SIMPLIFICATION LESSONS FROM NEW ZEALAND: CAN THEY BE RELEVANT FOR SOUTH AFRICA?

Adrian Sawyer, Marina Bornman, and Greg Smith*

Abstract

This paper describes the concept of tax simplification and outlines the need for tax simplification in South Africa (SA). In order to provide potential guidance, the paper provides an overview of what New Zealand (NZ) has undertaken, in terms of both rewriting legislation and tax policy development, and why it took this approach, including its successes and shortcomings. The paper then turns its focus to the SA situation, examining the areas in greatest needs of simplification, along with a review of what has occurred so far. From the principles and lessons established from the NZ analysis, the paper evaluates those principles with a view to determine their relevance for SA going forward.

1. Introduction

1.1 An overview to tax simplification in New Zealand

> "The quest for simplicity – or at least some move towards simplification – has been a fixation of governments and others for many years, but little appears to have been achieved. Tax simplification is the most widely quoted but the least widely observed of the usually stated goals of policy (equity and efficiency being the others)."[1]

Tax simplification, at first, may appear to be both a straightforward concept and desirable to facilitating taxpayers' compliance and understanding of their obligations. The experience of jurisdictions that have undertaken major simplification initiatives would suggest the opposite. Furthermore, the desire for simplification is nothing new, having been around in the English speaking world for over 400 years. It is reported that Edward VI decreed that the statutes should be brought together "and made more plain and short" so that "men [sic] might better understand them".[2]

As Tran-Nam and Evans observe:[3]

> "Tax complexity is a multidimensional concept and as such it cannot be easily defined or uniquely measured. It apparently means different things to different people depending on their biases, perspectives or research interests."

Tax simplification is also a misunderstood concept. There is much more to simplification than just rewriting the legislation. Tran-Nam suggests that there is both legal simplicity (how difficult is a tax law to read and understand) and effective simplicity (how easy is it to

* Professor of Taxation, University of Canterbury (NZ); Senior Lecturer, University of Johannesburg (SA); PwC (SA).

[1] Chris Evans, Richard Krever, and Peter Mellor (eds), *Tax Simplification*: Series on International Taxation No 53 (Kluwer Law International, 2015), dustcover.

[2] Report of the Renton Committee on the Preparation of Legislation (Cmnd.6053) (London: HMSO, 1975), para 28.

[3] Binh Tran-Nam and Chris Evans, "Towards the Development of a Tax System Complexity Index" (2014) 35(3) *Fiscal Studies* 341–370, at 345.

determine the correct tax liability).[4] The tax rewrites in Australia, New Zealand (NZ) and the Unit Kingdom (UK), which occurred from the mid-1990s to the late 2000s, all focused on the former and largely neglected the latter. Furthermore, Krever observes that the rewrite revealed that the real major cause of the former law's complexity was its 'wholly irrational and inconsistent policy base.'[5]

Why should NZ be used as a comparative benchmark for South Africa when it comes to tax simplification? Within tax policy development generally, NZ has a well-respected and unique process for developing tax policy, namely the Generic Tax Policy Process (GTPP).[6] It also operates a broad base low rate (BBLR) framework that aims to create a simple, understandable and coherent framework for determining tax policy and tax bases. This should mean that all areas of economy are taxed reasonably consistently, that economic distortions are reduced, the key aspects are understood by public, and it is durable through being coherent and simple. Practice suggests there are deficiencies, including gaps in the base (an absence of any form of wealth taxation, for example).

From a simplification perspective, NZ's Taxpayers' Simplification Advisory Board (TSAB) was established to provide New Zealanders with an active voice in simplifying, modernising and transforming the way taxes are paid.[7] Chartered Accountants Australia and New Zealand (CA-ANZ) state in a submission that:[8]

> "…we observe New Zealand is often highly regarded when it comes to tax simplification and note that that country has been able to manage this without the need for some type of [tax complexity] metric."

Sir Anthony Mason, former Chief Justice of Australia, argues that a number of factors are necessary for tax simplification. He promotes NZ as an example where tax legislation is successfully developed through the following:[9]

> "…coherent and consistent policy formulation, transparent consultation, drafting by a drafting unit within the Policy and Advice Division of the Tax Office (not by Parliamentary Counsel or Treasury), purposive clauses and extra-statutory references, general rules to overarch more specific rules and a commitment to modern drafting techniques and to plain language."

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[4] Binh Tran-Nam, 'Tax Reform and Tax Simplification: Some Conceptual Issues and a Preliminary Assessment' (1999) 21 *Sydney Law Review* 500.

[5] Rick Krever, 'Taming Complexity in Australian Income Tax' (2003) 25(4) *Sydney Law Review* 467, 493.

[6] For reviews of the GTPP, see Michael Dirkis and Brett Bondfield, "At the Extremes of a 'Good Tax Policy Process': A Case Study Contrasting the Role Accorded to Consultation in Tax Policy Development in Australia and New Zealand", (2005) 11(2) *New Zealand Journal of Taxation Law & Policy* 250; and Adrian Sawyer, "Reviewing Tax Policy Development in New Zealand: Lessons from a delicate balancing of 'Law and Politics'" (2013) 28(2) *Australian Tax Forum*, 401-425.

[7] See further: https://www.ird.govt.nz/aboutir/commitment/tax-simplification-panel.html.

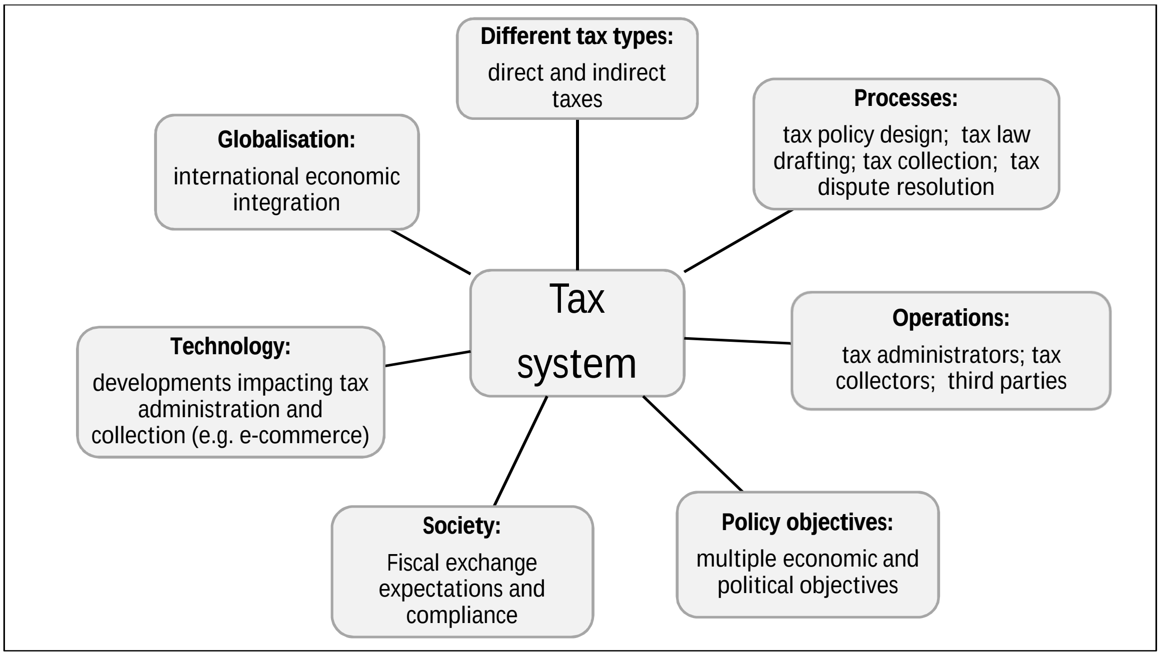
[8] CA-ANZ, *Submission on Re:think Tax Discussion Paper, March 2015* (CA-ANZ, June 2015) at 77 (available at: https://cdn.tspace.gov.au/uploads/sites/52/2015/06/Chartered-Accountants-Australia-and-New-Zealand.pdf.)

[9] See Taxation Institute of Australia, submission 40.1, p 3, to Joint Committee of Public Accounts and Audit (House of Representatives Committees), Report 410 - Tax Administration (June 2008), Chapter 3 Complex legislation; available at: https://www.aph.gov.au/parliamentary_business/committees/House_of_Representatives_Committees?url=jcpaa/taxation06/report/index.htm.

1.2 An overview of the tax system in South Africa

South Africa's tax system can be said to be a "typically modern system" which in nature is complex and dynamic. Tran-Nam's conceptualisation of a complex tax system includes elements relating to processes, practices, policy, society, and economic influences.[10] Figure 1 below provides a summary of how different factors contributes to the complexity of the tax system.

Figure 1: Factors contributing to the complexity of a tax system



Source: Authors' own illustration of Tran-Nam's conceptualisation of a complex tax system.

All the factors shown in Figure 1 are present in the SA environment and add to the complexity of the SA tax system. The SA tax system will briefly be described in the context of these factors in the paragraphs below.

Tax policy objectives reflect a government's commitment to promote equality and equity, and to provide funding for Government's efforts in supporting poverty alleviation and growth. It further aims to ensure that the tax system remains fair, efficient, equitable and progressive.[11] Steyn and Stiglingh point out that tax policy objectives in SA are almost always rather focused on equity rather than efficiency and administrative ease.[12] Accordingly, Tran-Nam argues that simplicity is rather "a desirable property of the tax system" than an ultimate objective.[13]

[10] Binh Tran-Nam, "Tax reform and tax simplification: Conceptual and measurement issues and Australian experiences" in: Simon James, Adrian Sawyer & Tamer. Budak, (eds.) *The Complexity of Tax Simplification: Experiences from around the world* (2016, Hampshire: Palgrave Macmillan), pp. 11-44.
[11] SARS, *Annual Report 2016-2017* (2017). Available at: http://www.sars.gov.za/About/Pages/Annual-Reports-and-Strategic-Plans.aspx.
[12] Theuns Stwyn & Madeline Stiglingh, "The Complexity of tax Simplification: Experiences from South Africa", in: Simon James, Adrian Sawyer & Tamer Budak, (eds.) *The Complexity of Tax Simplification: Experiences from around the world* (2016, Hampshire: Palgrave Macmillan), pp. 157 – 186.
[13] Ibid. n 10, at 14.

The South African Revenue Service (SARS) is SA's tax collecting authority. Established in terms of the South African Revenue Service Act 34 of 1997 as an autonomous agency, it responsible for administering the South African tax system and customs service.[14] National Treasury is responsible for drafting and amending SA's taxation laws around tax policy matters, while SARS is responsible for drafting and amending of administrative and customs laws. SARS meets frequently with National Treasury, Department of Trade and Industry, Department of Labour, Department of Mineral Resources and tax practitioner organisations to help improve tax legislation and regulations.[15]

Numerous taxes form part of the tax system. Although South Africa places a strong reliance on indirect taxes (approximately a third of gross tax revenue), the primary source of tax revenue is direct taxes. In terms of revenue sources, personal income tax accounts for 37% of revenue, with value-added tax (VAT) making up 25%. Companies tax accounts for 18%, followed by the fuel levy (6%), customs (4%), other sources (4%), excise duties (3%) and dividend tax (2%) for the 2016/17 fiscal year.[16]

SARS's operations involves relations and partnerships with taxpayers, traders, intermediaries and 3rd party data providers. SA's tax register continues to grow annually. The 2017 tax statistics show that SA had almost 20 million individuals registered as taxpayers – an increase of 4.7% from 2016. Most individuals receive their income as salaries or wages (69.6%), pension or annuity payments and investment income (interest, taxable dividends or capital gains). Some individuals may also have business income collected as provisional tax. Income tax (PAYE) is withheld from employed individuals with employers acting as agents to withhold and remit employees' tax to SARS. Close to 490,000 employers were registered for PAYE in 2017 – a growth of 6.9% from 2016. The number of vendors registered for VAT also increased with 5% from the previous year to just more than 742,000 vendors in 2017. Added to this, companies and trusts registered for Income tax adds up to more than 3.7 million and 345,000 respectively in 2017.[17]

Technology as a factor impacting tax system complexity is a reality in SA, both as an external factor influencing the type and complexity of transactions and an internal factor influencing the way SARS operates and communicates with taxpayers, intermediaries and 3rd party data providers. Cross border e-commerce or online platforms facilitating transactions continues to expand worldwide.[18] The SARS 2016 strategic plan refers to a 2015 study commissioned by First National Bank and PayPal that reveals that almost 80% of online shoppers in South Africa could be "cross-border shoppers in the coming years".[19] As an internal factor, the use of technology solutions to detect and combat tax crimes; to improve communication and services

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[14] SARS, *What SARS does*. Available at: http://www.sars.gov.za/About/Pages/default.aspx.

[15] SARS, *Annual Report 2016-2017* (2017). Available at: http://www.sars.gov.za/About/Pages/Annual-Reports-and-Strategic-Plans.aspx.

[16] Ibid. n 15, at 77.

[17] *Tax Statistics, 2017* National Treasury and the South African Revenue Service. Available at: http://www.treasury.gov.za/publications/tax%20statistics/default.aspx.

[18] OECD, "Tax Challenges Arising from Digitalisation – Interim report". *Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, (2018, OECD Publishing, Paris).

[19] SARS, *Strategic Plan 2016/17 – 2020/21* (2017). Available at http://www.sars.gov.za/About/Pages/Annual-Reports-and-Strategic-Plans.aspx, at 24.

to taxpayers and to interact with third parties means SARS continuously need to enhance their information services and technology infrastructure[20].

Global tax concerns and international trade also affect South Africa's tax environment. The use of sophisticated schemes by multinational corporations to exploit gaps and mismatches in local tax legislation and to avoid or minimise tax obligations in countries where they operate is a continuing phenomenon globally.[21] These complex schemes require specialised skills and add to the complexity of tax administration. Further to this, "the frequency and complexity of foreign deals, sometimes between several multi-national parties, are likely to increase compliance time substantially and attract additional audits and need for supporting documentation."[22]

"Society" as a factor impacting the tax system relates to the culture of compliance (or non-compliance) of taxpayers. South Africans have mostly been praised for their high tax morale, as is evident from some previous years' budget speeches by the Minister of Finance and SARS annual reports. But recently, a number of high profile economists and analysists have remarked on the slippage in tax compliance and tax morale by South Africans. For example, in April 2018, Finance Minister Nhlanhla Nene said that tax compliance as at levels last seen during the 2008-09 financial crisis.[23] At the same time, SARS acting commissioner Mark Kingon said that compliance is of deep concern to SARS. He remarked that tax compliance is partly driven by perceptions with regards to SARS and perceptions of the country, although economic factors also play a role in the lower tax compliance currently seen. The same sentiment was also expressed by Kyle Mandy, Head of Tax at PWC.[24] Kingon indicates that the focus for SARS was to restore credibility after the President of SA, Cyril Ramaphosa, suspended the SARS commissioner in March 2018 as a result of a loss confidence in the commissioner's ability to lead SARS.

Adding to this dissatisfaction with revenue service (and thus creating additional concerns for the tax administration) is the fact that a Commission of Inquiry into tax administration and governance at the South African Revenue Service is currently underway. The commission, headed by Judge Robert Nugent, is investigating allegations of financial misconduct at the tax service[25] and to date has heard a range of evidence from SARS employees, the office of the Tax Ombud and senior officials from National Treasury.

In the 2018 Budget Review compiled by National Treasury, it is stated that corruption and wasteful expenditure in the public sector have eroded taxpayer morality in recent years. The social contract between taxpayers and the state has also suffered because of a lack of timely government response to allegations of corruption and poor governance.[26]

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[20] Ibid, n 19.
[21] Ibid, n 19.
[22] Ettiene Retief, *SA fares well in World Bank & PWC Paying Taxes 2018 Report,* (2017). Available at: *https://www.saipa.co.za/sa-fares-well-world-bank-pwc-paying-taxes-2018-report/*.
[23] Business Day. *Low tax compliance troubles SARS*, (4 April 2018). Available at: https://www.businesslive.co.za/bd/national/2018-04-04-low-tax-compliance-troubles-sars/
[24] Ibid, n 23.
[25] SA Government, Government Gazette (24 May 2018), No 41652. Available at: https://www.greengazette.co.za/notices/constitution-of-the-republic-of-south-africa-1996-commission-of-inquiry-into-tax-administration-and-governance-by-the-south-african-revenue-service-sars_20180524-GGN-41652-00017-01.pdf.
[26] National Treasury, *Budget Review* (2018). Available at: www.treasury.gov.za.

It appears that the SA tax system is indeed complex owing to a variety of factors. It remains to be seen if and how some of these complexities can be addressed. During the 2013/14 Budget delivered by the then Minister of Finance, it was announced that government will initiate a tax review "*to assess our tax policy framework and its role in supporting the objectives of inclusive growth, employment, development and fiscal sustainability*".[27] The Committee should also evaluate the South African tax system against the international tax trends, principles and practices, as well as recent international initiatives to improve tax compliance amongst other things.[28] The Committee, named the Davis Tax Committee, completed its work by the end of 2017, and tabled several reports before Parliament.[29]

The remainder of the paper is structured as follows: section 2 describes New Zealand's (NZ's) experiences with tax simplification and section 3 then follows with a brief overview of some tax reforms to date in SA, but more importantly attention is drawn to those areas of the tax system most in need of simplification. Section 4 highlights principles and lessons that were established from the NZ experience and in section 5 these principles are evaluated with a view to determine their applicability to the South African context. The final section presents the conclusion to the paper and recommendations for tax simplification efforts in SA are suggested.

2. Background – New Zealand's experience with tax simplification

2.1 An overview of tax simplification generally

Cooper[30] suggests there are at least seven key concepts that should inform an evaluation of tax simplification:

1. Predictability. In this context, a rule would be simple if that rule and its scope were easily and accurately understood by taxpayers and their advisers.
2. Proportionality. A rule would be simple if the complexity of the solution were no more than reasonably necessary to achieve the intended aim.
3. Consistency. This would apply where a rule deals with similar issues in the same way and without the need to make arbitrary distinctions.
4. Compliance. A rule would be simple if it were easy for taxpayers to comply without incurring excessive costs.
5. Administration. A rule would be simple if it were easy for a revenue authority to administer.
6. Co-ordination. A rule would be simple if it fitted appropriately with other tax rules; it would be complicated if its relationships with other rules were obscure.
7. Expression. A rule would be simple if it were clearly expressed.

Cooper also suggested that simplification can be viewed at any one of four levels. The levels are the: choice of the tax base; design of the rules to be applied to the tax base; expression of those rules; and administrative requirements imposed on taxpayers.

[27] Pravin Gordhan, *Budget speech, 2013/14* (2013). Available at: www.treasury.gov.za/documents/national%20budget/2013/speech/speech.pdf.
[28] Davis Tax Committee, *Terms of Reference* (2013). Available at: http://www.taxcom.org.za/termsofreference.html.
[29] Davis Tax Committee, *Closing Report* (March 2018). Available at: http://www.taxcom.org.za/library.html.
[30] Graeme S Cooper, 'Themes and Issues in Tax Simplification', (1993) 10 *Australian Tax Forum*, 417-60.

Tran-Nam and Evans[31] suggest that an alternative approach to the above is to classify tax complexity by where it occurs during different stages of the operation of the tax system. According to this approach, it is possible to distinguish between:

- policy complexity: complexity that arises primarily because of the choice of policy by the policymaker (perhaps too often with the intention of using tax policy for non-revenue-raising purposes);
- statutory complexity: complexity that arises due to the drafting of the tax laws;
- administrative complexity: complexity that arises from the rules and practices of the tax administrators;
- compliance complexity: complexity that arises from the tax computation and tax planning behaviour of business and individual taxpayers.

Tran Nam and Evans then posit:[32]

> Because tax complexity has several different meanings, so has tax simplification. To simplify a tax law/system could mean any combination of the following:
>
> - to improve the tax legislation/system in the linguistic and structural sense;
> - to make the tax legislation/system simpler in the content or conceptual sense;
> - to lower the burden of tax administrative requirements;
> - to reduce the operating costs (in an absolute or relative sense) of the tax law/system.

James and Edwards[33] take a different stance, suggesting that a strategic approach is necessary. This approach captures much more than just rewriting the legislation, namely:

1. Identifying the aims of taxation;
2. Establishing different methods of achieving the aims;
3. Analysing in terms of economic criteria;
4. Specifying the administrative constraints;
5. Identifying different risks;
6. Analysing behaviour;
7. Considering the relationship between different policies;
8. Developing strategies;
9. Planning and implementing strategies including intended outcomes; and
10. Monitoring and evaluating the performance of the strategies against the plan.

[31] Ibid, n 3, at 346.
[32] Ibid, n 3, at 346-7.
[33] Simon James and Alison Edwards, “Developing Tax Policy in a Complex and Changing World” (2008) 38(1) *Economic Analysis and Policy* 35, at 47.

A number of previous studies have recognized complexity of tax laws as a potential factor in tax noncompliance and that reductions in complexity may increase levels of compliance.[34] Long and Swingen provide a comprehensive definition of complexity that includes:[35]

> "… the ambiguity of tax laws; the need for numerous calculations; the frequency of change in the tax laws; the excessive detail in the tax laws, such as rules and exceptions to the rules; the obligation to keep the records; and taxpayer forms and instructions."

It is also important to define what we mean by compliance. A number of definitions are provide for in the literature; for the purposes of this paper we will use the definition of compliance provided by Roth et al.:[36]

> "Compliance with reporting requirements means that the taxpayer files all required tax returns at the proper time and that the returns accurately report tax liability in accordance with the Internal Revenue Code, regulations, and court decisions applicable at the time the return is filed."

Complexity is also correlated with compliance costs principally through increasing such costs. As James et al. observe:[37]

> In addition, overly complex and obscure legislation might *reduce the willingness of taxpayers to comply voluntarily with the requirements of the tax system*. This is particularly important with a system of self-assessment. To the extent that complexity impedes clarity it may also *make the estimation of future revenue and costs more difficult and will therefore make economic decision-making harder*.
>
> It may also generate unfairness because, for example, *not everyone is equally able to take advantage of the various complexities of a tax system*. There is also a more general point: that the main purpose of most taxes is to pay for public expenditure. A tax system that is *very complicated and difficult to understand might reduce public support for the improvement of important public services*. Furthermore a high level of complexity in a tax system can make discussion of tax policy and the introduction of improvements more difficult.

James et al.[38] outline the importance of not only simplifying the tax law, but also simplifying the tax system, taxpayer communications, tax administration, and taker a longer term view. In this longer term view a strategic approach needs to be taken that addresses the ranges of factors that lead to complexity. The authors in that paper suggest the establishment of a permanent

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[34] See Betty Jackson and Valarie Milliron, "Tax Compliance Research: Findings, Problems and Prospects," (1986) 5 *Journal of Accounting Literature*, 125–165; and Maryann Richardson, and Adrian Sawyer, "A Taxonomy of the Tax Compliance Literature: Further Findings, Problems and Prospects," (2001) 16(2) *Australian Tax Forum*, 137–320.

[35] See Susan Long, and Judyth Swingen (1988), "The role of legal complexity in shaping taxpayer compliance," in Peter Van Koppen, Dick Hessing, and Grat Van den Heuvel, *Lawyers on Psychology and Psychologists on Law*, (Amsterdam, the Netherlands), at 132.

[36] Jeffrey A Roth, John T Scholz and Ann D Witte (eds.) (1989), *Taxpayer compliance: an agenda for research* (Philadelphia) at 21.

[37] Simon James, Adrian Sawyer, and Ian Wallschutzky, "Tax simplification: A review of initiatives in Australia, New Zealand and the United Kingdom" (2015) 13(1) *eJournal of Tax Research*, 280–302, at 284 (emphasis added).

[38] Ibid, at 298-301.

body to oversee tax policy development, including that of simplification. Critical to success in this area is to incorporate simplification into the tax policy process itself.

The most comprehensive single source of discussion of tax simplification is the edited work of Evans et al. [39] In this work, the various contributors explore all aspects of tax complexity and simplification, ranging from policy through law to practice. The topics covered point to the multifaceted nature of tax complexity:

- theoretical perspectives explaining tax complexity;
- ideological underpinnings of tax complexity;
- causes of tax complexity;
- ways of measuring tax complexity;
- tax compliance costs studies;
- institutional monitoring of tax complexity;
- implications of complexity for judicial review;
- the role of vested interests;
- administrative and technological drivers of tax simplification; and
- institutional and other pathways towards improved simplification.

One recent development from the Office of Tax Simplification (OTS) in the UK is the creation of a tax complexity index.[40] The OTS's approach is based on the usability framework, which identifies three key areas of importance: legislative complexity; effectiveness; and resource efficiency. These three broad areas are then explained by seven factors: legislative complexity; HMRC guidance complexity; number of taxpayers impacted by the legislation; average ability of taxpayers involved in the area; avoidance risk; costs of compliance; and HMRC operating costs. From these factors, a complexity score is developed, ranging from 1 to 10, where 1 is the least complex and 10 the most complex. This is a weighted average of scores of the seven factors (with the scores ranging from 1 to 5). Ultimately, this weighted score becomes a measure for ranking UK tax legislation by its degree of complexity.

Tran-Nam and Evans critically review the OTS complexity index, along with other potential measures, suggesting, that the focus should be on an index that facilitates time-based comparisons of the overall level of tax complexity in a particular country. They also suggest there be a separate index for business taxpayers to that for personal taxpayers. The simplification efforts in NZ have not extended to developing or testing any form of complexity index. So just what has happened in NZ regarding simplification?

2.2 New Zealand's approach to tax simplification

2.2.1 Rewriting tax legislation

Much has been written about NZ's simplification efforts over the last twenty five years or so, including contributions from one of the current authors. An overview is provide by Sawyer in

[39] Chris Evans, Richard Krever and Peter Mellor (eds.), *Tax Simplification: Series on International Taxation 53*, (2015, Wolters Kluwer, the Netherlands).
[40] Office of Tax Simplification, *The Office of Tax Simplification Complexity Index* (2012); http://taxsimplificationblog.files.wordpress.com/2012/12/ots-complexity-index-methodology-paper1.pdf.

a recent contribution to the work by James et al. on the complexity of tax simplification.[41] New Zealand's current tax system had its foundations laid in the mid-1980s by the Fourth Labour Government. As Sawyer states:[42]

> "The newly elected Labour Government in 1984 faced an economy in crisis and in need of a radical overhaul. Much of what occurred over the following three years (1984-1987) can be seen as a radical economic liberalisation experiment that was facilitated by perfect conditions, namely: an economy in desperate need of a radical overhaul; a new government with an electoral mandate to implement change; and a Minister of Finance with a clear plan to overhaul the economic environment. *Importantly, tax reform was an integral part of the reform process*."

The key tax policy reform was a dramatic reduction in income tax rates, introduction of the world's most efficient goods and services tax (GST), along with the BBLR as the basis for future policy development. In the early 1990s, the GTPP was developed through the Organisational Review of Inland Revenue,[43] chaired by Sir Ivor Richardson. Subsequent governments have continued to adopt the GTPP model via Cabinet directive, with some temporal departures.[44] In the few evaluations of the GTPP undertake to date, the outcome has been largely positive, with the consequences of the instances of failures to utilise the GTPP highlighted.[45] Further guidance on intended tax policy and remedial reform is available through the Tax Policy Work Programme that is updated at least annually.[46]

Research in NZ has also examined compliance costs, especially in relation to small and medium enterprises (SMEs). The findings are not entirely consistent, with Inland Revenue (IR) commissioned research indicating the level of compliance costs is falling,[47] while some other research suggests these costs remain significant.[48]

Perhaps the area of simplification for which NZ is the most well-known (and where there is considerable literature) is the rewriting of tax legislation in an effort to improve readability and understandability. New Zealand has been a world leader in its efforts to reduce complexity through rewriting and reorganising its income tax legislation.

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[41] Simon James, Adrian Sawyer, and Tamer Budak, (eds), *The Complexity of Tax Simplification: Experiences from Around the World* (Palgrave MacMillan, 2016). See in particular, Adrian Sawyer, "Complexity of Tax Simplification: A New Zealand Perspective", in Simon James, Adrian Sawyer, and Tamer Budak, (eds), *The Complexity of Tax Simplification: Experiences from Around the World* (Palgrave MacMillan, 2016), Chapter 6, 110-132.

[42] Ibid, at 111 (emphasis added).

[43] Sir Ivor Richardson et al., (1994) *Organisational Review of the Inland Revenue Department: Report to the Minister of Revenue* (Wellington, NZ Crown).

[44] See, for example, Peter Vial, "The Generic Tax Policy Process: A Jewel in Our Policy Formation Crown?" (2012) 25(2) *New Zealand Universities Law Review* 318.

[45] See Vial and Sawyer, above n 44 and 6, respectively.

[46] See further: http://taxpolicy.ird.govt.nz/work-programme.

[47] Research New Zealand and National Research Unit of Inland Revenue, *SME tax compliance costs 2013: Evaluation Report 1* (June 2014); Research New Zealand and National Research Unit of Inland Revenue, *SME tax compliance costs 2004 to 2013: Evaluation Report 2* (June 2014). Both reports are available at: http://www.ird.govt.nz/resources/8/a/8a11891e-e5f5-497a-a432-0484c1081663/sme-tax-compliance-costs-2013-evaluation-report-1.pdf; and http://www.ird.govt.nz/resources/4/a/4a31ee11-4a0e-4a77-9e7b-86f5144e2820/sme-tax-compliance-costs-2004-2013-evaluation-report-2.pdf, respectively.

[48] Ranjana Gupta and Adrian Sawyer, "Tax Compliance Costs for Small Businesses in New Zealand: Some Recent Findings", (2015) 30(1) *Australian Tax Forum*, 135-177.

New Zealand's Tax Rewrite Project (TRP) utilised a novel approach, namely first a reorganisation of the key statutes, in addition to establishing the Rewrite Advisory Panel (RAP), chaired by an eminent retired tax judge, Sir Ivor Richardson.[49] The RAP consisted of one representative each from the New Zealand Institute of Chartered Accountants (NZICA), the New Zealand Law Society (NZLS), the Inland Revenue, and the NZ Treasury. The RAP was disestablished by the then Minister of Revenue in late 2014.

The first step incorporated the reorganisation of the Income Tax Act 1976 (ITA 1976) and the Inland Revenue Department Act 1974 (IRDA 1974). The outcome was three new statutes: the Income Tax Act 1994 (ITA 1994); the Tax Administration Act 1994 (TAA); and Taxation Review Authorities Act 1994 (TRAA). The second phase was rewriting the core provisions in the ITA 1994, followed by rewriting the major income, deduction and timing provisions (plus the definitions). These appeared in a completely new statute, the ITA 2004. Finally, the TRP addressed the remaining parts of the ITA 2004, being rewritten as the ITA 2007. Inland Revenue continues to consider addressing unintended legislative consequences from rewriting the law within its remedial work programme.

As part of the TRP, a schedule of intended policy changes (and their associated sections) was included as part of each iteration of the ITA. Unintended changes were reviewed by the RAP. This approach made it easier to ascertain when previous case law, binding rulings and analysis could not be used when interpreting the rewritten legislation. The RTP did not address any significant policy issues as these were strictly outside the terms of references of the project. Should significant policy issues arise, they could be considered through the usual annual tax work programme and worked through as part of the GTPP.

The TRP did not extend to other major tax statues, such as the TAA 1994 and the GSTA 1985. Notwithstanding, a call to rewrite GSTA 1985 from the Supreme Court, there has been no subsequent tax rewrite activity:[50]

> "... it is to be hoped that once the redrafting exercise on the Income Tax Act is completed the team will move on to the [GSTA 1985], which is not, and never has been, a user-friendly statute".

Evaluations of the rewrite project commenced with the early work of Tan and Tower, that examined the state of income tax legislation prior to the commencement of the TRP.[51] The tools used have ben predominantly readability tools available through most word processing packages, such as the Flesch Reading Ease Score and Flesch Kincaid Grade level, amongst others.[52] In undertaking this evaluation, tax legislation, along with Inland Revenue's Tax Information Bulletins (TIBs) and binding rulings were also tested for their readability.

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[49] For a review of the contributions of the RAP, along with bits founding chair, Sir Ivor Richardson, see Adrian Sawyer, "*RAP(ping) in Taxation: A Review of New Zealand's Rewrite Advisory Panel and its Potential for Adaptation to Other Jurisdictions*" (2008) 37(3) *Australian Tax Review*, 148-163.
[50] Rt Hon Peter Blanchard, ''Some Basic Concepts of New Zealand GST'' in Rick Krever and David White (eds), *GST in Retrospect and Prospect* (Thomson Brookers, Wellington, 2007), 91 at 92.
[51] Lin Mei Tan, and Greg Tower, "The Readability of Tax Laws: An Empirical Study in New Zealand", (1992) 9 *Australian Tax Forum*, 355-372.
[52] For a discussion, see for example, Maryann Richardson and Adrian Sawyer, "Complexity in the Expression of New Zealand Tax Laws: An Empirical Analysis" (1998) 14(3) *Australian Tax Forum*, 325-360; and Adrian Sawyer, "Enhancing Compliance Through Improved Readability: Evidence from New Zealand's Rewrite "Experiment", in Martha E Gangi, and Alan Plumley, (eds), *Recent Research on Tax Administration and*

The studies of Richardson and Sawyer,[53] Pau et al.,[54] and Saw and Sawyer[55] evaluated each stage of the TRP using readability measures. Each study showed further improvement in readability as measured by the Flesh Reading Ease Score. In particular, the results of Saw and suggest that NZ's income tax legislation should now be more readable, such that a university undergraduate should be able to read and understand most of the sections in the ITA 2007. Saw and Sawyer, like Pau et al., also observe that in comparing the readability of the ITA 2007 with other tax related materials, the average score is higher for the ITA 2007 and binding rulings, suggesting they are easier to read and understand compared to the IRD's TIBs. Inland Revenue's drafters of the TIBs therefore need to re-examine the drafting style adopted.

Sawyer[56] reports on a study utilising the Cloze Procedure, which is a process by which every n^{th} word is removed, and participants are requested within a set time frame to attempt to fill in the gaps. The greater the level of accuracy, then the more readable the text is considered to be. If the scores for correct inclusion of missing words exceeds 44 percent (the level suggested by Bormuth[57]), then the text is sufficiently readable. Stevens et al.[58] compare readability formula (such as Flesch) with the Cloze Procedure. They argue why readability formulas are inappropriate measures of adult reading comprehension and why the Cloze Procedure should be the method of choice in assessing adult readers (which would include readers of the ITA).

Sawyer's research using the Cloze Procedure selected key sections from four versions of the Income Tax Act: the ITA 1976; the ITA 1994; the ITA 2004 and the ITA 2007. These four key sections were ones that the subjects (undergraduate taxation students in both an introductory and advanced tax class), should generally be familiar with. The four sections covered the key areas of: tax residence for natural persons; sources of NZ income; the general deeming provision for income and exempt income; and the general permission for allowing deductions.

Overall, the subjects found the ITA 2004 version of the four sections easiest to understand, as measured by the level of correct responses. The ITA 2007, the final version of the rewritten legislation, came in a close third behind the ITA 1976 (the pre-rewritten version)! In only one instance did a particular version exceed 44 percent; this was the ITA 2004 for the advanced taxation class. Overall the advanced tax class overall performed better than those in the introductory class. These results were comparable to an earlier Australian study by Woellner et al.[59] Earlier studies conducted on behalf of Inland Revenue utilised officials and tax practitioners to test the understandabilty of the ITA 2004. These tests produced an average score of 68.1 percent and were marginally more understandable than were extracts from the

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Compliance: Selected Papers Given at the 2010 IRS Research Conference (IRS, 2011, Washington DC), pp 221-253.

53 Richardson and Sawyer, above n 52.

54 Caroline Pau, Adrian Sawyer, and Andrew Maples, "Complexity of the New Zealand's Tax Laws: An Empirical Study", (2007) 22(2) *Australian Tax Forum*, 59-92.

55 Kathrine Saw and Adrian Sawyer, "Complexity of New Zealand's Income Tax Legislation: The Final Instalment" (2010) 25(2) *Australian Tax Forum*, 213-245.

56 Above n 52.

57 John Bormuth, "Comparable cloze and multiple-choice comprehension test scores," (1967) 10 *Journal of Reading* 291-299.

58 Kathleen C Stevens, Kevin T Stevens and William P Stevens, "A Response to 'Measuring Readability: A Comparison of Accounting Textbooks" (1993) 11 *Journal of Accounting Education* 287–292.

59 Robin Woellner, Cynthia Coleman, Margaret McKerchar, Michael Walpole, and Julie Zetler, "Can Simplified Legal Drafting Reduce the Psychological Costs of Tax Compliance? An Australian Perspective," [2007] *British Tax Review*, No 6, 717–734.

ITA 1976 (average score 62.5 percent). In Woellner et al.'s study, tax experts scored over 70 percent on both the ITAA 1936 and ITAA 1997, which is comparable to those of Harrison.[60]

2.2.2 Recent developments: tax administration and policy

While not strictly a recent development, the effects of decisions made in the late-1980s have been pivotal to subsequent simplification efforts. Most NZ individual taxpayers do not need to file tax returns where they receive income that is appropriately taxed at source (this includes wage and salary earners in the main). This came about through the removal of deductions for work related expenses and superannuation deductions, along with withholding for interest and dividends. Those taxpayers with income not taxed at source (e.g. those with rental income) must still file a return, in addition to those in business or who are self-employed. A separate form for claiming rebates for payments made to approved charitable organisations and school donations (but not school fees) can be made by individuals, including non-filing taxpayers; the credit is worth 33 percent of qualifying expenditure.

The NZ Government and Inland Revenue have continued to regularly review the tax system and propose reforms directed at making it simpler for taxpayers, especially for small business taxpayers. This is anticipated to continue to reduce compliance costs. Furthermore, Inland Revenue has made progress at simplifying the ways it communicates with taxpayers and tax practitioners. The growth in use of electronic formats, coupled with technological advances, has facilitated Inland Revenue's website(s) to be the principal source of information and interface with taxpayers and tax practitioners.[61] The NZ Government has created a single point of contact for new business taxpayers, for which Inland Revenue is a partner agency. This is through the NZ Business Number, a 13-digit number, is a single identifier which, over time, is intended to become the only number that businesses use to interact with a range of government agencies and other businesses.

Inland Revenue has more than 1.7 million customers registered for secure online services through Inland Revenue's MyIR portal, which allows people to check their tax details, child support, *Working for Families* and KiwiSaver accounts, as well as to submit GST returns online. In 2012 Inland Revenue introduced a mobile web app which gives customers access to their account information 24 hours a day, seven days a week. Notwithstanding these developments, in most situations formal communication by Inland Revenue with taxpayers and tax practitioners is principally through written letters. This is facilitated through use of electronic formats and/or the postal service.

Inland Revenue is conducting a multi-year change programme to modernise NZ's tax system. The Business Transformation project (BTP) is a multi-stage change programme intended to modernise NZ's tax service to make it simpler and faster for New Zealanders to pay their taxes and give more certainty that taxpayers will receive their entitlements.[62] BTP is to serve as the roadmap for future work by Inland Revenue for simplifying aspects of the NZ tax system. To provide some context, BTP is designed to enable new features to be added to what is an outdated computer system first launched in the early 1990s. It underpins Inland Revenue's

[60] Julie Harrison, *The Readability of the Income Tax Act 2004: A Report to Inland Revenue for the Rewrite Advisory Panel* (2006, Auckland). No further Cloze Procedure testing of experienced tax professionals has been undertaken in NZ to the knowledge of the authors.
[61] Inland Revenue's two websites are: http://www.ird.govt.nz and http://taxpolicy.ird.govt.nz.
[62] See further: http://www.ird.govt.nz/transformation/.

focus on utilising an electronic platform as the basis for communicating and interacting with taxpayers and tax practitioners. This project has an estimated cost of $NZ1.6 billion, and is not without its risks.

Legislation is currently before the NZ Parliament will see changes that will simplify the end-of-year tax processes for individuals.[63] Assuming the proposed law changes are enacted, from the commencement of the 2019-20 income year (1 April) many salary and wage earners who are due refunds will receive them automatically, rather than having to apply for them as they will have done in the past. This includes an estimated 750,000 individuals who have been eligible for refunds but have not applied for them.

Work going forward, indirectly at least, includes efforts to distinguish between necessary (or fundamental) complexity and unnecessary complexity. Sherwood,[64] when in the role of head of the OTS, defined necessary complexity as "the minimum complexity needed to deliver the broad policy aims". Examples include: political/social aims; economic aims; fairness; certainty; avoidance measures, and the like. On the other hand, Sherwood provided examples of unnecessary complexity as: "poor policy design, (for example, artificial boundaries); too many special cases; badly worded law; poor guidance; complicated and expensive processes, etc." Further discussion is necessary in order to achieve some form of consensus over what path(s) should be taken to reduce (unnecessary) tax. Budak et al.[65] suggest that the Delphi technique should be applied to moving the discussion forward towards a consensus.

The most recent contribution comes from the NZ government's Tax Work Group (TWG), which publicly released it interim report on 20 September 2018.[66] Specifically the NZ government has the following objectives for the NZ tax system:[67]

- A tax system that is efficient, fair, simple and collected;
- A system that promotes the long-term sustainability and productivity of the economy;
- A system that supports a sustainable revenue base to fund government operating expenditure around its historical level of 30% of GDP;
- A system that treats all income and assets in a fair, balanced and efficient manner, having special regard to housing affordability;
- A progressive tax and transfer system for individuals and families; and

[63] See Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Bill 2018, introduced on 29 June 2018.
[64] Jeremy Sherwood, "Tax simplification in a complex world", UNSW Business School Thought Leadership Lecture (2015); at: http://www.slideshare.net/JeremySherwood1/thought-leadership-lecture-2015-jeremy-sherwood.
[65] Tamer Budak, Simon James, and Adrian Sawyer, "International experiences of tax simplification and distinguishing between necessary and unnecessary complexity", (2016) 14(2), *eJournal of Tax Research*, 337-358.
[66] TWG, *Future of Tax: Interim Report* (September 2018); available at: https://taxworkinggroup.govt.nz/resources/future-tax-interim-report.
[67] See NZ Government, *Tax Working Group – Terms of Reference*, 23 November 2017; available at: https://www.beehive.govt.nz/release/towards-fairer-tax-system-tax-working-group-terms-reference-announced.

- An overall tax system that operates in a simple and coherent manner.

The TWG is required to report to the government on:[68]

- Whether the tax system operates fairly in relation to taxpayers, income, assets and wealth;
- Whether the tax system promotes the right balance between supporting the productive economy and the speculative economy;
- Whether there are changes to the tax system which would make it more fair, balanced and efficient; and
- Whether there are other changes which would support the integrity of the income tax system, having regard to the interaction of the systems for taxing companies, trusts, and individuals.

In examining these points, the TWG must consider the following:[69]

- The economic environment that will apply over the next 5-10 years, taking into account demographic change, and the impact of changes in technology and employment practices, and how these are driving different business models;
- Whether a system of taxing capital gains or land (not applying to the family home or the land under it), or other housing tax measures, would improve the tax system;
- Whether a progressive company tax (with a lower rate for small companies) would improve the tax system and the business environment; and
- What role the taxation system can play in delivering positive environmental and ecological outcomes, especially over the longer term.

In considering the matters above, the TWG is expected to have due regard to the overall structure of the NZ tax system to ensure it is fair, balanced and efficient, as *well as simple for taxpayers to understand and comply with their tax obligations*.

The following areas are expressed to be outside the scope of the TWG's review:[70]

- Increasing any income tax rate or the rate of GST;
- Inheritance tax;
- Any other changes that would apply to the taxation of the family home or the land under it; and
- The adequacy of the personal tax system and its interaction with the transfer system (this is part of a separate review of *Working for Families*).

[68] Ibid.
[69] Ibid.
[70] Ibid.

In addition, the focus of the TWG will not be on more technical matters already under review as part of the Tax Policy Work Programme (TPWP), including:[71]

- International tax reform under the Base Erosion and Profit Shifting (BEPS) agenda, and
- Policy changes as part of the IRD's Business Transformation programme.

In its interim report the key recommendations for which consultation is being sought are:[72]

- **The taxation of capital income.** The TWG's work on capital income is not yet complete. The Interim Report sets out two potential options for extending capital income taxation: extending the tax net to include gains on assets that are not already taxed; and taxing deemed returns from certain assets (known as the risk-free rate of return method of taxation). Feedback on these options will inform the recommendations in the Group's *Final Report* in February 2019. The TWG is not recommending the introduction of wealth taxes or land taxes.
- **Environmental and ecological outcomes.** The TWG sees significant scope for the tax system to sustain and enhance New Zealand's natural capital. Short-term opportunities include expanding the Waste Disposal Levy, strengthening the Emissions Trading Scheme, and advancing the use of congestion charging.
- **Housing affordability.** The TWG has found that the tax system is not the primary cause of unaffordable housing in NZ, but is likely to have exacerbated the house price cycle. The Group's forthcoming work will include consideration of the housing market impacts of the options for extending capital income taxation.
- **GST.** The TWG is not recommending a reduction in GST, or the introduction of new GST exceptions. Instead, the TWG believes that other measures (such as transfers) will be more effective in supporting those on low incomes.
- **Business taxation.** The TWG is not recommending a reduction in the company rate or the introduction of a progressive company tax. The TWG is still forming its views on the best ways to reduce compliance costs and enhance productivity.
- **The administration of the tax system**. The TWG has identified a number of opportunities to improve tax collection such as increasing penalties for non-compliance as well as recommending a single Crown debt collection agency to ensure all debtors are treated equally. A taxpayer advocate service is also recommended to assist small businesses in disputes with Inland Revenue.

While it is not the purpose of this paper to evaluate the TWG's report, the initial public comment has been mixed, ranging from relief that a number of key aspects of the NZ tax system will not be changed (for example, no exemptions from the GST base), to disappointment that there is not a clear steer of direction with respect to the taxation of capital gains. The 'picture' should become a little clearer following the release of the TWG's *Final Report* in February 2019.

[71] Ibid. The current TPWP can be found at: http://taxpolicy.ird.govt.nz/work-programme.
[72] TWG, *Tax Working Group publishes Interim Report: Media Release* (20 September 2018).

3. Tax Simplification in South Africa – what has been done and what needs to be done

In the 2014 SARS Strategic Plan South Africans were promised that tax compliance will become easier. SARS aimed to achieve this by "simplifying the tax code and tax return forms, simplifying our internal processes, and making more efficient and cheaper service channels available".[73] The paper now provides a brief review of some simplification efforts in the last decade in South Africa as it pertains to legislation, tax administration (including efforts to reduce compliance cost) and taxpayer communication.

3.1 Statutory simplification: Complexity of the South African Income Tax Act 1962

3.1.1 General

The South African Income Tax Act 1962 (Act No. 58 of 1962), as amended ("the Income Tax Act"), is just that: a single Act of Parliament (assented to and that commenced in 1962) that has been regularly amended (by more than 100 amending Acts of Parliament and Government Notices) since 1962. Effectively, this means that if one were to attempt to ensure accuracy and that one is relying on the official, "correct" version of "the Income Tax Act" (as duly promulgated by South Africa's legislature), one would need to be able to access not only the original 1962 Act, but all of the amending Acts (and Government Notices) that amend that original 1962 Act. Whilst there are a number of publishers which, from time to time (that is, usually, annually and based on annual legislative amendments) publish a consolidated version of what the Income Tax Act could look like were it to be officially consolidated (for example, by an Act of Parliament), there exists no single official, "correct" version of the Income Tax Act that is packaged in an easily accessible volume.

Clearly, accessing the official, "correct" version of the Act is, for all intents and purposes, not practically possible. The activities involved in managing over 100 separate Acts simply to ensure that one is reading the official version of a particular provision (introduced in, say, 2014) that is, for example, part of a section originally introduced by the original 1962 Act would be so time consuming and full of opportunity for error as to be fruitless.

As a consequence, tax practitioners, academics, businessmen or government officials who wish to determine the tax treatment of a particular transaction will invariably rely on the one or more commercially available "consolidated" versions of the Income Tax Act. Whilst this is not only convenient but also necessary, there are few who fully appreciate that what they are using is, effectively, a publisher's view of what the Income Tax Act would look like if it were to be officially consolidated.

3.1.2 "Unofficial" consolidation

The process of commercial, "unofficial" consolidation described above gives rise to a number of problems. First, little or no account is taken of the fact that errors may have been made by the editors in performing any particular consolidation. Moreover, because no-one relies on official versions of the amending acts (and, to the extent that use is made of the amending acts, this only takes out of necessity during the period between the time that the amending Act is introduced in Parliament and the time that the amending Act is – unofficially – consolidated into the already-consolidated publisher's versions of the Income Tax Act), consolidation errors

73 SARS, *Strategic Plan,* (2014). Available at: http://www.sars.gov.za/About/Pages/Annual-Reports-and-Strategic-Plans.aspx.

are invariably never detected. Once unofficially consolidated, these errors are perpetuated, invariably permanently.

3.1.3 The age of the Income Tax Act

A great deal of the complexity of the Income Tax Act arises simply as a result of its age. In order to remain effective, fiscal legislation needs to undergo frequent amendment. This is not only a result of the need to ensure that avoidance practices are adequately dealt with, but also simply to keep pace with changing commercial practices and a constantly-evolving business environment. More than 100 different amending instruments – each not only potentially adopting its own style and conventions, but also potentially being underpinned by different policy objectives – have amended the Income Tax Act since 1962.

Frequent amendment over a lengthy period, in itself, should not give rise to complexity. However, when the length of the period is 56 years and little systematic and coordinated attempt is made during that period to consolidate the legislation and ensure uniformity, complexity increases almost exponentially.

Thus, the Income Tax Act reflects a plethora of different styles and conventions. Over the course of almost 60 years, many people (and groups of people, with different objectives and interests) have been involved in drafting and editing the Income Tax Act. Different conventions and different styles have been used in drafting provisions. Many provisions have been inserted in the Income Tax Act without any thought having been given to the overall structure and ordering of the Act (often, where a particular provision is inserted is based solely on convenience).

3.1.4 The approach of SARS to avoidance and enforcement

For a number of reasons, SARS has often taken the approach of settling disputes with taxpayers before a judicial decision is made and published. There are many reasons for this: SARS may not have sufficient evidence or (due to circumstances beyond its control) it may not have prepared adequately for the matter, and therefore may not wish to risk losing the matter in Court. It will therefore settle the matter with the taxpayer in order to safeguard at least some revenue (as opposed to losing the matter in Court and thereby realizing no revenue). In any litigious process (whether the process involves the application of fiscal legislation or not), simple prudence and economics dictate that litigants should weigh up the risk of losing in Court, and should act accordingly.

There are, however, circumstances in which settlement of a dispute with a taxpayer could, at least indirectly, result in complicating the Income Tax Act. For example, where the dispute involves an issue of interpretation, SARS might not be willing to pursue the matter until judgment is obtained and an appropriate judicial decision published. SARS might not wish an interpretive position adopted by a taxpayer to be upheld in Court: other taxpayers would, on publication of the decision, be entitled to apply the decision to their matters. The net effect is that uncertainty is maintained, with a dearth of judicial involvement in the development of law and a shortage of the judicial provision of interpretive tools and guidelines.

In a similar vein, there are instances in which legislation has been "over-drafted" (that is, drafted with a view to covering every single possible scenario of avoidance), in order to minimize the possibility of adverse judicial findings against SARS (as opposed to drafting in a simpler manner, which opens the possibility of such adverse judicial findings).

3.1.4 The Income Tax Act as a policy tool

As is the case in almost all jurisdictions, the South African tax system is used to address market failures and advance non-fiscal policy objectives. Whilst political involvement and the efficiency of the tax system have been the main drivers behind such interventions and whilst it is inevitable that this will take place in any tax system, its effect on the complexity of legislation should not be underestimated.

3.1.5 What has been done?

As a first, and – arguably overdue – significant step in simplification of South Africa's Income Tax legislation, the Tax Administration Act, 2011 ("the TAA"), commenced operation on 1 October 2011. The TAA is both a principal Act (i.e. it introduced its own provisions, and is a "stand-alone" Act) and an amendment Act (i.e. of the Income Tax Act and other fiscal Acts, by removing all procedural and administrative provisions from the Income Tax Act and other fiscal Acts). As such, the TAA (simply by removing all administrative provisions from the Income Tax Act and the other fiscal Acts so that they can be placed in one single Act) constitutes a significant step towards the overall simplification of South African fiscal legislation.

3.2 Tax administration

When countries embark on processes to reform and modernise their tax system, it is important that the rules of tax administration are in place. This is to ensure certainty and procedural fairness to taxpayers as well as ensuring that the tax agency has the necessary powers to carry out its tax collection responsibilities.[74]

The Tax Administration Act (no. 28 of 2011) was introduced in 2012 in SA with the intention to simplify and provide greater coherence in South African tax administration law. "It eliminates duplication, removes redundant requirements and aligns disparate requirements that currently exist in different tax Acts ranging in age from 4 to 63 years old. It creates a single, modern framework for the common administrative provisions of the tax Acts."[75]

3.2.1 Compliance burden and ease of paying taxes

In order to efficiently and effectively administer the tax system, the tax agency usually needs to be sufficiently modern in its use of technology. Electronic filing of tax returns reduces the time and cost required to comply with tax obligations and can also lead to fewer errors being made on a return. Electronic systems for filing and paying taxes have become common worldwide, by 2016, 92 economies had fully implemented electronic filing and payment of

[74] Michael D'Ascenzo, "Global Trends in Tax Administration" (2015) 1(1) *Journal of Tax Administration* 81-100.
[75] SA News, "*New bill to simplify SA tax administration law*" (5 July 2012). Available at: www.Sanews.gov.za.

taxes.[76] South Africa is still one of the leaders when it comes to the number of tax payments due to the widespread use of electronic payments.[77]

The PWC *Paying Taxes 2018* report which analyses data on tax systems of 190 countries, shows that it takes the case study company 240 hours to comply with profit, labour and consumption taxes, and that it needs to make 24 tax payments. The number of payments to be made is an indicator of developments in online filing and payment. For SA it is reported that it takes a company on average 210 hours to comply and that seven tax payments need to be made.[78] This compares well with the rest of Africa, with the number of hours and number of payments well below the regional average of 285 hours and 34 payments and also compares well with other regions worldwide.

A post-filing index has been included in the PWC *Paying Taxes Report* since 2017 which looks at the process for claiming a VAT refund and correcting an error in a corporate tax return. The efficiency of these processes is scored using the post-filing index, with a score from 100 to 0, with 100 the most efficient and 0 the least efficient. The world average is 59.51.[79] SA scores 55.4 which places it below the world average and well below NZ which scored 96.9. The main contributor to the weak performance in SA in this regard is the VAT compliance time of 8.5 hours (NZ – 2 hours), VAT waiting time of 26.6 weeks (NZ – 5.2 weeks) and Company Income Tax compliance time of 11 hours (NZ – 4 Hours).

An alarming discovery heard by the Nugent Commission with regards to VAT refunds is the allegation that SARS frustrated taxpayers by arbitrarily delaying tax refunds particularly during the months preceding the end of the tax year since 2014.[80] These allegations were made by the Eric Mkhawane, Chief Executive Officer at the office of the Tax Ombud, as he revealed numerous cases where SARS was withholding tax refunds pending bank account verifications — despite a taxpayer having used the same account for years. In a sample analysis of the cases of refunds withheld by SARS they found that in all these cases refunds were delayed with more than 60 days, with the reasons for these delays being unclear.

SARS filing and payment systems are generally regarded as user friendly and not overly time consuming. The primary area where improvement could be made is on corporate income tax where South Africa's time to comply is above the world and Africa averages as a result of significant preparation time required before filing a return.[81] The other area of concern highlighted in this section is the delays in refunds by SARS, which was also pointed out as a systemic issue by the Tax Ombud.[82]

A systemic issue may exist when a trend in taxpayer complaints is observed and which is believed to possibly impact a large number of taxpayers or a segment of the population. These

[76] PWC, *Paying Taxes 2018* (2018). Available at www.pwc.com/payingtaxes.
[77] PWC, *Tax compliance gets easier, but new data highlights post–filing challenges* (2017). Available at: https://www.pwc.co.za/en/press-room/tax-compliance-gets-easier.html.
[78] Ibid, n. 76, at 14.
[79] Ibid, n. 76, at 6.
[80] Tebogo Tshwane, "SARS deliberately withheld tax refunds, Nugent Commission hears", *Mail & Guardian*, (24 August 2018). Available at: https://mg.co.za/article/2018-08-24-sars-deliberately-withheld-tax-refunds-nugent-commission-hears.
[81] Ibid, n. 76.
[82] Office of the Tax Ombud, *Brochure on Systemic Issues* (2018). Available at http://www.taxombud.gov.za/Publications/Pages/default.aspx.

issues may be as a result of the way specific systems at SARS function; the way policies and procedures are drafted and implemented; or the way in which legislative provisions are applied (or disregarded) by SARS. Some of the issues identified by the Office of the Tax Ombud are the following:

- Incorrect allocation by SARS of payments made by taxpayers – which then results in a debt recorded for some taxpayers.
- Employers' non-compliance with legislation relating to issuing of employees' tax certificates – this results in taxpayers (employees) then being sent back and forth between SARS and the employers. It was also found that SARS branches are inconsistent in following of procedure in attending to these matters.
- Inconsistent timelines provided to taxpayers for finalisation of audits or verifications and extension of turnaround times after expiry of initial timeline.
- Issues with the live tax compliance system (TCS) that causes undue hardship to various taxpayers due to the way the system was designed.
- Delays by SARS to update banking details has resulted in refunds being paid into wrong bank accounts.
- Taxpayers' eFiling profiles are hijacked by fraudsters which then altered banking details, filed fraudulent returns and created refunds. This could then create unintended tax debts for taxpayers if not identified as such by SARS.

3.2.2 Office of the Tax Ombud

The Office of the Tax Ombud (the Office) was established in October 2013 in terms of sections 14 and 15 of the Tax Administration Act, 28 of 2011 (the TAA) to enhance the tax administration system. Until then, there was no independent redress channel for taxpayers who had exhausted the normal SARS complaints mechanisms.[83] In the foreword to the 2016/17 Tax Ombud Annual Report, The Minister of Finance states that the Office of the Tax Ombud is "central to the social contract between government and citizens"[84] – referring to the fact that the Tax Ombud should ensure that citizens are treated fairly by the tax authority.

Section 16(1) of the TAA spells out the Ombud's mandate as being to:

> "a) Review and address any complaint by a taxpayer regarding a service matter or a procedural or administrative matter arising from the application of the provisions of a Tax Act by the South African Revenue Service ("SARS"); and
>
> b) Review, at the request of the Minister or at the initiative of the Tax Ombud with the approval of the Minister, any systemic and emerging issue related to a service matter or the application of the provisions of the TAA or procedural or administrative provisions of a Tax Act."

For the 2016/17 tax year the Office recorded a significant increase in contacts from taxpayers and tax representatives – from 5,904 in 2015/16 to 15,658 in 2016/17.[85]

[83] Tax Ombud, (2018). Available at: http://www.taxombud.gov.za/AboutUs/Pages/default.aspx.
[84] Office of the Tax Ombud, *Tax Ombud Annual Report, 2016/17* (2017). Available at http://www.taxombud.gov.za/Publications/Pages/default.aspx.
[85].Ibid, at 5.

During 2017, important legislative amendments were made to the benefit of the independence and powers of the Office. The term of office of the Tax Ombud has been extended to 5 years (previously it was only 3 years), recruitment of employees is now at the discretion of the Office where previously it had to be in consultation with the Commissioner of SARS; and determination of the budget for the Office will now be decided by the Minister of Finance (and not SARS).[86] Another important change is that the Tax Ombud is now mandated to review at the request of the Minister or at his own initiative with the approval of the Minister, any systemic and emerging issues related to a service matter or the application of the provisions of the Act (TAA) or procedural or administrative provisions of the Tax Act.[87]

The CEO of the Office of the Tax Ombud, Advocate Eric Mkhawane says that these amendments will help to ensure that the Tax Ombud can fulfil his mandate "without a perception that his office is an extension of SARS".[88] However, Judge Bernard Ngoepe, the Tax Ombud, is of the opinion that even more could be done to strengthen the independence of the Office and called for the ability to initiate investigations without the Minister's prior approval.[89]

3.2.3 SARS Service Charter

The long awaited Service Charter by SARS was released finally early in July 2018. The charter outlines taxpayers' rights and responsibilities as well as service standards they can expect from the agency.[90] Critics state that "SARS has set itself an extremely low service level, in most instances either only an undertaking to 'endeavour' to do something that is supposed to be an absolute requirement in terms of the law".[91] But other commentators welcome the Charter and believe SARS' commitment to timeframes are rather ambitious given the size of the organisation and the multitude of taxpayers.

3.2.4 Taxpayers' Bill of Rights

The Davis Tax Committee has recommended in its final report on Tax Administration in SA, that a taxpayer bill of rights (TBR) be adopted. A TBR will guarantee taxpayers' rights in their interactions with SARS and make SARS responsible in its dealings with taxpayers.[92] To date, SARS has not published such a document in spite of guidelines and international best practice pointed out by the Davis Tax Committee.

3.3 Taxpayer communication

The Davis Tax Committee highlighted the importance of communication with taxpayers in their closing report, stating that "taxpayers need assurance and indications that their taxes are being spent prudently and invested in the best interests of the country."[93] Judge Bernard

[86] Tax Ombud, *Media Statement* (25 January 2017). http://www.taxombud.gov.za/Media/Pages/News-Archive.aspx.
[87] Ibid, n. 84.
[88] Ibid, n 84.
[89] Ibid, n 84, at 7.
[90] SARS, Service Charter (July 2018). Available at: http://www.sars.gov.za/About/Pages/Service-Charter.aspx.
[91] Moneyweb, 2018. "*SARS service charter delights and disappoints*" (4 July 2018). Available at: https://www.moneyweb.co.za/mymoney/moneyweb-tax/sars-service-charter-delights-and-disappoints/.
[92] Davis Tax Committee, *Final Report on tax Administration* (September 2017). Available at: http://www.taxcom.org.za/library.html.
[93] Davis Tax Committee, above n. 29.

Ngoepe, the Tax Ombud of SA, believes that SARS has gone to great lengths to show taxpayers how their taxes have been used to benefit society. He maintains that this heightens a sense of civic and moral duty and demonstrates to taxpayers that they too would stand to benefit.[94]

In 2017, SARS and National Treasury jointly published the 10th edition of the *Tax Statistics* publication marking ten years of increased effort by the tax authority to improve communications with taxpayers and the broader society.[95] Also in 2017, SARS and National Treasury jointly published the 10th edition of the *Tax Statistics* publication marking ten years of increased effort by the tax authority to improve communications with taxpayers and the broader society.[96] The publication includes detailed tables on revenue collection and data pertaining to all the major tax types for the past 10 years, providing data on the key trends of the past decade.[97] Illustrative graphics provides summarised descriptions of numbers of taxpayers, channels of payment, cost of collecting taxes, etc. However, it does not provide detail on how the tax system has contributed to South Africa's fiscal health and socio-economic development – in other words the spending of tax revenue by government.

Detail on how tax revenue is spent, is usually found in the budget speech and published "budget highlights brochures" by various entities such as newspapers and professional bodies. SARS also published a brochure with "budget highlights" for the first time in 2018, a one page information sheet explaining changes in tax rates and also displaying three informational graphics titled: "Where is the money coming from?"; "Where is the money going to?"; and "Providing social support to the poor."[98] This is all in plain language and easy to understand. But the document is a little hidden on the SARS website…

A report on citizen engagement and public financial management makes an important observation on the type of information demanded by citizens, namely: "People need to understand the link between what is spent and what services actually get provided."[99] It can be argued that to provide this kind of information to citizens is not SARS' role, but given the risk of non-compliance because of dissatisfaction with service delivery by government it could be a more prominent feature in SARS' communication with taxpayers.

It is clear that SARS are making use of technology to enhance taxpayer communication, although engagements with taxpayers may still take place through more than 50 branches located countrywide, 21 mobile tax units and a contact centre. During the 2017 tax year, more than 6.7 million walk-ins were serviced at SARS branches and 6.5 million telephone calls were handled, while almost 500,000 taxpayers were serviced through mobile tax units. SARS also

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[94] Bernard Ngoepe, *"Ethical Behaviour by Taxpayer and Tax Collector"*, Address by the Tax Ombud at the 6th Annual FISA Conference – 2016: Johannesburg (2017). Available at http://www.taxombud.gov.za/Publications/Pages/default.aspx.

[95] Tax Statistics, *National Treasury and the South African Revenue Service* (2017). Available at: http://www.treasury.gov.za/publications/tax%20statistics/default.aspx.

[96] Tax Statistics, *National Treasury and the South African Revenue Service* (2017). Available at: http://www.treasury.gov.za/publications/tax%20statistics/default.aspx.

[97] SARS, *Media release* (12 December 2017). National Treasury and the South African Revenue Service release the 10th annual edition of tax statistics. Available at: http://www.sars.gov.za/Media/MediaReleases/Pages/12-December-2017---Tax-statistics%20for%202017.aspx.

[98] SARS, *Budget Tax Guide* (2018). Available at: http://www.sars.gov.za/About/SATaxSystem/Pages/Budget-Speeches.aspx.

[99] Grant Thornton, *Citizen engagement and public financial management: The pivotal role of public sector financial leaders in advancing public participation in government policy and performance* (2017). Available at: https://www.grantthornton.co.za/insights/articles/in-the-public-eye3/.

held free tax education workshops which were attended by more than 200,000 people.[100] On the e-filing platform, Personal Income Tax filing of returns had a 53% uptake and although taxpayers can also interact online with a consultant, a study found that taxpayers fear of making mistakes, forgetting login details, being unable to upload supporting documents, and fear of fraud, scams and the lack of access to the internet are factors that contributes to taxpayers reluctance to use eFiling.

A SARS eFiling App and MobiSite are also available to taxpayers who want to file their Personal Income Tax Return from their mobile devices. Mobisite is accessible to blind and visually impaired taxpayers. The app may be also be used to view a Notice of Assessment and the Tax Statement of Account and has a tax calculator, but users cant register for eFiling on Mobisite or the App. Taxpayers first have to register for eFiling on a desktop or laptop and once the registration is successful, can continue using either the eFiling App or SARS Mobisite.

On its website SARS publishes interpretation notes, guides, frequently asked questions and brochures for different taxpayers segments and tax types. SARS' legal advisory services also finalised 330 binding rulings; and 805 non-binding rulings in the 2017 tax year and by so doing provide clarity and certainty to taxpayers on the interpretation of tax legislation.

In the 2016/17 Annual Report of the Tax Ombud, a summary of the most serious issues investigated mentions a number of times the lack of communication by SARS towards taxpayers. In some cases it appears that there were no communication from SARS and in other cases communication were incomplete or inconsistent.[101] These cases relate to, for example, the revising of an assessment without issuing a letter of findings or any prior communication to the taxpayer. Also in the 2016/17 Annual Report of the Tax Ombud, a summary of the most serious issues investigated mentions a number of times the lack of communication by SARS towards taxpayers. In some cases it appears that there were no communication from SARS and in other cases communication were incomplete or inconsistent.[102]

4. Principles and lessons from the New Zealand experience

In reviewing the NZ experience, there is much to indicate that to the extent NZ sought to rewrite its income tax legislation, it is the closest to best practice for the three jurisdictions that have undertaken this exercise (specifically Australia, NZ and UK). Major points of good practice were:

- the coordinated process of reorganising existing material first (in addition to taking a staged process);
- setting up the RAP to deal with (potential) unintended policy changes;
- employing a fully consultative process; and
- completing the project (at least with respect to the income tax legislation).

That is not to say that there could have been improvements, including:

- setting a realistic timeframe and budget;

[100] SARS, *Annual Report 2016-2017* (2017). Available at: http://www.sars.gov.za/About/Pages/Annual-Reports-and-Strategic-Plans.aspx.
[101] Office of the Tax Ombud, *Tax Ombud Annual Report: 2016/17* (2017). Available at http://www.taxombud.gov.za/Publications/Pages/default.aspx
[102] Ibid, n 84.

- dealing with related major policy issues concurrently;
- focussing on areas of unnecessary complexity; and
- undertaking rewriting of other major statutes, including the Tax Administration Act 1994 and Goods and Services Tax Act 1986.

Most importantly, the key aim of the simplification exercise was focussed on what Tran-Nam defines as 'legal simplicity' namely how difficult is a tax law to read and understand. Rather, it should have been broader to encompass 'effective simplicity', namely how easy is it to determine the correct tax liability. Focussing on effective simplicity would have necessitated a very different project than that undertaken. The focus would have been on how to make the determination of a taxpayer's correct liability more simple, which may not have necessitated extensive legislation rewriting. The reorganisation step would almost certainly have been a key part of effective simplicity. Clarity around major policy issues would almost inevitably be included, as would improving the tax administration interface, which is part of the current BT process.

An effective approach to tax simplification is multi-faceted. As Budak et al. state, this requires:[103]

1. Simplification of tax systems

2. Simplifying tax law

3. Simplifying taxpayer communications

4. Simplifying tax administration

5. Longer term or more fundamental approaches to simplification

New Zealand's experience has been successful at 2, with some more recent attempts to be successful at 1, 3, 4 and 5. It will be several years before an accurate assessment can be made as to whether NZ has been successful or not.[104] What also needs to be recognised is that NZ as a developed nation has a clear advantage over most developing countries, regardless of their size, through the resources it has available, skilled staff, availability of technology, and a high level of trust between the government and taxpayers/tax advisers. These simplification efforts started well before the rewrite project. The reforms of the 1984 Labour Government (known as the Douglas reforms) were pivotal when, for example, GST was introduced in a model which continues to serve as the global benchmark), along with the BBLR approach. It should also be recognised that the size and scale of NZ's economy and tax system has contributed, as it is easier to effect change when the scale is small. As Sawyer concludes:[105]

> "What is apparent is that there has been a *strong, sustained and largely unified commitment to reform, both on the part of both politicians and of policymakers*. Furthermore, having a *unicameral Parliament has been influential* in this regard, and the change to a MMP election process has challenged, but not hindered, the tax simplification process. The *level of consultation and the willingness of officials and the New Zealand*

[103] Budak et al, above n 64, p 353.
[104] Simon James, and Adrian Sawyer, "Digitalization of Tax: Comparing New Zealand and United Kingdom Approaches", *Paper presented at the Thirteenth International Tax Administration Conference*, Sydney, 5-6 April 2018, UNSW, Australia.
[105] Sawyer, "Complexity of Tax Simplification: A New Zealand Perspective", above n 41, p 126 (emphasis added).

Government to make modifications in the light of reasoned argument, especially from tax practitioners, have been features of the process. This is underpinned by the GTPP, which has served the tax policy development process well over the last 20 years."

One area where complexity remains, and no doubt will continue to increase, is in regard to cross-border taxation base protection measures, including obligations by MNEs and wealthy individuals to respond exchange information requests and additional audit activity. This has increased especially in a post- BEPS world.

5. Evaluation of the principles and lessons for potential application in South African

In the previous section, the key principles and lessons from the NZ simplification experience were summarised. Unsurprisingly, had NZ the opportunity to undertake its tax rewrite project it would do some things differently. We would also suggest that rather than undertake this form of legislative simplification in isolation, it would be preferable to evaluate whether to undertake effective simplification. That is, undertake a legislative rewrite in some form, in conjunction with addressing significant policy issues and potentially also an overhaul of the administration system (as is currently underway through the BTP).

The NZ experience does offer sage advice – it is very easy to underestimate the time and cost involved in rewriting legislation as part of seeking legislative simplification. Extending this to concurrently incorporate effective simplification increases the overall risk of larger budget overruns and a failure to adequately complete the exercise.

For a small developed jurisdiction such as NZ, which has a relatively simple tax system (for instance, there is no issue over the federal versus state divide), such a combined exercise would be a massive challenge to undertake. From the perspective of a larger developing jurisdiction such as SA, which itself has been undergoing significant tax reform (as detailed in section 3), a combined legislative rewrite with significant tax administration overhaul would most likely be a 'bridge too far'. Indeed, NZ's legislative rewrite was undertaken in stages, and in our view, remains incomplete with both the GSTA and TAA not having undergone a much needed rewrite.

Before contemplating any form of tax simplification, a jurisdiction should evaluate the effectiveness of its policy development and legislative review processes to ascertain whether they are likely to facilitate the best possible outcome. In this regard, NZ's GTPP is exemplary and continues to serve NZ extremely well with respect to tax policy development and implementation. As has been written else by one of the current authors, the GTPP is not necessarily transportable as it was developed to serve NZ's requirements.[106]

The principles underlying the BBLR policy model that have applied since the late 1980s have also served the tax rewrite and policy reform agenda well. Specifically the pillars of efficiency, simplicity and equity have underpinned the tax reform agenda, ensuring in most instances as far as is practical in meeting specific policy aims, that the legislation has avoided much of the complexity that accompanies the inclusion of extensive legislative exemptions and overly complex policy ideals. In this regard, SA should take time to revisit its core tax policy principles and philosophy to ascertain whether these are 'fit for purpose.'

[106] Sawyer, above n 6, p 424.

How is SA progressing, in our view, with its approach to tax simplification? In terms of statutory simplification, SA is moving in the right direction with the major overhaul undertaken (similar to NZ's reorganisation phase of its tax rewrite). What remains to be seen is whether a rewriting of the legislation will be undertaken to improve understandability. New Zealand's experience will be informative in this regard. With respect to tax administration, SA is making good progress but there remains much to be done, including reducing the compliance burden for taxpayers. To be fair, virtually all jurisdictions (including NZ) could do more in this area. The legislative amendments to the Office of the Tax Ombud's powers are very new and as such, it is too early to evaluate their effectiveness. This is a feature of the SA tax system that NZ should be watching closely given NZ does not have a dedicated tax ombudsman or any statutory office that has oversight of the tax system outside of the IRD. The establishment of the SARS charter is also very new – its effectiveness needs to be evaluated over the next year or two. Finally, while SA has not developed a Taxpayers Bill of Rights (which is a critical measure in our view to protecting SA taxpayers), NZ does not have one either, despite calls that have been made for one.[107] The current IR Charter is much like the SARS charter, being a service agreement with largely unenforceable rights. Similar to NZ, SA will face additional complexity as it addresses BEPS issues through legislative and administrative reform.

6. Conclusions, limitations and recommendations

In our view, NZ's experience with tax simplification offer an excellent role model for SA when it comes to rewriting tax legislation (compared to Australia and the UK), should that be the simplification path SA wishes to go down. The lessons learned as a result of a critical post-rewrite review add further to this recommendation. That said, if it is effective simplification that SA is seeking, then the NZ experience to date is useful but certainly not an example of best practice (at least such an assessment cannot be made at this time). Major policy issues need to be reviewed in conjunction with any legislation reorganisation and rewriting.

The BTP, along with the enhanced use of technology and ongoing review of the tax system, have the *potential* to offer a best practice model for SA. The jury, on this assessment, remains out, and will probably do so for another two to three years, until the BTP is complete. The current TWG, at the time of writing, is due to release its interim report by the end of September 2018. This report, along with the final report due in February 2019, may provide further useful guidance for SA.

New Zealand and SA as countries are very different, outside of their love of rugby union! New Zealand is a small developed nation that has a reputation for being innovative in tax policy design, with its GTPP and GST being prime examples. There is a high degree of trust between the government, public officials and taxpayers/tax advisers. The approach to policy development is one of open consultation and transparency. In relation to NZ's GTPP, Little et al. state: [108]

[107] See for example, Mark Keating, "Protection of Taxpayer Rights in New Zealand: A Mixed Bag" (2018) 24(2) *New Zealand Journal of Taxation Law & Policy* 147-170.

[108] Struan Little, Geof D. Nightingale, and Ainslie Fenwick, "Development of Tax Policy in New Zealand: The Generic Tax Policy Process" (2013) 61(4) *Canadian Tax Journal / Revue Fiscale Canadienne* 1043-1056, p 1044.

> "There is a degree of cooperation between the private and public sectors that is quite rare internationally. *There is a large element of working together to provide a tax system that is best for "New Zealand Inc." (New Zealand as a whole).*

The limitations of this paper include the obvious comparison of only two jurisdictions – NZ and SA. The two jurisdictions are very different, as has already been noted. Other jurisdictions, including possibly another developing nation, or a much larger nation than NZ, would have yielded different comparative findings. In this regard NZ provides one relevant but insufficient source of comparison for SA with respect to determining its path to tax simplification.

The authors recommend undertaking a further comparative review in two to three years' time when NZ's BTP is complete, along with a full assessment of the impact of the current TWG's recommendations. At this time a much clearer path will have emerged with respect to tax simplification in SA. Only then may a comprehensive evidence-based comparative assessment with respect to the level of effective tax simplification in NZ be possible.

Thus to answer the question posed in the title of this paper, in our view, the simplification lessons from NZ are relevant for South Africa. Furthermore, this is not a one way recommendation; a number of the recent developments in SA should be explored closely by policy officials in NZ.