



Department of Taxation  
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ON TAXATION

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# Distributive Tax Justice in a Global Economy



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA

Faculty of Economic and  
Management Sciences

Fakulteit Ekonomiese en Bestuurswetenskappe  
Lefapha la Disaense tša Ekonomi le Taolo

Make today matter

# TABLE OF CONTENTS

<b>ABOUT THE ORGANISERS .....</b>	<b>2</b>
<b>ABSTRACTS OF CONFERENCE PAPERS .....</b>	<b>4</b>
<b>Presentation Session 1 (Chair: Prof Shaun Parsons).....</b>	<b>4</b>
A framework for a simpler South African Value-Added Tax Act .....	4
The Impact of Carbon and Sugar Tax on the South African Economy: A Sustainable Tax Policy Perspective .....	5
Are small business owners willing to issue receipts? Supplier acceptance of a tax lottery system .....	6
<b>Presentation Session 2 (Chair: Prof Marina Bornman) .....</b>	<b>7</b>
Achieving distributive justice through nudging.....	7
Tax policies in pursuit of human rights.....	8
Happiness: Philosophy, Economy and Justice .....	9
Hints of Ubuntu: Contextualizing the role of gender equality in taxation in South Africa .....	10
<b>Presentation Session 3 (Chair: Dr Karen Stark) .....</b>	<b>12</b>
Impact of distributive tax justice in South African townships.....	12
Controversial obstacles to progress towards tax justice.....	13
Resolving double non-taxation: issues regarding the foreign employment income exemption in South Africa. ....	14
Craving the crown jewels: The court's interpretation of the controlled foreign company rules and foreign business establishment exception in Commissioner for the South African Revenue Service v Coronatio Investment Management SA (Pty) Ltd (1269/2021) [2023] ZASCA 10 (7 February 2003) .....	15
<b>POSTER PRESENTATIONS.....</b>	<b>17</b>
<b>Poster 1: Testing the uniformity of undergraduate tax education offered at South African public and private institutions.....</b>	<b>17</b>
<b>Poster 2: The impact of distributive taxes on the economic growth of South Africa from the perspective of chartered accountants of South Africa .....</b>	<b>17</b>
<b>Poster 3: The impact of the punishment system for tax evasion in South Africa on perceptions of taxpayers being tax compliant. ....</b>	<b>17</b>
<b>Poster 4: Understanding the influence of Universal Basic Income on the South African tax base. ...</b>	<b>17</b>
<b>Poster 5: Investigating attitudes of individual taxpayers towards tax nudge messages in South Africa .....</b>	<b>17</b>



## ABOUT THE ORGANISERS

The Department of Taxation in the Faculty of Economic and Management Sciences at the University of Pretoria presented its first modules in 2002. At this time the offerings in the Department consisted of undergraduate taxation modules, the academic qualification for potential chartered accountants and a MCom in Taxation degree (which existed since 1989). As the Department evolved, it became vital to expand the offerings to students, resulting in a BCom Honours in Taxation degree that was developed in 2007. To supplement the already successful MCom in Taxation degree, a PhD in Taxation was introduced in 2011. In 2019, the postgraduate offerings were extended to a MPhil in International Taxation.

During the last 10 years, the Department has delivered:



313

BCom Honours in Taxation graduates



389

MCom graduates



14

MPhil graduates



10

PhD graduates

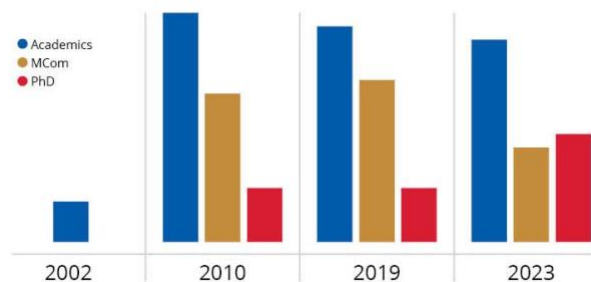


The Department contributes to a highly successful chartered accountant training programme where the students obtained a **96.4% average pass rate** in the professional exam over the last 15 years.



Over the last 10 years, graduates from the Taxation department **won the national EY Young Tax Professional competition** in 5 of the years and in 3 of the years continued to win the international competition.

The Department expanded from 3 academics in 2002 to 17 academics in 2010, of which 15 were chartered accountants. Of the 17, 11 were in possession of a MCom qualification. During the following 9 years, the academic staff complement of the Department changed substantially. In 2019 there were 16 staff members, of which 13 were Chartered Accountants, 4 of the 16 possessed a PhD and the remaining 12 members obtained a MCom in Taxation.



The current academic distribution indicates that the department consists of:



15 academics



12 are Chartered Accountants



8 are in the possession of a PhD



7 are holding MCom degrees



With an increase in staff members who obtained PhD degrees, the departmental focus also shifted towards research. This is evident from the multiple national and international research awards obtained, as well as the participation of the Department's academics on editorial boards of accredited journals. Prof Annet Oguttu, the former Acting Head of the Department is an NRF-rated researcher.

During the last five years, the Department of Taxation was twice announced as the winner in the category of Most Improved Research Outputs by a Department in the Faculty of Economic and Management Science (EMS). Prof Oguttu received the award for the Best Senior Researcher in Finance in the Faculty EMS during 2021. The Department appointed two extraordinary professors (Prof Chris Evans from Australia and Prof Lisa Marriott from New Zealand), as well as an extraordinary lecturer (Dr Gerhard Nienaber). The research outputs of the Department are consistently increasing and promise higher quality and an escalation in quantity in the future.

From a teaching and learning perspective, the Department of Taxation is an innovation-oriented department. This is evident from the ground-breaking teaching and learning initiatives over the years. Most prominently, Theresa van Oordt received the University of Pretoria Laureate award for Teaching Excellence and Innovation in 2014, and Prof Hanneke du Preez and Tanya Hill again received the award in 2021.

Community engagement remains a high priority for the Department. The Department contributes towards a business incubator at the Mamelodi Campus of the University of Pretoria, where tax education is presented to local small business owners by students from the Tax Honours class.

The Department is continuously engaging with stakeholders in the taxation landscape. Our industry partners include SAIT, SAICA, SAIPA, SARS, National Treasury, Tax Ombud, IBFD, ATAF and various firms and institutions playing a pivotal role in tax and tax policy.



**Building on the past, infusing the present and creating a future abound with opportunities for all who tread through the taxation landscape.**

## ABSTRACTS OF CONFERENCE PAPERS

### Presentation Session 1 (Chair: Prof Shaun Parsons)

#### A framework for a simpler South African Value-Added Tax Act

**Mr ME Hassan** (University of Johannesburg) – **Presenter**

**Prof M Bornman** (University of Johannesburg)

**Prof A Sawyer** (University of Canterbury)

The current South African VAT Act lacks structure and is therefore complex to teach, apply in practise, and administer. The study describes and investigates legal complexities in the VAT Act, including language (plain English, sentence length, and active voices, i.e., readability and logical structure) and content of the law (uncertainty, concessions, and annual amendments). The focus is on the VAT Act's logical structure. The study's goal is to provide guidelines for a simpler VAT Act. A qualitative research methodology is employed, and the research design included two phases: a literature review followed by semi-structured interviews. Existing empirical studies on legal complexities analysed confirm that the VAT Act's poor structure, layout, and organisation contribute to its complexity. Additionally, research confirms that improvements to structure, layout, and organisation enhance the readability of statutes. Interviews solicit the opinions of those impacted by the research problem regarding potential legal simplifications of the VAT Act. Interviewees agree that all elements of legal complexity contribute to the VAT Act's complexity. They further comment that complexity of the VAT raises compliance costs. The results of the literature review and interviews contribute to the development of a framework i.e., guidelines for a simpler South African VAT Act which is the contribution of this study. The guidelines include grouping sections together, introducing headings and subheadings, adhering to a VAT vendor's life cycle, employing international benchmarks, and seeking a solution that addresses local challenges most effectively. As a solution to the research problem, the guidelines are utilised to develop an index, i.e., a practical illustration of the guidelines. A recommendation that stands out in the guidelines is to completely rewrite the VAT Act. As a first step in this rewrite project, it is recommended that the designed index be further developed and incorporated into the VAT Act. This is the initial step towards the simplification of the VAT Act.

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# The Impact of Carbon and Sugar Tax on the South African Economy: A Sustainable Tax Policy Perspective

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Mr G Nyirenda (University of Limpopo)

South Africa still maintains a robust tax system in comparison to other emerging economies. Fiscal policy remains a cornerstone of the government's plans and commitment towards delivering inclusive and sustainable economic growth. South Africa has implemented several sustainable tax policies, including the carbon tax and sugar tax, to promote environmental protection and public health. However, the effectiveness of these policies and their impact on the economy remains a topic of debate. This study aims to examine the impact of the carbon and sugar tax on the South African economy from a sustainable tax policy perspective.

The study will employ a mixed-methods approach, combining both quantitative and qualitative

methods. Quantitative analysis will involve the use of secondary data sources to measure the economic impact of the carbon and sugar tax on key economic indicators such as GDP, employment, and inflation. Qualitative data will be collected through content analysis and a review of documents to gain insights into their perceptions and experiences regarding the implementation of these taxes. The findings of the study are expected to contribute to the existing literature on sustainable tax policies in South Africa, particularly on the carbon and sugar tax. The study will provide evidence of the impact of these taxes on the economy and help policymakers make informed decisions regarding future tax policies. The findings will also provide academia with an opportunity for further study using different methodological approaches. Overall, this study will demonstrate the importance of sustainable tax policies in promoting economic growth and development while addressing environmental and public health challenges.

Keywords: Sustainable taxes, Sugar tax, Carbon tax, Tax policy

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## Are small business owners willing to issue receipts? Supplier acceptance of a tax lottery system

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*Prof AH Schoeman (University of Pretoria)*

Tax compliance in developing countries remain a challenge for revenue authorities, who need to find innovative ways for businesses to be tax compliant. Tax revenue collection is the life-blood of governments who need to provide its citizens with the required public goods and services. The implementation of a tax lottery system in South Africa is recommended where consumers act, in part, as tax auditors by asking for a receipt on a purchase made and submitting it to the South African Revenue Service (SARS). This receipt creates a paper trail enabling SARS to identify non-compliant businesses. The purpose of the study was to conduct exploratory research using an online survey to determine the acceptance and perceptions of small business owners towards a tax lottery system implemented in South Africa. From literature, it is evident that some suppliers find the tax lottery process burdensome, costly and detrimental to the competitiveness and growth of their business, especially for small business owners. This resulted in the loss of customers to larger businesses more capable of supplying receipts regularly. The results of the online survey indicate that only 51% of participants would support the lottery, with almost an equal number of participants stating that a tax lottery would be unfair to their business. Half of the respondents stated that a tax lottery would be a waste of their time and resources. Although the vast majority of small business owners surveyed indicated that they would be able to supply receipts to their customers on a regular basis, small business owners that have been in operation for less than a year as well as those that were currently not issuing receipts, tended to disagree with statements that measured their capability of issuing receipts. Only 55% of businesses always issue their consumers with receipts, and 20% only upon request by a consumer, with the remaining 24% not currently issuing receipts at all. The biggest concern among the suppliers was that corruption and fraud may be present when a tax lottery is implemented in South Africa. Small business owners therefore do not seem supportive of a tax lottery system. This study contributes to the limited body of knowledge on tax lottery systems, particularly from a developing country perspective. Further, very few studies have considered the supplier perspective when considering the acceptance of citizens towards tax lottery systems.

## Presentation Session 2 (Chair: Prof Marina Bornman)

### Achieving distributive justice through nudging

*Dr N Monageng (University of Pretoria)*

#### **Introduction**

Tax revenues are the main source of income for many economies and it is through this revenue that citizens can benefit from public goods and services provided by governments. Increasing the level of tax compliance ensures that more people contribute towards tax revenues which is a step towards a fair allocation of the tax burden among taxpayers. There has been a wide range of strategies that have been implemented by tax authorities in an effort to ensure tax compliance by all taxpayers.

These strategies consist of a combination of enforcement strategies, such as tax audits, and non-enforcement strategies that have focused on encouraging tax compliance. Nudging is one of the non-enforcement strategies that is being increasingly utilized by tax authorities to influence tax compliance behaviour.

Nudging is defined as “... any aspect of the choice architecture that alters people’s behaviour in a predictable way without forbidding any options or significantly changing their economic incentives” (Thaler & Sunstein, 2009). Using nudges as a strategy to encourage tax compliance behaviour is often less time consuming and less costly compared to enforcement strategies such as tax audits.

Results from studies examining the impact of reciprocity (fiscal exchange), social norm and deterrence nudges on tax compliance are mixed and there are limited studies that examined how the effectiveness of these nudge messages may be affected by taxpayers’ perception of fairness. This study focusses specifically on the effect these nudge messages to improve voluntary tax compliance as a step towards distributive justice. The study also investigates whether taxpayers’ perception of fairness has an impact on the effectiveness of such nudges.

#### **Research questions**

The study addresses the following research questions:

- What is the effect of nudge messages on tax compliance behaviour of taxpayers?
- Does the effectiveness of the nudge messages differ based on the type of nudge message communicated?
- Does the effectiveness of nudge messages differ based on perception of fairness?



## Method

A quantitative research approach is adopted with data collected using an online experiment. The online experiment is conducted with two different subject pools, university students and small business owners. The experiment consists of three treatment groups and a control group for each subject pool. The treatments for the treatment groups consist of three different types of nudge messages.

The quantitative data obtained from the experiments will then be statistically analysed using Statistical Package for the Social Sciences (SPSS) to determine whether there is a cause and effect relationship between nudging taxpayers and tax compliance. It will also be determined if there is an association between the effectiveness of nudge messages and taxpayer perceptions of fairness.

## Expected contribution

This study is important for a number of reasons. Firstly, the study will add to the body of knowledge by providing a better understanding of how deterrence, reciprocity (fiscal exchange) and social norm nudges may be affected by perception of fairness. Secondly, it seeks to add to the body of knowledge related to the impact of nudge messages on tax compliance behaviour in a developing country.

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## Tax policies in pursuit of human rights

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*Dr Estrella del Valle Calzada (University of Valencia) - Presenter*

*Dr Benjamin Sevilla Bernabeu (University of Valencia)*

In recent decades, there has been a notable increase in interest in analysing taxation from a human rights perspective, in a utopian but nonetheless necessary attempt to channel both policies and guide them towards the achievement of common goals. Undoubtedly, taxation is a fundamental pillar to ensure that states can fulfil their legal obligations, including the financing of public services and the reduction of economic and social inequalities. Adequate taxation is essential to mobilise the resources needed to realise economic and social rights, including the right to health, education, and social security. The proposed contribution aims to explore the relationship between the two legal spheres, tax law and international human rights law, under the paradigm that a fair tax policy can only be one that is respectful of human rights. Starting with a conceptualisation of the two areas that integrate fiscal policies, income, and public expenses, we will focus both on the citizen's duty to contribute to the support of public expenses and on the state's obligations to mobilise these resources towards the achievement of general purposes and interests. International law imposes a legal duty on states to contribute to the effective realisation of economic, social, and cultural rights. To this end, fiscal policies should be primarily aimed at achieving them. This is one of

the bases of the claimed tax justice, assuming that it will not only depend on how and how much revenue is collected, but also on the purposes to which this revenue is allocated to comply with the principle of legitimacy and justice.

Through this study, and by means of a legal-analytical methodology, we will attempt to argue the imperative for national, regional, and international tax policies to include in their foundations the principle that legitimises fair tax systems, ensuring that states comply with a legal obligation, and not merely a political commitment, to contribute through the efficient mobilisation of public funds to the realisation of human rights. Based on the research carried out, we will lay the foundations for the discussion of these principles and make proposals to ensure that in the future the study of taxation and human rights will be carried out jointly, in order to achieve what we consider to be common objectives that are in the interests of citizens.

For a detailed analysis of the subject matter, this proposal is presented by two experts in each of the two areas of knowledge: tax law and human rights. In this way, from the search for connections between both disciplines, we aim to reach more holistic perspectives and conclusions.

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## **Happiness: Philosophy, Economy and Justice**

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*Prof K Coetzee (North-West University)*

Happiness has become a prominent research topic concerning philosophical and psychological viewpoints since the 1970s. However, it is problematic that happiness' relation to economics has only recently become a factor of interest within economic and philosophical research while justice has not been commonly linked to happiness. The purpose of this study is to compare the views on happiness aired by Ricoeur as a single philosophical viewpoint with those of economics and justice (which is linked by taxation) to determine if there could be a recommendation for a better, more just, understanding of happiness from these different disciplines. The focus will be on Paul Ricoeur's three requirements of happiness and its possible inclusion of and relation to economics and justice. As indicated in the title (Happiness: Philosophy, Economy, and Justice), the concept of happiness will be explored from a philosophical view (limited to Ricoeur's philosophy) in relation to the economy and justice. This study aims at researching the following goals: Firstly, it aims to clarify the philosophical view of Ricoeur on happiness which is mainly formulated in his article *Le Bonheur hors lieu*. For Ricoeur, happiness primarily focuses on one's personal dreams, desires and wishes. These may involve all activities associated with obtaining this happiness – activities like work, hobbies, our lifestyle, etc. Secondly, happiness has to do with our personal relationships, and Ricoeur groups all of these relations together under the term friendship. Lastly, Ricoeur's happiness is about 'just institutions' – of

living with others in a just society and world. Here the emphasis is on justice, but also includes how we live in an economic system. It is within these three spheres where economics and justice play a crucial role and where happiness should be understood as not only a selfish enterprise but a communal and ethical one. The second aim of the study is to highlight the economic influence on happiness (and vice versa) and how it links through taxation to justice. This relation between happiness and justice (also normally via the economic system) will be explored by focusing on the professor of Law, Eric Rakowski's novel views, namely the concept of equal distribution of goods via justice under certain circumstances to ensure happiness. The third aim of the study is to develop a more holistic and just happiness and to indicate its implications for specifically taxation.

To reach these goals, and to lay the foundation for further philosophic reflection, a qualitative methodology is followed. Phenomenological hermeneutics is used to describe and interpret the relevant perspectives and to consider the different implications of and for happiness. The overlap and the reciprocity between happiness (in the Ricoeurian sense), economics and justice will be explored to indicate the pivotal need for a new, understanding of happiness within our society. This is necessarily achieved through taxes and redistribution via subsidies and government services. This understanding entails that happiness is not something unattainable per se but should be searched for in relation with justice and economics.

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## Hints of Ubuntu: Contextualizing the role of gender equality in taxation in South Africa

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*Ms S Swanepoel (University of Pretoria)*

Establishing equality in all spheres, including tax, is critical to the achievement of societal and policy goals, including those of sustainable development. This study uses a doctrinal, reform-oriented methodology to closely examine concepts such as gender equality, gender bias and tax equality. Ultimately, these are distilled into an understanding of what their implications are in a South African tax context. The study finds that two distinct schools of thought emerge on gender equality in Africa. The first considers the notion to be a western one, that does not fully address the needs of the extreme gender oppression that is rife in Africa. The second believes that gender inequality is inherent to African culture in a way that makes questioning it problematic. Here it is felt that what is labelled as inequality by western standards is in fact positive discrimination aimed at advancing women. South Africa is no exception to the strained relationship between culture and gender equality yet in theory at least the South African Constitution overrides any claims to cultural superiority over the right to gender equality.

The study concludes that the South African Constitution does indeed create legislative precedent for more than formal equality and supports the notion of substantive equality, even making it a constitutional imperative. However, the Constitution falls short of being transformative, if not in wording and potential, then at least in execution when social transformation decisions and rulings are made. From this untapped legislative potential for change, emerges the need for a transformative substantive equality, in all spheres, including taxation. In Africa and South Africa in particular, in the instances where gender equality is accepted as a valid pursuit, the study finds that the concept of ‘ubuntu’ features often. ‘Ubuntu’ principally denotes a view of the individual as valuable because of what they contribute to the group and this encourages empathetic reciprocity. Some argue that this notion mixed with colonial influences and patriarchal ideals has become nothing more than a way to window dress gender inequality in Africa. Yet, even Finland, despite meeting all the requirements of gender equality indices, is not immune to criticism. This criticism calls for an equality that does more than ‘tick the boxes’ and hints of ‘ubuntu’ emerge when the greater good is cited in the discussion on obtaining a more veracious gender equality. The downfall of a global approach, such as ‘ubuntu’, is that it can fall short of a radical transformation toward gender equality in that it can at times sacrifice the pursuit of gender equality to the needs of the group. Similarly, the study finds that the pursuit of gender equality within tax is hamstrung by the field’s own canonical concepts of what is right and fair. The study finds that tax justice is far more consistent with the idea of transformative substantive equality. Therefore, when speaking about South African gender equality in tax, the correct phrasing might be to view gender equality as a means to achieving tax justice rather than tax equality.



## Presentation Session 3 (Chair: Dr Karen Stark)

### Impact of distributive tax justice in South African townships

*Mr NP Luvhengo (University of Limpopo) - Presenter*

*Mr SS Pilane (University of Limpopo) - Presenter*

*Mr M Lepheana (University of Limpopo)*

Background: Distributive tax occurs when the government collects taxes fairly from taxpayers and similarly the fair collection leads to a fair distribution of revenues collected from taxes for purposes of service delivery by the government. To be fair, the allocation of revenues should identify areas that have social needs that enterprises and individuals cannot solve on their own. The government has a social contract obligation to act as a mediator in the society, and this obligation is resolved when the government provides communities with different forms of services with an intention of addressing inequalities pertaining to economic activities within the country. South Africa follows a progressive tax system for individual taxes and Small, Medium, Micro and Enterprises. Progressive taxes indicate that there is distribution of taxes by means of tax collection. However, centralisation of populations into major cities indicates that revenue collected is not disbursed for the benefit of the population of South Africa. Thus, there is a need for distributive tax justice as a response to social injustices that led to some areas benefiting from urban centralisation. Distributive tax justice is not limited to meaning that the population paying taxes must be the sole beneficiaries from the service delivered by the government. Instead, the government has the obligation to render services, mostly to the citizens that do not afford any services that may be regarded as basic human needs, such as education, shelter, water, sanitation, etcetera. Aim: This study aims to understand the role of distribution taxes justice in South African townships, with focus on service delivery by the Government from the perspective of representatives of Thohoyandou, a township in Limpopo, South Africa. Method: The research will apply a qualitative approach to gather information through open-ended questions, which will be shared with different representatives from a Township in South Africa called Thohoyandou. Design: Community representatives from different organisations representing taxpayers and the government within Thohoyandou, will receive a questionnaire inviting them to participate freely and willingly, without bias or intimidation. The questionnaire will be used to formulate an understanding of distributive tax justice within Thohoyandou. Preliminary Results: The centralization of the population in South Africa to major cities such as Johannesburg, Pretoria, Durban and Cape town suggests that the population of South Africa renders South Africa as a country that lacks distributive tax justice. The lack of employment opportunities, infrastructure, water, sanitation and access roads

would indicate injustice relating to distributive taxes. Thohoyandou is an area accessible to the main researcher, as a township of origin, and obtaining responses and targeting representative groups from Thohoyandou will be achievable. Conclusion: Focusing on Thohoyandou as a township may impact policy enhancement from the perspective of the Government, where decentralisation from major cities forms more than a government mandate. As the study is expected to follow a qualitative approach, the results from the study are not expected to create generalisation. Keywords: Distributive tax justice, South African townships, impact of distributive tax.

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## **Controversial obstacles to progress towards tax justice.**

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*Dr Benjamin Sevilla Bernabeu (University of Valencia) - Presenter*  
*Dr Estrella Del Valle Calzada (University of Valencia)*

States' obligation to mobilise resources for the provision of public services and the contribution to the realisation of human rights is obstructed by certain harmful practices. Prominent among these is tax competition and the race to the bottom. The main reason for tax competition is the eagerness of states to attract the establishments and activities of those companies with the highest profits within their national territory. This leads to a problem of fairness and a distortion of the contribution to the support of public expenditure, both within the national tax system and between different states.

In addition, another potential problem is non-cooperative jurisdictions. In general, these are small territories or jurisdictions with limited resources that, with their tax rules, attract foreign capital to improve their economy, making it highly dependent on their own laws.

Alongside this, at the international level there are numerous transactions or businesses that are considered to constitute tax avoidance, tax evasion or aggressive tax planning. While these are all important elements of the discourse on national and international taxation, they are not sufficiently understood or clearly defined.

Nevertheless, these practices reduce the tax revenues of states, forcing them to increase the burden on other taxpayers who manifest a contributive capacity attributable to state sovereignty. The fight against these practices must be understood as a limit imposed by global tax law on the regulatory activity of the legislator, in order to pursue objectives of justice at both the national and international level. These practices affect the contribution to public spending; the taxpayers who engage in them reduce their income and, therefore, increase the tax burden on the rest of the subjects, producing alterations in other tax systems and, more generally, in the relations between States.

The member states of the OECD's inclusive framework are currently working on a global, consensus-based solution to reform the international corporate tax framework. Pillar II aims to establish minimum effective taxation of multinational companies' profits, with the ultimate goal of tackling aggressive tax planning structures that erode tax bases and undermine tax fairness. However, while this global standard is a positive development, some special rapporteurs have pointed out that the proposed solution would mainly benefit higher-income countries, while lower-income countries would lose a large part of their revenues, thus also undermining their ability to meet their human rights obligations.

The aim of this proposal is to differentiate these harmful practices and to analyse the rules to try to counteract them, proposing solutions to move towards greater tax justice.

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## **Resolving double non-taxation: issues regarding the foreign employment income exemption in South Africa.**

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*Tsireledzo Mulaudzi (University of Witwatersrand)*

The determination of which jurisdiction has the taxing rights of employment income can be daunting in a global economy with mobile human capital. There is evidence that more and more South African residents are relocating to foreign countries for better job opportunities, different work experiences and greater tax advantages. It is important for one to understand the current tax treatment of South African tax residents who earn employment income from abroad before deciding to relocate. This paper focuses on section 10(1)(o)(ii) of the South African Income Tax Act which was amended from the year of assessment commencing on or after 1 March 2020 to exempt foreign employment income earned by a South African tax resident that exceeds R1.25 million. However, the amendment poses a few fiscal problems. Firstly, the amended provision may pose double non-taxation challenges which impact on South Africa's economy. Secondly, at face value, the amendment to section 10(1)(o)(ii) seems to comply with the principles of a good tax system. However, the amendment is criticised for being unfair as it excludes employees in the public sector. Thirdly, the amendment may lead to confusion on how fringe benefits are to be calculated, creates uncertainties and may pose economic challenges for South African tax residents working abroad. Fourthly, SARS may face challenges relating to the submission of incorrect assessments and assessments where the exemption has not been interpreted or applied correctly. Fifthly, the amendment may discourage South African tax residents from taking job opportunities abroad, which may increase the percentage of unemployment which is already high in South Africa.

The paper analyses the section 10(1)(o)(ii) exemption, with the purpose of coming up with recommendations for resolving the above problems.

The paper recommends that South African Revenue Services (SARS) should issue a revised Interpretation Note 16 that clearly states how fringe benefits would be accounted for. This paper further recommends that SARS should make effort to educate taxpayers about the amendment to alleviate any uncertainties about how the section operates. It is also recommended that National Treasury should ensure a proper balance between the need to prevent double non-taxation and the need to curb unemployment so that the amendment does not impact negatively on the country's economic development.

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## **Craving the crown jewels: The court's interpretation of the controlled foreign company rules and foreign business establishment exception in Commissioner for the South African Revenue Service v Coronatio Investment Management SA (Pty) Ltd (1269/2021) [2023] ZASCA 10 (7 February 2003)**

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*Dr Liezel Tredoux (University of South Africa)*

"It's a global village" - K Franck

The emerge of globalisation and technology have made it possible for South African high net worth individuals and companies to invest offshore with relative ease. In a country like South Africa where a volatile economic climate, increased corruption, loadshedding, higher petrol prices, a weakening currency and economic hardship post Covid-19 persists, many high-net-worth individuals and companies have increasingly moved their funds, capital and income elsewhere. Offshore investments can be made by authorising asset fund managers to do so through their entities that have a

presence in an offshore tax jurisdiction. The asset fund managers are often also part of a multinational group of companies.

In tax context, the offshore investment through asset management companies could lead to base erosion and profit shifting for the country from which the investment originates. The South African Income Tax Act 58 of 1962 (ITA) contains many provisions that safeguard the South African tax base. An example is found in section 9D of the ITA which provides that a portion of the net foreign income of certain non-resident companies may be attributed to its South African shareholders if specific requirements are met and the foreign company is classified as a controlled foreign company (CFC) on terms of the definition of a CFC in section 9D. Provided that the requirements of this section are met, these CFC rules apply even if such a company has not made a distribution to or declared dividends in favour of the South African shareholders. The application of the CFC rules results in a portion of the net income of the foreign



company being taxable in South Africa. In terms of section 9D(9b) of the ITA amounts that are attributable to a foreign business establishment (FBE) of a CFC should not be taken into account when determining the net income of a CFC. The ambit of the FBE exception to the CFC rules was recently interpreted by the South African Supreme Court of Appeal in Commissioner for the South African Revenue Service v Coronation Investment Management SA (Pty) Ltd (1269/2021) [2023] ZASCA 10 (7 February 2023). In the tax court it was found that the foreign investment management company did have economic substance and was not merely a company which “only existed on paper”. This interpretation was however overturned on appeal when the Court found that the primary business of such a foreign a company should not be outsourced and must be conducted in the foreign jurisdiction for it to be classified as a FBE and qualify for the exception to the CFC rules, and resultant tax relief in South Africa. This paper critically analyses this judgement with reference to the economic substance test, international case law and the opinions of author.

## POSTER PRESENTATIONS

✦ Don't miss the Poster Presentations and discussions in the lunch hall. ✦

We invite all conference delegates to immerse themselves in a world of knowledge at the Poster Presentations and discussion sessions. Engage with fellow researchers and have insightful discussions as they present their work through captivating poster displays during the lunch break and the dedicated session from 17:00 to 18:00.

Click on the link below if you want to have a preview:

**Poster 1: [Testing the uniformity of undergraduate tax education offered at South African public and private institutions](#)**

*Presenter - Lizmari Smit*

**Poster 2: [The impact of distributive taxes on the economic growth of South Africa from the perspective of chartered accountants of South Africa](#)**

*Presenter - Makofe Mokhachane Lepheana*

**Poster 3: [The impact of the punishment system for tax evasion in South Africa on perceptions of taxpayers being tax compliant.](#)**

*Presenter - Janel Viljoen*

**Poster 4: [Understanding the influence of Universal Basic Income on the South African tax base.](#)**

*Presenter - Aviwe Onceya*

**Poster 5: [Investigating attitudes of individual taxpayers towards tax nudge messages in South Africa](#)**

*Presenter – Kudzai Ntailane*

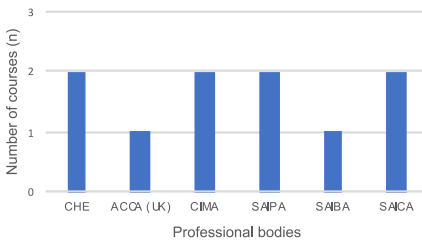
# Testing the uniformity of undergraduate tax education offered at South African public and private institutions

Researcher: Lizmari Smit / Supervisor: Prof AH Schoeman

## INTRODUCTION

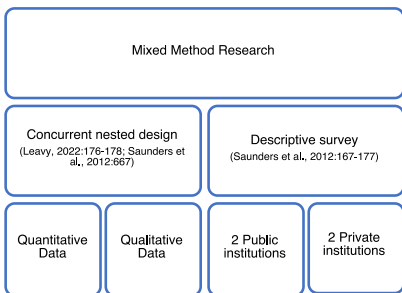
As a result of the ever-changing taxation industry tax education has been employed as a long-term initiative to address the complexity of tax systems (Doman & Nienaber, 2012:951). However, due to the number of stakeholders involved in the development of tax curriculums tax education itself has become a complexity (Lubbe, 2017:12).

Considering the various topics taught in tax modules offered in undergraduate Bachelor of Commerce degrees with a major in accounting, the main purposes of this study was to consider the uniformity of tax curriculums across 4 public and private tertiary institutions in South Africa.

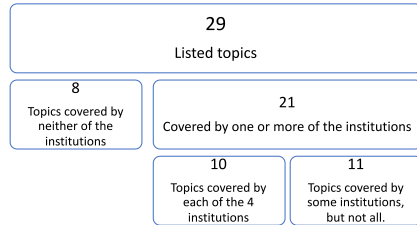


The graph above reflects the number of courses considered in the study that were influenced by different professional bodies.

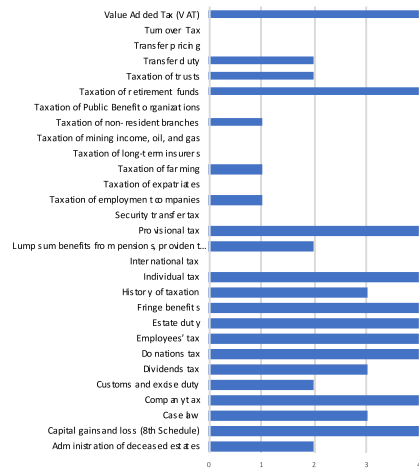
## METHODS



## RESULTS



The graph to the right showcases a list of all the tax topics that were considered in the survey. It is a visual presentation of the data which indicates (irrespective of the year) the number of institutions that covered a certain topic during the completion of the BCom course of the considered institutions.

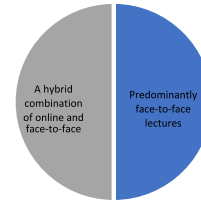


### E-filing?

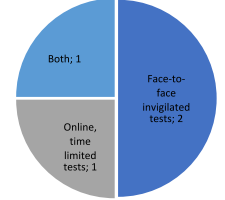


Recent US studies have identified a need for more experiential and realistic methods of teaching tax to make the tax curriculums more vocationally relevant (Fogarty et al., 2023:12). However, as indicated in the graph above, **only 2 out of the 4** considered tertiary institutions covered e-filing as part of their compulsory tax modules.

### Predominant mode of teaching



### Mode of Formal assessments



As presented above, the responses indicated that there was no uniformity in the mode these compulsory tax modules were taught nor in the formal assessment procedures that these institutions followed.

## CONCLUSIONS

In conclusion, the study has found that there seems to be **no uniformity in tax education** across public and private tertiary institutions in South Africa.

It is possible that since **there is no "superior" professional body** (Ballim et al., 2014), as SAICA in the case of the accounting profession, who influences and accredits tax curriculums across tertiary education, but rather that various professional bodies play this role, that the participation of various professional bodies in the tax curriculum development process could have contributed to the **miss alignment of tax curriculums** across public and private tertiary institutions.

Finally, this study speculates that **academic difficulties** could arise for **horizontal transfer students** who transfer from one tertiary institution to another tertiary institution during/ or after their undergraduate degree.

## REFERENCES

1. Doman & Nienaber, 2012
2. Lubbe, 2017
3. Ballim, Mabizela & Mubangizi, 2014
4. Leavy, 2022
5. Saunders et al., 2012
6. Fogarty, Sellers & Jones, 2023

Source: SPIE poster template

# THE IMPACT OF DISTRIBUTIVE TAXES ON THE ECONOMIC GROWTH OF SOUTH AFRICA FROM THE PERSPECTIVE OF CHARTERED ACCOUNTANTS OF SOUTH AFRICA- RESEARCH AGENDA

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## INTRODUCTION

South Africa follows progressive taxes for income tax to increase the tax revenue collected (Pidduck, Odendaal, Kirsten, Pleace, and De Winnaar, 2019). However, the increase in tax revenue does not match the level of efforts placed on service delivery.

## OBJECTIVE

The purpose of this study was to establish existing literature covering the broad topic on the impact of distributive taxes on economic growth in South Africa.

## METHODOLOGY

The study followed a qualitative approach, collecting secondary data from google scholar. The sample contained 102 articles that were published in either an A\* or A ranked journal, per the ABDC 2019 rankings.

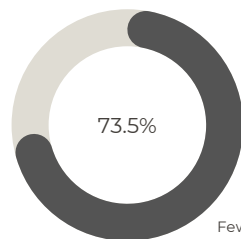
## FINDINGS

Vast work has been performed in the field of distributive taxes and economic growth, with the majority being in economic growth. However there still remains an opportunity to explore how distributive taxes affect the economic growth rate of South Africa.

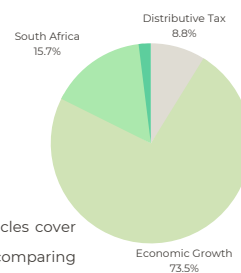
## DISCUSSION

102 articles were studied to determine reach a conclusion and develop a research agenda.

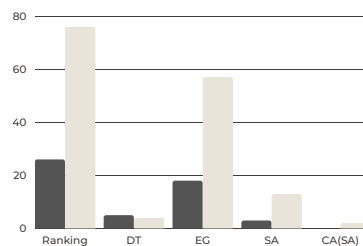
73,5% of articles were on economic growth.



Fewer high ranked articles cover distributive taxes and comparing to economic growth



Most articles were A ranked, and majority of these articles were on economic growth



## CONCLUSION

There is a need for a larger study aimed at understanding the impact of tax in the economic growth of South Africa. The second part of this study, will be a questionnaire based design, aimed at withdrawing from South African Chartered Accountants, what value or perceived value they observed as existing from contributing taxes.

## REFERENCES

Pidduck, T.M., Odendaal, K., Kirsten, M., Pleace, L.A. and De Winnaar, K., 2019. Progressive tax: a proposal for customer loyalty programmes. Pacific Accounting Review, 31(4), pp.626-645.



# The impact of the punishment system for tax evasion in South Africa on perceptions of taxpayers towards being tax compliant

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## RESEARCH QUESTION

To what extent does the tax evasion punishment system in South Africa follow a deterring approach and yields rehabilitating results?

## RESEARCH OBJECTIVES

- To determine whether the tax evasion punishment system in South Africa influence tax compliance behaviour of taxpayers
- To verify the influence of tax practitioners on the tax compliance behaviour of South African taxpayers
- To clarify the effect of the current punishment methods for tax evasion in South Africa on the rehabilitating of tax evaders

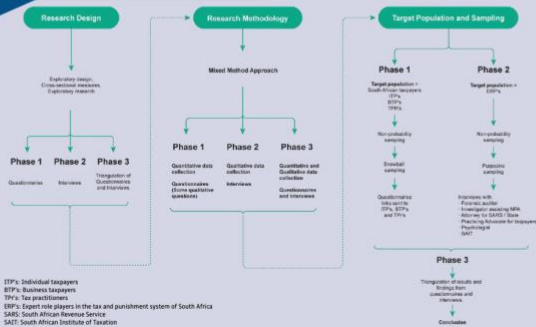
## RATIONALE OF THE STUDY

- The South African revenue's main tax revenue contributors are Individual taxpayers (39%) and Business taxpayers (16%).
- South African Tax GAP is estimated at R8,9 billion (486 USD) for 2023.
- According to Commissioner Kieswetter the high tax gap is caused by the large Informal Economy in South Africa as well as tax non-compliance by taxpayers (tax evasion).
- South African informal economy estimated in 2023 at 28,8% of GDP.

## TAX COMPLIANCE FACTORS



## RESEARCH DESIGN



## RESULTS AND FINDINGS

### DEMOGRAPHIC FACTORS

- Most tax evaders are:
  - Males
  - Sole proprietors
  - Ages 26yrs – 50yrs
  - Education – Grade 12 and above
  - The higher the education level, the higher the amount of tax evaded.

### SOCIAL PSYCHOLOGICAL FACTORS

- People often evade tax due to lack of funds, lack of knowledge or greediness.
- Strongest reason why people do not want to report tax evasion is fear of being victimised.
- A prison sentence for tax evasion is effective but too harsh as the person being punished are not the only one who suffers.
- Penalties are not sufficient punishment as many taxpayers evade tax after being penalised.
- The immediate environment (family and work) of a person punished with imprisonment is affected negatively as the family and /or business falls under financial strain.
- Alternative punishment such as community service and closure/seizure of a business is suggested.

### STRUCTURAL FACTORS

- Taxpayers and tax practitioners are found to be dishonest about their tax compliance.
- Some taxpayers deny that they evade tax but admit that they have been punished for it.
- Some tax practitioners deny being involved in tax evasion on behalf of their clients but admit that their clients have been punished for tax evasion.



# Understanding the influence of Universal Basic Income on the South African tax base

A Onceya<sup>1</sup>, H du Preez<sup>1</sup>

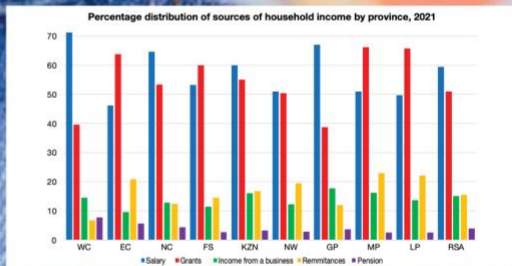
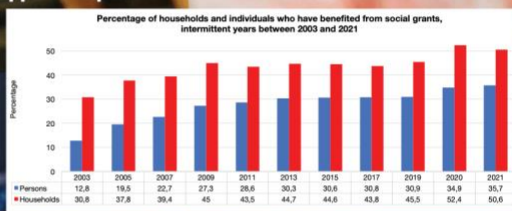
<sup>1</sup>Department of Taxation, Faculty of Economic and Management Sciences, University of Pretoria, South Africa

## Economic overview: South Africa

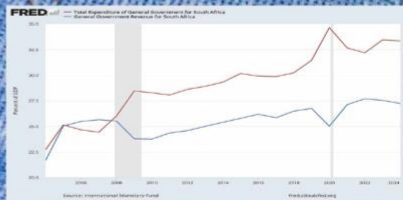
- Poor governance and utilities management;
- High poverty and income inequality;
- Rising (youth – 64.2%) unemployment; and
- Hard hit by COVID-19.



## Basic Income Support Proposal



Will South Africans use a UBI in a manner that adversely or positively affects the South African tax base?



## Methodology

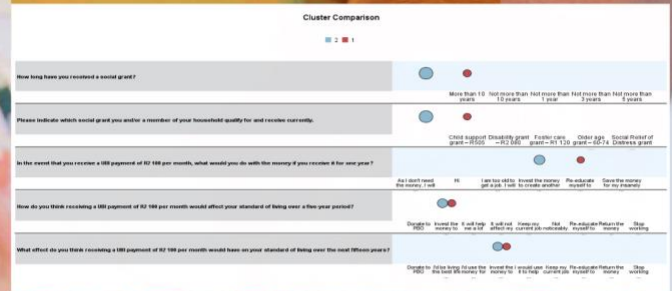
- Research Question: How will the general public's understanding of a universal basic income influence the South African tax base?
- Pragmatic paradigm: UBI has not yet been put into practice in RSA
- Exploratory study via a questionnaire
- Quantitative and qualitative data analysis

## References

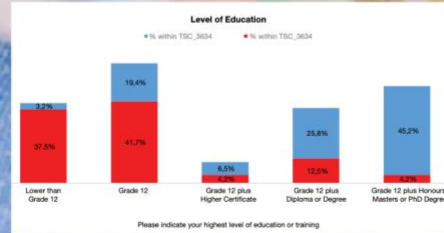
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 Stats SA, 2022. General Household Survey, 2021. [Online]. Available at: <https://www.statssa.gov.za/publications/P0216/P0216019.pdf> [Accessed 2023 July 15].

## Results

### Grant Recipients vs Non-grant Recipients



### Demographic Interpretation



## Conclusion and Practical Implications

- Lessons from India, Kenya and Namibia
- Sustainable Development Goals
- UBI Policy proposals



# Investigating attitudes of individual taxpayers towards tax nudge messages in South Africa

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## Introduction

The generation of revenue from taxes is an important part of an economy as this allows the government to provide basic goods and services to its citizens. The World Bank reports that the gap between supposed and actual revenue has damaging effects on a country's economy (Ciziceno & Pizzuto, 2022:1).

In recent years, there has been an increase in the tax authorities around the world turning to behavioural economics in the form of behavioural interventions known as "nudges" to increase tax compliance. Thaler and Sunstein developed nudge theory as a term used for the subtle push given to change the behaviour of people without taking away the person's choices or drastically altering the economic incentives (Thaler & Sunstein, 2008:6). In South Africa, the South African Revenue Service (SARS) has implemented innovative means of communication with taxpayers, the focus is around personalised messages to coincide with individuals filing season and their provisional tax period, as well as subtler nudge messaging in the form of radio, television, and billboard advertising campaigns.

With increased interest in nudging and the move by SARS towards using tax nudges messages (Monageng et al., 2022:24), studying the attitudes of individual taxpayers towards tax nudge messages is not only of academic interest, however, it is also important from a governmental policy perspective. The use of this behavioural tool by governmental agencies to influence public policy, as well its use by psychologists to promote certain behaviours such as healthy eating and sustainable living, has raised ethical concerns regarding autonomy of choice (Vugts, Mariette Van Den, de Vet & Verweij, 2020:108).

## Research problem

Limited studies conducted in developed as well as developing countries, that have investigated the attitude of individual taxpayers towards tax nudge messages. Limited studies have also been conducted on the ethical considerations and how these may be perceived by taxpayers.



## Methods

### Research objectives

- To determine the attitude of South African individual taxpayers towards tax nudge messages.
- To determine whether South African individual taxpayers perceive tax nudge messages as ethical or coercive.
- To determine the ethical consideration of tax nudges.
- To determine the ethical considerations of the use of nudges in the health care sector and identify ethical considerations that can also be applicable to the use of nudges in taxation.



### Online survey

- An online questionnaire using Google Forms was distributed to a sample of individual taxpayers residing within the borders of South Africa through email, LinkedIn, WhatsApp, and other appropriate social media platforms.
- The questionnaire contained questions relating to demographic information as well as close-ended questions with a Likert scale from 1 to 5.
- Data from 75 participants was collected for this research.
- The data collected from Google Forms was analysed through statistical analysis, making use of SPSS.

### Data analysis

- Descriptive analysis
- Summary of survey results
- Inferential analysis
- Statistical analysis using SPSS
- Crosstabulations
- Chi-Square Tests



### Literature review

Ten quality peer reviewed articles were selected to be able to gain sufficient insight into the ethical considerations of tax nudges.

### Literature analysis

A thematic analysis was conducted to determine potential connections and themes in ethics surrounding nudges.

## Results

### Taxpayer Attitudes

Figure 1 shows a summary of some of the survey questions that were asked to determine the attitudes of South African individual taxpayers towards tax nudge messages as well as whether they perceive tax nudge messages as ethical or coercive.

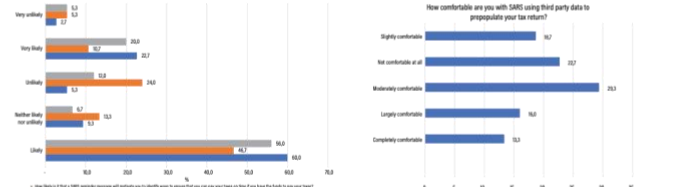


Figure 1: Attitudes towards the reminder messages from SARS (n=75)

Figure 2 shows a summary of the frequency of the different platforms that individual taxpayers have heard SARS messages as well as the extent to which they perceived the content of the SARS messages to be positive.

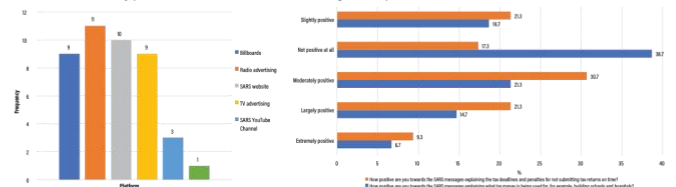


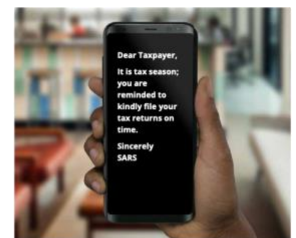
Figure 2: Attitude towards general SARS messages

## Ethics

### Health Sector



### Tax: Personal reminder messages from SARS



## Conclusions

Most of the individual taxpayers viewed SARS as an extension of government and as such, participants may have a negative attitude towards SARS because 82.7% were not satisfied (either dissatisfied or very dissatisfied) with the way the government uses taxes collected to look after the people of SA.

Based on these results, it can be concluded that the majority of the participants did not feel threatened by the SARS messages, and they perceived these messages as ethical and were mostly satisfied with the tone of the reminder messages received.

Most of the ethical concerns regarding health promoting nudges can also be applied to taxation. However, because tax is a law and one is required to submit returns in compliance of legislation, certain concerns such as privacy or manipulation may not be strong arguments from a tax perspective.

## References

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- Thaler, R & Sunstein, C. 2008. *Nudge: Improving Decisions about Health, Wealth, and Happiness*. Yale University Press.
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- Vugts, A, Mariette Van Den, de, de Vet, C & Verweij, M. 2020. How autonomy is undermined in discussions on the ethics of nudging. *Behavioral Public Policy*, 4(1):109-123.

