

**MUNICIPAL REVENUE COLLECTION FUNCTION: A COMPARATIVE STUDY ON  
THE EFFICIENCY AND EFFECTIVENESS OF TSHWANE METROPOLITAN  
MUNICIPALITY AND THE SOUTH AFRICAN REVENUE SERVICE**

**by**

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## **ABSTRACT**

Municipalities have the responsibility to deliver services to the communities in a fast and efficient manner, and to deliver these services there is a need for financial resources and institutional capacity. The challenge that beset the municipalities is that they struggle to collect revenue. There is a gap between available financial resources and the municipal expenditure needs largely as a result of the revenue collection challenges facing the municipalities. The revenue collection challenge therefore, needs to be adequately addressed for the municipalities to be successful. Municipalities have the right to finance their affairs through charging fees for services; imposing surcharges on fees, rates, levies and duties. The municipal council have the responsibility to implement and adopt tariff policies. These tariff policies must espouse the principles that ensure the equitable treatment of municipal service users. Tariff policies must also ensure that the amount paid by individual users for services is proportionate to their usage. Municipalities should, in terms of law, differentiate between the different categories of ratepayers, users of services, debtors, taxes, services and service standard.

This study was based on the combination of both qualitative and quantitative research design. It followed a case study approach of comparative investigation between the Tshwane Metropolitan Municipality revenue collection and South African Revenue Service. The quantitative research was done through the administration of questionnaires to the ratepayers, corporate taxpayers and tax practitioners. This was complemented by the qualitative in-depth interview questionnaires administered to both South African Revenue Service and the Tshwane Metropolitan municipality to ensure that the data collected are both collaborated and diverse to enable the researcher to draw a balanced conclusion.

In the light of the above, this study therefore investigated the strategies and legislative framework that is employed by the municipalities and contrasted with those that are used by the South African Revenue Service, with the aim of taking possible learnings that can be applied in the municipalities. The study concluded by proposing guidelines that can be used by municipalities in revenue collection.

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- The Tshwane Metropolitan Municipality for their invaluable input in this study and made it possible for this study to be completed.
- The South African Revenue Service for their invaluable input in this study.

## DEDICATION

This work is dedicated to God Almighty through His son Jesus Christ for having given me the opportunity to be alive and for the strength and perseverance to complete this project and to:

- My wife Dikeledi Cathrine for having been a supportive, caring, encouraging and understanding. She has been a my closest fan who always reminded me that I have been through a lot and this was no different and I should therefore remain focussed and determined because I was going to make it;
- To my children Muhluri, Ndzalo and Vukona for bearing with me when I denied them my presence in their activities due to this study;
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- To my younger brothers and sister Dzunekani David, Khombo Margaret, you know what we have been through in this life and to my late brother Giyani who denied us the opportunity to know him better by departing early;

## DECLARATION

I declare that the thesis hereby submitted to the University of Limpopo, for the degree of Doctor of Administration in Public Administration has not previously been submitted by me for a degree at this or any other university; that it is my work in design and in execution, and that all material contained herein has been duly acknowledged.

.....

**Signature:**

**K R Chauke (Mr.)**

.....

**DATE:**

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## ABBREVIATIONS AND ACRONYMS

The subject of this thesis is situated within the discourse of public administration where the abbreviations and acronyms are used extensively. In order to guide the reader, the list below enclose those used in the thesis, however in the text itself, the terms are written out in full when first used then followed by the acronym or abbreviation in brackets, thereafter, only the acronym or abbreviation is used in the document.

AGOA	Africa Growth Opportunities Act
CCMA	Commission for Conciliation Mediation and Arbitration
COGTA	Department of Cooperative Governance & Traditional Affairs
DORA	Division of Revenue Act
DPLG	Department of Provincial and Local Government
GAAR	General Anti-Avoidance Rule
GRAP	Generally Recognised Accounting Practice
HNWI	High Net Worth Individuals
HSRC	Human Science Research Council
ICT	Information Communication Technology
IDZ	Industrial Development Zones
IMF	International Monetary Fund
NEPAD	New Partnership for Africa Development
OECD	Organisation for Economic Co-operation and Development
PFMA	Public Finance Management Act
PNO	Public Benefit Organisation
MFMA	Municipal Finance Management Act
PAYE	Pay As You Earn
RA	Reportable Arrangement
SARS	South African Revenue Service
SACU	Southern African Customs Union
SADC	Southern African Development Community
SALGA	South African Local Government Association
SMMO	SARS Service Monitoring Office
UN	United Nations
VAT	Value Added Tax

## CHAPTER 1: GENERAL INTRODUCTION

### 1.1 INTRODUCTION AND BACKGROUND

Revenue collection is one of the most important functions for any state to sustain itself (Smith, 2003:1; Fjeldstad & Moore, 2009:1). It is the responsibility of government to collect taxes, which means that government should not only announce a tax system and wait in hope that taxpayers, through their sense of duty, will voluntarily remit what is owed to the fiscus (Frey, 2003:285; Smith, 2003:1; Slemrod, 2007:25; Croome & Olivier, 2010:1). The economic resources available to society are limited and taxation is the main means by which a government is able to raise revenue to meet its expenditures (Bird & Zolt, 2003:24). Taxation may be used by government as a means of influencing economic decisions or controlling the economy (Engen & Skinner, 1996:618-619; Huxham & Haupt, 2012:2). It may also reflect the prevailing social values and priorities in a country. Government spend taxes on items such as health services, retirement pensions, unemployment benefits, education, financing government borrowing and interest in government stocks (Engen & Skinner, 1996:618-619; Huxham & Haupt, 2012:2).

It is an established view that no tax system is perfect, however, an ideal system should conform to certain principles if it is to achieve its objectives without producing negative effects to the country. In his book, *The Wealth of the Nations* (1776) Adam Smith proposed that a good tax system should possess the characteristics that encompass *equity, certainty, convenience* and *efficiency* (Ibrahim & Pope, 2011:928; Smith, 2005:676-677; World Bank, 2007:20). As much as these principles are archaic, they are still applicable today in modern tax systems (Ibrahim & Pope, 2011:928; Smith, 2005:676-677; World Bank, 2007:20). In South Africa, and in line with worldwide trends, tax legislation is often complex, intentionally designed to reduce opportunities of tax evasion, which is one of the main concern of the tax authorities, as well as promoting fairness in taxation, although that is not always achieved (Potas, 1993:1-2; Sandmo, 2004:2; World Bank, 2007:7; Coricelli, Joffily, Montmarquette & Villeval, 2007:4).

The methodologies employed in tax collection have an impact on citizens, therefore government has the responsibility to cushion such impact on citizens when formulating government tax policies (World Bank, 2007:20). At the time SARS was called Inland Revenue, the government established commissions to investigate the viability of setting up the revenue collection agency as an autonomous body. The commission included Margo Commissions (1986) and Katz Commission (1994). These two Commissions recommended that there should be a separation of procedures between the revenue authority and other state apparatus, thereby ensuring that revenue authority is not subjected to the state procedures. The South African Government established South African Revenue Service (hereafter referred to as 'SARS'), which was instituted in 1997 following the promulgation of the South African Revenue Service Act (Act 34 of 1997). The South African Revenue Service was established as an organ of state within the public administration, but operating outside civil service and was given administrative autonomy status in an attempt to ensure that its administrative efficiency is enhanced (Verhoest, Peters, & Verchuere, 1996:32). This was in line with the envisaged recommendation of both Margo and Katz Commissions that the establishment of SARS will create a capacity that will enhance the tax administration and revenue collection capacity of the revenue authority (Verhoest, Peters, & Verchuere, 1996:32).

Municipalities are also statutory institutions that collect revenue for service provision. In terms of Section 229(1) (a) of the Constitution, Constitution of the Republic of South Africa, Act, No108 of 1996, "*the government is constituted as national, provincial and local sphere of government which are distinctive, interdependent and interrelated*". Section 151 of the Constitution, states that "*the local government consists of municipalities...*" It is therefore clear from the constitutional framework that each structure is a creature of statutes and has legislative authority that must be complied with and adhered to. In Chapter 2 of the Local Government Municipal Systems Act (Act 32 of 2000) it is reported that the municipality must develop its functions and exercise its powers in an economical, accountable and efficient way. Municipalities, like other government institutions, also have the need for financial resources and need to collect their own revenue as envisaged in Section 4(1) (c) of Municipal Systems Act 32 of 2000. Municipalities have two sources of revenue which includes their own revenue and intergovernmental transfers, the intergovernmental transfers are in line

with the constitutional provisions in Section 214 of the Constitution which stipulates that there should be an equitable share of the revenue that has been raised nationally among the national, provincial as well as the local sphere of government.

There appears to be a marked difference between the revenue collection measures and statutory remedies, procedures, systems, competence and training made possible by the tax legislation, that gives SARS the power to ensure maximum collection of revenue (including arrear taxes), and those used by the municipalities (Davis, Pawana & Cappon, 1989:2; Ivanova, 2015:33). The existence of this gap is evidenced by the way in which SARS is perceived to be a successful revenue collector while the municipalities are the converse. These and other questions are at the heart of this study on comparative analysis of revenue collection between SARS and municipalities. The poor performance in revenue collection of by municipalities indicates a problem in their procedures, systems, employees, competences, training, measures and remedies used to enforce the collection. There is a need for these remedies and measures to be scrutinised, analysed and compared to those of a better performing entity like SARS (SARS, 2015:34 -60; Ivanova, 2015:33). Unless revenue collection by municipalities is improved, there will always be a possibility of service delivery protests and unrest that could potentially destabilise the country.

Yunis Carrim, Deputy Minister of Corporative Governance and Traditional Affairs (COGTA, 2009:1), reported that there are internal and external factors that have an impact on local government. These include; macro-micro economic issues such as cover unemployment, revenue base decline and tax evasion by businesses (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, 2007:4). He reported that in 2003/04 the share of service charges in the total operating income of local government was 49% and this declined to 42% in 2009/10. There is an increased dependency of municipalities on national government as a result of their failure to address the revenue collection challenge (COGTA, 2009:1). This will eventually overburden national government, which situation is not sustainable in the long run (COGTA, 2009:1). The main contributors to the revenue collection challenge facing municipalities includes poor enforcement of debt collection, an increase in aged debt, which refers to debts older than ninety days, a high level of indigents and the culture of non-payment (COGTA, 2009:1). In 2009, 57 municipalities were receiving more than 75% of their

revenue from national transfers (COGTA, 2009:1). The interventions by both the national government and municipalities to enhance revenue collection are key to creating sustainable and functioning municipalities (Rampele, 2008:2). South Africa is performing well in the collection of taxes, however, revenue collection in municipalities is not equally good, therefore the study wishes to investigate the measures implemented by SARS that municipality can apply to improve efficiency and effectiveness in revenue collection. The study also aims to establish the measures taken by SARS, which if replicated, can help revenue collection in the municipalities.

## **1.2 PROBLEM STATEMENT**

Municipalities have a responsibility to deliver services to communities in a fast and efficient manner. However, for these services to be delivered there is a need for adequate financial resources and institutional capacity to deliver these services. It is an acknowledged fact that municipalities are struggling to collect revenue. There are challenges that municipalities face in terms of revenue collection. A fundamental problem exists in the municipalities' finances, which is the gap between available financial resources and municipal expenditure needs. According to Motsha (2004:2) the gap is widening. South African Revenue Service is a success story of a well performing government entity in revenue collection (Smith, 2003:4; Stiglingh, 2008:13; SARS, 2010:6; SARS, 2013:2.), while the municipalities stand in stark contrast of the said activity (Department of Corporate Governance and Traditional Affairs, 2009:19). The successes of SARS in revenue collection can also be confirmed in that in 2009/2010 and 2012/2013 SARS exceeded their revised target by R8.3 billion and R3.7 billion respectively, with the 2012/2013 revenue collection being more than the 2011/2011 target by R71 billion (SARS, 2010:7; SARS, 2013:10). In order to create a successful revenue collection platform for municipalities, these contradictions in the municipal performance will have to be remedied. SARS' success story in revenue collection and the municipalities' failures in revenue collection need to be investigated.

The major problem in this study therefore is that SARS is capable as a constitutional institution to collect revenue, but municipalities are not, therefore the study poses this research question: which are the measures of success in SARS that municipalities can adapt to improve their revenue collection base?

### **1.3 AIM AND OBJECTIVES**

Emanating from the problem statement of this study the aims and objectives are formulated which are closely linked with the research questions and they are discussed below.

#### **1.3.1 AIM**

The primary aim of this study is to compare the strategies used by SARS and municipalities in order to develop a model that will assist municipalities to address their revenue collection challenge. This will be achieved through investigating the procedures, systems, employees, competence, training, measures and remedies available to SARS in comparison to the municipalities', with the intention to propose a model of revenue collection that will assist municipalities.

#### **1.3.2 OBJECTIVES**

The overall objective of this study is to analyze the different problems that are related to the challenges which have an effect on revenue collection by South Africa municipalities.

The following are the specific objectives, emanating from the broad objectives above.

- To identify the strategies that are used by municipalities in revenue collection.
- To make assessment of the successes of such strategies in revenue collection.
- To compare and assess the impact of legislative frameworks, measures and remedies used by SARS and municipalities to enhance revenue collection.
- Compare and contrast the procedures and systems that are used by SARS and municipalities in revenue collection.
- Investigate attitudes and opinions of ratepayers about payment of rates and taxes.
- Investigate attitude of ratepayers on paying taxes.
- Evaluate attitudes of taxpayers towards SARS revenue collection.
- To provide a model that would improve the efficiency and effectiveness of revenue collection in municipalities.

## **1.4 RESEARCH QUESTIONS**

This study answer the following questions:

- What are the strategies that are used by the municipalities in revenue collection?
- What are the successes of the strategies used by municipalities in revenue collection?
- What are the contrasts between the legislative frameworks used by SARS against those used by the municipalities?
- What are the contrast between the procedures and systems used by SARS against those of municipalities?
- What are the differences in attitude and opinion between the taxpayers and ratepayers towards the payment of municipal rates and taxes, and SARS taxes?
- What are the attitudes of ratepayers about paying taxes?
- What are the attitudes of taxpayers towards SARS revenue collection?

## **1.5 SIGNIFICANCE OF THE STUDY**

Many studies have been conducted on municipalities, but very few have focused on comparing the revenue collection aspect of SARS and municipalities. The findings of this study aimed to develop a new knowledge which that add to the existing literature on revenue collection in municipalities. The recommendations and the research findings will assist the decision makers to understand the problems which are related to challenges of revenue collection. It is envisaged that this study will potentially open up new directions that will assist in future research.

The study present an opportunity to analyse and compare revenue collection with special focus on procedures, systems, employees, competence, training, measures and remedies used by SARS and municipalities. In case of any gaps being established between SARS and municipalities, there will be alignment in an attempt to close the gap as well as recommending possible training of employees and influencing them towards better performance levels.

The study will present the views of both SARS and municipalities in relation to revenue collection. It is envisaged that this study will also contribute to the broader body of knowledge of tax that will be helpful in taking decisions by SARS and municipalities, as well as any person interested in pursuing studies on rates and/or taxes with specific reference to the effectiveness and efficiency of revenue collection.

It is also expected that clarity will be provided on the impact of measures and remedies used by SARS on revenue collection, and how the *status quo* of revenue collection in municipalities could be turned around. The challenge of poor revenue collection faced by municipalities is expected to be addressed by the findings of this study.

This study will bring with it many benefits, some of which emanate from the fact that it is a comparative study of two government entities. Comparative study is very helpful as it promotes a better understanding of one's own situation. Therefore, it is envisaged that there will be a better understanding of SARS and municipalities' situation. This study will also be beneficial for the municipality and for the taxpayers and contribute to the production in the body knowledge.

## **1.6 DEFINITION OF CONCEPTS**

This study involves a number of key concepts namely:

### **1.6.1 EFFECTIVENESS**

In this study is defined as "a criterion according to which an alternative is recommended if it results in the achievement of a valued outcome (Fox & Meyer, 2005:41). In particular it refers to a condition in which a focal organisation, using a finite amount of resources, is able to achieve stated objectives as measured by a given set of criteria, and the extent to which a programme is achieving or failing to achieve stated objectives (; Gerber, Nel & Van Dyk, 1998:19-20; Fox & Meyer, 2005:41; Gray & Manson, 2005:565; Torrington, Hall & Tailor, 2005:753-767).

### **1.6.2 EFFICIENCY**

Is defined as "according to the traditional view of administration, efficiency the primary objective of administrative science (Gerber, Nel & Van Dyk, 1998:19; Fox & Meyer, 2005:42; Gray & Manson, 2005:565; Torrington, Hall & Tailor, 2005:753-767). The

term conjures up images of clear-cut comparisons of costs with the value of output, profit (or benefit) maximisation and cost minimisation (or recovery), “lean and mean” operations, and bottom line accountability (Gerber, Nel & Van Dyk, 1998:19 Fox & Meyer, 2005:41-42).

### **1.6.3 RATE**

Is defined in terms of the Section 1(j) of the Local Government: Municipal Property Rates Act 6 of 2004 as a municipal rate on property envisaged in section 299 (1) (a) of the Constitution of the Republic of South Africa, Act, No.108 of 1996.

### **1.6.4 REVENUE**

In this study is defined as “all amount of money receive by a government from external sources – net of refund and other correcting transactions- other than from issue of debts, liquidation of investment and as agency and private trust transaction, this excludes non-cash transactions such as receipt of service, commodities or other “receipts in kind” (Fox & Meyer, 2005:113; Pretorious, Venter, Von Well & Wingard, 2009:247).

### **1.6.5 TAXATION**

Is defined as “a levy on individuals or corporate bodies by central or local government in order to finance the expenditure or that government and also as a means of implementing its fiscal policy however payment for specific services rendered to or for the payer are not regarded as taxation” (Oxford Dictionary of Business and Management, 1995:546; Gerber, Nel & Van Dyk, 1998:216; Pretorious et al, 2009:247).

### **1.6.6 TAXES**

For this study are defined as “`confined to compulsory unrequited payment to general government” (Organisation for Economic Co-operation and Development (OECD, 1996; Fox & Meyer, 2005:110).

## **1.7 STRUCTURE OF THE THESIS**

Chapter one provides an introduction and background, problem statement, aim and objectives, research questions, significance of the study, definition of concepts, structure of the thesis and Summary.

Chapter two deals with the historical development of taxation and principles. This discussion revolves around how tax came about that the principles and canons that drives taxation. The heading under which the discussion was held included the introduction, historical development of taxation, feudal system, Great Britain, South Africa, principles of taxation and conclusion.

Chapter three deals with the theories of taxation. Theories are bedrock of taxation and they are a strong pillar of the existence of tax. The discussion was done through introduction, the essentials of good tax system, theories of taxation and related concepts which cover the theories like Who will benefit theory?, The ability to pay approach, the cost of service theory and distributive theory.

Chapter four deals with the revenue collection best practice will be dealt with in chapter four. The revenue collection best practice covers the types of taxation, revenue collection best practice, compliance measures and remedies, taxpayer rights and obligations, right to be informed, right to impartial and fair treatment, right to data and confidentiality, right to legal remedies, right to special ways of payment of tax liabilities, right in connection with tax enforcement, staff management, recruitment and selection, employee training, employer – employee communication, ethics in revenue collection service which covered the different approaches of ethics which included the utilitarian approach, the right approach, the justice approach, the common good approach, the virtues approach, code of ethics, and this was followed by the discussion of risk management which is a critical component of revenue collection and conclusion (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165; SARS, 2010:42 – 43; SARS, 2011:3 – 16; SARS, 2012:4; SARS, 2015:34 -60).

Chapter five deals with the revenue collection in the South African Revenue Service. This chapter discusses how revenue is collected by SARS. The sequence of the discussion is the introduction, the function of SARS, Facilitation of trade by SARS, Risk management, Employee ethics and code of conduct in SARS, SARS transformation, SARS procurement, Tax compliance in SARS, Direct taxation, Income tax, Normal tax, Individual income tax, Company tax, Donation tax, Secondary tax on companies, Withholding tax, Estate duty, Capital gains tax, Indirect taxation, Value added tax, Fuel levy, The tax compliance levels, Tax register, Electronic filing, Tax refund, Measures and remedies, Wealthy South Africans, Illicit cigarettes, Tax returns, Investigative taxpayer audits and service.

Chapter six deals with the municipal revenue collection. It discusses the municipal environment in which follows the sequence sources of revenue in municipalities, Funding operating budget, Funding capital budget, Municipal own revenue, Property rates, Revenue collection challenges in municipalities, Legislative measures and remedies in municipalities, Contribution of processes, procedures, staff training and competence in municipalities and conclusion.

Chapter seven deals with research design and methodologies. It discusses the research design and methodology applied in this study. This chapter provides details of the research design, the sampling method and data collection. The sequence of discussion started by discussion of Research design and methodology, Study area, Research design, Qualitative research, Quantitative research, Population, Sampling, Data collection methods, Focus group, In-depth interviews, Questionnaires, documentations, Data analysis, Validity and reliability, and Ethical considerations.

Chapter eight deals with research findings, data presentation and analysis. The analysis of the data that have been collected and link the questionnaires to the objectives of the study and this is done through the interpretation of the analysis which culminated in the proposal for revenue collection. The format of discussion that was followed as the introduction, data presentation and analysis, and interpretations.

Chapter nine deals with summary, conclusion and recommendation. This is the final chapter which brings the study to the close and is discusses the summary of the study,

conclusion and then recommendations. This chapter highlights the review of the literature review and the respondent's views. This the chapter wherein the respondents' views have been analysed and contrasted and incorporated as a contribution to the objectives of the study.

## **1.8 CONCLUSION**

This chapter introduced the focus of the study and provided an introduction and background, problem statement, aim and objectives, research questions, significance of the study, definition of concepts, structure of the thesis. It became evident in this chapter that many studies have been conducted on municipalities, but very few have focused on comparing the revenue collection aspect of SARS and municipalities. This research will presented an opportunity to analyse and compare revenue collection with special focus on procedures, systems, employees, competences, training, measures and remedies used by SARS and municipalities. The study aimed at presenting the views of both SARS and municipalities in relation to revenue collection which was achieved in chapter eight.

In the next chapter the study will focus on the historical development of tax and principles.

## **CHAPTER 2: HISTORICAL DEVELOPMENT OF TAXATION AND PRINCIPLES**

### **2.1 INTRODUCTION**

Academic studies are undertaken with the intention of generating new knowledge, and the knowledge may take many forms which include new problem solving method to improve practice, the discovery and exploration of new organisational and other phenomena about which there is limited or no knowledge at all (Swanson, 2000:274; Calvert & Martin, 2001:11; Dooley, 2002:338; Lynham, 2002:222; Gray, Iles & Watson, 2010:4). Welman and Kruger (1999:11& 17) explain theory as imbedded in the historical development of taxation and principles as a set of interconnected related constructs or concepts, the definition and proposition that represent a methodical view of phenomena by stipulating relationships that exists among variables with the purpose of explaining and predicting phenomena that is prevalent, and they explain the new ways of understanding the aspects that surround them (Swanson, 2000:274; Calvert & Martin, 2001:11-12; Hofstee, 2006:130; Zott, Amit, Massa, 2010:26). Within the historical development and principles of taxes, there is an underling theory that gives an explanation. Such explanation can either be general or specific, and covers the events or occurrences that are prevailing at a particular point in time (Swanson, 2000:274; Gray, Iles & Watson, 2010:4). It can therefore be inferred that in this study theories will be used as a benchmark and standard to compare and contrast the various methodologies that are applied in revenue collection.

Theories by their nature are critical. They are used as analytical tools for understanding, explaining concepts and construct, and they can also be used in making predictions about the subject matter under study (Swanson, 2000:274; Lynham, 2002:225; Welp, Vega-Leinert, Stoll-Kleemann & Jaeger, 2006:179). Theories are the cornerstone and are situated and found in many and varied fields of studies(Calvert & Martin, 2001:11; Dooley, 2002:349; Welp et al, 2006: 175-176). The formal theory is syntactic in nature. It focuses on the linguistic form as a results of the relegate meaning to a peripheral position and it can only be meaningful in instances where it is given a semantic component by applying theory to some content in relation to facts and relationships of the actual historical world that have unfolded or as it unfolds (Calvert & Martin, 2001:11; Dooley, 2002:349; Welp et al, 2006: 175-176).

Theories in various fields of study are expressed in natural language, but they are always constructed in such a way that their general form is identical to a theory as it is expressed in the formal language (Grando, 2009:23-25; Zott, Amit, Massa, 2010:40). Theories may be expressed mathematically, symbolically or even in common language, but they are generally expected to follow the principles of rational thought or reasoning (Levesque, 2004:1-2). It can be inferred that theories form the basis on which the practice is deduced and the theories in tax are no exception to such phenomenon.

A strong economy is reliant and dependent on the sound taxation and fiscal policy, because the two can create the fundamental foundation for the economic development in a country (Zolt & Bird, 2003:29; Rai, 2004:27; Mylek, 2008:5; Pfister, 2009:14). Taxation and fiscal policy have driven different countries to very divergent directions, some of which includes successful outcomes, mediocre, failures or a combination of the different outcomes (Zolt & Bird, 2003:29; Rai, 2004:27; Mylek, 2008:5; Pfister, 2009:14). Taxation is divided into two categories, direct and indirect taxes. The tax which was originally levied on taxpayers is the direct tax (Huxham & Haupt, 2012:3; Pfister, 2009:5). Direct taxation is regarded as important due to the historical reliance on it by most countries as a major source of income (Huxham & Haupt, 2012:3; Pfister, 2009:5). The focus on indirect tax was pursued later in the levying of taxes and it is increasingly being used (Aasness, Benedictow & Hussein, 2002:4; Kayaga, 2007:17, 30). The increased focus on indirect taxation can be best illustrated by looking at the incomparable interest that value added tax has received in the last century and the number of countries that have introduced value added tax. Value added tax has become one of the major sources of revenue for many countries (Aasness, Benedictow & Hussein, 2002:4; Akintoye & Tashie, 2013:223; Weber, 2012:2). It must however be reported that it is not possible for the total revenue to be collected from indirect taxes only, therefore, there is a need to have diverse sources of revenue especially given the fact that indirect taxes affect everyone equally, which means that the poor will end up bearing the same burden as the rich. It can further be argued that the reality of the tax burden is that it is heavier on the poor than it is on the rich because the poor are taking from the little they have to offset the tax burden.

Taxation is one of the major focuses that continued to occupy critical space in the writing of the classical economists such as David Ricardo, James Mill, Adam Smith, Jean-Baptiste Say and others (De Long, 1982:1, 9; Gaffney, 1995:42; Aspromourgos, 2001:161,167). Therefore, it means that taxation originates in economics and it can thus be argued that it is an economic concept and it has positive influence on economic growth of countries if well administered (Engen & Skinner, 1996:618; Wasylenko, 1997:38; Meier, 2006:3; de la Siera, 2014:2). It can also be argued that, if taxation is not well administered it can have serious negative consequences on the economy of a country, as a result, a country may fail to adequately meet its needs.

Taxation comes from the time after the break-up of the feudal system when land was the primary source of wealth and it became the principal basis of taxation (Barzel, 1999:11; Wright, 2002:11). Tsoulfidis (2005:6-9) reported that David Ricardo who lived between 18 April 1772 to 11 September 1823 and was a British political economist and stock trader. He was credited with systemizing economics and regarded as one of the classical economists and is said to have outlined that, the economist's contribution in the field of taxation was not aimed at alteration of the concept of taxation but rather to elaborate the concept in an attempt to answer the important question of who was ultimately responsible for the payment of taxes which was levied from the various sources of income (Ricardo, 1817:104; Aldrich, 2004:395; Barro, 1989:39; Meier, 2006:11; Akintoye & Tashie, 2013:225; de la Siera, 2014:2, 3). According to Batt (2012:67-69), taxes constitute a portion that originate from the yield of the land and labour which is entrusted to the government and the government make use of these resources and levy taxes which are the payment in lieu of the produce that emanate from the exploitation of such resources (Humphrey, 2004:7; Meier, 2006:20; Issah, 2011:2; de la Siera, 2014:5). Batt (2012:69) argues that taxes paid from revenue were satisfactory when compared to the taxes that are paid by capital and his view is that taxes paid from capital have the potential to bring economic ruin because they destroy the nation's productive efficiency (Ricardo, 1817:104; Zolt & Bird, 2003:13; Rai, 2004:75; Batt 2012:67-69; Tsoulfidis, 2005:6-9; Waris, 2007:297). Therefore, it can be inferred that taxes should be paid from revenue and not from capital, as capital should be used to make investment in the economy which will then ultimately benefit the country because if capital is taxed it can dampen the investment mood of the

investors. Paying taxes on revenue and not on capital will allow the capital component to continue to produce revenue that will be taxable and therefore increase the revenue that can be collected.

David Ricardo had reservation about taxation and the reservations are that taxation has an impact on the consumer as it is the consumer who has to pay tax on raw material, which ultimately mean that the final bearer of taxation is the consumer (Ricardo, 1817:104, 121;). It can be inferred that the final user is the consumer, who happen to be the taxpayer, the final bearer of tax burden. In instances when the rent and land tax are paid by the landlord they have the inclination to shrink profits. It is also the same in instances where taxes on the houses have to be paid by the occupier and part thereof by the landlord. It is through the business activities that are undertaken by the communities that yield the profits out of which taxes are paid. However, it should be noted that in the final analysis of the behaviour of tax, taxes are paid by the consumer because they are the final users of the products and services (Ricardo, 1817:108, 121; Barro, 1989:38). It can therefore be inferred that once consumers pay taxes, they have no way of recovering them as they are the final users.

According to Ricardo, wages are paid for by the capitalists these are the owners of resources and they will optimally use them (Ricardo, 1817:108; Humphrey, 2004:18; Tsoulfidis, 2005:7). These views as advanced by Ricardo did not get resonance with other economist; the scepticism and criticism towards his views were premised on that the opinions added nothing which was new and was not going to add any value in the general theory of taxation (Barro, 1989:39-40; Tsoulfidis, 2005:7). Despite the misgiving that were held by the economists, the opinions advanced by Ricardo on the rent was later used as the basis for the revival of the single tax and for the proposals in the ideology of nationalisation of land (Ricardo, 1817:121; Humphrey, 2004:17 Tsoulfidis, 2005:7). In Ricardo's theory the assumption has been that the economic activities will happen without the state intervention (Ricardo, 1817:121; Humphrey, 2004:17 Tsoulfidis, 2005:7). In this chapter, the history of taxation will form the foundational basis on which the theories and principles of taxation evolved. This chapter therefore outlines the historical development of taxation and its principles. The main focus of the historical development would be on the feudal system, Great Britain

and South Africa. The purpose of this chapter is to outline the historical development and principles of taxation.

## **2.2 ORIGIN OF TAXATION**

The reliance on taxation in human history evolved over the years, and governments started to place policies that positioned taxes to play a prominent role in the economic life of their countries, the policies includes those designed to attain distribution of income and wealth and increasing the rate of national economic growth, those aimed at dealing with after tax distribution of income through progressive income tax and those aimed at increasing the share of revenue generated by consumption (Delay, Devas & Hubbard, 1998:4-5; Bird & Zolt, 2003:9; Pfister, 2009:7, 14; Alm, Kirchler, & Muehlbacher, 2012:133,148). The development of taxation as a major source of revenue runs parallel to the development of the principles of consent and representation in government. The consent principle which refers to the consent of the governed as a manifestation which is equivalent to the political premise that a government's legitimacy and right to use state power is only acceptable and legal when derived from the people or society that this power will be exercised. That is consenting to the use of such power or accepts to be governed by such powers (Engen & Skinner, 1996:618-619; Delay, Devas & Hubbard, 1998:4-5; Akintoye & Tashie, 2013:223; Fjeldstad & Heggstad, 2012:3; 8 & 25; Spring, 1994:7-8). It can therefore be argued that the role espoused in the economic thought can be described as the record of the receding tide and a flow of how the government assert its influence on the economic life of the country and there is a close connection between the economic thought and the political one.

There is always a contestation between the economic character and the political one and the contention is on which one determines the form of the other, which is whether economic character determines the political character or does the converse hold as politics and economics are the opposing sides of the same coin (Buehn, Anno & Scheneider, 2012:5; Hoff & Stiglitz, 2001:392). The evolvment of economics has reached the full stature which places it in an independent social science level with its own rules and not necessarily laws and this has happened during the two centuries (Alvey, 1999:2, 5; Coatsworth, 2008:552; Keizer, 2008:101-102; Salmon, 1989:388-

389). Emanating from this it can therefore be argued that a person might be able to draw far-reaching conclusions on this subject from the course of economic thought as economics had its origins in a period when the state was all powerful and economic activity was conducted ultimately in the interest of the state but has evolved since then.

For a long time the market forces have been the key determinant on the direction of the economy (Julilian, Kirkpatrick & Parker, 2006:5; Pretrakos, Arvanitidis & Pavleas, 2007:6 & 23; Elwell, C.K. 2012:2,6). In recent years due to the challenges faced by the market forces the economic controls have begun to shift from the forces of the market place back to the power of the state (Hoff & Stiglitz, 2001:391-395; Pretrakos, Arvanitidis & Pavleas, 2007:6 & 23; Bresser-Pereira, 2010:1-3). The state started to intervene in an attempt to rectify and cushion the challenges that were faced by their respective countries and the circle seems to be drawing to a close (Bresser-Pereira, 2010:1-3; Hoff & Stiglitz, 2001:391-395). Many features of the modern relationship that government have to economics will be clarified if the study begins at the origin of ideas on a subject (Bresser-Pereira, 2010:1-3). It can therefore be argued that the very idea of envisioning that an economic activity can be carried in isolation without giving due regard to government and only focusing on social institutions; is strange, or at least unrealistic and is bound to fail in the delivery of the intended results.

The earliest and most predominant way in which the government interacted with the economic life of individuals and business enterprises has been through taxation (Vegh & Vuletin, 2012:6). The interaction between the government and the right of the revenue authorities to collect taxes, and the general policy which set out the rules as to who is to be taxed, and setting the parameters of how much tax should be levied and the outlining of the purpose for which it shall be levied has always been a contentious and controversial issue (Muriithi & Moyi, 2003:1; Fjeldstad & Moore, 2008:1-2; Fjeldstad & Moore, 2009:1-2). It can therefore be inferred that this is the reason why there are always tax disputes with the taxpayers which results in matters at times being resolved through alternative dispute resolutions or courts of law. Despite the government's responsibility to collect taxes by making use of the revenue authorities, it remains a challenge to establish an appropriate tax base and getting the appropriate level of compliance from the taxpayers.

Historical development of taxation in this thesis can be divided into three systems, namely, Feudalism, Great Britain and South Africa

### **2.2.1 FEUDAL SYSTEM**

Following the break-up of the feudal system, which existed in an environment where there was insignificant central rulers with inadequate authority, it can be argued that the feudal system of control was founded on the feudal states, and in the feudal states, the system included the land management wherein the monarch awarded land use to the subordinated regional leaders, and it was expected that the regional leader will in turn pledge their loyalty and military support to the monarch (Paul, 1917:29; Barzel, 1999:40,78; Mokyr, 2003:36; Butler, 2011: 36, 44). The regional leaders also had the responsibility to act as governors and had the responsibility to collect the taxes and other responsibilities as were deemed necessary (Paul, 1917:14; Smith, 2005:567; Keizer, 2008:27). During the feudal system, the land was used as the primary source of wealth and it was used as the principal basis of taxation however, with the advent of commerce and the growth thereof in the period between the 14<sup>th</sup> and the 19<sup>th</sup> centuries, excise duties on domestic consumption and customs duties on foreign trade provided a large proportion of state revenue (Paul, 1917:27-29; Smith, 2005:311; Keizer, 2008:110). It can however be argued that even in the current dispensation, customs duties still provide a certain proportion of state revenue, and also assist in the protection of the local markets through the customs duties that are levied on the imported products.

The upsurges in the public spending that accompanied the recent depressions and war periods that countries experienced have brought the question of taxation to the mind of each and every citizen. However, in the twelfth and thirteenth centuries the revenues that rulers required came from their own estates. There was no system of general taxation system that existed for the support of public office. The extension of the power that came from the monarch and the creation of the great estates were expensive (Paul, 1917:27-29; Smith, 2005:312-313; Arias, 2007:2). Therefore, it can be argued that financial difficulties of government were that, some of the main causes of mercantilism, which is a theory which states that the nation's power is based on its wealth when compared to other nations, this was the economic system that was used

in the 16<sup>th</sup> century and it can also be referred to as the economic doctrine on which government control the foreign trade is of paramount importance in ensuring the military security of a country and this was expected to work for the benefit of the ruling group (Mokyr, 2003:1, Arias, 2007:2). The extravagance and waste of luxurious lifestyles and the increased need of government spending could not be met by the revenues from the monarchs' estates and therefore the development of general taxation was inevitable, so as to create an additional source of funds to finance the government needs that emanates from citizens' demands (Smith, 2005:49,312-313,149; Arias, 2007:2; Akintoye & Tashie, 2013:223). It can therefore be argued that the matter of extravagant spending remains an issue even in the current dispensation, however, the advent of the offices such as the Public Protector in South Africa are a watchdog that citizens and taxpayers can run to in case of misuse or wasteful expenditures that can be incurred by those in public office.

### **2.2.2 GREAT BRITAIN**

During the medieval times, in 1203, King John introduced tax on wool, and it was in 1275 when King Edward 1 introduced tax on wine. This was followed by a tax that was aimed at helping the poor, and was called poor tax. In 1601, the poor tax was changed from ageing local tax and became national tax. In 1667 coal tax was passed which was aimed at rebuilding the city of London after the fire that happen in 1666. In 1652, national land tax was introduced and the income tax was introduced in 1798, and it was aimed at paying for weapons and equipment for napoleiecier (Stack & Cronje, 1998:3; Crane, 2006:176; McMohon, 2009:6; Besley & Persson, 2009:1218).

Income tax as means of raising revenue for the state was adopted in the Great Britain in 1798 and a death transfer tax in 1796 (Stack & Cronje, 1998:3;Crane,2006:176; McMohon, 2009:6; Besley & Persson, 2009:1218). Income tax was set aside from 1816 to 1842 and the measures were broadened during the 19<sup>th</sup> century and only took their modern form at the beginning of the 20<sup>th</sup> century, however in the United States of America, Income Tax and Death Duties were effectively applied for the first time during World War 1 and during World War 2. The government taxes reached new levels of severity and took on new forms, and this was in line with the dynamism that is imbedded in taxation. Since then in modern times taxation has evolved and there

are vast array of taxes (Stack & Cronje, 1998:3-4; Crane, 2006:176; McMohon, 2009:4; Besley & Persson, 2009:1218; Pollack, 2013:296). It can therefore be inferred that over the years many types of taxes have been introduced, which mainly indirect taxes are or consumption taxes as well as the new taxes that are focused on the green economies, that is environmental taxes because initially government was mainly dependent on the direct taxes. It must therefore be noted that British tax historical development is critical as it formed the basis upon which the South African tax is based (Cronje & Stack, 1998:4; Stack, Cronje & Hamel, 2002:4). Income Tax South Africa which was originally based on Income Tax Act 28 of 1914 was based on the Land and Income Tax Assessment Act which was the New South Wales Act of 1895 (Cronje & Stack, 1998:4; Stack, Cronje & Hamel, 2002:4; Lieberman, 2003:108-112; Labuschagne, 2004:2; Steyn, 2012:54). It can therefore be inferred that the historical development of tax in Britain has laid a critical foundation of the South African tax system; hence it is critical to create this base before further discussion of the South African tax system.

### **2.2.3 SOUTH AFRICA**

In the South African context, before 1910, tax on the income of individuals was levied only in the Cape Colony and Natal Province. In the Cape Colony tax was confined to the taxable income of individuals and companies which was levied in terms of the provision of this Act 36 of 1904 and they were published in the Report of the Commissioner of Taxes for the year 1904 to 1905 ( Lieberman, 2003:108-112; Labuschagne, 2004:2; Steyn, 2012:54; Alvaredo & Atkinson, 2013:3-4,6). In Natal, tax similar to the one in Cape Colony was imposed, which was levied in terms of Act 33 of 1908. Colonial legislation also made provision for a tax to be levied on the taxable income of mines, namely Act 16 of 1907 in the Cape Colony, Act 43 of 1899 in Natal and Ordinances 25 of 1903, 8 of 1904, 15 of 1907, and 24 of 1907 in the Orange Free State and the Mining Taxation Act 6 of 1910 consolidated the laws relating to the taxation of mines in the union ( Lieberman, 2003:108-112; Labuschagne, 2004:2; Steyn, 2012:54; Alvaredo & Atkinson, 2013:3-4).

The first South African Income Tax Act was Act 28 of 1914 and it was based to a greater extent on the Land and Income Tax Assessment Act which was the New South

Wales Act of 1895. This was the Act on which tax was based (Lieberman, 2003:108-112; Labuschagne, 2004:2; Steyn, 2012:54). This Act was followed by the following Income Tax Acts:

- The Income Tax Act (Act 41 of 1917); and
- The income tax act (40 of 1925)

The income tax act of 1941 which introduced a non-resident shareholder tax and an undistributed profits tax and dealt for the first time with tax avoidance. The present Income Tax Act 58 of 1962 came into effect on 1 July 1962. New and further amendments were introduced in the different taxation acts on the annual amendments to the Acts. As evidenced in the above historical perspective of tax, the primary purpose of taxation on the part of the government is to provide fund or property with which to promote the general welfare and the protection of its citizens and to enable it to finance its diverse activities (Lau, 2003:3; Morgan & Prasad, 2009:1351, 1380; Steyn, 2012:56; Groves, 1974:24; Montesquieu, 207). It can therefore be argued that it is the responsibility of the government to meet the basic needs of its citizens through the taxes that are collected, and it is the responsibility of the government to benchmark the availability of tax regimes that are used in other jurisdictions with the aim of finding compatible ones that can be used in their environments as a way of broadening their tax sources and bases.

Taxation may also be employed for purposes of regulation or control, like the imposition of tariffs on imported goods to protect local industries and the adoption of progressively high tax rates to reduce inequalities in wealth and income and the increase or decrease of taxes to prevent inflation or ward off depression (Chodorow, 2008:737-737; Yang & Miller, 2008:78; Furman, 2008:10; Galle, 2009:68; Morgan & Prasad, 2009: 1351, 1380; Bouet & Debucquet, 2010:1; 1357; Pollack, 2013:300-302). Taxation is no longer a measure merely to only raise revenue to support the existence of government but may also be levied with a regulatory purpose to provide means for rehabilitation and stabilization of a threatened industry which has an impact on the public interest and these are done within the police power of the state (*Caltex V Commissioner*, 208 SCRA 755; Pfister, 2009:14; McMohon, 2009:2). While the primary purpose of taxation is to raise revenue for the support of the government,

taxation is often employed as a device for regulation by means of which certain effects or conditions envisioned by the government may be achieved (Pfister, 2009:14; Morgan & Prasad, 2009:1351; McMohon, 2009:3). It can therefore be inferred that they are certain taxes that only serve as a regulatory measure such as environmental taxes which are levied to protect the environment and custom duties which are mainly levied to protect the local industries and markets.

The power of taxation proceed upon the theory that the existence of government is a necessity, that it cannot continue without means to pay its expenses; and that for these means, it has a right to compel all its citizens and property within its limits to contribute to the fiscus (Groves, 1974:24; Montesquieu, 207; Morgan & Prasad, 2009:1380; McMohon, 2009:2; Huxham & Haupt, 2012:1). The taxpayer received benefits and protection from the government and this is the so called benefit received principle (Oakland & Testa, 2000:4, 8-10; Neill, 2000:118; Matobela, 2012:3-7). It can therefore be argued that the basis of taxation is found in the reciprocal duties of protection and support between the state and its inhabitants in return for the contribution that they make through taxes.

According to the life blood theory, it contributes what constitutes the theory of taxation. The theory provides that the existence of government is a necessity and that government cannot continue without the necessary means to pay for expenses, and that for these means to be there, the government has to compel its citizens and property within its limits to contribute to the fiscus (Groves, 1974:24; Montesquieu, 1748:2,244; OECD, 2008:3). It can therefore be inferred that taxes constitute the lifeblood of government and should be collected from all qualifying taxpayers without unnecessary hindrance. Tax is what is paid for civilised societies because without taxes, the government should be paralysed for lack of motive power to activate and operate the government, and it is also expected to respond to such paid taxes in the form of tangible benefits that are intended to improve the lives of the people and thereby enhancing the moral and material values of the country and its citizens (Manica, 1981:320; Oakland & Testa, 2000:4, 8-10; Neill, 2000:118; Matobela, 2012:3-7). It can therefore be argued that this is the reason why taxpayers have expectations from government to provide certain services in return of the taxes they pay. The lack

or unsatisfactory delivery of services could result in the citizens becoming impatient and thereby cause problems for the government.

### **2.3 PRINCIPLES OF TAXATION**

Taxation as known today is a recent phenomenon. Emslie, Davis, Hutton and Olivier; (2001:1) are of the view that the growth in taxation is associated with the growth as experienced in the administrative state (Slemrod, 1990:168; Emslie, Davis, Hutton & Olivier, 2001:1; von Soest, 2006:10; Galle, 2009:104). They also indicate that fiscal policy has a critical impact on the political economy of a country (Slemrod, 1990:168; Emslie, Davis, Hutton & Olivier, 2001:1; von Soest, 2006:10; Galle, 2009:104). Hence the government should give serious contemplations to the various variables that are in pursuit of an efficient, equitable and politically acceptable system of taxation (Slemrod, 1990:168; Emslie, Davis, Hutton & Olivier, 2001:1; von Soest, 2006:10; Galle, 2009:104). It can therefore be argued that, it is expected of the government to apply itself properly and adequately before accepting any type of a tax regime, because it carries with it serious implications on livelihood of the citizenry and can influence the level of acceptance and buy in from them.

As discussed earlier, the tax revenue is the most important source of public finance and it is a compulsory payment that is levied by the government on individuals or companies with the aim of meeting the expenditures that are required for public welfare (Dalton, 1992:32). According to Hugh Dalton, a tax is a compulsory contribution imposed by a public authority, irrespective of the exact amount of service rendered to the taxpayer in return, and not imposed as penalty for any legal offence (Dalton, 1992:32). The canons of taxation are the main basic principles or rules that are set with the aim of building a good tax system. The canons of taxation were originally laid down by the economist Adam Smith in his famous book, "*the wealth of the nations*". In this book, Adam Smith only dealt with four canons of taxation which were also known as the original canons of taxation. With the change in time and governance expanded, it became much more complex than what it was as the time of Adam Smith and there was a need that was felt by modern economist to expand Smith's principles of taxation and as a response they put forward some additional canons of taxation.

Adam Smith's main canons of a good tax system were four initially and these were the canons of equity, certainty, convenience and economy. The additional ones that were later incorporated were called principles, and they are the principle of productivity, elasticity, flexibility, simplicity, and diversity. All combined could be referred to as the principles, but the commonly used terminology by Adam Smith is the canons. It must however be emphasised that a good tax system is the one that is designed on the basis of an appropriate set of principles or rules and it is vital to strike a balance between the interest of the taxpayer and that of tax authorities. There is no doubt that the activities and functions of government have grown and increased significantly since the time of Adam Smith. Governments are now expected to maintain economic stability, full employment, reduce income inequality, and promote growth as well as ensuring that there is development. It is expected that a tax system must be able to meet these government requirements. The discussion that follows will first discuss the four principles which were initially termed the four canons of good tax system by Adam Smith, and will be followed by the additional principles as added by modern economists. Taxation is based on varied principles and in this study the discussion will be focused on the sixteen principles/canons and they include the following: equity, certainty, convenience, economy, productivity, elasticity, flexibility, simplicity, diversity, neutrality, tax efficiency, administrability, stability, sufficiency, equality or ability and invisibility.

### **2.3.1 CANON OF EQUITY**

The principle aims at providing economic and social justice to the people (Murithi & Moyi, 2003:6; Zolt & Bird, 2003:16; Chodorow, 2008:740 ; Rai, 2004:72; Batt, 2012:70; Bird & Wilkie, 2013:293). According to this principle, every person should pay to the government depending upon his ability to pay (Murithi & Moyi, 2003:6; Zolt & Bird, 2003:16; Chodorow, 2008:740 ; Rai, 2004:72; Batt, 2012:70; Bird & Wilkie, 2013:293). The wealthy class people should pay higher taxes to the government, because without the protection of the government authorities like police and defence, they could not have earned and enjoyed their income. Adam Smith argued that the taxes should be proportional to the income (Murithi & Moyi, 2003:6; Zolt & Bird, 2003:16; Chodorow, 2008:740 ; Rai, 2004:72; Batt, 2012:70; Bird & Wilkie, 2013:293). Therefore, it can be argued that this is one of the critical principles of tax because it advocates for tax to provide equity in its application.

The principle of equity in taxation is a central point which is fundamental and critical to any discussion which deals with tax design (Murithi & Moyi, 2003:6; Zolt & Bird, 2003:16; Chodorow, 2008:740 ; Rai, 2004:72; Batt, 2012:70; Bird & Wilkie, 2013:293). In the discussion that has reference to tax fairness, it refers to the equity of tax and the tax design is concerned with both what is regarded as being fair and also the extent to which there is need for compromise at certain times in order to satisfy the other's principal criterion (Batt, 2009:2-3; Rai, 2004:72; Guj, Bacoum, Limerick, 2013:5). Fairness which goes along with equity can be evaluated according to what is termed horizontal equity, which deals with the extent to which those in similar circumstances will be required to pay similar tax burdens (Slemrod, 1990:159; Demir, 2011:60; ITEP, 2011:1; Rai, 2004:3, 72; Guj, Bacoum, Limerick, 2013:5). It measures whether the taxpayers with similar circumstances in terms of income, family and age are paying similar tax (Emslie et al, 2001:13). Therefore, it can be argued that the absence of equity in tax could negatively impact taxpayers which could trigger resistance and non-compliance from taxpayers.

The contrasting position is vertical equity, which deals with how well those found in different classes are able to bear the different tax burdens found in the tax structure and it addresses how tax affect different families, from those who earn low income to the one who earns high income (Slemrod, 1990:159; Lau, 2003:4; Muriithi & Moyi, 2003:6; Zolt & Bird, 2003:16; Rai, 2004:3; Chittenden & Foster, 2008:5; Chodorow, 2008:740). It can therefore be inferred that a tax system should be able to spread the tax liability in such a way that the burden thereof is evenly spread, which means that tax must have the capacity to equalise and balance the disparities that different taxpayers are in.

The concept of proportional, progressive and regressive in tax structures emanates from the concept vertical equity (Slemrod, 1990:159; Lau, 2003:4; Demir, 2011:60; ITEP, 2011:1; Rai, 2004:3 - 72; Zhou & Madhikeni, 2013:54). The three concepts of progressive, proportional and regressive refers to the different reaction of ratios between tax revenue and income (ITEP, 2011:1; Zhou & Madhikeni, 2013:54). Progressive tax structure is where income ratio of revenue to income rises when moving up the scale; the proportional structure is where the ration of revenue and

income is constant and regressive tax structure is where the ratio between the tax revenue and income declines (Slemrod, 1990:163-165; Chodorow, 2008:737-737; Galle, 2009:68; ITEP, 2011:1; Listokin, 2012:56; Young, 1986:203-204; Zhou & Madhikeni, 2013:54). It is an accepted position that the property tax is highly progressive, in particular the land component of the property in contrast to Income Tax and Sales Tax or Value Added Tax which is at times referred to as consumption taxes (Gaffney, 1931:416; Groves, 1974:24; Montesquieu, 207; Rai, 2004:44, 58, 72; Guj, Bacoum, Batt 2012:67-69; Limerick, 2013:5). It is evident and can be argued from the preceding discussion that the issue of how to attain equity in taxation remain a challenge, and the question that needs to be answered when dealing with equity in taxation is whether the ideal way in taxation is taxing income or wealth. This type of question arises in relation to dealing with property tax, because people capitalise their income in the course of a life time and capitalisation is frequently done in properties.

The principle of equity states that the system of taxation should include a large number of taxes which are economical, and the government should collect revenue from its citizens by levying direct and indirect taxes, and the variety in taxation is desirable from the point of view of equity, yield and stability (Rai, 2004:38, 72; Chigbu, Eze & Ebimobowei, 2012:29; Zhou & Madhikeni, 2013:49; Guj, Bacoum, Limerick, 2013:37). It can therefore be inferred that tax system as a matter of course should inherently possess the character of equity, which will make it an equaliser to the different income levels of the taxpayers.

### **2.3.2 CANON OF CERTAINTY**

The canon of certainty implies that there should be certainty of the amount which a taxpayer is called upon to pay during the financial year. If a taxpayer is definite and certain about the amount of the tax and its time of payment, he can adjust his income to his expenditure (Emslie et al, 2001:2; Williams, 2001:3; Waris, 2007:276). The state also benefits from the principle, because it will be able estimate in advance the total amount to be received from tax as well as the time when it will be at its disposal, and if there is an element of arbitrariness in a tax, it will encourage the misuse of power and corruption and Adam Smith has in connection his particular matter remarked that the tax which each individual is about to pay ought to be certain and not arbitrary and

this should happen with due consideration to the time of payment, the manner of payment and it should be plain to the contributor and to every other person (Waris, 2007:274; Muriithi & Moyi, 2003:5 -9; Chigbu, Eze & Ebimobowei, 2012:32).

The principle of certainty and simplicity necessitates that the assessment, collection and administration of a tax should be certain and simple so as to keep the costs to the taxpayer and the fiscus as low as possible (Emslie et al, 2001:7; Waris, 2007:298; ITEP, 2011:1; Guj, Bacoum, Limerick, 2013:37). The tax which every individual is about to pay ought to be certain and not arbitrary and the time of payment and the manner of payment, as well as the amount to be paid, ought to be clear and plain to the contributor, and to every other relevant person (Muriithi & Moyi, 2003:5-9; Chigbu, Eze & Ebimobowei, 2012:32). A system of tax complies with the principles of neutrality if the imposition or increase of the tax does not give rise to an alteration of consumption or expenditure pattern in order to gain certain advantages from changed consumption and expenditure pattern of the consumers (Waris, 2007:294; Furman, 2008:1-2; Chigbu, Eze & Ebimobowei, 2012:32). Kaldor (1965:81) depicted an ideal tax system as one that: “succeeds in reducing a person’s spending power... without leading him to behave any differently from the way in which he would behaved if he had not been taxed at all, but his spending power had been correspondingly smaller or in the word of Professor Pogou, a tax with the announcement effect”. It can therefore be inferred that taxation have an impact and effect on the taxpayers’s livelihood and they taxpayers feel the impact therefore.

It must however be noted that an interference by the taxation instrument into the economic choices of economic subjects has the impact of causing unwanted economic distortion, and economic distortion can lead to the misapplication of the scarce resources that are at the disposal of government and neutral tax should therefore not materially influence the economic behaviour of subjects, including the organisation or the enterprise, labour motivation and the propensity to save which is critical in the economy (Musgrave and Musgrave, 1948:225; ACOIR, 1974:15; Rai, 2004:27).

Finally, according to Smith (1776:371), a tax system should: “Be so contrived as to take out and keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state”.

The canons of economy imply that the expense of collection of taxes should not be excessive and they should be kept as little as possible, consistent with administration efficiency, however, in instances where the government appoint highly salaried, employees and absorbs major portion of the yield, in these circumstances tax will be considered uneconomical (Young, 1986:203; Waris, 2007:294; Alm, Kirchler, & Muehlbacher, 2012:133 -148). Tax will also be regarded as uneconomical if it checks the growth of capital or causes it to immigrate to other countries, such capital flights impoverish the country, and Adam Smith is of the view that every tax is to be so contrived as both to take out and keep out of the pocket of the people as little as possible over and above what it brings into public treasury of the state (Chigbu, Eze & Ebimobowei, 2012:32). Emanating from the statement found in Adam Smith, every tax ought to be so contrived as both to take and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state, which means that a taxpayer has every right to arrange his or her tax affairs in such a way that he or she pays as little as possible without contravening the legislation (Emslie *et al*, 2001:3). It is not only Adam Smith that wrote on the canons or principles of taxation. Some other writers on Public Finance have formulated four other important canons or principles of taxation. They are the following:

The tax which an individual has to pay should be certain, and not arbitrary. The taxpayer should know in advance how much tax needs to be paid, what time it has to be paid, and in what form the tax needs to be paid to the government. In the other words, every tax should satisfy the canon of certainty. At the same time a good tax system also ensures that the government is also certain about the amount that will be collected by way of tax.

### **2.3.3 CANON OF CONVENIENCE**

Every tax ought to be levied at the time, or in the manner in which it is most likely to be convenient for the contributor to pay it, a good example of this could be in instances

where the tax on agricultural land is collected in instalments after the crop is harvested because it will be very convenient for the agriculturists to pay it (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:32). Similarly, property tax, house tax, income tax etc. should be levied at the time when the taxpayer is expected to receive the income and the method of payment of tax should also be convenient, for example if the tax is payable by cheques, the contributor will be saved from inconvenience, and the same view was confirmed by Adam Smith when he said that every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it (Musgrave et al, 1948:36-37; Waris, 2007:298; Batt 2012:67-69; Chigbu, Eze & Ebimobowei, 2012:32; Zhou & Madhikeni, 2013:49).

Canon of diversity states that the system of taxation should include a large number of taxes which are economical and government should collect revenue from its citizens by levying both direct and indirect taxes and the variety in taxation is desirable from the point of view of equity, yield and stability (Rai, 2004:38, 72; Chigbu, Eze & Ebimobowei, 2012:29; Zhou & Madhikeni, 2013:49; Guj, Bacoum, Limerick, 2013:37). The mode and timing of tax payment should be as far as possible convenient to the taxpayer and the convenience of the tax system will encourage people to pay, which effectively increases tax revenue.

#### **2.3.4 CANON OF ECONOMY**

These principles states that there should be economy in tax administration, which means that the cost of collecting tax should be lower than the amount of tax collected (Waris, 2007:293 - 294; Emslie et al, 2001:2;Chigbu, Eze & Ebimobowei, 2012:31). It can therefore be argued that the cost of collecting tax should not be exorbitant but should be kept to a minimum, which means that the machinery used in the collection should not be extravagant (Emslie et al, 2001:2; Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). It may not serve any purpose if the taxes imposed are widespread but are difficult to administer and resulting in very expensive machinery having to be employed to collect the revenue (Emslie et al, 2001:2; Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). Therefore, it would make no sense to impose certain taxes if it is difficult to administer them.

Despite the complexities that are impended in the tax legislation due to their ever changing nature, the government or the revenue collecting authorities should guard against engaging very expensive machinery to collect the revenue which could result in exorbitant expenses (Emslie et al, 2001:2; Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). The government will have to ensure that they maintain appropriately trained employees but balancing that with the necessary administrative cost (Emslie et al, 2001:2; Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31; SARS, 2015:34 -60). It can therefore be argued that it is the responsibility of government to ensure that they maintain a cost structure that is within the confines of the available financial resources.

### **2.3.5 PRINCIPLE OF PRODUCTIVITY**

This particular principle is also known as the principle of fiscal adequacy and in terms of this principle, the tax system should be able to yield enough revenue for the treasury so that the government should have no need to resort to deficit financing thereby incurring debt that could results in burdening the fiscus (Waris, 2007:293 - 294;; Chigbu, Eze & Ebimobowei, 2012:31). It can therefore be argued that this principle is most appropriate for the developing countries because when they are overburdened they end up being unable to meet the needs of their citizenry. This principle emphasises the fact that a tax system in place should be capable of yielding sufficient revenue that will make it possible for government to meet its needs (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). The performance of such a tax system should also enable the government to run the economy, ensuring that the economy is not adversely affected (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31).

### **2.3.6 PRINCIPLE OF ELASTICITY**

According to this principle, every tax imposed by the government should be elastic in nature, which means that the income from such tax should be capable of increasing and decreasing according to the requirements of the country (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). It is the responsibility of the government or revenue authorities to increase or decrease taxes according to the requirement of the country (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). If there is need for more money in the country, the tax system should have the capacity to yield more

income, and this should be done through increasing taxes (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31).

The elasticity of taxes is based on the premise that tax should be elastic in nature which means that more revenue should automatically be fetched in cases where the income that taxpayers receive increases (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). This will mean that the taxation system should have a built in flexibility to respond to any changes that may arise on the status of the taxpayers (Waris, 2007:293 - 294; Chigbu, Eze & Ebimobowei, 2012:31). It can therefore be inferred that the status of taxpayers is dynamic, in that their income levels keeping on changing as they get into new employment, lose employment, or as their business ventures expand and growth or shrinks thereby changing their income earning capacities.

### **2.3.7 PRINCIPLE OF FLEXIBILITY**

This principles states that it should be easily possible for authorities to revise the tax structure both with respect to its coverage and rates, to suit the changing requirements of the economy because the economic environment is not static by dynamic and with changing time and conditions the tax system need to be changed without much difficulty (Waris, 2007:293 - 294; Listokin, 2012:57; Chigbu, Eze & Ebimobowei, 2012:31). It can therefore be argued that it should not require onerous exercise to effect changes to it. The tax systems must be flexible and not rigid (Waris, 2007:293 - 294; Listokin, 2012:57; Chigbu, Eze & Ebimobowei, 2012:31). It can further be argued that it should be possible for the authorities, without undue delay, to revise the tax structure in terms of its coverage and rates, to suit the changing requirements of the economy and the government (Waris, 2007:293 - 294; Listokin, 2012:57; Chigbu, Eze & Ebimobowei, 2012:31). It can be inferred that the flexibility in the tax system should enable government, without due delay, to make revision of the tax structure in terms of coverage and rates to suit the dynamic environment in which the economy and the country finds itself in.

### 2.3.8 PRINCIPLE OF SIMPLICITY

Many tax reforms undertaken by tax authorities are aimed at creating simplicity, because complicated tax rules makes the system difficult for citizens to understand and comply with, which is a recipe for tax avoidance and evasions (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, 2007:4; ITEP, 2011:1; Muriithi & Moyi, 2003:5; Guj, Bacoum, Limerick, 2013:37). This is why the principle of simplicity is important, the more complex the tax design, the more lawyers and accountants will find loopholes, encourage the appearance of unfairness and drive up the cost of its administration (Waris, 2007:298; Batt, 2009:2-3; Muriithi & Moyi, 2003:19; Guj, Bacoum, Limerick, 2013:37.).Complexities in tax make it difficult for government to monitor and enforce their tax collection responsibilities, and even in instances of tax avoidance it will be difficult for the tax authorities to combat (Laffer, Winegarden & Childs, 2011:12; Batt, 2012:71).When there is simplicity in tax, it makes it easy for the taxpayers and other parties to pay their fair share of tax contribution and it is through these that the legitimacy of taxation is enhanced, and it generally increases the level of tax compliance with the tax system (Chittenden & Foster, 2008:5;ITEP, 2011:2; Emslie et al, 2001:7; Guj, Bacoum, Limerick, 2013:37; SARS, 2011:5 – 12; 2014:2 - 5).

The principle of simplicity implies that the tax system should be fairly simple, plain and intelligible to taxpayers (Guj, Bacoum, Limerick, 2013:37 Chigbu, Eze & Ebimobowei, 2012: 33). If it is complicated and difficult to understand, it will lead to oppression and corruption. The principle of certainty and simplicity demands that the nature and quantum of a taxpayer's liability and the administration costs of the tax system should be simple to determine and observe (ITEP, 2011:2; Zhou & Madhikeni, 2013:49; Guj, Bacoum, Limerick, 2013:37). It can therefore be inferred that the tax system should be as transparent and simple as possible. According to Adam Smith (1776:371), an ideal tax system must have the following character: *“The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and the every other person”*. The tax system should not be complicated because when it is complicated it makes it difficult to understand and administer and result in problems of interpretation and disputes.

### **2.3.9 PRINCIPLE OF DIVERSITY**

This principle states that government should collect taxes from different sources than concentrating on a single source of tax (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:31). It is not advisable for the government to depend upon a single source of tax; it may result in inequity to a certain section of society as well as uncertainty for government to raise adequate funds (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:31). If the tax revenue comes from diversified source, a reduction in one tax revenue stream on account of any one cause will have minimal impact. It is therefore critical that the government should ensure that the primary purpose of tax should be to raise enough revenue for public services (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:31). People should be asked to pay taxes according to their ability to pay and assessment of their taxable capacity should be made primarily on the basis of income and property (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:31). The taxpayer should pay tax for the income that they enjoy under the protection of the state in the rental value of land (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:31). It can therefore be argued that in instances when the low income earners pay tax, that negates the principle of equity as envisaged by Smith and it further widens the gap between the rich and the poor in the society, invariably further distancing the realisation of income redistribution which the tax systems seeks to achieve.

### **2.3.10 TAX NEUTRALITY**

The concept of tax neutrality is the impact or level of influence or the absence thereof that any particular tax policy design has on the economic behaviour of taxpayers (Waris, 2007:296; Furman, 2008:1-2; ITEP, 2011:2; Rai, 2004:2; Batt, 2012:70). Tax neutrality can be described as a situation wherein tax strives to be neutral in order to ensure that when decisions are made they are mainly based on economic merit and not influenced by any perceived tax considerations which could be classified as either tax avoidance and in some instances tax evasion (Slemrod, 1990:168; Furman, 2008:1; ITEP, 2011:1; Batt, 2012:70). Typically taxes by their nature are perceived as a dampener to economic activities, which means that taxing income reduces the incentive to work as taxpayers do not enjoy the maximum or total contribution emanating from their work efforts because when sales are taxed, it may have a

discouraging effect on the retail transactions, and it is also the same in instances when savings are taxed because it has an equal effect of reducing the people's inclination to save (Engen & Skinner, 1996:617; Listokin, 2012:49; Batt, 2012:69; Ferede & Dahlby, 2012:617 Batt, 2009:1). The more a tax is perceived to be neutral, the less the identifiable distortions it imposes on the economy as taxpayers' perception is that they are enjoying the maximum benefits of their endeavours (Rai, 2004:2, 27; Furman, 2008:5-7; Batt, 2012:70). The common assumption of most tax theorists is that all taxes impose distortions, it is simply a matter of which ones of the taxes are least burdensome to economic health of the country and it would have been ideal to have a tax system that does not impose distortion, however, the economic environmental does not permit that (Bracewell-Milnes, 1976:1; Rothbard, 1981:93-96, 102-104; Laffer, Winegarden & Childs, 2011:11-13; Batt, 2012:69). It can therefore be deduced that it is desired that tax should not impose distortion in the economy, however, it is not tenable due to the distortionary nature of tax itself, and hence a certain level of distortion should always be expected and it is therefore important for the taxpayers to factors such distortion in their incomes and adjust accordingly.

A system of tax complies with the principles of neutrality if the imposition or increase of the tax does not give rise to an alteration of consumption or expenditure pattern in order to gain certain advantages from changed consumption and expenditure pattern of the consumers (Waris, 2007:294; Furman, 2008:1-2; Chigbu, Eze & Ebimobowei, 2012:32). Kaldor (1965:81) depicted an ideal tax system as one that: "succeeds in reducing a person's spending power... without leading him to behave any differently from the way in which he would behaved if he had not been taxed at all, but his spending power had been correspondingly smaller or in the word of Professor Pogou, a tax with the announcement effect"

However, it must be noted that an intrusion by the taxation instrument into the economic choices of economic subjects has the impact of causing unwanted economic distortion, and economic distortion can lead to the misapplication of the scarce resources that are at the disposal of government (Musgrave and Musgrave, 1948:225; ACOIR, 1974:15; Rai, 2004:27; Laffer, Winegarden & Childs, 2011:11-13). Neutral tax should therefore not materially influence the economic behaviour of subjects, including organisations or enterprises, labour motivation and the propensity to save which is

critical in the economy (Musgrave and Musgrave, 1948:225; ACOIR, 1974:15; Rai, 2004:27).

According to Adam Smith (1776:371), a tax system should: “Be so contrived as to take out and keep out of the pockets of the people as little as possible, over and above what it bring into the public treasury of the state”. The principle of tax neutrality imply that the expense of collection of taxes should not be excessive and should be kept as little as possible, consistent with administration efficiency (Young, 1986:203; Waris, 2007:294; Laffer, Winegarden & Childs, 2011:12; Alm, Kirchler, & Muehlbacher, 2012:133,148; SARS, 2015:34 -60). However, in instances wherein the government appoint highly salaried employees which ultimantely results in the absorption of the major portion of the tax yield, tax will in such instacces be considered to be uneconomical (Young, 1986:203; Waris, 2007:294; Alm, Kirchler, & Muehlbacher, 2012:133,148; SARS, 2015:34 -60). Tax will also be regarded as uneconomical if it checks the growth of capital or causes it to immigrate to other countries which might result in leaving the country poorer due to this and such capital flights as indicated impoverish the country and Adam Smith is of the view that every tax is to be so contrived as both to take out and keep out of the pocket of the people as little as possible over and above what brings into public treasury of the state (Emslie *et al*, 2001:3; Chigbu, Eze & Ebimobowei, 2012:32). It can therefore be argued that emanating from the statement found in Adam Smith, every tax ought to be so contrived as both to take and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state, which means that a taxpayer has every right to arrange his or her tax affairs in such a way that he or she pays as little as possible without contravening the legislation.

### **2.3.11 TAX EFFICIENCY**

Tax efficiency can be regarded as being similar to tax neutrality in that it measures how much tax shifting or change in taxation can eliminate or reduce the one or several other taxes and how such change in behaviour can impose any changes and thus resulting in what is called excess burden or encumbrance loss on the economy which have the effect of creating a tax neutrality position (Waris, 2007:297; Batt, 2009:2-3; Furman, 2008:1-2; Williams, 2001:3; Rai, 2004:75; Zhou & Madhikeni, 2013:49). In

the view of tax economists the best taxes are those that can be shifted little whenever possible and thereby establishes or increases other taxes while the overall expected revenue remain stable and unchanged as the tax shifting creates credibility consternations in tax because tax shifting is when the tax burden is transferred from one organisation or entity to another and this makes it possible for the government to plan and make its budget (Frankel, 1973:2; Gilhring & Nelson, 1999:48; Williams, 2001:3; Batt, 2012:70). In ensuring tax efficiency, the flexibility must be considered, tax on land values and tax on improvement values have a contrasting effect on socio-economic choices and the government should therefore give serious consideration before making their choice in policy making and the use of a tax base that has little or zero resistance is the best way that will ensure that that taxes do not get shifted (Haughton, 1998; Gruber & Saez, 2002:28; Giertz, 2009:109; Oner, 2013:47; Listokin, 2012:56-57; Batt 2012:67-69). It can therefore be inferred that taxpayers prefer stability on the taxes that they pay in contrast to a tax system that keep changing and shifting which ultimately breeds credibility issues in the minds of taxpayers and such could also affect even the most loyal taxpayers.

The principle of tax efficiency which have the elements of principle of productivity which is can be referred to as the principle of fiscal adequacy, indicate that a tax when levied should produce sufficient revenue to the government because the government is dependent on such revenue to meet its commitment as this enables the government to meet its needs as required by the citizens (Waris, 2007:276; Chigbu, Eze & Ebimobowei, 2012:33). It can therefore be argued that if few taxes imposed yield sufficient fund for the state, then they should be preferred over a large number of small taxes which produce less revenue and are expensive to collect as the responsibility of the revenue collecting agency is not to spend much needed funds in chasing the collection of taxes but rather to sparingly use their limited resources provided by their Treasury or Finance department and optimise the collection of taxes.

### **2.3.12 ADMINISTRABILITY**

The concept administrability refers to the ease with which a tax can be administered and collected as such the collection of taxes should not be a burden because if it becomes a burden it result in complexities that may result in increase in aggressive tax

avoidance and evasion (ACOIR, 1974:16; Emslie et al, 2001:7; Batt, 2012:71). It can therefore be argued that the taxes which distort the economy are inefficient and costly to administer and as result of their distortion of the economy they make aggressive tax avoidance and evasion attractive, because taxpayers think they have more to gain by avoiding and evading tax than complying. Taxes that distort the economy and costly to administer promote tax avoidance, however, this is not only measured in terms of the direct costs of tax avoidance and accounting expenses, but also in terms of the level of evasion and cheating which can be said to be prevalent in environment where the tax administration is difficult (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, 2007:4; Batt, 2009:2-3; Chigbu, Eze & Ebimobowei, 2012:29; Laffer & Winegarden, 2001:11; Pfister, 2009:5). This type of situation cost government in auditing and policing and such a set up results in the taxpaying public perceiving the tax as having the propensity to be easily evaded, cumbersome and unfair, causing the tax collection machinery to lose legitimacy, as well as compromising the credibility of government, which eventually encourages citizenry to doubt its own government (ACOIR, 1974:16; Laffer & Winegarden, 2001:11; Batt, 2012:71; Bird & Wilkie, 2013:297).

Every tax ought to be levied at the time, or in the manner in which it is most likely to be convenient for the contributor to pay as this can serve as an incentive for the taxpayer to comply. This can be expanded through an example wherein the tax on agricultural land is collected in instalments after the crop is harvested, which will be very convenient for the agriculturists to pay it, (Emslie et al, 2001:2; Chigbu, Eze & Ebimobowei, 2012:32). Similarly, property tax, house tax, income tax should be levied at the time when the taxpayer is expected to receive the income and the manner of payment of tax should be convenient, for example if the tax is payable by cheques, the contributor will be saved from inconvenience, this was also confirmed by Adam Smith when he cited that every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it (Musgrave et al, 1948:36-37; Waris, 2007:298; Batt 2012:67-69; Chigbu, Eze & Ebimobowei, 2012:32; Zhou & Madhikeni, 2013:49). It can therefore be inferred that the success of revenue collection is also depended on the easiness of its administration to both the taxpayers and revenue collectors.

### **2.3.13 STABILITY**

Tax will be regarded as stable if it has the ability to produce revenue to finance the government expenses despite the changing economic circumstances of the time (Allan, 1992:2; Emslie et al, 2001:9; Batt, 2012:71). However, there are certain sources of revenue that remains stable despite the economic conditions of the time (Allan, 1992:2; Akintoye & Tashie, 2013:223). In the case of income tax and value added tax, they would greatly with economic cycles while the property tax has the propensity to remain stable in spite of the economic cycle (Listokin, 2012:56; Batt, 2012:71). Hence the reason why tax administrators have typically been supportive of using the property tax base rather than some other tax services (Engen & Skinner, 1996:618-619; Bird & Zolt, 2003:24; Huxham & Haupt, 2012:2). It can be argued that a good tax system should be structured in such a way that, inherent in it, is the ability to yield sufficient revenue to enable government to fulfill its major responsibilities of ensuring that reasonable expectations and requirements of its citizens are adequately met.

### **2.3.14 SUFFICIENCY**

In assessing the value of a tax, it is important to understand its potential to bring revenue for the purposes of financing government needs, usually deemed as revenue sufficiency (Muriithi & Moyi, 2003:6; Allan, 1992:3; Batt 2012:65). Income tax, value added tax and property taxes, along with corporation taxes to a lesser extent, have come to be regarded as cash cows of the revenue structure (Batt, 2012:71). But as anti-tax politicians are quick to note that the higher these taxes are, the more they impose a drag on the economy, hence tax practitioners should carefully consider whether or not to raise taxes which have demonstrable distorting effects (Laffer & Winegarden, 2001:11; Rai, 2004:27; Batt, 2012:71). It can therefore be inferred that this is the reason why the tax space is highly contested, with various stakeholders, which include communities, labour and government, despite the fact that survival of the state is depended on taxes. The politicians also use it as a bait to attract voters during election times by opposing any form of taxes that are perceived to burden the citizens. Despite the minimal prevalence of tax on land, in contrast, a tax on land value alone which is totally neutral, measures up to so well that it looks like the perfect tax (Musgrave, Carroll, Cook & Frane, 1948:37; Gaffney, 1971:420; Batt 2012:67-69). It

can therefore be argued that these criteria support the claim that taxing land alone is a more appropriate solution to spatial configuration issues and to tax issues than any other remedy, as it has the potential to provide sufficient tax for the entire fiscus.

### **2.3.15 CANON OF EQUALITY OR ABILITY**

Canon of equality or ability is considered to be a very important canon of taxation. By equality, it does not mean that people should pay equal amount by way of taxes to the government (Allan, 1992:7; Emslie et al, 2001:2; Zolt & Bird, 2003:16; Waris, 2007:297). Equality refers to the equality of sacrifice, that people should pay taxes in proportion to their incomes that they receive (Berliant & Gouveia, 1999:2; Young, 1986:203; Emslie et al, 2001:2). This principle point to progressive nature that is inherent in the taxation system (Rai, 2004:44, 58; Chodorow, 2008:737-737; Furman, 2008:10; Galle, 2009:68). According to the progressive nature of taxation, the rate or percentage of taxation should increase with an increase in income and decrease with a decrease in income (Young, 1986:204; Slemrod, 1990:163-164; Rai, 2004:44, 58). This is encapsulated in the words of Adam Smith (1776:371), when he said: “the subject of every state ought to contribute towards the support of the government as nearly as possible in proportion to their respective abilities, which is in proportion to the revenue which they respectively enjoy under the protection of the state”. It is incumbent upon every subject of every state to contribute towards the support of the government as early as possible in proportion to their respective abilities that is in proportion to their revenue which they respectively enjoy under the protection that is provided by the state (Young, 1986:204-206; Batt 2012:70).

An ideal tax system should also comply with the principle of equality as was reported by Smith (1776:371). The equality principle captures both the ability to pay and the benefit principles which plays a pivotal role in taxation (Martinez-Vazquez, 2001:4; Rai, 2004:58; Batt, 2012:71). The ability to pay principle distinguishes between the horizontal equality and vertical equality that is embedded in taxation (Emslie et al, 2001:12; Rai, 2004:3, 58; ITEP, 2011:1; Batt, 2012:71). Horizontal equality refers to equality between tax subjects in similar circumstances, whereas vertical equality mandates that tax subjects should bear tax in proportion to their income levels or levels of economic well-being, which implies that the higher the level of economic well-being

the greater should be the tax burden (Slemrod, 1990:159; Martinez-Vazquez, 2001:2; Emslie et al, 2001:12; Lau, 2003:4; Rai, 2004:3; ITEP, 2011:1). The ability to pay principle is often used to justify the imposition of direct taxation such as a tax on income or tax on capital gains (Martinez-Vazquez, 2001:29; Rai, 2004:58; Batt, 2012:71).

The benefit principle mandates that those who benefit from the use of commodities or services should be required to pay for the benefit of use (Emslie et al, 2001:12). The benefit principles are therefore used as a justification for the imposition of an indirect tax, such as a value added tax (Martinez-Vazquez, 2001:29; Pfister, 2009:12). The subject of every state ought to contribute toward the support of the government, as nearly as possible, in proportion to their abilities that is in proportion to the revenue which they enjoy under the protection of the state (Emslie et al, 2001:2, 12).

### **2.3.16 INVISIBILITY**

The principle of invisibility relates to the notion that the best taxes are those paid by other people, like in the case of corporate tax and non-tax revenue, which is not directly paid by the individuals, hence the name invisible tax (Gemmell, Morrissey & Pinar, 2010:2-8; Rothbard, 1970:115; Slemrod, 1994:343). The best taxes are therefore those taxes which extracts the spending power from the private sector before it has accrued it or to any particular individual (Gemmell, Morrissey & Pinar, 2010:2-8; Rothbard, 1970:115; Slemrod, 1994:343). Canon of simplicity implies that the tax system should be fairly simple, plain and intelligible to the taxpayer (Guj, Bacoum, Limerick, 2013:37 Chigbu, Eze & Ebimobowei, 2012:33). If it is complicated and difficult to understand, then it will lead to oppression and corruption. The principle of certainty and simplicity demands that the nature and quantum of a taxpayer's liability and the administration costs of the tax system should be simple to determine and observe (ITEP, 2011:2; Zhou & Madhikeni, 2013:49; Guj, Bacoum, Limerick, 2013:37). The tax system should therefore be as transparent and simple as possible.

Adam Smith (1776:371) reported that in an ideal tax system: "The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and every other person". It can therefore be inferred from this statement

that the stipulated elements above must be imbedded in the tax system for the system to be regarded as ideal and relevant.

## **2.4 CONCLUSION**

It is evident from the preceding discussion that compliance times in tax remain necessary under any tax system; however, the reduction of compliance costs will have stimulus effect on the economy of a country (Rai, 2004:27; Laffer, Winegarden & Childs, 2011:12; SARS, 2011:5 – 12; SARS, 2014:2 - 5). Emanating from the discussion of the historical development and principles of taxation as outlined above, it may be interpreted in terms of the broader principles of social justice which demand that taxation should not only be equitable in terms of impartiality, but there should also be an element of fairness and due consideration should be given to the ability to pay as well as the equity of sacrifice (Rai, 2004:72, 100; Chodorow, 2008:740; Demir, 2011:59; Young, 1986:204; Guj, Bacoum, Limerick, 2013:5,14). It is also evident that tax instruments should be designed in ways that reduces economic inequalities and should possess the ability to redistribute wealth (Rai, 2004:72, 100; Chodorow, 2008:740; Demir, 2011:59; Young, 1986:204; Guj, Bacoum, Limerick, 2013:5 -14). It can also be deduced from the discussion above that the wealth that is generated should, over and above circulating amongst the citizens, also be used to reduce the levels of inequality which is a challenge for many countries.

Taxes are a reality in people's lives, but they should be designed in such a way that promotes broader economic goals that the society is pursuing. It is also clear that certainty principle can be translated into the modern protest against too frequent and retroactive tax changes which creates difficulty in the lives of taxpayers. Modern innovations such as the pay as you earn system and provisional tax provide for taxes to be collected at the times most convenient to the taxpayer, which is when the means to pay are there. Taxpayers always prefer economical taxes that have low administrative cost and are efficient and this has an element of encouraging the levels of tax compliance.

It is also noted that tax collection must maintain the general public's trust and confidence in government and the government use the power of taxation justly and

not deceitfully. The power of taxation is purely legislative, and government cannot delegate such power. This limitation arises from the doctrine of separation of powers among the three spheres of government. It must also be noted that taxpayers are not relieved from the obligation of paying a tax because of perceptions, for example the perception of tax misappropriation by certain officials, for otherwise, collection of taxes would be hampered and this may result in the paralysation of the most important government function.

It has become more evident in this chapter that taxation is an act of levying a tax, which is a process or means by which the sovereignty of the government is guaranteed, through its law making body so that it can raise income to defray the necessary expenses of government. It is a method of apportioning the cost of government among those who reside in the country, and they are in some measure privileged to enjoy the benefits that is provided by the state, so they must therefore bear its burdens through paying taxes, since taxes are the enforced proportional contribution from persons and property levied by the law making body of the state by virtue of its sovereignty for the support of the government and all public needs (Groves, 1974:24; Montesquieu, 207; Guj, Bacoum, Limerick, 2013:136). This confirms the accession that the essential elements of taxation are that taxation is an enforced contribution; it is generally payable in money; it is proportionate in character; it is levied on persons, property or the exercise of a right or privilege; it is levied by the state which has jurisdiction over the subject or object of taxation; it is levied by the law making body of the state and it is levied for public purpose or purposes (Ramsey, 1927:47; Groves, 1974:24; Montesquieu, 207; Guj, Bacoum, Limerick, 2013:136).

In the next chapter the study will focus on the theories of taxation.

## **CHAPTER 3: THEORIES OF TAXATION**

### **3.1 INTRODUCTION**

The objective of this chapter is to outline the theoretical principles and their impact on revenue collection best practices. Academic researches are undertaken with the intention of generating new knowledge, and the knowledge may take many forms which include new problem solving method to improve practice, the discovery and exploration of new organisational and other phenomena about which there is limited assessor knowledge (Swanson, 2000:274; Calvert & Martin, 2001:11; Dooley, 2002:338; Lynham, 2002:222; Gray, Iles & Watson, 2010:4). Welman and Kruger (1999:11 & 17) explain theory as a set of interconnected related constructs or concepts, the definition and proposition that represent a methodical view of phenomena by stipulating relationships that exists among variables with the purpose of explaining and predicting phenomena that is prevalent, and they explain the new ways of understanding the aspects that surround them (Swanson, 2000:274; Calvert & Martin, 2001:11-12; Hofstee, 2006:130; Zott, Amit, Massa, 2010:26). The purpose of using theory is to give an explanation and such explanation can either be general or specific and will cover the events or occurrences that are prevailing in the context of revenue collection best practices (Swanson, 2000:274; Gray, Iles & Watson, 2010:4).

Theories are naturally imbedded with critical tools and they are also used as analytical tools that are utilised for understanding, explaining concepts and construct and they can also be used in making predictions about the subject matter that is being studied (Swanson, 2000:274; Lynham, 2002:225; Welp, Vega-Leinert, Stoll-Kleemann & Jaeger, 2006:179). Theories are the cornerstone and are situated and found in many and varied fields of studies, the formal theory is a syntactic in nature which means that it focuses on the linguistic form as a results of the relegate meaning to a peripheral position and it can only be meaningful in instances where it is given a sematic component by applying the theory to some content, with regard to the facts and relationships of the actual historical world that have unfolded or as it unfolds (Calvert & Martin, 2001:11; Dooley, 2002:349; Welp et al, 2006: 175-176). Theories in various fields of study are expressed in natural language, but they are always constructed in such a way that their general form is identical to a theory as it is expressed in the

formal language (Grando, 2009:23-25; Zott, Amit, Massa, 2010:40). Theories may be expressed mathematically, symbolically or even in common language, but they are generally expected to follow the principles of rational thought or reasoning and comprise a set of concepts and categories about the characteristics and main connections in the phenomenon that is being studied and determine the essential variables of what is being studied (Levesque, 2004:1-2; Tinus, Afteni & Rinja, 2007:321; Baleanu, 2007:30). The theoretical basis on which taxation is premised will be outlined in this chapter.

Theories of taxation are founded and entrenched on canons that Adam Smith, the father of the modern political economy, has laid down in his famous book “Wealth of Nations’. He laid down four principles and these principles are still considered to be the starting point of a sound public finance management. As early as 1776 Adam Smith, in his book “Wealth of the nations”, recognised that the levy of taxation should comply with certain benchmarks or norms and propounded the four canons of taxation which are Equality or Ability; Certainty; Invisibility; and Convenience. Adam Smith (1776:371) pronounced on these principles of a good taxation system as far back as 1776. Smith’s book called for “An enquiry into the nature and causes of the wealth of the nations”, gave modern tax planners, practitioners and tax authorities guidelines and principles that are necessary in developing and implementing taxation systems. The principles as envisaged and stipulated then are as valuable today as some two centuries ago when they were first introduced and applied. Smith postulated the canons of taxation that a good tax system should encompass and possess as well as to comply with and they are called the canons, additional ones were discussed together with Adam Smith’s canons and these were discussed in chapter two. In this chapter the theories of taxation will be discussed.

### **3.2 THEORIES OF TAXATION**

There are numerous theories that exist in taxation. Governments at all levels need to raise revenue from a multiplicity of sources to finance public sector expenditures (Smith, 2003:1; Fjeldstad & Moore, 2009:1; PFTAC/IMF, 2010:5 -11; Bird & Wilkie, 2013:300). There are many theories that guide the levying of taxation. In the preceding discussion, the focus was on the principles of taxation. For a tax system to be regarded

as a good or not, there are certain elements that are key to that conclusion. There are certain salient features that are essentials of a good tax system. There are eight essential of a good tax system which includes the following: A good tax system should also be structured in such a way that it has the ability to yield sufficient revenue to the government so as to enable the government to meet the need that the citizenry expects and requires, which is one of the major responsibilities faced by the government (Engen & Skinner, 1996:618-619; Bird & Zolt, 2003:24; Huxham & Haupt, 2012:2). The cost that is spent on collection of taxes should not be excessive, because when it is costly to collect the taxes, it will have an impact on the amount of taxes collected, the percentage cost of collection to tax collected should be nominal (Young, 1986:203; Waris, 2007:294; Alm, Kirchler, & Muehlbacher, 2012:133 -148). There is expectation from the taxpayers that a good tax system should lead to a fair and equal distribution of wealth in the community, and for a tax system to be good it will have to deliver on these (Waris, 2007:75).

The elasticity in tax is one of the requirements of a good tax system, and the tax system should be objectively elastic (Oner, 2013:47; Galle, 2009:99; Fonseca & Ventosa-Santaularia, 2011:89). There should be certainty with regards to the time and the amount to be paid to government. Certainty will ensure that taxpayers are not unnecessarily harassed by the tax authorities and the taxpayers cannot claim any ambiguity on the non-payment or late payment of taxes, it will deal with the time of payment, quantity and the manner of payment (Emslie et al, 2001:2; Williams, 2001:3; Waris, 2007:276). The burden of taxes borne by the taxpayers should be distributed in proportion to the ability of the taxpayer, which means that it should be progressive in nature; this will create the fairness that is expected of the tax system (Rai, 2004:1 - 58; Chodorow, 2008:737-737; Furman, 2008:10; Galle, 2009:68). Taxes should be levied at such a time or in the manner which is most likely to be convenient for the taxpayer to pay, taxpayers have certain times and period in the year and month that they will know is time to pay their taxes and to render their tax returns (Musgrave et al, 1948:36-37; Waris, 2007:298; Batt 2012:67-69; Chigbu, Eze & Ebimobowei, 2012:32; Zhou & Madhikeni, 2013:49). The system of taxation should be fairly simple; it should not be complicated which will make it difficult interpret and create difficulties. It should also be easy to administer (PFTAC/IMF, 2010:11; Guj, Bacoum, Limerick,

2013:37 Chigbu, Eze & Ebimobowei, 2012:33). It can therefore be argued that from the stipulation of essentials of a good tax system it is evident that this is the summary of principles of tax and they are a precursor to the theories of taxation and it can further be argued that for tax to be regarded as good tax system, it must encapsulate the features as stipulated.

As already mentioned, theories by their nature are critical and are used as analytical tools for understanding, and explaining concepts and construct and they can also be used in making predictions about the subject matter that is being studied (Swanson, 2000:274; Lynham, 2002:225; Welp, Vega-Leinert, Stoll-Kleemann & Jaeger, 2006:179). A strong economy is reliant and dependent on the sound taxation and fiscal policy, because through that they can create the fundamental foundation for the economic development in a country while Taxation and fiscal policy have driven countries to very divergent directions which include success outcomes, mediocre and failures or even to the combination of the different outcomes (Zolt & Bird, 2003:29; Rai, 2004:27; Mylek, 2008:5; Pfister, 2009:14).

Taxation is one of the major focuses that continue to occupy a critical space in the writing of the classical economists (Gaffney, 1995:42). This therefore means that taxation originates in economics and it can thus be argued that it is an economic concept and it has the influence in the economic growth (Engen & Skinner, 1996:618; Wasylenko, 1997:38; Meier, 2006:3; de la Siera, 2014:2). Taxation comes from the time after the break-up of the feudal system, it was at that time that land was the primary source of wealth and it became the principal basis of taxation (Barzel, 1999:11; Wright, 2002:11). Tsoulfidis (2005:6-9) reported that David Ricardo who lived between 18 April 1772 to 11 September 1823 and was a British Political Economist and stock trader credited with systemizing economics and regarded as one of the classical economists and is said to have outlined that, the economist's contribution in the field of taxation was not aimed at alteration of the concept of taxation but rather to elaborate the concept in an attempt to answer the important question of who was ultimately responsible for the payment of taxes which was levied from the various sources of income (Ricardo, 1817:104; Aldrich, 2004:395; Barro, 1989:39; Meier, 2006:11; Akintoye & Tashie, 2013:225; de la Siera, 2014:2, 3). According to Batt

(2012:67-69), taxes constitute a portion that originate from the yield of the land and labour which is entrusted to the government and the government make use of these resources and levy taxes which are the payment in lieu of the produce that emanate from the exploitation of such resources (Humphrey, 2004:7; Meier, 2006:20; Issah, 2011:2; de la Siera, 2014:5). Batt (2012:69) argues that taxes paid from revenue were satisfactory when compared to the taxes that are paid by capital and his view is that taxes paid from capital have the potential to bring economic ruin because they destroy the nation's productive efficiency (Ricardo, 1817:104; Zolt & Bird, 2003:13; Rai, 2004:75; Batt 2012:67-69; Tsoulfidis, 2005:6-9; Waris, 2007:297).

David Ricardo had reservation about taxation and the reservations are that taxation has an impact on the consumer as it is the consumer who has to pay tax on raw material, which ultimately mean that the final bearer of taxation is the consumer (Ricardo, 1817:104 -121). In instances where the rent and land tax are paid by the landlord they have the inclination to shrink profits it is also the same in instances when taxes on the houses have to be paid by the occupier and part thereof by the landlord. It is through the business activities that are undertaken by the communities that yield the profits out of which taxes are paid, it must however be borne in mind that in the final analysis, taxes are paid by the consumer because they are the final users of the products and services (Ricardo, 1817:108 -121; Barro, 1989:38). According to Ricardo, wages are paid for by the capitalists (Ricardo, 1817:108; Humphrey, 2004:18; Tsoulfidis, 2005:7). The view advanced by Ricardo did not get resonance with other economist; the scepticism and criticism in his views were premised on that these opinions added nothing which was new and was not going to add any value in the general theory of taxation (Barro, 1989:39-40; Tsoulfidis, 2005:7). Despite the misgiving that were held by the economists, the opinions advanced by Ricardo on the rent was later used as the basis for the revival of the single tax and for the proposals in the ideology of nationalisation of land and in In Ricardo's theory the assumption has been that the economic activities will happen without the state intervention (Ricardo, 1817:121; Humphrey, 2004:17 Tsoulfidis, 2005:7).

The government has the responsibility to optimally provide the required services to the citizens and collect revenue from various sources to provide public services and use

the revenue in meeting the needs of the citizenry, in the mixed economies, the most common source of revenue is taxation (Engen & Skinner, 1996:618-619; Bird & Zolt, 2003:24; Rondinelli, 2007:1; Huxham & Haupt, 2012:2; Akintoye & Tashie, 2013:223). In this study four theories will be applied and they are not necessarily arranged in order of importance and it is not the exhaustive list of theories of taxation because there are a myriad of theories, however this study will confine itself to the following: Who will benefit; Who will pay? The cost of service theory and the Distributive justice theory because of their direct relevance to the study undertaken the discussions of these theories are as follows:

### **3.2.1 WHO WILL BENEFIT THEORY?**

Where the benefit theory is used, the tax levels are automatically determined; because taxpayers pay proportionately for the government benefits that they receive (Ramsey, 1927:47; Chigbu, Eze & Ebimobowei, 2012:31; Bird & Wilkie, 2013:285). The individuals who benefit most from the public services pay the most taxes. It can however be argued that this can be theoretical rather than practical, because the government usually provide standard services to everyone without giving consideration as to who is the main contributor of taxes (Bird & Wilkie, 2013:293; Ebimobowei & Ebiringa, 2012:16). In analysing the “who will benefit approach”, two models have been discussed, the Lindahl and the Bowen model (Akintoye, 2013:227-228). The Lindahl model is focused in trying to resolve the three problems which are: Extent of state activity; Allocation of the total expenditure among various goods and services; and allocation of tax burden (Akintoye, 2013:227). It can therefore be argued that in practice government deals with differently the allocation of resources, because in terms of section 227 of South African Constitution of South Africa the revenue is allocated to the local government in terms of the equitable share of the revenue that is raised nationally in order to enable the local government to provide the basic services to the communities, and the formula that is used is formula based mechanism that ensures that the allocation are objective, transparent scientific and beyond manipulation and the grant covers the basic grant services, grant institution, the tax base equalisation and matching grant supplement which gives no consideration to who is the main contributor.

The Bowen model demonstrate that when social goods are produced in circumstances wherein there is increasing costs, the opportunity costs of the private goods is sacrificed (Rai, 2004:100; Chigbu, Eze & Ebimobowei, 2012:31; Akintoye, 2013:228). The Bowen model due to the implication that it has on the increasing costs and the foregoing of opportunity cost has operational significance, therefore when operational decision are taken it influences that (Akintoye, 2013:228).

The who will benefit theory indicates that there is direct correlation that exists between revenue and expenditure that is in a budget and it approximates market behaviour in the allocation procedures and processes of the public sector (Muriithi & Moyi, 2003:3; Giersch, 2007:3-5; Kaplow, 2010:6-7; Chigbu, Eze & Ebimobowei, 2012:31). Despite the who will benefit theory being regarded as simple; it however has certain number of inherent difficulties that are imbedded in the model and they include evidence from the discussion above that the who will benefit theory has the propensity to can limit the scope of government activities because the element of who will benefit will have to play a role in the government decision and this is not practical as is not all citizens who will have the capacity to pay for the services that they receive. Pursuing this way of reasoning can also make it difficult for the government to neither support the poor nor take steps that will be aimed at stabilizing the economy because their decision making processes will have to be influenced by who will benefit from such actions. It can further be argued that the practicalities of implementing the benefit theory can be a challenge because it can only be applicable in instances when the beneficiaries can be observed directly and the expectation from government to have the capacity to can make such observation is a near impossible challenge.

According to the who will benefit theory, the state should levy taxes on individuals according to the benefit conferred on them, which therefore means that, the more benefits a person derives from the activities and the services of the state, the more one should pay tax to the government (Bittker, 1947:644-645; Bird & Wilkie, 2013:285). It can be argued that this cannot be practically implementable because, people are not economically equal and the fact that in all probability there is a need to integrate communities it cannot be possible to cater for one taxpayer differently from the other. The principle of who will benefit theory has been subjected to certain criticism and the bases of such criticism are that if the state were to decide to maintain

a certain connection between the benefits that it confers and the benefits and services derived, such position will be against the basic principles that is imbedded in tax, wherein tax is regarded as a compulsory contribution made to the public authorities to meet the expenses of the government and the provisions of general benefit and there is no direct *quid pro quo* in the case of a tax (Bittker, 1947:644-645; Slemrod, 1994:343; Chigbu, Eze & Ebimobowei, 2012:31).

Most of the expenditure that the state incurs is for the general benefit of all its citizens, and it is therefore impossible to make estimation on the benefit that is enjoyed by a particular individual every tax year or any other period (Bittker, 1947:644-645; Engen & Skinner, 1996:618-619; Bird & Zolt, 2003:24;). If the who will benefit principle were to be applied in practice, it could adversely affect and burden the poor in that they will have to carry and pay the heaviest tax burden, because they are the ones who are depended and benefit the most from the services that is provided by the state and if it were to be that more is expected from the poor by way of taxes, that will be against the principle of justice (Bittker, 1947:644-645; Gaffney, 1971:408).

The principle imbedded in the benefit theory serves as the basis of taxation and is found on the reciprocal duties of protection and support between the state and its citizens and it can also be called symbiotic relation between the state and its citizens (Bittker, 1947:644-645). In return for tax contribution, the taxpayer receives the general advantage and protection which the government affords to the taxpayers and their properties (Groves, 1974:24; Bittker, 1947:644-645). However, it does not mean that only those who are able to and to pay taxes can enjoy the privilege and protection given to a citizen by the government because in practice every citizens enjoys the protection and privileges that are provided by the state (Bittker, 1947:644-645). As a consequence of the contribution received from the taxpayers, the government renders no special or commensurate benefit to any particular property or taxpayer (Musgrave et al, 1948:36-37). The only benefit to which the taxpayer is entitled is one derived from the enjoyment of the privileges of living in an organised society established and safeguarded by the devotion of taxes to public purpose which every inhabitant enjoys and the government promises nothing to the person's taxes beyond what may be

anticipated from an administration of the tax laws for the general good of all (Bittker, 1947:666; Slemrod, 1994:343; Chigbu, Eze & Ebimobowei, 2012:31).

Taxes are essential to the existence of the government (Bittker, 1947:666; OECD, 2010: 19; Slemrod, 1994:343; Chigbu, Eze & Ebimobowei, 2012:31). Obligation to pay taxes does not rest upon the privileges enjoyed by or the protection afforded to the citizen by government, but upon the necessity of money as required by the state for its support (OECD, 2010: 19 - 22). Emanating from the aforesaid statement, it can be argued that it is for this reason that no one is allowed to object to or resist payment of taxes solely because no personal benefit to him can be pointed out as arising from the tax or as concomitant benefit from the taxes paid.

The relationship of government and taxpayers is not that of creditor and debtors, and therefore taxes cannot be subject to or regarded as compensation and there are material distinction that exists between a tax and a debt. Debts are due to the government in its corporate capacity, while taxes are due to the government in its sovereign capacity (Bittker, 1947:645; Slemrod, 1994:343; Chigbu, Eze & Ebimobowei, 2012:31). It can therefore be argued that tax is not a debt in the same ways a contractual debt is incurred, it can therefore be inferred that tax is a contribution that the government compels its subjects to make a contribution to the wellbeing of the country as a whole to enable the government to mean the public need of all its citizens, while a debt is choice that a person enters voluntarily into and is entered into in exchange for goods or services with the expectation of equal value of such goods or services while tax is compulsory not necessarily in exchange for anything.

### **3.2.2 THE ABILITY TO PAY APPROACH**

On the ability to pay approach, the government revenue and expenditures are treated separately and taxes are based on taxpayer's ability to pay and it derives from wealth as well as current income; there is therefore no '*quid pro quo*' in this instance (Gaffney, 1971:423; Chodorow, 2008:697 - 736; Zolt & Bird, 2003:29; Slemrod, 1994:343; Rai, 2004:58; Chigbu, Eze & Ebimobowei, 2012:31; Zhou & Madhikeni, 2013:49 - 60). Taxes paid are seen as a sacrifice by taxpayers, which raise the issues of what the sacrifice of each taxpayer should be and on how the measurement of such sacrifice

should be done (Berliant & Gouveia, 1999:2; Rai, 2004:100). The common sacrifices are equal and equal marginal sacrifices and equal proportional sacrifices.

Equal sacrifice, in using this principle, the total loss of utility as a result of taxation should be equal for all taxpayers and the rich will be taxed more heavily than the poor which makes the tax progressive rather than regressive (Young, 1986:204; Rai, 2004:27; Bird & Wilkie, 2013:285). For example, if it comes to the payment of tax, because R1 of tax is a small amount for a rich person than a poor person, it will be regarded as correct that the rich person should pay a higher rate than a poor person if all are to sacrifice equally and this means that the rich should be taxed more than the poor. It can therefore be inferred that a person in higher income group should pay more tax than those in the lower income groups. Equal proportional sacrifice, means that the proportional loss of utility as a result of taxation should be equal for all taxpayers, which means that everyone forgoes the same percentage of utility in paying taxes (Young, 1986:204-206; Rai, 2004:100; Bird & Wilkie, 2013:296). This means that the proportional loss that emanate from taxation should be equal for all the taxpayers. For example, a person earning R20 000 could pay tax of R2 000 and the one earning R10 000 paying R1 000, which means they both make equal sacrifice, even though in terms of the amount the another is higher but they are both 10%.

Equal marginal sacrifice, in this case the instantaneous loss of utility when determined as a measure by the derivative of the utility function as a result of taxation should be equal for all taxpayers (Berliant & Gouveia, 1999:2; Rai, 2004:100). This will involve the least aggregate sacrifice which means that the total sacrifice will be the least (Young, 1986:204; Rai, 2004:27). This means that since a person who has a higher marginal utility of income and a person with lower income have a higher utility of income; it therefore means that the rich will pay more taxes than the poor. The economists have put forward many theories or principles of taxation at different times that were used as guidance to the state as to how justice or equity in taxation can be achieved (Rai, 2004:72; Chodorow, 2008:740; Bird & Wilkie, 2013:293).

The most popular and commonly accepted principle of equity or justice in taxation is that citizens of a country should pay taxes to the government in accordance with their ability to pay (Zolt & Bird, 2003:16; Rai, 2004:72; Chodorow, 2008:740; Batt, 2012:71;

Guj, Bacoum, Limerick, 2013:5,14; Bird & Wilkie, 2013:284-285). It can therefore be argued and appears reasonable and just that taxes should be levied on the basis of the taxable capacity of an individual, and in using this principle it can therefore be stated that if the taxable capacity of one person is greater than that of the other person, that a person who earns more should be asked and expected to pay more taxes in comparison with the one who earn less. It can further be argued that if the taxes are levied on this principle as stated above, then justice can prevail and be achieved and the tax burden will then be evenly spread based on the ability of the person to pay such taxes. There are however differences of opinion by the economists on the definition of ability to pay, this is mainly on the exact measure to a person's ability or faculty or capacity to pay the taxes (Waris, 2007:293; Furman, 2008:8; Batt, 2012:70; Bird & Wilkie, 2013:296). It can be argued that it is clear from the discussion of ability to pay approach that taxation emphasises that the amount of tax emanating from an economic activity should be directly proportional to the ability of that particular entity to pay the taxes, conversely a person who is having a higher income should also be taxed more as compared to the person who is having low income. The ability to pay approach have following main viewpoints on which is founded: ownership property, tax on the basis of expenditure, income as the basis proportionate principle, revenue from private income, irregular income and the revenue from state ownership.

### **3.2.2.1 OWNERSHIP OF PROPERTY**

Some of the economists are of the view that , the ownership of property can be a good determinant and can therefore be used as a the basis for measuring a person's ability to pay taxes, however this is not irrefutable finding, and the idea has been precluded on the ground that it mean that if a person earns a large income but not spend it on buying any property, such person will then escape taxation, so the ownership of property should not be used as the only basis for paying taxes there should be other consideration rather than the use of property ownership only (Musgrave et al, 1948:36-37; Groves, 1974:24; Zolt & Bird, 2003:16; Rai, 2004:58; Montesquieu, 207; Furman, 2008:8; Guj, Bacoum, Limerick, 2013:14). It will further mean that if on the other hand, another person earning income buys property; he will be subjected to taxation, in which case it will be argued that taxpayers will then deliberately avoid buying property as a way of ensuring that they do not pay taxes. The use of ownership of property as

the basis for ability to pay taxes is not sustainable and can distort the revenue collection methodologies and will be unfair to a person who decides to make investment in properties despite the amount of income earned and it can discourage people from using their income for fear of being taxed. The issue of taxing or not taxing should therefore depends on how the tax is structured by the taxpayer (Musgrave et al, 1948:21; Groves, 1974:24; Morgan & Prasad, 2009:1365).

### **3.2.2.2 TAX ON THE BASIS OF EXPENDITURE**

In the other opinion of some economist they asserts that the ability or faculty to pay tax should be determined by the expenditure that a person incurs, which therefore means that the greater the expenditure that a person incurs, the higher should be the tax liability and the converse should hold (Rothbard, 1970:114 Guj, Bacoum, Limerick, 2013:5,14;). This particular viewpoint has also been regarded as being unsound and unfair to the taxpayer as a person having a large family to support will in no doubt incur a larger expenditure in contrast to a person with a smaller family and person who is a stingy will then save oneself from tax liability. It can therefore be argued that if the expenditure is used as the test of one's ability to pay tax, then the former person who is already burdened expenditure wise with many dependents will also have to pay more taxes than the latter who has a small family this will be contrary to the equity that is supposed to be found in tax and it will be unjustifiable (Slemrod, 1994:2; Zolt & Bird, 2003:16; Rai, 2004:72; Guj, Bacoum, Limerick, 2013:5 -14).

### **3.2.2.3 INCOME AS THE BASIS**

In the opinion of other economists, the income should be used as the basis of measuring a person's ability to pay taxes, the use of income as the basis of taxation, on the face value it appears the more justifiable arrangement and fair one, which means that the greater the income of a person than that of another, the former, who has a larger income should be asked to pay more toward the support of the government than the latter who have less income (Hausman, 1985:215; Young, 1986:204; Slemrod, 1990:163-164; Rai, 2004:44, 58; Zhou & Madhikeni, 2013:51). It can therefore be argued that this is the best way of dealing with tax matters because it allows those who are indigent to benefit from those who can afford, and has an element of cross subsidisation on taxpayers or citizens in different income levels. In

the modern tax systems in many countries in the world, this basis of taxation has been accepted as the best test for measuring the ability to pay tax per person (Hausman, 1985:213; Rai, 2004:58 Guj, Bacoum, Limerick, 2013:14). It can also be inferred that in scanning the South African tax system, it is also premised on similar type of tax, wherein those who are able to pay and having the income capacity are the ones who carry the most burden.

#### **3.2.2.4 PROPORTIONATE PRINCIPLE**

In the justification of the idea of justice in taxation, J.S, Mill and some other classical economists have suggested that the principle of proportionate taxation is important, these economists were of the opinion that if taxes are levied in proportion to the incomes of that individuals receives or earns, it will extract equal sacrifice (Young, 1986:204-206, 203; Rai, 2004:100; Guj, Bacoum, Limerick, 2013:136). It should also be noted that the burden of taxes borne by the taxpayers should be distributed in proportion to the ability of the taxpayer, which means that it should be progressive in nature and it is through this progressiveness that will create the fairness that is expected of the tax system (Rai, 2004:1-58; Chodorow, 2008:737-737; Furman, 2008:10; Galle, 2009:68). The modern economists, however, they have a different view and they emphasised that when income increases, the marginal utility of income will decrease and the equality of sacrifice can only be achieved if the persons with high incomes are taxed at higher rates and those with low income are taxed at a lower rate, these economists favour the progressive system of taxation which is said to be acceptable in all modern tax systems (Berliant & Gouveia, 1999:2; Young, 1986:204; Rai, 2004:44 -58; Zhou & Madhikeni, 2013:49).

Modern and democratic states have to perform diverse duties in promoting the welfare of their citizenry, and for the performance and delivery of these functions, financial resources are required and needed and every government therefore tries to meet its annual expenditure from taxes and from sources other than taxation (Musgrave et al, 1948:21; Akintoye & Tashie, 2013:225). The revenue sources of the state can be classified under the following headings:

### **3.2.2.5 REVENUE FROM PRIVATE INCOME**

A government derives revenue from citizens in the form of taxation and from other non-tax sources which includes fees, prices, special assessments and rates etc., this is however not an exhaustive list of all the sources of government revenue (Musgrave et al, 1948:21; Doran, 2009:112; Akintoye & Tashie, 2013:225). The relationship of government and taxpayers is not that of creditor and debtors, and therefore taxes cannot be subject to or regarded as compensation and there are material distinction that exists between a tax and a debt, debts are due to the government in its corporate capacity, while taxes are due to the government in its sovereign capacity (Bittker, 1947:645; Slemrod, 1994:343; Chigbu, Eze & Ebimobowei, 2012:31). The obligation to pay taxes does not rest upon the privileges enjoyed by or the protection afforded to the citizen by government, but upon the necessity of money as required by the state for its support (OECD, 2010: 19, 22). Emanating from the afore said statement, it can be argued that it is for this reason that no one is allowed to object to or resist payment of taxes solely because no personal benefit to him can be pointed out as arising from the tax or as concomitant benefit from the taxes paid.

### **3.2.2.6 IRREGULAR REVENUE**

The irregular revenue are the type of income that is not necessarily generated through a particular service, they however results in some instances without the expectations and they are at times the results of infringements of the legislations by the citizens, in which case they end up having to pay and this includes items such as gifts, penalties, war indemnities and many others, which are aimed at extracting wealth from taxpayers and they also seem to encourage taxpayers to comply with their tax obligations (Zelenak, 1991:382; Doran, 2009:112; Guj, Bacoum, Limerick, 2013:5). It has been established that the different tax systems contends with the challenge of taxpayers who are not compliant with their tax payment obligations and the government or the revenue authorities make use of the economic deterrent theory in dealing with the tax collection challenge (Hasseldine & Bebbington, 1991:299; Franzoni, 1999:52). The economic deterrent theory, is regarded as one of the major theoretical areas that have an impact on tax compliance and is regarded as being effective because it forces the taxpayers to comply when faced with fines and penalties and even imprisonment becomes a possibility in certain instances ( Frey, B.S. 2003: 385; Devos, 2007:182;

Slemrod, 2007:38,43 SARS, 2011:5 – 12; SARS, 2014:2 - 5). Economic deterrent theory encompasses deterrence by punishment, which may be a retrospective interference, which hold out a threat of whenever there is a commitment of wrong by the taxpayer and can unleash the punishment (Franzoni, 1999:60-61; Frey, B.S. 2003: 385; Guth & Sausgruber, 2004:1; Feld & Frey, 2006:2; Devos, 2007:184 - 387; Feld, Schmidt & Schneider, 2007:1). The economic deterrent theory assumes that taxpayers are moral profit seeking and their action are motivated by the calculation of costs and the opportunities that come with that which as indicated is an assumption which does not always hold as there are many dynamics that influences the way how taxpayers behave. Emanating from the impact that economic deterrent theory has on taxpayers, in the taxpayers' management of their tax affairs, they make consideration of the probability of being caught against the cost of the offence, the taxpayer apply the economic rationale with the assumption that the taxpayer will evade taxation as long as the concomitant pay off of the tax evasion is greater in comparison with the expected cost of being caught (Hasseldine & Bebbington, 1991:302; Franzoni, 1999:56 - 61; Guth & Sausgruber, 2004:1 ;Feld & Frey, 2006:2). It is an established fact through theoretical study, that the economic deterrence has a positive impact of deterrence of tax evasion because economic deterrent theory emphasises the use of threat, coercion and intrinsic material incentives in which case they will use interests rates, perceived probability of being caught in the case of evasion, legal consequences that can come with being caught and the severity thereof (Hasseldine & Bebbington, 1991:303; Feld & Frey, 2006:9; Pfister, 2009:5).

### **3.2.2.7 REVENUE FROM STATE OWNERSHIP**

A government, even though it is not a business, also receives income from the different assets which it owns, such sources includes money from state buildings, local resources, and other fruitful enterprises and many other properties of the state out of which income could be generated ( Hayson & Kane, 2009:5; Gorte, Vincent, Hanson & Rosenblum, 2012:1-2). State ownership can also be called public ownership, government ownership or state property, and it involves control of any assets or enterprise which might be at different spheres of government, that is national, provincial or local sphere of government and can be used as a source of income for the state (OECD, 2009:6-17). In the market based economy like South Africa, the state

owned assets are managed in some instances jointly with the other shareholders in the public arena, with the government have either controlling stake or as an associate with due influence on the running of the company(OECD, 2009:6-17). The state owned enterprise can be for profit in some instances while they can also operate as non-profit entities (OECD, 2009:6-17).

### **3.2.3 THE COST OF SERVICE THEORY**

In the view of some economists the state should charge the actual cost of the service rendered to the people, and they contend that it is only through this that it will satisfy the idea of equity or justice in taxation (Zolt & Bird, 2003:29; Rai, 2004:72; Chodorow, 2008:740; Guj, Bacoum, Limerick, 2013:5; Bird & Wilkie, 2013:284-285). The cost of service principle can in no doubt be applied to some extent in those cases where the services are rendered out of prices and are a bit easy to determine, like postal service, railway services, supply of electricity services etc. (Chigbu, Eze & Ebimobowei, 2012:29; Ebimobowei & Ebiringa, 2012:16). But most of the expenditure incurred by the state cannot be fixed for each individual because it cannot be exactly determine even if it were, it will have been impossible for other citizens to afford such services and the other challenge with this theory is that it has difficulty in measuring the cost of service of areas like the police force, army, and judiciary as well as on the different individual services, this theory seems impractical and cannot be accepted on the ground that there is no *quid pro quo* in tax (Chigbu, Eze & Ebimobowei, 2012:30; Slemrod, 1994:343). It is evident from this theory that the cost that is spent on the collection of taxes should not be excessive or exorbitant, because when it is costly to collect the taxes, it will have an impact on the amount of taxes collected and the amount of revenue that will be available for the fiscus to meet the needs of citizens, therefore the percentage cost of collection to tax collected should be nominal (Young, 1986:203; Waris, 2007:294; Alm, Kirchler, & Muehlbacher, 2012:133 -148). It can therefore be argued that there are similarities between this cost of service theory and the benefit theory, however the cost of service theory espouses the ratepayers should not reimburse the state for the service provided and this will have a different implication in South Africa in that the indigent might not be able to reimburse the state for the service that is provided to them.

### **3.2.4 DISTRIBUTIVE JUSTICE THEORY**

According to the distributive theory, everyone pays a fair share of tax without it being overstated or understated; the distributive theory is a perceived fairness of the final shape or outcome of resource allocation event and is typically evaluated with respect to the equity of those outcome distributions (Alvey, 1999:8; Neill, 2000:118-119; Feld & Frey, 2006:4). Distributive justice theory incorporates the equity, equality and need rules for defining fairness and the conceptual distinctions underlying these three rules help in describing the tax system from a distributive fairness perspective (Neill, 2000:118-119; Besley & Persson, 2007:4,15; Devos, 2007:182). Distributive theory is explored in relation to compliance and it has a significant role in the process of tax compliance, however the outcome of the distributive justice theory on compliance tend to vary inconsistently, while some studies have shown positive impact, other have no impact at all (Musgrave, Carroll, Cook & Frane, 1951:8; Neill, 2000:118-119; Devos, 2007:182; SARS, 2011:5 – 12; SARS, 2014:2 - 5).

### **3.3 CONCLUSION**

It is evident from the preceding discussion that compliance times in tax remain necessary under any tax system; however the reduction of compliance costs will have stimulus effect on the economy of a country (Rai, 2004:27; Laffer, Winegarden & Childs, 2011:12; SARS, 2011:5 – 12; SARS, 2014:2 - 5). Emanating from the discussion of the tax maxims as outlined they may be interpreted in terms of the broader principles of social justice which demand that taxation should not only be equitable in the sense of impartiality but there should be element of fairness and it is also evident from the discussion of the ability to pay and the equity of sacrifice that they are be designed in such a way that reduces economic inequalities and has the ability to redistribute wealth (Rai, 2004:72, 100; Chodorow, 2008:740; Demir, 2011:59; Young, 1986:204; Guj, Bacoum, Limerick, 2013:5 -14). One of the very important subjects of taxation is the problem of incidence of a tax, the incidence of taxation refers to the final money burden of a tax or final resting place of a tax, it is the desire of every government that it should secure justice in taxation, but if it does not know as to who ultimately bears money burden of a tax or out of whose pocket money received, it cannot achieve equality in taxation (Musgrave, Carroll, Cook & Frane, 1951:8; IRET, 2004:2- 51). It is only when the government knows who pays tax that it can evolve an

equitable tax system and it can easily tap important sources of taxation and ultimately collect large amount of money without adversely affecting economic and social life of the citizens of the country (Akintoye & Tashie, 2013:223).

Taxes being reality in people's lives, they should be designed in such a way that they promote those broader economic goals that the society is pursuing. It is also clear that certainty principle can be translated into the modern protest against too frequent and retroactive tax changes which creates difficulty in the lives of taxpayers (Musgrave, Carroll, Cook & Frane, 1951:8; IRET, 2004:2- 51). Modern innovation such as the pay as you earn system and provisional tax provide for taxes to be collected at the times most convenient to the taxpayer, that is when the means to pay are there. Taxpayers always prefer economical taxes that have low administrative cost and are efficient (Musgrave, Carroll, Cook & Frane, 1951:8; IRET, 2004:2- 51).

It is clear from this study that the principles and theories of taxation that the basic principles of a sound tax system are based on fiscal adequacy, the sources of revenue should be sufficient to meet the demands of public expenditure (Akintoye & Tashie, 2013:223; Chavez v Ongpin, 18 SCRA 331). It is evident from this study that a sound tax system should also promote equality or theoretical justice, which means that the tax burden should be proportionate to the taxpayer's ability to pay as was discussed in the theory of ability to pay (Ramsey, 1927:47; Rai, 2004:58; Guj, Bacoum, Limerick, 2013:11). It can also be concluded that the other critical element of the sound tax system is the administrative feasibility, which means that tax laws, should be capable of being convenient, just and effective administration (Akintoye & Tashie, 2013:223; Chavez v Ongpin, 18 SCRA 331). Tax possesses the power that can destroy and should be exercised with care in order to avoid or minimize the damage of the proprietary right of the taxpayer (Akintoye & Tashie, 2013:223; Chavez v Ongpin, 18 SCRA 331). It can therefore be concluded that tax collection must maintain the general public's trust and confidence in the government, this power must be used justly and not deceitfully. The power of taxation, being purely legislative and government cannot delegate such power, this limitation arises from the doctrine of separation of powers among the three spheres of government and taxpayers are not relieved from the obligation of paying a tax because of his belief that it is being misappropriated by

certain officials, for otherwise, collection of taxes would be hampered and this may results in the paralysation of important government function.

It can therefore be concluded that the power of taxation proceed upon the theory that the existence of government is a necessity, that it cannot continue without means to pay its expenses; and that for these means, it has a right to compel all its citizens and property within its limits to contribute (Groves, 1974:24; Montesquieu, 207; Morgan & Prasad, 2009:1380; McMohon, 2009:2; Huxham & Haupt, 2012:1).The basis of taxation is found in the reciprocal duties of protection and support between the state and its inhabitants in return for the contribution, the taxpayer received benefits and protection from the government and this is the so called benefit received principle(Oakland & Testa, 2000:4, 8-10; Neill, 2000:118; Matobela, 2012:3 - 7).

The life blood theory constitutes the theory of taxation, which provides that the existence of government is a necessity that government cannot continue without means to pay expenses, and that for these means it has a right to compel its citizens and property within its limits to contribute (Groves, 1974:24; Montesquieu, 1748:2 - 244; OECD, 2008:3).Taxes are the lifeblood of the government and should be collected without unnecessary hindrance and it is what paid for a civilized societies because without taxes, the government should be paralyzed for lack of motive power to activate and operate it and the government, for its part, is also expected to respond in the form of tangible benefits that are intended to improve the lives of the people and enhancing the moral and material values of the country and its citizens (Manica, 1981:320; Oakland & Testa, 2000:4 -10; Neill, 2000:118; Matobela, 2012:3-7).

In the chapter that follow the study will focus on revenue collection best practice.

## **CHAPTER 4: REVENUE COLLECTION BEST PRACTICE**

### **4.1 INTRODUCTION**

All revenue collection authorities are different and are faced with different environment in which they operate as they administer their revenue collection responsibilities as well as their concomitant mandates coming from their government, which came about as the citizenry interacts with his or her nation's tax administration (OECD, 2004:8; Kidd & Crandall, 2006:1; Huxham & Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13). The inherent perception that a tax administration is effective, efficient and is therefore a fundamental component that drives the public confidence in government and every government should therefore desire to be in such position, as the trust that is bestowed by the citizens to their government is important (Bird & Zolt, 2003:9; Smith, 2003:1; Fjeldstad & Moore, 2006:1). It is the responsibility of every government to ensure that every cent that is collected and when such money is spent, it yields the maximum benefit for citizens (Smith, 2003:1; Fjeldstad & Moore, 2006:1).

The principal differentiator of the different revenue collection authorities are the jurisdictions from where they operate which is driven by the policies, administrative practices, culture as well as the legislative environment, however the core competencies for tax administration are the same in every country which entails informing and educating the taxpayers of their obligations, processing of submission of the tax returns and ensuring that they are accurate (Fjeldstad, 2004:1; Andrulis & Barton, 2002:1; Mofolo, 2012:67-69; Mofolo, 2012:25-28; Rasila & Modau, 2012:44). They also have to perform their key function which is to collect taxes and if need be provide assistance to the taxpayers (Frey, 2003:285; Smith, 2003:1; Slemrod, 2007:25; Croome & Olivier, 2010:1). It will have to be noted that different revenue collection environment require different complexities to drive the revenue collection (Fjeldstad, 2004:1; Andrulis & Barton, 2002:1; Mofolo, 2012:67-69; Mofolo, 2012:25-30; Rasila & Modau, 2012:44). Looking into best practices does not mean that a practice in one revenue collection environment can be cut and pasted on the other, it however mean that the core principles are the ones that can be taken and adopted and adapted to the new environment. In every revenue collection environment there are certain complexities that are only unique to that particular environment and they are shaped

by the particular approach that is pursued in such environment (Fjeldstad, 2004:1; Andrulis & Barton, 2002:1; Mofolo, 2012:67-69; Mofolo, 2012:25; Rasila & Modau, 2012:44). The practice that is highly appreciated one environment may be found to be impractical, wanting and even undesirable in another environment, it therefore requires that as best practices are admired and adopted these considerations are born in mind in order to fully appreciate the complexities that are embedded in the different revenue collection environment (World Bank, 2007:7,20;).

There are certain elements or key functions that are available to the best practice revenue collection environment. This study will confine itself to the following elements: How they deal with revenue collection compliance measures and remedies, How they treat taxpayers and deal with taxpayers obligations, How they manage their staff, Adherence to the ethical values within the revenue collection environment, and Risk management that is inherent within the revenue collection environment.

#### **4.2 COMPLIANCE MEASURES AND REMEDIES**

Tax administrations that perform well they know their tax bases and as a result of that understand their tax gap (Misra, 2004:326; OECD, 2004:8; Kidd & Crandall, 2006:1; Feld, Schmidt & Schneider, 2007:2; Huxham & Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13; Westly, 2006:4-7). The tax gap is the difference that exists between what would be determined if all taxpayers had reported all their activities and transactions correctly, and the tax determined in practice and this is one of the most important measures of effectiveness of the policy and administration of a tax system (Westly, 2006:4-7). It is therefore critical that every revenue agency knows its responsibility and understand its tax base and the tax gap that it should content with and devise the strategies to deal with such tax gap in order to narrow it to a level they they will be comfortable with.

The tax administrators who are performing at their best level have the capacity to close the tax gap by understanding the complete non-filing, under-reporting and potentially fraudulent universe in order to prioritize the revenue collection. They have the ability to identify non-payers and collect monies owed from those most likely to pay (Misra, 2004:3-6,24,30; Westly, 2006:4-7; OECD, 2004:8; Kidd & Crandall, 2006:1; Huxham &

Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13). They can also accelerate the tax recovery and collection, and increase the revenue performance through the data driven decision making and mobilise additional revenue by increasing their collection efficiency (Sohne, 2003:3). It can therefore be argued that the government through the use of their revenue collection agencies can increase their reach and fiscal depth and resolve some of the challenges that they face if they were to increase or have access to additional resources.

The revenue authority should have the capacity to streamline its recovery, audit and collection process of taxes and increase the revenue from taxes, fees and fines (Sohne, 2003:3; Westly, 2006:14). This will enable the revenue authority to identify, verify and prioritise high value businesses for collection (Sohne, 2003:3; Westly, 2006:8). They also know how to use their scarce resources on cases that they know they have the highest probability of tax liability and largest amount owed with the data centric prioritisation and they know how to improve discovery, streamlining the examinations and audit selections, making successful collections and forecasting the expected revenue and collections (Misra, 2004:30; Misilingi, 2013:31; Westly, 2006:14).

According to Andreoni, Erard and Feinstein (1998:818), the problem inherent in tax compliance are as old as the all the taxes themselves. The process of revenue collection and compliance involves performance management, target setting and talent management. The core functions that are performed by the revenue authorities includes submission processing which entails all the activities that pertains to receiving returns or the withholding of income which will cover both cumulative and non-cumulative withholding activities, examination, which will entail all the activities that seek to validate and verify the balance due of a taxpayer and this will include data checking, auditing, calculating balance due from the non-tax filers. It also covers the process of collections, which is the processing of collecting balance due from delinquent taxpayers, typically will include correspondence , phone and field activities and the taxpayers service which entail providing assistance to the taxpayers with questions on filing, collections and audits., through a comprehensive outreach and education programs, call centres, web sites, and tax administration offices, this is often

measured through taxpayer satisfaction or wait-time lengths (Frey, 2003:385; HSRC, 2011:54; von Soest, 2006:1; Dwyer, 2004:36; Guj, Bacoum, Limerick, Meaton & Maybee, 2013:43; Ayadonghan & Igbeng, 2013:8).

Some of the best practices that are instituted by the revenue authorities are the good customer or taxpayer service and demand management in revenue collection, which deals with the minimizing the new balance that is due as a share of the total tax administration revenue that is collected or to be collected (Vazi, 2008:49; Cleary, 2009:44; Russell, 2010:1-13). It can therefore be reported that demand management can be used to reduce the share of debt that is entering the collections stage. By using the demand management systems, the new balances that can be due as a share of total administration revenue will be less. But even those countries with small shares of collections stage debt have opportunities to improve their efficiency and effectiveness.

There are various ways that could be implemented by the Revenue authorities in order to reduce the balance that is due and entering the collections phase, and some of the ways may include making use of the legislative action and substantial operational change, in the form of establishing a dynamic pay as you earn system as was the case in Ireland and also increasing the taxpayer or customer service levels (Vazi, 2008:2; Cleary, 2009:44; Russell, 2010:1-13). These type of system not only withholds taxes but it also have the capacity to adjust, at regular pay intervals, the amount of tax that should be withheld from individuals and another option might be to require that the taxpayers are required to make payment of the entire debt at the submission stage (Russell, 2010:1). It can therefore be argued that this type of setup will theoretically decrease the amount of balance that is due and entering the collections stage.

Revenue authorities can also conduct a risk based analysis for initiating collections action (OECD, 2004:16; Russell, 2010:1; SARS, 2011:3 – 16; SARS, 2012:4; SARS, 2013:16 -19; SARS, 2014:26 -29). Many countries in our sample wait too long, sometimes more than 100 days before initiating action. Our experience in private sector collections suggest that as the debt ages, the likelihood of it being collected declines. Some revenue authorities take the opposite approach, classifying balance due age's debt immediately, and initiate collection activities even in cases that might

have eventually resolved themselves and the tax administrations should understand the patterns and timing collections (Verhoest, Peters, & Verchuere, 1996:32; OECD, 2004:8; Kidd & Crandall, 2006:1; Huxham & Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13).

On the current macroeconomic environment, the collection function that is responsible for collecting balances due from the delinquent taxpayers through correspondence, telephone, and field activities, has taken on even greater importance (Russell, 2010:1,7). Improved performance in collections could provide much needed additional revenue at a time when tax revenue is declining considerably (Russell, 2010:1; Biraud, 2011:5).

The value at stake, both effectiveness and efficiency, is vital and critical in revenue collection and has substantial impact on the performance of the revenue authority. If those countries that are least effective in collections were to achieve the effectiveness of middle tier countries in our sample and if the middle tier countries were to achieve the top tier effectiveness, it was estimated by McKinsey and Company that they would boost their effectiveness by an average of 25% (Dohrmann & Pinshaw, 2009:23). The tax revenue collection system is useful for revealing gaps in knowledge or failure to follow proper procedures, helping the tax administration constantly find ways in which they can improve both the effectiveness and efficiency of revenue collections (Verhoest, Peters, & Verchuere, 1996:32; OECD, 2004:8; Kidd & Crandall, 2006:1; Huxham & Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13).

High performing tax administration is not only about measuring performance it also uses performance measurement as part of the broader strategic and operation planning that is found, the quality of examination is assessed through a review process and most revenue collection authorities, conduct the reviews of cases that are in process as well as cases that have been closed and some provide quarterly performance assessments of each industry group in order to have an understanding on the trends and workings of the revenue collection methodologies (Willis, 1996:7).

Another major driver in the best performing revenue collection authorities includes the performance on the tax administration's capabilities in taxpayer segmentation. Segmentation can be explained as the identification and classification of distinct customer groups (Torgler, 2003:16 -17; OECD, 2004:16 - 71; Kidd & Crandall, 2006:26 - 91, SARS, 2010:50 -69; Cattarelli, 2011:64). Tax administration can then develop and create customised approaches that will meet the need of each group. Taxpayers segmentation and treatment can be based on taxpayer characteristics, that refers to either being individual or business, debt characteristics which refers to value or age of debt, and the level of risk or the complexity that are involved in the collection of debt (Torgler, 2003:16 - 17; OECD, 2004:16, 71; Kidd & Crandall, 2006:26 – 91; SARS, 2010:50 -69; Cattarelli, 2011:64; SARS, 2012:4; SARS, 2014:26 - 29). The best practice segmentation in the collections functions includes an assessment of taxpayer's willingness and ability to pay the taxes, as well as values in monetary terms of what is at risk (Torgler, 2003:16 -17; OECD, 2004:16 – 71; SARS, 2010:50 -69; Cattarelli, 2011:64; SARS, 2011:3 – 16; SARS, 2012:4; SARS, 2014:26 -29).

Different tax administrations are at different stages in their use of segmentations. One revenue collection authority may have developed a comprehensive segmentation portfolio and continually mines taxpayer data to refine its operating model while others may still be in infancy stages (Torgler, 2003:16 - 17; OECD, 2004:16 - 71; Kidd & Crandall, 2006:26 - 91; SARS, 2010:50 -69; Cattarelli, 2011:5 - 64). There could be instances wherein, a revenue authority may calculate the revenue contribution of its various industry sectors and then take a decision to prioritize one large business taxpayer segment and focus on such sector or business (Torgler, 2003:16, 17; OECD, 2004:16 - 71; Kidd & Crandall, 2006:26 - 91; Cattarelli, 2011:5 – 64; SARS, 2014:26 - 29 ).

In developing their taxpayer's segmentation portfolio, leading tax administration first defines their objectives and guiding principles and this is used to align the organisation around key parameters such as the universe of taxpayers including the current taxpayers only, future taxpayers including student, the number of segments and the scope of the operating model which include specific functions and compared them (Torgler, 2003:16 - 17; OECD, 2004:16 - 71; Kidd & Crandall, 2006:26 - 91; SARS,

2010:50 -69;Cattarelli, 2011:5 - 64). Top performers revenue collection authorities, also prefer to learn from other organisation that are not necessarily involved in revenue collection, they also look to other industries, such as consumer goods or financial services, for innovation such as behaviour based segmentations (Torgler, 2003:16, 17; OECD, 2004:16 - 71;Kidd & Crandall, 2006:26 – 91; SARS, 2010:50 -69; Cattarelli, 2011:5 - 64). In addition, they use both internal and external information, including taxpayer data, surveys and focus group, government reports, and data from credit bureaus, to help them develop a granular understanding of taxpayer characteristics, behaviours, and pain points and they then pressure and stress test their segmentation with stakeholder and continually refine it until it perform at the level that they are satisfied with.

Developing the segmentation portfolio of taxpayers is only one in many steps that can be used by the revenue collection agencies (Torgler, 2003:16 - 17; OECD, 2004:16 - 71; Kidd & Crandall, 2006:26-91; SARS, 2010:50 -69; Cattarelli, 2011:5-64). A tax administration authority must then implement differentiated operating model for each of the segments that will have been identified, this should be done in the varying key messages, tone and method of their communication and according to the characteristics that is imbedded in each segment (Torgler, 2003:16 - 17; OECD, 2004:16 - 71; Kidd & Crandall, 2006:26 - 91, Cattarelli, 2011:5- 64).

Information technology also contributes to the revenue collection performance and revenue collection authorities ensure that they strengthen their IT environment to be able to meet their demands (Willis, 1996:7; Cattarelli, 2011:64; SARS, 2013:57). Strong performance is highly correlated with the effective use of IT in several functions and the strongest correlation between IT and increased efficiency occur where IT substantially reduces or eliminates manual work like data capturing technology in submissions and processing of information and instead start to make use of sophisticated web site features in taxpayer service that make it a worthwhile experience for the taxpayer to engage with(Willis, 1996:7; Cattarelli, 2011:64; SARS, 2013:57). It can therefore be argued that even though these are not always the highest profile investments that an organisation can make, once the investment is done it frees

up most resources, which can then be used and be reinvested in other initiatives that can improve effectiveness.

### **4.3 TAXPAYER RIGHTS AND OBLIGATIONS**

The ways by which revenue authorities interact with taxpayers and employees impact on the public perception of the tax system and the degree of voluntary compliance (Feld, Schmidt & Schneider, 2007:2; SARS, 2011:5 – 12; SARS, 2014:2 – 5; SARS, 2015: 29-33). Taxpayers who are aware of their rights and expect and in fact receive a fair and efficient treatment are more willing to comply (Dwyer, 2004:4; Fjeldstad & Moore, 2008:2, 4, 10; Goldswain, 2012:23; Cattarelli, 2011:22). Skills and committed employees who are valued and treated equitable will be more likely to act fairly and professionally in all their dealings with taxpayers’.

A major challenge of revenue authorities it to be responsive to the individual circumstances of the taxpayer while at the same time being consistent and responsiveness translates into accessibility, dependability and timely information service as well as the accurate and timely treatment of requests and appeals(Torgler, 2003:24-25;Misra, 2004:1; OECD, 2004:70). This can be achieved by constructing systems and procedures that are aimed more towards the needs of the taxpayers than those of the tax administration and there should be a link between taxpayers through single point of contact to ensure that services are available and where needed (Delay, Devas & Hubbard, 1998:35; Misra, 2004:44; Rai, 2004:101). Effort to develop enhanced electronic means of communication between taxpayers and the revenue authority which could include enabling the electronic submission of retunes, introducing facilities of electronic payments and on line access to account balances (Andrulic & Barton, 2002:7&10; Misra, 2004:94).

A good revenue authority consults with taxpayers and other stakeholders on changes to and the development of significant policies and procedures (Torgler, 2003:5, 17; Misra, 2004:44). It ensures that compliance costs are kept at the minimum level necessary to achieve good compliance with tax laws and the revenue authorities should also cooperate with other regulatory bodies in designing appropriate whole of government approaches to lessen compliance costs with due regard to the level of

interest of all levels of government (Delay, Devas & Hubbard, 1998:33-36; Torgler, 2003:5-25; Misra, 2004:11; SARS, HSRC, 2005:23 – 53; SARS, 2011:5 – 12; SARS, 2014:2 – 5; SARS, 2015: 29-33).

There should be improved consistency in the rules and procedures that are transparent, consistency implies ensuring that the rights and obligations of taxpayers complaint procedures, and redress mechanism are outlined and communicated through guides, form, public information and reduction programme (Tooma,2007:130; Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10; Goldswain, 2012:23;Cattarelli, 2011:22). It can therefore be inferred that it is the responsibility of the revenue authority to ensure that when they apply their rules and procedures they maintain consistency because lack of consistency could create doubts mistrusts on the taxpayers because they will be treated differently. The discussion that follow will deal with the rights of taxpayers, although the rights that are given to taxpayers does not reduce their chances of being audited or take away the role that is played by revenue authority. The role of the taxpayers' rights is to correct and to ensure that the official or the revenue authority act professionally without fear of prejudice and it provides for individual protection of the taxpayers 'rights in the tax collection process. The taxpayers 'rights that will be discussed in this study though not exhaustive include the following: Right to be informed; Right to impartial and fair treatment; Right to data confidentiality; Right to legal remedies; Right to special ways of payment of tax liabilities; and Right in connection with tax enforcement.

#### **4.3.1 RIGHT TO BE INFORMED**

Persons liable for tax have the following rights: To be informed on time and in an appropriate way about amendments to taxation acts and other regulations in connection with taxation and to receive explanation about the method for implementation of individual provisions from taxation regulations; To be informed about the method for calculating and payment of taxes; To see data about the status of their tax claims and liabilities; To be able to check data in tax records; Taxpayers have a right to receive information in writing about tax treatment of planned transactions or business events from the tax authorities when conditions are fulfilled.

In cases where taxpayers do not have representatives or advisers and due to ignorance they fail to use procedural rights, which they have in the tax procedures, they are reminded by the tax authorities which procedural acts they may perform for fulfilment of obligations and exercising of rights, so that taxpayers accurately declare charge and pay taxes or claim refund on time (Dwyer, 2004:4; Fjeldstad & Moore, 2008:2 - 10; Goldswain, 2012:23; Cattarelli, 2011:22; Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180).

#### **4.3.2 RIGHT TO IMPARTIAL AND FAIR TREATMENT**

Taxpayers have a right to be treated impartially by the tax authorities at execution of their authorisation and imposing measures the tax authorities shall not exceed what is absolutely necessary for fulfilment of objectives set by taxation regulation (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180; Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10;). At selection of several possible authorisations and measures the tax administration chooses those, which are more favourable for taxpayers if this fulfils the purpose for the law (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180; Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10;). It can therefore be argued that taxpayer have the right in terms of the taxpayer rights to be treated fairly and impartially, therefore in dealing with taxpayers, the revenue authority will have to ensure that the rights of the taxpayer are not trampled upon or undermined.

#### **4.3.3 RIGHT TO DATA CONFIDENTIALITY**

Taxpayers' have a right to confidentiality of data, which they submit to the tax authorities, and of other data in connection with their tax liabilities (Kasimbazi, 2004:21 - 41; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180; Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10;). These data are disclosed only in cases that are defined by law (Kasimbazi, 2004:21- 41; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180; Dwyer, 2004:4; Fjeldstad & Moore, 2008:2 - 10;). Can therefore be inferred that this is the reason why people who work for the South African Revenue Service are expected to sign the oath of confidentiality that is contained in section 4 of the Income Tax Act, 58 of 1962 to ensure that taxpayers' matters are safe and secured and the taxpayers information that they come across is never become a matter of

public discussion except if required in the court of law and the contravention of section 4 carries a fine or imprisonment or both.

#### **4.3.4 RIGHT TO LEGAL REMEDIES**

Taxpayers have right to legal remedies if they disagree with decisions of tax authorities. When conditions are fulfilled taxpayers may submit tax returns after the expiry of the time limit prescribed, they may correct insufficiencies or errors, they may correct tax return if tax liabilities are state too high and they may submit returns on the basis of self-declaration (Kasimbazi, 2004:21- 48; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:179-180;Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10).In case where a taxpayer disagrees with the assessment made by the assessment officer, he has the right to appeal to the Commission of Appeals within 30 days starting from the day which an assessment notice has been received (Kasimbazi, 2004:21-48;Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:179-180;Dwyer, 2004:4; Fjeldstad & Moore, 2008:2 - 10). Should the taxpayer disagree with the ruling of the commission of appeals, he has the right to appeal within 30 days starting from the day the ruling of the commission of appeals has been received. Should he fail to appeal within 30 days, he no longer has the right to appeal and must pay the whole amount of tax, fine and surcharge (Dwyer, 2004:4; Fjeldstad & Moore, 2008:2 - 10; Kasimbazi, 2004:21- 48; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:179-180).

At treatment of taxpayers that tax authorities shall act in accordance with principles of ethics of tax administration's employees and take into consideration personal dignity of taxpayers (Dwyer, 2004:4; Fjeldstad & Moore, 2008:2 - 10; Kasimbazi, 2004:21-48; Rzeszutko, 2008:89; SARS, 2010:42 – 43; Zenuni, 2014:14; Ciabanu, 2014:179-180).Taxpayers have a right to declare charge and pay only the correct amount of tax due and in a way and within time limits defined by law or acts on the basis of law (Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10; Kasimbazi, 2004:21 - 48;Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:179-180).

#### **4.3.5 RIGHT TO SPECIAL WAYS OF PAYMENT OF TAX LIABILITIES**

Taxpayers have a right to submit applications to the tax authorities, requesting write-offs, partial write-offs, deferment or payment of tax in instalments (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180). The right to appeal is not a deferral of tax payment and taxpayers who receive a tax assessment notice must pay tax on time as stated in the assessment notice (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180). However should he wish to wait for the hearing or decision of the commission of appeals, he has the right to defer tax payment by providing various securities as collateral in accordance with the rules and regulations of the revenue department (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180).

A taxpayer has the duty to file his tax return and pay proper taxes on time. Should he fail to do so, he will be subject to fine and surcharge on top of the tax due (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180). However, on some special grounds he may request for exemption or reduction of fine. A tax officer does not have the power under any law to exempt or reduce surcharge. Only in the case where the director general grant an extension of time period, then the surcharge may be reduced if overpaid tax is established, taxpayers have a right to refund of tax overpaid (Kasimbazi, 2004:21-37; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180). It can therefore be argued that the manner in which taxpayers are treated by the revenue collection authorities is also dependent on the level of engagement that a particular taxpayer does with the tax authority.

#### **4.3.6 RIGHT IN CONNECTION WITH TAX ENFORCEMENT**

In the tax enforcement procedure the tax authorities shall take into consideration personal dignity of taxpayers and provide enforcement with minimum possible unpleasantness for taxpayers (Kasimbazi, 2004:21-38; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180; SARS, 2014:6-11 ). Tax compliance is the basic obligation of taxpayers, which shall be fulfilled on the time notwithstanding their other obligations. Taxpayers can file a request for an instalment payment of tax arrears. However such payment must meet the requirements set by the revenue department

(Kasimbazi, 2004:21; HSRC, 2005:23 – 53; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33).

Persons liable for tax shall provide that tax authorities with true, accurate and complete data, which the tax authorities need for tax collection. In addition taxpayers shall state facts, on which their claims are based, and submit evidence, with which these facts are proven. At management of the tax procedure taxpayers shall cooperate with the tax authorities at establishing of facts to the debit of and for the benefit of taxpayers (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180). Taxpayers shall state their tax numbers in tax declarations, tax returns, applications, other documents and applications, addressed to the tax authorities (Kasimbazi, 2004:21; Rzeszutko, 2008:89; Zenuni, 2014:14; Ciabanu, 2014:180).

#### **4.4 STAFF MANAGEMENT**

In revenue collection environment where best practices are upheld, the management of staff is also key critical. The skilled and committed employees who are valued and treated are more likely to act fairly and professionally in all their dealings with taxpayers although salary and benefits paid to employees are not typically under the direct control of revenue authorities, along with opportunities for the development and advancement of careers, they can be instrumental in creating an attractive work environment (Davis, Pawana & Cappon, 1989:2; Biraud, 2011:39; SARS, 2013:13 - 16). Employee's skills should be matched to their task and there should be a high standard of support and development programmes for employees (Davis, Pawana & Cappon, 1989:2; Biraud, 2011:39). Effective training programs should address the impact of globalisation and related complex taxation issues (Davis, Pawana & Cappon, 1989:2; Ivanova, 2015:33).

Transparent and appropriate controls over the recruitment, promotion and dismissal of public officials contribute to the integrity of the administration (Biraud, 2011:5). The community trust in the administration of the tax system is further enhanced by administrative standards such as codes of conduct and rules of conflict of interests (Biraud, 2011:39). Codes of conduct define the behaviour and performance expected

from public official while reels of conflict of interest minimise the possibility of personal interest competing with public duties (Biraud, 2011:39).

Revenue authorities in the best practice environment communicate and uphold high ethical standards in employees; identify and resolve conflicts of interest between the public duties and private affairs of employees (Ivanova, 2015:19). Recruit and promote employees on the basis of merit and equal opportunity and protect them against arbitrary dismissal (Biraud, 2011:39). Communicate and uphold high professional standards by providing effective training opportunities to employees to enable them to address the complex taxation issues associated with globalisations (Davis, Pawana & Cappon, 1989:2; Biraud, 2011:39; Ivanova, 2015:19, 33). Remunerate employees at a level sufficient to attract and retain competent individuals (Ivanova, 2015:18).

High level of talent management are key critical for any organisation to realise benefits that emanates from staff (SARS, 2015:34 -60; Ivanova, 2015:18). Low level employees represent a substantial unrealised opportunity to drive performance through improvements to talent management practices. In the public sector, structured coaching and mentoring, stretch opportunities and career flexibility, and non-monetary rewards for performance have proven to be major drivers of performance improvement (Ivanova, 2015:33). Applying these principles has the potential to results in substantial improvements in the tax administration performance.

Harmonious employee relations are one of the most important factors in sustaining the favourable business environment in any organisation. In order to foster harmonious employee relations, the employer must be dedicated to promoting good people management practices. Good people practices should embody three main principles, which include employee oriented, law abiding, and equal and fair (Biraud, 2011:39). Through the adoption of good people management practices, employers will be able to build up a highly motivated and efficient workforce who will help enhance the competitiveness and productivity of an enterprise and sharpen its competitive edge.

Employer can adopt good people management practices in the five major aspects of employment; they include recruitment; selection; and offer of employment; staff

training; occupational safety and health at work; employer – employee communication; and termination of employment (Davis, Pawana & Cappon, 1989:2; Biraud, 2011:5, Ivanova, 2015:7,13). The employee best practice hope that this will facilitate employers of various trades and industries in fostering the three main principles of good people management so that employees will perform at their best. And this in turn will pave the way for future business success and contribute to the continuous development of harmonious employee relations.

#### **4.4.1 RECRUITMENT AND SELECTION**

Matching the person to the job is the first step in the overall staffing process and prior to the recruitment exercise to find and attract capable job applicants, an employer should conduct a job analysis to think about the requirements of the post and the type of person need to fill it, and draw up an objective and well defined job description to set out duties, responsibilities and working conditions and he qualifications needed to perform the task satisfactory (Biraud, 2011:39; Ivanova, 2015:7, 13).

In the selection process in order to shortlist and decide on the most suitable candidate, an employer should use a list of consistent selection criteria to assess the capacities of each candidate to minimise bias and to avoid discrimination, and to obtain information about applicant that is relevant to selection and avoid unnecessary enquiries which may cause perception of discrimination, and treat employees information in a confidential manner to comply with the date protection principles of privacy (Ivanova, 2015:7,13). Employees should ensure that equal opportunities in employment are adhered to so that job seekers and employees can compete equally on the basis of their abilities, aptitude and knowledge; and are to discriminated against on the grounds of sex, marital status, pregnancy, disability, age, family status, race, nationality or religion (Ivanova, 2015:7,13). By doing so, employers will gain trust and respect from their employees; and have a larger pool of talents from which to select the most suitable staff to meet the manpower of the company (Ivanova, 2015:24).

Revenue collection authorities that applies best practice systems, ensures that they apply their recruitment and staff selection comprehensively in order to enhance the

organisational objectives (Ivanova, 2015:7, 13). To achieve this, will have to devise a unique set of staff selection tools which assessed job applicants' potential ability and suitability for the job (Ivanova, 2015:8). The assessment should match the unique requirements of different jobs in the organisation (Ivanova, 2015:8). The whole set of recruitment system was based on objective analysis to evaluate the potential ability of each job applicant in order to rationalize a selection decision (Biraud, 2011:39; SARS, 2015:34 -60). Under the new system, not only staff of the department concerned such as the direct supervisors, were involved in the selection process and other staffs such as those from other departments like the human resources department and the general manager was also involved (SARS, 2010:45 -67; SARS, 2015:34 -60). The staff recruitment and selection system became more objective and comprehensive as a result (SARS, 2010:45 -67; Biraud, 2011:5; SARS, 2015:34 -60).

Once a suitable candidate has been selected and the offer accepted, it is in the interests of both an employer and the employee that a written employment contract is drawn up and both parties understand clearly and fully the terms of the contract. To set out the agreed terms and conditions of employment in writing will avoid possible disputes and remind both parties of their obligations. After confirming the offer of employment by a written contract, an employer should fulfil his legal obligation to give copy of the written contract to an employee and consult his employee and must obtain his consent before making any subsequent change to the terms of the employment contract.

In setting the terms of employment, employers should adhere to the principle of equal pay for equal work, that is the same work or work of similar nature should carry the same pay, benefits available to one person in a particular grade or level should be available to all person who hold the same job rank in the company, and where there are individual differences in pay for equal work, it should be due to genuine and job related factors like work performance, length of service or working locations and such consideration should apply to all staff in the same rank.

To maintain good labour relations and avoid unnecessary disputes, employers are advised to work out with employees before the employment commences the work

arrangements and contingency measures during typhoons and rainstorms. In drawing up the work arrangement, employees should adopt a flexible approach and give consideration to employee's safety both in the workplace and during their journeys to and from work. Employers and employees should agree clearly on the terms and conditions of employment in advance in order to protect the rights and benefits of both parties and to avoid unnecessary disputes (Dwyer, 2004:4; Fjeldstad & Moore, 2008:2-10; Goldswain, 2012:23).

A public utilities company pledged to set out in writing the offer of employment as well as terms of employment for candidates selected within two working days after the selection interview, and to have the offer and terms explained to them in great details. Each new employee would be served by a personnel office that would provide through train employment service for him or her. In the process of recruitment and selection, a manufacturer of high technology product would explain to each job seeker the missions and goals of the company (SARS, 2010:38-63; Biraud, 2011:5; SARS, 2013:57). At the same time, it would also try to understand as far as possible the personal needs of these job seekers and in the case of the company came across suitable talent; it would cater for his or her personal needs by flexible arrangements.

#### **4.4.2 STAFF TRAINING**

One company was under pressure to cut operating costs. Instead of resorting to retrenchment of staff, the management adopted a positive approach to increase productivity and save costs. The approach involved job-redesign, training and follow up service (Ivanova, 2015:12). As a result of re-designing the jobs, skills training were provided to enable employees to improve their job skills and to acquire the skills necessary to meet the new performance standards (Ivanova, 2015:12). Follow up actions were then taken to ensure that staff was able to benefit from the training (Davis, Pawana & Cappon, 1989:2). The approach proved successful and training was found to be useful even in times of difficulties (Ivanova, 2015:12-13). Employees maintained their enthusiasm at work and the productivity of the company continued to increase and the management did not need to resort to retrenchment.

As employer should ensure that all new employees are given, induction training of appropriate duration in order to familiarise them with the company, the work environment, their respective duties, their legal rights and obligations and the policies and procedures of the company, adequate training to supplement previous educations, training and experience for the job, and training in safety and health at the work (Davis, Pawana & Cappon, 1989:2; Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10; Goldswain, 2012:23; Cattarelli, 2011:22; SARS, 2013:13 -16).

Training and development should be an integral part of employment and effective training can improve current job skills and knowledge and hence performance at work (Swanepoel et al, 2003:321; Ivanova, 2015:12). Development is longer term process which can give employees incentive to join and stay with the company. Changing needs and technology mean that most companies will need to train and develop employees on a continuing basis. When the company has the opportunities for growth, change or modification, it has broad implications for the training and development function; such practices will maintain employees' enthusiasm in the job (SARS, 2013:57; Ivanova, 2015:33).

For training to be effective, it is necessary to assess its needs which may arise from future responsibilities needing new skills performance problems skills and career development (Swanepoel et al, 2003:321; Grobler, Warnich, Carrell, Elbert, & Hatfield, 2006:301-302 Ivanova, 2015:7 -13). It is also necessary to ensure that all staff is considered equally where opportunities for training arise and the selection is based on objective and established criteria (Ivanova, 2015:7-13).

Group provided different levels of training to all new recruits (Swanepoel, Erasmus, van Wyk & Schenk, 2003:259-279; Grobler et al, 2006:176-180; Ivanova, 2015:10). For instance, all new staff had to participate in the fundamental staff training programme which is aimed to provide them with basis information about the values of the group, including those relating to quality, service and cleanliness, as well as some basic work skills as regards to new recruits at the management level the group would provide management development programme for them (Swanepoel et al, 2003:450-483; Grobler et al, 2006:176-180; SARS, 2010:38-63; Ivanova, 2015:12). Apart from

providing induction training for new recruits and granting education allowance, the company also provided employees with overseas training so as to offer those more opportunities to obtain new knowledge (Swanepoel, Erasmus, van Wyk & Schenk, 2003:298-230; Grobler et al, 2006:9-11; Ivanova, 2015:12). With the company's support in continuous learning, the employees were able to have better development in their careers (Swanepoel et al, 2003:446-447; Grobler et al, 2006:249).

Apart from orientation programme, other training programmes provided included certificate job training programme (Swanepoel et al, 2003:138; Grobler et al, 2006:206-207; Ivanova, 2015:10). Departmental training programme self-study sponsorship scheme as well as other knowledge and skills training and the common goal of these training programme should enable the employer to learn in great details about the company, to adapt to new environment, to handle daily work, and to nurture and develop the strengths all the training programmes were designed to cater for the individual potential of the employee, so that they would be trained and groomed in accordance with their particular abilities (Swanepoel et al, 2003:182-184; Grobler et al, 2006:300-301; Ivanova, 2015:10).

It is adopted the new management concepts to improve the quality of service as well as safety and health at work (Swanepoel et al, 2003:555-557; Grobler et al, 2006:406-407). All their staffs were provided with safety training and the work places were subjected to regular safety inspection (Swanepoel et al, 2003:555-557; Grobler et al, 2006:406-407; Ivanova, 2015:7-13). This has greatly reduced work injuries arising from mechanical hazards and manual handling of materials and the improvement in safety and health performance could be attributed to top management commitment and support safe system of work safety training of staff (Swanepoel et al, 2003:555-557; Grobler et al, 2006:410; Ivanova, 2015:7-13).

Pleasant working conditions and a safe and healthy working environment helps improve efficiency, reduce accidents, prevent impairment to health and promote good labour management relations (Swanepoel et al, 2003:555-557; Ivanova, 2015:7-13). Effective safety and health management helps companies discharge their legal duties

for ensuring safety and health at work and also keep their safety and health risk under control (SARS, 2011:3 – 16; SARS, 2013:16 -19; Grobler et al, 2006:406-407; Ivanova, 2015:7-13). To this end, employees should develop a safety policy to define employees commitment to safety a safety organisation to ensure that each person's role and responsibilities are understood, to promote a health and safety culture which secures the motivation and involvement of all staff to execute the safety policy, safety training programme to equip all staff with the knowledge and skills and attitudes to perform their duties in a safe manner, a safety plan and set a set of standards to identify the actual and potential hazards and to assess risk to each individual, with the aim of controlling risk and monitoring and review systems to measure the safety and health performance (Swanepoel et al, 2003:555-557; Grobler et al, 2006:406-407; SARS, 2013:16 -19; Ivanova, 2015:7-13). The occupational safety charter sets out clearly the rights of employees to enjoy a safe working environment and the responsibility of employers to prevent work place accidents and promote occupational health. It also emphasises the responsibility of employees to cooperate with their employees to comply with the safety measures and report potential workplace hazards. A property management company was very concerned about employee's safety and health at work. Not only did it hire an independent safety consultant company to conduct inspection visits to various work sites and to advice on measures to improve safety and health at work. It also promoted employees awareness of occupational safety and health at work (Swanepoel et al, 2003:106-107; Grobler et al, 2006:410; Ivanova, 2015:7-13). It also promoted employees awareness of occupational safety and health by offering full sponsorship for them to attend relevant courses during office hours (Swanepoel et al, 2003:542-546; Grobler et al, 2006:407-410; Ivanova, 2015:7-13). To safeguard employee's occupational safety and health management committee was set up with a property management company. This company also formulated policies on occupational safety and health and issued handbooks to enable the employees to have a better understanding of the rules concerned. It also signed the safety charter with the labour department and the occupational safety and health council, hereby pledging to enhance employee's awareness of the importance of safety and health by monitoring employees' safety conditions at work (Swanepoel et al, 2003:582-583; Grobler et al, 2006:407-410; Ivanova, 2015:7-13). Through the various improvements in work environment, the company hoped that the employees could feel management's concern for their well-

being, hence promoting labour management relations (Swanepoel et al, 2003:588-610; Grobler et al, 2006:410; SARS, 2013:13 -16; Ivanova, 2015:7-13).

In addition the company also formulated occupational safety and health policies and issued safety and health handbooks (Swanepoel et al, 2003:588-610; Grobler et al, 2006:410; Ivanova, 2015:7-13). Employees were also given systematic training so that ordinary staff, staff at supervisory level as well as technical staff all had a good understanding of occupational safety (Swanepoel et al, 2003:202; Grobler et al, 2006:407-410). To enrich their knowledge and skills in this aspect, all project staff was required to attend certificate course for safety supervisors with unique modes of teaching such a mock trials, videotapes of actual site operations, site inspections visits (Swanepoel et al, 2003:582-585; Grobler et al, 2006:407-410). A guide to occupational safety health should be issued to facilitate supervisory staff in explaining safety and health information and relevant measures to site workers during seminars that should be held at worksites and the company's efforts should results in steady drop in the industrial accidents rate as well as the seriousness of accidents, and the company could be a winner of low accidents achievement target (Swanepoel et al, 2003:588-610; Grobler et al, 2006:410).

#### **4.4.3 EMPLOYER-EMPLOYEE COMMUNICATION**

Revenue authorities that apply best practice methodologies, instead of taking disciplinary action instantly against their workers, prefer to resolve the issues through communication (Swanepoel et al, 2003:512-513; Grobler et al, 2006:14-17). The establishment and the operation of grievance disciplinary procedures can be of considerable assistance in reducing the likelihood of friction between the employer and employees and in establishing and maintaining cordial relations (Swanepoel et al, 2003:649-653; Grobler et al, 2006:441-454). To make sure that staff grievance and disciplinary cases are handled fairly and carefully, employers should lay down the company's rules of conduct and the grievance and disciplinary procedures (Swanepoel et al, 2003:596; Grobler et al, 2006:441-454). Ensure that such rules and procedures are simple and clear, logical and fair, and know to all staff, handle all staff grievances and disciplinary case according to the established rules and procedures, undertake the same investigation process in every case without discrimination,

communicate the result of all investigation to the employee concerned in a language he understand and in a speedy manner, ensure that disciplinary rules and penalties are not contrary to the provisions of the employment ordinance (Swanepoel et al, 2003:182-185; Grobler et al, 2006:451-454).

Revenue authorities that apply best practice methodologies treat employees equally when their employment is terminated and in situations of dismissal and redundancy , they comply with the provisions of the employment ordinance in the case of South African it should have been basic conditions of employment relating to termination and compensation packages and be as generous as possible with “*ex gratia*” payments as support to the affected employees, set out clear and objective criteria and procedures in the process, ensure that the compensation packages are applied on equal terms to all employees in the same or similar circumstances, and ensure that any decisions made is on the basis of the need for the job to be eliminated and the performance of individual employee rather than for reasons of the employee’s sex, marital status , pregnancy , disability, age or family status (Swanepoel et al, 2003:102-114; Grobler et al, 2006:242). It can therefore be inferred that the termination of a person’s employment is a serious business decision that requires a careful consideration and scrutiny before such decision is finalised.

#### **4.5 ETHICS IN THE REVENUE COLLECTION SERVICE**

Emanating from the previous discussions, it is evident that the typical tax authority deals with tens of thousands of tax cases per year, resulting in an enormous number of communications activities for each case and managing this prolific volume of correspondence oftentimes can have negative impact on productivity, customer experience and revenue collection (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165). It can also be inferred that tax agencies look for ways to transform their tax administrations processes to increase productivity, cut costs and improve service. In the context of all these, ethics plays a role, and it should firstly be define and explain how it is perceived by different parties (Sternberg, 2010:33; SARS, 2010:42 – 43). It is very hard to define because people perceive it differently and their opinion about the ethics is shaky

(Velasquez, Andre, Shanks & Mayer, 2010; SARS, 2010:42 – 43; Sternberg, 2010:33). Ethics is the moral standard of right and wrong conduct towards others and being ethical is clearly not a matter of following one's feeling (Velasquez, Andre, Shanks & Mayer, 2010; SARS, 2010:42 – 43).

Ethics is a standard of behaviour that instructs human beings on their action in different situations, these standards are important for relationships between the individuals and the society at large (Yang & Miller, 2008:78; SARS, 2010:42 – 43). Ethics are commonly mistaken for law, and the law can guide or impose ethical action, but the law is not always ethical, in cases where the law serves the interest of few or provides power (Lange, 2001:5; Yang & Miller, 2008:78; SARS, 2010:42 – 43).

The five different values that have been developed by the philosophers that deal with moral issues and because these issued are imbedded and founded in human they therefore have influence on the conduct and behaviour of people which ultimately impact on revenue collection machinery. The five approaches suggest that once the facts are ascertained there are questions that should be asked to resolve the moral issues. The consideration should be given to what benefits and harms that each course will produce, and which alternative will lead to the best overall consequences. Consideration should also be given to the moral rights that affect parties and which course of action is taken that best respects such rights. Which course of action treat everyone the same, except where there is a morally justifiable reason not to and does not show favouritism or discrimination. Attention should also be given to what cause of action advances the common goods as well as which of the course of action develops moral virtues.

There are various ethical aspects or approaches that can be used and they include the following: The utilitarian approach, the right approach, the fairness or justice approach, and the common good approach and the virtue approach.

#### **4.5.1 UTILITARIAN APPROACH**

The utilitarian was conceived in the 19<sup>th</sup> century by Jeremy Bentham and John Stuart Mill to help legislators determine which laws were morally best. Both Bentham and

Mill suggested that ethical actions are those that provide the greatest balance of good over evil (Robinson & Reeser, 2002:38; Bowen, 2005:196; Kem, 2006:27- 29).

To analyse an issue using the utilitarian approach, we first identify the various causes of action available and ask who will be affected by each action and what benefits or harms will be derived from each (Robinson & Reeser, 2002:38; Bowen, 2005:196; Kem, 2006:27). This has an impact on the choice of action that will produce the greatest benefits and the least harm (Robinson & Reeser, 2002:38; Bowen, 2005:196; Kem, 2006:27). The ethical action inherently provides the greatest good for the greatest number of people in the society (Robinson & Reeser, 2002:38; Bowen, 2005:196; Kem, 2006:27).

#### **4.5.2 THE RIGHTS APPROACH**

The rights approach, ethical action respects and protects individual rights and it has its roots in the philosophy of the 18<sup>th</sup> century thinker Immanuel Kant and others like him, who focused on the individual's right to choose for him or herself (Enderle, 1997:8). According to these philosophers, what makes human being different from mere things is that people have dignity based on their ability to choose freely what they will do with their lives, and they have a fundamental moral right to have these choices respected. People are not objects to be manipulated; it is a violation of human dignity to use people in ways they do not freely choose (Enderle, 1997:8; Sternberg, 2010:39-40).

These other rights can be thought of as different aspects of the basic rights to be treated as we choose. The right to truth, there are right to tell the truth and to be informed about matters that affect the taxpayer's choices (Enderle, 1997:8); there are also rights of privacy, we have the right to do , believe and say whatever we choose in our personal lives as long as we do not violate the rights of others (Enderle, 1997:8); The right not to be injured, we have the right not to be harmed or injured unless we freely and knowingly do something to deserve punishment or we freely or knowingly choose to risk such injuries (Enderle, 1997:8); and the right to what is agreed; we

have a right to what has been promised by those with whom we have freely entered into a contract or agreement with (Enderle, 1997:8; Heath, 2006:541).

In deciding whether an action is moral or immoral using this approach, then one must ask whether the action respect the moral rights of everyone or are the actions wrong only to the extent that they violate the rights of individuals, or do they have the degree on wrongfulness based on the more serious the violation the more wrongful the actions will be (Enderle, 1997:8; Heath, 2006:541; Sternberg, 2010:39-40).

#### **4.5.3 THE JUSTICE APPROACH**

The justice approach, ethical action treats all humans fairly and the fairness or justice approach to ethics has its roots in the teachings of the ancient Greek philosopher Aristotle, who said that equals, should be treated equally and unequally should be treated unequally (Arries, 2005:70; Bibard, 2013:4-12). The basic moral question in this approach is how fair an action is, does it treat everyone in the same way, or does it having element of showing favouritism and discrimination (Arries, 2005:70; Bibard, 2013:4- 12). Favouritism gives benefits to some people without a justifiable reason for singling them out. Discrimination imposes burden on people who are no different from those on whom burdens are not imposed, it must also be noted that both favouritism and discrimination are unjust and wrong (Arries, 2005:70; Bibard, 2013:4- 12). In the SARS environment the taxpayers' charter and the presence of the tax ombudsman, provide the necessary check and balances that ensures that all taxpayers are treated fairly and in fairness. It can therefore be inferred that these types of practices in the work place should be prevented from happening and they ever happen they should be decisively dealt with, with the appropriate suction.

#### **4.5.4 THE COMMON GOOD APPROACH**

This approach to ethics assumes a society comprising individuals whose own good are inextricably linked to the good of the community (Bibard, 2013:1-13). The community members are bound by the pursuit of common values. The common good is a notion that originated more than 2000 years ago in the writing of Plato, Aristotle,

and Cicero (Bibard, 2013:1-13). More recently, contemporary ethicist John Rawls defined the common good as certain general conditions that are equally to everyone's advantage (Bibard, 2013:1-13). In this approach, we focus on ensuring that the social policies, social systems, institutions and environment on which we depend are beneficial to all (Bibard, 2013:1-13). Examples of goods common to all include affordable health care, effective public safety, and peace among nations, a just legal system and an unpolluted environment (Bibard, 2013:1-13). Appeals to the common good urge us to view ourselves as members of the same community, reflecting on broad questions concerning the kind of society we want to become and how we can achieve that society (Bibard, 2013:1-13). While respecting and valuing the freedom of individuals to pursue their own goals, the common good approach challenges us to also recognise and further those goals we share in common (Bibard, 2013:1-13).

#### **4.5.5 THE VIRTUES APPROACH**

The virtue approach to ethics assumes that there are certain ideals towards which we should strive, which provide for the full development of our humanity (Arriès, 2005:66; Kem, 2006:31-32). These ideas are discovered through thoughtful reflection of what kind of people we have the potential to become and virtues are attributes or character traits that enable us to be and to act in ways that develop our highest potential (Arriès, 2005:66; Kem, 2006:31-32). They enable us to pursue the ideas we have adopted. Honesty, courage, compassion, generosity, fidelity, integrity, fairness, self-control and prudence are all examples of virtues (Arriès, 2005:70; Kem, 2006:31-32).

Virtues are like habits that are once acquired; they become characteristics of a person. Moreover a person who has developed virtues will be naturally disposed to act in ways consistent with moral principles. The virtuous person is the ethical person. In dealing with an ethical problem using the virtue approach, we might ask, what kind of a person should I be, what will promote the development of character within myself and my community (Kem, 2006:31-32). The ethical aspect of tax administration may not answer what is ethical in this environment; however each approach as discussed above gives the important information that can be used to determine what is ethical in a particular situation or set of circumstances, and more often than not the different approaches lead to similar answers which are about upholding ethics in all their dealings.

The tax administration are in a powerful position, the laws gives them the authority to assess taxes, collect revenue, seize property, garnish banks (Section 99 of the Income Tax Act 58 of 1962; *Hindy v Nedcor Bank Ltd* 61 SATC 163), commence legal action both civil and criminal proceedings against the taxpayers.

The exercise of power by the tax administration can result in the taxpayer, losing of property and income, and even imprisonment. As with all professions and filed returns of businesses that require human interaction and judgement, there are ethical issues facing tax administration. These issues must be identified and dealt with, particularly as we have noted that tax administrators have considerable power and that the exercise of that power can result in the loss of some of the fundamental human rights of the taxpayer. The pillars of tax administration are: fairness; transparency; equity and accountability.

These are what should guide the tax administration and its relationship with public and stakeholders. Ethical aspects of tax administration largely surround these four pillars. Under these four pillars, some of the ethical issues facing tax administration include the acceptance of gifts, conflict of interest, and selective application of the law or inconsistency in applying the law, political influence, confidentiality or secrecy, discretion, corruption, lack of autonomy. The tools of balancing the pillar and dealing with the ethical aspects of tax administration are the ethical standards and principles, code of conduct, an effective enforcement system and an effective tax appeal system (Biraud, 2011:39; SARS, 2014:6-11).

#### **4.6 CODE OF ETHICS**

Statements of principles meant to influence the behaviour of taxpayers (Kem, 2006:39). The code of conduct and ethics have become the order of business as organisations and businesses seek to assure their stakeholders that their organisation/business practices are ethical and the codes aim to standardise behaviour; establish minimal standard of conduct; formalise existing practices and enforcement system that are critical and contribute to revenue collection (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165; Biraud, 2011:39; SARS, 2014:6-11 ).

It does not make sense implementing codes of stands and ethics without a system to monitor and enforce the rules and guidelines. It can therefore be inferred that the standard of behaviour expected of the employee of the tax administration in the performance of their duties in the context of code of conduct and ethics (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165). The code provides guidance to employees as they make decisions both personal and professional (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165).

An effective enforcements system should have the following characteristics: Written and legally enforceable codes; Clearly defined penalties for infractions, minor offences, administrative discipline and punishment; Obligation to report protection of whistle-blower; A continuous education system that create awareness of responsibility for both the taxpayer and the public; An independent monitoring system / mechanism to ensure compliance; Appeal system is fundamental to an effective tax system and in the process of upholding the ethical standard, there are the following the ethical standards that are necessary for tax the administrators and they are: Avoid the intent and appearances of unethical and compromising practices; Avoid any professional or business activity that creates conflicts between personal interest and the tax authority; Avoid soliciting or accepting loans, money, credit or preferential discounts and the acceptance of gifts, entertainment, favours or services; Handle confidential information with due care and proper consideration of ethical and legal ramifications to the tax authority; and Be knowledgeable of the law and apply it impartially, consistently and in the spirit intended (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165; Biraud, 2011:39; SARS, 2014:6-11) .

The code of ethics that are found in the revenue authorities addresses issues such as corruption, bribery, conflicts of interests and human rights and governs the approach to ethical behaviour and fair business practice(Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165). There should be code of ethics and its accompanying guidance document that should describe the principles that should inform the decisions of tall employees (Hughes,

2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165). The decisions that are taken from time to time should happen within the confines of the code of ethics (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165).

The code of ethics should be applicable to all employees irrespective of their level and should also cover the interaction that happen between the various parties that includes employees, contractors, suppliers as well as service providers. The code of ethics should be communicated to all employees to ensure that no one can claim ignorance to the stipulations of the code (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165). They should also undertake to conduct awareness and training initiatives. As part of monitoring there should be time frame on which senior and middle management and identified high risk employees are required to formally certify that they understand the code of ethics and the guidelines as spelt out in the code of ethics (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165).

The tax revenue authorities should independently manage anonymous reporting facility that will allow employees to report any violations of the code of ethics and any breaches and contraventions of the code of ethics should be reported either through the set reporting line or directly to forensic department or services, and should be managed and dealt with through defined disciplinary and forensic investigation processes (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165). The cases should be reported on a quarterly basis to governance committees to ensure that the organisation is kept abreast of what is happening in the organisation and to the audit committee and this report should also include any consequential steps that will have been taken in dealing with the issues raised. The actions that are taken in consequence of any investigation and enquiries should include the termination of employment in respect of employees and cancellation of contracts in the case of suppliers and contractors or any other sanction that may be deemed appropriate in accordance with the contravention.

#### **4.7 RISK MANAGEMENT IN THE REVENUE COLLECTION SERVICE**

The concept of tax risk management is one of the recent prognostications that governments in many countries have been pursuing as part of good corporate governance and it is an accepted phenomenon that an effective tax risk management system is vital for the tax authorities and can also be applied for taxpayers (HM Treasury, 2004:7; OECD, 2004:4; Protiviti, 2006:4; OECD, 2007:3 - 5; PriceWaterHouseCoopers, 2008:15 – 34; SARS, 2011:3 – 16; SARS, 2012:4).

The South African Revenue Service has also implemented tax risk management within its ranks (Deloitte, 2007:6; SARS, 2013:9 – 25; SARS, 2011:3 – 16; SARS, 2012:4). Revenue Authorities understand the reasons for managing risk and the key elements that are embedded in the risk management framework (OECD, 2007:1; OECD, 2004:4). They also ensure that they understand the benefits of having risk management program and inadvertently understanding the roles of those involved in risk management processes which include the identification, analysing, controlling and managing the different risks (OECD, 2004:6; COSO,2004:4; CLUSIF, 2009:6;Crane, Gantz, Isaac, Jose & Sharp, 2013:2; SARS, 2012:4). They have moved forward in terms of understanding the various elements of risk management standards and they know and have become accustomed on how to identify and implement the risk management strategies, thereby using the pooling of independent loss exposure that reduce risk and evaluate the cost and benefits that are imbedded in risk management techniques (OECD, 2004:9-10; COSO, 2004:4; CLUSIF, 2009:6; SARS, 2012:4; Crane et al 2013:2).

The phenomenon that risk management in the tax authorities is not SARS issue only, The State Administration of Taxation (SAT) in China, has also identified the tax risk management as an important area of tax supervision and at the current phenomenon, which is accepted in different areas, they have responded to the move towards the promotion of good corporate governance (COSO, 2004:4; Protiviti, 2006:1; SARS, 2011:3 – 16; KPMG, 2012:3). It can therefore be argued that the risk management phenomenon is not only topical in one area of the world but is used in the various revenue authorities. As part of pre-empting any risk, the South African Revenue Service has introduced the risk detection mechanism that foretells the possibility of

existence of any risk; this is with specific reference to General Anti-Avoidance Rules (GAAR) and Reportable Arrangements (RA), which are the tools that SARS uses to deal with tax risks (COSO, 2004:4; Protiviti, 2006:1; KPMG, 2012:3; SARS, 2012:4).

In the business environment, every corporate tax space should have Tax Risk Management that is designed to help accomplish a methodical, dependable and controlled approach to tax risk management and they should also have a tax strategy and tax policy to ensure that all parts of the business are working with the same understanding of the strategic tax risk (OECD, 2004:10; COSO, 2004:4; Protiviti, 2006:1; SARS, 2011:3 – 16; KPMG, 2012:3; SARS, 2012:4). The risk management will assist in the identification and understanding of the risks involved in achieving tax objectives, and to make it possible for the business to proficiently manage, monitor and report on such risks and this is also with an understanding that good tax risk management has a premise and is not always based on avoiding risk but it is also about taking tolerable risks and making the effort to manage such risks (OECD, 2004:11; COSO, 2004:4; CLUSIF, 2009:7; US Department of Transport, 2009:6-4; Crane et al, 2013:2).

The South African tax system is made up of several components, the three largest of which are personal income tax, value-added tax, and company tax which is referred to as corporate tax. The collections from these and other taxes that the South African Revenue Service (SARS) administers are eroded in ways ranging from innocent ignorance of the law through to aggressive tax avoidance and on to outright fraud. The then Finance Minister Trevor Manuel announced in the 2005 Budget Speech that there would be a review of the general anti-avoidance rules (GAAR) contained in section 103 of the Income Tax Act No. 58 of 1962 (the Act). The process of consultation on this review started in November 2005 when SARS released a discussion paper for public comment.

The reportable arrangement is likely to result in the most difficulty for taxpayers, and it can be argued that the problem with this provision is that it may capture many legitimate transactions and the difficulty arises because it is linked to the lack of

commercial substance test for purposes of the general anti-avoidance rule (LexisNexis, 2008:722-724; Tooma, 2007:35-38). It can therefore be argued that this is an unfortunate part in that, it is linked not to the definition of this term for the purposes of the GAAR, but to certain characteristics that have been listed merely as indicators of a lack of commercial substance (LexisNexis, 2008:722-724). It should however be noted that, many legitimate transactions will also include these characteristics, and this will result in a significant effect on the business risks of the party deriving the tax benefit and would therefore not be regarded as lacking commercial substance for purposes of the GAAR (LexisNexis, 2008:722-724). This is a clear indication of the analytical way in which SARS deals with their tax base and making every effort to ensure that their tax base is not eroded by any business activities undertaken by the taxpayers.

Emanating from implementation of Reportable Arrangement and the fear of being caught up by GAAR, it would be expected that the South African Revenue Service is likely to be inundated with disclosures relating to legitimate commercial transactions where the tax benefits that arise are merely due to the transactions being carried out in a tax efficient manner. Should this happen, it will, of course, detract from the purpose of the reportable arrangement provisions, which is to identify those transactions potentially giving rise to so-called undue tax benefits at an early stage, rather than years down the line. It can further be argued that due to the way in which SARS they implement their tax provisions and deal with their client, being the taxpayers, it forces the taxpayers not to want to find themselves at the wrong side of the revenue authority.

South African Revenue Service in their strategic plan 2015/2016 to 2019/2020 also reported that they are aware of certain transactions which are structured in such a way that they show complete and reckless disregard for structured finance transactions and South Africa tax law (SARS, 2015:16-17). They view these structuring as being aimed or seeking to deliberately avoid those tax consequences that should flow from the associated transaction, thereby robbing not only the fiscus of tax revenue, but all South African. SARS reported that they were intending to examine these transactions with an aim to ensure no impermissible tax loss that should occur. SARS aims to deal with some aggressive tax structures in order to stop abuse of the tax system. SARS also

intend to talk to stakeholders to find out about their intention and commitment to poverty alleviation and the overall development of South Africa and ensure that all the structuring being done must show how they contribute to poverty alleviation and the overall development of South Africa.

Minister of Finance Trevor Manuel in his introductory speech of Revenue Laws Amendment Act of 2 November 2006 (2006:6) reported that the GAAR and RA legislation are admittedly contentious, which in part it was said to have been attributed to its complexity. His views as contained in the speech in this regard were that GAAR and RA were aimed at dealing with complex tax avoidance schemes (Potas, 1993:1-2, 6; Sandmo, 2004:2; Coricelli et al, 2007:4, 30; Cleary, 2009:15). The complexity of the legislation was justified by the fact that the tax avoidance schemes were also complex (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, Tooma, 2007:35-38; Cleary, 2009:15).

According to Enron Investigation Report (2003:2) there are tax shelters and accounting gimmicks that are used to avoid paying tax. They said that Enron had what was called tax shop, which was regarded as profit centre; it was in this place where complexity was regarded as an ally and bending the rules as a partner in search for paper gain. They used structures to avoid tax and to inflate earnings.

In Evans (2008:2) the topic of tax avoidance or how to contain it has been an issue and an area of focus of the public finance literature for a long time. Christ Evans (2008:19) goes on to say that taxpayers represent the demand side for aggressive tax planning, setting their own strategies for tax risk management and determining their own appetite for tax risk. To what extent should they exercise caution due to the advent of GAAR and RA. The requirements as outlined in the GAAR and RA, do they allow a space for the business to do what they know best which is running the business (Tooma, 2007:35-38; Evans, 2008:19). It can therefore be argued that there is a gap or chasm between taxpayers and SARS when it comes to understanding of tax avoidance and SARS from their protection of tax base and risk perspective, they seem to view every tax planning to be inherently dishonest (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, 2007:4 - 30; Cleary, 2009:15). Tax evasion, in contradistinction to tax avoidance, is the deliberate, dishonest act of supplying wrong and incomplete

information (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, 2007:4- 30; Cleary, 2009:15). Taxpayers would not risk their reputation by doing so and tax avoidance, on the other hand, is another matter SARS tends to merge the two concepts, and this attitude affects its approach to in GAAR and RA (Tooma, 2007:35).

The taxpayers have the right to carry out their transaction as tax efficiently as possible despite the presence of the SARS anti avoidance provisions, however when carrying out such transactions they will have to ensure that such transaction are subjected to the following two provision: That the form of a transaction correctly reflects its substance; and• That the transaction does not fall foul of any anti-avoidance provision. The automatic imputation or suggestion of dishonesty in any form to a transaction and there is no doubt that, in order for SARS and taxpayers to bridge the chasm between them in respect of the application of avoidance (Potas, 1993:1-2; Sandmo, 2004:2; Coricelli et al, 2007:4, 30;Cleary, 2009:15).The legislation was intended to give the South African Revenue Service (SARS) early warning of arrangements that were potentially tax driven and this gives them the opportunity to timeously react and taking the appropriate actions. Based on the aforesaid, SARS would then be in a position to take appropriate action to counter abuse more quickly than would otherwise have been the case. Abusive tax avoidance remains a serious problem and being a problem that is growing more and more difficult (Freedman, 2008:15; Tooma, 2007:35-38). It was acknowledged by David Pickup (2008:15) that most schemes utilise techniques that were developed for bona fide business purposes or purported business purposes.

#### **4.8 CONCLUSION**

From the preceding discussion it is evident that the perception held by the public and taxpayers in particular that the revenue authorities is effective, efficient and fair is a fundamental component of the public confidence. The fact that the government is dependent on the revenue authorities to collect every rand of tax that is payable to ensure that the government have the required financial resources to meet the needs of the citizens increases pressure on the revenue collectors.

The revenue authorities that apply best practice methodologies in the collection of revenue drive greater compliance and improve effectiveness and efficiency from learning from other revenue authorities. They also understand that his core competencies that are found in revenue collection authorities are the same in every country. They engage in the practices of informing and educating the taxpayers about their tax obligations, the process of rendition of correct tax returns, the collection of taxes and they also provide assistance to the taxpayers at all times but particularly during the filing seasons. The environment is created for the taxpayers, to realise that it is easier to comply with the tax requirements than to comply under enforcement emanating from the revenue authority.

It was also revealed in this study that the tax authorities who used best practice methodologies have a well-entrenched service charter that propagate the taxpayer rights and this levels the playing field between the revenue authorities and the taxpayers. The rights are the taxpayers are respected and protected and it is therefore the responsibility of the taxpayers to operate within the bound of law and can optimally use their rights as entrenched in the charter. The tax authorities applying best practices they also subscribe to the code of conduct and ethics, therefore the officials within the revenue authority uphold high ethical behaviour and treat the taxpayers as such (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165).

In the chapter that follow the study will focus on revenue collection in South African Revenue Service.

## **CHAPTER 5: REVENUE COLLECTION IN SOUTH AFRICAN REVENUE SERVICE**

### **5.1 INTRODUCTION**

The revenue that is generated from taxes enables the government to execute their tasks and to meet the needs of their citizenry (Smith, 2003:4; Fjeldstad & Moore, 2006:1). The government utilises these taxes to fund all the social and economic programs and also deals with the provision of public goods and services, which includes schools, hospitals, clinics, roads, defense and security and many other responsibilities that rely on the government to perform (Smith, 2003:4; Fjeldstad & Moore, 2006:1). The South African Minister of Finance annually presents the budget in parliament, in which he outlines the total government expenditure that will be expended in the following financial year and how such expenditure will be financed (Muriithi & Moyi, 2003:3; Smith, 2003:5 & 14; Bird and Zolt, 2003:24; Huxham & Haupt, 2013:2).

The establishment of South African Revenue Service ('SARS') as it is today emanated from the cabinet sitting in 1997, where there was a principle approval for the establishment of the South African Revenue Service (Oberholzer, de Kock & Walker, 2008:29). It was envisaged that SARS will become an administratively autonomous revenue service that will have its own Act and will also possess a certain level of control over its own resources (Hausman, 2010:2; SARS bill, 1997; Smith, 2003:5; Presidency, 2012:421; Vazi, 2008:2).

The SARS Act 1997, proposed the reorganization of the South African Revenue Service. SARS was to be established as an organ of the state which was to remain within the broad public administration, but was to be set up as an institution that will operate outside the public service (Oberholzer, de Kock & Walker, 2008:29; Punt, 2006:1; SARS, 2013:2). Despite the position of SARS as per the SARS Act, 1997, it was not to be subjected to the provisions of the Public Service Act, 1994; it however remained subject to the basic values and the principles governing public administration which is outlined in section 195 of the South African Constitution.

The Basic functions of SARS were to encompass amongst others the following (SARS, 2013:2): The collection of all national taxes, duties and levies; The collection of flat

rate surcharges which may be imposed by the Provinces on national taxes; The collection of any other revenue that may be collected under any other legislation as it may be agreed upon between SARS and the institution that is entitled to the revenue.

South African Revenue Service also have the responsibility to advise the Minister of Finance on all revenue related matters. The core objective of SARS is to ensure that there is an efficient and effective collection of revenue (Smith, 2003:5; SARS, 2013:2). As already reported the Minister of Finance has the overall control over the operation and functioning of SARS through the different directives and guidelines that he may issue. SARS is conscious of the importance of fulfilling its mandate of increasing revenue that is available to the government to rebuild the country and the creation of an economic order in which all South Africans are prosperous (Presidency, 2012:42). To realize this SARS, was to work hard to run around the ingrained culture of non-compliance into one of voluntary compliance, increasing the tax base while reducing the cost of collection (Smith, 2003:17; HSRC, 2005:23 – 53; Presidency, 2012:42; SARS, 2012:11 - 24; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). Improved service delivery and more effective enforcement of tax legislation which are the two pillars of SARS's compliance strategy (Smith, 2003:11; HSRC, 2005:23 – 53; SARS, 2010:6; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). The ultimate goal is to reduce the tax gap, which is the difference between tax collected and tax due (Smith, 2003:7 -17).

South African Revenue Service has the responsibility to safeguard that there is efficient, effective and widest possible enforcement and administration of the legislation and any other revenue collection legislation that may be assigned to SARS in terms of legislation or by any agreement that SARS may enter into with the beneficiary (Smith, 2003:11 - 17; Oberholzer, de Kock & Walker, 2008:24; SARS, 2012:34 - 44). It is therefore expected of SARS to perform its functions in the most cost efficient and effective manner and in accordance with the values and principles that are espoused in section 195 of the Constitution of the Republic of South Africa.

According to the SARS Act, Act 34 of 1997, SARS performs its functions:

*“Under the control of the Minister; and Subject to any directives and guidelines on a policy matters issued by the Minister.”* Within the SARS Act, in section 5 of the SARS Act, 1997, SARS is assigned various powers and the powers include the power to determine its own staff establishment and appoint employees and to acquire or dispose of any right in or to movable or immovable property. In the exercise of the powers that are it on SARS, SARS is expected to comply with any conditions imposed by the Minister in a directive issued under section 4(3) of the SARS Act, 1997. This may include the requirement that any specific power, including the power to borrow money, may be exercised only with the prior approval of the Minister. The fact that the Commissioner of SARS is assigned powers and duties that must be performed, it does not insinuate that Commissioner will have to do the work himself or herself but the Commissioner may delegate such power and duties to SARS employees, such delegation however does not cover the responsibility attaching to those powers or duties (Oberholzer, de Kock & Walker, 2008:29).

Initially when SARS was established, there was an advisory board that was established in terms of the SARS Act. The members of the advisory board were appointed for renewable terms not exceeding five years. The board consisted of the Commissioner, not more than two senior employees of SARS appointed by the Commissioner, and not more than eight persons unconnected with SARS appointed by the Minister after consultation with the Cabinet. The board had powers that are bestowed upon it. The board advised the Minister and the Commissioner on the management of SARS, the improvement of efficiency and performance in the revenue collection, the terms and conditions of employment of SARS employees, collective bargaining, SARS budget, and the implementation of the SARS Act (SARS, 2013:2). The Board had to inform the Minister of any advice it gives to the Commissioner. The Board was however to advise the Commissioner on the “exercise of a power or performance of a function in terms of legislation or an agreement referred to in section 4(1) (a) insofar as those powers or functions related to: The interpretation of that legislation or agreement; The exercise of a discretion conferred on the Commissioner by that legislation or agreement; or The determination of liability of a person for any revenue.

As accounting officer the Commissioner is responsible for the stewardship of SARS's resources, the maintenance of its records, and the preparation of annual statements in accordance with the generally accepted accounting practice. With regards to funds, the funds of SARS consist of money which it is entitled in terms of section 25, government grant, fees, and charges and any other money legally acquired by it. SARS may accept donations and bequests but only with the approval of the Minister. SARS has the responsibility to report any particulars of each donation or bequest in its annual report.

The main source of income of SARS will be the money that is appropriated by Parliament (SARS Act, Act 34 of 1997). Such income will be determined in accordance with the estimates of income and expenditure and must make adequate provision for SARS to perform its function. Once approved by the Board, the Minister and Parliament, the fund will be made available to SARS in accordance with an agreement between SARS and the Minister of Finance (SARS Act, Act 34 of 1997). SARS may also collect revenue on behalf of other levels of government and, for such service may charge the institution concerned a rate as may be agreed upon. Unless otherwise agreed with the Minister, SARS will refund such unused appropriated fund to the state at the end of each financial year (SARS Act, Act 34 of 1997). The accounts of SARS must be audited annually by the Auditor General. The Commissioner must also submit a comprehensive annual report to the Minister on the activities of SARS, and such report must be tabled in the National Assembly and submitted to the National Council of Provinces.

The Commissioner must submit an annual report to the Minister on the activities of SARS during a financial year. The report must be prepared in accordance with generally accepted accounting practice. It must fairly reflect the activities, performance and state of affairs of SARS. The Minister must table a copy of the report before parliament.

Legislative framework administered by the Commissioner with the years on which they were promulgated is the following (Oberholzer, de Kock & Walker, 2008:29):

1933 – Union and Southern Rhodesia Death Duties Act, 1933 Act number 22 of 1933;  
1949 – Transfer Duty Act, 1949 Act number 40 of 1949;  
1955 – Estate Duty Act, 1955 Act number 45 of 1955;  
1962 – Income Tax Act, 1962, Act number 58 of 1962;  
1964 – Custom and Excise Act, 1964, Act number 91 of 1964;  
1991 – Value Added Tax Act, 1991, Act number 89 of 1991;  
1994 – Section 39 of the Taxation Laws Amendment Act, 1994, Act number 20 of 1994;  
1995 – Section 56 and 57 of the Income Tax Act, 1995, Act number 21 of 1995;  
1996 – Tax on Retirement Funds Act, 1996, Act number 38 of 1996;  
1998 – Uncertificated Securities Tax Act, 1998, Act number 31 of 1998;  
1998 – Demutualization levy Act, 1998, Act number 50 of 1998;  
1999 – Skills Development Levies Act, 1999, Act number 9 of 1999;  
2002 – Unemployment Insurance Contribution Act, 2002, Act number 4 of 2006;  
2003 – Section 4 and 28 of the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003, Act number 28 of 2003;  
2006 – Small Business Amnesty and Amendment of Taxation Laws Act, 2006, Act number 9 of 2006;  
2006 – Second Small Business Amnesty and Amendment of Taxation Laws Act, 2006, Act number 10 of 2006;  
2007 – Diamond Export Levy Act, 2007, Act number 15 of 2007;  
2007 – Diamond Export Levy (Administration) Act, 2007, Act number 14 of 2007;  
2007 – Securities Transfer Tax Act, 2007, Act number 25 of 2007;  
2007 – Securities Transfer Tax Administration Act, 2007, Act number 26 of 2007;  
2008 - Mineral and Petroleum Resources Royalty Act, 2008, Act number 28 of 2008;  
2008 – Mineral and Petroleum Resources Royalty (Administration) Act, 2008, Act number 29 of 2008;  
2011 – Tax Administration Act, 2011, Act number 28 of 2011.

The Commissioner also administers any regulation, proclamation, government notice or rule that may be issued in terms of all the above mentioned legislations or any agreement that may be entered into in terms of such legislation or the Constitution.

Its main functions as stated earlier are to collect and administer all national taxes, duties and levies; collect revenue that may be imposed under any other legislation, as agreed on between SARS and an organ of state or institution entitled to the revenue; provide protection against the illegal importation and exportation of goods; facilitate trade; and advise the Minister of Finance on all revenue matters and facilitate trade (Customs). As part of its mandate to support the economy and provide the revenue needed by the government to build democracy, SARS performs several important roles at international and local level.

## **5.2 SOUTH AFRICAN REVENUE SERVICE STRATEGIC FOCUS**

SARS has as its core mandate and the responsibility to ensure maximum compliance to all the laws that it administers in order to ensure that there is a sustainable revenue stream to enable the government to meet its objectives (Smith, 2003:17; HSRC, 2005:23 – 53; Presidency, 2012:42). SARS also takes cognizance of the fact that as they strive to achieve their strategic objectives they also have to ensure that they do not impede trade, economic growth and development by imposing excessive and unfair administrative compliance burden on the taxpayers, traders and business hence their taxpayer service is also critical for the success.

The discussions that follow focuses on the three of the SARS strategic objectives and will also cover the SARS work environment where these strategic objectives are carried and they are as follows: Service, Facilitation of trade, Compliance and Work environment (Smith, 2003:17; HSRC, 2005:23 – 53; Presidency, 2012:42; SARS, 2013:13 -16).

### **5.2.1 SERVICE**

As it was reported that the South African Revenue Service (SARS) was established by legislation to collect revenue and to ensure compliance with the tax laws (SARS, 2010:38-63; SARS, 2013:22 - 45; SARS, 2015: 29-33). The SARS vision is to establish an innovative revenue and customs agency that enhances economic growth and social development, and supports South Africa's integration into the global economy in a manner that benefits all citizens (SARS, 2010:38-63; SARS, 2015: 29-33). SARS is an autonomous administrative organ of the state that is outside the public service

but within the public administration in terms of the South African Revenue Service Act 37 of 1997. In terms of SARS Act it is outlined that SARS aims should be to provide an enhanced, transparent and client oriented service to ensure an optimum and equitable collection of revenue.

On the 16 March 2011, Temkin reported in the *Business day* newspaper that the South African government had made great efforts to improve tax compliance and collections, and their efforts had resulted in companies placing tax risk management high on their agendas. This level of engagement inadvertently requires a certain level of interaction between revenue authorities and taxpayers. Generally sectors that provide services, the quality of service provided is a key factor which influences the level of performance by such sectors (SARS, 2010:38-63; Akinci, Atigan-Inan & Aksoy, 2010:232; SARS, 2013:22 - 45; SARS, 2015: 29-33). It can therefore be argued that for this type of tax engagement to succeed, there is a need for not only a functioning strategy of revenue authority, but also a revenue authority that provides quality taxpayer service.

Taxation remain a key fundamental driver if the country is to attain sustainable development, as it delves and support its basic functions of ensuring that a state is effectively and efficiently run to achieve the goals of economic growth that are set by the government and its economy (Prichard, 2010:9). In the South African Context the triple challenge of poverty, unemployment and inequality will remain unresolved and unattended if the collection of taxes is not accelerated. It can therefore be argued that the governments including the South African economy depend for its sustenance an existence on the tax revenue collection, and in the South African context, SARS has the responsibility to provide and execute this service or task efficiently. It is vital that SARS performs this function at an optimal level that will enable government to meet its obligations. According the Magashule the Commissioner of SARS during his address to Parliament Standing Committee on finance, he reported that for SARS to perform optimally and enhance the levels of taxpayer compliance the quality of service provided SARS becomes pivotal, and committed SARS to provide efficient and effective service that will facilitate and encourage taxpayers to be compliant (HSRC, 2005:23 – 53; SARS, 2010:38-63; SARS, April 2012; SARS, 2015: 29-33). This is an acknowledgement by the Commissioner that the provision of good taxpayer service has an effect on compliance. In the private sector environment, quality of service

drives customer loyalty and the buying patterns of customers (Bollen & Emes, 2008:24; SARS, 2010:38 - 63). Therefore it holds that the same applies in the revenue authority, wherein the quality of service provided enhances the compliance level (HSRC, 2005:23 – 53; OECD, 2012:11; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). It can therefore be argued that as is the case in the commercial businesses the levels of services that are provided to the customers, the they create satisfaction will could result in customers patronising the business, it can therefore be inferred that even in the case of revenue authority the same will hold while the converse of poor service could discourage taxpayers.

According to Stiglingh (2008) in her doctoral thesis titled *“Developing a Model to Evaluate the Quality of the Services Rendered by the South African Revenue Service”*, revealed that “tax revenue forms the backbone of the South African economy, hence taxpayer compliance is vital”. It is evident from this study that both traditional and electronic services are critical because these services directly influence attitude of taxpayers in dealing with the burden of complying with tax obligations and thus the tax compliance climate in the country.

After South Africa’s fourth democratic election in 2009, a new ministry was established in the Presidency called Performance, Monitoring and Evaluation Ministry (The Presidency, 2011:1, 5-6), and SARS in line with the government thinking because SARS is an integral part of government developed a strategic plan for 2010 to 2013, and the approach being adopted by the Commissioner of SARS was that of following the government’s approach of performance monitoring and evaluation approach which emphasizes on service delivery (SARS, 2010:4). The adoption of the performance, evaluation and monitoring approach requires a model that will deal with performance, monitoring and evaluation which is expected to provide participatory evaluation of the processes of the those who have stake in the programme, which will include beneficiaries/customers and any other interested party (USAID, 20066:1). It can therefore be argued that for SARS to realize the outcome of this strategy, it will require the development of a model that will measure the performance and the quality of services that SARS will be providing to taxpayers.

The services that taxpayers receive are the key input that influences the level of satisfaction or lack thereof and further enhances compliance levels of taxpayers (Smith, 2003:17; HSRC, 2005:23 – 53; Presidency, 2012:42). The revenue authorities bear the responsibility of ensuring that taxpayers are compliant with the various tax laws. They therefore carry the responsibility to devise ways and means to ensure compliance, which should be carried out through the design and implementation of effective tax compliance strategies (HSRC, 2005:23 – 53; OECD, 2010:5; SARS, 2010:38-63; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). In the study conducted by the OECD, it was pointed out that a further study was required to understand taxpayer behaviour in relation to tax compliance (OECD, 2010:5; SARS, 2013:22 - 45). In an attempt to enhance and stimulate service levels provided by government, the South African government has also introduced the Batho Pele principle, which places the emphasis on customer service (Batho Pele Handbook, 2003). Batho Pele, is a Sotho translation for 'people first', and is an initiative to encourage public service to be service oriented, strive for excellence in service delivery and to commit to continuous service delivery improvement and it is a simple and transparent mechanism, which allows citizens to hold public servants accountable for the level of service they deliver (Batho Pele Handbook, 2003; SARS, 2010:38-63).

It is the government's view that, Batho Pele, is not an add on activity but a way of delivering services by placing citizens at the centre of public service planning and operations. The thrust of the Batho Pele Principles is the improvement of service delivery in the public service (Batho Pele Handbook, 2003). Implicit in the eight Batho Pele Principles is a commitment to the nine Constitutional Values and Principles in an attempt to adapt the norms of service delivery of the private sector such as the focus on customer/client satisfaction to the public service. While this attempt is a welcome innovation, it is of paramount importance not to lose sight of the fact that Batho Pele is a means to an end in itself and that there are certain indelible features of public service which render it distinct from the private sector (Batho Pele Handbook, 2003).

On the 10 October 2006 the Commissioner of SARS Mr. Pravin Gordhan, wrote to Professor Richard Levin the then Director General of the Department of Public Service and Administration (The Office of the Commissioner, 2010:1). In the letter the SARS Commissioner reported that SARS service strategies were aligned to Batho Pele

principles, such that they share and give effect to the government vision and aspirations which is aimed at improved service delivery (The Office of the Commissioner, 2010:1).The letter indicates that the SARS Service Charter and standards is aimed at outlining the standards and professionalism that both taxpayers and traders should expect from SARS in their interaction with SARS. The taxpayer rights which were indirectly intended to the improve taxpayer service and were published in 1997 (Tooma,2007:130; National Treasury, 1997:7.2;Dwyer, 2004:4; Fjeldstad & Moore, 2008:2-10; Goldswain, 2012:23; Cattarelli, 2011:22). The SARS Service Charter was launched internally within SARS in June 2005 and then externally launched in the period July to September 2005 and it was then officially launched in October 2005. It was envisaged in the launch of the SARS Service Charter that the management dashboard was going to be developed and implemented within SARS in order to collates the performance measures emanating from the SARS Service Charter within SARS at all levels (The Office of the Commissioner, 2006:2)

It is clear that the SARS Service Charter is what SARS ascribes to and is aimed at enhancing customer service. Taxpayer satisfaction like customer satisfaction is related to the services provided by the organisation in order to meet customer expectations (Loke, Taiwa, Salim & Downe, 2011:24-25). Customer satisfaction and customer complaints are inversely related and the satisfaction of the taxpayer reduces the number of complaints. SARS is unlike other service providers, where the value of the service rendered can be measured by comparing how much the service costs the customer to the quality of service provided to the customer (Vazi, 2008:3). At SARS, customers do not necessarily pay for the service provided except for advanced rulings, where payment is required, but in the main, taxpayers contribute to state revenue through taxes from which public expenses are met (African Development Bank, 2010:22;Tooma,2007:1). These payments are in accordance with the various tax statutes that SARS administers. It is however important for SARS to ensure that its customers are satisfied with the level of service they receive as this will foster compliance from the taxpayers even though it is a legal requirement for people to pay taxes and this is despite the fact that SARS does not have a competitor (Misra, 2004:3-6; SARS, 2011:5 – 12; SARS, 2014:2 - 5). The provisions of an excellent taxpayer service will inadvertently taxpayer compliance (Misra, 2004:11; HSRC, 2005:23 – 53; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33).

According to Stiglingh (2008), taxpayer services can be divided into two parts: traditional and electronic service. According to Parasuraman et al. (2005:214), traditional service is a quality of all non-internet based customer interaction and experiences with companies. It can therefore be said that this refers to all non-electronic customer interaction. In this study, traditional service will refer to non-electronic interaction with the taxpayer. In the traditional service there is an encounter between taxpayers and SARS officials. In this study, wherever a customer is mentioned, it will refer to a taxpayer in the context of the SARS environment. The traditional service quality emanates from a comparison of what customers feel a company is offering and the expectation of what should be offered as well as the actual offering which is the actual performance of service (Lewis & Boom, 1983; Parasuraman, Zeithaml & Berry, 1985). This holds the same with taxpayers' expectation of the service and measuring that with the service that they actually receive. On the other hand, electronic service quality refers to the extent to which a web site facilitates the efficient and effective delivery of services (Zeithaml et al., 2002). In this study, electronic service quality will refer to all services that SARS provides electronically or the use of e-filing. The advent of a global increase in the use of the Internet has compelled governments to change and compliant traditional services with electronic services, which has assisted governments in offering faster and more convenient access to the services that they provide ( Alanezi, Kumul & Basri, 2010:1; Li & Suomi, 2009:1; SARS, 2010:38-63).

South African Revenue Service investment in e-service was intended to deliver tangible returns, and this could take different formation which can include real cost reductions, increased efficiency and productivity, or an improved service to the taxpayers. On 17December 1999, SARS launched its New Income Tax System (NITS) as a means of upgrading and improving its computer systems ([www.info.gov.za/speeches/2000/0001141036a\\_1004/.htm](http://www.info.gov.za/speeches/2000/0001141036a_1004/.htm)). On the media statement issued by the Commissioner of SARS on the 12 January 2000, the Commissioner reported that SARS has reached another milestone by introducing NITS in its transformation quest of placing the tax administration at a world class level. The introduction of NITS was to make it harder to those who could escape the tax though tax evasion and the system was to process refund electronically to have the ability to

interface with the then South African Company Registration Company (SACRO) which is now called Company and Intellectual Property Commission (CIPC). NITS was also to provide secure mail for cheque refunds and provide tax directives for pension funds. NITS was also expected to improve SARS ability to carry out its mandate of maximising revenue collection and improve efficiency of revenue collection, and it was also expected to improve SARS service levels, whereby taxpayers were expected to enjoy and improve service from SARS by accelerating turnaround times when processing assessments and refund. This upgrading and improvement was aimed at also improving the internal efficiency of SARS, which uses the flow of information to taxpayers to improve and accelerate its taxpayer service (Tooma, 2007:129; SARS, 2010:38-63). As is the case with other revenue authorities worldwide, SARS established a website in which information on tax legislations, rulings, case law, revenue statistics and tax forms can be viewed and downloaded online by taxpayers (Croome & Olivier, 2010:322-328; Azmi & Bee, 2010:13).

The envisaged benefits of providing an electronic service to taxpayers included, amongst others (OECD, 2007:24-26; 39): Creation of greater tax collection capacity of revenue, reduction of fraud, travel costs, field force expenditure, reduced publication and distribution costs, reduced cost through the need for reduced physical staff presence (OECD, 2010.5 - 61). Present more accurate, up to date and cleaner data as well as more reliable information (OECD, 2010.5 - 61; Tooma, 2007:129). Improvement of risk management, security and having fewer security breaches (OECD, 2010.5 - 61). Provision of improved service consistency and equality will then result from such exercise (OECD, 2010.5 - 61).

In 1999, Internet usage in South Africa was climbing steadily at the time in both private and business sectors, it was seen as the ideal means of electronic communication, particularly for the business community and the businesses that could have previously depended on the face to face to do business started to switch over to internet driven business (Hall, 1999:2). Manual reconciliation, cheque fraud and postal delays were some of the main reasons why SARS had been experiencing late returns and non-payment of taxes; in many instances, SARS was reactive rather than proactive. In addition, some payment mechanisms were flawed and the use of electronic services provided SARS with the opportunity to standardise processes, and leverage

technology and services which has become the desired mode of transacting in the private sector (Croome & Olivier, 2010:83-84; Azmi & Bee, 2010:13).

The SARS eFiling service was first introduced in July 2001 as part of the Siyakha programme and according to the model then a third party service provider was used. eFiling originated with the objective of cultivating an online taxpayer community where their tax related matters could be dealt with in an electronic, easy to use and self-assisting manner via the Internet (African Development Bank, 2010:57). Because when SARS started to provide the electronic service, the service was outsourced to an external third party this had its implications wherein such service was viewed as being a private sector initiative without SARS support, and taxpayers had to pay to submit returns online because for the third party this was a business venture (SARS Annual Report 2001/2002:29). The service providers of the tax system were not taken seriously by the banks, which resulted in insufficient capital to run the system. It can be argued that in such situation the benefits of electronic service were also not clear and became confusing because the SARS mandate and that of the third party will have been different.

Given the extensive nature of the initiatives and programmes that governments are involved in, there is minimal interest in any government to invest in tax reforms and focusing on the improvement in tax administration. This is caused by low level of focus and priority that is tax initiatives as contrasted with the other government programmes. In the South African context the government recognises the need of engaging in programmes that will assist in the modernisation the tax administration (Manik, 2005:1; Manuel 2002:2). South African is not exception to the realisation that tax reform can stimulate business by reducing the burden of administration and compliance costs and by eliminating in certain cases, where possible minimizes distortionary effect on the economy, which could result in the igniting job creation and promoting economic growth. Tax reform has the capacity to trigger taxpayer service which can also contribute in the minimization of the taxpayer effort when dealing with the revenue authority and reduce the compliance costs (HSRC, 2005:23 – 53; DFID, 2009:16 - 25; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33), and this could results in producing an upward spiral of funding available for other national programmes (OECD, 2008:7).

In the 1990 revenue authorities were internally focused and they have to implement internal improvements that were followed by structural changes (Friedman, 2003:11-13; Yang & Miller, 2008:112-114). South African being part of the global community was not spared from the impact on these international trends; it also started with the changes as it were. Subsequently, SARS launched a free service, SARS eFiling, on the 14 July 2003 ([www.sarsefiling.gov.za](http://www.sarsefiling.gov.za); Kaisara & Pather, 2009:4-6). This service was expected to be customer centric rather than technology focused (Kaisara & Pather, 2009:4-6). It was launched as a free online replacement service for the manual tax return submission service. This free service allows individual taxpayers, tax practitioners and businesses to register for free and submit tax returns, make payments and perform a number of other interactions with SARS in a secure online environment (Kaisara & Pather, 2009:4-6; Croome & Olivier, 2010:322-328; Azmi & Bee, 2010:13; Kamarulzaman & Azmi, 2010:1; Azmi & Kamarulzaman, 2010:599).

The excellent way in which SARS performs in the revenue collection arena has made it possible for the government to achieve the set budgetary goals. International focus of internal improvements and structural changes in organisations has shifted over time. In terms of section 54 of Consumer Protection Act, the consumer has the right to demand quality service. Section 54 deals with the right of consumers to expect the timely performance and completion of such service and in case of delay in completion thereof, there is an obligation on businesses to notify the consumer. Businesses have the responsibility to pay attention to the quality of the services that they deliver to customers have increased in the last few decades (Schneider & White, 2004:1; Kaisara & Pather, 2009:4-6; CPA Act) as community expectations regarding the services received from private sector organisations have grown and legislated. There has been corresponding increase in people's expectations regarding services provided by the public sector (Dhillon & Bouwer, 2005:2). It can therefore be argued that taxpayers being part of the public, they also have expectations, with regard to SARS service delivery model.

Since the 21<sup>st</sup> century revenue authorities' worldwide have typically been the first public sector institutions to refine the relationship between the government and the community (Stike, Regan & Stauffer, 2005:1). Revenue agencies began to concentrate on improving external aspects, their relationship with clients and the

service they provide to clients (Yang & Miller, 2008:112-114). In an effort by Revenue authorities to entrench the culture of providing service to taxpayer, they now consider taxpayers as customers (Kaisara & Pather, 2009:4-6; Smulders & Stiglingh, 2008:608; SARS, 2010:38-63).

The e-filing service that SARS provides, is according to SARS e-filing website on par with international standards when is compared to the services that are offered in the United States of America, Australia, Singapore, Ireland, Chile and France, this is however the SARS view on the e-filing(<http://www.sarsefiling.co.za/AboutPage.aspx>). SARS has seen eFiling in South Africa grow significantly since its initiation. On the 2 December 2010 the Commissioner of SARS in his address at the official opening of SARS Kimberly office made comments that confirmed the report which is contained in the SARS website that the 2009 tax year, more than 2.7 million individual tax returns were submitted through eFiling and annually over 7.5 million returns is submitted by businesses and tax practitioners (Kaisara & Pather, 2009:4-6; Commissioner, 2010:12; Croome & Olivier, 2010:322-328).

The services that are available online as contained on the SARS website are the following: Pay-As-You-Earn, Skills development levy, Unemployment insurance fund, Value Added Tax, Provisional tax, Secondary tax on companies, Personal income tax, Trusts, Advanced Tax Ruling, Change of Personal details, Additional payments, Request for tax clearance certificate, Request for tax directive, Transfer duty, Stamp duty, Security transfer tax, VAT vendor search, Notification tool, Tax calculators, Complete history of e-Filing usage, Customs payments, Air passenger tax payments, In its e-filing websites SARS elucidates the benefits that emanating from e-filing, these benefits encompass being a service that is provided free of charge and which is also simple and secure and provide a platform in which taxpayers can interact with SARS from the comfort and convenience of their home or office. This being the case, e-filing removes the burden of taxpayers waiting in queues, finding parking or worrying about tax office hours. Once a taxpayer is registered the platform is established to submit their return, view their tax status and make payments to SARS electronically 24 hours a day (<http://www.sarsefiling.co.za/benefits.aspx>). eFilers are also given more time to make their submission and payments and individual taxpayers and trusts have more time to submit their returns which also means a longer time to pay any additional

income tax (Kaisara & Pather, 2009:4-6; Croome & Olivier, 2010:322-328; Azmi & Bee, 2010:13; Kamarulzaman & Azmi, 2010:1; Azmi & Kamarulzaman, 2010:599). In the case of businesses paying VAT, they have until the last working day of the month to settle their accounts as opposed to the manual filers who have to settle by the 25<sup>th</sup> of the month (Croome & Olivier, 2010:83-84). eFilers can access the full history of all submissions, payments and electronic correspondence available to them at the click of a button through this innovative reporting tool. eFilers can also receive a sms or email notification to remind them when their submission is due and the simplicity of the process results in fewer errors and creates a faster processing cycle for individuals and businesses (Kaisara & Pather, 2009:4-6; Croome & Olivier, 2010:83 - 84; Kamarulzaman & Azmi, 2010:1).

Piccinelli and Stammers (2002:549) define e-service as “an asset that is made available via the internet to drive revenue streams and create efficiencies” and in the SARS environment the e-service will be used to drive and enhance taxpayer compliance and this will be complimented by traditional service (Kaisara & Pather, 2009:4-6; SARS, 2011:5 – 12; SARS, 2013:22 - 45; SARS, 2014:2 - 5; SARS, 2015: 29-40). An e-government service must assist its citizens in completing their government transactions (Tan, Benbasat & Centefelli, 2007: 2). It was concluded previously that service quality influences the attitudes of customer responses in areas like trust, loyalty and satisfaction (Tan, Benbasat & Centefelli, 2007:2). The monitoring and evaluation of government programmes is generally difficult, given the frequent lack of clarity of objectives owing to different and often competing views held by different stakeholders. In addition to overlapping initiatives and policies, the continuous fine tuning of initiatives also complicate monitoring and evaluation efforts. The fact the monitoring and evaluation of services in government are new phenomenon particularly electronic service there are few advanced services that help in this the process (OECD, 2007:92). The quality of services that are delivered to the customer, have triggered an increase in expectations for both the private and public sector customers and the revenue agencies have also started to focus on improving their relationship with taxpayers which is aimed at assisting taxpayers on how to comply with their tax obligations (Smulders & Stigligh, 2008:609). In order to develop a specific opinion of the taxpayers’ there is a need to evaluate the services that SARS

renders to taxpayers, and their capacity to drive quality of service in the revenue services environment and set-up.

The revenue collected from taxes is vital for the functioning of government and can be referred to as the backbone of the South African economy (Stiglingh, 2008:370). Although the tax gap in South Africa has shrunk in recent years, there is still a large tax gap in South Africa, and this is what necessitates the urgent need to enhance taxpayer compliance (Smith, 2003:7, 10-11, Misra, 2004:3--27; SARS, 2012:11 - 24; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). The South African Revenue Service image in the community is a key driver of voluntary taxpayer compliance (Stiglingh, 2008:13). The quality of the service provided by SARS is therefore crucial, as service quality directly affects SARS's image in the community and thus the voluntary tax compliance (Vazi, 2008:48-49; SARS, 2012:37 - 45; SARS, 2013:22 - 45; SARS, 2015: 29-33). There is a service rendered that SARS to taxpayers and SARS measure the quality of such service continuously (Vazi, 2008:48-49; SARS, 2015: 29-33). The assessment of the services provided by SARS is justified, because it is an essential means to improving the service that SARS provides and therefore also promotes and enhances voluntary compliance by taxpayers (HSRC, 2005:23 – 53; Vazi, 2008:48-49; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). SARS values are that they are committed to providing excellent service to public. SARS indicates that their relationships, business processes and conduct are based on the following: Mutual trust and respect; Equity and fairness; Integrity and honesty; Transparency and openness; and Courtesy and commitment.

South African Revenue Service over the past decade has proven itself to be a successful organisation, playing a critical role in enabling the government to make available funds for the development and growth of South Africa (Rahman, 2009:1; GCIS, 2013:262). The success is attributed to the commitment, dedication and passion of the SARS employees who are spread across the country (Friedman, 2003:11 -14; Misra, 2004:30; Misilingi, 2013:31). Despite the uniqueness of SARS employees, they strive for a common purpose which is to enable SARS to deliver on the revenue collection national mandate (SARS, 2012:3). According to 2009 to 2010 SARS annual report majority of SARS employees, 52% of the staff are between the ages 23 and 45, while 28% are younger than 23, with average age of 37 years and

the workforce is relatively stable with an average tenure of 11 years length of service (SARS, 2010:45).

Revenue collection is an important enabler of any country's development as is the case in South Africa when it comes to revenue collection despite the complaints on the methodologies that are applied during collection of taxes (Friedman, 2003:11-14; Cleary, 2009:3). It enables the state to create the fiscal space in order to pursue their national development agendas, thereby both stabilizing their sovereignty as well as serving the needs of their people (Friedman, 2003: 11-14; Oberholzer, de Kock & Walker, 2008:29-30). In the South African experience, this has meant that SARS have strived to inculcate a culture of compliance with tax laws through rendering the revenue administration; changing the public experience when dealing with SARS through heightened service delivery, performing targeted enforcement and education; and creating an impact with all spheres of South African society regarding importance and obligation of paying tax (Smith, 2003:8, 10 - 17; SARS, 2012:11 - 45; SARS, 2011:5 - 12; Ayadonghan & Igbeng, 2013:8; SARS, 2014:2 - 5; SARS, 2015: 29-33).

The South African Revenue Service introduced its Service Charter in 2005, to be fully effective from the beginning of the 2008 tax year. The intention of this Charter was to set the specific service delivery targets which SARS aims to achieve. Service quality enable SARS to identify quality problems and assist SARS in plan for the quality improvement programme, and thereby improving the efficiently and overall performance (Oberholzer, de Kock & Walker, 2008:24). The South African Revenue Service together with its business partners in South African commercial trade will have usher in a new customs clearance dispensation. SARS cooperate with business despite a steady commitment and determination to successfully introduce the single biggest change to impact the country's import/ export community. It is only right that there should be anxiety, trepidation, and cautious optimism and is definitely not new in South Africa and modernisation in the Customs domain of SARS is not new, internationally is not new, and most definitely not in South Africa. Modernisation programmes have a transitional element which poses difficulties in terms of timing and coordination. In the South African context the first phase is about putting customs and the trading community in the right space to migrate from outdated legacy clearance

practices to principles of a new customs legal dispensation, which was to be introduced 2011 then (SARS, 2010:6). Information technology is undoubtedly the key enabler that has enhanced SARS service levels, which is the reason why SARS chose the migration from clearance by purpose code to customs procedure code as the catalyst to kick-start its longer term modernisation strategy. The South African Revenue Service is generally lauded for its efficiency, however the experience of small and medium businesses, sometimes raise serious questions about the extent to which the treasury may be strangling the sector it most wants to thrive.

There are two aspects to customer service requirements, which are what the customers want and the standard that must be met; and they need to be measurable. There must be a distinction between the consumers' expectations and the post-performance evaluation of what was delivered and the delivery process itself (Buttle, 1995:14, McDonald & de Chermetony, 2001:1- 3). It has been noted that governments worldwide are seriously involved and engaged in promoting excellent customer service which also hold the same for e-government services (Conolly & Banister, 2008:313). SARS is no exception to this trend. Since 2008 they have been engaged in a modernisation drive, resulting in a high level use of technology and the expectations of the resultant customer service (SARS, 2007/2008; SARS, 2013:57).

### **5.2.2 FACILITATION OF TRADE BY SOUTH AFRICAN REVENUE SERVICE**

Part of SARS's core functions is the provision of a customs service that maximizes revenue collection, protects South Africa's borders and facilitate trade (SARS, 2010:8; Oberholzer, de Kock & Walker, 2008:29). And this is done through: enforcing customs and related trade laws; collection duties and taxes; ensuring the social welfare of citizens by controlling the import and export of prohibited and restricted goods; and ensuring timeous clearance of goods and facilitating the speedy movement of travelers through South African borders. This does not only pertain to duties and trade regulation; it also entails enforcing environmental, anti-dumping, consumer protection, health and agricultural controls. The Customs division works to facilitate trade and make it possible for companies and individuals to trade in an efficient and legal way. In instances where there is a portion of trading activity that is illegal, the laws of the country and international obligations require Customs authorities to police such trade

and it is done through the various Customs branch offices that are found in all major entry and exit points in South Africa.

South African Revenue Service, through the Customs division, makes it possible for businesses and individuals to engage in cross border economic activity in a legitimate and efficient manner (SARS, 2010:4-8; Oberholzer, de Kock & Walker, 2008:24). SARS has put measures in place to reduce the inconvenience importers and exporters face in meeting revenue obligations. Sophisticated profiling that SARS performs ensures that high risky cargo is prioritised. Legislation also plays an essential role in this regards, in helping to make sense of the broad range of controls that have to be implemented as international co-operation increases. Tax and Customs Laws, enable control to be exercised while reducing friction with the regional and international trading system. The negotiation of customs and tax agreements is carried out by Policy and Legal division which is based at SARS head office. These agreements, which are aimed at enabling the international trade regime, are administered by SARS (SARS, 2010:4-8). They also play a significant role in creating the right business environment for companies and individuals. Customs also negotiates and maintains free trade agreements, such as with the South African Customs Union ('SACU') and the Southern African Development Community ('SADC') (SARS, 2010:6). It has General System of Preferences agreement, such as the African Growth and Opportunities Act ('AGOA') which afford local manufacturers greater competitiveness in foreign markets in the local export manufacturing sector and has designated four industrial development zones ('IDZs') to support the commitment. SARS play a key role in the administration of enterprise operating in the designated customs controlled areas of these IDZs.

Customs is also engaged in developments that have the explicit intention of protecting and promoting the interest of the country, Africa and the developing world. Working with other African customs administrations, SARS has made a significant contribution to the New Partnership for Africa's Development ('NEPAD') (SARS, 2010:6).

### 5.2.3 TAX COMPLIANCE

Taxpayers can exhibit various levels of compliance. Compliance is multifaceted and has measures which encompass three distinct types being payment compliance, filing compliance and reporting compliance (HSRC, 2005:23 – 53; Onmwe, Wanjohi & Magutu, 2010:113-114; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). The Minister of Finance Pravin Gordhan issued a media statement on the 1 April 2012 setting out the preliminary outcome of the revenue collection for the period 2011/2012 fiscal year. It was during the media statement where it was reported that SARS has exceeded revised budget for 2012 by four billion rands. He went on to indicate that the levels of compliance with the fiscal legislation had continued to improve and it was the intention of SARS to continue in this path of continued improvement and it was going to enhance the efforts that will create a climate that will be conducive for full compliance by all taxpayers (HSRC, 2005:23 – 53; Treasury, Media Statement, 1 April 2012; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). The Minister also launched the SARS compliance programme, which is the high level overview of SARS plans that is expected to pursue for a period of five years. It was said to be SARS's intention to enhance compliance with tax and customs legislations. The Minister also reported that the individual tax register increased from the 1994 1.7 million individual taxpayer to 6 million in 2010, and companies registered for tax were 422 000 in 1994 to 2 million in 2011/12 and there was expectation of further increase in the number due to the new requirements will require that all persons in formal employment should register for tax purposes (Treasury, Media Statement, 1 April 2012). It can therefore be argued that this increase in the number of taxpayers will inadvertently increase the service requirement complications.

The South African Revenue Service was established in terms of the South African Revenue Service Act 34 of 1997 to collect revenue as enacted in various legislative frameworks and has the responsibility to ensure that there is compliance with the various tax laws (SARS, 2010:6; Oberholzer, de Kock & Walker, 2008:29; SARS, 2012:11 - 24; SARS, 2013:2; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). SARS in its vision, indicates that it is to become an innovative revenue and customs agency that enhances economic growth and social development and support South Africa's integration into the global economy in a way that benefits all citizens

(SARS, 2002:1; SARS 2010:8; SARS, 2011:5 – 12; SARS, 2014:2 - 5). In the 19 years of democracy, SARS has striven continuously to broaden the tax base, improve its service levels to taxpayers and pursue enforcement initiatives that contributes directly to increased revenue yield, which will finance the government's development plan agenda (SARS, 2004:2; Smith, 2003:17; SARS, 2012:34 - 44; SARS, 2011:5 – 12; SARS, 2014:2 - 5). The government has no option but to support the energetic and innovative drive by SARS to improve compliance by thoroughly investigating any fraudulent scheme that comes to its attention (Smith, 2003:10-11; HSRC, 2005:23 – 24; SARS, 2012:11 - 24; SARS, 2011:5 – 8; SARS, 2014:2 - 5; SARS, 2015: 29-33).

It was pointed out by Adam Smith (1921:536, 556) that the success of income tax rests primarily upon the honesty of taxpayers. Between the years, 1998 and 2009, the South African Revenue Service dramatically improved tax compliance (Smith, 2003:10-11; SARS, 2012:37 - 45; SARS, 2011:5 – 12; SARS, 2014:2 - 5). Several internal organisational changes helped SARS to persuade more South Africans to pay their taxes. SARS recruited managers from both within and outside the organisation and launched campaign to provide taxpayers with better service to encourage compliance (HSRC, 2005:23 – 53; SARS, 2010:6; Smith, 2003:10-11; SARS, 2012:11 - 24; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). The organisation used diagnostic tests as well as informal recruitment to rebuild the ranks of upper and middle management, transforming the racial makeup of the organization while improving performance (Biraud, 2011:5). Meanwhile, in order to improve service for the taxpayers, a team of managers and consultants were set-up at back and front offices and they introduced an annual filing season in which employees of the revenue service left their offices to help taxpayers file their tax returns. In each of these changes Pravin Gordhan the then Commissioner of SARS from 1999 to 2009, played a central role, both in determining policy and overseeing the details of the implementation thereof.

The South African Revenue Service was established by South African Revenue Service Act 34 of 1997 to collect revenue and to ensure that there is compliance with the tax laws (HSRC, 2005:50 – 53; SARS, 2012:11 - 24; SARS, 2013:2; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). Its vision it to be an innovative revenue and customs agency that enhances economic growth and social development, and

supports South Africa's integration into the global economy in a way that benefits all citizens. In accordance with the South African Revenue Service Act, Act 34 of 1997, the service is an administratively autonomous organ of the state (Vazi, 2008:2; SARS, 2011:5 – 12; SARS, 2014:2 - 5). It is outside the public service, but within the public administration (Punt, 2006:4). Despite the fact that South Africa's tax regime is set by the National Treasury, it is managed by SARS. SARS aims to provide enhanced, transparent and client oriented service to ensure optimum and equitable collection of revenue (Oberholzer, de Kock & Walker, 2008:29; Hausman, 2010:2; SARS, 2013:2). In the business day of the 2 July 2012, the Minister of Finance Pravin Gordhan told reporters in Pretoria that taxpayers will face consequences for non-compliance with their tax obligations. He outlined the consequence as being the legal processes and penalties that taxpayers that are non-compliant will have to face. He reported that there were significant number of taxpayers who were not honestly declaring their earnings and these according to him should bear the brunt of enforcement which is aimed at keeping a social balance right in society.

The issue of tax compliance is a critical component in the SARS environment, the then Commissioner of SARS Oupa Magashule in his address to Parliamentary Standing Committee on Finance while examining the 2011 tax collections pointed out the contrast between low level of tax compliance by companies and considerable improvements by individual taxpayers. Magashule indicated that SARS continued to be busy with the modernisation drive of Information Communications Technology ('ICT'), which is aimed at cleaning up the register and working with other government departments in ensuring that everyone who is in their register is tax registered (Commissioner, 2012), it can therefore be argued that at the core of the modernization drive and cleaning of the tax register was to ensure that the taxpayers that are in the system are the quality taxpayers who have the capacity to pay their taxes. It further indicates that there is a concern within SARS that as for companies their levels of tax compliance remain a challenge when compared to the individual taxpayers.

With the advent of Tax Administration Bill, there are concerns with regard to the possible abuse of power with regard to search and seizure. This concern is exacerbated by the way SARS treated certain taxpayers like Dave King who

complained in public statement of having been mistreated by SARS. It is the statement as raised by Dave King that is creating contrasting and conflicting views with regard the services that SARS provides. The measurement of the actual service that SARS provides is critical and will give SARS an opportunity of self-examination and the absence of formal processes to evaluate SARS services pose a problem.

The contributing factors to SARS impressive performance in revenue collections is due to the enabling environment that the treasury department has created , as well as political support that SARS receives , this is despite counter argument which accuses SARS of having compromised procedural equity ,which is said to be bordering on the lack of protection of taxpayer rights in spite of technical efficiency gains that were realised in revenue raising activities(Smith, 2003:5;Tooma,2007:130)

There are contrasting positions or views pertaining to the service that SARS provides to the taxpayers in their pursuit of taxpayer compliance. The question that then arises in this regards is to what extent does the performance of SARS overlook procedural equity which is critical in the performance of their compliance function and then hail it as a normal performance thereby trampling upon the rights of taxpayers which results in a coercion which SARS call taxpayer service driven (Dwyer, 2004:4; HSRC, 2005:23 – 53; Fjeldstad & Moore, 2008:2 -10; Goldswain, 2012:23; SARS, 2015: 29-33). Emanating from this the question then arises as to whether there is really taxpayer service or heavy handedness? Do taxpayers know the existence of SARS Service Monitoring Office ('SSMO') and its working? To what extent can SARS depend on the complained based feedback that it receives from SSMO which is the platform that taxpayers can use to feedback to SARS is. is there a possibility of creating an organised platform that is not fragmented, but coherent and intergraded platform that could be helpful, and provide an opportunity for a balanced view and has the ability to provide feedback which can be both positive and negative, will the new ombudsman's office serve this purpose? It remains to be seen.

The creation of SSMO in October 2002 was aimed at expediting the resolution of administrative disputes which is complaints based and not necessarily taxpayer service focused (Croome, 2010:285). SSMO is envisaged to be the last resort of the taxpayer after exhaustion of all the ordinary channels of SARS. It can therefore be

argued that it cannot be proactive in taxpayers service, but can only be reactive because it will be only be considered once the taxpayer has exhausted all the possible avenues available. This, it will be only be the last resort because when taxpayers approach SSMO, by then is obviously exhausted and has lost any hope of either success or resolution of the problem. SSMO is at the end of everything, the taxpayer can never hope for any different outcome to can be produced by such processes. The preclusion of SSMO from directing SARS to compensate taxpayer for wasted cost or damages suffered which could have resulted from poor service delivery and can be equated to having been excluded from being a custodian of customer service. Even the breach of the rights as outlined in the service charter can only be investigated and remedied by SSMO, but his exclude the compensation (Croome, 2010:286; Tooma, 2007:130). It is acknowledged that creating and publishing the appropriate service delivery measures has the capacity to positively influencing compliance which could result in voluntary compliance (Croome, 2010:418; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). To what extent does SSMO have a role on taxpayer services and on the quality of service that SARS provides? Is it the responsibilities of SSMO to facilitate the resolution of procedural problem that SARS will have failed to resolve the monitoring of procedural problems by SSMO as it exclude technical and functional problems.

Croome (2010:204) indicated that if taxpayers have difficulty or experiencing problem in accessing their refunds, they should make use of SSMO to get assistance in getting such refunds. According, to Croome (2004) the operation of SSMO it clearly indicates the hallmark of complaints office if and is necessary the promoting of good taxpayer service, but it is not necessarily the right instrument to deal with the taxpayer service. In the current conjecture the customer service in the private sector is a legislated requirement in terms of section 54 of Consumer Protections Act, of which there are cost implications for poor customer service. In the third interim report of the Katz and Commission (1995:130) recommendation were made for the introduction of the statement of taxpayer rights. Taxpayer rights are indirectly intended to improve taxpayer service and were published in 1997 (Tooma,2007:130;National Treasury, 1997:7.2;Dwyer, 2004:4; Fjeldstad & Moore, 2008:2,4, 10; Goldswain, 2012:23). It can therefore be argued that in a similar manner that a taxpayer service is necessary in both traditional environment, and the technological environment.

An examination of the relationship between taxpayer satisfaction and the quality of service provided by SARS will assist in an understanding of the gap that exists between the two (Misra, 2004:80,867). The service quality is important to the taxpayer who expects a greater level of service quality than provided in a traditional service and electronic service in the commercial arena (Misra, 2004:80, 86). When judging the quality of service provided by SARS, there are numerous factors that taxpayers consider which influence their judgment. Taxpayers pose different expectations and requirements and monitoring and evaluation is pivotal and can assist with the programme consolidation and the selection of standards (OECD, 2007:91).

South Africa has a progressive income taxation system which is based on the premise that the wealthy should contribute a greater proportion towards supporting the state than the poor. This means that the more a person earns the higher the percentage tax they should pay. Income tax in South Africa was first introduced in 1914 with the introduction of the Income Tax Act No 28, an Act that had its origins in the New Wales Act of 1895. The Act has gone through numerous amendments with the Act presently in force is the Income Tax Act No 58 of 1962 which contains provisions for four different types of income tax, such as: normal tax; donations tax; secondary tax; and withholding tax. Normal tax in South Africa is a levy imposed on all persons in the form of an annual tax that is calculated by applying predetermined rates to a person's taxable income. This type of income tax can be divided into individual income tax and company income tax. Individual income tax rates in South Africa range from 18% for the income below R165 000 per annum up to 40% for the amount above R638 601 for the 2013/2014 year of assessment. Any person who is below 65 years with a tax threshold of R67 111 per annum, that is earning less than this amount pays no income tax. Individuals earning less than R120 000 a year do not need to declare their income and do not need to submit an income tax return so long as their remuneration is from a single employer, their remuneration is for the full tax year and no allowance was paid, from which PAYE was not deducted in full with regard to travel allowance.

In 2009 there were 3.5 million assessed taxpayers with a total taxable income of R632, 6billion, of which they were liable to pay R154.1 billion. From which 28.8 % were between 35 to 44 year old and 56.7% were male and 3.9% (136,124) of them had

business income. Over 60% of taxable income comes from salaries, wages and remunerations. Travel allowances were the largest allowance claim, the largest fringe benefit was medical aid paid on behalf of employees and contributions to retirement funds were the largest tax deduction. Although the number of taxpayers has increased most taxpayers fall below the R120 000 taxable income threshold and so are not required to submit an income tax return and are therefore not included in the 3.5 million assessed taxpayers.

The company income tax rate is levied at 28% of taxable income of the company. Certain companies qualifying as a small business corporation were tax is levied at 10% for taxable income above R59, 750 up to a limit of R300, 000 and 28% of taxable income above R300, 000. Employment companies pay a tax of 33%. Dividends are subject to an additional tax called the secondary tax on companies were from the finance, retail and wholesale trade sectors and were responsible for over 35% of tax. The mining and quarrying sector consisting only of 0.3% of the companies assessed shrunk from 8.6% in 2006 to 5.7% in 2008 reflecting the declining importance of the mining sector to the South African economy.

### **5.3 THE TAX COMPLIANCE LEVELS**

Many South Africans, both wealthy and poor, have benefited from the increased standard of living which emanates from the taxes collected. All South Africans over 65 are entitled to a pension and the social security system for the most vulnerable people in society has significantly improved through the uses of taxes. At the same time the budget deficit, which was about 5% 10 years ago, has become a budget surplus of about 0.3%. The South African Revenue Service, initiative, which started in 1998, received Swedish support amounting to some 30 million rand. The support was channeled through the Swedish National Tax Board, which helped SARS develop efficient IT systems and offered strategic advice on how to simplify tax collection and isolate the largest tax collection areas.

The SARS Compliance programme for 2012 -2017 was launched by the Minister of Finance on 1 April 2012. The prevailing economic environment however remains a challenge for SARS and is putting considerable pressure on the compliance behavior

of a wide range of taxpayers (Smith, 2003:10-11; HSRC, 2005:23 – 53; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). SARS reported that they will continue to pursue non-compliant behavior to ensure that every taxpayer pays the correct amount of tax. It can therefore be argued that the ability of SARS to pursue non-compliance taxpayers is based on the strength of their legislative framework, measures and remedies at their disposal and they has developed a robust and detailed view of taxpayer behavior across sectors. It is also evident form their compliance programme that they have a focus areas that they strives to enhance the understanding of international and local trends as well as good practice cases emanating from other tax jurisdictions.

In 2009/2010 and 2012/2013 SARS exceeded their revised target by R8.3 billion and R3.7 billion respectively, with the 2012/2013 revenue collection being more than the 2011/2011 target by R71 billion (SARS, 2010:7; SARS, 2013:10). It can therefore be inferred that SARS auditing and revenue collection of large corporations has very efficient and successful when measured by their performance. It can therefore be argued that some of the successes in revenue collection emanates from the outcome of the auditing work. In April 2013 the South African Revenue Service (SARS) collected more than R4 billion in taxes for 2012/2013, beating projections forced downwards by a tough economic climate, in what Finance Minister Pravin Gordhan nonetheless described as a remarkable achievement (SARS, 2013:10). Releasing the revenue service's preliminary tax collection results, Gordhan said that while the total collection was R12 billion lower than the projection made in February 2012, it was R4 billion (0.5%) more than the revised projection that he has made in his National Budget in February 2013 which alleviate the dependency on borrowings in case of deficits which could have serious ramifications (Muriithi & Moyi, 2003:3; SARS, 2013:8).

The South African tax revenue went up by 10%. In October 2012 it was reported that South Africa grew its tax revenue by R68.5 billion in 2011/2012 to total R742.6 billion, R3.9 billion more than forecast by Finance Minister Pravin Gordhan in his 2012/2013 budget (SARS, 2013:8). Releasing its 2012 tax statistics report, SARS noted the 10% increase in tax revenue in the 2011/2012 financial year from R674 billion in 2010/2011 stood in marked contrast to 2009/2010, when tax revenue contracted by four percent,

following the 2008/2009 global financial crisis and South African Revenue Service, attributed its success in revenue collection to its modernization programme, a responsive tax policy and vigilant compliance measures (HSRC, 2005:23 – 25; SARS, 2010:4-8; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33).

Despite slow economic growth, job losses and major disruptions in the mining sector, the South African Revenue Service met its revised tax revenue target with R4 billion over and collected R814 billion for the 2012/2013 financial year (SARS, 2013:10). The revenue amounting to R674.2 billion that SARS collected in 2010/2011, R133.42 billion came from companies, R184.2 billion came from Value Added Tax, R26.57 billion came from customs duties, R226.93 billion came from individuals, R17.01 billion came from fuel levy and R29.58 billion came from other taxes. Gordhan sent a stern warning to tax evaders; saying authorities would apply a zero tolerance approach against corruption and non-compliance (SARS, 2012:9; SARS, 2015: 29-33; OECD, 2004:47). Those who stole from the state and effectively form taxpayers should be treated as outcasts and certain compulsory transfers such as fines, penalties, and most social security contributions are excluded and refunds and corrections or erroneously collected tax revenue are treated as negative revenue (OECD, 2004:45; Potas, 1993:5-6).

The challenge of SARS is to have the capacity for sustaining and growing tax compliance (OECD, 2004:9; Potas, 1993:2; Ayadonghan & Igbeng, 2013:8). The preliminary outcome of revenue collection for 2011/2012 represents another excellent contribution by SARS to ensure our fiscal expenditure programmes that are sustainable and the strong revenue performance was also borne from a culture of growing tax compliance (SARS, 2012:11 - 24; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). South Africa has done well in growing the tax base and improving tax compliance, however, the South African economy finds itself in transition where there is a constant migration of individuals from the informal into the formal economy (OECD, 2004:9; Potas, 1993:5-2).

South African Revenue Service's compliance strategies have to take this reality into account and over the last 18 years SARS has also made tremendous progress in

raising the levels of tax compliance in South Africa and in broadening the tax base (OECD, 2004:9; Potas, 1993:5-2; Ayadonghan & Igbeng, 2013:8)). The number of registered individual taxpayers has increased to 1.7 million in 1994 to more than 6 million in 2009/2010 (SARS, 2011:9). This number has doubled following policy changes in 2011 to register all individuals in the country who are formally employed and the number of people registered on the 31 March 2012 was 13.7 million despite the changes to the threshold (SARS, 2012:1).

Revenue growth over this period increased from R113.8 billion in 1994/1995 to more than R742.7 billion in 2011/2012, and this represents revenue growth of almost 550% at an average increase of 11.6% per year (SARS, 2012:8-13). Over the same period the number of companies registered for income tax increased from 422 000 in 1994 to more than 2 million in 2011/2012; registered VAT vendors increased from 397 000 in 1994 to 652 in spite of changes to the thresholds, and the number of registered employers grew from 177 000 in 1994 to 385 to date (SARS, 2012:8-13).

Emanating from the SARS compliance programme, while the overall compliance climate has shown constant improvement, however maintaining and growing positive compliance trends will require constant and systematic attention (SARS, 2012:11 - 24; SARS, 2011:5 – 12; SARS, 2014:2-5; SARS, 2015: 29-33; Potas, 1993:2; Ayadonghan & Igbeng, 2013:8). SARS will have to increase its effort to create a climate that is increasingly conducive to full compliance by all taxpayers (OECD, 2004:49; Ayadonghan & Igbeng, 2013:8; SARS, 2012:2-5; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). SARS launched the SARS Compliance Programme into the public domain which is a high level overview of SARS's plan for the next five years to further grow the levels of compliance with the tax and customs legislations (SARS, 2012:2-8; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). SARS has identified particular areas in our economy and in the tax system that poses significantly higher risk of non-compliance (SARS, 2011:3 – 16; SARS, 2012:4; SARS, 2015: 29-33). According to SARS, over the medium term, they will concentrate its attention on construction industry; research by SARS has shown that this industry has significantly lower levels of compliance than other sectors in the economy (SARS, 2012:14; SARS, 2015: 29-33). The industry receives a significant portion of public

infrastructure spending from the fiscus, which makes compliance in this industry even more critical (SARS, 2012:14; SARS, 2015: 29-33).

Abuse of trusts by wealthy South Africans, can expect substantially more compliance checks and integrated audits, but also more opportunities for upfront engagement and prefilling agreements and the research shows that a potentially significant number of wealthy individuals are not registered taxpayers (SARS, 2015:12). Transfer pricing by large business, will come under the spotlight with a comprehensive international review of the practice, up-skilling of our staff and greater cooperation with other revenue administration (SARS, 2015:12). Large corporates are generally compliant, although it is suspected that there is a room for improvement (Potas, 1993:2; Ayadonghan & Igbeng, 2013:8; SARS, 2015:12). Preliminary research have reported that 26% of CIT returns are outstanding, VAT audits have shown up to 60% reporting inaccuracy, 38% of CIT payments are either late or outstanding, and audits on transfer pricing have yielded around R2.3 billion (SARS, 2015: 29-39). .It can therefore be argued that one of the strength of SARS is the understanding of the taxpayers as to who is not paying the taxes and coming up with a plan to deal with either the sector or individual company or person concern.

Tax practitioners and trade intermediaries, regulation of this industry will be pursued to ensure that tax practitioners are all persons of good standing members of a professional body. SARS will develop a rigorous risk profiling system to identify high risk practitioners (SARS, 2015: 29-39). Tax practitioners represent around three million taxpayers and the majorities of practitioners are tax compliant, and partly contribute to the positive role in shaping the compliance climate and culture, there are however some of the practitioners that have a poor personal tax compliance history (Smith, 2003:17; HSRC, 2005:23 – 53; Presidency, 2012:42). It can therefore be argued that it is expected of the agent that are intent of assisting taxpayers to be compliant to lead by example by having them comply with the tax laws that they expect their client to comply with. In ensuring tax compliance, there are critical elements that should be in the tax system which include the increase easiness and fairness of doing business SARS and this encompass the whole process that include tax registration, electronic filing which is also critical to making it easy for taxpayers to be tax compliant,

tax refund, the measures and remedies used to foster compliance, which covers the wealthy south Africans and their associated trust which are used to lower their tax liabilities, dealing with illicit economy which covers the illicit cigarettes, the tax returns, and the investigative taxpayer audits which will be discussed in detail hereunder.

### **5.3.1 TAX REGISTER**

The tax register is the number of active taxpayers. A primary objective of SARS is to grow the tax register and so reduce the tax gap in South Africa (Smith, 2003:7; Misra, 2004:26-27; SARS, 2015: 29-39). The level of growth is influenced by economic conditions, tax policy, legislative amendments, tax base broadening activities and the overall compliance climate. The register comprised individuals, companies PAYE and VAT. The tax register for individuals surged 74.7% from 10.3 million in 2010/2011 to 13, 7 million in 2011/2012, following a new SARS policy which requires employers to register all employees regardless of their income (SARS, 2015: 29-39). Of the 4.5 million assessed taxpayers, 40.2% were registered in Gauteng, 56% were male and 27.5% were aged between 25 and 44 years old. As at March 31 this year, there were just over two million companies, 652 349 VAT vendors, 247 595 importers and 224 216 exporters registered with SARS. The number of companies on the tax register has grown from 1.8 million in 2009 to just over 2.03 million as of March 2013. Of these, a third 791 573 of companies were liable to submit CIT and as of March 31, 51.5% or 407 286 companies had been assessed for tax.

### **5.3.2 ELECTRONIC FILING**

During the 2010 tax season 2.7 million returns were assessed within 24 hours, which is an upward take up by 18 % when compared to the 2009 tax season, where the tax returns were 2.3 million that were assessed during the same period. Magashula said 81% of taxpayers have filled their taxes on time in the tax season and that 79% of refunds were paid out within 48 hours (SARS, 2011:22; Baker & Tilly, 2014:1). The number of registered users on e-filing had increased 12 fold from 500 000 at the end of 2006 to just over 6 million users by the end of March this year. The dramatic growth in online filing resulted in just 4.2% of tax returns which is 186 000 being submitted on paper in the 2010 tax season, down from eight percent in the 2009 tax season (SARS,

2011:22; Baker & Tilly, 2014:1). The SARS call centre handled over five million calls last year, including a record of over three million calls during the 2010 tax season. It can from this discussion be inferred that e-filing have had a fundamental impact on the turnaround of the services that are provided by SARS (SARS, 2011:22; Baker & Tilly, 2014:1).

### **5.3.3 TAX REFUNDS**

For 2011/2012 refunds across all tax types from SARS to taxpayers amounted to R164.4 billion which is 23.7% higher than the previous financial year. This is a direct contribution from the tax system to the domestic economy (SARS, 2013: 7-10). Personal income tax refunds totaled R17.6 billion (R2.2billion or 13.9%) higher than the previous financial year. Corporate income tax refunds amounted to R15.9 billion, R2 billion or 14.5% higher than the previous financial year and VAT refunds totaled R131 billion, R27.3 billion or 26.4% higher than the previous financial year (SARS, 2011:22; Baker & Tilly, 2014:1; SARS, 2013: 7-10)

### **5.3.4 MEASURES AND REMEDIES**

There has been significant increase in the number of internet business and e-commerce transactions over the last few years and more recently, the development of virtual worlds on the internet has become an important feature (Kamarulzaman & Azmi, 2010:1-2). The tax administration Act was promulgated into law in 2012, The Act was intended to simplify and provide greater coherence in South African tax administration law and it eliminated duplications, removed redundant requirements and aligned existing disparate requirements in different tax acts, and created a single, modern framework for the common administrative provisions of the tax acts. Most taxpayers are compliant and the act should ensure better service and a lower compliance cost for them (Potas, 1993:2; OECD, 2004, 70; Ayadangan & Igbeng, 2013:8; SARS, 2012:37 - 45). It can therefore be argued that SARS is, however, duty bound to actively pursue tax evaders in order to maintain complaint taxpayers' confidence in the integrity of the tax system as not pursuing them could create a feeling of impunity on the part of those evading tax and therefore discouraging those who are compliant. .

The key features of the The Tax administration Act 28 of 2011 includes a move to a single registration process and number of across taxes to reduce red-tape and streamline the system, and self-assessment of taxes to taxpayers need not wait for a SARS assessment; greater access to third party data to underpin SARS initiative, such as the pre-population of individual tax returns; clearer rules on SARS access to information, so tax liabilities can be determined more quickly and accurately; the ability to search business premises without a warrant in narrowly defined situations, where the general requirements for a warrant will defeat the object of the search , so SARS can act when tax is at serious risk an time is of the essence; clear requirements and timelines for issuing tax clearance certificate to provide greater certainty and responsiveness to business; feedback on audit progress and findings to engage more fully with taxpayers and ensure they understand the reasons for any adjustments; specific timeframes for decisions of the Tax Board, a small claims court for tax, and wider reporting of Tax Court decisions to improve access to justice; and The appointment of a Tax Ombudsman, informed by international experience, to provide taxpayers with a low mechanism to address administrative issues that cannot be resolved through SARS's normal channels (SARS, 2012:19; Boateng, 2014:iv; SARS, 2015:34). It can therefore be inferred that the presence of the tax ombudsman who assist taxpayers with the mechanism to deal or report and administrative challenges that they face, goes along ways in the mind of taxpayers in knowing they if they are treated fairly administrative they always have a place to go to, to deal with such matters.

South African Revenue Service is, however, duty-bound to actively pursue tax evaders in order to maintain compliant taxpayers' confidence in the integrity of the tax system (Hausman, 2010:5; SARS, 2015: 29-39). International experience has showed that when you have an inland port and you have an adequate rail service where the vessel manifest only terminates at the inland port, up to 80% of the boxes for inland regions are put on the rail while only 12% land on rail if the manifest at the coastal port (SARS, 2015: 29-39). The congestion at both the port and on the road would continue and have an adverse impact on quick trade flows and it also raises issues around the levels of customs security and control at inland ports and then the general implications on the modernisations project. It is not understood that the manifestation will terminate

at the coast where all boxes will dwell until they can be reconsigned. It will remain a SARS priority for the medium to long term given the risk it poses in terms of the erosion of South African's tax base. During the 2012/2013 financial year, 16 cases with audit results of just over R3.2 billion were dealt with in SARS. The settlement of these cases resulted in R652 million cash collections during 2012/2013. It is evident that during 2012/2013 SARS focused on the areas that assist in keeping the collection momentum, which includes: Transfer pricing concern within the mining, automotive, pharmaceutical and financial services sectors. Specific areas of focus included management fees, interest payment, service fees, royalty payment and the selling or transfer of intangible assets; 30 transfer pricing cases with potential audit results in excess R8 billion.

### **5.3.5 WEALTHY SOUTH AFRICANS AND THE ASSOCIATED TRUSTS**

High net worth individuals (HNWI) are under the spotlight around the world OECD (2012:126 -127; OECD, 2015:64; SARS, 2015:32-33). showed specific challenges to tax administrations as results of the complexity of their tax affairs, their relative contribution to tax revenues; the opportunities that their wealth provides for aggressive tax planning and the impact that non-compliance in the HNWI segment can have on community confidence in the tax system (Forslund, 2012:23-24; SARS, 2015: 29-39; OECD, 2015:317; SARS, 2015:32-33). SARS defines HNWIs as individuals whose gross income exceeds or is equal to R7 million and / or gross wealth exceeds or is equal to R75 million and there are currently 2300 such individuals on SARS register (SARS, 2015: 29-39).

High Net Worth Individuals pose a range of challenges, including but not limited to: Using non-residency status to reduce taxable income, especially income; the establishment of Public Benefit Organizations (PNOs) to avoid tax liability on the transfer or donation of assets (SARS, 2015: 29-39; OECD, 2015:317; SARS, 2015:33). The use of trusts to shield assets from tax liability; Profits being expropriated to tax havens without tax being paid in South Africa and Salary structuring where a director may choose to receive dividends instead. A total of 62 full audits have been conducted, yielding a total of R184 million, and 14 individuals in the HNWI category have been identified as potential serious offenders as a results of the magnitude of

their outstanding returns and the four criminal cases involving HNWI's are currently under investigations which is an indication of the challenges that are besetting the revenue collection challenge (SARS, 2013:2; SARS, 2015: 29-39; OECD, 2015:317).

### **5.3.6 TAX RETURNS**

The ongoing trade in illicit cigarettes in South Africa poses serious health risks to consumers and also results in a considerable loss of revenue to the fiscus and this is part of illicit economy (OECD, 2012:71; SARS, 2015:33). The 2012/2013 financial year saw 2580 seizures of contraband cigarettes (138 million sticks, with a value of R63.4 million), and 22 seizures of counterfeit cigarettes (666 510 sticks, with a value of R467 860). Duty paid on cigarettes increased by just over 89%, with 943 million sticks being declared (up from 499 million sticks). Compliance effort for 2013/2014 is aimed at focusing on improving the manual tracking of cigarettes in the transit through South Africa to ensure that declared quantities are accounted for at point of entry and exit, and that they are securely warehoused while in transit through the country as part of curbing illicit financial flows (OECD, 2012: 119-120; SARS, 2013:2; SARS, 2015:33).

Taxation in South Africa may involve payment to a minimum of two different levels of government; that is central government through the South African Revenue Service or local government and the central government revenues come primarily from income tax, Value Added Tax, Corporation Tax and Fuel Levy (SARS, 2015:17-33). Local government revenues come primarily from grants from central government funds and municipal rates. In the 2010/2011 fiscal year SARS collected R674.2 billion in tax revenue; R75.6 billion which represent 12.6% more than the previous year (SARS, 2013:2).

### **5.3.7 ILLICIT CIGARETTES**

Income tax returns are issued to registered taxpayers every year and it is through the tax returns that taxpayers are assessed (Potas, 1993:6; SARS, 2015:7). The year of assessment for individuals covers twelve months, beginning on 1 March and ending on the final day of February the following year and companies are permitted to have a

tax year ending on a date that coincides with the financial year and the Act also provides for certain classes of taxpayers to have a year on assessment ending on the day other than the last day of February and tax returns must be submitted to SARS on the date given (Potas, 1993:6; SARS, 2015:24). A taxpayer may apply for extension. Person whose income comes from sources other than remuneration, such as trade, profession or investments and companies, are required to make two provisional tax payments during the course of the tax year and may opt for a third topping up payment six months after the end of the tax year (Potas, 1993:6; SARS, 2015:43). People who owe SARS tax are charged interest at a rate as published in the government gazette in accordance with the Public Finance Management Act 1 of 1999.

### **5.3.8 INVESTIGATIVE TAXPAYER AUDITS**

Despite the efforts to improve compliance which is one of the challenges facing revenue authorities, the revenue authorities continue to contend with the challenges, in the construction industry for example the participants collectively owe SARS and there are outstanding tax returns, of which some are for VAT related matters (Torgler, 2003:8-10; SARS, 2015:33; ). The analysis and profiling of companies and individuals that received government tenders are also conducted by SARS and SARS through its investigation of taxpayers collects fines from taxpayers that had submitted outstanding returns after being issued with administrative penalties however the selection of whom to audit plays a role as not specific person is target and can be random (Torgler, 2003:8-10). According to Mr. Magashula the then Commissioner of SARS the cost of collecting tax had remained at between 1% and 1.2% for every R1 collected over the past six years, which he pointed out made SARS one of the most cost-effective revenue administrations in the world. In the area of Customs, the SARS has makes seizures, including counterfeit CDs, DVDs, drugs, clothing and cigarettes. SARS was also re-engineering its customs inspection process which would help to combat customs fraud and this has resulted in inspectors no longer being allowed to select the cases they work on but cases are now randomly assigned to inspectors.

Of all the tax types, VAT had the biggest scope for abuse and the Receiver has introduced a number of measures over the past few years to reduce fraud. This included the introduction at the beginning of this year of an additional verification

process after a flag was raised when an increase in VAT refund was not supported by a similar increase in corporate income tax. As part of a new VAT risk process, VAT vendors selected for further verification of their refund claims are now given the option to either submit documents in support of their declaration or to revise their declaration when an error is suspected. SARS had also introduced a self-management tool for VAT vendors in which vendors are able to manage their own VAT accounts he said, adding that further improvements are anticipated as the VAT modernization continues.

The collection of tax revenue was one of the most informed indicators of how successful a country is in stimulating growth, development and investment its economy, in encouraging its citizens to comply with its laws; and in maintaining an appropriate balance between its fiscal expenditure need and available income streams (Potas, 1993:2; Torgler, 2003:8-10; Ayadongh & Igbeng, 2013:8). It can therefore be argued that the ability of a government to intervene during times of economic crises, market contagion or recession, depends on the strength and depth of its fiscal position of the government at that particular point in time. The levels of financial liquidity which is the result of the tax revenues that they have or expected to generate through revenue collection plays a critical function.

#### **5.4 SOUTH AFRICAN REVENUE SERVICE WORK ENVIRONMENT**

This is not a strategic focus of SARS, critical for the achievement of strategic focus as the work force with the inclusion of worker are key in the achievement of strategy of any organisation. In support of their strategic focus, SARS have created a work environment that supports the implementation and the achievement of their goal through their conducive environment (SARS, 2013:13 -16; SARS, 2014:12 -16). SARS subscribes to the principle of freedom of association and as such more than third of employees belong to the officially recognized unions and makes efforts to ensure a conducive and healthy relationship with trade unions are said to be always pursued in SARS. On a regular basis, employees are provided with an opportunity to share their feelings and opinions about SARS through inter alia, employee engagement survey. The engagement survey was started in 2007 since its inception in 2007, more than half of SARS participate in this initiative, which a remarkable participation rate (SARS, 2014:26; SARS, 2015:25-26). In SARS, employee engagement has been defined as

the extent to which SARS employees commit, rationally and emotionally, how hard they work and how long they stay as a result of their commitment (SARS, 2014:26; SARS, 2015:25-26). The survey findings are analyzed and various interventions are introduced where required. Interventions introduced to leverage employee engagement include but not limited to employees wellness, recognition system, employee development, talent management (SARS, 2014:26; SARS, 2015:25-26).

The leaders and management at all levels are encouraged and supported to create an environment that enables employees to perform to the best of their abilities, to enable this, they are committed to empower all their leaders and manager with the competencies required to build an organization marked by genuine care and concern, a culture of achievement and affiliation, acknowledgement of exceptional performance and celebration of individuals and organizational success (Biraud, 2011:5; SARS, 2014:12 -16). SARS does much to comply with governance requirements. The external governance framework is primarily set by two pieces of legislation that determine the governance structure that SARS has to put in place. The two legislative frameworks are: Public Finance Management Act 1 of 1999 and the Audit Committee; and The South African Revenue Service Act 34 of 1997 and specialist committees.

On the Public Finance Management Act 1 of 1999 and the Audit Committee, the most important piece of legislation for governance in the public sector is the Public Finance Management Act 1 of 1999, which is aimed at improving financial management. Section 51(1) (a) (ii) and 76(4) (d) which require the establishment of an audit committee, which forms an integral part of the governance framework. SARS, has, as a result established such a committee. The establishment of the Audit Committee in terms of Public Finance Management Act 1 of 1999 is in terms of section 51(1)(a)(ii) and 76(4)(d) and as well as the Treasury Regulation (Chapter 27.1), and it must meet the following requirements, the accounting authority must establish the Audit Committee, and the Committee must be a subcommittee of the accounting authority; the Audit Committee must operate in terms of written terms of reference, which must deal adequately with its membership, authority and responsibilities. The terms of reference must be reviewed at least annually to ensure its relevance; SARS must disclose in the annual report whether or not the Audit Committee has adopted a formal

terms of reference and if so, whether the committee satisfied its responsibilities for the year, in compliance with its terms of reference. This particular regulation started to be applicable from 2002/2003 annual report and going forward.

In the Audit Committee there are membership requirement that must be met in terms of the Public Finance Management Act 1 of 1999 and these are, the chairman of the audit committee must be independent, and must be knowledgeable of the status of the position; he or she must have the requisite business, financial and leadership skills; chairperson may not be member of the executive committee or a person who fulfills the executive role in SARS. The majority of the audit committee should be non-executive members that are appointed by the executive committee, even though the members may not all be members of the executive committee. The majority of the people serving in the audit committee should be financially literate. The executive authority must concur with the premature termination of the services member of the audit committee. The executive authority is reference to the Minister of Finance. The audit committee has authority that it carries, and it must have explicit authority to investigate matters within its powers as defined in the written terms of reference, must therefore be provided with the resources it needs to investigate such matters, and must have full access to information. All information given to the audit committee must be safeguarded within the ambit of law and they are all guided in terms of Public Finance Management Act 1 of 1999.

The responsibilities of the audit committee include amongst other things are, the effectiveness of internal control system of SARS; the effectiveness of internal audit; the risk areas of SARS operations to be covered in the scope of internal and external audits; the adequacy, reliability and accuracy of financial information provided to management and other users of information; and any accounting and auditing concerns identified as a results of internal and external audits; SARS compliance with legal and regulatory provisions, the activities of the internal audit functions, including the annual work programme, co-ordination with the Auditor-General, the report of significant investigations and the responses of management to specific recommendations; and Where relevant, the independence and objectivity of the external auditors not applicable to SARS.

Audit Committee must report and make recommendations to the Commissioner, report on the effectiveness of internal controls in the annual report of SARS and comment on its evaluation of the financial statements in the annual report. Should a report from internal audit or any other source to the Audit Committee implicate any member of Executive Committee in fraud, corruption or gross negligence, the chairperson of the audit committee must promptly report this to the Minister of Finance and the Auditor General. The Audit Committee must communicate any concerns it deems necessary to the Minister of Finance and the Auditor General. The Audit Committee must meet the Auditor General at least annually to ensure that there are no unresolved issues of concern. SARS Act no:34 of 1997 and the specialist advisory. The SARS amendment Act 46 of 2002, which effect the dissolution of the SARS Advisory Board, as contained in section 11 of the South African Revenue Act 34 of 1997, was promulgated in the Government Gazette in December 2002. The Amendment Act not only dissolved the board but replace it with a new governance framework.

The new framework makes provision for the establishment of a specialist committee to advise the Commissioner and the Minister of Finance on any matter concerning the management of SARS resources. The South African Revenue Service Act 34 of 1997 and specialist advisory and the SARS amendment Act 46 of 2002 provides of the establishment of one or more specialist committees to advise the Commissioner and the Minister of Finance on any matter concerning the management of SARS resources, including assets management, human resources, and information technology. Only two specialists committees have been constituted: the Human Resources Specialist Committee and the Information of the Technology Specialist Committee. The framework makes provision for the establishment of specialist committees to advise the Commissioner and the Minister of Finance on any matter concerning the management of SARS resources.

The human resource specialist committee has certain responsibilities that it has to take charge of, and its role is therefore dealt with in some detail in section 11(2) of the South African Revenue Service Amendment Act 46 of 2002, which specifies that the committee must advise the Minister on matters concerning the terms and conditions of employment of any class of employees in the management structure of SARS, as

agreed between the Minister and the Commissioner; and The Commissioner on matters concerning the terms and conditions of employment of all employees of SARS.

In accordance with the South African Revenue Service Act 34 of 1997 and specialist advisory and the SARS amendment Act 46 of 2002, the functions of the committee are to advise the minister on human resource issues in the management structure; the commissioner of SARS on human resource issues on the representativity, costs and effectiveness of recruitment, training and promotions within SARS; staff establishment, retention and vacancies; compliance with chapter 10 of the constitution and any other legislation applicable to SARS human resources management; compliance with the SARS code of Conduct and the Client Charter; compliance with the SARS code of conduct and the Client Charter; complaints, industrial relations issues, CCMA mediations and arbitrations, and court actions involving SARS employees; and On SARS human resource policies on, inter alia, discipline, remuneration and staff benefits.

## **5.5 RISK MANAGEMENT**

The management of risk has become essential of any institution, SARS is no exception. In carrying out its mandate, SARS is faced with many challenges, internally and externally (SARS 2012:9; Dione, 2013:2-3; SARS, 2015:7-8). These challenges carry with them risk as well as opportunities and risk management within SARS is not only about compliance with the laws and regulations. It concerns the organisation meeting its challenges in such a way that it manages its risk and takes advantage of opportunities as they emerge, and adopting this philosophy enhances organisation's ability to fulfill its mandate and achieve its business goals and objectives (OECD, 2004:45; Dione, 2013:8-9; SARS, 2015:7-9).

## **5.6 EMPLOYEES ETHICS AND CODE OF CONDUCT**

SARS and the wider public service have an obligation to treat, and to be seen to be treating, all citizens objectively and fairly as such SARS must have the confidence and trust of the South African public in order to successfully administer the tax and customs system (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service

Commission, 2009:9-17; Simelani, 2009:165; SARS, 2010:42 - 43). The highest obligation of every individual in SARS is therefore to fulfill that trust and this is driven by the fact that each person in a position of public trust makes two paramount commitments, being: to service the public interest; and to perform with integrity (Hughes, 2003:136-147; Mollanen & Salminen, 2006:5-28; Public Service Commission, 2009:9-17; Simelani, 2009:165).

To achieve these ideals, SARS and its employees must act ethically, honestly diligently and conscientiously in all activities and conduct, maintaining moral and ethical standard. Effective, efficient and ethical relationship between SARS and all members of the public that is taxpayers and supplier of goods and Services are essential (Oberholzer, de Kock & Walker, 2008:24). Along with commitment to performance and thirst for change, SARS employees must always display total, unyielding integrity (Punt, 2006:2; Biraud, 2011:5). SARS has therefore taken definitive steps towards ensuring compliance with the ethical principles and govern the conduct of their employees. A set of key integrity policies, such as the gift and gratuities policy, the employee integrity policy and the declaration of private interest policy, are intended to communicate SARS's desire to eliminate unethical practices by creating an orderly, sage and productive environment in which employees are encouraged to act with honesty and integrity (Hausman, 2010:5; Punt, 2006:2). All employees must comply not only with the letter of the procedures, but also the spirit thereof. SARS is a company of standard that are tested and proven in each business transaction they make. SARS is far more dynamic and customer driven. Each person in SARS has a personal commitment to follow, protect and support our code of conduct (Biraud, 2011:39). SARS endeavors to nurture a culture in which compliance with our key integrity policies and applicable laws is at the very core of our business activities (Hausman, 2010:5; Punt, 2006:2; Smith, 2003:7, 10-11; PWC, 2012:5-14; SARS, 2012:8 -16; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33).

## **5.7 TRANSFORMATION**

South African's first democratic election in 1994 has brought a lot of challenges that organisations have to contend and deal with as such SARS has strived to live up to the challenges of a changed and changing society. It was therefore incumbent upon

SARS to reassess its functions and on how it will go about doing business. A process of transformation was begun in 2000 in a drive to make SARS work better as a business and the transformation process was called Siyakha which means we are building (SARS, 2014:4). It has two clear goals, which are: to make SARS more effective through increased operational efficiency, the creation of a more streamlined and effective organizational structure, and a re-engineering of underlying business processes; and to turn South African citizens into partners rather than antagonists through communicating the noble purpose behind the collection of tax and by treating taxpayers as customers (SARS, 2014:4).

The principles of Siyakha were to guide all the work done by the divisions of SARS (SARS, 2013:29). The result of these processes were to broaden the tax base, encourage a culture of voluntary compliance and to create a more efficient and effective business (Oberholzer, de Kock & Walker, 2008:24; SARS, 2011:3 – 16; PWC, 2012:5-14; SARS, 2012:8 -16; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). Technology has a vital role in enhancing business processes and in permitting SARS to becoming more customers centric. Technology has helped SARS to understand the risk profiles of customers and industry segments. Central to this vision are the people of SARS. The creation of a culture of team work and learning, a vigorous programme to improve employee competency and the provision of a supporting physical infrastructure has been important features of Siyakha. The implementation of Siyakha has also improved employment equity and staff capability.

## **5.8 CONCLUSION**

A focused and well-capacitated revenue administration is critical to minimizing the damage caused by past and for overcoming longer term structural economic weaknesses (Rahman, 2009:2-3). It is therefore helpful to recognize the importance of sustainable development as the prerequisites for poverty reduction, tackling education backlogs and the provisions of acceptable social and health services. It is also at the core of building an effective state (Rahman, 2009:3-4). The reform of tax administration is at the core of economic and social advances that have been made since the advent of our democracy (Fossat & Bua, 2013:12-13). Reforming tax administration was one set of policy choices that had been made in order to attain

fiscal independence and to lay the foundation for meeting the needs of the people (Rahman, 2009:1). It is evident from this study that as the heads of Revenue Administrations, bear the responsibility to play an important and robust role, as a change agents, by providing the required strategic leadership to build integrity and autonomy of the respective tax administrations, to develop the required capacity and specialized skills for that is required in the tax administration which will enable it to perform its functions optimally (Hausman, 2010:5; Punt, 2006:2; Vazi, 2008:2). These skills are desperately necessary for the tax administration to collectively develop a culture of compliance in the societies (Rahman, 2009:1; Smith, 2003:10-11; SARS, 2015: 29-33). It can be deduced from how SARS operate that the challenge is not simply to tax more, but rather a largest number of citizens and enterprises more consensually which was evidenced by the growth of the tax registers of both individuals and corporate. The 21<sup>st</sup> Century has begun with some serious challenges facing the global community, significant among them being the changing role of the state, especially in the current difficult economic environment. It is in this environment that Africa, and other regions for that matter, faces their own special challenges regarding governance and sustainable state building, of alleviating poverty, and of development. It is incumbent on the government to take responsibility for developing a healthy relationship between tax policy and administration, and for providing the necessary guidance for the creation of revenue administration that can function efficiently and effectively.

It is the tax administration that has to be the lead agency to create and develop this culture. It is only then that the government will be in a position to demand of the elite and big business operating in the midst of such challenging environment that will have to shoulder the responsibility of developing the compliance culture (Rahman, 2009:1-2; Smith, 2003:10-11; PWC, 2012:5-14; SARS, 2012:8 -16; SARS, 2015: 29-33). In support of this, developed countries, through their tax administration and donor agencies, must recognize that they have to take responsibility for assisting developing countries and their state institutions through partnerships aimed at concretely building capacity. It can therefore be concluded that SARS possess a strong legislative framework and process that enables them to perform the tax collection mandate without enormous difficulty. The period that their staff stays within the organization,

attest to the stability in their workforce. They have also been taken to court when people suspected that some of the legislation might be contravening the Constitutional muster. Their type of clients/taxpayers are also different to those of other institution that collect revenue, in that most the taxpayer does not want their reputation to be tainted by being regarded as non-taxpaying people. The fact that tax disputes compels the companies to disclose such in their financial statements is also makes companies want to avoid such disputes.

As already reported, SARS have a capacity to be aggressive in the collection of taxes based on the legislative strength. They can conduct audit in an aggressive manner. The new Tax Administration Act, 2011 enables SARS to follow the global trends of implementing an aggressive approach in tax collection, this is evidenced in chapter 5 of the Act, which allows SARS to randomly select companies for audit; arriving at premises without prior notice; to doing search and seizure without warrant; compelling people to answer questions even if answering such question will incriminate the person. They also have the power to request information from third parties. This is a clear evidence of how widespread SARS 's powers are legislatively, other than taking any taxpayer to court in the case of dispute.

In the next chapter the study will focus on the municipal revenue collections.

## **CHAPTER 6: MUNICIPAL REVENUE COLLECTIONS**

### **6.1 INTRODUCTION**

In terms of section 42 of the South African Constitution of 1996, the South African government is divided into three spheres, being national, provincial and local. The local government is then divided into different types of municipalities and the municipalities constitute the local sphere of government which have different types of municipalities namely; metropolitan municipalities, local municipalities and district municipalities (Fjeldstad & Heggstad, 2012:4; Rautenbach, 2012:21; Van Wyk, 2012:288; Mazibuko, 2013:80). These municipalities have various responsibilities with the overriding one being the delivery of basic services to communities (Johnson, 2004:125; Fjeldstad & Heggstad, 2012:20). The municipalities serve as the first point of call for the citizenry in case of dissatisfaction (Cashdam, 2000:3; COGTA, 2009: ii; Rasila & Modau, 2012:42). They represent the face of the government and any service delivery protest will be directed at them and the performance at this level of government is crucial for the stability of the country (COGTA, 2009:3, 7 - 11; Fjeldstad & Heggstad, 2012:23; Schoeman, 2011:2, 3). To enable the municipalities to perform at expected levels, financial resources are essential, particularly own funding which should be collected by the municipalities within their areas of responsibilities (Fjeldstad & Heggstad, 2012:23-26; Cashdam, 2000:5; Schoeman, 2011:2, 4). Municipalities in South Africa face a growing demand for improved performance from efficient service delivery and better infrastructure, to providing sustained support, to indigent, through maximising revenue collection (Fjeldstad & Heggstad, 2012:20; Mofolo, 2012:67-69; Mofolo, 2012:25-28; Matsiliza, 2012:76). Maximisation of revenue collection is pivotal to meeting these demands and as things stand, the collection of revenue remains a challenge (Pretorius & Schurink, 2007:24; Mofolo, 2012:67-69; Mofolo, 2012:27-30; Niwagaba, 2007:13; Basdeo, 2012:60).

In terms of the Constitution of the Republic of South Africa, Act, No.108 of 1996 which was introduced in 1997, it spells out that the national government and the provincial government have an obligation to respect the status of institutional powers and functions that are bestowed upon the municipalities. According to section 41(1) (e) of The Constitution, the municipalities may not assume any power or functions of local

government with the exception of those conferred upon them by the constitution. The constitutional provision gives municipalities the power to be institutions on their own right.

The powers conferred to national and provincial government have to be exercised in the manner that does not interfere or encroach upon the institutional integrity that sits within the premise of the local government as outlined in section 4B and 5B of the constitution that gives the municipalities the legislative and executive powers. It can therefore be argued that the level of dependency on national government by the municipalities could end up compromising the constitutional imperative of separation of powers that is envisaged in the constitution. When national government gives financial assistance there are conditions attached to such assistance, and the national government monitors the implementation of such conditions. The monitoring of adherence to conditional financial assistance from national government could easily be perceived as interference or encroaching upon the institutional integrity that should be enjoyed by the municipalities as spelt out in the constitution.

The primary responsibility that is bestowed upon the municipality is to carry out the delivery of services, this is what the municipality's business is all about. In terms of section 75A of the Municipal Systems Act 32 of 2000 it allows the municipalities to levy and to recover fees, charges or tariffs in respect of municipal service delivery functions and to recover collection charges and interest on any outstanding amounts. The municipalities have the responsibility to effectively manage all functions that have impact on the protecting and growing of the revenue base. It should however be acknowledged that the opportunities for the revenue generation differ from municipality to municipality and is also depend on the range of services that they provide.

## **6.2 SOURCES OF REVENUE IN MUNICIPALITIES**

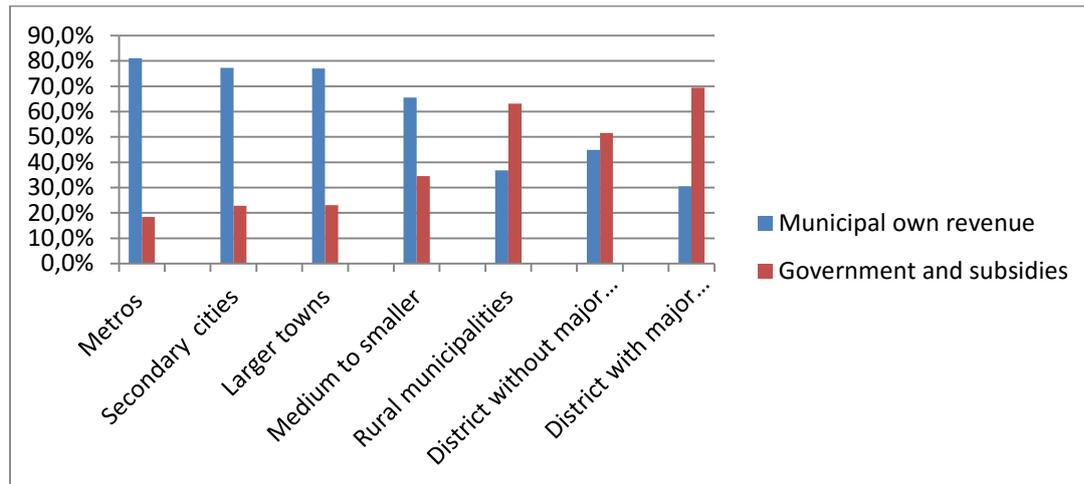
Section 75A of the Municipal Systems Act 32 of 2000 allows municipalities to levy and recover fees, charges tariffs in respect of municipal service delivery function and to recover collection charges and interest on outstanding amounts. This section makes the necessity for municipalities to adopt by-laws to give effect to the implementation and enforcement of their tariff policies. In fact all policies and supporting decisions

taken by the municipal council must be supported by a by-law for it to be legally enforceable. If the by-law requirement is not complied with, it exposes the municipality to possible litigation, so the by-law will have to be there to protect the municipalities against such litigation possibility (MFMA Circular, 2012:4).

As revenue is collected at different levels of the spheres of government, local authorities collect their own tax in the form of rates on fixed property for purposes of development and service delivery (Huxham & Haupt, 2010:2; Fjeldstad & Heggstad, 2012:23; Zhou & Madhikeni, 2013:49). In order for the municipalities to fund the constitutionally mandated responsibilities they rely on the two main sources of revenues. In order for the municipalities to fund the constitutionally mandated responsibilities they rely on two main source of revenue that is own revenue and intergovernmental transfers. It is therefore important for the municipality to utilise the constitutionally accorded fiscal instruments to raise the financial resources required at the municipality. The revenue instrument that requires the municipality to collect include the property rate, user charges for the municipal services rendered as well as any other local taxes. It is therefore incumbent upon the municipality to ensure that this revenue is collected (Financial and Fiscal Commission, 2012/2013:42). It is therefore incumbent upon the municipalities to ensure that the revenue is collected from the ratepayers for the services that they will have provided as failure to collect revenue as expected could result in the shortage of financial resources, which could have a negative impact on the provision of services to the communities (Issah, 2011:1, 7; COGTA, 2009:19 - 61; Adejoh & Sule, 2013:15). It was reported by the Financial and Fiscal Commission (2012/2013:43) that the real average contribution of own revenue versus the intergovernmental transfers to total municipal revenue per municipal category on average of metropolitan municipalities, secondary cities, larger towns and medium to smaller towns are dominated by own revenue while contrary to this trend, the rural municipalities and district municipalities tend to rely mainly on the intergovernmental transfers (Siddle, 2011:115). It can therefore be argued that the success or failure of municipalities in revenue collection is dependent on the municipality's performance when it comes to revenue collection, that is own revenue and intergovernmental fiscal transfer (Siddle, 2011:114 – 115; Mazibuko, 2013:5). It is therefore important for the municipality to utilise the constitutionally accorded fiscal instrument instruments to raise the financial resources required (Mazibuko, 2013:5).

The revenue instrument that requires the municipality to collect include the property rate, user charges for the municipal services rendered as well as any other local taxes (Siddle, 2011:115). It is therefore incumbent upon the municipality to ensure that these revenues are collected (Financial and Fiscal Commission 2012/2013:42)

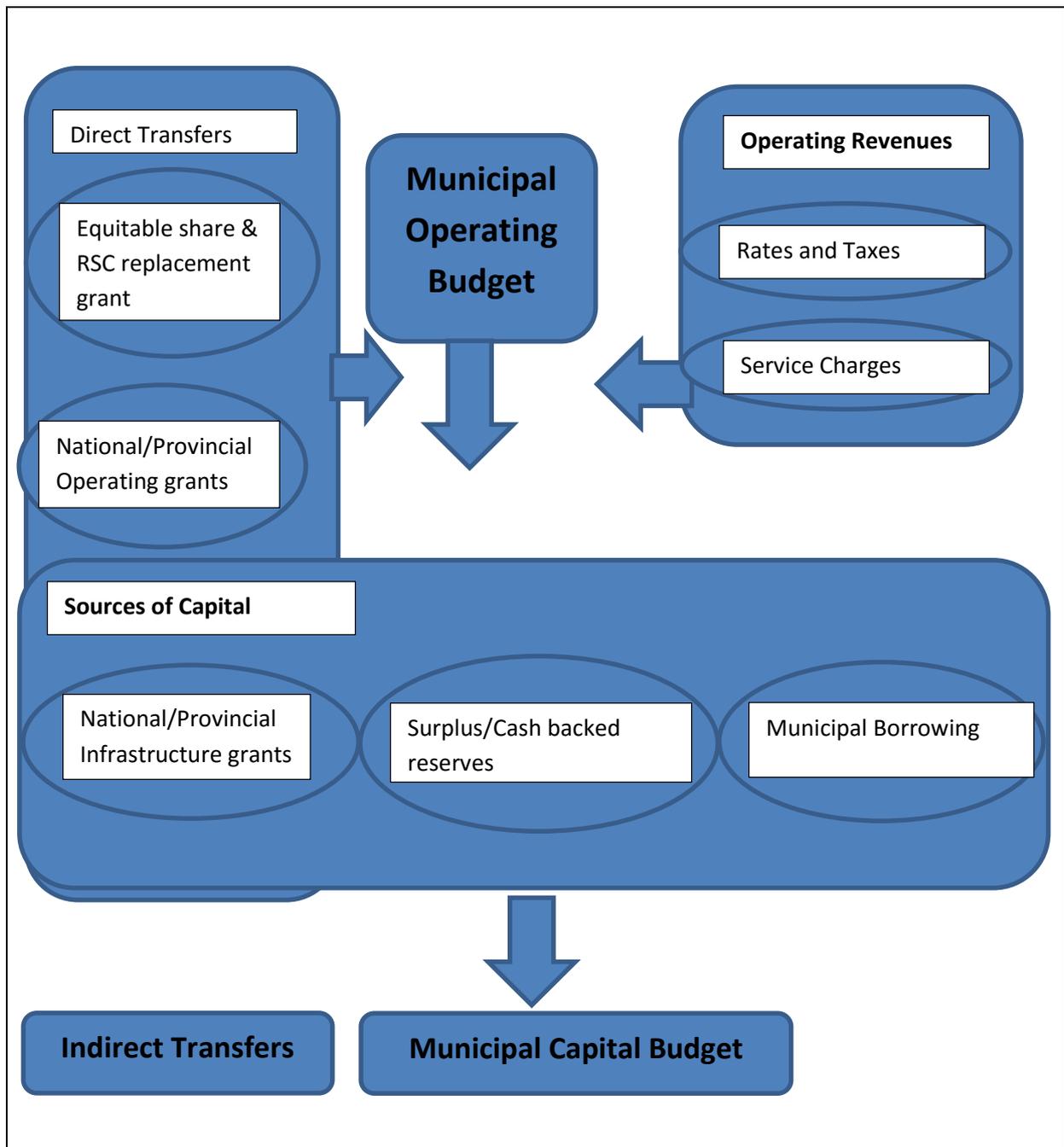
**Table 6.1:** Real average contribution of main revenue sources to total municipal revenue over the period 2003/04 to 2008/09



Source: Financial and Fiscal Commission 2012/2013 page 43

The Municipal Systems Act, section 11(3) permits municipalities to impose and recover rates, taxes, levies, service fees and surcharges on fees, including setting and implementing tariff, rates and tax and debt collection processes. The tariff for trading services should be determined in relation to the cost of providing such services. The Municipal Systems Act 32 of 2000 states that municipalities must ensure that all persons liable for payment receive regular and accurate accounts that indicate the basis for calculating the amount due. There are however several municipalities that are not meeting these minimum requirements (MFMA Circular, 2012:12).

**Figure 6.1: The Fiscal framework to fund municipalities**



Source: MFMA Circular No 64

The following are the known sources of municipal revenue collection.

### 6.2.1 FUNDING THE OPERATING BUDGET

As part of the revenue that the municipalities receive from other sources, than own revenue they receive equitable share and national grant allocations (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4;

Manyaka, 2014:132-133). The equitable share is formula driven allocation to municipalities and represents local government's share of nationally raised revenue (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). Equitable share allocations are intended to supplement municipalities may use their equitable share allocation at their discretion it is primarily intended to fund free basic services(Johnson, 2004:125; Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133).National conditional grant allocations are usually allocated for a specific purpose and have conditions attached to how it may be utilised; however failure to meet the conditions as stipulated in the DoRA or failure to spend their conditional grant allocations the funds must be returned to the National Revenue Fund(Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133).

There are also provincial transfers given for a specific purpose, in this instance it is expected that municipalities will have to adhere to the stipulated conditions of such grant, such funding is however made available to further provincial priorities that are specific to the province. It can therefore be argued that this is not the funding that the municipality have the latitude to use the needs of its own needs because they are specific to particular project (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). The municipality cannot therefore rely on such funding, because they are only used as conduit to meet either provincial or national requirement.

### **6.2.2 FUNDING THE CAPITAL BUDGET**

The municipality also have the responsibility to fund capital project and this is done through the capital budget as such funding the capital budget presents a challenge to the municipalities most of the time and that is one of the reasons why several municipalities complain of insufficient funds to undertake capital investment projects in order to fund these capital investment the municipalities have to utilise the own generated revenue (SALGA, 2010:iii; Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133)). It can therefore be argued that unless the municipality strengthen its processes and abilities

of collection own revenue it will not be in the position to undertake these capital projects and failure to generate own revenue for these capital projects will result in the deterioration of capital infrastructure which might be reputationally detrimental to the municipality. In instances where the municipality have cash backed reserves from pervious financial years, that is, if surpluses were generated on the Operating Statement of Financial Performance during previous years, there may be 'own funding' available which could make it possible for them to undertake capital projects (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133).

Though not ideal, the municipality can also raise revenue though borrowing fund for its needs, particularly capital projects, this source of funding is however tricky in that it requires a strong balance sheet and the ability of the municipality to repay the debts, this can result in the municipality being bankrupt (SALGA, 2010:iii; Josie, 2008:19; Mazibuko, 2013:104). Municipalities may also borrow money to fund for their capital budget however this is dependent on the strength of their Statement of Financial Position (Balance Sheet) and their ability to repay the associated finance charges. Funds derived from borrowing should only be utilised to finance infrastructure that is economically beneficial and generated revenue for the municipality. National government makes capital transfers to municipalities and these transfers are targeted at specific capital projects and are specifically allocated for the eradication of infrastructure backlogs. Another source of funding may be in in the form of public contribution and donations where external sources provide money to a municipality.

### **6.3 MUNICIPALITY'S OWN REVENUE**

Municipalities generate revenue from trading services and property rates levied as explained above (SALGA, 2010:25; Schoeman, 2011:4 -6). Municipalities must do more to exploit the potential of their own revenue sources; this means that every effort must be made to ensure that all properties are correctly charged for property rates and rates and for all municipal services rendered to the property (Monkam, 2010:6; SALGA, 2010:25; Schoeman, 2011:4 -6). Regular reconciliations must be undertaken to check if billing records are complete, that is, that all properties are correctly billed

for property rates and all trading services consumed (SALGA, 2010:48). Municipalities must strive to get the basic right. This means that municipalities must put the necessary processes in place to ensure that integration of all municipal functions along the revenue value chain. The basic sources of municipal revenue are Property rates; Trading services; and other own revenue sources. The Municipal Property Rates Act, 2004 (Act No6 of 2004) ('MPRA') is used to determine the property rates that should be levied on the properties and this generate revenue for the municipality. Municipal property rates are the rates that are levied using the market value of the properties that are found within the municipal jurisdiction and the MPRA provides for the municipalities to adopt a Rates Policy that is consistent with the provisions of the Act, for the levying of property tax on all rateable properties within its area of jurisdiction (Monkam, 2010:6; SALGA, 2010:25; Schoeman, 2011:4 -6; Siddle, 2011:90 - 91). Furthermore, municipalities must pass a by-law to publish it in the provincial gazette; this gives effect or legalises the levying of property rates by the municipality (Siddle, 2011:200). It is the responsibility of the municipality when finalising budget process to include passing of a resolution for the levying of property rates per category of property; and this is followed by this resolution must be promulgation in the provincial gazette once ratified (Monkam, 2010:6; SALGA, 2010:25; Schoeman, 2011:4 -6; Siddle, 2011:90 - 91).

In terms of section 216 of the South African Constitution, it provides that the national government should transfer the resources to the municipalities and that is done through the annual Division of Revenue Act (DoRA) to assist the municipality in exercising their powers and performing their functions. These allocations are announced annually in the national budget (Siddle, 2011:206). Transfers that are made to the municipalities from the national government are also supplemented by the transfers that are also made from the provincial government; the district municipalities also channel money to the local municipalities (Siddle, 2011:206; MFMA Circular, 2012:4).

Some of the municipalities have been declared insolvent and this has given rise to service delivery protests, because when citizens do not get the services that they know supposed to receive, such lack of delivery of services results in service delivery

protests (Department of Corporate Governance and Traditional Affairs, 2009:19). According to Mofokeng (2009:1), municipalities country-wide are owed large amounts of money both by government and ordinary people, this is in direct contrast to how SARS performs in the revenue collection space (Siddle, 2011:206).

The poor revenue collection by municipalities was also commented on by the President of South Africa, during the opening address to the Presidential meeting with the mayors in Khayelitsha, Cape Town, on the 20 October 2009 where discussions were held regarding way to improving service delivery in Municipalities.

President Jacob Zuma (2009:1) reported that many municipalities were bankrupt, with people unemployed and unable to pay for services which then mean that revenue collection becomes stagnant and tax base shrink. He went on to say that municipalities are owed revenue even by other government spheres and gave an example R53 billion due to the municipalities is owed by the government departments, which were not paying for their services. He reported that there is a need to strengthen the municipal capacity to collect revenues as this is critical for providing services (Presidency, 2009; Siddle, 2011:201). It can therefore be argued that this is an indication that the way municipalities exercise revenue collection responsibility, must be radically improved, and he acceded to the point that this was symptomatic of the existence of a problem in the local government sphere (Presidency, 2009).

According to Financial and Fiscal Commission (2013:45), municipal consumer debt refers to non-payment of property rates, fees/charges for services that provided by the municipalities. The services as provided by the municipalities include water, sanitation, electricity, and refuse removal as well as other various financial obligations to municipalities (Siddle, 2011:201). The other financial obligations that are due to the municipalities include traffic fines and rental housing payments. Non-payments that is experienced by the municipalities emanates from households, businesses and government (Siddle, 2011:201). The other group of debt that is owed to the municipalities is categorized as other and their content varies from municipality to municipality, in some instances such are debts from insolvent estates. The use of other in the classification of debt is a practice that is contrary to the reporting format

prescribed by the National Treasury, because the use of other does not provide clarity and accessibility of the information as is envisaged by the National Treasury (SALGA, 2013:1-3). Essentially poor consumer debt collection has the impact of constraining the municipal's own revenue and specifically, the operating component of own revenue (SALGA, 2013:1-3). According to the analysis by the Financial and Fiscal Commission, municipal consumer debt over the period of 2003/2004 to 2008/2009 reveals that municipalities are making inroads with respect to the challenge of revenue collection and dealing with municipal debts (Financial and Fiscal Commission, 2013:45).

Despite progress made, consumer debt remains a challenge; metros are still faced with an on average, just under R4 billion worth of consumer debt. However this analysis indicates the severity of this challenge is weakening (Mazibuko, 2013:8). Policy makers therefore need to reflect accurately on the consumer debt challenge and acknowledge the progress that has been made (Siddle, 2011:201; Financial and Fiscal Commission, 2013:45). The Commission have considered the reasons for non-payment from household, businesses and government across all the groups, the inadequacy of municipal billing systems with regard to the inaccurate billing is the main contributor (SALGA, 2010:15; SALGA, 2013:1-3; Mazibuko, 2013:1). There are however other factors that contributes to this paralysis which in the case of households includes poor metering systems and recipients being unable to afford to pay for services and for businesses, being the unhappiness with the service provided and the high tariff (Mazibuko, 2013:121-122). The concerns that perpetuate non being are centred around affordability and poor municipal billing systems, which indicates that despite decreases in the severity of the consumer debt challenge the root causes of non-payment are not being effectively addressed(SALGA, 2010:15; SALGA, 2013:1-3; Mazibuko, 2013:1; Financial and Fiscal Commission, 2013:47). It can therefore be argued that for the municipalities to become sustainable and viable there is a need for them to strengthen the revenue collection capabilities by ensuring that the billing systems is correct and reliable and the enforcement leg of the collection is also strengthened. The discussion that follows will focus on the areas in which the municipalities can collect revenue that will then be used in the provision of services to the communities that they serve and these are the intergovernmental transfers, property rates and municipal rates and taxes.

### **6.3.1 INTERGOVERNMENTAL TRANSFERS**

The municipalities have the responsibility to fund the constitutionally mandated responsibilities, and to fund these, they depend on two sources of income being own revenue and intergovernmental transfers (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). With regard to own revenue sources the municipalities have at their disposal the constitutionally accorded fiscal instruments, and they include property rates that will be discussed later, user charge for municipal services rendered and other local taxes (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). Ideally, the municipalities should be self-funding from their own sources and it can therefore be argued that if the municipalities continue to have sufficient tax bases to cater for their needs that will result in the national fiscus being overburdened which could result many services not being provided to the communities which could spark protests for service delivery and that could impact the government negatively.

The South African government at the national level raise revenue through revenue collection that is performed by SARS and through raising debts to fund the fiscus. The revenue so raised at national level is then allocated in terms of section 227 of the Constitution to enable the municipalities to fulfil their responsibilities as contained in the in this section of the Constitution. The municipal government's share is divided amongst the 278 municipalities in a horizontal divisions and is done through a formula and is an allowance for basic services, community services and admiration, the purpose of the allocation is to enable the municipalities to provide the necessary basic services to the poor household and to enable municipalities to afford administration and governance the capacity to perform their core functions within the municipality (Johnson, 2004:125; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). It is however argued that in some instances the money that is received for this purposes are sometimes used to defray other expenses than the initial intention because the sources of own revenue are not performing particularly in the rural municipalities. It can therefore be inferred that the success in the collection of own revenue sources will enable the municipality to ensure that the intergovernmental transfers are used for the intended purposes, while the revenue

that is collected from own sources is also used to defray the expenses that are within the control and the ambit of the municipality.

### **6.3.2 PROPERTY RATES**

Section 229 of the Constitution of the Republic of South Africa, 1996, guarantees rates on properties as the autonomous source of revenue for municipalities and it bestows power on the municipalities to impose rates on properties (Ramakhula, 2010:42 – 50). The Local Government Municipal Property Rates Act, 2004 (Act No.6 of 2004) is the one that regulates the municipalities powers of imposing the rates on the properties. The Act came into effect on the 2<sup>nd</sup> July 2005, but it provides for exclusion of certain properties from rates, but such exclusion are done in the national interest, and they are transparent and fair system of granting relief measures fair and equitable valuation methods, and objectives and appeal processes (Ngxongo, 2003:28 – 29; Ramakhula, 2010:42 – 50; South African Reserve Bank, 2013:107; Manyaka, 2014:130). It can therefore be inferred that the purpose of this Act was to broaden the municipal tax base and ensure that there is continuity in revenue collected and thereby increase the revenue sources for the municipalities. The revenue that is collected through the municipal property rates Act, will enable the municipalities to address the service delivery needs of their constituencies and promote the economic activities and development (Ngxongo, 2003:28 – 29; Yang & Miller, 2008:78; Ramakhula, 2010:42 – 50; South African Reserve Bank, 2013:107; Manyaka, 2014:130). It must however be argued that the Municipal Property Rates collection can only be successful in the metropolitan or urban municipalities where there is a presence of a wider tax base, the ones in the rural areas will remain elusive and constrained due to the inability of such constituencies to make payment.

### **6.3.3 MUNICIPAL RATES AND TAXES**

The municipalities, as reported earlier, they are part of the government institution as such they have the need for financial resources as a consequence they should collect their own revenue as envisaged in Section 4(1) (c) of Municipal Systems Act 32 of 2000. The municipalities have two sources of revenue, namely their own revenue and intergovernmental transfers. The main sources of revenue in the municipalities are assessment rates, electricity, and water. The municipalities are expected and have the

responsibility to deliver services to the communities in a fast and efficient manner; however for these services to be delivered there is a need for financial resources and institutional capacity to deliver these services to the expectant communities. The municipalities however have various responsibilities with the overriding one being the delivery of the said basic services to communities (Johnson, 2004:125; Fjeldstad & Heggstad, 2012:20; de Visser, 2001:1-2; Khumalo, Ntlokonkulu & Rapoo, 2005). This situation therefore makes it incumbent upon the municipalities to ensure that the revenue is collected from the ratepayers to be used in the provision of services because failure to collect revenue as expected could result in the shortage of financial resources, which could consequently result in undesired negative impact on the provision of services to the communities (Issah, 2011:1-7; COGTA, 2009:19 - 61; Adejoh & Sule, 2013:15).

The Financial and Fiscal Commission during the submission of the Division of Revenue Act, the chairperson of the Financial and Fiscal Commission reported that the problem experienced by the municipalities is not only confined to small and rural municipalities but it was a problem for all the municipalities irrespective of size (National Treasury, 2009). It can be argued, therefore, that the problem with revenue collection in the municipalities cut across all the different sizes and levels of municipalities and if a solution were to be found to deal with this situation, it will therefore alleviate the problems experienced by all the municipalities (Supra, 146). The legal framework that drives revenue in municipalities includes the Constitution, Municipal Systems Act, Municipal Finance Management Act, Local Government Property Rates Act, Municipal policies and by-laws – tariffs credit control and debt collection. Section 4 of the Municipal Systems Act 32 of 2000 indicates that the municipality has the right to finance the affairs of the municipality by charging fees for services; they can also impose surcharges on fees, rates and other rates, levies and duties.

Section 74 of the Municipal Systems Act No 32 of 2000 empowers the municipal council to implement and adopt a tariff policy. The tariff policy must espouse the principles that ensure that the users of the municipal services are treated equitably, the amount individual users pay for services should be in proportion to usage. The poor household should have access to basic services through tariff that covers only

operating and maintenance cost, special tariff or life line tariff, and any other direct or indirect subsidies (Johnson, 2004:125). The principles used by municipality must also reflect the cost associated with services, set levels that facilitate financial sustainability of service. In setting these tariff provisions must be made to allow for surcharge on tariff and all the promotion of local economic development. All the efficient and effective use of resources and give the disclosure of subsidisation of tariff. Section 75 of Municipal Systems Act 32 of 2000 requires of the municipality to adopt by law that give effect to policy. Section 96 of the Municipal Systems Act, places the responsibility to collect all money that is due and payable on the municipality. The municipality therefore have the responsibility to adopt, maintain and implement a credit control and debt collection policy that will ensure that the necessary revenue is collected.

#### **6.4 REVENUE COLLECTION CHALLENGES IN MUNICIPALITIES**

South African society is characterised by high level of social and economic inequalities, especially between urban and rural areas as such the collection of revenue in the rural areas remains a challenge and the rural areas have high levels of poverty and unemployment and low levels of economic activity, which can affect the ability of municipalities to fulfil their service delivery mandates in contrast to their urban counterparts (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). Rural municipalities generate and collect low levels of revenue, but the primary driver is difficult to explain can however be assumed that it could be because of structural problems limited or non-existent tax bases or due to administrative problems (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). It can therefore be argued inferred that the skills set in the rural areas are vastly different from those found in the urban areas.

Local economic activity and demographic factors determine a municipality's ability to generate revenues for instance the proportion of people over the age of 65, who benefit from rebates because they cannot effort to pay and unemployment levels are highly prevalent in rural areas as compared to urban areas (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133).The factors that have certain positive impact on capacity of municipality

to collect revenue the proximity to urban areas, specific economic activities and coastline, however, overall the tax base in rural areas is limited due to the low levels of economic activity, especially in deep-lying rural areas (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). The rural areas are also affected by social issues that impede the municipality's effectiveness in collecting revenue. Revenue collection is better in areas where residents have higher levels of disposable income, indicating that people who can afford to pay are willing to pay for property rates, municipalities with high levels of income inequalities among their communities have a lower ability to collect revenues due. This is likely due to social issues that result in local communities not being willing to pay taxes and services or municipalities using richer household to cover for debt not paid by poor household. It can however be argued that the situation is not sustainable in that such people will become overstretched (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133).

Yunis Carrim, the then Deputy Minister of Corporative Governance and Traditional Affairs (COGTA) (2009:1), in a local government report, there are internal and external factors that have an impact on local government. He went on to point out that factors external to the control of the municipalities included amongst others macro-micro economic issues which covered unemployment, revenue base decline and tax evasion by businesses (Muriithi & Moyi, 2003:5). He reported that in 2004/04 the share of service charges in the total operating income of local government was 49% and this declined to 42% in 2009/10. This indicates that the increase in dependency of municipalities on national government is a cause for concern it can therefore be argued that if this situation is not attended to in terms of correcting the revenue collection challenge that the municipalities face will result in the national government being overburdened, and this is not sustainable because the tax base from which SARS collect revenue is not expanding in exponential levels to be able to cater for such demands (Muriithi & Moyi, 2003:9).

Carrim (DBSA, 2009:1) indicated that the enforcement of debt collection, an increase in aged debt, which refers to debts older than ninety days and a high level of indigents and the culture of non-payment, impact hugely on the financial ability of municipalities

and he reported that 57 municipalities were receiving more than 75% of their revenue from national transfers. From the preceding discussion, it was reported that financial viability of municipalities was critical and requires sound financial management there is no doubt that there is a need for interventions by both the municipalities and national government to enhance the revenue collection, because revenue collection that is key to the sustainability of the municipalities (Rampele, 2008:2). It can therefore be inferred that if the municipalities are not sustainable the result could be service delivery protest which could destabilise the country.

Stiglingh (2008:15) reported that the problems pertaining to non-compliance were well known, and these problems resulted in a widespread tax gap which could be inferred that this is the situation even in the municipalities. In her conclusion she reported that the image of revenue was key driver to voluntary compliance which therefore means that the attitude and the perception of ratepayers about the municipality also play a role (Misra, 2004:3-27; Stiglingh, 2009:271; PWC, 2012:5-14; SARS, 2012:8 -16; SARS, 2015: 29-33). It can therefore be argued that revenue gap in the municipalities could be far greater than the one purported to be in SARS. The image of the municipalities could obviously be a challenge based on the number of service protests being experienced in the country at the moment caused by lack of service delivery.

According to Brondolo (2009:3) the drop in compliance may have some counter cyclical effects on the economy and tolerating non-compliance is therefore not an appropriate response to the crisis because it is distortionary, inequitable and in the medium term hampers the rebuilding of tax bases and meeting the needs of government. It can therefore be argued that the phenomenon of non-compliance could have a devastating effect on the country as a whole and have to be attended to (Muriithi & Moyi, 2003:1). The areas of revenue collection must be attended to in order to stop the recurring nature of non-compliance and this is the approach that the municipalities will have to adopt, if they were to turnaround the of revenue collection for better.

Brondolo (2009:9) reported that in order to address the challenges faced by revenue administrations and tax agencies they should develop a tax compliance strategy, in

which one of the fundamental objectives should be to contain a rise in non-compliance and help taxpayers to cope with the pressures of crisis. He then reported that to achieve these objects they will need to expand assistance to taxpayer; refocusing enforcement on the emerging areas of non-compliance that pose the greatest risk to revenue collection, enacting legislative reforms that facilitate administration and improving communication with the taxpayer population.

Table 6.2: The growth in revenue collection in municipalities

	Outcome (Million)						Real Average Growth
	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2003/04 to 2008/09
Total municipal own	66,426	70,037	86,780	84,830	89,486	94,921	7.4%
Total Government	13,492	18,900	25,106	35,200	44,638	53,882	31.9%
Total Municipal	79,919	88,937	111,887	120,031	134,125	148,803	13.2%

Source: Financial and Fiscal Commission submission to DORA 2012/2013

The table above indicates the growth that was experienced in the municipal revenue. The increase was however the result of the increase in the intergovernmental transfers that was aimed at enabling the municipalities to increase the access to basic services and to serve as a replacement for the abolished regional services levies (Johnson, 2004:125). The increase was also by national government to enable to municipalities to deal with the 2010 FIFA world cup (Financial and Fiscal Commission, 2013:43)

## 6.5 LEGISLATIVE MEASURES AND REMEDIES IN MUNICIPALITIES

Friedman (2004:3) posed a question as to what is the crucial role of legislative measures and remedies, personnel, training, procedures and processes in revenue

collection? For the collection of revenue by either SARS or municipalities to happen, they will have to be enforced. The capacity to enforce the revenue collection is embedded in the legal measures and remedies. Blekker (2009:7), reported that tax is not a voluntary contribution, but enforced by means of power. The powers that are used are embodied in legislation, and that is what forms the measures and remedies that can be used by either SARS or the municipalities. They both have legislative framework that assist these government institutions in the collection of revenue. It can therefore be argued that for revenue collection to happen they will have to be enforced. If the enforcement does not happen, there will obviously be reluctance on the part both ratepayers and taxpayer to pay their taxes.

The collection of revenue is based on legislation which is added and amended from time to time in order to match or to be in line with a particular need, crisis and the demand of politics. Most of the laws applied in the collection of revenue are drafted and promulgated in order to deal with or address problems that arise from the existing set of circumstances. This should however, not be the only aim of the legislation because the legislation must also have the capacity to deal with circumstances that have not arisen, which means that legislation must be pro-active and forward looking (Hartely, Firer & Ford, 2006:177).

The Local Government Municipal Systems Act, 2000 (Act 32 of 2000) in chapter 2 which deals with the legal nature and rights and duties of municipalities. It establishes the rights that are embedded on the municipal councils when it comes to the funding of the affairs of the municipalities. The municipal council can fund the affairs of the municipalities through charging of fees for the services (MFMA Circular, 2012:3). In chapter 8 of the Municipal Services, section 75A thereof makes the provision for the general power to the municipality to levy and recover fees, charges and tariffs with regards of any municipal function that the municipality provides. Specific information as to what is required of the municipality to action to enable it to give effect in the execution of the general powers and function that is bestowed upon it (MFMA Circular, 2012:3).

In section 12 and 13 of the Municipal Systems Act No 32 of 2000, the general framework is provided to enable the municipalities to charge for the services rendered,

to collect any money due to it and also empowers the municipality to levy interest on any outstanding amounts (MFMA Circular, 2012:3). It is provided in this section of the act, on how to go about to follow the municipal legislative processes, particularly the passing and publishing of municipal by-laws in the provincial government gazette as it is only through the by-laws that the decision of the municipal council could be given effect (MFMA Circular, 2012:3).

In Friedman (2004:3), a question was posed as to what could be the role of legislative measures and remedies in revenue collection by SARS, this emanates from their successes in revenue collection, as to what is the role played by the legislative measure and remedies in this regard. The understanding thought was as to what extent does the success in revenue collection required the enforceable legislative measures and remedies. The legislation used by revenue collection agencies and municipalities will have to be in line with the constitution of the country to ensure that, when the measures and remedies are applied does not contravene the provisions of the constitution. Despite the fact that the Supreme Court of Appeal reversed the earlier finding in the Hawker case, the criticism was earlier labelled at SARS officials, and also eluded to the fact the section 3 of the constitution might be unconstitutional. This was however reversed later on by Supreme Court of Appeal, the court in this instance served as the check and balance on the application of the law by SARS officials.

While analysing the measures and remedies used by SARS it will be critical that they are tested to ensure that they do not contravene the rights enshrined in the constitution (Dawood and Another v Minister of Home Affairs) it therefore means that the measures and remedies used will have to be aligned to the provisions of section 3 of the income tax act that deals with the discretionary powers of the commissioner. It is evident that there are check and balances on the measures and remedies used by SARS. The measures and remedies as applied by SARS must comply with the provisions of section 32(2) of the Constitution, the Promotion of Access to Information Act 2000, that allow the taxpayer access to the information held by SARS, this situation was confirmed by in the case of Ferala (Pty) Ltd and Other v SARS.

In Financial and Fiscal Commission 2012/2013 on the submission on the Division of Revenue Act, the Financial and Fiscal Commission reported that the problem

experienced by the municipalities is not only confined to small and rural municipalities but also the bigger cities. It can therefore be argued that the problem with revenue collection in the municipalities cut across all levels of municipalities. If a solution were to be found to deal with this situation, it will therefore alleviate the problems experience by all the municipalities. In making a contribution to this challenging problem of revenue collection, the chairperson of Financial and Fiscal Commission suggested that in order to improve the general performance of municipalities with regard to revenue improvement and collection, he recommended the adoption of standard indicators to detect stress, legislation of revenue collection as one of the key performance areas against which to assess overall municipal performance and subjecting the performance of revenue enhancement programmes to empirical test that cover changes in the effective tax rates, tax burden for all service users, the total revenue yield , economic efficiency and overall fairness.

According to Handler (2000:5) a critical instruments that need to be properly structured and arranged in order to have a proper revenue collection is the legal system. The legal system is a serious impediment on tax administration taking action against delinquent taxpayers and often on incentive for taxpayer non-compliance. It can be argued that the presence of measures and regulations that are based on the legislative premise strengthens the ability of an organisation to collect revenue (Verhoest, Peters, & Verchuere, 1996:32; OECD, 2004:8; Kidd & Crandall, 2006:1; Huxham & Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13). SARS revenue collection performance is premised on the legislative measures and remedies contained in the taxation acts. The Commissioner of SARS is empowered to carry out the duties as contained in section 3(1) of the Income Tax Act. When it comes to the rendition of tax returns in the case of SARS the provisions that cover the measures and remedies are contained in the Act. In section 76B to 76S of the Income tax Act, measures are in place to ensure that there is clarity, certainty and consistency when it comes to the interpretation and application of the Act.

According to Fjeldstand, Katera and Ngalewa (2008:1), many local government authorities in Tanzania have reformed their tax collection system in order to increase their revenue. It is therefore clear that any local authority has the capacity to re-look at their processes and procedures by enhancing their measures and remedies to be

able to increase revenue collection drive. The successes that were achieved in Tanzania can therefore serve as confirmation of the possibilities that are available to turn around local government authorities.

Fjeldstad (2009:4) reported that revenue authorities should be given separate legal status, as a corporate body with clear responsibilities and duties and broader powers to own assets and borrow money. This will enable them to have the capacity to deal with matters pertaining to revenue collection. It is evident that for the municipalities to function competently as far as revenue collection is concerned, a change must be made. Municipalities must be sufficiently empowered to can carry out this responsibility. Sections 76(1) (b) of the Income Tax Act contains the measures and remedies used by SARS to enforce revenue collection, these measures however need to be subject to section 14 of the Constitution which gives everyone the right to privacy, the right to price include, the right to have their persons or have searched property, possessions seized or infringement of communications. SARS have the legal measures and remedies in place that makes it possible for them to perform differently, when compared to other government agencies. The type of measures and remedies that need to be implemented in order to enhance the revenue collection in the municipalities will however have to remain constitutional as is the case with SARS measures and remedies that are always subjected to constitutional requirements. Municipalities 'customers care and debt management practices should be stipulated in their credit control and debt collection policies, revised annually and supported by the relevant by-law and this is prescribed in chapter nine of the Municipal Systems Act. Municipalities are reminded that the Municipal Systems Act 32 of 2000, which is chapter three in section 15, states that municipalities must compile and maintain the municipal code which comprised all the by-laws and that the public must be able to request copies of the municipal codes information for a reasonable fee.

## **6.6 CONTRIBUTION OF PROCESSES, PROCEDURES, STAFF TRAINING AND COMPETENCE IN MUNICIPALITIES**

Organisations have different expenditures, and the expenditure of salaries is driven by the need for labour as is key critical for the success of any organisation. The employees in organisations are the inputs that provide services and in the case of

municipalities, they run municipal administration efficiently and effectively, they are there ensure success of the municipalities. If the municipal expenditure were to be disaggregated analysed per municipal category, it will reveal that the spending of personnel tends to be larger in municipalities with fewer service level responsibilities in contrast to those with more service level of responsibilities. The aforesaid setup and situation results in rural and district municipalities having the largest share of personnel expenditure as per the point raised above. This state of affairs as referred to previously could be attributed to by a number of factors, chief amongst them being that these municipalities are perhaps simply paying excessive salaries to their staff, and the service delivery processes of these municipalities are likely to be more labour intensive. While the previous discussion would explain the above trends, most of the municipalities in question have no or limited major service powers and functions, when compared to the metropolitan municipalities. It should however be noted that the payment of higher salaries in rural areas is not without cause, because it could also be possible that these municipalities, which are largely located in poorer, rural part of the country, have to pay excessive salaries in order to attract appropriate skills (Financial and Fiscal Commission, 2013:50).

The revenue collection in municipalities is driven by the legal framework that includes the Constitution, Municipal Systems Act, Municipal Finance Management Act, Local Government Property Rates Act, Municipal policies and by-laws – tariffs credit control and debt collection. It can therefore be reported that these legislations are anchored by processes, procedures and staff, and this arrangement will only be successful if all these operate in congruence.

It is in Section 151 of the Constitution wherein it outlines the separate spheres of government that are in operation in South Africa. The governing of municipality is subject to the national and provincial administration; however the national and provincial government may however not impede or compromise the municipality's ability or right to exercise its powers to perform its functions. In terms of Section 152 of the Constitution the services that are provided by local government should be provided in a sustainable manner. Section of 153 requires that the municipality should structure and manage its administration, budgeting and planning processes in a way that to gives power to the basic needs of the citizens. Through budgetary processes,

the municipalities will be able to improve public expenditure management systems and procedures through cash, budget and treasury management. This alignment to the government 's quest started after 1994, where in the government began a public financial management and budgetary reform programme by introducing the output based budgeting, and this should be done through the necessary revenue and expenditure as well as budget management. Municipalities are empowered in terms of Section 229 of the Constitution to impose rates on property and surcharges on fees for services that they provide. The municipalities are also authorised by national legislation to impose their taxes, levies and duties that are only found at the municipal level.

In Section 4 of Municipal Systems Act 32 of 2000 it indicates that the municipality has the right to finance the affairs of the municipality by charging fees for services; they can also impose surcharges on fees, rates and other rates, levies and duties. It can therefore be inferred that it is the responsibility of the municipality to ensure that such charges are implemented and collected by them. Section 74 of the Municipal Systems Act 32 of 2000, empowers the municipal council to implement and adopt a tariff policy. The tariff policy however must espouse the principles that ensure that the users of the municipal services are treated equitably, the amount individual users pay for services should be in proportion to usage (McDonald, 2002:3-20; Johnson, 2004:147). The poor household should have access to basic services through tariff that covers only operating and maintenance cost, special tariff or life line tariff, and any other direct or indirect subsidies (McDonald, 2002:3-20; Johnson, 2004:125; Housing Development Agency, 2013:1-48; Tshwane, 2013:1; Statistic South Africa, 2014:7-8). The principles used by municipality must also reflect the cost associated with the services provided and should set levels that facilitate financial sustainability of service and in setting these tariff provisions an allowance should be made to allow for surcharge on tariff and all the promotion of local economic development and this should be done with the aim of ensuring the efficient and effective use of resources and should give the disclosure of subsidisation of tariff (McDonald, 2002:3-20; Housing Development Agency, 2013:1-48). Section 75 of Municipal Systems Act 32 of 2000 requires of the municipality to adopt by law that give effect to policy. It can therefore be inferred that the law when promulgated have the role of differentiating between the different

categories of ratepayers, the users of services, debtors, taxes, services and service standard and ensuring that the implication of the law bear the intended consequences.

Section 95 of the Municipal Systems Act 32 of 2000 deals with the credit control and debt management policy and it requires of the municipality to establish a sound asset management system, establish a mechanism for users of services to give feedback, informing users of services of the cost the service verification of consumption giving consumers regular and accurate accounts, creation of mechanism to query and verify accounts and provide accessible mechanism for dealing with surrounds monetary response and provisions of access bill pay points (McDonald, 2002:3-20; Johnson, 2004:147).

Section 96 of the Municipal Systems Act 32 of 2000 places the responsibility to collect all money that is due and payable on the municipality and it requires that the municipality should have the responsibility to adopt, maintain and implement a credit control and debt collection policy that will enable the municipality to remain solvent (McDonald, 2002:3-20; Johnson, 2004:147; Tshwane, 2013:141-249). Section 97 indicates that the policy for credit control and debt collection must provide credit control procedures and mechanism, debt collection procedures and mechanism, provision for indigent debtors and ensure that such indigent are not burdened with the costs that they will not be able to bear (McDonald, 2002:21; Johnson, 2004:147; Tshwane, 2013:141-249). It can therefore be argued that it is the responsibility of the municipality to ensure that it sets realistic targets that are consistent with Generally Recognised Accounting Practice (GRAP) and the estimates of income interest on arrears, extension of time for payments, termination or restriction of services are carried out with due consideration of the status and level of the different ratepayers (McDonald, 2002:21; Johnson, 2004:147; Tshwane, 2013:141-249). The policy that is in use should spell out how the municipality intent to deal with matters relating to unauthorised consumption, theft and damages that might occur within the municipality (McDonald, 2002:21; Johnson, 2004:147; Tshwane, 2013:141-249).

Section 98 of the Municipal Systems Act 32 of 2000 indicates that for the by law to take effect the municipal council will have to adopt it. Section 64 of Municipal Finance Management Act (MFMA) indicates that the Accounting Officer is responsible for

management of revenue (Johnson, 2004:147; Tshwane, 2013:141-249). It is therefore incumbent upon the Accounting Officer to ensure that the municipality has an effective revenue collection system which will include ensuring that revenue is calculated monthly and the accounts prepared monthly, money received is promptly deposited, internal control for debtors and revenue is in place and also ensure that interest are charged on arrears and revenue reconciled weekly (Johnson, 2004:147; Tshwane, 2013:141-249).

It is also the responsibility of the Accounting Officer to set processes and procedures in place that will inform national treasury of the late payment due to the municipality. Section 17 of MFMA indicates that the budget of the municipality should set out the realistically anticipated revenue for the budget year as well as the expenditure for the year, the indicative revenue and expenditure for the following two financial years. Section 13 of MFMA, requires of the municipality to establish a cash management and investment policy (Johnson, 2004:147; Tshwane, 2013:141-249). Section 2 of the municipal property rates Act, gives the municipality the power to levy rates. The rates may be levied by metropolitan and local municipality on properties in their area however the district municipality may also levy rates on properties in the district management area.

On business report of 13 August 2002, the then Minister of Department of Provincial and Local Government (DPLG) reported that the underlying cause of the staggering debt situation in the municipality was largely administrative. Administrative difficulty can usually be attributed to lack of policies and by law, inability to communicate policies and by laws. Inability to administer debtors database, inability to support indigent consumers, number of defaulting consumers, outdated archiving system, limited response period, lack of staff, lack of specialised credit control and debt collection system and exorbitant legal costs. System must have workflow process to direct and interchange work between credit control and debt collection staff, external contractors and dependents. System must be user friendly and consumers must be encouraged to make arrangements.

USAID Report (2006:18) raised that point that the non-payment in the municipalities can often be blamed on a number of uses, related to internal administrative processes,

which include incorrect billing caused by poor data input or incorrect consumption reading. The set requirements have been developed in debt collection that ensures best procedures. The aspects in this read are information supply, people and process and technology. Effective credit control is a disciplined process which is aimed at obtaining payment from consumers for services rendered by municipalities as contained in section 64 of MFMA (31). The implementation of credit control policy and the municipality should develop appropriate processes. And procedures to support the effective operational management of credit and debt control (MFMA sec 34).

USAID pointed out that the professionalism would require relevant training and better career opportunities in order to get public officials committed to the new system and changes in administrative processes, online procedures and training of public official are regarded as independent variable there are the condition of increase in revenue (USAID, 2006: 42; Ivanova, 2015:33)

The results of the study conducted by Monica de Maria on the impact on training staff, the results show that each percentage point increase in a number of employees placed in training there is a positive and a significant 0.17 percentage point increase on state tax collection ability (Monica de Maria, 2008:45). If want on to indicate that related to tax compliance it is positively and significantly corrected with training, signalling where tax collection are better educated, there is higher tax compliance (Monica de Maria, 2008:58).

In the National Treasury Circular No 64 (2012:2), it was indicated that the municipalities should ensure that they maximise the collection of revenue and this is despite the little guidance on what they should be doing. It was acknowledged that despite the local government framework and the supporting regulations that the national government issues, the municipalities continue to struggle in the delivery of basic services, billing and collection activities (Johnson, 2004:125). As is the situation in most aspects of the South African society, the municipalities are diverse and they operate in the social environment that is unique with regards to the demographics and the economic circumstances that they find themselves in, as such they have significant impact on the municipal performance and the subsequent strategies that are required to ensure that the municipalities are well functioning (Ramakhula, 2010:42 – 50;

Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Financial and Fiscal Commission, 2013:42). For the municipalities to fund the constitutionally mandated expenditures, the municipalities have two sources of revenue that they rely on, that is the own revenue that they generate and the intergovernmental fiscal transfers (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4; Manyaka, 2014:132-133). With regard to the own revenue, the municipalities are constitutionally bestowed a range of instruments, which includes property rates, user charges for municipal services rendered and other local taxes (Financial and Fiscal Commission, 2013:42). It is therefore important for the municipality to exercise their constitutionally bestowed power to collect revenue.

According to Financial and Fiscal Commission (2013:42) local government in South Africa is generally self-financing, deriving an average of 73.4% of total real operating revenue from own revenue collection over the period 2003/2004 to 2008/2009. It is acknowledged that due to the economic inequalities across the country, certain municipalities have less own revenue resources, and due to that the assistance of intergovernmental transfers plays a critical role in terms of bridging these inequalities because they ensure that the municipalities become viable in terms of fulfilling their service delivery mandates. In the period 2003/2004 to 2008/2009, the intergovernmental fiscal transfers contributed on average 26.6% to the total municipal revenue.

Given the skills and resource shortages in the rural areas, municipalities explore greater collaboration with district municipalities, neighbouring local municipalities and provinces pool resources in order to ensure greater regional planning and investment, where rural municipalities are adjacent to better performing municipalities, best practice methods should be shared through peer learning arrangement among municipalities (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4).

The fundamental factor constraining rural tax bases is depressed economic activity; in addition, rural municipalities use their limited existing revenue base inefficiently, collecting only half the potential revenue (Supra, 155). A concerted effort is required from all spheres of government to ensure the successful development of rural

economies (Supra, 154). Municipalities ensure that the revenue enhancement strategies are sensitive to broader constraints, such as inequality, unemployment, local politics and land tenure issues so that revenue effort is maximised and the municipalities functions must be adequately staffed with competently skilled individuals who understand their job requirements and how to deliver on it (Ramakhula, 2010:42 – 50; Financial and Fiscal Commission, 2011:42 – 43; SALGA, 2012:2-4). It can therefore be argued that the skills levels of the personnel in any organisation have an influence at the levels on which such organisation can operate and perform and deliver the services as required by their customers.

## **6.7 CONCLUSION**

It can therefore be concluded that the national government should specifically enforce the provisions that are set out in section 74(2) of the Municipal Systems Act 32 of 2000 such that the basis of municipal tariffs accurately reflect the cost of providing the specific service as well as conforms to the National Treasury expenditure guidelines for repairing and maintaining municipal infrastructure. This will enable the municipality to have the necessary revenue streams and sources that can be used in the funding of the requirements of the municipality.

The national and provincial government should require and assist municipalities to identify the primary cause of poor performance in their billing and revenue collection functions and use the information to design appropriate remedial strategies. Subsequently, municipalities should establish municipal service district to facilitate improved performance. It can therefore be indicated that the types of system that are used in the municipalities should issue bills that are accurate, in order to enjoy confidence of the ratepayers which could result in them paying their outstanding bills. An interim measure, government should establish and publish guidelines for municipalities on the management of municipal consumer debt in terms of, but not exclusive to, interest charges, debt impairment and writing off of bad debts. The government should take a holistic view of dealing with the challenge of revenue collection, and takes the necessary steps that will foster and encourage initiatives that will bolster revenue collection and ultimately establishing municipalities that are sustainable and viable. As part of strengthening revenue collection, section 64 of the

Municipal Finance Management Act (Act.56 of 2003) should be amended to require the regular collation and updating of information on the indigent residents of a municipal area, as an integral component of municipal revenue management practices. This will enable the municipalities to have updated data and are necessary for correct decision making and could result in the increase in revenue collection instead of wasting time and effort in pursuing uncollectable bills.

The other area that could help the municipalities in increasing revenue collection is when the national and provincial government develop and support peer learning and support programmes that assist poorly performing municipalities to leverage the experience and best practices of well-performing municipalities, particularly in relation to spending performance, efficiency in using resource, proper debts management and the achievement of desired development outcomes. This type of initiative could assist the municipality in learning from the best municipalities and copying and customising such practices in their municipalities.

In the chapter that follows the study will focus on research methodology and the designs adopted for the study.

## **CHAPTER 7: RESEARCH DESIGN AND METHODOLOGY**

### **7.1 INTRODUCTION**

All scientific studies conducted are based on some underlying philosophical assumptions in terms of what constitute a valid research. Research in common phraseology refers to a search for knowledge. It is a scientific and methodological search for appropriate information on a specific topic. This also have an impact on which research methods are appropriate for the study and the resultant development of knowledge in that given study. This chapter dissects the research methodologies, and the design strategies that are underpinning this research. The study also presents the research methodologies and design that was used in the study instruments, data collection and analysis.

### **7.2 RESEARCH DESIGN OR APPROACH**

Research design is the framework that is created to seek answers to the research questions which results in revealing particular understanding on the matters being researched (Mouton, 2001:55-57; Yang & Miller, 2008:75-79). A research design is the blue print of the study and defines the study type and sub-type, research questions, independent and dependent variables, experimental design and if applicable, data collection methods and statistical analysis plan (Yang & Miller, 2008:75-82). This study followed combination of both qualitative and quantitative research design. The study followed a case study approach of comparative investigation of the Tshwane Metropolitan Municipality revenue in collecting in comparison to the South African Revenue Service. The quantitative research was done through the administration of questionnaires to the ratepayers and corporate taxpayers and tax practitioners followed by the qualitative in-depth interview questionnaires for both South African Revenue Service and the Tshwane Metropolitan municipality to ensure that the data so collected are both collaborated and diverse to enable the researcher to draw a balanced conclusion.

## **7.2.1 STUDY AREA**

### **7.2.1.1 TSHWANE METROPOLITAN MUNICIPALITY**

Tshwane Metropolitan Municipality is selected as a study area. In South Africa there are 228 local municipalities, 44 district municipalities and 8 metropolitan municipalities. It is difficult to study what challenges are faced by all these municipalities in terms of revenue collection; hence the Tshwane Metropolitan Municipality will be used as a case for the study. Another reason for using Tshwane Metropolitan Municipality as the case for the study is because it has the elements of metropolitan, district and local municipality. Tshwane Metropolitan Municipality is classified as a Category A Grade 6 urban municipality by the Municipal Demarcation Board and the classification is in terms of Section 4 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998). In terms of the proclamation on the Government Gazette of the 28 May 2008, the former Metsweding District Municipality, as well as Dinokeng tsa Taemane (Cullinan) and Kungwini (Bronkhorstspuit) local municipalities were incorporated into Tshwane Metropolitan Municipality. The incorporation of the district municipality and two local municipalities have elevated the status of the Tshwane Metropolitan Municipality to the third largest city in the world in terms of land area; with only New York and Tokyo/Yokohama being bigger than it (<http://www.tshwane.gov.za>). The Tshwane Metropolitan municipality has 105 wards, 210 councilors and has approximately 2.5 million residents that are divided into seven regions. It covers 6 368 square kilometers of Gauteng's 19 055 square kilometers and it stretches almost 121 km from east to west and 108 km from north to south. The challenge faced by such vast and widespread municipality will be revenue collections, for this reason it is critical to have a clear picture as to what are the revenue collection challenges faced by the municipality. In order to get more clear and precise information and evidence on the municipalities this study will undertake a single case study method.

### **7.2.1.2 SOUTH AFRICAN REVENUE SERVICE**

SARS is the revenue service of South African government, it was established by legislation, the South African Revenue Service Act 34 of 1997 to collect revenue and ensure compliance with tax laws. SARS is also selected as part of this study. SARS has its head office in Pretoria and operate fifty branches that are spread throughout

the country in all the provinces. SARS also have four large business centres in four provinces, in the Western Cape, Eastern Cape, Gauteng and Kwa-Zulu Natal that cater for the large businesses.

### **7.2.2 QUALITATIVE RESEARCH**

Qualitative approaches have the advantage of allowing for more diversity in responses as well as the capacity to adapt to new developments or issues during the research process itself. While qualitative research can be expensive and time-consuming to conduct, many fields of research employ qualitative techniques that have been specifically developed to provide more succinct, cost-effective and timely results. The strength of qualitative research is its ability to provide complex textual description of how people experience a given research issue (Yang & Miller, 2008:141-151). It provides information about the human side of an issue that is often contradictory behaviours, beliefs, opinions, emotions, and relationships of individuals (Welman & Kruger, 1999:185-199). The advantage of qualitative method in exploratory research is the use of open ended questions and probing which gives the participants the opportunity to respond in their own words, rather than forcing them to choose from fixed responses, as quantitative methods do and this will be ideal for this comparative study of revenue collection between the municipalities and SARS in which the two qualitative research techniques, namely focus groups in-depth interviews was employed to obtain data from both individual and corporate taxpayers and managers responsible for revenue collection in both municipalities and SARS. In this study qualitative research approach was adopted.

### **7.2.3 QUANTITATIVE RESEARCH**

Quantitative research is a form of conclusive research which involves a large representative samples and the data collection procedures in his method is fairly structured (Welman & Kruger, 1999:190-199 2004:4; Yang & Miller, 2008:98; Leedy & Ormrod, 2010:106-108). In the use of quantitative approach information can be numerically manipulated in a meaningful way and this approach is mainly used in the traditional scientific research (Yang & Miller, 2008:34). The main purposes of this approach is to explain the relationship between variables and emanating from that a

conclusion can be drawn of the cause and effect of such relationships and the data collected can be expressed in numbers (Welman & Kruger, 1999:190-199; Yang & Miller, 2008:34; Leedy & Ormrod, 2010:106-108). Quantitative research generates statistics by using of large scale survey research as well as using methods like questionnaires or structured interviews (Welman & Kruger, 1999:190-199; Leedy & Ormrod, 2010:106-108). In this study 78 questionnaires were distributed to the seven regions of the Tshwane municipality in order to collect data from the ratepayers in those regions and this was done to solicit the perceptions and opinions of the ratepayers which are fundamental to how revenue collection happens and perceived.

### **7.3 POPULATION**

Population can be defined as the totality of all the subjects that conform to set parameters and specifications and they comprise the entire group of respondents that are of interest to the researcher and they could culminate in the generalisation of results (Polit & Hungler, 1999:43 – 232; Yang & Miller, 2008:49-53). The population of this study was a group from a total set of ratepayers, taxpayers, officials of SARS and municipalities. The study was conducted in the seven regions of Tshwane metropolitan municipality. The population size of Tshwane metropolitan municipality is 2 553 645, with a population density of 403 and an average household of 3 as per the 2011 census (Statistics SA, 2011:17). It was therefore deduced that there is an average of 851 215 household in Tshwane when using the 3 as the average household to the total population. The target population for this study was therefore ratepayers, taxpayers, officials of SARS and the Tshwane municipalities. It was envisaged that the views and opinions that can be deduced from these respondents possessed the capacity to respond to the objectives of this study because they all fall into being ratepayers and taxpayers who are clients of both the municipality and SARS.

### **7.4 SAMPLING**

Even if it were possible, it is not necessary to collect data from everyone in the community in order to get a valid finding (Yang & Miller, 2008:216-226). Sampling is an act, process or the technique that is used in selecting the suitable sample or the representative part of the population which is used to determine the characters or

parameters of the whole population and this is done through a sample rather than a complete enumeration (Yang & Miller, 2008:216-226). In qualitative research, only a sample that is a subset of a population is selected for any given study. A sample which is therefore carefully selected to allow for generalisation about a larger population without having to survey or assess the entire population (Yang & Miller, 2008:216-226). The study's research objectives and the characteristics of the study population such as size and diversity determine which and how many people to select. There are three most common sampling methods used in qualitative research: purposive sampling, quota sampling, and snowball sampling (Saunders, Lewis & Thornhill, 2009:210-254). In this study Purposive sampling was used with random samples used in the administration of questionnaires, in order to mitigate for any shortcomings that were imbedded in the purposive sampling, this was done with an understanding that purposive sampling is most successful when data review and analysis are done in conjunction with data collection (Yang & Miller, 2008:216-226; Saunders, Lewis & Thornhill, 2009:213 -234). In this study the individual participants for focus group and interview were purposefully selected, while for a questionnaire a random sampling strategy was applied to participants in the seven regions. From the population size of 2 553 645 people and a total of 542 ratepayers were sampled to participate in the study, in addition to this the corporate taxpayers and or tax practitioners, SARS and municipal officials were also given in-depth structured interview questionnaires to substantiate the opinions expressed.

## **7.5 DATA COLLECTION**

The following data collection methods were followed, namely: interviews, focus groups and questionnaires. Data is the information that is obtained by the researcher during the course of investigation or study (Polit & Hungler, 1999:267; Yang & Miller, 2008:156-159)

### **7.5.1 FOCUS GROUP**

The focus group was used for corporate taxpayers and tax practitioners. Ten corporate taxpayers or tax practitioners were selected from the companies listed in Johannesburg Stock Exchange or practicing tax practitioners were used as the focus

group. Their selection was necessitated by their exposure and experiences in dealing with both SARS and the municipalities. The tax practitioners 'experiences in dealing with many taxpayers, both corporate and individual was critical in that their views and experiences were based on their engagement with the different types of taxpayers and their interaction with the municipalities.

### **7.5.2 IN-DEPTH INTERVIEWS**

The in-depth-interview was used and the participants in this case were the management in revenue collection departments of both SARS and the municipality, who were interviewed individually. Interviews in qualitative research are usually wide ranging, and probing issues in detail. There were predetermined set of questions that were in the questionnaires that were asked in this study. The interview was unstructured and entailed various questions which were not necessarily the same for all interviewees. With regard to the management interviewed, the non-probability sampling approach was used, which is a judgemental approach. These interviewees were selected on the basis of judgement that they have the capacity and the authority to provide reliable knowledge on the required information. After discussion with both SARS and Tshwane Metropolitan Municipality they requested to be given space to consult internally and complete the questionnaire as required, because they view their questionnaire as requiring much details that will do justice by just verbally giving the information. In the municipality the section an officer responsible for economic development was provided for an in-depth interview questionnaire completion while at SARS the executive responsible for strategy and planning did the same.

### **7.5.3 QUESTIONNAIRES**

Questionnaire is a method of gathering information from respondents about attitudes, knowledge, feelings and their beliefs (Polit & Hungler, 1997:466). Questionnaires were administered to the ratepayers as determined in the sample, in the seven regions and be seventy eight questionnaires were distributed per regions which translate into five hundred and forty-one divided by the seven regions. Therefore Five hundred and forty-six questionnaires were administered. The service of one field worker per region was acquired and the questionnaires were randomly distributed to potential respondents. The fieldworker ensured that the questionnaires are completed and

collected. The collected data were analysed in order to establish the statistical inferences that resulted in the generalisation of the findings on the studied phenomenon.

#### **7.5.4 DOCUMENTATION**

Documents from SARS and municipalities on policy, historical revenue collection results, governance and management were used to collaborate and supplement and add to the literature data. The research made use of the published materials to support the study, the materials included journal articles, web sources, books and related material.

#### **7.6 DATA ANALYSIS**

This study collected data from different sources as reported above. Content analysis was used to analyse the data, which means that data analysis took place once all data were collected. Content analysis entails a systematic method of analysing open ended question and measured the semantic content and followed a systematic process of coding and drawing inferences from the text.

#### **7.7 VALIDITY AND RELIABILITY**

In using a measuring device in the data collection process, validity and reliability thereof plays a critical role. (Welman & Kruger, 1999:142; Mouton, 2001:100; Yang & Miller, 2008:156-159; Saunders, Lewis & Thornhill, 2009:156). In establishing validity a two-step process was followed, that was developing a coding scheme that served as a guide in the analysis of content. The second step entailed assessment of decisions that was made against the standard. The codes were checked to ensure that they match the standard for correct decision making (Potter & Levine-Donnerstein, 1999:267). In ensuring reliability the three types of designs for the test of content analysis were used, which are stability, reproductivity and accuracy. The test and retest procedure, to determine the degree to which a process is invariant or changing over time was used, to test for stability. In testing for productivity, the content was analysed by different codes, then the reliability was established. In testing for accuracy, comparison was performed to check the degree to which a process functionally conforms to the standard. Using the best practices of revenue collection,

a standard was established to compare the extent to which the process functionally conforms to that (Potter & Levine-Donnerstein, 1999:271; Welman & Kruger, 1999:138,142; Mouton, 2001:100; Saunders, Lewis & Thornhill, 2009:156-157).

## **7.8 ETHICAL CONSIDERATIONS**

According to Mouton (2001) participants has right to anonymity and assumption that the data collected from the participants were assured of their confidentiality. Emanating from this, the participant's rights to withdraw their participation in the study at any given time without any consequences was assured (Dwyer, 2004:4; Yang & Miller, 2008:282; Fjeldstad & Moore, 2008:2- 10; Goldswain, 2012:23; Cattarelli, 2011:22). All the information collected from participants is confidential and will be maintained as such. Permission to collect the data was sought from both SARS and Tshwane Metropolitan Municipality. Knowledge of the nature and purpose of the study as well as expected roles and activities were explained. The participants were informed about the aims and the purpose of the study as well as any potential risk that may arise emanating from the study.

According to ethical guidelines, certain research projects do not require the informed consent of participants. The projects that do not required consent include the use of anonymous questionnaire where the participants cannot be personally identified or harmed in any way. According to Leedy and Ormrod (2010), participants were assured of the confidentiality and anonymity of the information that they supply. An informed consent letter was thought from the University of Limpopo, in its letterhead. Respects for the privacy of the participants were adhered to when performing this research. When dealing with materials that were personal and sensitive and having the potential to be harmful to the participant, such will be treated with caution.

Participants were informed where appropriate, about all aspects of the research, especially its aims and implications in order to influence their willingness to participate. Clear and fair arrangements were first reached with the participant of the study before involving or engaging them in such a process. The pursuit of knowledge was not regarded as the supreme goal at the expense of the personal, social and cultural values of the participant. It was emphasized to participant at the outset of their

volunteer status and their right to withdraw the privacy and psychological wellbeing of participant will be respected, especially with regard to non-volunteers, based on observation or non-record, some of which may be confidential. All guarantees of privacy, confidentiality anonymity will be honoured and participants were not coerced or humiliated. Research was conducted in a responsible and considerate manner. Nothing was done that would have injured, harmed or disturbed the participant from whom the information and reports were thought, and when the findings may be subjected to the public scrutiny. The researcher considers it necessary and ethical to share the findings with the participants institutionally and hopes the research will have impact on the municipalities and SARS.

## **7.9 CONCLUSION**

The preceding discussion dealt with the methodology that was used in conducting this study. It spells out the procedures and steps that were followed in gathering the data that was analysed in chapter eight.

The following chapter dealt with data presentation and analysis, where the data collected through qualitative and quantitative methods are used to generalise the perceptions of ratepayers, corporate taxpayers and or tax practitioners, SARS and municipal officials on the municipal revenue collection as compared to SARS revenue collection.

In the chapter that follow the study will focus on data analysis and interpretations of the results obtained through interviews and questionnaires from the two study areas.

## **CHAPTER 8: RESEARCH FINDINGS, PRESENTATION AND ANALYSIS**

### **8.1 INTRODUCTION**

The revenue collection functions of municipalities and SARS as discussed in the previous chapters have demonstrated how revenue collection function is performed in both institutions. The chapter reports on the findings of the investigations on opinions and attitude of ratepayers as determined using the questionnaire. An in-depth questionnaire was administered to SARS and Tshwane metropolitan municipality, corporate taxpayers and or tax practitioners.

This chapter present the findings of the study which entails the responses from the different participants from the Tshwane Metropolitan Municipality, The South African Revenue Service, Ratepayers from Tshwane Metropolitan Municipality and Corporate Tax Department/and or Tax Practitioners. The responses are compiled into tabular formats and graphs and this is done in order to facilitate analysis and understanding of the attitudes and opinions of the different participants concerning their understanding of the revenue collection functions in both the Tshwane Metropolitan municipality and South African Revenue Service.

### **8.2 DATA PRESENTATION**

Data was collected from four population samples, which are municipal officials, SARS officials, ratepayers and corporate taxpayers and or tax practitioners. The data collection in this study was mostly interactive, which entailed interviews, focus group and administration of questionnaires. The research question was not meant to generalise based on the sample data to the population from which the subjects were selected but rather it looked at the useful descriptive measures of the differential effectiveness of the two revenue collection entities; that is the municipalities and the South African Revenue Service. In terms of the sample size five hundred and forty six questionnaires were administered to the ratepayers in Tshwane Metropolitan Municipality. Ten questionnaires were administered to corporate taxpayers and or tax practitioners for the purpose of getting the practitioners 'views and opinions and also to understand how corporate taxpayers deal with both tax requirements and municipal rates and taxes. The tax practitioners views was regarded as important as they dealt

with different taxpayers as a result of which they have in-depth understanding of how taxpayers and SARS interact with each other as they serve as intermediary for the two stakeholders. To show their importance in dealing with tax matters, within SARS they have a dedicated practice numbers that get allocated to them by SARS and have a dedicated section within SARS that deals with tax practitioners. Interviews were conducted with SARS and municipalities which culminated in the completion of the in-depth questionnaires by the two institutions.

The responses were received from the ten corporate taxpayers and/ or tax practitioners, Tshwane Metropolitan Municipality and the South African Revenue Service as well as ratepayers. Of the five hundred and forty six that were administered to the Tshwane metropolitan municipality ratepayers, four of the questionnaires were not returned and one returned blank which means that the returned questionnaires constitute 99.26%.

This chapter present and analyses data collected through interviews from SARS and Tshwane metropolitan municipality and administration of questionnaires to the ratepayers in the seven regions of Tshwane metropolitan municipality. In using the instrument, an attempt was made to determine the attitude, opinions and perceptions of respondents. The first questionnaire that will be presented first is annexure A, which is the questionnaire to the municipality, that is followed by annexure B which is the questionnaire to SARS, then Annexure D which is the questionnaire to corporate taxpayers and or tax practitioners and the last one is annexure C, which is the questionnaires to the ratepayers.

### **8.2.1 DATA FROM TSHWANE METROPOLITAN MUNICIPALITY**

A structured questionnaire was used for the Tshwane Metropolitan Municipality which dealt with the strategies used by the municipality and as well as the assessment of such strategies that are used in revenue collection. The other component that was considered was the impact that the legislative frameworks have on revenue collection as well as the role that is played by the systems and procedures in revenue collection. The City Manager of Tshwane was interviewed with the use of a structured interview

questionnaire, in which he was to provide information on strategies used by the municipality to collect revenue. The information provided and analysed is provided as follows:

### **8.2.1.1 STRATEGIES USED BY MUNICIPALITIES TO COLLECT REVENUE**

On dealing with strategies that are used by the municipality in revenue collection, the areas that were covered included the nature of revenue collection by the municipality, the appropriateness of such strategies, the assessment of the success or failure of such strategies, the possibility of any intervention on enhancing such strategies going forward as well as possible strategies that could have been envisaged to increase revenue. The response from the municipality revealed as follows:

#### **8.2.1.1.1 THE NATURE OF REVENUE COLLECTION STRATEGIES IN MUNICIPALITY**

On the nature of revenue collection strategies in Tshwane metropolitan municipality, The City of Tshwane uses a Tariff Schedule prepared by the Group Financial Department every financial year. The revenues are increased based on the preceding financial year baseline. In the informal sector, the Economic Development collect revenue through trading permits, trading licenses, events license, monthly rentals for allocated infrastructure and renewals. In the formal sector revenue is collected through trading licenses and renewals. It can therefore be deduced that the use of the previous years' performance as the basis of projecting the future target, does not stretch the target enough to force higher performance because poor performance of the previous years will remain a yardstick to determine the future. It is therefore pivotal that in order to enhance performance, the municipality will have to used zero base projection that will allow it to set new target that will take into considerations the new economic conditions into account and allow for proper interventions that will propel the municipal capacities and enhance their revenue collection. It is therefore the responsibility of the municipality to ensure that the strategies that they adopt and apply in revenue collection will be able to enhance and position the municipality to successfully increase their revenue collection capacity.

#### 8.2.1.1.2 THE OPINION ON THE APPROPRIATENESS OF REVENUE COLLECTION STRATEGIES

On the opinion of the appropriateness of revenue collection strategies, it is reported by the municipality that from the premise of using the preceding year as a baseline, it renders their revenue collection strategies appropriate. The baseline gives an indication of the revenue collection which is a result of market or business performance from which their clients generate income. It can be deduced that from the municipality perspective, their revenue collection strategy is appropriate. This finding contradicts what is raised in this thesis (Supra: 3) that municipality have weak strategies that makes it impossible for them to generate optimal revenue from ratepayers.

#### 8.2.1.1.3 THE EXTENT TO WHICH THE REVENUE COLLECTION STRATEGIES ARE A SUCCESS OR FAILURE

On the assessment of the success or failure of the revenue collection strategies, the municipality reported that these strategies have been a success considering that more than fifty percent of the set revenue target has been achieved, although we are not necessarily achieving the set target per se. It can therefore be deduced from this statement that the revenue collected by the municipality is not sufficient to cover their set target and it therefore means that they will have to either increase the enforcement levels or come up with a different strategy to meet their set revenue target (Supra, 168). It can be deduced that the revenue collection strategy is a success, however, fifty percent is still difficult to collect as argued in this thesis (Supra, 123), that SARS strategies enables them to exceed their revenue collection targets in 2014/15 of R980 billion, by R7 billion which is 0.7%.

#### 8.2.1.1.4 STRATEGIES THAT MAKE SARS SUCCESSFUL IN REVENUE COLLECTIONS COMPARED TO MUNICIPALITY

On the question of SARS being regarded as successful in revenue collection (Supra, 113), the municipality's view was that the reasons for success in their strategies as compared to theirs was that SARS intensified on their compliance improvement initiatives and the introduction of policy reform which increased other avenues of revenue collection (Supra, 121). They have promoted voluntary compliance across the board at the same time increasing cost effectiveness, internal efficiency and

strengthening their institutional arrangements (Supra, 69). The Tshwane municipality indicated that their strategies lack efficiency in collection, voluntarily compliance is minimal which further cause the municipality to resort to enforcement (Supra, 98). The institutional arrangements are very critical in revenue collection and the Tshwane traders pay for their revenue in another department and apply for a license to another within the same municipality, this is time consuming and result into clients being discouraged when they consider the hassle of going up and down. It can be deduced from this that the municipality are aware of their limitations in revenue collections and desire SARS strategies.

#### 8.2.1.1.5 THE STRATEGIES AND INTERVENTIONS ENVISAGED BY THE MUNICIPALITY IN REVENUE COLLECTION GOING FORWARD

On the strategies and interventions that the municipality is envisaging in revenue collection going forward, they reported that they are planning to introduce revenue collection awareness campaigns targeting all seven regions in Tshwane (Supra, 114). It can therefore be argued that the revenue collection campaigns have the capacity to educate the ratepayers about their tax obligations which could increase the compliance levels (Supra, 95). To also propose that economic development has a pay point by traders at a place of application. To intensify on the regular random compliance inspection will bring sense of urgency to traders and propel them to comply without using enforcement (Supra, 104).

#### 8.2.1.1.6 THE MUNICIPAL STRATEGIES TO INCREASE REVENUE COLLECTION

On the question of the availability of strategies in place to increase revenue collection, the municipality reported that currently the municipality has engaged in an infrastructure development programme which will increase the trading areas in the City. When these infrastructures are allocated to traders, it will increase the revenue pool within the City. Furthermore, this will provide good environment to do business which will create income generation for traders, which will ultimately enable them to meet their monthly obligation of paying rent, renewals and other economic activities. The development of township revitalization project will be handed over to communities over a period of time, once they become sustainable those facilities will be the source

of revenue for the City. It can however be argued that there will be a need to attach ratepayers compliance condition before such infrastructure is handed over to ensure that they do not emulate the culture of non-payment of services, and this will call for the municipality to conduct ratepayer compliance campaigns.

### **8.2.1.2 ASSESSMENT OF STRATEGIES USED BY MUNICIPALITIES TO COLLECT REVENUE**

Continuous strategic review is important for any organisation to achieve its set objectives. When dealing with assessment of strategies that municipalities used in the collection of revenue, the areas that were assessed included assessing the nature of the municipal's practice of assessing the existing revenue collection strategies, how often are such strategies assessed, the manner and the methods of assessment used on checking the effectiveness of such strategies, as well as the effectiveness of such strategies.

#### **8.2.1.2.1 THE NATURE OF MUNICIPAL'S PRACTICE IN ASSESSING THE EXISTING REVENUE COLLECTION STRATEGY**

On assessing the nature of municipal's practice in assessing the existing revenue collection strategy, it was reported that several factors are considered, one of them is an economic factor which bears in mind the traders' affordability. Other factors are social, there are traders who would like to do business at no cost in the city and this increases non-compliance, this composure is a contributing factor in the assessment. Their history of collection will also be a determining factor especially on a revenue target are set for the following financial year. It can be deduced that the municipalities and SARS indeed differ in revenue collection. SARS target particular class and the municipalities assume that they are dealing with poor people and have to consider economic and social issues in revenue collection however the same people who are taxpayer are also ratepayers, and the indigent are well separated, so this argument that the challenge of revenue collection in municipalities is caused by indigent is not completely founded.

#### 8.2.1.2.2 FREQUENCY OF THE ASSESSMENT OF REVENUE COLLECTION STRATEGIES

It was also reported that the assessment of revenue collection strategies is done every financial year. The municipality reported that this manner and method of assessing the effectiveness of the revenue collection strategies have worked for the municipality for a number of financial years. It can be deduced that the municipality annually have an opportunity to assess their strategies and set the target for the following year, it can therefore be argued that the performance of the municipality is not a surprise to the municipality, they know and appreciate the challenges that is imbedded in their revenue collection strategies. It can further be argued that the strategies that are reviewed annually do not necessarily yield the desired outcome in that the total debtors' age analysis of City of Tshwane as of 30 June 2015 was an amount of R6.8 billion of which R5 billion was over 90 days (National Treasury, 2015:16)

#### 8.2.1.2.3 THE MANNER OR METHOD OF ASSESSING THE EFFECTIVENESS OF REVENUE COLLECTION STRATEGIES

On the effectiveness of the revenue collection, it was reported that the effectiveness of revenue collection was not based on quantum of revenue collection, but on how the strategy is entrenched to be applicable to all ratepayers without overcharging the traders. It was borne in mind that the overcharging of traders could results in putting them out of business. This means that municipalities always consider the socio economic positions of their clients in this case the poor. Any strategy should not aim at impoverishing the people. This again implies that what municipalities consider in revenue collection is totally different to what SARS would consider appropriate in revenue collection. SARS rarely consider what happens to the taxpayer after enforcement as enforcement is the last resort after the person will have failed to comply or engage in schemes that are aimed at evading taxes.

#### 8.2.1.2.4 THE EFFECTIVENESS OF THE ASSESSMENTS

The Tshwane municipality indicated that they have consistently observed their ability to generate income which is the key determinant in their ability to pay tariffs to the City by the traders. The city did not encounter any complaints from traders about high tariffs. It can therefore be deduced that the tariff levels are not high to warrant

complaints but yet the municipality can only collect fifty percent of their target revenue, which means that there is a need for the municipality to strengthen their enforcement arm of revenue collection to ensure that those who are not paying are followed up and the outstanding rates and taxes are collected. It can however be argued that based on the Cooperative Government and Traditional Affairs department report (Supra, 3), and the press release on Local Government Revenue and Expenditure: Fourth Quarter Local Government Section 71 Report (Preliminary results) for the period: 1 July 2014 – 30 June 2015 it is evident that there is a challenge on the effectiveness of revenue collection.

### **8.2.1.3 THE ASSESSMENT OF THE IMPACT OF LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN REVENUE COLLECTION**

The other area that was dealt with in the municipal environment was the impact and assessment of legislative framework, measures and remedies in revenue collection, this included the extent to which the municipality is dependent on legislative framework, measures and remedies in revenue collection, the sufficiency of legislative framework, measures and remedies sufficient in enhancing revenue collection. It also covered how they are also used to enforce revenue collection and the extent the revenue collection can be attributed to this.

#### **8.2.1.3.1 THE EXTENT TO WHICH THE MUNICIPALITY IS DEPENDENT ON LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN REVENUE COLLECTION**

The legislation is used and all the tariffs that are charged on traders are determined on a Tariff Schedule that is finalised a month before the next financial year. There is no fee that will be charged if is not covered in the schedule. It was however reported that the legislative framework, measures and remedies that are there currently are necessary but are not sufficient in enhancing revenue collection. It can therefore be deduced that the municipality is aware of the shortcomings in the effectiveness and efficiency of their revenue collection legislative measures and remedies at their disposal. It can therefore be inferred that the municipality have the responsibility to strengthen their legislative framework to ensure that their measures and remedies are well entrenched to yield the desired outcome in revenue collection.

#### 8.2.1.3.2 THE SUFFICIENCY OF THE LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN ENHANCING REVENUE COLLECTION

It is reported that the use currently are necessary but not sufficient to collect revenue. They cover only for those activities that are determined in a schedule. Anything outside the schedule makes it difficult to enforce. When it comes to the enforcement of legislative framework, measures and remedies and their effectiveness in revenue collection, it has been reported that only for those activities that is determined in a schedule can be enforced and anything that falls outside the schedule makes is difficult for municipality to enforce (Supra, 88-89). It was however discovered that the extent to which the legislative framework contribute to the revenue collection, is that the collection emanating from the use of tariff schedule is the largest because it is the only legislative document that guide the municipality in revenue collection. It can therefore be deduced that there is a need in the municipal environment to strengthen the legislative framework to enable the municipality to enforce the revenue collection. It is also evident that the same taxpayers who are compliant in SARS environment are also the same ratepayers that should be compliant to the municipalities.

#### 8.2.1.3.3 THE EXTENT TO WHICH THE REVENUE COLLECTION IS ATTRIBUTED TO LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES

The Tshwane metropolitan municipality reported that the revenue that they collect is to a larger extent attributed to the legislative frameworks, measures and remedies, in their situation to a larger extent is the Tariff Schedule which is the only legislative document to guide them in revenue collection for years. It can be deduced that the revenue collection is depended on the enforcement of Tariff Schedule which is said to be their legislative framework, which means that success in revenue collection is partly driven by the strengths of the legislation that is being applied and enforced, which in this case is the Tariff Schedule.

#### **8.2.1.4 THE ROLE OF SYSTEMS AND PROCEDURES USED BY MUNICIPALITY IN REVENUE COLLECTION**

The last components of the interview dealt with the extent to which systems and procedures are used by the municipality in revenue collection. This interview question covered the extent to which systems and procedures contribute to revenue collection

and it was reported that currently the Municipality is using the SAP system to collect its revenue. But the Economic Development Directorate is also introducing an electronic system for the informal sector which will increase the collection by calculating revenue owed to the municipality on monthly basis. Emanating from the responses that were received from the municipality, it can be argued that, the municipality understand where it stand with regards to revenue collection, however, it also becomes evident that based on what they plan to do they realise revenue collection gaps that might be there when it comes to revenue collection. Their intention to do ratepayers education campaign is another indication of their understanding of the environment in which they operate. The introduction by economic development of an electronic system for the informal sector in order to increase the collection by calculating revenue owed to the municipality monthly as another indication of understanding the gap in their environment (Ayadonghan & Igbeng, 2013:8). It also become evident that there is a need to strengthen the legislative framework, because when compared to that of SARS, their legislative framework is found not to be adequate, because the only reference made under legislation was to the Tariff Schedule and not the act and which should be legally enforced and if need be like in the case of SARS, there should be matters that get to court to establish principle in rate and taxes collection. It can further be argued that the municipality acceded that on the question of SARS being regarded as successful in revenue collection as compared to them, was in the executing of their strategies and they indicated that SARS has intensified their compliance improvement initiatives and introduced policy reform which increased other avenues of revenue collection.

### **8.2.2 DATA FROM SOUTH AFRICAN REVENUE SERVICE**

The collection of data from South African Revenue Service followed structured interview questionnaire. The questions probed the strategies of revenue collection that is used by SARS in revenue collection, the assessment of the strategies that SARS uses in their revenue collection, the impact of legislative framework, measures and remedies in their revenue collection as well as the role of systems and procedures in revenue collection. In dealing with interview, SARS provided the researcher with the head of SARS Strategic Planning to respond to the interview questionnaire. For comparative purposes, the questions raised to SARS are almost similar to those posed

on municipalities. The areas that were covered in interview includes, the strategies used by SARS in revenue collection which included the nature of revenue collection strategies that SARS uses, the appropriateness of the strategies that SARS uses in revenue collection, the success and failures of revenue collection strategies, envisaged strategies and interventions going forward, and the strategies of increasing revenue collection.

#### **8.2.2.1 THE NATURE OF REVENUE COLLECTION STRATEGIES IN SARS**

On the nature of revenue collection strategies in SARS, it was reported that it has been proven that SARS strategies work. SARS develops and implement revenue collection strategies that are dynamic in that they respond to the changes that happens both internal and external environment and they consider the whole local and global landscape within which the revenue authority operate. In order for SARS to meet its challenges, they have transformed their services to keep up with the changes in technology, business and technology which includes the development of differentiated operating model which is embedded with enhanced core operational capability. Over the years they met their revenue collection target and kept the country going. Even in the recent past, that is 2014/2015, SARS has exceeded the target which is clear sign of a good revenue collection strategy by R7 billion which represent 0.7% (Supra, 1). SARS aims to deal with the three pillars in behavioural attitude or behaviours of taxpayers which are attitude towards compliance, encouraging the willing citizens and using enforcement to ensure compliance in instances where taxpayers are not compliant (Supra, 88 – 89).

##### **8.2.2.1.1 SARS OPINION OF THE APPROPRIATENESS OF THEIR REVENUE COLLECTION STRATEGY**

On the opinion on the appropriateness of revenue collection strategies, it was reported that the strategies have been proven and they are working. The strategies are based on three pillars that is education of the taxpayers, enforcement and service provision (Supra, 89). This means that SARS gives good service, do education and campaign and then enforce. In this thesis (Supra, 89) it was indicated that one of the strength of SARS it is how it campaigns and makes services known to the taxpayers. People are

educated on tax matters through campaigns, followed by the provisions of good service and the last resort is enforcement which will encompass reminders, opportunity to make deferment payment, suspension of debt, compromise are worked out, and if all these fails they do garnishee which is called urgent appointment and failure on this then they resort to attachment of assets (Supra, 98). It can therefore be argued that it is also evident that no one would like to find oneself on the wrong side of the SARS, by not paying their taxes or by not complying with the law as they should (Supra, 114).

#### 8.2.2.1.2 THE EXTENT TO WHICH SARS REVENUE COLLECTION STRATEGIES ARE A SUCCESS OR FAILURE

On the extent to which revenue collection strategies can be a success or failure, it was reported that the SARS strategies work successfully and that SARS has been meeting its set financial or revenue target which get revised on annual basis (Supra, 124). In this thesis (Supra, 126) it was indicated that SARS have been able to collect R113.8 billion in 1994/1995 to more than R742 billion in 2011/2012 which is an increase of 550% at an average of 11.6% per year. As reported earlier the compliance levels are driven through taxpayers education, provisions of good taxpayers service and if all these fails then SARS make use of enforcement to ensure compliance (Supra, 63). SARS strategies work as reported above and it is driven by the three pillars of service, education and enforcement (Supra, 114). Educational campaign that SARS does takes many formations and covers topics that educate the taxpayers to comply which is through taxpayer campaigns, direct education through workshops, media and they also use the eleven mobile units that deals with campaigns and teach people about tax and the provision of service (Supra, 89). On the issue of service, people are taught to service themselves through e-filing, easysfile, to ensure that people are able to service themselves (Supra, 109). Enforcement is initially done as part of service which will include reminders, opportunity to make deferment payment, suspension of debt, compromise are worked out, and if all these fails they do garnishee which is called urgent appointment and failure on this then they resort to attachment of assets (Supra, 73). The failure on all these, the normal court process will follow which might result in sequestration or liquidation. This may link with what is raised in this thesis (Supra,

88-89) that SARS may not be like the municipality in taking people's economic status into consideration on the failure to pay taxes.

#### 8.2.2.1.3 THE REASONS FOR SUCCESS IN SARS STRATEGIES

On the success of revenue collection strategies of SARS as compared to the municipalities and the reasons thereof, SARS responded that they cannot comment on another government institution as far as its performance of municipality's performance in revenue collection is concerned (Supra, 302). It was reported that SARS strategies can be safely regarded as being successful as already reported that the revenue collection strategies are successful as reported above. SARS revenue collection is a success story which there is no doubt that it is being successfully implemented (Supra, 4). It is the implementation of their strategy that makes them successful. The modernisation of tax system which has improved the quality and integrity of data that they work with and have enhanced understanding of the taxpayers and traders that they deal with (Supra, 109). It can therefore be deduced that SARS have a good understanding of their environment and the taxpayers that they deal with and their application of risk management in profiling taxpayers makes it easier for them to succeed in their revenue collection drive.

#### 8.2.2.1.4 THE STRATEGIES AND INTERVENTIONS THAT ARE ENVISAGED IN REVENUE COLLECTION GOING FORWARD

On the strategies and interventions that are envisaged in revenue collection it was reported that SARS will continue implementing its strategy and doing its usual work of detecting non-compliance through the use of its risk engines, third party data and other sources of information which have the capacity to identify non-compliance (Supra, 130). SARS keep on adjusting and refining its compliance programme each year in order to ensure that it takes into account the changes in behaviour of taxpayers and dealing with new risks that may emerge (Supra, 133). They also do targeted enforcement, wherein a specific industry is chosen because it is known not to be paying tax as it should and such industry is closely scrutinised and deal with all the tax matters in such industry (Supra, 114). The industry is also segmented in a particular sector and ultimately the taxpayers are also segmented (Supra, 68). It can therefore

be deduced that SARS have a clear understanding of their taxpayers, as they do continuous monitoring of the performance of various taxpayers. SARS also annually assesses the implementation of their strategy through the annual performance plan when in they take one year of the long terms strategy and focus on that.

#### 8.2.2.1.5 SARS STRATEGIES TO INCREASE REVENUE COLLECTION

Revenue collection to provide government service is SARS priority (Supra, 1). Revenue collection although SARS have always been achieving and exceeding the set revenue collection target, there is however still a tax gap, which means that there are other taxes that are not collected (Supra, 126). On the strategies that SARS have to increase revenue collection it was reported that the SARS compliance programme which drives the revenue collection strategies is reviewed and monitored annually to ensure that it caters for the dynamic environment in terms of process of revenue collection and the monitoring adjustment and refining compliance programme is an important intervention in revenue collection (Supra, 104). After the budget speech which is delivered in February of each year by the Minister of Finance, the revenue target is also announced during the delivery of the budget speech. The target as set for SARS is reviewed after the necessary assessment during the month of September when the mid-term review is conducted (Supra, 97). It can be deduced that SARS is a critical contributor to the success of South Africa as it collects the revenue that is used meet the needs of the citizenry (Supra, 1). It should however be noted that despite revenue collection efforts that are waged by SARS there are still other taxpayers who engage in different advanced schemes that results in tax evasion and aggressive tax avoidance, and it is such arrangement that create a tax gap in revenue collection in that not all tax that should be collected is collected (Supra, 158).

#### **8.2.2.2 THE ASSESSMENT OF STRATEGIES USED BY SARS TO COLLECT REVENUE**

On the assessment of strategies that are used by SARS to collect revenue the following areas are covered, the nature of the organisation's practice in assessing the existing revenue collection strategy, the frequency of the assessment of revenue collection strategy, the manner and method of revenue collection strategy effectiveness, and the effectiveness of the assessments. It can therefore be argued that from the way SARS have taxpayers campaigns and also attend to their tax

register, it is evident that they are working on closing the tax gap and broadening the tax base as this is also done through amnesty that they sometimes give to delinquent taxpayers an opportunity to declare their income to SARS without being penalised for their previous non-compliance behaviours (Supra, 63-155).

#### 8.2.2.2.1 THE NATURE OF SARS PRACTICE IN ASSESSING THE EXISTING REVENUE COLLECTION STRATEGY

On the nature of SARS' practice in assessing their existing revenue collection strategy, it was reported that, there was no doubt that when taxpayers take or make a decision, they gave a serious consideration to SARS strategies. SARS strategies are known and how they operate is well campaigned and publicised to the general public (Supra, 114). So the public's understanding on how SARS work and operate is well known and SARS also have offices around the country (Supra, 89). The assessment of the strategies is done through ensuring that all taxpayers, traders and anyone who is involved in the tax or custom process know their obligation and responsibility when it comes to revenue collection (Supra, 114). This is done through the continual education and communication which happens through workshop, printed guides, brochures, and pamphlets, training videos which are interacted through branches, call centre and outreach activities with millions of taxpayers (Supra, 89). Taxpayers are also empowered to meet their tax obligations by ensuring that they have knowledge and tools quickly and easily and in a cost efficient manner to meet their obligations and e-filing being one of the facilities that is provided by SARS to assist taxpayers in meeting their tax obligations (Supra, 109). It can therefore be deduced that the fundamental practice that SARS have is that of making it easy for taxpayers to comply with their tax responsibilities. They ensure that non-compliance becomes a choice and not because it is difficult to comply with tax system, therefore, even when enforcement route is pursued, the taxpayers will have no one to blame for non-compliance because they will have put all the necessary mechanisms in place to enable the taxpayer to comply, which means that to comply and not to comply becomes the choice of the taxpayers.

#### 8.2.2.2.2 FREQUENCY OF ASSESSMENT OF REVENUE COLLECTION STRATEGIES IN SARS

On the frequency of assessment of the SARS revenue collection strategies, it was reported that the compliance programme, which is the main driver of revenue collection, is adjusted and refined each year to account for changes in behaviour and possible new areas of risk which might emerge (Supra, 138). All these are however done in the context of the SARS revenue collection strategy which is driven by service that is taxpayer service, compliance and enforcement (Supra, 74). It is much easier for SARS to test if the revenue collection strategies have worked or not, because on annual basis in September when the mid-term budget is done a review is done on the revenue collected and in March 31, when the final revenue collection is done. It then becomes evident whether the strategy was a success or not. It can therefore be deduced that SARS is always on the continuous improvement drive to ensure that they make the necessary adjustment to both the revenue collection methodologies and strategically positioning of the compliance programme. It can further be indicated that the fact that the National Treasury announce the target in February of each year and do an assessment in September of the same year to monitor the performance keeps SARS focussed to ensure that they are meeting the target as set by the National Treasury. It was reported that the revenue collection is constantly monitored and reported on a quarterly and annual basis and they also have a system of tracking the revenue collection daily and reporting the performance thereof. They reported that SARS does their monitoring well, but also indicated that they need to evaluate the impact of their strategies better. It can therefore be argued that SARS themselves, does not view their strategies as performing optimally, hence they express a view that they see a need of a better evaluation of the impact of their strategies, which indicate that they believe in continuous improvement which is important in revenue collection.

#### 8.2.2.2.3 THE EFFECTIVENESS OF THE MANNER OR METHOD OF ASSESSING THE REVENUE COLLECTION STRATEGIES

On the manner or method of assessing the revenue collection strategies' effectiveness, it was reported that the revenue collection strategies are effective and this can be attested to by many years that SARS exceeded the target that was set by National Treasury (Supra, 126). The main responsibility of SARS is revenue collection

to enable the country to meet its obligations and also facilitate trade which they are also doing successfully (Supra, 1). Every year the SARS target have been increased and SARS met that, so there is no doubt that the best way to assess SARS is its revenue collection success (Supra, 126). It can therefore be deduced that based on the performance of SARS in exceeding the target set for is by the National Treasury, it attest to the effectiveness of their strategy in revenue collection. SARS therefore have an opportunity to do a self-evaluation and monitoring of their revenue collection performance and that is also complemented by the monitoring and evaluation that is done by the National Treasury.

#### 8.2.2.2.4 THE EFFECTIVENESS OF THE ASSESSMENTS

On the effective assessments of revenue collection strategies, the methods of assessment are very effective in that they can be calculated in actual figures similar to companies in the private sector that looks into the bottom-line. SARS look into the revenue collected. In September of each year there is a mid-term budget that also assesses, review and give the outlook of the coming year. As SARS checks its performance in terms of revenue monthly, they have pronouncement made during September which indicate whether they are on the right track and if they have the capacity to meet the target (Supra, 126). It can be deduced that the National Treasury as the custodian of national revenue fund, keep on monitoring the performance of SARS and in September when the minister does the mid-term review gives SARS the feedback as to whether they are on track to meet the set target or not. The assessment of SARS is not only done by SARS itself but also by the National Treasury which also has interest in the performance of SARS and gives SARS feedback on where they are in revenue collection.

#### **8.2.2.3 IMPACT AND ASSESSMENT OF LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN REVENUE COLLECTION IN SARS**

In this instance the researcher wanted to establish the impact and assessment of legislative framework, measures and remedies in revenue collection the area that were covered included the extent to which SARS is dependent on the legislative framework, measures and remedies in revenue collection, the sufficiency of the legislative framework, measure and remedies in enhancing revenue collection, the effectiveness

of legislative framework, measures and remedies in enforcing revenue collection, and the extent to which revenue collection can be attributed to the legislative framework, measures and remedies.

#### 8.2.2.3.1 THE EXTENT TO WHICH SARS DEPENDENT ON LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES FOR REVENUE COLLECTION

On the extent to which SARS is dependent on legislative framework, measures and remedies in revenue collection it was reported that legislative framework has a huge influence in the collection of revenue. If gaps can be found which are not covered by the legislation, legislation can be proposed to deal with such gap like the e-commerce legislation which will deal with electronic transactions (Supra, 140 -141). There are also instances where the matters between SARS and taxpayers are resolved in court through the court processes that provides the necessary legislative interpretation and ultimately provide the basic principles to deal with such tax matters (Supra, 99). It can therefore be deduced that since SARS deals with different taxes and there different legislative frameworks that govern those various taxes they are therefore depended on such legislation to enforce tax collection. As has been indicated in this thesis (Supra, 141) legislation is critical for SARS as they in some cases take the taxpayers to court and they solely rely on the legislative measures during the court proceedings. Even though SARS indicated that they cannot comment on other state institution it was indicated by the municipality that they only use the Tariff Schedule to collect rates and taxes, in SARS they have each main tax governed by legislation that is value added tax , income tax, customs and each have its own legislation (Supra, 100 -101).

#### 8.2.2.3.2 OPINION ON THE SUFFICIENCY OF THE LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN ENHANCING REVENUE COLLECTION

On the sufficiency of legislative framework, measures and remedies of revenue collection in enhancing revenue collection, it was reported that taxpayers take or make decisions based on the serious consideration that they give to the SARS strategies and legislative framework that have implications in case of failure to comply with (Supra, 124). It can therefore be deduced that taxpayers comply with their tax responsibilities with an understanding that failure to comply with the tax legislation

while eligible have its own implications which include enforcement and appearing before the court of law. It can also mean that SARS can also engage the services of third parties which include the banks where a taxpayer's banks or employer where a taxpayer works, so there are many mechanisms that SARS can use in ensuring that there is compliance with tax laws. SARS has branded itself as an organisation that has put in place many mechanisms in place that could assist in the resolution of tax difficulties; however taxpayers they are also capable of taking the legal route that can end up in court in case the taxpayers are keen on resolving the matters with them (Supra, 141).

#### 8.2.2.3.3 THE EFFECTIVENESS OF LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN ENFORCING REVENUE COLLECTION

In this question the researcher seeks to establish the extent to which the legislative framework is effective in enforcing revenue collection. On the effectiveness of legislative framework, measures and remedies in enforcing revenue collection it was reported that the reason why SARS have robust legislation, which is supported by a lot of court cases that went before the court of law in dealing with tax matters is a clear indication of the effectiveness of legislative framework, measures and remedies (Supra, 141). It can therefore be deduced that emanating from the SARS performance (Supra, 126) in revenue collection also attests to the effectiveness that is there when it comes to revenue collection.

#### 8.2.2.3.4 THE EXTENT TO WHICH REVENUE COLLECTION IS ATTRIBUTED TO LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES

On the extent to which legislative framework, measures and remedies can be attributed to the revenue collection, it was reported that to a greater extent taxpayers knows that SARS use legislation that support its revenue collection drive as already reported it can start from education, service and then enforcement (Supra, 3). Each level of engagement with the taxpayer is supported by the legislation and taxpayers are aware through the taxpayer registration process that SARS have the power to apply the legislation. The education or campaign teaches or educate taxpayers about their obligations when it comes to tax (Supra, 74). It can therefore be deduced that the

legislative framework have to a larger extent been instrumental in ensuring that there is compliance in revenue collection. This is evidenced by the SARS emphasis of their compliance model which they make public to the taxpaying fraternity and they also emphasise the implication of non-compliance with the legislation and they tamper that with the taxpayer service (Supra, 69 -70).

#### 8.2.2.3.5 THE CONTRIBUTION OF SYSTEMS AND PROCEDURES USED BY SARS IN REVENUE COLLECTION

On the role and contribution of systems and procedures that are used by SARS in revenue collection, it was reported that the contribution of systems and procedures in revenue collection is critical as most of the tax operations are now automated to make it easier and create a good experience for the taxpayers dealing with SARS (Supra, 128). The modernisation drive that span a period of eight years, will ensure that SARS as it serves its stakeholders is agile and flexible and also have the capacity to adapt to its own realities (Supra, 119). It can be deduced that one of the contributing factor of taxpayers' compliance with tax legislation is the easiness of doing business with SARS through their automated system called e-filing, which make it easier to taxpayers to submit and pay their taxes without leaving their home or offices.

Systems such as e-filing, easypay in the SARS environment plays a pivotal role, this could be seen from the modernisation of the tax system that SARS have undertaken with a view to improve the quality and integrity of the data that they deal with. The systems in which the taxpayer data is captured have the capacity within the SARS environment to sharpen their research and analytical capabilities which assist in the understanding of taxpayer and traders, which could insists in doing targeted enforcement, wherein specific industry is targeted (Supra, 114).

Emanating from the responses in the SARS structured interview, it can be argued that the success of SARS is mainly embedded in its compliance model and strong legislative framework. SARS has branded itself as an organisation that applies the tax law without fear or favour; as such taxpayer would not like to have challenges with SARS. SARS is also known to have competent and knowledgeable staff, which is not scarred to take matters to court if they need arise get clarity on the interpretation of

the legislation that they administer and it established a principle interpretation of such legislation. SARS has strong technological capabilities, which enables the taxpayer to do business with SARS without difficulty and they are also very efficient in responding to taxpayer needs and yet they always meet the revenue collection target that is set by the government and assists in keeping the country going (Supra, 126). The SARS position was also confirmed and expressed in the SARS Strategic Plan 2015/16 – 2019/20 with the strategic outcomes of increase in customs compliance, increase in tax compliance, increase ease of and fairness of doing business with SARS and the increase of cost the effectiveness, internal efficiency and institutional respectability of the operations (SARS, 2015:20-21).

### **8.2.3 DATA FROM CORPORATE TAXPAYERS AND OR TAX PRACTITIONERS**

The purpose of the investigation on the corporate taxpayers and tax practitioners was to get their views and opinions at a practical level because they are responsible for tax matters at SARS level and municipal rates and taxes at a municipal level. The tax practitioners are more critical in their views in that they act as intermediaries between both individual and corporate taxpayers and SARS. They service many taxpayers; therefore their views and opinions that they expressed, are based on both perception and lived experiences. The corporate taxpayers and or tax practitioners responded to the question that covered the strategies for revenue collection and they encompassed the following; strategies that are used by SARS in revenue collection, impact and assessment of legislative framework, measures and remedies in revenue collection. Their responses captured the views and attitudes of taxpayers and ratepayers in the corporate environment. The most insightful and in-depth interviews are mainly the responses from tax practitioners and they were the most critical because they represent the views of the different taxpayers that they serve and represent and they also have lot of interaction with SARS.

#### **8.2.3.1 ATTITUDES AND PERCEPTION ON THE STRATEGIES USED BY SARS FOR REVENUE COLLECTION**

On the strategies of revenue collection the interview was thought to determine whether SARS and municipality have good revenue collection strategies, the views of the corporate taxpayers and or tax practitioners were thought on the strategies of SARS

and municipality, their opinion when comparing the two revenue collection strategies of SARS and municipality, they also had to determine which one was the most successful revenue collection strategies between that of SARS and municipality, the question also sought to get the advice on what should be done in order to enhance the revenue collection by SARS or municipality.

### ***8.2.3.2 ATTITUDES AND PERCEPTION ON THE REVENUE COLLECTION STRATEGIES OF SARS AND MUNICIPALITY***

On the question of whether SARS or municipality have good revenue collections strategy, the corporate taxpayers and or tax practitioners reported that both entities have good and well defined revenue collection strategies. While both entities have mechanisms in place for payment negotiations / terms in the event taxpayers owe money and most taxpayers were said find municipalities being more open to such payment terms than in the case of SARS. The difficulty in SARS to accept the payment negotiations were thought to have been because of the principle of Pay Now Argue Later which is mostly applied by SARS. This principle however is said to be frowned upon by taxpayers as it is often perceived unfair on taxpayers who believe SARS may not be applying the law correctly in certain instances.

A view was also expressed by the corporate taxpayers and or tax practitioners that SARS has a good revenue collection strategy in as far as personal income tax is concerned, as they take the responsibility away from the taxpayer and placed it in the hands of the employer by appointing the employer to deduct the tax money from the taxpayer on their behalf. The taxpayer then receives their income net of tax, which takes their choice or any discretion away of as to whether they would like to pay or not. Additionally, the need to secure tax directives and tax clearances also assist SARS in forcing taxpayers outside the 3<sup>rd</sup> party collection bracket to be compliant. In the case of municipalities that are offering services they however also have recourse although not as stringent as that one of SARS wherein they are able to cut off the ratepayer's services, however, most municipalities do not appear to have any revenue collection strategies.

The corporate taxpayers and or tax practitioners went on to indicate that SARS does not require revenue collection strategies that are commensurate with a traditional consume and pay basis in the collection of debts. SARS have been granted recovery powers in terms of the various tax Acts, they have a strong legislative framework that can enforce revenue collection and can go as far as sequestering a person or liquidating a company. This is the reason why the powers granted to SARS are often regarded as draconian; which also resulted in Metcash taking SARS to court, nonetheless the Constitutional Court held in the Metcash case that the powers, albeit draconian in nature, they are necessary to ensure effective administrations of tax Acts. Metcash case dealt with the constitutional validity of section 36(1) and subsection (2) (a) and 5 of section 40 of the Value Added Tax Act 89 of 1991. The question was whether these provisions unjustifiably limited the right to access the courts which is protected by section 34 of the 1996 South African Constitution. Section 36(1) indicated that upon assessment by the Commissioner for the South African Revenue Service, and notwithstanding the noting of an appeal, the taxpayers is obliged to pay the assessed tax, plus consequential imports, any possible adjustments and refund being left for dispute and determination were to be dealt with later. And section 40 (2)(a) empowers the Commissioner for the South African Revenue Service where payment of an assessment is overdue to file a statement at court which has the effect of an significant civil judgment for a liquid debt and subsection 5 put the correctness of assessment beyond challenge in such execution. This is the concept that is referred to as pay now and argues later, it can therefore be indicated that the payment of tax which is disputed by the taxpayers, does not suspend the payment of tax, tax law is premised on the principle of pay now and argue later. The views as expressed by corporate taxpayers and ratepayers are that SARS' strategy should not aim at winning the hearts and minds of the taxpayers, but should aim at strong processes and structures to ensure that the tax leakage is minimised.

The corporate taxpayers and or tax practitioners made reference to the time of the then Commissioner for SARS, Mr. Pravin Gordhan, when various initiatives were implemented to tighten the tax net and the initiatives included: An independent SARS with remuneration structures delinked from the state remuneration structures. The development of very strong enforcement capacity; the ongoing development of information systems where data and taxpayer information can be matched and

compared with information on other platforms – the central message is: “There is nowhere to hide!”; High visibility and a “blame and shame” approach to non-compliance; New penalty regimes for non-compliance at all levels. Essentially SARS implemented a “don’t mess with SARS” message in the psyche of the tax paying public. This was achieved through high visibility and making examples of companies/individuals “caught out”. The impact of the above has been “voluntary compliance” to the extent not achieved in the past. This may be driven by fear of detection and prosecution, but it is effective. While municipalities may have strategies to collect debt, the execution of such strategies must be aligned with the political climate of the time. The two outcomes are often in direct conflict, with the political agenda always taking precedence over the commercial imperative.

The most logical strategy is to move to a prepaid basis, however to sell this to a constituency where there is a culture of entitlement in practice is unlikely to be successful. Again good strategy, impossible execution. I think SARS has a very good revenue collection strategy which is confirmed by SARS always exceeding its revenue targets. The municipality does not have an effective strategy.

According to corporate taxpayers and or tax a practitioner, SARS strategy is more geared towards compliance by collection agents (e.g. Employers for PAYE and Companies for VAT) while municipalities focus directly on the ratepayers. As a result of heavy focus on the collection agents, the SARS tax base is smaller and may exclude a lot of taxpayers, such as those in the informal sector. SARS is often at the mercy of taxpayers to come forward and approach the tax authorities for registration purposes. A number of organisations in the SMME environment and those in the informal sector may take long to register for relevant taxes and as a result, SARS may lose the related revenue before registration. The cost of compliance by collection agents may be significant for SMMEs. Furthermore, SARS relies heavily on courts to enforce compliance while municipalities tend to withhold services to enforce compliance. SARS relies on “self-assessments” to collect taxes, such as VAT while municipalities impose taxes, such as property valuation assessments, estimates on water meter readings. However, it is accepted that in the ordinary course of business, SARS may not be in a position to determine taxes outstanding without relying on the self-assessments by the collection agents.

SARS is supported by a regulatory framework that is used to instil fear in the hearts of the taxpayers to force them to comply, but they have access to 3<sup>rd</sup> party data at their disposal that they could use to up their collection rates. Municipalities' strategy of cutting off services does not work in case of water as they are constitutionally obliged to supply it, so technically residents can run up water bills indefinitely. In the early 2000 SARS embarked on two strategies, the first being to close the tax gap which is the difference between actual collections and what should be collected. The second was to improve the tax compliance administration. The first strategy was hampered by the difficulties experienced in retaining the right expertise. The tax revenues have therefore not grown in line with the level of activity that is taking place in the country.

The second strategy has been implemented well in terms of technology. The introduction of e-filing has vastly improved the level of tax compliance. Technology is forever improving, therefore it is expected that SARS will also continuously be improving their systems. The second strategy has however been negatively impacted by the amount of changes to the legislation in the last five to six years. SARS officials, tax advisors and taxpayers have negatively been impacted by the amount of changes. It is proving difficult to for SARS to police the legislation that changes yearly. Taxpayers have also battled to understand these legislations.

In the case of municipalities, a view is held that there is a shortage of skills, poor technology and political interference that have negatively impacted the revenue collections. There is no consistent revenue collection strategy. The collections are currently taking place by default, not because of any well thought strategy. There is very little accountability in most of the municipalities, which encourages maladministration and corruption. SARS always exceed its revenue target. The municipality approach is disjointed and not coherent as billions are still outstanding for services rendered. SARS strategy is more efficient as compared to the strategy applied by municipalities. Municipalities have different challenges as compared to SARS. People normally take to the streets when services are not provided even though they do not pay. SARS is more concentrated on VAT and EMP201 and give little attention to income tax. Municipalities are not aggressive enough in revenue collection. SARS – it ensure that payment of liability is collected sooner rather than later, It encourages consensuses to why tax should be paid due to active engagement

and tax broadening campaign (Supra, 74). SARS collection strategy is driven by very clever written tax administration Act protecting both the rights of the taxpayer and SARS. Failure to pay SARS on time is penalised by levying tax penalties and interest charges. These strategies are effective but must be implemented sooner (Supra, 125-126). It can therefore be deduced from the view of tax practitioners that from their experience they have found the SARS strategy more effective and efficient and well monitored which result in high levels of compliance.

### ***8.2.3.3 COMPARING THE EFFECTIVENESS OF SARS AND MUNICIPALITY REVENUE COLLECTION STRATEGIES***

According to corporate taxpayers and or tax practitioners, the municipalities' strategy may be more effective as the withdrawal of service like disconnection of electricity and water services may be felt immediately by the ratepayers and forces him or her to action the payment or make arrangement for the payment. In so far as SARS is concerned, the cost of collection of revenue is minimal because other taxes such, as personal taxes, which constitute a large portion of total tax revenue that SARS collect, it cost them nothing to collect as the responsibility to collect such rests with the employers. It is argued that the SARS strategy is by far the most successful in practice, however, it should be noted that due to the economies of scale SARS holds all the cards and SARS has the ability and funds to implement its strategies. The money that the municipalities receive as part of equitable share is the money that is collected by SARS and the municipalities are therefore in a serious disadvantaged position. They do not have the funding and probably their level of the technical and other skills are either lacking or deficient to enable them to develop and implement a strategy that could put the municipalities on a sound financial footing as well as to maintain a competent position when compared to SARS or any other revenue collection organisations. The success of municipalities in revenue collection is also impacted and hampered by the political goals and agendas that they have to give consideration to as they implement their strategy.

#### **8.2.3.4 OPINION ON THE LEVEL OF SUCCESS OF THE REVENUE COLLECTION STRATEGIES OF SARS AND MUNICIPALITIES**

While both strategies are successful, the Municipalities seem to be more impactful than successful when it comes to the withdrawal of services because they have immediate impact on ratepayers and they force the ratepayer to take action. In the case of SARS their strategy seems to be largely successful while the municipal one do not appear to have an impactful and successful strategy, but rather driven by political will. On the other hand SARS' strategies are very successful as they have the resources to develop and implement their strategy. As for the municipalities, it is not possible to comment on what the impact would have been had they been able to implement their strategies. Currently their strategy is directed by political agendas and this is also evidenced by the massive amount of unpaid debtors at all levels of municipalities and they are also even owed by the government itself.

The other contrary view that is held by some of the corporate taxpayers and or tax practitioner are that the SARS strategies have partly succeeded as such they still need to be improved while the majority view SARS strategies for revenue collection as being successful (Supra, 3-4). They also reported that one would not like to find oneself at the wrong side of SARS as they have strong legislative strength to legislatively deal with default taxpayers. There is, however, still a lot that need to be done with the municipality. As SARS strategy seems to be successful, taxpayers prefer paying SARS as they fear the taxman due to their draconian laws that they can unleash on anyone who does not take the payment of tax seriously. The fact that SARS have collection agents assists them in effective collection strategy.

Other corporate taxpayers and tax practitioners reported that although SARS is able to reach its target on annual basis, there are still a significant number of individuals and companies that are not tax compliant of which SARS is unable to reach. As for the municipalities, they seem to have little or no regard for collection of revenue as most of the accounts remain unpaid. It is a difficult comparison, to compare SARS and municipalities because SARS have been successful in collecting billions of rands and they currently chasing a target of a trillion rands which in turn will also be distributed to the municipalities as part of equitable share. It was, however, noted that the success

of SARS in its revenue collection strategies are the results of more mechanism in place to enforce collection, which amongst others includes the appointment of third parties like creditors, banks employers and many others in the collection of taxes on behalf of SARS. It was, however, also reported that there are instances where both are struggling, which was in the area of dealing with the old debtor's book as compared to the new one. SARS has also put the issue of significant debt book in its annual performance plan 2015/2016 and strategic plan 2015/2016 to 2019/2020 as one of the risk they face due to the less optimal way in which management of taxpayers accounts, taxpayer errors and the impact of the slow economic recovery of taxpayer's ability and willingness to pay tax which is an acknowledgment of the challenges they face (SARS, 2015:17; SARS, 2015:13).

#### ***8.2.3.5 ADVICE ON WHAT SHOULD BE DONE TO ENHANCE THE REVENUE COLLECTION STRATEGIES IF NECESSARY***

The corporate taxpayers and or tax practitioners also gave advice on what should be done to enhance the revenue collection strategies. They advised that SARS could be more pro-active and eliminate the responsibility of registering for tax purposes by linking with related government departments like the Companies and Intellectual Property Commission ('CIPC'), in which instance when a company is registered, such companies are allocated the respective tax numbers and this will give SARS the ability to follow up on the company's tax compliance status. They could also ensure that when the annual returns are submitted CIPC, they should also check if the tax returns have also been submitted.

On matters of increasing tax base, SARS could explore the possibility of obtaining information from various institutions to ensure that more would-be taxpayers are covered. This could include obtaining membership details from institutions such as the Health Professional Council of South Africa ('HPCSA') for doctors, South African Institute of Chartered Accountants ('SAICA') most of whom may be practising as sole traders and as such not within the tax net. They also reported that there should be consistent use of regulatory framework throughout the country, and the SARS use of 3<sup>rd</sup> party data to broaden the tax base should be used more as well as the collection

of revenue. This type of method of using third party for the collection of revenue should also be implemented in the municipalities.

The only short-term solution to the current levels of non-payment in the municipalities should be the implementation of a pre-paid system for consumer-based supplies (water and electricity). In the long term the situation looks bleak until this particular challenge is politically dealt with and the instilling of the culture of payment for the services that are received or used. There is no obvious solution save to say that what is required is a mental shift in the minds of consumers that one should pay for goods and services supplied. It can be argued that with the high levels of poverty and unemployment in South Africa, the above objective cannot be achieved, simply as a result of financial limitations. The only solution lies in the growth of the economy and the creation of work opportunities. The investment in small and medium enterprises to create the opportunities will play a crucial role in this regard. In the final analysis the situation will not improve no matter what strategies are implemented until South Africa has established a stable middle class that are property owners.

They also reported that SARS need to rework the strategy around the closing of the tax gap strategy (Supra, 63 -155). The strategy should be done in such a way that various segments are dealt with independently from each other. It is impractical for SARS to design a revenue collections strategy and hope that all various tax segments will be catered for. There has to be a strategy focused on each segment. The strategies that SARS should engage or embark on should cater for multinationals, local, corporate, trusts and individuals, direct and indirect taxes. Not all tax collections from these segments can be improved by changing legislation, or continuously conducting audits. A strategy should deal with how the revenue collections can be improved for each segment of the tax environment.

With regards to the municipalities, a strategy should be designed at national level. By their designs, municipalities' revenue collections are decentralised, currently the bigger the municipality and the geographical area where they are located as when are whether is rural or urban determines how much revenue they collect (Supra, 154). There is doubt if there is a cogent strategy in such circumstances. Revenue is collected simple because the communities decide that they want to make payments, it is

effectively the money that walks in without the municipal's effort of serious enforcement.

The municipalities should take lessons from SARS way of operating wherein most of their activities are centralised, the municipalities therefore should also consider centralising their revenue collection or establish a municipal revenue collection agency. The matter of spending can be decentralised but not the collection. Funding for the municipalities will therefore be managed centrally. This will enable the citizens not to feel the pain of being under the 'small municipality'. It will help to reduce the migration of citizens from small municipalities to big ones.

SARS approach is effective, but sometimes it is too much to an extent that it puts business out of business through liquidation. Municipalities should learn from SARS or SARS should take over the revenue collection of municipalities. Municipalities should consider taking legal action against individuals owing them, and also ensure that the systems are used correctly, the bills that are sent to the ratepayers should be correct in order to avoid the residents raising queries. The use of third party agents as is the case with SARS should also be considered by municipalities in collecting outstanding rates and taxes. It was further argued that as part of enhancing revenue collection SARS will need to employ more personnel in their collection department. A view was raised that it will add more value should they start conducting regular audits on registered taxpayers, checking their bank accounts against income declared to SARS to ensure that all income earned is declared. Ongoing audits and amnesty once in a while could help capture those taxpayers who might have been dodging the tax net. Municipalities should adopt similar strategies as used by SARS. The new debtors should never be allowed to get into arrears.

#### **8.2.3.6 DECISION MAKING CONSIDERATION ON WHETHER TO PAY SARS OR MUNICIPALITIES IN REVENUE COLLECTION**

In an environment where financial resources are limited, different strategies are applied by these entities in ensuring that rates and taxes are paid. They will consider and make sure that there are consequences for the non-compliance with their legislative framework or non-payment of rates and taxes. SARS has taken the decision

away from the taxpayer by ensuring that if you do not render your tax returns or not pay your taxes they used the various mechanisms at their disposal to ensure that tax is paid, while in the case of municipality they wield the power to cut off or withdraw services if ratepayers do not honour their side of the deal.

The corporate taxpayers and or tax practitioners viewed this question as a very important one. They reported that ultimately conforming to a statutory requirement is driven by the perceived consequences of non-complying. The views by one tax practitioner was that he was not a previously disadvantaged person and live in a traditional white suburb, he indicated that he did not pay the municipal bill the water and electricity was going to be summarily cut off. In this case his view was that he rather pays the municipal bill before he pays income tax, as the consequences of not paying the income tax are not immediate. The view was that it is easier to make a plan before SARS gets into a taxpayer, while it is not possible to make plan while sitting in the dark. This however is not as a result of the good recovery strategies of the municipality; the behavior is driven by the fear of losing an immediate need. The effect that this is essentially reverse discrimination does not really come into the equation but it is just simply preserving and protecting the satisfaction of a basic need. It became evident also that if it were not of the fear that water and electricity would be cut off, probably SARS would have been paid first it was however expected that probably the response of previously disadvantaged persons living in poverty would be the exact opposite of my response.

According the corporate taxpayers and or tax practitioners, it was reported that a normal person will always find a loophole in the system to ensure that they either pay little or nothing. The SARS strategy emphasises consequences for non-compliance while that of the municipalities do not have such a strategy as a results it is by default that citizens are paying for their services. There were also contrary views that did not consider the strategies used by SARS like the use of third party agent such as the appointment of banks and employers as one of the critical contributor to revenue collection in SARS. It was also reported that as taxpayers they ensure that they pay their taxes on time to avoid being charged penalties and interests on the SARS account. They do not consider the fact that the strategy of municipal accounts are afforded the same urgency as SARS account as they consider themselves as good

corporate citizens that should always pay taxes on time as such they ultimately pay all their SARS and municipalities accounts on time. They also argued that it is provisions with the Income Tax Act 58 of 1962 and Value Added Tax Act 89 of 1991, non-compliance with tax provisions have their own consequences which include lending a person in jail. They argued that when dealing with SARS, consideration is always made to the tax Administration Act 28 of 2011 which have serious penal provisions in case of non-provisions.

### **8.2.3.7 COMPARING THE EFFECTIVENESS OF THE SARS AND MUNICIPALITIES REVENUE COLLECTION STRATEGIES**

While both strategies are effective, Municipalities are more effective but the challenges in the application and implementation thereof. Due to a large base of ratepayers for municipalities and the related insignificant cost of non-compliance, taxpayers may not have any incentive for compliance as it relates to the municipal rates and taxes. Lack of consequences makes ratepayers take municipality for granted. However, in the case of SARS taxpayers may think if they are not caught, they may save more money and as such, those who are daring, may want to try their luck knowing there is a huge incentive if not caught. Their challenge is that when they are caught, SARS can charge penalties up to 200% and could at times be followed by prison term. It must however be reported that SARS: depends on the tax and there are people outside the tax net, or who do not make money directly from government thereby requiring no tax clearances, which will never be picked up by SARS. Municipalities will only make money from people who need and utilise their services, or who fear being cut off or the withdrawal of municipal services. SARS strategies have vastly improved compliance simple because they put more emphasis on the consequences of non-compliance. Municipalities are struggling with their revenue collections simply because there are no strategies for collection. Currently citizens view compliance as an option, not as an obligation. Yes, SARS is effective, but the municipalities are not as effective as SARS ones. SARS strategy is effective. Municipalities are struggling to collect outstanding rates and taxes. SARS assessment strategy is effective while the municipalities mostly rely on estimated figures when billing the customer. Strategies used by SARS are very effective.

### **8.2.3.8 POSSIBLE THINGS TO ENHANCE REVENUE COLLECTION STRATEGIES**

According to the view of corporate taxpayers and or tax practitioners, both entities need to encourage a culture of compliance. SARS has been in the forefront lately with amnesties for voluntary disclosures. However, SARS has not been able to successfully increase its tax base. SARS must use 3<sup>rd</sup> party data more; municipalities must implement available remedies more. I do not think it is a question of enhancing the strategies. The question is around the ability to execute the strategies. The change from an “entitlement view of life” to “pay for goods and services supplied” is such a huge mind shift, that consumer education should precede any formal recovery strategy.

Municipalities should be incorporated to SARS for revenue collection purposes. Municipalities should use third party providers to collect, banks, cut services to individuals not paying. They need to get rid of illegal connection so that everybody is using their services is accounted for. Like SARS municipalities should start imposing penalties to those who fail to pay their accounts on time. SARS should cover all levels of taxpayers including the taxi industry. To enhance strategies more severe penalties could be introduced and debtors that are the ratepayers should be timeously and expeditiously follow-up before the debt ages.

### **8.2.3.9 THE EXTENT OF THE INFLUENCE OF LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN THE PAYMENT OF TAXES BY CORPORATE TAXPAYERS AND OR TAX PRACTITIONERS**

On the impact and assessment of legislative framework, measures and remedies in revenue collection, the questions that were asked were thought to determine the extent to which corporate taxpayers and or tax practitioners are influenced by the legislative framework, measures and remedies when they pay taxes, in comparing the legislative framework, measures and remedies of SARS and those of municipalities, which ones are the most effective, their opinions were also thought as to whether the legislative framework, measure and remedies effective in enforcing revenue collection as well as the sufficiency of the legislative framework, measures and remedies in enhancing revenue collection and lastly they were also requested to give their view

as to which one of the two legislative framework, measures and remedies need improvement and the type of improvement that is suggested.

SARS has the most legislative framework and revenue collection remedies are the most feared by taxpayers, such as, the pay now and argue later principle, 10% flat penalty rule, and a host of other penalties following non-compliance. The taxpayers are more likely to be influenced to pay SARS before municipalities. Municipalities' ability to cut water and electricity supplies is a key driver in communities not impacted by political interference. In communities with high levels of political interference and a perceived inability by municipalities to cut off services, the ability to cut off services is possible though not a great deterrent for non-payment. The existence of legislation informs ones decision to pay taxes. The legislative framework influences such decisions. SARS is backed by legislative powers for what it does.

There are process that are very easy to follow at SARS with regard to payments, and committees that hear objections and tax actions in line with legislation, however, there is insufficient legislation with regard to the payment and collection of rates and taxes. One of the interviewee said "I prefer to pay in time rather than paying more in penalties and interests".

When it comes to payment of taxes to SARS, the view is influenced by the fact that they are aware that the tax collected is used to build hospital, schools and many other public needs. The SARS legislation is well published and taxpayers are aware of them when paying taxes. The legislation creates and sets the rules for both parties while remedies available create certainty to an extent. The regulatory framework available to municipalities is also soiled by the lack of political will insofar as applying strict measures to collect the revenue also translates to loss of political support. Municipalities operate directly with communities, where political leaders are able to put regulations at bay. SARS largely deals with numbers and is consistent throughout the country.

#### **8.2.3.10 COMPARING THE EFFECTIVENESS LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES OF SARS AND THOSE OF MUNICIPALITIES**

SARS legislative framework, measures and revenue collection remedies are more effective as taxpayers may not want to be on the wrong side of the law as SARS tends to rely heavily on courts for compliance enforcement. SARS' measures are definitely more draconian. Its effectiveness however does not come from the legislative framework, but from SARS' ability to apply and implement the strategies.

The municipalities' strategies could be very effective, if they are free to implement it without any interference from their political principals. With political interference this cannot be done effectively. The problem however does not lie with the legislative framework. One of the interviewee said "The inability to implement the strategy is the core problem. I would think legislatively, both SARS and municipalities have effective legislative framework. The challenge is around the implementation and policing of those legislations in the municipalities as such there is little accountability". The SARS legislative measures are effective and as for municipalities they do not seem to exist. Revenue legislation used by SARS changes continually therefore remains current and reliant on the current economies technical and socio economic climate and they are equally effective

#### **8.2.3.11 OPINION ON THE EFFECTIVENESS OF LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES IN ENFORCING REVENUE COLLECTION**

The legislative framework, measures and remedies in enforcing revenue collection are effective particularly for those already within the SARS tax system. Municipalities operate too close to the subjective whims of political power which can be subverted. The view was held by the corporate taxpayers and or tax practitioners that the legislative frameworks, measures and remedies are effective for both SARS and municipalities however in the case of municipalities the ability to apply the measures and remedies contained in the legislative framework was said to be limited. On the part of SARS the legislative framework is effective in enforcing revenue collection. In most instances lately though the legislation is discouraging growth in the small to medium business due to being over-legislated. With regards to municipalities even though they have an effective legislation framework, due to lack of accountability by

official, it renders the legislation ineffective in enforcing revenue collections. An example is Auditor General's qualified reports which are produced yearly with no remedies taken to address inefficiencies and maladministration and no consequences follow such qualified audit report. For SARS they are very effective and SARS legislative framework is effective and people will always pay on time to avoid penalties and interests. Municipality charges interests but they are not very aggressive. However in SARS there are many tax court cases and when it comes to rules, their rules are clear.

#### ***8.2.3.12 OPINION ON THE SUFFICIENCY OF LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES ENHANCING REVENUE COLLECTION***

According to the opinion of corporate taxpayers and tax practitioners, SARS has the most advanced legislative framework, measures and remedies for collection compared to municipalities; however, both are sufficient to enhance revenue collections. The corporate taxpayers and or tax practitioners reported that if the entity's legislative framework, measures and remedies are used to the letter they have the capacity to enhance revenue collection. The issue of the implementation of the legislative frameworks, measures and remedies are effective for both SARS and municipalities; however, in the case of municipalities the ability to apply the measures and remedies contained in the legislative framework is limited. SARS legislation is sufficient and they seem to be successful with it, however, certain sectors of the taxpayers are impacted negatively by being over-legislated.

Municipalities have sufficient legislation however their only challenge is the failure to collect sufficient revenues it does not rest with the legislation. In the SARS environment, it can reasonably be reported that the basis that the legislation is ever changing to meet the client / relevant circumstance makes it possible for the taxpayers to comply with legislation and the measures and remedies are clear and enforceable and the taxpayers understand the consequences of non-compliance with such legislative provisions.

**8.2.3.13 IMPROVEMENT IN LEGISLATIVE FRAMEWORK, MEASURES AND REMEDIES OF SARS AND MUNICIPALITY AND THE TYPE OF IMPROVEMENT SHOULD THAT BE EFFECTED**

On the improvement of the legislative framework, measures and remedies that the tax practitioners and corporate taxpayers suggest are that SARS may have to consider improving around the measures in place to collect revenue. The areas that are recommended include the following: providing a percentage of the taxes collected with a cap as remittance to the collection agents to assist in offsetting the cost of compliance, and inculcating a culture of compliance for individuals by introducing possession of a valid tax clearance certificate for job seekers (as is currently the case with companies seeking to do business with the State).

In both cases the legislative framework is sufficient, the issue is the implementation. Both have strong legislative frameworks with potentially effective measures and remedies to enforce the legal framework. In the case of Municipalities though, the ability to implement and apply the legislative framework is hampered by the link of municipalities to the political parties. This situation is unlikely to improve unless municipalities are delinked from political affiliations, and governed by the communities that it serves. The view is that the tax legislation enforced by SARS needs to be simplified to encourage growth for small to medium businesses. There should be less administration for small to medium business. Individual tax should be self-assessments; Municipalities should adopt a centralised revenue collection system similar to SARS.

The municipalities need to be improved wherein they should start using programmes like amnesties which SARS used to encourage compliance. They need to improve on enforcing compliance using the existing legislation wherein the enforcement is applied to both the internal (officials) and the external client (ratepayers). Municipalities should have legislation that allows them to collect revenue from third parties, introduce penalties on late payment and interest for failure to pay for services provided. The penalties as a percentage should be paid on the number of days which a taxpayer is in arrears for example, if the taxpayer is only a day late in submission tax /VAT return to be liable to lessor percentage. The municipalities need to take the same approach as SARS in terms of enforcing legislation and communicate to the communities that

paying the rates and taxes is the right thing to do as it create a better South Africa for all. SARS does not need additional powers; municipalities should increase their deposits by small amounts every month.

Emanating from the structured questionnaires completed by corporate taxpayers and or tax practitioners, it can be argued that on the question of whether SARS or municipality have good revenue collections strategy, the corporate taxpayers and or tax practitioners view both strategies as good and well defined and suitable for revenue collection strategies. It was however indicated that when it comes to payment negotiation the municipality were said to be too accommodative when compared to SARS which could be one of the reason for ratepayers taking advantage of the situation. There is no doubt that from SARS perspective the pay now argue later view, is well engraved in the minds of taxpayers and they know that you cannot just make arrangement just for the fun, there should be a real reason for making payment arrangement. It can also be argued the other element that makes SARS revenue collection successful is because they have employers who collect pay as you earn directly from the employees 's salaries and failure to do that result in punishing the employers. It can also be argued the use of third parties like banks and employees in collecting tax on behalf of SARS, is also another contributor to the success of SARS strategy when it comes to revenue collection. It must also be indicated that when a person goes on retirement, there is a need to get a tax directive and it is SARS that gives that, and informs the employer how much should be retained as tax before the payment is made, it can therefore be argued that the SARS legislative power is well entrenched into the different institutions and they have no option but to comply with SARS. It is also evident that in the case of municipalities their recourse is not as stringent as that one of SARS even though they can withdraw the services like cutting off the ratepayer's services. It can also be argued that the municipalities may have strategies to collect debt; however the execution of such strategies will need to be aligned with the political climate of the time because the two are often in direct conflict, with the political agenda with politics taking precedence over the commercial imperative.

#### **8.2.4 DATA FROM MUNICIPAL RATEPAYERS**

The collection of data from ratepayers emanates from the objectives of the research that aimed to understand their attitudes and opinions with regard to the payment of rates and taxes. In order to investigate and solicit information in this regard, a questionnaire was developed that probed these questions and all the questions in the questionnaire emanates from the research objective. Five hundred and forty six questionnaires were developed and administered to the ratepayers; of the five hundred and forty six that were administered, four were not returned and one was returned blank, therefore the analysis is based on the five hundred and forty one that were returned completed. The interview questions probes the following: biographical information that covered gender, age group, ethnicity, economic status, educational qualification, residence and size of the household, the other set of questions probed the understanding use of revenue collection by municipality; the necessity of revenue collection by municipality; whether municipal rates and taxes are use in the development of local government; whether rates and taxes are view as priority debt; probing whether the ratepayers have paid the rates and taxes in the last six months; probing the view as to whether the ratepayers view municipal bill as equally fair to the services that are provided and finally probing the overall attitude about the payment of municipal rates and taxes.

Respondents were classified into the following demographic characteristics: Gender, age group, ethnicity, economic status, educational qualification, residence and size of the household and they have been given labelled as D1 to D7. The other areas of investigations are probing the understanding use of revenue collection by municipality; the necessity of revenue collection by municipality; whether municipal rates and taxes are use in the development of local government; whether rates and taxes are view as priority debt; probing whether the ratepayers have paid the rates and taxes in the last six months; probing the view as to whether the ratepayers view municipal bill as equally fair to the services that are provided and finally probing the overall attitude about the payment of municipal rates and taxes. The discussion that followed will also make reference to these labelling. The structured questionnaires therefore provided the following results.

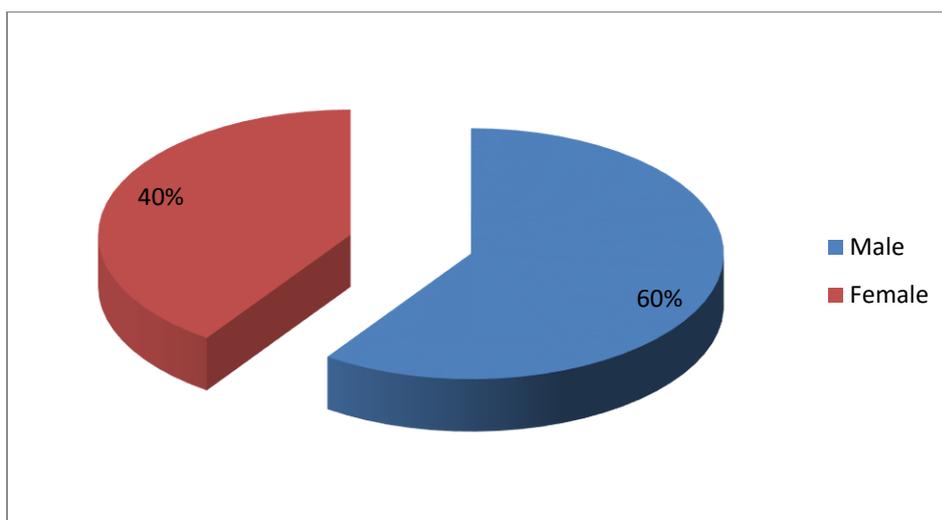
### 8.2.4.1 BIOGRAPHICAL INFORMATION

The biographical information is important for research and contains information about the people who are participants in the research. Biographical information regardless of their length and target audience, contain basic facts like the time, places, gender, educational qualification, ethnicity, age group, economic status and many other information about a person. The biographical information outlines the type of people that will participant in the research, which can be used to determine and influence the premise from which such participants stems from. The findings that were gathered from the biographical information will be presented and analysed below:

#### 8.2.4.1.1 GENDER

The probing of gender in research is important because it ensures that the views and perceptions that are abstained from such study are not gender biased. It also ensures that the opinions and the perception of both genders are also factored in the conclusion of such study and therefore create completeness of views and perception that are deduced from the structured questionnaire. Due to the family structures in South Africa, the ratepayers are both male and female and therefore the views that will be expressed need to cover both as they are contributors to the fiscus.

Figure 8.1: Gender



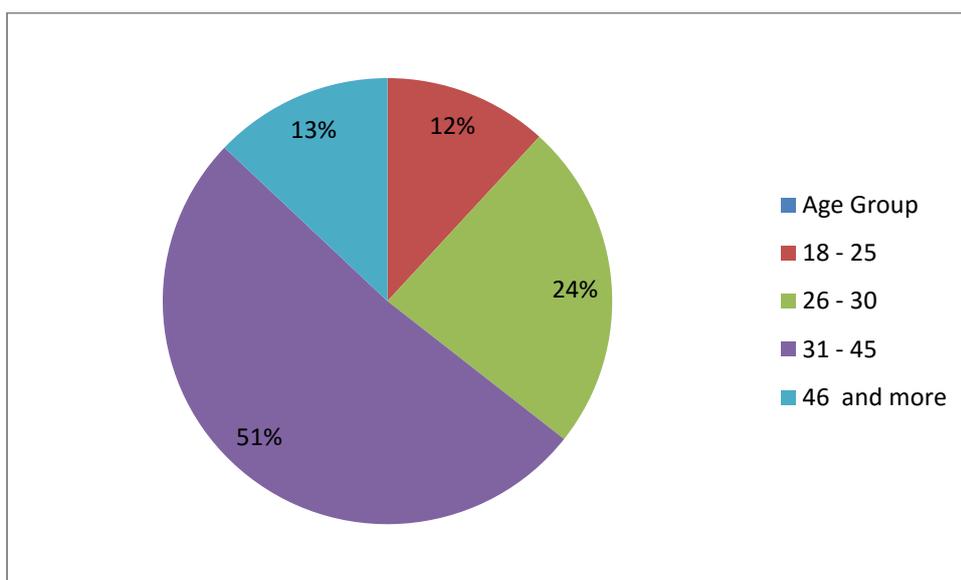
Of the five hundred forty one of the questionnaires that were returned 322 were male which represent 59.5% and female being 219 which is 40.5%. It can therefore be inferred that the attitude, perceptions and opinions have covered the both genders. It

must however be noted that in terms of 15<sup>th</sup> Commission of Employment Equity Annual Report of 2014 -2015 the national economic active population the female should be 45% while the male should be 55 %, from composition of the respondents in this study it can therefore be indicated that the male representation above is more that, that which is envisaged in the report by 4.5% however the coverage remains acceptable as the margin of difference is minimal and in reality at the different occupational levels the percentages are fair lower in the work place. The work place situation therefore perpetuate the household composition as the respondents that are mainly occupying and the most active in the job market remains the male.

#### 8.2.4.1.2 AGE GROUP

The age group of respondents often determines the depth of responses that will be provided by the interviewee. This helps to ensure that the respondents' views of all ages are catered for. The age group of the respondents will therefore be significant depending on the information that will be required by the respondent. In the South African environment where the child headed household is not uncommon, a lowly aged person can be a ratepayer in the household. The age group has also been divided into male and female to understand the age spread in both genders. The age group of the respondents in this regard is indicated as follows:

Figure 8.2: Age group (male and female)



The age groups of the responded is spread between the ages 18 to 45, with 51, 5% being of the age group between 31 to 45 and lowest percentage being 11% being in the age group 18 to 25 and the others being higher which means that the attitude, opinions and perception that will be raised have covered the different age groups. Emanating from the sample it can be inferred that male are still dominant in the households setup and structures so the main opinion and attitude that will be expressed will be coming from men. Of the 218 female respondents, 23 are between the ages of 18 – 25, 59 between the ages of 26-30; 99 between the ages 31 – 45 and 37 being 46 years and older which in percentage terms 11% is 18 – 25; 27% is 26 - 30; 45% is 31 – 45; and 46 and above being 17%. It can therefore be inferred that the majority of female respondents are between the ages 26 to 45 because they constitute 72% which is middle aged grouping. It can therefore be inferred from this composition of the respondents that they are well spread into the different age groups which give a balance opinions and perceptions of the different people in their different age groups and it can also be noted that this spread is amongst the female respondents. In the case of male of the 322, 41 which is 13% is between the ages 18 – 25; 70 which is 22% between the ages 26 – 30; 179 which is 56% between the ages 31 – 45 and 46 and older is 32 which is 10%.it can also be inferred that even in the case of male, the ages between 26 to 45 constitute 78% of the respondents which is the same trend as in female, which means that the dominate age in this regard are the middle age people which is also evident that this is the age at which such people could be the head of households. It can therefore be inferred from the outcome of this study that the composition of the respondents, are well spread into the different age groups and this gives a balance view, opinions and perceptions of the different people in their different male age groups.

#### 8.2.4.1.3 ETHNICITY

South Africa with a history of separate development, it is therefore necessary to cover the views and opinions of the various ethnic groupings in the country. The participation of the various ethnic groups creates completeness in the view and opinions that will be deduced and captured from the structured questionnaires. The ethnicity of the respondents in this regard is indicated as follows:

Table 8.1: Ethnicity

Count of Ethnicity	
Ethnicity	Total
Indian	22
Coloured	61
White	83
Black	376
Grand Total	542

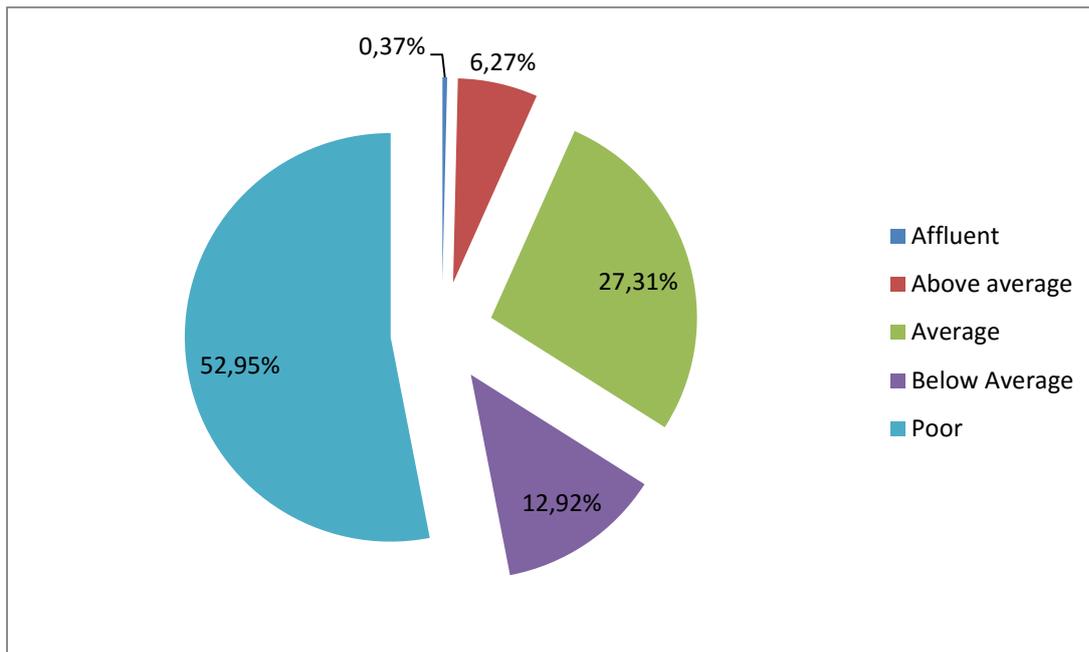
The racial profile of the responded is 4.06% is Indian, 11.25% being Coloured, 15.31 being White and African black being 69.37% this profile is well represented because in terms of economic active population as per the employment equity requirements at a national level the percentage representation is African Black 80.02%, Indian 3.1%, Coloured 10.6% and White 10.8%. The views and opinion that have been expressed in this instance is therefore representative of the various racial groupings in the country. When the respondents are compared and contrasted with the economic active population, it can be inferred that the all the other racial group responded at their level of economic active population except for black people who their response was 69.37% instead of 80.02%. It can therefore be inferred that these responses a racially balanced in terms of South African demographics, therefore the opinion of all racial group have been captured.

#### 8.2.4.1.4 ECONOMIC STATUS

In probing the opinions and views on the spending patterns of respondents the economic status of the respondents is vital as it has the capacity to give cause and effect of such expenditure. Respondents that are financially stable will not be impacted upon by additional payment of municipal rates and taxes as compared to those in worse situation. Their views and opinions will therefore assists in providing divergent understanding both in terms the use of the taxes that they pay to the fiscus and the expected benefit that should arise from such payment, as those that are well off are likely to demand more as compared to those with lower economic status. It can further

be argued that those who are not well off and indigent must be cared for and it is expected of the government to ensure that they provide more free services to them and the those who are well off also have the responsibility to fund such provision of services by the government through the payment of taxes. The economic statuses of the respondents in this study area are indicated as follows:

Figure 8.3: Economic Status



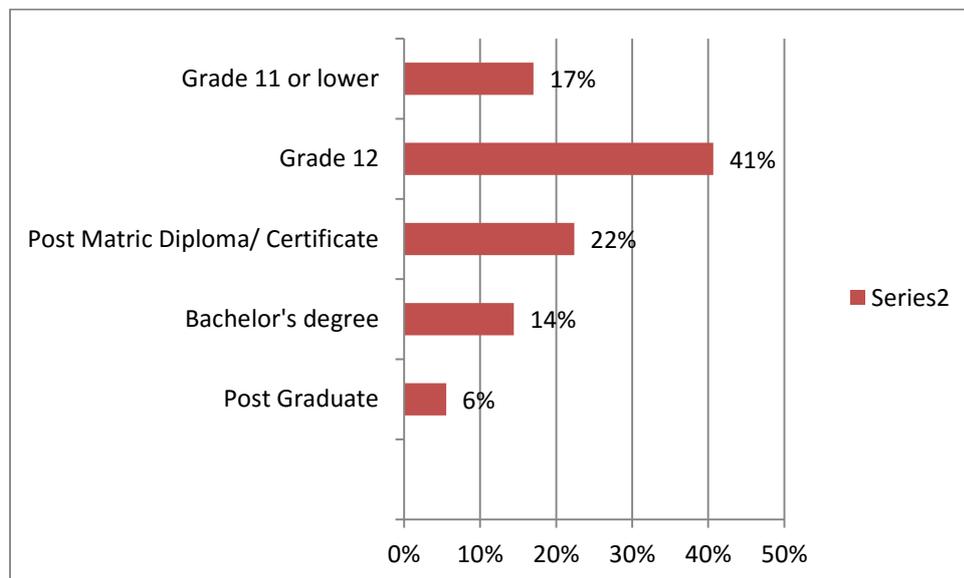
The responses were received from respondents that come from different economic statuses although there was minimal response received from affluent groups. 0.37% Affluent, 6.46% above average, 12.92 below average, 27.31% average and 52.95 % poor. So the responses have covered all the people in different economic statuses, which mean that it is representative of the people in the different level economically. The responses of the respondents are in line with the South African realities in that 52.95 of the respondents regards themselves as poor with the affluent and above average being 0.37% and 6.7% respectively which ultimately constitute 6.97% and the affluent or very rich is aligned to the study by Steenekamp (2012:3) who has put it at 0.1%. This is aligned to the income distribution trends and household survey which was conducted by OECD which indicated that from 1993, 2000 and 2008 the Gini Coefficient increased from 66% in 1993 to 70% in 2008 which is a high figure in terms of international standards, this could also be attributed to the fact that in terms of number of black African headed household they were the most respondents and they

are the ones experiencing inequality in income and expenditures (Economic Justice Network, 2015:10) .It can therefore be inferred that this is not different from the poverty levels of South African, with black Africans being in the majority.

#### 8.2.4.1.5 EDUCATIONAL QUALIFICATION

The educational levels of the respondents are often helpful in the validation of the data collected and it also provides a succinct understanding of their views and opinions. It is the credibility of the respondents that determine whether a particular data that is obtained can be relied upon or not. The educational statuses of the respondents in the study are indicated as follows:

Figure 8.4: Highest Educational Qualification



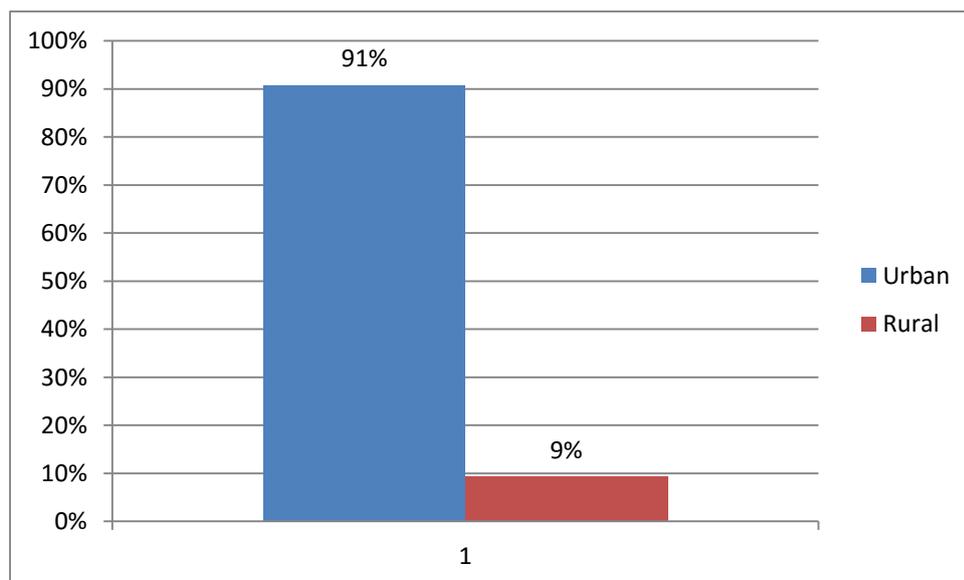
The educational qualification of the people who completed the questionnaire range from people with grade eleven and below to people with post graduate degrees. There were 16.97% of people with grade lower than grade eleven, 40.77 % for people with grade twelve, 14.49 % for people with bachelor’s degree, 22.32% for people with post matric diploma or certificate and 5.54% for people with post graduate qualifications. The respondents with post matric and above constituted 27.86% of the sampled respondents with the majority being respondents with matric. The sampled respondents has a better literacy level compared to the national positions in 2013

which increased from 21.75% in 2002 to 27.7% in 2013 for people with grade twelve. The people with tertiary education improved from 9.3% to 12.8%, this when contrasted with the sample which has 40.77% people with grade and 22.32% for the people with post matric qualification it is evident that the respondents were better qualified when compared to the quoted statistical outcome of the general household survey (Statistics South Africa, 2013:11). It can therefore be inferred that the majority of the respondents understood the questions and therefore their Responses in a true reflection of their attitude and opinion about the collection of revenue by the municipalities. It can also be inferred that the educational level of the respondents is critical in the validation of the data collected.

#### 8.2.4.1.6 RESIDENCE

The place of residence plays a role in terms of the amount of municipal rates and taxes that the ratepayer pays. Based on where respondents reside, it will also indicate whether a person is an indigent or someone who is expected to pay municipal rates and taxes. The composition of the residence helps in the validation of the data collected because it indicates the opinions and views of the real payers of municipal rates and taxes. The residence status of the study area is indicated below:

Figure 8.5: How would you describe the area where you are residing?

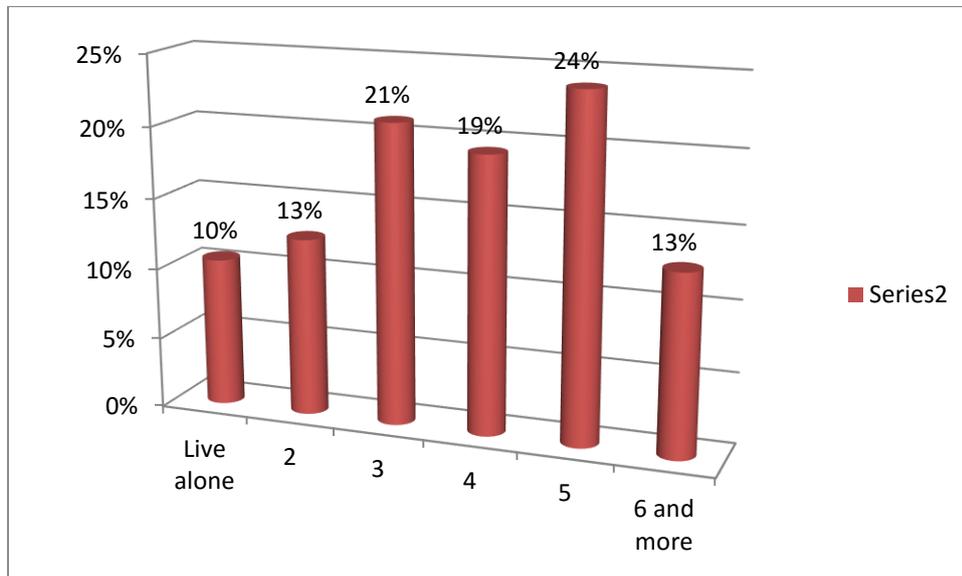


90.77% of the respondents describe themselves as living in the urban areas while 9.23% described themselves as living in the rural areas. As most of the municipalities are urban, and this is the areas where revenue collection should be successful, it can therefore be inferred that the respondents in this case have understanding and experience of paying rates and taxes (Supra, 158). It can also be indicated that most of the urban areas are situated in the metropolitan municipalities and these are the municipalities that are well resourced and the ratepayers in these areas have a better understanding and the necessary sophistication of the reason why the municipal rates and taxes should be paid. It can therefore be argued that the fact that most of the respondents come from the urban areas, they are coming from areas where the level of enforcement of revenue collection by the municipality is more prevalent. It can further be argued that if it the majority of places were rural the outcome could have been different because the inhabitants of the rural areas receive minimal services and the level affording the payment for the services is minimal as most of the people are not employed (Supra, 158). It can also be inferred that there is higher expectation of return on municipal rates that are paid in the urban areas as compared to those in the rural areas and the type of service expectations are not the same as the urban areas are mainly dependent on the services that are provided by the municipality while in the rural areas their dependency on the municipal services are minimal.

#### 8.2.4.1.7 HOUSEHOLD SIZE

The size of the household of the respondents is significant in the study because it deals with the affordability issues within the household. It indicates the level of burden that additional payment of municipal rates and taxes can have on the respondents. Their views and opinions are therefore critical in that it indicate the burden that is imposed by such payment of municipal rates and taxes. The view and opinions based on the household size helps in validation of the data collected in that it covers the whole spectrum of the different family structures which assist in getting a holistic view of the various families within the sample. This is a well know structures that in South Africa most of the household are more than three, and it is therefore pivotal that the views of these household are also capture in this study. The household sizes of the respondents in the study are as follows:

Figure 8.6: Size of your household, which is number of people, including yourself, who live in your house/dwelling



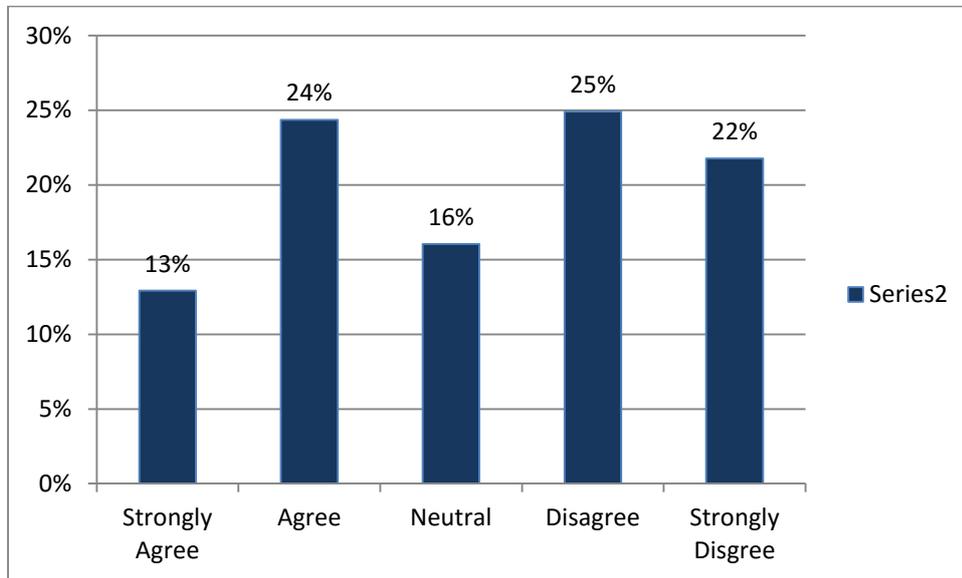
Of the household profiled, 10.5% live alone, 12.25% are two, 20.99% are three, 19.34% are four, 23.94% are five, 12.71% have more than six people in the household. The respondents are therefore covering the various levels of household structures and families. It can therefore be inferred that the number of members in each household are in line with the South African trend and is therefore representative of the South African situation. It can therefore be inferred that each level of household was well represented in the sample, and the attitudes and opinions that were expressed are therefore representative of the views of the different levels of households.

#### **8.2.4.2 RATEPAYER'S UNDERSTANDING OF USE OF REVENUE COLLECTION BY MUNICIPALITY**

This question is aimed at probing the ratepayers' understanding of the use of revenue collected by the municipalities. Since the advent of democracy in 1994 and the move away from separate development, and the government has the responsibility to provide services equally to all citizens. There is therefore a need for the citizens to fund the development in their different areas, and this has created an expectation from the ratepayers that from their payment of municipal rates and taxes there should be concomitant services provided. The question probed the ratepayers' understanding of

the use of the municipal rates and taxes that they pay. The respondents in the study area are indicated as follows:

Figure 8.7: Ratepayers understand the use of the revenue collection by the municipality

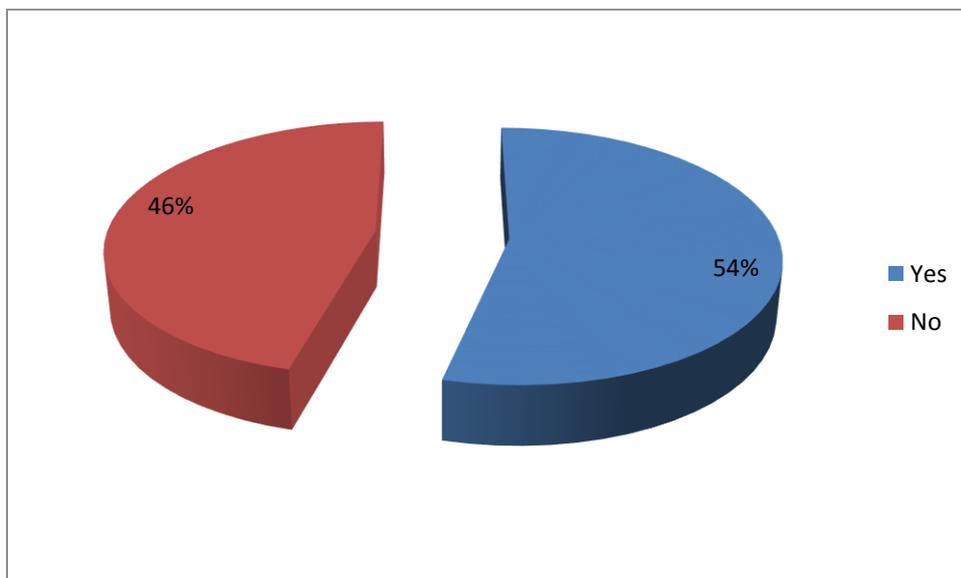


On the question of whether ratepayers understand the use of revenue collection by municipality, the respondents views were that 24.35% agreed; 24.91% disagreed, 10.05%neutral, 12.92% strongly agreed and 21.77% strongly disagreed. From this presentation it can therefore be inferred that 46.68% of the respondents reported that they do not understand the use of revenue collected, while 37.27 indicated that they understood the use of the revenue collected. The Responses therefore reported that the majority of the respondents do not understand the use of the revenue collected by the municipality, which therefore means that the municipality has the responsibility to do campaigns and workshops with the ratepayers to educate them on the use of the revenue that is collected by the municipalities. This could go a long ways in quelling down the protestation that is so eminent in instances where service delivery is thought to be lacking or slow (supra, 3).

### 8.2.4.3 VIEW ON THE NECESSITY OF REVENUE COLLECTION BY MUNICIPALITY

The purpose of this question is to probe if ratepayers view the revenue collection by municipality as necessary. For the government to meet its service delivery obligations there is a need to have the funding to pay for the provision of such services. It has also been a challenge historically to pay for the services, as there was a culture on non-payment that was promoted as part of struggle for democracy. The question probed the ratepayers' views and opinions on whether they understand the necessity of revenue collection, which inadvertently triggers service level expectations. The ratepayer's responses in the study area are indicated as follows:

Figure 8.8: Do you think revenue collection by municipality is necessary?



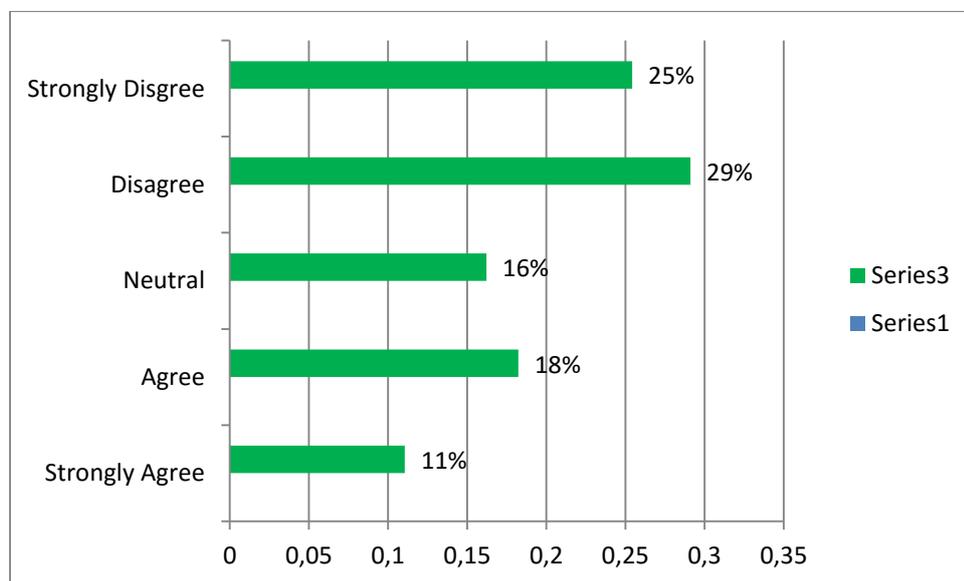
On the question of whether the revenue collection by the municipality was necessary or not, 53.78% view was that it was necessary while 46.22% thought that revenue collection that is performed by the municipality was not necessary. These responses indicate that despite that in the previous question wherein the respondents reported that they did not understand what the revenue collected was used for and this view was expressed by 46.68% of the respondents (supra, 218), in this instance the respondents who reported that they understand the necessity for revenue collection was 53.78%. This therefore means that the challenge of revenue collection is not necessary due to the lack of understanding of the need and necessity for the revenue

collection, but could either be due to the culture of non-payment or reluctance by the ratepayers to pay the rates and taxes (supra, 3).

#### **8.2.4.4 VIEW ON WHETHER MUNICIPAL RATES AND TAXES IS USED IN THE DEVELOPMENT OF LOCAL GOVERNMENT**

The purpose of this question is to probe the ratepayer’s expectation on the use of the revenue collected by the municipality. There are expectations from ratepayers that the municipal rates and taxes that they pay should be used in the development of local economy. For the government to meet its developmental obligations there is a need for funding, and municipal rates and taxes should be used in the development of local government. The questions probed the views of ratepayers on whether the collected municipal rates and taxes are used in the development of local economy. The views and opinions of respondents in the study area are indicated as follows:

Figure 8.9: The collection of municipal rates and taxes is used for development of local government.



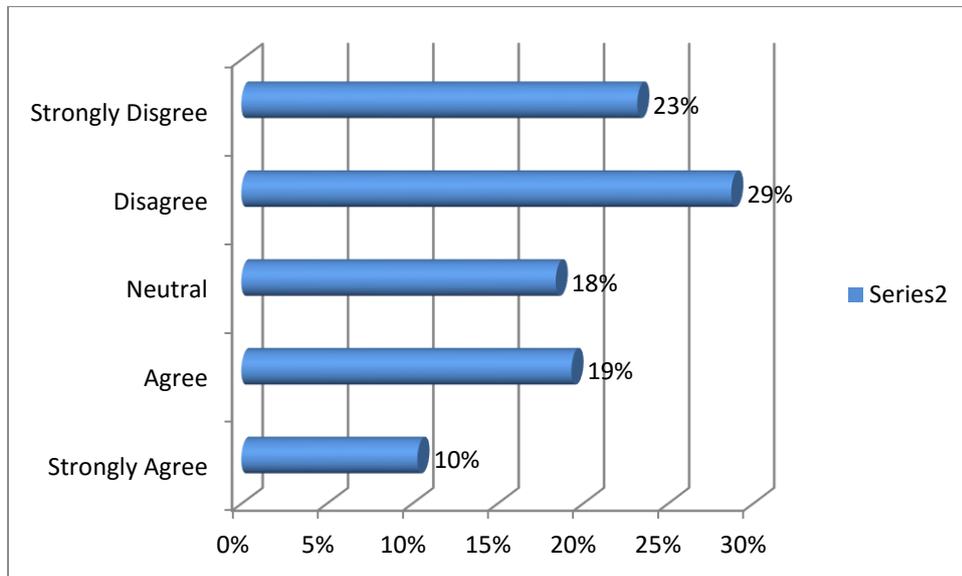
In this case the questionnaire asked the respondents as to whether the collection of municipal rates and taxes is used for development of local government, and their response were that those who agreed were 18.23%; the disagree were 29.1%, 16.21% were neutral , while 11.05% strongly agreed and 25.41% strongly disagreed. It can

therefore be reported that 29.28% agreed while 54.51% disagreed. The level of disagreement therefore collaborate Q1 (supra, 218), wherein the respondents reported that they did not understand the use of revenue collected by the municipality. It can therefore be inferred that the lack of understanding on the use of revenue collected by the municipality could also be contributory in the low level of compliance to non-compliance in the payment of rates and taxes which therefore means that there will be a need for the municipalities to trigger the enforcement drive to ensure that there is compliance (Supra, 160). It can therefore be inferred that the municipality should not think that they only put down the laws and regulation and wait in hope that the ratepayers will voluntarily comply and start paying the rates and taxes, it is the responsibility of the municipality to ensure that there is enforcement that need to happen to be able to collect the rates and taxes (Supra, 1).

#### ***8.2.4.5 VIEW ON WHETHER RATEPAYERS VIEW MUNICIPAL RATES AND TAXES AS PRIORITY DEBT***

The purpose of this question is to probe the ratepayers' view in the prioritising of their municipal bill in contrast to other debts. In the environment where ratepayers have different debts, they are expected to make choices as to which debt to pay and which ones to leave out and this call for prioritisation of debts. It is therefore incumbent upon the ratepayers as to which debt they would like to pay first and which one to leave out. This question probed as to whether the ratepayers regard municipal rates and taxes as a priority debt or not. It aimed at understanding as to which debt will they pay first if faced with a choice of making payment between municipal rates and taxes and other debts. To what extent was the payment of municipal rates and taxes regarded as a priority debt by the ratepayers, this question sought to probe that. The respondents in the study area indicated as follows:

Figure 8.10: The ratepayers view payment of municipal rates and taxes as a priority debt.

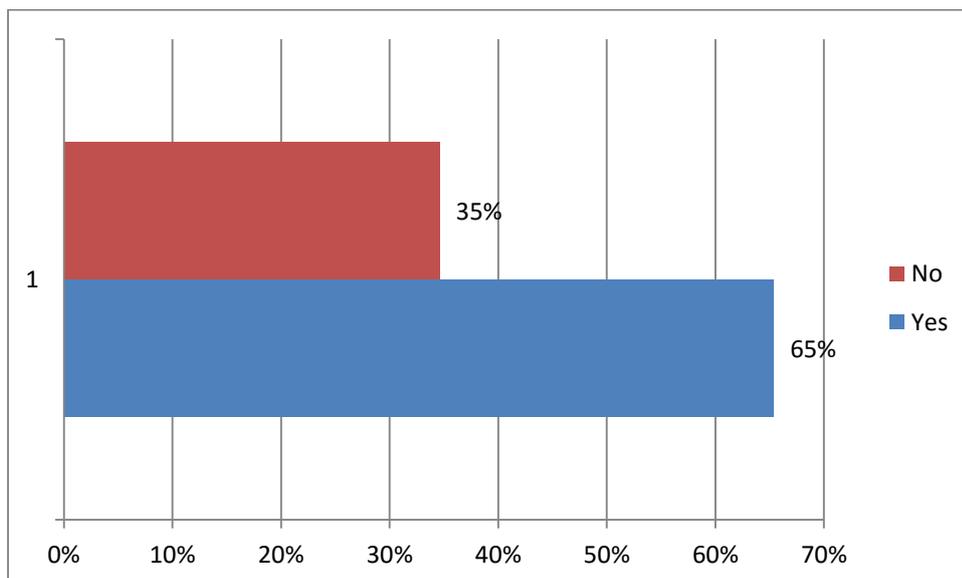


On whether the ratepayers view payment of municipal rates and taxes as a priority for their debts, the respondents' views were that 19.34% agreed; 28.73% disagreed, 18.41% neutral, 10.31% strongly agreed and 23.2% strongly disagreed. It is evident from this presentation that it only 29.65 who reported that they regards the payment of municipal rates of taxes as their priority when it comes to their debts, however 51.93% do not regard the payment of municipal rates and taxes as a priority debt, which means that the municipal rates and taxes will only be considered after all the debts will have been paid. It can therefore be inferred that it is possible that the level of enforcement that reside within the municipal revenue collection might be contributory factor to this attitude and this might what resulted in SARS being regarded as a better revenue collector as compared to the municipality (Supra, 3). It can therefore be inferred that the municipalities will have to claim their space in revenue collection by strengthening their enforcement drive and ensuring that there are consequences for non-payment of rates and taxes (supra, 58). It can therefore be argued that it is only once the level enforcement is raised that the payment of rates and taxes will occupy the critical and important space in the minds of the ratepayers, and it is therefore incumbent upon the municipality to make this happen.

#### 8.2.4.6 PAYMENT OF RATES AND TAXES IN THE LAST SIX MONTHS (1 DECEMBER 2014 TO 31 MAY 2015)

This question is aimed at determining the payment patterns and frequency of payment by ratepayers. Emanating from the high level of non-payment of debt, the frequency of payment will therefore indicate how much the ratepayers view the payment of municipal rates and taxes. This particular question is key as it indicates the actual attitudes of ratepayers toward the payment of municipal rates and taxes. It indicates the level of actual debt that the municipalities face due to the pattern of payments that are done by the ratepayers. It also indicates as to what extent the ratepayers regard the payment of municipal rates and taxes as the real priority as actual payment of debts by the ratepayers is actual indicator and not theoretical insinuation. The frequency and pattern of payment in the last six months will also have an indication of the level of debtors ageing in the municipal debtors' book. The respondents in this study area indicated as follows:

Figure 8.11: Have you paid your rates to the municipality in the last 6 months?



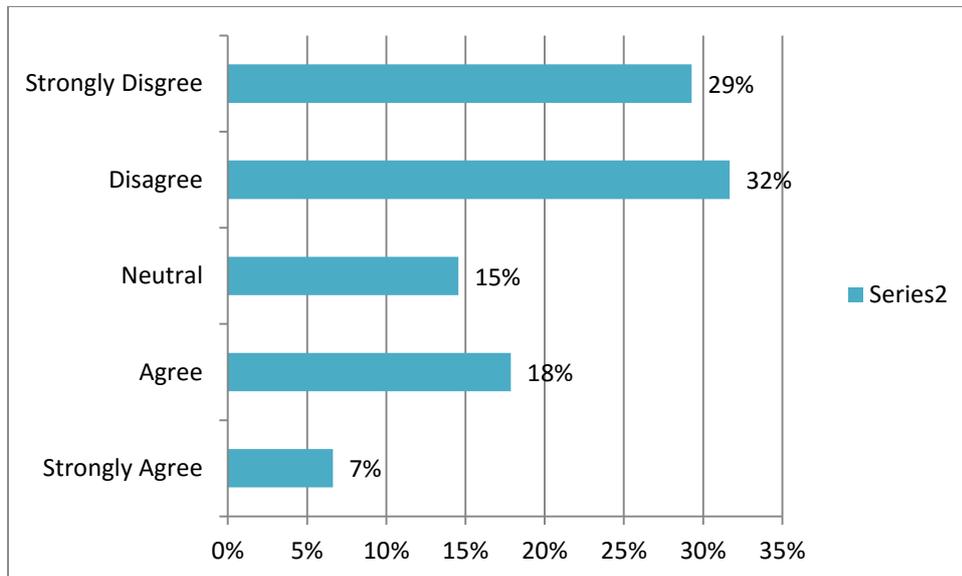
The responses indicate that 63.4% of the responded paid their rates in the last six months; it is only 34.6% of the respondents that did not pay their rates in the same period. From these responses it can therefore be inferred that despite the responses in Q1 to Q4 which reported misgivings and misunderstandings when it come to the use of municipal revenue collected and prioritising of municipal rates and taxes against

other debts, in the last six months, there is a clear indication that 63.45 of the respondents have paid their rates and taxes. It can there be inferred that, the municipality will have to launch campaigns to ensure that those who pay their municipal bill despite misgivings that they might have, should continue to pay and those who are not paying should be targeted and carryout the enforcement initiatives on them. It can therefore be argued that based on the level of compliance as per the responses above, it is evident that if the municipality were strengthen their revenue collection drive they could easily increase their revenue collection performance which could alleviate their dependence on the intergovernmental transfers that is currently occupying their bigger revenue component in them (Supra, 150).

#### ***8.2.4.7 VIEW ON WHETHER THE RATEPAYERS VIEW THE MUNICIPAL BILL AS EQUALLY FAIR TO THE SERVICES PROVIDED***

Since the advent of democracy it has become common cause that, people want value for money for whatever they pay for. It is the same with the payment of municipal rates and taxes in that the ratepayers expect value for money for the payment of municipal rates and taxes. They expect the municipality to provide services that are equally fair to the payment that they make to the municipality. The question probed the view and attitudes of ratepayers as to whether the view the payment of the municipal rates and taxes as equally fair to the services that the municipality provides. The respondents in this area indicated as follows:

Figure 8.12: The ratepayers view the municipal bill as equally fair to the services provided.



It is evident from the respondents that the ratepayers view on whether the municipal bill is equally fair to the services provided that the disagreeing component without including the neutral is 61%, when the strongly disagree and disagree are combined. So it can be inferred that the respondents view the municipal bill as not being equally fair. The views of the respondents were 17.86% agree; disagree 31.68% disagree, neutral 14.55% neutral, 6.63% strongly agree and strongly disagree 29.3%. As reported earlier, the payment of rates and taxes is not a voluntary contribution, which means that there should not be an expectation of fairness; it is a legislative requirement that the ratepayers have to comply with (Supra, 1). The payment of rates and taxes it is not for a *'quid pro quo'* that is getting the equal benefit for the payment that is made (Supra, 49). It can therefore be argued that the basis of payment of rates and taxes is found in the same principles as in taxation which is found in the reciprocal duties of protection and support between the state and its inhabitants in return for the contribution that they make through taxes.

#### **8.2.4.8 THE OVERALL ATTITUDES ABOUT THE PAYMENT OF MUNICIPAL RATES AND TAXES**

The overall attitude of respondents based on their responses on the last question on the questionnaire which assess their overall attitude was that the payment of municipal rates and taxes are high and they think that the municipal should reduce rates. This information was extracted from the 542 questionnaires that were completed, of which 129 made comment on their overall attitude about the payment of municipal rates and taxes and this represent 23.8%. 413 of the 542 have left the commentary area blank, and this represent 76.2%. Emanating from the 129 that commented on this question, 7 of them said no comment as the answer and this represents 5.42% of the answers received.

The overall attitude of the respondents on the payment of rates and taxes, they agreed on the payment of rates and taxes, however they expressed different views and disagreement on the manner in which the collected revenue was used and had a view that the money was not used where it is needed the most. Some of the respondents have views that were not necessarily linked to the study, wherein in some instances they complained about electricity load shedding and felt they were paying high electricity bills while other felt that everyone should be pursued and ensures that they pay so that they could be able to subsidize the indigent. Other respondents suggested that there should be a ratepayer education to ensure that the ratepayers begin to understand the necessity for paying rates and taxes. Others respondents felt that if the level of municipal services were improved, it could serve as a motivation for other ratepayers and could encourage them to pay their rates and taxes. There was also suggestion from ratepayers that, it will work better if rates and taxes were collected from salaries instead of having to pay them separately or collected separately in which case the money might have been spent already. The views of other respondents was that, whatever view that they have the government will not take note of them, and therefore felt that their comment and attitude will not make any difference. There was also a view that others expressed that, they felt that they were paying the taxes for bad services that were provided by the municipality and they also felt that the rates and taxes that they were paying were too high despite the fact that the services that was provided was of low standards. Some of the ratepayers expressed their view that they paid their rates and taxes because they had no option because if they did not

pay, the municipality was going to withdraw their service and they could not afford to be cut-off from the essential services. Others feel that there is no consistency and transparency on the tariffs that they are charged. Other respondents complained that the rates and taxes that they are charged as contained in the bills were unrealistic and based on estimations and when they approach the municipality with queries wanting to understand how their bill was arrived at they do not get answers. It was the view that was expressed by other respondents that it was going to assist their understanding if the municipality were to share the outcome of audit by the office of the Auditor General with them with regards to the findings on the municipality. Emanating from Q7, it can be argued that the views as expressed by the respondents in this study are an indication of how ratepayers feel about the payment of rates and taxes. These views are not far-fetched when compared and contrasted with the views that are contained in Q1 to Q6 which were the direct responses of the sampled ratepayers and this contribute to the non-payment culture of municipal rates and taxes (Supra, 3). It can there be argued it has become evident from this study that the non-payments that is experienced by the municipalities emanates different ratepayers that include households, businesses and government (Supra, 154). It can further be argued that essentially the poor ratepayer's collection has the impact of constraining the municipal's own revenue and makes it impossible for the municipality to fund its operation (Supra, 153 – 154).

### **8.3 CONCLUSION**

The research question is not meant to generalise based on the sample data to the population from which the subjects were selected but rather it looks at the useful descriptive measures of the differential effectiveness of the two revenue collection entities, that is the municipalities and the South African Revenue Service. In terms of the sample size five hundred and forty six questionnaires were supposed to be administered to the ratepayers in Tshwane Metropolitan Municipality, of the five hundred and forty six that were administered four were not returned and one returned blank which means that the returned questionnaires constitute 99.26%. The responses were also received from the ten corporate taxpayers and/ or tax practitioners, Tshwane Metropolitan Municipality and the South African Revenue Service. This chapter presents and analysis data collected through administration of questionnaires to the

various groups. In using the instrument, attempt were made to determine the attitude, opinions and perceptions of respondents. The first questionnaire that will be discussed is the questionnaire that was administered to ratepayers. Five hundred and forty six questionnaires were administered the analysis will be based on the five hundred and forty one that were returned completed. It can however be inferred based on this that the attitudes and opinions of ratepayers about payment of rates and taxes is that majority do not view the payment of rates and taxes as necessary. Municipalities should have legislation that allows them to collect revenue from third parties, introduce penalties on late payment and interest for failure to pay for services provided. Another point that was raised was the shortage of skills, poor technology and political interference that have negatively impacted the revenue collections. There is no consistent revenue collection strategy. The collections are currently taking place by default, not because of any well thought strategy. There is very little accountability in most of the municipalities, which encourages maladministration and corruption.

Municipalities should learn from SARS or SARS should take over the revenue collection of municipalities. Municipalities should consider taking legal action against individuals owing them, and also ensure that the systems are used correctly, the bills that are sent to the ratepayers should be correct in order to avoid the residents raising queries. The use third party agents as is the case with SARS should also be considered by municipalities in collecting outstanding rates and taxes.

They were in agreement with the fact payment of rates and taxes should be made but they did not agree with the manner in which the money was used and they feel that the money is not used where it is needed. Other did not comment while others just reported no comment. Other complained about electricity load shedding and felt they were paying high electricity bills. Other feels that everyone should be pursued and ensures that they pay so that they could be able to subsidize the indigent. Other alluded to the fact that there is a need to ratepayer education to ensure that the ratepayers they begin to understand the necessity for paying rates and taxes. Others feel that if the level of municipal services were improved, it could serve as a motivation for ratepayers to pay their rates and taxes. Others feel that the taxes should be collected from salaries instead of having to pay them separately or collected

separately. Other feels that their comment to government will not make any different, to their attitude and comment will not make a difference. Others feel that they are paying the taxes for bad services and also feel that the taxes are too high. Others feel that they are pay high rates and taxes while the services provided by the municipality are of a low standard. Others reported that they are paying because they have no option but to pay. Others feel that they are being overcharged for the rates and taxes. Others feel that there is no consistency and transparency on the tariffs that they are charged. Other complains that were they having an issued with the rates charged and approach the municipality with queries wanting to understand how their bill was arrived at they do not get answers. Others are of the view that the rates and taxes that a charged is not the actual figures but estimates, which results in higher amount being charged. Others feel that after the audit have been done on the books of the municipality; the ratepayers should be informed and told what the money has been used for.

In the chapter that follow the study will focus on summary, conclusion and recommendations.

## **CHAPTER 9: SUMMARY, CONCLUSION AND RECOMMENDATIONS**

### **9.1 SUMMARY**

Taxation is the means whereby the state collects funds from persons to pay for its administration and for the benefit of its citizens and residents (Huxham & Haupt, 2012:1; Fjeldstad & Heggstad, 2012:23; Fjeldstad & Moore, 2009:5; Niwagaba, 2007:13). It means that revenue agencies have to deliver funds to enable all the government agencies to fulfil their missions of citizen service because it is the collected revenue that enables the government to have the resources to meet its constitutional obligation to the citizens as the lack of these resources could bring government functioning to a complete halt (Fjeldstad, 2004:1; Andrulis & Barton, 2002:1; Mofolo, 2012:67-69; Rasila & Modau, 2012:44). A number of theoretical premises that are essential in revenue collection have also been reviewed in this study. While there are a number of considerations that can be used in revenue collection in practice it is difficult to comply and satisfy all the requirements that are set out in the theories of taxation.

It is evident from the preceding discussion that the power of local government units to impose taxes and fees is always subject to the limitation which the government may provide. Municipal corporations are mere creatures of statutes, which have the power to create and abolish Municipal Corporation; the government therefore has the power to control over local government units. If the government grants a municipal corporation the power to tax certain matter, it can also provide exemptions or even the take back power.

It also became evident in the discussion that any delegation of power to be constitutionally valid, the law must be complete in it and must layout and set forth sufficient standards that need to be followed and adhered to and there are certain aspects that are imbedded in the taxing process that are legislative in nature and these are vested in tax administrative agencies. In these cases, there is really no delegation of power to value property, power to assess and collect taxes, as well as power to perform details of computations, appraisement or adjustment among others

It was evident through the discussion that the public revenues are classified under the various headings, and they are clear distinction between all these various types of taxes. Taxation is the inherent power of the sovereign, exercised through the legislature, to impose burdens upon subjects and objects within its jurisdiction or the purpose of raising revenue to carry out the legitimate objects of government. It has become more evident in this study that taxation is an act of levying a tax that is a process or means by which the sovereignty of the government is guaranteed, through its law making body, and it is through taxes that the government can raise income to defray its required expenses for the benefit of the citizenry.

In the discussion of the concept of taxation, it also became clear that, taxation is the method of apportioning the cost of government among those who dwell in the country, and they are in some measure privileged to enjoy the benefits that is provided by the state and they therefore bear the burdens through paying taxes (Groves, 1974:24; Montesquieu, 207; Guj, Bacoum, Limerick, 2013:136). This confirms the accession that the essential elements of taxation is that taxation is an enforced contribution; it is generally payable in money; and it is proportionate in character; it is levied on persons, property or the exercise of a right or privilege; it is levied by the state which has jurisdiction over the subject or object of taxation; it is levied by the law making body of the state and it is levied for public purpose or purposes (Ramsey, 1927:47; Groves, 1974:24; Montesquieu, 207; Guj, Bacoum, Limerick, 2013:136). It can therefore be argued that people do not pay taxes because they want to, they pay taxes because they are forced to, and this is the reason why there is always a tax gap and taxpayers that are dragged to the court of law to force them to pay their taxes.

According to the study that was done by McKinsey on benchmarking tax administrations, and the study thought to fill the gap that may exists in the various tax administrations. The study that was conducted between June 2008 to July 2009, and an in-depth research on direct taxes at federal tax administration in diverse set of 13 countries which include Australia, Belgium, Brazil, Canada, Chile, Denmark, France, Ireland, Norway, south Africa, Spain, Sweden, and the United States of America. In this study the pattern of best practices were observed and includes proactive management, sophisticated taxpayer segmentation, streamlined operations, and

rigorous performance tracking (Dohrmann & Pinshaw,, 2009:3; SARS, 2010:50 -69). It was found that when compliance is not achieved on voluntary basis, revenue authority must identify and addresses the risk associated with non-compliance by developing strategies started at those risks. Voluntary compliance is maximised when revenue authorities are aware of major developments and transparent in the business and legislative environment, and are responsive to their implications on tax administration and compliance. The revenue authorities that are using and embedded good revenue collection practices identify and assess compliance risk and develop strategies targeted at addressing that risk (OECD, 2004:20; Feld, Schmidt & Schneider, 2007:1; SARS, 2011:3 – 16; SARS, 2014:6-11). These strategies include education, service, and marketing, profiling risk, auditing, general anti-avoidance efforts, prosecution and proposal for legislative change.

It also became evident in this studies emanating from the views that were expressed by the ratepayers, municipality, SARS and corporate taxpayers and or tax practitioners that good governance authorities are strategically focused and responsive to changes in their environment and that of their taxpayers and successful revenue collection can be characterised by how they relate to taxpayers or ratepayers, and their employees and third parties as well as by how they adapt to changes in their legislative environment.

On the issue of collection of debtor's book or debts, the outcome from the respondents 'view was that they do not think that the poor collection of the book is an issue of having or not having a strategy to recover debts. The key issue is the ability to recover debts or avoid the further escalation of the level of unpaid debts. In this regard it is important to consider what the various characteristics or salient features of the various categories of debtors. In this regard view was expressed that two main categories of debtors should be considered. With the first category being the underprivileged sector of the South African population which makes out the majority. This category makes up a very significant part of the debtors book of municipalities, but falls completely out of the SARS net and the second category is the middle and affluent part of the community, as well as the business sector. This category falls squarely into the SARS and municipal nets. If the ability to recover tax is concerned, SARS only requires an

execution strategy, as the various tax Acts provide ample powers of recovery to SARS. SARS focus is also only on the sphere of the community with the ability to pay or assets to attach in the case that non-payment that is there is something to lose. SARS strategies should accordingly be focused on execution.

It also became clear that in the case of municipalities, the ability to discontinue services at very short notice the moment an account remains unpaid is a very strong enforcement tool. Unfortunately it can only be applied in the middle and affluent societies, as well as in the business communities. As far as the underprivileged communities are concerned, political interference often plays such a dominant role that the municipality's ability to impose sanctions for non-payment the cutting off of services is sterilized and the only logical solution to this dilemma is to implement pre-paid systems. The communities affected are however unlikely to accept this without resistance. The other viable strategy is to increase the charges to the middle and affluent societies and the business communities, as a basis of cross subsidization, this is however not a sustainable solution in the long run

There are process that are very easy to follow at SARS with regard to payments, and committees that hear objections and tax actions in line with legislation, however there is insufficient legislation with regard to the payment and collection of rates and taxes. SARS has a great collection strategy, if they cannot obtain cash from the taxpayer they utilise third parties to recover the tax. With regards to business they recover money from local banks. Municipalities are owed millions by citizens and they cannot collect as people do not prioritize rates and taxes both have good collection strategies the challenge is implementation. SARS strategies and system improvement, active engagement of taxpayers coupled with audits, tax broadening campaign. Even in if the legislation but if debtors are not followed-up timeously, the challenge of under or non-collection of revenue will remain.

## **9.2 RECOMMENDATIONS**

On the overall the revenue collection in the municipalities according to the findings in this study is hampered by a number of things that include the strategies for revenue collection, legislative framework used in revenue collection and the practices of

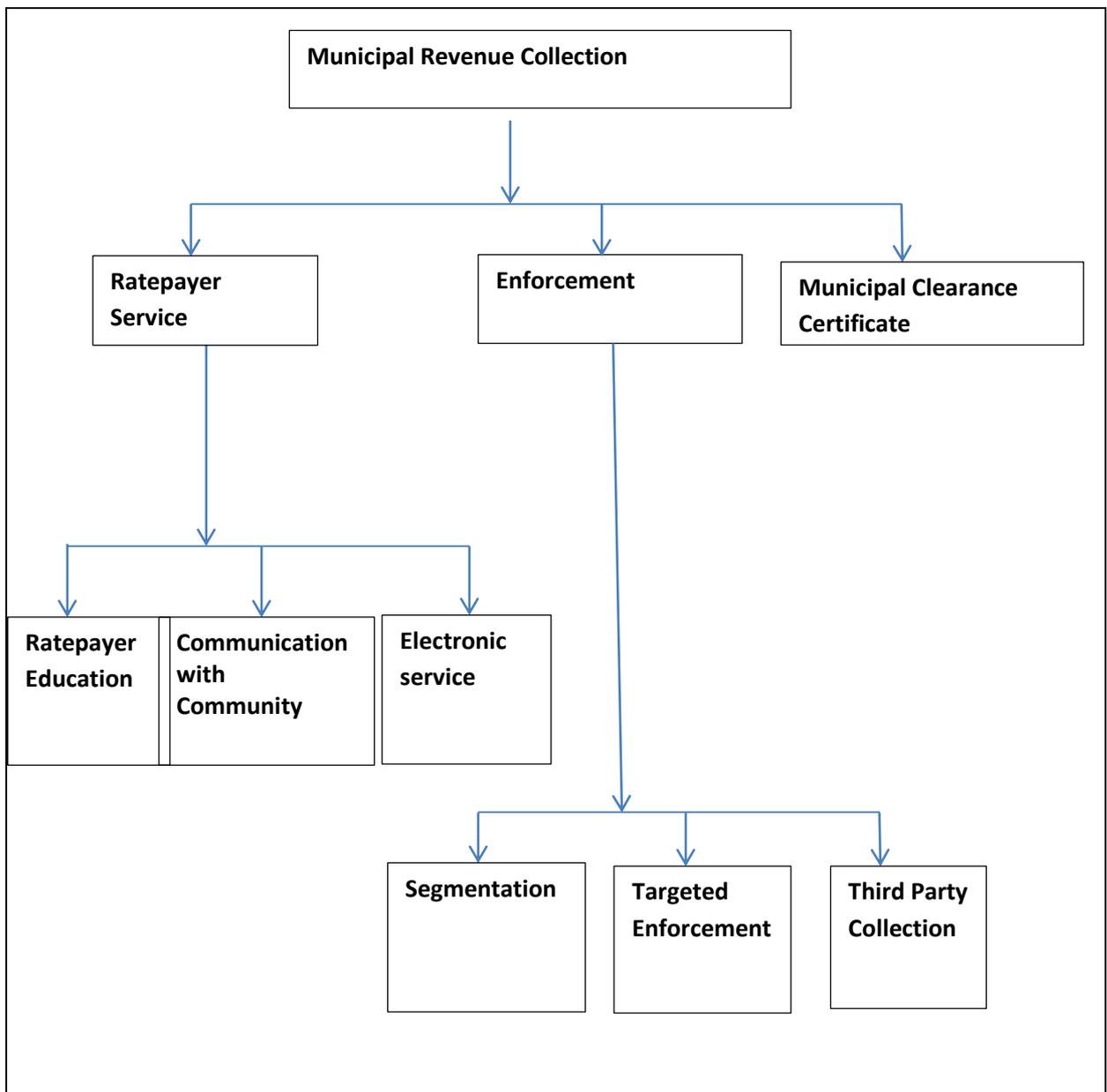
revenue collection. Notwithstanding all the revenue collection challenges that the municipalities face, it remain important therefore for the municipalities to consider improving the revenue collection system for improved revenue performance.

### **9.2.1 PROPOSED REVENUE COLLECTION MODEL GUIDELINE MODEL TO IMPROVE EFFICIENCY AND EFFECTIVENESS OF REVENUE COLLECTION IN MUNICIPALITIES**

Emanating from the study above and the outcome of the questionnaires that were administered to the various stakeholders that include ratepayers, South African Revenue Service, Tshwane Metropolitan Municipality and Corporate Taxpayers and or Tax Practitioner, the guideline model to improve the efficiency and effectiveness of revenue collection in the municipalities is proposed below. The areas of the revenue collection guideline model are contained in the model below and the explanation of the model follows thereafter and it is envisaged that the implementation of this model at the municipal level will have the impact of increasing revenue collection within the municipalities and will also provide a set structure that when implemented could be easily followed.

Developing an effective ways in revenue collection is important for revenue collectors and the development of model will help the municipalities work efficiently and affect the ways in which the rates and taxes are collected. This study has dealt with the different theories of taxes and the challenges in revenue collection and has therefore developed and revenue collection model. Revenue collection model is espoused with the revenue management which deals with the collection strategies and tactics that revenue collectors uses to manage demand for their product and services and ensuring the compliance levels that are sustainable for the revenue collection (Smith, 2003:11; HSRC, 2005:23 – 53; SARS, 2010:6; SARS, 2011:5 – 12; SARS, 2014:2 - 5; SARS, 2015: 29-33). This proposed revenue collection model will spell out how revenue should be collected, strengthening of the compliance levels thereby ensuring that the organisation understands the enforcement rules and its concomitant responsibility in the collection of revenue when it comes to the implementation of the thereof. The revenue collection model will assist the revenue collectors to understand as to when they will get the revenue and how to deal with those who do not pay.

Figure 9.1: Proposed municipal revenue collection model



Source: Designed by researcher, 2015

**Service:** Ensure that ratepayers experience good service, convenient and ease of dealing with their rates and taxes in their interaction with the municipality. Ratepayer education: Engage ratepayers in a two way engagement in a meaningful way. Have workshops as part of reaching ratepayers, education so that they have understanding of their obligations as ratepayers. Communicate: In instance where there are big wins in the area of enforcement within the municipality, such should be communicated to ensure that the whole municipal area will be aware of the consequences of non-

compliance with municipal rates and taxes. Electronic channel: In order to simplify there should be a reliable electronic channel that the municipality should make available to the ratepayers and that should enable them to transact with ease with the municipality.

**Enforcement:** Those ratepayers who choose to ignore the good service and education that is provided by the municipality should face enforcement. A credible threat of enforcement should be implemented. Focus resources on bigger ratepayers: To ensure that resources are not spent on ratepayers that will not make a meaningful contribution to the financial position of the municipality. Segment and identify larger collection opportunities. Target regions with the largest outstanding rates: Know the regions that are the main source of revenue and target them. Regular update of the ratepayer register: Ensure that your ratepayer register is up to date. When you demand payment or make enforcement ensure that the correct ratepayer is targeted. Introduce account manager to oversee larger ratepayers: All larger ratepayers should be having their accounts specifically attended to by a dedicated manager or combined accounts to such manager. Use third party to collect like banks and employers: There should be use of third parties to collect rates and taxes. If the current legislation does not allow that, there should be amendment to the legislation to cater for that. All the bankable and working ratepayers should not be having outstanding rates and taxes.

**Municipal clearance certificate:** Introduce requirement of municipal clearance before transacting with the municipality. In all the interaction with the municipality initially there should be a requirement for municipality clearance certificate in all the engagement and transacting with the municipality which could be similar to the tax clearance and Broad Based Black Economic Empowerment certificate.

It therefore recommended that the revenue collection as proposed be used and can therefore be adapted according to the organisational requirements

### **9.2.2 THIRD PARTY COLLECTION**

The use of third parties for collection should be explored. The third party collection referred to here is not the outsourcing of the bad debtors account to third parties to collect, but rather the power to appoint employers and banks to collect rates and taxes as agents of the municipalities.

### **9.2.3 RATEPAYER EDUCATION CAMPAIGN**

Emanating from this study, there is a need for every municipality to conduct a ratepayer campaign within their jurisdiction in order to educate the ratepayers on the need and importance of paying rates and taxes. During the campaign the municipality will also have an opportunity to discuss and propagate their successes in revenue collection. When this campaign is done, it should be revenue collection specific rather than fitting it in amongst many other matters that are discussed.

### **9.2.4 LEGISLATIVE IMPROVEMENT**

The municipal regulatory framework should be strengthened and aligned to those of SARS to enable them to can use more instruments for revenue collection while in the interim enforcing compliance using the existing legislation and thee enforcement will need to be applied internally (officials) and externally (ratepayers).

### **9.2.5 INTRODUCTION OF MUNICIPAL CLEARANCE CERTIFICATE**

Introduce requirement of municipal clearance before transacting with the municipality. In all the interaction with the municipality initially there should be a requirement for municipality clearance certificate in all the engagement and transacting with the municipality which could be similar to the tax clearance and Broad Based Black Economic Empowerment certificate.

## **9.3 FURTHER RESEARCH**

This study dealt with some of the revenue collection function matters in the municipal environment as compared to SARS that need more in-depth understanding. Further research needs to be do conducted on the possibility of centralising revenue collection

to one place like SARS, which could then collect municipal revenue for the whole country, which could take the same format that SARS did with the Department of Labour, when the collected unemployment Insurance Fund ('UIF') and Skills Development Levy ('SDL') on their behalf and they continue with the collection.

The other area that could be explored is the impact that could be there in aligning the legislative framework of framework of municipality with that of SARS thereby mirroring the SARS legislation and practices into the municipality. This could propel and strengthen the legislative framework of the municipality and can become implementable in the short space of time and probably this could put the municipality on the road to a successful revenue collector.

#### **9.4 CONCLUSION**

It can be concluded that at the moment SARS' strategy is by far the most successful in practice, however it should be noted that due to the economies of scale SARS holds all the cards and SARS has the ability and funds to implement its strategies. The money that the municipalities receive as part of equitable share is the money that is collected by SARS and the municipalities are therefore in a serious disadvantaged position. They do not have the funding and probably their level of the technical and other skills are either lacking or deficient to enable them to develop and implement a strategy that could put the municipalities on a sound financial footing as well as to maintain a competent position when compared to SARS or any other revenue collection organisation. The success of municipalities in revenue collection is also impacted and hampered by the political goals and agendas that they have to give consideration to as they implement their strategy.

It can also be said that from the preceding discussion and the responses from the respondents of questionnaires that SARS revenue collection strategies far exceed those for municipalities. It was expressed through the views of respondents that SARS is very effective and its strategy is also effective. The SARS collection strategy was also viewed as being far more effective than that of the municipalities is there was however a caution that despite their effective revenue collection strategy, they have a challenge when it comes to old debtors book.

It was also reported that the regulatory framework available to municipalities is also soiled by the lack of political will insofar as applying strict measures to collect the revenue also translates to loss of political support. SARS uses the legislative provisions that pertain to them, section 3 of the SARS Act, No 34 of 1997 empowers SARS to collect on behalf of the state all revenues that are due and the local authorities are required to collect their own revenue. Municipalities operate directly with communities, where political leaders are able to put regulations at bay while in the case of SARS largely deals with taxpayer as individuals and these are taxpayer who either work or running businesses and they consistent throughout the country. They also reported that no one would like to find oneself at the wrong side of SARS as they have strong legislative strength to legislatively deal with such taxpayers. There is however still a lot that need to be done with the municipality. As SARS strategy seems to be successful, taxpayers prefer paying SARS as they fear the taxman due to their draconian laws that they can unleash on anyone who does not take seriously the payment of tax. The fact that SARS have collection agents assists them in effective collection strategy.

It can also be concluded that according to corporate taxpayers and or tax practitioners, the municipalities' strategy may be more effective as the withdrawal of service like disconnection of electricity and water services may be felt immediately by the ratepayers and forces him or her to action the payment or make arrangement for the payment. In so far as SARS is concerned, the cost of collection of revenue is minimal because other taxes such, as personal taxes, which constitute a large portion of total tax revenue that SARS collect, it cost them nothing to collect as the responsibility to collect such rests with the employers. It was however also reported that there are instances where both are struggling, which was in the area of dealing with the old debtor's book as compared to the new one.

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**STRUCTURED INTERVIEW QUESTIONNAIRE (TSHWANE METROPOLITAN MUNICIPALITY)**

**1. Strategies used by municipalities to collect revenue.**

1.1 What is the nature of revenue collection strategies in your municipality?

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.....  
.....

1.2 Are you of the opinion that your revenue collection strategies are appropriate?

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.....  
.....

1.3 To what extent are your revenue collection strategies a success or failure?

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.....

1.4 SARS is said to be successful in revenue collection, what do you think are the reasons for success in their strategies as compared to yours?

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

1.5 What are the strategies and interventions that you are envisaging in revenue collection going forward?

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

1.6 Does your municipality have strategies in place to increase revenue collection?

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

**2. Assessment of strategies used by municipalities to collect revenue.**

2.1 What is the nature of your organisation's practice in assessing the existing revenue collection strategy?

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.....

2.2 How often are revenue collection strategies assessed?

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

2.3 Is the manner or method of assessing the revenue collection strategies effective?

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

2.4 How effective are those assessments?

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

**3. Impact and assessment of legislative framework, measures and remedies in revenue collection.**

3.1 To what extent is the municipality dependent on legislative framework, measures and remedies in revenue collection?

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.....  
.....

3.2 In your opinion are the legislative framework, measures and remedies sufficient in enhancing revenue collection?

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.....  
.....

3.3 Are legislative framework, measure and remedies effective in enforcing revenue collection?

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.....  
.....

3.4 To what extent can you attribute the revenue collection to these?

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.....  
.....

**4. Systems and procedures employed by municipalities in revenue collection?**

4.1 What is the contribution of systems and procedures in revenue collection?

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**STRUCTURED INTERVIEW QUESTIONNAIRE (South African Revenue Service)**

**1. Strategies used by SARS to collect revenue.**

1.1 What is the nature of revenue collection strategies in SARS?

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1.2 Are you of the opinion that your revenue collection strategies are appropriate?

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.....

1.3 To what extent are your revenue collection strategies a success or failure?

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1.4 SARS is said to be successful in revenue collection, what do you think are the reasons for success in your strategies as compared to municipalities?

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

1.5 What are the strategies and interventions that you are envisaging in revenue collection going forward?

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.....

1.6 Does SARS have strategies in place to increase revenue collection?

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**2. Assessment of strategies used by SARS to collect revenue.**

2.1 What is the nature of your organisation's practice in assessing the existing revenue collection strategy?

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

2.2 How often are revenue collection strategies assessed?

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2.3 Is the manner or method of assessing the revenue collection strategies effective?

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.....

2.4 How effective are those assessments?

.....  
.....  
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**3. Impact and assessment of legislative framework, measures and remedies in revenue collection.**

3.1 To what extent is SARS dependent on legislative framework, measures and remedies in revenue collection?

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3.2 In your opinion are the legislative framework, measures and remedies sufficient in enhancing revenue collection?

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3.3 Are legislative framework, measure and remedies effective in enforcing revenue collection?

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3.4 To what extent can you attribute the revenue collection to these?

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4. Systems and procedures used by SARS employed in revenue collection?

4.1 What is the contribution of systems and procedures in revenue collection?

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**STRUCTURED QUESTIONNAIRE (Ratepayers)**

Please answer the following questions by crossing the relevant block or writing down your answer on the space provided.

## Section A – Background Information

This section of the questionnaire refers to background or biographical information. Although we are aware of the sensitivity of the questions in this section, the information will allow us to compare groups of respondents. Once again, we assure you that your response will remain anonymous. Your co-operation is appreciated.

## 1. Gender.

Male	
Female	

## 2. Age Groups

18 – 25	
26 – 30	
31 – 45	
46 and more	

## 3. Ethnicity.

Black	
White	
Coloured	
Indian	

## 4. How would you describe your economic status?

Poor	
Below Average	
Average	
Above Average	

Affluent	
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5. Your highest educational qualification?

Grade 11 or lower	
Grade 12	
Post matric diploma/certificate	
Bachelor's degree	
Post – graduate degree	

6. How would you describe the area where you are residing?

Urban	
Rural	

7. Size of your household, which is number of people, including yourself, who live in your house /dwelling.

Live alone	
2	
3	
4	
5	
6 and more	

### Section B

This section of the questionnaire explores your attitude and opinions if any on the payment of municipal rates and taxes.

8. Ratepayers understand the use of the revenue collected by the municipality.

Strongly Agree	
Agree	
Neutral	
Disagree	
Strongly Disagree	

9. Do you think revenue collection by municipalities is necessary?

Yes	
No	

10. The collection of municipal rates and taxes is used in the development of local government.

Strongly Agree	
Agree	
Neutral	
Disagree	
Strongly Disagree	

11. The ratepayers view payment of municipal rates and taxes as a priority of all their debts.

Strongly Agree	
Agree	
Neutral	
Disagree	
Strongly Disagree	

12. Have you paid your rates and taxes to the municipality in the last 6 months?

Yes	
No	

13. The ratepayers view the municipal bill as equally fair to the services provided.

Strongly Agree	
Agree	
Neutral	
Disagree	
Strongly Disagree	

14. What is your overall attitude about payment of municipal rates and taxes?

.....  
.....

**STRUCTURED INTERVIEW QUESTIONNAIRE (Corporate Tax department of 10  
Companies listed in JSE / or Tax Practitioners: Taxpayer)**

**1. Strategies for revenue collection.**

1.1 Do you think SARS and municipality have good revenue collection strategies?

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

1.2 If any what is your view of their strategies?

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

1.3 In your opinion, when you compare the revenue collection strategies of SARS and municipality, which one is effective?

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

1.4 In your opinion, do you think the revenue collection strategies of SARS and municipalities are successful?

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

1.5 What is your advice as to what should be done to enhance the revenue collection strategies if necessary?

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

**2. Assessment of strategies used by SARS to collect revenue.**

2.1 When making a decision to pay taxes, do you ever consider the strategies used by SARS or municipalities in revenue collection?

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

2.2 In your opinion, do you think the strategies of SARS and municipalities are effective?

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

2.3 In your opinion, what do you think should be done to enhance the strategies of revenue collection?

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

**3. Impact and assessment of legislative framework, measures and remedies in revenue collection.**

3.1 To what extent are you influenced by the legislative framework, measures and remedies when you pay taxes?

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

3.2 When you compare the legislative framework, measures and remedies of SARS and those of municipalities, which ones are the most effective?

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

3.3 in your opinion, are the legislative framework, measure and remedies effective in enforcing revenue collection?

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3.4 In your opinion, are the legislative framework, measures and remedies sufficient to enhance revenue collection?

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.....  
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3.5 If any, which one of the two need improvement in their legislative framework, measures and remedies and what type of improvement should that be?

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