUBLIC COMMENT, 2011*. [Online]. Available from: <http://www.treasury.gov.za/public%20comments/2011061701.pdf> [Accessed 22 May 2016].
- National Treasury. 2012. *EXPLANATORY MEMORANDUM ON THE TAXATION LAWS AMENDMENT BILL, 2012*. [Online]. Available from: [http://www.sars.gov.za/AllDocs/LegalDoclib/ExplMemo/LAPD-LPrep-EM-2012-01%20%20Explanatory%20memo\\_randum%20Taxation%20Laws%20Amendment%20Bill%202012.pdf](http://www.sars.gov.za/AllDocs/LegalDoclib/ExplMemo/LAPD-LPrep-EM-2012-01%20%20Explanatory%20memo_randum%20Taxation%20Laws%20Amendment%20Bill%202012.pdf) [Accessed 13 June 2016].
- Opperman, J. 2008. *Disability Solutions. Brussel Sprouts and Sleeping Giants Disability in a Nutshell*. [Online]. Available from: <http://disabilitydesk.co.za/disabilityandcsi.htm> [Accessed 17 October 2016].
- OTASA (The Occupational Therapy Association of South Africa), 2009. *Discussion Paper: Comments & Responses*. [Online]. Pretoria: The Occupational Therapy Association of South Africa. Available from: [http://www.otasa.org.za/download/Comments\\_on\\_SARS\\_discussion\\_paper.doc](http://www.otasa.org.za/download/Comments_on_SARS_discussion_paper.doc) [Accessed 12 March 2016].
- Rogers, R. 2010. *Tax and “disabilities” – enable the “disabled.”* [Online]. Available from: <http://bendelsconsulting.co.za/tax-and-disabilities-enable-the-disabled/> [Accessed 4 October 2015].
- Sadek, S. & Winai, P. 2003. *Office on the Status of Disabled Persons, OSDP South Africa – Impacts of it’s Activities*. [Online]. DSD (Department of Social Development). Available from: [http://www.sida.se/contentassets/4130b9d44fd8473c9a4bb30006f71443/office-of-the-status-of-disabled-persons-osdp-south-africa---impacts-of-its-activities\\_2158.pdf](http://www.sida.se/contentassets/4130b9d44fd8473c9a4bb30006f71443/office-of-the-status-of-disabled-persons-osdp-south-africa---impacts-of-its-activities_2158.pdf) [Accessed 20 July 2014].
- Sage, 2014. *How did the Budget Speech affect the tax credits for medical scheme contributions? People older than 65 will also be subject to the medical aid tax credit system*. [Online]. Sage. Available from: <http://blog.sagesouthafrica.co.za/tag/medical-tax-credit/> [Accessed on 9 June 2015].

- Sage HR & Payroll. 2016. *Budget Speech 2016/2017. All you need to know.* Sage South Africa (Pty) Ltd. [Online]. Sage. Available from: <http://www.tax.sagehrandpayroll.co.za/wp-content/themes/sagemicro/downloads/budget-2016-highlights.pdf> [Accessed 2 September 2016].
- SANCB (South African National Council for the Blind), 2010. *SARS announces publication of prescribed list and diagnosis for disability.* [Online]. South African National Council for the Blind. Available from: <http://www.sancb.org.za/article/sars-announces-publication-prescribed-list-and-diagnosis-disability> [Accessed 25 April 2016].
- SARS (South African Revenue Service), 2008. *Tax Guide on the Deduction of Medical Expenses (Issue 2).* [Online]. Pretoria: South African Revenue Service. Available from: [http://www.mdacc.co.za/Medical\\_Expenses.pdf](http://www.mdacc.co.za/Medical_Expenses.pdf) [Accessed 4 October 2015].
- SARS (South African Revenue Service), 2009. *Discussion Paper On Proposed List Of Qualifying Physical Impairment And Disability Expenses Under Section 18(1)(D) Of The Income Tax Act And Proposed Criteria For Diagnosis Of A Disability. LAPD-LPrep-DP. SARS Legislative Research and Development.* [Online]. Pretoria: South African Revenue Service. Available from: <http://www.sars.gov.za/AllDocs/LegalDoclib/DiscPapers/LAPD-LPrep-DP-2009-02%20-%20Discussion%20Paper%20Physical%20impairment%20disability%20expenses.pdf> [Accessed 4 October 2014].
- SARS (South African Revenue Service), 2011. *Tax Guide On The Deduction Of Medical, Physical Impairment And Disability Expenses (Issue 3).* [Online]. Pretoria: South African Revenue Service. Available from: [http://www.roadtoindependence.co.za/wp-content/uploads/2013/05/ADD.-17.2.-MANUAL-TAX-DEDUCTION-72802\\_MedicalAidTaxGuideOctober2011.pdf](http://www.roadtoindependence.co.za/wp-content/uploads/2013/05/ADD.-17.2.-MANUAL-TAX-DEDUCTION-72802_MedicalAidTaxGuideOctober2011.pdf) [Accessed 17 September 2016].
- SARS (South African Revenue Service), 2012. *List of Qualifying Physical Impairment or Disability Expenditure.* [Online]. Pretoria: South African Revenue Service. Available from: <http://www.sars.gov.za/AllDocs/OpsDocs/Guides/LAPD-IT-G08%20-%20List%20of%20Qualifying%20Physical%20Impairment%20or%20Disability%20Expenditure%20-%20External%20Guide.pdf> [Accessed 8 June 2015].
- SARS (South African Revenue Service), 2013. *GUIDE ON THE DETERMINATION OF MEDICAL TAX CREDITS AND ALLOWANCES (Issue 4).* [Online]. Pretoria: South African Revenue Service. Available from: [http://disabilitytax.co.za/wp-content/uploads/2015/08/LAPD-IT-G07-Guide\\_on\\_Deduction\\_of\\_Medical\\_Physical\\_Impairment\\_and\\_Disability\\_Expenses\\_-\\_External\\_Guide.pdf](http://disabilitytax.co.za/wp-content/uploads/2015/08/LAPD-IT-G07-Guide_on_Deduction_of_Medical_Physical_Impairment_and_Disability_Expenses_-_External_Guide.pdf) [Accessed 7 June 2016].

- SARS (South African Revenue Service), 2014. *Guide on Deduction of Medical Physical Impairment and Disability Expenses. (Issue 5)*. [Online]. Pretoria: South African Revenue Service. Available from: [https://jutralaw.co.za/media/filestore/2015/03/19\\_-\\_LAPD-IT-G07\\_-\\_Guide\\_on\\_Deduction\\_of\\_Medical\\_Physical\\_Impairment\\_and\\_Disability\\_Expenses\\_-\\_External\\_Guide.pdf](https://jutralaw.co.za/media/filestore/2015/03/19_-_LAPD-IT-G07_-_Guide_on_Deduction_of_Medical_Physical_Impairment_and_Disability_Expenses_-_External_Guide.pdf) [Accessed 4 June 2015].
- SARS (South African Revenue Service), 2015(a). *Guide on Deduction of Medical Physical Impairment and Disability Expenses (Issue 6)* [Online]. Pretoria: South African Revenue Service. Available from: [http://www.sars.gov.za/AllDocs/OpsDocs/Guides/\\_LAPD-IT-G07%20-%20Guide%20on%20the%20determination%20of%20medical%20tax%20credits%20and%20allowances%20%20-%20External%20Guide.pdf](http://www.sars.gov.za/AllDocs/OpsDocs/Guides/_LAPD-IT-G07%20-%20Guide%20on%20the%20determination%20of%20medical%20tax%20credits%20and%20allowances%20%20-%20External%20Guide.pdf) [Accessed 22 May 2016].
- SARS (South African Revenue Service), 2015(b). *Tax and Disability* [Online]. Pretoria: South African Revenue Service. Available from: <http://www.sars.gov.za/ClientSegments/Individuals/Tax-Stages/Pages/Tax-and-Disability.aspx> [Accessed 8 June 2015].
- SARS (South African Revenue Service), 2016(a). *PERSONAL INCOME TAX*. [Online]. Pretoria: South African Revenue Service. Available from: <http://www.sars.gov.za/TaxTypes/PIT/Pages/default.aspx> [Accessed 21 September 2016].
- SARS (South African Revenue Service), 2016(b). *Tax and Disability*. [Online]. Pretoria: South African Revenue Service. Available from: <http://www.sars.gov.za/AllDocs/OpsDocs/SARSTForms/ITR-DD%20-%20Confirmation%20of%20Diagnosis%20of%20Disability%20%20External%20Form.pdf> [Accessed 17 October 2016].
- Section 27, 2011. *The Green Paper on National Health Insurance Civil Society Discussion Document. November 2011*. [Online]. Section 27. Available from: <http://www.section27.org.za/wp-content/uploads/2011/12/NHI-Coalition-Discussion-Paper.pdf> [Accessed 20 August 2016].
- Steenkamp, L.A. 2011. Examining disability-related medical expenses: lessons from Canada. *SA Mercantile Law Journal 2011*; Vol 23 (2): 214-234. Sabinet.
- Stromberg, J. 2011. *The Real Birth of American Democracy*. [ONLINE] Available at: <http://www.smithsonianmag.com/smithsonian-institution/the-real-birth-of-american-democracy-83232825/>. [Accessed 6 March 2017].
- The Daily Philosopher, 2004. *Essay: The Only Thing That Is Constant Is Change*. [Online]. Available from: <http://www.thedailyphilosopher.org/daily/000011.php> [Accessed 18 October 2017].

- uOttawa (University of Ottawa), 2015. *Concepts and Definitions of Disability*. [Online] Available from: [http://www.med.uottawa.ca/sim/data/Disability\\_e.htm](http://www.med.uottawa.ca/sim/data/Disability_e.htm) [Accessed 1 June 2015].
- Viviers, H., Coetzee, L. & Bredenhann, L. 2015. *ANALYSIS: AN X-RAY OF MEDICAL TAX CREDITS*. *Accounting* [Online]. Available from: <http://www.accountancysa.org.za/analysis-an-x-ray-of-medical-tax-credits/> [Accessed 13 June 2016].
- Watermeyer, R., Swartz, L., Lorenzo, T., Schneider, M., & Priestley, M. 2006. *Disability and social change – a South African perspective* [Online]. Cape Town: Human Sciences Research Council. Available from: [http://www.hsrcpress.ac.za/downloadpdf.php?pdffile=files%2FPDF%2F2151%2F001%20-%20disability\\_social\\_change~952006104737AM.pdf&downloadfilename=Disability%20and%20Social%20Change](http://www.hsrcpress.ac.za/downloadpdf.php?pdffile=files%2FPDF%2F2151%2F001%20-%20disability_social_change~952006104737AM.pdf&downloadfilename=Disability%20and%20Social%20Change) [Accessed 18 October 2016].
- WHO (The World Health Organization), 1980. *International Classification of Impairments Disabilities and Handicaps*. [Online]. Geneva: World Health Organisation. Available from: [http://apps.who.int/iris/bitstream/10665/41003/1/9241541261\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/41003/1/9241541261_eng.pdf) [Accessed 14 May 2015].
- WHO (The World Health Organization), 2002. *Towards a Common Language for Functioning, Disability and Health ICF*. [Online]. Geneva: World Health Organization Available from: <http://www.who.int/classifications/icf/icfbeginnersguide.pdf> [Accessed 17 September 2016].
- WHO (The World Health Organization), 2016. *Disability and rehabilitation*. [Online]. Geneva: World Health Organisation. Available from: [http://www.who.int/disabilities/policies/standard\\_rules/en/](http://www.who.int/disabilities/policies/standard_rules/en/) [Accessed 23 October 2016].

## BOOKS

- De Hart, K.L., Smulders, S., Hamel, E.H., & Steenkamp, L.A. 2015. *Taxation of Individuals Simplified*. Durban: LexisNexis.
- Fasset. 2015. *2015-2016 Tax Guide*. Probeta Training (Pty) Ltd. Randburg.
- Hofstee, E. 2006. *Constructing a Good Dissertation*. Sandton: EPE.
- Mandela, N. 1994. *The Long Walk to Freedom*. Boston: Little Brown and Company.
- Sonneborn, L. 2010. *The End of Apartheid in South Africa*. New York: Infobase Publishing.
- South Africa. 1994. *Katz Commission Report. Interim Report of the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa*. Pretoria: Government Printer.
- Stack, E.M. 2013. *Reviewing a journal article*. SATEA.
- Stiglingh, M., Koekemoer, A., Van Schalkwyk, L., Wilcocks, J.S., & De Swardt, R.D., 2014. *SILKE: South African Income Tax 2015*. Durban: LexisNexis.
- Venter, J.M.P., De Hart, K.L., Coetzee, K., & Koekemoer, A.D. 2015. *A Student's Approach to Income Tax*. Durban: LexisNexis.

## CASE LAW

*Blue Circle Cement Ltd. v Commissioner for Inland Revenue* (39/84) [1984] ZASCA 14;  
[1984] 2 All SA 188 (D); 1984 (2) SA 764 (A) (16 March 1984)

*Brown v British Columbia (Minister of Health)* (1990) 48 CFR 137

*Leduc v. The Queen*, 1999 CanLII 344 (TCC)

*Radage v. R.* [[1996] 3 C.T.C. 2510]

*Radage v. The Queen*, 96 DTC 1615 (TCC)

*Robert C. Johnston v. The Queen*, [1998] F.C.J. No. 169, 98 DTC 6169

*R v Cambridge Health Authority, ex parte B* [1995] 2 All ER 129 (CA) at 137dBf

## REFERENCES CONSULTED BUT NOT REFERRED TO IN THE TEXT

- Ensore, L. 2015. *Personal tax: Upper bracket only will feel effect of an increase*. [Online]. BDLive. Available from: <http://www.bdlive.co.za/economy/2015/02/26/personal-tax-upper-bracket-only-will-feel-effect-of-an-increase> [Accessed 8 June 2015].
- Lester, M. 2013. *TAX TALK: Medical aid rebate has side effects*. [Online]. BDLive. Available from: <http://www.bdlive.co.za/opinion/columnists/2013/03/31/tax-talk-medical-aid-rebate-has-side-effects> [Accessed 8 June 2015].
- New Internationalist Magazine, no date. *South Africa – The Facts*. [Online]. Available from: <http://newint.org/features/1986/05/05/facts/> [Accessed 21 September 2015].
- Nixon, R. no date. *Apartheid On The Run: The South African Sports Boycott*. Transition Issue 58. [Online]. Available from: [http://www.english.wisc.edu/rdnixon/files/apartheid\\_run.pdf](http://www.english.wisc.edu/rdnixon/files/apartheid_run.pdf) [Accessed 18 September 2015].
- Pitso, R. & Magubane, K., 2014. *South Africa failing the disabled*. BDLive. [Online]. Available from: <http://www.bdlive.co.za/national/2014/06/12/south-africa-failing-the-disabled> [Accessed 8 June 2015].
- Reddy, E.S. no date. *The United Nations: Partner in the Struggle against Apartheid*. [Online]. Available from: <http://www.un.org/en/events/mandeladay/apartheid> [Accessed 18 September 2015].
- South African Revenue Services Act (Act No. 34 of 1997)*. Pretoria: Government Printer.
- Shusha, Z. 2013. *Forget apartheid, time ANC government took responsibility* Mail and Guardian Thought Leader Blog [Online]. Available from: <http://www.thoughtleader.co.za/readerblog/2013/04/16/forget-apartheid-time-government-took-responsibility/> [Accessed 28 July 2014].
- Tax Administration Act (Act No. 28 of 2011) (as amended)*. Pretoria: Government Printer.