

A financial and moral perspective of the impact of economic crime on taxation

A P Swanepoel
10129685

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Supervisor: Prof K Coetzee

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SUMMARY

Fraud, corruption, and related taxation consequences from a financial and a moral perspective were investigated in this study. A literature review of tax ethics, tax morality, tax conduct, tax planning, tax avoidance, tax evasion, tax fraud, white-collar crime, fraud, money laundering, corruption and corporate governance are presented. The research methodology and empirical investigation followed, the research results achieved, and the conclusions and recommendations made, are also presented. The most important conclusions from this study are that economic crime (such as fraud and corruption) has an impact on taxation in South Africa, that economic crime offences ignore any possible taxation consequences and that the type of the economic crime being perpetrated is a function of the opportunities available to a potential offender.

The majority of the respondents (both economic crime offenders and role-players in the field of the prevention, detection and prosecution of fraud, corruption and tax related offences) indicated that law enforcement, prosecution and sentencing practices are not adequate in South Africa. However, the majority of both groups of respondents also indicated that current laws and regulations are adequate to address economic crime in South Africa. This could be interpreted as a vote of confidence in current laws and regulations but an indication that it should be applied more effectively in the fight against economic crime.

Within the legal framework of the criminal justice system and the various taxation laws and regulations in South Africa, there are always opportunities for people to come into conflict with the law. This study was also undertaken to investigate an economic crime offender's perceptions of fraud, corruption and tax-related offences. In total 82 economic crime offenders, serving a prison term for their offences, completed a questionnaire and were personally interviewed in a semi-structured interview comprising pre-set questions. The study demonstrated that there is a correlation between an economic crime offender's level of education and the monetary extent of the perpetrated

offence. In perpetrating an economic crime, the offender is only concerned about the immediate financial reward, disregarding any possible consequences such as taxation or prosecution. To prevent fraud, corruption and tax-related offences, the motivation to commit such crimes should be eliminated or reduced. Fraudsters weigh up the individual risks and rewards of their criminal behaviour, and for that reason, their future conduct can be modified with appropriate rehabilitation and anti-economic crime education programs. Consequently, this study has vital implications for reformulating appropriate rehabilitation programmes for economic crime offenders. Economic crime offenders should be subject to an anti-economic crime education program in which the consequences of perpetrating economic crime in general on the economy and tax revenue could be conveyed to such offenders. Rehabilitation programs designed and developed specifically for economic crime offenders should be implemented at correctional institutions.

Key words: corporate governance, corruption, economic crime offender, ethics, fraud, money-laundering, morality, tax avoidance, tax conduct, tax evasion, tax fraud, tax planning and white-collar crime

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CHAPTER 1

INTRODUCTION TO A FINANCIAL AND MORAL PERSPECTIVE OF THE IMPACT OF ECONOMIC CRIME ON TAXATION

1.1 INTRODUCTION

Economic crime has managed to infiltrate virtually all spheres of life. The public and private sectors cannot only testify to the existence of this many-headed monster but also bear the scars of the impact of economic crime in general. Economic crimes such as fraud, corruption, money laundering and tax evasion may have a distinct financial and moral impact on South Africa in general. For the purpose of this study it will be assumed that a perpetrated economic crime will be financially related and being financially related, will have a certain impact on taxation in general.

Pedneault (2009:xii) states that “fraud has become a growth industry and not only for the perpetrators”. Fraud and corruption are on the increase. Pedneault (2009:xi) also states that according to the Association of Certified Fraud Examiners’ 2008 *Report to the Nation on occupational fraud and abuse* “approximately 7% of an entity’s gross revenue is lost to fraud”. Economic crime offenders may look for opportunities, take advantage of perceived shortcomings in control environments and exploit the situation (Doig, 2006:229).

Economic crime seems to have been around since time immemorial. Bishop and Hydoski (2009:3) contend that fraud may have existed in various forms since the formation of early societies. Weisman (2008:ix) states that “scams and fraud have been part of history since the dawn of time”. Growing attention is paid to shadow economies (the informal economies) and related issues such as tax evasion and corruption (Pickhardt & Shinnick, 2008:3).

Economic crime is not restricted to just certain parts of an economy. In this regard, Pedneault (2009:xii) states that “fraud is not limited to large international corporations like WorldCom and Enron” and is also of the opinion that “fraud can and does occur in any size company or organization, large or small, regardless of their for-profit or non-profit status, and in every industry” Economic crimes may take on various forms such as fraud, corruption or tax evasion in order to impoverish the victim and enrich the perpetrator.

According to Turner (2008:7), fraud may include various forms of deception, carried out by an economic crime offender for a personal financial gain and at the expense of the victim.

Winter (2008:5) states that “if the benefit of a crime outweighs its cost, it may be in society’s best interest to encourage that crime”. Winter merely makes the disputable comment that if the benefits from crime may exceed its costs it may be worthwhile to promote it in society as it does seem to pay good dividends to the perpetrators. The comment of Winter is contentious especially in the light of moral values. Various deterrence measures in the form of regulations, laws and controls have been implemented to prevent the occurrence of economic crimes. Despite all these measures in place economic criminals operate very effectively. Bishop and Hydoski (2009:5) contend that it is “unlikely that we will ever be able to eliminate fraud and corruption completely”.

The main purpose of perpetrating an economic crime is therefore to obtain some kind of gain or benefit. It can be argued that a financial incentive of some kind may be the main driving force behind the perpetration of an economic crime. When fraud or corruption is perpetrated, taxation may come into play in some way or another. Depending on the nature and extent of an economic crime perpetrated, the South African Revenue Service (SARS) might be deprived of tax revenue of one or more of the taxes administered and collected by SARS, for example income tax, capital gains tax, value-added tax, employees’ tax and customs and excise duties and levies (being some of the tax types administered and collected by SARS) (<http://www.sars.co.za/home.asp?pid=161>).

The perpetration of an economic crime may cause a financial or other loss to a victim and yield a financial or other gain for the perpetrator. For the purpose of this study attention will only be focussed on scenarios where economic crimes are financially related. Thus, when a financially-related economic crime is perpetrated by a fraudster, certain taxation consequences may result from such criminal behaviour.

Economic crimes seem to have become part of the day-to-day lives of the public and private sector. Numerous media reports in various South African newspapers and financial magazines and television coverage confirm the existence of economic crimes. Levi (2008:xxviii) observed that the role of the media “is important in alerting the public to fraud risks”. It is therefore important to determine why economic crime offenders perpetrate such

crimes and whether they consider any possible taxation consequence that may result from their criminal conduct. From the literature reviewed, no specific study could be found regarding an economic crime offender's perception on fraud, corruption and tax-related offences. The question that arises is whether fraudsters perpetrate fraud or corruption to conceal taxation consequences or do the taxation consequences merely result from the perpetration of fraud or corruption?

Zack (2003:xv) comments that reports of fraud and abuse appear almost daily in the media and this fact is substantiated by the electronic and printed media, covering fraud and corruption scoops virtually on a daily basis. The following media articles underline this statement:

- “Murky mineral deals in Guinea” – *Business Day*, 23 November 2012, page 12.
- “Man in court for R50m credit hack” – *Saturday Star*, 24 November 2012, page 6.
- “Exam paper fraud trial under way” – *Pretoria News Weekend Saturday*, 24 November 2012, page 3.
- “Public works over-prices: Nxesi” – *The Citizen Saturday*, 24 November 2012, page 14.
- “FSB passes the buck on Ponzi scams” – *Saturday Star Personal Finance*, 24 November 2012, page 1.

Geis (2007:104) observes that “the decline in taxes paid by corporations is in some considerable measure the result of fraud that goes undetected”. Beesley in Péteri (2008:116) contends that the elimination or even the reduction in economic crimes will assist a tax administration in its efforts to increase the tax base and ensuring that all taxes are paid. However, economic crimes may never be eliminated because such crime offenders have no regard for their victims and only focus on the financial rewards of their economic crimes. However, a pro-active risk management plan in the form of preventative measures and corporate ethics could act as an effective countermeasure to manage the levels of economic crimes in general.

1.1.1 Background to the research area

Economic crime continually occurs despite the many deterrence measures in place to prevent it; therefore this research looked beyond economic crime in general. If deterrence measures alone do not have the desired impact on the occurrence of economic crime in general, could morality or ethics be employed to assist in this regard? Pedneault (2009:20) states that acting ethically “which historically entailed a single set of standards for defining how one should act appropriately in any situation, has devolved into today’s mind-set of *situational ethics*, in which the most appropriate way to act depends on each specific situation”. Bishop and Hydoski (2009:3) contend that “fraud continues to be an inevitable and unpleasant component of modern life”. Burke and Cooper (2009:4) propose that “individuals are obviously not all created equal as far as engaging in unethical behaviour is concerned”. People are creatures of habit and like to follow set patterns. Thus, if good corporate ethics and morality can be established and adhered to in the public and private sectors in general, it may well have a positive impact on the occurrence of economic crimes.

The perpetrator of an economic crime may only be concerned with the possible direct or indirect financial gain he may derive from his fraudulent action. (Please note that the use of the pronominal “he” and its variants is not intended to express any gender bias and includes both sexes.) Any possible taxation consequences that may result from perpetrating an economic crime might be disregarded by the fraudster. This disregard may be intentional or unintentional. It would be intentional if the fraudster can be labelled as a “professional fraudster”, being someone who is knowledgeable on taxation and financial matters in general and who can foresee the possible taxation consequences his criminal behaviour may cause. An opportunistic fraudster, being someone grasping an opportunity to commit fraud or corruption, may cause an unintentional taxation consequence without realising that fact. The opportunistic fraudster can be uninformed on taxation and financial matters and may therefore not be able to foresee any possible taxation consequences resulting from his criminal behaviour. He may be more concerned about the potential financial gain resulting from his fraudulent actions than paying attention to any possible taxation consequences that may result.

1.1.2 Literature review

Economic crimes (such as fraud and corruption for example) seem to have become part of the daily lives of people in the public and private sector. Numerous media reports in various South African newspapers and financial magazines such as the *Business Day*, *Saturday Star*, *Pretoria News Weekend Saturday*, *The Citizen* and *Saturday Star Personal Finance* and television coverage confirm the existence of economic crimes. The various forms of these crimes and the various methods employed by the perpetrators of such crimes underline the importance of this study. Bishop and Hydoski (2009:5) contend that there are “accelerating factors involved in the prevalence of fraud and corruption in the contemporary world” and these factors include “changing social norms, the democratization of finance, and the unintended consequences of two decades worth of market deregulation”. Fraud, corruption, aggressive tax avoidance and tax evasion also seem to disregard set boundaries such as state borders, legal compliance structures and revenue authorities, to name but a few (Visser, McIntosh & Middleton, 2006:75). The public and private sector may have accepted that their defence and control structures will be tested with possible fraud or corruption attempts by fraudsters operating from inside or outside an organisation. Fraud or corruption cannot be eliminated, but it can be reduced (Wells, 2003d:36).

From the literature review conducted it was established that fraud or corruption is generally perpetrated internally (defrauding an entity) or externally (defrauding third parties or clients, for example), by management, employees or other third parties (Bishop & Hydoski, 2009:4; Wells, 2002b:3 and Robertson, 2002:73 & 105). Victims of fraud may include company directors, managers, employees (all being internal victims) and investors, creditors, suppliers and customers (all being external victims) (Robertson, 2002:105). Robertson (2002:39) contends that there are two types of fraudsters, namely amateurs (the decision to perpetrate fraud is largely driven by an opportunity) and professionals (making the bulk of their income through law violations). Wells (2003c:7) stated that there is an increase in “crooked customers, vendors and other outsiders” getting involved in economic crimes against companies. Pickett (2007:9) observed in this regard that it becomes problematic when an outsider (such as a vendor or a customer) colludes with an employee of a company to perpetrate fraud against the company. The literature reviewed indicated that the position a person holds within an entity and the financial control exercised in each position contributes towards the ultimate fraud/corruption loss the entity may experience

(Henderson, 2001:17). The financial impact of fraud/corruption perpetrated by an employee will be small in comparison with fraud/corruption being perpetrated by management (Henderson, 2001:17).

The literature reviewed defines the concepts “fraud” and “corruption” in various ways. Most of these literature sources reviewed indicate that fraud is an intentional or deliberate act by a fraudster (the perpetrator) to deprive someone (the victim) of property or money by deception or any other unfair means to obtain an unlawful gain (Robertson, 2002:5). Corruption, on the other hand, is explained in the literature as the abuse of entrusted power (someone acting in his capacity as a fiduciary) to obtain a private gain (Van Vuuren, 2004:11). The real issue here is the illegal gain obtained by the fraudster by perpetrating fraud or corruption. Being financially related, the illegal gain obtained by the fraudster may also have a certain taxation consequence.

A taxpayer has a right to plan his tax affairs within the ambit of the applicable tax laws to pay the least possible tax (Raabe & Parker, 1985:114). If permissible tax planning cannot yield the required result for a taxpayer, would he be prepared to employ tax evasion (illegal) or worse, tax fraud (criminal), to address his adverse tax position?

In the judgement of Lord Tomlin, in the UK House of Lords case, *IRC v. Duke of Westminster* (1936) 19 TC 490 [1936] AC 1, he made the following statement (<http://www.economicexpert.com/a/Tax:evasion.html>):

“Every man is entitled if he can to order his affairs so that the tax attaching under the appropriate Acts is less than it would otherwise be. If he succeeds in ordering them so as to secure this result, then, however unappreciative the Commissioner for Inland Revenue or his fellow-taxpayers may be of his ingenuity, he cannot be compelled to pay an increased tax.”

Bishop and Hydoski (2009:xxv) contend that managing the risks of fraud and corruption effectively “requires the involvement and commitment from employees, managers, and executives in every part of the company”. Bishop and Hydoski (2009:xxv) also argue that “managing fraud and corruption risks also requires a level of commitment from partners and allies outside of your company”. Thus, government, with the legal backing of numerous

institutions, departments, professional bodies, commerce and industry, and the general public, may be able to handle the current high levels of economic crime in South Africa.

1.1.3 Motivation of topic actuality

Regardless of the many regulatory, legal and other measures in place to address economic crimes in general in South Africa and globally, they still occur with devastating financial effects in some cases. Fleming and Zyglidopoulos (2009:2) observe that “some people are corrupt by nature and if given half the opportunity and/or a conducive environment, they will break the rules”. Eicher (2009:1) comments that “people everywhere are more concerned than they ever have been about corruption and business ethics”. Bracking (2007:3) comments that “people have been urged to ‘fight’ corruption, to ‘combat’ its causes and effects, to wage a ‘war’ against the degradation of the social fabric, and to rally around a moral standard of integrity and principle”. Pickhardt and Shinnick (2008:81) state that “independent journalists have a strong incentive to investigate and uncover stories of wrongdoing”. Mbaku (2007:146) comments that “press accounts of corruption have educated civil society and encouraged the latter to seek ways to demand more transparency and accountability in the public sector”.

Franklin Delano Roosevelt (as quoted by MacDonald & Hughes, 2009:vii), spoke the following words upon accepting the Democratic presidential nomination to become the President of the United States of America during the Great Depression:

“Out of every crisis, every tribulation, every disaster; mankind rises with some share of greater knowledge, of higher decency, of proper purpose. Today we shall have come through a period of loose thinking, descending morals, an era of selfishness, of individual men and women and of whole nations. Blame not governments alone for this. Blame ourselves in equal share. Let us be frank in acknowledgement of the truth many amongst us have made obeisance to Mammon, that profits of speculation the easy road without toil, have lured us from old barricades. To return to higher standards we must abandon the false prophets and seek new leaders of our own choosing.”

In an ever changing world and with the globalisation of the world economies, economic criminals follow suit and adapt their methods and schemes all the time. The recent world financial crisis alerted regulators and guardians of the global financial systems to keep pace with economic challenges. The words of Franklin Delano Roosevelt, as quoted above, are appropriate and can be applied to a new approach towards tackling the financial and moral perspective of the impact of economic crimes.

From a Christian perspective, fraud, corruption and possible related taxation consequences, are viewed in a strong light. The following quotations from the Comparative study Bible underline this:

- Peter 2:19: (NIV, 1999:3151) “– for a man is a slave to whatever has mastered him.”
- Deuteronomy 16:19: (NIV, 1999:503) “Do not accept a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous.”
- Ecclesiastes 7:7: (NIV, 1999:1681) “Extortion turns a wise man into a fool, and a bribe corrupts the heart.”
- Proverbs 10:9 (NIV, 1999:1611) “The man of integrity walks securely, but he who takes crooked paths will be found out.”
- Proverbs 22:5: (NIV, 1999:1641) “In the paths of the wicked lie thorns and snares, but he who guards his soul stays far from them.”
- Proverbs 29:4: (NIV, 1999:1659) “By justice a king gives a country stability, but one who is greedy for bribes tears it down.”

Hartley (2008:xiv) quoted the following Cree Indian Prophecy in the Preface of his book “Corporate crime”:

*“Only after the last tree has been cut down;
Only after the last fish has been caught;*

*Only after the last river has been poisoned;
Only then will you realize that money cannot be eaten."*

One can deny the existence of economic crime and may make no effort in handling it proactively. Or one may acknowledge the existence thereof and realise the potential financial danger it may hold if not handled appropriately. Deeply embedded into this quoted Indian Prophecy the core of economic crime may be founded. Hartley (2008:xi) contends that "numerous laws and regulations have been enacted and implemented in attempts to curb incidents of corporate offending but with increased globalization and decreased government funding to combat corporate crime, little progress is being made".

The perpetration of an economic crime may cause a financial or other loss to a victim and yield a financial or other gain for the perpetrator. For the purpose of this study attention was only focused on scenarios where economic crimes were financially related. Thus, when a financially-related economic crime is perpetrated by an economic crime offender certain taxation consequences may result from such criminal behaviour. The perpetrator of fraud or corruption may only be concerned with the possible direct or indirect financial gain he may derive from his fraudulent action. Any possible taxation consequences that may result from perpetrating fraud or corruption may be disregarded by the fraudster. This disregarding may be intentional or unintentional. If an economic crime offender perpetrates fraud or corruption, does he consider any possible taxation consequences that may result from such criminal behaviour? Are the possible taxation consequences resulting from an economic crime offence merely regarded as a coincidental consequence by the fraudster?

1.2 PROBLEM STATEMENT

From the above the following problem statement can be formulated: What is the financial and moral perspective of the impact of economic crime on taxation?

1.2.1 Research questions

The following eleven research questions (A to K), relating to each of the research objectives below, have been formulated and will be dealt with in more detail in chapters 6 and 7:

1.2.1.1 Question A (related to secondary research objective 3)

Are law enforcement, prosecution and sentencing practices adequate?

1.2.1.2 Question B (related to secondary research objective 5)

Will steps to prevent economic crime and sound management minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences?

1.2.1.3 Question C (related to secondary research objective 6)

What are the main reasons for perpetrating fraud, corruption or tax evasion?

1.2.1.4 Question D (related to secondary research objective 3)

Are current laws and regulations adequate to deal with fraud, corruption and tax conduct in general?

1.2.1.5 Question E (related to secondary research objective 4)

Is fraud or corruption being perpetrated without taking into account any possible taxation consequences that might occur as a result thereof?

1.2.1.6 Question F (related to secondary research objective 4)

Is the perpetrator of fraud or corruption aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions?

1.2.1.7 Question G (related to secondary research objective 4)

Does the perpetration of fraud or corruption have an impact on taxation in South Africa?

1.2.1.8 Question H (related to secondary research objective 6)

Is the type of fraud or corruption being perpetrated a function of the opportunities available to the potential offender?

1.2.1.9 Question I (related to secondary research objective 5)

Would morality and sound principles, for example such as strong corporate ethics, impact positively on the occurrence of fraud, corruption and any possible related taxation consequences?

1.2.1.10 Question J (related to secondary research objective 4)

Could the perpetration of fraud, corruption and tax evasion be influenced by the cost to comply with all the tax administration requirements in South Africa?

1.2.1.11 Question K (related to secondary research objective 4)

Does the prospective fraudster have any concern that his fraud or corruption could be detected and that he could eventually be prosecuted for the perpetration of the fraudulent action?

1.3 RESEARCH OBJECTIVES

1.3.1 Main objective

Modern society, with its complex financial systems and variety of legislative and regulatory bodies, does not seem to stop economic crime offenders from continuing with their fraudulent activities. The driving forces for perpetrating fraud or corruption may contribute to establish whether there is indeed any relationship between fraud, corruption and taxation in general. By researching in general at which level economic crime may be perpetrated, by whom it may be perpetrated, how it may be perpetrated and on whom it may be perpetrated, it would be possible to establish whether any relationship exists between fraud, corruption

and taxation in general. The purpose of this study was to investigate the financial and moral perspective of the impact of economic crime.

An in-depth study was done to determine the financial and moral perspective of the impact of economic crime on taxation. The possible impact of corporate ethics and personal moral values on the occurrence of economic crime in general were also investigated. If a fraudster perpetrates fraud or corruption that is financially related, the direct victim may experience a financial loss (a primary loss) and SARS may experience a loss in tax revenue (a secondary loss) as a result thereof.

1.3.2 Secondary research objectives

The secondary research objectives of this study are the following:

1.3.2.1 Objective 1

To determine the general perspective on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud. (This will be discussed in detail in chapter 2.)

1.3.2.2 Objective 2

To determine the types of economic crimes such as fraud, money laundering, white-collar crime and corruption that are perpetrated and how such crimes can be prevented, detected and handled. (This will be discussed in detail in chapter 3.)

1.3.2.3 Objective 3

To determine if the involvement of the churches/community/society as well as morality, can have an impact on the occurrence of economic crimes in general. (This will be discussed in detail in chapter 5.)

1.3.2.4 Objective 4

To determine if law enforcement, prosecution and sentencing practices and current laws and regulations, are adequate to handle fraud, corruption and tax conduct in general. (This will be discussed in detail in chapters 6 and 7.)

1.3.2.5 Objective 5

To determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated. (This will be discussed in detail in chapters 6 and 7.)

1.3.2.6 Objective 6

To determine if steps to prevent economic crime and sound management of fraud and corruption on the one hand and morality and sound principles, for example such as strong corporate ethics, on the other hand, could minimise or reduce the possible negative financial impact it may have in South Africa. (This will be discussed in detail in chapters 5, 6 and 7.)

1.3.2.7 Objective 7

To determine the main reasons for perpetrating fraud, corruption or tax evasion and if the type of fraud or corruption that is perpetrated in general may be a result of the opportunities available to a potential offender and if the potential offender may have any concern for his fraudulent actions. (This will be discussed in detail in chapters 5, 6 and 7.)

1.4 RESEARCH METHOD

1.4.1 Research design

Research was done by way of surveys of which a portion was done via semi-structured interviews analysed using quantitative methods and the rest analysed by open coding.

Ryan, Scapens and Theobald (2002:11) state that the central problem of epistemology “is to decide how we can acquire knowledge”. Humphrey and Lee (2008:233) describe epistemology as “how knowledge is to be understood”. Ryan *et al.* (2002:13) view ontology as “the study of existence” and Humphrey and Lee (2008:233) define ontology as “the assumptions made about the nature of reality”.

The research method for this study is positivistic because, according to Ryan *et al.* (2008:8), “it claims to give reliable and empirically sustainable answers to questions” that were used in the measuring instruments (questionnaires and personal interviews) for this study. For this study data was collected and statistical analysis was done on the collected data to determine the financial and moral perspective of the impact of economic crime on taxation. The statistical analysis was also used to determine relationships between variables.

This research was twofold: a literature review and empirical. Leedy and Ormrod (2010:94) contend that quantitative research “involves the looking at amounts, or quantities, of one or more variables of interest” using questionnaires as a measuring instrument for example to collect data. In the literature review taxation was investigated by looking into tax conduct, tax planning, tax avoidance, tax evasion and tax fraud. A taxpayer has a right to plan his tax affairs in line with prevailing tax legislation in order to reduce a known or calculated tax liability. However, tax planning, when employing illegal measures such as tax evasion or tax fraud, bridges the gap between the permissible and the criminal realm of “tax planning”. The secondary research objective stated in section 1.3.2.1 was addressed.

The concepts of fraud, corruption, money laundering, white-collar crime and corporate governance were investigated during the literature review. The main reasons for perpetrating these crimes, the prevention and detection thereof and the possible taxation consequences that may result from perpetrating such crimes, will also be investigated. Measures to combat these economic crimes were also investigated. The secondary research objective stated in section 1.3.2.2 was addressed.

The empirical quantitative part of the study comprised three questionnaires addressed to various respondents. The data collected with the three questionnaires were statistically analysed. Leedy and Ormrod (2010:189) contend that “participants can respond to questions with assurance that their responses will be anonymous”. The other empirical part

of the study comprised interviews conducted with sentenced economic crime offenders and role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa. As suggested by Leedy and Ormrod (2010:149-152), the interview questions was identified in advance, a suitable location was found to conduct the interviews, written permission was obtained where applicable, the questions were focussed on the actual rather than the abstract or hypothetical, and responses were recorded verbatim.

Beattie (2010:92) contends that an individual may act in a manner befitting his own moral ontology and when such an individual is faced with new and challenging decisions he may seek counsel from other more knowledgeable persons. Thus, the purpose of the “Morality questionnaire” was to establish the perceptions and observations of the respondents regarding morality issues associated with fraud, corruption and tax evasion in general.

To investigate the perceived interaction between fraud, corruption and taxation in general, three questionnaires (using primary data as part of a quantitative study) were developed and distributed to a representative sample of respondents. The questionnaires represented the empirical investigation aspect of the study. The main reason for the three questionnaires, as part of the financial and moral perspective of the impact of economic crime on taxation survey, was to deal with certain relevant issues pertaining to fraud, corruption and taxation in general, taking into account the respondent's level of expertise, experience, knowledge and involvement in preventing, detecting or handling fraud, corruption and/or related taxation consequences and the morality issues associated with such transgressions. The three questionnaires were designed to deal with the main research objective, the secondary research objectives and the research questions in sections 1.3.1, 1.3.2 and 1.2.1 above.

The first questionnaire (with a projected sample size of 185 respondents) (Appendix A) comprising 20 questions attempted to handle the morality issues associated with fraud, corruption, tax planning, tax avoidance and tax evasion in general. This questionnaire was directed at respondents acting as leaders or role-players in their communities who may also act as value formers in those communities.

The second questionnaire (with a projected sample size of 600 respondents) (Appendix D) comprising 66 questions was directed at role-players involved in the prevention, detection

and addressing of fraud, corruption and related taxation consequences in South Africa. This questionnaire was designed and developed after conducting personal interviews with the following role-players: ministers from different church congregations, a psychologist, a criminologist, and senior executives of the Financial Services Board, senior SARS officials, an official of the South African Banking Risk Information Centre, a fraud examiner and an official of the Special Investigations Unit.

The third questionnaire (being similar to but a scaled down version of the second questionnaire) (Appendix C) comprising 38 questions from the second questionnaire, were answered by economic crime offenders jailed for their offences related to the perpetration of fraud or corruption, or committing tax-related offences.

1.4.2 Participants/data source

The first questionnaire (labelled “Morality questionnaire”) aimed to determine the morality issues associated with fraud, corruption, tax planning, tax avoidance and tax evasion in general. This questionnaire was circulated to members of the general public and leaders or role-players in the churches/community/society.

The first questionnaire was developed after conducting personal interviews with various leaders and role-players in the churches/community/society. Personal interviews with selected respondents, affords opportunities to become aware of certain facts, opinions and beliefs that may vary among particular persons in particular circumstances regarding fraud, corruption and possible related taxation consequences. This assisted the researcher in finalising the questions included in the three questionnaires.

For the second questionnaire (being web-based) a representative sample of respondents (the projected sample size was 600 respondents) to this study was selected from the following populations:

- members of the auditing and accounting profession;
- members of the legal profession including attorneys and lawyers;
- fraud examiners;
- internal auditors;

- South African Revenue Service (SARS);
- South African Banking Risk Information Centre (SABRIC);
- the public prosecutor; and
- the crime prevention and detection unit of the South African Police Service (SAPS).

The third questionnaire involved the participation of economic crime offenders jailed for their offences related to fraud, corruption and taxation in general. Each offender interviewed answered 17 pre-set interview questions as well as completing the third questionnaire. All offenders participated voluntarily in this research project and were under no obligation to complete the questionnaire or be interviewed.

In all, 63 male offenders and 19 female offenders participated. This study attempted to evaluate the commitment of all relevant role-players in preventing, detecting and dealing with fraud, corruption and related taxation consequences in South Africa.

The second questionnaire, being more technical in nature, attempted to determine if there is any intentional relationship between the perpetration of fraud or corruption and any possible taxation consequences resulting from such criminal behaviour. All the questionnaires were designed to deal with the secondary research objectives and research questions identified in sections 1.3.2 and 1.2.1.

1.4.3 Measuring instruments

The questionnaires were used to address the main and secondary research objectives and the research questions through the responses received from the research respondents. Due to the nature of the research topics, the respondents in this research project may base their responses on their own perceptions and/or working or personal experiences relating to fraud, corruption and taxation in general.

Personal interviews were conducted on a one-to-one basis with respondents from the proposed research groups. In a one-to-one interview it was possible to pose the questions from the questionnaires in person to the respondent. The direct personal contact with the respondents in a friendly environment provided a great input and research base for this study. During a personal interview in the comfort of a respondent's own office, the

respondent may expand on certain questions and issues raised during the personal interview. Leedy and Ormrod (2010:151) propose that the purpose of an interview is to gain information from an interviewee without the interviewer also revealing his own perspectives. The interviews can be used to find other possible attributes that may further qualify the problem statement. The outcome of the interviews may also be used to verify the test results obtained from the completed questionnaires.

1.4.4 Statistical analysis

The data collected with the three proposed questionnaires was analysed by the University of South Africa's Bureau of Market Research (BMR), using special computer-aided software (PASW Statistics 18 – released 30 July 2009) for the analysis of qualitative data which was used as a “tool” to aid in the management of textual data, for the storage and retrieval of information, as well as other functions that this computer-aided software offers. Various statistical ratios and data relationships were calculated for each of the 11 research questions in section 1.2.1. Some of the statistical ratios and relationships calculated included Cronbach's alpha, the mean and standard deviation for each question, correlations transformed variables and discrimination measures.

Wherever possible, all the personal interviews conducted with research participants was recorded on a digital voice recording device and saved as a “Windows Media Audio file”. Content analysis was done on the verbatim transcriptions of the interviews conducted. The results of the questionnaires and the interviews conducted were integrated for the purpose of this research.

1.4.5 Ethical considerations

Care was taken with the design, initial pilot testing, measuring instruments (access to data processing software), defining the research group, validity of procedures, quality control, the ethical aspects surrounding the proposed study and obtaining approval for it, the expected outcomes of the study and funding of the project. Unisa's Bureau of Market Research provided assistance in designing, evaluating and processing the questionnaires. Fraud, corruption and related taxation consequences (such as tax evasion and tax fraud) is a very

sensitive issue and great caution was exercised in collecting, processing, interpreting and communicating the research data.

Owing to the nature of this research involving sentenced economic crime offenders, the necessary authorisation and permission was obtained from the Department of Correctional Services (DCS). Permission was granted on the basis that any information acquired from participating offenders would be used in a balanced and responsible manner, taking into account the perspectives and practical realities of the DCS in the research results. A formal research agreement had to be signed with the DCS. The researcher obtained permission to conduct personal interviews with the economic crime offenders and for them to complete a manual version of the questionnaire (being a scaled down version of the questionnaire completed by role-players involved in the prevention, detection and addressing of fraud, corruption and related taxation offences). For the purpose of this research, such personal interviews (consisting of 17 pre-set questions) and completed questionnaires was of great value to the outcome of this research. Due to the sensitivity of such personal interviews the prospective participants was not identified.

The jailed economic crime offenders' responses were only used for this research and they were under no obligation to participate in this research project. All interviews conducted with jailed economic crime offenders were conducted in the presence of a DCS official.

Communicating the research results is objective, unbiased, non-incriminating and all respondents are kept anonymous. Caution was exercised with the receiving and processing of completed questionnaires and the subsequent communication of the research results. None of the respondents to this study were remunerated for their participation. They participated on a voluntary basis only and were assured of the confidentiality of their participation and responses.

1.5. A FURTHER EXPOSITION OF THE STUDY

1.5.1 Chapter 2: A general perspective from tax conduct to tax fraud

A detailed literature review of text books on taxation, South African and International journals, the internet and other related literature will be conducted. This literature review will focus primarily on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud and will also deal with the secondary research objective outlined in section 1.3.2.1.

1.5.2 Chapter 3: Economic crime: definitions, probable causes and means of prevention

A detailed literature review of text books on fraud, money laundering, white-collar crime, corruption and corporate governance, South African and international magazines, the internet and other related literature will be conducted. This literature review will focus primarily on fraud, money laundering, white-collar crime, corruption and corporate governance and will also deal with the secondary research objective outlined in section 1.3.2.2.

1.5.3 Chapter 4: The research methodology and empirical investigation

The research methodology and empirical investigation followed will be discussed in depth in this chapter.

1.5.4 Chapter 5: Analysis of the research results regarding the Morality questionnaire

The research results from the morality questionnaire will be presented and discussed in this chapter. The completed questionnaires received from respondents were processed using specialised computer software. The main purpose of the Morality questionnaire was to deal with morality issues associated with fraud, corruption and taxation in general and the secondary research objectives outlined in sections 1.3.2.3, 1.3.2.6 and 1.3.2.7.

1.5.5 Chapter 6: Personal interviews and questionnaire conducted with sentenced economic crime offenders

The results of the personal interviews conducted with 82 economic crime offenders jailed for economic crime offences related to fraud, corruption and the questionnaires completed by them will be discussed in this chapter. The completed questionnaires received from the offenders were evaluated and interpreted using specialised computer software. The secondary research objectives formulated in sections 1.3.2.4 to 1.3.2.7 and the eleven research questions as stated in sections 1.2.1.1 to 1.2.1.11 were tested using the responses from the economic crime offenders. The reliability and validity of the research results will be also discussed. Any other findings that come to the fore in this study will be mentioned and emphasised.

1.5.6 Chapter 7: Fraud, corruption and related taxation consequences questionnaire addressed to role-players in the field of the prevention, detection and prosecution of fraud, corruption and related taxation offences

A second questionnaire (being web-based) comprising 66 questions were directed at role-players involved in the prevention, detection and addressing of economic crime offences such as fraud, corruption and related taxation consequences in South Africa. The results of this questionnaire will be discussed in this chapter. The completed questionnaires received from respondents were evaluated and interpreted using specialised computer software. The secondary research objectives formulated in sections 1.3.2.4 to 1.3.2.7 and the research questions outlined in sections 1.2.1.1 to 1.2.1.11 will be tested using the responses from the respondents. The reliability and validity of the research results will be also discussed. Any other findings that come to the fore in this study will be mentioned and emphasised.

1.5.7 Chapter 8: Summary of study results, conclusions and recommendations

In this chapter the conclusions, based on the research results obtained from this study and any relevant recommendations, resulting from this study, will be discussed. Furthermore the summarised results of this study will be conveyed as well as a review of this study. Suggestions for future strategies for preventing, detecting and addressing economic crimes in a holistic manner will be presented.

To commence the investigation of a financial and moral perspective of the impact of economic crime on taxation, it is important to have a meaningful discussion of tax conduct, tax planning, tax avoidance, tax evasion, tax fraud, white-collar crime, fraud, money laundering, corruption, corporate governance, ethics and morality and this will be handled in chapters 2 and 3.

CHAPTER 2

A GENERAL PERSPECTIVE FROM TAX CONDUCT TO TAX FRAUD

2.1 INTRODUCTION

This chapter is necessary to investigate the possible relation in general between taxation and economic crimes such as fraud and corruption. When an economic crime has been perpetrated taxation may be a direct or indirect consequence of such action. Thus, from a tax perspective, probably the most difficult issue to deal with is whether there are any moral limits to the steps or procedures one may take to reduce tax. Stephens, Vance and Pettegrew (2012:17) argue that the decline in ethics “is largely cultural and appears to be as closely associated with a failing system of morality”. Dal Bó and Terviö (2008:3) contend that the individual does not directly select his action, but his intent. In this regard McGee (2012:35) argues that if we have a duty to pay taxes, to whom do we owe such a duty?

One of the fundamental questions of modern society is to find a balance between the forbidden and the permissible for tax purposes. To what lengths would a taxpayer go to minimise his ultimate tax liability? Dennis-Escoffier and Fortin (2007:2) view tax as a “forced payment to a governmental unit” being “unrelated to the goods or services provided”. The real challenge is how does a taxpayer align himself in his interaction with the tax authorities without moving into the illegal realm such as tax evasion or tax fraud? McGee (2012:43) is of the opinion that there is a “moral duty to pay taxes” where the state “limits its activities to the defence of life, liberty, and property”.

There often seems to be confusion about the difference between fraud and white-collar crime. White-collar crime is referred to as commercial or economic crime. An element of fraud is generally present in most white-collar schemes, but white-collar crimes can go much further than fraud and include corruption, forgery, theft and complicated statutory offences. In the South African criminal law, fraud is a separate crime and is viewed as one of many different types of white-collar crime (<http://www.ethicsa.org.za>).

Within the United States of American the legal definition of white-collar crime includes a multitude of crimes for example computer/internet fraud, credit card fraud, healthcare

fraud, environmental law violations, insurance fraud, financial fraud, insider trading, bribery, money laundering, embezzlement, kickbacks and also tax evasion (<http://definitions.uslegal.com/w/white-collar-crime/>).

Brooks and Dunn (2012:486) contend that one of the challenges facing all organisations is the “prospect of unethical employees” who may commit acts of fraud or white-collar crime. Brooks and Dunn (2012:487) suggest that an understanding of the circumstances “leading to and enabling fraud and white-collar crime, and the motivation for it” may provide a useful foundation for preventative measures. Economic crimes (white-collar crime and fraud) will be discussed in chapter 3.

The main objective for this study (refer to section 1.3.1 in chapter 1) is to determine if there is any relationship between economic crime (white-collar crime and fraud) and taxation in general on the one hand and the taxation consequences on the other. In this chapter the terms “tax conduct”, “tax planning”, “tax avoidance”, “tax evasion” and “tax fraud” will be discussed. Before any of the stated terms will be discussed, tax ethics and morality will be addressed. McGee (2012:47) observed that “morality can only exist when there is a choice” but that the payment of tax is neither moral nor immoral. As tax ethics and morality could determine a taxpayer’s perspective regarding tax conduct, tax planning, tax avoidance, tax evasion and tax fraud in general, this topic is discussed.

2.2 TAX ETHICS, TAX MORALITY AND TAX CONDUCT

The Collins English dictionary and thesaurus (2006:772) explains the word “moral” as being concerned with or relating to human behaviour, especially the distinction between good and bad or right and wrong behaviour. The word “moral” is explained as “adhering to conventionally accepted standards of conduct, based on a sense of right and wrong according to conscience”. Other words used to explain the word “moral” include good, right, principled, pure, decent, proper, noble, ethical, honourable, honest, righteous, blameless and incorruptible (Collins English dictionary & thesaurus, 2006:772).

“Morality” is described as the “quality of being moral, the conformity, or degree of conformity, to conventional standards of moral conduct, or a system of moral principles”. Other words used to describe morality include justice, principles, morals, honour,

integrity, goodness, honesty, decency, fair play, righteousness, and good behaviour (Collins English dictionary & thesaurus, 2006:772).

The South African Constitution, in section 7 of Chapter 2 (Bill of Rights) stipulates that the Bill of Rights is a cornerstone of democracy in South Africa and it enshrines the rights of all people in South Africa and also affirms the democratic values of human dignity, equality and freedom. However, section 36 of Chapter 2, specifically states that the rights, as outlined in the Bill of Rights, may be limited in terms of the law, provided it is reasonable and justifiable in an open and democratic society.

Wilson and Gall (2008:42) observe that there is an increasing emphasis on tax transparency and meeting tax compliance requirements in tax jurisdictions in a manner that meets the relevant tax laws and the tax authority's expectations is a challenge. Any tax system requires taxpayers to supply information to tax authorities. Taxation in general also relies upon voluntary compliance and honesty, backed by tax investigations and/or tax audits. The criminal law will clearly come into play where there has been a lack of honesty or non-compliance on the part of the taxpayer. However, Raabe and Parker (1985:8) contend that tax authorities are their own worst enemies because taxpayers are rewarded better for finding ways to save taxes than for earning an equal amount in the marketplace.

Hobson, Mellon and Stevens (2011:87) contend that moral judgement "describes the determination of whether a course of action is morally right or wrong". Tax authorities have developed administrative sanctions in the form of penalties and fines for non-compliance or negligent compliance. Thus, any tax law will generally contain sections dealing with a criminal aspect and sections dealing with non-criminal aspects that will be covered by administrative penalties.

Hobson *et al.* (2011:90) observe that moral judgement may be affected by personal values. In this regard, Burt (2009:12) states that greed appears to have clouded the moral fibre of all people. Winfield (2009:30) contends that ethics matter to everyone as it cuts across every division (in a business, for an individual or a professional person) and every decision should be considered as often as the profitability of a business.

From a tax perspective, probably the most difficult issue to deal with is whether there are any moral limits to the steps or procedures a taxpayer may take to reduce tax. Prebble and Prebble (2010:714) content that tax avoidance is not fraudulent, but a “basic taxpayer entitlement” and that a tax avoider “neither comes under liability nor incurs blame”. In a study conducted by Murphy (2004:318) she found that the overall level of morality towards paying tax is much lower for taxpayers having an aggressive tax agent.

Raabe and Parker (1985:4) have identified some basic aspects pertaining to taxation in general that should be taken into account when dealing with taxation from a moral and ethical perspective. These include the following:

- Taxpayers should not get lost in the detail of tax rules. Taxpayers should be alert to possible decision-making implications when applying tax rules to real-life situations.
- Tax rules are a legal matter. Should a correct application of the tax law to a given set of facts result in a solution that appears to be at odds with some accounting, economic, social or moral theory, the tax law still controls the situation.
- Taxpayers should give close attention to the use of language. When a taxpayer is dealing with an application of the tax law, minor verbal distinctions are often critical. A term that may have a certain meaning in everyday speech may be defined differently in the tax law.

How does the taxpayer conduct his tax affairs? Is there a defined area of conduct to be followed? Fleischman, Valentine and Finn (2007:115) contend that the “recognition of an ethical issue prompts the evaluation of the ethical components of the situation” and to align one’s intentions in a manner to act consistent with one’s ethical judgement in a situation. Bell, Guyot, Martin and Meier (2011:1) observe that personal history and social traditions may become part of a person’s philosophical and behavioural responses. Bell *et al.* (2011:2) also state that unethical decision making and behaviour within organisations has received increasing attention over the last decade in the popular press especially with regard to moral turpitude.

Conduct within the context of behaviour, is explained to mean the “way, bearing, attitude, manner, carriage, demeanour, deportment, mien and comportment”. Within the context of management the word “conduct” is explained to mean “running, control, handling, administration, direction, leadership, organization, guidance and supervision”. Within the context of carrying out, the word “conduct” is explained to mean “run, control, manage, direct, handle, organize, govern, regulate, administer, supervise and to preside over (Collins English dictionary & thesaurus, 2006:240).

When a taxpayer’s tax conduct is viewed against the broader meaning of the word “conduct”, it really encompasses more than just to comply with certain tax rules and regulations. The taxpayer actually becomes a steward of his own tax affairs. The Collins English dictionary and thesaurus (2006:1183) describes a steward as a person, who administers the property, house, finances, and etcetera, of another. Within the context of taxation, the taxpayer effectively becomes a steward for SARS by managing his own tax affairs to be in the best interest of SARS. However, Fleischman *et al.* (2007:111) contend that tax law is subject to continued pressure when laws are not perceived by society as being equitable.

The New International Translation of the Bible (1999:2897) states the following in Romans 13 verse 5 to 7 regarding the payment of taxes and to submit one to the appointed authority:

“Therefore, it is necessary to submit to the authorities, not only because of possible punishment but also because of conscience. This is also why you pay taxes, for the authorities are God’s servants, who give their full time to governing. Give everyone what you owe him: If you pay taxes, pay taxes; if revenue, then revenue; if respect, then respect; if honour, then honour.”

McGee (2012:176) observes that Muslims in general must be “honest and upright” and Muslim communities “must be free from fraud, deception, greed, lying, cheating” and “all other activities considered by Islam to be unjust or immoral”. Tax conduct is therefore relevant to the general evaluation of a taxpayer’s perspective on tax planning, tax avoidance, tax evasion and tax fraud.

Most taxpayers pay their taxes when government uses compulsion as its primary method to convince taxpayers that is the best approach to follow. Vihanto (2000:16) is convinced that this is a tool of both a benevolent government designing the system of taxation on the basis of a utilitarian calculus, and an autocratic government collecting arbitrary taxes with its own interest in view. Brooks and Dunn (2012:132) explain that to act as an ethical person one should be capable of taking a stand on an important and difficult problem in your life (such as being tax compliant) and to be able to justify and explain your stance regarding the dilemma you have faced and the course of action you have followed to handle your problem (for example an adverse tax position). Jones and Rhoades-Catanach (2011:576) state that “noncompliance with the tax laws can result in monetary penalties, and, in extreme cases, criminal prosecution”. Geis (2007:104) observes that “nobody seriously disputes the decline in taxes paid by corporations is in some considerable measure the result of fraud that goes undetected”. McGee (2012:205) is of the opinion that the “cost of government services should be borne by those who benefit”.

Tax morality requires of taxpayers to conduct their tax affairs according to the tax standards as prescribed in the tax laws. Taxpayers should be able to distinguish between right and wrong, based on their knowledge of the applicable tax laws. The taxpayer should therefore act with integrity, honesty and responsibility in his tax affairs. Tax morality relates to the behaviour taxpayers display in their tax transactions. The taxpayer makes a choice between good and bad or between right and wrong in his interaction with taxation. The applicable tax laws and regulations should be adhered to, but the taxpayer has a choice to display his tax morality in this regard.

2.3 TAX PLANNING

2.3.1 Introduction

With almost every transaction a taxpayer concludes, taxation of some sort could come into play and will have to be considered by the taxpayer. Dennis-Escoffier and Fortin (2007:3) observe that one of the goals of taxation is the raising of revenue and that the tax law is used to achieve this goal. In this regard a taxpayer has the right to plan his tax affairs within the parameters of the tax laws as to pay the least possible taxes.

Dennis-Escoffier and Fortin (2007:38) explain tax planning as “the process of evaluating the tax consequences associated with a transaction and making the recommendations that will achieve the desired objective at a minimal tax cost”. Orta and D’Meza (2008:540) describe tax planning as a strategy that covers any tax optimisation decision by the taxpayer that does not directly or indirectly contravene any tax rules. Tax planning will typically require the involvement and cooperation of both the taxpayer and his tax advisor.

A taxpayer’s final tax liability is, according to Sommerfeld, Madeo, Anderson and Jackson (1993:650), a function of three variables – the law, the facts and the administrative (and sometimes judicial) process. When a taxpayer is doing tax planning, the tax laws should be considered. To what extent can tax planning be executed before it encroaches upon the area of tax evasion (being equal to aggressive tax planning)? The taxpayer should be aware of the provisions of the law when doing his tax planning. All facts, to which the tax planning is applied, should be clear and known to the taxpayer. The taxpayer should be able to determine the ultimate tax implications his tax planning will have on the facts or transactions being the subject of the tax planning efforts. The perceived outcome or outcomes of the proposed tax planning by a taxpayer should preferably be verified with a tax expert before the tax planning is finalised.

The primary goal of tax planning would be to reduce a tax liability by utilising all available tax avenues such as a deferral of income, permissible tax deductions or the legal avoidance of taxation.

2.3.2 Considerations for tax planning

Ciocia (2008:714) maintains that when taxpayers start thinking about income tax as an expense, rather than simply a fact of life, they will change their thinking about how they approach their taxes. Many taxpayers employ offshore investments or offshore trusts in tax havens as tax planning instruments to either save on a known tax liability or to legally avoid payment of taxes at all. Lewis and Allison (2002:238) contend that “money today has no real home, and that those with the most money will be aggressive and proficient at hiding it from government authorities”.

The role of tax advisors in tax planning cannot be ignored. In a study conducted by Albinana *et al.* (2008:439) he notes that taxpayers are the ones who decide whether to adopt particular planning opportunities and there is significant scope to influence the demand by taxpayers for aggressive tax planning, but tax advisors may be influenced by the following factors:

- professional and ethical responsibilities to the client and the law;
- financial and reputational risk;
- regulation (be it by professional bodies and/or the revenue body);
- value-based fees;
- confidentiality privileges; and
- international accounting and auditing standards.

Taxpayers should be aware of tax planning strategies that may be questionable. In this regard Braithwaite (2003:245) identified certain sophisticated tax planning strategies that appear to be widespread that include the following:

- Redefining income as capital using multiple trust structures that conceal a common controlling mind.
- Creating artificial losses, for example by acquiring companies or trusts with accumulated losses.
- Disguising distributions to high wealth individuals (HWI) and family members as loans and other non-taxable benefits.
- Using offshore trusts.
- Converting activities undertaken for private pleasure into tax losses (for example pleasure craft, horse breeding and racing).
- Using charitable trusts to disguise benefits to HWI and their families.

Albinana *et al.* (2008:432) propose that a taxpayer should evaluate a tax advisor with reference to the following aspects regarding tax planning issues:

- having a thorough knowledge of regulations;
- making better choices from different options;
- explaining advantages and disadvantages objectively;

- studying each approach in depth;
- always guaranteeing the client's legal security;
- ensuring regulations are correctly interpreted and implemented;
- balancing discrepancies;
- defending taxpayers at all times;
- opposing arbitrariness; and
- effectively collaborating in the fair resolution of review procedures with regard to the measures that have an impact on taxation.

From the above it can be concluded that tax planning should preferably be done by a tax expert such as a tax practitioner, accountant, auditor or attorney knowledgeable in the field of taxation. Most tax advisors will help their tax clients to avoid tax errors and to deter them from engaging in unlawful or aggressive tax planning activities which may create tax compliance issues.

Albinana *et al.* (2008:437) refer to complicity as a type of participation that is only possible when a tax advisor willingly takes collaborative action to ensure the success of his client's criminal activity. The tax advisor therefore actively partakes in the illegal tax planning scheme of his tax client that will result in illegal tax actions being taken. Dennis-Escoffier and Fortin (2007:62) contend that a tax professional have a duty towards the tax system and their clients.

The challenge for taxpayers is to strike the right balance between tax compliance and tax planning. Hansen (2007: 24; 28) outlines the following components that would be essential for effective tax planning:

- Time and access – the best practice in tax planning requires that the right financial and tax people have the time and the access needed to understand the company's business so that tax planning can take place within that context.
- Timely involvement – the chief financial officer should ensure that tax people are consulted on changes in the business before they occur so that they can look at the tax implications before they take place.
- Solid information systems – you need the right data to be effective in tax planning.
- Overhaul the compliance process for maximum efficiency.
- Dedicated resources to Value-Added Tax (VAT) planning and transfer pricing.

- Ensure that the tax department has adequate human resources.
- Implement a co-ordinated transfer pricing strategy.
- Risk management – risk must be analysed on a global basis because instituting a transfer pricing policy in one country may raise the risk level of it in another tax jurisdiction.

2.3.3 Risks involved in tax planning

Due to an increase in tax compliance requirements and more stringent regulatory enforcements, companies are becoming more conservative and risk averse at the expense of managing the tax costs for the company. Wilson (2008:1) notes that the increased focus on tax and the tax function is gradually improving the transparency regarding taxation, the contribution to value and the management of risk.

Albinana *et al.* (2008:439) proposes risk management from the perspective of tax authorities to be the following:

- deciding what the main compliance risks are;
- understanding the factors that influence behaviour;
- identifying the strategies needed to minimize risks;
- implementing strategies; and
- monitoring their implementation.

Tax risk management also involves an enhanced relationship between the taxpayer, the tax authorities and the tax advisor. Albinana *et al.* (2008:440) suggest that tax questions asked should focus on the conclusion of the audit and that discussion of the implications of decisions should be made before they are taken. Thus, before a certain tax decision is made, tax authorities can be approached to request an advanced tax ruling on the proposed transaction before concluding the said transaction.

An essential component for effective tax planning in the corporate environment is proper tax risk management. Erasmus (2008:18) states that companies without a proper tax risk management strategy in place may fall victim to the following seven habitual tax mistakes:

- Mistake 1 – Taxpayers tend to be reactive to tax risks. This often translates into additional tax exposure through the imposition of tax penalties and interest and can lead to a poor relationship with the tax authorities. Proactive tax risk management can reduce additional tax exposure, improve relationships with tax authorities and place control of the process back in the hands of the company.
- Mistake 2 – Tax compliance departments in businesses try to cover their tax risks without outside professional assistance, except on a reactive basis. This contributes to mistake 1 and tax risk management becomes reactive.
- Mistake 3 – Most businesses do not have a road map indicating where they are going with their tax risk management, other than blindly ensuring that they are “fully tax compliant”. Without a tax risk management strategy in place, the objectives to minimize tax risks cannot be achieved.
- Mistake 4 – Insular tax compliance from an ivory tower can only mean that corporate tax compliance is probably at its lowest, despite attempts to ensure the contrary. All key stakeholders in a company should become involved, including top management, board members, the audit committee, the external legal team and the tax advisors, in the company’s tax risk management process.
- Mistake 5 – Maybe the leading cause of bad tax compliance and unnecessary mistakes that could have been avoided is a lack of facts, facts and more facts. Arriving at a point of departure when confronted with numerous facts, takes time and effort, but a strategic approach in this regard is essential.
- Mistake 6 – Financial accounting supplies the numbers on which tax compliance is based. Simply relying on these numbers, as is usually the case with most tax managers, is not enough. Higher tax risk areas in a business should be subject to internal audit procedures for self-audit purposes to “self-expose” any tax mistakes and tax non-compliance before the tax authorities expose them.
- Mistake 7 - The lack of communication between the tax manager and the rest of the company, and an over-reliance on number processing to compile tax returns are the major reasons why tax compliance in most businesses only covers 40% of the total

tax risk in those businesses. The other 60% of the tax risk is hidden and can only be exposed through a systematic process of personal communication.

Tax risk management has become an important risk management issue that should appropriately be dealt with by individual and corporate taxpayers. Ignorance and non-compliance may not stand in a court of law with regard to tax related matters.

Tax advisors/tax practitioners are confronted with certain risks when conducting tax planning for tax clients. Albinana *et al.* (2008:445) have identified a number of common causes of malpractice in general that tax advisors/tax practitioners may experience or be exposed to and that include for example poor client intake procedures, conflicts, inadequately defining the scope of representation, negligent opinions, research, advice, participating in a client's bad conduct, failure to deal with errors promptly and failure to submit tax returns on/before the due date or other tax compliance.

Tax advisors must be aware of the risks pertaining to tax planning for tax clients and should pay careful attention to the prevailing tax laws and regulations governing the outcome or intended results of the proposed tax planning. The main purpose of effective tax planning would be to minimise a tax liability by being objective, sound and justifiable within the ambit of current tax laws and regulations (Murphy & Higgins, 2007:26). Taxpayers need to seek professional advice when considering tax planning to reduce a tax liability, to avoid tax schemes and to consider the risks associated with it. Tax planning may trigger a taxpayer to consider tax avoidance, tax evasion or worse, tax fraud as a method to reduce a tax liability.

Howarth and Maas (2004:1) observed that taxpayers do have rights and that a tax practitioner can only protect a client's interest having a clear understanding of the extent of a taxpayer's rights and the limitations of the tax authority's powers. Tax planning forms an integral part in the structuring of a taxpayer's tax affairs. For the purpose of this study, tax planning is viewed as an important decision-making tool when a taxpayer has to handle any adverse tax position within the ambit of the tax laws resulting in the most tax-efficient solution to his perceived tax problem.

2.4 TAX AVOIDANCE

2.4.1 Defining tax avoidance

Stiglingh *et al.* (2013:773) state that tax avoidance “usually denotes a situation in which a taxpayer has arranged his affairs in a perfectly legal manner, with the result that he has either reduced his income or that he has no income on which tax is payable”. Stiglingh *et al.* (2013:773) argue that a taxpayer cannot be stopped from entering into a bona fide transaction which, when carried out, has the effect of avoiding or reducing a tax liability, provided that there is no provision in the law designed to prevent the avoidance or reduction of tax. De Koker and Williams (2011:§19.1) contend that tax avoidance “connotes stratagems which are *prima facie* lawful, that is to say, which are lawful unless proscribed by the Act”.

Green (2006:243) describes tax avoidance as “simply the use of lawful ‘loopholes’ to reduce the amount of tax owed”. Murphy and Higgins (2007:31) contend that tax avoidance, “is the use of legal methods allowed by the tax law to minimize a tax liability” The tax avoider acts perfectly legally within the constraints of the relevant tax laws, but handles his adverse tax position in such a way that the minimum possible tax is paid without acting illegally.

The taxpayer may plan his ultimate tax liability within the parameters of current tax legislation. Visser, McIntosh and Middleton (2006:75) state that “driven by profit logic, and by a legal principle, suggests that taxpayers may organise their tax affairs in such a way as to pay the least tax possible under the law”. The majority of companies have (arguably) been structured in such a way as to enable tax avoidance in every jurisdiction in which they operate. The main objective of effective tax planning for a taxpayer will be to optimise the consequences of the current tax laws. This will entail certain tax awareness from the taxpayer by giving consideration to the possible tax effects of a transaction before the transaction is finalised.

Baker (2004:11) contends that there may be three categories of tax avoidance, being:

- Countered tax avoidance – where a particular scheme has been countered by either specific or general legislation, then it seems quite clear that the law provides that

those transactions constitute tax avoidance. When a scheme has been countered and will no longer work, then even if it is not criminal, it is avoidance.

- Abusive tax avoidance will occur where a taxpayer enters into an arrangement which is not criminal, but the taxpayer has an inadequate belief that the arrangement is effective; then it may become abusive. If the taxpayer has an inadequate belief that he has no liability to tax, it is avoidance and is abusive.
- Ill-advised tax avoidance will encompass tax schemes which technically work, but when looking at the cost, the risk and the emotional cost, they are ill-advised and may no longer be within the category of tax avoidance.

Visser *et al.* (2006:77) state that a number of companies operating from Africa “are increasingly seeking to be domiciled offshore in countries with more tax-friendly administrations”. Companies and other taxpayers that are able to remove themselves from nationally based tax and regulatory regimes, by relocating offshore, enable them to choose between different jurisdictions according to preferential tax terms and other benefits on offer by the foreign regime. According to Visser *et al.* (2006:77) “tax avoidance enables companies to be economic free-riders, enjoying the benefits of corporate citizenship without accepting the cost, in the process causing harmful market distortions and shifting a larger share of the tax burden onto other taxpayers who do not have the luxury of exploiting avoidance mechanisms”.

The integrity and equity of existing tax systems is undermined by aggressive tax avoidance. Not only does it increase the administrative burden of revenue collection, but it may also increase income disparities. Visser *et al.* (2006:77) state that the resulting impact of tax avoidance on economic policy, development and sustainability, is immense, compelling many countries to borrow extensively to fund revenue and capital expenditure that would otherwise be funded from tax revenues, at a substantially lower cost. Most countries cannot afford aggressive tax avoidance because continued tax avoidance will start to shatter their economies and deprive them of much needed tax revenue.

Tax avoidance is a legitimate activity. A taxpayer can avoid the payment of taxes by avoiding those activities that would give rise to taxes in general. In doing so the

taxpayer is not violating any tax law. Murphy and Higgins (2007:31) argue that tax avoidance is “based on disclosure of relevant facts concerning the tax treatment of a transaction”. Thus, the taxpayer is merely arranging his tax affairs in such a way by controlling the pertinent tax-related facts, by avoiding those rules or sections of the tax law that may trigger a possible tax liability of some kind.

2.4.2 Dealing with tax avoidance within the South African context

SARS introduced section 103 to the Income Tax Act (58 of 1962) (the Act) as a general anti-avoidance provision. This section, under the heading “Transactions, operations or schemes for purposes of avoiding or postponing liability for reducing the amount of taxable income” was introduced into the Act to prevent possible tax avoidance arrangements from taxpayers. Section 103(1) of the Act that contained the anti-avoidance rule for a number of years had certain inherent weaknesses and was repealed with effect from 2 November 2006. It was replaced with a more comprehensive and detailed set of anti-avoidance provisions contained in sections 80A to 80L of the Act under the heading “Impermissible tax avoidance arrangements”. The new general anti-avoidance rule (GAAR) is a more comprehensive set of anti-avoidance provisions (South Africa 1962).

The provisions of sections 80A – 80L of GAAR are briefly as follows:

There must be an avoidance arrangement (which means any transaction, operation, scheme, agreement, understanding and the alienation of property) before SARS can invoke the new anti-avoidance provisions. The requirements that should be met before the provisions of sections 80A to 80L of the Act can be applied include the following:

- There must be an avoidance arrangement present (this includes any arrangement for the purposes of section 80A to 80L that results in a tax benefit).
- The sole or main purpose of the avoidance arrangement should have been to obtain a tax benefit (this may include any avoidance, postponement or reduction of any tax liability).
- Whether the avoidance arrangement was carried out in the context of business or not must be determined.

If the avoidance arrangement was carried out in the context of business, section 80A of the Act will only apply if:

- it was executed by abnormal means or in an abnormal manner (section 80A(a)(i))
- it created abnormal rights or obligations (section 80A(c)(i))
- it lacks evidence of commercial substance (section 80A(a)(ii))
- there was a misuse or abuse of the provisions of the Act (section 80A(c)(ii))

If the avoidance arrangement was carried out in the context other than business, section 80A of the Act will only apply if:

- it was executed by means or in an abnormal manner (section 80A(1)(a)(i))
- it created abnormal rights or obligations (section 80A(1)(c)(i))
- there was a misuse or abuse of the provisions of the Act (section 80A(c)(ii))

Section 80B(1) of the Act (South Africa, 1962) outlines the tax consequences of impermissible tax avoidance. The powers of the Commissioner, with respect to an impermissible avoidance arrangement, allows for the Commissioner to determine the tax consequences under this Act of any impermissible avoidance arrangement for any party by treating the impermissible avoidance arrangement as if it had not been entered into or carried out, or in such other manner as in the circumstances of the case the Commissioner deems appropriate for the prevention or diminution of the relevant tax benefit.

Section 80B(1)(a)-(e) of the Act (South Africa, 1962) provides the Commissioner with specific remedies with regard to impermissible tax avoidance arrangements. The remedies allow the Commissioner for example, the following:

- to disregard or combine any steps in or parts of the arrangement;
- to deem different parties as one and the same person; or
- to re-allocate or to re-classify any gross income, receipts or accruals of a capital nature, expenditure or rebates.

In terms of section 80B(2) of the Act (South Africa, 1962) the Commissioner may make compensating adjustments deemed necessary and appropriate to ensure the consistent

treatment of all parties to the impermissible avoidance agreement. The adjustment made or to be made by the Commissioner will also be subject to objection and appeal.

Section 80J(1) of the Act (South Africa, 1962) stipulates that the Commissioner must, prior to determining any liability of any party for tax under section 80B of the Act, give notice, with reasons, to the parties involved of the Commissioner's intention to invoke the provisions of sections 80A to 80L. Section 80J(2) of the Act allows 60 days from the date the notice was delivered by the Commissioner to the taxpayer, to submit reasons to the Commissioner why the provisions of section 80A to 80L should not be applied. The taxpayer may request a longer period from the Commissioner in this regard.

The general anti-avoidance rule (GAAR) is one of the measures available to counter tax avoidance and may be applied in addition to or as alternative to any other or specific anti-avoidance provision with the Income Tax Act. GAAR can only apply if an impermissible avoidance arrangement has been entered into by a taxpayer with the sole or main purpose to obtain a tax benefit, displaying abnormal features in terms of the manner entered into or carried out, lacking commercial substance, creating non-arm's length rights or obligations or there was a misuse or abuse of the provisions of the Income Tax Act.

2.5 TAX EVASION

2.5.1 Defining tax evasion

Stiglingh *et al.* (2013:773) describes tax evasion as the "illegal activities deliberately undertaken by a taxpayer to free himself from a tax burden". One example of simple tax evasion would be where a taxpayer omits income from his annual tax return. Tax evasion is the use of illegal means to reduce a tax liability, for example falsification of books, suppression of income or the fraudulent non-disclosure of income. De Koker and Williams (2011:§19.1) contend that tax evasion "connotes inherently unlawful methods" and may include the non-disclosure of income or the exaggeration of expenditure claimed as a deduction or disguised transactions.

Green (2006:244) states that one of the distinguishing features of crimes such as tax evasion is the use of the term "wilfulness". The term "wilfulness" is understood to mean

a voluntary, intentional violation of a known legal duty – a form of culpability that is highly unusual in criminal law in that may allow mistakes or ignorance of the law to be a defence in a much broader array of circumstances than is usually permitted.

Murphy and Higgins (2007:31) state that tax evasion occurs “when a taxpayer uses fraudulent methods or deceptive behaviour to hide the actual tax liability” They also contend that tax evasion usually involves three elements: wilfulness on the part of the taxpayer, an underpayment of tax and an affirmative act by the taxpayer to evade the tax.

Tax evasion, based on the proposal of Murphy and Higgins, includes the intentional action of a taxpayer to evade tax in order to create a shortcoming in his own tax liability. The taxpayer knows that he has a definite tax liability. The only means at the taxpayer’s disposal to reduce the known tax liability is to intentionally evade tax. In doing so the taxpayer commits a wilful action of tax evasion with the clear intent to reduce a known tax liability. Fink (2000:16-2) states that the most commonly charged crime under the Inland Revenue Code (IRC) (the tax legislation for the United States of America) is the offence of tax evasion. Tax fraud, non-compliance and improper disclosure are just some of the tax other tax offences identified by Murphy and Higgins (2007:32).

2.5.2 Impact of tax evasion

Visser *et al.* (2006:67) state that “paying taxes is the most fundamental way in which corporate citizens engage with broader society; tax revenues are the lifeblood of the social contract vital to liberty and the market economy”. The tax contributions by taxpayers provide the financial base for governments to administer and fund their operations and responsibilities. Without any tax revenue no government will be able to function at all. Depriving revenue authorities of tax revenue undermines the basic principle of sound government and providing government services to its citizens.

Green (2006:245) contends that tax evasion involves greater harm than simply a loss of tax revenue for the tax authorities. In this regard, Visser *et al.* (2006:68) argue that the “profits of tax evasion are made at the expense of local economies, and are often repatriated offshore by larger multinational companies”. Visser *et al.* (2006:69) also identified the following factors that inform and influence a company’s attitude towards

responsible business (which is assumed to also include tax compliance in the broadest sense):

- patriotism and fiscal citizenship;
- ethics;
- civil governance;
- available incentives; and
- the regulatory environment;
 - o The cost of regulatory compliance should not be inhibitive.
 - o There must be a credible threat of detection, and adequate punishment, in respect of regulatory non-compliance.

Tax evasion can be viewed as a form of “stealing” in that tax authorities are deprived of income in the form of taxes. Green (2006:246) views tax evasion as a “violation of the moral obligation to obey the law” (in this instance, the tax laws). Green (2006:247) also views the moral content of unlawful non-payment of taxes in terms of cheating. In the case of a more serious offence of tax evasion, there may be an element of deception or fraud. Tax evasion involves the violation of prescriptive rules (the current tax laws that are in place). Green (2006:248) contends that people are less likely to regard tax evasion as morally wrongful if they believe that:

- their friends and neighbours are evading taxes;
- the government is using tax revenues unwisely; and
- the tax authorities are biased and unfair in their enforcement.

Thus, the extent to which tax evasion is likely to be regarded as wrongful is, according to Green (2006:248), directly related to the extent to which such conduct is viewed as cheating. The honest and law-abiding citizen pays his dues to the tax authorities, but the tax evader seizes the opportunity to save taxes by either evading his legal duty through the non-payment of taxes or the under declaring of taxable income. The tax evader’s actions involve theft and the breach of a legal duty to obey. The common actions of the tax evader boils down to outright cheating and that is totally unfair to the honest and law abiding taxpayers who comply with the tax laws.

Green (2006:57) identified the following as the formal elements of cheating:

- a person must violate a fair and fairly enforced rule; and
- with the intent to obtain an advantage over a party with whom he is in a co-operative, rule-bound relationship.

If the elements of cheating are to be applied on tax evasion in general, it can be argued that:

- a taxpayer has violated a fair and fairly enforced tax law; and,
- with the intent to obtain an advantage over SARS, with whom the taxpayer is in a co-operative, rule-bound relationship, by depriving SARS of a certain amount of revenue in the form of taxes.

The two issues at stake here are rule-breaking and advantage-seeking. If a taxpayer has evaded tax of some kind, he has been guilty of some rule-breaking and in doing so, garnered an advantage. The action of tax evasion is illegal, being the breaching of certain tax rules with the intent to seek a certain tax advantage by either the non-payment of taxes or the payment of a lesser amount that would otherwise have been due.

Tax evasion will have certain implications that may not always be quantifiable. However, some implications that have been identified by MacDonald and Pyle (2000:2) are:

- Tax evasion will certainly distort macro-economic indicators such as unemployment statistics that measure national income and output.
- Tax evasion may distort resource allocation, if the opportunities to evade tax are greater in certain occupations than others.
- In response to evidence of increasingly widespread engagement in illicit activity by members of the general public, governments have been increasing their expenditure on policing, courts and law enforcement generally.

Mwenda (2006:72) states that tax evasion schemes “may either be a specific statutory criminal offence within the tax laws of a particular jurisdiction, or be capable of

constituting a common law offence of fraud or forgery, false accounting or cheat". Tax evasion can generate proceeds of crime and the "offence of money laundering would arise where tax evasion leads to engaging, directly or indirectly, in a business transaction that involves property acquired with proceeds of crime" (Mwenda, 2006:80). Fleming and Zyglidopoulos (2009:7) view tax evasion as a form of "corporate corruption".

De Koker and Williams (2011:§19.4) contend that tax evasion is characterised by "fraud and deceit" that may include the falsification of returns, books and accounts, the conclusion of disguised transactions, the deliberate non-disclosure of income or the deliberate overstatement of deductible expenditure. The efforts made by taxpayers to evade tax or to aggressively avoid the payment of taxes may be viewed as evading a corporate social responsibility. Taxes collected by SARS are to be used by government to fund government's operations and responsibilities. By evading tax or under-declaring taxable income, government is deprived of tax revenue.

2.5.3 Tax remedies in the event of default or omission

Section 222(1) of the Tax Administration Act (South Africa, 2011), allows the Commissioner to impose an understatement penalty for an 'understatement' that is defined in section 221 to include:

- a default in rendering a return;
- an omission from a return;
- an incorrect statement in a return; or
- if no return is required, the failure to pay the correct amount of 'tax'.

Section 76(5) of the Act (South Africa, 1962) states that "any taxpayer who, in determining his taxable income as disclosed in his return, deducts, sets-off, disregards or excludes any amount of the deduction, set-off, disregarding or exclusion whereof is not permissible under the provisions of this Act, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of this section to have omitted such amount from his return".

One way in preventing tax evasion is the imposing of harsh penalties by the Commissioner. Section 223(1) of the Tax Administration Act allows the Commissioner to impose a maximum penalty of 200% in the case of intentional tax evasion if the offence was obstructive or if it is a 'repeat case'. The Commissioner may remit the whole or any part of the additional tax as he may think fit. The Commissioner will not remit any part of the additional tax so levied if he is satisfied that any act or omission of the taxpayer was done with the intent to evade taxation (South Africa). The Commissioner will have some mercy if he is of the opinion that there were extenuating circumstances. Goldswain (2002:72) identified the following extenuating circumstances that could influence the level of penalties or sanctions to be imposed by SARS on a taxpayer:

- reliance on a tax advisor, bookkeeper, accountant or member of staff;
- conduct, character, attitude and behaviour;
- personal circumstances, lifestyle and financial means;
- supervening death of the taxpayer or insolvency;
- ignorance of the law;
- illiteracy and naivety;
- negligence, carelessness;
- effect on the offender; and
- age of the offender.

Section 241 of the Tax Administration Act (South Africa, 2011) determines that a senior SARS official may lodge a complaint with a 'controlling body' if a 'registered tax practitioner' or person who carries on a profession governed by a 'controlling body' did or omitted to do anything with respect to the affairs of a taxpayer, including that person's affairs, that in the opinion of the SARS official:

- (a) was intended to assist the taxpayer to avoid or unduly postpone the performance of an obligation imposed on the taxpayer under a Tax act;
- (b) by reason of negligence on the part of the person resulted in the avoidance or undue postponement of the performance of an obligation imposed on the taxpayer under a Tax act; or

- (c) constitutes a contravention of a rule or code of conduct for the profession which may result in disciplinary action being taken against the 'registered tax practitioner' or person by the body.

The Commissioner may in terms of section 74(2) of the Tax Administration Act (South Africa, 2011) publish the names and other particulars of persons who have been convicted of tax offence committed by a person if the person was convicted of the offence and all appeal or review proceedings relating to the offence have been completed or were not instituted within the period allowed. The publication of taxpayers' names or other particulars who have been convicted of an offence as outlined in the Act, may act as a deterrent for other prospective tax evaders.

In terms of section 235(1) of the Taxation Administration Act (South Africa, 2011) a person will be guilty of an offence who with intent to evade or to assist another person to evade tax or to obtain an undue refund under a tax Act if he does any of the following:

- (a) makes or causes or allows to made any false statement or entry in a return or other document, or signs a statement, return or other document so submitted without reasonable grounds for believing the same to be true;
- (b) gives any false answer, whether orally or in writing, to a request for information made under this Act;
- (c) prepares or maintains or authorises the preparation or maintenance of false books of account or other records or falsifies or authorises the falsification of books of account or other records;
- (d) makes use of, or authorises the use of fraud or contrivance; or
- (e) makes any false statement for the purposes of obtaining any refund or exemption from tax.

Any person guilty of an offence as stipulated in section 235(1) of the Taxation Administration Act (South Africa, 2011) will be liable on conviction for a fine or to imprisonment for a period not exceeding five years. The taxpayer or the person who has made the false statement or entry is burdened with an onus to prove that any false statement or entry in the returns or books of the taxpayer was not made with the intention of evading tax. It would be difficult for any taxpayer to convince SARS that the

false statement or entry in a particular tax return was not made with the intention to evade tax, but rather a bona fide mistake of some kind.

In terms of section 210(1) of the Taxation Administration Act (South Africa, 2011) the Commissioner may impose an administrative penalty in respect of non-compliance (for example failure to submit an income tax return or failure by an employer to provide information about an employee). The main purpose of the administrative penalty system is to provide SARS with legal backing to deal with tax non-compliance issues.

The new Tax Administration Act (28 of 2011) contains various sections dealing with non-compliance and criminal offences. Section 234 refers to the criminal offences relating to the non-compliance with tax Acts and include for example the failure to submit a return or documents to SARS, failure to retain records as required by the Act and obstructing or hindering a SARS official in the discharge of the official's duties. Section 235(1) of this Act stipulates that a person who, with the intent to evade or to assist another person to evade tax or to obtain an undue refund under a tax Act will be guilty of an offence and may upon conviction be subject to a fine or imprisonment not exceeding five years. The offences referred to in section 235(1) include for example the use of fraud, making false statements to obtain a tax refund or providing a false answer to a request for information made under this Act.

2.5.4 Tax compliance and the behavioural response of the taxpayer

Within the South African context a taxpayer is confronted with numerous tax compliance requirements. Depending on the perception of a taxpayer with regard to the tax regime in place, a taxpayer may display a certain behavioural response in this regard. The behavioural response of a taxpayer could be to be tax compliant when the tax regime is considered fair in his own judgement, and to refrain from tax compliance if he judges the tax regime to be unfair.

In any tax system there is a tax gap, which can be described as the difference between the budgeted (expected) and the actual revenue collected by the tax authorities. Cordes, Ebel and Gravelle (2005:383) view the "tax gap" as the difference between the tax amount that should have been paid and the tax amount that was paid on a timely

basis. Gcabo and Robinson (2007:358) identify the following reasons for the existence of a tax gap:

- individuals and businesses (companies) understate their incomes; overstate deductions, credits or exemptions; or make calculation errors on their tax returns;
- taxpayers fail to file their tax returns or file these tax returns until well after they have become legally due to file; and
- tax authorities sometimes make errors on tax assessments.

The South African tax authority depends largely on the collection of income tax from individual and corporate taxpayers and Value-Added Tax (VAT) to fund the annual South African national budgeted tax revenue income. This statement is demonstrated in table 2.1.

Table 2.1: *Summary of main income items for the annual national budgeted tax revenue income*

Budgeted year	Personal income tax (%)	Company tax (%)	Value-Added Tax (%)	Total budgeted tax revenue (R'000)
2005/06	30,59%	20,65%	27,97%	R411 085 000
2006/07	29,93%	24,71%	28,97%	R464 490 000
2007/08	29,12%	25,96%	29,07%	R533 509 000
2008/09	29,75%	24,36%	26,01%	R642 088 600
2009/10	31,46%	27,15%	25,60%	R659 303 980
2010/11	34,68%	23,18%	25,31%	R647 850 000
2011/12	33,80%	23,22%	25,83%	R738 734 800
Average for the past seven years	31,33%	24,18%	26,97%	

The information displayed in table 2.1 was extracted from the website of SARS.

From table 2.1 it is evident that the South African tax authority places a great emphasis on income tax, especially personal income tax, as a source of state revenue. Individual taxpayers have, for the seven budgeted tax years listed in table 2.1 above, contributed on average 31,33% of the total budgeted tax revenue. This represents a substantial proportion of the total budgeted tax revenue for South Africa. The tax revenue from income tax (personal income tax and corporate tax) amounts to an average of 55,51% of the total budgeted tax revenue for the past seven years. VAT represents 26,97% of

the total budgeted tax revenue for the past seven years. Income tax (55,51%) and VAT (26,97%) contribute on average 82,48% of the total budgeted tax revenue for the past seven years. Thus, the collection of income tax and VAT, representing the major tax revenue sources for South Africa, could be affected negatively should tax evasion in either income tax or VAT go undetected.

If the current corporate tax rate of 28% was to be reduced to say 25%, for example, the deficit created on the budgeted income for a specific tax year would have to be funded in some other way. In the event of continued economic growth corporate taxpayers will show bigger profits and because of the bigger profits, pay more tax although at a reduced corporate tax rate. Increased corporate profits will also increase the VAT revenue. More profits for corporate taxpayers would also create job opportunities for individual taxpayers. However, Visser *et al.* (2006:77) observed that the number of companies that operate in Africa are increasingly seeking to be “domiciled offshore in countries with more tax-friendly administrations”. In this regard, Prebble and Prebble (2010:744), argue that the “fact that conduct is not illegal does not necessarily mean that it is also moral”.

The integration of European based economies in the European Community (the EC) has resulted in the unification of many currencies into the Euro. Tanzi (1996:20) states that taxation remains an important feature of unification and often affords countries an opportunity to export part of their tax burden to other countries. This creates a possibility for abuse, such as the utilisation of tax addresses in tax havens, and/or the shifting of business operations or the use of transfer pricing by multinational companies.

Most taxpayers display a certain degree of neutrality towards the risks associated with tax evasion. They are either too cautious to engage in any form of tax evasion, or they follow the principle of giving to the taxman what is due to the taxman. Tax evasion behaviour can be described as a function of the probability of the risk of detection and the extent of possible tax penalties to be imposed when detected. Levels of tax compliance could be increased if SARS conducts more tax audits and increases penalties for tax evasion. In this regard, Alm and Torgler (2011:637), observed that “compliance depends on enforcement” and that an individual pays taxes because of the “economic consequences of detection and punishment”.

The payment and collection of tax may be traced back to Biblical times. Matthew 22 verse 19 to 22 in the New International Bible (1999:2493) reads as follow:

“Show me the coin used for paying the tax. They brought him a denarius, and he asked them, “Whose portrait is this? And whose inscription?”, “Caesar’s,” they replied. Then he said to them, “Give to Caesar what is Caesar’s and to God what is God’s.”

Smith, an economist who lived more than two hundred and thirty years ago, pointed out that “high taxes frequently afford smaller revenue to government than might be drawn from more moderate taxes”. The natural behaviour of taxpayers in a dispensation of high tax rates would be to resort to methods of saving tax in one way or another. One way of saving tax will be outright tax evasion, although illegal, it might be very effective for the taxpayer willing to take the risk of tax evasion (Gcabo & Robinson, 2007:359).

Rapoza (2004:1) comments that stringent labour laws, high interest rates and heavy taxes have led to rampant smuggling and tax evasion in Brazil, some of it tied to international organised crime. This resulted in a growing civil disobedience among Brazil’s business class and years of falling incomes and underdevelopment of the country.

Rapoza (2004:2) stipulates that Brazilian companies are “up to their neck in taxes” and facing “unethical competition”. If governments do not handle the issue of such competition, countries may be heading for societies where organised crime has more power than the government, and residents will become prisoners of a parallel economy that will barely serve their needs. For example, a company registered for income tax and VAT will not have the same cost structures as a company that is not registered for tax. A non-tax registered company could be in a position to sell its products at a lower price than a tax-registered company. In this way unfair and unethical competition may be created, leaving the registered taxpayer with an imbalanced tax burden to carry.

In many instances the informal businesses are operated by well-groomed businessmen using the cash environment to evade tax. Rapoza (2004:2) reports the arrest of a Chinese businessman in Brazil, who owned 600 stores in Sao Paulo, who had been accused of having earned \$150 million per year, tax-free. The accused had reportedly

paid off police and court authorities for two decades and was caught after he had tried to buy protection from a piracy-monitoring authority.

Rapoza (2004:3) explains that a typical tax evasion cycle may develop if the following factors are present:

- high taxes hurt businesses;
- few tax evaders are punished, leading to social acceptance of tax evasion;
- the informal sector manages to sell their products cheaper, while the formal economy sells fewer products at higher prices;
- lower profits will stifle investments and employment in the formal economy;
- fewer job opportunities available will lead to a decline in consumer spending, forcing law-abiding companies to commit tax fraud in order to survive; and
- as the formal economy weakens, government tax revenue will decline, and taxes will be raised to pay for services and debts.

Money laundering occurs, amongst other things, with tax evasion (Gup, 2007:3; 17) and is closely linked to tax evasion in the United States of America. Gup (2007:22) also observes that “internet gambling by using credit cards and offshore bank accounts is used for both money laundering and tax evasion”. In their study Gcabo and Robinson (2007:362) identify the following factors that help to provoke tax evasion:

- the individual’s exchange relationship with the government;
- social orientation; and
- opportunities for evasion.

The factors identified above may have direct and indirect effects on tax attitudes and tax evasion. Most tax evaders under-declare their gross income in an attempt to reduce their ultimate tax liability. Gcabo and Robinson (2007:362) observe that people do not take a single decision to evade tax, but rather “a series of actions such as deliberately forgetting to submit tax returns or mentally redefining some earnings as non-taxable”. People are moved from their habitual compliant response to a conscious decision to evade tax or to cheat outright. Those people who become involved in tax evasion will weigh certain factors such as material consequences, normative expectations, socio-legal attitudes and expressive factors.

Gcabo and Robinson (2007:362) are of the opinion that the determinants of taxpayer behaviour should be interpreted with caution, depending on the method of assessment used. A taxpayer's behaviour is influenced by both his attitude and his personality characteristics. Social conditions or social norms mirror psychological conditions. A taxpayer may display a greater probability of tax evasion when filing his own tax return as opposed to his tax return being filed by a tax practitioner or an independent third party. The taxpayer's attitude and subjective norms when filing his own tax return may significantly correlate with tax evasion. An opportunity arises for the taxpayer, without the intervention of an independent third party or a tax practitioner, to under-declare his gross income or to overstate his expenditure.

Vihanto (2000:6) states that people have good motivation to deliberately understate the extent of their evading behaviour for fear of revealing the truth with legal consequences. On the other hand, a person conditioned to act honestly, suffers feelings of guilt while evading taxes. The hyper-honest taxpayer might be so fearful of cheating that he may refrain from claiming a legitimate tax deduction.

Hawkins (2002:280) contends that "injury to man's "spiritual eye" has resulted in dimness of moral vision and blindness to truth – which afflicts 85 percent of the earth's population who linger below the level of integrity". Hawkins (2002:280) continues to state that the issue of "Right" and "Wrong" "only exists as a function of perception based at the lower levels of consciousness". This could be interpreted that tax evasion may be morally based.

Tax laws, like other laws, are not always clear. Legality can be viewed as the dividing line between tax evasion and tax avoidance. In practice however, this line may sometimes be less distinct. The tax law itself might be unclear, or it may be quite clear but unfamiliar to the taxpayer. Situations might also arise where the tax law is quite clear, but tax administration might effectively ignore a particular transaction or activity.

Kirchler (2007:5) argues that the concern of legality grows in parallel with the increasing globalisation of business, the increasing complexity of business structures, the nature of financing and transactions and tax flight by establishing businesses off-shore, tax havens and money laundering. Businesses will take advantage of loopholes in current tax laws and seek to find more sophisticated ways to reduce tax liabilities when new tax

regulations and tax laws or amendments are established in response to aggressive tax avoidance.

Vihanto (2000:12) is of the opinion that the decision of a taxpayer to pay taxes and to refrain from tax evasion is an expression of a disposition to follow a more general rule of honesty and to hold to one's commitments. Honesty pays off in any contractual arrangement between the contractual parties. Any breach in the contractual arrangement will impact on the future trade between the two parties. Even though taxation cannot be a product of a genuinely voluntary agreement among the taxpayers and government, it may be conceived as emerging from a conceptual social contract that the taxpayers are in principle able to give their unanimous consent.

Tax evasion is not merely a simple action or actions by a taxpayer. The taxpayer has to take a decision to evade tax. When deciding to evade tax, a taxpayer most probably will take into account the ethical aspects to overcome before making a final decision to evade tax. When the taxpayer evades taxation the ethics of his actions to evade taxation will be in his mind. Once the tax evasion has been committed, the taxpayer will probably experience some form of consciousness of the moral and ethical consequences of his actions. Alm and Torgler (2011:638) observed that a taxpayer will comply as long as the taxpayer believes that compliance is the "right thing to do".

Read and Gregoriou (2007:293) propose that a review of the literature of the ethics of tax evasion reveals that three major views evolved over the past 500 years. The views included the following:

- Tax evasion is always or almost always unethical, either because there is a duty to God to pay taxes, or there is a duty to some community or to society.
- There is never or almost never a duty to pay taxes because the government is a thief; nothing more than a band of organised criminals, and there is no duty to give anything to criminals.
- There is some ethical obligation to support the government of the country where you live but that duty is less than absolute.

From a Christian perspective tax evasion could be viewed against a scripture from the Christian Bible in Romans 13:1-4 from the New International Translation (1999:2897) that reads as follows:

“Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God. Consequently, he who rebels against the authority is rebelling against what God has instituted, and those who do so will bring judgement on themselves. For rulers hold no terror for those who do right, but for those who do wrong. Do you want to be free from the fear of the one in the authority? Then do what is right and he will commend you. For he is God’s servant to do you good. But if you do wrong, be afraid, for he does not bear a sword for nothing”.

From an Islamic perspective the payment of tax is viewed as follows in the Quran:

- “But (as for) those who believe and do good works – We tax not any soul beyond its scope” (Chapter 7, verse 42, Pickthall translation).
- “And we tax not any person except according to his capacity, and with us is a Record which speaks the truth, and they will not be wronged” (Chapter 23 verse 62, Mushin Khan Translation).

Tax compliance will always be a challenge for tax authorities. Some taxpayers may take a calculated risk when dealing with an adverse tax position through tax evasion. The motivation for a tax saving may be overshadowed by the risk of detection. Taxpayers could also base their tax behaviour on their relationship with government, their social orientation and possible opportunities for tax evasion. The complexity of tax laws and the introduction of more tax avoidance measures may trigger taxpayers to exploit loopholes to their advantage.

2.5.5 Dealing effectively with tax evasion

Tax authorities around the world are all faced with tax evasion. The aim of tax authorities is to combat tax evasion and to get taxpayers to comply. The following is

some of the measures implemented by the Australian tax authorities in an effort to combat tax evasion (<http://www.ato.gov.au>):

- An active compliance program to ensure that taxpayers comply with their tax obligations.
- Increased presence of tax officials in the community as part of the expanded cash economy strategy to investigate businesses that do not declare the correct income.
- Identifying businesses operating outside the tax system.
- Contact businesses as part of the strategy to investigate undeclared income.
- Involvement of community members to combat tax evasion. Community members are consumers and are in a good position to provide the tax authorities with information about their interactions with businesses when they suspect possible tax evasion.
- Public awareness programs that inform the general public about the utilization of collected tax money to pay for community services.
- The tax authority issues regular taxpayer alerts as an early warning of the tax authority's concerns about significant aggressive tax planning issues or arrangements the tax authority has under risk assessment.

SARS is in line with other tax authorities when it comes to combating possible tax evasion. Any person can, via the website of SARS lodge a "Suspicious Activity Report" with SARS. This report consists of four parts of which Part 1 and Part 2 are mandatory. Part 3 and Part 4 are optional.

SARS assists people in identifying possible suspicious activities on its website at <http://www.sars.co.za>. It is important to get assistance from the general public to combat tax evasion. SARS invites people who might have knowledge of taxpayers or customs-clients that may be non-compliant with the tax laws in South Africa to notify them as soon as possible. They will attend to all reports of suspicious activities to ensure tax compliance in South Africa. They will take great caution when reviewing all suspicious activity reporting by verifying the content of such reporting before commencing with any action to any of the respective business divisions in SARS.

SARS (<http://www.sars.co.za>) allows for reporters of suspicious activities to remain anonymous. However, they urge reporters of suspicious activities to supply their

personal details as it may allow tax investigators to interact with the reporters at a later stage to acquire any possible additional information. SARS assures reporters of suspicious activities that their identity will be kept strictly confidential at all times. Legislation administered by the Commissioner for SARS strictly prescribes confidentiality of information retained by them.

To assist the general public in identifying possible suspicious activities SARS has listed certain conditions that should be met before an activity can be labelled a suspicious activity. SARS refers to a suspicious activity as “any conduct or attempted activity or pattern or display of transactions that you know, suspect or have reason to suspect that typically certain conditions are present”, for example a person derives income from a criminal activity or a business is liable for any type of tax administered by SARS but not paying any form of tax. The full complement of conditions can be found on SARS’s website’s home page under the link “Report a Suspicious Activity”.

Continued pro-active efforts by tax authorities to prevent, detect and prosecute tax evasion by taxpayers, has made a certain statement to prospective tax evaders. The message to them is that they are being watched. One of the members of the American Mafia, Al Capone, was finally brought to justice by being convicted of tax evasion and not for any of his other crimes committed (Lewis & Allison, 2003:257). The American tax authorities had for a number of years been building a case against Al Capone for possible tax evasion. The tax authorities knew about his money making schemes, his luxurious lifestyle and all the wealth he accumulated through his criminal activities. They finally prosecuted and jailed him for tax evasion.

Read and Gregoriou (2007:241) propose that “one way of helping tax authorities to combat international tax evasion is to improve cross-border exchange of taxpayer-specific information, which has emerged in recent years as one of the key issues in international tax policy discussions”. This entails that a source country, the country where the income arises, will provide tax information to a resident country, the country the taxpayer resides in. According to Read and Gregoriou (2007:244) tax authorities will in general employ the following ways to share case-specific tax information with each other:

- The most common form is information exchange upon request, where a country passes information in response to a specific request related to a taxpayer.
- A second form concerns automatic exchange – typically being the largest volume – which mainly pertains to information about routine, periodic payments, such as interest and dividends paid to non-residents.
- The third type, spontaneous exchange of information, often occurs in the course of an audit when one tax authority uncovers details that it thinks may be of interest to its counterpart in the taxpayer's country of residence.

Section 4 of the Act (South Africa, 1962) contains the provisions of the preservation of secrecy of information pertaining to a South African taxpayer. SARS may disclose information to a foreign tax authority with which a double-tax agreement has been signed irrespective of the secrecy provisions of section 4 of the Act. The double-tax agreement will override the provisions of section 4 of the Act.

2.6. TAX FRAUD

2.6.1 Defining tax fraud

There is sometimes confusion between tax evasion and tax avoidance. There can be no confusion between tax avoidance and tax fraud. If the term “tax fraud” is used, it emphasises that in a criminal area one is dealing with fraudulent conduct and there is much lesser danger of governments thinking that tax avoidance could be criminal. Baker (2004:6) states that tax fraud, as a criminal matter, must involve intentional behaviour or actual knowledge of the wrongdoing. Classic examples will be deliberately failing to declare income or deliberately claiming a deduction to which the taxpayer knows he is not entitled.

Orta and D'Meza (2008:540) describe tax fraud as acts carried out by taxpayers that only appear to adhere to the law. Balter (1983:8-68) contends that tax fraud is “fraud with the intent to evade tax”. Thus, a taxpayer who intentionally evades taxation may be perpetrating tax fraud. Fraud presumes manipulation of the facts and may usually be undertaken at the same time the taxable event takes place.

Balter (1983:2-3) contends that tax fraud integrates the following factors:

- The objective to be achieved is that the taxpayer wants to end up paying less tax than the amount known by the taxpayer to be legally due by him.
- The taxpayer should display a state of mind which could be described as “evil”, “in bad faith”, “deliberate and not accidental” or “wilful”.
- The execution of an overt act by the taxpayer to achieve the non-payment or reduced payment of a known tax liability.

Balter (1983:2-3) argues that the act of tax fraud would include acts or conduct of a taxpayer involving some element of “deceit, misrepresentation, trick, device, concealment, or dishonesty”. Thus, tax fraud must involve a degree of knowledge and it must involve the absence of an honest belief that a person is not liable to pay a particular tax. If the taxpayer cannot show that he has an honest belief that he is not liable to the said tax that seem *prima facie* to fall within the scope of tax fraud. Tax fraud can be carried out by virtually any person or organisation. Pedneault (2009:3) is of the opinion that some form of tax fraud, either large or small scale cheating, is present in “virtually every tax return filed”.

2.6.2 Tax fraud activities

The Criminal Investigation Section of the Internal Revenue Service of the United States of America and Balter (1983:8-70) have identified the following more common criminal activities aiming at violating present tax laws in general that may be regarded as tax fraud activities:

- deliberately or intentionally underreporting or omitting income;
- intentional overstating the amount of deductions;
- recurrence of the understatement of income or overstatement of deductions over more than one tax year;
- undisclosed source of income such as an illegal business;
- keeping two sets of accounting records/books or a lack of accounting records/books;
- making false entries in the accounting books/records;
- claiming personal expenses as business expenses;

- claiming false deductions; and
- hiding or transferring of assets or income.

Fink (2000:1-44) compiled a list of information and techniques that could assist a tax auditor in recognising and detecting indications of possible fraud reflected on a tax return. This will include the understatement of income, the claiming of fictitious or improper deductions, accounting irregularities, allocation of income and deductions and conduct of the taxpayer. Fink (2000:1-44) contends that the tax auditor should be looking for possible understatement of income in the following manner:

- An understatement of income attributable to specific transactions, and denial by the taxpayer of the receipt of the income or inability to provide a satisfactory explanation for its omission. This may include omissions of specific items where similar items are included, or omissions of entire sources of income.
- An unexplained failure to report substantial amounts of income determined to have been received. This differs from the omission of specific items in that the understatement is determined by the use of an income reconstruction method (net worth, bank deposits, personal expenditures, etc.).
 - (a) Substantial unexplained increases in net worth, especially over years.
 - (b) Substantial excess of personal expenditures over available resources.
 - (c) Bank deposits from unexplained sources substantially exceeding reported income.
- Concealment of bank accounts, brokerage accounts and other property.
- Inadequate explanations for dealing in large sums of currency, or the unexplained expenditure of currency.
- Consistent concealment of unexplained currency, especially when in a business not calling for large amounts of cash.
- Failure to deposit receipts to a business account contrary to normal practices.
- Failure to file a tax return, especially for a period of several years although substantial amounts of taxable income were received. Examiners should not solicit delinquent returns where the taxpayer has wilfully failed to file. A referral report should be submitted.
- Covering up sources of receipts of income by false description of the source of disclosed income.

Fink (2000:1-44) suggests that the tax auditor should be looking for possible claiming of fictitious or improper deductions in the following manner:

- Substantial overstatement of deductions, for example a deduction of R10 000 as a travel expense when the actual expense was only R5 000.
- Substantial amounts of personal expenditure deducted as business expenses, for example, deducting rent paid for a personal residence as business rent.
- Inclusion of obviously unallowable items in undeclared accounts, for example, including political contributions as purchases.
- Claiming completely fictitious deductions, for example, claiming a deduction for interest when no interest was paid or incurred.

Fink (2000:1-45) compiled the following list of issues relating to the acts and conduct of a taxpayer that tax auditors should be aware of that may be indicators of possible tax fraud:

- False statements, especially if made under oath, about material facts involved in the examination. For example, a taxpayer submits an affidavit stating that a claimed dependent lived in the household when in fact the individual did not.
- Attempts to hinder the examination. For example, failure to answer pertinent questions or repeated cancellations of appointments.
- The taxpayer's knowledge of taxes and business practice where numerous questionable items appear on the tax returns.
- Testimony of employees concerning irregular business practices by the taxpayer.
- Destruction of books and records (accounting records), especially just after the examination was started.
- Transfer of assets for purposes of concealment.
- A pattern of consistent failure over several years to report income fully.
- Proof that the tax return was incorrect to such an extent and in respect of items of such character and magnitude as to compel the conclusion that the falsity was known and deliberate.

Weisman (2008:98) comments that "no one likes paying taxes. Unfortunately, the almost universal desire to avoid paying income taxes can be exploited by conmen with phony tax scams". The real impact of tax evasion and tax fraud is the depriving of

governments of vital funds for crucial services such as healthcare, education and building of infrastructure. Fraudsters also force honest taxpayers to shoulder an unfair tax burden. These fraudsters can be individuals, corrupt businesses and organised crime syndicates. Doig (2006:85) comments that tax fraud “is most likely to be committed by men and by those with qualifications, with the self-employed more prone to tax fraud than employees”.

A taxpayer should take great caution when choosing a tax preparer. If a tax preparer prepares a taxpayer’s income tax return, the taxpayer will still be responsible for all the information declared on and submitted with the tax return. Weisman (2008:99) states that tax preparer fraud may occur when fraudsters use phony tax forms to obtain a taxpayer’s personal information and to turn the taxpayer into a victim of identity theft.

Most taxpayers making use of tax advisors or tax practitioners to assist them in preparing and filing their tax returns are far less informed in the field of taxation and are therefore reliant upon the professional assistance and help they have contracted in this regard. The only protection taxpayers may have against fraudulent tax preparers could be professional indemnity insurance and a professional body that regulates the tax preparer. In South Africa the tax authority is in the process to regulate tax practitioners. Tax practitioners are required to register as such with SARS and once registered are issued with a tax practitioner registration number. Taxpayers making use of a registered tax practitioner’s service may lodge a complaint with SARS regarding a particular tax practitioner. Section 239 of the Tax Administration Act (South Africa, 2011) provides for the reporting of unprofessional conduct of a person who carries on a profession, such as an accountant, an auditor or a tax practitioner, for which a controlling body has been established.

Weisman (2008:106) is of the opinion that another scheme employed by people to avoid payment of taxes is by transferring assets into offshore bank accounts. Taxpayers with offshore bank accounts are, according to Weisman, faced with the choice of lying to the relevant tax authority and committing perjury or telling the truth and alerting the relevant tax authority to a possible tax scheme.

2.6.3 Political corruption in the tax system

Beesley in Péteri (2008:112) states that where the tax policy and tax administration of a country is nestled in the same organisation, the tax administration may face the added risk of corruption associated with the promulgating of tax laws that may impact on one group of taxpayers more than another, or may be more favourable to one group of taxpayers than another. Ideally the tax policy function and tax administration functions should be located in two separate government organisations.

In countries with significant corruption, attempts to “pass tax legislation may meet with resistance by the tax officials who may see new legislation as interfering with their existing corrupt practices” (Beesley in Péteri, 2008:112). This may probably apply in scenarios where the new tax legislation is designed to reform a current tax administration to address possible areas of corruption in the current tax system.

2.7 TAX CASES INVOLVING FRAUD

Four tax cases where fraud was applied will be discussed to explain the tax consequences resulting from such conduct.

2.7.1 Income Tax Case No. 1624 (59 SATC 373)

In Income tax Case No. 1624 (59 SATC 37) money was fraudulently received by a taxpayer (an attorney) due to the fact that the money received by him was not due and owing to him. The attorney, as an agent, was receiving moneys on behalf of various principals and then defrauding one of the principals of a certain sum of money. The taxpayer received the money as part of his business receipts which formed part of his business income and was then under an immediate legal obligation to repay the said amounts. There was uncertainty whether the said amount was deductible in terms of section 11(a) of the Act, as having been incurred in the production of income.

Services were rendered to a customer “A” and those services included payment to Portnet, the South African harbour authority, of certain wharfage fees on behalf of “A” and which it was entitled to recover from “A”. The evidence presented in the case revealed that the appellant, through the efforts of a former member, and without the

knowledge of the managing member, had fraudulently rendered accounts to "A" reflecting wharfage fees disbursed by it in excess of the actual expenditure.

It was held that the disputed amount (being the amount over charged) formed part of the taxpayer's gross income. It was also held that the taxpayer was not entitled to claim a deduction of the same amount as the expenditure actually incurred, was not in the production of income, as required by section 11 (a) of the Act. It was further held that it did not follow from the fact that the taxpayer had an obligation to restore what it had unlawfully taken that it actually incurred expenditure for that amount. It was held that the taxpayer had taken money with the obvious intention of keeping it in the hope that its fraud would not be uncovered and on the basis that the amount would be repaid if its misconduct was discovered, but only then. The judge held that the disputed sum was not laid out or expended for the purpose of the trade as required by section 23(g) of the Act (South Africa, 1962).

The taxpayer argued that where an agent receives an amount on behalf of his principal, he cannot be said to have received that amount for his own behalf or his own benefit. The court held that the disputed amount had to be included in the taxpayer's gross income.

In the above case, it would seem that fraud was the main concern and not necessarily income tax. The attorney took the money with the intention of keeping it in the hope that the fraud may not be discovered, and would probably have repaid the amount overcharged if discovered. The fraudulent over-charging created income tax issues as well. The perpetrator could have been more concerned about over-charging his client than any possible related tax issues linked to this over-charging. This case illustrates the possible tax issues relating to the perpetration of an economic crime. If an economic crime, being financially related, is committed, it could have certain taxation implications as well.

2.7.2 Income Tax Case – 62 SATC 316 (2000 (2) SA 934 (T))

In the case of Hyundai Motor Distributors (Pty) Ltd and Others v Smit N.O. and Others, the first (Hyundai Motor Distributors (Pty) Ltd, second (Swedish Truck Distributors (Pty) Ltd) and fourth to eighth applicants (Wheels Parts Distributors (Pty) Ltd, Hyundai Motor

Distributors Limited, Hyundai Motor Distributors Botswana (Pty) Ltd, Scandinavian Motor Corporation and Swedish Motor Corporation (Pty) Ltd) were companies and corporations registered in the Republic of South Africa, Botswana and the British Virgin Islands and which carried on business in the manufacture, marketing and distribution of Hyundai and Volvo motor vehicles.

The first respondent (N.O. Smit) was a judge of the High Court and second and third respondents the Investigating Directorate: Serious Economic Offences and the Investigating Director of the Investigating Directorate: Serious Economic Offences, respectively. Fourth respondent was the National Director of Public Prosecutions and fifth respondent was the Commissioner for Inland Revenue (SARS).

In November 1997 SARS commenced an investigation into the affairs of the Ninth Applicant (Muller Conrad Rautenbach) and companies owned or controlled by or associated with him to determine whether tax fraud or tax evasion had taken place. Pursuant to this investigation, preparations were made for applications to the High Court in terms of section 74 of the Act with the object of obtaining the authority of the court to search for and seize, *inter alia*, documents and information relating to the ninth applicant and some of the companies.

Early in 1999 the fourth respondent (the national director of public prosecutions) had a meeting with representatives of the National Intelligence Agency, the South African Secret Services and the South African Police Service (SAPS) and ordered a special investigation to identify the most important criminal and organised crime activities in the Republic of South Africa. Sometime in May 1999 the fourth respondent (the national director of public prosecutions) received from these agencies and the SAPS a report to the effect that the ninth applicant (Muller Conrad Rautenbach) and/or the applicant companies were involved in various crimes including:

- insurance fraud (procuring the theft of his/their own vehicles and then selling them);
- tax evasion and VAT fraud on a considerable scale;
- the illegal supply of firearms to entities in other countries in Africa; and
- fraudulent double discounting of vehicles; that is obtaining finance from more than one bank in respect of the same vehicle.

The facts presented in this case, demonstrated that the fraudulent activities could have created the basis for possible tax evasion and the related criminal activities. The applicants could have foreseen that their fraudulent activities may have deprived SARS of legitimate tax revenue. One could argue that a general lack of tax knowledge on the side of the applicants may not have been the main reason why taxation was evaded, but probably a well planned and executed mission to achieve a certain goal.

2.7.3 Industrial Manpower Projects (Pty) Ltd vs. Receiver of Revenue, Vereeniging and Others – 2001 (2) SA 1026 (W)

The applicant in this case had been an entity called Industrial Manpower Investments CC (IMI), previously known as Vaal Recruitment Services and which in corporate form, had a predecessor by the name of Industrial Manpower Recruitment (Pty) Ltd. The Commissioner for Inland Revenue was the first respondent in the case of IMI and held that IMI had been guilty of massive tax fraud and that it had grossly under-declared its VAT liabilities. It had led the officials of the first respondent in seeking repeated postponements and offering continual excuses for the non-payment of an assessed VAT liability. The de facto manager of IMI, a certain Marques, had used a successive array of corporate entities (culminating in the applicant) as a front for the evasion of the tax liability of the business.

The business of IMI had been sold to the applicant for no consideration in the first half of 1995 and large amounts of cash had been siphoned off. The entire case of corporate fraud perpetrated on the Commissioner for Inland Revenue, was based on the documentation which included bank statements, letterheads as well as client invoices, which Marques used to perpetrate the said fraud through the various corporate entities.

The manager of the applicant has been at best elusive, appears to have relocated abroad and appears to be employing a corporate form in a scheme to evade paying any tax from a very lucrative business. Under the said circumstances and the facts presented, the Commissioner was entitled to issue a section 47 notice in terms of the VAT Act to appoint agents (in this case the creditors of the applicant) to collect the outstanding VAT of the applicant. The Commissioner proceeded to issue the section 47 notice. The court dismissed the applicant's request to set aside the section 47 notice.

In this case it is evident that the manager of IMI was out to defraud the Commissioner in a well-planned and structured scheme. Fraud was the driving force to deprive the Commissioner of tax revenue stemming from the business conducted by the applicant. The applicant surely knew that his fraudulent actions would create substantial tax benefits for the business and lead to tax fraud by evading paying taxes.

2.7.4 Income Tax Case No. 1762 (66 SATC 41)

In this case the appellant, in or about 1995, had entered into written shareholders and purchase agreements as well as Management Buy-Out agreements (MBO) whereby it purchased the entire business enterprise of “M” for a purchase consideration of R53 million which it was obliged to pay in full. The appellant contended that the said purchase price was a genuine purchase price determined at arm’s length between “K” and “L” on the one hand and those members of management involved in the buy-out on the other hand.

The appellant was liable to pay interest on the purchase price and sought to deduct such interest in terms of section 11(a) read with section 23(g) of the Act. The appellant had claimed that it had incurred certain interest expenditure which was deductible from its gross income and had contended that these amounts of interest (incurred in the 1997 to 1999 tax years) had been incurred on a debt of R53 million which it had owned in respect of the purchase price of the business purchased from “M”.

SARS (South Africa) contended that the transaction in issue and corresponding claims for interest deductions constituted a fraud upon SARS and the South African Reserve Bank. It was SARS’s contention that what purported to be a genuine commercial purchase price was not a purchase price at all and thus the “interest” on the purchase price was not interest at all. SARS had doubts whether the MBO was not a simulated contract and hence fraudulent. Doubt was also expressed if the acquisition and subscription agreements correctly reflected the true intention of the parties relative to the purchase price and the stipulated price of the business and the repayment of the loan. SARS had disallowed the interest deductions in the mentioned tax years. The appellant objected against the tax assessments, but SARS had disallowed the appellant’s objection against the assessments. The appellant then appealed against that disallowance. The issue before the Tax Court was the Commissioner’s (SARS)

reliance upon fraud on the part of the appellant and that was the case the appellant was called upon to meet.

The following features of the MBO documentation were suspect and dishonest:

- The backdating of the effective date as to divert extra interest already paid by the appellant to K and L, to be allocated to this agreement.
- The figure of R200 million was clearly a false and assumed value of the business and certainly not a genuine one and all the A shareholders and the B shareholders were party to this false value.
- The backdating of the interest was for an ulterior and dishonest motive.
- The agreement provided that when the R80 million interest was paid, payment of the unpaid purchase price would be effected by the issue of C shares and it was clear from the evidence that the C shares would be valueless, hence the capital would never be paid except by the issue of worthless shares.
- Accordingly, the MBO document and the verbal agreement created the false impression that the purchase price would be paid, but, in fact, all that was to be paid was R80 million tax deductible interest which would be tax-free to K and L and/or their companies and nothing else.
- Accordingly, there was no immutable purchase price and the R53 million was not a fixed or determined price which is required in a sales contract.

It was held by the court that there was no immutable purchase price and that the stipulated price was not a fixed and determined price which is required in a contract of sale and hence in this respect the MBO did not reflect the true agreement or understanding between the parties involved. It was further held that SARS, upon whom there was a rebuttal of evidence, had placed sufficient evidence before the court to enable it to consider whether the taxpayer had discharged the onus resting upon it to establish on a balance of probability that the assessments for the years in question, were in fact wrong. The court held that the aforementioned onus had not been discharged; in particular the evidence supporting fraudulent conduct had not been discharged by the taxpayer. It was also held that the MBO contract and the later proposed contract bore indications of fraudulent conduct. The court further held that it was an essential and material provision of a contract of sale that the price be a fixed or determinable price. It was also held that accordingly as the purchase price was not

genuine and immutable, the taxpayer had failed to discharge the onus that it was entitled to rely on sections 11(a) and 23(g) of the Act.

The judge ruled in favour of SARS and confirmed the assessments in question. The court also agreed with SARS that the agreements created the false impression that a purchase price would be paid when in fact all that was to be paid was interest. The court also found certain features of the MBO documentation to be fraudulent.

The four tax cases discussed all had elements of fraud embedded in it. The taxpayers in question perpetrated fraud which had certain taxation consequences (income tax and Value-Added tax). When an economic crime, such as fraud, is perpetrated, it may have certain taxation consequences. The perpetrator may not necessarily have perpetrated fraud with the intention to evade taxation, but the taxation consequence may seem to be an inevitable outcome of the perpetrated fraud. The purpose of this study is to investigate the possible relationship between the perpetration of fraud or corruption and any possible taxation consequences. These four tax cases demonstrated that there could indeed be a relationship between the perpetration of economic crime and taxation consequences in general.

2.8 POSSIBLE PROSECUTION AREAS FOR SARS IN THE CASE OF TAX FRAUD

Inland Revenue and Customs in the United Kingdom (the HMRC) (HMRC website) has a documented prosecution policy in cases where tax fraud is evident. They have identified the following possible prosecution areas in serious cases where evidence exists, or is likely to become available or is suspected of:

- deliberate concealment, deception, conspiracy or corruption;
- false or forged documents, certificates, statements, or claims, prepared with the intention to deceive;
- pursuing an avoidance scheme, and reliance is placed on a false or altered document or such reliance or material facts are misrepresented to enhance the credibility of a scheme;
- a second or serious offence;

- additional books or records for accounting, tax, contribution or tax credit purposes, prepared or used with the intention to deceive;
- organised criminal gangs attacking the tax system or systematic frauds where losses represents a serious threat to the tax base, including conspiracy;
- unusual frauds of novelty or ingenuity;
- money laundering with particular focus on advisors, accountants, solicitors and others acting in a 'professional' capacity who provide the means to put tainted money out of reach of law enforcement;
- importation or exportation breaching prohibitions and restrictions; or
- suspected wider criminality, whether domestic or international, involving offences not under the administration of HMRC.

At present SARS does not have a similar documented prosecution policy, but due to the increase in fraud in general and the possible financial impact of the committed fraud, it does create an opportunity for SARS to initiate a possible prosecution policy in cases of committed financial fraud. The new Tax Administration Act 28 of 2011 was gazetted on 4 July 2012 and provide amongst others for criminal offences and sanctions in this regard, for the carrying out of an audit or investigation by SARS, and for searches and seizures by SARS. This new legislation will provide SARS with sufficient legal backing to address non-compliance and criminal issues associated with taxation in general.

2.9 DISCUSSION AND CONCLUSION

The secondary research objective to be dealt with in this chapter (section 1.3.2.1) was to determine in general how taxpayers may view tax conduct, tax planning, tax avoidance, tax evasion and tax fraud. In this chapter a general perspective of tax conduct to tax fraud was discussed.

Tax ethics, tax morality and tax conduct (section 2.2) may play a role in tax compliance. There seems to be an increasing emphasis on tax transparency and meeting tax compliance requirements in tax jurisdictions in a manner that meets the relevant tax laws and the tax authority's expectations is a challenge. Any tax system requires taxpayers to supply a great deal of information to tax authorities. Taxation in general relies upon a great deal of voluntary compliance and honesty, backed by tax investigations and/or tax audits. The criminal law will clearly come into play where there

has been a lack in honesty or non-compliance on the part of the taxpayer (Wilson & Gall, 2008:42). The literature reviewed indicates that, from a tax perspective, probably the most difficult issue to handle is whether there are any moral limits to the steps or procedures a taxpayer may take to reduce tax. Stephens, Vance and Pettegrew (2012:17) argue that the decline in ethics “is largely cultural and appears to be closely associated with a failing system of morality”.

The big issue from a tax perspective is if there is a defined area of tax conduct (section 2.2) to be followed by a taxpayer? Fleischman, Valentine and Finn (2007:115) contend that the “recognition of an ethical issue prompts the evaluation of the ethical components of the situation” and to align one’s intentions in a manner to act consistent with one’s ethical judgement in a situation. Thus, from a tax perspective, a taxpayer would be expected to apply ethical judgement when conducting his tax affairs.

The tax conduct of a taxpayer, in dealing with a known or calculated tax liability, should be aligned with current or existing tax laws and regulations. The taxpayer has a right to employ tax planning (section 2.3) to reduce or to avoid his tax liability. As long as the taxpayer conducts his tax planning within the ambit of the applicable laws and regulations, he may legally reduce his tax liability, even if it means to run over into tax avoidance. By avoiding the payment of tax or by postponing the payment thereof, the taxpayer will still be within the ambit of the applicable tax laws and regulations, provided his tax planning efforts do not embark on tax evasion (being illegal and not permissible).

The literature reviewed describes tax avoidance (section 2.4.1) as permissible methods allowed to minimise a tax liability (Murphy & Higgins, 2007:31). Thus, tax avoidance is perfectly legal and taxpayers may use tax avoidance within the ambit of the applicable tax laws to reduce a tax liability without the fear of prosecution or other punitive measures such as penalties or interest. Taxpayers should however pay attention to the possible application of anti-avoidance measures when employing tax avoidance in tax planning.

A taxpayer might pursue the avenue of tax evasion (section 2.5) if his tax planning efforts or legally justifiable tax avoidance attempts cannot produce the desired tax reduction or tax avoidance outcome. Tax evasion is illegal and the taxpayer, when using tax evasion as a tax planning instrument, will display unacceptable tax conduct.

The literature reviewed, contends that tax evasion will occur when taxpayers “use fraudulent methods or deceptive behaviour to hide the actual tax liability” and usually involves three elements, intentional wilfulness on the part of the taxpayer, an underpayment of tax and an affirmative act by the taxpayer to evade the tax (Murphy & Higgins, 2007:31). This unacceptable tax conduct, when detected, will be contested in a court of law. Most countries have severe punitive measures in their tax laws to address the impact of tax evasion appropriately. This may include penalties, additional tax, interest and/or imprisonment. The extent of the punitive measures, being it a penalty and/or imprisonment, should be of such a nature that it will deter a taxpayer from evading tax.

The most severe form of tax evasion is tax fraud (section 2.6). With tax fraud the taxpayer intentionally defrauds the tax authority out of tax revenue. In the case of tax evasion the taxpayer might have valid mitigating circumstances for committing tax evasion, especially in a typical once off tax evasion scenario such as the non-declaration of rental income received from a second property for a particular year of assessment. However, tax fraud must involve intentional behaviour or actual knowledge from a taxpayer. Classic examples will be deliberately failing to declare income or deliberately claiming a deduction to which the taxpayer knows he is not entitled (Baker, 2004:6). A court will however still issue an appropriate sentence to a taxpayer for committing the offence of tax evasion, but the mitigating circumstances might be taken into account in this regard. The severity of tax fraud should never be mitigated. A taxpayer perpetrating tax fraud does so with intent, and with one ultimate outcome – to reduce a tax liability by defrauding the tax authorities.

When a taxpayer uses tax planning caution should be taken to do it responsibly so as to accept any legal tax liability and to deal with such a tax liability within the ambit of the applicable tax laws and regulations. Any inappropriate/illegal measures taken by a taxpayer in dealing with an adverse tax position should be dealt with the full force of the law. The citizens of the Republic of South Africa have embedded rights as outlined in the South African Constitution, Chapter 2, Bill of Rights. By accepting the fact that all South Africans have Constitutional rights it also carries with the exercise of these rights, certain coupled responsibilities. These coupled responsibilities would include the compliance and adherence to promulgated and gazetted South African laws. From a tax perspective this would imply compliance and adherence by all taxpayers to all the

relevant tax laws and regulations applicable to South African taxpayers. Failing to comply or to adhere in this regard, would imply a disregarding of a taxpayer's constitutional rights and a failure to submit to the applicable tax laws and regulations.

The literature reviewed regarding the criminal realm of tax conduct (tax evasion and tax fraud) suggests that there may be a relationship between economic crime and taxation in general to the extent that it pertains to the intent of the taxpayer to evade the payment of taxes or to wilfully defraud a tax authority from an amount of tax (Zagaris, 2010:22). To the other end, the literature supports the legitimate use of tax planning and tax avoidance to reduce a legal tax liability within the ambit of the prevailing tax laws. In this regard Prebble and Prebble (2010:696) observed that tax planning "does not necessarily amount to tax avoidance but it is hard to conceive of an activity that one might describe as "tax avoidance" that is not preceded by or accompanied by at least some tax planning". The literature reviewed also suggests that there is an increasing emphasis on tax transparency and meeting tax compliance requirements in tax jurisdictions. This would therefore imply a certain level of tax ethics and morality guiding taxpayers in their tax conduct and interaction with tax authorities. In this regard Brooks and Dunn (2012:461) observed that tax morality is a question solely for the taxpayer and not the duty of the accountant as a tax adviser to inform the taxpayer of what is or is not moral.

It may then be concluded that if taxpayers align their tax conduct with their moral obligation to be tax compliant, using tax planning effectively and appropriately within the ambit of prevailing tax laws, although employing tax avoidance as a tax planning tool, they would be acting within their constitutional tax rights. However, when taxpayers move from the permissible (tax planning or tax avoidance within the ambit of current tax laws) to the illegal (tax evasion or tax fraud), they will have to face the legal consequences of their conduct in this regard.

2.10 SUMMARY

The reason for this chapter was to determine the general perspective on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud. From the literature review conducted it was established that a taxpayer should align his tax conduct within the ambit of the applicable laws. A taxpayer also has a right to pay the least possible tax by

using tax planning and tax avoidance provided such tax planning and tax avoidance remain legal. The literature reviewed also confirmed that when a taxpayer employs tax evasion (illegal) or worse, tax fraud (criminal) to address his adverse tax position, the taxpayer will be confronted with the full force of the applicable tax laws. A taxpayer does enjoy the right to legal tax planning and tax avoidance to minimise a tax liability but in exercising such right the taxpayer should be tax compliant with regard to the various applicable tax laws and regulations.

If a taxpayer commits tax evasion or tax fraud, such actions may be linked to other economic crimes such as fraud, money laundering, white-collar crime and corruption. A tax offence linked to the identified economic crimes may be a deliberate offence (the offender is knowledgeable on tax and can reasonably foresee the tax consequences resulting from perpetrating an economic crime offence) or the tax offence could be incidental (the offender is not knowledge on tax and the tax consequences resulting his economic crime offence is merely the result of the perpetration of an economic crime). This study investigated the financial and moral perspective of the impact of economic crime on taxation. Taxation does form an integral part of economic crimes and a loss of tax revenue resulting from economic crimes may impact on government's service delivery capacity.

The general types of economic crimes such as white-collar crime, fraud, money laundering and corruption that are perpetrated and how such crimes can be prevented, detected and dealt with will be discussed in chapter 3.

CHAPTER 3

ECONOMIC CRIME: DEFINITIONS, PROBABLE CAUSES AND MEANS OF PREVENTION

3.1 INTRODUCTION

The main objective for this study (indicated in section 1.3.1) is to determine whether there is any relationship between economic crime and taxation in general. In order to deal with the main objective, a secondary objective (section 1.3.2.2) was formulated to determine in general the types of economic crimes such as white-collar crime, fraud, money laundering and corruption that are perpetrated and how such crimes can be prevented, detected and handled.

This chapter briefly examines some of the aspects of these crimes, the effect they may have on society and taxation in general and the possible means of detecting, exposing and appropriately addressing the perpetrators of such crimes. Rezaee and Riley (2010:25) contend that generally “white-collar criminals are intelligent, determined, committed to success, highly energetic, creative, good problem solvers, and aggressive”. These characteristics are similar to what is generally associated with successful entrepreneurs and leaders in business.

Comer and Stephens (2004:4) state that credit card companies lose four per cent of turnover through card abuse, identity theft and skimming and companies in general lose between two and five per cent of turnover as a result of fraud. The cost of economic crime is therefore a reality. Comer and Stephens (2004:5) comment that “nearly every large accounting firm is now embroiled in legal action for alleged negligence in not recognizing the symptoms of fraud”. Most of the issues associated with fraud could have been avoided if “honest people had asked the right questions at the right time and had exposed the deep truth” (Comer & Stephens, 2004:6). It therefore does seem that when deception is at work, according to Comer and Stephens (2004:6), “for every credibility gap, there is a gullibility fill”.

The first economic crime to be discussed will be white-collar crime, followed by fraud, money laundering and lastly corruption. Corporate governance and ethics will also be discussed as means of dealing with economic crimes in general.

3.2 WHITE-COLLAR CRIME

3.2.1 Introduction

White-collar crime seems to include almost any financial or economic crime (Wells, 2008:12). Doig (2006:4-5) argues that white-collar crime includes fraud because the former is “committed through the use of some combination of fraud, deception or collusion” and “corruption”.

The term “white-collar crime” was first used in the 1940s by Edwin Sutherland, an influential American criminologist in an address to the American Sociological Association when he stated that “a white-collar crime is a crime committed by a person of respectability and high social status in the course of his occupation” (Geis, 2007:134). Green (2006:13) is of the opinion that to refer to a crime as “white-collar” is to “draw attention to the characteristics of the person (or entity) that committed it”. Green (2006:13) further states that white-collar crime should be understood as requiring, as an element that the offender must be:

- a corporate entity or officer of such entity acting in his capacity as such; or
- performing a particular job or serving in a particular position at the time he committed the offence.

Bolonga and Lindquist (1995:23) indicate that white-collar crime is primarily a criminal breach of trust, a breaking or violation of duties, obligations, and responsibilities either by acts of commission or omission, by overt or covert action, as in a wilful fraud, theft, or embezzlement of entrusted property, by inaction, as an oversight and neglect of duty, by negligent performance of duty as imprudent and failure of judgement, or by exceeding one’s legal authority. For this reason Turner (2008:28) contends white collar crime is internally directed.

Green (2006:22) states that one of the most important debates in the criminal law theory literature “has focused on whether the criminal law should be concerned exclusively with the quality of the acts that criminal offenders perform, or also with the motivation and character that lie behind the acts”. The choices a person will make can or may lead to possible white-collar crimes. Green (2006:23) argues that the moral content of criminal offences consists not solely in the extent to which the defendant intentionally or knowingly or recklessly caused harm, and he does so without excuse or justification, but also includes the extent to which his act was morally wrong.

The issue of moral ambiguity arises where there is a gap between what the law regards as morally wrongful and what a significant segment of society believes to be morally wrongful. The law may state that a certain act committed by a member of a certain society is morally wrong and therefore punishable, but that society may not believe the actions of the perpetrator to be morally wrong. One example will be a “trivial” offence such as selling liquor without a liquor licence. Silverstone and Sheetz (2007:20) contend that the most common rationalisation for financial crimes is that it does “not hurt other people” and that corporate offenders often consider “laws as an unjust or unnecessary form of government interference disrupting free market forces”.

Geis (2007:11) comments on Sutherland who maintains that the “rules for how the game should be played in business were in conflict with legal requirements, and individuals typically were more concerned with their immediate self-interest than with social welfare in general”. Thus, a person committing white-collar crime may only be concerned about his gain from the crime and may disregard the broader implications of such a crime. In this regard, Silverstone and Sheetz (2007:18,19) observe that financial motivators have a big impact on financial crimes and that the situation in which a potential white-collar offender may find himself can play a significant role in whether or not such a crime will be committed.

3.2.2 Legislative, judicial and prosecution attitudes towards white-collar crime

Green (2006:27) contends that the “complex and often ambiguous moral character of white-collar crime is both the cause and effect of how it has been treated by legislatures, judges and prosecutors”. Green (2006:27) identifies the following points about legislative treatment of white-collar crime that are worth taking note of:

- much of the conduct is foreseeable by means of both criminal prosecution and private or governmental civil actions; and
- white-collar crime offenses seem, in general, to be subject to less severe penalties than street crimes.

3.2.3 Criminal defence and the media

Green (2006:28) argues that “public attitudes towards white-collar crime are affected not only by how such offences are treated by government officials, but also by the criminal defence bar, the media, the public relations industry, and the academia”. A defendant in a white-collar crime case is much more likely to have funds to be able to afford a lawyer, an investigator or other consultants, than a typical street crime offender, to promote his course of action. Sometimes the public profile of the offender in a white-collar crime case may require drastic measures such as using the media or the internet to seek public sympathy for the offender. Green (2006:29) also contends that “the seriousness of white-collar crime tends to be minimized by the media”. The media will in general give more attention to violent crimes such as murder, rape or domestic violence and less attention to white-collar crimes.

“Media organizations are more likely to be intimidated in their coverage of white-collar crime by the possibility that corporate sponsors might withdraw advertising and that deep-pocketed targets of white-collar crime investigations might institute defamation suits”. If the media were to turn a blind eye to white-collar crime, they may be viewed as indirectly promoting these illegal activities. The media is in the true sense of the word, a watchdog that should investigate and report independently on all issues of public interest. In a true democratic society the media should have freedom of speech and publication, being able to publish what they deem fit, provided it is within the context of public interest, and within existing legal frameworks (Green, 2006:29).

3.2.4 Measures to help prevent or deter white-collar crime

Economic crime has become such an integral part of the work or business environment. It will never be prevented completely, but certain definite measures might prevent or deter the frequency and/or magnitude of the occurrence thereof. Wells (2007a:403, 416, 423,

453, 464, 475, 486, 509, 518, 534, 545, 566, 575, 585, 594 and 605) suggests that any company or employer can implement the following to help prevent or deter corruption and white-collar crime (a detailed list of the procedures that can be implemented is listed in Appendix G):

- internal control measures;
- audit procedures;
- employee/personnel related procedures;
- risk assessment;
- customer/client measures;
- training;
- company policy and documentation;
- reporting measures;
- ethics;
- communication; and
- technology and computer controls.

Fraud and corruption will not be stopped completely, but it can be handled by implementing certain measures or controls to manage the possible impact it may have on companies, businesses or even governments. There is a notion that if one sees others punished for a transgression one would be less likely to commit the same transgression. According to Wells (2007b:14) the average sentence for fraud is 16 months in the United Kingdom and 23 months in Australia. Thus, a jail sentence may not be a serious consideration in the mind of a potential offender. Wells (2007b:14) contents that there is a more effective and equitable way to punish company executives involved in white-collar crime. Wells (2007b:14) suggests the following punishment:

- Corporate executives should be stripped of all their assets, which could be used to compensate for victims' losses.
- High-level managers should serve a modest stretch in prison to demonstrate that they are not above the law.
- Managers and corporate executives should return to the workforce but with a twist (transgressors should not be permitted to keep their earnings; any excess funds over the minimum wage should go towards restitution).

The punishment suggested by Wells for company executives involved in white-collar crime, may seem harsh, but it could be an effective deterrent. If company executives would be stripped of their assets to compensate victims of white-collar crime for their losses and have to serve a prison term for such a crime, it could communicate a very strong message to all company executives, especially if they have to be re-employed by the same company and only be allowed to earn the minimum wage applicable for the said company. The approach suggested by Wells could be contested in terms of the South African constitution. It could be viewed as unreasonable and unconstitutional.

3.3 FRAUD

3.3.1 Introduction

Silverstone and Sheetz (2007:3) propose that fraud is an opportunistic infection that “bursts forth when greed meets the possibility of deception”. It comes in many forms and its main purpose is to gain an advantage over another party. Fraud as a concept has various definitions because much of the attention is on the process of fraud (Doig, 2006:21). Wells (2007a:XIII) put forth the following universal themes about fraud:

- Those who commit fraud usually do so without a grand plan; instead, they make bad decisions, one after the other.
- Like water, fraud follows the path of least resistance. That is, these offences are never more complicated than they need to be in order to accomplish the perpetrator’s illicit goals.
- Occupational fraud (those offences that occur in the workplace) follows definite patterns.

Schaeffer (2007:181) contends that “fraud is a fact of life for organizations of all sizes”. Schaeffer (2007:181) also remarks that “crooks have no conscience and know no boundaries. They will take from whoever they can”. It could therefore be argued that a fraudster may become a product of his fraudulent actions.

The Collins English dictionary and thesaurus (2006:474) describes fraud as “deliberate deception, trickery, or cheating intended to gain an advantage”. The word “fraud” when

used as a noun is described as “a deception, deceit, treachery, swindling, guile, trickery, duplicity, double-dealing, chicanery, sharp practice, imposture, fraudulence and spuriousness, being the opposite of honesty” (Collins English dictionary & thesaurus, 2006:474).

The International Standard on Auditing 240 (ISA)(2010: paragraph 11) proposes that the term “fraud” refers to “an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage”. Vona (2008:45) on the other hand, defines fraud very comprehensively as follows:

“Acts committed on the organization or by the organization or for the organization. The acts are committed by an internal or external source and are intentional and concealed. The acts are typically illegal or denote wrongdoing, such as in the case of: financial misstatement, policy violation, ethical lapse, or a perception issue. The acts cause a loss of company funds, company value, or company reputation, or any unauthorized benefit whether received personally or by others.”

Coenen (2008:7) defines fraud as “an intentionally false representation about a material point, which causes a victim to suffer harm.” Wells (2008:8) contends that “fraud can encompass any crime for gain that uses deception as its principal modus operandi”. Foote and Bange (2006:1) contend that fraud is normally characterised by the presence of some form of deliberate deception to facilitate or conceal the misappropriation of assets.

Rezaee and Riley (2010:7), Simmons (1995:1), Wells (2008:8), Coenen (2008:7) and Turner (2008:8) indicate that fraud occurs when all of the following elements exist:

- an individual or an organisation intentionally makes a false representation about an important fact or event of a material nature;
- the false or reckless representation is believed by the victim (the person or organisation to whom the representation has been made);
- the victim relies upon and acts upon the false representation;
- the victim suffers loss of money and/or property as a result of relying upon and acting upon the false representation; and

- the false representation was intentional.

Thus, for an act or deed to be labelled as fraudulent, the act or deed should be an intentional misrepresentation of a fact or event by one person being wrongful/unlawful with the purpose or intent to cause damage, harm or loss to another person who will be relying on the fact or event in order to secure an unfair or unlawful gain for the fraudster. The fraudster has one ultimate goal and that is monetary gain.

3.3.2 General types of fraud and fraud risk management

Fraud can either be internally or externally directed. Turner (2008:27) observes in this regard that fraud will be internally directed if carried out by employees or management against the organisation and externally directed if carried out by third parties or clients of the organisation. For the purpose of this study the following principal types of fraud will be discussed in more detail:

- misrepresentation of material facts;
- concealment of material facts;
- bribery;
- illegal gratuity;
- commercial bribery;
- extortion;
- conflict of interest;
- theft of money and property;
- breach of fiduciary duty;
- conspiracy;
- financial statement fraud;
- ponzi and pyramid schemes;
- procurement fraud; and
- tax schemes.

3.3.2.1 Misrepresentation of material facts

Robertson (2002:6) states that the essence of the misrepresentation of material facts by a transgressor is “to induce an intended victim to part with money or property” of any kind. Henderson (2001:91) contends that a misrepresentation in the context of fraud will normally be where a “substantial fact has not been declared”. According to Robertson (2002:6) the elements of misrepresentation normally include:

- a materially false statement;
- knowledge of its falsity;
- reliance on the false statement by the victim; and
- damage suffered by the victim.

The courts normally accept material false statements to serve as a basis for a fraud case. Materiality in this context usually refers to statements sufficiently important or relevant that it can influence a victim's decision. It must be proven in court that a false statement was intentional and part of a deliberate scheme to defraud the victim (Robertson, 2002:6).

3.3.2.2 Concealment of material facts

Robertson (2002:7) observes that the concealment of material facts will be regarded as fraud only if the defendant had a duty to disclose such facts in the circumstances. Vona (2008:14) contends that the perpetration of fraud “presents a need to conceal the activity”. Robertson (2002:7) identifies the following to be the essential elements of fraud, based on the failure to disclose material facts:

- the defendant had knowledge of a material fact;
- the defendant had a duty to disclose; and
- the defendant failed to do so with the intent to mislead or deceive the other party.

The duty to disclose information or facts usually depends on the relationship between the parties involved. In the case of a taxpayer and SARS for example the taxpayer has a legal duty to disclose all relevant tax information and income in his annual income tax return. The taxpayer has to fully and completely disclose material facts and information to SARS

who relies on that disclosure for taxation purposes. Failure to disclose the required tax information may be viewed by SARS as a concealment of material facts for example and it may also constitute non-compliance.

3.3.2.3 Bribery

Vona (2008:120) describes bribery as a “price, reward, gift, or favour bestowed or promised with a view to prevent the judgement of or influence the action of a person in a position of trust” (for example approaching a SARS employee to reduce a tax assessment). Coenen (2008:84) states that bribery involves the “giving or receiving something of value in order to influence a transaction and to ensure something occurs in future”. Robertson (2002:8) identifies the elements of official bribery to be:

- the giving or receiving of a thing of value; and
- to influence an official act.

Wells (2008:240) argues that bribery schemes generally “fall into two broad categories: *kickbacks* and *bid-rigging schemes*”. Wells (2008:240) describes kickbacks as “undisclosed payments made by vendors to employees of purchasing companies”. The main purpose of a kickback, according to Wells is “usually to enlist the corrupt employee in an overbilling scheme”.

Wells (2008:263) explains bid-rigging as “a process by which an employee assists a vendor to fraudulently win a contract through the competitive bidding process”. Wells (2008:263) contends that the way competitive bidding is rigged “depends largely on the level of influence of the corrupt employee. The more power a person has over the bidding process, the more likely the person can influence the selection of a supplier” (Wells 2008:246). An employee involved in a bid-rigging scheme may have a good measure of influence or access to a competitive bidding process. According to Wells (2008:246) potential targets for accepting bribes may include buyers, contracting officials, engineers and technical representatives, quality of product assurance representatives, subcontractor liaison employees, or anyone else with authority over the awarding of contracts.

3.3.2.4 Illegal gratuity

Coenen (2008:84) observed that an illegal gratuity “occur after a transaction has been completed”. Blundo and Olivier de Sardan (2006:75) state that “gratitude is shown to a public official who has ‘done his work well’ by offering ‘something’, the sum or form of the gratuity being left to the discretion of the user.” Wells (2008:252) views illegal gratuities to be similar to bribery schemes except that there is not necessarily intent to influence a particular business decision.

3.3.2.5 Commercial bribery

The payment of a commercial bribe may defraud the business owner of the right to an employee’s unbiased and loyal services. Robertson (2002:9) and Wells (2008:263) contend that commercial bribery is the giving or receiving of a thing of value to influence a business decision without the knowledge or consent of the principal.

3.3.2.6 Extortion

Coenen (2008:84) explains extortion as an action where a “perpetrator demands a sum of money or something of value with a threat of harm if the demands are not met”. Harm in this regard may include the apprehension of possible economic damage or loss. In some cases a demand for a bribe or a kickback may also be regarded as extortion. Wells (2003a:7) states that the “flipside of offering or receiving anything of value is demanding it as a condition of awarding business” and this is termed “economic extortion”. According to Wells (2008:252) extortion will occur when an employee demands payment from the vendor to make a decision in favour of such a vendor, instead of the vendor offering a payment to an employee to influence a decision.

3.3.2.7 Conflict of interest

Simmons (1997:1) proposes that a conflict of interest is generally thought of as any situation involving hidden “self-dealings”, “related-party transactions”, “non-arms-length relationships”, or serving “two masters” that results in a gain to one party at the expense of another. Simmons (1997:1) defines the concept of a “conflict of interest” to be:

- the convergence between an individual's private interests/obligations/relationships and his professional obligations to the organisation;
- such that an independent observer might reasonably question the motive, actions and outcomes regarding decisions made or actions taken by the individual, as a director, officer or employee; and
- the individual, the individual's immediate family, or a third party or organisation in which the individual or the individual's immediate family has a business interest or association, receives any "thing of value" as a result of decisions made or actions taken by the individual as a director, officer or employee of the organisation.

Wells (2008:253) explains that a conflict of interest "occurs when an employee, manager or executive has an undisclosed economic or personal interest in a transaction that adversely affects the company". Thus, the fraudster takes advantage of his employer and the victim organisation is unaware of this divided loyalty.

3.3.2.8 Theft of money and property (misappropriation of assets)

The theft of money and property includes embezzlement, cash larceny and misappropriation of trade secrets and proprietary information. Each item is now discussed separately.

Embezzlement

Robertson (2002:11) explains embezzlement as "the wrongful appropriation of money or property by a person to whom it has been lawfully entrusted". Turner (2008:70) argues that embezzlement is "fraud where someone comes by property legally, and then converts it for his own use".

Cash larceny

Coenen (2008:73) describes cash larceny as involving the "theft of funds after there has been a transaction recorded". Wells (2008:77) explains a cash larceny as the intentional taking of an employer's cash (the term *cash* includes both currency and cheques) without the consent and against the will of the employer.

Theft of trade secrets

Robertson (2002:12) contends that a trade secret does “not only include secret formulas and processes” but may also include organisational information such as customer and price lists, sales figures, business plans or any other confidential information that is of value to the business and it would be potentially harmful to the organisation if being disclosed to or by unauthorised persons. Bishop and Hydoski (2009:99) argue that a challenging area for organisations today is protection against the theft of intangible assets and non-physical assets.

3.3.2.9 Breach of a fiduciary duty

People acting in a fiduciary capacity to their principals or employers, have a duty of loyalty and care. Simmons (1995:5) suggests that a breach of fiduciary trust occurs when a person, who is employed by and owes a duty to an organisation or another individual, does something that is not in the best interest of that organisation or individual. Robertson (2002:13) observes that a duty of loyalty implies and “requires that employees and agents act solely in the best interest of their employers and principals, free of any self-dealing, conflicts of interest or other abuse for personal advantage”. Wells (2008:10) argues that a “fiduciary has a duty to act in the best interest of the person whom he represents”.

Robertson (2002:14) states that “corporate officers, directors and high-level employees, as well as other persons in a fiduciary relationship, must conduct business affairs prudently with the skill and attention normally exercised by persons in similar positions”. If fiduciaries act carelessly or recklessly they will be held responsible for any resulting loss to the corporate shareholders or any other principal.

3.3.2.10 Conspiracy

Simmons (1995:5) states that conspiracy occurs when there is the specific intent that a crime be performed; and there is an agreement with another person (or persons) to engage in or cause that crime to be performed, and that one of the conspirators commits an overt act in furtherance of the conspiracy. The key factor here is the intention to commit the crime of conspiracy and the collusion of two or more parties to perpetrate the

act of conspiracy. Person A agrees (conspires) with person B that a crime is committed against person C. Coenen (2008:91) contends that for an employee to enter into a corruption scheme, the employee must generally be “in a position to participate in a conspiracy with a vendor” and the employee “must have some level of authorization within the company”.

3.3.2.11 Financial statement fraud

Defining financial statement fraud

The financial world was shattered when the media broke news of the existence of financial statement fraud committed by Enron, in the United States of America (MacDonald & Hughes, 2009:197). The sheer quantum of financial statement fraud in the Enron case, sent shock waves through the financial world. Coenen (2008:66) observes that Enron was reporting “excellent revenues period after period, but never seemed to have any cash to show for sales”. In this regard, Zack (2009:3) states that “fraudulent financial reporting by big businesses has reached alarming levels”. Rezaee and Riley (2010:4) state that “not a day passes without fraud-related news, especially in regard to financial reporting”.

Rezaee and Riley (2010:5) refer to the Association of Certified Fraud Examiners who defines financial statement fraud as “the intentional, deliberate, misstatement or omission of material facts, or accounting data which is misleading and, when considered with all the information made available, would cause the reader to change or alter his or her judgement or decision”. Rezaee and Riley (2010:5) contend that financial statement fraud is a “deliberate deception with the intent to cause harm, injury or damage”. Coenen (2008:98) contends that financial statement fraud “can include the deliberate misstatement of numbers, caused by false accounting entries” and it can also happen “through the deliberate misapplication of accounting rules”, causing the financial statements to be “purposely inaccurate”.

According to Rezaee and Riley (2010:7), Zack (2009:3), Wells (2008:299), Coenen (2008:119) and ISA 240 (2010: paragraph A3) financial statement fraud may involve the following schemes:

- falsification, alteration, or manipulation of material financial records, supporting documents, or business transactions;
- material intentional omissions or misrepresentations of events, transactions, accounts, or other significant information from which the financial statements are prepared;
- deliberate misapplication of accounting principles, policies, and procedures used to measure, recognize, report and disclose economic events and business transactions;
- intentional omissions of disclosures or presentation of inadequate disclosures regarding accounting principles and policies and related financial amounts;
- manipulation, falsification (including forgery), or alteration of accounting records or supporting documentation from which the financial statements are prepared;
- misrepresentation in or intentional omission from, the financial statements of events, transactions or other significant information;
- intentional misapplication of accounting principles relating to amounts, classification, manner of presentation, or disclosure; and
- inflating assets, understating liabilities, inflating revenues, understating expenses, and creating timing differences.

Rezaee and Riley (2010:14) stipulate that it is difficult, if not impossible, to quantitatively measure the cost of financial statement fraud. Some of the reasons given to support their view include the following:

- Empirical studies show that only a small portion of all frauds, including financial statement fraud, are discovered.
- Even if the fraud is discovered, not all cases are reported because companies attempt to preserve their image by dismissing fraudsters and pretending that the incident never happened.
- Fraud surveys in reporting the extent and magnitude of fraud are not always accurate, and they are subject to the limitation of any typical survey study in the sense that they report their perception rather than the reality.
- Companies typically do not pursue civil or criminal actions; by firing the fraudsters, many companies believe that they have prevented further occurrences of fraud.

Extent and types of financial statement fraud

Rezaee and Riley (2010:14) classify financial statement fraud into two categories: “detected (reported) and undetected”. The majority of financial statement frauds will most probably never be detected. The extent of financial statement fraud, according to Rezaee (2002:18), is unknown, primarily because:

- reliable statistics are not available;
- financial statement fraud continues until it is detected and revealed; and
- the nature of financial statement fraud is changing in the light of technological advances (for example the Internet and electronic financial reporting) and globalisation.

According to ISA 240 (2010: paragraph A4) fraudulent financial reporting often involves management override of controls that may appear to be operating effectively. The techniques used by management to commit fraud by overriding controls may include the following (ISA 240 (2010: paragraph A4):

- recording fictitious journal entries, particularly close to the end of an accounting period, to manipulate operating results or achieve other objectives;
- inappropriately adjusting assumptions and changing judgements used to estimate account balances;
- omitting, advancing or delaying recognition in the financial statements of events and transactions that have occurred during the reporting period;
- concealing, or not disclosing, facts that could affect the amounts recorded in the financial statements;
- engaging in complex transactions that are structured to misrepresent the financial position or financial performance of an entity; and
- altering records and terms related to significant and unusual transactions.

Wells (2008:269) contends that financial statement fraud may involve the following three methods starting with the first and progressively adding the other two methods as the fraud grows:

- “Playing” the accounting system – the fraudster uses the accounting system as a tool to generate the results he wants such as increasing or decreasing earnings to a desired figure for example.
- Beating the accounting system – the fraudster feeds false and fictitious information into the accounting system to manipulate reported results by an amount greater than can be achieved by simply “playing the accounting system”. Fictitious sales may for example be recorded for legitimate or phony customers.
- Going outside the accounting system – the fraudster produces whatever financial statements he wishes using a personal computer for example. The fraudster could base these financial statements on the results of an accounting or financial reporting process for an operating entity, with additional manual adjustments to achieve the desired results.

According to ISA 240 (2010: paragraph A2) fraudulent financial reporting can be caused by the efforts of management to manage earnings in order to deceive financial statement users by influencing their perceptions as to the entity’s performance and profitability. In this regard, Makar, Alam and Pearson (2004:26) contend that when a company’s “reported financial results are intentionally misstated, earnings management becomes fraud”. Pressure on management to achieve targets, budgeted earnings or market expectations may cause management to revert to fraudulent financial reporting by materially misstating the financial statements. By overstating company earnings, management may maximise their own compensation if based on company performance. By understating the entity’s earnings, management can minimise the tax liability of the entity.

Financial statement fraud is a reality. Numerous factors may contribute to the perpetration of financial statement fraud. Various role-players may be affected adversely when financial statement fraud has been committed. Financial statement fraud may not be prevented in total, but certain precautionary measures can be implemented to limit or deter the occurrence of possible financial statement fraud committed by managers and employers.

3.3.2.12 Ponzi and pyramid schemes

Charles Ponzi, an American fraudster, launched a scheme in the 1920s involving pre-paid postal reply coupons. Ponzi offered investors up to 50% returns in 45 to 90 days (McGrath, 2009:1). The scheme eventually came to a halt. Hawkey (2009:3) states that a classic Ponzi scheme “involves investors, drawn by the promise of fantastic returns, ploughing money into an investment opportunity”. According to Hawkey investors are paid their promised returns out of cash invested by fellow victims (later investors) instead of being paid out of actual profits. A typical Ponzi scheme is sure to fail with more and more cash needed to fund the promised returns for investors. For as long as new investors are drawn into the scheme, the existing investors would receive their promised returns (Hawkey, 2009:3).

Simon (2008:109) proposes that a Ponzi scheme is a fraudulent investment operation “where early investors are paid off handsomely with proceeds from sales to later participants” resulting in a “rush of new investors, greedy for easy profits”. The returns offered by a Ponzi scheme are usually much higher than in other investment schemes. McGrath (2009:2) states that Ponzi schemes are always illegal, because it involves deceit to convince someone to invest money that will not actually be invested. Weisman (2008:30) argues that in essence, “the Ponzi scheme is the classic pyramid scam”.

McGrath (2009:2) says that a Ponzi scheme is a simple matter of wash, rinse and repeat: Money from new investors is used to pay the returns to the previous rung of investors. With each cycle, continuing the Ponzi scheme becomes more and more difficult. Earlier investors may become suspicious if they do not receive their regular returns. The scheme in itself is self destructive and will eventually become unsustainable when new investors can no longer be attracted to the scheme.

Hawkey (2009:3) compared Barry Tannenbaum (a South African who masterminded a Ponzi scheme involving an estimated R10 billion) with Bernard Madoff, an American businessman who swindled a reported \$65 billion from thousands of investors in a Ponzi scheme. According to Hawkey (2009:3), both Tannenbaum and Madoff “successfully managed to gain investors’ confidence because they were simply nice guys”. Hawkey (2009:3) reported that the investment scheme of Tannenbaum started off legitimately but

“developed wings and escalated into a fraudulent pyramid scheme”. Tannenbaum’s scheme was punted as a legitimate business buying active pharmaceutical ingredients from foreign countries and then to on-sell it to generic drug makers such as Aspen, Adcock and Novartis to make anti-retroviral drugs. Tradipo (2009:1) reports that Tannenbaum “persuaded people to invest in his companies – Frankel International and Frankel Chemicals – by offering prodigious returns of up to 216% a year”. Tradipo (2009:1) contends that the actual business of Tannenbaum was a fraud because the purchase orders were forged and auditors have confirmed that the financial accounts of Tannenbaum’s companies had been altered and falsified.

McGrath (2009:2) contends that a pyramid scheme will offer the investor “an opportunity to make money” for his own account. In a pyramid scheme the investor buys the right to start a franchise and to start recruiting more people like himself. McGrath (2009:2) states that the new recruits will often pay the recruiter (initial investor) a cut of their profits. Weisman (2008:38) observes that in essence, a pyramid scheme “is a fraudulent, unsustainable business model in which people receive money through enrolling new people into the scheme who, in turn, receive money from enrolling more people into the scheme”. The only real return from this self-destructive investment comes from enrolling more people into the scheme. As soon as the enrolment process stops the whole scheme will start to collapse because, as Weisman (2008:13) states “pyramid schemes are always an illegal and losing proposition”.

3.3.2.13 Procurement fraud

Coenen (2008:86) describes procurement fraud as being “essentially the manipulation of the process of obtaining a contract for goods or services”. Typically the manipulation is generally aimed at gaining an advantage in the bidding or proposal process and according to Coenen (2008:86) “the bad acts can range from the unfair use of insider information to the use of nefarious means to influence the process”. Silverstone and Sheetz (2007:7) propose that procurement fraud is “frequently a collusive employee-vendor fraud”. In this regard, Coenen (2008:86) contends that the procurement process can be broken down into the following broad categories:

- collusion between employees and vendors – may include kickbacks, bid rigging, gifts or other enticements;
- vendor fraud against a company – a vendor may commit fraud against a company by substituting goods of inferior quality, overcharging the company, or engaging other false billing schemes; and
- collusion between multiple vendors – vendors may collude to artificially inflate prices for goods and services in bids or proposals, or to help one another to receive certain contracts based on agreement between them.

3.3.2.14 Tax schemes

Tax authorities around the world are frequently confronted with illegal and ingenious schemes devised by fraudsters. They have a responsibility to alert taxpayers and tax practitioners of these schemes. Banhoff and Lipton (2008:318) compiled the following list of tax schemes involving fraud:

- Frivolous arguments – promoters of frivolous schemes encourage people to make unreasonable and unfounded claims to avoid their tax liabilities.
- Fuel tax credit schemes – tax authorities are receiving claims for fuel tax credits that are unreasonable. Farmers qualify for a fuel tax rebate on fuel used for business purposes, but may claim the fuel tax rebate also for private use.
- Hiding income offshore – taxpayers continue trying to avoid paying taxes in their country of residence by illegally hiding income in offshore bank and brokerage accounts or using offshore debit cards, credit cards, wire transactions or foreign trusts.
- Abusive retirement plans – abuses in retirement plan arrangements continue. Taxpayers use retirement plans to make contributions above permissible contribution limits.
- Zero wages – a phony employees' tax return is filled, replacing a legitimate employees' tax return.

- False claims for tax refunds – taxpayers submit false claims for tax refunds to which they are not entitled.
- Return preparer fraud – dishonest tax returns preparers can cause many problems for taxpayers who fall victim to their schemes.
- Disguised corporate ownership – some people set up domestic shell corporations for the purpose of disguising the ownership of a business or financial activity. These anonymous entities, once formed, may be used to facilitate underreporting of income, non-filing of tax returns, engaging in listed transactions, money laundering, financial crimes and even terrorist financing.
- Misuse of trusts – unscrupulous promoters have for years urged taxpayers to transfer assets into trusts. Taxpayers are promised a reduction of income subject to income tax, deductions for personal expenses and a reduced estate and reduced estate duty.
- Abuse of charitable organisations and deductions – tax-exempt organisations are continuously being misused. The misuse includes arrangements to improperly shield income or assets from taxation, attempts by donors to maintain control over donated assets or income from donated property and overvaluation of donated property.

Wells (2008:173) describes payroll schemes as a form of “fraudulent disbursement in which an organization makes a payment to an individual who either works for the organization or claims to work for the organization”. According to Wells (2008:173) payroll fraud schemes fall into the following categories:

- ghost employees;
- falsified hours and salary; and
- commission schemes (linked to an organisation's sales).

A ghost employee can either be a fictitious person or a real person who do not work for an organisation. Wells (2008:173) observes that when a ghost employee is a real person, the ghost employee is often a friend or relative of the perpetrator who may cash the fraudulent pay check and share the spoils with the perpetrator.

According to Wells (2008:173) the most common method of misappropriating funds from the payroll “occurs when employees falsify the number of hours they have worked”. Wells (2008:173) also contends that an employee who work on commission “can defraud a company by falsifying the amount of sales” that was made or “by falsifying the prices of items” that have been sold. A salesperson might also try and change the rate of his commission based on sales to increase his commission income.

Often taxpayers may receive a fraudulent e-mail notification from a tax authority regarding a pending tax-refund. The e-mail address normally appears legitimate, but is not. The uninformed victim is notified that he is eligible for a tax refund. The victim is requested to follow a link in the e-mail taking the victim to a phony SARS website for example that asks for personal and financial information. Weisman (2008:102) confirms an important aspect with regard to tax refunds that a tax authority would not normally notify a taxpayer of a tax refund via e-mail, neither asking for personal identifying information or financial information via e-mail.

Many South African taxpayers are using the electronic tax filing system (eFiling) and similar electronic tax filing systems are in operation in many other tax authorities. Weisman (2008:102) cautions taxpayers about possible misappropriation of their income tax returns and stealing their identity. According to Weisman (2008:102) the scheme starts when the victim receives an e-mail from the tax authorities informing him that someone else has for example used his credit card and tried to pay taxes through eFiling. For the taxpayer to correct the situation and to receive funds that SARS is holding in the taxpayer’s name, the taxpayer is requested to click on a link provided in the phony e-mail to go to the SARS website and to complete a certain form. The phony website looks similar to SARS’s website and the victim provides all the requested information and falls prey to identity theft.

The possible tax schemes listed above are just some of the more notable tax schemes around. There is many more tax schemes used or employed by taxpayers to avoid or evade the payment of taxes involving fraud.

3.3.3 People who perpetrate fraud and the reasons for that

People do not merely decide to go out and commit fraud. Pedneault (2009:19) believes that the “overall theme behind committing fraud is some type of financial gain or incentive”. Coenen (2008:191) contends that “greed is part of human nature” and the “temptation and opportunity to commit fraud may be overwhelming”. Downes and Rock (2007:62) state that “criminal behaviour is an expression of general needs and values”. Silverstone and Sheetz (2007:18) observe that “financial motivators obviously have a big impact on the cause of financial crime. Geis (2007:162) says that two conditions complement economic crimes and that is “the confluence of appropriate motivation and opportunity”.

Wells (2002a:2) is of the opinion that a person’s “propensity to commit a crime is determined by his perception of related risks and rewards – the greater the risk of detection and apprehension, the less likely a person is to violate the law”. Wells (2002a:2) further argues that a fraudster’s “willingness to commit fraud is inversely proportional to their perceived risk of being discovered”. In a study conducted by Cressey, as quoted by Wells (2008:14), he identifies the following non-shareable problems, apart from financial drivers to perpetrate fraud that could motivate people to perpetrate fraud:

- violation of ascribed obligation;
- problems resulting from personal failure;
- business reversals;
- physical isolation;
- status gaining; and
- employer-employee relations.

Vona (2008:11) observes that the perpetrators of fraud against an organisation can be classified into the following groups:

- First-time offenders – these individuals may have no record of any criminal activity and may have some personal or other pressure to commit fraud.
- Repeat offenders – people who have committed internal fraud may commit the crime more than once – opportunity becomes the driving force to commit fraud.

- Organised crime – these groups consist of fraud professionals who are external to an organisation and will normally take advantage of weak internal controls, bribing or extorting employees, or through collusion with vendors or customers.
- Internally committed for the perceived benefit of the corporation – these crimes are usually committed by employees who believe the act is for the good of the company.

Coenen (2008:27) says that the “amount of money lost to an internal corporate fraud is most significantly influenced by the perpetrator’s position in the organization”. Coenen (2008:28) motivates her statement by observing that “the higher a person moves in a company, the greater access she or he is granted to information, assets, data and people”. This ideally creates more opportunities for a person to commit fraud.

According to Goldmann (2009:14) most external fraudsters’ “motives for committing fraud are primarily related to character” because “many outside fraudsters simply lack the ethical values that keep honest people on the right side of the law”. Goldmann (2009:14) is also of the opinion that many “external fraudsters are career criminals with long histories of illegal activity” and that some external fraudsters are “in it for the thrill” because they “love the excitement of risk taking and enjoy pushing the envelope to prove how good they are at getting away with criminal acts”.

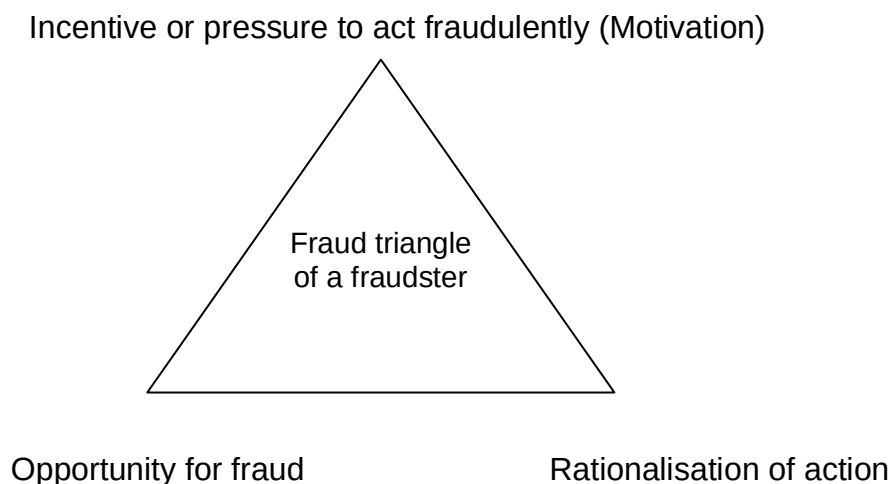
In a radio interview conducted by Lynette Francis on 16 July 2008 on “Radio Sonder Grense” (RSG) on the program “Dossier” with her guests Dr Philip Theunissen and Bastian Theunissen of Forensics.com, the question was raised why people commit fraud. Doctor Theunissen said that to understand why people commit fraud is to first define the typical fraudster. He also mentioned that you get a predator fraudster, being a person that is calculated, has a set plan to defraud and acts with intent. It is therefore important for companies to stop such predator fraudsters from entering the company. The second type of fraudster identified is the common fraudster. This is a person that will typically commit fraud when his circumstances may force him to commit fraud and an opportunity presents itself in this regard.

Doctor Theunissen also explained during the radio interview that the Fraud Triangle (described by Wells, 2008:14, Turner, 2008:42 and Goldmann, 2009:15) should exist to complete the fraud and that all three elements of the Fraud Triangle should be present.

The theory behind the Fraud Triangle was developed in the 1940s by Donald Cressey, a leading criminologist who “conducted extensive research with convicted embezzlers to determine what motivated seemingly honest people to commit fraud” (Goldmann, 2009:15). Turner (2008:42) describes the fraud triangle (see diagram 3.1) to include the following elements:

- there must be pressure or a motivation to commit the fraud (financial or other need);
- an opportunity to commit fraud must present itself (poor controls or an over aggressive culture); and
- there must be a rationalisation or justification to commit the fraud (a willingness and ability to rationalise the fraudulent act).

Diagram 3.1: The fraud triangle



To complete the fraudulent action (the defined fraud triangle), the person perpetrating the fraud should be driven by some form of pressure or motivation, utilising an opportunity on offer to perpetrate the fraud and then rationalising or justifying his fraudulent action. For example an employee may have an incentive to act fraudulently if he is under severe personal financial pressure such as a gambling debt or personal crisis. The employee may look for an opportunity if controls are weak or non-existent. The employee under pressure, seeking an opportunity to perpetrate fraud, may have a set of values or ethics that predisposes or allows him to attempt fraud (Turner, 2008:55). ISA 240 (2010: paragraph A1) proposes that fraud involves incentives or pressure to commit fraud, a perceived opportunity to do so and some rationalisation of the act. The motivation for a

person to perpetrate fraud may for example be living beyond his means. Powel (2006:43) and Coenen (2008:9) also confirm the “fraud triangle” and the elements thereof.

Du Plessis (1997:12), Wells (2001:2) and Summerford and Taylor (2003:33) suggest that the motivation for economic crimes revolves around the following:

- economic/financial gain;
- need or greed – unusual financial strains or other less supportable motivation may create the mind-set to steal;
- personal revenge or grudge – employees may feel wronged, and may see employers as unjust, corrupt or discriminatory;
- thrill seeking – grasping an opportunity, employees will steal for the reason of thinking they can;
- because everyone else is doing it or the organisation is perceived to treat, or treats the employees unfairly;
- denial – some employees may rationalise their thefts as temporary loans or as entitlements based on past under-compensation;
- addiction – dishonest employees may often continue to steal until they are detected; and
- expectation of not being caught – this belief enhances the actions resulting from the mentioned motives.

Wells (2001:2) argues that fraud does not occur in isolation, but is a “combination of motive and opportunity”. For most people, the opportunity to commit fraud would be dealt with through internal controls – proper internal controls would make it more difficult to commit fraud. Wells (2001:5) is also of the opinion that many fraudsters (those who become addicted to stealing money) may somehow “lose the ability to reason”. Wells (2003e:1) comments that “one instance of rationalized dishonesty can lead to a pattern of fraud”. Vona (2008:7) stipulates that a perpetrator of an economic crime takes a conscious decision to place his needs above the needs of others. Vona (2008:8) also states that “a person’s position”, his “responsibilities and authorization, also contributes to the opportunity to commit fraud”.

Doig refers to Hazel Croall who states that a “fraudster either have to or want to commit fraud” and called it the “greed and need drivers”. Doig (2006:98) states, with reference to Hazel Croall, that “financial crime is related to different levels of constraint or inducement – for those at higher levels, constraints or pressures focus on demands for continuing capital accumulation, whereas, the lower levels, pressures are related to survival where full-time employment is no longer a realistic option”.

It seems that the human factor, in particular the exploitation of an opportunity, to perpetrate an economic crime is largely driven by need or greed. Coenen (2008:191) contend that “greed is part of human nature” and that greed, whether big or small “is still characterized by the same desire and the same motivations” (2008:41). A temporary solution to this world-wide phenomenon is to send economic crime offenders to prison once found guilty in a court of law. This may only be a short-term solution to this problem by removing the sentenced offender temporarily from society.

In an interview with a criminologist, Dr A, on 18 May 2009 (Appendix E) she commented that fraudsters do not even think about the consequences of their fraudulent conduct. For them the perpetration of fraud is a rational crime. She said that an informed person should be able to foresee the consequences of his conduct, but the motivation to act might be stronger than the consequences of his conduct and that the fraudster merely postpones the consequences. She also said that the fraudster’s immediate needs are a stronger motivation than the immediate consequences and that people think that they can wipe their tracks. She said that her experience with fraudsters is that they do not think about the consequences when they perpetrate fraud.

Certain drivers or motivations will ignite the decision to perpetrate fraud. The perceived rewards stemming from a possible fraudulent action will persuade the fraudster to go ahead with his fraudulent action. There will always be some risk attached to this, but if the fraudster is not caught or detected after his first efforts, the fraudulent actions may well continue.

3.3.4 Profiling an internal fraudster

Company management, the internal audit functions and company employees should be familiar with the characteristics of those people who might commit fraud. Companies are probably more aware of external threats than internal attacks on their resources, assets and controls. Simmons (1996:1) compiles the following characteristics one might find in a profile of someone likely to commit fraud within an organisation:

- male;
- intelligent (challenged by “secure” systems, bored with the job routine);
- egotistical (scornful of “obvious” control flaws, “dumb” managers, etc.);
- inquisitive (tempted by the discovery of a computer vulnerability, for example);
- a risk taker (willing to bend the rules, take chances);
- a rule breaker (takes short cuts, self-justifies infractions of law, rules, etc.);
- a hard worker (first to arrive in the morning, last to leave at night, takes few vacations);
- under stress (suffering from a personal crisis, such as a financial problem, bad marriage etc.);
- greedy or has a genuine financial need (illness, drugs, gambling, etc.);
- disgruntled at work or a complainer (may try to “get even”, or take what he/she feels they “really deserve”); and
- a big spender (expensive hobbies, living beyond his/her means).

Who is most likely to commit fraud? Simmons (1996:1) comments that about 80 per cent of any population, given the right combination of opportunity, motive and ability to rationalise the act, may commit fraud. Most people that commit fraud think alike. A potential fraudster would first test the system. If the first fraudulent action goes undetected, it would be followed by a second attempt, but only this time the stakes would be much higher. The level at which the fraud would be committed within the organisation would directly impact on the likely loss for the organisation. Goldmann (2009:15) contends that with internal fraudsters “we are often familiar with personalities, character traits, and behavioral patterns of these people”, thus making it possible to predict when someone may be about to break the law and making it possible to stop a fraudulent action before it may occur or to prevent it to cause serious financial damage for an organisation.

3.3.5 Measures to help prevent or deter fraud

Fraud will always be present in any working or business environment. It will never be prevented in full, but certain definite measures might prevent or deter the frequency and/or magnitude of the occurrence thereof. Drake International, Wells (2007a:34, 69, 78, 98, 107, 116, 123, 136, 154, 193, 202, 221, 249, 267, 274, 283, 313, 325, 350, 357, 387), Du Plessis (1997:13), Biegelman (2004:23-24), Foster (2008:23), Flanagan and Finger (2008:476), Coenen (2008:175) and Turner (2008:11 & 109) suggest the following broad measures any company or employer can implement to help prevent or deter fraud (the detailed measures is listed in Appendix H):

- internal control measures;
- physical control measures;
- audit procedures;
- employee/personnel related procedures and measures;
- risk assessment measures;
- customer/client measures;
- training measures;
- company policy;
- financial control measures;
- reporting procedures;
- ethics;
- documentation procedures;
- communication measures; and
- technology and computer controls.

Marais (1994:18) suggests that a company should develop a fraud response plan that sets out policies and procedures guiding a company's response to fraud or theft. The main purpose of a fraud response plan, according to him, is to enable an organisation to take prompt and effective action to:

- minimise the risk of subsequent losses;
- improve the chance and scale of recoveries;
- reduce any adverse commercial effects;

- demonstrate that the organisation retains control of its affairs in a crisis;
- make a clear statement to employees and other parties that the organisation is not a soft target for attempted fraud; and
- minimise negative or adverse publicity.

According to ISA 240 (2010: paragraph 4) the primary responsibility for the prevention and detection of fraud rests with both those charged with governance of the entity and with management. Management should therefore place a strong emphasis on fraud prevention which may reduce the opportunities for fraud to take place, and fraud deterrence which may persuade individuals not to commit fraud due to the likelihood of detection and possible prosecution.

Economic crime is a reality. Companies should develop a strategy to identify and handle the risks associated with economic crime. It is important to understand with regard to economic crime what can happen and what the likelihood is of it happening. Companies should also determine the risk tolerance levels and should develop a cost effective economic crime prevention, detection and investigative strategy.

Any irregularity that does look suspicious such as fraud should be investigated. Bastian Theunissen said during a radio interview conducted with him on 16 July 2008 on “Radio Sonder Grense” on the program “Dossier” that the following legal aspects should be taken into account in the case of a crime of fraud:

- A docket should be opened.
- Evidence should be collected.
- The evidence should be placed before a court of law.
- The person that allegedly committed the fraud should be charged.
- Section 8.4 of the Constitution should be taken into account when charging a person as it stipulates that “A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person”.
- The following elements should be present in a fraud crime case:
 - somebody should have concealed the truth;
 - the intention of the perpetrator should have been to conceal; and

- there must have been an intent displayed by the perpetrator – somebody should have suffered a loss as a result of the perpetrator's fraudulent action.

Marais (1994:19) and Turner (2008:91) identify the following actions that could be taken when fraud or theft has been discovered:

- Secure assets at risk.
- Remove the suspect from a position of authority and withdraw any signing authorities.
- Counter the undermining of staff morale or interference in the investigation by removing the suspect from the company premises.
- Change password and access codes as well as securing the accounting and other records.
- Secure the contents of the suspect's office, personal computer, diary and files, including all personal documents on the premises.
- Begin locating and securing any of the above should they have been removed from the suspect or from the premises.
- Engage or appoint sufficiently experienced investigators to commence the actual investigation as soon as possible with the initial aim of establishing the scale of the offence and the degree of contamination within the company and its business partners.
- Do a preliminary assessment of the following issues:
 - (a) civil recovery;
 - (b) insurance claim;
 - (c) criminal proceedings; and
 - (d) dismissal of the offender.
- Inform staff, bankers, suppliers, customers, regulators and the press of the situation and action taken before it comes to their attention from other sources.
- De-brief at the end of the exercise so as to benefit from "lessons learnt" – including how systems and controls can be improved.

Coenen (2008:135) argues that the scope of an economic crime investigation may be influenced by the potential monetary losses, the odds of recovery and the amount of the expected recovery, any insurance coverage, the size of the budget for an investigation, the ability to perform the task internally versus using outside consultants, the goals of the

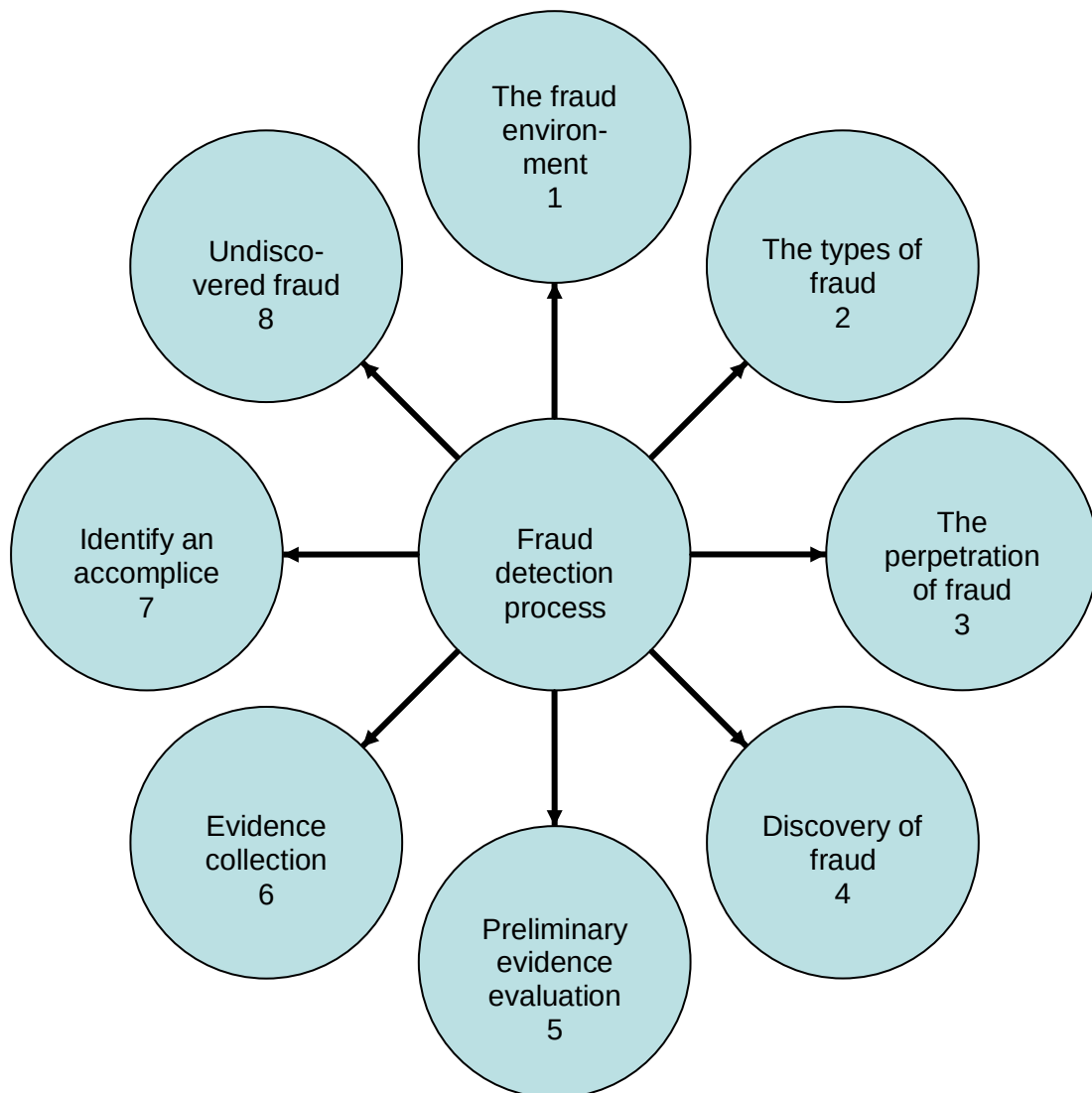
owners and executives regarding the scope of the investigation and potential legal action against the perpetrator.

Some investigations may involve searches and surveillance and that may raise certain legal issues. Obtain legal advice before any employee's files, desk or personal documents or electronic mails are scrutinised. This will also include the monitoring of employee's telephone calls, electronic mails or internet access. The South African Constitution provides all individuals with the right to privacy (section 14 of Chapter 2 – Bill of Rights) and that should be respected.

Dinev (2009:44) developed a model that contains the elements that comprise a fraud examination and that could help the fraud examiner to make informed decisions at every stage during a fraud examination (refer to diagram 3.2). The purpose of diagram 3.2 is to assist the fraud examiner when he is faced with:

- understanding the types and schemes of fraud with their typical indicators and possible fraud exposures in an entity;
- reviewing and analysing the available evidence regarding the suspect fraud; and
- deciding to continue with the fraud investigation, to take preventative measures or to cancel the fraud investigation.

Diagram 3.2: Dinev's compass for fraud detection



Adapted, based on Dinev's compass for fraud detection (Dinev, 2009:43).

The following is a discussion of Dinev's compass for fraud detection:

The fraud environment (step 1)

The fraud examiner has to assess conditions that could lead to fraud in an entity. The fraud examiner should also be alert to any patterns of unusual or illogical business practices as fraud is often difficult to detect and there may be many indicators for it. Dinev (2009:44) lists the following red flags that would call for immediate scrutiny:

- a sudden increase in expenditure;
- missing or altered documents;
- unexplained salary changes/adjustments;
- unusual bank transfers;
- the non-segregation of key employees' duties;
- a lack of audits or unannounced reviews or procedures and controls by independent parties; and
- changes in the lifestyle or behaviour of employees.

The types of fraud (step 2)

It is important to identify a type of fraud that could exist and to determine if such fraud was committed in the past, is being committed at present, or might be committed in the future. The most common fraud committed, according to Dinev (2009:44), is the misappropriation of assets. Thus, the fraud examiner should be alert to the various ways an employee may perpetrate fraud for example by embezzling or skimming assets, taking bribes or illegal gifts for inappropriate actions, possible misstatement of financial statements and concealing the fraud (theft) in the entity's accounting records.

The perpetration of fraud (step 3)

According to Dinev (2009:44) a fraudster would carry out the following four steps:

- Preparation and planning – the fraudster identifies the entity's internal control weaknesses and considers if accomplices would be necessary.
- Timing and concealment of the fraud – the fraudster must choose the right time to perpetrate the fraud and the right means and tools for concealment.
- Documenting the manipulation – the fraudster would falsify or destroy original source documents and create replacement documents such as invoices from fictitious entities.
- Profiting from the fraud – the fraudster would, directly or indirectly, convert the proceeds from the perpetrated fraud for his personal benefit.

Discovery of the fraud (step 4)

Most often the individual who warns about the unusual patterns or fraud indicators is a colleague, a manager, an internal auditor, an independent auditor or a consultant performing a due diligence engagement (Dinev, 2009:44). The fraud examiner should examine the identified unusual patterns or fraud indicators.

ISA 240 (2010: paragraph A60) indicates that the auditor, if he has identified a fraud or has obtained information that indicates that a fraud may exist, should communicate these matters as soon as practicable to the appropriate level of management. The auditor should use his professional judgement when deciding what the appropriate level of management should be for reporting the existence of fraud.

Preliminary evidence evaluation (step 5)

Once a fraud has been discovered the fraud examiner should analyse all available evidence and identify the type of fraud or irregularity that might have occurred and also determine the possible damage to the entity resulting from the fraud (Dinev, 2009:56). According to Dinev (2009:56) the fraud examiner has two options after thoroughly investigating the initial evidence:

- suspend the investigation process because no irregularities had been found; or
- continue with the investigation process to determine if there is enough further evidence to prove that fraud has occurred.

Evidence collection and expert involvement (step 6)

Once the fraud examiner decides to continue with a fraud investigation he should engage the appropriate experts, internal or external auditors and law enforcement officers. Dinev (2009:56) contends that the skills of certified fraud examiners (CFE's) and attorneys, direct and circumstantial evidence, testimonial evidence, and expert opinions are among factors that will substantially affect the final outcome of the legal process in a fraud case.

It is important that the fraud examiner should develop a hypothesis for the fraud case. The methods to be selected for fraud detection would depend on both the specific fraud indicators and the type of fraud scheme. Dinev (2009:56) emphasises that decision-makers should consider the legal requirements for privacy, confidentiality, trade secrets and the advice of legal counsel. Fraud examiners should comply with the principles and requirements of protecting the veracity of evidence gathered during the fraud examination. Dinev (2009:56) contends that obtaining, collecting, transferring, maintaining and storing of fraud evidence must be reliable and accepted by the courts. The types of evidence to be assembled by the fraud examiner may include original or certified copies of source documents, interviews, and vendor and employee data.

Identify an accomplice (step 7)

The fraud examiner should search for evidence of any possible accomplices that may reveal any fraud ring or collusion. In many fraud cases the fraudster depends on an accomplice to perpetrate his fraud. If such an accomplice can be revealed he may provide valuable information to the fraud examiner concerning the perpetrated fraud, (Dinev, 2009:56).

Undiscovered fraud (step 8)

Dinev (2009:56) contends that there are no guarantees that fraud will be recognised and detected. Fraud may not be detected unless someone reports it or the entity receives a tip-off or a complaint. The fraudster would always presume that his fraud scheme would go undetected. In an effort to conceal his fraud, the fraudster might destroy important records or even refuse to cooperate or act in collusion with other employees, company management or third parties outside the company. Companies should however employ appropriate measures for fraud detection when possible and such measures should be cost effective.

Dinev (2009:56) has developed a fraud detection process flowchart (refer to diagram 3.3) to assist fraud examiners to manage the fraud detection and investigation process. Apart from being very sensitive, the fraud investigation and detection process should be approached professionally.

Diagram 3.3: Fraud detection process flowchart

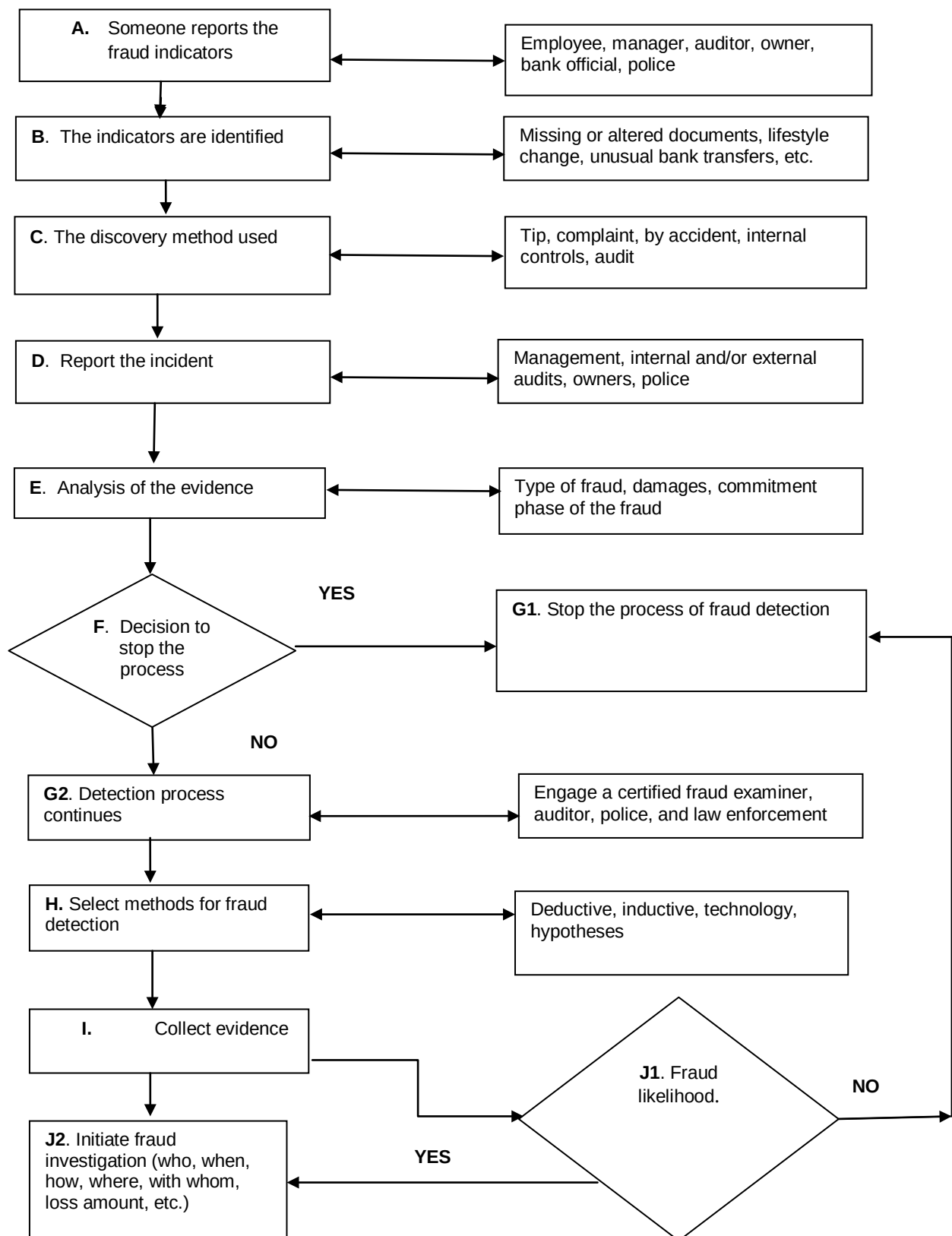


Diagram 3.3 was adapted from Dinev (2009:56).

Goldmann (2009:154) states that successful fraud investigations “almost always require a team of qualified people who are prepared in advance to respond rapidly to allegations or indicators of fraud”. In the opinion of Goldmann (2009:155) and Coenen (2008:133) key members of an effective fraud response team should include the following:

- legal counsel – preferably external for a greater degree of independence;
- management representative – it would be virtually impossible to conduct an effective fraud investigation without top management support;
- fraud investigator – this professional is trained to conduct complex fraud investigations from inception to resolution;
- computer forensic consultant – most fraud investigations today depend on information and evidence collected from the victimised organisation’s computer systems;
- internal auditors – may often be the first to uncover indicators of fraud and recommend a fraud investigation;
- information technology administrator – can support fraud investigations by providing information on computer systems in use at the victimised organisation;
- security representative – may be used to conduct interviews, obtain records and perform other tasks in support of a fraud investigation;
- human resources representative – can for example help to ensure that company policies and procedures are followed during any fraud investigation; and
- public relations representative – external communications regarding fraud impacting the company should be effectively planned and managed.

Coenen (2008:139) stipulates that a fraud investigation “is most often concluded with a written report that details findings of the fraud examiner and the rest of the team”. The written report should “outline the case, the documents, and the evidence of fraud in a concise and clear manner” and “should outline what happened, what documents and evidence were examined, and who was interviewed”. The report should also detail any calculations related to the evidence examined and should lay out the findings in a logical manner (Coenen, 2009:139-140).

The next economic crime to be discussed will be money laundering.

3.4 MONEY LAUNDERING

3.4.1 Introduction

Sarmiento (2007:25) defines money laundering as “the process of creating the appearance that large amounts of money obtained from serious crimes, such as drug trafficking or terrorist activity, originated from a legitimate source.” Gup (2007:3) describes money laundering as “the conversion of the monetary proceeds of criminal activity into funds with an apparently legal source and without revealing the true nature, source or ownership of those proceeds”. Thus, the illegal proceeds are disguised by introducing it into the legitimate commercial and financial environment.

Section 1 of the Financial Intelligence Centre Act 38 of 2001 defines money laundering or a money laundering activity “as an activity which has or is likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities or any interest which anyone has in such proceeds, and includes any activity which constitutes an offence in terms of section 64 of this Act or section 4, 5 or 6 of the Prevention of Organised Crime Act, No. 121 of 1998”.

The Financial Action Task Force on Money Laundering states that the goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act. They propose that money laundering is the processing of these criminal proceeds to disguise their illegal origin. The criminals are enabled to enjoy the illegal profits without jeopardising their source.

Section 1 of the Prevention of Organised Crime Act 121 of 1998 declares the “proceeds of unlawful activities to mean “any property or part thereof or any service, advantage, benefit or reward which was derived, received or retained, directly or indirectly, in connection with or as a result of any unlawful activity carried on by any person, whether in the Republic or elsewhere”. This will include money laundering (dealt with in Section 4 of the Prevention of Organised Crime Act), assisting another to benefit from the proceeds of unlawful activities (Section 5 of the Prevention of Organised Crime Act) and the acquisition, possession or use of proceeds of unlawful activities (Section 6 of the Prevention of Organised Crime Act).

Money laundering is therefore the process used to disguise the real source of illegal income by creating the impression that it is originating from a legitimate source in order to avoid suspicion from any government, regulator or authority. It refers to the activities and financial transactions that are undertaken specifically to hide the true source of the income. Criminals use money laundering to create a front for their illegal activities. They would purposely move money around in such a way that investigations cannot follow it and trace it back to any illegal acts. The ultimate goal is to give the “illegal” money the appearance of coming from a legitimate source.

3.4.2 How does money laundering occur?

Criminals will typically disguise the sources of income, changing the form, or moving the cash funds to a place where it is less likely to attract unnecessary attention. Hopton (2009:2) argues criminals’ “objectives are the avoidance of detection, prosecution and confiscation of their ill-gotten gains”. Thus, criminals would strive to disguise the fact that they own property in cash or otherwise. In this regard, Hopton (2009:2) argues that criminals “break the connection between themselves and any property that can otherwise link them to the criminal offence for which they are seeking to avoid detection”. The offender will go to great lengths to disguise the origin of his illegal income. He would gradually integrate his illegal income with a legitimate business using the process of “money laundering” to clean “dirty money” until it is “clean” or have the appearance of being legitimate.

Wells (2003b:2) stipulates that fraudsters are using two methods to launder money in a legitimate business:

- Overstatement of reported revenues – the illegal money is mixed with money from a legitimate business. The money launderer will have to pay tax on the declaration of the illegal money, but he counters the payment of tax by disguising payments to himself in the form of consulting fees or salaries for example.
- Balance sheet laundering – the money launderer parks the illegal money in a company’s bank account. The only benefit for the money launderer is that the illegal money is safely locked away in a bank account.

Wells (2003b:3) observes that “money launderers gravitate toward a small cadre of lawyers and brokers to accomplish their illegal goals”. Wells (2003b:3) also observes that white-collar professionals may sometimes launder money through investments, trust accounts, fund transfers and tax avoidance schemes and they may also manipulate the financial, commercial and legal systems to conceal the origin and ownership of assets.

The Financial Action Task Force (2003:3) states that economies with growing or developing financial centres, but inadequate controls, are particularly vulnerable as established financial centre countries implement comprehensive anti-money laundering regimes. Organised crime can infiltrate financial institutions, acquire control of large sectors of the economy through investment, or offer bribes to public officials and indeed governments.

Money laundering is a very complex crime involving intricate and complex details, often involving numerous financial transactions, entities and financial outlets around the world. Revenue authorities would normally request a criminal investigation in the case of money laundering where the underlying conduct is a violation of tax laws. It is therefore often the means by which criminals evade paying taxes on illegal income by concealing the true source and amount of profit and/or income (Gup, 2007:3). This economic crime can undoubtedly be seen as tax evasion in progress.

Money laundering is generally divided into the following three stages (washing cycles) (Camerer, 1997:3; Wells, 2003b; Gup, 2007:6; and Hopton, 2009:2):

Placement – first stage in the washing cycle

This can be seen as the placing of cash proceeds derived from illegal activities into the financial system (the most vulnerable stage), for example bank accounts, currency smuggling, and informal banking networks. The main aim of this stage is to remove the cash from the location of acquisition to avoid possible detection by the authorities and the possible attention of other criminals. The cash may also be converted into other asset forms. This can be done directly or indirectly.

This may pose problems for the money launderer especially to convert small denominations of cash into more manageable monetary instruments or assets. If a drug dealer generates a weekly cash revenue of R1 000 000 for example, and the money has to be deposited with a financial institution like a commercial bank, the money launderer faces a challenge if the deposit consists of R50 notes for example. How does he deposit such an amount without raising some suspicion or being reported to the authorities? Money launderers overcome this challenge by:

- engaging in *smurfing* – they structure their deposits to avoid being reported to the authorities; and
- having assistance from inside the commercial bank or a broker to help them dispose of the cash funds.

Layering – the “heavy soaping” phase of the washing cycle

This phase involves the creation of a complex series of financial transactions designed to disguise the source of the cash, for example electronic interbank transactions, the purchase of physical assets or an intermediate account. Money launderers also try to conceal any audit trail as well as the source and ownership of the illegal cash funds.

The layering is created by moving the illegal cash funds in and out of several offshore bank accounts or bearer share shell companies using electronic funds transfers (EFTs). The sheer volume of EFTs on a daily basis worldwide will make it difficult and in some cases even impossible to trace the true source of the original illegal cash funds.

Integration – the final stage of the washing cycle being the “spin dry”

The final stage of the money laundering process is the integration of the “cleaned” money by the conversion of criminal wealth to apparent legitimacy. The cleaned money can now be integrated into the formal economy without unwanted attention from probing officials. Once the cash proceeds from illegal and criminal activities has been cleared through a financial and banking system, the cleaned money can be invested into property, luxury assets or even business ventures. Money launderers use various methods to move illegal cash funds into the formal economy. Gup (2007:7,19) states that as “laws make it more

difficult to launder money at banks, the money launderers have turned to “nonbank” financial institutions” and the following are just some general examples of how money launderers will go about their criminal activities and use third parties to assist them in this regard:

- Attorneys receive cash from the money launderer and place it in trust as fees for a possible transaction. The money launderer decides not to go ahead with the said transaction and the attorney issues a trust cheque in favour of the money launderer for the cash initially received from him.
- Financial institutions, such as commercial banks, are being repaid quicker for outstanding debts like a bond for example. This process continues well after the settlement amount has been paid. The money launderer then receives a refund for overpayment of outstanding debts.
- Money launderers might purchase airline tickets or travellers cheques with cash. Unused traveller’s cheques, if returned to the issuer, will be refunded to the purchaser.
- Casinos and gambling establishments are often targeted by money launderers who exchange cash for gambling chips or tokens. After a few gambling efforts at the gambling tables, the money launderer cashes his unused chips or tokens and a casino cheque is issued to him for the same value.
- Cash businesses such as antique dealers, jewellers and boutiques are also targeted by money launderers to exchange dirty money for clean goods.
- Money launderers like to buy run-down properties and then spend large amounts of cash on renovations before selling them off at substantial profits.
- Insurance products such as single premium policies are bought with the cash proceeds from criminal activities and surrendered shortly after being purchased.
- Money launderers are experts in using shell companies as a front for their criminal activities. The shareholders, directors or members, who may be family members or

other third parties, will act according to the instructions of the ultimate controller (the money launderer) of the company.

Van de Bunt (2008:124) in Siegel and Nelen stated that hawala banking (referred to as “underground banking” or “informal banking”) is “considered a threat to the effectiveness of anti-money laundering measures and the fight against terrorist financing”. Hawala banking represents financial transactions that occur outside the formal banking sector channels and not being subject to any government supervision (Van de Bunt in Siegel & Nelen, 2008:115). Van de Bunt in Siegel and Nelen (2008:118) also observed that hawala banking systems can be used for “illegal purposes such as tax evasion; making or receiving payments in connection with crimes (kidnapping for ransom, human smuggling, drug trading, terrorism, etc.); and laundering the proceeds of crime”.

The purpose of money laundering is to hide the true source of illegal income. The anonymity and confidentiality, both in respect of the customer and the transaction, is crucial for any money laundering environment. The customer would be protected if he cannot be identified; the transaction would be protected if it leaves no paper trail or a trail which is sufficiently complex to be impenetrable. Camerer (1997:5) is of the opinion that money launderers would be looking for financial institutions:

- that require minimal identification, or permit identification that is either easy to falsify or difficult to verify;
- that ask few questions about the nature of the customer’s business; and
- whose account intake procedures permit the concealment of the real ‘beneficial’ owner
- that readily permits counter transactions.

Madinger and Zalopany (1999:21) propose that some of the locations that once served as pirate bases are now havens for money laundering activities. They are of the opinion that both piracy and money laundering are directly related to “legitimate” commerce. Both activities profit from being located near major population and commercial centres, but try to avoid jurisdictions that are heavily regulated. Money launderers will normally avoid jurisdictions with anti-money laundering laws and regulations and stringent financial controls.

Camerer (1997:7) has identified the following factors making South Africa a money laundering paradise and in need of the investigation of such crimes:

- increasing intervention of sophisticated foreign and local crime syndicates in South Africa;
- fraudulent employee/infiltration in the financial sector by criminal syndicates;
- rapidly changing economy;
- ambivalent moral standards *vis-à-vis* fraud and criminal activities;
- the justice system as it pertains to money launderers: law enforcement is impeded by the sheer size, variety and pace of change in the financial sector, and the law itself may not facilitate the investigation process;
- inability of the police to deal effectively with sophisticated computer-based financial fraud: law enforcement officials have limited knowledge of the financial system and the sophisticated ways in which financial criminals exploit the system; and
- acquiring information for evidence from a number of different organisations is time-consuming and may not be forthcoming.

The Financial Action Task Force (2003:3) argues that money launderers are continuously looking for new routes for laundering their funds. Economies with growing or developing financial centres, but inadequate controls are very vulnerable in comparison with established financial centre countries that have implemented comprehensive anti-money laundering regimes. Any criminal will normally look for the route of least resistance before commencing his criminal activities. The money launderer will tend to avoid the well-developed first world financial centres and focus their attention on countries and financial systems with weak or ineffective countermeasures against money laundering. Any country of which commercial and financial sectors are perceived to be exploited or under control of organised crime will be avoided by foreign investors.

3.4.3 Dealing with money laundering

Baker (2004:2) is of the opinion that only if there is a clear international understanding of tax fraud, can one really accept that foreign fiscal offences come within the ambit of money laundering. In this regard, Sarmiento (2007:25) comments that “money laundering transactions are almost beyond imagination” comprising between two per cent to five per

cent of the global Gross Domestic Product. Thus, countries can no longer ignore the threat of money laundering.

The South African legislator introduced two new laws into its statutory framework to combat money laundering and to suppress the financing of terrorism, namely the Financial Intelligence Centre Act 38 of 2001 and the Prevention of Organised Crime Act 121 of 1998. This legislation has brought South Africa in line with international standards and empowered law enforcement agencies to combat organised crime more effectively.

Moshi (2007:2) proposes that money laundering should be combated because of the following reasons:

- It is an international requirement.
- Money laundering affects all legitimate businesses. Authorised financial service providers are more at risk as criminals are constantly seeking financial products and services which could be utilised to launder ill-gotten gains.
- The impact of money laundering is felt by the entire society and every organisation is vulnerable, especially developing countries.
- It affects the integrity of the financial system and the economy at large.
- Money laundering slows down the economic development of a country.
- It is often deeply entrenched in the political and financial systems of a country. The political and business sectors must therefore foster joint efforts to deal with it.

The Financial Intelligence Centre was established in 2002 in terms of section 2 of the Financial Intelligence Centre Act. The main objectives of the Financial Intelligence Centre, as outlined in section 3 of the Financial Intelligence Centre Act, are:

- to assist in the identification of the proceeds of unlawful activities;
- to combat money laundering activities;
- to make information collected by it available to investigating authorities, supervisory bodies, intelligence services, and SARS in order to facilitate the administration and enforcement of the laws of the Republic;
- to exchange information with its counterparts and similar bodies in other countries regarding money laundering activities and similar offences; and

- to regulate access to specific information.

The Financial Intelligence Centre Act creates the following principal money laundering control obligations for all accountable institutions:

- duty to identify and verify clients and other persons (section 21);
- duty to keep records of business relationships and transactions (sections 22 to 26);
- reporting duties and obligations to give and allow access to information (sections 27 to 41);
- formulation and implementation of internal rules (section 42); and
- training and monitoring of compliance (section 43).

The Financial Action Task Force (2003:4) state that the act of money laundering should be criminalised; giving investigative agencies the authority to trace, seize and ultimately confiscate criminally derived assets; and building the necessary framework permitting agencies involved to exchange information among themselves and with counterparts in other countries.

Kramer (2004:29) contends that in building a case against a money launderer one would try to turn an inside witness by approaching this knowledgeable, but less culpable party and attempt to obtain his cooperation voluntarily, either through negotiation in a civil case or as part of a plea agreement in a criminal case. Hopton (2009:8) proposes that the following four tools are required for national action against money laundering to be effective:

- The country's criminal justice system must be able to enforce effective tracing, freezing and eventually confiscation of the proceeds of criminal activity.
- Legislation must be enacted and implemented to both criminalise and counter the process of money laundering and terrorism.
- It is essential to recognise the need for an enhanced level of international co-operation, given the trans-national nature of the drugs trade and the sophisticated use made of the global financial system by the international traffickers to launder their funds and protect them from confiscation.

- The need to recognise that the criminal justice system cannot succeed alone. There is a need for established legislation and regulation to empower and encourage domestic and international sectors and professions to become partners in this task.

The Financial Action Task Force (2003:4) state that money laundering is a threat to the good functioning of a financial system, and that it can also be the Achilles heel of criminal activity. A money laundering investigation is frequently the only way to locate the stolen funds and restore them to the victims when the funds were derived from robbery, extortion, embezzlement or fraud. Depriving the money launderer of his illegal cash profits should bring the criminal activities to an end. More and more governments should establish anti-money laundering legislation or regimes. This would increase the awareness of the money laundering phenomenon both within the government and the private sector. Anti-money laundering legislation and regimes will provide the necessary legal and regulatory tools for the authorities charged with the responsibility of combating money laundering.

3.5 CORRUPTION

3.5.1 Introduction

Silverstone and Sheetz (2007:12) view corruption as a category of occupational fraud. Mintz and Morris (2011:91) describe occupational fraud as the “use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources or assets”. The Collins English dictionary and thesaurus (2006:260) explains corruption to be the act of corrupting or the state of being corrupt. To corrupt a person, as explained by the same source (2006:259), is to be open to or involving bribery or other dishonest practices. The person acting in a corrupt way becomes morally depraved.

Van Vuuren (2004:11) describes corruption as the “abuse of entrusted power for private benefit”. The perpetrator of corruption uses his position of trust by exercising the powers vested in him to commit a corrupt act for a personal gain. Foote and Bange (2006:1) indicate that corruption involves a breach of trust in the performance of official duties. Official duties in this regard would be official duties that are dishonest or lack impartiality, involves a breach of trust, or is a misuse of officially obtained information. The conduct in

this regard must amount to a criminal offence or be serious enough to justify the dismissal of the employee.

Rose-Ackerman (2006:281) has a more comprehensive explanation for corruption and describes it as follows:

- “An act is commercially corrupt if a member of an organization uses his/her position, his/her rights to make decisions, his/her access to information, or other resources of the organization, to the advantage of a third party and thereby receives money or other economically valuable goods or services where either the payment itself or the services provided are illegal and/or against the organization's own aims or rules.
- If the act is mainly motivated by the intangible valuables received and is given by the member serving the interests of friends or family, or his/her own standing in family-friendship networks, it is an act of family-friendship corruption.
- An act represents embezzlement if a member of an organization uses his/her rights to make decisions, his/her labour time, his/her access to information, or some tangible assets of the organization to his/her own economic advantage in ways that are either illegal or against the organization's own aims or rules. Embezzlement might also be motivated to improve the individual's standing in family-friendship networks.”

The Prevention and Combating of Corrupt Activities Act No. 12 of 2004 were introduced specifically to address corruption in South Africa. It also reflects government's commitment to eradicate corruption in the South African society. This Act also makes provision for extraterritorial jurisdiction. If a South African entity for example pays a bribe in a foreign country, that entity can be prosecuted in South Africa notwithstanding the fact that the corrupt activity took place in a foreign country. This act also makes provision for blacklisting individuals or entities that have been convicted of corrupt activities. Those individuals and entities will be barred from doing business with government.

Corruption has generally been defined as an intentional act by the perpetrator knowing what his duties entail in relation to his employer, but choosing to neglect or misperform those duties with the main objective to obtain some personal gain. Acts of corruption require the consent of at least two parties to perpetrate the corruption. For example if a public official is bribed by a third party to award a contract or tender to that third party, the bribed public official and the third party had to have a certain agreement on the terms or

basis of awarding the contract or tender. Both parties to the corrupt act have to agree to such act before it can be perpetrated.

3.5.2 Forms, features, causes and cost of corruption

Corruption may take many forms or variations. Caiden (2002:17), Prinsloo and Naudé (2001:41), Van der Walt (2002:693), Turner (2008:30) and Fleming and Zyglidopoulos (2009:6-7) have identified the various forms of official corruption. For the purpose of this study only the most recognised forms are listed:

- treason, subversion, illegal foreign transactions and smuggling;
- misappropriation, forgery and embezzlement, padding of accounts, diverted funds, misuse of funds, unaudited revenue and skimming;
- abuse and misuse of power, intimidation, underserved pardons and remissions and torture;
- bribery of government or other officials to obtain a benefit;
- bribery and graft, extortion, illegal levies and kickbacks;
- misuse of inside knowledge and confidential information and falsification of records;
- tax evasion, excessive profiteering and money laundering;
- black market operations and links with organised crime;
- bribery whereby officials obtain extra-legal means of payment in the acquiring of government favours and resource allocations such as contracts, tax exemptions, preferential treatment and turning a blind eye to illegal activities;
- theft and fraud by means of illegal transactions, fraud involving public assets or by stealing state property;
- institutional corruption whereby potential beneficiaries of projects or resource allocations are able to control or influence decisions concerning such projects or allocations; and
- price-fixing.

Rose-Ackerman (2006:4) identifies the following possible causes for corruption in general:

- The size of the public sector: the size of the public sector can have an impact on the levels or occurrence of corruption. A bigger government can present more opportunities for corruption than a smaller government.
- The quality of regulation: Bad regulation or a lack of regulation will promote the occurrence of corruption. Good or effective regulation may, on the other hand, create opportunities for corrupt people to circumvent rules, laws, or regulations.
- The degree of economic competition: Corruption may mirror the absence of economic competition. Competition among suppliers will drive prices down. If competition is for example restricted, profits will increase and public officials may seize the opportunity to assign these profits, in exchange for a share thereof.
- The structure of government: A democracy tends to limit corruption through increased competition for political mandates. Political leaders who care about their own personal income can be voted out of office. Parliamentary systems tend to have lesser incidents of corruption as opposed to presidential systems where policy-making power is divided between a legislature and a president.
- The amount of decentralisation: If governmental power can be decentralised by bringing government closer to the people, it may well reduce corruption.
- Impact of culture: Generalised trust, religion and acceptance of hierarchy play a crucial role in most cultures. The existence of trust, strong religious affiliation and the acceptance of a hierarchy may reduce the corruption levels in a society.
- Values: Societies that cultivate secular-rational attitudes towards authority (that is, where impersonal values are more important than particular family values) are perceived to be less corrupt, unlike those where traditional religious values dominate.

- Gender: Male-dominated working environments might encourage corruption. Men are more prone to become involved in corruption. A more integrated working environment by mixing the sexes in a balanced ratio appears to lower the incidence of corruption.
- The role of invariant features such as geography and history: Apart from cultural preconditions, geographical and historical variables may also foster corruption. Factors such as an abundance of natural resources, high levels of corruption in neighbouring countries, and being far from the world's major trading centres, may increase the levels of corruption. Africa is a good example of this.

Burke (2009:33) states that "greed underlies all acts of crime and corruption in organizations". Burke (2009:56) also observes that the "costs of crime and corruption are high, in both financial and physical terms. Johnston (2005:24) contends that "new evidence and refined theories have shown that on the whole corruption delays and distorts political and economic development". Corruption has the potential of rippling through an entire economy or political system if it is not addressed appropriately. Johnston (2005:25) states that the "short-term incentives from corruption come at a long-term cost: they are given not for their own sake but to maintain control, and accepting them means forgoing political choices".

Corruption, when teaming up with organised crime, can pose massive security challenges for any country or region. Mashaba (2005:109) states that organised crime and corruption "indirectly compromise the welfare and integrity of society through unlawful practices that create victims, while at the same time generating benefits only for criminals". They undermine the rule of law and engender lawlessness, thus creating an environment in which governments seem incapable of providing security for their people. In this regard, Downes and Rock (2007:97) contend that "corruption will be endemic". Downes and Rock (2007:61) agree with Sutherland's arguments that "crime and deviation are culturally transmitted in a social group" and that "deviance is a way of life passed from generation to generation". Downes and Rock (2007:61) state that "criminal behaviour is learned in interaction with other people".

Mashaba (2005:109) observes that Africa is affected by various kinds of organised crime such as "banditry, the diversion of humanitarian aid and crucial food resources,

rackeering, the theft and smuggling of mineral resources, motor vehicle theft and smuggling, and trafficking of illegal drugs and small arms, poaching and cattle rustling". Mbaku (2007:120) contends that "drug trafficking and money laundering emerged as important contributors to corruption in several countries in Africa, Latin America and the Caribbean". Mbaku (2007:120) argues that many local regulators are influenced by money launderers who intend to use financial institutions in these countries to bring money "earned" from illegal activities (such as selling drugs) into the legitimate global financial system.

Corruption and organised crime tend to thrive in environments where there is a lack of or underdeveloped responses to deal with that. Mashaba (2005:111) proposes that the following factors can impede the development of effective responses to organised crime and corruption:

- political instability and conflict;
- the inability to allocate a sufficient budget in the context of competing national needs;
- the inadequacy of training provided to law enforcement agencies and the inability to rationalise training methods to achieve harmony between countries;
- the absence of effective follow-up, monitoring and mobilisation mechanisms; and
- inadequate institutional capacity at regional and continental level.

Van Vuuren (2004:11) argues that corruption "results in a lack of public confidence in the democratic process, it entrenches elites, slows economic growth and deepens economic inequality as money continues to trickle up". Corruption is not a visible crime like street crimes. Many incidents of corruption or attempted corruption may never be reported nor detected. When a public official or a company employee accepts a bribe for example, the bribe payer might threaten the corrupt official or employee that answering any questions to anybody might implicate them. Holmes (2007:226) observes that corruption "often appears to be essentially victimless" and contends that "even when there are clear victims, all too often such people do not report the crime to the authorities, in many cases out of fear that they themselves will be punished for having paid bribes".

Corruption may also affect the revenue collection of governments. Rose-Ackerman (2006:487) identifies the following causes of poor tax administration in research done on corruption in the tax administration in Uganda:

- lack of a taxpaying culture among taxpayers: the tax system was at times perceived to be unfair;
- low wage levels: the poor salaries at the tax administration compared to the private sector invited corruption;
- poor working conditions and little encouragement for staff to exercise initiative: working conditions were generally characterised by a lack of technical equipment and poor office facilities; and
- low probability of detection and punishment for corruption: internal auditing and monitoring functions have become for the most part non-operative and ineffective due to weak management and poor information.

The causes identified for poor tax administration by Rose-Ackerman could equally apply to any tax administration in any country. The lack of or poor tax administration in a country may cause financial harm to that country in the form of reduced tax revenue being collected. According to Lamdsdorff (2007:95) direct taxes (such as income tax for example) suffer more as a result of corruption than indirect taxes (such as VAT for example) “suggesting that countries with high levels of corruption should rely more on indirect taxation”.

Sachs (2011), from the United States of America, expresses his views on why corrupt practices yield good returns in an interview published in *Sake24*. Some of the observations made by Sachs include the following:

- The world is engulfed in corporate fraud and the problem is probably more serious in rich countries that are supposed to be known for good management.
- When companies are penalised with fines for offences, it is the shareholder who pays the price and not the chief executive officer who even remains in office.
- Corruption occurs blatantly and many corporate offences pass unobserved.

- Corporate corruption is out of control because big companies are multi-national while governments remain national and big companies have so much financial muscle power that governments are tentative to enter in conflict with them.
- If governments want to enforce legislation companies may use an army of lawyers to side-step prosecution. This creates a culture of an unconcerned impunity thanks to the proper proven anticipation that crime bears fruit.

The impact of corruption seems to be an international problem disregarding laws, authorities and structures. It may even be transferred from generation to generation creating an acceptable culture of corruption. Corruption also has a real impact on tax revenue.

3.5.3 The consequences of corruption

Prinsloo and Naudé (2001:43) contend that organised crime may influence the stability and economic development of a region. Diverting security services and resources to curbing organised crime may impact on the incidence of other day-to-day crime or security matters. Faull (2007:1) contends that “corruption undermines democracy and social justice, thereby deepening poverty, fuelling organised crime and stunting efforts to promote human security”. Lambsdorff (2007:166) observes that the poor developing countries, often being affected by high levels of corruption, may not have the capacity to contain such corruption.

Mbaku (2000:770-777), Van der Walt (2001:698) and Rose-Ackerman (2006:23) contend that the eventual and symptomatic effects of corruption may have the following consequences:

- Compromising the integrity of civil servants and making them refuse their regular duties in anticipation of payoffs from members of the public.
- People may lose respect for and an interest in their country's governance structures having economic, political and social consequences.
- When corruption has infected an entire society (its moral fibre has collapsed), it is very difficult to fight and may cost people their jobs, but it may even cost people their lives.

- It may inflate the costs of public goods at the expense of the economically marginalised; usually to provide additional income for those whose jobs it is to serve the public.
- It significantly distorts global trade, the flow of investment and imposes unexpected consequences on a domestic economy.
- Corruption may distort private sector activities by giving rise to a shadow economy, operating off the record and leading to the non-reporting of income for tax purposes.

Kroukamp (2006:208) and Mahlaba (2004:86) propose that the following factors and issues are the major contributions to corruption in the South African public sector:

- undesirable social controls;
- antiquated laws;
- excess demand;
- entrepreneurial politics;
- bureaucratisation; and
- defective administrative arrangement (including inadequate controls), bringing about injustice, inefficiency, mistrust of government by the citizens, waste of public resources, discouragement of enterprise, political instability, repressive measures, and restrictions on government policy.

It could also entail the following:

- Jobs of all officials within institutions are not adequately defined, resulting in officials not knowing what they are to deliver and when they have to deliver.
- Delivery by officials is not adequately managed and performance management does not balance outputs with given inputs.
- There is a general lack of a culture of performance in institutions and adequate action is not taken for poor performance or lack of delivery.

Secondary factors identified by Kroukamp (2006:209) that may contribute to corruption, include the following:

- a lack of leadership;
- behavioural patterns;
- undue influence;
- poor discipline;
- a lack of a sense of accountability;
- a lack of adequate management information systems;
- poor work ethics;
- corruption by law enforcement agencies; and
- a lack of skills to investigate corruption within law enforcement agencies and a lack of synergy between departmental investigative units, internal audits and law enforcement companies.

Kroukamp (2006:209) comments that “a responsible independent media is duty bound” to report cases of corruption. If the media cannot report independently on corruption cases who would then inform the general public? The media can be viewed as the public conscience. If silenced, the wrong message may be portrayed and the opposite might be achieved – join the corruption queue before it is too late. Clearly this would not be in the best interest of any country or community.

The real impact of corruption could be devastating for any country being affected by it, placing pressure on the economy and may be distorting the tax revenue funding the elected government service delivery efforts. If corruption is not dealt with appropriately it may become acceptable behaviour.

3.5.4 The prevention and/or reduction of corruption

Camerer (1996a:9), Van der Walt (2001:701), Rose-Ackerman (2006:38) and Burke (2009:18) in Burke and Cooper propose the following possible approach to challenge corruption as part of a comprehensive approach to address it:

- individual integrity – for example refusing to give a bribe;
- development of codes of conduct, and prevention and standard response procedures to white-collar crime;
- promotion of principles of good business practice/good governance;

- get leaders on board – demand proof of integrity from people in power;
- lobbying of government for improved legislation to accelerate the prosecution process;
- start with small islands of integrity which could gradually influence society;
- careful selection, proper training and fair remuneration of civil servants and business leaders may counteract corruption among officials;
- strengthening of the capacity of an anti-corruption investigation unit;
- national anti-corruption campaigns involving civil society as a whole are a must;
- regional and international actions against corruption;
- high salaries provide office holders with prospects of a future income premium that would be lost if they lose their jobs;
- the freedom of the press may deter politicians and other high profile people from getting involved in corruption. If they are implicated or publicly exposed it would tarnish their reputations;
- a high quality judiciary will act as a deterrent to corruption, provided such a judiciary is independent;
- individuals can do certain things at their workplace to reduce corruption such as reporting unethical conduct;
- raising ethical concerns on corruption through education;
- changing a culture of corruption by integrating economic and organisational behaviour approaches into a larger institutional framework;
- controlling corruption through the imposition of organisational controls;
- implement whistle-blowing as a way to control corruption and fraud in organisations;
- implement a corporate code of ethics outlining the moral standards to be used as a guide for employee and/or corporate behaviour;
- governments at a national and local level should pass regulations and laws specifically designed to reduce corrupt business practices; and
- monitoring national and international corruption.

During the National Budget speech of Minister Pravin Gordhan delivered in Parliament on 23 February 2011, he said that “we have a shared responsibility to prevent corruption and we call on all citizens to blow the whistle on corruption and to report any procurement irregularities to the relevant authority” (SARS 2011). Government is sending a very clear message that fraud and corruption will not be tolerated any more and that drastic action would be taken in this regard.

If individuals begin to display integrity within and outside of the public eye, corruption should start to decline. People in power should set the tone at the top. If leaders endorse integrity and start to display integrity publicly it will have a major impact on corruption in South Africa. If more people start to display integrity in their working environment, amongst their friends and family, this may well impact positively on the occurrence of corruption in general in South Africa. Better selection, training and remuneration of public officials can impact positively on corruption in the public sector. The press should not be restricted from investigating and reporting on any form of corruption. A free press is the conscience of an entire nation. Government should launch anti-corruption campaigns outlining the consequences of corruption on the economy, the quality and service levels of public services and the impact corruption has on the general public. Government should interact with the neighbouring countries and the international community to combine their efforts to combat corruption on a local, regional and global level.

3.5.5 Whistle-blowing against corruption

One of the more common methods employed to counter corruption is whistle-blowing. This entails the deliberate leaking of information about injustice, illegal conduct, unethical practices (for example preferential treatment, theft, bribery or other forms of corruption) that has occurred or is going to be perpetrated. Barker and Dawood (2004:121) intimated that whistle-blowing consists of the following three crucial elements:

- a perception of a person within an organisation of morally incorrect conduct;
- the communication of this perception to parties outside the organisation; and
- a perception by those in authority in the organisation that this communication should not have taken place.

Van der Walt (2001:702) observes that whistle-blowing may be in the following forms:

- anonymous or openly;
- internal – from inside an organisation to the outside (for example the police or the media); and
- external – initiated from outside an organisation (for example the media).

Whistle-blowing is in fact a chain of events taking into account different role-players, different actions and the relationships between the different role-players and the different actions. Harmful whistle-blowing will include revenge, own advantage, a financial gain, an ambition for power or a need for acceptance. Positive whistle-blowing will be directed at the well-being of an organisation, its employees and the general public. The correct motives for whistle blowing will impact on the prevention of (further/future) corruption because whistle-blowing carries with it certain negative effects. Van der Walt (2001:703) describes the following negative effects of whistle-blowing:

- The whistle-blower may be portrayed as disloyal, a traitor, a villain or as loyal, brave or a hero.
- The whistle-blower may be rejected by his colleagues and friends.
- Denial, shifting the blame, excuses, justification and discrediting the whistle-blower could take place.
- Retaliation by his employer may occur, in the form of demotion, questioning of his motives, attacking of his character, harassment of family or friends, being discredited with loss of his good name and reputation.
- The organisation's image and business may also be ruined.

The government has shown its intention to curb corruption and to promote transparency by promulgating The Protected Disclosures Act 26 of 2000 (it is informally known as "The Whistle-blowers Act"). This law makes provision for procedures to enable and assist employees to be protected when they make disclosures of the unlawful or irregular conduct of their employers or fellow employees, without the fear of victimisation or reprisals. Any disclosure made should however be true and made in good faith. To promote whistle-blowing the Protected Disclosures Act offers the potential whistle-blower protection from possible retaliation or occupational detriment (for example being subject to disciplinary action). Protection can only be available if the whistle-blower acts in accordance with the procedures provided for in the Protected Disclosures Act.

Whistle-blowing also has a certain ethical basis. Barker and Dawood (2004:127) propose the following arguments for ethics in whistle-blowing:

- The onus is on every employee and employer to endeavour to comprehend and follow the code of ethics of their organisation.
- A culture of good governance should exist in the workplace and the values of trust, honesty, justice and fairness should be woven into the fabric of our daily work ethic.
- Organisations must devise, advocate and implement a code of professional ethics by which employees should abide and those employees who deviate or violate such a code must face appropriate disciplinary action or penalties.

Effective whistle-blowing will depend on the protection of the whistle-blower and the follow-up of all bona fide disclosures of wrongdoings. If the whistle-blower is not protected and reported cases not followed-up, the use of whistle blowing to curb corruption may not be very effective. In this regard, Van der Walt (2001:703) observes that whistle-blowing should be the last resort, only serious cases of corruption should be reported, the correct intentions should be displayed by the whistle-blower and the correct procedures should be followed when blowing the whistle.

3.5.6 Aftermath of fraud/corruption

Many corporate entities who have been the victim of fraud/corruption will go to great lengths not to publish this fact and to protect their corporate image. Turner (2008:127) contends that the following reasons could cause entities not to publish possible economic crimes:

- Whilst the investigation is underway, the entity may want to avoid tipping off suspected perpetrator(s) if they are not yet aware that the fraud/corruption has been discovered.
- The entity may be keen to avoid any public concern that its systems and controls are inadequate – and therefore that its management is incompetent.
- Where the entity is a financial institution, it may want to prevent a “run” on its accounts by customers concerned that their money may not be safe with it.
- Even when there is no suggestion that the entity’s procedures were wanting, it may be unwilling to be perceived as a victim.

Turner (2008:127) observes that organisations should issue an announcement based on the true facts for an economic crime incident, rather than allowing ill-informed rumours to

spread that may generate unwanted anxiety. Companies that have fallen victim to fraud/corruption should be aware of possible reputational and other collateral damage it may have suffered. Turner (2008:128) also contends that by reporting in an honest, but favourable way, may reduce the risk of negative reaction by customers, employees and institutional investors. Thus, appropriate internal and external communication is vital for any entity that has fallen victim to fraud/corruption.

3.5.7 Tax evasion and corruption

Zuleta, Leyton and Ivanovic (2007:340) state that at first glance “tax evasion appears to be confined to taxpayers, whereas the various types of corruption are related to different combinations of stakeholders”. Zuleta *et al.* (2007:341) argue further that tax evasion “may turn out to be sustained corruption” and that taxpayers “may collude with revenue officials”.

Mbaku (2007:218) argues that tax officials “can manipulate the system to extract extra-legal income for themselves”. In this regard, Mbaku (2007:218) identifies the following actions that may be employed by certain tax officials:

- embezzle part of the tax revenue collected;
- reduce the tax burden of a business enterprise in exchange for a bribe; and
- exempt certain individuals (taxpayers) from paying taxes in exchange for a share of the tax savings.

Mbaku (2007:218) observes that “providing a country with a tax system that is considered fair and equitable is an important way to minimize both evasion and corruption”. When a tax system is seen or perceived to be fair and equitable by taxpayers in general, there would be no apparent incentive for them to evade tax. Mbaku (2007:223) also observes that when tax evasion is pervasive, it will cause a loss in revenue. Under such conditions it would be very difficult to produce reliable and realistic revenue projections. Mbaku (2007:225) observes that citizens (taxpayers) may correlate the taxes they pay to the tax authorities with the public goods and services delivered by governments. Corruption accounts for significant losses in revenue from taxes on international trade especially in the customs environment (Mbaku, 2007:224).

Chaikin and Sharman (2009:38) say that the tax system is a natural source of intelligence on corruption and money laundering because it “depends on the generation and analysis of vast amounts of financial data”. Chaikin and Sharman (2009:38) also observe that because in most countries tax authorities have strong investigative powers to combat tax evasion, it “can be useful in pursuing other types of financial crime”.

Beesley in Péteri (2008:115) states that the impact of corruption on a tax administration “mirrors the impact of corruption on other governmental institutions”. In this regard Beesley in Péteri (2008:115) observes that “if taxpayers question the integrity of the government, including tax officials, their interest in complying with the laws established by that government, including revenue laws, will be diminished”. According to Beesley (in Péteri, 2008:115) direct taxes suffer more from corruption and “reflects the taxpayer’s response to corruption and the resultant lack of interest, or apathy, in contributing to a government that does not meet the expectations of the society. In this regard Beesley (in Péteri, 2008:116) contends that in a country with a high incidence of corruption, the country “is likely to have a narrow tax base in which larger businesses (that have a lot to lose if they do not pay some amount of taxes) are responsible for the largest share of revenues, along with those individuals whose wage income is subject to withholding”.

Beesley (in Péteri, 2008:116) argues that only by eliminating corruption, or perhaps reducing it, will it assist a tax administration in its efforts to increase the tax base by ensuring that the tax base is broad and that all taxpayers pay their fair share. Beesley (in Péteri, 2008:122) concludes that the negative impact of corruption “on voluntary compliance severely restricts the ability of the tax administration to deliver the revenue needed by the government to fund social and infrastructure developments”. Thus, the ideal would be to strike a balance between a well-managed tax administration supported by willing and complying taxpayers with regard to all taxes administered and collected by the tax authority in pursuit of excellent service delivery by the government.

3.6 CORPORATE GOVERNANCE

3.6.1 Introduction

Rezaee (2002:118) states that corporate governance focuses primarily on the interactions among corporate managers, directors and shareholders. This perspective of corporate governance deals with the concerns of the capital providers (the shareholders) in assessing the risk associated with their investment (in a specific company), their expected rate of return on their investment and the continuous monitoring of their capital investments.

A more broadly defined corporate governance will, according to Rezaee (2002:118), focus primarily on the combination of applicable laws, regulations and listing rules that facilitate, direct, and monitor the corporations' affairs in attracting capital, performing effectively and efficiently, increasing shareholder value and meeting both legal requirements and general societal expectations. Corporate governance is in fact a mechanism of monitoring the actions, policies and decisions of companies in increasing shareholder value.

Visser *et al.* (2006:43) describe corporate governance as "the set of practices through which a corporation actively manages its citizenship". This is regulated by mechanisms external to the corporation, such as laws, regulations and expectations expressed by government and society. Corporate governance in a broad sense is concerned with those directions made by company management and the impact of their decisions on the various stakeholder groups in relation to the company. Corporate governance in a narrower sense can be viewed as the relationship between the board of directors and the company.

The main participants in corporate governance are the board of directors, the audit committee, and the top management team of the company, the internal auditors, the external auditors and governing bodies. Visser *et al.* (2006:45) state that "corporate governance structures exist to ensure that the scope and nature of corporate action is aligned with managers' fiduciary responsibilities". These fiduciary responsibilities will be governed by appropriate and applicable laws governing the corporate existence, the corporation's own code of conduct and internal rules and regulations and public consent.

Visser *et al.* (2006:46) confirm the obligations of corporate governance towards shareholders, but also recognises a corporation's responsibility to other stakeholders. The other stakeholders being referred to may include creditors, employees, customers, suppliers, the community and the environment. Corporate governance goes beyond the creation and maintenance of wealth for the shareholders, but it encompasses corporate citizenship, which drives transparency, increases investor confidence and prescribes an inclusive approach to the role of business in society (Visser *et al.*, 2006:51). A company's board of directors should strive for fairness, accountability and responsibility when acting in the interest of company stakeholders. A company that embraces sound ethics and practice good corporate governance and thereby branding it as trustworthy will be profitable.

3.6.2 Corporate governance in the prevention and detection of financial statement fraud

Financial statement fraud is on the increase and corporate governance is under pressure to prevent and detect possible or actual financial statement fraud. Corporate governance culminates in the manner a company is governed through proper responsibility, accountability, fairness and transparency (Mintz & Morris, 2011:93). Without proper corporate governance in place management's ethical behaviour and operating style of product innovation, risk taking, business venturing and strategic decisions, may impact negatively on a company. In this regard, Silverstone and Sheetz (2007:68) observed that one of the more "important controls over the accounting system has to be ethical conduct of management" as the "ethical tone of the company is established at the top and works its way down". Van Zyl (2001:240) and Rezaee (2007:58, 446 and 503) propose the following tips and tools from a corporate governance perspective to promote ethical behaviour and conduct:

- Ethical conduct regarding the use of office supplies and equipment and ethical conduct regarding others in business, employers, employees and customers should be promoted.
- Employees should display a sense of responsibility.
- The employer will need to set an example which can be followed by employees.
- Employees should have the freedom to raise concerns without fear of retaliation.

- Managers should model ethical behaviour and emphasize the importance of integrity.
- Leadership should understand the pressure points that drive unethical behaviour.
- Processes should be in place to find and fix pressure points for unethical behaviour.
- Companies need to have ethics and business programs to address issues such as the diversity of personnel and human resources, the expectation of the public and their stakeholders and the legal, professional and regulatory environment.
- Ethics and business conduct programs should be incorporated into corporate governance.

Biegelman (2004:45) states that the external auditor should be truly objective and have no ties to the audit client that would impair the auditor's judgement. In the Enron case the auditors, Arthur Anderson, also provided extensive consulting services for Enron, including the internal audit function which some critics contend, allowed Arthur Anderson to essentially audit its own work (Makar, Alam & Pearson, 2004:47).

3.7 STRATEGIES TO PREVENT ECONOMIC CRIMES

Wells (2008:399) defines deterrence as "the modification of behavior through the perception of negative sanctions". Fraudsters are, according to Wells (2008:399) "very deliberate people". Wells (2008:399) contends that fraudsters "carefully weigh – consciously or subconsciously – the individual risks and rewards of their behaviors" and for this reason it could be possible that the conduct of fraudsters may be more easily modified than the "run-of-the-mill street criminal" because fraudsters are "very deliberate people" in comparison to violent crime that is committed "in the heat of the moment".

Wells (2008:399) observes that prevention, in the sense of crime, "involves removing the root causes of the problem" and that includes the elimination of the motivation to commit it "such as the societal injustices that lead to crime". Hartley (2008:84) observes that globalisation has "produced multinational companies that do business on a global scale and with less resistance from governmental rules and regulations". Pickhardt and Shinnick (2008:82) observe that "democratic national governments tend to be subject to such strong pressure from vested interests within their own territories that many of their decisions operate against the interests of society as a whole".

Coenen (2008:124), Wells (2008:399-402), Hartley (2008:68-69) and Levi (2008:318-322) proposed that the following deterrence measures can be implemented by companies, employers or government departments to deal with economic crimes in general:

- There should be proper internal controls to deter potential fraudsters from committing economic crimes.
- There should be the perception that crimes would be detected – employees who perceive that they will be caught engaging in economic crimes are less likely to commit it.
- Companies and government departments should bring occupational fraud and abuse out of the closet and deal with the issue in an open forum.
- Employee education programmes should be presented outlining the consequences of economic crimes and abuse of job security, benefits, morale, profits and one's integrity.
- Proactive fraud policies should be in place which will give it a higher stance by management, auditors and fraud examiners.
- There should be an increased use of analytical review procedures on the organisation's financial statements.
- Surprise audits where feasible may be a very powerful deterrent to occupational fraud and abuse.
- Adequate reporting programs should exist in which the whistle-blower will be protected because the chances of the whistle-blower being victimised once an economical crime has been reported, is a reality.
- Public education and awareness programs should be presented to educate and inform the general public about the various forms of economic crimes and consequences thereof by either getting involved in it or keeping silent about the existence thereof. The public must see for themselves that fraudsters are being prosecuted and convicted.
- Public naming and shaming of economic crime offenders irrespective of their status or stance in society should take place.

- Exclude sentenced economic crime offenders from conducting business with any government department.
- Create/implement fraud and anti-corruption hotlines to facilitate an anonymous channel for people to report economic crimes. Tip-offs are still the best way of identifying economic crimes.
- Continued taxpayer education and a change in taxpayer attitude towards SARS should take place.
- Improved service delivery and effective enforcement reaction towards non-compliance may contribute towards better or improved tax compliance in general.
- The media (printed and electronic) should remain the watchdog of the modern society.
- Values must be established within a family and, once established, such values could be transferred to the next generation.

On 11 September 2008 an interview was conducted with a psychologist working on a contract basis at SARS. The purpose of this interview was to establish the reasons why taxpayers became involved in tax evasion, crime, fraud or corruption in general. He indicated that certain factors might contribute towards dealing with economic crime and, by implication, tax evasion, fraud or corruption. The following factors were identified by him (Appendix E):

- Value system – how does the government manage the country? People look towards the government to set the tone at the top.
- Value formers – certain value formers must step forward and deal with the issue of crime.
- Ethics – the line between right and wrong has become vague. The line has to be redrawn with no grey areas in between.
- Zero tolerance – government, companies and businesses should implement a policy of zero tolerance towards crime in general.

- Office ethics – internal communication from employers to employees should promote ethical standards amongst employees and managers.
- Free association – people should have the freedom of association.
- Relationships between people and things – how do you feel about yourself? Wherever people are, they will be in relationship with other people and things (for example assets, goods, money, etc.). Your own value system will determine the amount of respect you show towards other people and things.
- Greed – the core of greed lies on a psychological level. Greed can destroy people in their excessive striving or desire for wealth. If greed can be handled it can impact positively on economic crimes in general.
- Dealing with susceptibility – many people are vulnerable to or have certain weaknesses towards crime. By dealing with this susceptibility through co-ordinated education programmes people can be educated about the real implications of crime and the effect crime has on communities and people.

During an interview conducted on 18 May 2009 with Dr A, a criminologist, she was asked whether it would be possible to compile a profile of a fraudster (an economic crime offender). The reason why the criminologist was asked this question was to determine if an economic crime offender has certain general identifiable characteristics that may motivate him to perpetrate economic crimes. She said it would be possible and it might include the following characteristics (Appendix E):

- Highly intelligent.
- Manipulative.
- Creates trust with other people.
- Immediate gain is very important.
- Consequences of their deeds do not bother them.
- Many fraudsters have no conscience.
- Status is very important – link success to power.
- May experience a sense of inferiority.
- Bend the borders of morality and that becomes a general lifestyle.

During the same interview conducted with Dr A, she was also asked what the business world and the government can do to deal with fraud/corruption. She replied by saying that (Appendix E):

- Action should be taken against high-profiled people.
- Severe sentences should be imposed.
- The legal justice system should be reformed – there are many gaps in the current system.
- Fraud/corruption should be followed up much faster.
- People should know that a punishment will definitely follow.
- People have a perception that you have to be dishonest to be a successful business person.

During an interview conducted on 14 November 2008 (Appendix E) with Mr D, the leader of a church group in Pretoria, the comment was made that an undocumented norm exists within the African continent to pay bribes to achieve a certain outcome. He also commented that there was a strong movement in South Africa to get business people to take an oath to commit them to conduct honest business. The signing of such an oath will create a moral agreement. Many business decisions are taken in a moment of pressure. He said that when circumstances changed or other forces started to work, decisions were made differently. He also stated that values determined conduct and that values should be internalised (Appendix E).

During an interview conducted on 18 November 2008 with Mr E, a Catholic priest in Pretoria, the comment was made that people's attitudes played a significant role in fraud, corruption and tax evasion. He observed that values set by parents at home were crucial and should be reinforced frequently with the children. The interviewer commented that people should strive to make a difference in their communities. Mr E replied that people do not want to be judges of other people's actions. He said that all people should have basic values, but today people tended to rationalise everything. He also observed that people had a supermarket mentality in their approach to life. They took what they thought was good for them and what they did not like they ignored (Appendix E).

In an interview conducted on 1 July 2009 with Mrs S, a senior manager at SABRIC, she said that crime prevention was the key with regard to the South African financial system.

Fraud and corruption are a reality and the commercial banks are mitigating the impact of it. She also said that South Africa had a first world banking system and that banks had a zero tolerance approach. She said that banks followed a proactive approach towards fraud and corruption and that a lot of resources were applied to mitigate fraud risk (Appendix E).

In an interview on 2 June 2009 (Appendix E) with two SARS officials they commented that some offenders may be aware of the possible consequences that may occur as a result of their criminal conduct. They contend that offenders have an attitude that they will deal with the consequences as and when it happens. Offenders may display some awareness; however, this awareness will not be clinical, as they normally act opportunistically. Many offenders will act in such a manner as if they would be detected. Offenders normally do not plan or view consequences, but they will factor the possibility of any possible consequences. Offenders do understand the possible consequences; however, the end consequence will not be the same for all offenders. Many offenders observe an opportunity and then utilise that opportunity, thus any possible consequences may be ignored.

More laws and regulations would not necessarily deal with the current levels of economic crime in South Africa. Coenen (2008:141) states that financial crimes “have a much lower priority for most law enforcement agencies”. Coenen (2008:198) also said that “regulation is not really the answer” at curbing fraud as dishonest people “will commit fraud or other crimes if they can get away with it, laws or no laws”. The focus should be on the more effective application of existing laws and regulations. The implementation of sound principles, such as corporate ethics and the promotion of moral conduct, could contribute towards a business environment where economic crime could be labelled as the enemy of sound business practices. Fleming and Zyglidopoulos (2009:135) observe that codes of ethical conduct “have become widespread practice in many corporations”. Doig (2006:78) observes that there is “an obvious interdependency between personal and contextual issues and the balance of the gain as opposed to risk, detection and sanction”. Coenen (2008:148) observes that it is important “to weigh the cost against the benefits that may be achieved with the controls”.

Doig (2006:96) is of the opinion that “court cases, codes of conduct, and so on, may spell out the boundaries of acceptability but often these follow or lag behind scandals and

controversy". For this reason, many government departments, public and private entities have implemented specific operational risk management strategies with regard to economic crime in general. This may include a code of conduct, ethical rules, company policies and procedures. Young (2006:11) defines operational risk as "the exposure of an organisation to potential losses, resulting from shortcomings and/or failures in the execution of its operations. These losses may be caused by internal failures or shortcomings of people, processes and systems, as well as the inability of people, processes and systems to cope with the adverse effects of external factors." Young (2006:8) has identified the following as the main risk factors of operational risk:

- **Processes** – the processes operated by the organisation.
- **People** – the people employed by the organisation to help operate and manage the processes.
- **Systems** – the systems used to support the processes.
- **Impact of business strategy** – the impact of people, processes and systems the business strategy may have.
- **External factors** – the risks resulting from the external environment in which the organisation operates.

MacDonald and Pyle (2000:2) report that "governments have been increasing their expenditure on policing, prisons, courts, and law enforcement generally" in response to "evidence of increasingly widespread engagement in illicit activity by members of the general public". Eicher (2009:147) observes that a rational person "acts on the basis of costs and benefits, meaning that a person will pursue a goal when its expected benefits exceed its expected costs".

3.8 STRATEGIES TO PROSECUTE ECONOMIC CRIME OFFENDERS

The prosecution of an economic crime offender can be a very expensive exercise and may become a drawn out case (Doig, 2006:125). Coenen (2008:141) states that sometimes the "cost of pursuing the fraudster is higher than the potential recovery". Coenen (2008:143) states that an actual investigation "may be a lengthy and expensive process" and should

therefore be “thorough and accurate”. Some entities may prefer an out-of-court settlement in an economic crime related offence in lieu of a drawn out court case. Doig (2006:223) observes that “those who can pay can negotiate a settlement agreeable to both parties and certainly more agreeable than imprisonment”.

Wells (2008:367) is of the opinion that nothing “is more important to the successful resolution of fraud allegations than the ability to conduct penetrating and legally binding interviews of witnesses and suspects”. Coenen (2008:134) proposes that “good document management procedures are critical, especially in an investigation that is document intensive”. Coenen (2008:18) contend that “litigation is expensive” and that “the likelihood of recovering the proceeds of fraud is low”, especially in civil actions. Coenen (2008:143) contends that “documents and records must be properly secured and indexed so that they may later be used as evidence, if necessary”.

Coenen (2008:147) observes that “businesses must be proactive in the fight against fraud” to survive in today’s competitive marketplace. Many companies have also established an internal fraud examination department, which was unknown a decade or so ago (Wells, 2008:40). Thus, once an economic crime has been perpetrated and detected, care should be taken to do a proper preliminary investigation to establish a strong foundation for the rest of the case (Silverstone & Sheetz, 2007:131). Vona (2008:33) states that from a legal perspective “the fraud audit procedure should consider the sufficiency, reliability and authenticity of evidence consistent with the criminal or civil procedures for admissible evidence”. Thus, care should also be taken to secure as much evidence as possible during the investigation phase.

When dealing with any accused person in an economic crime case the rights of such accused person, as outlined in the South African Constitution, Chapter 2, the Bill of Rights, should be respected at all times. Section 10 of Chapter 2 of the Bill of Rights stipulates that “everyone has inherent dignity and the right to have their dignity respected and protected.” Thus any violation of a suspect’s rights at any stage during the investigation phase of an economic crime case could jeopardise the outcome of such a case. Thus, when an economic crime has been committed and a suspect positively linked to the said case, the identified suspect should be treated with dignity. Section 33 of Chapter 2 of the Bill of Rights stipulates that “everyone has the right to administrative

action that is lawful, reasonable and procedurally fair.” Section 35(3) of Chapter 2 of the Bill of Rights stipulates that “every accused person has a right to a fair trial”.

On 1 September 2008 an interview was conducted with Mr B, a mentor at the Special Investigating Unit (SIU) of the South African government. He is directly involved in the training of government officials in the field of special investigations. The main purpose of the training conducted or mentored by Mr B is to equip government officials in the field of fraud and corruption prevention, detection and investigation. Mr B also said that it is important to present fraud and corruption as far as possible, but once fraud and corruption have been perpetrated, it should be investigated and if necessary, prosecution should follow.

Mr B proposed the following regarding a plaintiff in a corruption case (Appendix E):

- He need not be the person who suffered a loss.
- He may complain on behalf of an employer or third party.
- A person in an employer/employee relationship may complain.
- He may act as a proxy or a person holding a power of attorney.

Mr B proposed the following regarding a witness in a corruption case (Appendix E):

- Contributing information to prove the allegation.
- The witness can be the following:
 - o Official documentation, like the Registrar of Companies, can serve as evidence.
 - o Private documentation prepared internally, for example policies, procedures and minutes.
 - o A specialist witness – the witness can be a specialist in a certain field, for example a forensic auditor.

Mr B proposed the following in respect of a defendant, in a corruption case, before being charged (Appendix E):

- The defendant should be identified as the person against whom the allegation is made.

- The Criminal Procedure Act and section 35 of the Constitution of the Republic of South Africa of 1996 – describe how a person should be treated when arrested, detained or accused.
- The rights of the accused should be explained to him.
- The accused has a right to a reasonable trial.
- The accused will be innocent until a court finds him guilty.
- The accused will become a defendant after he has been charged.
- There are three ways in which a person may appear in court:
 - o A warning issued to appear in court for a traffic fine, for example.
 - o A summons issued – grounds exist for legal prosecution.
 - o Apprehension – a warrant has been issued, the case has been investigated and prima facie evidence exists.
- The test of a reasonable person should be applied.

Mr B also proposed the following steps that should to be taken into account in a corruption case (Appendix E):

- The case should be reported to the South African Police Service (SAPS).
- A sworn affidavit is to be obtained from the whistle-blower.
- The Specialised Commercial Crime Unit of the SAPS should be notified.
- It may be possible that the reported corruption case may not be investigated.
- The person investigating the corruption case may not necessarily see the implications of the contravention.
- There may be a lack of experience/skill within the SAPS.
- Inexperienced investigation officials may hamper the investigation of a corruption case.
- Stick to the letter of the law.
- Patience is crucial in any investigation.
- Neutralise the witnesses.
- Witness protection – for as long as the corruption case may continue.
- Follow the set protocol.
- Be aware of faceless people – a person's own interest may be promoted at the expense of the employer.
- Corruption may impact negatively on future investments in the company.

During an interview conducted on 11 September 2008 with Mr A, a psychologist, working on a contract basis for SARS, the question was raised if it may be possible to compile a psychological profile of a tax evader in a tax evasion case. The reason why this question was asked was to determine if a tax evader in general has certain characteristics that may motivate him to commit the offence of tax evasion. Mr A proposed the following simple steps to be followed when compiling a psychological profile of a tax evader in a tax evasion case (Appendix E):

- Compile a profile of any potential witnesses in a tax case.
- Rank the needs satisfaction of the tax evader.
- Perform an analysis of the avoidance needs of the tax evader.
- Obtain information for the investigation.
- Investigate the tax compliance of the tax evader.

3.9 STRATEGIES TO PUNISH ECONOMIC CRIME OFFENDERS

Downes and Rock (2007:97) state that “prisons generate criminality”. Minkes and Minkes (2008:196) observe that if “criminals are just like us, would we be so quick to imprison them?” Coenen (2008:18) contends that at the far end of the punishment spectrum “is legal action, either civil or criminal or both” that can be used to punish an economic crime offender, however, litigation “is expensive” and the “likelihood of recovering the proceeds of fraud is low”. Winter (2008:100) is of the opinion that “one benefit of increased prison sentences is that they can enhance the deterrent effect against crime”.

Hare (2002:57) states that “atonement requires making good the offence” and “sometimes this is done by punishment”. Hare (2002:57) also says that “people who know they are likely to suffer if they are caught committing a crime are less likely to do the crime in the first place”. Hare (2002:57) contends that we punish offenders “because they deserve to be punished after what they have done, and the degree of punishment needs to fit the degree of the offence”. Doig (2006:213) proposes that in criminal cases “on conviction, the courts may order criminal compensation orders for specific losses to victims, or confiscation orders”.

Winter (2008:108) says that resources could be devoted to social programs, “especially aimed at the young, to discourage future criminal behavior”. Winter (2008:109) also observes that “increased incarceration tends to have benefits that are seen fairly quickly” but that improved social programs “tend to have current cost but benefits that accrue far in the future”. Winter (2008:114) is also of the opinion that “criminals are more responsive to changes in the certainty of punishment (especially through the probability of apprehension) than to the changes in the severity of punishment”.

Silverstone and Sheetz (2007:18) observe that “financial motivators obviously have a big impact on the cause of financial crime”. Geis (2007:162) says that two conditions complement economic crimes and that is “the confluence of appropriate motivation and opportunity”. Doig (2006:213) proposes that in criminal cases “on conviction, the courts may order criminal compensation orders for specific losses to victims, or confiscation orders”.

During the interviews conducted with various role-players in the field of prevention, detection and prosecution of an economic crime offender, the following possible punishments were suggested by the role-players interviewed for an economic crime offender (Appendix E):

- Mrs L, a senior executive at the FSB, mentioned that a direct prison term and high penalties would be most effective because the main reason for perpetrating fraud or corruption was a financial consideration. Thus, targeting a fraudster’s financial resources would hurt him the most. Mrs L continued by saying that, depending on the type of offence committed, a prison term would be the best form of deterrence for any prospective fraudster.
- The two SARS officials interviewed replied that the best form of punishment would depend upon what needed to be achieved. In certain circumstances one form of punishment might be more effective than in other circumstances. The general perception when fraud/corruption had been perpetrated is that the punishment should be a prison term. It is questionable if such punishment would create a better citizen.
- Mrs S, a senior manager from SABRIC, stated that by seizing a fraudster’s proceeds of crime would be the best form of punishment because he thought crime paid. By having the financial gain resulting from criminal behaviour removed would harm the

fraudster the most. Imprisonment would send out a strong message, but a jail term may not be the necessary deterrent.

- A fraud examiner from one of the major auditing firms in South Africa who was interviewed stated that a combination of a lengthy jail term combined with a proper forfeiture of their assets could be a suitable punishment. However, the sentence had to be of such a nature that it was just not worth committing the crime again.
- Dr A, a criminologist interviewed, replied that any punishment would depend on the extent and the type of fraud perpetrated. According her, courts felt that a person could come to a different insight or stop perpetrating fraud/corruption when such fraud/corruption had been perpetrated over a period of time. She argued that fraudsters became cleverer over time and would move through a learning curve in prison. She contended that imprisonment would most probably not be the best form of punishment for a fraudster because fraudsters tended to be difficult to rehabilitate. She said that periodic imprisonment where the fraudster would work during the week and was only imprisoned over weekends would deprive such a person of his freedom. She said that this form of punishment was very bad for such a person because it was very disruptive. People serving a prison term might well then gain insight. She said that when a pattern of criminality had been established it would be very difficult to stop such behaviour. She commented that a fraudster would not easily abandon his modus operandi, especially when it became a lifestyle. She suggested that the attachment or seizure of a fraudster's assets obtained through criminality was very effective because the fraudster should realise that the fruits of his fraudulent conduct could be taken away. In this way the fraudster would be conditioned that the rewards from his fraudulent conduct would be forfeited.
- Mr E, a Catholic priest interviewed, stated that bigger penalties or more severe sentences might curb fraud and corruption.

Doig (2006:215) questioned whether imprisonment may be “the answer for certain frauds when community service, a suspended sentence or a compensation order might be of value”. However, Winter (2008:100) is of the opinion that “one benefit of increased prison sentences is that they can enhance the deterrent effect against crime”. Silverstone and Sheetz (2007:21) state that economic crime “is an enormous social problem whose consequences are not fully realized by the public at large”.

3.10 STRATEGIES TO REHABILITATE AND REINTEGRATE ECONOMIC CRIME OFFENDERS

Winter (2008:100) states that while offenders are imprisoned they often “have the opportunity to further their education” and may offer inmates “a distraction from an otherwise monotonous prison lifestyle” (2008:100). Winter (2008:101) contends that “a lengthy prison sentence may create a more pronounced social stigma that negatively affects the inmate’s post-release opportunities”. Winter (2008:101) observes that “lengthy prison sentences may deter crime for those wishing to avoid such severe punishment, but may increase crime from released inmates who find they have few legitimate alternatives because they have been incarcerated for a long time”. Winter (2008:102) is of the opinion that “vocational training and the prospect of stable employment are undoubtedly the keys to successful rehabilitation and the prevention of reoffending”.

Wells (2008:399) contends that prevention, “in the sense of crime, involves removing the root causes of the problem”. During an interview conducted on 14 November 2008 (Appendix E) with Mr D, the leader of a church group in Pretoria, he was asked who should judge an action as being good or bad. He commented that what had been implied and what should be communicated demanded mature conduct, especially where moral contraventions were applicable. He said that the process should be handled with extreme caution and sensitivity from a moral/ethical perspective. He said that law worked according to a certain system for the sake of objectivity and a wrongdoing couldn’t be undone, but support and the expression of love, and not rejection and condemnation, would start the reconstruction process in the life of a wrongdoer.

Mr D also stated during the same interview that dysfunctional circumstances impacted on people’s actions and conduct. He contended that the cause and effect of a person’s conduct should be treated with love and acceptance. He was of the opinion that a soft approach would yield the best result. A person’s actions or conduct couldn’t be reversed, but there had to be discipline for the result of the conduct/action. He further commented that it became difficult to look empathically at fraud and corruption because the broad community was angry about the impact fraud and corruption was causing. He said people found a certain justification for their own actions or conduct when everybody else was doing it. He substantiated this by saying that rational people could make rational decisions; however, certain forces in communities were at work creating group pressure

and people tended to be fear-driven and would act out of fear rather than from a rational perspective.

During an interview conducted on 18 May 2009 (Appendix E) with Dr A, a criminologist, she said that it was possible to rehabilitate a fraudster; however, it was very difficult and only happened in exceptional cases. She commented that more innovation was needed in this regard, especially when dealing with an intelligent person, and it should be aimed at the level of the fraudster. She was of the opinion that rehabilitation in a free society would be virtually impossible. Rehabilitation could be attempted in a prison environment; however, she suggested that the fraudster's deviate behaviour should be established before rehabilitation could begin because a fraudster's school of thought should be changed. She said that there was great concern in the business world regarding economic crime offences. She also said that not enough attention was given to the types of sentences or prison handling.

Fraudsters are, according to Wells (2008:399) "very deliberate people". Wells (2008:399) contends that fraudsters "carefully weigh – consciously or subconsciously – the individual risks and rewards of their behaviors" and for this reason it could be possible that the conduct of fraudsters may be more easily modified than the "run-of-the-mill street criminal" because fraudsters are "very deliberate people" in comparison to violent crime that is committed "in the heat of the moment". Winter (2008:114) is of the opinion that "criminals are more responsive to changes in the certainty of punishment (especially through the probability of apprehension) than to the changes in the severity of punishment".

3.11 ETHICS – A MYTH OR A MUST?

Fraud and corruption has infiltrated virtually all spheres of the public and private sectors. Many new laws have been written and promulgated in Parliament to handle it. Laws alone might not be enough to curb fraud and corruption. Hughes, Kaidonis and Anderson (2008:28) suggest that ethics might be the magic product many companies could employ to build customer, investor, and employee loyalty. Van Vuuren (2002:21) observes that "many organisations recognise that there is a crucial connection between ethics and organisational success". In this regard Brown (2005:11) states that "businesses require a space for freedom and innovation and a legal structure to protect themselves from tyranny and anarchy."

Burke, in Burke and Cooper (2009:3) argues that an ethical work climate rests on “employee perceptions of the organization’s practices and procedures that relate to ethical issues”. In this regard Burke, in Burke and Cooper (2009:4), states that two stable “individual difference factors have been found to be associated with ethical decision making: levels of moral development and moral disengagement”. If a person has a sound moral development, that person can be expected to display sound moral behaviour.

Razeaa and Riley (2010:26) state that “violations of ethics, trust, and responsibility are at the heart of fraudulent activities”. Fraudsters may therefore be viewed as trust violators who have failed or neglected their fiduciary responsibility. Hughes *et al.* (2008:30) contend that ethical behaviour is the bedrock of every successful society, individual, company or organisation. It may take years for a company to build up a good reputation but it can lose it in seconds. Brown (2005:180) observes that by viewing corporations “as only responsible to their shareholders, however, is a violation of corporate integrity.” Corporations have a social responsibility towards the community, its suppliers and its employees and not just to its shareholders.

Many companies have implemented a code of ethics or ethics programs. Hughes *et al.* (2008:30) suggest that an ethics program could include the following items:

- understanding why good people can commit unethical acts;
- defining current as well as desired entity value;
- determining if entity values have been properly communicated;
- producing written ethics policies, procedures, or structures;
- ascertaining how board members, shareholders, management, employees, and other pertinent members of the entity define success; and
- determining if ethics is a leadership issue in the entity.

Hughes *et al.* (2008:30) contend that a more effective ethics program can be developed with a good understanding of the above-mentioned items. Hughes *et al.* (2008:30) suggest that a sound ethics program should include the following components:

- focus on ethical leadership;
- a vision statement;

- a code of ethics;
- a designated ethics official;
- an ethics task force or committee;
- an ethics communication strategy;
- ethics training;
- ethics help and fraud-responding telephone line;
- ethical behaviour rewards and sanctions;
- a comprehensive system to monitor and track ethics data; and
- periodic evaluation of ethics efforts and data.

Hughes *et al.* (2008:52) argue low morale and morals cost an entity productivity. The authors comment that “morale is a direct consequence of being treated well by a company, and employees return a ‘gift’ of good treatment with higher productivity and work quality, lower turnover, a decrease in workers shirking their duties and a superior pool of job applicants. These gains translate directly into higher company profitability.” Hughes *et al.* (2008:52) authors also state that studies show that ethics influence the buying decisions of consumers, the employment decisions of the labour force, and the investment decisions of investors to such an extent that an ethical company has an advantage in the market place. People seem to value ethical companies and their products and will support such companies.

Wells (2003e:5) comments that each person has his moral code and “it becomes the foundation for the ethical decisions we make on a daily basis”. Wells (2003:5) continues by stating that certain aspects of people’s moral codes are universal: “honesty, fairness, kindness, courtesy, and respect”. Many people find themselves sacrificing short-term rewards for long-term goals. Wells (2003:5) concludes by stating that the “greater the anticipated immediate benefit, the more likely we all are to compromise our over-arching sense of morality”. Thus, according to Wells, people may be willing to sacrifice their morality if they can obtain an immediate benefit from a transaction. Silverstone and Sheetz (2007:68) state that “one of the more important controls over the accounting system has to be the ethical conduct of management”. Coenen (2008:178) observes that the “actions of those at the top of a company influence the actions of those below”.

Maxwell, Graves and Addington (2005:215) compare ethics with a moral warehouse where the character of a person depends on an on-going process. Maxwell *et al.* (2005:215) contend that character “must constantly be replenished” and “its inventory needs on-going management”. Maxwell *et al.* (2005:216) suggest that “constructing personal convictions, capturing inspirational moments, conducting Scripture memory, and connecting with people of character” are helpful in the “construction, the utilization, and the replenishment of the moral warehouse”. According to Maxwell *et al.* (2005:225) integrity “requires an infrastructure” and “it must be constantly nurtured and resupplied”. Maxwell *et al.* (2005:225) contend that character building is an “intentional lifelong investment” that requires “building character-sustaining habits” with no shortcuts. A person therefore has to have a moral warehouse if he wants to display his character based on a sound moral foundation.

Rezaae (2009:64-65) describes business ethics as a “process of promoting moral principles and standards to guide business behaviour”. Rezaae (2009:64-65) also observes that business ethics may apply on different levels such as the society level, the industry level, the company level and the individual manager level. Companies also need to have ethics and business programs to deal with their diversity of personnel services, their expectations of the public and their stakeholders, their legal, professional and regulatory environments, compliance with applicable regulations and the integration of ethics and business programs into their corporate governance. Ethics has become an integral part of business and companies can no longer ignore it. Companies acting unethical will not survive economically because unethical conduct in the business environment cannot be sustained indefinitely before it is detected or revealed.

The violation of ethics, trust and responsibility may be at the heart of economic crimes (Rezaae & Riley, 2010:26). For this reason ethical behaviour is the bedrock of every successful society, individual, company or organisation (Hughes *et al.*, 2008:30). By implementing and dealing with ethics at all levels in the public and private sector and by setting the tone at the top, the temptations to commit economic crimes may be handled appropriately in conjunction with prevailing law enforcement and legislation. Simon (2008:213) states that legislators have “enacted laws to enforce the morality of the majority, making criminal certain offence acts that may harm the individual who performs them but not others”.

Fraud and corruption need to be dealt with from a legal perspective and the current laws in place to combat these crimes should be enforced more rigorously. That would be only part of the process to combat the mentioned crimes. The promotion and implementation of ethics programs by the public and private sectors may contribute towards combating fraud and corruption. By promoting ethics in the public and private sectors and condemning the crimes of fraud and corruption, the battle against these crimes may start to deliver tangible results. From the sources consulted in the previous paragraphs, it is obvious that ethics are essential to prevent the occurrence of economic crime. The promotion and implementation of steps to prevent economic crime and sound management will impact positively on the occurrence of economic crime. Economic crime has managed to infiltrate virtually all spheres of life and seem to have become part of the daily lives of people in the public and private sectors. By addressing the moral orientation of people and promoting ethical conduct in all spheres of life, the negative impact of economic crime can be addressed.

3.12 ECONOMIC CRIME PROCESS

Economic crime affects organisations of all sizes and offenders have no conscience and know no boundaries (Schaeffer, 2007:181). The perpetration of an economic crime is driven by a perceived or possible gain using deception as a primary modus operandi (Coenen, 2008:7). This deception will be deliberate with the intent to cause harm, injury or damage (Rezaae & Riley, 2010:5). The economic gain to be pursued may result from some pressure the offender may experience being either a personal, financial or other immediate need to be dealt with. The prospective offender would normally seek for an opportunity to perpetrate an offence to address his need. Once the fraudulent action has been perpetrated, the offender, if detected, would normally rationalise his fraudulent action. This process is described as the Fraud Triangle (Goldman, 2009:15 & Turner, 2008:42).

Economic crimes may be perpetrated internally (for example employees or management) or externally (for example clients, suppliers or other third parties). Economic crimes may be perpetrated by first time offenders, repeat offenders or organised crime (Vona, 2008:11). External fraudsters are viewed as career criminals with long histories of illegal activity (Goldman, 2009:14). The position an individual holds in an organisation may

significantly influence the extent of an economic crime (Coenen, 2008:28). For example the financial director of a company may be in a better position to perpetrate financial statement fraud than someone working in the human resource department.

Violent crimes receive more attention in the criminal justice system than economic crimes because these crimes have a lower priority for most law enforcement agencies (Coenen, 2008:141). One of the main reasons why economic crimes do receive lesser attention than violent crimes is the limited resources available to investigate such crimes (Coenen, 2008:141).

The role of the media to report on economic crime offences should not be jeopardised (Kroukamp, 2006:209). Organisations that have been victims to economic crime may also refrain from making comments in the media regarding the issue as it may cause harm to their corporate image (Turner, 2008:127). It may therefore seem that there could be a certain reluctance to report on economic crime especially when it may involve high profile individuals.

Diagram 3.4 (developed by the author and based on the literature reviewed for the purpose of chapters 2 and 3) illustrates the conduct of an economic crime offender from the point where the decision was taken to perpetrate an economic crime until the offender would be prosecuted/sentenced for the perpetrated offence. Punishment alone might not deter an economic crime offender to commit the same or similar offences in future. An economic crime offender should also be subject to a rehabilitation program.

Diagram 3.4: ECONOMIC CRIME PROCESS

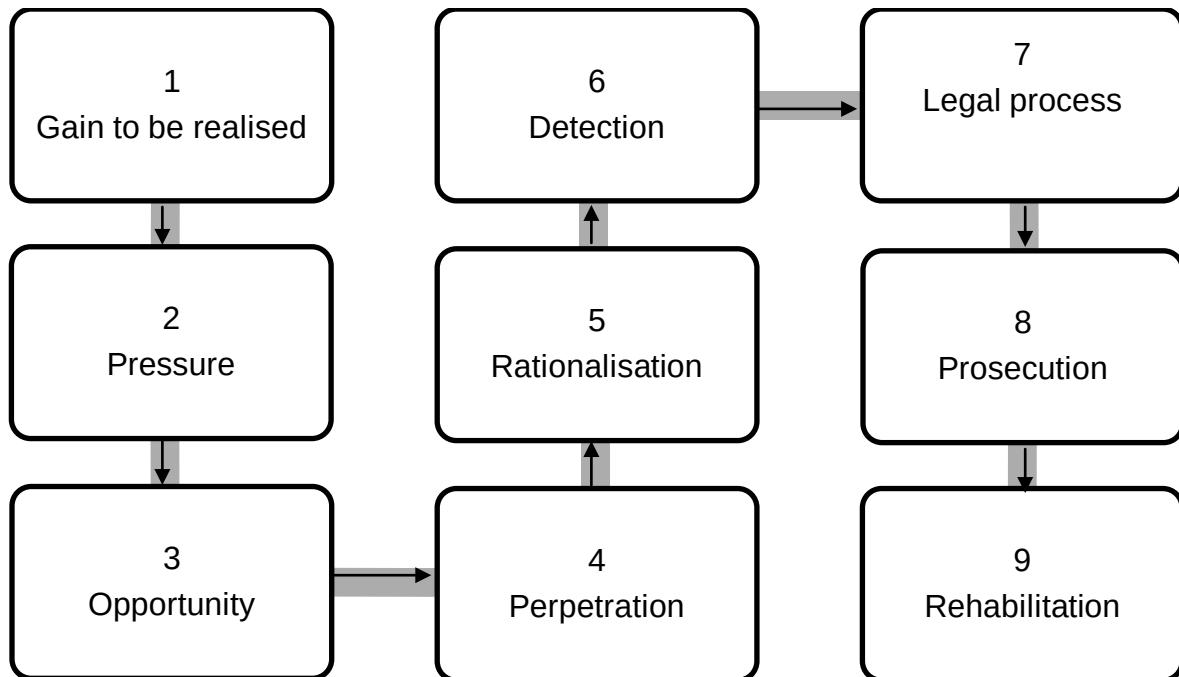


Diagram 3.4 (Economic crime process) is explained as follows, starting with item 1 (Gain to be realised) and ending with item 9 (Rehabilitation):

- The main objective of an economic crime is the perceived or possible gain (presumably financial in nature) such crime might yield.
- An offender is under pressure to perpetrate an economic crime in order to obtain a perceived or possible gain. This pressure may result from a personal, financial or other need to obtain or retain money.
- An economic crime offender would be alert to an opportunity to perpetrate an economic crime offence. Without an opportunity the offender would probably not succeed in perpetrating an offence.
- Perpetration of an economic crime. An offender has to take a decision to perpetrate an economic crime driven by pressure and having identified an opportunity the possible financial gain may be weighed against the possible risk of detection.

- Once an economic crime offence has been perpetrated, the offender may rationalise his actions. Blame shifting could form the basis of an offender's defence if the economic crime offence has been detected.
- If the perpetrated economic crime is not detected, the offender might continue with his fraudulent actions. If the economic crime is however detected, it should be thoroughly investigated. Once detected, great caution should be exercised to gather, retain and preserve as much evidence and/or documentation as possible that could be used during the investigation stage and a possible court case.
- Depending on the nature, extent and impact of the economic crime perpetrated (fraud, corruption or tax evasion) following a thorough investigation, the legal process to handle the case appropriately, should be initiated. A plaintiff in an economic crime offence should seek legal advice before initiating a court case against a detected offence. Proper investigation of an economic crime offence would form the foundation of a solid case to be presented in a court of law. Evidence gathering is a vital aspect of the investigation phase of a detected economic crime offence as is the preserving of such documentary evidence. Without appropriate and substantive evidence there can be no case at all (Wells, 2008:377).
- If legal action could successfully be employed against an economic crime offender, prosecution should be pursued. If more economic crime offences could be successfully prosecuted in a court of law, it may act as a strong deterrent for other prospective economic crime offenders. A strong message of zero tolerance against economic crime offences could also strengthen the deterrence factor.
- Successful prosecution of an economic crime offender is only part of the solution. The offender might either receive a fine and/or a jail sentence for the perpetrated economic crime offence when successfully prosecuted and eventually sentenced in a court of law. Possible rehabilitation of an economic crime offender is as important as detecting and prosecuting the perpetrated offence.

From the literature reviewed it has been established that an economic crime should be investigated by a team consisting of qualified people as soon as it has been detected. In this regard, a thorough investigation should be done, collecting appropriate and permissible evidence that will form the cornerstone of any economic crime case (Goldman, 2009:154). The literature suggests that, depending on the nature of the evidence collected, the cooperation of the accused and his accomplices (if any), the advice obtained from legal council, the process to prosecute should be considered, taking the following into account:

- A defendant should only be brought before a court of law if there is a reasonable probability that the defendant would be found guilty of the charged economic crime offences. The court of law should determine an appropriate sentence for the defendant once found guilty of the charged offences.
- An appropriate court sentence for an economic crime should act as a deterrent for other prospective economic crime offenders.

Economic crime is a reality facing the public and private sectors and may be perpetrated internally or externally. Offenders may perpetrate an economic crime for the first time or they may be repeat offenders or worse, part of organised crime. The best defence against economic crime would probably be to prevent it from occurring. However, despite the best efforts and measures in place it still occurs.

3.13 DISCUSSION AND CONCLUSION

The main objective for this study (section 1.3.1) was to determine whether there is any relationship between economic crime and taxation in general. In this regard a secondary objective (section 1.3.2.2) has been formulated to determine in general the types of economic crimes including white-collar crime, fraud, money laundering and corruption that are perpetrated and how such crimes could be prevented, detected and dealt with.

In this chapter the more known economic crimes including white-collar crime (section 3.2), fraud (section 3.3), money laundering (section 3.4) and corruption (section 3.5) were discussed. From the literature reviewed and consulted it is evident that the mentioned

economic crimes are real challenges for the public and private sectors (Doig, 2006:53). Various measures such as new legislation, international cooperation, internal control procedures, corporate governance (section 3.6) and codes of conduct and ethics (section 3.7) have been implemented to deal with economic crime in general.

There could be many reasons why people may perpetrate economic crimes in general. Greed is observed to be part of human nature and the temptation and opportunity to commit an economic crime may be overwhelming (Coenen, 2008:191). However, greed may not be the only reason why people perpetrate economic crimes. In the literature the following main reasons were identified as possible drivers for perpetrating economic crimes in general (Du Plessis, 1997:12, Wells, 2001:2 and Summerford & Taylor, 2003:33):

- economic/financial gain;
- need or greed;
- personal revenge or grudge;
- thrill seeking;
- everyone else is doing it;
- addiction; and
- expectation of not being caught.

The literature consulted confirmed that economic crimes such as fraud, corruption and money laundering may have an impact on taxation, especially direct taxation such as income tax (Pickhardt & Shinnick, 2008:80). Money laundering is also directly linked to tax evasion because of the illegal nature of income (Gup, 2007:3). Money launderers may refrain from declaring their illegal income for tax purposes in fear of their illegal activities being detected and reported to prosecuting authorities.

Reporting economic crime is also perceived to be fruitless and whistle-blowers fear victimisation should they report economic crime (Van Vuuren, 2004:15). Economic crime may affect revenue collections for tax authorities in the case of poor tax administration and corruption in a tax administration (Rose-Ackerman, 2006:487). Direct taxes (such as income tax for example) may also suffer more as a result of corruption than indirect taxes (such as VAT for example) (Lamdsdorff, 2007:95).

The discussion of the four types of economic crimes (white-collar crime, fraud, money laundering and corruption) does indicate the existence of a relationship between these crimes and taxation in general. The main purpose of perpetrating an economic crime has been identified as obtaining a financial gain and the perpetrator of such a crime would probably not declare his illegal income for tax purposes. When illegal income may be declared as taxable income, the perpetrator does run the risk of detection and possible prosecution.

The role of morality in dealing with economic crimes (fraud, corruption and tax evasion) in general will be discussed in chapter 5. A questionnaire comprising 20 questions will handle two of the secondary research objectives identified for this study (refer to sections 1.3.2.6 and 1.3.2.7).

This research will also involve the participation of 82 economic crime offenders looking at a financial and moral perspective of the impact of economic crime on taxation. The participating offenders have been personally interviewed (responding to 17 pre-set interview questions) and also completed a questionnaire comprising 38 questions dealing with the 11 research questions listed in section 1.2.1. The research results from the personal interviews and questionnaires conducted with the sentenced economic crime offenders will be discussed in chapter 6.

A third questionnaire (being web-based) comprising 66 questions was given to role-players in the field of the prevention, detection and prosecution of fraud, corruption and tax related offences. The purpose of this questionnaire was to deal with fraud, corruption and related taxation consequences in general in relation to four of the secondary research objectives (refer to section 1.3.2.4 to 1.3.2.7), as well as dealing with the 11 research questions identified in section 1.2.1. The research results from the questionnaires dealing with to role-players will be discussed in chapter 7.

3.14 SUMMARY

The reason for this chapter was to determine the types of economic crimes such as fraud, money laundering, white-collar crime and corruption that are perpetrated and how such crimes can be prevented, detected and handled. From the literature reviewed it was

established that economic crimes can take on many forms and various methods can be employed by the perpetrators of such crimes. The literature reviewed also confirmed that economic crime offenders are intelligent, determined, committed to success, highly energetic, creative, problem solvers and aggressive. These characteristics are similar to those that are associated with successful entrepreneurs and leaders in business.

Economic crime is not confined to modern society but has occurred since the dawn of creation. The prevalence of these crimes is only matched by the many potential reasons for committing them. From the literature review conducted, it was established that economic crime is generally perpetrated internally (defrauding an entity) or externally (defrauding third parties or clients), by management, employees or other third parties. Victims of economic crimes may include company directors, managers, employees (all being internal victims) and investors, creditors, suppliers and customers (all being external victims).

From the literature review conducted, it was also established that there are two types of economic crime offenders, namely amateurs (the decision to perpetrate fraud is largely driven by an opportunity) and professionals (making the bulk of their income through law violations). Economic crime offenders may work alone or conspire with someone outside the company. The literature reviewed also indicated that the position a person holds within an entity and the financial control exercised in each position contributes towards the ultimate fraud/corruption loss the entity may experience. There are various measures to help prevent or deter economic crimes and that may include internal control measures, physical control measures, audit procedures, risk assessment procedures, customer/client measures, training of employees, financial control measures, reporting procedures, ethics, documentation procedures, communication measures and technology and computer controls. Economic crimes should be prevented or deterred as it impact negatively on the economy at large and has also has a negative impact on the tax revenue of government.

The research methodology followed for the purpose of the empirical side of this study will now be discussed in chapter 4.

CHAPTER 4

THE RESEARCH METHODOLOGY AND EMPIRICAL INVESTIGATION

4.1 INTRODUCTION

The purpose of this study is to investigate the financial and moral perspective of the impact of economic crime on taxation in general. One of the stated secondary objectives (chapter 1, section 1.3.2.5) is to determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated by an offender.

In this chapter the design, construction and piloting of the research method to collect data and information from all three the sources used to achieve the objectives and to provide an answer to the problem statement will be discussed. This chapter considers the morality aspects in general associated with fraud, corruption and tax evasion from members of society and communities in South Africa. The fraud, corruption and related taxation consequences questionnaire directed at role-players in the prevention, detection and dealing with fraud, corruption and related taxation offences in South Africa; and to sentenced economic crime offenders, will also be discussed.

4.2 EPISTEMOLOGY AND ONTOLOGY

Ryan *et al.* (2002:11) contend that epistemology (the definition of knowledge) creates three substantive issues: “the nature of belief, the basis of truth and the problem of justification”. In this regard Ryan *et al.* (2002:11) observed that there are two distinct sources to acquire knowledge: “first, that which is grounded within our own rational processes as the enquiring subjects, that is rational belief, and second, that which is grounded in the object of our enquiry, that is, perceptual belief. Ryan *et al.* (2002:13) describe ontology as “the study of the existence and in this context is concerned with what we discern to be ‘real’”.

The Collins English dictionary and thesaurus (2006:860) describes a paradigm as “a general conception of the nature of scientific endeavour within which a given enquiry is

undertaken". Ryan *et al.* (2002:22) view science "as a process where 'paradigms consisting of the corpus of theories and observations within a particular subject area pass through a definable 'life cycle'".

The perpetration of an economic crime may cause a financial or other loss to a victim and yield a financial or other gain for the perpetrator. For the purpose of this study attention was only focused on scenarios where economic crimes were financially related. Thus, when a financially-related economic crime is perpetrated by an economic crime offender certain taxation consequences may result from such criminal behaviour. The driving forces for perpetrating fraud or corruption may contribute to establish whether there is indeed any relationship between fraud, corruption and taxation in general.

The paradigm for this study is firstly positivistic and empirical. Reliable and empirically sustainable answers to questions used in the questionnaires were obtained from the respondents. Data was collected and statistical analysis was done on the collected data to determine the financial and moral perspective of the impact of economic crime on taxation. The statistical analysis was also used to determine relationships between variables. Certain deductions could be made regarding the financial and moral perspective of the impact of economic crime on taxation. Personal interviews were conducted with sentenced economic crime offenders and role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa.

As part of the empirical research three questionnaires were used. The first questionnaire (see Appendix A) was addressed to members of society and communities that has been selected as respondents for the research on the morality aspects associated with fraud, corruption and tax evasion. The second questionnaire (see Appendix D) was directed at role-players involved in the prevention, detection and handling of fraud, corruption and related taxation consequences in South Africa. The third questionnaire (see Appendix C) was addressed to 82 economic crime offenders jailed for their offences related to fraud, corruption and taxation in general.

Further empirical research used for this study comprised personal interviews conducted with sentenced economic crime offenders and role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa.

4.3 PERSONAL INTERVIEWS CONDUCTED WITH ROLE-PLAYERS

It was decided to conduct personal interviews (see Appendix E) with various role-players and community leaders involved in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa in general. The information gathered during these interviews laid the foundation for compiling the questionnaires addressed to role-players, community leaders and economic crime offenders.

Personal interviews were conducted with the following role-players and community leaders:

- a psychologist in private practice and working on a contract basis for SARS;
- a training officer/mentor at the Special Investigative Unit (SIU) of the South African government;
- a minister from one of the Dutch Reformed Churches in Pretoria;
- a minister from a charismatic church in Pretoria;
- a priest from a Catholic church in Pretoria;
- two senior executives at the Financial Services Board (FSB);
- a senior manager at the South African Banking Risk Information Centre (SABRIC);
- two senior officials of the South African Revenue Service (SARS);
- a criminologist, who is also a clinical psychologist, working in private practice; and
- a fraud examiner at one of the major auditing firms in South Africa.

The detail of the interviews conducted is reflected in Appendix E. The interviews laid the foundation for the development of the measuring instruments (the questionnaires and the personal interviews with the economic crime offenders). The importance of the interviews conducted with role-players in the prevention, detection and dealing with economic crimes in general provided a broad perspective of economic crime offenders and morality in general regarding economic crimes.

4.4 THE SAMPLES SELECTED FOR THIS RESEARCH

4.4.1 The morality questionnaire

A sample of 185 members of society and communities has been selected as respondents to the questionnaire (see Appendix A) for the research on the morality aspects associated with fraud, corruption and tax evasion. The majority of respondents selected for this research fulfil some kind of leadership role (someone who may guide or inspire others) in their respective communities. The sample was selected to include men and women, people who are self-employed or employed in the public or private sectors, or working in the community, for example a minister or priest. Based on Fox and Bayat (2007:59) a judgement sample was selected from members of society and communities. Leedy and Ormrod (2010:214) state that the sample selected should be representative of the population. The respondents who have participated were involved in various spheres of society and the communities such as education, sport, government, churches, and business and community services. For the purpose of this study the broad spectrum of occupations and community involvement of the participants were considered to be representative of the broader South African society.

4.4.2 Fraud, corruption and related taxation consequences questionnaires

Questionnaire addressed to role-players

A web-based questionnaire (see Appendix D) comprising 66 questions were directed at role-players involved in the prevention, detection and handling of fraud, corruption and related taxation consequences in South Africa. Maxfield and Babbie (2008:261) contend that a web-based questionnaire has the benefit that responses are automatically recorded in computer files, saving time and money. However, one of the concerns raised by them (2008:261) on using a web-based questionnaire, is whether it could be representative of a population. To overcome this perceived problem the researcher selected role-player respondents from the following populations to be representative of the role-players in the prevention, detection and addressing of economic crimes in general in South Africa:

- members of the auditing and accounting profession;

- members of the legal profession including attorneys and lawyers;
- fraud examiners;
- internal auditors;
- South African Revenue Service (SARS);
- South African Banking Risk Information Centre (SABRIC);
- the public prosecutor; and
- the crime prevention and detection unit of the South African Police Service (SAPS).

The South African Institute of Chartered Accountants (SAICA), the Association of Certified Fraud Examiners of South Africa Chapter (ACFE SA) and the South African Institute of Tax Practitioners (the SAIT) posted the web-based questionnaire on their relevant web pages and requested their members to participate in this research project.

Questionnaire addressed to economic crime offenders

A questionnaire (see Appendix C), being a scaled down version of the questionnaire directed at the role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa, involved the participation of 82 economic crime offenders jailed for their offences related to fraud, corruption and taxation in general. This questionnaire comprised 38 questions. The researcher managed to obtain authorisation and permission from the Department of Correctional Services (DCS) to interview economic crime offenders jailed for their offences and to request them to participate in this research project. It was not possible to have established the population of sentenced economic crime offenders at the time of this study. The DCS identified economic crime offenders as possible participants on its data basis and arrangements had to be made with the relevant DCS area commissioner in advance before the date of the actual visit to a specific prison. On arrival at the specific prison on the pre-arranged date, the identified economic crime offenders were gathered to participate in the research project. The identified offenders were under no obligation to participate. It would not have been possible to interview all the sentenced economic crime offenders due to time constraints, obtaining permission from the DCS and to visit all prisons in South Africa. In total 82 offenders participated and were regarded as a representative sample of sentenced economic crime offenders for the purpose of this study.

Design and construction of the questionnaires

Both questionnaires used closed-ended questions in a statement format. Maxfield and Babbie (2008:249) argue that closed-ended questions “are especially useful because they provide more uniform responses and are more easily processed”. Leedy and Ormrod (2010:189) suggest that a “rating scale is more useful when a behavior [sic], attitude or other phenomenon of interest needs to be evaluated on a continuum”. Both questionnaires applied the Likert scale (Leedy & Ormrod, 2010:189) ranging from “Strongly agree” to “Strongly disagree” with a seven point scale where “1” represented “Strongly agree” and “7” represented “Strongly disagree”. Thus, each statement in the questionnaire had to be rated using the Likert scale and each statement could only be rated once.

4.4.3 Personal interviews conducted with economic crime offenders

Permission had been obtained from the DCS to conduct personal interviews with economic crime offenders jailed for their respective offences and these interviews were conducted during September 2009 and October 2009 at selected Gauteng based correctional institutions. Each of the 82 economic crime offenders interviewed answered 17 pre-set interview questions and each offender’s answer to each question was written down on a pre-printed version of the interview questions for each offender. Each offender had been provided with a hard copy of the 17 interview questions and could read and follow each question being asked during their respective interviews. Fox and Bayat (2007:101) suggest that structured interviews are easier to analyse, facilitate the opportunity for feedback to the respondent and the respondent can be reassured when he may be reluctant.

Buckingham and Saunders (2004:71) state that the use of interview-based questionnaires have an added benefit over questionnaires being completed by respondents themselves, in that respondents cannot go back and change an earlier answer in the light of later questions. Buckingham and Saunders (2004:71) contend that this can be important if a researcher is trying to discover how much people (respondents) know about something. Maxfield and Babbie (2008:262) are of the opinion that in-person interview surveys decrease the number of “don’t knows” and “no answers”. Thus, the interviewer can probe the respondent for an answer or explain a confusing question. By clarifying a matter the

interviewer can obtain a relevant response. Maxfield and Babbie (2008:262) propose that an interviewer “can observe as well as ask questions”.

The economic crime offenders were under no obligation to be interviewed and they all participated voluntarily. At one of the correctional institutions visited a few offenders objected to being interviewed or to participate in the research project and were allowed to leave the venue where the interviews were conducted. Participating offenders had been informed, as suggested by Buckingham and Saunders (2004:85), of all the relevant information about the research project prior to their agreement to participate and that they were under no obligation to participate. Offenders were also assured that their identity would not be revealed and that their answers would be treated in strict confidence.

4.5 THE REASON FOR USING QUESTIONNAIRES AND PERSONAL INTERVIEWS

4.5.1 Using questionnaires

The questionnaires were developed to facilitate collecting, categorising and analysing of the necessary data. For the purpose of this research the best method to collect data on the morality aspects or a lack of morality associated with fraud, corruption and tax evasion and about fraud, corruption and related taxation consequences in South Africa, would be a questionnaire. Criteria such as cost, consistency and the avoidance of prejudice, as opposed to testing while conducting interviews over a considerable period of time, made the use of telephonic or personal interviews in general impractical for the purpose of this study. Leedy and Ormrod (2010:189) are of the opinion that “participants can respond to questions with assurance that their responses will be anonymous” and therefore may be “more truthful than they would be in a personal interview, especially when addressing sensitive or controversial issues”.

A questionnaire has the added benefits over other methods as it allows a researcher to involve respondents (such as busy community leaders and other professional people) that it would otherwise have been difficult to involve using a telephone or a personal interview. Modern technology, such as the internet and electronic mail (e-mail), facilitated the distribution of questionnaires to the selected respondents. Fox and Bayat (2007:89) subscribe to the use of questionnaires completed by respondents themselves because of

the “convenience and ease with which respondents are able to complete the questionnaire”.

Maxfield and Babbie (2008:269) suggest that the use of a questionnaire may be more appropriate to use with sensitive issues if the survey offers complete anonymity. Questionnaires should provide a researcher with a better opportunity to obtain answers of significance from respondents because the investigative material requires that certain matters should be disclosed. A respondent can complete a questionnaire at his own convenience and in an environment of his choice. Wentland and Smith (1993:144) contend that research methods ensuring a respondent’s anonymity or the “confidentiality of replies” are believed to produce more truthful replies.

Welman, Kruger and Mitchell (2005:181) stipulate that the general principles regarding the use of a questionnaire are firstly that “no harm should befall the research subjects” and secondly that “subjects should take part freely, based on informed consent”. Welman *et al.* (2005:184) also contend that “ethical considerations are of extreme importance and must always receive the necessary attention”. Each questionnaire was accompanied by a covering letter from the study leader explaining the purpose of the research and stating that all responses would be treated as confidential. In the general information section to each questionnaire the purpose of the questionnaire was stated again and respondents were re-assured that the information supplied by them would be treated as strictly confidential.

4.5.2 Using personal interviews for economic crime offenders

When a researcher uses a personal interview as a research tool to gather information as part of his qualitative research, such an interview will, according to Charmaz (2008:25), provide an opportunity for direct conversation with the respondent, permits an in-depth exploration of a particular topic or experience and it is a useful method for interpretive inquiry. It also allows for each research participant to convey his personal experiences and to shed light on the relevant research topic. Charmaz (2008:25) contends that a participant may describe and reflect upon his experiences in ways that seldom occur in everyday life and that the interviewer is there “to listen, to observe with sensitivity, and to encourage the person to respond”. Maxfield and Babbie (2008:273) observe that specialised interviewing

“can be incorporated into any research project as a supplementary source of information”. The personal interviews did not require from offenders to reveal any personal information such as a name, surname or age. This provided them with the necessary assurance regarding the anonymity of their responses to the interview questions.

Charmaz (2008:29) suggests that an interviewer should use a personal interview to explore and not to interrogate. Charmaz (2008:29) also suggests that the number of interview questions should be limited and that participants’ comfort levels should have higher priority than obtaining information. It is also important to try and understand the experience from the participant’s view. Colton and Covert (2007:325) state that one advantage of a personal interview is that the interviewer can immediately clarify questions a respondent may have about the research instrument used. Maxfield and Babbie (2008:269) contend that interview surveys are definitely more effective in dealing with complicated issues and interviewers can explain complex questions to respondents.

During a personal interview conducted with Dr A, a criminologist, at the onset of this research project, she suggested that personal interviews should be conducted with sentenced economic crime offenders if at all possible. Her motivation for such personal interviews originated from her personal experience with offenders in general representing them in court cases or testifying against them as an expert witness in a court of law. She indicated that offenders are normally willing to share their personal experiences and emotions surrounding their criminal conduct. The researcher had to follow the necessary protocol before obtaining permission and authorisation from the DCS to conduct personal interviews with sentenced economic crime offenders.

4.6 COMPILATION OF THE QUESTIONNAIRES

4.6.1 The morality questionnaire

The morality questionnaire, as set out in Appendix A, was developed after an in depth examination of the literature and other related research. Morality was discussed in chapter 2, section 2.3. Saris and Gallhofer (2007:167) contend that the “quality of the layout in self-administered questionnaires” is more important than in “interviewer-administered questionnaires”. Buckingham and Saunders (2004:69) observed that a great advantage of

self-administered questionnaires is the cost. The questionnaire was not divided into specific sections. For the purpose of this questionnaire it was considered sufficient to have the questions following in a logical manner rather than to subdivide them under specific main sections. Respondents were requested to answer 20 questions by selecting either “Yes”, “No” or “Uncertain” for each question. Respondents were also requested to supply a short justification for their answers in 11 of the 20 questions.

Respondents were requested to indicate their positions and roles in their respective communities, for example a school teacher who is also an elder at his local church. People occupying a position in their communities and fulfilling a specific role in that community could act to shape values in their respective communities. For the purpose of this study the researcher needed to collect data relating to the morality issues associated with fraud, corruption and tax evasion in South Africa. Shapers of values within a community may be in a favourable position to supply their perceptions or observations objectively concerning morality issues associated with fraud, corruption and tax evasion in general within their respective communities. The research results and selection of the respondents are discussed in chapter 5.

4.6.2 The fraud, corruption and related taxation consequences questionnaires

The questionnaires, as set out in Appendix C and D, were developed after an in depth examination of the literature and other related research. The questionnaires comprised 11 distinct parts (Part A to Part K) with each part dealing with one of the 11 research questions identified in section 1.2.1. The questionnaires were compiled after conducting personal interviews with various role-players involved in the prevention, detection and dealing with fraud, corruption and related taxation consequences in general. These role-players included are identified in section 4.3. During the personal interview with the criminologist it was suggested that the DCS be approached to involve sentenced economic crime offenders in a research project.

Respondents for the role-players questionnaire (see Appendix D) (“role-players”) were requested to indicate the following demographic information:

- gender;

- age group in years;
- position currently held;
- main area where currently involved/economically active; and
- province where currently mainly active, involved or residing.

Respondents for the questionnaire to economic crime offenders (see Appendix C) (“economic crime offenders”) were requested to indicate the following demographic information:

- gender;
- age group in years;
- position previously held;
- main area where previously involved/economically active; and
- province where previously mainly active, involved or residing.

The best way to determine whether a questionnaire would produce the anticipated results and to determine whether the research design and methodology are relative and effective is to conduct a pilot study (Fox & Bayat, 2007:102). The three identified questionnaires were therefore circulated amongst colleagues of the researcher, business associates and members of the church the researcher attends. After completing the questionnaires, any problems, uncertainties and recommendations were discussed with each respondent. Based on the feedback received from the respondents to the pilot study, leading questions or questions with words that might create confusion or misconceptions were identified and were reworded or eliminated. Additional questions were also, where they appeared necessary, considered and included.

Prior to finalising the questionnaires to be directed at the role-players and economic crime offenders, the researcher approached Kruger, one of the authors of “Research Methodology” by Welman, Kruger and Mitchell to critically review, evaluate and suggest improvements and/or amendments to the draft questionnaires. The input and recommendations of Mr Kruger was most valuable in refining the draft questionnaires into final versions. His experience and knowledge in the field of “research methodology” added to the quality of the final versions of the questionnaires.

The questionnaires were sent to respondents – no code numbers, names or any other identifiable marking symbols were used. Respondents would most probably answer questions more open-mindedly if they were assured of their anonymity. As suggested by Buckingham and Saunders (2004:83) clear instructions were given to respondents in answering the questions.

4.7 DEVELOPMENT OF THE QUESTIONNAIRES

The questionnaires had to be designed and developed in such a way as to motivate the target respondents to respond to the questionnaires. A clearly defined purpose for the research and the questionnaire itself should prevent problems with the completion of the questionnaire in the research investigation and therefore also prevent a low or no-response prejudice. The timing of the initial and follow-up questionnaires and various techniques applicable to them (for example, the contents of the covering letter, the follow-up letter and postcards, personalising of the correspondence and the inclusion of a pre-paid envelope) are recommended in research literature with the specific purpose of increasing the response to the questionnaires (Leedy & Ormrod, 2010:198-201).

A discussion of the covering letter, follow-up letter, personalised procedures and the distribution and follow-up on the questionnaire will follow.

4.7.1 Design of the covering letter and follow-up letter

The covering letter (refer to Appendix A, C and D) that accompanied the original questionnaires incorporated suggestions of previous research to persuade respondents to reply. The covering letter was personalised and stressed the importance of the study and why particular respondents should complete the questionnaire (Fox & Bayat, 2007:97). It also explained the purpose of the research and stressed the importance of the respondent's participation in order to contribute to the success of the research. The questionnaires did not make provision for the names of the respondents and could consequently ensure absolute confidentiality (Fox & Bayat, 2007:98).

Colton and Covert (2007:283) explain that every questionnaire should have an introductory statement “informing respondents about the instrument’s purpose, confidentiality of respondents’ information, use of data, and motivations for completing the questionnaire”.

Respondents were also informed that the results of the research would be made available to those respondents who specifically requested it (Leedy & Ormrod, 2010:200). This request formed part of the covering letter that accompanied the questionnaire. The respondents were able to request the results from the researcher in writing. To protect the identity of the respondents, they could send their requests for the research results to the researcher in a separate envelope.

The follow-up letter should refer to previous correspondence with respondents and should again stress the importance of every respondent’s participation in the research. The follow-up letter should be designed to be more convincing because previous experience indicated that the longer respondents postponed their response to the questionnaire, the smaller the possibility of their responding to it (Leedy & Ormrod, 2010:200). For the purpose of this research no follow-up letters were required as the initial response rate to the original questionnaires sent to respondents, were acceptable (refer section to 4.8.1 to 4.8.3).

Every covering letter contained complete particulars of the researcher’s study leader. In this way the consent of the North-West University to conduct the study, was indicated. All correspondence was addressed in person to the respondents. Each covering letter reflected the name and address of the respondent and the date of forwarding and was signed by the researcher. The purpose of all the aforementioned personification procedures was to execute all correspondence according to acceptable business principles (Maxfield & Babbie, 2008:259).

4.7.2 Distribution and follow-up of the questionnaires

The original morality questionnaires had been sent via electronic mail (e-mail) to the selected respondents during January 2009. A covering letter, signed by the researcher accompanied the questionnaire.

The web-based questionnaire was activated by the administrator SIQ (Pty) (Ltd) in July 2009. The South African Institute of Tax Practitioners (SAIT), the South African Institute of Chartered Accountants (SAICA) and the Association of Certified Fraud Examiners South African Chapter (ACFE SA), after being approached by the researcher, posted a link to access the web-based questionnaire on their respective websites, requesting their members to complete the web-based questionnaire. Once a respondent had completed the web-based questionnaire he had to submit the completed questionnaire electronically to the administrator and was also able to print a hard copy of his completed version of the questionnaire and his responses once he had submitted it.

4.8 REACTION TO THE QUESTIONNAIRES

4.8.1 The morality questionnaire

A total of 185 questionnaires were e-mailed to respondents. The reaction to the research investigation was very positive with 140 replies representing a response rate of 75,68%. Maxfield and Babbie (2008:260) view a response rate of at least 50% as adequate for analysis and reporting, a response rate of 60% as good and a response rate of 70% and more, as very good. Fox and Bayat (2007:61) contend that one should obtain as “high a response rate as possible”. Leedy and Ormrod (2010:216) are of the opinion that if the return rate for a questionnaire is 50% or less, the greater the likelihood of bias.

Table 4.1 indicates the number of respondents as well as the relevant response rate.

Table 4.1: *The number of respondents*

Number of questionnaires sent out	Responses received	Response rate
185	140	75,68%

Measured against the proposed scale of Maxfield and Babbie the response rate is acceptable. The results obtained from the investigation are considered as valid for the purposes of this study. It may not necessarily be representative of society in South Africa

in general for the reason that the probable population of people having some leadership role in society could not be identified.

4.8.2 The fraud, corruption and related taxation consequences questionnaire addressed to role-players

The reaction to this web-based questionnaire by role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa, was adequate. In total 670 respondents reacted of which 345 (51,49%) fully completed questionnaires were useable.

4.8.3 The fraud, corruption and related taxation consequences questionnaire addressed to economic crime offenders

In total 82 economic crime offenders (63 men and 19 women) completed a manual version of the questionnaire representing a 100% response rate. The offenders had to complete a manual version of the questionnaire due to protocol and procedures applicable at the various Gauteng based DCS institutions visited by the researcher. Due to time constraints and managed access granted by the DCS to economic crime offenders, only the 82 offenders identified by the DCS, completed the questionnaire during the time access was granted. It was not possible to determine the population of sentenced economic crime offenders at the time of this study and the researcher had to rely on the DCS to identify possible economic crime offenders at the selected prisons visited.

4.8.4 Diagnostic results with respect to the questionnaires

Various statistical ratios and data relationships were calculated for each of the 11 research questions in section 1.2.1 on the data collected with the questionnaires. These statistical ratios and relationships calculated included Cronbach's alpha, the mean and standard deviation for each question, correlations transformed variables and discrimination measures.

Larson-Hall (2010:391) describes Cronbach's alpha as a "measure of internal consistency being the ratio of variability attributable to subjects divided by the variability attributed to the intersection between subjects and items".

Acton, Miller, Fullerton and Maltby (2009:353) define the mean as "the central point for interval/ratio data". The mean is calculated by adding together all the values in a batch and divide the total by the number of values. Acton *et al.* (2009:57) state that a mean is disproportionately affected by the extreme values in a distribution. Acton *et al.* (2009:353) describe the median as the "middle number" in a sorted list of numbers. If there are uneven numbers the median will be the middle number if the numbers are listed in value order. However, if there are an even amount of numbers the median will be calculated by adding the middle pair of numbers or values and then divide the answer by two in order to determine the median number or median value.

Acton *et al.* (2009:59) describe the standard deviation as the most "widely used measure of dispersion and is obtained by simply calculating the square root of the variable".

Using the widely accepted standard of 0,70 according to Mihai, Reynolds and Baker (2013:70) as a minimum threshold to indicate reliable internal consistency, indicated that each of the 11 constructs (research questions) measured by the questionnaires qualified as reliable. According to Mihai *et al.* (2013:71) the available empirical evidence strongly suggest that the questions comprising each of the 11 constructs actually cohere or hang together as well. The strong measures of internal consistency ranging from 0,708 to 0,934 for each of the 11 constructs provide further evidence that the results from the questionnaires possess a solid theoretical grounding. Support for the 11 constructs of both questionnaires through the use of principal components analysis provides assurance that the survey constitutes an instrument possessing content validity.

Acton *et al.* (2009:251) contend that the "larger the absolute value, the stronger the link between that variable and the factor". Thus, a negative loading indicates that the variable has an inverse relationship with the factor. Acton *et al.* (2009:251) suggest that a loading above 0,44 can be considered salient, with increased loadings becoming more vital in determining the factor.

4.9 DISCUSSION AND CONCLUSION

In this chapter the development and administration of the questionnaires used to collect data (that will be analysed in chapters 5 to 7) were discussed. The design and administration of the questionnaires were based on guidance from the literature to develop the questionnaires to obtain an acceptable response. The overall response rates for the three identified questionnaires are acceptable to draw conclusions on the morality aspects associated with fraud, corruption and tax evasion and on fraud, corruption and related taxation consequences in South Africa, in general.

An analysis of the research results regarding the morality questionnaire will be discussed in chapter 5.

CHAPTER 5

ANALYSIS OF THE RESEARCH RESULTS REGARDING THE MORALITY QUESTIONNAIRE

5.1 INTRODUCTION

The purpose of the morality questionnaire was to investigate the moral issues associated with fraud, corruption and tax evasion in general in South Africa. The data for this research project was obtained through a questionnaire sent to 185 members of society and communities in South Africa. The researcher used the internet and telephone directories to identify possible respondents for this research project. Respondents were contacted telephonically to explain the purpose of the research and to enquire if the prospective respondent would be willing to participate. If a respondent agreed to participate the questionnaire was either send via electronic mail or fax to the respondent. All the completed questionnaires that were returned were analysed using specialised computer software.

The questionnaire (see Appendix A) comprised 20 questions and the terms “fraud”, “corruption”, “tax evasion” and “SARS” were explained to respondents in the “General information” section. The questionnaire corresponds with the secondary research objectives identified in chapter 1 in sections 1.3.2.3, 1.3.2.6 and 1.3.2.7. This was to determine in general the main reasons for perpetrating fraud, corruption or tax evasion on the one hand and if the potential offender may have any concern about his fraudulent actions. The other objective was to determine if the involvement of the churches/community/society in general on the one hand and morality on the other hand, may have an impact on the occurrence of economic crimes in general. By analysing the research results the research objectives were handled.

5.2 STATISTICAL PROCEDURES FOLLOWED

It would have been impossible to identify all prospective respondents fulfilling some sort of leadership role in society and communities in South Africa and to involve them in this research project. Prospective respondents were identified using the internet and

contacted telephonically or via electronic mail to participate in this research. In the end 185 people agreed to participate and were provided with the questionnaire to complete. A total of 140 fully completed questionnaires were received. The sample selected comprised of both men and women, working in the public and private sectors as well as people who are self-employed.

5.3 GENERAL INFORMATION REGARDING THE RESPONDENTS

For the purpose of the research regarding morality issues associated with fraud, corruption and tax evasion in general, the researcher wanted to obtain responses from respondents involved in their society or community. For the purpose of this research a typical South African society or community is composed of people working in various spheres of the economy, being either self-employed, employed in the public or private sectors or who had retired. Most people being part of a community or society may interact with other people from the same society or community or other societies or communities. This interaction may involve the field of education (pre-school, primary school, secondary school and tertiary training), sport, arts, business, government, culture, church and religion. Most people who are part of a society or community may interact with one or more of the above-mentioned fields of involvement. Mealey (2009:151) observes that the interaction between Christians, atheists and non-religious persons can help to “strip away the masks which religion can create”.

The purpose of the “Morality questionnaire” was to establish the perceptions and observations of the respondents regarding morality issues associated with fraud, corruption and tax evasion in general.

Within a society or community all the laws promulgated by Parliament and subsequently gazetted would apply. However, not all members of a society or a community would adhere to or comply with all applicable laws and regulations. It is in this regard that members of a society or community may come to the fore and deal with or promote the morality issues associated with certain non-compliance by other members of their society or communities. Mealey (2009:5) argues that “our tradition and narrative stories should assist us in the formation of moral character”. She also observes that ethics cannot be

done “in abstraction from the community” because any attempt to do so “would result in an ethics that is analogous to the law”.

Appendix B, lists the position and role of respondents in their respective society or community. There is the example of an attorney in private practice also involved in community development or a financial manager who is also a church member. A medical doctor in private practice interacts with his patients on a regular basis. The same medical doctor may also become involved in his community by providing his professional services to a community project such as a drug or alcohol rehabilitation centre. The respondents were selected to represent the fields of education, sports, arts, business, government, culture, church and religion in general. The reason for this approach was to obtain a wide as possible range of respondents from various spheres of involvement. If respondents were to come from the business environment only, this would have provided responses just from a business perspective. By selecting respondents from various spheres of involvement provided a more holistic view of the morality issues associated with fraud, corruption and tax evasion in general.

5.4 MORAL ISSUES ASSOCIATED WITH FRAUD, CORRUPTION AND TAX EVASION

5.4.1 A preferable framework for people to direct their actions or decisions

The purpose of the “Morality questionnaire” was to investigate the general perception of leaders in communities regarding the moral issues associated with fraud, corruption and tax evasion within South Africa (as outlined in the “General information” section of the questionnaire (refer to Appendix A)). Respondents were requested in question 1 to indicate what the preferable framework for people should be to direct their actions or decisions in the absence of an effective law or a lack of adequate law enforcement. People often tend to be guided by laws and regulations to direct their actions or decisions. Laws and regulations should be adhered to, but what if a specific law is not effective or there is a lack of adequate law enforcement with regard to a specific law? Would this be reason enough not to adhere to or obey such a law? People might argue that it is not their problem that a specific law is not effective or that there may be a lack of adequate law enforcement. They may therefore regard this as an opportunity to exploit the perceived

shortcomings of a specific law. However, leaders in a society or a community may in this regard act as the conscience of the society or community by promoting morality and integrity amongst the members of the society or community. Alexander (2007:23) observes that speaking of a social norm “one means that violators of the norm suffer sanctions imposed by the rest of the society”.

Beattie (2010:92) contends that an individual may act in a manner befitting his own moral ontology and when such an individual is faced with new and challenging decisions he may seek counsel from other more knowledgeable persons. Beattie (2010:93) is also of the opinion that individuals naturally desire the good. In this regard Larmore (2008:8) observes that morality “speaks for itself” and that another person’s good “is in itself reason for action on our part”. Mintz and Morris (2011:55) describe ‘ethical motivation’ as “an individual’s willingness to place the interests of others ahead of self-interest”.

During an interview conducted on 11 September 2008 with Mr A (Appendix E), a psychologist, working at SARS, he commented that a moral system exists on a push-and-pull principle of involvement. In the absence of a law, moral values will determine the actions of people. If a person or a community has a strong value system, the moral values of people from that community will be strong. The community will sanction certain punitive measures upon community members breaching or contravening the community’s value system.

Question 1 (Appendix A) requires from respondents to indicate what should be a preferable framework to direct people’s actions or decisions in the absence of an effective law or a lack of adequate law enforcement. The following is a summary of their responses:

- The values of the community should be of such a nature that its members would realise the purpose of taxation and that a moral obligation should be the main motivational instrument in this regard.
- Companies should embark on a strategy for the training of employees in the essence of business ethics regarding corporate governance.

- Without any law enforcement the only thing that might direct people in their actions are their conscience, religious beliefs and moral values.
- If there is no a legal system in place, the preferable system would be a system based on what the general community finds acceptable – you need to do what is considered reasonable by your own culture and values.
- Companies should have standard operating procedures, which entail written procedures clearly identifying and guiding people in the correct way of conducting their business (actions and decisions).
- All major religions – Christian, Jewish, Muslim and Hindu – are based on the principle of being kind to one another and having respect for others, the earth and other resources, thus treat other people as you would like them to treat you.
- Role-models in leadership positions should set an example of financial prudence and integrity that could be followed by people.
- The United Nations Universal Declaration of Human Rights can apply as it encompasses aspects of law, ethics and different religions that should be acceptable to all people irrespective of race, culture, beliefs, religion, or other dividing differences.

5.4.2 A perceived unfair or unjust tax system

Respondents are challenged with the question (question 2, Appendix A) that if one perceives the current tax system to be unfair or unjust could that be sufficient grounds for tax evasion. The term “tax evasion” is explained in the general information section of the questionnaire (see Appendix A). The challenge faced by taxpayers is whether or not to employ tax evasion. The response to this question is indicated in table 5.1.

Table 5.1: *Is a perceived unfair or unjust tax system sufficient ground for tax evasion?*

	Yes	No	Uncertain	Total
Respondents	8	124	8	140
Percentage	6%	88%	6%	100%

Most respondents (88%) indicated that if one perceives the current tax system to be unfair or unjust, it could not be sufficient grounds for tax evasion. However, 6% of the respondents indicated that tax evasion could be an option if the current tax system is perceived to be unfair or unjust. Six per cent of the respondents were “uncertain” on this issue. The fact that such a large percentage of the respondents replied in the negative to the posed question, emphasises the strong moral orientation of these respondents. Even if they perceive the current tax system to be unfair or unjust, they would still adhere to the tax laws and regulations by refraining from tax evasion. No system or law would be acceptable to all people. Some people will always regard some rules, laws or regulations to be unfair or unjust. The mere fact that certain rules, laws or regulations may be perceived to be unfair or unjust would probably not be sufficient grounds for non-adherence or non-compliance. If people could be allowed to modify their behaviour or compliance based on perception, rather than on fact, it might neutralise the actual or intended efficacy and application of a specific law or regulation. Bondeson (2006:5) argues whether “justice is the law of the ruling society or something that is related to man’s feelings of justice”.

5.4.3 Paying tax without any form of tax planning

A taxpayer has a right to employ tax planning to address an adverse tax position for as long as such tax planning remains within the ambit of the applicable tax laws and regulations. Respondents were asked (question 3, Appendix A) whether one should pay one’s tax without any form of tax planning. The result to this question is indicated in table 5.2.

Table 5.2: *Should taxpayers pay tax without any form of tax planning?*

	Yes	No	Uncertain	Total
Respondents	5	129	6	140
Percentage	4%	92%	4%	100%

For 92% of the respondents the payment of tax without any form of tax planning would be unacceptable. Only 4% of the respondents indicate that they will pay their taxes without any form of tax planning and 4% of the respondents were uncertain in this regard.

5.4.4 The moral dimension of aggressive tax planning

Normal tax planning may only go so far to deal with a taxpayer's adverse tax position. If the adjusted tax position, after employing permissible tax planning efforts, is not to the satisfaction of the taxpayer, the taxpayer may decide to accept that tax position, or he may pursue a more aggressive tax planning approach. Aggressive tax planning may expand into tax evasion and become illegal.

Respondents were asked whether they think that tax planning, when it becomes aggressive (tax planning becomes tax evasion), may become a moral issue (question 4, Appendix A). The response to this question is reflected in table 5.3.

Table 5.3: *Can tax planning become a moral issue when becoming aggressive?*

	Yes	No	Uncertain	Total
Respondents	117	19	4	140
Percentage	83%	14%	3%	100%

Of the total respondents, 83% answered the question in the affirmative. These respondents have a firm view that when tax planning becomes aggressive, it may become a moral issue. In section 5.4.3 (table 5.2) 92% of the respondents indicated that taxpayers may use tax planning when dealing with their tax positions. The fact that 83% of the respondents indicated that aggressive tax planning may become a moral issue,

emphasises the responsibility taxpayers may display when exercising their right to do tax planning.

A total of 14% of the respondents were of the opinion that when tax planning does become aggressive, it will not be a moral issue. A further 3% of the respondents opted not to take a stand on this issue. The reality of this response is that 14% of the respondents could probably employ or use aggressive tax planning to handle an adverse tax position without considering it to be immoral. The same respondents may therefore also be willing to use tax evasion to address an adverse tax position to their satisfaction.

5.4.5 Is it morally justifiable to bend tax rules and regulations?

Larmore (2008:92) contends that people pursue their own interests and would choose the option that would most likely yield the greatest benefit to them. The payment of tax is governed by tax laws and regulations and the taxpayer is therefore legally bound to comply with the applicable tax laws and regulations. Respondents were asked the question whether it may be morally justifiable to bend tax rules and regulations in order to save an amount of taxation because the taxpayer might, for example, disapprove of a present government (question 5, Appendix A). The response to this question is reflected in table 5.4.

Table 5.4: *Is it morally justifiable to bend tax rules and regulations?*

	Yes	No	Uncertain	Total
Respondents	13	119	8	140
Percentage	9%	85%	6%	100%

Only 9% of the respondents responded to this question in the affirmative. A further 6% of the respondents opted not to take a viewpoint on this issue. However, 85% of the respondents indicated that it would not be morally justifiable to bend tax laws in order to save an amount of taxation because the taxpayer may, for example, disapprove of a present government. The purpose of this question was to establish if taxpayers would be prepared to bend tax laws should they disapprove of any particular issue of note. It is

significant that the majority of the respondents indicated that it would be immoral to bend tax rules and regulations just to save an amount of taxation.

5.4.6 Human rights versus the responsibility to be tax compliant

With the realisation of the new democratic South Africa, the Constitution of 1996 was drafted and promulgated as a law in 1996. Chapter 2 of the Constitution contains the Bill of Rights applicable to all South Africans. It was against the backdrop of the Constitution that the researcher decided to pose the question to respondents whether they think people are more aware of their human rights than of their responsibility to comply with tax laws and tax regulations (question 6, Appendix A). The responses to this question are indicated in table 5.5.

People should be aware of their constitutional rights and how or when to exercise such rights. However, no right should be exercised in an irresponsible manner. The Collins English dictionary and thesaurus (2006:1038) explains a “right” to be “an interest, power, claim, authority, title, due, freedom, permission, liberty or a privilege”. The Collins English Dictionary and Thesaurus further explains the word “right”, when used within the context of justice, to mean “good, truth, honour, equity, virtue, integrity, morality, fairness or righteousness.” Thus, a right, liberty or a privilege a taxpayer has should be exercised in a manner associated with honour, integrity, morality, fairness or righteousness.

Table 5.5: *Are human rights more important than the responsibility to be tax compliant?*

	Yes	No	Uncertain	Total
Respondents	117	15	8	140
Percentage	83%	11%	6%	100%

The majority of the respondents (83%) were of the opinion that people are more aware of their human rights than of their responsibility to comply with tax laws and tax regulations. Only 11% of the respondents did not agree with this statement while 6% of the respondents were uncertain on this issue. Bondeson (2006:5) observed that there has been a renewed focus on human rights in recent years.

5.4.7 The governance of tax morality

Alexander (2007:269) contends that moral behaviour is simply the behaviour that produces the “brute outcomes mandated by some moral principle” and that a moral action is merely an “action that conforms to moral principles”. Tax morality is and will always be a contentious issue. Larmore (2008:266) contends that what people do “depends on beliefs about the nature of the good and the right”. Hare (2007:228) states that commitment to a principle “brings with it remorse” or “at least compunction when you fail to comply with it”. Hare (2007:269) also argues that people require a critical level of moral thinking (Hare 2007:269). From a tax compliance perspective a taxpayer ought to know to what extent he should be tax compliant. Current tax laws stipulate the compliance required from taxpayers. Failing to comply, either intentionally or unintentionally, would invoke certain punitive measures available to SARS.

The researcher posed the question to the respondents whether tax morality should be governed by tax rules and tax regulations, or rather by a personal, spiritual, religious or other set of moral values (question 7, Appendix A). This question also requests respondents to supply a short justification for their answers. Their responses to this question are set out in table 5.6.

Table 5.6: *Should tax morality be governed by tax rules and tax regulations only?*

	Yes	No	Uncertain	Total
Respondents	108	27	5	140
Percentage	77%	19%	4%	100%

The majority of the respondents (77%) are of the opinion that tax morality should rather be governed by tax rules and regulations than by a something else such as personal, spiritual, religious or other set of moral values. However, 19% of the respondents had an opposing viewpoint on this issue. Only 4% of the respondents opted not to have any viewpoint in this regard.

During an interview conducted on 11 September 2008 (Appendix E) with Mr A, a psychologist working on a contract basis at SARS, he stated that most people have a

certain naivety towards their decisions and actions. This naivety relates to the concept that, in the absence of knowing the outcome of a certain decision, the decision-maker believes that the decision taken is correct. The decision maker does not realise that the decision to be made or the action to be taken is not in line with set standards, norms or even certain legal requirements.

Respondents were requested to provide a written justification for their respective responses to question 7 of the questionnaire regarding the governance of tax morality. The following are a summary of their justifications:

- Tax rules and regulations must rather govern taxpayers seeing that there are different morals, background, knowledge, cultures and religions with their own interpretation and therefore tax rules and regulations will align these different perspectives.
- Tax rules and regulations stipulate in detail the requirements that should be adhered to – this is to set the scene clearly in terms of what is expected of a taxpayer, but a taxpayer's personal integrity and value system should support good tax practice.
- Rules and regulations have limitations in terms of enforcement and different interpretations and due to the nature of tax it may rely to a lesser or greater degree on a taxpayer's personal integrity.
- People have different personal, spiritual and religious moral values, but tax rules and regulations provide a clear definition of what is required to which everybody ought to adhere.

5.4.8 Notify SARS of tax dishonesty in previous tax years

The moral issue the researcher wants to deal with here is to determine from respondents that if a taxpayer has been dishonest in the past when declaring his income for tax purposes, whether the taxpayer should notify SARS and declare the correct income for those tax years (question 8, Appendix A). Part of tax morality is to have a clear conscience regarding previous tax years, as well as the current tax year. This is probably more applicable to previous tax years. Once a taxpayer has submitted his income tax

return for a specific tax year, SARS takes control of the assessment and possible tax audit procedures. Part of a taxpayer's responsibilities is, for example, to declare all his gross income that was received by or accrued to him during a specific tax year. Should a taxpayer fail in this regard, SARS may invoke certain punitive measures, such as additional tax, penalties and interest. The response to this question is set out in table 5.7.

Table 5.7: *Should SARS be notified of tax dishonesty in previous tax years?*

	Yes	No	Uncertain	Total
Respondents	99	16	25	140
Percentage	71%	11%	18%	100%

Only 11% of the respondents indicated that SARS should not be notified of tax dishonesty in previous tax years. A further 18% of the respondents indicated that they are uncertain regarding this issue. However, 71% of the respondents answered in the affirmative about notifying SARS of tax dishonesty in previous tax years. It may be fair to conclude that those respondents who indicated that SARS should be notified about tax dishonesty in previous tax years, have a certain level of tax morality. However, it would be unfair to conclude that those respondents that replied in the negative have little or no tax morality. It is significant that 71% of the respondents were of the opinion that SARS should be notified of tax dishonesty in previous tax years. Alexander (2007:285) observed that people are making choices about what they value and would learn to behave morally (2007:290). Morality is therefore a choice and not a law, and cannot be enforced on anyone.

5.4.9 Continued tax dishonesty/tax evasion versus health or psychological problems

The question whether tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems was posed to the respondents (question 9, Appendix A). They were also requested to supply a short justification for their answers. Their responses to this question are indicated in table 5.8.

Table 5.8: *Can continued tax dishonesty/tax evasion cause health or psychological problems?*

	Yes	No	Uncertain	Total
Respondents	91	25	24	140
Percentage	65%	18%	17%	100%

Only some of the respondents to this research project have a medical or psychological background. Thus, the opinions expressed by the majority of the respondents relating to the issue whether continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems were based on their own perceptions on this issue. Sixty five per cent (65%) of the respondents replied in the affirmative to this question, while 18% of respondents did not agree with the probability that continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems. A further 17% of the respondents remained uncertain on this issue. A person displaying sound morality and adhering to or complying with tax laws and regulations need not be concerned with the consequences of non-adherence or non-compliance.

During an interview conducted with Mr E (Appendix E), a Catholic Priest in Pretoria, on 18 November 2008, he stated that by acting greedily, people are creating artificial wealth that is not sustainable. He said that people do not rest easily if they rob others. He observed that after the first offence people may feel guilty but after the second offence they may suppress their consciences. It will become a way of life, similar to a bad habit, like smoking. He also said that people have to develop a contrary good value that also gives pleasure. This contrary good value should be to the advantage of a person.

The following is a summary of the justifications supplied by the respondents in their responses with regard to the issue whether continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems:

- Respondents observe that psychosomatic disorders are known phenomena and may develop if dishonesty forms part of a person's daily life.

- It has been medically proven that continued dishonesty could lead to excessive stress and eventually bad health, for example hypertension – your conscience will remind you of your wrongs.
- If a person transgresses continually it may result in health/psychological problems – the fact that a person repeats the pattern shows that he is comfortable with it; the pattern may only change once a person experiences discomfort.
- If tax evasion increases, especially involving large sums of money, it could lead to underlying stress and anxiety due to fear of being discovered.
- For people without a moral conscience (especially those involved in dishonest practices on a large scale), the fear of being discovered may cause health or psychological problems.
- Continuous feelings of guilt and continuous focusing on trying not to be caught could also lead to health or psychological problems.
- A guilty conscience may result in a lack of confidence spiritually and morally and can have a detrimental effect on emotional and physical wellbeing, depending on a person's moral fibre – some people have a very underdeveloped conscience and happily continue their morally unacceptable deeds. Those with an acute conscience could experience health and psychological problems.

The majority of respondents were of the opinion that continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems. The fear of being discovered for any form of tax dishonesty may deter taxpayers to embark on such conduct.

5.4.10 Reporting tax dishonesty to SARS

Adequate law enforcement is dependent on a number of things such as skilled and trained officials, proper reporting, proper investigation, proper record keeping and proper prosecution. Part of the law enforcement process is the collection of evidence. Bishop and Hydoski (2009:130) contend that preserving and collecting relevant data as evidence is important. This evidence can, for example, be documents, sworn affidavits or witnesses.

Without evidence or a lack of adequate evidence it would be difficult or even impossible to prosecute any case in a court of law. Many companies depend on anonymous fraud and anti-corruption hotlines or whistle blowing facilities to detect possible fraud or corruption. SARS is no different in this regard. Prospective whistle blowers may contact SARS via their telephone hotline or report suspicious activities via their internet web-page at <http://www.sars.gov.za>.

The issue the researcher wants to deal with here is that when one taxpayer becomes aware of another taxpayer's tax dishonesty or tax evasion, whether he should report that fact to SARS (question 10, Appendix A). The responses to this question are indicated in table 5.9. The mere fact that one taxpayer becomes aware of another taxpayer's tax dishonesty or tax evasion, creates a moral issue for the first taxpayer. The first taxpayer will be faced with a moral issue to either report the transgression, or to remain silent. If the perceived transgression is not reported to SARS, the first taxpayer might feel moral guilt. If the transgression is reported to SARS the first taxpayer might also feel moral guilt towards the second taxpayer reported to SARS. However, by not reporting the perceived or actual transgression the first taxpayer may seem to condone the conduct of the second taxpayer.

Table 5.9: *Should tax dishonesty be reported to SARS?*

	Yes	No	Uncertain	Total
Respondents	84	34	22	140
Percentage	60%	24%	16%	100%

Sixty per cent (60%) of the respondents indicated that when one taxpayer becomes aware of another taxpayer's tax dishonesty or tax evasion that fact should be reported to SARS. Twenty four per cent (24%) of the respondents indicate the opposite while 16% of the respondents are uncertain on this issue. The fact that 60% of the respondents indicate that they would report tax dishonesty or tax evasion to SARS is significant. Alexander (2007:268) contends that people want to know what actions are praiseworthy, blameworthy or morally neutral. In this regard Hare (2007:242) observes that sometimes morality requires sacrifices but people "who are trying to be morally good are happier". Reporting another taxpayer to SARS for tax dishonesty could become a moral issue.

5.4.11 The role of the churches, community and society in condemning tax evasion and promoting tax morality

The churches, community and society play a significant role in forming public opinion on various issues. With the globalisation of world economies, the arrival of the internet and electronic communication, such as e-mails, Skype, Twitter, Facebook and YouTube, the role of the churches, community and society as shapers of values may have changed. For this reason the researcher pose a question (question 11 in Appendix A) to the respondents as to whether the churches, community and society in general can play a role in modern society in condemning tax evasion and promoting tax morality. The responses to this question are indicated in table 5.10. Respondents are also requested to supply a short justification for their answers.

Table 5.10: *Can the churches/community/society play a role in condemning tax evasion and promoting tax morality?*

	Yes	No	Uncertain	Total
Respondents	122	13	5	140
Percentage	87%	9%	4%	100%

Despite the modern era we are living in, 87% of the respondents indicate that the churches, community and society can play a role in modern society in condemning tax evasion and promoting tax morality. Only 9% of the respondents had an opposing viewpoint and 4% of the respondents were uncertain on this issue.

During an interview conducted on 13 November 2008 with Mr C (Appendix E), a minister from the Dutch Reformed Church, he stated that the church has lost its testimony because the church speaks from different viewpoints. Churches should stand together and declare a willingness to serve. Churches should start to develop a market place which includes sport, business, media, social services, arts, government, education and the church. The market place in this context refers to the community or society in a broad sense.

Mr C also stated that the church consists of members belonging to the market place. People should start to live up to their values and be unimpeachable in their actions. Mr C

was of the opinion that the vehicle to handle the moral values of people would be the market place alliance where things happen. He has strong views that people should take a vow to act honestly in all aspects of their lives. In this regard he says Christians in the market place should start to live out their values, as people no longer realise they act incorrectly because the line between right and wrong is so vague that they find it difficult to distinguish between the two.

During the interview with Mr C he mentions that the church has become wary of making public statements on contentious issues. The church can still take a stance without being subjective or with the intent of humiliating or condemning. He comments that moral values are all about justice and that all role-players involved in setting values and dealing with wrongdoing in a society should communicate more with each other to find common ground.

During an interview with Mr D (Appendix E), from a church group in Pretoria, on 14 November 2008, he comments that there are other influences that impact on people's minds. People become confused and look towards the church to take up a position on certain issues. The church used to be very influential in the community. For many the church has become a reference of manipulation. He also observes that the church is viewed as very critical and that the church is no longer viewed as the primary value former or guardian of values. According to him people are viewed as the highest authority within the humanitarian framework with no acceptance of any other form of authority. Mr D ends by saying that people are more aware of their own rights than anything else and that the church faces many challenges in the field of ethics and morality, but still has a voice and a role to play in the community.

The following is a summary of the justifications supplied by the respondents in their responses as to whether the churches, community and society can play a role in condemning tax evasion and promoting tax morality:

- Tax morality should not be enforced; if enforced it could be abusing the churches/community/society and its calling to mankind for the benefit of political and economic advantages – people who have moral standing in their communities can

influence others to pay their taxes by creating an increased awareness of tax morality and tax compliance.

- Respondents have a general view that the direct condemnation of tax evasion does not change people – it may only succeed in changing the behaviour of some of the people. They also observe that the more people hear about doing the right thing, the less it will become part of their conduct.
- Respondents believe that the churches/community/society has a responsibility to help maintain the moral fibre of the people and underpin values; if it becomes politically/socially unacceptable to evade tax, less people may do so.
- Effective marketing by SARS to constantly remind taxpayers that paying their taxes are the right thing to do and be made aware of the repercussions that tax evasion could have for example such as the government not being able to provide adequate services to the citizens of South Africa.
- Respondents also observe that humans are social beings whose actions are often modified and guided by the approval or disapproval of their social circle, and therefore the churches/community/society could play a major role in promoting tax morality.

The churches/community/society has an important role to play when voicing their opinion about what is deemed unacceptable by the community, and may influence people about such an issue. However, churches and the community can assist in promoting morality far beyond just tax matters.

5.4.12 A change in taxpayers' attitudes towards SARS and the government

The question (question 12 in Appendix A) posed to respondents is whether they think a change in taxpayers' attitudes towards SARS and the government may impact positively on eliminating tax evasion, fraud, corruption and strengthening tax morality. Respondents are also requested to supply a short justification for their answers. Their responses to this question are indicated in table 5.11.

Table 5.11: *Can a change in taxpayers' attitudes towards SARS and the government impact positively on eliminating tax evasion, fraud, corruption and strengthening tax morality?*

	Yes	No	Uncertain	Total
Respondents	121	10	9	140
Percentage	86%	7%	7%	100%

Eighty six per cent (86%) of the respondents are of the opinion that a change in taxpayers' attitudes towards SARS and the government may impact positively on eliminating tax evasion, fraud, corruption and strengthening tax morality. Only 7% of the respondents had an opposing viewpoint while 7% of the respondents were uncertain on this issue. The fact that 86% of the respondents reply in the affirmative to this question could emphasise the general attitude of taxpayers towards SARS and the government.

The following is a summary of the justifications supplied by the respondents regarding a change in taxpayers' attitudes towards SARS and the government in general:

- Respondents observe that besides moral standards and values it could certainly contribute if people believed in the benefits of paying tax and striving for a co-operative relationship that could be beneficial to all, such as good, fast and effective service with a noble purpose for taxes. This may obviate thoughts of tax evasion.
- There is a general belief among respondents that the tolerance of corruption and fraud in government adversely influences attitudes towards the government and SARS.
- Respondents contend that as soon as taxpayers' awareness of morality increases, more people would recognise situations that are not acceptable and would start to abide more closely to laws and regulations.
- Respondents say that the effectiveness of the eFiling system has contributed to a better acceptance of the tax system and that the simplification of the personal income tax form contributed positively to people's tax attitudes.

- Respondents hold the opinion that SARS and the government have the responsibility to ensure that the South African population believes in their ability to provide good governance and spending tax monies responsibly. If this is the case, then more people would be willing to pay their taxes honestly. They also need to inform taxpayers continuously about how taxes are used to create a better life for all.

The majority of the respondents had a firm belief that the constant affirmation of added value, integrity, security, sensibility, responsibility, and soundness of government and SARS, through demonstrating a positive attitude in everyday affairs, should strengthen positive attitudes which foster a feeling of belonging, supporting and approving the actions of government and providing financial support by paying what is due to SARS.

5.4.13 Reasons for perpetrating tax evasion, fraud and corruption

In question 13 (see Appendix A) the respondents are prompted to indicate why they think people embark on tax evasion in general or commit fraud and corruption. They also have to supply a short justification in this regard. There must be something that triggers tax evasion and the perpetration of fraud and corruption. In this regard Hare (2007:91) observes that a person has “the affection for advantage and the affection for justice” and a person’s natural inclination is to seek an advantage (Hare, 2007:96).

The following is a summary of the justifications supplied by the respondents with regard to the issue as to why they think people may embark on tax evasion in general or commit fraud and corruption:

- Respondent belief people may distrust the government as they see no attempt to indicate how money is utilised and may start paying tax in terms of what they perceive as service delivery.
- Respondents hold the opinion that there are excessive taxes in South Africa and a number of people are trying in all possible ways to reduce this large burden that could easily lead to tax evasion.

- Respondents contend that fraud and corruption go together with an immoral and lawless society that is unaware of the impact of their actions or is not held responsible for it. In this regard they also observe that it has become acceptable in society to be dishonest and a lack of/ or absence of control systems in place creates opportunities to get away with irregularities.
- Respondents observed that given the climate of bribery, poor public service and corruption in government there may be a growing feeling among the middle and upper classes that being honest is foolish and merely giving money to incompetent officials who may squander or misuse the funds.

Respondents provide a number of reasons as to why people may commit tax evasion, fraud or corruption in general. Taxpayers need to see that government utilises tax money in a responsible manner and that law enforcement is adequate and effective. Government should address misconduct in its ranks and communicate effectively with taxpayers.

5.4.14 Do tax evaders have any concerns about their evasive actions?

If a person commits an offence or transgresses a specific legal or regulatory requirement, would that person have any remorse or display any feeling of guilt in this regard? This is a very difficult question to answer. One of the most difficult things to predict or to anticipate is human behaviour in certain circumstances or events. In this regard Hare (2002:51) observes that the forces that work on us “will be larger than we are individually, and will change us in ways we cannot predict or control”. Roth (2007:114) contends that “economics must take explicit account of the relationship between preferences and value structures” and the “setting within which such structures are shaped”. In question 14 (see Appendix A) the researcher poses the question to the respondents if they think tax evaders have any concerns about their evasive actions. Their responses to this question are indicated in table 5.12.

Table 5.12: *Do tax evaders have any concerns about their evasive actions?*

	Yes	No	Uncertain	Total
Respondents	47	63	30	140
Percentage	34%	45%	21%	100%

This question challenges the respondents to try and predict or anticipate the reaction of a taxpayer towards his evasive tax behaviour. Only 34% of the respondents indicate that tax evaders may have any concerns about their evasive actions, while 45% of the respondents indicate that evaders have no concerns about their tax evasive actions. The balance of the respondents (21%) was uncertain on this issue. The respondents that remain uncertain could have had a significant impact on the affirmative or opposing viewpoints expressed by respondents. The fact that 45% of the respondents indicated that tax evaders will have no concerns about their tax evasive actions, might imply that such tax evaders may continue with their tax evasion activities until being detected. To the opposite, 34% of the respondents indicate that tax evaders may have concerns about their tax evasion activities.

5.4.15 A more open or firm public stance by the churches, communities and societies against fraud, corruption and tax evasion

The challenge faced by modern society is whether the churches, communities and societies could take a more open or firm public stance against issues that might have a certain morality impact. Most people are aware of their own rights and would most probably be content with that and may not need public comments from churches, communities or societies regarding morality aspects in general. In question 15 (refer to Appendix A) the respondents were asked whether the churches, communities and societies should take a more open or firm public stance against fraud, corruption and tax evasion. They also have to supply a short justification for their answers. Their responses to this question are indicated in table 5.13.

Table 5.13: *Should the churches, communities and societies take a more open or firm public stance against fraud, corruption and tax evasion?*

	Yes	No	Uncertain	Total
Respondents	123	10	7	140
Percentage	88%	7%	5%	100%

Eighty eight per cent (88%) of the respondents indicate that the churches, community and society should take a more open or firm public stance against fraud, corruption and tax evasion. Only 7% of the respondents hold an opposing viewpoint, while 5% of the respondents are uncertain on this issue. It is significant that such a large percentage of the respondents are of the opinion that the churches, community and society should get publicly involved regarding the issues of fraud, corruption and tax evasion. All these transgressions have one goal in common; that is to enrich the perpetrator and to deprive the victim of certain benefits, money or revenue. Law enforcement is probably the primary vehicle to deal with fraud, corruption and tax evasion. However, law enforcement alone may not be enough to combat these economic crimes.

The fact that 88% of the respondents in table 5.13 are of the opinion that the churches, community and society should take a more open or firm public stance against fraud, corruption and tax evasion, correlates with the opinion expressed by 86% of the respondents in section 5.4.12 (table 5.11) regarding a change in taxpayers' attitudes towards SARS and the government that may impact positively on eliminating tax evasion, fraud, corruption and strengthening tax morality. The role that the churches, community and society could play in this regard should not be underestimated. Many people still regard the opinion of their churches, community or society on various issues as important. Mealey (2009:146) contends that the church could provide society "with alternatives that are not part of the current social and political agenda".

The following is a summary of the justifications supplied by the respondents in response as to whether the churches, communities and societies should take a more open or firm public stance against fraud, corruption and tax evasion:

- Respondents' state that the churches/community/society has a moral voice in setting the true tone for morality, as the general moral decay of society may only be reversed by an all-out drive by spiritual and other leaders who can influence the members of their communities.
- Respondents indicate that the community need to communicate that fraud and tax evasion are seen as something that is totally unacceptable and that people be made aware of actions taken to combat these crimes.
- Respondents are of the opinion that the churches/community/society is where the centre of good morals and values should be and they should be clearly outspoken against any form of economic crime.
- Ethics and moral issues should be dealt with in all spheres of life and churches can play an important role in educating individuals on various aspects of moral standards, community responsibility and on governing our taxes.
- Churches or society, when remaining silent on economic crime, may actually condone the issue, but the moment they make their viewpoints clear and take an open stance, it could motivate others to do the same and it will bring the issue into the open for communication.

Churches/community/society has an important role to play in addressing economic crime in general. Members of society can be educated on the impact of economic crime in general, moral standards and community responsibility.

5.4.16 Taxpayers' actions should primarily be guided by tax laws and regulations

Not all taxpayers have a thorough knowledge of the tax laws and tax regulations. Ignorance would also not be regarded as an extenuating circumstance in cases of non-compliance for tax purposes. As a taxpayer, one has a responsibility to be tax compliant. Failure in this regard may invoke punitive measures, such as additional tax, penalties or interest. In question 16 (refer to Appendix A) respondents are requested to indicate whether a taxpayer's actions should primarily be guided by tax laws and regulations. Their

responses are reflected in table 5.14. Respondents were also requested to supply a short justification for their answers.

Table 5.14: *Should a taxpayer's actions primarily be guided by tax laws and regulations?*

	Yes	No	Uncertain	Total
Respondents	103	31	6	140
Percentage	74%	22%	4%	100%

The majority of the respondents (74%) indicate that a taxpayer's actions should primarily be guided by tax laws and regulations. An opposing viewpoint is expressed by 22% of the respondents, while 4% of the respondents are uncertain on this issue. A significant number of the respondents (22%) have an opposing viewpoint and that indicates that other possibilities might also exist to guide taxpayers' actions, apart from tax laws and regulations.

The following is a summary of the justifications supplied by the respondents regarding the issue whether a taxpayer's actions should primarily be guided by tax laws and regulations:

- Respondents are of the opinion that there should be a clear path for taxpayers to follow, because if left to choice, circumstances could lure any person into temptation – a law makes it enforceable and eliminates choice because an objective standard of tax behaviour would exist.
- Respondents state that tax laws and regulations are the only measures that can successfully be enforced on all citizens, regardless of standing, background or values – if it is a law, no one should simply be able to ignore it.
- Respondents are in agreement that although people are required to abide by the laws and regulations of the country, their inner convictions may set the course for their actions and serve as a moral compass to ensure compliance.

- Respondents indicate that laws make it easier to stipulate right and wrong and also make the prosecution and/or penalising of transgressors possible, but communities and societies, and the general values in the communities, are just as important.

Respondents are of the opinion that taxpayers' actions should primarily be guided by tax laws and regulations rather than something else. It can be successfully enforced on all taxpayers as it sets the tax boundaries. However, tax laws and regulations could be supported by general values in a community.

5.4.17 Can sound moral values minimise fraud, corruption and tax evasion?

Beattie (2010:73) contends that the “necessary moral context emerges when individuals are embedded within communities”. In question 17 (refer to Appendix A) respondents are requested to indicate whether fraud, corruption or tax evasion could be minimised by addressing the moral values of people. They are also requested to supply a short justification for their answers to this question. Their responses to this question are indicated in table 5.15.

Table 5.15: *Can sound moral values minimise fraud, corruption and tax evasion?*

	Yes	No	Uncertain	Total
Respondents	111	19	10	140
Percentage	79%	14%	7%	100%

It is significant that 79% of the respondents indicate that fraud, corruption and tax evasion could be minimised by dealing with the moral values of people. To the contrary, 14% of the respondents have an opposing viewpoint, while 7% of them are uncertain on this issue. A society or a community could probably function without any moral values and only rely on official laws and regulations to maintain law and order.

Maxwell *et al.* (2005:216) contend that one of the “most evidential ways for character to be expressed in a person’s life begin by having sound, solid, personal principles to live by” and the ability to know what is right and wrong (Maxwell *et al.*, 2005:219). Alexander (2007:269) is of the opinion that a moral action “is action that conforms to moral

principles". Beattie (2010:98) argues that laws "complement the individual's ability to reason" and "reflect the institutionalization of moral habits in wider society". Moral values could apply in all spheres of life, and people may base their behaviour on moral principles to align their conduct in accordance with laws and regulations. In this regard Larmore (2008:115) reasons whether morality is not at its heart "a matter of what we owe to others rather than to ourselves".

The following is a summary of the justifications supplied by the respondents regarding the question whether fraud, corruption and tax evasion can be minimised by dealing with the moral values of people:

- They state that high moral standards, integrity and ethics should ensure that people submit to the laws and regulations of a ruling government and may have a general effect on all aspects of people's lives. For the respondents disobedience comes from non-existent moral values; likewise, obedience will follow when moral values are sanctified.
- They observe that what sets the tone is the perception of fairness in taxation, how the funds are used and the benefits the person thinks he or the community is obtaining; thus, the issue is simply one of morals.
- Respondent were of the opinion that moral values could play a role in determining the frequency and scale which people would be likely to commit fraud, corruption and tax evasion and that if people know it is wrong and the punishment/pain is more severe than the temptation to commit the action, their behaviour may change.
- Respondents suggest that society should be educated on moral value systems which may over time minimise the effect of fraud, corruption and tax evasion.
- Respondents also observe that people inherently want to do well unto others but government should demonstrate a willingness to spend wisely and to refrain from corruption.

Respondents have consensus that moral values can play a role in dealing with fraud, corruption and tax evasion in general. People with established moral values will align their conduct accordingly. The community should be educated on moral value systems as Beattie (2010:115) proposes that “experience comes from within the community” because it is “a product of human engagement”.

5.4.18 Materialism, greed and self-enrichment versus moral values

Coenen (2008:191) contends that “greed is part of human nature” and despite being small or big it is “still characterized by the same desire and the same motivation” (Coenen, 2008:41). The Collins English dictionary and thesaurus (2006:735) describes “materialism” as an “interest in and desire for money, possessions rather than spiritual or ethical values”. The current local and global levels of fraud and corruption may be an indication of the shifting of some people’s values. Fraud and corruption are unacceptable behaviour. Many laws and regulations have been promulgated and gazetted specifically to handle fraud and corruption. Despite the legal approach and law enforcement to combat fraud and corruption, and for that matter tax evasion, they still occur. Many symptoms of fraud and corruption have been dealt with in recent years; however, the causes of fraud and corruption may not yet have been dealt with adequately. In question 18 (refer to Appendix A) respondents have to indicate whether they think that materialism, greed and self-enrichment have become more important to people than moral values. Respondents are also requested to supply a short justification for their answers. Their responses to this question are indicated in table 5.16.

Table 5.16: *Have materialism, greed and self-enrichment become more important than moral values?*

	Yes	No	Uncertain	Total
Respondents	120	8	12	140
Percentage	85%	6%	9%	100%

Eighty five per cent (85%) of the respondents indicate that materialism, greed and self-enrichment have become more important than old-fashioned moral values. Only 6% of the respondents have an opposing viewpoint while 9% of the respondents are uncertain on

this issue. It is significant that 85% of the respondents reply in the affirmative. In their view many people have indeed experienced a shift in their value systems. Materialism, greed and self-enrichment have for many people replaced their original value system, based on the opinion expressed by 85% of the respondents. The opinion expressed by the 85% of the respondents also correlates with the opinion expressed by 85% of the respondents in section 5.4.5 (table 5.4) regarding the immorality to bend tax rules and regulations. It also correlates with the opinion expressed by 83% of the respondents in section 5.4.6 (table 5.5) regarding the greater emphasis being placed on human rights than the responsibility to be tax compliant.

The following is a summary of the justifications supplied by the respondents as to whether materialism, greed and self-enrichment have become more important to people than moral values:

- Respondents observe that the need to buy and consume stuff (consumerism) is continuously thrown into people's faces by the media, especially aimed at children and the youth – this creates a desire for money and places pressure on individuals “to keep up” and satisfy a created need (by advertising/industry/business), rather than just meeting “real needs”.
- Respondents state that in general financial well-being, materialism and material appearance have become the norm by which people are measured and that the whole world has become obsessed with materialism because honesty and integrity are no longer political and social norms – dishonesty and a lack of integrity have become acceptable and may cause people to take short cuts to keep up their lifestyles.
- Respondents are of the opinion that the big gap between the rich and the poor, opportunities within a new political dispensation and empowerment has pushed moral values into the background, government is not delivering and that greed, materialism and self-enrichment have become an integral part of society's values and are promoted by the media.

Respondents seem to have consensus that the media is playing an important role in people striving towards materialism, greed and self-enrichment. Many people seem to set

aside their moral values when it comes to money or possessions. Alexander (2007:283) states that people “face a variety of interdependent decision problems” on a daily basis. Materialism, self-enrichment and greed has indeed, according to the majority of the respondents, become more important than moral values.

5.4.19 Tax compliance out of respect for the law

In question 19 (refer to Appendix A) respondents are requested to indicate whether they think taxpayers comply with the tax laws and tax regulations because they respect the law. Their responses to this question are indicated in table 5.17.

In a truly democratic dispensation where citizens’ human rights are founded on a constitution, citizens would probably comply with laws and regulations out of respect for such laws and regulations. This respect would probably be based on citizens’ human rights being protected by their country’s constitution. Thus, having a constitution that protects a citizen’s rights would probably require a minimum of responsibility from citizens to adhere to or comply with a country’s laws and regulations. Citizens should not be able to enjoy protected constitutional human rights without displaying respect for such a constitution.

Table 5.17: *People comply with tax rules and regulations because they respect the law*

	Yes	No	Uncertain	Total
Respondents	94	15	31	140
Percentage	67%	11%	22%	100%

The majority of the respondents (67%) are of the opinion that people comply with tax laws and regulations because they respect the law. A significant number of the respondents (22%) were uncertain on this issue, while 11% of the respondents indicated that people may comply with tax laws and regulations for different reasons. Sound moral values should never be based on fear because fear has a negative undertone, as opposed to respect that relates to positivity. To have respect implies that one has regard for something or someone. Respect, with regard to a law or regulation, for example, would be to honour it, to obey or to comply with it.

Although not required from respondents, they provided the following general reasons as to why people may comply with tax rules and regulations:

- The benefits tax evasion can offer should be outweighed by tax penalties.
- Most South Africans respect the law, but this respect could either be on moral grounds or fear of the consequences of breaking the law for being non-compliant.
- There are people who comply with the law because of intrinsic values – probably some people are also scared of being caught for being non-compliant.

5.4.20 The addition of more severe penalties would decrease the current levels of fraud, corruption and tax evasion

There is a perception that by imposing more severe penalties and other punitive measures against tax evasion, fraud and corruption, the levels of these transgressions would decrease. Some countries for example still carry out the death penalty for crimes such as murder. It is expected that the murder rate in such countries would be at zero per cent given the severity of the punishment upon conviction. Murders are still committed in countries where conviction in a murder case carries with it the death penalty. The question now arises: “If one is aware of the maximum punishment for a certain transgression, why then would one commit such a transgression?” The answer to this question could probably be founded on the premise that the transgressor may be of the opinion that his transgression might go undetected and is therefore willing to take that risk.

Wells (2008:399) contends that economic crime offenders “are very deliberate people” as they carefully weigh (consciously or subconsciously) at each stage of their offence the “individual risks and rewards of their behaviour”. The transgressor would probably take a calculated risk when perpetrating fraud, corruption or tax evasion. For the transgressor the risk of detection should be lower than the perceived value of the rewards from the transgression. In question 20 (refer to Appendix A) respondents are asked whether the current levels of tax evasion, fraud and corruption would decrease if more severe penalties and other punitive measures are levelled against these transgressions. Their responses to this question are indicated in table 5.18. They are also requested to supply justifications for their answers.

Table 5.18: *Would the addition of more severe penalties and punitive measures impact on the current levels of tax evasion, fraud and corruption?*

	Yes	No	Uncertain	Total
Respondents	73	51	16	140
Percentage	52%	37%	11%	100%

Only 52% of the respondents indicate that by levelling more severe penalties and other punitive measures against tax evasion, fraud and corruption the current levels of these transgressions would decrease. A significant percentage of the respondents (37%) had an opposing viewpoint on this issue, while 11% of the respondents were uncertain on this issue. It is significant that only 52% of the respondents reply in the affirmative to this question. One would have anticipated that by imposing more severe penalties and other punitive measures against tax evasion, fraud and corruption it might impact positively on the levels of these transgressions. However, 37% of the respondents were of the opinion that more stringent measures against tax evasion, fraud and corruption would have no impact on these transgressions. These respondents may affirm their faith in existing punitive measures to deal with the afore-mentioned transgressions. It might also be interpreted as an indication of the effectiveness of existing measures and procedures to address tax evasion, fraud and corruption in general.

The opinion expressed by 37% of the respondents who indicate that more severe penalties and other punitive measures would not impact on the afore-mentioned transgressions, correlates with the viewpoint of 34% of the respondents in section 5.4.14 (table 5.12) who indicate that tax evaders have no concerns about their tax evasive actions. It could be interpreted as an affirmation of the notion that by imposing more severe penalties or other punitive measures for transgressions would not necessarily increase the level of compliance or adherence.

Only when existing measures and procedures cannot adequately or effectively handle a certain issue would it be necessary to implement additional or other measures or procedures to address that issue. By imposing more severe penalties and other punitive measures in order to reduce the current levels of tax evasion, fraud and corruption, one might then ask the question how adequate and effective are the current measures and

procedures that should address the current levels of these transgressions. The replies of the respondents could be interpreted as that existing measures in place to reduce the current levels of the afore-mentioned transgressions could be adequate and effective provided law enforcement is executed more adequately and effectively.

The perception then follows that one does not achieve better compliance or adherence to a law by imposing more penalties and other punitive measures for failing to comply or to adhere to that law. Effective and adequate law enforcement complements an underlying law. Any law without effective and adequate law enforcement makes that law ineffective. The Collins English dictionary and thesaurus (2006:675) describes “law” as a “rule or set of rules, enforceable by the courts regulating the relationship between the state and its subjects, and the conduct of subjects towards one another, or a rule or a body of rules made by the legislature, a municipal or other authority.”

Winter (2008:26) contends that “as with fines, the threat of a prison sentence may lower the crime rate by deterring potential criminals from committing crimes”. Winter (2008:26) also observed that an obvious problem with “using very large fines is that most individuals would simply lack the ability to pay them”. Winter (2008:18) also suggests that authorities “can maintain a very low certainty of punishment, set fines as high as possible, and enhance the severity of punishment with prison sentences”.

Winter (2008:114) concludes that “prison seems to be an extremely effective form of punishment. Not only does prison incapacitate offenders, some of the cleverest studies I read present evidence that it also deters crime”. Fines could be the most efficient form of punishment for certain offences but he states that “they suffer from implementation difficulties”. Wells (2008:399) is of the opinion that controls that are not in place, but are perceived to be in place may have a deterrent value. Wells (2008:399) describes “deterrence” as the “modification of behaviour through the perception of negative sanctions”.

The following is a summary of the justifications of the respondents regarding the issue whether the imposing of more severe penalties and other punitive measures would reduce the current levels of tax evasion, fraud and corruption:

- Respondents express the view that if a person is evading tax now, no rule or penalty will prevent him from doing so in future; he will simply find more creative ways to avoid paying taxes.
- Respondents are of the opinion that existing measures already seem very punitive but perhaps they need to be advertised more extensively and more efficient law enforcement should be implemented as tax compliant people may eventually suffer by having more penalties imposed on them.
- Respondents say that if people saw that more people are found guilty of fraudulent actions, it would motivate them to change their behaviour; the more rigorous punitive measures are the less fraud, corruption and tax evasion there may be.
- Respondents contend that more publicity of investigations and fraud cases would make people think twice before committing a crime; that punitive measures will only help once people are convinced that the justice system will catch up with them swiftly and efficiently and that penalties will be meted out irrespective of a person's social status or wealth.
- Respondents are of the opinion that publishing the names of well-known people found guilty on charges of tax evasion might help to curb tax evasion; making public examples of culprits may have a greater effect.
- Respondents say that no amount of force will change moral values – they have to be taught from grass roots level and continually re-enforced by the community as well as the law and that offenders should be rehabilitated to become better citizens who can be trusted in the future.

The general view of respondents is that there are enough punitive measures in place to deal with fraud, corruption or tax evasion. By introducing additional penalties or punitive measures may affect law obedient citizens more than the offenders. Current measures in place is sufficient but should be enforced more rigorously. The criminal justice system should be adjusted to catch up swiftly with offenders regardless of their social status or wealth.

5.5 DISCUSSION AND SUMMARY

The focus of this study was the moral issues associated with fraud, corruption and tax evasion in general. This study has produced results that strongly confirm the support of sound moral values for a society or community. This study also revealed a strong support for a change in the attitude of taxpayers towards SARS and the government.

The majority of the respondents indicated that a perceived unfair or unjust tax system cannot be sufficient grounds for tax evasion (see section 5.4.2). The majority of the respondents were however of the opinion that taxpayers may use tax planning to legally reducing a tax liability (see section 5.4.3). Respondents also indicated that when tax planning becomes aggressive, it may become a moral issue (see section 5.4.4).

Respondents were of the opinion that it is not morally justifiable to bend tax rules and regulations in order to save an amount of taxation, no matter what the reason (see section 5.4.5). People are more aware of their human rights than of their responsibility to comply with tax laws and regulations (see section 5.4.6).

Respondents indicated that tax morality should rather be governed by tax laws and regulations than some other measure because tax laws align different perspectives (see section 5.4.7). Respondents also indicate that when a taxpayer has been dishonest in declaring his income for tax purposes in previous tax years the taxpayer should notify SARS and declare the correct income for those tax years (see section 5.4.8).

The majority of the respondents were of the opinion that continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems (see section 5.4.9). They also indicate that when one taxpayer becomes aware of another taxpayer's tax dishonesty or tax evasion that the matter is reported to SARS (see section 5.4.10).

Respondents were of the opinion that the churches/community/society in general can play a role in modern society in condemning tax evasion and promoting tax morality (see section 5.4.11). They were also of the opinion that a change in taxpayers' attitude towards SARS and the government may impact positively on eliminating tax evasion, fraud, corruption and strengthening tax morality (see section 5.4.12).

Respondents indicated various reasons as to why a taxpayer may commit tax evasion or perpetrate fraud or corruption. The main reasons identified by respondents include financial stress, economic pressure, needs, greed or simply the thrill and opportunity (see section 5.4.13).

The majority of the respondents were of the opinion that some tax evaders have no concerns about their tax evasive actions (see section 5.4.14). Respondents also stated that the churches, communities and societies should take a more open or firm public stance against fraud, corruption and tax evasion (see section 5.4.15).

The majority of the respondents stated that a taxpayer's actions should primarily be guided by tax laws and regulations as opposed to something else because tax laws and regulations can be successfully enforced on all taxpayers regardless of standing, background or values (see section 5.4.16). Respondents were also of the opinion that fraud, corruption and tax evasion can be minimised by making an appeal on the moral values of people (see section 5.4.17).

Respondents were of the opinion that for many people materialism, greed and self-enrichment have become more important than moral values and that the media is playing a vital role in this regard (see section 5.4.18).

The majority of the respondents were of the opinion that most people comply with tax rules and regulations because they respect the law, rather than being tax compliant out of fear of being caught for non-compliance (see section 5.4.19). The majority of the respondents were also of the opinion that the current levels of tax evasion, fraud and corruption could decrease if more severe penalties and other punitive measures are levelled against these transgressions. They were however convinced that current law enforcement should be more effectively applied (see section 5.4.20).

The research results obtained through conducting personal interviews and a questionnaire with sentenced economic crime offenders, will be discussed in chapter 6.

CHAPTER 6

PERSONAL INTERVIEWS AND QUESTIONNAIRE CONDUCTED WITH SENTENCED ECONOMIC CRIME OFFENDERS

6.1 INTRODUCTION

As part of the research on the impact of economic crime on taxation from a financial and moral perspective, one of the research interview subjects, a criminologist, suggested that interviews should also be conducted with sentenced economic crime offenders for crimes related to fraud, corruption and taxation offences. The said criminologist had a strong opinion about the value of interviewing sentenced economic crime offenders in a controlled environment (the correctional institution where they are located) and to obtain first-hand feedback from them regarding the crimes they have perpetrated.

As part of the research on fraud, corruption and tax-related consequences, personal interviews were conducted with 82 sentenced offenders for crimes related to fraud, corruption and taxation offences and are discussed in section 6.4. To extend this research, while having access to offenders, offenders were requested to complete a questionnaire dealing with “Fraud, corruption and related taxation consequences” (Appendix C). All 82 offenders interviewed also completed the said questionnaire and it is discussed in section 6.5. The objectives for this chapter are to determine if law enforcement, prosecution and sentencing practices on the one hand and current laws and regulations on the other hand, are adequate to handle fraud, corruption and tax conduct in general (section 1.3.2.4 in chapter 1), to determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated (section 1.3.2.5 in chapter 1), to determine if steps to prevent economic crime and sound management of fraud, corruption and related taxation consequences on the one hand and morality and sound principles, for example such as strong corporate ethics, on the other hand, could minimise or reduce the possible negative financial impact it may have in South Africa (section 1.3.2.6 in chapter 1) and lastly to determine in general the main reasons for perpetrating fraud, corruption or tax evasion on the one hand and if the type of fraud or corruption that is perpetrated in general may be a

result of the opportunities available to a potential offender on the other hand and if the potential offender may have any concern for his fraudulent actions (section 1.3.2.7 in chapter 1).

6.2 THE DEPARTMENT OF CORRECTIONAL SERVICES (DCS)

Prior to commencing any personal interviews with sentenced economic crime offenders, serving a correctional term for their offences, the researcher had to obtain the formal authorisation and permission from the Department of Correctional Services (the DCS). The researcher had to submit a formal research application in the prescribed format to the research division of the DCS for approval at senior management level. The researcher had to include his research proposal, a letter from the study leader and the proposed offender's interview questions. Once the research application was approved, the DCS issued an official DCS letter to the researcher granting the researcher permission to conduct personal interviews with economic crime offenders serving a correctional term for their offences.

The designated DCS official at the selected correctional institution first had to identify the economic crime offenders from the DCS database and then to notify the relevant economic crime offenders who would be interviewed by the researcher and the dates and venue at the correctional institute where they would be interviewed.

Access to the offenders at the different correctional institutions were granted between 09:00 and 12:00 on the pre-arranged day for the personal interviews to fit in with the normal day-to-day correctional activities the offenders are subjected to. At the day of the interview the researcher reported to the designated DCS official and the said official accompanied the researcher with DCS wardens to the designated area or room where the personal interviews were conducted.

The designated DCS official and DCS wardens were present during the duration of all the personal interviews conducted at the various correctional institutions. The researcher was allowed to conduct the personal interviews with the offenders in private in a secluded area of the space provided by the DCS for conducting the personal interviews. This allowed

the offenders to participate without interference from fellow offenders present in the room or hall where the interviews were conducted.

The population for this research was effectively all sentenced economic crime offenders in South African prisons at the time of the commencement of the research. However, due to the sensitive nature of this research and the protocols and procedures in place at the various DCS institutions, it was not possible to establish the exact number of economic crime offenders imprisoned at the time of this research. For research purposes the researcher had to rely on the DCS to identify economic crime offenders at the DCS institutions where the research was conducted. It was therefore not possible to determine the exact population size. Leedy and Ormrod (2010:208) suggest that simple random sampling is easy “when the population is small and all of its members are known”. In the end, 82 economic crime offenders from Gauteng based prisons only participated in this research project. This research is regarded as meaningful although only 82 economic crime offenders have participated. Their views, perceptions, experiences and gains from perpetrated economic crimes were documented in the form a completed manual questionnaire and personal interviews. The economic crime offenders have made a valued contribution from the perspective of a sentenced economic crime offender with regard to economic crime in general.

6.3 CONDUCTING THE PERSONAL INTERVIEWS

Caution was taken to protect the privacy and anonymity of all participating economic crime offenders. The researcher instructed the 82 offenders not to reveal their names or surnames or any other personal information to him. The importance of the personal interviews with the offenders for the purpose of this research was explained in full detail to all participating offenders. It was important that offenders understood that they were under no obligation to be interviewed and that they had to give their consent before being interviewed. Offenders were reassured, before conducting an interview, that the total interview and the responses to questions would be treated as strictly confidential.

For the purpose of the personal interviews with offenders, 17 pre-set questions, of which a printed version was given to an offender prior to his interview, were posed to each

participating offender. The responses of each offender were carefully noted on the researcher's printed version of the interview questions. Every response given by an offender was confirmed with the offender before moving on to the next question. Once an interview was completed, the interviewed offender was thanked for his participation in the research project and the valuable contribution that he has made in this regard.

A total of 82 interviews were conducted with offenders, located at Gauteng based correctional institutions, of which 63 were men and 19 women. Due to logistical, time and cost considerations, only Gauteng based correctional institutions were used for the purpose of personal interviews with offenders. The interview questions are listed in the section where it will be discussed.

The questions posed to the offenders were very personal, but they willingly responded to each question. Their responses to questions posed could not be verified with any other independent third party or documentation. Thus, the information presented is strictly according to the verbal responses supplied by offenders during the personal interviews conducted with them.

6.4 ECONOMIC CRIME OFFENDERS' RESPONSES TO INTERVIEW QUESTIONS

6.4.1 The Rand value of the fraud/corruption perpetrated

It was important to determine the Rand value of the fraud, corruption or tax-related offence perpetrated by each offender. Table 6.1 summarises the responses of the 82 offenders interviewed.

Table 6.1: *Rand value of fraud/corruption perpetrated*

	LOWEST	HIGHEST	AVERAGE PER OFFENDER	TOTAL
Amount involved	R2 500	R300 000 000	R7 517 712	R616 452 400

Fraud, corruption or tax-related offences are in essence serious criminal offences, regardless of the Rand value involved in a particular case. It is, however, alarming to have established that the average amount involved in the 82 offenders interviewed, was R7 517 712. If the three biggest amounts disclosed (totalling R549 000 000), were to be excluded from the total disclosed amount of R616 452 400, the average amount involved for the other 79 offenders still reflects an average amount of R853 828 per economic crime offender interviewed. The median Rand value involved per economic crime offender amounted to R200 000 which does place the average amount calculated in perspective. The median is calculated as the middle number of sorted list of numbers or values. There were 82 economic crime offenders therefore the median was calculated by adding the middle two Rand values and then to divide the calculated value by two in order to determine the median value.

6.4.2 Acting alone or having an accomplice

In economic crime-related offences, offenders may either act alone or use an accomplice. Wells (2008:7) refers to an accomplice as a 'co-conspirator' being a suspected accomplice in an economic crime case. Depending on the nature, extent and amount involved in a specific economic crime, the perpetrator might find it really difficult to succeed without the assistance of an accomplice. The personal interviews revealed that when economic crimes involve relative small amounts, it would be possible to perpetrate such a crime without assistance of any nature. The personal interviews also revealed that the higher

the amounts involved become, the more difficult it may become to perpetrate an economic crime without an accomplice. Table 6.2 summarises the offender's responses between acting alone and using an accomplice and also the total and average Rand amounts involved for the two groups of offenders.

Table 6.2: *Acting alone or having an accomplice*

	ACTING ALONE	HAVING AN ACCOMPLICE	TOTAL
Respondents	51	31	82
Percentage	62,20%	37,80%	100,00%
Total amount involved	R33 626 400	R582 826 000	R616 452 400
Average amount per offender	R659 341	R18 800 839	R7 517 712
Median amount per offender	R175 000	R233 000	

The majority of offenders (62,20%) indicated that they acted alone, whilst 31 offenders (37,80%) stated that they had accomplices. When analysing the average amount involved per offender who acted alone (R659 341) and comparing that to the average amount of R18 800 839 per offender using an accomplice, it re-affirms the premise that it would be very difficult for any person to perpetrate fraud or corruption involving substantial amounts without the assistance of an accomplice. The median amount when acting alone was calculated at R175 000 and R233 00 when having an accomplice. From the information disclosed by the offenders during the interviews, acting alone may only yield a certain return, but having an accomplice could yield a substantial return.

Silverstone and Sheetz (2007:15) referred to a study by Weisburd *et al.* in which it was determined that the median loss due to fraud perpetrated by executives and managers

when colluded with employees were more than double what executives and managers stole on their own and 8,3 times more than what employees stole on their own.

6.4.3 Period of official correctional sentence

From a research perspective, the researcher wanted to establish if there was any relationship between the official length of the offender's sentence and the monetary amount involved in his specific case. It will not be meaningful to compare the period of the official term of the correctional sentence with the total Rand value involved in the particular offence as the law prescribe a minimum sentence for an offence, but considering whether it was a first or a second offence and whether there was any aggravating circumstances present. Table 6.3 summarises the official term of the sentences of the 82 offenders interviewed.

Table 6.3: *Official length of correctional sentence*

	SHORTEST TERM	LONGEST TERM	AVERAGE TERM PER OFFENDER	TOTAL
Years/months	3 months	25 years	6,18 years	507 years

From the information disclosed by the offenders, it was established that the higher the monetary amount involved in a fraud/corruption case, the longer the period of the official sentence imposed in a court of law to an offender. An offender who for example committed fraud/corruption involving R300 000 000 was sentenced to 18 years behind bars; while an offender who committed the same type of offence involving only R150 000 received a sentence of four years. The median term of the official sentence per offender was five years. Winter (2008:35) observes that prisoners face substantial opportunity costs and the loss of legitimate income. In this regard he says that the "more income a prisoner could be making if not imprisoned, the higher the opportunity cost of being

imprisoned” and that the opportunity cost for a wealthy defendant is likely to be higher than for a poor defendant.

6.4.4 Turning the clock back

Hindsight is probably the best teacher. With this in mind the researcher posed a question to the offenders that, if they could have turned the clock back, would they have perpetrated the fraud/corruption in the first place? Table 6.4 reflects the responses of the offenders regarding turning the clock back.

Table 6.4: *Would they perpetrate fraud/corruption in the first place if they could turn the clock back?*

	YES	NO	TOTAL
Respondents	3	79	82
Percentage	3,66%	96,34%	100,00%

Most offenders (96,34%) stated that if they could have turned the clock back they would probably not have perpetrated the fraud/corruption in the first place. Only three offenders (3,66%) indicated that even if they could have turned the clock back, they would still have perpetrated their offences. This could be a clear indication that for these offenders the probable rewards from their criminal activities were more important than the possible consequences. One could also argue that those offenders, who declared that if the clock could have been turned back and they had a second chance, would not have perpetrated their crimes, only said so because they were caught and received a prison term for their offences. This could be regarded as a valid argument, but for the purpose of this research it would not be possible to either confirm or reject such an argument. Another argument could be that these offenders displayed a sense of remorse for their actions.

6.4.5 Punishment fair in relation to the offence committed

It is difficult to determine if a certain punishment is fair or deemed to be fair in relation to a certain offence committed by an offender. For victims, if there were victims in a case, no punishment imposed by any court of law on any offender would seem fair in relation to the loss (financially, physically or emotionally) suffered by them. However, Brooks and Dunn (2012:146) argue that justice is the mechanism for “fairly allocating the benefits and burdens of society”. The sympathy normally lies with a victim and the offender is normally portrayed as evil, having no rights and should remain behind bars for as long as possible. Brooks and Dunn (2012:146) contend that “everyone is treated equally before the law and that rules are impartially applied”. Thus, within the South African legal framework, even offenders have rights and are entitled to a fair trial in any court of law. The researcher, having regard for the rights of victims, had to pose a question to offenders whether they think their respective punishments (their official correctional periods of sentence) were fair in relation to the offences they had committed. Table 6.5 displays the responses of offenders regarding their interpretation about the fairness of their official correctional periods of sentence.

Table 6.5: *Punishment fair in relation to the offence committed*

	YES	NO	TOTAL
Respondents	33	49	82
Percentage	40,24%	59,76%	100,00%

Only 33 offenders (40,24%) were of the opinion that their punishment was fair in relation to the offences for which they were found guilty in a court of law and received a prison term as punishment. The majority of the offenders (59,76%) were of the opinion that their punishment was not fair in relation to the offences they were found guilty of in a court of law and received a subsequent prison term in this regard. Punishment that can be imposed by any South African court of law on any person it to deprive such a person of his

freedom by sentencing such a person to an official prison term. In this way, offenders are temporarily removed from society and placed in correctional institutions and they are subject to the rules, regulations and practices in place at the respective correctional institutions. None of the economic crime offenders who participated in this research indicated or said that their punishment was too light in relation to their offences.

6.4.6 Once-off offence or a series of offences

In most fraud, corruption or tax-related offences, an economic crime offender would first test the system under attack. A typical fraudster would begin with small amounts and gradually escalate the amounts if the first attempts went undetected. By the time the actual fraud or corruption is eventually detected, the fraudster had filled his pockets and sometimes the pockets of his accomplices. Offenders were requested to indicate whether they have perpetrated a once-off offence or a series of offences in their respective cases. Table 6.6 reflects the responses of the offenders to this question.

Table 6.6: *Once-off offence or a series of offences*

	ONCE-OFF OFFENCE	SERIES OF OFFENCES	TOTAL
Respondents	61	21	82
Percentage	74,39%	25,61%	100,00%
Total amount involved	R29 079 400	R587 373 000	R616 452 400
Average amount per offender	R467 711	R27 970 143	R7 517 712
Median amount per offender	R150 000	R1 000 000	

Only 21 of the offenders indicated that they have perpetrated a series of offences in their respective economic crime cases. Once-off offences were indicated by 61 (74,39%) of the offenders. By calculating the total and the average monetary amount involved in the once-off cases versus the series of offences, it is significant to note the substantial difference between the total and the average monetary amount involved for the two groups of offenders. Once-off offenders interviewed have defrauded an average amount of R467 711 (the median amount per offender was R150 000), while the average amount involved where a series of offences had been perpetrated, amounted to R27 970 143 (the median amount per offender was R1 000 000). This also correlates with the information reflected in table 6.2 where the average amount involved where offenders acted alone, amounted to R659 341 and the average amount involved for offenders using an accomplice, amounted to R18 800 839. Table 6.6 also confirms the notion that the financial impact of once-off offences seldom reaches the levels of a series of offences. For each offence an offender would be found guilty in a court of law he would receive a separate sentence, although separate sentences may often be served simultaneously.

6.4.7 Considered the perpetration of fraud/corruption to be wrong

When someone does something wrong and is of sound mind, such a person should be able to acknowledge or recognise the fact that he has acted wrongly. Coenen (2008:20) contends that a “lack of real loyalty in the business world may contribute to the fraud problem because employees may have an easier time rationalizing bad acts”. When applying hindsight to a perpetrated action, it would be easy to judge the perpetrated action to be right or wrong. However, when looking from the perspective of an offender who has perpetrated fraud/corruption it would probably not be so clear cut. Coenen (2008:36) observes that at-risk employees “may have a history of poor work performance coupled with rationalization or justification of that poor performance”. Offenders were asked whether, at any time during the perpetration of the fraud/corruption, they considered their actions to be wrong. Their responses are reflected in table 6.7.

Table 6.7: *Considered the perpetration of fraud/corruption to be wrong*

	YES	NO	TOTAL
Respondents	63	19	82
Percentage	76,83%	23,17%	100,00%

Of the offenders interviewed, 63 (76,83%) replied in the affirmative that they did consider their actions to be wrong, either during or after the perpetration of their fraud/corruption. However, the 19 offenders (23,17%) who responded in the negative to the question cannot be labelled as having no conscience and not showing any remorse for their actions. During an interview conducted with Dr A, a criminologist (Appendix E), she said that many fraudsters have no conscience and do not care what damage they may cause to other people. She also said in the case of tax evasion, taxpayers feel that the amount of tax payable is unfair and for SARS they are anonymous. For them, no visual damage has been caused and for that reason their conduct would be justifiable. She also said that fraudsters think their fraudulent conduct is not wrong and therefore they do not feel guilty about their conduct.

6.4.8 Immediate benefit more important than the potential consequences

From the economic crime offender's perspective it was important to enquire from them whether the immediate benefit to be derived from a fraudulent action was more important than the potential consequences. Table 6.8 reflects their responses in this regard.

Table 6.8: *Immediate benefit more important than potential consequences*

	YES	NO	TOTAL
Respondents	61	21	82
Percentage	74,39%	25,61%	100,00%

Only 21 offenders (25,61%) indicated that the immediate benefit was not more important than the potential consequences. However, 61 offenders (74,39%) had an opposing viewpoint. They probably discounted the risk of being detected against the potential financial gain to be realised through a fraudulent action. It would be possible to assume that people may be lured into perpetrating fraud/corruption, driven by greed, need or some other force, disregarding or not considering any possible consequences. It is alarming to note that 74,39% of the offenders were willing to run the risk of detection; and once detected, probably prosecuted and sentenced to a prison term for their offences. During an interview conducted with Dr A (Appendix E) she said that people experience financial difficulty and that may motivate them to perpetrate fraud or corruption. She also said that a person perpetrating fraud/corruption is so concerned about his immediate need that he does not think about the consequences of his fraudulent conduct. Dr A commented that the perpetration of fraud/corruption is a way in which a fraudster will try and solve his immediate problem.

6.4.9 Considering the possibility of being caught

A question was posed to the offenders about whether they had considered the possibility that they might be caught or their fraudulent actions be detected. When a fraudster decides to perpetrate fraud/corruption, he has considered or might consider the possibility of being caught or his fraudulent actions being detected. Dr A stated during an interview (Appendix E) that fraudsters do not even think about the fact that they might be caught. She also commented that fraudsters do not even think about the consequences of their fraudulent deeds. She said that some fraudsters hope of being caught just to put an end

to their fraudulent behaviour. She stipulated that fraudsters obtain a sense of power when they perpetrate fraud and are not detected or caught. It then becomes a power game.

Once a fraudulent action has been perpetrated the fraudster does not know whether it will be detected or not. Any true fraudster believes that he has perpetrated the perfect economic crime, leaving no trace or any trails and therefore making it difficult to detect. Dr A commented during an interview (Appendix E) that fraudsters do not even think about the consequences of their fraudulent conduct. For them the perpetration of fraud is a rational crime. She said that an informed person should be able to foresee the consequences of his conduct, but the motivation to act might be stronger than the consequences of his conduct and the fraudster merely postpones the consequences. She observed that the fraudster's immediate needs are a stronger motivation than the immediate consequences. She commented that people think that they can wipe their tracks, but that her experience with fraudsters is that they do not think about the consequences when they perpetrate fraud. Table 6.9 reflects the offender's responses regarding their considerations of being caught.

Table 6.9: *Consideration of the possibility of being caught*

	YES	NO	TOTAL
Respondents	49	33	82
Percentage	59,76%	40,24%	100,00%

The majority of offenders (59,76%) responded in the affirmative and 33 offenders (40,24%) had an opposing viewpoint regarding the possibility of being caught or their fraudulent actions being detected. Despite the fact that 59,76% of the offenders said that they did consider the possibility of being caught or their fraudulent actions being detected, they went on to perpetrate an economic crime. Thus, having considered the risk of

detection (as reflected in table 6.9), the immediate benefit (as reflected in table 6.8) to be derived from the fraudulent action may drive the offender to proceed with his fraudulent actions.

6.4.10 Using the proceeds from the fraud/corruption

The offenders were asked a very personal question regarding the use of the proceeds from the perpetration of fraud/corruption. The application of the proceeds from fraudulent conduct may well indicate the real drivers behind the fraud/corruption in the first place. The following uses were mentioned by the interviewed offenders:

- personal use, such as covering rising living expenses;
- applying funds in a business;
- paying for drugs;
- giving the proceeds to a third party; and
- purchasing luxuries, such as cars and electronic equipment.

From the list of uses supplied by the offenders, it would be possible to categorise the uses of fraudulent funds between need and greed. Coenen (2008:13) states that the best way to reduce “needs” is by “paying employees fairly” and by creating “performance systems that are reasonable”. Brooks and Dunn (2012:8) contend that “unbridled greed by executives and/or dominant shareholders lay behind many of the financial scandals”. Could it be that people may bridge the apparent gap between their needs and possibly greed, by employing various resourceful measures? Many people may resort to economic crime as a quick and easy outcome to acquire funding for their perceived financial shortfall. If the economic crime is not detected early, the fraudster may proceed with his fraudulent behaviour, but will cross the rational line between right and wrong with his first offence. Wells (2008:18) states that once “the line is crossed, the illegal acts become more or less continuous”. For the fraudster his fraudulent behaviour may become common practice and totally acceptable.

6.4.11 Advice to potential fraudsters

The researcher asked the economic crime offenders what advice they would give to other potential fraudsters to deter them from perpetrating fraud/corruption. The following is a summary of the responses of the offenders to the said question:

- follow the right road because fraud/corruption is not worth the while;
- eliminate the greed factor as it destroys families;
- rather follow the letter of the law than looking for loopholes;
- compare actions with possible consequences;
- do not do it, because sitting in prison is not fun and your family suffers the most;
- by committing crime you are abusing other people;
- stay away from gangsters and attend school because crime does not pay;
- wear the uniform of pride and not the uniform of crime;
- get help from someone you love and who cares about you;
- to have no money is far better than committing fraud and spending time in prison;
- money cannot buy happiness;
- fraud/corruption enriches you at the expense of others;
- fraud/corruption has a negative impact on the economy;
- inform people about the consequences of crime;
- be patient and do not rush things;
- do not get yourself into a situation;
- learn skills to do proper jobs;

- use original or authenticated documents rather than copies or false documents;
- there should not be any grey areas and retain control of your business;
- there are no short cuts in life;
- take care of yourself and work for money;
- in the end crime takes back its proceeds; and
- use your intelligence and skills for a better purpose.

The words of advice offered by the sentenced economic crime offenders can be interpreted as “learning from your own mistakes”. They have paid dearly for their decisions or choices in life. It would not be possible to measure the impact of fraud/corruption on their lives and/or the lives of their families. From the list of advice mentioned by them, it is evident that fraud/corruption does not pay; that it destroys; that it reclaims its proceeds and the biggest losers are the offenders and their families.

6.4.12 Perpetrating fraud/corruption again once released from prison

The researcher enquired from offenders whether they would consider perpetrating fraud/corruption again once released from prison. Table 6.10 reflects their responses to this question.

Table 6.10: *Perpetrating fraud/corruption again once released from prison*

	YES	NO	TOTAL
Respondents	2	80	82
Percentage	2,44%	97,56%	100,00%

Only two offenders (2,44%) answered in the affirmative regarding perpetrating fraud/corruption again once released from prison. The majority of offenders (97,56%) had

an opposing viewpoint in this regard. It is significant that 97,56% of the offenders said that they would not return to economic crime. By serving a prison term for fraud/corruption, people are deprived of their freedom; being removed from society and their families or friends and placed in a DCS institution. Thus, the severity of the punishment imposed on a sentenced offender and the deprivation of his freedom, could bring about a change in the mind and heart of an offender with regard to fraud/corruption and the consequences associated with it.

6.4.13 Serving a prison term equal to sufficient rehabilitation

The mere fact that someone is locked away behind bars does not guarantee that such a person will not commit the same, similar or other offences again, once released from prison. Doig (2006:223) states that to prosecute offenders “in return for a few months imprisonment keeps raising the cost-benefit concerns over retributive justice”. He also observes that offenders may negotiate a settlement agreeable to both the offender and the prosecuting authority and that such settlement may be “more agreeable than imprisonment”. Offenders were asked whether they think that by serving a prison term for a fraud/corruption offence may be viewed as sufficient rehabilitation. Their responses with regard to this question are reflected in table 6.11.

Table 6.11: *Serving a prison term equal to sufficient rehabilitation*

	YES	NO	TOTAL
Respondents	36	46	82
Percentage	43,90%	56,10%	100,00%

Only 36 offenders (43,90%) were of the opinion that by serving a prison term for an economic crime may be regarded as sufficient rehabilitation. The majority (56,10%) had an opposing viewpoint. Rehabilitation is not just the locking away of an offender behind bars. The DCS has certain rehabilitation programmes in place for offenders. The

researcher is in no position to comment on the effectiveness of current rehabilitation programmes in operation, as this does not form part of the research. The main purpose of the researcher's question to offenders was to obtain their personal perceptions and experiences regarding their time served in prison under correctional supervision and whether that can be regarded as sufficient rehabilitation.

Winter (2008:16) contends that a "substantial challenge in setting a desired expected punishment is to determine the appropriate trade-off between certainty and severity of punishment". He is of the opinion that "authorities have to consider how to *simultaneously* set the probabilities of apprehension and conviction, as well as choose an appropriate sanction".

6.4.14 More informed about the potential consequences

An informed person tends to take greater caution when making decisions than someone who is lesser informed on the same issue or topic. Coenen (2008:183) states that if employees are valued as people and are able to voice their concerns about their jobs and workplace, it will "help decrease motivators for fraud". The offenders were asked if they had been more informed about the potential consequences that could result from the perpetration of fraud/corruption, whether they would have committed such offences. Table 6.12 reflects their responses in this regard.

Table 6.12: *More informed about the potential consequences*

	YES	NO	TOTAL
Respondents	5	77	82
Percentage	6,10%	93,90%	100,00%

The majority of the economic crime offenders (93,90%) responded that, if they had been more informed about the potential consequences that could result from the perpetration of fraud/corruption; they would probably not have committed such offences. Only five

offenders (6,10%) indicated that even if they had been more informed they would still have perpetrated the fraud/corruption. It is, however, significant that the majority of offenders (93,90%) said that more information about the potential consequences of fraud/corruption could have changed their attitudes towards perpetrating fraud/corruption. In section 6.4.4 the majority of the offenders indicated that if they were able to have turned the clock back, they would not have perpetrated the fraud/corruption in the first place. The majority of the offenders also indicated (section 6.4.7) that they did consider the perpetration of the fraud/corruption to be wrong and that the immediate benefit to be derived from the fraudulent action was more important than the potential consequences (section 6.4.8). Despite the fact that 59,76% of the offenders (section 6.4.9) said that they did consider the possibility of being caught or their fraudulent actions being detected, they proceeded to perpetrate an economic crime.

The value of education and/or the communication of the potential consequences of fraud/corruption to the general public or society can never be underestimated. Mbaku (2007:141) is of the opinion that government and civil society organisations “are expected to educate the general public about corruption and its negative effects on economic growth and development”. By educating people can, according to Mbaku (2007:141) “significantly improve their ability to determine if behaviour is corrupt and report perpetrators to the relevant authorities for further action”. The responses of offenders, as reflected in table 6.12, re-affirms the value of relevant information or education regarding specific issues, such as the potential consequences related to economic crimes.

6.4.15 Being aware of the possible taxation consequences

When someone perpetrated fraud/corruption it is probable that it may have certain direct or indirect taxation consequences. With this in mind, the researcher asked offenders whether, at any stage during the perpetration of the fraud/corruption, they were aware of any possible taxation consequences that could have resulted from such fraudulent behaviour. Table 6.13 reflects their responses in this regard.

Table 6.13: *Being aware of any possible taxation consequences*

	YES	NO	TOTAL
Respondents	5	77	82
Percentage	6,10%	93,90%	100,00%

Only five offenders (6,10%) indicated that they were aware of any possible taxation consequences that could have resulted from their fraudulent behaviour. The majority of the offenders (93,90%) said that they were not aware of any possible taxation consequences. This correlates with the majority of the offender's responses, as reflected in table 6.6, regarding the immediate benefit being more important than the potential consequences related to fraudulent actions.

For most offenders (93,90%) not giving consideration to any possible taxation consequences that could have resulted from their fraudulent behaviour, confirms the notion that the immediate benefit or financial gain to be derived from fraud/corruption, is more important to the fraudster than any other possible consequences, even if caught or detected.

6.4.16 Remorse about fraud/corruption perpetrated

In most court cases an accused, while on trial, can or may show or display open remorse for the offence committed. Should an accused, while on trial in any court of law, show or display any form of remorse, such remorse can or may act as a mitigating circumstance in favour of the accused. In an interview (Appendix E) with a criminologist, Dr A, she commented that fraudsters feel bad about being caught or detected. She said that they seldom show any signs of remorse. For them it is more shameful to have been caught than perpetrating a fraudulent deed because they rationalise their fraudulent conduct. With this in mind, the researcher asked offenders a question as to whether they have any

remorse about the fraud/corruption they have perpetrated. Table 6.14 reflects their responses to this question.

Table 6.14: *Remorse about the fraud/corruption perpetrated*

	YES	NO	TOTAL
Respondents	81	1	82
Percentage	98,78%	1,22%	100,00%

Only one offender (1,22%) said that he had no remorse about the fraud/corruption he had perpetrated. However, the majority of offenders (98,78%) indicated that they have remorse about the fraud/corruption they have perpetrated. It is significant that 98,78% of the offenders had said that they had remorse about their fraudulent actions. The researcher has no psychological background, neither is he educated in the field of human sciences. Thus, the researcher cannot evaluate whether the offenders truly have remorse or whether they just said so for the sake of answering the question.

During a personal interview with a criminologist (who has a psychological background) as part of this research, the criminologist held the opinion that many fraudsters, have no conscience and do not care what damage they may cause to other people. In the case of tax evasion, taxpayers feel that the amount of tax payable is unfair and for SARS they are anonymous. For them, no visual damage has been caused and for that reason their conduct would be justifiable (Appendix E).

6.4.17 Highest level of academic achievement of economic crime offenders

The last personal question asked to offenders was to disclose their highest level of academic achievement. Table 6.15 reflects their responses to this question.

Table 6.15: *Highest level of academic achievement of economic crime offenders*

	GR 12 or less	DIPLOMA	DEGREE	MASTER'S DEGREE	DOCTORATE	TOTAL
Offenders	51	9	19	2	1	82
Percentage	62,20%	10,98%	23,17%	2,44%	1,22%	100,00%

The majority of offenders (62,20%) indicated that they had a level of academic achievement of grade 12 or less. The balance of the offenders (37,80%) indicated that they had obtained a post Grade 12 academic qualification ranging from a diploma to a doctorate. The main reason why the researcher wanted to know from offenders what their highest respective levels of academic achievement was, was to establish if there was any relationship between the monetary amount involved when perpetrating fraud/corruption and the academic qualifications of the perpetrator. Table 6.16 reflects the correlation between an academic qualification and the total and the average monetary amount involved per offender interviewed in their respective cases.

Table 6.16: *Relationship between academic achievement and the monetary amount involved in the fraud/corruption case*

	GRADE 12 OR LESS	DIPLOMA TO DOCTORATE	TOTAL
Offenders	51	31	82
Percentage	62,20%	37,80%	100,00%
Total Rand value	R10 650 500	R605 801 900	R616 452 400
Average Rand value per offender	R208 833	R19 541 997	R7 517 712
Median Rand value per offender	R160 000	R400 000	

The information disclosed by the offenders during their respective personal interviews regarding their academic qualifications and the monetary amount of the fraud/corruption perpetrated by them for which they were serving a prison term does show a significant relationship. Offenders with a qualification of grade 12 or less had on average, perpetrated fraud/corruption to the value of R208 833 (the median monetary amount involved, was R160 000 per offender). Offenders with a post grade 12 qualification (ranging from a diploma to a doctorate) had on average, perpetrated fraud/corruption to the value of R19 541 997 (the median monetary amount involved, was R400 000).

It is significant that offenders with a higher qualification (post grade 12) had on average, perpetrated fraud/corruption involving substantially higher amounts than offenders with a qualification of grade 12 or less. This significance can be ascribed to the higher knowledge and skills levels of offenders with a higher level of academic achievement. A higher level of academic achievement would equip offenders with the ability to devise more complicated fraud/corruption schemes and to convince accomplices to participate in their fraud/corruption schemes. In an interview with Dr A, a criminologist, (Appendix E) she also commented that a higher level of education only produces more sophisticated fraud/corruption. Normally people with a higher level of academic achievement have a higher status or position in a society. This may also provide them with ample opportunities to perpetrate economic crimes of the magnitude as revealed by the research results obtained during the researcher's personal interviews with offenders. Silverstone and Sheetz (2007:15) referred to a study conducted by Weisburd *et al.* that fraud involving larger amounts was perpetrated by "university-educated older men with no criminal records who were in positions of financial responsibility and perpetrating the frauds in collusion".

6.5 FRAUD, CORRUPTION AND RELATED TAXATION CONSEQUENCES QUESTIONNAIRE ADDRESSED TO SENTENCED ECONOMIC CRIME OFFENDERS

6.5.1 Completion of the questionnaire

The importance of the correct completion of the questionnaire and the content of the questionnaire were discussed with all participants before they were requested to complete the questionnaire. It was important that they understood that they were under no obligation to complete the questionnaire. They were re-assured, before completing the questionnaire, that their answers and responses to the questions would be treated as strictly confidential.

The questionnaire comprised 38 printed questions given to each participating offender for completion. Once a questionnaire had been completed by an offender, the researcher, in the presence of the offender, reviewed the questionnaire to determine that all the questions had been answered. Every offender who completed the questionnaire was thanked for his participation in the research project and the valuable contribution that he had made in this regard.

6.5.2 Demographics of the economic crime offenders

For research purposes it was important to establish certain demographic information pertaining to the offenders. The following demographic information was obtained:

- gender;
- age group in years;
- position previously held;
- main area where previously involved/economically active; and
- province where previously mainly active, involved or residing.

The demographic information was not requested during the personal interviews conducted with the economic crime offenders to ensure anonymity.

Gender of economic crime offenders

Table 6.17: *Gender of economic crime offenders*

GENDER	MALE	FEMALE	TOTAL
Total	63	19	82
Percentage	76,83%	23,17%	100,00%

The number of offenders who have completed the questionnaire totalled 82, of which 63 were males and 19 females.

Age group of economic crime offenders in years

The offenders were requested to indicate in which age group they fall. Their responses are reflected in table 6.18.

Table 6.18: *Age group of economic crime offenders in years*

	Number of offenders	Percentage
Younger than 20 years	4	4,88%
20 to 29 years	25	30,49%
30 to 39 years	30	36,59%
40 to 49 years	15	18,29%
50 to 59 years	5	6,10%
Older than 60 years	3	3,66%
Total	82	100,00%

The majority of offenders (71,96%) were in the age group of 39 years or younger at the date of completion of the questionnaire.

Position previously held

It was important to establish which positions the offenders held during the time of the perpetration of the economic crime offence prior to having been sentenced to a prison term for their offences. Their responses in this regard are reflected in table 6.19.

Table 6.19: *Position previously held*

Position previously held	Number of offenders	Percentage
Company director	7	8,54%
Partner in private practice	5	6,10%
Manager	12	14,63%
Supervisor	6	7,32%
Internal auditor	1	1,22%
Fraud examiner	2	2,44%
Academic	4	4,88%
Government/public official	10	12,20%
Other	35	42,68%
Total	82	100,00%

Main area where previously involved/economically active

Offenders were requested to indicate the main area in which they were previously involved/economically active. Their responses are indicated in table 6.20.

Table 6.20: *Main area where previously involved/economically active*

Main area	Number of offenders	Percentage
Commerce and industry	27	32,93%
Private practice	12	14,63%
Public administration/Government	6	7,32%
Education	24	29,27%
Other	13	15,85%
Total	82	100,00%

The majority of offenders indicated that they were previously involved/economically active in commerce and industry (32,93%), private practice (14,63%) and education (29,27%).

Province where previously mainly active, involved or residing

As indicated in section 6.5.1 above, the researcher conducted his research at Gauteng based DCS institutions. It would, therefore, follow that the majority of offenders would have been expected to come from Gauteng. It is common practice to bring accused offenders to trial in the province the alleged offence or offences had been perpetrated. Once an accused offender is found guilty in a court of law for the alleged offence or offences, and the offender is sentenced by the said court of law to an official prison term as punishment for the offence brought to trial, the offender would normally be placed in a DCS institution in the province where the offence was perpetrated, but also taking into account the current location of any direct family of the offender.

Table 6.21: *Province where previously mainly active, involved or residing*

Province	Number of offenders	Percentage
Eastern Cape	3	3,66%
Free State	0	0,00%
Gauteng	64	78,05%
KwaZulu-Natal	3	3,66%
Limpopo	4	4,88%
Mpumalanga	5	6,10%
Northern Cape	0	0,00%
North West	1	1,22%
Western Cape	0	0,00%
Multiple provinces	2	2,44%
Total	82	100,00%

6.6 DESCRIPTION OF THE VARIABLES

The offenders were requested to manually complete a questionnaire comprising 38 questions. The questions in the questionnaire were set in a statement format requesting offenders to rank each statement from 1 (strongly agree) to 7 (strongly disagree) with regard to the influence he believes it has or may have on fraud, corruption or related taxation consequences in general. For each statement they could use the following rating scale (based on the Likert scale):

- 1 = Strongly agree
- 2 = Moderately agree
- 3 = Slightly agree
- 4 = Uncertain
- 5 = Slightly disagree
- 6 = Moderately disagree

- 7 = Strongly disagree

The questionnaire comprised 11 parts (being the 11 research questions identified in section 1.2.1), being the following:

- Part A: Law enforcement, prosecution and sentencing practices are not adequate.
- Part B: Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.
- Part C: Reasons for perpetrating fraud, corruption or tax evasion.
- Part D: Are current laws and regulations adequate to deal with fraud, corruption and tax conduct in general?
- Part E: Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.
- Part F: The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.
- Part G: The perpetration of fraud or corruption has an impact on taxation in South Africa.
- Part H: The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.

- Part I: Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences.
- Part J: The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.
- Part K: The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.

The percentages displayed in the tables to follow below for each part of the questionnaire (sections A to K) under the headings “Agree”, “Uncertain” and “Disagree” have been calculated using the responses of the offenders to the seven point Likert scale that was applied in the questionnaire. If an offender selected “Strongly agree” (1), “Moderately agree” (2) or “Slightly agree” (3) to a specific statement in the questionnaire it was interpreted as “Agree” to the said statement and reflected as such in the tables. However if an offender selected “Uncertain” (4), neither agreeing nor disagreeing to a specific statement it was treated as such and reflected under the heading “Uncertain”. If an offender elected to disagree to a specific statement, the offender could have chosen “Slightly disagree” (5), “Moderately disagree” (6) or “Strongly disagree” (7). Whichever option of disagreement had been chosen by an offender had been interpreted as “Disagree” to the said statement and reflected as such in tables to follow. Appendix H reflects a summary of the disclosures made by economic crime offenders.

6.6.1 Law enforcement, prosecution and sentencing practices are not adequate

In Part A of the questionnaire (Appendix C) the statement was made that law enforcement, prosecution and sentencing practices are not adequate. Offenders had to rate this statement by responding to five sub-statements (questions 1 to 5) of the

questionnaire. Their responses are reflected in table 6.22. The reliability of the data collected is confirmed by the Cronbach's Alpha score of 0,708. A score of 0,70 or more is acceptable.

Table 6.22: *Law enforcement, prosecution and sentencing practices are not adequate*

Statement	Agree	Uncertain	Disagree
Fraud, corruption and any possible taxation consequences resulting from fraud or corruption within South Africa may not be dealt with appropriately due to ineffective law enforcement, prosecution and sentencing practices.	73,20%	7,30%	19,50%
Fines are more effective than imprisonment for fraud, corruption or tax-related offences.	74,40%	6,10%	19,50%
If fines cannot be raised further it would be appropriate to supplement such fines with a prison term for fraud, corruption or tax evasion.	64,60%	6,10%	29,30%
People have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences because:			
(a) it has no effect	65,90%	4,90%	29,20%
(b) they are afraid of being victimised	78,00%	1,20%	20,80%
(c) of a lack of inadequate witness protection	69,50%	8,50%	22,00%
(d) they do not want to get involved	81,70%	4,90%	13,40%
(e) they are afraid of being implicated	78,00%	7,30%	14,70%
(f) of their direct or indirect personal involvement	75,60%	8,50%	15,90%
(g) they may be uncertain about the possible consequences	76,80%	9,80%	13,40%
An offenders' personal wealth will impact on the level of fraud, corruption or tax evasion he/she may commit.	63,40%	7,30%	29,30%

The majority of the offenders agreed with the statement that fraud, corruption and any possible taxation consequences resulting from fraud or corruption within South Africa may not be dealt with appropriately due to ineffective law enforcement, prosecution and sentencing practices (73,20% – question 1), that fines are more effective than imprisonment for fraud, corruption or tax related offences (74,40% – question 2), that if fines cannot be raised further it would be appropriate to supplement such fines with a prison term for fraud, corruption or tax evasion (64,50% – question 3) and also that an offender's personal wealth will impact on the level of fraud, corruption or tax evasion he may commit (63,40% – question 5).

The three main reasons identified by offenders as to why people may have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences were that they do not want to get involved (81,70% – question 4(d)), they are afraid of being victimised (78% – question 4(b)), they are afraid of being implicated (78% – question 4(e)) and they may be uncertain about the possible consequences (76,80% – question 4(g)) (Appendix C).

The following other reasons were noted by offenders as possible causes for people to have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences:

- people might get fired from their jobs;
- SARS is not very approachable;
- people are afraid they might get killed;
- people are afraid of being framed;
- people are afraid of the possible social impact;
- people might receive life threats;
- people may have a lack of knowledge; and
- the status of the accused.

The summarised responses of the offenders to Part A (questions 1 to 5 in Appendix C) of the questionnaire relating to the statement that “Law enforcement and sentencing practices are not adequate” revealed a response percentage of agreement of 63,40% to 81,70% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 13,40% to 29,30% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the offenders and the level of uncertainty ranged from 1,20% to 9,80%. It is significant that the majority of the offenders indicated that law enforcement and sentencing practices are not adequate. Having been subjected to current law enforcement and being sentenced for the economic crimes they have committed, they could be qualified to be in a position to voice their opinions on law enforcement and sentencing practices. At the time they completed the questionnaire, all of them had served a period of their official sentenced term.

6.6.2 Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences

Offenders were requested to rank five statements regarding the issue of whether steps to prevent economic crime and sound management will reduce the possible negative impact of fraud, corruption and related taxation consequences (questions 6 to 10 in Appendix C). Their responses are reflected in table 6.23. The reliability of the data collected presented a Cronbach’s Alpha score of 0,786. A score of 0,70 or more is acceptable.

Table 6.23 *Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences*

Statement	Agree	Uncertain	Disagree
The implementation of a code of conduct, ethical rules, company policies and procedures will counter the incidences of possible fraud, corruption or tax evasion.	65,90%	7,30%	26,80%
An entity should create a working environment that promotes and encourages ethical behaviour.	84,10%	6,10%	9,80%
An entity should implement measures to prevent, deter, and/or detect fraud in each of its identified fraud risk areas.	86,60%	4,90%	8,50%
Company employees should receive appropriate training in identifying inappropriate behaviour and inappropriate conduct.	89,00%	4,90%	6,10%
A company should have policies/procedures in place to ensure that all allegations of fraud/corruption or violations of the code of conduct are evaluated, investigated and documented with a view to adequate disclosure or reporting.	87,80%	4,90%	7,30%

The majority of the offenders agreed that the implementation of a code of conduct, ethical rules, company policies and procedures will counter the incidences of possible fraud, corruption or tax evasion (65,90% – question 6), that a working environment should be created to promote ethical behaviour (84,10% – question 7), that measures should be implemented to prevent, deter and/or detect fraud (86,60% – question 8), that company employees should receive appropriate training in identifying inappropriate behaviour and inappropriate conduct (89% – question 9) and that a company should have policies/procedures in place to ensure that all allegations of fraud/corruption or violations of the company's code of conduct are evaluated, investigated and documented (87,80% – question 10).

The summarised responses of the offenders to Part B of the questionnaire (questions 6 to 10 in Appendix C), relating to the statement that the “Prevention or management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences” revealed a response percentage of agreement of 65,90% to 89,00% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 6,10% to 26,80% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the offenders, while the levels of uncertainty on this issue ranged from 4,90% to 7,30%. It is significant that the majority of the offenders were of the opinion that prevention or management will minimise or reduce the possible negative impact of fraud, corruption or related taxation consequences. Having experienced the monetary rewards of an economic crime and the associated risks emphasised the view of the majority of the offenders. They have exploited the weaknesses in particular systems and their views may be regarded as valuable advice with regard to prevention or management that will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.

6.6.3 Reasons for perpetrating fraud, corruption or tax evasion

Part C of the questionnaire (questions 11a to 13d in Appendix C) handled the issue regarding the possible reasons for perpetrating fraud, corruption or tax evasion. Offenders had to rate three statements specifically aimed to determine the various reasons that might exist for perpetrating fraud, corruption or tax evasion. Their responses are reflected in tables 6.24 and 6.25. The reliability of the data collected presented a Cronbach’s Alpha score of 0,759. A score of 0,70 or more is acceptable.

Table 6.24: *Reasons for perpetrating fraud, corruption or tax evasion*

Statement	Agree	Uncertain	Disagree
Greed	63,40%	8,50%	28,10%
Getting even with SARS/the government	42,70%	14,60%	42,70%
Needs/wants	86,60%	3,70%	9,70%
Criminal behaviour	56,10%	4,90%	39,00%
Tax savings/evasion	48,80%	13,40%	37,80%
Facilitation of payments/cash-flow problems	74,40%	4,90%	20,70%
Bribes paid to get things done/sorted out	62,20%	13,40%	24,40%
Marketing targeted at specific individuals in the form of expensive gifts	58,50%	8,50%	33,00%
Excursions/entertainment offered to encourage informal relations with potential clients	59,80%	12,20%	28,00%
Political pressure, for example subsidies or export-credit deals	46,30%	18,30%	35,40%

The following other reasons why people may commit fraud, corruption or tax evasion, were also noted by the offenders:

- transparent corruption within the governmental environment;
- people may be forced to get out of the stronghold of poverty;
- lack of employment and/or unemployment;
- self- enrichment and to amass wealth so as to have power;
- to keep other people happy;
- striving for a better/higher position;
- an economic opportunity;
- peer pressure;
- general cost of living; and
- follow the rules of the economy.

Needs/wants (86,60%), the facilitation of payments/cash flow problems (74,40%) and greed (63,40%) were identified by the offenders as the three more notable reasons for perpetrating economic crimes in general.

The statement was made in the questionnaire that competitive pressure will make organisations more or less inclined to offer bribes (questions 12a and 12b in Appendix C). Offenders also had to give their opinion on the strategy organisations would prefer when their competitors offer bribes (questions 13a to 13d in Appendix C). Their responses are reflected in table 6.25.

Table 6.25: *Competitive pressure and the offering of bribes*

Statement	Agree	Uncertain	Disagree
More inclined to offer bribes	64,60%	12,20%	23,20%
Less inclined to offer bribes	41,50%	13,40%	45,10%
Do the same as competitors	46,30%	14,60%	39,10%
Continue with business as usual	58,50%	12,20%	29,30%
Report competitors to the authorities	63,40%	13,40%	23,20%

The majority of the offenders (64,60%) agreed with the statement that competitive pressure will make organisations more inclined to offer bribes, however the majority also agreed that organisations would continue with business as usual (58,50%) and to report competitors to the authorities (63,40%) when they offer bribes.

The following other reasons were also noted by offenders regarding the strategy organisations would prefer if their competitors offer bribes:

- ignore it and do not follow suit;
- it would depend on the system used;
- the competitive advantage on offer if bribes are paid could play a role;

- gaining more of the existing market on offer; and
- victims normally do not report crimes.

6.6.4 Are current laws and regulations adequate?

Part D of the questionnaire (questions 14(a) to 19 in Appendix C) dealt with the issue whether current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. Offenders had to respond to six statements aiming at handling this issue by ranking each statement in question. Their responses are reflected in table 6.26 below. The reliability of the data collected presented a Cronbach's Alpha score of 0,859. A score of 0,70 or more is acceptable.

Table 6.26: *Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general*

Statement	Agree	Uncertain	Disagree
South African courts should adopt the following attitude:			
(a) Accommodative	40,20%	8,50%	51,30%
(b) Disapproving	57,30%	8,50%	34,20%
(c) Condemnation	67,10%	8,50%	24,40%
(d) Neutral	36,60%	22,00%	41,40%
Perception of public attitude towards fraud, corruption, tax avoidance or tax evasion:			
(a) Get even with the tax authorities	46,30%	12,20%	41,50%
(b) Accommodative	39,00%	17,10%	43,90%
(c) Disapproving	67,10%	11,00%	21,90%
(d) Condemnation	73,20%	3,70%	23,10%
(e) Neutral	39,00%	26,80%	34,20%
Fines should be used whenever possible for committing fraud, corruption or tax evasion.	70,70%	8,50%	20,80%
A wealthy person is more prison averse than a poor offender.	62,20%	4,90%	32,90%
The risk of being detected will impact on the level of the offence the probable offender is willing to commit.	64,60%	14,60%	20,80%
Punishment should ignore the wealth and status of an offender.	56,10%	6,10%	37,80%

The majority of offenders were in agreement with the statement that the South African courts should be disapproving (57,30%) and condemning (67,10%) fraud, corruption, tax avoidance or tax evasion schemes (question 14) and that the public attitude towards fraud, corruption, tax avoidance or tax evasion schemes may be to get even with the tax authorities (46,30%), to disapprove (67,10%) or to condemn (73,20%) such actions.

The majority of the offenders also agreed with the statement that fines should be used whenever possible for committing fraud, corruption or tax evasion (70,70% – question 16), that a wealthy person committing economic crime offences may be more prison averse than a poor offender (62,20% – question 17), that the risk of being detected will impact on the level of fraud, corruption or tax evasion a probable offender is willing to commit (64,60% – question 18) and that punishment for committing fraud, corruption or tax evasion should ignore the wealth or status of an offender (56,10% – question 19).

The summarised responses of the offenders to Part D of the questionnaire (questions 14(a) to 19 in Appendix C), regarding to the statement that “Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general” revealed a response percentage of agreement of 36,60% to 73,20% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 20,80% to 51,30% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the offenders, while the level of uncertainty on this issue ranged from 3,70% to 26,80%.

It is encouraging that the majority of the offenders were of the opinion that current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. However, the majority of the offenders (see section 6.10.1) were of the opinion that law enforcement and sentencing practices are not adequate. Could it be that the offenders responded in this way because their crimes have been detected and they have been sentenced in a court of law? Or do they truly believe that an alternative form of

“punishment” in lieu of a prison sentence could have been more appropriate in their circumstances?

6.6.5 Fraud/corruption ignores taxation consequences

Part E of the questionnaire (questions 20 to 21e in Appendix C) dealt with the issue whether fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. Offenders had to respond to two statements aiming at handling this issue by ranking each statement in question. Their responses are reflected in tables 6.27 and 6.28 below. The reliability of the data collected presented a Cronbach's Alpha score of 0,867. A score of 0,70 or more is acceptable.

Table 6.27: *Fraud or corruption is perpetrated without taking into account any possible taxation consequences that may occur as a result thereof*

Statement	Agree	Uncertain	Disagree
An opportunistic fraudster has no concern for any possible tax consequences as he may not be tax literate.	73,20%	11,00%	15,80%

The majority of offenders (73,20% – question 20) were of the opinion that an opportunistic fraudster has no concern for any possible tax consequences his fraudulent actions/transactions may cause as he may not be tax literate. Only 11,00% of the offenders were uncertain and 15,80% had an opposing viewpoint. Thus, according to the majority of the offenders, when fraud/corruption is perpetrated any possible taxation consequences may be ignored as the main focus of such an offence will be the monetary rewards associated with it.

Table 6.28: *Fraud normally perpetrated by an employee having a moderate financial impact on the entity*

Statement	Agree	Uncertain	Disagree
An employee would normally perpetrate the following types of fraud that may have a moderate financial impact on the entity:			
(a) Embezzlement of money or property	70,70%	13,40%	15,90%
(b) Breach of a fiduciary duty	64,60%	25,60%	9,80%
(a) Theft of trade secrets or intellectual property	64,60%	14,60%	20,80%
(d) Illegal acts	63,40%	22,00%	14,60%

The majority of offenders stated that the embezzlement of money or property (70,70% – question 21(a)) would possibly be the type of fraud normally perpetrated by employees, followed by a breach of a fiduciary duty (64,60% – question 21(b)), then the theft of trade secrets or intellectual property (64,60% question 21(c)) and lastly illegal acts (63,40% – question 21(d)). The offenders also noted the following additional types of fraud an employee could perpetrate that may have a moderate financial impact on an entity:

- money laundering;
- computer-related fraud;
- cash deals; and
- identity fraud.

6.6.6 The perpetrator of fraud is aware of any possible taxation consequences

In Part F of the questionnaire (questions 22 to 25 in Appendix C) the researcher posed four statements to the offenders regarding the issue of whether the perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions. Their responses are reflected in table 6.29. The reliability of the data collected presented a Cronbach's Alpha score of 0,895. A score of 0,70 or more is acceptable.

Table 6.29: *The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions*

Statement	Agree	Uncertain	Disagree
A taxpayer is aware of all the tax and legal consequences when he engages in tax avoidance or tax evasion.	64,60%	11,00%	24,40%
Management would normally perpetrate the following types of fraud that may have a substantial financial impact on the entity and may give rise to certain taxation consequences:			
(a) Financial statement fraud	87,80%	8,50%	3,70%
(b) Misrepresentation of material facts	69,50%	11,00%	19,50%
(c) Misappropriation of assets	68,30%	13,40%	18,30%
(d) Concealment of material facts	68,30%	13,40%	18,30%
(e) Bribery	69,50%	9,80%	20,70%
(f) Illegal acts	64,60%	15,90%	19,50%
(g) Conflict of interest	70,70%	15,90%	13,40%
A professional fraudster is aware of any possible tax consequences his fraudulent actions may have.	62,20%	6,10%	31,70%
A typical offender committing fraud, corruption or tax evasion is not risk neutral.	54,90%	7,30%	37,80%

The majority of the offenders (87,80%) indicated that financial statement fraud would possibly be the type of fraud mostly perpetrated by management, followed by conflict of interest (70,70%), a misrepresentation of material facts (69,50%), bribery (69,50%), concealment of material facts (68,30%), misappropriation of assets (68,30%) with illegal acts (64,60%) being the lowest in the ranking (question 23(a) to 23(g) in Appendix C). The offenders also noted the following other types of fraud management could perpetrate

that may have a substantial impact on the entity and may give rise to certain taxation consequences:

- money laundering;
- procurement fraud; and
- computer fraud.

The majority of the offenders (64,60% – question 22) agreed with the statement that a taxpayer is aware of all the tax and legal consequences when he engages in tax avoidance or tax evasion, that a professional fraudster is aware of any possible tax consequences his fraudulent action/transactions may have (62,20% – question 24) and that a typical offender committing fraud, corruption or tax evasion is not risk neutral (54,90% – question 25).

The summarised responses of the offenders to Part F of the questionnaire (questions 22, 24 and 25 in Appendix C), regarding the statement that “The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions” revealed a response percentage of agreement of 54,90% to 64,60% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 24,40% to 37,80% the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the offenders, while the level of uncertainty ranged from 6,10% to 11,00% on this issue. It is significant that the majority of the offenders were of the opinion that the perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions. However, the majority of the offenders (section 6.6.5) were of the opinion that fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. Thus, although a fraudster could be aware of any possible taxation consequences when perpetrating a financial crime, any possible taxation consequence may be disregarded when perpetrating such a crime.

6.6.7 The perpetration of fraud/corruption has an impact on taxation in South Africa

In Part G of the questionnaire (questions 26 to 29 in Appendix C) the statement was made that the perpetration of fraud or corruption has an impact on taxation in South Africa. The offenders' responses to this statement are reflected in table 6.30 below. The reliability of the data collected presented a Cronbach's Alpha score of 0,783. A score of 0,70 or more is acceptable.

Table 6.30: *The perpetration of fraud or corruption has an impact on taxation in South Africa*

Statement	Agree	Uncertain	Disagree
Economic crimes such as fraud, corruption or tax evasion have no impact on the South African economy as a whole.	32,90%	4,90%	62,20%
Offenders can choose the intensity of their fraud, corruption or tax evasion.	51,20%	14,60%	34,20%
The perpetration of fraud or corruption would have direct taxation consequences.	54,90%	25,60%	19,50%
The perpetration of fraud or corruption would have indirect taxation consequences.	58,50%	19,50%	22,00%

The majority of the offenders were in disagreement with the statement that economic crimes such as fraud, corruption or tax evasion have no impact on the South African economy as a whole (62,20% – question 26), but agreed with the statement that offenders can choose the intensity of their fraud, corruption or tax evasion efforts that affect their intended level of economic impact (51,20% – question 27), and that the perpetration of fraud or corruption, being financially related would have direct (54,90% – question 28) and indirect taxation consequences (58,50% – question 29).

The summarised responses of the offenders to questions 27 to 29 of the questionnaire relating to the statement that “The perpetration of fraud or corruption has an impact on taxation in South Africa”, revealed a response percentage of agreement of 51,20% to 58,50% to this statement ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 19,50% to 34,20% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the offenders, while the level of uncertainty on this issue ranged from 14,60% to 25,60%.

It is significant that the majority of the offenders were of the opinion that the perpetration of fraud or corruption has an impact on taxation in South Africa. Being sentenced economic crime offenders, having received a monetary reward associated with an economic crime committed, and not having to have accounted for any possible related taxation consequences in this regard, emphasises the importance of the opinion expressed by the majority of them in this study.

6.6.8 The type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender

In Part H of the questionnaire (questions 30 to 31f in Appendix C) the statement was made that the type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender. The offenders’ responses are reflected in table 6.31. The reliability of the data collected presented a Cronbach’s Alpha score of 0,747. A score of 0,70 or more is acceptable.

Table 6.31: *The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender*

Statement	Agree	Uncertain	Disagree
A person committing fraud, corruption or tax evasion is no longer concerned about the issue of whether his actions are right or wrong, but rather about the immediate benefit he will derive through his fraudulent actions.	63,40%	9,80%	26,80%
The type of fraud or corruption being perpetrated is a function of the opportunities available to potential offenders:			
(a) Management may perpetrate fraud/corruption having a substantial financial impact.	75,60%	9,80%	14,60%
(b) Employees may perpetrate fraud corruption having a moderate financial impact.	67,10%	13,40%	19,50%
(c) The current economic downturn may induce people to commit fraud or corruption.	71,90%	7,30%	20,70%
(d) A lack of down scaling in control measures resulting from cost-reduction efforts.	61,00%	29,30%	9,70%
(e) A lack of a division of duties.	62,20%	15,90%	21,90%

The majority of the offenders agreed with the statement that a person committing fraud, corruption or tax evasion is no longer concerned about the issue whether his actions are right or wrong, but rather about the immediate benefits he will derive through his fraudulent actions (63,40% – question 30). The majority of the respondents also agreed with the statement that management may perpetrate fraud/corruption having a substantial financial impact (75,60% – question 31(a)) and that employees may perpetrate fraud/corruption having a moderate financial impact (67,10% – question 31(b)). The majority of the respondents indicated that the current economic downturn may induce

people to commit fraud or corruption (71,90% – question 31(c)), that a lack of/ down scaling in control measures resulting from cost reductions efforts (61% – question 31(d)) and a lack of a division of duties (62,20% – question 31(e)) may contribute to the perpetration of fraud/corruption.

The summarised responses of the offenders to Questions 30 to 31f of the questionnaire, relating to the statement that “The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender” in Part H of the questionnaire revealed a response percentage of agreement of 61,00% to 75,60% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 9,70% to 26,80% to the said statement, ranging from “Slightly agree” to “Strongly disagree” was revealed by the offenders, while the level of uncertainty on this issue ranged from 7,30% to 29,30%. It is significant that the majority of the offenders were of the opinion that the type of fraud or corruption being perpetrated is a function of the opportunities available to a potential offender. If the offenders did not make use of the opportunities available to them, they would probably not have served a prison term for their detected and prosecuted offences.

6.6.9 Morality and sound principles would impact positively on the occurrence of fraud/corruption and any possible related taxation consequences

In Part I of the questionnaire (question 32 in Appendix C) the statement was made that morality and sound principles, such as strong corporate ethics displayed and applied by corporate management and the board of directors, would impact positively on the occurrence of fraud, corruption and any possible related taxation consequences. The offenders' responses to this statement are reflected in table 6.32.

Table 6.32: *Morality and sound principles would impact positively on the occurrence of fraud, corruption and any possible related taxation consequences*

Statement	Agree	Uncertain	Disagree
Strong corporate ethics displayed and applied by corporate management will impact on the actions and work ethics of company employees.	69,50%	9,80%	20,70%

The majority of offenders (69,50%) agreed with the statement that strong corporate ethics displayed and applied by corporate management and the board of directors will impact on the actions and work ethics of company employees. Only 9,80% of them were uncertain and 20,70% in disagreement with the statement. It is significant that 69,50% of the offenders agreed with this statement. Although serving a prison term for their committed offences, they recognise the importance of setting the tone at the top.

6.6.10 The perpetration of fraud, corruption and tax evasion may be influenced by the cost of compliance

The statement was made in Part J of the questionnaire (question 33 in Appendix C) that the perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa. The offenders' response to this statement is reflected in table 6.33.

Table 6.33: *The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa*

Statement	Agree	Uncertain	Disagree
The perpetration of fraud or corruption may be influenced by the cost of complying with all the taxation administration requirements in South Africa.	67,10%	7,30%	25,60%
The extend of fraud, corruption, tax evasion or other illicit activities in South Africa quantified in terms of the national Gross Domestic Product (GDP):			
(a) 1%–2% of GDP	9,80%		
(b) 3%–4% of GDP	7,30%		
(c) 5%–7% of GDP	18,30%		
(d) 8%–10% of GDP	36,60%		
(e) More than 10%, but less than 20% of GDP	11,00%		
(f) 20% or more of GDP	17,00%		

The majority (67,10%) of the offenders were of the opinion that fraud or corruption may be influenced by the cost of complying with all the taxation administration requirements in South Africa. Only 25,60% had an opposing viewpoint and 7,30% were uncertain in this regard. It is significant that 67,10% of the offenders were of the opinion that the perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa. The majority of offenders also indicated that a fraudster might be aware of any possible taxation consequences when perpetrating a financial crime (see section 6.6.6), but disregard any possible taxation consequence when committing such a crime (see section 6.6.5).

Offenders were also requested (question 34 of Appendix C) to quantify the extent of fraud, corruption, tax evasion or other illicit activities in South Africa in terms of the national

Gross Domestic Product (GDP). Only 28% of the offenders had a view that it may be more than 10% of GDP. The majority of the offenders (72%) were of the opinion that it could be in the range of 1% to 10% of the national GDP. None of the offenders were qualified to determine the exact extent of economic crime in South Africa relative to the national GDP, thus their views on this issue are merely their interpretation of the probable extent of economic crime in South Africa. Silverstone and Sheetz (2007:11) observed that “comprehensive concrete and official fraud statistics are hard to come by because government agencies and industry groups tend to keep records only of those frauds that affect their area(s) of interest”.

6.6.11 A prospective fraudster has no concern of being detected or being prosecuted

In Part K of the questionnaire (questions 35 to 37 of Appendix C) to the offenders the statement was made that a prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action. To handle this broad statement, three sub-statements had to be answered by the offenders. Their responses to the three statements are reflected in table 6.34. The reliability of the data collected presented a Cronbach's Alpha score of 0,796. A score of 0,70 or more is acceptable.

Table 6.34: *A prospective fraudster has no concern of being detected or being prosecuted*

Statement	Agree	Uncertain	Disagree
A prospective fraudster has little or no fear that his fraud, corruption or tax evasion will be detected and he eventually will be prosecuted for such fraudulent actions.	54,90%	2,40%	42,70%

Statement	Agree	Uncertain	Disagree
A fraudster may rationalise his fraudulent conduct claiming that nobody was physically hurt nor was his fraudulent conduct violent in nature.	73,20%	6,10%	20,70%
A fraudster perpetrating fraud or corruption may do so because he thinks he can do it and may even get away with it.	63,40%	4,90%	31,70%
Tax evasion is permissible:			
(a) if the current tax rates are at acceptable levels	34,10%	9,80%	56,10%
(b) if the current tax rates are at unacceptable levels	26,80%	9,80%	63,40%
(c) if the tax system is perceived to be unfair or biased	34,10%	19,50%	46,40%
(d) if the tax revenue is perceived to be utilised inappropriately	31,70%	22,00%	46,30%
(e) if the tax revenue is perceived to be utilized appropriately	29,30%	15,90%	54,80%
(f) because everyone else is doing it	28,00%	12,20%	59,80%
(g) the risk of detection is perceived to be low	23,20%	18,30%	58,50%
(h) if the proceeds are used for a good cause such as charity	45,10%	13,40%	41,50%
Tax evasion can never be permissible	48,80%	18,30%	32,90%

The majority of the offenders agreed with the statement that a prospective fraudster has little or no fear that his fraud, corruption or tax evasion will be detected and eventually being prosecuted for such fraudulent actions (54,90% – question 35) and that a fraudster perpetrating fraud/corruption may do so because he thinks he can do so and may even get away with it (63,40% – question 37).

The summarised responses of the offenders to questions 35 to 37 of the questionnaire, regarding the statement that “The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a

fraudulent action”, revealed a response percentage of agreement of 54,90% to 73,20% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 20,70% to 42,70% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the offenders, while the level of uncertainty on this issue ranged from 2,40% to 6,10%. It is significant that the majority of the offenders agreed to the said statement. This probably confirms the notion that fraudsters are primarily concerned with the monetary rewards associated with economic crimes, than any associated risks. Fraudsters are willing to run the risk in exchange for an illegal monetary reward that may go undetected.

The summarised responses of the offenders to questions 38(a) to 38(h) of the questionnaire (Appendix C), relating to various statements pertaining to tax evasion being permissible, provided a certain condition is present, revealed a response percentage of disagreement of 41,50% to 63,40% to these eight statements, ranging from “Slightly disagree” to “Strongly disagree” by the offenders, while the level of uncertainty on this issue ranged from 9,80% to 22,00%. A response percentage of agreement of 23,20% to 45,10% to these eight statements, ranging from “Strongly agree” to “Slightly agree” was revealed by the balance of the offenders. The majority of offenders (48,80%) indicated that tax evasion may not be permissible, irrespective of any probable condition or mitigating circumstance being present. Only 32,90% of the offenders were in disagreement to the statement that tax evasion can never be permissible, 18,30% were uncertain and 48,80% were in agreement with this statement (question 38(i)).

6.7 DISCUSSION AND SUMMARY

The main objective for the study was to establish an economic crime offender's perception of fraud, corruption and tax-related offences. The research was conducted by means of a statistical analysis of data collected with a manual questionnaire (Appendix C) completed by 82 economic crime offenders, as well as by means of personal interviews conducted with them at five Gauteng based correctional institutions.

The permission from the DCS to interview offenders sentenced for economic crime offences (fraud, corruption and tax-related offences) as part of a research project has shed some light on the thoughts, emotions and actions of the 82 offenders interviewed. Only a judge in a court of law can or may deliver judgement in the trial of an offender in a court of law. The main purpose of the personal interviews conducted with the 82 offenders was not to retrial them but to involve them in research under controlled supervision and having their most valued input documented for research purposes. No economic crime offender was under any obligation, neither were they forced to participate.

The following significant information was revealed by the sentenced economic crime offenders interviewed at various Gauteng based DCS facilities:

- Most offenders acted alone as opposed to having an accomplice (section 6.4.2).
- The higher the level of the monetary amount involved with regard to an economic crime, the longer the official period of the prison sentence (section 6.4.3).
- The majority of the offenders said that if they were able to go back in time, they would probably not have perpetrated the fraud/corruption in the first place (section 6.4.4).
- The majority of the offenders were of the opinion that their official period of sentence was not fair in relation to the offences they have perpetrated (section 6.4.5).
- The majority of offenders perpetrated a once-off offence rather than a series of offences (section 6.4.6).
- The majority of offenders indicated that they had considered the perpetration of fraud/corruption to be wrong (section 6.4.7).
- The majority of offenders indicated that the immediate benefit to be derived from a fraudulent action was more important than the potential consequences (section 6.4.8).
- The majority of offenders revealed that they had considered the possibility of being caught or their fraudulent actions being detected (section 6.4.9).

- The majority of offenders said they would not perpetrate fraud/corruption again once released from prison (section 6.4.12).
- The majority of the offenders were of the opinion that by serving a prison term for the perpetration of fraud/corruption may not be regarded as sufficient rehabilitation (section 6.4.13).
- The majority of offenders said that if they had been more informed about the potential consequences that could result from the perpetration of fraud/corruption they may not have committed such offences in the first place (section 6.4.14).
- The majority of offenders said that they were not aware of any possible taxation consequences that could have resulted from the perpetrated fraud/corruption (section 6.4.15).
- All the offenders, except for one, said that they had remorse about the economic crimes they have perpetrated (section 6.4.16).

The following significant correlations could be made with regard to the data collected from the economic crime offenders during their respective personal interviews and the processing of the data collected:

- The higher the level of an offender's academic achievement, the higher the monetary amount involved with regard to the economic crime perpetrated (section 6.4.17).
- The higher the level of the monetary amount involved with regard to an economic crime, the more significant the move from acting alone and perpetrating a once-off offence to involving an accomplice and perpetrating a series of offences (sections 6.4.2 and 6.4.6).
- Offenders were willing to run the risk of being detected or even prosecuted and possibly sentenced because the immediate benefit to be derived from their fraudulent actions would seem more important than the potential consequences (section 6.4.8).

- Offenders considered the possibility that they might be caught or their fraudulent actions might be detected, but the rewards on offer by perpetrating an economic crime probably overshadowed this risk (sections 6.4.8 and 6.4.9).

Unfortunately, not all people who may have perpetrated fraud/corruption or tax-related offences would be caught or their fraudulent conduct be detected. However, the strong message sent by the actions taken against perpetrators of economic crime offences could deter other potential fraudsters.

The results obtained from the study indicated that the majority of the 82 economic crime offenders who had participated in this research responded in the affirmative to each of the 11 stated research questions (refer section 1.2.1). The participation of economic crime offenders in a research project to establish their own perceptions of fraud, corruption and tax-related offences was most informative. None of the participants felt threatened by their involvement in the research and participated voluntarily, thus making a substantial contribution by sharing some of their personal experiences of having been involved in economic crime and serving a prison term for such offences.

The results of the data analysis suggest that the prevention, detection and dealing with of economic crimes in South Africa could be approached from a different perspective by taking note of the perceptions of economic crime offenders with regard to fraud, corruption and tax-related offences. Their perceptions with regard to the research questions revealed the following:

- Law enforcement, prosecution and sentencing practices are not adequate (section 6.6.1).
- Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and taxation-related consequences (section 6.6.2).
- The three main reasons for perpetrating economic crimes are needs/wants, facilitation of payments/cash flow problems and greed (section 6.6.3).

- Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general (section 6.6.4).
- Fraud or corruption is perpetrated without taking into account the possible taxation consequences that might occur as a result thereof (section 6.6.5).
- The perpetrator of fraud or corruption is aware of the possible taxation consequence or tax liabilities that might occur as a result of his fraudulent actions (section 6.6.6).
- The perpetration of fraud or corruption has an impact on taxation in South Africa (section 6.6.7).
- The type of fraud or corruption being perpetrated is a function of the opportunities available to a potential offender (section 6.6.8).
- Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible tax-related consequences (section 6.6.9).
- The prevention of fraud, corruption and tax evasion may be influenced by the cost of comply with all the taxation administration requirements in South Africa (section 6.6.10).
- A prospective fraudster is unconcerned about whether or not his fraud or corruption will be detected, and whether he will be prosecuted for perpetrating a fraudulent action (section 6.6.11).

The real challenge arises when the sentenced economic crime offender is released from prison after having served his term. To what extent has the economic crime offender been rehabilitated and how would he be integrated back into society? It is suggested that a holistic rehabilitation programme for economic crime offenders should extend beyond prison during their integration phase back into society once released from prison. In conclusion, the above discussion provides substantive evidence that economic crime offenders have definite perceptions regarding fraud, corruption and tax-related offences.

Despite the existence of numerous laws, regulations and control measures, they were able to perpetrate economic crimes and ended up in prison for their choices and offences. They indicated that law enforcement, prosecution and sentencing practices are not adequate and that, although they might have been aware of the possible tax consequences their offences could have, they disregarded them. Economic crime offenders are only concerned about the proceeds from their crimes and do not really consider the consequences they may have. To send them to prison and to deprive them of their freedom and the proceeds of their crimes is only a temporary solution to a long-term problem, unless the offenders are willing to subject themselves to a life changing post-prison rehabilitation programme.

The research results obtained through conducting personal interviews and a web-based questionnaire with role-players in the field of prevention, detection and prosecution of fraud, corruption and tax-related offences, will be discussed in chapter 7.

Table 6.35: *A summary of the economic crime offenders' disclosures made*

Questionnaire section (Part)	Agree	Uncertain	Disagree
A. Law enforcement, prosecution and sentencing practices are not adequate.	72,83%	6,54%	20,64%
B. Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.	82,68%	5,62%	11,70%
D. Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general.	58,21%	11,21%	30,58%
E. Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.	55,34%	11,72%	32,94%
F. The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.	67,30%	17,32%	15,38%
G. The perpetration of fraud or corruption has an impact on taxation in South Africa.	60,57%	8,13%	31,30%
H. The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.	66,88%	14,25%	18,87%
I. Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences.	69,50%	9,80%	20,70%
J. The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.	67,10%	7,30%	25,60%
K. The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.	63,83%	4,47%	31,70%

CHAPTER 7

FRAUD, CORRUPTION AND RELATED TAXATION CONSEQUENCES QUESTIONNAIRE ADDRESSED TO ROLE-PLAYERS IN THE FIELD OF THE PREVENTION, DETECTION AND PROSECUTION OF FRAUD, CORRUPTION AND TAX RELATED OFFENCES

7.1 INTRODUCTION

As part of the research on the financial and moral perspective of economic crime on taxation a web-based questionnaire (Appendix D), comprising 66 questions in a statement format, was developed and addressed to role-players in the field of the prevention, detection and prosecution of fraud, corruption and tax related offences. In total 670 responses were received, but only 345 questionnaires were fully completed and could be used.

The objectives of this chapter are to determine if law enforcement, prosecution and sentencing practices on the one hand and current laws and regulations on the other hand, are adequate to handle fraud, corruption and tax conduct in general (section 1.3.2.4 in chapter 1), to determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated (section 1.3.2.5 in chapter 1), to determine if steps to prevent economic crime and sound management of fraud, corruption and related taxation consequences on the one hand and morality and sound principles, for example such as strong corporate ethics, on the other hand, could minimise or reduce the possible negative financial impact it may have in South Africa (section 1.3.2.6 in chapter 1) and lastly to determine in general the main reasons for perpetrating fraud, corruption or tax evasion on the one hand and if the type of fraud or corruption that is perpetrated in general may be a result of the opportunities available to a potential offender on the other hand and if the potential offender may have any concern for his fraudulent actions (section 1.3.2.7 in chapter 1).

7.2 DEVELOPING AND IMPLEMENTING THE QUESTIONNAIRE

The questionnaire was initially developed in MSWord and reviewed by a research expert at the University of South Africa. Once the questionnaire was in a final MSWord format, the researcher approached a Pretoria-based information technology company to design, develop, implement and administer a web-based version of the questionnaire. The company hosted the questionnaire and provided the researcher with an electronic link to their company's computer system to access the web-based questionnaire.

Respondents merely had to access the questionnaire via the provided link and completed the questionnaire electronically by clicking on a radio button for a specific selection relating to each of the 66 questions in a statement format. Once a respondent completed a page of the questionnaire he could merely continue to the next page until the questionnaire was fully completed. Respondents submitted the completed questionnaires online to the database administrator. Respondents were able to print a hard copy of their responses once they have submitted their completed questionnaires.

7.3 COMPLETION OF THE QUESTIONNAIRE

Great caution was taken to assure the privacy and anonymity of all participating respondents. The fact that a web-based questionnaire was used, contributed towards the privacy and anonymity of respondents. Once fully completed, respondents submitted the questionnaire online to the database administrator. For this web-based questionnaire a representative sample of respondents (the projected sample size was initially 600 respondents) to this study was selected from the following populations:

- members of the auditing and accounting profession;
- members of the legal profession including attorneys and lawyers;
- certified fraud examiners;
- internal auditors;
- South African Revenue Service (SARS);
- South African Banking Risk Information Centre (SABRIC);
- the public prosecutor; and

- the crime prevention and detection unit of the South African Police Service.

The researcher would like to recognise the cooperation received from the following professional bodies that assisted the researcher by requesting their members to participate in this research project:

- the South African Institute of Chartered Accountants (SAICA);
- the South African Institute of Tax Practitioners (the SAIT); and
- the Association of Certified Fraud Examiners of South Africa Chapter (ACFE SA).

7.4 DEMOGRAPHICS OF RESPONDENTS

For research purposes it was important to establish certain demographic information pertaining to the respondents. The following demographic information was obtained:

- gender;
- age group in years;
- position currently held;
- main area where currently involved/economically active; and
- province where currently mainly active, involved or residing.

7.4.1 Gender of respondents

In total 345 respondents fully completed the web-based questionnaire of which 229 were males and 116 were females, as summarised in table 7.1.

Table 7.1: *Gender of respondents*

GENDER	MALE	FEMALE	TOTAL
Total	229	116	345
Percentage	66,38%	33,62%	100,00%

7.4.2 Age group of respondents in years

The respondents were requested to indicate in which age group they fall. Their responses are reflected in table 7.2.

Table 7.2: *Age group of respondents in years*

	Number of respondents	Percentage
Younger than 20 years	0	0,00%
20 to 29 years	33	9,57%
30 to 39 years	108	31,30%
40 to 49 years	109	31,59%
50 to 59 years	68	19,71%
Older than 60 years	27	7,83%
Total	345	100,00%

The majority of respondents (72,46%) were in the age groups of 49 years or younger at the date of completion of the questionnaire.

7.4.3 Position currently held

It was important to establish which positions the respondents currently held. Their responses in this regard are reflected in table 7.3.

Table 7.3: *Position currently held*

Position currently held	Number of respondents	Percentage
Company director	36	10,43%
Partner in private practice	71	20,58%
Manager	71	20,58%
Supervisor	10	2,90%
Internal auditor	24	6,96%
Fraud examiner	47	13,62%
Academic	31	8,99%
Government/public official	15	4,35%
Other	36	10,43%
Total	345	100,00%

7.4.4 Main area where currently involved/economically active

Respondents were requested to indicate the main area in which they are currently involved/economically active. Their responses are indicated in table 7.4.

Table 7.4: *Main area where currently involved/economically active*

Main area	Number of respondents	Percentage
Commerce and industry	132	38,26%
Private practice	127	36,81%
Public administration/Government	31	8,99%
Education	39	11,30%
Other	14	4,06%
Total	345	100,00%

The majority of respondents indicated that they are currently involved/economically active in commerce and industry (38,26%), private practice (36,81%) and education (11,30%).

7.4.5 Province where currently mainly active, involved or residing

The researcher managed to obtain responses from respondents active in all the South African provinces making the sample fully representative on a provincial level. Gauteng based respondents comprised 51,59% of the total respondents, followed by the Western Cape (13,04%) and KwaZulu-Natal (11,59%).

Table 7.5: *Province where currently mainly active, involved or residing*

Province	Number of respondents	Percentage
Eastern Cape	13	3,77%
Free State	20	5,80%
Gauteng	178	51,59%
KwaZulu-Natal	40	11,59%
Limpopo	9	2,61%
Mpumalanga	14	4,06%
Northern Cape	1	0,29%
North-West	13	3,77%
Western Cape	45	13,04%
Multiple provinces	12	3,48%
Total	345	100,00%

7.5 DESCRIPTION OF THE VARIABLES

Respondents were requested to complete a web-based questionnaire comprising 66 questions. The questions in the questionnaire were set in a statement format requiring respondents to rank each statement from 1 (strongly agree) to 7 (strongly disagree) with regard to the influence they believe it has or may have on fraud, corruption or related

taxation consequences in general. For each statement respondents could use the following rating scale (based on the Likert scale):

- 1 = Strongly agree
- 2 = Moderately agree
- 3 = Slightly agree
- 4 = Uncertain
- 5 = Slightly disagree
- 6 = Moderately disagree
- 7 = Strongly disagree

The questionnaire comprised 11 parts (dealing with the research questions identified in section 1.2.1), being the following:

- Part A: Law enforcement, prosecution and sentencing practices are not adequate.
- Part B: Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.
- Part C: Reasons for perpetrating fraud, corruption or tax evasion.
- Part D: Are current laws and regulations adequate to deal with fraud, corruption and tax conduct in general?
- Part E: Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.

- Part F: The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.
- Part G: The perpetration of fraud or corruption has an impact on taxation in South Africa.
- Part H: The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.
- Part I: Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences.
- Part J: The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.
- Part K: The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.

The percentages displayed in the tables to follow below for each part of the questionnaire (A to K) under the headings “Agree”, “Uncertain” and “Disagree” have been calculated using the responses of the role-players to the seven point Likert scale that was applied in the questionnaire. If a respondent selected “Strongly agree” (1), “Moderately agree” (2) or “Slightly agree” (3) to a specific statement in the questionnaire it was interpreted as “Agree” to the said statement and reflected as such in the compiled tables. However if a respondent selected “Uncertain” (4), neither agreeing nor disagreeing to a specific statement it was treated as such and reflected under the heading “Uncertain”. If a respondent elected to disagree to a specific statement, the respondent could have chosen

“Slightly disagree” (5), “Moderately disagree” (6) or “Strongly disagree” (7). Whichever option of disagreement had been chosen by a respondent had been interpreted as “Disagree” to the said statement and reflected as such in the tables to follow. Appendix I reflect a summary of the disclosures made by the role-players.

7.5.1 Law enforcement, prosecution and sentencing practices are not adequate

Respondents had to rate the statement that law enforcement, prosecution and sentencing practices are not adequate. They had to answer six questions in this regard (questions 1 to 6 in Part A of Appendix D). Their responses are reflected in table 7.6. The reliability of the data collected is confirmed by the Cronbach’s Alpha score of 0,896. A score of 0,70 or more is acceptable.

Table 7.6: *Law enforcement, prosecution and sentencing practices are not adequate*

Statement	Agree	Uncertain	Disagree
Fraud, corruption and any possible taxation consequences resulting from fraud or corruption within South Africa may not be dealt with appropriately due to ineffective law enforcement, prosecution and sentencing practices.	93,00%	2,90%	4,10%
Ineffective law enforcement, prosecution and sentencing practices relating to fraud, corruption and possible related taxation consequences may be attributed to the following:			
(a) Inadequate training of law enforcement personnel	92,80%	3,80%	3,40%
(b) A shortage in law enforcement personnel	94,50%	2,60%	2,90%
(c) Inadequate investigation of reported cases	94,20%	4,10%	1,70%
(d) Inadequate training of prosecution personnel	92,20%	3,80%	4,00%
(e) A shortage in prosecution personnel	93,60%	3,50%	2,90%

Statement	Agree	Uncertain	Disagree
(f) Cases take too long to be brought before a court of law	96,80%	2,30%	0,90%
(g) Third party pressure not to continue with a case	87,20%	9,90%	2,90%
(h) Premature plea-bargaining with an accused in a case	80,00%	13,90%	6,10%
(i) Court sentences too light in relation to other criminal offences	85,20%	8,70%	6,10%
People have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences because:			
(a) it has no effect	81,20%	3,50%	15,30%
(b) they are afraid of being victimised	93,30%	1,40%	5,30%
(c) of a lack of or inadequate witness protection	89,60%	7,50%	2,90%
(d) they do not want to get involved	97,70%	0,90%	1,40%
(e) they are afraid of being implicated	90,40%	3,80%	5,80%
(f) of their direct or indirect personal involvement	87,00%	8,10%	4,90%
(g) they may be uncertain about the possible consequences	91,60%	4,90%	3,50%
An offenders' personal wealth will impact on the level of fraud, corruption or tax evasion he/she may commit.	80,90%	6,70%	12,40%

The summarised responses of the respondents to Part A (questions 1 to 6 in Appendix D) of the questionnaire, relating to the statement that “Law enforcement and sentencing practices are not adequate” revealed a response percentage of agreement of 80,00% and 97,70% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 0,90% to 15,30% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, were revealed by the respondents, while the level of uncertainty on this issue ranged from 0,90% to 13,90%. The fact that the majority of respondents were of the opinion that law enforcement and sentencing practices are currently not adequate in South Africa, should be viewed in a very serious light as the respondents are role-players in the prevention, detection and prosecution of fraud, corruption and tax related offences.

In an interview conducted with Dr A, a criminologist, on 18 May 2009 (Appendix E) she said that fraudsters tended to circumvent any possible legal loopholes. She continued by saying that fraudsters were very intelligent and would take any possible gap to slip through the legal net. She also commented that some fraud/corruption cases were not adequately investigated and presented in a court of law.

During an interview conducted with Mrs L, a senior executive at the Financial Service Board (FSB) on 22 May 2009 (Appendix E) she stated that the laws were adequate, but that law enforcement might be a problem. She said that cases took too long to be heard in a court of law and can therefore not be finalised. She said that the FSB assisted in the training of prosecutors and police officers regarding the laws administered by the FSB.

During an interview conducted with two senior SARS officials on 2 June 2009 (Appendix E) the SARS officials stated that there was adequate legislation in place. They commented that the real problem was adequate law enforcement. According to them many law enforcement agencies did not understand the complex tax legislation. They observed that large scale fraud, corruption and tax evasion were perpetrated at customs control at South African borders. One of the SARS officials commented that current tax legislation was 47 years old and did not keep track with where society is heading. They also expressed their concern on the extremely large number of tax cases that had to be investigated, taking into account the number of investigative personnel. They suggested that the application of corrective measures should be investigated.

During an interview conducted with Mrs S, a senior manager at SABRIC, on 1 July 2009, (Appendix E) she was of the opinion that legislation was not a problem, but rather the use of it. She said that most people had no problem in dealing with common law crimes, but displayed resistance towards statutory offences. There was a fear of the unknown. She said that existing laws should be used to its full potential. People were creatures of habit and it seemed easier to do things in the old way. A lack of understanding of laws required more training in this regard. She also said that the speed of banking crime equalled the speed of banking.

The following is a summary of other reasons identified by respondents that may contribute to ineffective law enforcement, prosecution and sentencing practices:

- Accountants, bookkeepers and tax consultants who do not act ethically and therefore not revealing the fraud, are themselves guilty of building a good relationship with clients, and effectively generating more fee income.
- The ineffectiveness of departments to deal with economic crime cases and non-commitment from the authorities combined with a general lack of confidence in the priorities of government and the criminal justice system contribute to it.
- Political interference in economic crime cases and favours may lead to inconsistencies and further interference post sentence.
- Due to many rights that are entrenched in the constitution, people exercise them to the best of their abilities, which then results in a long drawn out court process, which could result in possible changes in the prosecution teams and other interested parties may lose interest in the case and move on.
- The ineffective detection and identification of economic crime cases and corruption from within the criminal justice system and law enforcement agencies and a reluctance of the general public in assisting law enforcement in providing evidence and testimony also contribute to it.
- Government officials are taking bribes and do not report certain economic crime cases despite being aware of tax fraud or non-compliance particularly with regard to the Income Tax Act, the VAT Act and Donations tax.
- A generally accepted culture of bribery in the country may indicate that fraud and corruption could have become a norm and low salaries of law enforcement officials could make them susceptible to bribery hence cases may not be investigated properly.

- Secrecy laws may prevent cooperation and the provision of information on taxpayers by SARS to forensic investigators.
- A shortage in skills (i.e. forensic accounting) on how economic crimes were perpetrated, how best to investigate it and an infrastructure collapse as many skilled professionals are moving away from the public to the private sector contribute to it.

The three main reasons identified by respondents as to why there may be ineffective law enforcement, prosecution and sentencing practices relating to fraud, corruption and possible related taxation consequences were that cases take too long to be brought before a court of law (96,60% – question 2(f) in Appendix D), a shortage in law enforcement personnel (94,50% – question 2(b) in Appendix D) and inadequate investigation of reported cases (93,60% – question 2(c) in Appendix D).

The three main reasons identified by respondents as to why people may have a reluctance to speak out about fraud, corruption or tax evasion or to report such offence were that they did not want to get involved (97,70% – question 5(d) in Appendix D), they were afraid of being victimised (93,30% – question 5(a) in Appendix D) and they might be uncertain about the possible consequences (91,60% – question 5(g) in Appendix D).

The following is a summary of other reasons that were noted by respondents as to why people might have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences:

- There is a culture in South Africa that crime/fraud pays – and it has become an acceptable method of earning a living resulting in ethical standards falling in South Africa.
- People don't trust the system, don't know who to report an economic crime case to and are unsure if there may be a bigger network, in which instance they can end up reporting to people who are also in the system.

- The "whistle blower" often comes off second best – they tend to be ostracised and often victimised as the perception is created by senior management in Government that there is no backing for the person who disclose an offence.
- There is a general lack of trust by the public in office bearers who might be part of these illegal activities and political influences.
- Economic crime cases often take too long and offenders may be untouched due to technical issues and their basic human rights.
- There is a lack of faith in the criminal justice system based on what is seen and experienced daily. There exists a view that powerful or connected people may think they have a right to do this; or that a different set of rules apply to them. Whistle blowers are viewed in a very negative light.

Mintz and Morris (2011:6) observe that when “men are corrupt, laws are broken” and that “laws create a minimum set of standards”. During an interview conducted on 11 September 2008 with Mr A (Appendix E), a psychologist, working on a contract basis for SARS, he observed that a defect in a law or in law enforcement might assist or motivate a person who was about to commit a crime. A person committing a crime had to take into account certain risks attached to his criminal actions. The risk of detection was probably the most important risk factor to discount before embarking on a mission of crime. A lack of or defect in law enforcement would contribute towards the success achieved by people committing crime.

7.5.2 Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences

Respondents were requested to rank twelve statements regarding the issue whether steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences (questions 7 to 18 in part B in Appendix D). Their responses are reflected in table 7.7. The reliability of the

data collected presented a Cronbach's Alpha score of 0,934. A score of 0,70 or more is acceptable.

Table 7.7 *Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences*

Statement	Agree	Uncertain	Disagree
The implementation of a code of conduct, ethical rules, company policies and procedures will counter the incidences of possible fraud, corruption or tax evasion.	82,90%	2,30%	14,80%
The implementation of proper personnel training will counter the incidences of possible fraud, corruption or tax evasion.	90,10%	2,00%	7,90%
A company's code of conduct should deal with the following:			
(a) Protection of company assets, including intellectual property	99,10%	0,90%	0,00%
(b) The use of company assets	98,60%	1,20%	0,20%
(c) Fair dealings guidelines and examples thereof	97,70%	1,70%	0,60%
(d) Illegal actions	98,60%	0,60%	0,80%
(e) Compliance with laws	99,70%	0,30%	0,00%
(f) Reporting requirements and protocol, for example a whistle blower hotline	97,70%	1,20%	1,10%
(g) Protection of the whistle blower	98,60%	0,90%	0,50%
(h) Related party transactions	97,70%	2,30%	0,00%
(i) Confidentiality of company information	98,80%	0,90%	0,30%
(j) Conflict of interest and company opportunities	98,80%	0,90%	0,30%
(k) Sales and procurement practices	98,00%	1,70%	0,30%
(l) All employees signing an ethical business conduct form	96,50%	1,40%	2,10%
An entity should create a working environment that promotes and encourages ethical behaviour.	99,40%	0,60%	0,00%
An entity should implement measures to prevent, deter, and/or detect fraud in each of its identified fraud risk areas.	99,70%	0,30%	0,00%

Statement	Agree	Uncertain	Disagree
A company should have established procedures for the confidential, anonymous submission of concerns by employees about possible fraudulent activities.	99,40%	0,30%	0,30%
A company should have a clearly stated, anti-fraud policy in which it articulates each employee's responsibility.	99,10%	0,60%	0,30%
Fraud risks should be reassessed periodically, especially when new processes and procedures are instituted, when new employees are appointed or when employees are promoted.	99,10%	0,60%	0,30%
Company employees should receive appropriate training in identifying inappropriate behaviour and inappropriate conduct.	98,60%	0,30%	1,10%
A company should have standardised procedures for responding to allegations or suspicions of fraud, corruption or tax evasion including the following:			
(a) Communication strategies directed internally and externally	98,30%	1,20%	0,50%
(b) Co-ordination with legal counsel	97,70%	1,40%	0,90%
(c) Public relations and crisis management	95,90%	2,00%	2,10%
A company should have policies/procedures in place to ensure that all allegations of fraud/corruption or violations of the code of conduct are evaluated, investigated and documented with a view to adequate disclosure or reporting.	99,70%	0,30%	0,00%
A company should, upon identification of fraud, corruption or any other legal violations, provide additional training to employees to reinforce values, codes of ethics and expectations.	97,70%	0,30%	2,00%

The summarised responses of the respondents to part B of the questionnaire (questions 7 to 18 in Appendix D) to the statement that steps to prevent economic crime and sound management will reduce the possible negative impact of fraud, corruption and related taxation consequences revealed a response percentage of agreement of 82,90% to 99,70% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 0,00% to 14,80% to the said statement, ranging from “Slightly disagree” to “Strongly disagree” was revealed by the respondents and the level of uncertainty on this issue ranged from 0,30% to 2,30%. It is significant that the majority of respondents were of the opinion that steps to prevent economic crime and sound management would minimise or reduce the possible negative impact of fraud, corruption

and related taxation consequences. The prevention or management may include a code of conduct, ethical rules, company policies, personnel training, ~~a~~and a working environment that promotes ethical behaviour, anti-fraud policies and procedures to appropriately handle allegations or suspicions of possible economic crimes (Coenen, 2008:187).

The three main aspects that should be dealt with by a company's code of conduct were ranked by the respondents to be compliance with laws (99,70% – question 9(e) in Appendix D), protection of company assets, including intellectual property (99,10% – question 9(a) in Appendix D) and confidentiality of company information and conflict of interest and company opportunities (98,80 % – question 9(i) and 9(j) in Appendix D).

The majority of the role-players also agreed with the statement that the implementation of a code of conduct, ethical rules, company policies and procedures will counter the incidences of possible fraud, corruption or tax evasion (82,90% – question 7), as well as the implementation of proper personnel training (90,10% – question 8), that a working environment should be created to promote ethical behaviour (99,40% – question 10), that measures should be implemented to prevent, deter and/or detect fraud (99,70% – question 11), that established procedures should be in place to report possible fraudulent activities (99,40% – question 12), that the company should have a clearly stated anti-fraud policy (99,10% – question 13), that fraud risks should be reassessed periodically (99,10% – question 14), that company employees should receive appropriate training in identifying inappropriate behaviour and inappropriate conduct (98,60% – question 15), that a company should have standardised procedures in place for responding to allegations or suspicions on fraud, corruption or tax evasion (97,30% – question 16), that a company should have policies/procedures in place to ensure that all allegations of fraud/corruption or violations of the company's code of conduct are evaluated, investigated and documented (99,70% – question 17) and to provide additional training to employees upon the identification of fraud, corruption or any legal violations to reinforce values, codes of ethics and expectations (97,70% – question 18).

Bishop and Hydoski (2009:101) observe that monitoring will help to determine if an organisation's anti-fraud procedures are working or may need some improvement. The monitoring process enables an organisation to assess the operating effectiveness of controls, to identify problems and to report any deficiencies. Fleming and Zyglidopoulos (2009:126) say that if corruption escalates without control it "appears to cross a kind of 'corruption threshold', after which corruption becomes an organization-level phenomenon".

7.5.3 Reasons for perpetrating fraud, corruption or tax evasion

Part C of the questionnaire (questions 19a to 19j in Appendix D) dealt with the issue relating to the possible reasons for perpetrating fraud, corruption or tax evasion. Respondents had to rate three statements specifically aimed to establish the various reasons that might exist for perpetrating fraud, corruption or tax evasion. Their responses are reflected in tables 7.8 and 7.9. The reliability of the data collected presented a Cronbach's Alpha score of 0,814. A score of 0,70 or more is acceptable.

Table 7.8: *Reasons for perpetrating fraud, corruption or tax evasion*

Statement	Agree	Uncertain	Disagree
Greed	97,40%	1,20%	1,40%
Getting even with SARS/the government	75,90%	6,70%	17,40%
Needs/wants	90,40%	2,60%	7,00%
Criminal behaviour	88,40%	4,90%	6,70%
Tax savings/evasion	92,50%	2,30%	5,20%
Facilitation of payments/cash-flow problems	93,30%	2,30%	4,40%
Bribes paid to get things done/sorted out	89,00%	5,80%	5,20%
Marketing targeted at specific individuals in the form of expensive gifts	84,90%	9,30%	5,80%

Statement	Agree	Uncertain	Disagree
Excursions/entertainment offered to encourage informal relations with potential clients	87,80%	5,80%	6,40%
Political pressure, for example subsidies or export-credit deals	87,00%	8,40%	4,60%

Greed (97,40%), the facilitation of payments/cash flow problems (93,30%) and tax savings/evasion (92,50%) were ranked as the three main reasons by respondents as to why people in general may commit fraud, corruption or tax evasion.

Fleming and Zyglidopoulos (2009:34) note that a fascinating aspect of the wave of recent fraud and corruption trials in the United States of America and Europe on testimonies provided by key participants, who fully confessed in such cases, that “they were driven by greed and ambition”. During an interview conducted on 11 September 2008 (Appendix E) with Mr A, a psychologist, working on a contract basis for SARS, he mentioned that every person would rank his needs to be satisfied. The most important needs to be satisfied would be ranked higher than lesser important needs. Every normal person will set his personal needs ahead of the needs of his society, a government and even tax authorities. Mr A also stated that crime in general, was the product of the following:

- an opportunity has to present itself;
- there is a certain defect in a law or law enforcement; and
- there is something wrong with the value system of the person committing the crime.

In the same interview Mr A stated that the average person would not commit crime in general. However, if an opportunity arose for a crime to be committed, the person exploiting this opportunity would have to make a decision whether or not to commit the said crime. One of the drivers for committing a prospective crime would probably be the perceived benefits to be derived by the perpetrator of the crime. The perceived outcome of the successful crime would most probably be a financial gain in the form of money or other goods.

During an interview conducted on 18 November 2008 (Appendix E) with Mr E, a Catholic priest in Pretoria, he made the statement that all people are born greedy and that they want everything for themselves. He also stated that original values were all based on the human values of sharing and living for others. However, people had dropped their values – they lived with the instinct of greed. People were accumulating wealth beyond their needs. According to him, that gave them a sense of security. People were all trying to make provision for their old age, but they couldn't have everything at the cost of other people. People climbed over each other to accumulate more and more.

Mr E also observed during the interview that greed might develop into something bigger than merely greed itself. People had dropped their values not because they were difficult to adhere to but because it was easier to follow inane instinct. Mr E made the comment that greedy people merely built bigger barns. The more people could get away with greed, the more people will do the same thing over and over again. He further observed that people thought that good and honest people did not seem to get ahead in life. He referred to Psalm 1 in the Christian Bible where the question is asked: "Why do good people suffer and the evil prosper?" People wanted to be millionaires and that created a perception in life that only the dishonest people got ahead in life.

Mr E was of the opinion that the Christian values of sharing and living for others were losing ground. People saw others getting away with committing fraud, corruption and tax evasion. He commented that success bred success and for the same reason fraud would breed fraud. He stated that small people committed small fraud and big people, big fraud. Within the context of a company the cleaner will not perpetrate an economic crime of the magnitude that the financial director of the same company may be capable of. Petty crime like stealing company stationery, for example, was not viewed as wrong. Mr E stated that people took chances with small things and gradually tried to increase the stakes.

In his final comments at the closure of his interview, Mr E observed that people had degraded themselves to such a level that they were prepared to do anything merely for money. He continued by stating that if a person had a few Rand more, that person could do much more. He said that if a person had a cupboard; he wanted to fill that cupboard. If

the same person had more cupboards, he would also want to fill that. In his concluding remarks he stated that people argued that they deserved the best in life and would therefore have it. According to him most people were dissatisfied with their lives and would strive to adjust it to where it would be acceptable to them.

In an interview conducted on 18 May 2009 (Appendix E) with Dr A, a criminologist, she said that people experienced financial difficulty and that might motivate them to perpetrate fraud or corruption. A person perpetrating fraud/corruption was so concerned about his immediate need that he did not think about the consequences of his fraudulent conduct. Dr A commented that the perpetration of fraud/corruption was a way in which a fraudster would try and solve his immediate problem. The fraudster was using his talents against the community and for that reason effectively undermined the community. Dr A said that a fraudster also manipulated people and that most fraudsters were presentable people who were highly regarded and therefore people often trusted them.

During an interview conducted on 22 May 2009 (Appendix E) with Mrs L, a senior executive at the FSB, she commented that the FSB did not determine the motivations for the perpetration of fraud or corruption. However, she indicated that greed, financial problems and high-risk transactions were often found to be the reasons why people might perpetrate fraud or corruption.

In an interview conducted on 2 June 2009 (Appendix E) with two senior SARS officials, one of the SARS officials said that a person's political views and the fact that the person did not want to part with his hard earned income because he might view current tax rates as too high, might contribute towards tax evasion. The comment was also made that tax evasion might be perpetrated because people had a view that government was stealing from them because for them there was a direct link between the payment of taxes and the application of tax money. It was also observed that the individual's view of the world and himself in that world, and what drove that person, might impact on whether such a person might perpetrate fraud, corruption or tax evasion.

One of the SARS officials also said that, from a corruption perspective, the state, the general public, big business, competition and the cost to participate in the economic society might contribute towards the perpetration of corruption due to a misuse of power. People might also have an urge or desperation to achieve something, utilising an opportunity to realise that goal. In terms of tax evasion the comment was made that it moved on the principle of a liability for someone. It was not a choice that needed to be made; you had to get involved because the liability cost you something. People used the mechanisms within the system to reduce taxation.

In an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she said that opportunity, greed, improved living standards, distress, people with lesser means (who might be susceptible to fraud/corruption as a result thereof), pressure imposed by crime syndicates on company employees and a lack of moral standards, might cause people to perpetrate fraud or corruption. She also said that fraudsters might disrespect, or had a disregard or fear the law.

A fraud examiner at one of the major auditing firms in South Africa stated during an interview conducted with him on 9 February 2010 (Appendix E) that greed could be the main reason why people perpetrated fraud, corruption or tax evasion as most of the perpetrators normally earned a very good income.

The following is a summary of other reasons noted by respondents as to why people commit fraud, corruption or tax evasion in general:

- People are targeted by gangs or criminals or even threatened by them to perpetrate economic crimes.
- If you know about other people getting away with it, there may even be more reason to think about doing it yourself.
- Government is perceived to waste taxpayer's money through poor service delivery and a corrupt government promotes and supports a pervasive culture of lawlessness.

- Criminals are not worried about a country's economy and welfare and avoid paying taxes for fear of the authorities who may become aware of their illegal activities.
- Pressure and opportunity (lack of controls) exist as there may be weaknesses in a system and its controls which may be seen as an opportunity to exploit it.
- A gross and distorted sense of entitlement reinforced by what people see political and politically connected persons are getting away with due to a lack of moral standards combined with self-enrichment may drive them to it.
- Government's inability to take a stance and to manage its employees, the entitlement/arrogance approach; and the fact that fraud and corruption seem to be condoned from the top.

Competitive pressure and the offering of bribes

Respondents were also requested to reply to the statement that competitive pressure will make organisations more or less inclined to offer bribes and for their opinion on the strategy organisations would prefer when their competitors offer bribes (questions 20a to 21d in Appendix D). Their responses are reflected in table 7.9.

Table 7.9: *Competitive pressure and the offering of bribes*

Statement	Agree	Uncertain	Disagree
More inclined to offer bribes	84,90%	7,20%	7,90%
Less inclined to offer bribes	17,40%	13,00%	69,60%
Do the same as competitors	41,20%	9,00%	49,80%
Continue with business as usual	75,70%	8,70%	15,60%
Report competitors to the authorities	75,40%	9,30%	15,30%

The majority of the role-players (84,90%) agreed with the statement that competitive pressure will make organisations more inclined to offer bribes, however the majority also

agreed that organisations would continue with business as usual (75,70%) and to report competitors to the authorities (75,40%) when they offered bribes.

The following is a summary of other reasons noted by respondents regarding the strategy organisations would prefer if their competitors offer bribes:

- The strategy may correlate with the ethical standards of the organisation's employees and/or managers/directors. If their ethical values are high, bribes will not be taken and they will report it to the authorities.
- There may be a reluctance to report a case if it is found out where the leak came from. Most organisations have some issues they would prefer not to have looked at too closely and if they reported their competitors they might have similar complaints made about themselves. Offering bribes is sometimes regarded more like a joke or just an added expense to get business going rather than a crime.
- An offender should be banned from doing business with for instance government for at least three years.
- Communicate to the competitor that offering bribes are inappropriate and potentially illegal.
- The answer is dependent on the strength of the competitor, losses caused to the innocent organisation and ethics within the "victim" company.
- The view that it is okay "because everyone else does it" has to be seen to be totally unacceptable. The strategy should be to eradicate this market practice.
- Individuals in a company may accept bribes for a personal benefit and it should not be the company's strategy. Blacklisting and reporting channels do not work – it is a legal minefield before it could be reported.

- There is a lot of malicious reporting from competitors, especially when the competition may be a successful bidder. Investigation of these false reports could drain resources and finances.

7.5.4 Are current laws and regulations adequate?

Part D of the questionnaire (questions 22a to 35 in Appendix D) dealt with the issue whether current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. Respondents had to answer the fourteen statements aiming at dealing with this issue by ranking each statement. Their responses are reflected in table 7.10 below. The reliability of the data collected presented a Cronbach's Alpha score of 0,716. A score of 0,70 or more is acceptable.

Table 7.10: *Are current laws and regulations adequate to address fraud, corruption and tax conduct in general?*

Statement	Agree	Uncertain	Disagree
Current tax laws successfully attempt to discourage tax avoidance:			
(a) Section 103(1) or 80A of the Income Tax Act	87,00%	6,10%	6,90%
(b) Section 76(1) of the Income Tax Act	91,60%	4,10%	4,30%
(c) Section 76A of the Income Tax Act	86,10%	8,70%	5,20%
Current tax laws should legislate against the use of tax havens	70,10%	1,60%	18,30%
South African courts should adopt the following attitude:			
(a) Accommodative	8,70%	2,60%	88,70%
(b) Disapproving	86,40%	2,60%	11,00%
(c) Condemning	89,30%	4,30%	6,40%
(d) Neutral	7,20%	9,00%	83,80%
Perception of public attitude towards fraud, corruption, tax avoidance or tax evasion:			
(a) Get even with the tax authorities	51,30%	6,70%	42,00%
(b) Accommodative	42,60%	6,10%	51,30%
(c) Disapproving	73,30%	5,20%	21,50%
(d) Condemning	69,60%	9,30%	21,10%
(e) Neutral	29,00%	14,20%	56,80%

Statement	Agree	Uncertain	Disagree
Current tax legislation should define or describe the term “tax fraud”.	93,00%	2,00%	5,00%
Fines should be used whenever possible for committing fraud, corruption or tax evasion	83,20%	2,00%	14,80%
Fines should only be supplemented with an additional prison term if the offender’s finances are exhausted.	65,20%	3,50%	31,30%
A wealthy person is more prison averse than a poor offender.	81,20%	4,30%	14,50%
A wealthy person committing fraud, corruption or tax evasion will lower the levels of such crimes if the level of available punishment increases (for example higher penalties or bigger fines).	82,00%	3,50%	14,50%
The risk of being detected will impact on the level of the offence the probable offender is willing to commit.	94,50%	1,70%	3,80%
Punishment for committing fraud, corruption or tax evasion should ignore the wealth and status of the offender.	80,00%	1,20%	18,80%
A financial loss experienced by a victim of fraud or corruption will increase the probability of the incident being reported.	88,10%	4,90%	7,00%
Tax havens are primarily used for tax avoidance purposes.	77,10%	11,60%	11,30%
The attitude of the South African tax authorities creates or is perceived to create some hostility to the use of tax havens in tax planning.	75,70%	18,80%	5,50%

The summarised responses of the respondents to questions 22a to 35 of the questionnaire, relating to the statement whether “Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general” revealed a response percentage of agreement of 7,20% to 94,50% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 3,80% to 88,70% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, was revealed by the respondents, while the level of uncertainty on this issue ranged from 1,20% to 18,80%.

The majority of respondents were in agreement with the statement that current tax laws successfully attempt to discourage tax avoidance (88,23% – questions 22(a) to 22(c)), that

current tax laws should legislate against the use of tax havens (70,10% – question 23), that the South African courts should be disapproving (86,40%) and condemning (89,30%) fraud, corruption, tax avoidance or tax evasion schemes (question 24), that the public attitude towards fraud, corruption, tax avoidance or tax evasion schemes may be to get even with the tax authorities (51,30%), to disapprove (73,30%) or to condemn (69,60%) such actions (question 25(a) to 25(e)).

The majority of the respondents also agreed with the statement that current tax legislation should define the term “tax fraud” (93% – question 26), that fines should be used whenever possible for committing fraud, corruption or tax evasion (83,20% – question 27), that fines should only be supplemented with an additional prison term if an offender’s finances are exhausted (65,20% – question 28), that a wealthy person committing economic crime offences may be more prison averse than a poor offender (81,20% – question 29), that a wealthy person committing economic crime may lower the levels of such crime if the level of available punishment increases (82% – question 30), that the risk of being detected will impact on the level of fraud, corruption or tax evasion a probable offender is willing to commit (94,50% – question 31).

The majority of the role-players agreed with the statement that punishment for committing fraud, corruption or tax evasion should ignore the wealth and status of an offender (80% – question 32) (punishment for an economic crime offence should not be influenced by the offender’s wealth and status), that a financial loss experienced by a victim of fraud/corruption will increase the probability of the incident being reported (88,10% – question 33), that tax havens are primarily used for tax avoidance purposes (77,10% – question 34) and that the attitude of the South African tax authorities creates or is perceived to create some hostility to the use of tax havens in tax planning (75,70% – question 35).

It is significant that the majority of the respondents were of the opinion that current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general.

However, the majority of the respondents (refer to section 7.5.1) were of the opinion that law enforcement and sentencing practices are not adequate. Thus, to combat fraud, corruption and tax related offences, current laws and regulations should be enforced more effectively as they are viewed as being adequate to deal with such crimes and tax conduct in general.

During an interview conducted on 22 May 2009 (Appendix E) with Mr G, a senior executive at the FSB, he was of the opinion that current legislation in place was adequate to deal with fraud/corruption. During the same interview Mrs L, a senior executive at the FSB, said that big fraud cases were adequately investigated. She was of the opinion that adequate regulating and safety nets in place should be able to limit obvious damage for consumers. She also stated that no amount of legislation would be able to prevent the occurrence of fraud or corruption. She further observed that the legislation tended to be one step behind the market, but was continuously updated to patch holes in current legislation. Mrs L also mentioned that the FSB introduced a new enforcement section with effect from 1 November 2008 to investigate any contraventions of legislation administered by the FSB.

In an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she said that the South African legal framework is adequate but it can be improved. She continued by stating that the real problem was the ineffective implementation of the law. A lot of expertise had moved from government to the private sector. She also said that there were insufficiently skilled people to handle the size of the problem relating to fraud and corruption.

During an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner at one of the major auditing firms in South Africa he affirmed that current laws and regulations were adequate to deal with fraud, corruption and tax conduct in general. He also stated that there was nothing wrong with the practices. He said that South Africa used be to in line and even better than the rest of the world. However, he stated that the current problem was the implementation of the practices and the political interference. He

also stated that the current law enforcement was part of organised crime and that one couldn't have organised crime without a corrupt police force.

7.5.5 Fraud/corruption ignores taxation consequences

Part E of the questionnaire (questions 36 to 37 in Appendix D) dealt with the issue whether fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. Respondents had to answer two statements to deal with this issue by ranking each statement in question. Their responses are reflected in tables 7.11 and 7.12 below. The reliability of the data collected presented a Cronbach's Alpha score of 0,852. A score of 0,70 or more is acceptable.

Table 7.11: *Fraud or corruption is perpetrated without taking into account any possible taxation consequences that may occur as a result thereof*

Statement	Agree	Uncertain	Disagree
An opportunistic fraudster has no concern for any possible tax consequences as he may not be tax literate.	86,40%	3,20%	10,40%

The majority of respondents (86,40%) were of the opinion that fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. Only 4,60% had an opposing viewpoint, while 9,00% were uncertain on this issue. Thus, according to the majority of the respondents, economic crime offenders ignore any possible taxation consequences and only focus on the monetary rewards associated with such crimes.

Table 7.12: *Fraud normally perpetrated by an employee having a moderate financial impact on the entity*

Statement	Agree	Uncertain	Disagree
An employee would normally perpetrate the following types of fraud that may have a moderate financial impact on the entity:			
(a) Embezzlement of money or property	90,70%	5,50%	9,30%
(b) Breach of a fiduciary trust	86,70%	10,40%	2,90%
(c) Theft of trade secrets or intellectual property	86,40%	9,00%	4,60%
(d) Illegal acts	85,80%	8,70%	5,50%

The majority of respondents ranked the embezzlement of money or property (90,70%) as the type of fraud that would normally be perpetrated by employees, followed by a breach of a fiduciary trust (86,70%), then the theft of trade secrets or intellectual property (86,40%) and lastly illegal acts (85,80%). Respondents also noted the following additional types of fraud an employee could perpetrate that may have a moderate financial impact on an entity:

- Employees may receive kickbacks for placing orders with suppliers, almost invisible and rarely reported.
- Employees may collude with suppliers in acts of cover quoting and procurement fraud.
- The type of employee fraud will depend on the level of knowledge of a fraudster. The higher the level of education – in say tax laws – the higher the incidence as employees are aware of what is "legal" tax avoidance, for example making use of tax havens by high net worth taxpayers.
- The severity of the impact is secondary – it's more a matter of what the perpetrator is trying to achieve and the likelihood of being detected.

- Corruption and abuse of power by employees coupled to maladministration all have a major impact on an entity.
- Employees may have undeclared business interests and could gain financially from it by doing business with their own employers.
- Employees could inflate invoices and/or approve invoices for work not executed or properly executed.

Geis (2007:104) observes that the decline in taxes paid by corporations “is in some considerable measure the result of fraud that goes undetected”. Hartley (2008:24) also observes that corporations cost “taxpayers billions of dollars a year by defrauding the government and dodging their share of the tax burden”.

7.5.6 The perpetrator of fraud is aware of any possible taxation consequences

In Part F of the questionnaire (questions 38 to 45 in Appendix D) eight statements were made regarding the issue of whether the perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions. The replies of the respondents are reflected in table 7.13. The reliability of the data collected presented a Cronbach’s Alpha score of 0,845. A score of 0,70 or more is acceptable.

Table 7.13: *The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions*

Statement	Agree	Uncertain	Disagree
A taxpayer has a right to plan his tax affairs to such an extent, permissible within the ambit of current tax laws, that the minimum possible tax is paid.	97,10%	1,40%	1,50%
A taxpayer is aware of all the tax and legal consequences when he engages in tax avoidance or tax evasion.	73,00%	3,20%	23,80%
Management would normally perpetrate the following types of fraud that may have a substantial financial impact on the entity and may give rise to certain taxation consequences:			
(a) Financial statement fraud	90,70%	4,10%	6,40%
(b) Misrepresentation of material facts	90,10%	3,50%	8,10%
(c) Misappropriation of assets	88,10%	3,80%	4,90%
(d) Concealment of material facts	89,90%	5,20%	4,90%
(e) Bribery	84,90%	5,80%	9,30%
(f) Illegal acts	82,60%	7,80%	9,60%
(g) Conflict of interest	88,10%	6,10%	5,80%
You have an ethical responsibility not to assist your client to minimise a tax liability outside the context of prevailing tax legislation, if so requested by the tax client.	91,60%	2,30%	6,10%
You have a professional obligation to inform your tax client of any possible tax or legal implications should he/she seeks your advice on a possible tax avoidance transaction.	98,60%	0,90%	0,50%
If you become aware of a tax avoidance transaction concluded by your client, you should report such a transaction to SARS.	55,90%	7,20%	36,90%
A professional fraudster is aware of any possible tax consequences his fraudulent actions may have.	84,10%	4,90%	11,00%
A typical offender committing fraud, corruption or tax evasion is not risk neutral.	83,80%	11,60%	4,60%

Dr A, a criminologist, commented during an interview conducted with her on 18 May 2009 (Appendix E) that fraudsters did not even think about the consequences of their fraudulent

conduct. For them the perpetration of fraud was a rational crime. During an interview conducted with two SARS officials on 2 June 2009 (Appendix E) they commented that some offenders might be aware of the possible consequences that may occur as a result of their criminal conduct. They said that many offenders argue that this was what might happen, but it would not happen to them. They added that offenders had an attitude that they would deal with it as and when it happened. Offenders might display some awareness; however, this awareness would not be clinical, as they normally acted opportunistically. Offenders normally do not plan or view consequences, but they would factor the possibility of any possible consequences. Offenders did understand the possible consequences; however, the end consequence would not be the same for all offenders. Many offenders observed an opportunity and then utilised that opportunity, thus any possible consequences might be ignored.

During an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she said that fraudsters were aware of any possible consequences resulting from their criminal conduct. She said that if organised crime was your livelihood, you would not bother to care. She also said that within the commercial crime space, fraudsters did not use their own identity to perpetrate fraud, as identity theft clouds this environment.

During an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner of one of the major audit firms in South Africa, he said that fraudsters were aware of any possible consequences resulting from their criminal conduct. He also stated that fraudsters were well aware of the inability of the current system to detect and prosecute. In this regard he added that fraudsters were aware of the support they enjoyed because of their political connections.

The summarised responses of the offenders to Part F (questions 38 to 45 in Appendix D) of the questionnaire, regarding the statement that “The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions” revealed a response percentage of agreement of 55,90% to

98,60% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 0,50% to 36,90% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, were revealed by the respondents, while the level of uncertainty on this issue ranged from 0,90% to 11,60%. It is significant that the majority of the respondents were of the opinion that the perpetrator of fraud or corruption is aware of any possible taxation consequences or liabilities that might occur as a result of his fraudulent actions.

However, the majority of the respondents (refer to section 7.5.5) were of the opinion that fraud or corruption was perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. The majority of the respondents indicated that although a fraudster might be aware of any possible taxation consequences when perpetrating an economic crime, he might disregard any possible taxation consequences that could result from such a crime.

The majority of respondents (90,70%) indicated that financial statement fraud would possibly be the type of fraud mostly perpetrated by management, followed by a misrepresentation of material facts (90,10%), concealment of material facts (89,90%) misappropriation of assets (88,10%), a conflict of interest (88,10%) and bribery (84,90%) with illegal acts (82,60%) being the lowest in the ranking (question 40(a) to (g) in Appendix D).

The respondents also noted the following other types of fraud management could perpetrate that may have a substantial impact on the entity and may give rise to certain taxation consequences:

- The inappropriate use of a company's client records.
- High financial targets may create pressure on management to commit fraud by adjusting financial statements.

- There would be private usage of assets belonging to the company.
- There would be a strong tendency to utilise money earmarked for taxes (for example income tax) or collected on behalf of SARS (for example Value-added tax and Employees' tax) to augment the company's cash flow, or the withdrawal of owner-interest or dividends.
- Nepotism and other related acts may occur that may not necessarily be criminal/illegal but may cause damage to the entity.

The majority of the respondents agreed with the statement that a taxpayer has the right to plan his tax affairs to such an extent, within the ambit of current tax laws, that the minimum possible tax is paid (97,10% – question 38), that a taxpayer is aware of all the tax and legal consequences when he engages in tax avoidance or tax evasion (73% – question 39), that you have an ethical responsibility not to assist his client to minimise a tax liability outside the context of prevailing tax legislation if so requested by the client (91,60% – question 41) and that you have a professional obligation to inform your tax client of any possible tax or other legal implications should he seek your advice on a possible tax avoidance transaction (98,60% – question 42).

The majority of the respondents also agreed with the statement that if you become aware of a tax avoidance transaction concluded by your client you should report such a transaction to SARS (55,90% – question 43), that a professional fraudster is aware of any possible taxation consequences his fraudulent actions may have (84,10% – question 44) and that a typical offender committing fraud, corruption or tax evasion is not risk neutral (83,80% – question 45).

7.5.7 The perpetration of fraud/corruption has an impact on taxation in South Africa

Part G of the questionnaire (questions 46 to 50 in Appendix D) had five statements to handle the issue of whether the perpetration of fraud/corruption has an impact on taxation in South Africa. The results of the respondents to these statements are reflected in table 7.14 below. The reliability of the data collected presented a Cronbach's Alpha score of 0,811. A score of 0,70 or more is acceptable.

Table 7.14: *The perpetration of fraud or corruption has an impact on taxation in South Africa*

Statement	Agree	Uncertain	Disagree
Economic crimes such as fraud, corruption or tax evasion have no impact on the South African economy as a whole.	5,20%	0,90%	93,90%
Economic crimes such as fraud, corruption or tax evasion have a definite impact on the South African economy as a whole.	97,10%	1,20%	1,70%
Offenders can choose the intensity of their fraud, corruption or tax evasion.	66,10%	15,90%	18,00%
The perpetration of fraud or corruption would have direct taxation consequences.	92,50%	4,60%	2,90%
The perpetration of fraud or corruption would have indirect taxation consequences.	80,30%	4,90%	14,80%

The majority of the respondents were in disagreement with the statement that economic crimes such as fraud, corruption or tax evasion have no impact on the South African economy as a whole (93,90% – question 46), but agreed with the statement that economic crimes have a definite impact on the South African economy as a whole (97,10% – question 47). The majority of the respondents also agreed with the statement that

offenders can choose the intensity of their fraud, corruption or tax evasion efforts to affect their intended level of economic impact (66,10% – question 48), and that the perpetration of fraud or corruption, being financially related would have direct (92,50% – question 49) and indirect taxation consequences (80,30% – question 50).

The summarised responses of the respondents to Part G of the questionnaire (questions 46 to 50 in Appendix D), relating to the statement that “The perpetration of fraud or corruption has an impact on taxation in South Africa” revealed a response percentage of agreement of 5,20% to 97,10% to this statement, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 1,70% to 93,90% to the said statement, ranging from “Slightly disagree” to “Strongly disagree” were revealed by the respondents and the level of uncertainty on this issue ranged from 0,90% to 15,90%. It is significant that the majority of the respondents were of the opinion that the perpetration of fraud or corruption has an impact on taxation in South Africa. Being role-players in the field of prevention, detection and prosecution of fraud, corruption and tax related offences, they can verify the opinions expressed by the majority of the respondents in this regard.

During an interview conducted on 22 May 2009 with Mr G, a senior executive at the FSB (Appendix E), he stated that many fraud cases revealed non-compliance to tax legislation. Once the inspectorate section of the FSB had performed its inspection and discovered non-reported tax-related transactions, such information would be reported to SARS for further investigation. Mr G commented that taxation was more a consequence of fraud/corruption than a cause of such criminal acts.

During an interview conducted on 2 June 2009 (Appendix E) with two SARS officials they commented that taxation may play a role in the perpetration of fraud or corruption. They explained by saying that some taxpayers might declare items at customs that was not the truth just to get a tax refund. Other taxpayers might under-declare their taxable income. Some taxpayers may even set up fictitious entities and claim back VAT refunds by fabricating exports. Other examples mentioned included a foreign supplier issuing an invoice for a lower amount to a taxpayer for import purposes just to save on import and

customs and excise duties. They also mentioned that entities were charging VAT on the sales of goods/services that were not registered VAT vendors. They also commented that taxation might be a consequence of fraud/corruption if it is your business to make money because these crimes yield income that was not declared and might be used to acquire assets. The SARS officials asked what would happen if tax should fall away? They said that fraud/corruption against the state would also disappear. According to them, tax evasion was more an effect of fraud/corruption than a consequence thereof.

During an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she said that tax revenue was certainly lost as a result of fraud or corruption. She also said that the type of criminal in the commercial crime environment might not even be a registered taxpayer. She continued by saying that cheating SARS out of money was not an unknown issue at all. She said that commercial crime in the banking environment involving letters of credit, import bills or vehicle finance with round tripping, for example, would bring taxation into play.

During an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner at one of the major audit firms in South Africa he observed that the perpetration of fraud/corruption would have an impact on taxation in South Africa in general. He said it played a major role in procurement frauds. He also contended that because of the problems involving service delivery, a lot of people were asking why they had to still pay tax.

7.5.8 The type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender

In Part H of the questionnaire (questions 51 to 53 in Appendix D) the statement was made that the type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender. Respondents had to reply to three statements to deal with the mentioned issue. Their responses are reflected in table 7.15. The reliability of

the data collected presented a Cronbach's Alpha score of 0,843. A score of 0,70 or more is acceptable.

Table 7.15: *The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender*

Statement	Agree	Uncertain	Disagree
An act of fraud or corruption is not viewed as a moral issue, but rather as an economic issue.	60,90%	3,50%	35,60%
A person committing fraud, corruption or tax evasion is no longer concerned about the issue of whether his actions are right or wrong, but rather about the immediate benefit he will derive through his fraudulent actions.	94,20%	2,00%	3,80%
The type of fraud or corruption being perpetrated is a function of the opportunities available to potential offenders:			
(a) Management may perpetrate fraud/corruption having a substantial financial impact.	93,90%	3,50%	2,60%
(b) Employees may perpetrate fraud /corruption having a moderate financial impact.	92,50%	3,20%	4,30%
(c) The current economic downturn may induce people to commit fraud or corruption.	95,10%	3,20%	1,70%
(d) A lack of or down-scaling in control measures resulting from cost-reduction efforts.	92,80%	5,50%	1,70%
(e) A lack of a division of duties.	92,20%	4,90%	2,90%

The majority of the respondents agreed with the statement that the act of fraud or corruption is not viewed as a moral issue, but rather as an economic issue (60,90% - question 51), that a person committing fraud, corruption or tax evasion is no longer concerned about the issue whether his actions are right or wrong, but rather about the immediate benefits he will derive from his fraudulent actions (94,20% – question 52). The majority of the respondents (93,90%) also agreed with the statement that management may perpetrate fraud/corruption having a substantial financial impact (question 53(a)) and that employees may perpetrate fraud/corruption having a moderate financial impact (question 53(b)). The majority of the respondents indicated that the current economic downturn may induce people to commit fraud or corruption (95,10% – question 53(c)), that a lack of or down-scaling in control measures resulting from cost reductions efforts (92,80% – question 53(d)) and a lack of a division of duties (92,20% – question 53(e)) may contribute to the perpetration of fraud/corruption.

The summarised responses of the respondents to Part H of the questionnaire (questions 51 to 53 in Appendix D) revealed a response percentage of agreement of 60,90% to 95,10% to the statement that the type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender, ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 1,70% to 35,60% to the said statement ranging from “Slightly disagree” to “Strongly disagree” were revealed by the respondents and the level of uncertainty on this issue ranged from 2,00% to 5,50%. It is significant that the majority of the respondents were of the opinion that the type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender. Many fraudsters seek out an opportunity to perpetrate their criminal deeds. The financial director of a company for example would be in a better position to perpetrate financial statement fraud than a creditor’s clerk as the creditor’s clerk’s position within the company would not normally be associated with the company’s financial statements.

In an interview conducted on 13 November 2008 (Appendix E) with Mr C, a minister at the Dutch Reformed Church, he stated that people made convenience decisions. Decisions

are made depending on the situation or the opportunity on offer. According to Mr C, morality was bent to apply to the situation and therefore people would take advantage of situations irrespective of the fact that they would have to discount their morality to achieve a certain outcome.

In an interview conducted on 18 November (Appendix E) with Mr E, a catholic priest, (Appendix E) he commented that people were adjusting their moral values according to circumstances. Mr E referred to this as “situation ethics”. He said that objectivity should prevail. Christian values, according to him, couldn’t be imposed on other religions, but a form of universal values should be pursued. Moral values should not be imposed, but rather invited.

During an interview conducted on 18 May 2009 (Appendix E) with Dr A, a criminologist, she commented that fraudsters would typically look for opportunities to perpetrate fraud. She said that they were calculated risk takers. She also said that age and position played an important role in the perpetration of fraud and therefore the level of fraud and the monetary value of fraud were directly related to the position and age of the fraudster. Dr A contended that an older fraudster was more experienced than a younger fraudster and also more familiar with the system.

Dr A commented during her interview that race did not really play any role in fraudulent behaviour. She said that gender did play a significant role in this regard and with more women occupying more senior positions in business or government departments, more women started to perpetrate fraud/corruption. She said that fraudsters couldn’t postpone the immediate satisfying of their needs. She commented that being unemployed was an embarrassment and by perpetrating fraud/corruption people could demonstrate that they were successful. She also said that a higher level of education only produced more sophisticated fraud/corruption.

During an interview conducted on 2 June 2009 (Appendix E) with two SARS officials they commented that many tax evaders seized an opportunity to evade tax. However, they said that should a taxpayer continue with tax evasion, a pattern might be established and

might then be regarded as a planned action and therefore taking a calculated risk. One of the SARS officials said that tax evasion is opportunity driven and that most tax evaders would probably not use tax evasion as an alternative for permissible tax planning. He also said that tax evaders do think in the extreme, but do not think about tax evasion as an alternative for tax planning, but may merely evade tax. The SARS officials also stated that many taxpayers thought they applied tax avoidance, but in reality they used tax evasion. According to them tax avoidance might blur the line between permissible tax planning and tax evasion.

During an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she said that in the organised crime environment, commercial crime would be well-planned and highly organised. She referred to the organised crime environment as “networked criminality”. She explained this term as pockets of people each having certain skills networked into a crime cell. Each crime cell member would provide his skills to perpetrate a commercial crime. She also said that fraudster’s working alone would normally be opportunists.

During an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner of one of the major audit firms in South Africa the fraud examiner said that fraudsters were taking a calculated risk when perpetrating fraud.

7.5.9 Morality and sound principles would impact positively on the occurrence of fraud/corruption and any possible related taxation consequences

In Part I of the questionnaire (questions 54 to 58 in Appendix D) the statement was made that morality and sound principles such as strong corporate ethics displayed and applied by corporate management and the board of directors would impact positively on the occurrence of fraud, corruption and any related taxation consequences. The replies of the respondents to this statement are reflected in table 7.16. The reliability of the data collected presented a Cronbach’s Alpha score of 0,777. A score of 0,70 or more is acceptable.

Table 7.16: *Morality and sound principles would impact positively on the occurrence of fraud, corruption and any related taxation consequences*

Statement	Agree	Uncertain	Disagree
Strong corporate ethics displayed and applied by corporate management will impact on the actions and work ethics of company employees.	97,10%	1,70%	1,20%
Procurement rules should be expected to prevent corruption.	95,40%	1,70%	2,90%
Organisations should practice what they preach in their anti-corruption policies.	99,10%	0,90%	0,00%
Corporate or other tax entities should have a policy in place dealing with the issue of “tax avoidance” and “tax evasion”.	95,90%	1,70%	2,40%
Proper background checks on newly appointed employees.	97,40%	1,70%	0,90%

The summarised responses of the respondents to Part I of the questionnaire (questions 54 to 58 in Appendix D) revealed a response percentage of agreement of 95,40% to 99,10% to the statement that morality and sound principles, such as strong corporate ethics displayed and applied by corporate management and the board of directors, would impact positively on the occurrence of fraud, corruption and related taxation consequences, ranging from “Strongly agree” to “Slightly agree”. A percentage of disagreement of 0,90% to 2,90% to the said statement ranging from “Slightly disagree” to “Strongly disagree” were revealed by the respondents and the level of uncertainty on this issue ranged from 0,90% to 1,70%. The majority of the respondents agreed with the notion that the tone should be set at the top. If corporate management displays ethical conduct it would impact on the work ethics of employees. However, if the opposite would be true, the company would probably not survive very long.

The majority of the respondents agreed with the statement that strong corporate ethics displayed and applied by corporate management and the board of directors would impact on the actions and work ethics of company employees (97,10% – question 54), that procurement rules should be expected to prevent corruption (95,40% – question 55), that organisations should practice what they preach in their anti-corruption policies (99,10% – question 56), that corporate or other tax entities should have a policy in place dealing with the issues of “tax avoidance” and “tax evasion” (95,90% – question 57) and that proper back-ground checks should be performed on newly appointed employees (97,40% – question 58).

During an interview conducted on 11 September 2008 (Appendix E) with Mr A, a psychologist, working on a contract basis for SARS, he said that a person with a sound value system would probably refrain from criminal activities. He also said that someone without a sound value system or having no value system at all might be a good candidate to get involved in criminal activities due to the perceived rewards attached to these activities.

In an interview conducted on 13 November 2008 (Appendix E) with Mr C, a minister at a Dutch Reformed Church, he commented that when people are in a relationship it will be easier to approach and to reprimand them. He said that the present state of the economy had had an impact on the decisions people make. He also said that people should refrain from committing petty transgressions, for example such as ignoring red traffic lights. He was of the opinion that the religious community should teach its members to stop committing petty transgressions and to keep to the rules and regulations even if you do not like them. In his view petty transgressions may not cause any harm but they do cause moral decay. Mr C also stated that it would be difficult for someone committing a petty transgression to reprimand someone who had committed a gross transgression. In his view people should not expect protection if they contravened any rules or regulations.

During an interview conducted on 14 November 2008 (Appendix E) with Mr D, the leader of a church group in Pretoria, he was of the opinion that people were not engaging enough

on the level of ethics and morality. The question was raised that if the church did not stand up, who would? He commented that it took a whole village to raise a child and that people should develop a conviction of what is right or wrong. He also stated that people were not bad inherently and that the church should again give guidance by caring for people. He further commented that every company should make an effort with company policies, the implementation and monitoring thereof. In this regard, he observed that people should function according to a documented policy that is non-negotiable. He said that people might consciously or unconsciously become involved in fraud, corruption or tax evasion and this may happen gradually and may escalate into something bigger. In his view the rewards from fraud and corruption were real but they were artificial but not lasting because they were part of a lie and sooner or later the perpetrator would be revealed.

In an interview conducted on 18 November 2008 (Appendix E) with Mr E, a Catholic priest in Pretoria, he made the comment that people are born greedy. Based on this comment the question was posed to him what the church could do to deal with the moral values of people today. He replied that the church should continue to preach the values that Jesus advocated, but you couldn't force people to comply or to refrain. He also stated that some people argue that because a government is corrupt or acting corruptly, they have the right to retain tax money from that government by rewarding themselves for the perceived wrongdoings of the government. He continued by stating that people rationalise and because of that they lie to themselves. In this way people justify their own fraud when they look at government's approach in utilising state funds.

During the interview conducted with Mr E the comment was made that the tone should be set at the top. If not, what message would be conveyed to the employees? Mr E stated that the perception existed that if management could get away with a wrongdoing, why could employees not do so as well? He continued by saying this was why many people were willing to compromise their own morality. The interviewer made the statement that morality was non-negotiable. Mr E replied saying that you couldn't force people to have good moral values, but it should come from within a person. He was also of the opinion that moral values should be set during childhood and continuously reinforced.

Dr A, a criminologist, commented during an interview conducted with her on 18 May 2009 (Appendix E) that within companies where corporate ethics were followed conscientiously and zero-tolerance was applied for dishonesty, it might well impact positively on the occurrence of fraud/corruption. People would be more cautious.

In an interview conducted on 2 June 2009 (Appendix E) with two SARS officials they said that morality and sound principles, such as corporate ethics, may impact positively on the occurrence of fraud, corruption or tax evasion. However, they qualified their statement by saying that it would depend on the individual's own perception of morality and sound principles, such as corporate ethics. They also said that corporate ethics was just as good as the morality behind it.

During an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she affirmed that morality and sound principles, for example such as strong corporate ethics, would impact positively on the occurrence of fraud/corruption and any possible taxation consequences. She said it was especially true with regard to tax evasion. She commented that SARS had been very effective over the past few years, but many people still do not regard tax evasion as a crime. She contended that people use unethical behaviour, for example, to acquire finance and deflate the same figures to SARS to reduce a tax liability. She said that ethics was a hugely important aspect to control and manage fraud and corruption.

During an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner at one of the major audit firms in South Africa he stated that he was not so sure that morality and sound principles, for example such as strong corporate ethics, may impact positively on the occurrence of fraud/corruption and any possible taxation consequences. He based his opinion on the fact that there was so much corporate ethics in place and still there were more frauds than ever before. However, he stated that what helped a lot is a very strong anti-fraud/corruption message from the top of an organisation. Not only a message, but a message backed up by a zero-tolerance conduct.

Mintz and Morris (2011:52) contend that an individual's "ethical motivation influences his intention to comply or not comply with his ethical judgement in the resolution of an ethical dilemma". However, Fleming and Zyglidopoulos (2009:7) argue that "bad ethical conduct does not necessarily involve breaking of the law".

7.5.10 The perpetration of fraud, corruption and tax evasion may be influenced by the cost of compliance

The statement was made in Part J of the questionnaire (questions 59 to 60 in Appendix D) that the perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa. The respondents had to answer three statements relating to this issue and the results of their responses are reflected in table 7.17. The reliability of the data collected presented a Cronbach's Alpha score of 0,834. A score of 0,70 or more is acceptable.

Table 7.17: *The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa*

Statement	Agree	Uncertain	Disagree
The current tax compliance burden imposed by SARS contributes towards tax avoidance/tax evasion in general.	77,40%	6,10%	16,50%
A perpetration of fraud or corruption may be influenced by the cost of complying with all the taxation administration requirements in South Africa.	76,50%	7,00%	16,50%

Statement	Agree	Uncertain	Disagree
The extent of fraud, corruption, tax evasion or other illicit activities in South Africa quantified in terms of the national Gross Domestic Product (GDP):			
(a) 1% – 2% of GDP	4,60%		
(b) 3% – 4% of GDP	9,60%		
(c) 5% – 7% of GDP	24,60%		
(d) 8% – 10% of GDP	23,20%		
(e) More than 10%, but less than 20% of GDP	23,50%		
(f) 20% or more of GDP	10,70%		
(g) None of the above	3,80%		

The majority of the respondents agreed with the statement that the current tax compliance burden imposed by SARS contributed towards tax avoidance/tax evasion in general (77,40% – question 59) and that the perpetration of fraud or corruption might be influenced by the cost of complying with all the taxation administration requirements in South Africa (76,50% – question 60). Many of the respondents were involved with taxation administration in South Africa on a regular basis and their responses might be based on their first-hand experience in this regard. Some of their contracted services with clients involve taxation administration which included taxation compliance in general.

Only 34,20% of the respondents had a view that the extent of fraud, corruption, tax evasion or other illicit activities in South Africa, if quantified in terms of the national Gross Domestic Product (the GDP), might be more than 10% of the GDP (question 61 in Appendix D). The majority of the respondents (62%) were of the opinion that it could be in the range of 1% to 10% of the national GDP. It would probably not be possible to accurately determine the monetary value of fraud, corruption, tax evasion or other illicit activities within the South African context on an annual basis. However, the fact that the majority of the respondents (62%) were of the view that it could be in the range of 1% to 10% of the annual national GDP, could equate to a figure of between R26,490 billion to

R264,9 billion, based on an estimated national GDP of R2 649 billion for 2010. To put this figure in perspective, the estimated budgeted tax revenue for 2009/2010 was R647,850 billion. Thus, the estimated impact of fraud, corruption, tax evasion or other illicit activities, if expressed in terms of the annual national GDP, may equate to a figure of between 4,09% to 40,89% of the estimated budgeted tax revenue for the 2010 fiscal year.

During an interview conducted on 22 May 2009 (Appendix E) with Mr G, a senior executive at the FSB, he commented that statutory or legal compliance requirements couldn't in any way contribute towards the perpetration of fraud or corruption. He said that regulators acted reactively towards any contraventions. In this regard, he said that the regulatory framework enhances control but couldn't serve as a guarantee against fraud or corruption. He made the comment that the regulator should be one step behind the market. He explained his statement by saying that the regulator should be in a position to determine if a specific service or product might hold certain risks for the consumer that the consumer should be aware of.

During an interview conducted on 2 June 2009 (Appendix E) with two SARS officials they commented that statutory or legal compliance requirements might contribute towards the perpetration of fraud, corruption or tax evasion. They said that rules were rules, but the application of rules/regulations was very difficult. They were of the opinion that the legal justice system could be compared to a game. It would, however, depend on how a person's own value system was aligned with regulations governing a society. They also added that globalisation had contributed towards the perpetration of fraud, corruption and tax evasion.

During an interview conducted on 1 July 2009 (Appendix E) with Mrs S, a senior manager at SABRIC, she contended that compliance was a very big issue but may merely have become a tick-box exercise. The spirit, in the way the legislation/regulation had been implemented, might have become a non-issue. She based her opinion on the statement that the Financial Intelligence Centre Act had not had the desired impact on fraud,

irrespective of compliance to that law. She said it is easy to meet compliance, but irregularities may still exist because the spirit of a specific law might be lost in the process.

In an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner at one of the major audit firms in South Africa he contended that the statutory or legal compliance requirements would not contribute towards the perpetration of fraud, corruption or tax evasion.

The real impact of fraud, corruption, tax evasion or other illicit activities could be on a tax revenue level. For the past seven national budget years, personal income tax (31,33%), company tax (24,18%) and Value-Added Tax (26,97%) contributed on average 82,48% of the total budgeted tax revenue (refer section 2.5.4). If 1% to 10% of the national GDP is not subject to any form of taxation due to the fact that it is generated outside the so-called tax net, Government may be deprived of many billions of Rand in the form of tax revenue. Thus, the impact of fraud, corruption and tax related consequences couldn't be viewed as being insignificant anymore.

In a study with the title "Shadow economies and corruption all over the world: what do we really know?" conducted by Friedrich Schneider, as reflected in Pickhardt and Shinnick (2008:141-148), he documented the following with regard to the size of the shadow economy in various regions and various countries:

	Shadow economy as a percentage of official GDP expressed as an un-weighted average percentage			
Region	Number of countries	1999/2000	2001/2002	2002/2003
Africa	37	41,30%	42,30%	43,20%
Asia	28	28,50%	29,50%	30,40%
South America	21	41,10%	42,20%	43,40%
Europe (East, Central and former Soviet Union countries)	25	38,10%	39,10%	40,10%
OECD countries	21	16,80%	16,70%	16,30%
Pacific Islands	10	31,70%	32,60%	33,40%
Communist countries	3	19,80%	21,10%	22,30%

The shadow economy in the regions listed in the above table represents a substantial portion of the national GDP of the countries involved in the study by Friedrich Schneider. It also showed a growth in the shadow economies from 1999/2000 to 2002/2003 in all the regions involved in the study, except for the OECD countries.

7.5.11 A prospective fraudster has no concern of being detected or being prosecuted

In Part K of the questionnaire (Appendix D) the statement was made that a prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action. To handle this broad statement, five sub-statements (questions 62 to 66 in Appendix D) had to be answered by the respondents. Their responses to the five statements are reflected in table 7.18. The

reliability of the data collected presented a Cronbach's Alpha score of 0,759. A score of 0.70 or more is acceptable.

Table 7.18: *A prospective fraudster has no concern of being detected or being prosecuted*

Statement	Agree	Uncertain	Disagree
A prospective fraudster has little or no fear that his fraud, corruption or tax evasion will be detected and eventually be prosecuted for such fraudulent actions.	78,80%	3,20%	18,00%
The scope for international tax havens in tax planning is likely to increase or decrease:			
(a) Increase	69,30%	14,20%	16,50%
(b) Decrease	20,60%	16,50%	62,90%
A fraudster may rationalise his fraudulent conduct claiming that nobody was physically hurt nor was his fraudulent conduct violent in nature.	89,90%	3,80%	6,30%
A fraudster perpetrating fraud or corruption may do so because he thinks he can do it and may even get away with it.	96,50%	1,20%	2,30%
Tax evasion is permissible:			
(a) if the current tax rates are at acceptable levels	5,20%	3,50%	91,30%
(b) if the current tax rates are at unacceptable levels	10,70%	3,50%	85,80%
(c) if the tax system is perceived to be unfair or biased	14,20%	4,10%	81,70%
(d) if the tax revenue is perceived to be utilised inappropriately	14,80%	4,90%	80,30%
(e) if the tax revenue is perceived to be utilised appropriately	5,50%	3,20%	91,30%
(f) because everyone else is doing it	7,50%	2,30%	90,20%
(g) the risk of detection is perceived to be low	8,70%	2,60%	88,70%
(h) if the proceeds are used for a good cause such as charity	6,70%	2,90%	90,40%
Tax evasion can never be permissible	83,50%	2,90%	13,60%

The majority of the respondents agreed with the statement that a prospective fraudster has little or no fear that his fraud, corruption or tax evasion will be detected and eventually being prosecuted for such fraudulent actions (78,80% – question 62) and that the scope for international tax havens in tax planning is likely to increase (69,30% – question 63(a)). The majority of respondents also agreed with the statement that a fraudster may rationalise his fraudulent conduct claiming that nobody was physically hurt nor was his fraudulent conduct violent in nature (89,90% – question 64) and that a fraudster perpetrating fraud/corruption may do so because he thinks he can do so and may even get away with it (96,50% – question 65).

The summarised responses of the respondents to Part K of the questionnaire (questions 62 to 65 in Appendix D) revealed a response percentage of agreement of 20,60% to 96,50% to the statement that a prospective fraudster had no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action ranging from “Strongly agree” to “Slightly agree”. A response percentage of disagreement of 2,30% to 62,90% to the said statement, ranging from “Slightly disagree” to “Strongly disagree”, were revealed by the respondents, while the level of uncertainty on this issue ranged from 1,20% to 16,50%.

Being role-players in the prevention, detection and prosecution of fraud, corruption and tax related offences, the majority of the respondents may be well qualified to agree with the statement that a prospective fraudster has no concern of being detected or prosecuted. Their first-hand experience in the detection and prosecution of fraudsters, may have contributed to their expressed views. For many fraudsters the potential monetary gain from a fraudulent action may outweigh the potential risk of detection and/or prosecution.

The summarised responses of the respondents to questions 66(a) to 66(h) of the questionnaire (Part K in Appendix D), relating to various statements pertaining to tax evasion being permissible provided a certain condition is present, revealed a response percentage of disagreement of 80,30% to 91,30% to these eight statements, ranging from

“Slightly disagree” to “Strongly disagree”, while the level of uncertainty on this issue ranged from 2,30% to 4,10%. A response percentage of agreement of 5,20% to 14,80% ranging from “Strongly agree” to “Slightly agree”, was revealed by the balance of the respondents. Only 13,60% of the respondents were in disagreement to the statement that tax evasion can never be permissible, 2,90% were uncertain and 83,50% were in agreement with this statement (question 66(i)).

The majority of the respondents had firm views with regard to tax evasion, irrespective of any probable condition or mitigating circumstance being present (question 66(a) to 66(h). However, despite being illegal, taxpayers continue to commit tax evasion and may in some instances not being detected and therefore not prosecuted either.

During an interview conducted on 14 November 2008 (Appendix E) with Mr D, the leader of a church group in Pretoria, he commented that people may rationalise their actions. He said people would make good/bad decisions to execute certain actions and such actions would create a certain benefit for the person executing the action and a disadvantage for the other party. This, he said, might also apply in the scenario of fraud, corruption or tax evasion. He observed that the person performing the action would take a calculated risk, but the fraudster might always present a remedy or explanation for bad decisions/actions/deeds.

During an interview conducted on 18 November 2008 (Appendix E) with Mr E, a Catholic priest in Pretoria, he observed that fraud normally involve one person, but in the case of corruption, at least two people had to collaborate to perpetrate a deed of corruption. He said the parties involved in corruption had to agree on the terms and conditions before the corruption could be perpetrated. In his opinion corruption was the more dangerous action because the one party never knew when the other party would spill the beans. He also observed that people liked to live dangerously and that they liked to get away with things. Mr E compared this with the gambling instinct where people liked the challenge and the chance of winning big. Mr E also stated during the interview that fraud and corruption were like a sporting match because for as long as the people who were participating were

winning that allowed them to move ahead. He said that risks were discounted by the rewards on offer and that people would challenge systems by trying to beat them. This, in the words of Mr E, was based on greed.

During an interview conducted on 18 May 2009 (Appendix E) with Dr A, a criminologist, she said that many people make a living from fraud/corruption. She also said that people thought that they might get away with the fraud/corruption going undetected. She was of the opinion that fraudsters thought they were above the law. She stated that fraudsters did not think about the fact that they might be caught, neither about the consequences of their fraudulent deeds. She said that some fraudsters hope to be caught just to put an end to their fraudulent behaviour. She stipulated that fraudsters obtained a sense of power when they perpetrated fraud and were not detected or caught and it might then become a power game. She also stated that fraudsters thought their fraudulent conduct was not wrong and therefore they did not feel guilty about their conduct.

Dr A also said during her interview that many fraudsters, however, had no conscience and did not care what damage they might cause to other people. She said that in the case of tax evasion, taxpayers felt that the amount of tax payable was unfair and for SARS they were anonymous. For them, no visual damage had been caused and for that reason their conduct would be justifiable. She also observed during the interview that fraudsters did not view themselves as criminals. She said that fraudsters did not accept any responsibility and therefore fraudsters had no understanding of the damage done by their conduct. According to her, criminals felt, for example, that they did not belong in a prison and that they even believed they had a right to live a good life. She commented that fraudsters felt bad about being caught or detected. She said that they seldom showed any signs of remorse. For them it was more shameful to have been caught than perpetrating a fraudulent deed because they rationalised their fraudulent conduct.

Dr A also observed during the interview conducted with her that an informed person should be able to foresee the consequences of his conduct, but the motivation to act might be stronger than the consequences of his conduct. The fraudster merely postponed the consequences. She said that the fraudster's immediate needs were a stronger motivation

than the immediate consequences. She commented that people thought that they could wipe their tracks. She said that her experience with fraudsters was that they did not think about the consequences when they perpetrated fraud because they were not bothered by their conduct. She said it was for this reason that fraudsters could continue with their criminal behaviour, especially when they become successful in it and they were able to manipulate their own conscience.

During an interview conducted on 2 June 2009 (Appendix E) with two SARS officials they stated that many offenders had no fear of being detected. They commented that there was a time when taxpayers displayed more fear than now. They also said that they doubted if a tax evader had any concern for his evasive behaviour. They said that some tax evaders would not perpetrate tax evasion if they would be detected. However, they also said that some tax evaders would perpetrate tax evasion irrespective of the consequences just to prove a point. For many it was more important to commit tax evasion than considering the resulting consequences. They made the comment that people who plan or scheme take a definite decision to perpetrate fraud/tax evasion and will rationalise their conduct in this regard. They said that opportunists on the other hand would only rationalise their fraudulent conduct when they were caught out. The comment was also made that pseudo-compliance occurred where some people might get away with tax evasion, and other people would also try until being caught out and would then pay the penalty/interest and sin no more. They also said there was a social stigma attached to be publicly named for tax evasion. Tax evasion is an individualistic offence and the mere detection was already a punishment for the perpetrator. However, they said that perpetrators in general did not show any real remorse for their criminal behaviour. For many of them it was more of an embarrassment to be detected. Many people will continue with their criminal conduct until being detected. They said that in a court of law a perpetrator would probably show remorse for his conduct to have an influence on the possible sentence.

Mrs S, a senior manager at SABRIC, replied during an interview conducted with her on 1 July 2009 (Appendix E) that the showing of remorse by a convicted economic crime

offender would be a personal issue. She said that repeat offenders in commercial crime cases involving crime syndicates rarely showed any remorse for their criminal behaviour.

During an interview conducted on 9 February 2010 (Appendix E) with a fraud examiner at one of the major audit firms in South Africa he said that a prospective fraudster had no concern for his fraud or corruption being detected and eventually being prosecuted for that. He based his opinion on the fact that the chances of being detected were very slim, the chances of being prosecuted were remote and the chances of being convicted were virtually impossible. He also stated that fraudsters carefully plan not only the way they were going to perpetrate the fraud, but also their defence. He was also of the opinion that fraudsters came to a stage where they no longer considered the consequences of their actions, because they only cared about the money they could make.

The fraud examiner also stated during the interview that fraudsters did not view themselves as criminals. He contended that once fraudsters had stolen money and/or defrauded their victims they believed it had always been their money. He also stated that fraudsters had an attitude that they were entitled to the stolen money. He also believed that fraudsters might not show any remorse for their criminal behaviour because they did not get proper sentences. In conclusion he remarked that once a fraudster had made money by not working, the fraudster would be hooked for life.

7.6 DISCUSSION AND SUMMARY

The aim of this chapter was to address the 11 research questions identified in section 1.2.1. The main objective for the study was to determine the financial and moral perspective of the impact of economic crime on taxation. The research was conducted by means of a statistical analysis of data collected with a web-based questionnaire (Appendix D) completed by 345 role-players the prevention, detection and prosecution of fraud, corruption and tax related offences. To deal with each of the 11 research questions, respondents had to answer specific statements in the questionnaire regarding each of the identified research questions.

The results of the data analysis suggest that the prevention, detection of and dealing with economic crimes in South Africa could be approached from a different perspective by taking note of the perceptions of the majority of the role-players with regard to prevention, detection and prosecution of fraud, corruption and tax-related offences, as summarised in table 7.18. Their perceptions with regard to the research questions (Part A to K of the questionnaire in Appendix D) revealed the following:

- Law enforcement, prosecution and sentencing practices are not adequate (section 7.5.1).
- Steps to prevent economic crime and sound management of economic crime will minimise or reduce the possible negative impact of fraud, corruption and taxation-related consequences (section 7.5.2).
- The main reasons for perpetrating economic crimes are greed, facilitation of payments/cash flow problems, tax savings/tax evasion and needs/wants (section 7.5.3). This is in line with the common belief that the majority of people may perpetrate fraud or corruption driven by either need or greed.
- Competitive pressure will make organisations more inclined to offer bribes (section 7.5.3).
- With regard to the statement which strategy organisations would prefer when their competitors offers bribes, the majority of respondents (75,70%) indicated that organisations would continue with business as usual, 75,40% indicated that competitors should be reported to the authorities and 49,80% indicated that organisations would not offer bribes if their competitors were to offer bribes (section 7.5.3).
- Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general (section 7.5.4).

- Fraud or corruption is perpetrated without taking into account the possible taxation consequences that might occur as a result thereof (section 7.5.5).
- The perpetrator of fraud or corruption is aware of the possible taxation consequence or tax liabilities that might occur as a result of his fraudulent actions (section 7.5.6).
- The perpetration of fraud or corruption has an impact on taxation in South Africa (section 7.5.7).
- The type of fraud or corruption being perpetrated is a function of the opportunities available to a potential offender (section 7.5.8).
- Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible tax-related consequences (section 7.5.9).
- The prevention of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa (section 7.5.10).
- A prospective fraudster is unconcerned about whether or not his fraud or corruption will be detected, and whether he will be prosecuted for perpetrating a fraudulent action (section 7.5.11).

A summary of the research results and the conclusions, as well as recommendations made, will be discussed in chapter 8.

Table 7.19: *A summary of the role-players' disclosures made*

Questionnaire section (Part)	Agree	Uncertain	Disagree
A. Law enforcement, prosecution and sentencing practices are not adequate.	88,27%	4,98%	6,76%
B. Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.	97,50%	1,03%	1,47%
D. Are current laws and regulations adequate to deal with fraud, corruption and tax conduct in general?	70,10%	6,26%	23,64%
E. Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.	87,20%	7,36%	5,44%
F. The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.	85,61%	4,84%	9,55%
G. The perpetration of fraud or corruption has an impact on taxation in South Africa.	84,00%	6,65%	9,35%
H. The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.	88,80%	3,69%	7,51%
I. Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences.	96,98%	1,54%	1,48%
J. The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.	76,95%	6,55%	16,50%
K. The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.	71,02%	7,78%	21,20%

CHAPTER 8

SUMMARY OF STUDY RESULTS, CONCLUSIONS AND RECOMMENDATIONS

8.1 INTRODUCTION

The investigation of a financial and moral perspective of the impact of economic crime on taxation has been completed. As already indicated in chapters 6 and 7, 82 economic crime offenders and 345 role-players in the prevention, detection and dealing with fraud, corruption and tax-related offences participated in this study by completing a questionnaire. The offenders completed a manual version of the questionnaire (Appendix C) while the researcher had access to them at the various Gauteng based correctional institutions visited as part of the field research. The role-players involved in the prevention, detection and dealing with fraud, corruption and related taxation consequences in South Africa, completed a web-based version of the questionnaire (Appendix D).

All the offenders (82 in total) interviewed by the researcher manually completed a printed copy of the questionnaire resulting in a 100% response rate. In total 345 role-players fully completed a web-based version of the questionnaire, although 670 responses were received. Thus, the overall response rate for the role-players equates to 51,49% and is deemed adequate to draw conclusions on a financial and moral perspective of the impact of economic crime on taxation.

The “Morality questionnaire” was sent to 185 members of societies and communities in South Africa. The researcher received 140 fully completed questionnaires (Appendix A) back from the respondents equating to a response rate of 75,67% for this questionnaire and is deemed adequate to draw conclusions on a financial and moral perspective of the impact of economic crime on taxation.

Economic crimes (such as fraud, corruption, money laundering, white-collar crime, tax evasion and tax fraud) are generally recognised in the subject literature and numerous articles have been published on the various economic crimes mentioned. Levi (2008:lxviii) observed that “fraud is now a class-level label that can apply to cheats from all social origins”. Globally governments, public and private institutions, regulating authorities and law enforcement agencies are confronted on a daily basis with economic

crime. Eicher (2009:1) states that “globalization has created visible, open clashes among private actors, public officials, individuals, and organized groups at an unexpected level and pace”. Various global initiatives have been launched to deal with economic crime on a global basis such as the Financial Action Task Force which was established in 1989 to combat money laundering and terrorist financing (Gup, 2007:16). South Africa has followed suit by promulgating and introducing various new acts to specifically handle economic crime in general such as the Prevention and Combating of Corrupt Activities Act 12 of 2004 (Lambrechts, 2004:106).

The three questionnaires were used to determine a financial and moral perspective on the impact of economic crime on taxation. Care has been taken to investigate the more important aspects of a financial and moral perspective of the impact of economic crime on taxation as determined by interviews with various experts in the field (Appendix E). A review of the research results regarding a financial and moral perspective of the impact of economic crime on taxation will be presented.

8.2 PROBLEM STATEMENT, RESEARCH QUESTIONS AND RESEARCH OBJECTIVES

The purpose of this study was to investigate the financial and moral perspective of the impact of economic crime on taxation (section 1.2). Do fraudsters perpetrate fraud or corruption to conceal any possible taxation consequences or do the taxation consequences merely result from the perpetration of fraud or corruption? Does the perpetration of fraud or corruption have a direct or indirect impact on taxation in general if the fraud or corruption perpetrated is financially related?

The main research objective (section 1.3.1) and the secondary research objectives (sections 1.3.2.1 to 1.3.2.7) are a result of the research questions stated in sections 1.2.1.1 to 1.2.1.11. The main research objective (section 1.3.1) was to determine whether there is any relationship between economic crime and taxation in general on the one hand and the taxation consequences on the other. For this reason the possible impact of corporate ethics and personal moral values on the occurrence of economic crime in general, was also investigated.

The secondary research objectives (section 1.3.2) for this study were:

- To determine the general perspective on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud (section 1.3.2.1).
- To determine the types of economic crimes such as fraud, money laundering, white-collar crime and corruption that are perpetrated and how such crimes can be prevented, detected and handled (section 1.3.2.2).
- To determine if the involvement of the churches/community/society as well as morality, can have an impact on the occurrence of economic crimes in general (section 1.3.2.3).
- To determine if law enforcement, prosecution and sentencing practices and current laws and regulations, are adequate to handle fraud, corruption and tax conduct in general (section 1.3.2.4).
- To determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated (section 1.3.2.5).
- To determine if steps to prevent economic crime and sound management of fraud, corruption and related taxation consequences on the one hand and morality and sound principles, for example such as strong corporate ethics, on the other hand, could minimise or reduce the possible negative financial impact it may have in South Africa (section 1.3.2.6).
- To determine the main reasons for perpetrating fraud, corruption or tax evasion on the one hand and if the type of fraud or corruption that is perpetrated in general may be a result of the opportunities available to a potential offender on the other hand and if the potential offender may have any concern for his fraudulent actions (section 1.3.2.7).

8.3 A REVIEW OF THE RESEARCH RESULTS

The results of the investigation of a financial and moral perspective of the impact of economic crime on taxation have been analysed comprehensively in chapters 5, 6 and 7. The responses to each question/statement in the questionnaires have been tabled and analysed separately. Hereafter a review of the stated eleven research questions in section 1.2.1 will be presented.

8.3.1 Chapter 2 conclusions

The secondary research objective for chapter 2 was to determine the general perspective on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud (section 1.3.2.1). From the literature review conducted it was established that a taxpayer should align his tax conduct within the ambit of the applicable laws (section 2.2). A taxpayer also has a right to pay the least possible tax by using tax planning (section 2.3) and tax avoidance (section 2.4) provided such tax planning and tax avoidance remain legal. The literature reviewed also confirmed that when a taxpayer employs tax evasion (illegal) (section 2.5) or worse, tax fraud (criminal) (section 2.6) to address his adverse tax position, the taxpayer will be confronted with the full force of the applicable tax laws. A taxpayer does enjoy the right to legal tax planning and tax avoidance to minimise a tax liability but in exercising such right the taxpayer should be tax compliant with regard to the various applicable tax laws and regulations.

8.3.2 Chapter 3 conclusions

The secondary research objective for chapter 3 was to determine the types of economic crimes such as white-collar crime, fraud, money laundering and corruption that are perpetrated and how such crimes can be prevented, detected and handled (section 1.3.2.2). From the literature reviewed it was established that economic crimes can take on many forms and various methods can be employed by the perpetrators of such crimes (sections 3.2 to 3.5). The literature reviewed also confirmed that economic crime offenders are intelligent, determined, and committed to success, highly energetic, creative, problem solvers and aggressive (section 3.3.4). These characteristics are similar to those that are associated with successful entrepreneurs and leaders in business.

From the literature review conducted, it was also established that economic crime is generally perpetrated internally (defrauding an entity) or externally (defrauding third parties or clients), by management, employees or other third parties (section 3.14). Victims of economic crimes may include company directors, managers, employees (all being internal victims) and investors, creditors, suppliers and customers (all being external victims).

There are various measures available to help prevent or deter economic crimes and that may include internal control measures, physical control measures, audit procedures, risk assessment procedures, customer/client measures, training of employees, financial control measures, reporting procedures, ethics, documentation procedures, communication measures and technology and computer controls (section 3.3.5). Economic crimes should be prevented or deterred as it impact negatively on the economy at large and has also had a negative impact on the tax revenue of government.

8.3.3 Chapter 4 conclusions

The research methodology and empirical investigation described in chapter 4 to investigate the financial and moral perspective of the impact of economic crime on taxation in general, was successfully completed. One of the stated secondary objectives (section 1.3.2.5) was to determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated by an offender.

The research method followed for this study included a literature review and empirical research. For the empirical research three questionnaires were used. The first questionnaire (see Appendix A) was addressed to members of society and communities that has been selected as respondents for the research on the morality aspects associated with fraud, corruption and tax evasion. The second questionnaire (see Appendix D) was directed at role-players involved in the prevention, detection and handling of fraud, corruption and related taxation consequences in South Africa. The third questionnaire (see Appendix C) was addressed to 82 economic crime offenders jailed for their offences related to fraud, corruption and taxation in general.

The other empirical research method used for this study comprised personal interviews conducted with sentenced economic crime offenders and role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa.

Reliable and empirically sustainable answers to questions used in the questionnaires were obtained from the respondents. For this study data was collected and statistical analysis was done on the collected data to determine the financial and moral perspective of the impact of economic crime on taxation. The statistical analysis was also used to determine relationships between variables. Certain deductions could be made regarding the financial and moral perspective of the impact of economic crime on taxation.

8.3.4 Summary of the findings in chapter 5

The morality questionnaire (Appendix A) consisted of 20 questions directed at role-players in societies and communities in South Africa. The focus of this questionnaire was to deal with the moral issues associated with fraud, corruption and tax evasion in general. This study has produced results (refer to chapter 5) that confirm the support of sound moral values for a society or community. This study also revealed support for a change in the attitude of taxpayers towards SARS and the government. The most important results from this study are the following:

- A perceived unfair or unjust tax system cannot be sufficient grounds for tax evasion (section 5.4.2).
- A taxpayer may use tax planning to legally reduce his tax liability (section 5.4.3).
- When tax planning becomes aggressive, it will become a moral issue (section 5.4.4).
- It is not morally justifiable to bend tax rules and regulations in order to save an amount of taxation, no matter what the reason (section 5.4.5).
- People are more aware of their human rights than of their responsibility to comply with tax laws and regulations (section 5.4.6).
- Tax morality should be governed by tax laws and regulations (section 5.4.7).

- Tax dishonesty in previous tax years should be reported to SARS and rectified (section 5.4.8).
- Continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems (section 5.4.9).
- A taxpayer's tax dishonesty or tax evasion should be reported to SARS (section 5.4.10).
- The churches/community/society in general can play a role in modern society in condemning tax evasion and promoting tax morality (section 5.4.11).
- A change in a taxpayer's attitude towards SARS and the government may impact positively or negatively on eliminating tax evasion, fraud, corruption and strengthening tax morality (section 5.4.12).
- Some tax evaders have no concern about their tax evasive actions (section 5.4.14).
- The churches/community/society should take a more open or firm public stance against fraud, corruption and tax evasion (section 5.4.15).
- Taxpayer's actions should primarily be guided by tax laws and regulations (section 5.4.16).
- Fraud, corruption and tax evasion can be minimised by dealing with the moral values of people (section 5.4.17).
- For many people materialism, greed and self-enrichment have become more important than moral values (section 5.4.18).
- Most people comply with tax rules and regulations because they respect the law (section 5.4.19).
- Adding more severe penalties and other punitive measures against tax evasion, fraud and corruption would not necessarily decrease the levels of these transgressions. More effective law enforcement may well impact on the current levels of fraud, corruption and tax evasion (section 5.4.20).

8.3.5 Summary of the findings in chapter 6

A summary of the results obtained from the personal interviews conducted with 82 economic crime offenders and the questionnaire addressed to them follows:

8.3.5.1 Summary of the results of the personal interviews conducted with economic crime offenders

As part of the research on a financial and moral perspective of the impact of economic crime on taxation, personal interviews were conducted with 82 offenders jailed for economic crime offences (such as fraud, corruption and tax-related offences) at various Gauteng-based correctional institutions. The following significant information was revealed by the economic offenders interviewed (chapter 6):

- Most offenders acted alone rather than having an accomplice (section 6.4.2).
- The higher the monetary amount involved in the fraud/corruption case the longer the official period of the prison sentence (section 6.4.3).
- The majority of the offenders said that if they were able to go back in time, they would probably not have perpetrated the fraud/corruption in the first place (section 6.4.4).
- The majority of the offenders were of the opinion that their official period of sentence was not fair in relation to the offences perpetrated by them (section 6.4.5).
- The majority of the offenders perpetrated a once-off offence rather than a series of offences (section 6.4.6).
- The majority of the offenders indicated that they had considered the perpetration of fraud/corruption to be wrong (section 6.4.7).
- The majority of the offenders indicated that the immediate benefit to be derived from a fraudulent action was more important than the potential consequences (section 6.4.8).
- The majority of the offenders revealed that they had considered the possibility of being caught or their fraudulent actions being detected (section 6.4.9).

- Most offenders revealed their uses of the proceeds obtained through the perpetration of fraud/corruption and the proceeds were generally applied for personal use in various forms (section 6.4.10).
- Most offenders provided advice to other potential offenders having learned the hard way from their own mistakes (section 6.4.11).
- The majority of the offenders said they would not perpetrate fraud/corruption again once released from prison (section 6.4.12).
- The majority of the offenders were of the opinion that by serving a prison term for the perpetration of fraud/corruption may not be regarded as sufficient rehabilitation (section 6.4.13).
- The majority of the offenders said that if they had been more informed about the potential consequences that could result from the perpetration of fraud/corruption they may not have committed such offences in the first place (section 6.4.14).
- The majority of the offenders said that they were not aware of any possible taxation consequences that could have resulted from the perpetrated fraud/corruption (section 6.4.15).
- All the offenders, except for one, said that they had remorse about the fraud/corruption they had perpetrated (section 6.4.16).
- The higher the level of academic achievement of an economic crime offender, the higher the monetary amount involved in the perpetrated economic crime offence (section 6.4.17).

The following significant correlations could be made with regard to the data collected from the economic crime offenders during their respective personal interviews and the processing of the data collected:

- The higher the level of an offender's academic qualification, the higher the monetary amount involved with regard to the fraud/corruption perpetrated (section 6.4.17).
- The higher the level of the monetary amount involved with regard to fraud/corruption the more significant the move from acting alone and perpetrating a once-off offence

to involving an accomplice and perpetrating a series of offences (sections 6.4.2 and 6.4.6).

- Offenders were willing to run the risk of being detected or even prosecuted and possibly sentenced because the immediate benefit to be derived from their fraudulent actions would seem more important than the potential consequences (6.4.8).
- Offenders considered the possibility that they might be caught or their fraudulent actions being detected, but the rewards on offer by perpetrating the fraud/corruption carried more weight than the risk of detection (section 6.4.9).

8.3.5.2 Summary of the results from the questionnaire addressed to economic crime offenders

The 82 economic crime offenders interviewed, also completed the questionnaire in Appendix C. A summary of the results from the questionnaire addressed to the economic crime offenders with regard to the 11 research questions in section 1.2.1 will now be discussed.

Law enforcement, prosecution and sentencing practices are not adequate

The statement was made that law enforcement, prosecution and sentencing practices are not adequate in South Africa. The majority of the economic crime offenders (refer to table 6.22 in section 6.6.1) agreed with this statement. It may also be interpreted as a plea for a more effective and efficient application of existing laws and regulations in place.

Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences

The researcher posed the statement to the economic crime offenders whether steps to prevent economic crime and sound management will minimise or reduce the possible impact of fraud, corruption and related taxation consequences. The majority of the offenders (refer to table 6.23 in section 6.6.2) agreed with this statement. The majority of the offenders indicated that steps to prevent economic crime and sound management would minimise or reduce the possible negative impact of fraud, corruption and related

taxation consequences. Proactive action can minimise the effect of economic crime as opposed to reactive action which sometimes may merely be a form of damage control.

Reasons for perpetrating fraud, corruption or tax evasion

Any person committing an economic crime such as fraud, corruption or tax evasion would be driven by something or someone. The economic crime offenders were asked to rank ten possible reasons for perpetrating fraud, corruption or tax evasion. The top three reasons ranked by the offenders (refer to table 6.24 in section 6.6.3) were needs/want (86,60%), facilitation of payments/cash-flow problems (74,40%) and greed (63,40%). In view of the opinions of the majority of the offenders who participated in this research project it may be evident that in the case of economic crime offenders needs/want can indeed be labelled as one of the main drivers behind the perpetration of economic crimes in general.

Current laws and regulations are adequate

The statement was made that current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. The majority of the economic crime offenders (refer to table 6.26 in section 6.6.4) were in agreement with this statement. However, their responses should be viewed with reference to the fact that the majority of the economic crime offenders were also of the opinion that law enforcement, prosecution and sentencing practices are not adequate. Their response should be interpreted as a vote of confidence in current laws and regulations, but these laws and regulations should be applied more effectively with regard to law enforcement, prosecution and sentencing of economic crime offenders.

Fraud/corruption ignores taxation consequences

Economic crime offenders were asked whether fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. The majority of them (refer to table 6.27 in section 6.6.5) were in agreement with this statement. It would then follow that fraudsters may generally be more concerned about the immediate benefits to be derived from their fraudulent actions than any possible related consequences that may occur as a result of their fraudulent actions. Offenders

normally do not plan or view consequences, but they will factor the possibility of any possible consequences. Many offenders observe an opportunity and then utilise that opportunity, thus any possible consequences may be ignored.

The perpetrator of fraud or corruption is aware of any possible taxation consequences

A very important aspect of the perpetration of fraud or corruption is whether the perpetrator would be aware of any possible taxation consequences or tax liabilities that might occur as a result of such fraudulent actions. The importance of this issue is embedded in the principle that the perpetration of an economic crime may have a direct or indirect taxation consequence. The majority of the economic crime offenders (refer to table 6.29 in section 6.6.6) were of the opinion that the perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.

The economic crime offender's responses should be viewed with reference to the opinion expressed by the majority of them that fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof (refer to table 6.2.7 in section 6.6.5). Thus, although the perpetrator of fraud or corruption may be aware of the possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions, he does not take any possible taxation consequences into consideration when perpetrating fraud or corruption. This reaffirms the notion that the immediate gain to be derived from a fraudulent action would take precedence over any other possible consequence that may occur as a result of such fraudulent action.

The perpetration of fraud/corruption has an impact on taxation in South Africa

When fraud or corruption is financially related it would have an impact on taxation in South Africa in general. The economic crime offenders were requested to reply to the statement that the perpetration of fraud/corruption has an impact on taxation in South Africa. The majority of them (refer to table 6.30 in section 6.6.7) were in agreement with this statement. It is informative that the majority of the offenders responded in the affirmative to this statement especially with reference to the fact that the majority of the offenders stated

that fraudsters perpetrated fraud/corruption without taking into account any possible taxation consequences that might occur as a result thereof.

The type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender

The economic crime offenders were requested to reply to the statement that the type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender. The majority of them (refer to table 6.31 in section 6.6.8) were in agreement with this statement. A fraudster needs to be in a position to perpetrate a fraudulent act. Thus, as indicated by the majority of the offenders, the type of fraud or corruption that may be perpetrated is indeed a function of the opportunities available to a potential offender. Thus, to minimise the opportunities available to perpetrate an economic crime, proper internal control measures should be implemented.

Morality and sound principles would impact positively on the occurrence of fraud/corruption and any possible related taxation consequences

The economic crime offenders were asked to reply to the statement that morality and sound principles, for example such as strong corporate ethics, would impact positively on the occurrence of fraud/corruption and any possible related taxation consequences. The majority of them (refer to table 6.32 in section 6.6.9) responded in the affirmative in this regard.

The value and impact of morality and sound principles would, according to the majority of the economic crime offenders, impact positively on the occurrence of fraud/corruption and any possible related taxation consequences. It should therefore, as far as possible, be promoted and implemented in all spheres in the public and private sectors; however, the tone should be set at the top and backed up by a policy of zero tolerance.

The perpetration of fraud, corruption and tax evasion may be influenced by the cost of compliance

The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa. The majority of the economic crime offenders (refer to table 6.33 in section 6.6.10) responded in the

affirmative to this statement. It is informative that the majority of the economic crime offenders were in agreement with this statement as tax compliance is becoming a real challenge for corporate and individual taxpayers.

A prospective fraudster has no concern of being detected or being prosecuted

The statement was made to the economic crime offenders that a prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action. The majority of them (refer to table 6.34 in section 6.6.11) responded in the affirmative to this statement.

Fraudsters might discount the risk of possible detection and possible prosecution before perpetrating a fraudulent act with the potential financial rewards on offer when executing a fraudulent act. If the potential financial gain outweighed the potential risks associated, the fraudster would probably perpetrate the planned fraudulent act. The potential reward stemming from perpetrating an economic crime may shadow the risk of detection and possible prosecution. Economic crime offenders in general are more concerned about the possible proceeds from their fraudulent conduct and may therefore discount the risk of detection and possible prosecution.

8.3.6 Summary of the findings in chapter 7

A web-based questionnaire (Appendix D) was completed by 345 role-players in the prevention, detection and addressing fraud, corruption and tax-related offences. A summary of the results from the questionnaire addressed to role-players with regard to the 11 research questions in section 1.2.1 will now be discussed.

Law enforcement, prosecution and sentencing practices are not adequate

The statement was made that law enforcement, prosecution and sentencing practices are not adequate in South Africa. In the case of the role-players (refer to table 7.6 in section 7.5.1) the majority of them agreed with this statement. It may also be interpreted as a plea for a more effective and efficient application of existing laws and regulations in place.

More laws and regulations to deal with the current levels of economic crime in South Africa would not necessarily impact significantly on these levels. However, if all the role-players

involved in the prevention, detection and handling of economic crime in South Africa can collectively handle the current law enforcement, prosecution and sentencing practices, it may well impact positively on the current levels of economic crime in South Africa.

Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences

The researcher posed the statement to the role-players whether steps to prevent economic crime and sound management will minimise or reduce the possible impact of fraud, corruption and related taxation consequences. The majority of the role-players (refer to table 7.7 in section 7.5.2) agreed with this statement. The role-players could have been expected to have responded the way they did because they are directly or indirectly involved in the prevention and detection of and dealing with economic crimes. Proactive action can minimise the effect of economic crime as opposed to reactive action which sometimes may merely be a form of damage control.

Reasons for perpetrating fraud, corruption or tax evasion

Any person committing an economic crime such as fraud, corruption or tax evasion would be driven by something or someone. The role-players were asked to rank ten possible reasons for perpetrating fraud, corruption or tax evasion. The top three reasons ranked by the role-players (refer to table 7.8 in section 7.5.3) were greed (97,40%), facilitation of payments/cash-flow problems (93,30%) and tax savings/evasion (92,50%).

In view of the opinions of the majority of the role-players who participated in this research project it may be evident that greed can indeed be labelled as one of the main drivers behind the perpetration of economic crimes in general.

Current laws and regulations are adequate

The statement was made that current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. In this regard the majority of the role-players (refer to table 7.10 in section 7.5.4) were in agreement with this statement. However, their responses should be viewed with reference to the fact that the majority of the role-players were also of the opinion that law enforcement, prosecution and sentencing practices are

not adequate (refer to table 7.6 in section 7.5.1). Their response may be interpreted as a vote of confidence in current laws and regulations, but that these laws and regulations should be applied more effectively with regard to law enforcement, prosecution and sentencing of economic crime offenders.

Fraud/corruption ignores taxation consequences

The role-players were asked whether fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. The majority of them (refer to table 7.11 in section 7.5.5) were in agreement with this statement. It would then follow that fraudsters may generally be more concerned about the immediate benefits to be derived from their fraudulent actions than any possible related consequences that may occur as a result of their fraudulent actions.

Although economic crime offenders may display some awareness, this awareness will not be clinical, as they normally act opportunistically. Economic crime offenders normally do not plan or view consequences, but they will factor the possibility of any possible consequences.

The perpetrator of fraud or corruption is aware of any possible taxation consequences

A very important aspect of the perpetration of fraud or corruption is whether the perpetrator would be aware of any possible taxation consequences or tax liabilities that might occur as a result of such fraudulent actions. The importance of this issue is embedded in the principle that the perpetration of an economic crime may have a direct or indirect taxation consequence. The role-players were confronted with this statement. The majority of them (refer to table 7.13 in section 7.5.6) were of the opinion that the perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions. Their responses should be viewed with reference to the fact that the majority of them were also of the opinion that fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof (refer to table 7.11 in section 7.5.5).

The perpetration of fraud/corruption has an impact on taxation in South Africa

When fraud or corruption is financially related it would have an impact on taxation in South Africa in general. The role-players were requested to reply to the statement that the perpetration of fraud/corruption has an impact on taxation in South Africa. The majority of them (refer to table 7.14 in section 7.5.7) were in agreement with this statement.

The type of fraud/corruption being perpetrated is a function of the opportunities available to the potential offender

The role-players were requested to reply to the statement that the type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender. The majority of them (refer to table 7.15 in section 7.5.8) were in agreement with this statement. A fraudster needs to be in a position to perpetrate a fraudulent act. Thus, as indicated by the majority of the role-players, the type of fraud or corruption that may be perpetrated is indeed a function of the opportunities available to a potential offender.

Thus, to minimise the opportunities available to perpetrate an economic crime, proper internal control measures should be implemented, weighing up the costs of such controls against the benefits it may achieve.

Morality and sound principles would impact positively on the occurrence of fraud/corruption and any possible related taxation consequences

The role-players were asked to reply to the statement that morality and sound principles, for example such as strong corporate ethics, would impact positively on the occurrence of fraud/corruption and any possible related taxation consequences. The majority of them (refer to table 7.16 in section 7.5.9) responded in the affirmative to this statement.

The value and impact of morality and sound principles would, according to the majority of the role-players, impact positively on the occurrence of fraud/corruption and any possible related taxation consequences. It should therefore, as far as possible, be promoted and implemented in all spheres in the public and private sectors; however, the tone should be set at the top and backed up by a policy of zero tolerance.

The perpetration of fraud, corruption and tax evasion may be influenced by the cost of compliance

The statement was made to the role-players that the perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa. The majority of them (refer to table 7.17 in section 7.5.10) responded in the affirmative to this statement. Tax compliance is becoming a real challenge for corporate and individual taxpayers and many of the role-players are also tax practitioners dealing with tax clients on a regular basis.

A prospective fraudster has no concern of being detected or being prosecuted

The statement was made to the role-players that a prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action. The majority of them (refer to table 7.18 in section 7.5.11) responded in the affirmative to this statement.

8.3.7 Summary of the findings for chapter 6 and chapter 7

A detailed statistical analysis was conducted on the two sets of data obtained with the questionnaire addressed to economic crime offenders (Appendix C) and the questionnaire addressed to the role-players in the prevention, detection and handling of fraud, corruption and tax-related offences (Appendix D). The statistical analysis comprised the Null hypothesis between the two sets of data, the level of significance between the responses provided by the economic crime offenders and role-players to each of the questions listed in the 11 sections (A to K) of the questionnaires, the mean and standard deviation for each question, the Z-value and the P-value. The summary of the statistical analysis is reflected in Tables 8.1 to 8.11 below.

If the significance (P-value) is less than 0,05 the Levene's test indicates that the variance between two populations are not equal. If the significance is greater than 0,05 the Levene's test indicates that equal variances can be assumed. The t-test is also used to examine whether the means of two groups of data are significantly different from one another. Thus, the higher the value of "t" the more likely the difference is statistically significant. If the Null hypothesis is rejected a statistically significant difference exists

between two groups of respondents between their compatibility scores. If the absolute value obtained for Z is less than 1,96 the Null hypothesis is retained, however if the Z-value is greater than 1,96 the Null hypothesis is rejected. Tables 8.1 to 8.11 display a summary of the mean, standard deviation, Z-value and P-value for the economic crime offenders and the role-players for the 11 research questions in sections 1.2.1.1 to 1.2.1.11.

Law enforcement, prosecution and sentencing practices are not adequate

Table 8.1: *Law enforcement, prosecution and sentencing practices are not adequate*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q1	2.68	2.171	1.63	1.105	-3.628	0.000	Reject
Q2	2.33	2.061	3.54	2.508	-4.221	0.000	Reject
Q3	3.10	2.318	1.89	1.451	-4.255	0.000	Reject
Q4a	3.28	2.520	2.38	1.709	-2.393	0.017	Reject
Q4b	2.44	2.206	1.74	1.207	-1.313	0.189	Retain
Q4c	2.82	2.212	1.84	1.195	-3.060	0.002	Reject
Q4d	2.13	1.844	1.48	0.853	-1.827	0.068	Retain
Q4e	2.33	1.785	1.87	1.287	-1.643	0.100	Retain
Q4f	2.40	1.949	2.04	1.303	-0.256	0.798	Retain
Q4g	2.32	1.791	1.86	1.211	-1.461	0.144	Retain
Q5	3.35	2.338	2.30	1.717	-3.873	0.000	Reject

The mean for the economic crime offenders for questions 1 to 5 of their questionnaire (Appendix C) ranged from 2.13 to 3.35 and the standard deviation ranged from 1.791 to 2.520. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.48 to 3.54 and the standard deviation ranged from 0.853 to 2.508. Five of the 11 questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Six of the 11 questions

posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “law enforcement, prosecution and sentencing practices are not adequate”.

Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences

Table 8.2: *Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q6	3.06	2.390	2.42	1.688	-1.397	0.162	Retain
Q7	1.94	1.680	1.06	0.317	-7.948	0.000	Reject
Q8	1.87	1.639	1.12	0.377	-5.458	0.000	Reject
Q9	1.67	1.397	1.30	0.679	-1.681	0.093	Retain
Q10	1.71	1.383	1.18	0.458	-3.519	0.000	Reject

The mean for the economic crime offenders for questions 6 to 10 of their questionnaire (Appendix C) ranged from 1.67 to 3.06 and the standard deviation ranged from 1.383 to 2.390. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.06 to 2.42 and the standard deviation ranged from 0.317 to 1.688. Two of the five questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Three of the five

questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences”.

Reasons for perpetrating fraud, corruption or tax evasion

Table 8.3: *Reasons for perpetrating fraud, corruption or tax evasion*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q11a	3.06	2.338	1.38	0.816	-7.297	0.000	Reject
Q11b	4.18	2.384	2.69	1.744	-5.159	0.000	Reject
Q11c	2.11	1.700	1.95	1.377	-0.036	0.971	Retain
Q11d	3.68	2.408	1.93	1.298	-6.221	0.000	Reject
Q11e	3.94	2.202	1.88	1.257	-8.292	0.000	Reject
Q11f	2.65	2.116	1.75	1.230	-3.117	0.002	Reject
Q11g	3.01	2.003	1.90	1.334	-4.955	0.000	Reject
Q11h	3.39	2.210	2.14	1.373	-4.582	0.000	Reject
Q11i	3.32	2.072	2.11	1.359	-5.019	0.000	Reject
Q11j	3.72	2.268	2.03	1.296	-6.219	0.000	Reject
Q12a	2.89	2.266	2.08	1.512	-2.215	0.027	Reject
Q12b	4.04	2.258	5.29	1.797	-4.598	0.000	Reject
Q13a	4.02	2.346	4.47	2.243	-1.643	0.100	Retain
Q13b	3.32	2.154	2.61	1.782	-2.589	0.010	Reject
Q13c	2.84	2.003	2.38	1.705	-1.626	0.104	Retain

The mean for the economic crime offenders for questions 11a to 13c of their questionnaire (Appendix C) ranged from 2.11 to 4.18 and the standard deviation ranged from 1.700 to 2.408. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.38 to 5.29 and the standard deviation ranged from 0.816 to 2.243. Three of 15 questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Twelve of the 15 questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). Based on the mean, the economic crime offenders have identified needs/want, the facilitation of payments/cash flow problems and bribes paid to get things done/sorted out as the three main reasons for perpetrating fraud, corruption or tax evasion. If the mean is used for the role-players as well, they have identified greed, facilitation of payment/cash flow problems and tax savings/tax evasion as the main reasons for perpetrating fraud, corruption or tax evasion.

Based on the mean both the economic crime offenders (2.89) and the role-players (2.08) were in agreement with the statement that competitive pressure will make organisations more inclined to offer bribes. Based on the mean the economic crime offenders (3.32 and 2.84) and the role-players (2.61 and 2.38) indicated that organisations would prefer to continue with business as usual and to report their competitors to the authorities when their competitors offer bribes.

Are current laws and regulations adequate to address fraud, corruption and tax conduct in general?

Table 8.4: *Are current laws and regulations adequate to address fraud, corruption and tax conduct in general?*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q14a	4.45	2.625	6.31	1.447	-6.620	0.000	Reject
Q14b	3.28	2.358	1.95	1.784	-5.125	0.000	Reject
Q14c	3.07	2.260	1.68	1.413	-6.277	0.000	Reject
Q14d	4.20	2.236	6.23	1.550	-8.565	0.000	Reject
Q15a	3.98	2.367	4.14	2.202	-0.859	0.391	Retain
Q15b	4.35	2.174	4.52	2.165	-0.592	0.554	Retain
Q15c	2.85	2.068	2.68	1.825	-0.264	0.792	Retain
Q15d	2.60	1.917	2.80	1.865	-1.179	0.238	Retain
Q15e	4.00	2.085	4.87	1.980	-3.327	0.001	Reject
Q16	2.59	2.244	2.13	1.821	-1.081	0.280	Retain
Q17	3.16	2.589	2.21	1.903	-2.539	0.011	Reject
Q18	2.93	2.071	1.60	1.115	-6.096	0.000	Reject
Q19	3.37	2.674	2.16	2.021	-3.516	0.000	Reject

The mean for the economic crime offenders for questions 14a to 15e of their questionnaire (Appendix C) ranged from 2.60 to 4.45 and the standard deviation ranged from 1.971 to 2.625. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.68 to 6.31 and the standard deviation ranged from 1.413 to 2.202. Four of the nine questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Five of the nine questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected. Based on the mean the majority of the

economic crime offenders stated that South African courts should be disapproving (3.28) and condemning (3.07) fraud, corruption and tax evasion. Based on the mean the majority of the role-players also stated that South African courts should be disapproving (1.95) and condemning (1.68) fraud, corruption and tax evasion.

Based on the mean the majority of the economic crime offenders stated that their attitude towards fraud, corruption and tax evasion should be that of disapproving (2.85) and condemnation (2.60). Based on the mean the majority of the role-players also stated that their attitude towards fraud, corruption and tax evasion should be that of disapproving (2.68) and condemnation (2.80).

The mean for the economic crime offenders for questions 16 to 19 of their questionnaire (Appendix C) ranged from 2.59 to 3.37 and the standard deviation ranged from 2.071 to 2.674. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.60 to 2.21 and the standard deviation ranged from 1.115 to 2.021. One of the four questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Three of the four questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences”.

Fraud or corruption is perpetrated without taking into account any possible taxation consequences that may occur as a result thereof

Table 8.5: *Fraud or corruption is perpetrated without taking into account any possible taxation consequences that may occur as a result thereof*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q20	2.43	2.049	2.03	1.503	-0.574	0.566	Retain
Q21a	2.66	1.970	1.81	1.189	-3.575	0.000	Reject
Q21b	2.82	1.664	2.08	1.191	-3.699	0.000	Reject
Q21c	3.07	1.942	2.11	1.301	-4.190	0.000	Reject
Q21d	2.85	1.736	2.10	1.321	-3.721	0.000	Reject

The mean for the economic crime offenders for questions 20 to 21d of their questionnaire (Appendix C) ranged from 2.43 to 3.07 and the standard deviation ranged from 1.664 to 2.049. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.81 to 2.11 and the standard deviation ranged from 1.189 to 1.503. One of the five questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Four of the five questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “fraud, or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof”.

The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions

Table 8.6: *The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q22	3.01	2.231	2.77	1.916	-0.418	0.676	Retain
Q23a	1.93	1.368	1.88	1.333	-0.191	0.849	Retain
Q23b	2.85	1.976	1.89	1.339	-4.427	0.000	Reject
Q23c	2.70	1.923	2.06	1.430	-2.496	0.013	Reject
Q23d	2.79	1.858	1.88	1.309	-4.518	0.000	Reject
Q23e	2.79	1.890	2.18	1.526	-2.686	0.007	Reject
Q23f	2.91	1.834	2.25	1.539	-3.224	0.001	Reject
Q23g	2.71	1.774	1.97	1.331	-3.669	0.000	Reject
Q24	3.21	2.423	2.07	1.527	-3.589	0.000	Reject
Q25	3.51	2.400	1.99	1.344	-5.248	0.000	Reject

The mean for the economic crime offenders for questions 22 to 25 of their questionnaire (Appendix C) ranged from 1.93 to 3.51 and the standard deviation ranged from 1.368 to 2.423. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.88 to 2.77 and the standard deviation ranged from 1.331 to 1.916. Two of the ten questions in the questionnaire had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained. Eight of the ten questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “the perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions”.

The perpetration of fraud or corruption has an impact on taxation in South Africa

Table 8.7: *The perpetration of fraud or corruption has an impact on taxation in South Africa*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q26	4.85	2.529	6.55	1.300	-7.027	0.000	Reject
Q27	3.70	2.237	1.27	0.838	-12.056	0.000	Reject
Q28	3.13	2.029	1.67	1.097	-6.542	0.000	Reject
Q29	3.16	2.046	2.31	1.863	-4.064	0.000	Reject

The mean for the economic crime offenders for questions 26 to 29 of their questionnaire (Appendix C) ranged from 3.13 to 4.85 and the standard deviation ranged from 2.029 to 2.529. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.27 to 6.55 and the standard deviation ranged from 0.838 to 1.863. All four questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the

majority of both groups of respondents were in agreement with the statement that “the perpetration of fraud or corruption has an impact on taxation in South Africa”.

The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender

Table 8.8: *The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q30	3.24	2.492	1.58	1.023	-5.509	0.000	Reject
Q31a	2.70	1.870	1.69	1.046	-5.070	0.000	Reject
Q31b	2.94	1.965	1.90	1.244	-4.673	0.000	Reject
Q31c	2.50	2.074	1.64	0.970	-2.648	0.008	Reject
Q31d	2.88	1.621	1.70	1.046	-6.642	0.000	Reject
Q31e	3.01	1.997	1.66	1.092	-6.459	0.000	Reject

The mean for the economic crime offenders for questions 30 to 31e of their questionnaire (Appendix C) ranged from 2.50 to 3.24 and the standard deviation ranged from 1.621 to 2.492. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.58 to 1.90 and the standard deviation ranged from 0.970 to 1.244. All six questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “the type

of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender”.

Morality and sound principles would impact positively on the occurrence of fraud, corruption and any possible related taxation consequences

Table 8.9: *Morality and sound principles would impact positively on the occurrence of fraud, corruption and any possible related taxation consequences*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q32	2.67	2.183	1.38	0.806	-5.318	0.000	Reject

The mean for the economic crime offenders for question 32 of their questionnaire (Appendix C) was 2.67 and the standard deviation was 2.183. The mean for the role-players for the same question in their questionnaire (Appendix D) was 1.38 and the standard deviation was 0.806. The question posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for this question was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences”.

The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa

Table 8.10 *The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null Hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q33	3.02	2.024	2.56	1.699	-1.643	0.100	Retain
Q34	3.83	1.464	3.99	1.434	-0.624	0.532	Retain

The mean for the economic crime offenders for questions 33 to 34 of their questionnaire (Appendix C) ranged from 3.02 to 3.83 and the standard deviation ranged from 1.464 to 2.024. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 2.56 to 3.99 and the standard deviation ranged from 1.434 to 1.699. Both questions posed to both groups of respondents had a P-value of greater than 0.05 and therefore the Null hypothesis for these questions was retained.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “the perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa”.

The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action

Table 8.11 *The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action*

SECTION OF THE QUESTIONNAIRE	ECONOMIC CRIME OFFENDERS		ROLE-PLAYERS		Z-VALUE	P-VALUE	Null Hypothesis
	Mean	Standard deviation	Mean	Standard deviation			
Q35	3.89	2.534	2.48	1.777	-4.560	0.000	Reject
Q36	2.73	1.905	1.93	1.382	-3.567	0.000	Reject
Q37	3.24	2.344	1.55	0.963	-6.386	0.000	Reject
Q38a	4.46	2.471	6.47	1.301	-8.341	0.000	Reject
Q38b	5.09	2.342	6.19	1.611	-4.300	0.000	Reject
Q38c	4.45	2.127	5.99	1.773	-6.596	0.000	Reject
Q38d	4.44	2.138	5.92	1.798	-6.438	0.000	Reject
Q38e	4.77	2.179	6.45	1.280	-7.842	0.000	Reject
Q38f	5.06	2.241	6.45	1.378	-6.540	0.000	Reject
Q38g	5.04	2.163	6.36	1.521	-6.644	0.000	Reject
Q38h	4.18	2.435	6.38	1.401	-8.420	0.000	Reject
Q38i	3.46	2.430	1.92	1.885	-6.221	0.000	Reject

The mean for the economic crime offenders for questions 35 to 37 of their questionnaire (Appendix C) ranged from 2.73 to 3.89 and the standard deviation ranged from 1.905 to 2.534. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 1.55 to 2.48 and the standard deviation ranged from 0.963 to 1.777. All three questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “the prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action”.

The mean for the economic crime offenders for questions 38a to 38h of their questionnaire (Appendix C) ranged from 4.18 to 5.09 and the standard deviation ranged from 2.127 to 2.471. The mean for the role-players for the same questions in their questionnaire (Appendix D) ranged from 5.92 to 6.47 and the standard deviation ranged from 1.280 to 1.798. All eight questions posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 5 was slightly disagree, 6 was moderately disagree and 7 was strongly disagree). This does confirm that the majority of both groups of respondents were in agreement with the fact that regardless the possible reason for tax evasion, it can never be permissible.

The mean for the economic crime offenders for question 38i of their questionnaire (Appendix C) was 3.46 and the standard deviation was 2.430. The mean for the role-players for the same question in their questionnaire (Appendix D) was 1.92 and the standard deviation was 1.885. The question posed to both groups of respondents had a P-value of less than 0.05 and the Null hypothesis for these questions was rejected.

The mean range of the economic crime offenders and the role-players do fit in with the response range of the Likert scale used in the two questionnaires (where 1 was strongly agree, 2 was moderately agree and 3 was slightly agree). This does confirm that the majority of both groups of respondents were in agreement with the statement that “tax evasion can never be permissible”, regardless of any possible reason.

8.4 CONCLUSIONS REGARDING THE RESEARCH OBJECTIVES

Seven secondary research objectives have been identified in section 1.3.2. Each of these secondary research objectives will now be evaluated with regard to the research results obtained through this study.

8.4.1 The general perspective on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud

The secondary objective (section 1.3.2.1) was to determine the general perspective on tax conduct, tax planning, tax avoidance, tax evasion and tax fraud. This objective was attained in chapter 2. From the literature review conducted it was established that a taxpayer should align his tax conduct within the ambit of the applicable laws (section 2.2). A taxpayer also has a right to pay the least possible tax by using tax planning (section 2.3) and tax avoidance (section 2.4) provided such tax planning and tax avoidance remain legal. From the literature reviewed it was also confirmed that when a taxpayer employs tax evasion (illegal) (section 2.5) or worse, tax fraud (criminal) (section 2.6) to address his adverse tax position, the taxpayer will be confronted with the full force of the applicable tax laws. A taxpayer does enjoy the right to legal tax planning and tax avoidance to minimise a tax liability but in exercising such right the taxpayer should be tax compliant with regard to the various applicable tax laws and regulations.

If a taxpayer commits tax evasion or tax fraud, such actions may be linked to other economic crimes such as fraud, money laundering, white-collar crime and corruption. A tax offence linked to the identified economic crimes may be a deliberate offence (the offender is knowledgeable on tax and can reasonably foresee the tax consequences resulting from perpetrating an economic crime offence) or the tax offence could be incidental (the offender is not knowledgeable on tax and the tax consequences resulting from his economic crime offence is merely the result of the perpetration of an economic crime). This study investigated the financial and moral perspective of the impact of economic crime on taxation. Taxation does form an integral part of economic crimes and a loss of tax revenue resulting from economic crimes may impact on government's service delivery capacity.

8.4.2 Economic crime: definitions, probable causes and means of prevention

The secondary objective (section 1.3.2.2) was to determine the types of economic crimes such as white-collar crime, fraud, money laundering and corruption that are perpetrated and how such crimes can be prevented, detected and handled. This objective was attained in chapter 3. The literature reviewed indicated that economic crimes can take on many forms and various methods can be employed by the perpetrators of such crimes (sections 3.2 to 3.5). From the literature reviewed it was confirmed that economic crime offenders are intelligent, determined, committed to success, highly energetic, creative, problem solvers and aggressive (section 3.3.4). These characteristics are similar to those that are associated with successful entrepreneurs and leaders in business.

Economic crime is not confined to modern society but has occurred since the dawn of creation. The prevalence of these crimes is only matched by the many potential reasons for committing them. The literature review conducted confirmed that economic crime is generally perpetrated internally (defrauding an entity) or externally (defrauding third parties or clients), by management, employees or other third parties. Victims of economic crimes may include company directors, managers, employees (all being internal victims) and investors, creditors, suppliers and customers (all being external victims) (section 3.3.3).

The literature review performed indicated that there are two types of economic crime offenders, namely amateurs (the decision to perpetrate fraud is largely driven by an opportunity) and professionals (making the bulk of their income through law violations (section 3.14). Economic crime offenders may work alone or conspire with someone outside the company (section 3.14). The literature reviewed also indicated that the position a person holds within an entity and the financial control exercised in each position contributes towards the ultimate fraud/corruption loss the entity may experience (section 3.14). There are various measures to help prevent or deter economic crimes and that may include internal control measures, physical control measures, audit procedures, risk assessment procedures, customer/client measures, training of employees, financial control measures, reporting procedures, ethics, documentation procedures, communication measures and technology and computer controls (section 3.3.5). Economic crimes should be prevented or deterred as it impact negatively on the economy at large and has also has a negative impact on the tax revenue of government.

8.4.3 The involvement of the churches/community/society as well as morality can have an impact on the occurrence of economic crimes in general

The third secondary objective was to determine if the involvement of the churches/community/society as well as morality, can have an impact on the occurrence of economic crimes in general. This objective was attained in chapter 5. The literature consulted suggests that ethical behaviour is the bedrock of every successful society, individual, company or organisation (section 3.11). The literature reviewed also suggests that moral judgement may be affected by personal values and that greed appears to have clouded the moral fibre of all people (sections 2.2, 3.5.3 and 5.4.9). Thus, by implementing and dealing with ethics at all levels in the public and private sector and by setting the tone at the top, the temptations to commit economic crimes may be handled appropriately in conjunction with prevailing law enforcement and litigation.

The majority of the role-players who participated in the “Morality questionnaire” (refer to section 5.4.11) were of the opinion that the churches/community/society in general can play a role in modern society in condemning fraud, corruption and tax evasion and promoting tax morality. The majority of the role-players also indicated that the churches/community/society should take a more open or firm public stance against fraud, corruption and tax evasion (refer to section 5.4.15). This study has produced results that strongly confirm the support of sound moral values for a society or community. This study also revealed a strong support for a change in the attitude of taxpayers towards SARS and the government.

8.4.4 Are current laws and regulations adequate to deal with fraud, corruption and tax conduct in general?

The fourth secondary objective was to determine if law enforcement, prosecution and sentencing practices and current laws and regulations, are adequate to handle fraud, corruption and tax conduct in general (section 1.3.2.4). This objective was attained in chapters 6 and 7. The literature consulted indicated the existence of various laws and regulations to be used as remedies in the event of a default or omission for tax purposes (section 2.5.3). The new Tax Administration Act was for example introduced with effect from 1 October 2012. The literature reviewed also indicated the existence of various laws

and regulations to address economic crimes (white-collar crime, fraud, corruption and money-laundering) in general (sections 3.4.1, 3.4.3, 3.5.3 and 3.5.5).

The majority of the two groups of respondents (sections 6.6.4, 7.5.4 and 8.3.7) who participated in this research project were of the opinion that current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. This was reiterated by the role-players in the prevention, detection and dealing with economic crimes during personal interviews conducted with them (Appendix E). What needs to be done is a more effective and efficient application of the existing laws and regulations to address economic crime in South Africa.

8.4.5 Does taxation (either as a potential liability or a probable compliance cost) come into play when fraud or corruption is perpetrated?

The fifth secondary objective was to determine if taxation (either as a potential liability or a probable compliance cost) does come into play or may be considered when fraud or corruption is perpetrated. This objective was attained in chapters 6 and 7. The literature consulted suggests that a taxpayer should plan his ultimate tax liability within the parameters of the current tax legislation (section 2.3). The literature reviewed also suggests that taxpayers may organise their tax affairs in such a way as to pay the least possible tax under the prevailing tax laws (section 2.4). However if taxpayers use illegal means to reduce a tax liability, such as tax evasion (section 2.5) or tax fraud (section 2.6), they will have to face the full consequences of the law.

The literature consulted suggests that tax evasion may turn out to be sustained corruption and that taxpayers may collude with tax officials (section 3.5.7). The literature reviewed also suggests that the perpetration of economic crimes accounts for significant losses in tax revenue on international trade, especially in the customs environment (section 3.5.7). Fraud or corruption would not necessarily be employed as a measure to reduce a known tax liability because taxation is more a consequence of fraud/corruption than a cause of such criminal acts. When fraud or corruption is perpetrated, the offender does not necessarily think about any consequences (including a potential tax liability) that may result from his fraudulent conduct.

The majority of the economic crime offenders (refer to section 6.6.5) and the majority of the role-players (refer to section 7.5.5) indicated that fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof. Thus, the offender is more concerned about the potential financial rewards that may result from his economic crime offence than any potential consequences, including taxation.

8.4.6 Steps to prevent economic crime and sound management of fraud and corruption on the one hand and morality and sound principles, could minimise or reduce the possible negative financial impact it may have in South Africa

The sixth secondary objective was to determine if steps to prevent economic crime and sound management of fraud and corruption on the one hand and morality and sound principles, for example such as strong corporate ethics, on the other hand, could minimise or reduce the possible negative financial impact it may have in South Africa. This objective was attained in chapters 5, 6 and 7. The literature reviewed suggests that ethics might be the magic product many companies could employ to build customer, investor and employee loyalty (section 3.11). The literature consulted also suggests that there is a crucial connection between ethics and organisational success (section 3.11). The violations of ethics, trust and responsibility are at the heart of fraudulent activities. The literature reviewed also suggests that economic crime is a reality and that companies should develop a strategy to identify and handle the risks associated with economic crime (section 3.11).

The majority of both groups of respondents (economic crime offenders and role-players) (refer to section 8.3.7) who participated in this research project were of the opinion that if steps can be introduced to prevent economic crime, combined with sound management of fraud and corruption on the one hand and sound principles, for example such as strong corporate ethics, on the other hand, it could minimise or reduce the possible negative financial impact it may have in South Africa.

8.4.7 Why do people perpetrate fraud or corruption or embark on tax evasion in general?

The last secondary objective was to determine the main reasons for perpetrating fraud, corruption or tax evasion and if the type of fraud or corruption that is perpetrated in general may be a result of the opportunities available to a potential offender and if the potential offender may have any concern for his fraudulent actions. This objective was attained in chapters 5, 6 and 7. From the literature reviewed it was established that one of the main drivers behind the perpetration of an economic crime is some type of financial gain, incentive or advantage (section 3.3.3). The literature consulted also suggests a person's propensity to commit crime is determined by his perception of the related risks and rewards – the greater the risk of detection and apprehension, the less likely a person is to violate the law (section 3.3.3). The literature reviewed also indicates that an economic crime is dependent on a motive and an opportunity and once detected the perpetrator will rationalise his fraudulent conduct (section 3.3.3).

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The majority of the two groups of respondents (economic crime offenders and role-players) (refer to section 8.3.7) who participated in this research project indicated that the following were the main drivers behind the perpetration of economic crimes:

- greed;
- facilitation of payments/cash-flow problems;
- needs/want;
- tax savings/evasion; and
- bribes paid to get things done/sorted out.

8.5 RECOMMENDATIONS FOR FUTURE STRATEGIES WITH REGARD TO ECONOMIC CRIME

8.5.1 General observations

Economic crime as embodied in fraud, corruption, money laundering, white-collar crime, tax evasion and tax fraud for the purpose of this study, may never be eliminated in South Africa or globally, but can and should be managed. If steps to prevent economic crime and sound management of fraud and corruption can be introduced in combination with morality and sound principles such as corporate ethics, that could minimise or reduce the possible negative financial impact it may have in South Africa (section 8.4.6).

If companies, employers and government departments were to implement a risk management plan to deal with the operational risk factors they could address economic crimes in general (section 3.7). If no effort is made to implement a proper risk management plan, companies, employers and government departments could fall victim to economic crime. Economic crime offenders are risk takers and have the necessary skills and courage to launch an attack on any organisation irrespective of its control measures, firewalls and anti-fraud/corruption plans and measures in place.

8.5.2 Strategies to prevent economic crimes

Proactive action against economic crimes may be the best defence against this many-headed monster. The best possible proactive measure that could be employed by companies or government departments to deal with the ever present risk of economic crime is deterrence. The literature reviewed referred to deterrence as the modification of behaviour through the perception of negative sanctions (section 3.7).

Thus, companies, employers or government departments should be alert to people, either employed by them or third parties conducting business with them, that may display some or all of the characteristics of a typical economic crime offender. These characteristics may include the following: highly intelligent, manipulative, creates trust with other people, immediate gain is very important, consequences of his deed does not bother him, may have no conscience, status is very important – links success to power, may experience a sense of inferiority and may bend the borders of morality and that becomes a general lifestyle. Care should be taken not to treat all people as potential economic crime

offenders, but if any suspicion may exist it should be investigated with the necessary caution and subtlety (section 3.7).

From the research results it is evident that a holistic approach could complement the current efforts to prevent economic crimes in general. Law enforcement and prosecution practices need to be more effective, but educating people on the moral, social and economic impact that economic crimes have a decisive influence and this may complement all the other existing efforts in preventing such crimes.

8.5.3 Strategies to prosecute economic crimes

The estimated monetary value of an economic crime perpetrated against an entity should be weighed up against the estimated legal and other costs involved in prosecuting an economic crime offender in a court of law. Thus, in many cases the estimated monetary loss suffered by an entity through an economic crime may be less than the estimated prosecution costs. In such cases it might be better to get an out-of-court settlement if at all possible. An actual investigation may be a lengthy and expensive process. Some entities may prefer an out-of-court settlement in an economic crime related offence in lieu of a drawn out court case. Not only may it be more cost-effective but it may also be less harmful to the corporate image of the entity (section 3.8).

A few years ago it was rare for a company to have an anonymous fraud/corruption hotline where incidents of actual or potential fraud/corruption could be reported. Many companies have also established an internal fraud examination department, which was unknown a decade or so ago. The main purpose of an internal fraud department would be to deal with potential fraud, corruption or other economic crime risks proactively. However, irrespective of the best efforts and procedures in place to prevent the occurrence of economic crimes, some crimes may escape the safety nets in place. Thus, once an economic crime has been perpetrated and detected, care should be taken to do a proper preliminary investigation to establish a strong foundation for the rest of the case. Thus, care should also be taken to secure as much evidence as possible during the investigation phase (section 3.8).

When dealing with any accused person in an economic crime case the rights of such accused person, as outlined in the South African Constitution, Chapter 2, the Bill of

Rights, should be respected at all times. Section 10 of Chapter 2 of the Bill of Rights stipulates that “everyone has inherent dignity and the right to have their dignity respected and protected.” Any violation of a suspect’s rights at any stage during the investigation phase of an economic crime case could jeopardise the outcome of such a case. Thus, when an economic crime has been committed and a suspect positively linked to the said case, the identified suspect should be treated with dignity.

Section 33 of Chapter 2 of the Bill of Rights stipulates that “everyone has the right to administrative action that is lawful, reasonable and procedurally fair.” The correct protocol should be followed when reporting an economic crime case to the authorities. Care should also be taken to deal with all the relevant legal issues associated with an economic crime case. It is strongly recommended to seek legal advice as soon as an economic crime incident has been detected. Many economic crime cases end up in a court of law and it is therefore imperative to follow the correct legal path during all phases of such a case. Failure to adhere to the prescribed legal requirements in an economic crime case could strengthen the hand of the fraudster and the victim may end up absorbing the direct financial loss resulting from the perpetrated economic crime and may even lose the case in a court of law. Section 35(3) of Chapter 2 of the Bill of Rights stipulates that “every accused person has a right to a fair trial”.

The majority of both groups of respondents (section 8.3.7) were of the opinion that current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. However the majority of both groups of respondents (section 8.3.7) were also of the opinion that law enforcement, prosecution and sentencing practices are not adequate. Thus, the challenge would be to prosecute more economic crime offenders by improving law enforcement, prosecution and sentencing practices. If economic crimes could receive the same or similar attention than violent crimes for example, more economic crime offenders may be prosecuted and sentenced. This strategy may contribute towards a more adequate application of current laws and regulations to deal more effectively with economic crimes.

8.5.4 Strategies to punish offenders for economic crimes

There seems to be a general perception that the best form of corporeal punishment for an economic crime offender is an official term of imprisonment at a correctional institution (prison) (section 3.9). By sending an economic crime offender to prison to serve an official sentenced term as determined by a court of law may well remove the offender from society for a period of time. Punishment may therefore be viewed as a form of a deterrent (section 3.9).

The real challenge facing society would be when a sentenced economic crime offender has served his time, is released from prison and has to be reintegrated into society. In this regard, during an economic crime offender's term in prison he would probably have been grouped together with other economic crime offenders who have committed similar offences. With so much idle time in prison and if the economic crime offenders are not subjected to a rehabilitation program, designed and developed specifically for economic crime offenders, there may be a real risk that an economic crime offender could return to his known paths in the economic crime environment once released from prison (section 3.10).

There is a common belief and an understanding that an economic crime offender should be punished. The worst possible form of punishment for an economic crime offender would be to deprive such an offender of the direct or indirect proceeds from an economic crime committed (section 3.9). The potential reward for committing an economic crime may be one of the main drivers for a potential economic crime offender in the first place (section 3.9).

However, finding the best possible form of punishment may still be a challenge. Currently an official prison sentence seems to be the obvious course of action when an economic crime offender has been found guilty in a court of law. Substantial penalties and the forfeiture of the proceeds from the relevant economic crime committed could replace an official prison sentence for an economic crime offender, provided the relevant economic crime offence did not involve murder or a similar offence. The economic crime offender would not serve a term in prison, but will receive a criminal record for the economic crime perpetrated. An economic crime offender may also be required by a court of law to perform community service without being remunerated for such services (section 3.9).

Corporeal punishment for an economic crime offence should remain in force as deterrent against such crime. If an economic crime offender's only option of punishment would be a substantial penalty without the option of imprisonment on conviction, it may not be such an effective deterrent. Most economic crime offenders may be in a position to pay a penalty when convicted in a court of law for an economic crime offence, therefore punishment could be in the form of a penalty combined with imprisonment (section 3.9). It is also proposed that sentenced economic crime offenders be assisted with social programs once release from prison. Imprisonment is a short-term solution, but improved social programs could have benefits that accrue far in the future (section 3.9).

8.5.5 Strategies to rehabilitate and reintegrate economic crime offenders

Without the support from direct family or friends an economic crime offender might find it really difficult to cope in society once released from prison after serving his term of sentence. An economic crime offender may require financial support during his period of reintegration into society. Many employers may display open scepticism and antagonism towards employing a sentenced economic crime offender. The criminal record of an economic crime offender, irrespective of the monetary amount involved in his specific case, may carry more weight than the employment skills and work experience of such sentenced offender. Lengthy prison sentences may also deter crime for those wishing to avoid such severe punishment, but may increase crime from released inmates who find they have few legitimate alternatives because they have been incarcerated for a long time. Vocational training and the prospect of stable employment are undoubtedly the keys to successful rehabilitation and the prevention of re-offending in the case of economic offenders (section 3.10).

Depriving an economic crime offender of his freedom by sentencing him to serve a term in prison may not necessarily solve the inherent problem associated with the perpetration of an economic crime. Thus, sending an economic crime offender to prison may be a partial solution. In this regard, the majority of the economic crime offenders (56,10% in table 6.11, section 6.4.13) during personal interviews conducted with them indicated that by serving a prison term for a fraud/corruption offence might not be regarded as sufficient rehabilitation. The locking away of an offender could be regarded as a suitable punishment by some people, however if combined with effective rehabilitation during the prison term it

could contribute towards long term rehabilitation from possible future economic crime offences.

The research results suggest that a prison term for an economic crime offence may not necessarily be the best way to punish an offender. Depriving an offender of his ill-gotten crime proceeds may be more harmful to the offender. The root cause of economic crime should be dealt with. Educating and rehabilitating economic crime offenders may have a positive long term impact on the occurrence of economic crime. It is proposed that economic crime offenders being subject to an anti-economic crime education program in which the consequences of perpetrating economic crime in general on the economy and tax revenue could be conveyed to such offenders. It is also proposed that rehabilitation programs designed and developed specifically for economic crime offenders be implemented at correctional institutions (section 3.10).

8.6 APPRAISAL OF THE SCIENTIFIC VALUE OF THE STUDY

A gap between missing knowledge about what the financial and moral perspective of the impact of economic crime on taxation, as outlined in the problem statement for this study (refer to section 1.2) and the 11 research questions identified in sections 1.2.1.1 to 1.2.1.11 to address the problem statement, was identified. The main research objective (refer to section 1.3.1) and the seven secondary research objectives in sections 1.3.2.1 to 1.3.2.7 were formulated to answer the problem statement and the 11 research questions.

The study confirmed that tax ethics, tax morality and tax conduct (section 2.2) may play a role in tax compliance. Thus, from a tax perspective, a taxpayer would be expected to apply ethical judgement when conducting his tax affairs. The tax conduct of a taxpayer should be aligned with current or existing tax laws and regulations, but a taxpayer has a right to use tax planning to reduce or to avoid his tax liability (section 2.3) Taxpayers may use tax avoidance to minimise a tax liability (section 2.4), but a taxpayer will not be allowed to use tax evasion (section 2.5) which is illegal. Tax fraud involves an intentional action from the taxpayer to defraud the tax authorities (section 2.6) and is a criminal deed.

The study has revealed that economic crimes such as white-collar crime (section 3.2), fraud (section 3.3), money laundering (section 3.4) and corruption (section 3.5) are real

challenges for the public and private sectors. Various measures such as new legislation, international cooperation, internal control procedures, corporate governance (section 3.6) and codes of conduct (section 3.7) have been implemented to deal with economic crime in general. The study also confirmed that economic crimes such as fraud, corruption and money laundering may have an impact on taxation, especially direct taxation such as income tax. Money laundering is also directly linked to tax evasion because of the illegal nature of the income (section 3.4.2).

The research was twofold: a literature review and empirical. For the empirical research three questionnaires were used. There were also personal interviews conducted with sentenced economic crime offenders and role-players in the prevention, detection and addressing of fraud, corruption and related taxation consequences in South Africa.

The results from the morality questionnaire (Appendix A) (chapter 5) has found that a person or a taxpayer with a sound moral value system would align his conduct (including his interaction with SARS, the government, and commerce and industry) according to the applicable laws and regulations. These research results have indicated that moral values may impact positively on the current levels of fraud, corruption and tax evasion in general. Laws and regulations alone may not be sufficient to combat fraud, corruption and tax evasion. A change of heart, by adopting a sound moral value system, may compliment current law enforcement efforts to combat the crimes of fraud, corruption and tax evasion.

The results from the data collected during the personal interviews conducted with 82 sentenced economic crime offenders are reflected in section 8.3.5.1. The results obtained from the data collected with the questionnaire conducted with the economic crime offenders (Appendix C) are reflected in section 8.3.5.2. This study concluded that economic crime offenders have definite perceptions regarding fraud, corruption and tax-related offences and are only concerned about the proceeds from their crimes and do not really consider any consequences it may have, including any possible taxation consequences. Despite the existence of numerous laws, regulations and control measures, economic crimes are perpetrated on an on-going basis.

The results of the data analysis of the responses of the role-players suggest that the prevention, detection of and dealing with economic crimes in South Africa could be approached from a different perspective by taking note of the perceptions of the majority of the role-players with regard to prevention, detection and prosecution of fraud, corruption and tax-related offences, as summarised in table 7.18 and reflected in section 8.3.6.

This study concluded that more laws and regulations would not necessarily deal with the current levels of economic crime in South Africa. The focus should be on the more effective application of existing laws and regulations. The implementation of sound principles, such as corporate ethics and the promotion of moral conduct, could contribute towards a business environment where economic crime could be labelled as the enemy of sound business practices.

This study also concluded that the human factor, in particular the exploitation of an opportunity, to perpetrate an economic crime is largely driven by need or greed. A temporary solution to economic crime offences is to send economic crime offenders to prison once found guilty in a court of law. This may only be a short-term solution to this problem by removing the sentenced offender temporarily from society. The real challenge arises when a sentenced economic crime offender is released from prison after having served his term. To what extent has the economic crime offender been rehabilitated and how would he be integrated back into society?

The study concluded that the financial and moral perspective of the impact of economic crime on taxation is a reality. The perpetration of economic crime such as white-collar crime, fraud, money laundering, and corruption, tax evasion and tax fraud will have a direct or indirect impact on taxation in South Africa. The main research objective (section 1.3.1) and the seven secondary research objectives (sections 1.3.2.1 to 1.3.2.7) managed to satisfactorily answer the 11 research questions in sections 1.2.1.1 to 1.2.1.11.

The study recommends that economic crime in South Africa should be addressed more holistically. The study also recommends that existing legislation to address economic crime offences should be applied more effectively and efficiently. Many economic crime cases do not end up in a court of law due to ineffective investigation and composition of evidence. It is therefore also recommended that people involved in the prevention, detection and prosecution of economic crimes in general be trained appropriately or re-

trained where applicable to address the current short-comings in law enforcement, prosecution and sentencing practices which, according to the majority of the economic crime offenders (refer to table 6.22 in section 6.6.1) and the majority of the role-players (refer to table 7.6 in section 7.5.1) are currently not adequate.

This study has filled the gap between the perpetration of economic crime on the one hand and the impact it has on taxation in general on the other hand. Existing literature describe and discuss economic crime and tax issues separately, but seldom combine the two inter-related issues. This study involved the participation of sentenced economic crime offenders and role-players in the prevention, detection and handling fraud, corruption and tax-related offences. The participation of the sentenced economic crime offenders and the role-players, being the two extreme ends in the economic crime process, provided perspectives from different angles to economic crime in general and the tax-related consequences.

The practical value of this study is that this was the first attempt to address economic crime and the tax-related consequences simultaneously in South Africa. When an economic crime has been perpetrated it will have a direct or indirect impact on taxation. It may not be possible to determine the exact financial impact of economic crime on the South African economy, neither the negative impact it has on the tax revenue. Previous studies mainly focused on economic crimes or tax issues, but seldom combined the two inter-related issues. This study combined economic crimes with the related taxation consequences to investigate the financial and moral perspective of the impact of economic crime on taxation. The participation of sentenced economic crime offenders at the one end of the economic crime process and role-players in the prevention, detection and handling of fraud, corruption and tax-related offences at the other end of the economic crime process, made a significant contribution to the literature.

8.7 FUTURE RESEARCH

The results from the empirical research and the personal interviews conducted with various role-players in the field of prevention, detection and dealing with economic crimes, as well as from the results of the personal interviews conducted with 82 economic crime offenders jailed for their offences, suggest the need for further research in relation to

economic crime in general. This study examined a financial and moral perspective of the impact of economic crime on taxation in general in South Africa.

The regulatory environment in South Africa, the United States of America and Europe are substantially different and this provides opportunities for further research in South Africa. Globally various initiatives and measures have been implemented to deal with economic crimes across international borders and in different legislative regimes. Many economic crimes are not restricted to one country or legislative regime and may cut across international borders and different legislative regimes. It would therefore be important to strive for a harmonisation of laws and regulations to deal with this international phenomenon. Further research in relation to harmonising laws and regulations globally to deal with economic crimes across international borders and in different legislative regimes, needs to be done.

Another aspect that should be researched would be alternatives to legislation with regard to dealing with economic crimes. The cost of complying with legislation and regulations are burdensome and it would make sense to find a better balance between costs and benefits. Despite the regulatory efforts employed globally at curbing economic crimes it would be easy to come to the conclusion that regulation is not really curbing the occurrence of economic crimes. Dishonest people will perpetrate economic crimes if they can get away with it irrespective of laws or regulations. People will always try to find more creative ways to conceal their fraudulent conduct, regardless of fraud examinations or effective internal controls. Research with regard to a shift in ethics and values to stop the occurrence of economic crimes should be done as an alternative to legislation.

The role of corporate stakeholders such as shareholders, employees, bankers or other interested parties could be called upon to hold companies to higher standards than used in the past. Research could be undertaken to investigate the impact of stakeholders on corporate management and responsibilities. The market place would reward ethical behaviour if it deems it important.

Many economic crime cases take very long to prosecute in a court of law or may never end up in any court of law. Thus, to avoid the costs involved in a lengthy economic crime case, it is suggested that sanctions in the form of fines or forfeiture of property may be

considered. Prisons generate criminality and therefore resources could be devoted to social programs, especially aimed at the young, to discourage future criminal behaviour (section 3.9). When using large fines, most individuals would simply lack the ability to pay them (section 5.4.20). Many multi-national companies have so much financial muscle power, that they leave governments tentative to take any action against them. In many countries such as the United States of America, companies are the major financiers of political election campaigns, where politicians are sometimes the co-owners or at least the silent beneficiaries of company profits. Research needs to be done with regard to the impact and influence multi-national companies may have on governments to deal with economic crimes in general.

Within the South African context, people have, in terms of Chapter 2 of the Bill of Rights of the Constitution, the “right to freedom of conscience, religion, thought, belief and opinion” (section 15(1)), the freedom of expression (section 16), freedom of association (section 18), enjoying political rights (section 19), freedom of movement and residence (section 21), freedom of trade, occupation and profession (section 22) and enjoying certain labour relations rights (section 23). The right of freedom to choose may also mean that people can or will make wrong choices. The more people are making the right or good decisions, the more successful they will become.

Economic crime is a reality and has a direct and indirect impact on taxation in general in South Africa. It may not be possible to quantify the exact extent of economic crime in South Africa relative to the national gross domestic product. The majority of the research respondents indicated that it could be in the region of 1% to 10% of the national gross domestic product (table 6.33 in section 6.6.10 and table 7.17 in section 7.5.10). There is however consensus that the extent of economic crime in South Africa is significant in relation to the national gross domestic product and as such, would have a major impact (direct or indirect) on the national tax revenue. Only economic crime offenders from Gauteng-based prisons formed part of this study. The personal interviews with role-players were limited to Gauteng only. It is suggested that the study of financial and moral impact of economic crime on taxation be expanded to the other provinces as well.

8.8 CLOSING REMARKS

Dealing with economic crime in South Africa and globally is an on-going process. Role-players in the prevention, detection and prosecution of economic crime who have participated in this research have made a significant contribution towards identifying the challenges economic crime presents, the shortcomings in current law enforcement, prosecution and sentencing practices, measures that will minimise or reduce the possible negative impact or occurrence of economic crime in general, the fact that taxation is disregarded when perpetrating an economic crime, although the perpetrator may be aware of any possible taxation consequences, that the type of an economic crime being perpetrated is a function of the opportunities available to the potential offender, that the prevention of economic crime may be influenced by the cost of complying to taxation administration requirements and finally that prospective economic crime offenders have no concern for their actions being detected and eventually being prosecuted.

The participation of the economic crime offenders in this study has provided substantive evidence that economic crime offenders have definite perceptions regarding fraud, corruption and tax-related offences. Despite the existence of numerous laws, regulations and control measures, they were able to perpetrate economic crimes and ended up in prison for their choices and offences. They indicated that law enforcement, prosecution and sentencing practices are not adequate and that, although they might have been aware of the possible tax consequences their offences could have, they disregarded them. Economic crime offenders are only concerned about the proceeds from their crimes and do not really consider the consequences they may have. To send them to prison and to deprive them of their freedom and the proceeds of their crimes is only a temporary solution to a long-term problem, unless the offenders are willing to subject themselves to a life changing post-prison rehabilitation programme.

The main objective for this study was reached by establishing that a relationship does exist between fraud, corruption and taxation in general. The secondary research objectives for this study have also been attained. A taxpayer should align his tax conduct within the ambit of the applicable laws. Economic crimes can take on many forms and various methods can be employed by the perpetrators of such crimes. There are various measures available to help prevent or deter economic crimes.

Churches/community/society in general can play a role in condemning fraud, corruption and tax evasion and promoting tax morality. Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general. Fraud or corruption would not necessarily be employed as a measure to reduce a known tax liability because taxation is more a consequence of fraud/corruption than a cause of such criminal acts. If steps can be introduced to prevent economic crime, combined with sound management of fraud and corruption on the one hand and sound principles, for example such as strong corporate ethics, on the other hand, it could minimise or reduce the possible negative financial impact it may have in South Africa. The main drivers behind the perpetration of an economic crime are some type of financial gain, incentive or advantage.

Tax revenue is certainly lost as a result of fraud or corruption because the perpetration of fraud/corruption would have an impact on taxation in South Africa in general. Therefore, taxation is more a consequence of fraud/corruption than a cause of such criminal acts. Tax evasion is also more an effect of fraud/corruption than a consequence thereof. It would seem though that a tax consequence is more a result of the perpetrated fraud/corruption than a cause of thereof. Thus, the resulting tax consequence from fraudulent conduct may merely be a “by-product” of the economic crime process.

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APPENDIX A

MORALITY QUESTIONNAIRE

FRAUD, CORRUPTION AND TAX EVASION

GENERAL INFORMATION

- The purpose of this questionnaire is to investigate the general perception of leaders in communities regarding the moral issues associated with fraud, corruption and tax evasion in South Africa. Similar studies and research have been undertaken around the globe. It is therefore important to research the moral issues associated with fraud, corruption and tax evasion in the South African context.
- This questionnaire forms part of a research project to qualify for a PhD degree (Taxation) at the North-West University (Potchefstroom Campus).
- Selected community leaders from different social, political and religious perspectives will be interviewed personally to complement this questionnaire.
- The input of each respondent is very important for the purpose of this research project. The participation of each respondent is highly valued and will make a difference.
- The information supplied by you will be treated as **strictly confidential**. Your responses together with those of other respondents will be used to obtain a complete view.
- Any additional comments may be written on a separate sheet of paper, if insufficient space has been provided in the questionnaire.
- Please answer every question in the space provided in each question by marking the applicable section with an "X" or write down your answer where required.
- For the purpose of this research, the concepts of fraud, corruption, tax evasion and SARS will mean the following:
 - (a) Fraud - The Collins English Dictionary & Thesaurus (2006:474) describes fraud as deliberate deception, trickery, or cheating intended to gain an advantage.
 - (b) Corruption – The Collins English Dictionary & Thesaurus (2006:260) describe corruption as the act of corrupting or a state of being corrupt. It may include depravity, dishonesty like bribery or even an altered form of a word. To be corrupt a person should be open to or be involved in bribery or other dishonest practices.
 - (c) Tax evasion – Stiglingh *et al* (2009:657) describes tax evasion as the illegal activities deliberately undertaken by a taxpayer to free himself from a tax burden. One example of simple tax evasion would occur where taxpayers omit income from their annual tax returns.
 - (d) SARS – South African Revenue Service.

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

Prof AP Swanepoel

PO Box 6

Woodlands

Pretoria

0072

Telephone: Work: 012-429 2054

Home: 012-997 5556

Mobile: 082 571 2780

Email: boelas@woodlandsnet.co.za or swaneap@unisa.ac.za

Promoter: Prof K Coetzee, School for Accounting Sciences, North-West University
(Potchefstroom Campus)

Please indicate your position and role in your community, for example pastor, priest, minister, imam, teacher, lecturer, doctor etc.

Position in your community: _____

Role in your community: _____

Question 1			
In the absence of an effective law or a lack of adequate law enforcement, what should be the preferable framework for people to direct their actions or decisions? Please justify your answer.			

Question 2	YES	NO	UNCERTAIN
If I perceive the current tax system to be unfair or unjust, could that be sufficient grounds for tax evasion?			
Question 3	YES	NO	UNCERTAIN
Do you think a taxpayer should pay his/her tax without any form of tax planning?			
Question 4	YES	NO	UNCERTAIN
Do you think that tax planning, when it becomes aggressive (tax planning becomes tax evasion), may become a moral issue?			
Question 5	YES	NO	UNCERTAIN
Do you think it is morally justifiable to bend tax rules and regulations in order to save an amount of taxation because, for example, the taxpayer might disapprove of the present government?			

Question 6	YES	NO	UNCERTAIN
Do you think people are more aware of their human rights than of their responsibility to comply with tax laws and tax regulations?			
Question 7	YES	NO	UNCERTAIN
Do you think tax morality should be governed by tax rules and tax regulations, or rather by a personal, spiritual, religious or other set of moral values? Please supply a short justification.			
Question 8	YES	NO	UNCERTAIN
Do you think that when a taxpayer has been dishonest in the past when declaring his/her income for tax purposes, the taxpayer should notify SARS and declare the correct income for previous tax years?			
Question 9	YES	NO	UNCERTAIN
Do you think that continued tax dishonesty/tax evasion may cause taxpayers to experience health or psychological problems? Please supply a short justification.			
Question 10	YES	NO	UNCERTAIN
Do you think if one taxpayer becomes aware of another taxpayer's tax dishonesty or tax evasion, he/she should report that fact to SARS?			

Question 11	YES	NO	UNCERTAIN
Do you think that the church/community/society in general can play a role in modern society in condemning tax evasion and promoting tax morality? Please supply a short justification.			
Question 12	YES	NO	UNCERTAIN
Do you think that a change in taxpayers' attitudes towards SARS and the government may impact positively on eliminating tax evasion, fraud, corruption and strengthening tax morality? Please supply a short justification.			
Question 13			
Why do you think people embark on tax evasion in general or commit fraud and corruption? Please supply a short justification.			
Question 14	YES	NO	UNCERTAIN
Do you think that tax evaders have any concerns about their tax evasive actions?			

Question 15	YES	NO	UNCERTAIN
Do you think the churches/community/society should take a more open or firm public stance against fraud, corruption and tax evasion? Please supply a short justification.			
Question 16	YES	NO	UNCERTAIN
Do you think that a taxpayer's actions should primarily be guided by tax laws and regulations? Please supply a short justification.			
Question 17	YES	NO	UNCERTAIN
Do you think that fraud, corruption and tax evasion can be minimised by addressing the moral values of people? Please supply a short justification.			

Question 18	YES	NO	UNCERTAIN
Do you think that materialism, greed and self-enrichment have become more important to people than old-fashioned moral values? Please supply a short justification.			
Question 19	YES	NO	UNCERTAIN
Do you think that people comply with tax rules and regulations because they respect the law or simply because they are afraid of being caught for perpetrating non-compliance?			
Question 20	YES	NO	UNCERTAIN
Do you think that by adding more severe penalties and other punitive measures against tax evasion, fraud and corruption, the current levels of these transgressions would decrease? Please supply a short justification.			

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

APPENDIX B

SUMMARY OF MORAL QUESTIONNAIRE

RESPONDENT'S POSITION IN THE COMMUNITY/SOCIETY

Academic head of school
Account manager information technology
Accountant
Attorney
Audit partner
Author
Bookkeeper
Broker
Business accountant
Business owner
Care worker
Chair of an academic department
Church manager
Church secretary
Civil engineer
Clinical psychologist
Company director
Company owner
Counsellor
Debt counsellor
Dentist
Diplomat
Entrepreneur
Estate agent
Financial advisor
Financial director
Financial manager
Fraud manager
General manager
Head: Criminal investigations
Instructor
Internal auditor
Journalist

RESPONDENT'S POSITION IN THE COMMUNITY/SOCIETY

Learner accountant

Lecturer

Legal practitioner

Manager: Plant finance controller

Managing director

Manufacturer and wholesaler

Marketing manager

Marketing project manager

Master of the High Court

Medical doctor

Mining engineer

Mining official

Minister

Networking engineer

Parish priest

Pastor

Personal assistant

Pharmacist

Private banker

Property portfolio manager

Psychologist

Public health worker

Public relations manager

Radio presenter

Registered nurse

Risk compliance consultant

Risk manager

Sales representative

School manager

School principle

Scientist

Secretary

Student

Tax practitioner

Technologist

RESPONDENT'S ROLE IN THE COMMUNITY/SOCIETY

Academic

Administrate finance of numerous churches

Bookkeeping services

Care and spiritual leadership

Care giver

Chairperson of homeowners association board

Church cell leader

Church member

Church youth leader

Community development

Community member

Company leader

Compile and presenting training courses

Counselling services

Deacon at a local church

Elder in a local church

Father and husband

Financial advice

General management of a private school

Head of a congregation

Homeowner

Informing the community

Involvement in community sport development and training

Leader in community projects

Leader of a church denomination

Leading and uplifting previously disadvantaged people

Leading people

Legal advisor and legal services

Management of a mission office

Mother and wife

Parent

Parish council member

Pastoral work

RESPONDENT'S ROLE IN THE COMMUNITY/SOCIETY

Private practice
Providing business services
Public services
Religious and spiritual work
Religious leader
Rendering of professional services
Representing South Africa abroad
School psychologist
Secretary of a local ratepayers body
Selling goods and products
Selling of properties
Spiritual leader
Teacher
Teacher of salvation and moral values
Trainer

APPENDIX C

FRAUD, CORRUPTION AND TAXATION QUESTIONNAIRE

Department of Taxation

Mobile: 082 571 2780

Dear Respondent

SURVEY AMONGST ECONOMIC CRIME OFFENDERS

Prof AP Swanepoel is doing research for a doctoral thesis in the School for Accounting Sciences at the North-West University (Potchefstroom Campus). The purpose of this research is to investigate a financial and moral perspective of the impact of economic crime on taxation in general within South Africa.

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

Your valuable contribution to determine if there is indeed any possible relationship between fraud, corruption and related consequences in general within South Africa is sincerely appreciated.

Yours faithfully

PROF K COETZEE
SCHOOL for ACCOUNTING SCIENCES

FRAUD, CORRUPTION AND TAXATION QUESTIONNAIRE

GENERAL INFORMATION

- The purpose of this questionnaire is to investigate a possible relationship between fraud, corruption and related consequences in general within South Africa. Fraud and corruption have a financial implication which in turn may impact on taxation in general (for example Income Tax, Value-Added Tax, Employees' Tax, Estate Duty, Customs and Excise Duty or even Transfer Duty). It is therefore important to research the possible existence of a relationship between fraud, corruption and related taxation consequences within the South African context.
- This questionnaire forms part of a research project to qualify for a PhD degree (Taxation) at the North-West University (Potchefstroom Campus).
- The input of each respondent is very important for the purpose of this research project. The participation of each respondent is highly valued and will make a difference.
- The information supplied by you will be treated as **strictly confidential**. Your responses together with those of other respondents will be used to obtain a complete view.
- Any additional comments may be written on a separate sheet of paper, if insufficient space has been provided in the questionnaire.
- Please answer every question/statement in the space provided in each question/statement by marking the applicable section with an "X" or write down your answer where required.
- For the purpose of this research, the concepts of fraud, corruption, tax avoidance, tax evasion, tax fraud, tax planning and tax havens will be investigated.

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

Prof AP Swanepoel

PO Box 6

Woodlands

Pretoria

0072

Telephone: Work: 012-429 2054

Home: 012-997 5556

Mobile: 082 571 2780

Email: boelas@woodlandsnet.co.za or swaneap@unisa.ac.za

Promoter: Prof K Coetzee, School for Accounting Sciences, North-West University
(Potchefstroom Campus)

QUESTIONNAIRE – FRAUD, CORRUPTION AND RELATED TAXATION CONSEQUENCES

Questionnaire number			

RESPONDENTS DEMOGRAPHIC DETAILS

PLEASE MARK WITH AN “X” AND ONLY SELECT ONE ANSWER PER QUESTION/STATEMENT

1.	Gender:	Male	
		Female	
2.	Age group in years:	Younger than 20 years	
		20 to 29 years	
		30 to 39 years	
		40 to 49 years	
		50 to 59 years	
		Older than 60 years	
3.	Position previously held:	Company director	
		Partner in private practice	
		Manager	
		Supervisor	
		Internal auditor	
		Fraud examiner	
		Academic	
		Government/ Public official	
		Other (please specify)	
4.	Main area where previously involved/economic active:	Commerce and industry	
		Private practice	
		Public administration/Government	
		Education	
		Other (please specify)	
5.	Province where previously mainly active, involved or residing:	Eastern Cape	
		Free State	
		Gauteng	
		Kwazulu-Natal	
		Limpopo	
		Mpumalanga	
		Northern Cape	
		North-West	
		Western Cape	
		All of the above	

Please rank each statement from 1 (strongly agree) to 7 (strongly disagree) with regard to the degree of influence you believe it has or may have on fraud, corruption and related taxation consequences in general.

1 Strongly agree	2 Moderately agree	3 Slightly agree	4 Uncertain	5 Slightly disagree	6 Moderately disagree	7 Strongly disagree				
STATEMENT				SCALE						
Part A: Law enforcement, prosecution and sentencing practices are not adequate.										
1.	Fraud, corruption and any possible taxation consequences resulting from fraud or corruption within South Africa may not be addressed appropriately due to ineffective law enforcement, prosecution and sentencing practices.			1	2	3	4	5	6	7
2	Fines are more effective than imprisonment for fraud, corruption or tax related offences.			1	2	3	4	5	6	7
3.	If fines cannot be raised further it would be appropriate to supplement such fines with a prison term for fraud, corruption or tax evasion.			1	2	3	4	5	6	7
4.	People may have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences because: (Please rank each statement)									
(a)	It has no effect.			1	2	3	4	5	6	7
(b)	They are afraid of being victimised.			1	2	3	4	5	6	7
(c)	Of a lack of or inadequate witness protection.			1	2	3	4	5	6	7
(d)	They do not want to get involved.			1	2	3	4	5	6	7
(e)	They are afraid of being implicated.			1	2	3	4	5	6	7
(f)	Of their direct or indirect personal involvement.			1	2	3	4	5	6	7
(g)	They may be uncertain about the possible consequences.			1	2	3	4	5	6	7
(h)	Other – please specify only one .									
5.	An offenders' personal wealth will impact on the level of fraud, corruption or tax evasion he/she may commit.			1	2	3	4	5	6	7

Part B: Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.											
1	2	3	4	5	6	7					
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree					
STATEMENT					SCALE						
6.	The implementation of a code of conduct, ethical rules, company policies and procedures will counter the incidences of possible fraud, corruption or tax evasion.			1	2	3	4	5	6	7	
7.	An entity should create a working environment that promotes and encourages ethical behaviour.			1	2	3	4	5	6	7	
8.	An entity should implement measures to prevent, deter, and/or detect fraud in each of its identified fraud risk areas.			1	2	3	4	5	6	7	
9.	Company employees should receive appropriate training in identifying inappropriate behaviour and inappropriate conduct.			1	2	3	4	5	6	7	
10.	A company should have policies/procedures in place to ensure that all allegations of fraud/corruption or violations of the code of conduct are evaluated, investigated and documented with a view to adequate disclosure or reporting.			1	2	3	4	5	6	7	
Part C: Reasons for perpetrating fraud, corruption or tax evasion.											
11.	People commit fraud, corruption or tax evasion for the following reasons: (Please rank each statement)										
(a)	Greed.			1	2	3	4	5	6	7	
(b)	Getting even with SARS/the government.			1	2	3	4	5	6	7	
(c)	Need/Wants.			1	2	3	4	5	6	7	
(d)	Criminal behaviour.			1	2	3	4	5	6	7	
(e)	Tax savings/Evasion.			1	2	3	4	5	6	7	
(f)	Facilitation of payments/Cash-flow problems.			1	2	3	4	5	6	7	
(g)	Bribes paid to get things done/sorted out.			1	2	3	4	5	6	7	
(h)	Marketing targeted at specific individuals in the form of expensive gifts.			1	2	3	4	5	6	7	
(i)	Excursions/entertainment offered to encourage informal relations with potential clients.			1	2	3	4	5	6	7	
(j)	Political pressure, for example subsidies or export-credit deals.			1	2	3	4	5	6	7	
(k)	Other – please specify only one .										

1	2	3	4	5	6	7					
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree					
STATEMENT				SCALE							
12.	Competitive pressure will make organisations more or less inclined to offer bribes: (Please rank each statement)										
(a)	More inclined.			1	2	3	4	5	6	7	
(b)	Less inclined.			1	2	3	4	5	6	7	
13.	Organisations would prefer the following strategy when their competitors offer bribes: (Please rank each statement)										
(a)	Do the same.			1	2	3	4	5	6	7	
(b)	Continue with business as usual.			1	2	3	4	5	6	7	
(c)	To report their competitor to the authorities.			1	2	3	4	5	6	7	
(d)	Other - please specify only one .										
Part D: Current laws and regulations are adequate to address fraud, corruption and tax conduct in general.											
14.	South African courts should adopt the following attitude towards fraud, corruption, tax avoidance or tax evasion schemes: (Please rank each statement)										
(a)	Accommodative.			1	2	3	4	5	6	7	
(b)	Disapproving.			1	2	3	4	5	6	7	
(c)	Condemnation.			1	2	3	4	5	6	7	
(d)	Neutral.			1	2	3	4	5	6	7	
15.	How do you perceive the public attitude towards fraud, corruption, tax avoidance or tax evasion? (Please rank each statement)										
(a)	Get even with the tax authorities.			1	2	3	4	5	6	7	
(b)	Accommodative.			1	2	3	4	5	6	7	
(c)	Disapproving.			1	2	3	4	5	6	7	
(d)	Condemnation.			1	2	3	4	5	6	7	
(e)	Neutral.			1	2	3	4	5	6	7	
16.	Fines should be used whenever possible for committing fraud, corruption or tax evasion.			1	2	3	4	5	6	7	

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
17.	A wealthy person committing fraud, corruption or tax evasion, is more prison averse than a poor offender.			1	2	3	4	5	6	7
18.	The risk of being detected will impact on the level of fraud, corruption or tax evasion a probable offender is willing to commit.			1	2	3	4	5	6	7
19.	Punishment for committing fraud, corruption or tax evasion should ignore the wealth and status of the offender.			1	2	3	4	5	6	7
Part E: Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.										
20.	An opportunistic fraudster has no concern for any possible tax consequences his/her fraudulent actions/transactions may cause as he/she may not be tax literate.			1	2	3	4	5	6	7
21.	An employee would normally perpetrate the following types of fraud that may have a moderate financial impact on the entity: (Please rank each statement)									
(a)	Embezzlement of money or property.			1	2	3	4	5	6	7
(b)	Breach of a fiduciary duty.			1	2	3	4	5	6	7
(c)	Theft of trade secrets or intellectual property.			1	2	3	4	5	6	7
(d)	Illegal acts.			1	2	3	4	5	6	7
(e)	Other – please specify only one.									
Part F: The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his/her fraudulent actions.										
22.	A taxpayer is aware of all the tax and legal consequences when he/she engages in tax avoidance or tax evasion.			1	2	3	4	5	6	7

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
23.	Management would normally perpetrate the following types of fraud that may have a substantial financial impact on the entity and may give rise to certain taxation consequences: (Please rank each statement)									
(a)	Financial statement fraud.			1	2	3	4	5	6	7
(b)	Misrepresentation of material facts.			1	2	3	4	5	6	7
(c)	Misappropriation of assets.			1	2	3	4	5	6	7
(d)	Concealment of material facts.			1	2	3	4	5	6	7
(e)	Bribery.			1	2	3	4	5	6	7
(f)	Illegal acts.			1	2	3	4	5	6	7
(g)	Conflict of interest.			1	2	3	4	5	6	7
(h)	Other – please specify only one .									
24.	A professional fraudster (someone committing fraud/corruption on a regular basis) is aware of any possible tax consequences his/her fraudulent actions/transactions may have.			1	2	3	4	5	6	7
25.	A typical offender committing fraud, corruption or tax evasion is not risk neutral.			1	2	3	4	5	6	7
Part G: The perpetration of fraud or corruption has an impact on taxation in South Africa.										
26.	Economic crimes such as fraud, corruption or tax evasion have no impact on the South African economy as a whole.			1	2	3	4	5	6	7
27.	Offenders can choose the intensity of their fraud, corruption or tax evasion efforts to affect their intended level of economic impact.			1	2	3	4	5	6	7
28.	The perpetration of fraud or corruption, being financially related, would have direct taxation consequences (for example Income tax, VAT or Customs & Excise Duty).			1	2	3	4	5	6	7
29.	The perpetration of fraud or corruption, being financially related, would have indirect taxation consequences (for example Income tax, VAT or Customs & Excise Duty).			1	2	3	4	5	6	7

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
Part H: The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.										
30.	A person committing fraud, corruption or tax evasion is no longer concerned about the issue of whether his/her actions are right or wrong, but rather about the immediate benefit he/she will derive through his/her fraudulent actions.			1	2	3	4	5	6	7
31.	The type of fraud or corruption being perpetrated is a function of the opportunities available to potential offenders for example: (Please rank each statement)									
(a)	Management may perpetrate fraud/corruption having a substantial financial impact.			1	2	3	4	5	6	7
(b)	Employees may perpetrate fraud/corruption having a moderate financial impact.			1	2	3	4	5	6	7
(c)	The current economic downturn may induce people to commit fraud or corruption.			1	2	3	4	5	6	7
(d)	A lack of or down scaling in control measures resulting from cost-reduction efforts.			1	2	3	4	5	6	7
(e)	A lack of a division of duties.			1	2	3	4	5	6	7
(f)	Other – please specify only one.									
Part I: Morality and sound principles, such as the following measures, would impact positively on the occurrence of fraud, corruption and any possible related taxation consequences:										
32.	Strong corporate ethics displayed and applied by corporate management and the board of directors will impact on the actions and work ethics of company employees.			1	2	3	4	5	6	7

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
Part J: The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.										
33.	The perpetration of fraud or corruption may be influenced by the cost of complying with all the taxation administration requirements in South Africa.			1	2	3	4	5	6	7
34.	In your opinion, if it would be possible to quantify the extent of fraud, corruption, tax evasion or other illicit activities in South Africa in terms of the national Gross Domestic Product (GDP), which of the following statements may apply: (Select only one)									
(a)	1% - 2% of GDP									
(b)	3% - 4% of GDP									
(c)	5% - 7% of GDP									
(d)	8% -10% of GDP									
(e)	More than 10%, but less than 20% of GDP									
(f)	20% or more of GDP									
(g)	None of the above									
Part K: The prospective fraudster has no concern for his/her fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.										
35.	A prospective fraudster has little or no fear that his/her fraud, corruption or tax evasion will be detected and eventually be prosecuted for such fraudulent actions.			1	2	3	4	5	6	7
36.	A fraudster may rationalise his/her fraudulent conduct claiming that nobody was physically hurt nor was his/her fraudulent conduct violent in nature.			1	2	3	4	5	6	7
37.	A fraudster perpetrating fraud or corruption may do so because he/she thinks he/she can do it and may even get away with it.			1	2	3	4	5	6	7

1	2	3	4	5	6	7					
Strongly agree	Moderately Agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree					
STATEMENT				SCALE							
38.	Please rank each of the following statements pertaining to tax evasion:										
(a)	Tax evasion is permissible if the current tax rates are at acceptable levels.			1	2	3	4	5	6	7	
(b)	Tax evasion is permissible if the current tax rates are at unacceptable levels.			1	2	3	4	5	6	7	
(c)	Tax evasion is permissible if the tax system is perceived to be unfair or biased.			1	2	3	4	5	6	7	
(d)	Tax evasion is permissible if tax revenue is perceived to be utilised inappropriately.			1	2	3	4	5	6	7	
(e)	Tax evasion is permissible even if tax revenue is perceived to be utilised appropriately.			1	2	3	4	5	6	7	
(f)	Tax evasion is permissible because everyone else is doing it.			1	2	3	4	5	6	7	
(g)	Tax evasion is permissible if the risk of detection is perceived to be low.			1	2	3	4	5	6	7	
(h)	Tax evasion is permissible if the proceeds are used for a good cause, such as charity for example.			1	2	3	4	5	6	7	
(i)	Tax evasion can never be permissible.			1	2	3	4	5	6	7	

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

APPENDIX D

FRAUD, CORRUPTION AND TAXATION QUESTIONNAIRE

Department of Taxation

Mobile: 082 571 2780

Dear Respondent

SURVEY AMONGST ROLE PLAYERS IN THE PREVENTION, DETECTION AND ADDRESSING OF FRAUD, CORRUPTION AND RELATED TAXATION CONSEQUENCES

Prof AP Swanepoel is doing research for a doctoral thesis in the School for Accounting Sciences at the North-West University (Potchefstroom Campus). The purpose of this research is to investigate a possible relationship between fraud, corruption and related consequences in general within South Africa.

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

Your valuable contribution to determine if there is indeed any possible relationship between fraud, corruption and related consequences in general within South Africa is sincerely appreciated.

Yours faithfully

PROF K COETZEE
SCHOOL for ACCOUNTING SCIENCES

FRAUD, CORRUPTION AND TAXATION QUESTIONNAIRE

GENERAL INFORMATION

- The purpose of this questionnaire is to investigate a possible relationship between fraud, corruption and related consequences in general within South Africa. Fraud and corruption on many occasions have a financial implication which in turn may impact on taxation in general (for example Income Tax, Value-Added Tax, Employees' Tax, Estate Duty, Customs and Excise Duty or even Transfer Duty). It is therefore important to research the possible existence of a relationship between fraud, corruption and related taxation consequences within the South African context.
- This questionnaire forms part of a research project to qualify for a PhD degree (Taxation) at the North-West University (Potchefstroom Campus).
- Selected respondents involved in the prevention, detection or prosecution of fraud, corruption or related tax offences will be interviewed personally to complement this questionnaire.
- The input of each respondent is very important for the purpose of this research project. The participation of each respondent is highly valued and will make a difference.
- The information supplied by you will be treated as **strictly confidential**. Your responses together with those of other respondents will be used to obtain a complete view.
- Any additional comments may be written on a separate sheet of paper, if insufficient space has been provided in the questionnaire.
- Please answer every question/statement in the space provided in each question/statement by marking the applicable section with an "X" or write down your answer where required.
- For the purpose of this research, the concepts of fraud, corruption, tax avoidance, tax evasion, tax fraud, tax planning and tax havens will be investigated.

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

Prof AP Swanepoel
PO Box 6
Woodlands
Pretoria
0072

Telephone: Work: 012-429 2054
Home: 012-997 5556
Mobile:082 571 2780

Email: boelas@woodlandsnet.co.za or swaneap@unisa.ac.za

Promoter: Prof K Coetzee, School for Accounting Sciences, North-West University
(Potchefstroom Campus)

QUESTIONNAIRE – FRAUD, CORRUPTION AND RELATED TAXATION CONSEQUENCES

Questionnaire number			

RESPONDENTS DEMOGRAPHIC DETAILS

PLEASE MARK WITH AN “X” AND ONLY SELECT ONE ANSWER PER QUESTION/STATEMENT

1.	Gender:	Male	
		Female	
2.	Age group in years:	Younger than 20 years	
		20 to 29 years	
		30 to 39 years	
		40 to 49 years	
		50 to 59 years	
		Older than 60 years	
3.	Position currently held:	Company director	
		Partner in private practice	
		Manager	
		Supervisor	
		Internal auditor	
		Fraud examiner	
		Academic	
		Government/Public official	
		Other (please specify)	
4.	Main area where currently involved/economic active:	Commerce and industry	
		Private practice	
		Public administration/Government	
		Education	
		Other (please specify)	
5.	Province where currently mainly active, involved or residing:	Eastern Cape	
		Free State	
		Gauteng	
		Kwazulu-Natal	
		Limpopo	
		Mpumalanga	
		Northern Cape	
		North-West	
		Western Cape	
		All of the above	

Please rank each statement from 1 (strongly agree) to 7 (strongly disagree) with regard to the degree of influence you believe it has or may have on fraud, corruption and related taxation consequences in general.

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
Part A: Law enforcement, prosecution and sentencing practices are not adequate.										
1.	Fraud, corruption and any possible taxation consequences resulting from fraud or corruption within South Africa may not be addressed appropriately due to ineffective law enforcement, prosecution and sentencing practices.			1	2	3	4	5	6	7
2.	Ineffective law enforcement, prosecution and sentencing practices relating to fraud, corruption and possible related taxation consequences may be attributed to the following: (Please rank each statement)									
(a)	Inadequate training of law enforcement personnel.			1	2	3	4	5	6	7
(b)	A shortage in law enforcement personnel.			1	2	3	4	5	6	7
(c)	Inadequate investigation of reported cases.			1	2	3	4	5	6	7
(d)	Inadequate training of prosecution personnel.			1	2	3	4	5	6	7
(e)	A shortage in prosecution personnel.			1	2	3	4	5	6	7
(f)	Cases take too long to be brought before a court of law.			1	2	3	4	5	6	7
(g)	Third party pressure not to continue with a case.			1	2	3	4	5	6	7
(h)	Premature plea-bargaining with an accused in a case.			1	2	3	4	5	6	7
(i)	Court sentences too light in relation to other criminal offences.			1	2	3	4	5	6	7
(j)	Other – please specify, but limit to one .									
3	Fines are more effective than imprisonment for fraud, corruption or tax related offences.			1	2	3	4	5	6	7
4.	If fines cannot be raised further it would be appropriate to supplement such fines with a prison term for fraud, corruption or tax evasion.			1	2	3	4	5	6	7

1	2	3	4	5	6	7					
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree					
STATEMENT				SCALE							
5.	People may have a reluctance to speak out about fraud, corruption or tax evasion or to report such offences because: (Please rank each statement)										
(a)	It has no effect.			1	2	3	4	5	6	7	
(b)	They are afraid of being victimised.			1	2	3	4	5	6	7	
(c)	Of a lack of or inadequate witness protection.			1	2	3	4	5	6	7	
(d)	They do not want to get involved.			1	2	3	4	5	6	7	
(e)	They are afraid of being implicated.			1	2	3	4	5	6	7	
(f)	Of their direct or indirect personal involvement.			1	2	3	4	5	6	7	
(g)	They may be uncertain about the possible consequences.			1	2	3	4	5	6	7	
(h)	Other – please specify only one .										
6.	An offenders' personal wealth will impact on the level of fraud, corruption or tax evasion he/she may commit.			1	2	3	4	5	6	7	
Part B: Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.											
7.	The implementation of a code of conduct, ethical rules, company policies and procedures will counter the incidences of possible fraud, corruption or tax evasion.			1	2	3	4	5	6	7	
8.	The implementation of proper personnel training will counter the incidences of possible fraud, corruption or tax evasion.			1	2	3	4	5	6	7	
9.	A company's code of conduct should address the following: (Please rank each item)										
(a)	Protection of company assets, including intellectual property.			1	2	3	4	5	6	7	
(b)	The use of company assets.			1	2	3	4	5	6	7	
(c)	Fair dealing guidelines and examples thereof.			1	2	3	4	5	6	7	
(d)	Illegal actions.			1	2	3	4	5	6	7	
(e)	Compliance with laws.			1	2	3	4	5	6	7	
(f)	Reporting requirements and protocol, for example a whistle blower hotline.			1	2	3	4	5	6	7	
(g)	Protection of the whistle blower.			1	2	3	4	5	6	7	
(h)	Related party transactions.			1	2	3	4	5	6	7	
(i)	Confidentiality of company information.			1	2	3	4	5	6	7	
(j)	Conflict of interest and company opportunities.			1	2	3	4	5	6	7	
(k)	Sales practices and procurement practices.			1	2	3	4	5	6	7	
(l)	All employees signing an ethical business conduct form.			1	2	3	4	5	6	7	

1 Strongly agree		2 Moderately agree		3 Slightly agree		4 Uncertain		5 Slightly disagree		6 Moderately disagree		7 Strongly disagree		
STATEMENT									SCALE					
10.	An entity should create a working environment that promotes and encourages ethical behaviour.							1	2	3	4	5	6	7
11.	An entity should implement measures to prevent, deter, and/or detect fraud in each of its identified fraud risk areas.							1	2	3	4	5	6	7
12.	A company should have established procedures for the confidential, anonymous submission of concerns by employees about possible fraudulent activities.							1	2	3	4	5	6	7
13.	A company should have a clearly stated, anti-fraud policy in which it articulates each employee's responsibility.							1	2	3	4	5	6	7
14.	Fraud risks should be reassessed periodically, especially when new processes and procedures are instituted, when new employees are appointed or when employees are promoted.							1	2	3	4	5	6	7
15.	Company employees should receive appropriate training in identifying inappropriate behaviour and inappropriate conduct.							1	2	3	4	5	6	7
16.	A company should have standardised procedures for responding to allegations or suspicions of fraud, corruption or tax evasion including the following: (Please rank each item)													
(a)	Communication strategies directed internally and externally.							1	2	3	4	5	6	7
(b)	Co-ordination with legal counsel.							1	2	3	4	5	6	7
(c)	Public relations and crisis management.							1	2	3	4	5	6	7
17.	A company should have policies/procedures in place to ensure that all allegations of fraud/corruption or violations of the code of conduct are evaluated, investigated and documented with a view to adequate disclosure or reporting.							1	2	3	4	5	6	7
18.	A company should, upon identification of fraud, corruption or any other legal violations, provide additional training to employees to reinforce values, codes of ethics and expectations.							1	2	3	4	5	6	7

1	2	3	4	5	6	7		
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree		
STATEMENT				SCALE				
Part C: Reasons for perpetrating fraud, corruption or tax evasion.								
19.	People commit fraud, corruption or tax evasion for the following reasons: (Please rank each statement)							
(a)	Greed.	1	2	3	4	5	6	7
(b)	Getting even with SARS/the government.	1	2	3	4	5	6	7
(c)	Need/Wants.	1	2	3	4	5	6	7
(d)	Criminal behaviour.	1	2	3	4	5	6	7
(e)	Tax savings/Evasion.	1	2	3	4	5	6	7
(f)	Facilitation of payments/Cash flow problems.	1	2	3	4	5	6	7
(g)	Bribes paid to get things done/sorted out.	1	2	3	4	5	6	7
(h)	Marketing targeted at specific individuals in the form of expensive gifts.	1	2	3	4	5	6	7
(i)	Excursions/entertainment offered to encourage informal relations with potential clients.	1	2	3	4	5	6	7
(j)	Political pressure, for example subsidies or export-credit deals.	1	2	3	4	5	6	7
(k)	Other – please specify only one .							
20.	Competitive pressure will make organisations more or less inclined to offer bribes: (Please rank each statement)							
(a)	More inclined.	1	2	3	4	5	6	7
(b)	Less inclined.	1	2	3	4	5	6	7
21.	Organisations would prefer the following strategy when their competitors offer bribes: (Please rank each statement)							
(a)	Do the same.	1	2	3	4	5	6	7
(b)	Continue with business as usual.	1	2	3	4	5	6	7
(c)	Report their competitor to the authorities.	1	2	3	4	5	6	7
(d)	Other - please specify only one .							

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
Part D: Current laws and regulations are adequate to address fraud, corruption and tax conduct in general.										
22.	Current tax laws successfully attempt to discourage tax avoidance: (Please rank each statement)									
(a)	By a general provision aimed at all transactions whose sole or main objective is the avoidance of tax (such as sections 103(2)(a) or 80A of the Income Tax Act No. 58 of 1962).			1	2	3	4	5	6	7
(b)	By introducing a penalty or an increased tax charge where tax avoidance is established as envisaged by section 76 (1) of the Income Tax Act No. 58 of 1962.			1	2	3	4	5	6	7
(c)	By enforcing section 76A (Reportable arrangements) of the Income Tax Act No. 58 of 1962.			1	2	3	4	5	6	7
23.	Current tax laws should legislate against the use of tax havens <i>per se</i> .			1	2	3	4	5	6	7
24.	South African courts should adopt the following attitude towards fraud, corruption, tax avoidance or tax evasion schemes: (Please rank each statement)									
(a)	Accommodative.			1	2	3	4	5	6	7
(b)	Disapproving.			1	2	3	4	5	6	7
(c)	Condemnation.			1	2	3	4	5	6	7
(d)	Neutral.			1	2	3	4	5	6	7
25.	How do you perceive the public attitude towards fraud, corruption, tax avoidance or tax evasion? (Please rank each statement)									
(a)	Get even with the tax authorities.			1	2	3	4	5	6	7
(b)	Accommodative.			1	2	3	4	5	6	7
(c)	Disapproving.			1	2	3	4	5	6	7
(d)	Condemnation.			1	2	3	4	5	6	7
(e)	Neutral.			1	2	3	4	5	6	7
26.	The current tax legislation should define or describe the term "tax fraud".			1	2	3	4	5	6	7
27.	Fines should be used whenever possible for committing fraud, corruption or tax evasion.			1	2	3	4	5	6	7

	1 Strongly agree	2 Moderately agree	3 Slightly agree	4 Uncertain	5 Slightly disagree	6 Moderately disagree	7 Strongly disagree				
	STATEMENT				SCALE						
28.	Fines should only be supplemented with an additional prison term if the offender's finances are exhausted.				1	2	3	4	5	6	7
29.	A wealthy person committing fraud, corruption or tax evasion is more prison averse than a poor offender.				1	2	3	4	5	6	7
30.	A wealthy person committing fraud, corruption or tax evasion will lower the levels of such crimes if the level of available punishment increases (for example higher penalties or bigger fines).				1	2	3	4	5	6	7
31.	The risk of being detected will impact on the level of fraud, corruption or tax evasion a probable offender is willing to commit.				1	2	3	4	5	6	7
32.	Punishment for committing fraud, corruption or tax evasion should ignore the wealth and status of the offender.				1	2	3	4	5	6	7
33.	A financial loss experienced by a victim of fraud or corruption will increase the probability of the incident being reported.				1	2	3	4	5	6	7
34.	Tax havens are primarily used for tax avoidance purposes.				1	2	3	4	5	6	7
35.	The attitude of the South African tax authorities creates or is perceived to create some hostility to the use of tax havens in tax planning.				1	2	3	4	5	6	7
Part E: Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.											
36.	An opportunistic fraudster has no concern for any possible tax consequences his/her fraudulent actions/transactions may cause as he/she may not be tax literate.				1	2	3	4	5	6	7
37.	An employee would normally perpetrate the following types of fraud that may have a moderate financial impact on the entity: (Please rank each statement)										
(a)	Embezzlement of money or property.				1	2	3	4	5	6	7
(b)	Breach of a fiduciary duty.				1	2	3	4	5	6	7
(c)	Theft of trade secrets or intellectual property.				1	2	3	4	5	6	7
(d)	Illegal acts.				1	2	3	4	5	6	7
(e)	Other – please specify only one .										

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
Part F: The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his/her fraudulent actions.										
38.	A taxpayer has a right to plan his/her tax affairs to such an extent, permissible within the ambit of current tax laws, that the minimum possible tax is paid.			1	2	3	4	5	6	7
39.	A taxpayer is aware of all the tax and legal consequences when he/she engages in tax avoidance or tax evasion.			1	2	3	4	5	6	7
40.	Management would normally perpetrate the following types of fraud that may have a substantial financial impact on the entity and may give rise to certain taxation consequences: (Please rank each statement)									
(a)	Financial statement fraud.			1	2	3	4	5	6	7
(b)	Misrepresentation of material facts.			1	2	3	4	5	6	7
(c)	Misappropriation of assets.			1	2	3	4	5	6	7
(d)	Concealment of material facts.			1	2	3	4	5	6	7
(e)	Bribery.			1	2	3	4	5	6	7
(f)	Illegal acts.			1	2	3	4	5	6	7
(g)	Conflict of interest.			1	2	3	4	5	6	7
(h)	Other – please specify only one .									
41.	You have an ethical responsibility not to assist your client to minimise a tax liability outside the context of prevailing tax legislation, if so requested by the tax client.			1	2	3	4	5	6	7
42.	You have a professional obligation to inform your tax client of any possible tax or other legal implications should he/she seek your advice on a possible tax avoidance transaction.			1	2	3	4	5	6	7
43.	If you become aware of a tax avoidance transaction concluded by your client, you should report such a transaction to SARS.			1	2	3	4	5	6	7
44.	A professional fraudster (someone committing fraud/corruption on a regular basis) is aware of any possible tax consequences his/her fraudulent actions/transactions may have.			1	2	3	4	5	6	7
45.	A typical offender committing fraud, corruption or tax evasion is not risk neutral.			1	2	3	4	5	6	7

1	2	3	4	5	6	7		
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree		
STATEMENT				SCALE				
Part G: The perpetration of fraud or corruption has an impact on taxation in South Africa.								
46.	Economic crimes such as fraud, corruption or tax evasion have no impact on the South African economy as a whole.	1	2	3	4	5	6	7
47.	Economic crimes such as fraud, corruption or tax evasion have a definite impact on the South African economy as a whole.	1	2	3	4	5	6	7
48.	Offenders can choose the intensity of their fraud, corruption or tax evasion efforts to affect their intended level of economic impact.	1	2	3	4	5	6	7
49.	The perpetration of fraud or corruption, being financially related, would have direct taxation consequences (for example Income tax, VAT or Customs & Excise Duty).	1	2	3	4	5	6	7
50.	The perpetration of fraud or corruption, being financially related, would have indirect taxation consequences (for example Income tax, VAT or Customs & Excise Duty).	1	2	3	4	5	6	7
Part H: The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.								
51.	An act of fraud or corruption is not viewed as a moral issue, but rather as an economic issue.	1	2	3	4	5	6	7
52.	A person committing fraud, corruption or tax evasion is no longer concerned about the issue of whether his/her actions are right or wrong, but rather about the immediate benefit he/she will derive through his/her fraudulent actions.	1	2	3	4	5	6	7
53.	The type of fraud or corruption being perpetrated is a function of the opportunities available to potential offenders, for example: (Please rank each statement)							
(a)	Management may perpetrate fraud/corruption having a substantial financial impact.	1	2	3	4	5	6	7
(b)	Employees may perpetrate fraud/corruption having a moderate financial impact.	1	2	3	4	5	6	7
(c)	The current economic downturn may induce people to commit fraud or corruption.	1	2	3	4	5	6	7
(d)	A lack of or down scaling in control measures resulting from cost reduction efforts.	1	2	3	4	5	6	7
(e)	A lack of a division of duties.	1	2	3	4	5	6	7
(f)	Other – please specify only one .							

1	2	3	4	5	6	7				
Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree				
STATEMENT				SCALE						
Part I: Morality and sound principles, such as the following measures, would impact positively on the occurrence of fraud, corruption and any possible related taxation consequences.										
54.	Strong corporate ethics displayed and applied by corporate management and the board of directors will impact on the actions and work ethics of company employees.			1	2	3	4	5	6	7
55.	Procurement (purchasing) rules should be expected to prevent corruption.			1	2	3	4	5	6	7
56.	Organisations should practice what they preach in their anti-corruption policies.			1	2	3	4	5	6	7
57.	Corporate or other tax entities should have a policy in place addressing the issues of "tax avoidance" and "tax evasion".			1	2	3	4	5	6	7
58.	Proper background checks on newly appointed employees.			1	2	3	4	5	6	7
Part J: The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.										
59.	The current tax compliance burden imposed by SARS contributes towards tax avoidance/tax evasion in general.			1	2	3	4	5	6	7
60.	The perpetration of fraud or corruption may be influenced by the cost of complying with all the taxation administration requirements in South Africa.			1	2	3	4	5	6	7
61.	In your opinion, if it would be possible to quantify the extent of fraud, corruption, tax evasion or other illicit activities in South Africa in terms of the national Gross Domestic Product (GDP), which of the following statements may apply: (Select only one)									
(a)	1% - 2% of GDP			1	2	3	4	5	6	7
(b)	3% - 4% of GDP			1	2	3	4	5	6	7
(c)	5% - 7% of GDP			1	2	3	4	5	6	7
(d)	8% -10% of GDP			1	2	3	4	5	6	7
(e)	More than 10%, but less than 20% of GDP			1	2	3	4	5	6	7
(f)	20% or more of GDP			1	2	3	4	5	6	7
(g)	None of the above			1	2	3	4	5	6	7

1	2	3	4	5	6	7		
Strongly agree	Moderately Agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree		
STATEMENT				SCALE				
Part K: The prospective fraudster has no concern for his/her fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.								
62.	A prospective fraudster has little or no fear that his/her fraud, corruption or tax evasion will be detected and eventually being prosecuted for such fraudulent actions.	1	2	3	4	5	6	7
63.	The scope for the use of international tax havens in tax planning is likely to increase or decrease. Please rank each statement.							
(a)	Increase	1	2	3	4	5	6	7
(b)	Decrease	1	2	3	4	5	6	7
64.	A fraudster may rationalise his/her fraudulent conduct claiming that nobody was physically hurt nor was his/her fraudulent conduct violent in nature.	1	2	3	4	5	6	7
65.	A fraudster perpetrating fraud or corruption may do so because he/she thinks he/she can do it and may even get away with it.	1	2	3	4	5	6	7
66.	Please rank each of the following statements pertaining to tax evasion:							
(a)	Tax evasion is permissible if the current tax rates are at acceptable levels.	1	2	3	4	5	6	7
(b)	Tax evasion is permissible if the current tax rates are at unacceptable levels.	1	2	3	4	5	6	7
(c)	Tax evasion is permissible if the tax system is perceived to be unfair or biased.	1	2	3	4	5	6	7
(d)	Tax evasion is permissible if tax revenue is perceived to be utilised inappropriately.	1	2	3	4	5	6	7
(e)	Tax evasion is permissible even if tax revenue is perceived to be utilised appropriately.	1	2	3	4	5	6	7
(f)	Tax evasion is permissible because everyone else is doing it.	1	2	3	4	5	6	7
(g)	Tax evasion is permissible if the risk of detection is perceived to be low.	1	2	3	4	5	6	7
(h)	Tax evasion is permissible if the proceeds are used for a good cause, such as charity, for example.	1	2	3	4	5	6	7
(i)	Tax evasion can never be permissible.	1	2	3	4	5	6	7

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

APPENDIX E

PERSONAL INTERVIEWS CONDUCTED WITH ROLE-PLAYERS

A. MR A – PSYCHOLOGIST

On 11 September 2008 an interview was conducted with Mr A, a psychologist, working at SARS on a contract basis. The purpose of this interview was to establish the reasons why taxpayers become involved in tax evasion, crime, fraud or corruption. The assistance of SARS officials in tax evasion, fraud or corruption by taxpayers was also discussed.

According to Mr A most people have a certain naivety towards their decisions and actions. This naivety relates to the concept that, in the absence of knowing the outcome of a certain decision, the decision maker believes that the decision taken is correct. The decision maker does not realise that the decision to be made or the action to be taken is not in line with set standards, norms or even certain legal requirements.

In the interview Mr A mentioned that every person will rank his/her needs to be satisfied. The most important needs to be satisfied will be ranked higher than lesser important needs. Every normal person will set his/her personal needs ahead of the needs of his/her society, the government and even the tax authorities.

Mr A commented that a moral system exists on a push-and-pull principle of involvement. In the absence of a law, moral values will determine the actions of people. If a person or a community has a strong value system, the moral values of people from that community will be strong. The community will sanction certain punitive measures upon community members breaching or contravening the community's value system.

Crime, according to Mr A, is the product of the following:

- an opportunity has to present itself;
- there is a certain defect in a law or law enforcement; and
- there is something wrong with the value system of the person committing the crime.

The average person will not commit crime in general. However, if an opportunity arises for a crime to be committed, the person exploiting this opportunity will have to make a decision whether or not to commit the said crime. One of the drivers for committing the prospective crime would probably be the perceived benefits to be derived by the perpetrator of the crime. The perceived outcome of the successful crime will most probably be financial gain in the form of money or other goods. A defect in a law or in law enforcement may assist or motivate a person who is about to commit a crime. A person committing a crime has to take into account certain risks attached to his/her criminal actions. The risk of detection is probably the most important risk factor to discount before embarking on a mission of crime. A lack of or defect in law enforcement will contribute towards the success achieved by people committing crime.

A person with a sound value system will probably refrain from criminal activities. Someone without a sound value system or having no value system at all may be a good candidate to get involved in criminal activities due to the perceived rewards attached to these activities.

Mr A proposes that certain factors may contribute towards addressing crime and, by implication, tax evasion, fraud or corruption:

- Value system – how does the government manage the country? People look towards the government to set the tone at the top.
- Value formers – certain value formers must step forward and address the issue of crime.
- Ethics – the line between right and wrong has become vague. The line has to be redrawn with no grey areas in between.
- Zero tolerance – government, companies and businesses should implement a policy of zero tolerance towards crime in general.
- Office ethics – internal communication from employers to employees should promote ethical standards amongst employees and managers.
- Free association – people should have the freedom of association.
- Relationships between people and things – how do you feel about yourself? Wherever people are, they will be in relationship with other people and things (for example assets, goods, money etc.). Your own value system will determine the amount of respect you show towards other people and things.

- Greed – the core of greed lies on a psychological level. Greed can destroy people in their excessive striving or desire for wealth. If greed can be addressed it can impact positively on crime in general.
- Move away from the past – by moving forward and leaving the past behind, people escape the desire to complete the incomplete past.
- Addressing susceptibility – many people are vulnerable to or have certain weaknesses towards crime. By addressing this susceptibility through co-ordinated education programs people can be educated about the real implications of crime and the effect crime has on communities and people.

Mr A proposes the following simple steps to be followed when compiling a psychological profile of a tax evader:

- Compile a profile of any potential witnesses in a tax case.
- Rank the needs satisfaction of the tax evader.
- Perform an analysis of the avoidance needs of the tax evader.
- Obtain information for the investigation.
- Investigate tax compliance of the tax evader.
- Perform polygraph tests on a tax evader.
- Perform an investigative analysis.
- Try and negotiate a tax settlement before going to court.

B. MR B – MENTOR: TRAINEE INVESTIGATORS AT THE SPECIAL INVESTIGATING UNIT

On 1 September 2008 an interview was conducted with Mr B, a mentor at the Special Investigating Unit (SIU) of the South African government. He is directly involved in the training of government officials in the field of special investigations. The main purpose of the training conducted or mentored by Mr B is to equip government officials in the field of fraud and corruption prevention, detection and investigation. It is important to prevent fraud and corruption as far as possible. Once fraud and corruption have been perpetrated, they should be investigated and if necessary, prosecution should follow.

Mr B had firm views pertaining to corruption in general. These views and comments included the following:

- The main aim of corruption is self enrichment for the perpetrator.
- A person has to commit fraud in order to commit corruption.
- Corruption is perpetrated from a position of power or trust.
- Corruption may follow two directions:
 - From above – this is called extortion.
 - From below – this is called bribery.
- A person perpetrating corruption has to breach a certain rule or regulation.
- The person perpetrating corruption is in a position of trust – a set norm, rule or regulation is bent, the person perpetrating corruption pretends to act in good faith.
- Corruption has a direct impact on taxation.
- Corruption is directly related to the moral basis of individuals.
- Perceived double standards within the current taxation dispensation can impact on corruption within the taxation environment.
- Most of the time governments will be the party encountering losses in any corruption case.
- A wealthy individual has money and/or assets and is not so concerned when he/she perpetrates corruption.
- In many corruption cases the whistle-blower experiences actions being taken against him/her.

- Reporting of corruption is very important. The whistle-blower should come forward and witness protection measures should be in place. The whistle-blower should be protected against possible external actions against him/her. If no protection can be provided the whistle-blower might be scared, out of fear of possible repercussions, to get involved.
- Reported corruption should be evaluated against for the following:
 - What is the real motive of the whistle-blower?
 - Is the reported corruption the truth?
- Corruption has become morally defensible.
- People become victims of corruption.
- Employees become divided into camps when corruption is detected at an employer.
- An aggrieved person may sometimes act as whistle-blower, seeking an investigation to protect his/her own interests.
- Corruption should be addressed satisfactorily. In doing so, the following should be present:
 - Whistle-blowing should preferably not be anonymous.
 - A corruption case requires a witness.
 - It has to be determined who is lesser implicated or involved.
 - Who are you going to charge?
- Corruption, when detected, should be an overt process – everybody should know, the fact should be disclosed.
- If corruption is treated in a covert manner, not everybody will know about it and it will be dealt with in secrecy.
- Extreme caution should be exercised when actions are to be taken when corruption has been perpetrated.
- Do not proceed with search and seizure procedures without the necessary legal and court authorisation.
- In most corruption cases there is collusion between the perpetrator and a third party.
- You need a witness in a corruption case and the testimonial value of the witness is paramount for the success of any corruption case.
- Corruption has a multi-dimensional impact.
- Who can be used successfully as a witness in a court?
- The admissibility of a testimony of a witness should be considered.

- Voice recordings can only be made if both parties to the discussion agree that the said discussion may be recorded.

Mr B proposed the following regarding a plaintiff in a corruption case:

- He/she need not be the person who suffered a loss.
- He/she may complain on behalf of an employer or third party.
- A person in an employer/employee relationship may complain.
- He/she may act as a proxy or a person holding a power of attorney.

Mr B proposes the following regarding the witness:

- Contributing information to prove the allegation.
- The witness can be the following:
 - Official documentation, like the Registrar of Companies, can deliver witness.
 - Private documentation prepared internally, for example policies, procedures and minutes.
 - A specialist witness – the witness can be a specialist in a certain field, for example a forensic auditor.

Mr B proposed the following in respect of the defendant, before being charged:

- The defendant should be identified as the person against whom the allegation is made.
- The Criminal Prosecution Act – section 35 of the Constitution of the Republic of South Africa No. 108 of 1996 – describes how a person should be treated when being arrested, detained or accused.
- The rights of the accused should be explained to him/her.
- The accused has a right to a reasonable trial.
- The accused will be innocent until a court finds him/her guilty.
- The accused will become a defendant after he/she has been charged.
- There are three ways in which a person may appear in court:
 - A warning issued to appear in court for a traffic fine, for example.
 - A summons issued – grounds exist for legal prosecution.

- Apprehension – a warrant has been issued, the case has been investigated and prima facie evidence exists.
- The test of a reasonable person should be applied.

Mr B proposes the following steps are to be taken into account in a corruption case:

- The case should be reported to the South African Police Service (SAPS).
- A sworn affidavit is to be obtained from the whistle-blower.
- The Specialised Commercial Crime Unit of the SAPS should be notified.
- It may be possible that the reported corruption case may not be investigated.
- The person investigating the corruption case may not necessarily see the implications of the contravention.
- There may be a lack of experience/skill within the SAPS.
- Inexperienced investigation officials may hamper the investigation of a corruption case.
- Stick to the letter of the law.
- Patience is crucial in any investigation.
- Neutralisation of witnesses.
- Witness protection – for as long as the corruption case may continue.
- Follow the set protocol.
- Be aware of faceless people – a person's own interest may be promoted at the expense of the employer.
- Corruption may impact negatively on future investments in the company.

C. MR C – MINISTER

On 13 November 2008 an interview was conducted with Mr C, a minister from the Dutch Reform Church. The aim of the interview was to discuss the role of the church in the moral values of society today. Value formers have an impact on society. There are many laws and regulations in place to address fraud, corruption and tax evasion, yet it still occurs.

The question was raised that in the absence of/or lack of laws and regulations, who should stand up to address wrong actions? Everybody knows what is right or wrong. Today the concepts of right and wrong are so intertwined. What is right or acceptable to one person might be wrong and unacceptable to another person. During the war in Iraq people looted some of the shops. A week later many people returned the stolen goods after an Imam had addressed the people making a statement that Muslim people do not take what is not legally theirs. In this regard a spiritual leader stood up and reinstated certain moral values in a community.

It was mentioned during the interview that a person in a position of trust can use or abuse that position. Mr C mentioned that during a period of residing in Turkey he learned that one can speed up certain governmental paper work if one is prepared to pay a 'speed-up fee' to the salaried official dealing with your documentation. If you paid the 'speed-up fee' to the public official the work would be performed much faster. The problem, however, is that the set norm of acting corruptly would be supported by paying the 'speed-up fee'.

The question was posed to Mr C who should determine when a person should turn from a wrongdoing? He commented that society becomes more and more individualistic. People have an attitude that if you leave me alone I will not bother you. People do not want to become involved. In a certain sense the religious world has become weaker. Society should start to care for each other again. Society is like a family and in a family; family members may reprimand each other.

The comment was also made during the interview that when people are in a relationship it will be easier to approach people and to reprimand them. The present state of the economy has had an impact on the decisions people make. Mr C stated that people

should refrain from committing petty transgressions, for example like driving through red traffic lights. The religious community should teach its members to stop committing petty transgressions. Keep to the rules and regulations even if you do not like them. Petty transgressions may not cause any harm but they do cause moral decay.

Mr C stated that it would be difficult for someone committing a petty transgression to reprimand someone who has committed a gross transgression. People should not expect protection if they contravene the rules or regulations.

During the interview the comment was made that people make convenience decisions. Decisions are made depending on the situation or the opportunity on offer. Morality is bent to apply to the situation. People will take advantage of situations irrespective of the fact that they will have to discount their morality to achieve a certain outcome.

People tend to live their own lives according to the standards set by high profile persons in the society. People see how high profile persons can get away with wrongdoings and think they can follow suit. The question was posed to Mr C who should then stand up and when should that person stand up to state that enough is enough? Who should take the lead or the initiative to stand up against crime in all its facets? Mr C stated that the church has lost its testimony because the church speaks from different viewpoints. Churches should stand together and declare a willingness to serve. Churches should start to develop a market place which includes sport, business, media, social services, arts, government, education and the church. The market place in this context refers to the community or society in a broad sense. A typical community or society consists of people involved in sport, business, the media, social services, arts, government, education and the church.

Mr C also stated that the church consists of members belonging to the market place. People from the church work in politics, are sportspersons, educators, business people, artists and government officials and members of communities. People should start to live up to their values and be unimpeachable in their actions. Mr C is of the opinion that the vehicle to address the moral values of people would be the market place alliance where things happen. He has strong views that people should take a vow to act honestly in all aspects of their lives. Christians in the market place should start to live out their values.

People no longer realise whether they act incorrectly. The line between right and wrong is so vague that people find it difficult to distinguish between right and wrong.

During the interview it was mentioned that the church has become wary of making public statements on contentious issues. The church can still take a stance without being subjective or with the intent of humiliating or condemning. Mr C commented that moral values are all about justice. All role-players involved in setting values and addressing wrongdoing in a society should communicate more with each other to find common ground.

During the interview it was stated that the media have become the watchdog of modern society. However, values must be established within a family and, once established, such values could be transferred to the next generation.

D. MR D – MINISTER

On 14 November 2008 an interview was conducted with Mr D, the visionary leader of a church in Pretoria. The purpose of the interview was to discuss the role of the church in the moral values of society today. Value formers have an impact on society. There are many laws and regulations in place to address fraud, corruption and tax evasion, yet it still occurs.

In the introduction to the interview the comment was made that the church, as a value former, is not directly involved in the prevention of fraud or corruption. However, the church can play a role in this regard. A number of questions were posed to Mr D. The questions included the following:

- In the case of an absence of a law, who should determine what is right or wrong?
- To what extent should the church take a stance against economic crime (which will include fraud and corruption)?
- What should the point of departure be, from a Christian perspective, towards issues such as fraud and corruption?

In his introductory comments Mr D stated that a distinction should be made between the Judean school of thought and the so-called “Westernised perspective”. To Jews everything is integrated – religious experiences, the spiritual realm and world perspective. God is the centre or the all inclusive source or power. He is the source of everything; therefore the Jews had no need to challenge laws or regulations. Because they came from God they were accepted and Jews lived according to those laws.

The Westernised perspective has its origin in the Greek philosophy. The old Greek philosophers had two main perspectives. The first was the Spiritual perspective that was inherently good. The second was the Natural perspective that was inherently bad. Dualism was created by the old Greek philosophers. People started to reflect on how they lived. Within the church environment (the spiritual realm) they would live and act spiritually and within the secular world they would live according to their own nature. The secular world is viewed as bad and corrupt and the church as good. The secular approach is not integrated like the Judean school of thought and is driven by dualism with different values.

Many of the historical thoughts have been established among people through the centuries. This caused Christians to live with different definitions of values. Different values are applied on the experience world of people. According to Mr D, Christians are living with a secular and humanitarian value system that opposes the Christian value system. Christians should live according to Kingdom values. That implies that if you want to have, you should give. The opposite of this view is that if you want you just take it. Mr D stated that Christians stand in service to dominion. A Christian's life should give expression to God's authority in every sphere of his/her life. Christians should act responsibly in every sphere of life. In this way the Judean school of thought may be adhered to in that everything will now be integrated in Christian lives.

Mr D is of the opinion that dualism causes that people do not have internalised values. Laws have been created to regulate certain actions of the people. Christians should act responsibly. Mr D stated that Christians do not have the right to retain what is due to the tax authorities. He stated that Christians can use other mechanisms to convey their viewpoints to the government. Laws should be adhered to. People should follow the right channels to express themselves. Mr D stated that there will be times that Christians will act against government's policies and procedures to indicate what is good or what is bad, rather than what is right or what is wrong. He commented that in a given situation where there can be reflected with good judgment what is good, there may, on strength of a conviction, be acted against certain laws or regulations without promoting one's own interest.

The comment was made in the interview that people may rationalise their actions. People will make good/bad decisions to execute certain actions. Such actions will create a certain benefit for the person executing the action and a disadvantage for the other party. This will be true in the scenario of fraud, corruption or tax evasion. The person performing the action will take a calculated risk. However, the fraudster may always present a remedy or explanation for bad decisions/actions/deeds.

The question was posed to Mr D who should judge an action as being good or bad? He commented that what had been implied and what should be communicated demands mature conduct, especially where moral contraventions are applicable. He stated that the

process should be handled with extreme caution and sensitivity from a moral/ethical perspective. Truth should be spoken and wisdom is demanded in this regard. The law works according to a certain system for the sake of objectivity. A wrongdoing cannot be undone, but support and expression of love, and not rejection and condemnation, will start the reconstruction process in the life of the wrongdoer.

Mr D stated that dysfunctional circumstances impact on people's actions and conduct. He commented that the cause and effect of a person's conduct should be treated with love and acceptance. A soft approach will yield the best result. The result of a person's actions or conduct cannot be reversed. There must be a discipline for the result of the conduct/action. He further commented that it becomes difficult to look empathically at fraud and corruption. The broad community is angry about the impact fraud and corruption is causing. People maintain that everybody is doing it; therefore I will also take part. People find a certain justification for their own actions or conduct when everybody else is doing it. Rational people can make rational decisions; however, certain forces in communities are at work creating group pressure. People tend to be fear-driven and will act out of fear rather from a rational perspective.

During the interview the comment was made that an undocumented norm exists within the African continent to pay bribes to achieve a certain outcome. The question was raised whether or not there is a curse on unjust income. Mr D commented that there is a strong movement in South Africa to get business people to conclude an oath to commit them to conduct honest business. The signing of such an oath will create a moral agreement. Many business decisions are taken in a moment of pressure. When circumstances change or other forces start to work, decisions are made differently. He also stated that values determine conduct and that values should be internalised. The Bible has many references to property, money or business. Jesus made the comment that people cannot serve God and Mammon (the money god). This statement is linked to the principle that a servant can only have one master. One master however, can have many servants.

Mr D commented on an observation he has made when going shopping. Most shops have security personnel inside and at the exits to the shops. People have to be watched not to steal. The community has to be guarded and is amazed about people that still act honestly. The comment was made that if something is not yours, you do not take it at all.

During the interview a comment was made about so-called “life sentences” people are experiencing. This life sentence is nothing else than something that happened in the early development or past of a person that determines or impacts the destination of a person’s life. Mr D stated that people should start to refrain from committing small offences like speeding, littering and simple traffic offences. He also stated that a person’s attitude and conduct within the church should be the same as in the community. People should go and make a difference in the community. He also observed that the key of the transformation of a community lies in the correct discovery and existence of the gospel. According to Mr D, Jesus should be seen as an example of one’s own life. One should strive to be like Him. He continued to state that how a person thinks about himself/herself determines how he/she lives. If you do not see yourself as an honest person who should act honestly, but as a person with many faults, you have not discovered who or what you are.

Mr D is of the opinion that religious implementation within the framework of morality can culminate in the “carrot” and “stick” approach. If you do good deeds, you get rewarded, but if you do bad deeds, you will get punished. He continued saying that many people accept Christianity but never discover who Christ is. This is the real Christian/Judean value system. According to Mr D, Christianity is not a culture, but it is a nature – it becomes an experience. Christians are supposed to become the salt, light and yeast of the world. Christians can become the keepers of the community.

Mr D commented that there are other influences that impact people’s minds. People become confused and look towards the church to take a view on certain issues. The church used to be very influential in the community. For many the church has become a reference of manipulation. Mr D observed that the church is viewed as very critical. He continued to state that the church is no longer viewed as the primary value former or guardian of values. According to him people are viewed as the highest authority within the humanitarian framework with no acceptance of any other form of authority. People are more aware of their own rights than anything else.

The question was raised what then is the Biblical form of government? Mr D commented that within a democracy the masses govern. However, within a theocracy, one person will be governing by the dictating of God. New movements such as the postmodernism came to the fore where people do not subject themselves to any form of authority. It is all about

who they are. More and more people are guided by direction from the community. The comment was also made that the line between right and wrong or between good and bad has become so liquefied. Mr D commented that if the church can no longer give definition, the church will fail the community. He also likes the fact that people can be at a place where they can trust their leaders. According to him a leader should be able to speak with authority. However, leaders should take responsibility for their opinions. People should not borrow power, but should take responsibility for their own opinions given.

Mr D is of the opinion that people are not engaging enough on the level of ethics and morality. The question was raised that if the church does not stand up, who will? Mr D commented that it takes a whole village to raise a child. People should develop a conviction of what is right or wrong. He also stated that people are inherently not bad. The church should again give guidance by caring for people. Mr D stated that the transformation of people should be lasting. People are looking for a soundboard. It will give them elbow-room. He further commented that every company should make an effort with company policies, the implementation and monitoring thereof. People should function according to a documented policy that is non-negotiable. Mr D stated that people become involved consciously or unconsciously. Knowingly or unknowingly people may become involved in fraud, corruption or tax evasion. People become systematically involved and that can escalate into something bigger. The rewards from fraud and corruption are real but they are artificial and are not lasting because they are part of a lie. Sooner or later the perpetrator will be revealed.

Mr D concluded by stating that the church does face many challenges in the field of ethics and morality. However, the church still has a voice and a role to play in the community.

E. MR E - CATHOLIC PRIEST

On 18 November 2008 an interview was conducted with Mr E, a Catholic Priest in Pretoria. The purpose of the interview was to obtain his views on the topics of fraud, corruption and tax evasion.

Mr E was given an explanation of the terms “fraud, corruption and tax evasion”. He then made an introductory comment about two children playing with toys. If one child is playing with a specific toy, the second child also wants to play with that toy, irrespective of the fact that the second child has a toy to play with. The moment the second child grabs the toy from the first child, and the first child grabs another toy, the second child loses interest in his/her toy and grabs the toy the first child just grabbed. This typifies the natural behaviour of people wanting to have it all for themselves.

Mr E made the statement that all people are born greedy. People want everything for themselves. He also stated that original values are all based on the human values of sharing and living for others. However, people have dropped their values – they live with the instinct of greed. People are accumulating beyond their needs. According to him, that gives them a sense of security. People are all trying to make provision for their old age, but they cannot have everything at the cost of other people. People climb over each other to accumulate more and more and want everything for themselves.

The comment was made during the interview that greed may develop into something bigger than merely greed itself. People have dropped their values not because they are difficult to adhere to but because it is easier to follow inane instinct. Mr E made the comment that greedy people merely build bigger barns. The more people can get away with greed, the more people will do the same thing over and over again. He also observed that people look at good and honest people that do not seem to get ahead in life. He referred to Psalm 1 in the Christian Bible where the question is asked why do good people suffer and the evil prosper? People want to be millionaires and that create a perception in life that only the dishonest people go ahead in life.

Mr E is of the opinion that the Christian values of sharing and living for others, are losing ground. People see others getting away with committing fraud, corruption and tax

evasion. He commented that success breeds success. For the same reason fraud will breed fraud. Other people get away with wrongdoing so why do they not also do it. He stated that small people commit small fraud and big people, big fraud. Petty crime like stealing company stationery, for example, is not viewed as wrong. Mr E stated that people take chances with small things and gradually try to increase the stakes.

During the interview the comment was made that by acting greedily, people are creating artificial wealth that is not sustainable. Mr E said that people do not rest easily if they rob others. He observed that after the first offence people may feel guilty but after the second offence they may blunt their consciences. It will become a way of life, similar to a bad habit, like smoking. He also said that people have to develop a contrary good value that also gives pleasure. This contrary good value should be to the advantage of a person.

Mr E also stated that people have to love God and their neighbours and to love God in their neighbours.

During the interview the comment was made that in the case of fraud or corruption being perpetrated, one person will receive a gain or benefit and the other person or party will lose something. Mr E replied by stating that fraud also occurs when people engage in sharp practices. People make promises and the contract is signed on the premise of such verbal promises. The verbal promises, however, never form part of the contract. It entices a person to sign the contract. Verbal promises are not contained in written contracts; it is not illegal, but according to Mr E, immoral.

It was observed that fraud normally involves one person, but in the case of corruption, at least two people have to collaborate to commit a deed of fraud. The parties involved in corruption have to agree on the terms and conditions before the corruption can be perpetrated. Mr E stated that corruption is the more dangerous action because the one party never knows when the other party will spill the beans. The other party might ask for immunity. He also observed that people like to live dangerously. They like to get away with things. Mr E compared this with the gambling instinct. People like the challenge and the chance of winning big.

Fraud and corruption is like a sporting match. As long as the people who are participating are winning that allows them to move ahead. Risks are discounted by the rewards on offer. People will challenge the systems and try to beat them. This, in the words of Mr E, is based on greed.

Mr E made the comment that people are born greedy. Based on this comment the question was posed to him what can the church do to address the moral values of people today. He replied that the church should continue to preach the values that Jesus advocated. You cannot force people to comply or to refrain. He also stated that some people argue that because a government is corrupt or acting corruptly, they have the right to retain tax money from that government by rewarding themselves for the perceived wrongdoings of the government. He continued by stating that people rationalise and because of that they lie to themselves. In this way people justify their own fraud when they look at government's approach in utilising state funds.

Mr E was asked to comment on who should state what is right and wrong, or what is good and bad? He replied that the church should be advocating morality. People should adhere to laws and regulations. People do, however, tend to dispose of them.

The comment was made during the interview that people are adjusting their moral values according to circumstances. Mr E referred to this as situation ethics. He said that objectivity should prevail. Christian values, according to him, cannot be imposed on other religions, but a form of universal values should be pursued. Moral values should not be imposed, but rather invited.

The interviewer made the comment that people's attitudes play a significant role in fraud, corruption and tax evasion. Mr E replied by stating that values set by parents at home are crucial and should be reinforced frequently with the children. The interviewer commented that people should strive to make a difference in their communities. Mr E replied that people do not want to be judges of other people's actions. He said that all people should have basic values, but today people tend to rationalise everything. He also observed that people have a supermarket mentality in their approach to life. They take what they think is good for them and what they do not like, they do not adhere to.

Mr E observed during the interview that success goes to people's heads. He referred to the late Hansie Cronje who was remunerated above average for his services and had five times the amount of his annual cricket salary in the form of endorsements as well. Despite all this income, he took part in match fixing. He ended up being banned from all cricket and paid a dear price for his greed. He was the typical example of people just wanting more and more. What they already have is not enough.

Mr E stated that bigger penalties or more severe sentences may curb fraud and corruption. He further stated that commercial banks may be blamed for some of the fraud and corruption. Banks are charging clients a cash handling fee when depositing or withdrawing cash. He is of the opinion that banks are in on the act. He also observed that in the corporate world shareholders have to be kept happy by delivering company profits to them in the form of dividends.

The interviewer made the comment that the tone should be set at the top. If not, what message would be conveyed to the employees? Mr E replied stating that the perception existed that if management can get away with a wrongdoing, why can employees not do so as well? He continued by saying this is why many people are willing to compromise their own morality. The interviewer made the statement that morality is non-negotiable. Mr E replied saying that you cannot force people to have good moral values, but it should come from within a person. He is also of the opinion that moral values should be set during childhood and continuously reinforced.

Mr E observed that people have degraded themselves to such a level that they are prepared to do anything merely for money. He continued by stating that if a person had a few Rand more, that person can do much more. He said that if a person has a cupboard; he/she wants to fill that cupboard. If the same person had more cupboards, he/she would also want to fill that. In his concluding remarks he stated that people argue that they deserve the best in life and will therefore have it. According to him most people are dissatisfied with their lives and will strive to adjust it to where it will be acceptable to them.

F. DR A – CRIMINOLOGIST

Dr. A, a criminologist was interviewed on 18 May 2009. She holds a masters degree in psychology and a doctorate in criminology. She conducts interviews with fraudsters or victims of fraud/corruption for presentation in court cases involving fraudsters and/or victims of fraud. The following questions were posed by the researcher to Dr. A requesting her to respond to each question.

1. Why do you think do people perpetrate fraud, corruption or tax evasion?

Dr. A said that people experience financial difficulty and that may motivate them to perpetrate fraud or corruption. A person perpetrating fraud/corruption is so concerned about his/her immediate need that he/she does not think about the consequences of his/her fraudulent conduct. Dr. A commented that the perpetration of fraud/corruption is a way in which a fraudster will try and solve his/her immediate problem. The fraudster is using his/her talents against the community and for that reason effectively undermines the community. Dr. A said that a fraudster also manipulates people. Most fraudsters are presentable people being highly regarded and therefore people often trust fraudsters.

Many fraudsters, however, have no conscience and do not care what damage they may cause to other people. In the case of tax evasion, taxpayers feel that the amount of tax payable is unfair and for SARS they are anonymous. For them, no visual damage has been caused and for that reason their conduct would be justifiable.

2. Do you think that fraudsters rationalise or may rationalise their fraudulent conduct?

Dr A replied with a definite “Yes”. She said that fraudsters think their fraudulent conduct is not wrong and therefore they do not feel guilty about their conduct.

3. Do you think fraudsters view themselves as criminals?

Dr A replied that fraudsters do not view themselves as criminals. She said that fraudsters do not accept any responsibility and therefore fraudsters have no understanding of the

damage of their conduct. According to Dr A, criminals feel, for example, that they do not belong in a prison. They even believe they have a right to live a good life.

4. What would be the best form of punishment for a fraudster?

Dr A replied that any punishment would depend on the extent and the type of fraud perpetrated. According to Dr A, courts feel that a person could come to a different insight or stop perpetrating fraud/corruption when such fraud/corruption has been perpetrated over a period of time. Dr A argued that fraudsters become cleverer over time and would move through a learning curve in prison. She contends that imprisonment would most probably not be the best form of punishment for a fraudster because fraudsters tend to be difficult to rehabilitate. She said that periodic imprisonment where the fraudster work during the week and is only imprisoned over weekends would deprive such a person of his/her freedom. Dr A said that this form of punishment is very bad for such a person because it is very disruptive.

People serving a prison term may well come to insight. Dr A said that when a pattern of criminality has been established it would be very difficult to stop such behaviour. Dr A commented that a fraudster would not easily abandon his/her modus operandi, especially when it becomes a person's lifestyle.

Dr A suggests that the attachment or seizure of a fraudster's assets obtained through criminality is very effective because the fraudster should realise that the fruits of his/her fraudulent conduct could be taken away. In this way the fraudster would be conditioned that the rewards from his/her fraudulent conduct would be forfeited.

5. Do you think that a fraudster can or should be rehabilitated?

Dr A said that it is possible to rehabilitate a fraudster; however, it is very difficult and only happens in exceptional cases. She commented that more innovation is needed in this regard, especially when dealing with an intelligent person, and it should be aimed at the level of the fraudster. She is of the opinion that rehabilitation in a free society would be virtually impossible. Rehabilitation could be attempted in a prison environment; however, Dr. A suggests that the fraudster's deviate behaviour should be established before

rehabilitation can begin. The fraudster's school of thought should be changed. Dr. A said that there is great concern in the business world regarding financial crimes. She also said that not enough attention is given to the types of sentences or prison handling.

6. Could the following factors play any role in the conduct or behaviour of a fraudster?

- a. Race
- b. Gender
- c. Role models
- d. Socio-economic issues, such as unemployment, education or peer-pressure.

Dr A commented that race does not really play any role in fraudulent behaviour. She said that gender does play a significant role in this regard and with more women occupying more senior positions in business or government departments, more women start to perpetrate fraud/corruption. Dr A said that fraudsters cannot postpone the immediate satisfying of their needs. She commented that being unemployed is an embarrassment and by perpetrating fraud/corruption people can demonstrate that they are successful. She also commented that a higher level of education only produces more sophisticated fraud/corruption.

7. Do you think a prosecuted and sentenced fraudster will or may show any remorse for his/her criminal behaviour?

Dr A commented that fraudsters feel bad about being caught or detected. She said that they seldom show any signs of remorse. For them it is more shameful to have been caught than perpetrating a fraudulent deed because they rationalise their fraudulent conduct.

8. Do you think that current law enforcement, prosecution and sentencing practices in South Africa are adequate to address fraud/corruption?

Dr A said that fraudsters tend to circumvent any possible legal loopholes. She continued by saying that fraudsters are very intelligent and would take any possible gap to slip

through the legal net. She also commented that some fraud/corruption cases are not adequately investigated and presented in a court of law.

9. Do you think that fraudsters have any fear of being detected and/or eventually being prosecuted and/or sentenced for their criminal behaviour?

Dr A stated that fraudsters do not even think about the fact that they might be caught. She also commented that fraudsters do not even think about the consequences of their fraudulent deeds. She said that some fraudsters hope of being caught just to put an end to their fraudulent behaviour. Dr A stipulated that fraudsters obtain a sense of power when they perpetrate fraud and are not detected or caught. It then becomes a power game.

10. Do you think that a fraudster is aware of any possible consequences (tax or financial) that might occur as a result of his/her fraudulent conduct?

Dr A commented that fraudsters do not even think about the consequences of their fraudulent conduct. For them the perpetration of fraud is a rational crime. Dr A said that an informed person should be able to foresee the consequences of his/her conduct, but the motivation to act might be stronger than the consequences of his/her conduct. The fraudster merely postpones the consequences. Dr A said that the fraudster's immediate needs are a stronger motivation than the immediate consequences. She commented that people think that they can wipe their tracks. She said that her experience with fraudsters is that they do not think about the consequences when they perpetrate fraud.

11. Do you think that a fraudster has any concern for his/her fraudulent behaviour or any possible tax related consequences that may result from it?

Dr A commented with an assertive "No" because fraudsters are not bothered by their conduct. She said it is for this reason that fraudsters can continue with their criminal behaviour, especially when they become successful in it and they are able to manipulate their own conscience.

12. Would it be possible to compile a profile of a typical fraudster?

Dr A said it would be possible to compile a profile of a typical fraudster and it would include the following characteristics:

- Highly intelligent.
- Manipulative.
- Create trust with other people.
- Immediate gain is very important.
- Consequences of their deeds do not bother them.
- Many fraudsters have no conscience.
- Status is very important – link success to power.
- May experience a sense of inferiority.
- Bend the borders of morality and that becomes a general lifestyle.

Dr A also said that wealthy people continue to perpetrate fraud. She also commented that people have a perception that you have to be dishonest to be a successful business person.

13. Do you think a fraudster is merely an opportunist or is he/she a person taking a calculated risk to achieve a set goal?

Dr A commented that fraudsters would typically look for opportunities to perpetrate fraud. They are calculated risk takers.

14. Do you think that the type of fraud/corruption being perpetrated may be a function of the opportunities available to the potential offender?

Dr A said that it is definitely true. She also said that age and position play an important role in the perpetration of fraud. The level of fraud and the Rand value of fraud are directly related to the position and age of the fraudster. Dr A said that an older fraudster is more experienced than a younger fraudster and also more familiar with the system.

- 15. Do you think that morality and sound principles, such as corporate ethics, could impact positively on the occurrence of fraud/corruption/tax evasion?**

Dr A commented that within companies where corporate ethics are followed conscientiously and zero tolerance is applied for dishonesty, it may well impact positively on the occurrence of fraud/corruption. People will be more cautious.

- 16. Do you think that fraudsters may perpetrate fraud/corruption because they think they might get away without being detected?**

Dr A replied that people do think that they might get away with their fraud/corruption going undetected. She said that fraudsters think they are above the law.

- 17. Do you think fraudsters may view fraud/corruption as a viable economic alternative to formal employment or a business venture, or merely as a quick fix?**

Dr A said that many people make a living from fraud/corruption. The interviewer asked Dr A what business and the government can do to address fraud/corruption. She replied by saying that:

- Action should be taken against high-profiled people.
- Severe sentences should be imposed.
- The legal justice system should be reformed – many gaps in the current system.
- Fraud/corruption should be followed up much quicker.
- People should know that a punishment will definitely follow.

G. MR G AND MRS L – SENIOR OFFICIALS AT THE FINANCIAL SERVICES BOARD

On 22 May 2009 an interview was conducted with Mr G, Deputy Executive Officer: Market Conduct and Consumer Education at the Financial Services Board (the FSB) and his colleague, Mrs L. For the purpose of this interview, the researcher posed predetermined questions to Mr G and Mrs L. The following is a summary of their responses to the posed questions:

1. What is the main purpose or function of the FSB?

Mr G indicated that the FSB was established as a statutory body on 1 April 1991. He continued saying that the main purpose/function of the FSB is the following:

- Regulation and supervision of financial institutions.
- Protection of consumers of financial services.
- Establishment of financially sound financial institutions.
- Facilitate the struggle embedded in systemic risk (for example, if a sector within the insurance industry would collapse, it would impact on the banking institutions).
- Promote financial literacy.
- Monitor market conduct – expansion of consumer protection – the agent or financial service provider is on the one side and the consumer on the other side.

2. Which specific legislation is administered by the FSB?

- Pension Funds Act, No. 24 of 1956.
- Friendly Societies Act, No. 25 of 1956.
- Financial Services Board Act, No. 97 of 1990.
- Financial Supervision of the Road Accident Fund Act, No. 8 of 1993.
- Supervision of Financial Institutions Rationalisation Act, No. 32 of 1996.
- Long-term Insurance Act, No. 52 of 1998.
- Short-term Insurance Act, No. 53 of 1998.
- Inspection of Financial Institutions Act, No. 80 of 1998.

- Financial Institutions (Protection of Funds) Act, No. 28 of 2001.
- Financial Advisory and Intermediary Services Act, No. 37 of 2002.
- Collective Investment Schemes Control Act, No. 45 of 2002.
- Securities Services Act, No. 36 of 2004.
- Financial Services Ombud Schemes Act, No. 37 of 2004.

3. To what extent does the FSB get involved with reported fraud or corruption cases?

Mr G commented that the FSB would conduct an investigation if it has been requested. Should a person or an organisation be regulated by the FSB and the investigation reveals certain information or misconduct, the person or organisation could be placed under curatorship. Should fraud/corruption be detected during a FSB investigation, the FSB would report such conduct to the authorities. Mr G said that the FSB has an Administrative Tribunal to deal with non-criminal offences of legislation administered by the FSB. This administrative tribunal is an expansion of the FSB's enforcement capabilities.

4. With whom does the FSB liaise on a regular basis regarding fraud/corruption/illicit activities?

Mr G replied that the FSB would act promptly to report prominent cases to the authorities and the national prosecutor to get such cases in a court of law. The FSB does not investigate fraud/corruption *per se*, but report such cases to the applicable authorities. In this regard the FSB may offer assistance to the prosecuting authority and co-operate with any law enforcement agency. Mr G also said that the FSB would normally report to the Financial Intelligence Centre (FIC) and the registrars of various bodies such as the Reserve Bank, Banks, Insurance industry, to name but a few.

5. What regulatory powers vest with the FSB?

Mr G commented that the FSB may withdraw or cancel the license of a registered FSB member. The FSB may also impose certain fines on FSB members. In certain cases the FSB may also request the FSB member to provide the FSB with certain information and/or documentation.

6. Does the FSB interact on a regular basis with similar international regulatory bodies?

Mr G indicated that the FSB is a member of a number of international organisations, including the following:

- International Association of Insurance Supervision (IAIS);
- International Organisation of Securities Commission (IOSCO); and
- International Organisation of Pension fund Supervisors (IOPS).

International regulatory bodies lay down the minimum best practice standards for regulating. Mr G indicated that the FSB also shares information with international regulators.

7. Do you think that current legislation in place to address fraud/corruption is adequate to combat these crimes?

Mr G is of the opinion that current legislation in place is adequate to address fraud/corruption.

8. Do you think that statutory or legal compliance requirements may contribute in any way towards the perpetration of fraud or corruption?

Mr G commented that statutory or legal compliance requirements cannot in any way contribute towards the perpetration of fraud or corruption. Mr G stated that regulators act re-actively towards any contraventions. He said that the regulatory framework enhances control but cannot serve as a guarantee against fraud or corruption. Mr G made the comment that the regulator should be one step behind the market. The regulator should be in a position to determine if a specific service or product may hold certain risks for the consumer that the consumer should be aware of.

9. Do you think that taxation might play a role in the perpetration of fraud or corruption?

Mr G stated that many fraud causes reveal non-compliance to tax legislation. Once the inspectorate section of the FSB has performed its inspection and discovers non-reported tax-related transactions, such information would be reported to SARS for further investigation. Mr G commented that taxation is more a consequence of fraud/corruption than a cause of such criminal acts.

10. Why do you think do people perpetrate fraud or corruption?

Mrs L commented that the FSB does not determine the motivations for the perpetration of fraud or corruption. However, she indicated that greed, financial problems and high-risk transactions are often found to be the reasons why people may perpetrate fraud or corruption.

11. In your opinion, what would be the best form of punishment for a fraudster?

Mrs L mentioned that a direct prison term and high penalties would be most effective because the main reason for perpetrating fraud or corruption is a financial consideration. Thus, targeting a fraudster's financial resources would hurt him/her the most.

12. Do you think that current law enforcement, prosecution and sentencing practices are adequate to deter prospective fraudsters?

Mrs L stated that the laws are adequate, but that law enforcement may be a problem. She said that cases take too long to be heard in a court of law and can therefore not be finalised. Mrs L also said that, depending on the type of offence committed, a prison term would be the best form of deterrence for any prospective fraudster. She said that the FSB assists in the training of prosecutors and police officers regarding the laws administered by the FSB.

- 13. Do you think that the FSB can or should play a role in creating a public awareness regarding the impact/consequences of fraud or corruption in general?**

Mrs L said that the FSB does not investigate fraud/corruption but if a person or organisation, regulated by the FSB has perpetrated fraud or corruption, the FSB would issue an appropriate media statement in this regard.

- 14. Do you think that it is possible to determine the financial impact of fraud, corruption or illicit activities with reference to the national GDP?**

Mrs L said that as soon as a fraud investigation has been completed, it would be possible to determine the effect of the said fraud.

- 15. Do you think that the South African financial system is under any pressure due to the large number of fraud/corruption cases reported or revealed by the media?**

Mrs L stated that big fraud cases are adequately investigated. She is of the opinion that adequate regulating and safety nets in place should be able to limit obvious damage for consumers. She also states that no amount of legislation would be able to prevent the occurrence of fraud or corruption. She said that the legislation tends to be one step behind the market, but is continuously updated to patch holes in current legislation.

Mrs L also mentioned that the FSB introduced a new enforcement section with effect from 1 November 2008 to investigate any contraventions of legislation administered by the FSB.

H. TWO SENIOR SARS OFFICIALS

On 2 June 2009 an interview was conducted with two law enforcement officials from SARS's Brooklyn Office in Pretoria. For the purpose of this interview, the following questions were posed to the two SARS officials and their responses to the questions are reflected below each question.

1. Why do you think do people perpetrate fraud, corruption or tax evasion?

One of the SARS officials commented that a person's political views and the fact that the person do not want to part with his/her hard earned income because he/she may view current tax rates as too high, may contribute towards tax evasion. The comment was also made that tax evasion may be perpetrated because people has a view that government is stealing from them because for them there is a direct link between the payment of taxes and the application of tax money. It was also observed that to the degree that the individual view the world and himself in that world, and what drives that person, may impact on whether such a person may perpetrate fraud, corruption or tax evasion.

From a corruption perspective the comment was made that the state, the general public, big business, competition and the cost to participate in the economic society may contribute towards the perpetration of corruption due to a misuse of power. People may also have an urge or desperation to achieve something, utilising an opportunity to realise that goal.

In terms of tax evasion the comment was made that it moves on the principle of a liability for someone. It is not a choice that needs to be made; you have to get involved because the liability costs you something. People use the mechanisms within the system to reduce taxation.

One of the SARS officials said that regulations may also contribute towards the perpetration of fraud, corruption and tax evasion. It will, however, depend on how a person's own value system is aligned with regulations governing a society.

2. Do you think that fraudsters/tax evaders rationalise or may rationalise their fraudulent conduct?

The comment was made that people who plan or scheme take a definite decision to perpetrate fraud/tax evasion and they will rationalise their conduct. Opportunists on the other hand would only rationalise their fraudulent conduct when they are caught out.

3. Do you think fraudsters/tax evaders view themselves as criminals?

A fraudster, when found guilty would be a criminal because they determine their outcome beforehand. A tax evader will not be regarded as a criminal.

4. What would be the best form of punishment for a tax evader?

The SARS officials replied that the best form of punishment would depend upon what needs to be achieved. In certain circumstances one form of punishment may be more effective than in other circumstances. The general perception when fraud or corruption has been perpetrated is that punishment should be a prison term. It is questionable if such punishment would create a better citizen.

The comment was made that pseudo compliance occur where some people may get away with tax evasion, and other people will also try until being caught out. They will then pay the penalty/interest and sin no more. There is also the social stigma attached to being publicly named for tax evasion. Tax evasion is an individualistic offence and the mere detection is already a punishment for the perpetrator.

5. Do you think a prosecuted and sentenced fraudster/tax evader will or may show any remorse for his/her criminal behaviour?

Perpetrators in general do not show any real remorse for their criminal behaviour. For many of them it is more of an embarrassment to be detected. Many people will continue with their criminal conduct until being detected. In a court of law the perpetrator would probably show remorse for his/her conduct to have an influence on the possible sentence.

6. Do you think that current law enforcement, prosecution and sentencing practices in South Africa are adequate to address fraud/corruption/tax evasion and to deter prospective fraudsters/tax evaders?

The SARS officials stated that there is adequate legislation in place. They commented that the real problem is adequate law enforcement. According to them many law enforcement agencies do not understand the complex tax legislation. Large scale fraud, corruption and tax evasion are perpetrated at customs control at RSA borders. One of the SARS officials commented that current tax legislation is 47 years old and did not keep track with where society is heading. They also expressed their concern on the extremely large number of tax cases that have to be investigated taking into account the number of investigative personnel. They suggested that the application of corrective measures should be investigated.

7. Do you think that fraudsters/tax evaders may have any fear of being detected and/or eventually being prosecuted and/or sentenced for their criminal behaviour?

The SARS officials stated that many offenders have no fear of being detected. They commented that there was a time when taxpayers displayed more fear than now.

8. Do you think that a fraudster/tax evader is aware of any possible consequences (tax or financial) that may occur as a result of his/her criminal conduct?

The SARS officials commented that some offenders may be aware of the possible consequences that may occur as a result of their criminal conduct. They said that many offenders argue that this may happen, but it will not happen to me. They contend that offenders have an attitude that they will deal with it as and when it happens. Offenders may display some awareness; however, this awareness will not be clinical, as they normally act opportunistically. Many offenders will act in such a manner as if they would be detected. Offenders normally do not plan or view consequences, but they will factor the possibility of any possible consequences. Offenders do understand the possible consequences; however, the end consequence will not be the same for all offenders.

Many offenders observe an opportunity and then utilise that opportunity, thus any possible consequences may be ignored.

9. Do you think that a tax evader has any concern for his/her evasive behaviour?

The SARS officials commented that they doubt if a tax evader has any concern for his/her evasive behaviour.

10. Would it be possible to compile a profile of a typical tax evader?

The comment was made that it may be possible to compile a profile of a typical tax evader. However, it should be noted that typical tax evaders should be categorised in, for example, corporate listed evaders, customs and excise evaders, etc. The SARS officials said that tax evasion may depend on the behaviour and characteristics of the tax evader and the environment within which he/she may operate.

11. Do you think a tax evader is merely an opportunist or is he/she a person taking a calculated risk to achieve a set goal?

The SARS officials commented that many tax evaders seize an opportunity to evade tax. However, should a taxpayer continue with tax evasion, a pattern may be established and may then be regarded as a planned action and therefore taking a calculated risk.

12. Do you think that morality and sound principles, such as corporate ethics, may impact positively on the occurrence of fraud/corruption/tax evasion?

The SARS officials said that morality and sound principles, such as corporate ethics, may impact positively on the occurrence of fraud, corruption or tax evasion. However, they qualified their statement by saying that it would depend on the individual's own perception of morality and sound principles, such as corporate ethics. They also stated that corporate ethics is just as good as the morality behind it.

13. Do you think that tax evaders may perpetrate tax evasion because they think they may get away without being detected?

The SARS officials said that some tax evaders will not perpetrate tax evasion if they would be detected. However, they also said that some tax evaders will perpetrate tax evasion irrespective of the consequences just to prove a point. For many it is more important to commit tax evasion than considering the resulting consequences.

14. Do you think tax evaders may view/use tax evasion as a viable alternative for permissible tax planning to reduce a known tax liability?

One of the SARS officials said that tax evasion is opportunity driven. Most tax evaders would probably not use tax evasion as an alternative for permissible tax planning. Some tax evaders do think in the extreme and do not think about tax evasion as an alternative for tax planning. They would merely evade tax. The SARS officials also stated that many taxpayers think they apply tax avoidance, but in reality they use tax evasion. According to the SARS officials tax avoidance may blur the line between permissible tax planning and tax evasion.

15. Do you think that taxation may play a role in the perpetration of fraud or corruption?

The SARS officials replied in the affirmative that taxation may play a role in the perpetration of fraud or corruption. They explained by saying that some taxpayers may declare items at customs that is not the truth just to get a tax refund. Other taxpayers may under-declare their taxable income. Some taxpayers may even set up fictitious entities and claim back VAT refunds by fabricating exports. Other examples mentioned include a foreign supplier issuing an invoice for a lower amount to a taxpayer for import purposes just to save on import and customs and excise duties. They also mentioned entities charging VAT on the sales of services/goods that are not registered VAT vendors.

The two SARS officials commented that taxation may be a consequence of fraud/corruption if it is your business to make money. Corruption yields income that is not declared and may be used to acquire assets. The SARS officials argued what would

happen if tax should fall away. They said that fraud/corruption against the state would also disappear. According to the SARS officials, tax evasion is more an effect of fraud/corruption than a consequence thereof.

16. With whom does SARS liaise on a regular basis regarding fraud/corruption/tax evasion/illicit activities?

The SARS officials replied that SARS liaise on a regular basis with the SAPS, National Prosecuting Authority, FSB, FIC, SABRIC, Business Against Crime, World Customs Organization and the OECD. SARS also has numerous Double Taxation Agreements and certain Trading Agreements in place.

17. Do you think that statutory or legal compliance requirements may contribute in any way towards the perpetration of fraud, corruption or tax evasion?

The SARS officials commented that statutory or legal compliance requirements may contribute towards the perpetration of fraud, corruption or tax evasion. Rules are rules, but the application of rules/regulations is very difficult. The SARS officials were of the opinion that the legal justice system is compared to a game. They also added that globalisation has contributed towards the perpetration of fraud, corruption and tax evasion.

18. How effective is the SARS “fraud and anti-corruption hotline” and the electronic “Report a Suspicious Activity”?

The SARS officials replied that the “fraud and anti-corruption hotline” and the electronic “Report a Suspicious Activity” work well and create a channel for people to report. However, the volume of cases reported exceeds the capacity to investigate. This system has the potential to reveal cases of big fraud, corruption and tax evasion. The SARS officials said that SARS also uses other measures to detect tax evasion, such as comparing declared income with a taxpayer’s assets and allocating a certain score for this comparison. Tax evasion should be managed, but should not be viewed as looking into people unless there is a real suspicion.

19. Do you think that taxpayer education, a change in taxpayer attitude towards SARS and SARS's media campaigns may contribute towards better or improved tax compliance?

The SARS officials stated that taxpayer education and a change in taxpayer attitude towards SARS will not prevent fraud or tax evasion, but it may reduce unintentional mistakes made by taxpayers. One of the SARS officials also commented that service delivery and effective enforcement reaction towards non-compliance may contribute towards better or improved tax compliance.

I. MRS S – SENIOR MANAGER AT THE SOUTH AFRICAN BANKING RISK INFORMATION CENTRE (SABRIC)

On 1 July 2009 an interview was conducted with Mrs S a senior manager at SABRIC. For the purpose of this interview, the following questions were posed to her responses to the questions are reflected below each question:

1. What is the main purpose or function of the SABRIC?

Mrs S replied that the main purpose/function of SABRIC is to support the banking industry in their fight against crime by developing crime risk products. SABRIC also promotes inter-bank co-operation. It also supports law enforcement in investigations and prosecutions that follow the investigations. SABRIC may also enter into beneficial private partnerships.

2. Which specific legislation is administered by SABRIC?

Mrs S stated that SABRIC does not administer any specific legislation. SABRIC is a section 21 company funded by the banking industry. However, SABRIC ensures that the legislation applicable to the banking industry is complied with. Mrs S indicated that any legislation applicable to the banking industry will also apply to SABRIC. She also stated that SABRIC do not conduct any covert work, but only focuses on open-ended information.

3. To what extent does SABRIC get involved with reported fraud or corruption cases?

Mrs S replied by stating that SABRIC supports the investigation and prosecution to the extent that the matter affects the banking industry, such as organised crime or commercial crime. She indicated that fraud/corruption is applicable to both violent and commercial crime.

4. With whom does SABRIC liaise on a regular basis regarding fraud/corruption/illicit activities?

Mrs S indicated that SABRIC liaise on a regular basis with its bank clients, CIT (cash in transit) operated by security companies, the SAPS, the NPA, the Department of Home Affairs (with the main focus to fight identity fraud), Business Against Crime, the Consumer Goods Council, SARS, Telkom, the Post Office, cell phone companies and the FIC (financial intelligence centre).

5. What regulatory powers vest with SABRIC?

Mrs S stated that SABRIC has no regulatory powers.

6. Does SABRIC interact on a regular basis with similar international organisations?

Mrs S stated that SABRIC interacts on a regular basis with similar international organisations, such as Apax in the United Kingdom.

7. Do you think that current legislation in place to address fraud/corruption is adequate to combat these crimes?

Mrs S contends that legislation is not a problem, but rather the use of it. She said that most people have no problem in dealing with common law crimes, but display resistance towards statutory offences. There is a fear for the unknown. She said that existing laws should be used to its full potential. People are creatures of habit and it seems easier to do things in the old ways. A lack of understanding of laws requires more training in this regard. She replied by saying that the speed of banking crime equals the speed of banking.

8. Do you think that statutory or legal compliance requirements may contribute in any way towards the perpetration of fraud or corruption?

Mrs S contends that compliance is a very big issue but may merely have become a tick-box exercise. The spirit, in the way the legislation/regulation has been implemented, may have become a non-issue. She based her contentment on the statement that the FIC Act has not had the desired impact on fraud, irrespective of compliance to that law. She said it is easy to meet compliance, but irregularities may still exist because the spirit of a specific law may be lost in the process.

9. Do you think that taxation might play a role in the perpetration of fraud or corruption?

Mrs S replied by saying that tax revenue is certainly lost as a result of fraud or corruption. She also said that the type of criminal in the commercial crime environment may not even be a registered taxpayer. She continued by saying that cheating SARS out of money is not an unknown issue at all. She said that commercial crime in the banking environment involving letters of credit, import bills or vehicle finance with round tripping, for example, will bring taxation into play.

10. Why do you think do people perpetrate fraud or corruption?

Mrs S replied by stating that opportunity, greed, improved living standards, distress, people with lesser means (who may be susceptible to fraud/corruption as a result thereof), pressure imposed by crime syndicates on company employees and a lack of moral standards, may cause people to perpetrate fraud or corruption. She also said that fraudsters may disrespect, disregard or fear the law.

11. In your opinion, what would be the best form of punishment for a fraudster?

Mrs S stated that by seizing a fraudster's proceeds of crime will be the best form of punishment because he/she thinks crime pays. By having the financial gain resulting from criminal behaviour removed will harm the fraudster the most. Imprisonment will send out a strong message, but a jail term may not be the necessary deterrent.

12. Do you think that current law enforcement, prosecution and sentencing practices are adequate to deter prospective fraudsters?

Mrs S contents that the legal framework is adequate but it can be improved. She continued stating that the real problem is with the ineffective implementation of the law. A lot of expertise has moved from government to the private sector. She also contents that there are insufficiently skilled people to address the size of problem relating to fraud and corruption.

13. Do you think that SABRIC can or should play a role in creating a public awareness regarding the impact/consequences of fraud or corruption in general?

Mrs S stated that SABRIC can and is actually doing a lot to create commercial crime awareness in the media. She said that SABRIC is a credible source of information and that one cannot create enough awareness. SABRIC has a mandate to speak directly to consumers.

14. Do you think that it is possible to determine the financial impact of fraud, corruption or illicit activities with reference to the national GDP?

Mrs S contends that nobody knows exactly what the extent of financial crime is and therefore the figure is unknown. Factors that need to be considered include the actual loss, the potential loss and the losses covered by insurance pay-outs, for example. She also said that it would be risky to make such information known.

15. Do you think that the South African financial system is under any pressure due to the large number of fraud/corruption cases being reported or uncovered by the media?

Mrs S replied “No” to the posed question. She said that crime prevention is the key. Fraud and corruption are a reality and the commercial banks are mitigating it. She also said that South Africa has a first world banking system and that banks have a zero-

tolerance approach. She said that banks follow a pro-active approach towards fraud and corruption and that a lot of resources are applied to mitigate fraud risk.

16. Do you think that morality and sound principles, such as corporate ethics, could impact positively on the occurrence of fraud/corruption/tax evasion?

Mrs S answered the question with a convincing “Yes”. She said it is especially true with regards to tax evasion. She commented that SARS has been very effective over the past few years, but many people still do not regard tax evasion as a crime. She contends that people use unethical behaviour, for example, to acquire finance and deflates the same figures to SARS to reduce a tax liability. She said that ethics is a hugely important aspect to control and manage fraud and corruption.

17. Do you think a prosecuted and sentenced fraudster/tax evader will or may show any remorse for his/her criminal behaviour?

Mrs S replied that showing remorse is a personal issue. She said that repeat offenders in commercial crime cases involving crime syndicates rarely show any remorse for their criminal behaviour.

18. Do you think that a fraudster/tax evader is aware of any possible consequences (tax or financial) that might occur as a result of his/her criminal conduct?

Mrs S contends that they are aware of any possible consequences resulting from their criminal conduct. She said that if organised crime is your livelihood, you would not bother to care. She also said that within the commercial crime space, fraudsters do not use their own identity to perpetrate fraud. Identity theft clouds this environment.

19. Do you think a fraudster is merely an opportunist or is he/she a person taking a calculated risk to achieve a set goal?

Mrs S stated that in the organised crime environment, commercial crime would be well-planned and highly organised. She referred to the organised crime environment as “networked criminality”. She explains this term as pockets of people each having certain skills networked into a crime cell. Each crime cell member will provide his/her skills to perpetrate a commercial crime. She also said that fraudster’s working alone would normally be opportunists.

J. FRAUD EXAMINER

On 9 February 2010 an interview was conducted with a fraud examiner at one of the major auditing firms in South Africa. For the purpose of this interview, the following questions were posed to the fraud examiner and his responses to the questions are reflected below each question.

1. Why do you think do people perpetrate fraud, corruption or tax evasion?

- a. Greed is the main reason.
- b. Most of the perpetrators normally earn a very good salary.

2. Do you think that fraudsters/tax evaders rationalise or may rationalise their fraudulent conduct?

- a. Yes, I believe they carefully plan not only the way they are going to perpetrate the fraud but also their defence.
- b. I also believe that they come to a stage where they no longer consider the consequences of their actions.

3. Do you think fraudsters/tax evaders view themselves as criminals?

- a. No, I do not think so.
- b. I always get the impression that once they have stolen the money and/or defrauded the victim/s; they believe it has always been their money.
- c. They have the attitude that they are entitled to the money.

4. What would be the best form of punishment for a fraudster/tax evader?

- a. A combination of a lengthy jail term combined with a proper forfeiture of their assets.
- b. The sentence must be of such a nature that it is just not worth doing it again.

- 5. Do you think a prosecuted and sentenced fraudster/tax evader will or may show any remorse for his/her criminal behaviour?**
- a. No, I do not think so, because they do not get proper sentences.
 - b. I also believe that once you have made money by not working, you are hooked for life.
- 6. Do you think that current law enforcement, prosecution and sentencing practices in South Africa are adequate to address fraud/corruption/tax evasion and to deter prospective fraudsters/tax evaders?**
- a. There is nothing wrong with the practices. We used to be in line and even better than the rest of the world.
 - b. The current problem is the implementation of the practices and the political interference.
 - c. The current law enforcement is part of organised crime. You can't have organised crime without a corrupt police force.
- 7. Do you think that fraudsters/tax evaders may have any fear of being detected and/or eventually being prosecuted and/or sentenced for their criminal behaviour?**
- a. No, I don't think so.
 - b. The chances of being detected are very slim.
 - c. The chances of being prosecuted are remote.
 - d. The chances of being convicted are impossible.
- 8. Do you think that a fraudster/tax evader is aware of any possible consequences (tax or financial) that might occur as a result of his/her criminal conduct?**
- a. Yes, they are well aware of the consequences.
 - b. They are also well aware of the inability of the current system to detect and prosecute.

- c. They are also aware of the support they enjoy because of their political connections.

9. Do you think that a fraudster/tax evader has any concern for his/her criminal behaviour?

No. They only care about the money they can make.

10. Would it be possible to compile a profile of a typical fraudster?

- a. Not really.
- b. There are a couple of general characteristics, but in my type of work it is actually irrelevant.
- c. When conducting an investigation, one must still identify the perpetrator and then prove the matter against him.
- d. The profile has also changed because of computer-related crimes. The complexity of white collar crime is changing. Lot of syndicate involvement, number of runners and suspects are unknown.

11. Do you think a fraudster/ tax evader is merely an opportunist or is he/she a person taking a calculated risk to achieve a set goal?

He is taking a calculated risk.

12. Do you think that morality and sound principles, such as corporate ethics, could impact positively on the occurrence of fraud/corruption/tax evasion?

- a. I am not sure. There is so much corporate ethics in place and still there are more frauds than ever before.
- b. What helps a lot is a very strong anti-fraud/corruption message from the top of an organisation. Not only a message, but a message backed up by a zero-tolerance conduct.
- c. The South African Government is also anti-corruption.

- 13. Do you think that fraudster/tax evaders may perpetrate their crimes because they think they might get away without being detected?**

Yes, I am sure they do.

- 14. Do you think tax evaders may view/use tax evasion as a viable alternative to permissible tax planning to reduce a known tax liability?**

No, I don't think so. They wilfully and purposefully defraud the Receiver.

- 15. Do you think that taxation might play a role in the perpetration of fraud or corruption?**

- a. Yes, it plays a major role in the procurement frauds.
- b. I also believe that because of the problems involving service delivery, a lot of people are asking why they must still pay tax.

- 16. With whom does your company liaise on a regular basis regarding fraud/corruption/tax evasion/illicit activities?**

- a. I am not sure. They only sometimes liaise with our Forensic Unit.
- b. I also know we have a dedicated ethics officer. I will not discuss a sensitive issue with him.

- 17. Do you think that statutory or legal compliance requirements may contribute in any way towards the perpetration of fraud, corruption or tax evasion?**

No, I do not think so.

- 18. How effective is companies' "fraud and anti-corruption hotlines" in the combat against fraud, corruption or tax related offences?**

- a. If one looks at the statistics, tip offs are still the best way of identifying fraud.

- b. It takes a lot of guts to report a crime within an organisation. The chances of getting victimised are 100%.

19. Do you think that it is possible to determine the financial impact of fraud, corruption or illicit activities with reference to the current national GDP?

No, I do not think so. One of the reasons being that there are too many hidden costs. Example: loss in man hours.

20. Do you think that public education on the impact of fraud, corruption and other illicit activities on the South African economy would have any impact on the prevention of these criminal offences?

- a. The only way they educate people is by forcing them to do something.
- b. They must see for themselves that fraudsters are being prosecuted and convicted. And this is applied to everybody in society, even to politicians.

APPENDIX F

MEASURES TO ADDRESS CORRUPTION

Internal control measures

- Control cheque payments made to any third parties – management should create and enforce strict control over the distribution of cheque payments to any company or third party.
- Internal controls – nothing serves to prevent fraud and corruption better than effective internal controls.
- Review work orders – it is important to review capital work orders systematically due to the fact that misappropriated funds may be charged to capital projects as opposed to operating expenses.
- Set up a system of independent and effective monitoring – every fraudster is looking for possible opportunities.

Audit procedures

- Learn to examine data for red flags – identifying unusual payments to regular service providers/suppliers.
- Review all payments for validity – review all payments to be made, regardless of the size of the transaction, for accuracy.
- Respond to rumours – rumours and other questionable activities must be investigated appropriately and professionally.
- Undertake information protection assessments – these assessments or audits should be completed periodically to determine how well confidential company information is protected.
- Create an internal audit department and an internal audit function.
- Create an audit committee.
- Make certain confirmation and verification procedures used by internal and external auditors of all major assets meet industry standards.
- Establish effective auditing procedures – auditors should be looking for possible irregularities and this can only be achieved through effective auditing procedures.

- Test and review the functionality of controls – controls should be tested to ensure they work as planned.
- Look for anomalies or deviations from normal procedures – deviation from any rules may mean danger and risk for the company and its employees – rules can only be effective if they are followed or complied with.
- Perform a due diligence – any investor should understand the importance of performing an independent due diligence on any investment offered by any third party.

Employee/personnel related procedures

- Rotate employees – rotation of employees in key roles is an internal control that should always be considered.
- Companies should employ fraud examiners – they can assist in the detection, investigation and prevention of fraud and corruption.
- Appoint a compensation committee that must approve all management salary increases.
- Formalise the employee complaint process and job training.
- Establish and enforce mandatory vacations for all employees.
- Make sure that performance matches, or is at least in sync with, processes and people executing them.
- Use competent and objective people to look at all key areas of the company.

Risk assessment

- Understand fraud risk – management of a company needs to perform an on-going fraud risk assessment and take appropriate action to mitigate those identified risks.
- Verify that professional liability insurance coverage for external auditors and directors is sufficient to cover the risks identified.
- Monitor insurance policies and fidelity coverage – all companies should monitor their insurance policies to ensure that coverage is adequate.

Customer/client measures

- Solid relationships with stakeholders – stakeholders may include customers, suppliers, investors or other third parties such as commercial banks. Companies should strive for solid relationships with all its stakeholders.
- Know your business partners – investors should develop a real knowledge of the people with whom they are placing their money or investments.
- Enforce terms of the partnership agreement – investors should seek to enforce the terms of the partnership agreement for example audited financial statements.
- Use legal counsel – investors should use their own legal counsel to review transactions or to draft legal documents.
- Organise recorded data – companies should organise and structure client information or client files in a consistent way.
- Hire reliable consultants or experts to design certain programs for the company or to write/ compile contracts for the company.
- When selecting a contractor to provide services to a company, the company should perform an extensive investigation of the service providing company.
- When a selected contractor or service provider has been selected, the qualifications of the managers and other key employees should be examined.
- Check for credibility of businesses – one should know with whom one is doing business. Refrain from doing business with businesses with a doubtful reputation or a lack of credibility.

Training

- Ethics and fraud awareness training – it is not unusual for companies to hold periodic business ethics training sessions for all employees.
- Educate directors and management as to the importance of fraud prevention.
- Company awareness – management should understand that proactive monitoring and training of employees is crucial in preventing and detecting fraud or corruption.

Company policy and documentation

- Transparency – any company that exploits methodological transparency as a business model has taken the first and most important step towards countering corruption and fraud.
- Create formal procedures – formalize and document procedures for legitimate transfer of confidential information.
- Reconstitute the board of directors.
- Formalise accounting policies and procedures.
- When non-compliance occurs, take timely, measured, and stringent actions that will mitigate or rectify the identified problems.
- Track complaints – the development and implementation of procedures for dealing with complaints would provide a uniform and consistent practice.

Reporting measures

- Management review – simple management review can reveal certain red flag indicators that should be investigated further.
- Introduce hotlines – anonymous hotlines will help to identify fraud and corruption.
- Management should seek second opinions on significant accounting policies.

Ethics

- Institute a code of ethics – the code of ethics should include some basic anti-fraud and anti-corruption provisions.

Communication

- Effective communication – companies should communicate effectively and efficiently with all company stakeholders.

Technology and computer controls

- Update technology – the use of technology may provide improved controls related to the probability of identifying old-fashioned forgeries.
- Surveillance – implement procedures to closely monitor the work of key employees.
- Increase information technology (IT) security – this is especially applicable with regards to passwords providing access to company computer systems.

APPENDIX G

MEASURES TO HELP PREVENT OR DETER FRAUD

Internal control measures

- Establishing an organisation-wide regime of documented and considered internal controls and enforces policies and procedures.
- Control authorisation devices such as signature stamps for signing cheques and automatic cheque signing machines.
- Implement procedures to manage and control the opening of the entity's mail such as bank statements or other confidential entity correspondence.
- Information security – companies should defend themselves against information security attacks from external and internal sources.
- Segregation of duties – effective segregation of duties should be implemented and frequently audited to ensure compliance.
- Update controls as the company grows – controls should be reassessed on an annual basis and be updated accordingly.
- Supervision and controls – adequate employee supervision and controls will prevent the occurrence of fraud.
- Implement strict internal controls – a strict system of internal control is of paramount importance to prevent fraud in any organisation.
- Prohibit employees from cashing personal cheques at work – employees should not be allowed to cash personal cheques at work. This may open the door for unwanted risks.

Physical control measures

- Prohibiting certain personnel from specific areas of the building.
- Possible installation and upgrading of security measures such as cameras, access restrictions, computer codes, division of labour, duties and authority limitations.
- Physical safeguards – all measures possible should be implemented to physically safeguard the assets, documents or information of the company against possible theft or misuse.

Audit procedures

- Regular or periodic audits – periodic audits of transactions and procedures that are subject to fraud.
- Appoint independent external auditors.
- Unscheduled surprise audits.
- Fraudulent activities should be uncovered. Fraudulent activities should not be swept under the carpet in order to avoid public exposure once you become aware of it.
- Every apparent error, unusual event, inconsistency and divergence from a set norm, should be investigated.
- Audit and control – companies should update its audit routines to include annual fraud audit detection programs from certified bodies and require all current and future audit personnel to complete training and execute fraud examinations.
- Review bank statements and bank reconciliations – special attention should be paid to outstanding deposits and outstanding cheques.
- Conduct lifestyle analysis – internal auditors and senior management may conduct lifestyle analyses to identify possible fraudulent activities.
- Independent audit committee.
- Implement a proactive approach – the internal audit department may conduct risk assessment of the organisation prior to routine audits. This may include a fraud audit.
- Audit trail report – audit trails and audit trail reports need to exist and records retained to ensure transactions have been recorded accurately and these audit trails should be analysed frequently for any unusual transactions.
- Monitor non-routine transactions – non-routine transactions often have a higher risk due to their smaller volumes.
- Investigating red flags – indicators of all red flags (transactions with a potential risk of fraud) should be investigated regardless of their personal relationship to the employee.
- Internal investigative capacity, own or contracted in.

Employee/personnel related procedures and measures

- Be aware your staff is usually the villains.
- Employees should be constantly reminded that it is an offence to conceal fraudulent activities and that proper action will be taken against those persons involved in it.
- Background checks – comprehensive applicant screening processes should be in place inclusive of criminal background, credit checks and references of potential employees.
- Employ experienced and appropriate accounting personnel – people with sufficient experience in accounting and internal control should be employed in the accounting department of a company.
- Mandatory vacation and time off of sufficient duration – it is important that employees be required to take frequent time off and to use their vacation leave.
- Employees should be held accountable for financial transaction mistakes – accountability for financial transaction mistakes will establish the person or level in the company where responsibility should vest.
- Human resource management – the process to better manage staff in departments with high levels of employee turnover should be improved and employee activities should be reviewed.
- Creating a positive working environment.

Risk assessment measures

- Processes to assess economic crime risks.
- Fraud risk assessment and a fraud control plan – a company should have a proper fraud risk assessment and a fraud control plan to ensure that proper protocols are followed when undertaking an investigation or notifying law enforcement agencies.

Customer/client measures

- Customer education – customers should be educated and informed about new developments or new risks that may impact on them.
- Follow-up with clients and vendors (suppliers) – quotations to clients and orders from suppliers should be followed-up by the company to ensure the quotation has been accepted or rejected or that an order placed with a supplier has been received.

Training measures

- Programme to sensitise all personnel, suppliers and clients to the fraud prevention policy and risk areas and periodic fraud-awareness training for personnel.
- Formal fraud detection and deterrent employee training – ongoing employee training (including supervisors, managers, executives and employees) to alert them to existing and new fraud risks the company or its customers may be subject to.
- Fraud awareness – implement employee awareness and training programs to identify and report fraud.

Company policy

- Have a zero tolerance policy.
- Fraud policies introduced to employees – the perception of detection. Creating the perception of detection is an integral part of preventing occupational fraud in today's workplace.
- Confine records to the office – a policy should be established and enforced that prohibits employees from removing records from the office.
- Take a firm stance against fraud.
- Strict enforcement of organization rules coupled with fair and balanced discipline - a fraudulent activity can result when existing rules are bent without anyone realising it.
- Disciplinary procedures to deal with alleged or actual acts of economic crime.
- The protection of informants/whistle blowers.

Financial control measures

- Monitor budgets – approved budgets should be compared on a monthly basis with actual figures.
- Close dormant bank accounts of the entity.
- Limit authorised size of transactions – strict limits must be set on the authorised size of each transaction before a review or countersignature is required.
- Monitor financial transactions closely and do not ignore mistakes – note should be taken of any mistakes occurring with financial transactions and reported to the correct level of authority.
- Consider taking out insurance against fraud.

Reporting procedures

- Set up an anonymous toll-free fraud hotline where employees and clients, who are aware of fraudulent activities by others, could report it. The whistle-blower's individual confidentiality should be protected.
- Encourage tips – employees should be encouraged to report fraudulent activities or suspicious behaviour via a confidential hotline.
- Proper supervision of the creation of new vendors and suppliers – review vendor lists periodically.
- Proper reporting – it is easy to create management reports with today's computerised accounting systems that highlight financial transactions that are susceptible to fraud and of interest to company management.
- Reporting system where there is suspicion or detection.
- Procedure and authority to report to external agencies, regulatory authorities and investigative authorities.

Ethics

- Set an ethical tone at the top – management must set standards of performance, honesty and integrity that apply to all employees. Lower ranked employees will follow the corporate culture set by top management.
- Code of conduct including conflict of interest, the acceptance and giving of gifts.

Documentation procedures

- Check for supporting documentation – all financial transactions should have proper supporting documentation.
- No payment without original supporting documentation – no expense or other payment should be made from company funds unless an original invoice, statement or other form of documentary proof is available and has been verified before payment is made.

Communication measures

- Communication – owners and senior management should clearly express their concern for employee honesty. Management should set high standards for honesty and communicate the expectation to employees to comply with them.

Technology and computer controls

- Changing computer password and office door locks.
- Amending security codes and bank authorisations.
- Update technology – updated technology helps investigators to identify fraud quickly.
- Technical safeguards – passwords to the company's computer system should be kept secret and levels of access to computerised company information should be strictly controlled.

APPENDIX H

A summary of the economic crime offenders' disclosures made

Questionnaire section (Part)	Strongly Agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree
A. Law enforcement, prosecution and sentencing practices are not adequate.	49,89%	12,42%	10,64%	6,43%	4,10%	3,66%	12,86%
B. Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.	63,17%	14,15%	5,12%	5,37%	2,93%	2,20%	7,06%
D. Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general.	35,74%	9,57%	10,04%	12,10%	5,25%	6,01%	21,29%
E. Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.	37,32%	16,34%	13,66%	17,32%	4,15%	2,93%	8,28%
F. The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.	38,29%	16,10%	14,15%	11,22%	5,98%	3,41%	10,85%
G. The perpetration of fraud or corruption has an impact on taxation in South Africa.	29,67%	12,60%	12,60%	19,92%	6,10%	3,66%	15,45%

Questionnaire section (Part)	Strongly Agree	Moderately agree	Slightly agree	Uncertain	Slightly disagree	Moderately disagree	Strongly disagree
H. The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.	36,59%	17,68%	13,41%	11,99%	5,69%	3,25%	11,39%
I. Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences.	50,00%	14,63%	4,88%	9,76%	1,22%	8,54%	10,97%
J. The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.	34,15%	14,63%	19,51%	7,32%	8,54%	8,54%	7,31%
K. The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.	36,28%	11,28%	12,50%	7,93%	7,01%	4,88%	20,12%
Average	44,11%	13,94%	11,65%	10,94%	5,10%	4,71%	12,55%

APPENDIX I

A summary of the role-players' disclosures made

Questionnaire section (Part)	Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly Disagree	Moderately disagree	Strongly Disagree
A. Law enforcement, prosecution and sentencing practices are not adequate.	55,81%	21,20%	11,17%	4,99%	2,39%	2,19%	2,25%
B. Steps to prevent economic crime and sound management will minimise or reduce the possible negative impact of fraud, corruption and related taxation consequences.	79,52%	13,66%	4,30%	1,03%	0,60%	0,58%	0,31%
D. Current laws and regulations are adequate to deal with fraud, corruption and tax conduct in general.	42,70%	16,75%	10,65%	6,26%	4,60%	4,71%	14,33%
E. Fraud or corruption is perpetrated without taking into account any possible taxation consequences that might occur as a result thereof.	48,17%	23,31%	15,71%	7,36%	2,67%	1,74%	1,04%
F. The perpetrator of fraud or corruption is aware of any possible taxation consequences or tax liabilities that might occur as a result of his fraudulent actions.	56,83%	17,23%	11,55%	4,85%	3,05%	2,55%	3,94%
G. The perpetration of fraud or corruption has an impact on taxation in South Africa.	59,20%	17,18%	7,61%	6,67%	2,90%	2,97%	3,47%

Questionnaire section (Part)	Strongly agree	Moderately agree	Slightly agree	Uncertain	Slightly Disagree	Moderately disagree	Strongly Disagree
H. The type of fraud or corruption being perpetrated is a function of the opportunities available to the potential offender.	57,50%	23,77%	8,55%	3,44%	2,14%	1,85%	2,75%
I. Morality and sound principles would impact positively on the occurrence of fraud, corruption and possible related taxation consequences.	76,69%	15,59%	4,70%	1,57%	0,58%	0,52%	0,35%
J. The perpetration of fraud, corruption and tax evasion may be influenced by the cost to comply with all the taxation administration requirements in South Africa.	37,83%	23,77%	15,36%	6,53%	7,69%	4,06%	4,76%
K. The prospective fraudster has no concern for his fraud or corruption being detected and eventually being prosecuted for the perpetration of a fraudulent action.	54,61%	18,96%	10,03%	5,04%	4,18%	3,25%	3,93%
Average	56,89%	19,14%	9,96%	4,77%	3,08%	2,45%	3,71%